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Competitiveness (Internal Market, Industry, Research and Space)

Brussels, 10 December 2010

President — **Mr Vincent VAN QUICKENBORNE**, Minister for Enterprise and Simplification and
Mr Jean–Claude MARCOURT, Vice-President of the Walloon Government and Minister for Economic Affairs, SMEs, Foreign Trade and New Technologies
of Belgium

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Main results of the Council

*The Council held a debate and adopted conclusions on the "**Single Market Act**", a package of 50 measures aimed at enabling businesses and citizens to take full benefit of the advantages of the internal market .*

*It also adopted conclusions on the flagship initiative "An integrated **industrial policy** for the globalisation era", that sets out a strategy to boost growth and jobs by maintaining and supporting a strong, diversified and competitive industrial base in Europe.*

*The Council adopted conclusions on the framework for **gambling** and betting in the EU member states.*

*During a public debate, ministers discussed the way forward for establishing a future **EU patent system**. A large majority of delegations considered that enhanced cooperation, as provided for in the EU Treaty, is the only option for making progress on the creation of a unified EU patent system and asked the Commission to present a formal proposal for initiating enhanced cooperation. The Commission announced the submission of such a proposal on 14 December. The Italian and Spanish delegations strongly opposed the idea of initiating enhanced cooperation.*

*The Council adopted a decision extending the current **state aid regime** for the **coal sector**.*

*The Presidency gave information about the general approach that had been agreed on a draft directive aimed at enhancing **consumer rights** across the EU.*

*The Council adopted its position on the new **EU draft budget for 2011**, paving the way for its final adoption before the end of the 2010.*

*Representatives of the member states' governments, meeting in a conference on the sidelines of the Council, decided that the European **global navigation satellite systems** (GNSS) agency will have its seat in Prague.*

*In the margins of the Council, the Presidency and the Commission announced the winner of the **2010 Single Market Award** at a prize-giving ceremony.*

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[1] Where declarations, conclusions or resolutions have been formally adopted by the Council, this is indicated in the heading for the item concerned and the text is placed between quotation marks.
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Ms Viviane REDING	Vice-President
Mr Antonio TAJANI	Vice-President
Mr Michel BARNIER	Member
Mr John DALLI	Member

ITEMS DEBATED

Single Market Act - *Council conclusions*

The Council adopted conclusions on the "Single Market Act" (SMA), a two-year plan (2011-2012) of 50 initiatives aimed at ensuring continuous optimisation of the internal market and contributing to the successful implementation of the EU 2020 objectives on stimulating employment and economic growth.

The full text of the conclusions is reproduced *HERE*.

The conclusions endorse the general approach of the SMA *(13977/1/10)*, according to which the single market must rest upon a strong economic and social basis with a view to building a highly competitive economy.

In particular, the conclusions will address business and citizens' concerns that prevent them from taking full benefit of the advantages of the single market; the use of tools to develop new sources of growth in both services and industrial sectors; European international competitiveness and the design of a new collective strategy to ensure a successful relaunch of the internal market.

The conclusions also commit the Council to continue to examine the SMA with a view to defining the priority measures that should be in place before the end of 2012, in order to facilitate access to the single market, support businesses, encourage growth and help to create jobs.

Gambling and betting: the role of the national authorities - *Council conclusions*

The Council adopted conclusions dealing with the framework conditions for gambling and betting in the EU countries.

The conclusions are set out in document *16884/10*.

EU patent system: ways forward and option of enhanced cooperation

During a public session, the Council exchanged views on the way forward for the future establishment of a single EU patent system and, in particular, the possibility of initiating enhanced cooperation between several member states.

A large majority of delegations asked the Commission to present a formal proposal for initiating enhanced cooperation. The Commission announced the submission of such a proposal on 14 December.

The majority of delegations considered that enhanced cooperation, as provided for in the EU treaty, is the only option for making progress on the creation of a unified EU patent system.

The Italian and Spanish delegations strongly opposed the idea of initiating enhanced cooperation on the basis that the requirements for engaging in that process have not yet been met.

The Hungarian delegation, which will be holding EU Presidency from January 2011, expressed its commitment to taking the work forward with a view to achieving an agreement on this issue as soon as possible.

Following ministerial discussions on 11 October and 10 and 25 November, the Belgian Presidency concluded that it is not possible to reach the required unanimity on a language regime for creating a EU patent system. Therefore a number of delegations expressed their interest in moving ahead on the basis of an enhanced cooperation.

The procedural steps to initiate enhanced cooperation in the area of unitary patent protection can be listed as follows:

(1) It is to be used only as a last resort after verifying the impossibility of reaching unanimity.

(2) An application submitted to the Commission by member states wishing to pursue among themselves an initiative blocked at the level of the Union; there must be at least nine countries wishing to participate.

(3) The Commission assesses whether the request should be accepted. After acceptance, it sends the Council a proposal for authorisation. This proposal must define the framework in which the enhanced cooperation would be carried out.

(4) The Council grants authorisation by qualified majority, after obtaining the consent of the European Parliament.

(5) Once the cooperation has been authorised, all members of the Council may participate in its deliberations, but only the participating countries take part in the votes.

(6) Enhanced cooperation is open at any time to member states wishing to join in.

Background

On 4 December 2009, the Council adopted conclusions on a "Enhanced patent system in Europe" *(17229/09)*. The conclusions state that "the EU patent regulation should be accompanied by a separate regulation, which should govern the translation arrangements for the EU patent adopted by the Council with unanimity in accordance with the second subparagraph of article 118 of the treaty. The EU patent regulation should come into force together with the separate regulation on the translation arrangements for the EU patent.". It is on this basis that the Commission presented a proposal on translation arrangements on 30 June 2010 *(11805/10)*.

An industrial policy for the globalisation era - ***Council conclusions***

The Council held a second ministerial debate, following the first one held on 25 November, on the best ways for adapting the EU's industrial structures and policies as an engine for growth and job creation which is able to respond to challenges arising from globalisation.

At the end of the debate, the Council adopted conclusions on "An integrated industrial policy for the globalisation era: putting competitiveness and sustainability at centre stage" which is one of the seven flagship initiatives of the Europe 2020 strategy[1].

It places the industrial policy at the centre of the new growth model for the EU economy, by proposing the establishment of a framework that will stimulate economic recovery and employment. This new framework is intended to help Europe's industry to seize the opportunities created in the transformation of the global business environment.

The new approach proposed towards a more dynamic, resource-efficient and sustainable economy is characterised by:

- bringing together a horizontal basis and a targeted application to the different industrial sectors;
- giving due consideration to the whole value and supply chain, from access to energy and raw materials to after-sale services and the recycling of materials, including the international dimension along the chain;
- closely monitoring competitiveness.

The full text of the conclusions is reproduced in document *17838/10*.

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[1] http://ec.europa.eu/europe2020/index_en.htm

Impact assessments in support of the EU's decision-making process

Over lunch, ministers held an informal debate on a report published by the European Court of Auditors containing recommendations for improving the impact assessments carried out by the Commission in support of the EU's decision-making process[1]. Mr Henri Grethen, member of the Court of Auditors, took part in the discussions.

In the morning, during the formal Council session, delegations took note of the following conclusions submitted by the Belgian Presidency regarding the Court of Auditor's report:

"THE PRESIDENCY OF THE COUNCIL OF THE EUROPEAN UNION:

1. HAVING EXAMINED the Court of Auditors' Special Report No 3/2010: Impact assessments in the EU institutions: do they support decision-making?, and in particular the recommendations of the Court to the Commission, and its conclusions on the use of impact assessments by the Council and the European Parliament;

2. WELCOMES the finding of the Court that impact assessments have become the standard procedure preceding the presentation of legislative proposals by the Commission having significant impact and have been effective in supporting decision-making within the EU institutions;

3. RECALLS the Conclusions of the Council of 3 and 4 December 2009 and the emphasis on quantifiable and comparable data as a means of ensuring the optimal presentation and utility of impact assessments in line with the findings of the Court;

4. NOTES the finding of the Court that areas of improvement related to the impact assessment procedures have been identified and that impact assessments can take more consideration of the implementation and enforcement costs of new legislation at national level; and UNDERLINES that regulatory quality is the responsibility of all the three institutions involved in the legislative process;

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[1] http://eca.europa.eu/portal/pls/portal/docs/1/5412743.PDF

5. CONFIRMS the findings of the Court that Impact Assessments by the Commission are a very useful tool for the examination of legislation by the legislators and POINTS OUT that impact assessments are systematically transmitted to delegations in the preparatory bodies of the Council and generally presented as part of the initial presentation preceding the start of the examination of any Commission's proposal;

6. NOTES the emphasis of the Court on the need for considering ex-post evaluations as a basis for future impact assessments in line with Smart Regulation which now covers the whole policy cycle, including ex-post evaluation, in line with the commitment of President Barroso;

7. LOOKS FORWARD to consider the conclusions and recommendations of the Court further in order to improve the regime of impact assessment which plays an essential role within the Smart Regulation principles.".

* * *

OTHER BUSINESS

Consumer protection

The Presidency informed the Council about the global compromise text regarding a draft directive on consumer rights, supported by a qualified majority of delegations within the Permanent Representatives Committee, in order to reach a general approach at a forthcoming Council meeting.

Pending the opinion of the European Parliament, expected next year, the draft directive seeks to harmonise rules on consumer rights for contracts concluded between traders and consumers at a distance and off-premises, for example cross-border sales through the internet.

The overall purpose of the directive, submitted by the Commission in 2008 (*14183/08*) is to simplify and complete the existing legislation, ensure a high level of consumer protection and contribute to a better functioning of the internal market, by increasing traders' and consumers' confidence when having to carry out cross-border transactions.

The Council held policy debates on this proposal in December 2009 *(16121/09)* and in May 2010 *(9480/10)*.

Ministers took also note of the autumn edition of the "4th Consumer Market Scoreboard" published by the Commission (*17300/10* and *15407/10*).

Transposition of EU directives into national legislation

The Council took note of the outcome of a conference organised by the Presidency in Brussels on 22 November on the transposition of EU law into domestic legislation and its implementation[1].

[1] http://www.eutrio.be/sites/default/temp/23341.pdf

Directive on services in the internal market

Delegations took note of the progress made by the member states since last May (*9475/10*), in the transposition and implementation of the "Services directive" and of the ongoing exercise for mutual evaluation (*9327/10*).

Work programme of the incoming EU Presidency

Mr Zoltán Cséfalvay, Minister of State of Hungary, briefed the Council on the work programme in the field of the internal market and industrial policy under its Presidency in the first half of 2011. Its priorities are in line with the combined programme prepared by the Spanish, Belgian and Hungarian presidencies covering the period January 2010 to June 2011 *(16771/09)*.

Minister Cséfalvay highlighted the fact that the current macroeconomic situation can only be successfully overcome by making EU member states more competitive . Three elements are the core priorities of the Hungarian Presidency in this sector: clear rules, value-creation and a Single Market for all, including SMEs in particular.

EVENTS IN THE MARGINS OF THE COUNCIL

Location of the global navigation satellite systems agency

The representatives of the member states' governments, meeting in a conference on the sidelines of the Council, decided that the European GNSS agency will have its seat in Prague (*17576/10*).

The agency is entrusted with certain tasks in the implementation of the European global navigation satellite systems (GNSS) under the EGNOS and the Galileo programmes. These tasks include in particular specific security aspects such as security accreditation and the operation of the Galileo security centre, as well as the commercialisation of the European GNSS systems. The agency, which works under the authority of the Commission, was initially established in 2004 as the "European GNSS Supervisory Authority" and has been provisionally located in Brussels. Its role and functioning was redefined by Regulation 912/2010, which also gave it its new name.

Single Market Award 2010

The 2010 Single Market Award went to the joint Austrian/Czech/German initiative "Grenzoffensive", a cross-border platform which aims to facilitate neighbouring cross-border work.

The winner was announced at a prize-giving ceremony in the margins of the Council by the Belgian Minister for Economic Affairs ? Vincent Van Quickenborne and the Commissioner for the Internal Market, Michel Barnier.

The Single Market Award seeks to raise awareness of the opportunities associated with the free movement of persons, goods, services and capital within the EU.

The prize was launched in 2009 to reward companies, citizens or organisations that are contributing in a significant way to the development of the internal market.

OTHER ITEMS APPROVED

INTERNAL MARKET

State aid regime for the coal sector

The Council today adopted a decision aimed at facilitating the transition from the specific state aid regime currently applying to the coal sector to the general state aid rules applicable to all sectors in the EU (*16229/1/10* + *COR 1*).

The decision includes the following main elements:

– the possibility of continuing to grant, under certain conditions, public aid to the coal industry with a view to facilitating the closure of uncompetitive hard coal mines until December 2018;

– the modalities for the phasing-out of the aid, under which the overall amount of aid granted by a member state must follow a downward trend, in order to prevent undesirable effects of distortion of competition in the internal market;

– the obligation for member states granting aid to provide a plan on intended measures to mitigate the environmental impact of the production of coal; and

– the possibility of allowing subsidies, until December 2027, in order to cover exceptional expenditure in connection with the closure of mines that are not related to production, such as social welfare benefits and rehabilitation of sites.

The existing rules, in force since 2002 (Regulation No 1407/2002), will expire on 31 December 2010. The non-renewal of the special state aid regime would force some member states to close uncompetitive hard coal mines immediately, a situation that would entail serious social, technical and regional consequences.

Therefore the Commission proposed last July, after carrying out an impact analysis and a public consultation, to maintain a transitory period provided that the aid granted to non-sustainable mines formed part of a closure plan *(12698/10)*.

FOREIGN AFFAIRS

Financing instrument for cooperation with industrialised and other high-income countries

The Council adopted its position at first reading on a proposal for amending Regulation No 1934/2006 establishing a financial instrument for cooperation with industrialised and other high-income countries and territories *(16440/10)*.

The purpose of the Commission proposal is to extend the scope of the initial regulation to a number of countries in Latin America, Asia, Central Asia and the Middle East, as well as South Africa, and to allow the financing of measures that do not qualify for Overseas Development Assistance. The amendments would allow for stronger ties and further engagement with important global emerging partners. The Council had no substantive difficulties with the proposal and met a number of concerns of the European Parliament relating to the application of the amended regulation.

The Council position at first reading reflects a large degree of consensus with the European Parliament, following the negotiation of compromises in order to allow the amended regulation to enter into force in 2010, thereby ensuring that funds entered in the 2010 budget are not lost.

Financial instrument for promotion of democracy and human rights worldwide

The Council adopted its first-reading position on a proposal to amend Regulation No 1889/2006 on establishing a financing instrument for the promotion of democracy and human rights worldwide (*16446/10*).

The purpose of the amendment is to ensure the consistency of the EU financial instruments for external action and to allow minimal but necessary flexibility in their implementation. The Council accepts the amendment and some technical amendments tabled by the European Parliament for the purpose of clarity and accuracy.

EU/Switzerland cooperation agreement on competition policy

The Council authorised the Commission to open negotiations on a cooperation agreement with Switzerland in the area of competition.

The EU has currently concluded cooperation agreements in the area of competition with Canada, Japan, South Korea and the United States of America. These agreements are aimed at reducing divergences of interpretation in the field of competition policy in bilateral relations.

JUSTICE AND HOME AFFAIRS

European Case Law Identifier – ECLI - Conclusions

The Council adopted conclusions inviting the introduction of the European Case Law Identifier (ECLI) and a minimum set of uniform metadata for case law (*16871/1/10 REV 1*) (*16869/10*).

BUDGET

EU solidarity fund for France and Portugal

The Council adopted its position on draft amending budget No 9 for 2010, accepting the Commission proposal to mobilise the EU solidarity fund for a total amount of EUR 66.9 million for France following the storm "Xynthia" and for Portugal following the severe floods on Madeira.

Council's position on new draft EU budget and connected items

The Council adopted its position on the new EU draft budget for the financial year 2011, approving the informal agreement reached between the Belgian Presidency and the European Parliament at the trilogue of 6 December and paving the way for the final adoption of next year's budget before the end of the year (*17569/10 REV 1* + *17569/10 ADD 1 REV 1*).

With the adoption of its position, the Council accepted the draft budget presented by the Commission on 26 November 2010 (http://ec.europa.eu/budget/documents/2011_en.htm?go=t1_1#table-1_1) with some minor technical adjustments.

The total **payments** for the EU budget 2011, as accepted by the Council, amount to **EUR 126.527 billion** (+2.9% compared to 2010), corresponding to 1.01% of the Gross National Income (GNI) of the EU. The **commitments** for 2011 amount to **EUR 141.909 billion** (+0.3%) leaving a margin of EUR 1.891 billion under the total ceiling of the financial framework. For more details on the figures, see press release (*17764/10*).

The Council also adopted a decision on the mobilisation of the flexibility instrument to complement the financing in the 2011 budget, beyond the ceilings of the multiannual financial framework. EUR 71 million will be mobilised under heading 4 (the EU as a global player) and EUR 34 million under sub-heading 1a (competitiveness for growth and employment) for lifelong learning and fostering competitiveness and innovation.

If the European Parliament formally approves the Council's position, the budget 2011 will be considered to be adopted.

This would avoid the application of the "provisional twelfths" scheme which would have major consequences to the implementation of key policies and programmes. Under this scheme, only one twelfth of the budget appropriations for 2010 would have been funded monthly for each chapter or even less if the amount in the draft budget 2011 is lower for that chapter.

The Council also approved draft amending budget No 10 as amended by amending letter No 1 which includes a **revision of the forecasts of own resources and other revenue** (*17568/10*)**.**

Furthermore, the Council adopted a decision revising the multiannual financial framework in order to finance the additional needs of the International Thermonuclear Experimental Reactor (ITER) project in 2012 and 2013 (*17572/10 REV 1*).

The European Parliament is expected to adopt its position on 15 December. Negotiations on a first draft budget for 2011 submitted by the Commission in spring this year failed within the Conciliation Committee on 15 November (*16368/10*).

AGRICULTURE

German alcohol monopoly

The Council adopted a regulation amending Regulation No 1234/2007 ("Single CMO" regulation) as regards the aid granted in the framework of the German Alcohol Monopoly (*56/10*). This follows a first-reading agreement with the European Parliament.

This amendment extending the derogation for the aid granted by Germany in the framework of its alcohol monopoly should apply as from 1 January 2011 given that the current derogation will end on 31 December 2010.

This derogation allows Germany to grant aid, through the federal monopoly administration for alcohol (Bundesmonopolverwaltung für Branntwein - BfB), for "ethyl alcohol of agricultural origin". The state aid granted corresponds to the difference between the cost of purchasing raw alcohol from producers (distilleries and farmers) at above market prices and the income generated by selling that alcohol at the market price, taking into account the collection, processing and operational costs borne by the BfB.

In order to finally phase out completely the current monopoly and end the aid, this regulation provides for an extension of the derogation beyond 31 December 2010 and a gradual reduction in the monopoly's production and sales until it closes its doors in 2017. Medium-sized agricultural distilleries would remain in the monopoly until the end of 2013 with specific compensation measures when leaving the system; small-scale locally oriented distilleries producing very small quantities of alcohol from fruit would remain in the monopoly until the end of 2017.

DEVELOPMENT

Financial instrument for development

The Council adopted its first-reading position concerning an amendment to the development cooperation instrument (*16442/10* + *ADD 1*) so as to harmonise provisions in all EU financial instruments for external action. The Council accepted the Commission proposal to allow limited flexibility, on a case-by-case basis, to use this instrument to finance taxes, duties and other charges, which would in principle not be permitted.

Accompanying measures for ACP banana producers

The Council adopted its first-reading position on a proposed EUR 190 million programme to help African, Caribbean and Pacific (ACP) countries producing bananas adjust to trade liberalisation on the banana market (*16447/10* + *ADD 1*). The measures are intended to support the adaptation of areas dependent on banana exports and their economic diversification. They are also designed to help with social impacts and investments in improving competitiveness where this is a viable strategy. Finally, the new funds can support small banana farmers and enterprises.

The measures are to be temporary and would last from 2010 to 2013. They would benefit Belize, Cameroon, Côte d'Ivoire, Dominica, the Dominican Republic, Ghana, Jamaica, Saint Lucia, Saint Vincent and the Grenadines and Suriname.

TRADE POLICY

Duty-free treatment for pharmaceutical active ingredients

The Council adopted a regulation concerning the provision of duty-free treatment for specified pharmaceutical active ingredients bearing an "international non-proprietary name" (INN) from the World Health Organization and specified products used for the manufacture of finished pharmaceuticals (*59/10*). This follows a first-reading agreement with the European Parliament.

ENVIRONMENT

Biocidal products

The Council did not oppose several draft Commission directives adding nonanoic acid in repellents and attractants as well as fenoxycarb and bifenthrin used as wood preservatives to the list of active substances that may be authorised by member states for use in biocidal products according to Directive 98/8/EC.

In addition, the Council did not oppose a Commission Directive including (Z,E)-tetradeca-9,12-dienyl acetate in traps for indoor use in the list of active substances that may be authorised by member states for inclusion in low-risk biocidal products. The entry specifies that the traps concerned shall not be used in spaces where unpackaged food or feed is kept.

Export and import of dangerous chemicals

The Council did not oppose two draft Commission regulations amending the list of dangerous chemicals subject to notification requirements for export and import and export restrictions (*15637/10*, *15639/10*). The changes came as a consequence of amendments to internal EU rules concerning chemicals, including the implementation of the REACH regulation and pesticide laws. As a result, the export of a further ten dangerous chemicals from the EU is banned.

EU Ecolabel

The Council did not oppose a draft Commission decision prolonging ecological criteria for the award of the EU Ecolabel, which were due to expire on 31 December 2010 (*15367/10*). The criteria for copying and graphic paper and personal computers will be prolonged until 30 June 2011; the criteria for light bulbs will be valid until 31 August 2011 while those for laundry detergents and detergents for dishwashers will apply until 30 April 2011. On expiry, the criteria are to be replaced with updated ones.

Waste management

The Council expressed its intention to adopt a draft regulation setting criteria that determine when certain types of scrap metal cease to be considered waste. The criteria concern iron, steel and aluminium scrap. Such scrap could be recycled for metal production if it is sufficiently pure, meets the technical requirements of the metal producing industry and does not lead to negative impacts on human health and the environment. The development of such end-of-waste criteria was provided for in the EU framework legislation on waste (Directive 2008/98/EC).

The draft regulation was initially submitted by the Commission to a regulatory committee, which failed to give an opinion on 16 September. The Council has now submitted the same text to the European Parliament. If the European Parliament does not oppose the draft act within two months, the Council will subsequently adopt the regulation.

Mercury

The Council mandated the Commission to negotiate on behalf of the EU a global legally binding instrument on mercury. This authorisation concerns areas where the Union has competence and has adopted rules. The Council also adopted negotiating directives for the Commission, asking it to ensure that the new international agreement reduces mercury releases into the environment as much as possible.

REGIONAL POLICY

International Fund for Ireland

The Council adopted a regulation concerning EU financial contributions to the International Fund for Ireland in the years 2007-2010, aimed at supporting peace and reconciliation in that country (*26/10*). The new legislative act is put on a new dual legal basis but its content is the same as that of Regulation No 1968/2006 which it replaces.