



Brussels, 29 November 2011

Background¹
COMPETITIVENESS COUNCIL
Brussels, 5 and 6 December 2011

*The sessions will be chaired by Mr **Waldemar Pawlak**, Deputy Prime Minister, Minister of Economy and Mrs **Barbara Kudrycka**, Minister of Science and Higher Education, of Poland.*

*On Monday 5 December (starting at 9.30), industry ministers will be invited to adopt conclusions addressing the implementation of **industrial policy** across Europe. They will also hear a presentation on the Commission proposal for a **Competitiveness and SME (small and medium-sized enterprise) programme 2014-2020**.*

*The Council will be invited to exchange views and adopt conclusions on the results of the **single market forum** and on ways for improving **impact assessments** along the EU's legislative process. It is also expected to adopt conclusions on **customs cooperation with Eastern neighbouring countries**.*

*In the afternoon, the Council will continue the examination of files related to the creation of **unitary patent protection** and of a **unified patent litigation system**.*

*The Council will adopt a general approach on a draft directive on **interconnection of businesses registers**.*

*On Tuesday 6 December (starting at 9.00), the Council will exchange views on the future framework **programme for research and innovation "Horizon 2020"**, following a presentation of the Commission proposal.*

*It is also expected to adopt conclusions on **partnering in research and innovation** and to launch five **new joint programming initiatives** on: "Healthy and Productive Seas and Oceans", "The microbial challenge - An emerging threat to human health", "Connecting Climate Knowledge for Europe (Clik'EU)", "Urban Europe - Global Challenges, Local Solutions" and "Water Challenges for a Changing World".*

*In the afternoon, the **8th Space Council** between the EU and the European Space Agency (ESA) will hold an exchange of views on the benefits of space for the security of citizens with a view to adopt a resolution.*

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

Press conferences:

- *internal market: Monday 5/12, after lunch (**tbc**) and at the end of the evening session*
- *research: Tuesday 6/12, end of the morning session*
- *space: Tuesday 6/12, end of the afternoon session*

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

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

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INDUSTRY - INTERNAL MARKET

Reinforcing implementation of industrial policy: Council conclusions

The Council will be invited to approve conclusions on reinforcing the implementation of industrial policy across the EU.

The conclusions will point to a number of industrial policy issues which should be addressed as a matter of priority by the Commission and by member states. They are in line with the political guidance provided by the European Council last October², which identified a number of key priorities for economic policy in order to achieve economic growth and job creation.

Priority measures that need to be pursued towards greater competitiveness of Europe's industry include:

- the completion of the internal market for services and of the digital single market;
- ensuring fair and undistorted pricing of energy and raw materials;
- pursuing efforts in further reducing administrative burden on businesses, especially on SMEs;
- promoting competition among service providers that use the telecommunications, especially broadband, as well as energy and transport infrastructures; and
- supporting networks and cluster partnerships in sectors with significant economic potential.

The following communications from the Commission have been examined in the context of the drafting of the conclusions:

- "An Integrated Industrial Policy for the Globalisation Era: Putting Competitiveness and Sustainability at Centre Stage"³,
- "Industrial Policy: Reinforcing competitiveness"⁴,
- "A renewed EU strategy 2011-2014 for Corporate Social Responsibility"⁵,
- "Social Business Initiative"⁶ and
- "Small Business, Big World - a new partnership to help SMEs seize global opportunities"⁷;
- "A strategic vision for European standards"⁸.

² Doc. EUCO 52/11 of 23 October 2011.

³ Doc. 15483/10 of 28 October 2010.

⁴ Doc. 15587/11 of 14 October 2011.

⁵ Doc. 16606/11 of 9 November 2011.

⁶ Doc. 16628/11 of 9 November 2011.

⁷ Doc. 16764/11 of 11 November 2011.

⁸ Doc. 11471/11 of 10 June 2011.

Previous Council conclusions have been taken into account in the context of the drafting of the conclusions:

- "An integrated industrial policy for the globalisation era"⁹;
- "Review of the Small Business Act for Europe"¹⁰;
- "A competitive European economy: Industrial competitiveness in the light of resource efficiency"¹¹.

Unitary patent protection

The Council will conduct a policy debate on a package aimed at establishing a patent system with unitary effect that ensure uniform protection for inventions across Europe, together with the corresponding translation arrangements, and the creation of a unified patent litigation court.

The Polish presidency is committed to facilitate a political agreement within the Council on the package before end 2011. The European Parliament is expected to vote on the two draft regulations for the creation of unitary patent protection and the applicable translation arrangements early in 2012.

During the last weeks, EU experts have carried out intensive work on the two draft regulations, notably in order to improve provisions for the benefit of the small and medium-sized enterprises (SMEs).

In parallel, EU experts have continued work on a future agreement for creating a common patent court that would ensure compliance with the EU treaties, following the political guidance provided at the ministerial meeting of 29 September (*see press release [14691/11](#), page 9*). Ministers will discuss on crucial elements of the draft agreement, such as the financing of the court and the locations of its seats.

On 27 June, the Council agreed on a general approach¹² on two draft regulations implementing enhanced cooperation in the area of unitary patent protection (*see press release [11831/11](#)*). The legal basis and voting rules within the Council are:

- as regards the draft regulation for the creation of unitary patent protection: article 118(1) of the EU treaty (ordinary legislative procedure by qualified majority);
- as regards the translation regime: article 118(2) of the EU treaty (special legislative procedure by unanimity).

On 30 May, a large majority of member states endorsed the setting up of a unified patent court by means of an agreement to be concluded between the member states outside the EU institutional framework. In March, the Court of Justice of the EU had issued its Opinion 1/09 on the compatibility of the envisaged system with EU law¹³.

⁹ Doc. 17838/10 of 13 December 2010.

¹⁰ Doc. 10975/11 of 31 May 2011.

¹¹ Doc.14874/11 of 29 September 2011.

¹² A general approach is an agreement on the essential elements of a legal act, pending the opinion of the European Parliament.

¹³ <http://curia.europa.eu/jcms/upload/docs/application/pdf/2011-03/cp110017en.pdf>

Interconnection of business registers

The Council will be called upon to reach an agreement on the interconnection of central, commercial and companies registers.

The Council conclusions of 25 May 2010 confirmed that improving access to up-to-date and trustworthy information on companies could encourage greater confidence in the market, help recovery and increase the competitiveness of European business ([9678/10](#)).

The system is aimed at providing for public access to information as well as for direct exchange between national registers (allowing for instance for the deletion of a foreign “orphan” branch in case of winding up of parent company in another member state). Minimum information will be guaranteed free of charge and member states will be able to provide more information without fees. A multi-language support will facilitate access and use of information both for consumers and businesses.

The interoperability of registers should be ensured through the member states' delivery of information from their registers, by providing services which will constitute interfaces to a European central platform. This platform will be a centralised set of information technology tools and services, used by all domestic registers. The European e-Justice Portal¹⁴ will serve as one of electronic access points. Companies and their branches opened in other member states will have a unique identifier that allows their unequivocal identification.

The future directive will require an update of three existing company law directives:

- 89/666/EEC on the requirements of branches opened in other member states;
- 2005/56/EC on cross-border mergers of limited liability companies; and
- 2009/101/EC on coordination of safeguards, which ensures, amongst other things, that documents and particulars stored in the register can be accessed.

A voluntary cooperation mechanism between the business registers in Europe already exists but it is limited to certain types of information and does not cover every member state. It is therefore not sufficient to meet the needs for information induced by business activity in the single market. Its business model has not appealed to potential users.

¹⁴ <https://e-justice.europa.eu>

Single Market Forum: Council conclusions

The Council will adopt conclusion on the results of the first single market forum (SIMFO) that took place in Krakow, Poland, on 3 and 4 October.

The SIMFO, which was organized jointly by the European Parliament, the Commission and the Polish presidency, is intended to be the starting point of a permanent platform for debate among EU institutions, stakeholders and citizens on the development of the internal market.

The conclusions will elaborate on the issues reflected in the "Krakow declaration"¹⁵ endorsed by the participants at the SIMFO. These issues include:

- the examination of advantages in creating a European Professional Card that could help to promote cross-border mobility in the EU;
- ways for improving consumers protection by facilitating access to dispute resolution schemes;
- the improvement of the "Points of single contact"¹⁶ in order to further facilitate and promote trade across borders;
- the development of e-commerce and online services;
- ways for facilitating provision of services by companies across the EU;
- the modernisation and simplification of EU public procurement legislation;
- the improvement of information and assistance to citizens concerning the internal market; and
- the effective and timely implementation of measures related to the internal market.

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

The Council will be invited to adopt conclusions on impact assessments in support of the EU's lawmaking process.

The conclusions will address the findings and recommendations of the European Court of Auditors' report on this subject (*see press release [17668/1/10](#), page 11*), particularly:

- the fact that substantive amendments to initial Commission proposals are rarely-subject to assessments of potential impacts;
- the need for quantifiable and comparable data as a means of ensuring the optimal presentation and utility of impact assessments;
- the recommendation that the impact assessments have to take more consideration of the implementation and enforcement costs of new legislation at national level.

¹⁵ http://www.mg.gov.pl/files/upload/14617/20111004_THE_KRAKOW_DECLARATION.pdf

¹⁶ Since beginning 2010, electronic points of single contact have to be operational in all EU countries. These e-government portals foreseen by the Services directive should allow entrepreneurs to get the information they need, file their applications online and receive answers from public authorities.

In its conclusions on smart regulation of 30 May 2011 ([10985/11](#)), the Council committed to establish its own impact assessment system in order to examine, where appropriate, the potential effects of substantive amendments during the decision-making process, as well as to take into consideration the result of ex-post evaluations of existing acts when considering new legislative proposals. Furthermore, the Council invited national administrations to provide appropriate data and information to support the preparation of impact assessments.

The 2003 inter-institutional agreement on better law-making and the 2005 common approach to impact assessments provide that the European Parliament and the Council will carry out impact assessments when they consider this to be appropriate and necessary prior to the adoption of any substantive amendment.

Impact assessments provide systematic analysis and evaluation of the economic, social and environmental impacts of policy options. They are an integral part of the EU policymaking process. They ensure that the positive and negative impacts of a range of options can be considered and facilitate better informed negotiations to balance different priorities. They also ensure that consideration is given to legal consistency and coherence with the existing acquis and other relevant proposals and contain a "subsidiarity test", to demonstrate that EU-level action is appropriate and proportionate.

Customs cooperation with Eastern neighbouring countries: Council conclusions

The Council is due to adopt conclusions on customs cooperation with Eastern neighbouring countries¹⁷ within the framework of the EU's neighbourhood policy¹⁸ ([16881/11](#)).

The conclusions will focus on priority areas of cooperation against the background of the commitment of the EU and its Eastern neighbours to further enhance political association and economic integration.

In particular, the conclusions will address specific areas for improved cooperation which include the need to develop safe and fluid trade lanes; the fight against fraud along the EU-Eastern border and investments in customs modernisation.

A high level seminar on the subject was organised under the auspices of the Polish presidency in Cracow on 20 and 21 October¹⁹.

At the Eastern partnership summit held in Warsaw on 29 and 30 September ([14983/11](#)), participants agreed that the Eastern partnership must be significantly strengthened and committed to stepping up its implementation, with the objective of building a common area of democracy, prosperity, stability and increased interactions and exchanges.

¹⁷ Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, the Republic of Moldova, Ukraine and Russia.

¹⁸ http://eeas.europa.eu/eastern/index_en.htm

¹⁹ <http://pl2011.eu/en/content/customs-service-seminar-towards-better-cooperation>

Business Competitiveness and SME programme

The Council will hear a presentation by the Commission on the proposals for a Business Competitiveness and SME programme for the years 2014-2020.

The Commission will propose the plan for establishing a "Competitiveness and SMEs programme" as a successor to the non-innovation part of the current "Competitiveness and Innovation Framework Programme" (CIP). All research and innovation support to SMEs (including the innovation part of the CIP) will be included in the framework for research and innovation "Horizon 2020".

The new multi-annual programme will focus mainly on measures to promote more dynamic and internationally-competitive SMEs. These measures will include:

- actions for improving the competitiveness and sustainability of EU industry;
- innovative financial instruments for growth to facilitate SME access to funding;
- measures to support EU companies to better access to markets;
- activities to promote entrepreneurship.

RESEARCH

Framework programme for research and innovation: "Horizon 2020"

The Council will hold an exchange of views on the new common strategic framework for research and innovation for the years 2014-2020, "Horizon 2020". The debate will follow a presentation by the Commission of the new proposal.

"Horizon 2020" will replace the EU's 7th research framework programme (FP7), which runs until end 2013.

The new framework for research is expected to eliminate fragmentation in this field and to ensure more coherence, including with national research programmes. Horizon 2020 will build upon the current FP7 concept, the Competitiveness and Innovation Programme (CIP) and the European Institute for Innovation and Technology (EIT). It will be closely linked to key sectoral policy priorities such as health, food security, energy and climate change, etc., and will have strong links to cohesion policy as well as rural development.

The Commission proposed to allocate €80 billion for the 2014-2020 period for the Horizon 2020 framework programme for the next EU multiannual budget.

In February 2011, the European Council called for the implementation of a strategic and integrated approach to boosting innovation and taking full advantage of Europe's intellectual capital, to the benefit of citizens, companies - in particular SMEs - and researchers, in the framework of the Europe 2020 strategy for creating growth and jobs.

The Commission carried out a public consultation from 9 February to 20 May 2011 on key issues related to the development of the future EU research and innovation funding programmes:
http://ec.europa.eu/research/horizon2020/pdf/consultation-conference/summary_analysis.pdf

Partnering in research and innovation: Council conclusions

The Council will be invited to adopt conclusions on partnering in research and innovation.

The conclusions build on the Commission communication on partnering in research and innovation ([14555/11](#)), which was issued 21 September 2011. The communication elaborates on how partnerships for innovation and research of different nature can deliver towards the EU 2020 strategy for growth and jobs and its implementing initiative "Innovation Union".

A working document attached to the communication also includes the Commission's reply to evaluations of joint technology initiatives on "Innovative Medicine", "Clean Sky" and "Fuel Cells and Hydrogen".

Partnering brings together the public sector at European, national and regional levels in public-public partnerships as well as the public and private sector in public-private partnerships. Partnering can help to maximise the contribution of research and innovation to achieving smart and sustainable growth in the EU, by making the research and innovation cycle more efficient and shorten the time from research to market. This is essential to achieve the goal of completing the European Research Area by 2014.

European Innovation Partnerships (EIPs) are a new approach to speed up innovations addressing the major challenges facing our society. A pilot EIP on active and healthy ageing is currently ongoing with the purpose to test the concept and to assess how an EIP can best be implemented.

Launching of five research joint programming initiatives: Council conclusions

By means of conclusions, the Council will launch the following five research joint programming initiatives:

- "Healthy and Productive Seas and Oceans"²⁰;
- "Urban Europe - Global Urban Challenges, Joint European Solutions"²¹;
- "Connecting Climate Knowledge for Europe"²²
- "Water Challenges for a Changing World"²³;
- "The Microbial Challenge – An Emerging Threat to Human Health"²⁴.

²⁰ Doc. 14454/11.

²¹ Doc. 16035/11.

²² Doc. 16037/11.

²³ Doc. 16313/11.

²⁴ Doc. 16314/11.

These initiatives will contribute to the reduction of fragmentation of research efforts of member states and will step up the mobilisation of skills, knowledge and resources, with a view to advancing and strengthening Europe's leadership and competitiveness of research and innovation in these fields.

Joint programming is a member state driven process combining a strategic framework, a bottom-up approach and high-level commitment from the member states. It builds on the experience gained from existing schemes coordinating national programmes. It was launched by the Commission communication entitled "Towards joint programming of research" adopted in July 2008 ([11935/08](#)).

SPACE

8th Space Council: benefits of space for the security of citizens

The meeting of the 8th Space Council between the EU and the European Space Agency (ESA²⁵) will take place on Tuesday afternoon, in the margins of the Competitiveness Council.

The Space Council will hold an exchange of views with a view to adopt a resolution on the value and benefits of space for the security of European citizens.

During the debate, ministers will be invited to share national experiences in this field and to assess the contribution of space to the well being and security of European citizens. They are also expected to express views on further actions that should be taken at national and European level to maximize the benefits of space for the civil society.

Among other subjects, the resolution will contain guidelines with regard to space security, space situation awareness and space exploration.

The resolution will highlight the important role that the EU-led programme "Global monitoring system for environment and security" (GMES) will play in ensuring the independent access by Europe to gather essential information in support of environment, security, humanitarian aid, civil protection and the rest of the thematic areas covered by GMES²⁶.

Ministers will also take note of the outcome of the Third conference on space exploration that took place in Lucca, Italy, on 9 and 10 November.

Following the 8th Space Council, EU ministers in charge of space matters will hear a presentation by Vice President Antonio Tajani on a Commission communication about GMES and its future operations (from 2014 onwards).

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²⁵ <http://www.esa.int>

²⁶ <http://www.gmes.info>

The 7th Space Council meeting took place in Brussels on 25 November 2010. It adopted the resolution "Global challenges: taking full benefit of European space systems" ([16911/10](#), page 9).

The Lisbon treaty, which entered into force in December 2009, has enshrined the space policy as a EU competence, thus strengthening its political dimension.

The legal basis for the "Space Council" is a framework agreement between the EU 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 regular joint meetings 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.
