



COUNCIL OF THE EUROPEAN COMMUNITIES
GENERAL SECRETARIAT



PRESS RELEASE

10968/86 (Presse 190)

1126th meeting of the Council

- Internal Market -

Brussels, 1 December 1986

Presidents:

Mr Alan CLARK

Minister for Trade
of the United Kingdom

and

Lord LUCAS of CHILWORTH

Under Secretary of State,
Department of Trade and Industry
of the United Kingdom

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

Belgium:

M. Paul DE KEERSMAEKER State Secretary for European
Affairs and Agriculture

Denmark:

Mr Nils WILHJELM Minister for Industry

Germany:

Mr Otto SCHLECHT State Secretary,
Federal Ministry of Economic Affairs

Greece:

Mr Vasilis SARANTITIS Minister for Trade

Spain:

Mr Pedro SOLBES MIRA State Secretary for Relations
with the European Communities

France:

Mr Bernard BOSSON Minister with responsibility
for European Affairs

Ireland:

Mr Richard BRUTON Minister of State,
Department of Industry and Commerce

Italy:

Mr Fabio FABBRI Minister for the Co-ordination
of Community policies

Luxembourg:

Mr Robert GOEBBELS State Secretary for Foreign
Affairs and Foreign Trade

Netherlands:

Mr R. VAN DER LINDEN

State Secretary
for Foreign Affairs

Mr A.J. EVENHUIS

State Secretary
for Economic Affairs

Portugal:

Mr Victor MARTINS

State Secretary for
European Integration

United Kingdom:

Mr Alan CLARK

Minister for Trade

Lord LUCAS of CHILWORTH

Under Secretary of State,
Department of Trade and Industry

°

°

°

Commission:

Lord COCKFIELD

Vice-President

M. Karl-Heinz NARJES

Vice-President

M. Grigoris VARFIS

Member

COUNTERFEIT GOODS

The Council adopted the Regulation laying down measures to prohibit the release for free circulation of counterfeit goods. The purpose of the Regulation is to protect the owners of trade marks registered in the Member States against the importation of counterfeit goods into the Community by providing for measures (destruction, disposal outside the channels of commerce, measures to deprive importers of counterfeit goods of the commercial benefits of the transaction) to be applied at the request of the trade-mark owner to goods found to be counterfeit.

CHEMICAL PRODUCTS

The Council reached agreement on the Directive on the harmonization of the laws, regulations and administrative provisions relating to the application of the principles of good laboratory practice to be applied to the tests to be carried out inter alia on the chemical substances contained in the 6th amendment to Directive 67/548/EEC. The Directive implements agreements reached on this matter within OECD.

SELF-PROPELLED INDUSTRIAL TRUCKS

The Council reached final agreement (1) on the Directive on the harmonization of the safety requirements governing the design and construction of self-propelled industrial trucks, thus ensuring the free marketing of these products throughout the Community.

This Directive covers the technical specifications to be followed by manufacturers in the interests of safety, the European Committee for Standardization being asked to draw up the requisite standards in one particular area, namely pedal layout.

(1) Two delegations gave their agreement ad referendum

ROLL OVER PROTECTION FOR NARROW-TRACK TRACTORS

The Council reached agreement on the Directive relating to roll-over protection structures mounted in front of the driver's seat on narrow-track tractors.

This Directive provides for Community-wide construction and testing requirements for these structures. It marks another step towards the ultimate goal of a total free market for tractors within the Community.

SEMI-CONDUCTORS

The Council approved in principle a Directive on the legal protection of original topographies of semiconductor products. The Directive will be formally adopted at one of the next sessions of the Council after finalization of the text.

In general terms semiconductor products, usually called semiconductor integrated circuits or chips, are small electronic devices in which an entire electronic circuit, including transistors, resistors, capacitors and their interconnections, is fabricated on to a single piece of semiconductor material. They perform electronic and related functions and are used for data processing, industrial control and a wide variety of industrial and commercial purposes. The development of semiconductor products has led to an enormous growth in the computer industry and has made possible the creation of many high-technology products, for example personal computers, hand-held calculators, word processors and digital time keeping equipment. They have also had a significant impact on other products. Today, cars, laboratory and medical equipment, communication equipment and household appliances contain semiconductor products and may thus be produced and sold at lower cost and perform more efficiently.

The design and development of new semiconductor products has, however, become increasingly costly. If the investment is insecure, because other firms can appropriate it almost without cost and then use the information to make semiconductor products to be sold in competition against the firm that made the investment, there might be serious negative effects which would lead to a slowdown in technological innovation in the semiconductor industry.

The problem of legal protection of semiconductors became especially pressing for the Member States of the European Communities when the US Congress adopted the US Semiconductor Chip Protection Act in 1984. This Act not only introduced a new form of protection for semiconductors but also provisions based on reciprocity for the protection of non-Americans.

In order to avoid the possibility of divergent legislative developments in the Community and to secure protection for EC firms on the US market the Commission submitted in January 1986 a proposal for a Council Directive for the legal protection of semiconductor products.

The Directive is based on a framework approach fixing certain basic substantive parameters as to the kind of protection to be given while leaving the Member States free to decide how best to legislate for their own territories.

The protection is achieved by conferring exclusive rights to the creator of an original topography, i.e. a layout design or, in the US terminology, a mask work, of semiconductor products. Originality exists if the topography is the result of its creator's own intellectual effort and is not commonplace in industry.

The protection applies in favour of natural persons who are nationals of or resident in a Member State and in favour of legal persons who have a real and effective industrial or commercial establishment in a Member State. The extension of protection to other persons will be negotiated with third States on a basis of reciprocity. There are basically two legal forms of protection to which Member States may have recourse under the Directive : without any formality from the day on which the topography is first encoded or commercially exploited (copy right approach) or subject to a registration procedure at a national Patent Office with an examination limited to compliance with formal requirements.

The content of the exclusive rights is defined in a uniform manner : it includes the right to prohibit reproduction of the topography and the commercial exploitation or the importation of semiconductor products manufactured by using the topography. The difficult question of reverse engineering, i.e. the extent to which the result of an analysis of a protected topography may be incorporated in another topography without infringing the exclusive rights, has found a solution by requiring that the additions brought into the new topography make it original within the meaning of the Directive, that is that there must be a sufficient creative effort to justify the protection.

The Directive provides for a uniform maximum duration for the exclusive rights of ten years.

The Directive approved in principle today will, together with legislation in the USA and Japan, be one of the first legislative instruments in the world in this field and will make a major contribution to the worldwide development of this new branch of Intellectual Property, in particular in view of the preparation of the new multilateral Treaty within WIPO.

The Directive must be implemented no later than by 7 November 1987 to ensure that the Member States are in a position to obtain permanent protection in the USA as it is on this date that the provisional protection for EEC firms in the US expires.

PHARMACEUTICAL PRODUCTS

The Council reached general agreement on a package of 4 Directives and a Recommendation on pharmaceutical products.

This marks a major step towards completion of the common market in medicinal products, and in particular high-technology medicinal products.

Such products will now be evaluated at EEC level. They will also benefit from significantly better protection throughout the Community, while all the necessary public health requirements will be met.

In addition, test and trial standards for medicinal products have been tightened up considerably and further harmonized.

CONSUMER CREDIT

The Council reached agreement on this important proposal which is intended to improve consumer protection in the market for credit and which has been under intensive discussion for some 2 years since the Council received the opinion of the European Parliament.

The main provisions of the Directive, as agreed, are as follows :

- the obligation to disclose all relevant information to the consumer in particular as regards the true cost of the credit. For this purpose, the Directive foresees the introduction of the annual percentage rate of charge (APR) in all Member States ;
- provisions relating to the form and terms of credit contracts and to advertisements and offers of credit ;
- rules relating to early termination of contracts and repossession of goods ;
- provisions in respect of means of payment and guarantees ;
- the concept of joint liability of the creditor and the supplier of goods/services acquired under a credit agreement under certain defined circumstances ;
- provisions relating to supervision and control of persons granting credit.

The Directive in general lays down minimal provisions only, Member States being free to introduce more stringent measures for the protection of the consumer at national level if they so wish.

FIRE SAFETY IN EXISTING HOTELS

The Council gave its agreement in principle to a Recommendation on fire safety in existing hotels.

This Recommendation is in response to the fact that:

- rules governing fire safety in hotels do not exist in all the Member States
- where they do exist they are incomplete and contained in a number of different texts
- they are not always observed
- the expansion of tourism heightens the need to protect hotel guests and staff and to inform them of the protection provided.

It is confined to existing hotels since it is in such hotels that the risks are greatest, new hotel buildings generally having to comply with very strict regulations.

The Recommendation lays down aims and means of ensuring safety in existing hotels and, for hotels which can accommodate more than 20 people, sets out recommended technical guidelines concerning escape routes, staircases, building structures, materials used in coverings and decorations, the electrical installation and heating, alarm and alerting equipment, instructions for staff, etc..

To promote the circulation of information regarding measures adopted at national level Member States will inform the Commission, which will play a central role in passing on this information.

DOZERS AND LOADERS

The Council noted that one delegation was still unable to give its agreement to the draft Directive on the limitation of noise emitted by hydraulic excavators, rope-operated excavators, dozers, loaders and excavator-loaders.

INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS

The Council made considerable progress regarding the draft Decision which is intended to promote standardization in Europe on the basis of the preparation and application of standards and common technical specifications in the field of information technology and telecommunications.

The Council laid down the guidelines for the final work on this dossier and invited the Committee of Permanent Representatives to proceed on this basis in order to enable early adoption of this Decision.

PUBLIC CONTRACTS

The Council discussed the draft Directive amending Directive 77/62 on public supply contracts, as well as draft conclusions on public contracts which are intended to define the policy to be followed in this field in coming years.

On the former, the Council reached agreement in principle on a number of major issues brought forward by the Presidency. The Permanent Representatives Committee was asked to continue work on outstanding points with a view to reaching complete agreement at the next meeting of the Internal Market Council.

On the latter, the Council reached agreement on most points and the Permanent Representatives Committee was again invited to finalize the texts for adoption at the next meeting.

BORDER CONTROLS

The Council continued its examination of the draft Directive on the easing of border controls, in particular with regard to discussions with the Nordic Union, and the draft Resolution on co-operation among Member States on external frontier controls.

The Council concluded that further study was needed of the ideas arising from the draft Directive, and the parallel work relating to external frontiers, notably in the framework of the Ad hoc Group set up by Interior Ministers on 20 October 1986. It therefore instructed the Permanent Representatives Committee to report further to the Council on these matters and on the Commission proposal for a mandate for discussion with the Nordic Union.

TESTING AND CERTIFICATION

The Council took note of an oral report from the Commission on the position regarding mutual recognition of testing and certification which is an essential feature of the internal market.

SIMPLE PRESSURE VESSELS

The Council took note of progress regarding the draft Directive on the approximation of the laws of the Member States relating to simple pressure vessels. The Permanent Representatives Committee was asked to continue to give this matter a high priority.

COMMUNITY PATENT CONVENTION

The Council took note of a report from the Presidency concerning contacts which are taking place with certain Member States in order to find a solution to the problem of the conditions of entry into force of the Agreement on Community Patents which was installed in Luxembourg in December 1985 by the Plenipotentiaries of the 12 Member States.

The Belgian Presidency and the Commission were invited to continue contacts and to make a final report to the Council before the end of June 1987, in order to permit a decision on the convening of a final session of the Luxembourg Community Patent Conference in the first half of 1988.

ROLLING PROGRAMME

The Council took note of a progress report by the Presidency on the rolling action programme for the completion of the Internal Market.

MISCELLANEOUS DECISIONS

Other Internal Market Decisions

- Labelling of the noise of Domestic Appliances

The Council adopted the Directive on the labelling of the noise of domestic appliances. This Directive covers the provision of information to the consumer on the noise emitted by domestic appliances (dishwashers, vacuum cleaners, etc.), an area of considerable significance in terms of volume of trade. As well as laying down general principles, it contains harmonized provisions on how the noise level should be determined. It also lays down the statistical method for checking that what the labels say is correct.

Member States will remain free to decide individually whether or not to require the provision of information on noise levels. Where they do so, however, they are bound to follow the harmonized provisions in the Directive relating to marketing, measurement methods and checking through statistical sampling, thus avoiding the risk of technical barriers to trade to which differences in approach on these matters might give rise since the Directive demands that no Member State may refuse, prohibit or restrict the marketing of appliances on grounds relating to information or noise emitted, where such information is given in accordance with the Directive.

- Customs Union

The Council adopted, in the official languages of the Communities, the Regulation concerning the abolition within the framework of the TIR Convention of customs formalities on exit from a Member State at a frontier between two Member States.

- Customs matters

The Council adopted, in the official languages of the Communities, the Decision authorizing the Commission to take part in negotiations within the Customs Co-operation Council to draw up a new temporary importation convention.

Bruxelles, 28 novembre 1986

Note Bio(86) 328 aux bureaux nationaux
cc. aux membres du Service du Porte-Parole

433

Rendez-vous de midi du 28.12.86
Préparation Conseil Marché Intérieur du 1.12.86 (E. Reuter)

Matériel diffusé :

Calendrier

IP-558, Commission autorise Acenord et United Engineering Steels
à créer une entreprise commune Gekanor

Discours de M. Noël devant l'Institut Royal des Relations
Internationales à Bruxelles sur la situation et les perspectives
de la Communauté.

Points divers :

Europa TV: A la demande de M. Ripa di Meana, le Porte-Parole a
fait état d'une déclaration dans laquelle le membre de la
Commission responsable de la politique audio-visuelle,
s'exprimant à Rome ce matin, a souligné la myopie politique et le
manque de courage de certaines TV publiques qui, entre autres,
ont refusé l'offre de soutien financier à Europa-TV, lancé par
des TV privées. M. Maggiore (DG X) a fait le point sur les
derniers développements concernant Europa TV.

Préparation Conseil Marché Intérieur

Le Conseil Marché Intérieur, le dernier de la présidence
britannique, intervient juste avant le Conseil Européen qui a
également dressé un bilan des progrès accomplis dans la mise en
oeuvre du Livre Blanc. Le Premier Ministre du Royaume-Uni vient
d'adresser une lettre à ses collègues du Conseil Européen pour
souligner l'importance qu'il attachait à faire avancer le Marché
Intérieur. Les préparatifs du Conseil sont encore en cours à
l'heure actuelle. La présidence effectue les dernières étapes
d'un tour de capitales destiné à obtenir la solution d'un certain
nombre de blocages qui ont jusqu'à présent empêché des
conclusions sur un certain nombre de dossiers.

Au cours du déjeuner, Lord Cockfield évoquera l'idée d'un "timbre
européen" ou du moins de l'uniformisation des tarifs postaux à
l'intérieur de la Communauté. La délégation grecque vient
d'indiquer qu'elle entendait débattre du lien entre cohésion
interne de la Communauté et Marché Intérieur.

L'ordre du jour comporte 18 points. En dehors du point de routine
concernant l'état du programme relais, le Conseil se saisira
notamment d'une proposition de règlement relative aux
contrefaçons. Cette proposition vise à harmoniser les méthodes
utilisées par les Etats membres pour lutter contre l'importation
de pays contrefaits par des pays tiers. Quelques réserves
subsistent, mais on a bon espoir d'arriver à une décision.

Sont aussi à l'ordre du jour les charlots élévateurs et les tracteurs forestiers (voir Bio 295). Les négociations en vue de réconcilier un certain nombre de divergences de vues sur les points techniques sont en cours.

En ce qui concerne la proposition relative à la protection juridique des semi-conducteurs, il apparaît que le Conseil pourrait parvenir à un accord. Il est rappelé que cette position est indispensable pour pouvoir négocier avec les Etats-Unis une protection mutuelle des droits des propriétés intellectuelles dans ce secteur dans le contexte de la législation adoptée aux Etats-Unis en 1984.

Le Conseil reviendra aussi sur les 5 propositions de directive concernant les produits pharmaceutiques (voir Bio's). Les réserves des délégations espagnole (l'Espagne demande une dérogation jusqu'en 1992, ainsi que des clauses de sauvegarde), danoise, grecque, portugaise (étendu de la protection) et allemande (procédure du comité) pourraient être levées.

Le Conseil reprendra également des dossiers relatifs à la protection des consommateurs, notamment la directive concernant le crédit aux consommations et la recommandation concernant la protection contre l'incendie dans les hôtels. Un autre vieux dossier sur la table du Conseil depuis 1980 est celui du bruit émis par les machines de chantier.

Il n'est pas possible de prévoir si le Conseil pourra conclure la discussion sur la normalisation dans le domaine de la technologie de l'information et des telecoms ou les délégations ont des divergences de vues quant à la nature plus ou moins contraignante de l'instrument à adopter.

D'autres dossiers, comme la proposition visant à modifier la directive relative à l'adjudication des marchés publics, ne pourront sans doute pas produire des décisions définitives. Le Conseil évoquera ainsi le problème de la reconnaissance mutuelle des certificats et des résultats de tests, la directive relative au rapprochement des législations concernant les récipients à pression simples, la convention relative au brevet communautaire.

En ce qui concerne la facilitation des contrôles aux frontières (directive) et la coopération entre Etats membres dans ce domaine (résolution) des difficultés persistent en ce qui concerne la négociation à entreprendre avec l'union nordique en vue de résoudre la difficulté créée par le fait que la frontière entre le Danemark et la République Fédérale est à la fois une frontière intérieure de la Communauté est une frontière extérieure de l'union des passeports scandinaves.

Le Conseil s'efforcera d'adopter autant de décisions que possible sur ces nombreux dossiers qui ont tous déjà figuré plusieurs fois sur son ordre du jour. S'il réussit, on aura rattrapé une partie du retard au sujet duquel il s'était fort préoccupé lors de sa dernière réunion.

Amitiés,
H. PAEMEN - comeur

Bruxelles, le 1 décembre 1986.

Note Bio (86) 328 (suite 1) aux Bureaux nationaux
cc. aux membres du service du Porte-Parole

Conseil Marché Intérieur du 1.12.1986 (E. Reuter)

Le Conseil s'est réuni ce matin à 10.00 h sous la présidence de M. Alan Clarke, Ministre d'Etat au Département du Commerce et de l'Industrie. Au cours d'une tournée de capitales pendant la semaine passée, organisée de concert avec la Commission, la présidence avait préparé un paquet de décisions, relatif à treize propositions de la Commission dont l'adoption est fonction de la levée par les délégations des réserves qu'elles avaient émises lors de Conseils précédents, souvent au titre d'un ou de deux Etats membres. Dans un esprit évident de bonne volonté le Conseil a pu rapidement entériner des décisions de principe sur le règlement du Conseil destiné à empêcher l'importation de pays tiers de produits de contrefaçon, sur la directive concernant les pratiques de bon laboratoire, sur la directive relative aux dispositifs de protection équipants les tracteurs agricoles et forestiers à voie étroite ainsi que sur la directive concernant la protection juridique des topographes des semi-conducteurs.

Un premier tour de table sur les directives pharmaceutiques n'a pas permis de parvenir à des conclusions.

La matinée a vu également le Conseil évoquer le bilan de la mise en oeuvre des propositions du Livre Blanc. A la délégation grecque qui a plaidé pour une articulation contraignante entre le marché intérieur et des transferts au titre de la cohésion Lord Cockfield a fait valoir que l'absence de marché intérieur allait compromettre la génération de nouvelles ressources susceptibles de rendre la Communauté assez forte et capable de financer les projets destinés à soutenir la cohésion et que de ce fait il était peu logique de vouloir hypothéquer le marché intérieur de la sorte.

Au cours du déjeuner les ministres ont repris la discussion sur les directives pharmaceutiques. Ils ont également évoqué l'opportunité d'harmoniser les tarifs postaux à l'intérieur de la Communauté et d'émettre des timbres postes à thèmes européens.

En début d'après-midi un tour de table sur la proposition de directive relative à la définition des normes dans le domaine des télécom et de la technologie de l'information a abouti au renvoi en COREPER.

En ce qui concerne le dossier pharmaceutique il faut rappeler que la Communauté a progressivement harmonisé les procédures nationales d'autorisation des médicaments humains et vétérinaires ainsi que les essais en vue de l'autorisation une fois entrepris dans un Etat membre ainsi que les contrôles y effectués sur des lots de médicaments n'ont pas besoin d'être répétées à l'intérieur de la Communauté. C'est le principe de la reconnaissance mutuelle qui garantit la libre circulation, à l'intérieur du marché commun. Les 5 propositions faites par la Commission en octobre 1984 concernent la concertation communautaire pour l'autorisation de médicaments de haute

technologie et biotechnologiques, les essais de nouveaux médicaments et la simplification des procédures de révision en cas de développement de ces médicaments ainsi que la protection à accorder aux résultats de la recherche médicale.

La signification de ces directives réside essentiellement dans la rationalisation des coûts de l'industrie pharmaceutique qu'elles devraient entraîner. A un moment où l'austérité budgétaire amène les institutions de sécurité sociale dans tous les pays de la Communauté à faire des économies une telle rationalisation devrait permettre à cette industrie de dégager davantage de ressources pour la recherche et d'augmenter sa compétitivité.

Les efforts de la présidence et de la Commission ainsi que la bonne volonté persistante des délégations nationales, notamment de l'Espagne, du Portugal et de la Grèce ont permis de progresser.


Amittés,
H. Paemen

Bruxelles, le 2 décembre 1986

Note Bio (86) 328 (suite 2 et fin) aux bureaux nationaux
cc. aux membres du Service du Porte-Parole

Conseil Marché Intérieur du 1.12.86 (E. Reuter)

Au courant de l'après-midi, le Conseil a repris ses dossiers après que les experts en aient approfondi plusieurs aspects. En fonction d'une solution suggérée par Lord Cockfield, le Conseil a pu adopter les quatre directives et la recommandation qui étaient sur la table. Les préoccupations des Etats méditerranéens, relatives d'un côté aux possibilités pour leurs industriels de pouvoir continuer à fabriquer des médicaments commercialisés dans d'autres Etats membres et, de l'autre côté, aux dangers de mainmise des grands de l'industrie pharmaceutique sur leurs marchés avec la perspective d'un renchérissement des médicaments, ont été apaisées par une double assurance. La Commission utilisera ces prérogatives au titre des articles 85 et 86 pour garantir le fonctionnement du marché. Les produits couverts par un brevet, mais non exploités, pourront, après la période des dix ans/six ans prévue par les directives pour la protection des médicaments de haute technologie/ordinaires, être fabriqués et commercialisés sans nouveaux tests d'homologation, lorsque existera suffisamment de littérature scientifique. Les textes adoptés entreront en vigueur le 1er juillet 1987.

Les directives relatives au bruit des engins de chantier et des chariots élévateurs ont été adoptées ad referendum. En ce qui concerne la procédure des marchés publics, le Conseil espère pouvoir conclure avant la fin de l'année. Il n'a pas été possible de faire avancer le dossier de la facilitation des passages aux frontières à l'intérieur de la Communauté. Enfin, le Conseil a adopté une directive destinée à harmoniser les législations des Etats membres sur le crédit à la consommation. Le but en est d'uniformiser la protection minimale à laquelle a droit le citoyen consommateur et de mettre sur un pied d'égalité les institutions de crédit sur le plan de la concurrence.

Il faut souligner les nombreuses décisions prises par ce Conseil qui montrent que la réalisation du marché intérieur a enfin trouvé une dynamique propre.

Amitiés,

H. PAEMEN - comeur