

COUNCIL OF THE EUROPEAN COMMUNITIES
GENERAL SECRETARIAT

PRESS RELEASE

7970/89 (Presse 134)

1339th Council meeting

- Internal Market -

Brussels, 18 July 1989

President: Mrs Edith CRESSON

Minister for European Affairs
of the French Republic

Italy:

Mr Antonio LA PERGOLA

Minister for Community Politics

Luxembourg:

Mr Robert GOEBBELS

Minister for Economic Affairs

Mr Georges WOHLFART

State Secretary for Foreign Affairs

Netherlands:

B.J.M. Baron van VOORST tot VOORST

State Secretary for Foreign Affairs

Portugal:

Mr Vitor A.M. da COSTA MARTINS

State Secretary for European
IntegrationUnited Kingdom:

Mr Francis MAUDE

Under-Secretary of State,
Department of Trade and
IndustryCommission:

Mr Martin BANGEMANN

Vice-President

Sir Leon BRITTAN

Vice-President

Mrs Christiane SCRIVENER

Member

STATUTE OF THE EUROPEAN COMPANY

The Commission presented to the Council the new proposal which it had adopted on the Statute of the European Company.

The purpose of the proposal is to enable undertakings established within the European Community to select an appropriate structure for co-operation in the light of the forthcoming internal market, thus making them more competitive vis-à-vis their external competitors while ensuring that workers are consulted on, or at least, informed of strategic company decisions.

The proposed Statute of the European Company would exist side-by-side with other forms of company in accordance with national law. It would thus offer undertakings an additional choice.

As far as tax arrangements are concerned, the proposal provides that losses borne by the subsidiaries of a European company in another Member State may be deducted from the latter's profits. On the other hand, those subsidiaries of a European company with independent legal personality would be subject to the tax laws of the Member State in which they were established.

After a preliminary discussion, the Council instructed the Permanent Representatives Committee to begin work so that it could identify the major political approach to the forthcoming Statute by the end of the year.

DIRECTIVE ON SOFTWARE

The Council heard a presentation from the Commission of a proposal for a Directive on the legal protection of computer programs and conducted a preliminary exchange of views.

The aim of this proposal is to ensure an adequate level of protection for computer programs and thus encourage programs being devised within the Community. To achieve that end, it is proposed that the Directive harmonize certain aspects of national legislation on copyright as applicable to literary works.

After noting delegations' positive attitude to this proposal, the Council instructed the Permanent Representatives Committee to expedite work, its goal being to approve a common position on the proposal by the end of the year.

PUBLIC PROCUREMENT - EXCLUDED SECTORS

The Council conducted a preliminary discussion on the amended proposal for a Directive on public procurement in sectors hitherto excluded: water, energy, transport and telecommunications.

It will be recalled that the Council recently adopted two major amendments to the Directives concerning the procedures for the award of public works and supplies contracts, as well as a common position on the supervision of and procedures for redress in connection with such contracts.

The aim of the new proposal is to make procedures for the award of public works and supplies contracts in the excluded sectors more transparent by ensuring that entrepreneurs in all Member States can take part on an equal footing. To that end, and in order to accommodate individual circumstances, it lays down a flexible system of procedures. Furthermore, the proposal also applies in principle to non-public awarding entities which have special rights or exclusivity granted by public authorities and which operate in the excluded sectors.

A proposal for a Directive on the supervision of and means of redress for contracts covered by this Directive is being prepared by the Commission.

The Council instructed the Permanent Representatives Committee to expedite work so that it could adopt its common position on the Directive by the end of the year.

RIGHT OF RESIDENCE

The Council conducted a policy debate on the three new proposals recently submitted by the Commission for Directives on the right of residence. It will be recalled that, at the Council meeting on the Internal Market on 3 May 1989, the Commission had decided to withdraw the proposal on the general right of residence.

The aim of these proposals is to grant the right of residence to three different groups of citizens in the Member States which do not yet have that right: students, retired people and other categories.

The Council, which considered that the Commission proposals were of major political importance, instructed the Permanent Representatives Committee to give every priority to examining the proposals, and to have them put on the agenda for the Council meeting on the Internal Market on 18 September (additional meeting). The Opinion of the European Parliament had, in the meantime, been requested.

COMMUNITY PATENTS

The Council discussed the possibility of convening a Conference for the conclusion of the Agreement relating to Community patents.

The Council decided to return to this matter at its meeting on 18 September on the basis of a document to be drawn up by the Commission to enable the Council to reach a decision.

CONTROL OF CONCENTRATIONS BETWEEN UNDERTAKINGS

The Council discussed in detail the proposal for a Regulation on the control of concentrations between undertakings.

At the end of its discussion, the Council instructed the Permanent Representatives Committee to proceed with work on the basis of the following guidelines which were not binding on any delegation but which might constitute a basis for an overall compromise:

- For a trial period, thresholds for concentrations covered by the Regulation could be fixed as follows:
 - = principal threshold: turnover of ECU 5 000 million
 - = "de minimis" threshold: between ECU 200 and 300 million
 - = single-country threshold: 2/3 of total turnover achieved in one Member State.

The duration of the trial period and arrangements for its review would be examined by the Permanent Representatives Committee.

- The Committee was, moreover, instructed, in conjunction with the Commission, to try to solve the problem of the application of Articles 85 and 86 of the Treaty to concentrations falling below the thresholds adopted, and that of the criteria for appraising concentrations; such criteria, while based on the

Commission proposal, should take account of the arguments adduced by the Ministers.

- The Committee was instructed to finalize a text setting out guidelines on the information which the Commission should give to the undertakings concerned on its attitude to the concentrations of which it was notified.

The Council agreed to resume discussions on this item at its next meeting on 18 September.

MISCELLANEOUS DECISIONS

Dangerous substances and preparations

Further to the consensus reached at its meeting on 14 June 1989, the Council adopted its common position with a view to the adoption of an amendment to the Directive amending Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations, in order to improve the procedures for the technical adaptation of the Annexes (see Press Release No 7324/89 Presse 112 on the Council meeting on the Internal Market on 14.VI.89).

Integrated Services Digital Network (ISDN)

The Council adopted a Resolution on the strengthening of the co-ordination for the introduction of the Integrated Services Digital Network (ISDN) in the European Community up to 1992 (see Press Release No 6001/89 Presse 67 on the Council meeting on Telecommunications on 27.IV.89).

Insider dealing

Following the agreement in principle reached at its meeting on 19 June 1989, the Council adopted its common position preparatory to adoption of the Directive co-ordinating regulations on insider dealing (see Press Release No 7428/89 Presse 119 on the Council meeting on Economic and Financial Affairs on 19.VI.89).

Fisheries

The Council adopted

- the Regulation amending for the eighth time Regulation (EEC) No 3094/86 laying down a technical adaptation of the length of beams used by beam trawlers;
- the decision concerning the acceptance by the Community of a supplementary quota of 8 000 t of capelin offered by Greenland for 1989 off East Greenland against financial compensation.

ECSC

The Council granted its assent pursuant to Article 56(2)(a) of the ECSC Treaty in respect of

- Vereinigte Aluminium-Werke A.G. (VAW)
(Federal Republic of Germany)
- Interbanca S.p.A. (Italy)
- COB Banque d'épargne S.C. (Belgium)
- Bayerische Vereinsbank A.G. (Federal Republic of Germany)
- Karstadt A.G., Essen (Federal Republic of Germany).

Appointments

The Council replaced respectively

- a member and an alternate member on the Advisory Committee on Pharmaceutical Training
- a member and an alternate member on the Advisory Committee on Education and Training in the field of Architecture
- an alternate member on the Advisory Committee on Freedom of Movement for Workers
- a member and an alternate member on the Advisory Committee on Social Security for Migrant Workers.

Bruxelles, le 17 juillet 1989.

NOTE BIO(89) 220 AUX BUREAUX NATIONAUX
CC. AUX MEMBRES DU SERVICE DU PORTE-PAROLE

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Préparation du Conseil Marché Intérieur (W. Hélin)

Aucune décision n'est attendue à l'occasion de la réunion de mardi à Bruxelles. En effet, les points qui figurent à l'ordre du jour concernent essentiellement des dossiers sur lesquels les ministres entendront une première présentation du Vice-Président Bangemann. Ainsi, un premier débat sera introduit sur le statut de la société européenne, dont la Commission vient d'adopter le texte (voir P 39 du 12 juillet 1989 et Bio 212), sur un projet de directive qui règle la délicate question de la protection juridique des logiciels (software protection) et sur l'ouverture à la concurrence des secteurs jusqu'à présent exclus des marchés publics (énergie, transport, télécommunications et eau).

Par ailleurs, les Douze doivent discuter la nouvelle proposition concernant le droit de séjour pour les étudiants, les personnes non actives ayant cessé leur occupation professionnelle et les rentiers (pour les détails voir P 30).

Il n'est pas exclu enfin que les Ministres responsables du marché intérieur évoquent une nouvelle fois la directive sur la télévision sans frontières qui fait l'objet d'une discussion ce lundi après-midi au Conseil des Ministres des Affaires Etrangères.

Contrôle des concentrations (E. Reuter)

Le Conseil va reprendre l'examen de ce dossier à la lumière des amendements que Sir Leon Brittan a proposés dans le contexte de la définition d'une opération de concentration relevant de la dimension communautaire. Il faut rappeler qu'une opération de concentration sera considérée de dimension communautaire si le chiffre d'affaires total des entreprises concernées dépasse 5 milliards d'Ecus (après le 1er janvier 1993 ce sera 2 milliards d'Ecus) et si le chiffre d'affaires fait dans la Communauté dépasse 100 millions d'Ecus. D'autre part, si le chiffre d'affaires communautaire est réalisé pour plus de 2 tiers dans un seul Etat membre, l'opération de concentration n'est pas considérée comme communautaire. Ces concentrations devront être notifiées à la Commission qui n'ouvrira une procédure d'examen que dans le cas où les conditions de concurrence dans le marché intérieur sont réellement menacées. Si la Commission ne se prononce pas endéans un mois, l'opération est approuvée. D'autre part la procédure d'examen entamée par la Commission ne bloquerait pas l'opération.

Sir Leon s'attend à ce que le Conseil puisse marquer un consensus politique et donner au groupe d'experts l'impulsion nécessaire pour arriver à une décision rapide. Certains Etats membres ont exprimé des préoccupations quant à la mesure transitoire en arguant que l'on verrait sans doute une vague d'opérations de concentration juste avant 1993. D'autres Etats membres s'opposent à l'idée que le passage du seuil de 5 milliards au seuil de 2 milliards d'Ecus soit automatique.


Amities,
C.D. EHLERMANN

Matériel distribué :

- Déclaration finale du Sommet Economique
- Memo 43 - Relations CE-Autriche
- Discours de Sir Leon Britan

Bruxelles, 19 Juillet 1989.

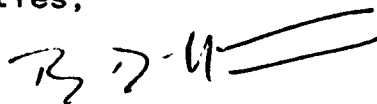
Note BIO(89) 220 (suite 1) aux bureaux nationaux
cc. aux membres du Service du Porte-Parole

Conseil Marché Intérieur du 18.7.1989

Contrôle des concentrations (E. Reuter)

Le Conseil a eu une discussion d'une heure sur la proposition de règlement sur le contrôle des opérations de concentration entre entreprises. Le Conseil a ébauché des solutions de compromis concernant la définition de concentration des opérations qui seront considérées de dimension communautaire ainsi que sur les critères d'appréciation et les procédures que la Commission utilisera lors de l'examen de telles opérations. On s'oriente vers l'adoption d'un seuil de chiffre d'affaire mondial de 5.000 MECU pour une première phase expérimentale. Ce seuil sera remplacé par un seuil de 2.000 MECU après 1992. En ce qui concerne le seuil du chiffre d'affaire réalisé dans la Communauté, on s'oriente vers le chiffre de 300 MECU. Les critères d'appréciation seront ceux de l'article 85 et 86 qui n'excluent pas en fait la prise en considération d'implications relevant du contexte international. Le Coreper a été chargé de mettre au point un texte de compromis. La présidence est déterminée à conclure le dossier avant la fin de l'année. Il figurera à l'ordre du jour de la prochaine réunion du Conseil marché Intérieur, le 18 septembre. En sortant du Conseil Sir Leon Brittan a rendu hommage aux efforts de Mme Cresson et a dit : "Nous avons beaucoup progressé aujourd'hui, on peut dire que la ligne droite de l'arrivée est maintenant en vue."

Amitiés,



B. DETHOMAS - comeur