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THE EUROPEAN UNION**

Brussels, 29 May 2001

8763/01

LIMITE

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DRAFT MINUTES ¹

Subject : **2347th meeting of the Council (Energy/Industry), held in Brussels on 14 and 15 May 2001**

¹ Information relating to the final adoption of Council acts which may be released to the public is contained in Addendum 1 to these minutes.

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1. **Adoption of the agenda**
8566/01 OJ/CONS 23 IND 17 ENER 57

The Council adopted the above-mentioned agenda.

2. **Approval of the list of "A" items**
8584/01 PTS A 24

The Council approved the list of "A" items set out in 8584/01 PTS A 24.

Information relating to items 3, 4, 6, 9, 10 and 11 on the list is contained in Addendum 1 to these minutes.

The reference documents for items 6. should read as follows:

docs. 8129/01 CODEC 343 SAN 41
+ COR 1
+ COR 2
+ COR 3
+ ADD 1
+ ADD 2
+ ADD 3
PE-CONS 3614/01 SAN 26 CODEC 193

3. **Green Paper – "Towards a European Strategy for the security of energy supply"**
5619/01 ENER 4 ATO 4 ENV 38 IND 2 RELEX 11
8488/01 ENER 54 ATO 20 ENV 200 IND 16 RELEX 57

a) Exchange of views:

The Council had an exchange of views on the basis of the questions set out at Annex I to doc. 8488/01. The Presidency summed up this exchange of views by noting that:

- The issue of security of supply has to be seen as an integral part of other challenges such as climate change and an integrated market. There is agreement that a more coordinated effort seems needed for the Community, taking all the challenges into account, even though there are different views as to the extent of this effort;

- Action and measures at Community level on security of supply should
 - reflect the subsidiarity principle and proportionality,
 - take into account regional, geographical, structural and climate differences of Member States,
 - be consistent with other policies,
 - be cost-reflective and transparent;
- As to import dependency, measures to be undertaken would include, for example, the strengthening of the dialogue with supplier countries, OPEC and Russia. The importance of a stable framework, in supplier countries, conducive to both private and public investments, was stressed;
- Not much support was expressed as regards stock management and stockpiling for anti-speculative purposes, neither for oil, nor for coal or gas;
- Transit and transport facilities and related instruments, such as the TEN's programme need to be reinforced. In this context, the need to encourage Russia's speedy ratification of the Energy Charter Treaty was stressed;
- Member States recognise the importance of demand management. The contribution of renewable and energy efficiency to the security of supply is widely acknowledged, i.a. with respect to diversification of energy sources. The importance of actions in the building and transport sectors is acknowledged;
- All energy sources must be taken into account on their own merits, taking into account the imperatives of sustainable development, due attention being paid to national characteristics and to national preferences as to the adequate energy mix. R&D has also an important role to play particularly with respect to the development and promotion of renewable energy sources and clean, efficient technologies.

b) Adoption of Council conclusions:

The Council adopted the conclusions as set out in doc. 8821/01.

4. Internal markets for electricity and gas – completing the internal energy market

- Proposal for a Directive of the European Parliament and of the Council amending Directive 96/92/EC on common rules for the internal market in electricity and Directive 98/30/EC on common rules for the internal market in natural gas
- Proposal for a Regulation of the European Parliament and of the Council on the conditions for access to the network for cross-border trade in electricity
 - Policy debate
 - 7218/01 ENER 36 CODEC 381
 - 8489/01 ENER 55 CODEC 382

Following the presentation of the above proposals, by Vice-President DE PALACIO, the Council held an orientation debate based on the questions set out at Annex I to doc. 8489/01.

The Presidency concluded the debate by noting the following :

- There is broad consensus that the market opening concerning both gas and electricity should be actively pursued and accelerated. To this end, the Swedish Presidency, in consultation with the incoming Belgian and Spanish Presidencies, will take initiatives to find ways and means within the existing Council framework to accelerate this process and will come back with appropriate ideas to be presented to the Council.
- Quantitative measures related to market opening (such as thresholds) and qualitative aspects (such as unbundling, Third Party Access and regulators, potential socio-economic impact) are interdependent;
- As always, when deciding on measures to be taken at Community level, the cost of the various options needs to be assessed;
- The principle of unbundling meets general agreement, whereas its concrete modalities still have to be clarified; unbundling of the gas sector may not necessarily follow the same model/approach as for electricity;
- Non-discriminatory third party access to the grid without transparent and published tariffs is not feasible; public service obligations need to be taken into account when defining the practical modalities of tariffication systems;
- To ensure improved security of supply through further integration at Community level, infrastructure requirements need to be carefully assessed, with particular regard to the revised TEN programme;
- Benchmarking and monitoring are useful tools for ensuring a proper assessment of progress and follow-up, in particular with respect to public service obligations and security of supply and congestion management, which can be facilitated by increasing the transparency on available interconnection capacity;
- A fully functioning integrated single market for gas and electricity cannot be achieved without efficient cross-border trade. Rules to that effect should be sought at an appropriate level, which are based on simplicity, non-discrimination, transparency and effective reflection of costs, allowing for proper allocation signals and ensuring adequate reciprocity;
- When deciding on the most appropriate way to deal with trade (in electricity) with third countries proper consideration should be given to environmental aspects, reciprocity and legal implications;
- Although a legally binding regulatory framework is required to address several of the issues raised by the achievement of the internal market, the Florence and Madrid processes have demonstrated their usefulness and we expect them to continue to do so.

5. **Strategy for integrating environmental aspects and sustainable development into energy policy**

- Adoption of a Council Resolution
7511/01 TRANS 53 ENER 41 ENV 154
8490/01 ENER 56 ENV 201

The Council adopted the resolution set out at Annex I to doc. 8490/01.

In connection with this Resolution the Commission made the statement set out at ANNEX I.

6. **Proposal for a Directive on energy efficiency in buildings**

- Presentation by the Commission

The Council took note of an oral presentation by Vice-President DE PALACIO of the above-mentioned proposal.

7. **Regional co-operation**

(a) **Enhancing Euro-Mediterranean co-operation on transport and energy**

- Communication from the Commission
- Contribution from the Presidency
7131/01 TRANS 44 MAR 19 AVIATION 7 ENER 33 MED 9
8174/01 ENER 50 MED 19

(b) **Northern dimension: energy sector**

- Presentation by the Commission

The Council took note of a presentation by Vice-President De PALACIO as well as information from the Presidency on the above-mentioned areas of co-operation.

8. **Energy Charter Treaty**

- Progress report
8176/01 ENER 52 RELEX 53

The Council took note of a progress report on this dossier and agreed to review the situation during the second semester of 2001, in particular regarding negotiations on a Transit Protocol and the process of ratification of the Energy Charter Treaty.

9. Competition

(a) **Proposal for a Council Regulation on the implementation of the rules on competition in Articles 81 and 82 of the EC Treaty and amending EC Regulations Nos 1017/68, 2988/74 and 3975/87**

- **Policy debate**
11848/00 RC 13
7949/01 RC 8
+ COR 1

The Council held an orientation debate on the Commission's proposal for a Council Regulation on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty and amending Regulations n°s 1017/68, 2988/74, 4056/86 and 3975/87. The debate focussed on a report by the Presidency on progress to date, containing a number of questions to frame discussion.

At the end of the debate, the President concluded that:

The Council

- gave broad support to the decentralising principle underlying the Commission's proposal;
- recognised the need to continue technical discussions so as to achieve a balanced and workable system which maintains consistency of application while improving enforcement through more effective involvement of national competition authorities and national courts while respecting their independence;
- noted the need for caution regarding structural remedies and the need to take account of the principle of proportionality should the Commission be granted an explicit right to take such action in exceptional cases;
- noted that further work is required with regard to the possibility of introducing a system of binding commitments;
- recognised both the need for the Commission to use the types of decision envisaged under Article 10 of the proposed Regulation to ensure consistency, and the need for an effective network of competition authorities taking account of their respective competencies;
- took note of the Opinion of the Economic and Social Committee and stated that it looked forward to receiving the Opinion of the European Parliament under the consultation procedure;
- agreed to pursue work on the Commission's proposal as a matter of priority.

(b) **XXXth Report on Competition Policy 2000**

- Presentation by the Commission
8557/01 RC 10

The Council heard a presentation by the Commission of its XXXth Report on Competition Policy 2000.

10. **Shipbuilding**

Report from the Commission on the situation in world shipbuilding

- Policy debate
8500/01 RC 9
8673/01 RC 11

The Council

- heard a presentation by the Commission of its fourth report on the situation in world shipbuilding as well as its strategy for future action in the Korean shipbuilding case and took note of the comments made by delegations;
- adopted the Conclusions on the situation in world shipbuilding as set out in ANNEX II.

11. **ECSC**

(a) **Communication from the Commission on "The expiry of the ECSC Treaty: Financial Activities after 2002"**

- **Amended proposal for a Council Decision establishing the measures necessary for the implementation of the Protocol, annexed to the Treaty of Nice, on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel;**
- **Amended proposal for a Council Decision laying down multiannual financial guidelines for managing the assets of the "ECSC in liquidation" and, on completion of the liquidation, the "Assets of the Coal and Steel Research Fund";**
- **Amended proposal for a Council Decision laying down the multiannual technical guidelines for the research programme of the Coal and Steel Research Fund**
= Policy guidelines
7124/01 SID 4 RECH 25 FIN 78 CHAR 5
8327/01 SID 10 RECH 46 FIN 140 CHAR 8

The Council

- discussed the outstanding questions regarding the financial activities after the expiry of the ECSC Treaty¹;

¹ See the outcome of proceedings from the Council in doc. 8872/01 SID 13 RECH 58 FIN 156 CHAR 9.

- invited the Permanent Representatives Committee to report on this dossier once the "Protocol on the financial consequences of the expiry of the ECSC Treaty and on the research fund for coal and steel", annexed to the Treaty of Nice, has been ratified and the Opinion from the European Parliament is available.

(b) **Monitoring of Article 95 ECSC Steel Aid Cases, Fifteenth report (May 2001)**

- Presentation by the Commission
8451/01 SID 12 SOC 177 FIN 142

The Council heard a presentation by the Commission of its fifteenth Report on the monitoring of Article 95 ECSC Steel Aid Cases.

12. **Competitiveness and enterprise policy in the European Union**
Follow-up to the Lisbon process and the Stockholm European Council

- Commission communication – Helping SMEs to "Go digital"
- Council conclusions on "Entrepreneurship, ICT and e-business as factors in competitiveness"
7432/01 ECO 84
7924/2/01 ECO 106 REV 2

The Council adopted the Conclusions on "Entrepreneurship, ICT and e-Business as factors for competitiveness" as set out in ANNEX III.

13. **Integration of sustainable development into enterprise policy**

- Council conclusions on a strategy for integration of sustainable development into the enterprise policy of the European Union
8328/01 ECO 117 ENV 191

The Council adopted the Conclusions on "a strategy for integration of sustainable development into the enterprise policy of the European Union" as set out in ANNEX IV.

The DK delegation made the statement set out in ANNEX V.

14. **Commission White Paper – Strategy for a future Chemicals Policy**

- Presentation by the Commission and exchange of views
6671/01 ENT 37 ENV 101 MI 32

The Council heard a presentation by the Commission of its White Paper on a strategy for a future Chemicals Policy.

The Presidency summed up the debate by noting that in general, many Member States welcomed the White Paper but they also expect important aspects of the matter to be taken into account when the strategy is implemented. It is especially important to have regard for industry's competitiveness vis-à-vis countries outside the EU. Other important aspects which must be given attention are cost-effectiveness and flexibility, particularly as regards approval and registration, fair burden-sharing for downstream and upstream activities, consideration for small and medium-sized enterprises, adaptation to the internal market and international trade. The regulatory framework should be simple, clear and transparent, and the conditions and incentives for innovation must be taken into account.

These Presidency conclusions will be forwarded to the President of the Environment Council at which conclusions are expected to be adopted.

15. Other business

- a) **International Energy Agency (OECD) – Ministerial meeting on 15 and 16 May 2001**
– Information from the Presidency

The Council took note of the information given by the Presidency .

- b) **EU- Russia: Energy dialogue**
– Commission briefing

The Council took note of the information presented by Vice-President DE PALACIO on the preparation of the EU-Russia Summit in Moscow on 17 May which, inter alia, is due to take stock of ongoing work within the energy dialogue. The Commission will shortly adopt a Communication on this dialogue.

Re. item 5 of the agenda

Commission statement on the Council Resolution on the integration of environmental aspects and sustainable development into energy policy

"The Commission takes note of the Council's numerous requests, which it will study with all due attention. However, it would emphasise that it reserves the right to respond in accordance with the rules laid down in the EU Treaty regarding its right of initiative, and taking account of the resources, both budgetary and human, at its disposal".

Re. item 10. on the agenda

Council Conclusions on the situation in world shipbuilding

THE COUNCIL OF THE EUROPEAN UNION

RECALLING

- the Council Conclusions of 9 November 1999, 18 May 2000 and 5 December 2000 on the situation in world shipbuilding and the unfair competition by Korea;
- the Commissions three previous reports on the situation in world shipbuilding¹;
- the Council regulation 1540/98 of 29 June 1998²;

WELCOMES the 4th report from the Commission on the situation in world shipbuilding³ and CONFIRMS its serious concern that the critical situation in shipbuilding, characterised by very low prices and significant overcapacity attributable mainly to Korean shipyards, remains unchanged;

TAKES NOTE of the Commission report to the Trade Barriers Regulation Committee and the conclusions and suggested course of action therein;

CALLS ON

- the Commission to continue monitoring the market situation closely;
- the Commission to continue, in the context of the TBR procedure, its investigation with a view to collect further information, in particular with regard to export subsidies;
- the Commission and the Member States to continue to work closely with the industry on competitiveness issues;
- the EU Shipbuilding industry to continue improving its competitiveness;

DEEPLY REGRETS that no progress has been achieved through bilateral negotiations with Korea, despite the commitments given in the "Agreed Minutes" of April 2000 and

in taking note of the Commission's intention as set out in its decision of 8 May 2001 to propose an appropriate temporary support mechanism STRONGLY SUPPORTS the Commission's intention as set out in the same decision to launch a WTO procedure if a solution is not achieved with Korea by 30 June 2001.

¹ doc. 11919/99, COM(1999) 474 final
doc. 8304/00, COM(2000) 263 final
doc. 13549/00, COM(2000) 730 final

² OJ L 202 of 18.7.98, p. 1

³ doc. 8500/01, COM(2001) 219 final

Re. item 12. on the agenda

**Council conclusions on
“Entrepreneurship, ICT and e-business as factors for competitiveness”**

THE COUNCIL OF THE EUROPEAN UNION

RECALLING

- the Conclusions of the Lisbon and Stockholm European Councils concerning further action in priority areas with a view to make the EU the world’s most competitive and dynamic knowledge-based economy in the world;
- the eEurope 2002 Action Plan which was endorsed by the Feira European Council;
- the Multiannual Programme for Enterprise and Entrepreneurship, and in particular for small and medium-sized enterprises (SMEs) (2001-2005);
- the European Charter for Small Enterprises;

RECOGNISES that entrepreneurship, ICT and e-business are key elements of the new economy, increasing productivity, creating new business opportunities and competitive advantage for European enterprises and entrepreneurs;

RECOGNISES the importance of SMEs as a key source of economic growth and creation of employment within the European Union;

RECALLS the special needs and difficulties encountered by SMEs when exploiting the opportunities offered by ICT and e-business and UNDERLINES the need for SMEs to fully engage in this process;

RECOGNISES the importance of favorable regulatory, financial and technical framework conditions, including network security, electronic business interoperability and an optimum use of the intellectual property system, as well as the effective dissemination of Research and Technological Development results;

RECOGNISES the importance of a sufficient level of ICT and e-business skills;

RECOGNISES the need for SMEs to effectively benefit from national programmes and from take-up measures under the Information Society Technologies Annual Work Programme as well as from the Innovative Actions under the European Regional Development Fund;

WELCOMES the Commission Communication “Helping SMEs to GoDigital” as an important contribution in order to facilitate SMEs entry into, or to improve participation in, the knowledge-based economy, and WELCOMES the initiatives it sets out;

INVITES MEMBER STATES TO:

- support the benchmarking exercise launched by the Commission on ICT and e-business strategies, as a way to identify best practice and to catalyze change at national, regional and local level;
- promote adequate training on ICT and e-business skills and the organization of conferences and events aiming at increasing awareness of the opportunities raised by e-business, where appropriate in co-operation with industry, in order to enable SMEs to GoDigital;
- put forward recommendations for new areas to be included in the GoDigital initiative;

INVITES THE COMMISSION TO:

- measure the take-up of e-business by European enterprises, in particular SMEs and assess its economic and policy implications as regards its impact on economic structures and markets, and integrate the results into the Enterprise Policy and the Innovation Scoreboards, with due account of the work within the *eEurope 2002* Action Plan;
- take into account the special needs and difficulties encountered by SMEs when exploiting the opportunities offered by ICT and e-business when reviewing all Community policies, including competition rules, with a view to ensure, in particular, network security, interoperability and a level playing field;
- monitor the implementation of the actions helping SMEs to GoDigital in close co-operation with the Enterprise Policy Group;
- report on a regular basis to the Council on the outcome of these initiatives and on the evolution of the take-up of e-business among European enterprises, in particular SMEs, as well as on new areas for actions in the framework of the GoDigital initiative.

Re. item 13. on the agenda

Council Conclusions on a strategy for integration of sustainable development into the Enterprise policy of the European Union

THE COUNCIL OF THE EUROPEAN UNION

RECALLING

- the EC Treaty and in particular its Articles 2, 6 and 157;
- the Conclusions of the Cardiff, Vienna, Cologne and Helsinki European Councils concerning the integration of environment and sustainable development into all Community policies;
- the Conclusions of the Lisbon and Stockholm European Councils concerning further action in priority areas with a view to making the EU the world's most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion;
- the Council Resolution on the precautionary principle as endorsed by the Nice European Council;
- the Council conclusions on 29 April 1999¹ and the Council report adopted on 9 November 1999 on the integration of sustainable development into the Industry policy of the European Union²;
- the Council conclusions on 29 June 2000³ on promoting sustainable development in the EU non-energy extractive industry;
- the Multiannual Programme for Enterprise and Entrepreneurship, and in particular for small and medium-sized enterprises (SMEs) (2001-2005)⁴;
- the European Charter for Small Enterprises⁵;

CONFIRMS its commitment to integrate sustainable development in enterprise policy by means of a strategy including objectives, a timetable for further measures and a set of indicators, bearing also in mind the review of progress made by the European Council at its Spring meeting in 2002;

RECOGNISES the integration of sustainable development as a challenge but at the same time EMPHASISES the potential to stimulate innovation and create new business opportunities and competitive advantage for European enterprises while bearing in mind the need for SMEs to be part of this process;

STRESSES the urgent need to further integrate the economic, social and environmental policy dimensions in Enterprise policy in a balanced way, and, when considering policy actions in one dimension, to ensure effective co-ordination at Community and Member State levels to assess and take into account its effects on the other two;

¹ Doc. 7792/99

² Doc. 12651/1/99 REV1

³ Doc. 9548/00

⁴ OJ L 333/84 of 29.12.2000

⁵ Doc. 9274/00

UNDERLINES that, under its primary objective of promoting the competitiveness of European industry, within a knowledge-based economy, bearing in mind the importance of incentives for RTD, innovation and business creation, taking into account the special needs and difficulties of SMEs, a sustainable Enterprise policy also has to address issues of special relevance such as:

- ensuring a well functioning internal market and sound, simple and predictable administrative and regulatory framework conditions, so that research, innovation and entrepreneurship in particular can flourish, within the economic policy dimension;
- promotion of full employment, high quality education and training, life-long learning, equal opportunities in work life, and quality in work, within the social policy dimension;
- 6th Environmental Action Program, climate change, waste-management, a sustainable chemicals policy, biological diversity, efficient use of resources, best available technologies (BATs) and integrated product policy (IPP), within the environmental policy dimension;

CONSIDERS

- that in a strategy for integration of sustainable development into Enterprise policy, within a balanced mix of policy instruments and bearing in mind that such a strategy cannot rely mainly on regulatory instruments, priority should be given to market-based as well as voluntary approaches;
- that guiding principles when selecting measures should be cost-effectiveness, effective consultation with stakeholders and decisions based on the best available scientific evidence and on new and improved scientific knowledge;
- that policy makers at European, national, regional and local levels should therefore act as catalysts within the framework of a dialogue with industry and other stakeholders;

CALLS ON MEMBER STATES AND THE COMMISSION, AND UNDERTAKES

- when designing policies, to take account of the three dimensions of sustainable development in a balanced way through improved mechanisms for dialogue and co-operation between economic, environmental and social policy-makers and through this integrated approach consistent with the goals of sustainable development and competitiveness of the EU industry, giving priority to market-based as well as voluntary approaches;
- to consider and meet the special needs and difficulties of SMEs when measures and policies are developed;

CALLS ON MEMBER STATES to develop their catalyst role by reinforcing their dialogue with industry and other stakeholders on the use, development and improvement of appropriate market-based as well as voluntary approaches and by promoting and co-ordinating the exchange of experience and best practice at their national level;

CALLS ON THE COMMISSION

- to act as a catalyst, notably by increasing knowledge and competence for sustainable solutions and co-ordinating the dissemination of experience and best practice among the Member States;
- to foster integration of sustainable development into Enterprise policy notably within the objectives of the Multiannual Programme for Enterprise and Entrepreneurship, and in particular for small and medium-sized enterprises (SMEs) (2001-2005), using the Best Procedure, and report every second year on the progress made, first report before the end of 2002 as part of the reporting process under the Multiannual Programme;
- to maximise the use of market-based as well as voluntary approaches when developing policies that contribute to the goal of sustainable development;
- to develop indicators to be included at an appropriate stage in the Enterprise policy scoreboard for monitoring the integration of sustainable development;
- to enter, as a regular item on the Enterprise Policy Group agenda the integration of sustainable development issues into Enterprise policy, taking note of the interest expressed by this Group to contribute to the co-ordination and monitoring of the development and implementation of a strategy;

UNDERTAKES to enter, as a regular item on the Council agenda, a review of progress towards integration of sustainable development into Enterprise policy, in particular the results of the activities carried out under the Best procedure, as a basis for policy recommendations and further development of a strategy.

Re item 13 on the agenda

STATEMENT BY THE DANISH DELEGATION

"It is important that, in further work on the integration strategy, the Council should achieve the integration of environmental concerns into enterprise policy in accordance with Article 6 of the Treaty.

Companies are an important tool in achieving a better environment. At the same time, the environmental characteristics of products and production are well on the way to becoming a parameter for competition on the global market. Enterprise policy can make an essential contribution to a better environment and to better competitiveness by providing a framework which can ensure a properly functioning market for environmentally friendly products and services, and can boost companies' efforts to integrate environmental concerns into their strategies and day-to-day decisions, and to develop environmentally friendly technology and resource-saving production methods.

The aim is that at a forthcoming meeting the Council will be able to adopt a definite strategy which will benefit both the environment and the competitiveness of European businesses".
