

EUROPEAN UNION
SCIENTIFIC AND TECHNICAL
RESEARCH COMMITTEE

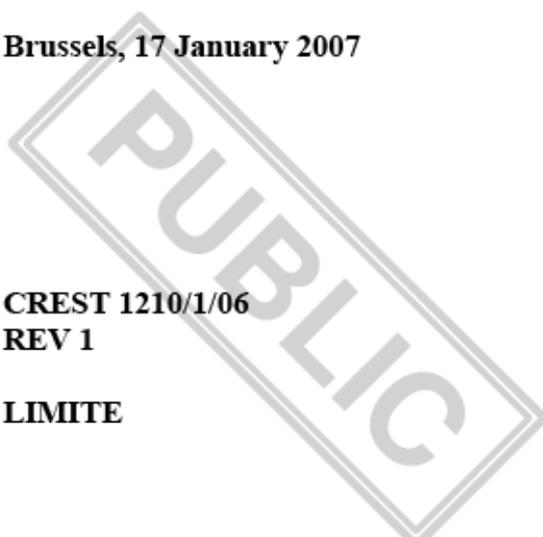
– CREST –
Secretariat

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CREST 1210/1/06
REV 1

LIMITE



NOTE

to : CREST Delegations

Subject : DRAFT SUMMARY CONCLUSIONS OF THE 312th MEETING OF THE
SCIENTIFIC AND TECHNICAL RESEARCH COMMITTEE (CREST) HELD
IN BRUSSELS ON 1 DECEMBER 2006

The meeting was chaired by **DELETED** (European Commission, DG Research, **DELETED**).

1. ADOPTION OF THE DRAFT AGENDA

The Committee adopted the agenda as set out in communication CM 4069/06 of
23 November 2006.

2. APPROVAL OF THE DRAFT SUMMARY CONCLUSIONS OF THE 311th MEETING OF
13/14 NOVEMBER 2006

The Committee approved the summary conclusions of the meeting of 13/14 November as set
out in doc. CREST 1209/06.

3. INFORMATION FROM THE PRESIDENCY AND THE COMMISSION

- a) **DELETED** (FI Presidency) drew the attention of delegates to the set of conclusions concerning a broad-based innovation policy strategy that are to be adopted by the Council on 4 December 2006. Furthermore, she pointed to the fact that the Ad-hoc Working Party on the proposal for a European Institute of Technology had started its discussions on this important dossier.

DELETED (incoming DE Presidency) presented an overview of Competitiveness Council and CREST dates during German Presidency and on certain priorities of the Presidency. He furthermore explained the intentions concerning the handling of the roadmap on ESFRI.

- b) **DELETED** (European Commission services) informed the Committee of:
- the efforts by the Commission towards adopting the first work programmes under FP7 and the publication of calls before the end of 2006;
 - the actions to create the FP7 experts data base, including the publication of two relevant calls concerning the FP 7 database and the possibility offered to FP6 experts to have their names transferred to the FP7 data base;
 - the forthcoming training events (11/12 and 19/20 December 2006) for the National Contact Points which will contain several sub-items such as the FP 7 grant agreement, IPRs and the Unique Registration Facility and which are an important step in the implementation of FP 7;
 - the adoption of the "Annual Report on RTD activities in 2005" on 22 November 2006, that includes points such as on the re-launch of the Lisbon strategy and major aspects of the preparation of FP7, next to features such as the information on the implementation of FP6;

- the adoption of the Communication "Towards a more effective use of tax incentives in favour of R&D" on 22 November 2006¹ and of the new Community Framework on state aids for R&D.

4. 3% AND OPEN METHOD OF COORDINATION

(i) Discussion and adoption of the report on NRPs mutual learning

DELETED (**DELETED** delegation) pointed out that the draft report on the mutual learning exercises had been prepared in cooperation with the Finnish Presidency (**DELETED**), taking into account comments received to the first version circulated on 20 November 2006. The report strongly built on elements already presented at the last meeting. **DELETED** thanked delegates for the input received in written form and especially for the constructive work by the chairs of the five sub-groups. The summary reports of the sub-groups will be available in IG CREST within the CIRCA-Net.

During the discussion, a number of delegations welcomed the structure and content of the draft. In substance, more attention could be given to business R&D, to the long-term pay-back periods of basic research, to the evaluation aspects and to examples of good practices. The Commission services (**DELETED**) and **DELETED** proposed that good practices could be incorporated into the five sub group reports to be referred to in the CREST report.

After **DELETED** had integrated a number of comments, a revised version of the report was adopted by the Committee in the afternoon of 1 December².

¹ Doc. 15503/06 + ADD 1. See also section 4. (v) below.

² The report will be made available as CREST document 1211/06.

(ii) Discussion and possible adoption of a third cycle working group on "Internationalisation of R&D"

DELETED (**DELETED** delegation) presented an updated work module on the topic "internationalisation of R&D" within the third cycle OMC. The work module of this group had been elaborated in collaboration with the Commission and several CREST members. The working group will collect information on Member States' approaches to internationalisation of R&D and will identify good practices. Furthermore, the work is aimed at developing recommendations related to the dimension of internationalisation of R&D policies. In substance, the European Research Area, OMC, the ITER project and other forms of adaptation to an international R&D environment will be dealt with by the working group.

In their comments, delegations mentioned other features of internationalisation of R&D which could be integrated in the work of the group, for example the impact on business R&D, policy issues outside R&D in industry, links between the national and the international R&D sphere, etc.

Furthermore, a large number of delegations expressed or repeated their interest to participate in this third cycle working group.

The Committee thereafter adopted the topic proposed and confirmed the establishment of this working group. The first kick-off meeting would be in January. The **DELETED** delegation would hold the chairmanship, other delegations (**DELETED**) showed their interest in a rapporteur function.

The Chair suggested that further participants could be nominated to the **DELETED** delegation and to the Commission services (**DELETED**) and that the Commission will be represented in the group by RTD directorates C and D.

(iii) Update on the ongoing CREST working groups

DELETED (**DELETED** delegation) gave an overview on latest developments in the policy-mix group (Third cycle OMC). The RTD systems of six countries would be peer-reviewed by a team of three to five experts. The expert team would meet a range of different stakeholders to gain particular insights. A full meeting of the policy-mix group would follow in Brussels.

DELETED (**DELETED** delegation) gave further information on the working group "R&D in services". A preparatory meeting has taken place with various stakeholders in Finland and a first plenary meeting of the group will follow in January 2007. A short questionnaire will be sent to the members of the group in December. The group will in particular examine which policy approaches are taken to promote R&D for the services sectors. The plan is to finalise the work by September 2007.

DELETED (**DELETED** delegation) reported about the kick-off meeting of the working group on "structural funds and R&D". A very large interest by countries could be stated. In conformity with the time-table presented at the last meeting, the objective is to adopt a CREST report on this subject at the May meeting to be considered by the following Competitiveness Council. The results would be presented in the form of guidelines. It was accepted to involve external expert assistance for certain sub-topics. The next plenary meeting of the group would take place in February 2007.

(iv) Presentation of the 2007 activities of the "Coherent development of research policies"

DELETED (Commission services) presented the objectives of this activity which is part of the "Capacities" specific programme. The "coherent development of research policies" would be carried out via a budget of 70 Mio. Euro during FP 7 and focus on the effectiveness and coherence of national and Community research policies. Furthermore it would aim at improving the impact of public research and strengthening public support. Monitoring and

analysis would be a major part of this activity, especially through a further development of ERAWATCH. The Industrial Research Investment Monitoring should lead - among other things - to the yearly publication of the EU Industrial Research Investment Scoreboard. Another feature of the "coherent development"-activity would be the development and analysis of research indicators. Within the topic "coordination of research policies" the support for the OMC processes, implemented through both CREST and the OMC-NET calls for proposals, would have to be mentioned in particular.

In their comments, delegations in general stressed the promising approach of this ongoing activity. A stronger focus on bottom-up activities would however be advisable. When continuing the ongoing efforts, Member States' priorities should be taken into account on a regular basis. Some delegations were critical to the weight of "co-ordination and support activities". There might be a danger of double-funding similar activities that form already part of other sections of the RTD Framework Programme. With regard to ERAWATCH, clarifications were asked regarding the link between the Member State policies and the Commission, the role of Member States in further ERAWATCH development and regarding the extent of co-funding from the JRC budget. For the monitoring part it would be useful to involve national statistical institutions at a larger scale.

As a reply to the various comments and questions, **DELETED** assured that with the budget increasing over the coming years, developing a strengthened bottom-up approach could be taken into consideration. ERAWATCH development will continue to be based on a co-funding by both the coherent activity and the JRC budget. The description of possible areas for OMC-NET proposals is not meant to be restrictive, as it is essentially a bottom-up activity, but to give an indication of what is to be expected from these proposals in terms of content. To avoid overlap, work programme development has been coordinated with other units responsible for managing activities of similar content. The work in the programme

committees would also be important in this regard. As the coherent activity displays a high level of continuity with regards to FP6, the monitoring activities throughout 2007 could still largely be supported through running FP6 contracts. **DELETED** added that the Commission intends to consult CREST on future developments of ERAWATCH and that useful feed back had already been received in the context of the mutual learning exercise. The national statistical institutions could be involved via the advisory groups which form part of the overall approach.

- (v) Presentation and discussion of the Communication by the Commission "Towards a more effective use of tax incentives in favour of R&D" (COM (2006) 728)

DELETED (Commission services) presented the new communication by the Commission on the use of tax incentives for R&D purposes. In its analysis, the Commission noted an increased use, but also a wide diversity in the design and implementation of tax incentives. Especially recent court cases would require a clarification of the legal constraints applicable to R&D tax incentives. These legal constraints of tax incentives would in principle stem from two sources, on one hand the EU Treaty fundamental freedoms and related case law, in particular concerning territorial restrictions, on the other hand the State Aid rules, based on Art. 87 of the Treaty and explained in detail in the Revised Community Framework for State Aid for RDI. When reviewing the practice of tax incentives, the Commission has greatly benefited from the input of the second cycle OMC within CREST. The Communication also contains a list of initiatives addressing issues of common interest which would contribute to establish a more coherent framework for R&D tax incentives in compliance with EU law.

The first part of the Communication sheds light on the Community legal constraints applicable to R&D tax incentives. The starting point is the need to be in conformity with **fundamental Treaty freedoms** and the principle of non-discrimination. In particular, corporate or personal income tax incentives imposing restrictions on where the R&D should be performed should be scrutinised with a view to ensuring compatibility with the EC treaty

articles on freedom of establishment and freedom to provide services. Factors leading to consider that an R&D tax incentive is “territoriality-restricted” can be either explicit or implicit. The latter includes design features which favour domestically performed R&D over that performed elsewhere in the EU. It is important to note that the assessment of EU law compatibility of a specific tax incentive depends on the circumstances of the case, and that we should not preclude territorial restrictions which simply reflect the territoriality of the tax competence of Member States. For example, a wage tax for R&D personnel might (by its nature) be limited de facto to persons performing R&D activities in the MS in which they are taxed. This kind of territorial restriction could thus be considered as justified.

R&D tax incentives should also be in line with **EC State aid rules**, which apply regardless of the form the aid is given. The Treaty states that any aid which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be considered incompatible with the common market. In effect, R&D tax incentives could constitute State aid if the relevant criteria are fulfilled and in particular if they are selective – i.e. if its potential beneficiaries are restricted e.g. by way of size (to SMEs, for example), location or sector. However, direct tax measures which pursue general economic policy objectives through a reduction of the tax burden related to certain production costs (including R&D costs) do not constitute State aid if they apply without distinction to all firms and to the production of all goods. Moreover, R&D tax incentives which constitute State aid may be compatible with the Treaty on the basis of Article 87. The Community Framework for State aid for research and development and innovation lays down the rules to apply when assessing aid in the form of R&D incentives.

The second part of the Communication offers an **analysis of R&D tax practices in Member States**. Currently, 15 Member States have tax incentives for business R&D as part of their policy mix to support R&D, alongside other measures such as subsidies or loan guarantees. It is important to note that there is no single answer to how R&D tax incentives should be

designed, used or evaluated. Nevertheless, on the basis of the evaluation of past experience and the exchange of information among Member States, some principles of good design have been identified: (i) R&D tax incentives should be simple, have low administrative costs, and be both reliable and long lasting; (ii) Intended beneficiaries and objectives should be clearly identified before launch, in order to facilitate the evaluation of the effectiveness of the R&D tax incentive afterwards. The latter is a crucial element to improve use of R&D tax incentives. The Commission proposes to investigate evaluation methodologies and compare results to improve common understanding on the effectiveness of R&D tax incentives.

The third part of the Communication presents a series of **initiatives aiming at creating a EU-wide approach on specific tax issues** relating to the promotion of R&D within the EU. They cover the need for more concrete administrative cooperation between Member States in order to ensure better control in implementing tax incentives across borders; the improvement of the tax treatment applicable to cross-border donations and foundations which promote R&D in the EU; Member States are also invited to follow a common approach regarding the introduction of R&D tax incentives for firms participating in large scale transnational R&D projects - or for young innovative firms. Other initiatives mentioned are the introduction of secondary tax legislation in the field of VAT for public bodies or the introduction of a favourable tax treatment for R&D in the common consolidated corporate tax base. The common aim of all these initiatives is that R&D tax policy should significantly contribute to the fulfilment of the Lisbon objectives by the establishing a consistent framework to promote R&D while improving the functioning of the internal market.

The **DELETED** delegation made clear its objection to the discussion of tax issues in CREST and its belief that such issues are for the consideration of national tax experts. Some delegations also referred to the valuable input of the CREST second cycle working group for the topic. Some Member States would currently re-assess and evaluate their tax incentives structures. A complementary approach would consist of introducing demand-oriented fiscal R&D schemes targeting mainly the revenues of IPR resulting from R&D activities such as licences etc. This approach would merit further analysis. Another subject for further analysis is the important issue of the VAT exemption or deductibility of R&D expenditures for public bodies.

5. DISCUSSION ON EXPERIENCES AND PERSPECTIVES IN MEMBER STATES REGARDING THE EUROPEAN RESEARCH AREA

DELETED (European Commission) presented a reflection paper with questions to delegations. The idea was to give delegations the opportunity for early feedback before a fully-fledged consultation on the future of the European Research Area would be launched by the Commission. In this regard, a central communication by the Commission would be published, probably in March 2007. It would aim at bringing about necessary adaptations to the strategy since the start of the European Research Area in 2000.

In their comments, delegations supported the idea that a serious revision of the approach might indeed be necessary, given that the questions concerning transnational research are no longer the same as in 2000. The all-encompassing principle should be to avoid compartmentalisation and fragmentation of research. In the revision, the links to new concepts such as the European Institute of Technology should be made clear. The concept of "open innovation" would have to be taken into account, especially concerning the backlogs and barriers in certain sectors of industry research. ERA-NET and similar instruments should be used to support the opening-up of national research programmes. The current problems concerning the difficulties with the JTIs and with a quick launch of Art. 169 initiatives should not be overlooked, but rather carefully analysed. The profile of the European Research Area within the FP 7 activities will have to be defined, in particular when compared with the strong profile of the European Research Area in FP 6. In the end, RTD financial support programmes could only form part of the strategy and the efforts of Member States should be integrated and strengthened, given that European financial resources would not be inexhaustible.

DELETED thanked the delegates for their input to the communication and the revision of the European Research Area approach. Although numerous adaptations will be made when compared to the situation in 2000, the European Research area will continue to be an "open" concept. Furthermore, the important stock-taking of the Lisbon Strategy in 2010 and the revision of the Financial Perspectives which will have to be prepared around the same time will certainly have an impact on the general concept.

6. INTERNATIONAL RESEARCH COOPERATION

DELETED (Commission services) gave a presentation on international research cooperation within the FP 7 proposal. International research cooperation will address issues such as support for competitiveness objectives through strategic partnerships, the creation of mutual benefit for EU and third countries as well as country-specific research topics that merit special attention. Apart from the possibility to open the standard themes of FP 7 to participants from third countries, the instrument of Specific International Cooperation Actions (SICAs) within each theme would be a major tool of international research cooperation. Concerning the measures for researchers ("People") host-driven actions as well as individual fellowships would be important instruments. Within the "Capacities"-part of FP 7, INCO-Nets are designed as platforms that bring together policy-makers and stakeholders from third countries and the EU. Another instrument is formed by the BILATs, the bilateral S&T cooperation partnerships. International cooperation will also continue to be part of the EURATOM programme and the activities of the Joint Research Centre (JRC).

In their comments, delegations welcomed the overview of what FP 7 can do for international research cooperation, but also remarked that an overall Commission strategy with regard to the topic, comprising also instruments outside FP 7, would still be awaited. The concept of international cooperation could be further improved in scale when compared with FP 6. The facilitating measures already implemented or foreseen would be welcome. Considerable

progress with regard to cooperation with third countries could be stated, even if not all ambitions and objectives would have been fulfilled. A greater coherence of an international cooperation strategy would be a real challenge, given that Member State competencies must also be respected and optimization would - in the end - be of a partial nature.

DELETED explained that a Commission Staff Working Paper setting out the new approach to international cooperation in FP7 was in preparation, in order to assist overall understanding of the range of instruments and the new aspects of this approach. In all probability this would be followed in early 2007 by a Communication setting out issues to be considered in a strategy for international S&T cooperation, thus opening a debate on the topic.

7. AGENDA FOR THE NEXT MEETING (Friday, 16 February 2007; Brussels)

The next meeting will be in Brussels on 16 February 2007, already under German Presidency. The following items³ will in all likelihood figure on the agenda:

- 3% OMC

- Update on the status of the working groups in the 3rd cycle;
- Follow-up to the mutual learning exercise;
- Sectoral R&D specialisation;
- Draft reports by the Working Group on "Structural funds and R&D";

- Community Framework on State Aids for R&D;

- Knowledge Transfer Communication;

- Patent Strategy;

- ESFRI-roadmap - Exchange of views.

³ See also the "mid-term agenda planning 2007", a revised version of which has been made available to delegations on 5 December 2006.