



**COUNCIL OF
THE EUROPEAN UNION**



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Competitiveness (Internal Market, Industry and Research)

Brussels, 3-4 December 2009

President

Mr Tobias KRANTZ

Minister for Higher Education and Research

Mrs Nyamco SABUNI

Minister for Consumer Affairs

Mrs Maud OLOFSSON

Deputy Prime Minister and Minister for Enterprise and
Energy

Dr Ewa BJÖRLING

Minister for Trade

of Sweden

P R E S S

Main results of the Council

*The Council adopted conclusions on an enhanced **patent system for Europe**.*

*As a contribution to the **EU's future strategy for sustainable jobs and growth**, the Council adopted conclusions on ways to achieve a competitive, innovative and eco-efficient economy, on priorities for the internal market and on the better regulation agenda.*

In the field of research, the Council adopted conclusions on:

- *guidance on **future priorities for European research** and research based innovation in post-2010 Lisbon strategy;*
- *the future of **information and communication technologies research**, innovation and infrastructures; and*
- ***joint programming of research** in Europe, including the launch of a pilot research initiative on **combating neurodegenerative diseases**, in particular Alzheimer's.*

*Furthermore, the Council adopted a resolution on the enhanced **governance of the European Research Area**.*

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- Where declarations, conclusions or resolutions have been formally adopted by the Council, this is indicated in the heading for the item concerned and the text is placed between quotation marks.
 - Documents for which references are given in the text are available on the Council's Internet site (<http://www.consilium.europa.eu>).
 - Acts adopted with statements for the Council minutes which may be released to the public are indicated by an asterisk; these statements are available on the Council's Internet site or may be obtained from the Press Office.

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PARTICIPANTS

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

Belgium:

Mr Vincent VAN QUICKENBORNE
Mr Benoît CEREXHE

Minister for Enterprise and Simplification
Minister of the Brussels Capital Regional Government,
with responsibility for Employment, Economic Affairs,
Scientific Research, Fire Prevention and Emergency
Medical Aid

Mr Kris PEETERS

Minister-President of the Flemish Government and
Flemish Minister for Institutional Reform, Administrative
Affairs, External Policy, Media, Tourism, Ports,
Agriculture, Sea Fisheries and Rural Policy

Bulgaria:

Mr Evgeny ANGELOV

Deputy Minister for Economy, Energy and Tourism

Czech Republic:

Ms Miroslava KOPICOVÁ
Mr Martin TLAPA

Minister for Education, Youth and Sport
Deputy Minister for Industry and Trade

Denmark:

Ms Lene ESPERSEN
Mr Uffe TOUDAHL PEDERSEN

Minister for Economic Affairs, Trade and Industry
State Secretary, Ministry of Science, Technology and
Innovation

Germany:

Mr Rainer BRÜDERLE
Ms Sabine LEUTHEUSSER-SCHNARRENBERGER
Mr Thomas RACHEL

Federal Minister for Economics and Technology
Federal Minister for Justice
Parliamentary State Secretary to the Federal Minister for
Education and Research

Estonia:

Mr Tõnis LUKAS
Mr Juhan PARTS

Minister for Education and Science
Minister for Economic Affairs and Communications

Ireland:

Ms Mary COUGHLAN

Tánaiste (Deputy Prime Minister) and Minister for
Enterprise, Trade and Employment

Greece:

Mr Stavros ARNAOUTAKIS

State Secretary, Ministry of Economy, Competitiveness
and Shipping

Spain:

Ms Cristina GARMENDIA MENDIZÁBAL
Mr Miguel SEBASTIÁN GASCÓN

Minister for Science and Innovation
Minister for Industry, Tourism and Trade

France:

Mr Pierre LELLOUCHE

Minister of State with responsibility for European affairs,
attached to the Minister for Foreign and European Affairs

Italy:

Mr Andrea RONCHI

Minister without portfolio, Minister for European Policies

Cyprus:

Mr Costas IACOVOU
Mr Efstathios CHAMBOULLAS

General Director, Ministry of Commerce

Latvia:

Mr Artis KAMPARS
Ms Tatjana KOŅE

Minister for Economic Affairs
Minister for Education and Science

Lithuania:

Mr Rimantas ŽYLIUS

Deputy Minister for the Economy

Luxembourg:

Mr Jeannot KRECKÉ
Hungary:
Ms Judit LÉVAYNÉ FAZEKAS
Mr Zoltán MESTER

Minister for Economic Affairs and Foreign Trade

State Secretary, Ministry of Justice and Law Enforcement
State Secretary, Ministry of National Development and Economic Affairs

Malta:

Mr Jason AZZOPARDI

Parliamentary Secretary for Revenues and Land in the Ministry of Finance, the Economy and Investment

Netherlands:

Ms Maria van der HOEVEN
Mr Ronald PLASTERK

Minister for Economic Affairs
Minister for Education, Culture and Science

Austria:

Mr Johannes HAHN
Mr Reinhold MITTERLEHNER

Federal Minister for Science and Research
Federal Minister for Economics, Family and Youth

Poland:

Mr Igor DZIALUK
Mr Marcin KOROLEC
Mr Jerzy SZWED

Deputy State Secretary, Ministry of Justice
Deputy State Secretary, Ministry of Economic Affairs
Deputy State Secretary, Ministry of Science and Higher Education

Portugal:

Mr José MARIANO GAGO
Mr José VIEIRA DA SILVA

Minister for Science, Technology and Higher Education
Minister for Economic Affairs, Innovation and Development
State Secretary for Trade, Services and Consumer Protection

Mr Fernando SERRASQUEIRO

Romania:

Mr Bogdan MANOIU
Mr Bogdan CHIRIOIU
Mr Marian ECHANESCU

Minister for European Affairs
State Secretary
State Secretary

Slovenia:

Mr Jozsef GYÖRKÖS

State Secretary at the Ministry of Higher Education, Science and Technology

Slovakia:

Mr Jozef HABÁNIK
Mr Peter ŽIGA

State Secretary at the Ministry of Education
State Secretary at the Ministry of the Economy

Finland:

Ms Anni SINNEMÄKI
Ms Riina NEVAMÄKI

Minister for Labour
State Secretary for Economic Affairs

Sweden:

Ms Maud OLOFSSON

Ms Ewa BJÖRLING
Mr Tobias KRANTZ
Ms Nyamko SABUNI
Mr Peter HONETH

Deputy Prime Minister and Minister for Enterprise and Energy
Minister for Trade
Minister for Higher Education and Research
Minister for Integration and Equal Opportunities
State Secretary to the Minister for Higher Education and Research
State Secretary to the Minister for Enterprise and Energy
State Secretary to the Minister for Trade

Mr Jöran HÄGGLUND
Mr Gunnar WIESLANDER

United Kingdom:

Mr Kevin BRENNAN

Mr David LAMMY

Minister of State for Further Education, Skills, Apprenticeships and Consumer Affairs
Minister of State for Higher Education and Intellectual Property

Mr Ian LUCAS

Commission:

Mr Günter VERHEUGEN
Mr Janez POTOČNIK
Ms Neelie KROES
Ms Meglena KUNEVA

Vice president
Member
Member
Member

ITEMS DEBATED**GUIDANCE ON FUTURE PRIORITIES FOR EUROPEAN RESEARCH AND RESEARCH BASED INNOVATION - *Council conclusions***

The Council held a public policy debate on future priorities for research as a contribution to the post-2010 Lisbon strategy for the creation of growth and jobs.

The debate concentrated in three main subjects dealing with targets in the post-2010 strategy, the necessity to ensure a better interaction between research, research based innovation and education, as well as a substantial simplification of administrative processes and rules for research funding.

After the debate, the Council adopted the following conclusions:

"THE COUNCIL OF THE EUROPEAN UNION

RECALLING

- its conclusions of 30 May 2008 on the launch of the "Ljubljana Process - Towards full realisation of ERA";
- its conclusions of 2 December 2008 on the definition of a 2020 vision for the European Research Area which is part of the first phase of the Ljubljana Process and serves as the basis for the development of the future ERA governance;
- its conclusions of 1 and 2 December 2008 concerning joint programming of research in Europe in response to major societal challenges;
- its conclusions of 2 December 2008 concerning a European partnership for international scientific and technological cooperation;
- the conclusions of the European Council of 11 and 12 December 2008, which called for the launching of a European plan for innovation, combined with the development of the ERA and with reflection on the future of the Lisbon Strategy beyond 2010;

- its conclusions of 29 May 2009 on the Evaluation and Impact Assessment of European Research Framework Programmes (FPs);
 - its conclusions of 29 May 2009 on the first steps towards realisation of the ERA Vision 2020 which called upon the Member States and the Commission to further engage in ensuring enhanced complementarity and synergies between Community policies and instruments;
 - Council conclusions of 3 December 2009 on the future of ICT research, innovation and infrastructures;
 - Conclusions of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, of 26 November 2009, on developing the role of education in a fully-functioning knowledge triangle.
1. ACKNOWLEDGES that research policies, programmes and activities at European level encompass those at Union and inter-governmental levels as well as those at national/regional level which contribute to the overall development of ERA, and that third countries are also involved, when appropriate and subject to specific arrangements, in the development of ERA, while acknowledging the current status of cooperation with countries associated to the Framework Programme.
 2. RECOGNISES that Europe, in order to respond adequately to grand challenges contributing to growth and sustainable development - be they social, economic or environmental - or to increasing global industrial competition, must continue increasing support for research and research-based innovation at both European and national level. A limited set of ambitious quantitative and qualitative targets, together with the corresponding indicators, should be considered in the context of the post-2010 EU strategy for competitiveness and growth and the implementation of ERA, reflecting the reaffirmed commitment to transforming the EU into a leading knowledge-based society.

3. EMPHASISES that, in the context of the implementation of the ERA 2020 Vision and improved governance of the ERA as outlined in Council Resolution of 3 December 2009, an approach cutting across policy areas is needed to identify and address the grand challenges of our time, which call for action at European level taking the wider international context into account. To address these challenges, it is essential to mobilise industry and knowledge-building institutions of different scales, as well as civil society at large, through both top-down and bottom-up approaches. Thus, it is of utmost importance to take into account the following key considerations when developing future priorities for research and research-based innovation at the European level:

- a) Activities should be identified which are required in respect of:
- basic research, taking into account notably the experience of frontier research funded by the European Research Council as well as that of the Future and Emerging Technologies scheme in FP7, contributing to endowing Europe with the required knowledge and expertise to explore new research potential and to help respond to unforeseen challenges,
 - the further consolidation and development of collaborative tools enhancing research relevant for industry, in particular SMEs, building also upon experience from European Technology Platforms, Public-Private Partnerships, Joint Technology Initiatives, "Article 169 Initiatives" and other relevant mechanisms such as EUREKA,
 - measures focusing on developing a leading role for Europe in the development and implementation of key enabling technologies,
 - supply and demand side measures to support both business development and public policy goals,
 - better and easier access to finance, for instance making use of the instruments of the EIB and encouraging venture capital,

- the development of a European strategy for cross-border cooperation between knowledge-building institutions, to promote world class research and innovation environments involving academia, research organisations and industry,
 - world class research infrastructures, including e-infrastructures to facilitate the further growth of knowledge, technology and e-science as well as regional partner facilities; Members States should identify common priorities and how to take more effective decisions to implement the ESFRI roadmap;
 - human resources, including researcher mobility and career development;
 - international and world-wide science and technology cooperation;
- b) The "knowledge triangle" concept should be implemented, developing the synergies between education, research and innovation activities at all levels and in all relevant activities, inter alia by enhancement of partnerships between universities and business stakeholders, including knowledge-building institutions and collaborative tools for industrial research; In this respect, the European Institute of Innovation and Technology (EIT) and its Knowledge and Innovation Communities (KICs) are likely to provide a very valuable contribution towards this goal.
- c) It should be recognised that in many cases responsibility for policy in these areas may lie at national/regional level and that approaches identified should be flexible enough to be adapted to the different national circumstances.

4. INVITES, therefore, Member States and the Commission, with the advice of CREST, to initiate during 2010:

- a) an open and transparent process to identify the priorities for the future European research and research-based innovation activities following appropriate consultation with stakeholders across the policy areas and responding to issues set out in paragraph 3;
- b) a review, and as a complement to and taking into account the FP7 interim evaluation, ERA-related instruments (including those on innovation) with a view to presenting a basis for considering best ways to improve and simplify the "ERA-landscape";

and at the same time explore and take into account:

- c) forward-looking activities ("foresight") to support the identification of grand challenges and the corresponding priorities for research and innovation;
- d) synergies between the Framework Programme, Competitiveness and Innovation Programme (CIP) and Education Programmes (including Lifelong Learning) as well as the Cohesion Programmes and Joint Programming activities (including the pilot Joint programming initiative on combating neurodegenerative diseases, in particular Alzheimer's). Experience from specific areas such as the European Strategic Energy Technology Plan (SET Plan) and agricultural research coordination should also be drawn on;
- e) means to further mobilise research and innovation capacity across Europe within the Research, Innovation and Cohesion policies;
- f) the results of the FP7 mid-term evaluation.

5. WELCOMES the Commission communication of 2 September 2009 entitled "Reviewing Community innovation policy in a changing world" and

INVITES the Commission to draw up its forthcoming initiatives as a follow-up to the European Council of December 2008 regarding the launching of a European Plan for Innovation:

- identifying how innovation can contribute to addressing the grand challenges;
- seeking further incentives for the more rapid emergence of innovation-friendly markets, notably through public-private partnerships and a stronger demand- and user-drive for research and research-based innovation including public procurement, lead markets and innovation in services, noting the major role that the public sector can play in this context;
- ensuring synergies with other EU and European initiatives in the fields of research, innovation, education and industry, and

- encouraging business, academia, research organisations and public authorities at appropriate levels to help implement projects across the research and innovation cycle.

6. WELCOMES the Commission communication of 30 September 2009 entitled "Preparing for our future: Developing a common strategy for key enabling technologies in the EU" and INVITES the Commission to come forward with further relevant initiatives and WELCOMES the Commission's intention to draw up a new Action Plan on Nanotechnologies for 2010-2015.

TAKES NOTE of the Commission communication of 7 October 2009 entitled "Investing in the development of low carbon technologies (SET Plan)" and ENCOURAGES the Commission and the Member States to examine ways and means to accelerate the implementation of the SET Plan including as regards improved synergies with FP7.

7. TAKES NOTE of the progress achieved in the first two years as outlined in the seventh Framework Programme (FP7) progress report and LOOKS FORWARD to the results of the interim evaluation of the FP7.

8. TAKES NOTE of the Review of the European Research Council's Structures and Mechanisms of July 2009 as well as the responses by the ERC Scientific Council and the Commission. The Council will discuss them in depth, in order to deliver its political opinion in early 2010 on the review's recommendations and their follow-up.

9. ACKNOWLEDGING the progress already made in administrative simplification, UNDERLINES the need to make further progress on simplification and more efficient management in order for the EU Framework Programmes to fully contribute to the implementation of a post-2010 EU strategy, WELCOMES the Commission's intention to present a Communication in the spring of 2010 on simplification, which should contribute to translating the political commitment into new simplified rules taking into account the specificities of the research sector, and AGREES that:

- a review is needed of the EU financing framework with a view to achieving a risk-tolerant and trust-based approach for the management of research funding supporting the EU's policy objectives; such an endeavour would also require support from the European Parliament and the Member States;

- the Framework Programmes' rules for participation should be reviewed with a view to ensuring the necessary coherence;
- the recommendations put forward in the Review of the ERC's Structures and Mechanisms should be followed up taking into account the response from the Commission;

10. INVITES the Commission, together with Member States where relevant, to:

- pursue vigorously further reduction of the administrative burden, continuing to implement the recommendations of the Evaluation of the Sixth Framework Programme, keeping the Council informed of measures taken on a regular basis;
- present a cost-benefit analysis of its current approach to financial controls taking into account the administrative burden involved for both the beneficiaries and the EU;
- further improve the functioning of the new instruments and initiatives of FP7 (such as ERC, Joint Technology Initiatives and the Risk Sharing Finance Facility) as well as the Executive Agencies involved, based on the results of the review on their progress;
- further improve the approaches to independent ex-post evaluation of Framework Programmes;
- draw up its proposals for the revision of the Financial Regulation taking into account the specificities of the research sector.

11. INVITES, finally, the Commission to consider, in particular, the following further aspects with a view to implementing FP7 to its full potential, improving its impact as well as shaping the ERA:

- strengthening industry-academia (including public research organisations) interactions, improving the participation of SMEs and reinforcing actions on knowledge transfer to improve the dissemination and exploitation of research results;

- improving the response to grand challenges by e.g. implementing cross-cutting actions such as cross-thematic calls, and continuing the use of European Technology Platforms, complemented by Societal Platforms to develop research agendas in relevant areas, as well as through activities on Future and Emerging Technologies;
- developing further links to and synergies with other EU policy areas and initiatives such as the Competitiveness and Innovation Framework Programme (CIP), Cohesion policies, Education programmes, the European Economic Recovery Plan and the European Agricultural Research Agenda;
- making further progress in simplification and efficient management."

ENHANCED GOVERNANCE OF THE EUROPEAN RESEARCH AREA - *Council resolution*

The Council adopted the following resolution:

"THE COUNCIL OF THE EUROPEAN UNION

RECALLS its Resolution of 14 January 1974 on the coordination of national policies and the definition of projects of interest to the Union in the field of science and technology which established a Scientific and Technical Research Committee (CREST), replaced by Council Resolution of 28 September 1995 on CREST;

RECALLS its Resolution of 15 June 2000 establishing a European Research Area (ERA) following the European Council of 23 and 24 March 2000 which agreed on the Lisbon Strategy;

RECALLS the conclusions of the European Council of 8 and 9 March 2007 which referred to the notion of well functioning Knowledge Triangle in the form of interaction between education, research and innovation, and of 19 and 20 March 2009 which called for urgent concrete measures to encourage partnership between business, research, education and training and to step up and improve the quality of investment in research, knowledge and education;

RECALLS the conclusions of the European Council of 13 and 14 March 2008 which called upon the member States to remove barriers to the free movement of knowledge by creating a "fifth freedom";

RECALLS its Conclusions of 30 May 2008 on the launch of the "Ljubljana Process - Towards full realisation of ERA" aiming to establish an enhanced governance for the ERA based on a long-term vision on ERA developed in partnership by Member States and the Commission with broad support from stakeholders and citizens;

RECALLS its Conclusions of 2 December 2008 on the definition of a 2020 vision for the European Research Area which invited future Presidencies to take this vision and its potential evolution into consideration in the development of their proposals for the future governance of the ERA and stressed the need to use the full potential of existing coordination structures such as CREST in dealing with ERA initiatives;

RECALLS the conclusions of the European Council of 11 and 12 December 2008, which called for the launching of a European plan for innovation, together with the development of the ERA and with reflection on the future of the Lisbon Strategy beyond 2010;

RECALLS its conclusions of 29 May 2009, to establish and regularly update a Roadmap for the implementation of the ERA Vision 2020 and to further engage in ensuring enhanced complementarity and synergies between EU policies and instruments such as the RTD Framework Programmes, the Competitiveness and Innovation Framework Programme, Structural Funds, the Ljubljana Process, the Common Framework on Education and Training and the Bologna Process

1. ACKNOWLEDGES that research policies, programmes and activities at European level encompasses those at Union and inter-governmental levels as well as those at national/regional level which contribute to the overall development of ERA, and that third countries are also involved, when appropriate and subject to specific arrangements, in the development of ERA, while acknowledging the current status of cooperation with countries associated to the Framework Programme;
2. ACKNOWLEDGES that a large number of actors and stakeholders are already involved in the development of the ERA at national, regional, inter governmental and Union level and that various ERA-related mechanisms, processes and instruments are already in operation;
3. RECOGNISES the need for an efficient and enhanced governance for strategic policy development and decision-making in the ERA in which the Union and the Member States demonstrate more leadership and commitment for the achievement of the ERA Vision 2020 and the implementation of the post 2010 EU strategy for competitiveness and growth. Guiding principles should be simplicity, efficiency and transparency, while respecting the principle of subsidiarity;
4. UNDERLINES that this enhanced governance should aim at facilitating cooperation and coordination of ERA related activities, programmes and policies at all levels on the basis of objectives derived from the ERA Vision 2020, taking into account the positive aspects of diversity which exist in Member States;
5. RECOGNISES that the Knowledge Triangle of education, research and innovation relates to the need for improving the impact of investments in the three forms of activity by systemic and continuous interaction;

6. RECOGNISES that a crucial aspect of governance is the need to develop more coherent policy-making at European and Member State level by developing better and more efficient interaction between the three components of the Knowledge Triangle in the policy making process, to accelerate the transition to a true knowledge-based economy and society;
7. EMPHASISES the need for a more systematic, broader and structured consultation of relevant stakeholders in the ERA as well as the necessity to better communicate the aims, benefits and achievements of ERA and its Vision 2020 to the broader public and relevant categories of stakeholders;
8. Given the broad and inter-institutional nature of the ERA, EMPHASISES the need for regular exchange of views and interaction with the European Parliament;
9. ENCOURAGES Member States, where necessary, to strengthen their preparation of the meetings of relevant committees and groups (including through appropriate consultations with stakeholders) as well as to facilitate the necessary interaction between all areas of the Knowledge Triangle;
10. RECOGNISES the need to establish the means to provide fresh and innovative impetus on the political level in order to be able to achieve the goals of the ERA; and INVITES future Presidencies to consider convening well prepared and focused ERA Ministerial conferences when there is a clear added value providing orientations for a long-term strategic view on ERA; AGREES that such conferences could take the form of an broadened informal meeting of Ministers;
11. ACKNOWLEDGES the role that CREST has already played in providing advice to the Council and the Commission on ERA-related matters; RECOGNISES, however, that for the development of ERA and in order to respond to the need to better involve national policies, CREST should play a more proactive role as an ERA Policy Committee providing strategic timely advice to the Council, the Commission and Member States on its own initiative or on the request of the Council or the Commission;

12. On this basis, ENDORSES the following principles to strengthen the role of new CREST in the strategic development of ERA:
- a) CREST is a strategic advisory body whose function is to advise the Council, the Commission and the Member States on ERA related issues. CREST should also monitor the progress of ERA, including the EU Framework Programmes;
 - b) CREST should provide strategic advice in particular on:
 - i. broad orientations for possible future policies at international, European and national levels to contribute to the development of the ERA;
 - ii. at an early stage, the strategic priorities, the design and implementation of policy initiatives to develop the ERA, including the EU Framework Programmes and other relevant EU initiatives, as well as relevant national and intergovernmental initiatives, including the overall coherence across the instruments and initiatives;
 - iii. promoting, when relevant, the coordination of national policies relevant for the development of ERA;
 - iv. at a later stage, the design and implementation of independent assessment and evaluation of all these policy initiatives.
 - c) CREST should develop interactions and coherence with other policy areas, in particular those related to the Knowledge Triangle,
 - d) CREST should cooperate and consult with ERA-related groups, as necessary to attain its objectives. It could also base its deliberations on input from these groups;
 - e) Member States and the Commission should jointly contribute to the work of CREST for further development of ERA;

13. CONSIDERS that the working methods of CREST, taking into account the new legal and institutional framework with a view to replacing the Resolution of 28 September 1995 with a new Resolution providing a revised mandate for the CREST committee, should be further discussed. This revised mandate should be drawn up in accordance with the principles set out in paragraph 12 and approved by the Council by mid-2010;
14. INVITES all relevant groups, established with a view to helping deliver the ERA to develop systematic and transparent consultations with stakeholders, as appropriate;
15. INVITES Member States and the Commission to initiate a review of the ERA related groups before the end of 2010.
16. INVITES the Commission to:
 - continue and further develop systematic and structured consultations with Member States, and other relevant stakeholders in a transparent manner;
 - develop, jointly with the Member States, an effective ERA information system as a support tool for decision makers."

**THE FUTURE OF INFORMATION AND COMMUNICATION TECHNOLOGIES
RESEARCH, INNOVATION AND INFRASTRUCTURES - Council conclusions**

The Council adopted the following conclusions:

"THE COUNCIL OF THE EUROPEAN UNION

RECALLING:

- its conclusions of 23 November 2007 on scientific information in the digital age: access, preservation and dissemination, recognising that access and dissemination of scientific information is crucial for the development of the European Research Area (ERA) and can help accelerate innovation;
- its conclusions of 30 May 2008 on the launch of the Ljubljana Process - Towards full realisation of the (ERA) aiming to establish an enhanced governance for the ERA based on a long-term vision on ERA developed in partnership with Member States and the Commission, with broad support from stakeholders and citizens;
- its conclusions of 2 December 2008 on the definition of a 2020 vision for the European Research Area which is part of the first phase of the Ljubljana Process and serves as the basis for the development of future ERA governance;
- the conclusions of the European Council of 11 and 12 December 2008 which agreed on the European Economic Recovery Plan and called for the launch of a European plan for innovation, combined with the development of the European Research Area (ERA) and reflections on the future of the Lisbon Strategy beyond 2010 (including post i-2010 Strategy for promotion of information society), encompassing all the conditions for sustainable development and the main technologies, including information technology;
- its conclusions of 29 May 2009 on Research Infrastructures and the regional dimension of the ERA which called on the Commission to pursue sustainability, global connectivity, interoperability and unimpeded use of pan-European e-Infrastructures, and on the Member States to consider the role of e-Infrastructures in their national roadmaps and/or programmes for research infrastructures;

EMPHASISING, in this context, the importance of ICT research, innovation and infrastructures:

1. WELCOMES the Commission's communications entitled "A Strategy for ICT R&D and Innovation in Europe: Raising the Game", "ICT Infrastructures for e-Science" and "Moving the ICT frontiers – a strategy for research on future and emerging technologies in Europe";
2. HIGHLIGHTS that ICT is one of the main drivers of economic growth and social change and, as such, plays a vital role in the economic recovery, enabling Europe to emerge from the current crisis faster and stronger than before;
3. EMPHASISES that ICT underpins innovation and productivity gains across the economy, offers unique responses to societal challenges, such as transition to an eco-efficient economy, and is necessary to progress in all major science and technology fields; NOTES, however, that the ICT impact on productivity growth is lower in the EU than in major trading partners;
4. STRESSES that the digital revolution is still in its early stages and that a research and innovation capacity is essential to be able to shape, master and assimilate technologies and exploit them to economic, societal and cultural advantage; UNDERLINES, in this regard, the necessity to ensure the availability, appropriate treatment and conservation of an unprecedented amount of data;
5. NOTES that Europe has strong industrial and technology assets in ICT notably in telecommunication equipment and services, embedded ICT and business software and can build on its underpinning strengths including its scientific excellence, the exceptional standard of education of its graduates, world class high-quality infrastructures such as GEANT and e-Science, and the world's largest ICT market;
6. RECOGNISES, however, that fragmented European markets, a fragmented ICT research and innovation landscape, lack of human resources and under-investment in ICT research and innovation are major obstacles preventing Europe from taking full advantage of current and future ICT;
7. STRESSES the importance of ICT in the context of implementing the free movement of knowledge (the fifth freedom, as initiated by the European Council at its meeting of 13 and 14 March 2008), innovation and technology, and NOTES the importance of increasing European capacity and competitiveness in ICT;

UNDERLINING the overall objective to establish Europe's leadership in ICT research, innovation and infrastructures:

8. STRESSES that Europe must identify and remove the barriers that hinder the emergence and growth of new business and markets for innovative ICT applications, must seek leadership in key ICT markets, technologies and sciences, and must improve the attractiveness of Europe to ICT investments and talents, while ensuring critical mass of human capital to build a digital Europe;
9. RECOGNISES the need for better integrated policies and actions bridging ICT innovation, skills development and research (knowledge triangle) – from frontier to application oriented research;
10. STRESSES that better integration requires closer articulation between European, national and regional actions and implementation in variable configurations at different levels;
11. AGREES that a range of new opportunities exist for European leadership in ICT, that are driven by new scientific findings, by new technology development and by the innovative use of technology to lay the basis for modern science and to address emerging challenges in areas such as the transition to an eco-efficient economy or sustainable health care for an ageing population;
12. SUPPORTS the important contributions of ICT to the public-private partnerships in the European Economic Recovery Plan on Green Cars, Factories of the Future and Energy Efficient Buildings;
13. In order to reinforce future and emerging technologies (FET) in ICT, RECOGNISES the strategic importance of high-risk, multidisciplinary research on new foundations for future ICT, to seed novel technologies and to open new research avenues that are essential for ensuring innovation and sustainable competitiveness of European enterprises;
14. RECOGNISES the critical role of e-Infrastructures in achieving scientific excellence, their potential for improving accessibility and their transformative impact on the way research is performed, mainly e-Science, as well as their role as innovation platforms and precursor markets for novel ICT, notably in computing; WELCOMES the work of the e-IRG to address policy related barriers for the shared use of e-Infrastructures;

CONSIDERING that a number of priority actions should be taken:

15. INVITES the Member States to:

- amplify their support to ICT research and innovation at both national and EU level, including through an extended use of public procurement of ICT research and innovations and a wider use of cohesion policy funds;
- intensify their efforts in building research and innovation clusters in ICT through more coordinated investments in research infrastructures in critical areas such as Future Internet, high performance computing, Green ICT cognitive systems, nano-electronics, photonics and embedded systems;
- foster trans-national co-ordination of e-Infrastructures in order to optimize resources and ensure seamless and safe access of end-users.

16. INVITES the Commission to:

- examine areas where public-private partnerships can accelerate innovation, create critical mass, and attract additional private and public investments, notably in the field of Future Internet and Green ICT, as well as to optimise the mechanisms to this effect;
- propose Europe-wide flagship initiatives in FET to tackle specific science and technology challenges at the crossover between ICT and other scientific disciplines;
- based on a strategy, stimulate and support international research collaboration in FET, as it addresses global ICT challenges;
- prepare initiatives to empower research intensive SMEs and talented young researchers to step-up and take earlier leadership in FET;
- propose initiatives for actions to attract young people to the ICT research and innovation area and encourage them to pursue a career within this field;

- propose financial incentive schemes for jointly developing and sharing research infrastructures between the Member States in ICT, in areas such as exa-scale computing;
- propose demand- and user-driven European-scale projects cutting across research, innovation and deployment to deliver ICT-based service infrastructures in response to cultural and societal challenges, including pan-European electronic identity management whilst ensuring appropriate data protection; and services in healthcare, energy efficiency, safe and clean transport;

17. INVITES the Member States and the Commission to:

- explore how to extend the benefits of e-Infrastructures to industrial research and innovation, to public services and to SMEs;
- explore governance models for e-Infrastructures that enable the provision of efficient, seamless and technologically leading public services for research Europe-wide, in consultation with the e-IRG, where appropriate;
- examine the need and the means to provide incentives for the wider use of pre-commercial procurement at local, regional national and European level to provide innovative solutions to the public sector, including for the deployment of e-Infrastructures and for the support to SMEs;
- better coordinate their efforts and develop and share strategies in ICT fields that are essential for Europe, such as research and innovation in broadband communications, building on the experience in the ICT Joint Technology Initiatives, the Ambient Assisted Living coordinated programme and the GEANT high speed network; these strategies shall seek to avoid fragmentation of the efforts;
- pool their investments in high performance computing under PRACE, in order to strengthen the position of European industry and academia in the use, development and manufacturing of advanced computing products, services and technologies;

- ensure that research infrastructure of major importance in Europe enjoy e-Infrastructure support both in terms of access to state of the art computing and data resources and in order to extend the benefits of their operation across Europe;
- continue to lift the specific obstacles that hinder the development of innovation-friendly markets;
- continue their efforts in order to make widely available and broaden access to scientific data and open information repositories and ensure a coherent approach to scientific data access and curation;
- further promote the security of networks and ICT products, including through facilitating better interaction between research stakeholders;
- regularly consult standardisation and research stakeholders, in particular European Technology Platforms, to ensure that relevant European ICT R&D initiatives contribute most effectively to ICT standardisation activities, as well as encourage standardisation bodies to adapt their procedures, where necessary, in order to facilitate the timely production of ICT standards; coordinate their efforts toward a better synchronisation and coordination of national and European standardisation policies related to establishing and dissemination of European technology standards, which will contribute to strengthening European competitiveness;
- seek further incentives for the more rapid emergence of innovation-friendly markets, notably through a stronger demand- and user-drive for innovation, including an extended use of public procurement of innovation, support to pilot projects, and involvement of users at all stages of the innovation cycle;
- promote and facilitate the creation of synergies between policies and instruments at different levels and closer cross-portfolio interaction between users, suppliers and investors, for instance through 'innovation platforms' for public service innovation, support to experience sharing between public procurers, networking of investors and SMEs;

- encourage business, academia and public authorities at all levels to help implement ICT projects across the innovation cycle, notably in response to societal goals;
- undertake initiatives, through the European partnership for researchers established on 26 September 2008, to overcome the shortage of skilled researchers and to attract the world's best researchers to participate in ICT research, in particular FET, including through collaboration with global research leaders;
- pay particular attention to the role of ICT in enabling and strengthening S&T cooperation policy with countries outside Europe."

JOINT PROGRAMMING OF RESEARCH IN EUROPE - Council conclusions

- (a) Launch of the pilot joint programming initiative on combating neurodegenerative diseases, in particular Alzheimer's
- (b) Progress in joint programming and the way ahead

The Council adopted the following conclusions:

"THE COUNCIL OF THE EUROPEAN UNION

RECALLING

- The Commission Green paper of 4 April 2007, entitled "The European Research Area: New Perspectives" in which one of the core objective was to ensure the coherence of national and regional research programmes and priorities on issues of European major societal challenges or opportunities relevant to all or many countries which require a new approach as regards research efforts beyond individual national capacity;
- Its Key Issues Paper (KIP) of 25 February 2008, in which the Member States and the Commission were encouraged to continue developing initiatives for joint programming of research in areas suited to such an approach, allowing a more strategic and better structured approach to the launch of new joint programmes and common calls for projects;
- The conclusions of the European Council of 13 and 14 March 2008, which launched the new cycle of the Lisbon strategy for growth and jobs (2008-2010) and which, with the aim of fully developing the potential for innovation and creativity of European citizens, confirmed that particular attention should be given to further initiatives for joint programming of research;
- The Commission communication of 15 July 2008, entitled "Towards joint programming in research: Working together to tackle common challenges more effectively", which called for the implementation of a process led by the Member States to step up their cooperation in the R&D area in order to better confront major societal challenges of European or worldwide scale, where public research plays a key role.

- Its conclusions of 26 September 2008, entitled "A common commitment by the Member States to combat neurodegenerative diseases, particularly Alzheimer's", which recognised that R&D activities relating to Alzheimer's disease constitute a good example for testing innovative ways of pooling national expertise and resources on a voluntary basis as part of joint Europe-wide goals, and invited the Member States and the Commission to create a forum with a view to bringing together key players in European research, to take account of existing national plans to fight Alzheimer's disease and to explore proposals for a commitment by Member States to establish closer and stronger collaboration in this respect.
 - Its conclusions of 2 December 2008 concerning joint programming of research in Europe in response to major societal challenges, which established a dedicated configuration of CREST, the High Level Group for Joint Programming (GPC), with a view to identifying and substantiating the first list of a limited number of joint programming themes. In addition, it recognised neurodegenerative diseases as an area where Joint Programming would provide a major added value to the current, fragmented efforts of Member States in the field of research, and the necessity to launch a pilot Joint Programming Initiative on combating those diseases, in particular Alzheimer's disease, and invited the Commission to submit a proposal in preparation for its launch as soon as possible in 2009.
- a) The launch of the pilot joint programming initiative on combating neurodegenerative diseases, in particular alzheimer's**
1. TAKES NOTE that the number of people suffering from neurodegenerative diseases in Europe is estimated to be 8.6 million with Alzheimer's accounting for vast majority of these cases. Moreover, STRESSES that neurodegenerative diseases represent one of the main causes of disabilities of the elderly, and that the number of people suffering from these diseases is expected to rise drastically by 2020, due to the increased life expectancy and a decreasing ratio of working to retired populations;
 2. Due to the fact that this will lead to a greater burden on patients, their families and caregivers and pose substantial challenges ahead for Member States' healthcare systems in terms of costs and organisation, ACKNOWLEDGES that Member States have recognised the need to adopt specific national plans and strategies for Alzheimer's disease and related disorders in order to alleviate the burden on society in general and on healthcare systems.

3. RECOGNISES, there is a growing awareness that the impact of neurodegenerative diseases on the population in Europe is of such a magnitude that no Member State is capable of resolving it alone. Member States would therefore benefit from coordinating their actions to develop a stronger, better coordinated and more effective response at the European level.
4. WELCOMES the Commission communication on a European initiative on Alzheimer's disease and other dementias and the recommendations by the Commission on the launch of the Joint Programming Initiative (JPI) on combating neurodegenerative diseases, in particular Alzheimer's, and, on this basis, EMPHASISES that Joint Programming in research on neurodegenerative diseases will contribute to the reduction of fragmentation of research efforts of Member States in this field and encourage the pooling of skills, knowledge and resources, with a view to advancing research on the prevention, diagnosis and treatment and to alleviating the burden of neurodegenerative diseases on patients, their carers and society. In this context, also INVITES the Commission to offer support in the implementation of this initiative and avoid duplication in implementing the Framework Programme;
5. INVITES the Member States to:
 - i. Develop a common vision, based on a multidisciplinary approach, on how cooperation and coordination in the field of research at the European level can improve knowledge, prevention, diagnosis and treatment of neurodegenerative diseases, in particular Alzheimer's, in order to ensure the efficiency of the joint efforts of Member States in fighting neurodegenerative diseases.
 - ii. Develop a Strategic Research Agenda (SRA) establishing medium to long term research needs and objectives in the area of neurodegenerative diseases, in particular Alzheimer's. The strategic research agenda should be further developed towards an implementation plan establishing priorities and timelines and specifying the actions, instruments and resources required for its implementation.

ii.1. The following actions could be considered, subject to the needs of the Strategic Research Agenda, as part of an implementation plan:

- identify and exchange information on relevant national programmes and research activities;
- reinforce joint foresight and technology assessment capacities at the level of basic, medical, health and social services research;
- identify areas or research activities that would benefit from coordination or joint calls for proposals or pooling of resources in areas such as the development of new prevention and treatment strategies, new imaging technologies and biomarkers;
- exchange information resources and best practices in areas such as the comparison of healthcare systems, including long term care and informal care settings;
- define the modalities for research to be undertaken jointly in the areas identified above;
- share, where appropriate, existing research studies and infrastructures or develop new ones in areas such as coordinated registries, biobanks for blood samples and tissues or the development of animal models for the study of these diseases;
- development of new diagnostic tools particularly for early diagnosis;
- network centres dedicated to research on neurodegenerative diseases in areas such as clinical trials, standardisation of diagnostic criteria and diagnostic instruments;

- as appropriate, involve representatives of patient and care organisations and healthcare providers in this pilot initiative, including stakeholders from the private sector;
 - identify effective measures to ensure the optimum dissemination and the use of research findings.
- iii. Actively support the work of the newly established management structure in the field of neurodegenerative diseases, in particular Alzheimer's disease, mandated to establish common conditions, rules and procedures for cooperation and coordination and to monitor the implementation of the strategic research agenda.
 - iv. Jointly implement the SRA, including through their national research programmes or other national research activities.
 - v. Cooperate with the Commission with a view to exploring possible Commission initiatives to assist Member States in developing and implementing the common research agenda.

6. INVITES the Commission to:

- i. Act as a facilitator by providing ad-hoc and complementary measures to support the pilot Joint Programming initiative. Those measures should include support to the management structure and the establishment of the strategic research agenda, the provision of data, information and analysis on the state of the art in this field in Member States and at European level.
- ii. Explore how best to contribute with complementary measures to the strategic research agenda and to its implementation plan via EU funding instruments.
- iii. Look into possible forms of consultation and cooperation on this subject with scientifically-advanced groupings at international level.
- iv. Regularly report to the Council and the European Parliament on the progress and results of this JPI.

b) Progress in joint programming and the way ahead

1. WELCOMES the progress made in the High Level Group on Joint Programming (GPC) by identifying and substantiating the first wave of themes for JPIs with a view to the adoption of JPIs by the Council in due time. These are the following three themes:
 - Agriculture, food security and climate change
 - Health, food and prevention of diet related diseases
 - Cultural heritage, climate change and security;
2. STRESSES the importance of further continued process of the identification of JPI themes within the GPC, and, in this context, ENCOURAGES Member States to continue with the joint efforts to identify common and concerted responses to societal challenges on other themes as well as to work on the framework conditions during the development and implementation of JPIs;
3. REAFFIRMS that joint programming is a process led by Member States, with the Commission acting as a facilitator, and EMPHASISES that this should be reflected in the decision-making process in preparation of the launch of joint programming;
4. In this context, AGREES, in relation to Council conclusions concerning joint programming for research in Europe in response to major societal challenges, on the new modalities as regards the decision-making process to launch joint programming initiatives, and, therefore,

INVITES the Commission, within the remit of its competence, to contribute to the preparation of the joint programming initiatives which correspond to the themes identified and substantiated by the GPC, together with the state of play of research in the field of each of these themes, on the basis of which the Council will agree on joint programming initiatives."

CONSUMER RIGHTS DIRECTIVE

In public session, the Council held a policy debate on a draft directive aimed at improving the functioning of the Internal Market while ensuring a high level of consumer rights across the EU, by revising and complementing four existing directives¹ and introducing new rules on delivery and the passing of risk.

The outcome of the debate will provide guidance and solid basis for continuing work in the coming months.

After the debate the Presidency summed up the debate along the following lines:

"Interventions focused on important challenges ahead, including:

- the consumers and the citizens situation in the internal market;
- the technical development and the e-Commerce, which by nature is borderless;
- the cross border dimension between regions, between neighbouring countries and within the whole internal market; and
- the need for balance between consumer rights and the obligations on traders.

Although the points of departure of the member states sometimes differ, we see the need for more common rules to achieve a modern, clear European consumer policy providing legal certainty.

The Swedish Presidency will take into account views expressed by delegations when finalising a revised version of the draft directive.

¹ Directive 85/577/EEC on contracts negotiated away from business premises, Directive 93/13/EEC on unfair terms in consumer contracts, Directive 97/7/EC on distance contracts and Directive 1999/44/EC on consumer sales and guarantees.

There is a broad support for wide definitions of distance contracts and off premises contracts so as to ensure that consumers are entitled to specific information and a right of withdrawal in more cases than today.

A number of delegations expressed support for common rules on the right of withdrawal and a majority of delegations mentioned a 14 day right of withdrawal for consumers both for distance and off premises contracts.

When it comes to the rules on delivery and faulty goods, several participants raised some concerns, while showing the willingness to pave the way for achieving solutions.

A large number of EU member states think that there are specific areas which should not be covered by all parts of the directive, such as contracts on immovable property and financial services."

Previous negotiations proved that clarifications are deemed necessary to the text of the Commission proposal ([14183/08](#)) in order to well reflect essential elements such as the scope of the future directive, the coherence with other Community legislation and the interaction with the general contract law of the member states.

The proposal covers the right to information and withdrawal when buying on distance and off premises, refund when terminating a contract due to late delivery and remedies for faulty goods. There is also a ban on unfair contract terms. The aim is an updated, clear and more uniform set of rules concerning consumer rights when purchasing goods and services in order to contribute to a properly functioning internal market as well as to ensure a high level of protection for consumers.

The proposal, which requires co-decision with the European Parliament, was submitted in October 2008 following the review of the *consumer acquis* launched in 2004.

ENHANCED PATENT SYSTEM FOR EUROPE - Council conclusions

The Council held a debate on an enhanced patent system in Europe and adopted conclusions on the main features of the future patent system based on two main pillars comprising:

1. the creation of a unified patent litigation system that would have exclusive jurisdiction in respect of civil litigation related to the infringements and validity of EU and European patents, and would be made of a court of first instance (with a central division and local and regional divisions), and a court of appeal.
2. the creation of an EU patent as a unitary legal instrument for granting patents valid in the EU as a whole. In a public session the Council also agreed on a general approach (i.e. an agreement in principle and pending the opinion of the European Parliament) on a draft regulation establishing the EU patent.

The conclusions, which will form the basis for continuing work, are reproduced here below:

"THE COUNCIL OF THE EUROPEAN UNION,

1. RECALLING that enhancing the patent system in Europe is a necessary prerequisite for boosting growth through innovation and for helping European business, in particular SMEs, face the economic crisis and international competition;
2. CONSIDERING that such an enhanced patent system is a vital element of the Internal Market and that it should be based on two pillars, i.e. the creation of a European Union patent (hereafter "EU patent") and the setting up of an integrated specialised and unified jurisdiction for patent related disputes thus improving the enforcement of patents and enhancing legal certainty;
3. ACKNOWLEDGING the considerable amount of work accomplished so far by the Council's preparatory bodies on the legal instruments needed to establish the above-mentioned two pillars;

4. AGREES that the following conclusions on the main features of the European and EU Patents Court (I) could form the basis of, while on the EU patent (II) they should form part of the overall final agreement on a package of measures for an Enhanced Patent System in Europe comprising the creation of a European and EU Patents Court (EEUPC), an EU patent, including the separate regulation on the translation arrangements referred to in point 36 below, an Enhanced Partnership between the European Patent Office and central industrial property offices of Member States and, to the extent necessary, amendments to the European Patent Convention;
5. STRESSES that the following conclusions are without prejudice to the request for an opinion of the European Court of Justice as well as to Member States' individual written submissions and are conditional on the opinion of the European Court of Justice ;
6. TAKES NOTE of the Draft Agreement on the European and Community Patents Court in document 7928/09 of 23 March 2009 (below the Draft Agreement), acknowledges that some elements of the envisaged agreement are under particular discussion;
7. STRESSES, that the system here envisaged should be established with due regard to the constitutional provisions of the Member States and is without prejudice to the request for an opinion of the European Court of Justice; and that the establishment of the EEUPC would be based on an agreement, the ratification of which by the Member States would have to take place in full compliance with their respective constitutional requirements;
8. AGREES that the decision on the seat arrangements for the EEUPC should be taken as part of the overall final agreement referred to in point 4 above and shall be in accordance with relevant EU acquis;
9. RECOGNISES that some Member States have fundamental legal concerns concerning the creation of the EEUPC and its envisaged overall architecture as reflected in these conclusions, which would have to be revisited, in the light of the opinion of the European Court of Justice.

I. MAIN FEATURES OF THE EUROPEAN AND EU PATENTS COURT

THE EUROPEAN AND EU PATENTS COURT

10. The EEUPC should have exclusive jurisdiction in respect of civil litigation related to the infringement and validity of EU patents and European patents.
11. As outlined in the Draft Agreement, the EEUPC should comprise a Court of First Instance, a Court of Appeal and a Registry. The Court of First Instance should comprise a central division as well as local and regional divisions.
12. The European Court of Justice shall ensure the principle of primacy of EU law and its uniform interpretation.

THE COMPOSITION OF THE PANELS

13. In order to build up trust and confidence with users of the patent system and to guarantee the high quality and efficiency of the EEUPC's work, it is vital that the composition of the panels is organised in a way which makes best use of experience of patent litigation among judges and practitioners at national level through pooling of resources. Experience could also be acquired through theoretical and practical training which should be provided in order to improve and increase available patent litigation expertise and to ensure a broad geographic distribution of such specific knowledge and experience.
14. All panels of the local and regional divisions and the central division of the Court of First Instance should guarantee the same high quality of work and the same high level of legal and technical expertise.
15. Divisions in a Contracting State where, during a period of three successive years, less than fifty cases per year have been commenced, should either join a regional division with a critical mass of at least fifty cases per year or sit in a composition whereby one of the legally qualified judges is a national of the Contracting State concerned and two of the legally qualified judges, who are not nationals of the Contracting State concerned, come from the pool of judges to be allocated to the division on a case by case basis.

16. Divisions in a Contracting State where, during a period of three successive years, more than fifty cases per calendar year have been commenced should sit in a composition whereby two of the legally qualified judges are nationals of the Contracting State. The third legally qualified judge, who would be of a different nationality, would be allocated from the pool of judges. The legally qualified judges from the pool should be allocated on a long term basis where this is necessary for the efficient functioning of divisions with a high work load.
17. All panels of the local and regional divisions should comprise an additional technical judge in the case of a counterclaim for revocation or, in the case of an action for infringement, when requested by one of the parties. All panels of the central division should sit in a composition of two legally qualified judges and one technically qualified judge. The technically qualified judge should be qualified in the field of technology concerned and be allocated to the panel from the pool of judges on a case by case basis. Under certain conditions to be defined in the Rules of Procedure and with the agreement of the parties, cases in the First Instance may be heard by a single legally qualified judge.
18. The allocation of judges should be based on their legal or technical expertise, linguistic skills and relevant experience.
19. The provisions regarding the composition of the panels and the allocation of judges should ensure that the EEUPC is an independent and impartial tribunal within the meaning of Article 47 of the Charter of Fundamental Rights of the European Union.

JURISDICTION IN RESPECT OF ACTIONS AND COUNTERCLAIMS FOR REVOCATION

20. In order to ensure that local and regional divisions work in an expeditious and highly efficient way, it is vital that the divisions have some flexibility on how to proceed with counterclaims for revocation.
 - (a) Direct actions for revocation of patents should be brought before the central division.

- (b) A counterclaim for revocation can be brought in the case of an action for infringement before a local or regional division. The local or regional division concerned may;
- (i) proceed with the counterclaim for revocation; or,
 - (ii) refer the counterclaim to the central division and either proceed with the infringement action or stay those proceedings; or,
 - (iii) with the agreement of the parties, refer the whole case for decision to the central division.

LANGUAGES OF PROCEEDINGS

21. The Draft Agreement, the Statute and the Rules of procedure should provide for arrangements which would guarantee fairness and predictability of the language regime for the parties. Furthermore, any division of the EEUPC should provide translation and interpretation facilities in oral proceedings to assist the parties concerned to the extent deemed appropriate, in particular when one of the parties is an SME or a private party.
22. The language of proceedings of the local and regional divisions should in general be the language(s) of the Contracting State(s) where they would be established. Contracting States may however designate one or more of the official languages of the European Patent Office as language of proceedings of the local or regional division they host. The language of proceedings of the central division should be the language of the patent. The language of proceedings of the Court of Appeal should be the language of the proceedings at the First Instance.
23. Any subsequent decisions which would in any way affect the arrangements regarding the language of proceedings under the Agreement on the EEUPC should be adopted by unanimity.

THE TRANSITIONAL PERIOD

24. The transitional period should not last longer than five years after the entry into force of the Agreement on the EEUPC.

25. During the transitional period, proceedings for infringement or for revocation of a European patent may still be initiated before the national courts or other competent authorities of a Contracting State having jurisdiction under national law. Any proceedings pending before a national court at the end of the transitional period should continue to be subject to the transitional regime.
26. Unless proceedings have already been initiated before the EEUPC, holders of European patents or patent applications granted or applied for prior to the entry into force of the Agreement on the EEUPC should have the possibility to opt out of the exclusive jurisdiction of the EEUPC, if the opt out is notified to the Registry no later than one month before the end of the transitional period.

REVISION CLAUSE CONCERNING THE COMPOSITION OF PANELS AND COUNTERCLAIMS FOR REVOCATION

27. The Commission should closely monitor the functioning, the efficiency and the implications of the provisions regarding the composition of the panels of the First Instance and the jurisdiction in respect of actions and counterclaims for revocation, see points 15, 16 and 20 above. Either six years after the entry into force of the agreement on the EEUPC or after a sufficient number of infringement cases, approximately 2000, have been decided by the EEUPC, whichever is the later point in time, and if necessary at regular intervals thereafter, the Commission should, on the basis of a broad consultation with users and an opinion of the EEUPC, draw up a report with recommendations concerning the continuation, termination or modification of the relevant provisions which should be decided by the Mixed Committee.
28. The Commission should in particular consider alternative solutions that would reinforce the multinational composition of the panels of the local and regional divisions and that would make a referral to the central division of a counterclaim for revocation, or the whole case, subject to agreement of both parties.

PRINCIPLES ON THE FINANCING OF THE EEUPC

29. The EEUPC should be financed by the EEUPC's own financial revenues consisting of the court fees, and at least in the transitional period referred to in point 24 as necessary by contributions from the European Union (hereafter "EU") and from the Contracting States which are not Member States.

30. A Contracting State setting up a local division should provide the facilities necessary for that purpose.
31. The court fees should be fixed by the Mixed Committee on a proposal by the Commission which should include an assessment by the Commission of the expected costs of the EEUPC. The court fees should be fixed at such a level as to ensure a right balance between the principle of fair access to justice, in particular for SMEs and micro-entities, and an adequate contribution of the parties for the costs incurred by the EEUPC, recognising the economic benefits to the parties involved, and the objective of a self-financing court with balanced finances. Targeted support measures for SMEs and micro-entities might also be considered.
32. The EEUPC should be organised in the most efficient and cost effective manner and should ensure equitable access to justice, taking into account the needs of SMEs and micro-entities.
33. The EEUPC costs and financing should be regularly monitored by the Mixed Committee, and the level of the court fees should be reviewed periodically, in accordance with point 31 above.
34. At the end of the transitional period, on the basis of a report from the Commission on costs and financing of the EEUPC, the Mixed Committee should consider the adoption of measures aimed at the objective of self-financing.

ACCESSION

35. Initially, accession by Contracting States of the European Patent Convention who are not Member States of the EU should be open for Contracting Parties to the European Free Trade Agreement. After the transitional period, the Mixed Committee could by unanimity decide to invite Contracting States of the European Patent Convention to adhere if they have fully implemented all relevant provisions of EU law and have put into place effective structures for patent protection.

II. THE EU PATENT

TRANSLATION ARRANGEMENTS

36. The EU Patent Regulation should be accompanied by a separate regulation, which should govern the translation arrangements for the EU patent adopted by the Council with unanimity in accordance with Article 118 second subparagraph of the Treaty on the Functioning of the European Union. The EU Patent Regulation should come into force together with the separate regulation on the translation arrangements for the EU patent.

THE RENEWAL FEES

37. The renewal fees for EU patents should be progressive throughout the life of the patent and, together with the fees due to be paid during the application phase, cover all costs associated with the granting and administration of the EU patent. The renewal fees would be payable to the European Patent Office, which would retain 50 percent of the renewal fees and distribute the remaining amount among the Member States in accordance with a distribution key to be used for patent-related purposes.
38. A Select Committee of the Administrative Council of the European Patent Organisation should, once the EU Patent Regulation enters into force, fix both the exact level of the renewal fees and the distribution key for their allocation. The Select Committee should be composed only of representatives of the EU and all the Member States. The position to be taken by the EU and the Member States in the Select Committee would need to be determined within the Council, at the same time as the EU Patent Regulation is adopted. The level of the renewal fees should in addition to the above mentioned principles be fixed with the aim of facilitating innovation and fostering the competitiveness of European business. It should also reflect the size of the market covered by the EU patent and be similar to the level of the renewal fees for what is deemed to be an average European Patent at the time of the first decision of the Select Committee.

39. The distribution key should be fixed taking into account a basket of fair, equitable and relevant criteria such as for instance the level of patent activity and the size of the market. The distribution key should provide compensation for, among other things, having an official language other than one of the official languages of the European Patent Office, for having disproportionately low levels of patent activity and for more recent EPC-membership.
40. The Select Committee should periodically review its decisions.

THE ENHANCED PARTNERSHIP

41. The aim of the Enhanced Partnership is to promote innovation by enhancing the efficiency of the patent granting process through avoiding duplication of work, with the goal of more rapid delivery of patents which will increase speed of access to market for innovative products and services and reduce costs for applicants. Enhanced Partnership should both make use of central industrial property offices' existing expertise and strengthen their capacity to enhance the overall quality of the patent system in future.
42. Enhanced Partnership should enable the European Patent Office to make regular use, where appropriate, of the result of any search carried out by central industrial property offices of Member States of the European Patent Organisation on a national patent application the priority of which is claimed in a subsequent filing of a European patent application. Such a result should be available to the European Patent Office in accordance with the Utilisation Scheme of the European Patent Office.
43. Central industrial property offices can play a vital role in fostering innovation. All central industrial property offices, including those which do not perform searches in the course of a national patent granting procedure, can have an essential role under the Enhanced Partnership, advising potential applicants including SMEs, disseminating patent information and receiving applications.

44. Enhanced Partnership should fully respect the central role of the European Patent Office in examining and granting European patents. Under the Enhanced Partnership the European Patent Office would be expected to consider but not be obliged to use the work provided by participating offices. The European Patent Office should remain free to carry out further searches. The Enhanced Partnership should not restrict the possibility for applicants to file their application directly at the European Patent Office.
45. Enhanced partnership would be subject to periodic reviews, adequately involving views of the users of the patent system. In addition, regular feed back from the European Patent Office to the participating offices on how search reports are utilised at the European Patent Office would be essential for the enabling of the fine-tuning of the search process to the benefit of the optimal utilisation of resources.
46. Enhanced partnership should be based on a European Standard for Searches (ESS), containing criteria for ensuring quality. The ESS should in addition to searches include standards on inter alia training, tools, feedback and assessment.
47. At the same time as the EU Patent Regulation is adopted, the position to be taken by the EU and the Member States on the implementation of the Enhanced Partnership, including the ESS, should be determined within the Council and then be implemented within the context of the European Patent Network (EPN), in particular, the Utilization Scheme and the European Quality System, within the policy of the European Patent Organisation.
48. The participation of central industrial property offices in an Enhanced Partnership should be voluntary but open to all. In the spirit of facilitating the utilization and pooling of all available resources, regional cooperation should be encouraged. In addition the possibility of limiting the participation of a central industrial property office to one or more specific technical fields should be further analysed, tested and evaluated.

49. The steps now taken should be without prejudice to any future development of the Enhanced Partnership, including future models for improving the partnership between the European Patent Office and the central industrial property offices. Against this background, the European Patent Office and Member States should give a comprehensive evaluation of the functioning and the further development of the Enhanced Partnership, based on experience gained through the implementation and the performance achieved by central industrial property offices in meeting the ESS.

AMENDMENTS TO THE EUROPEAN PATENT CONVENTION AND ACCESSION OF THE EUROPEAN UNION TO THE EUROPEAN PATENT CONVENTION

50. In order for the EU patent to become operational, to the extent necessary, amendments would be made to the European Patent Convention (EPC). The EU and its Member States should take any necessary measures and put them into force, including those for the accession of the EU to the EPC. Amendments to the EPC deemed necessary in this regard should not imply any revision of substantive patent law, not related to the creation of the EU patent."

TOWARDS A COMPETITIVE, INNOVATIVE AND ECO-EFFICIENT EUROPE - Council conclusions

Following a debate, the Council adopted the following conclusions :

"THE COUNCIL OF THE EUROPEAN UNION,

1. RECALLING that the Heads of State and Government Leaders of the EU agreed that priority should be given to transforming Europe into a competitive, knowledge-based, inclusive, innovative and eco-efficient economy . Leadership by the Competitiveness Council is needed to ensure that EU legislation and decisions facilitate the transition to a new European strategy for growth and jobs, referred to as the post-2010 Lisbon agenda for growth and jobs;
2. REAFFIRMING the importance of an ambitious successor to the Lisbon Strategy with a continued focus on growth and jobs, not least against the background of the present economic downturn, as the current strategy has created a consensus in the EU that modernisation and cooperation are necessary to increase competitiveness and achieve strong, sustainable and balanced growth in a globalising world. UNDERLINING that the principal challenges remain to implement structural reforms including those which exploit synergies between economic, social and environmental policies, further develop the internal market and the external dimension, strengthen industrial competitiveness, promote entrepreneurship and better regulation, optimise framework conditions for innovation and research, including intellectual property rights, and that these reforms are especially important for the SMEs;
3. ACKNOWLEDGING that Europe needs to work together in all relevant policy areas, while respecting subsidiarity and proportionality, using all appropriate instruments to increase competitiveness and successfully meet the legally binding commitment to reduce greenhouse gas emissions in Europe by 20% by 2020 and is COMMITTED to take a decision to move to a 30% reduction by 2020 compared to 1990 levels, as its conditional offer to a global and comprehensive agreement for the period beyond 2012, provided that other developed countries commit themselves to comparable emission reductions and that advanced developing countries contribute adequately according to their responsibilities and respective capabilities;

4. **UNDERLINING** that a well-defined Competitiveness Agenda is essential for the coherent delivery of the micro-economic elements of the future strategy for growth and jobs and that governance should be streamlined by keeping the reporting burden for Member States as lean as possible and by setting a limited number of concrete smart (i.e. specific, measurable, achievable, relevant and timed) targets in partnership with Member States, respecting their responsibilities, that take account of national specificities and help the communication of reform priorities. Increased involvement of the Competitiveness Council and improved co-ordination with other Council formations in the peer-review process of National Reform Programmes and the assessment of country specific recommendations would enhance the identification and promotion of best practices among Member States and improve policy implementation synergies between themselves and with Community level actions. The Community elements of the strategy should be enhanced as appropriate, building upon the existing Community Lisbon Programme, in order to provide a prioritized strategic reform agenda with clearly identified actions with detailed monitoring and assessment and a clear timetable; without prejudicing the forthcoming debate, the new Financial Perspectives that will come into force in 2014 should reflect the-importance of the post-2010 Lisbon agenda for growth and jobs;
5. **HIGHLIGHTS** the following priorities, which should be reflected in the post-2010 Lisbon agenda for growth and jobs, in particular transforming Europe into an eco-efficient economy, creating the best framework conditions to improve industrial policy and competitiveness and stimulate growth and jobs, developing the internal market, intensifying the EU's efforts in the areas of research and innovation, and acknowledging the role of SMEs at the heart of the European economy;

Sustainable competitiveness and industrial policy; transforming Europe into an eco-efficient economy

6. **STRESSES** the role of a competitive, strong, modern and diverse industrial base for the European economy that requires framework conditions promoting excellence, innovation and sustainability, conditions in which businesses can operate and invest, including the services industry and energy intensive sectors, and the continuing need for developing the competitiveness of Europe to emerge from the economic downturn; therefore supports the Commission's integrated approach of sustainable industrial policy, based on the economic, social and environmental dimensions and **CALLS** on the Commission to pursue its horizontal initiatives with sectoral dimensions to take account of differing circumstances in the various sectors of industry, while paving the way for a successful transition to an eco-efficient economy;

7. RECALLS that, with a view to preserving and enhancing the competitiveness of European industry and improving the conditions for investment in Europe, compliance with new requirements should not cause excessive costs to businesses in all policy areas Europe should remain open to its trading partners and should continue to press for open access to third markets, including through multilateral and bilateral agreements, the promotion of regulatory cooperation and convergence and through the worldwide introduction of international standards, which should lead to reciprocal benefits;
8. STRESSES that the successful transition to an eco-efficient economy and the implementation of a sustainable industrial policy should improve competitiveness and turn environmental challenges into business opportunities while taking into account the costs of the transition. Emphasis needs to be put on resource and energy efficiency, developing and deploying new, safe and sustainable low-carbon and other clean technologies, and associated industries and services, including, inter alia, clean coal technologies, and renewable energy and promoting world-wide carbon emission pricing in order to provide incentives for markets to invest in cleaner technologies;

An ambitious international climate agreement is essential to create predictable long-term market conditions; such an agreement can only be reached if all parties contribute to the process, bearing in mind that action by the European Union alone will not be enough;

9. RECALLS that the risk of carbon leakage is analysed and addressed in the new ETS Directive (Directive 2009/29/EC) so that, to preserve the environmental integrity of the EU's policies, in the light of the outcome of the international negotiations and the extent to which these lead to global greenhouse gas reductions, it is possible to consider appropriate measures to be taken in compliance with international trade rules. An ambitious international agreement remains the best way of addressing this issue;
10. INVITES Member States to intensify discussion on
- how to make best use of cost-effective economic instruments, to better reflect true environmental costs and benefits, and assign a predictable price for carbon emissions;
 - how to best fulfil Member States' greenhouse gas emissions reduction obligations in a cost-effective way, especially in sectors not covered by the EU Emissions Trading Directive;

IN THE LIGHT OF THIS, THE COUNCIL

11. STRESSES that, given predictable and transparent framework conditions, the successful transition to an eco-efficient economy creates new business opportunities, boost competitiveness and stimulate job growth while ACKNOWLEDGING the different starting positions of Member States;
12. STRESSES the importance of stimulating green public procurement within the public procurement framework as a tool for a better environment and greater European competitiveness, especially concerning eco-innovation, energy-efficiency and technology; NOTES the Commission guidance on common criteria for Green public procurement for a better environment;
13. STRESSES the importance of increased cooperation of the public sector with industry, social partners non-governmental and consumer organisations and of stimulating private-sector investments and business-friendly public-private partnerships to enhance commercialisation of R&D results and innovations; as well as substantially increase R&D investments in low carbon and other clean technologies, particularly with regard to demonstration projects;
14. EMPHASISES the need for more progress and cooperation in the area of standardisation and performance specifications for both existing and new environmental technologies in order to facilitate their market uptake, and the innovation potential of industry-led standards that are publicly available;
15. INVITES the Commission and Member States to further discuss the need for new infrastructures which support a sustainable and more efficient energy supply, such as smart grids, smart metering, electric vehicle infrastructure and alternative fuels infrastructure;
16. INVITES Member States to consider the potential impacts of transitions on employment to assist, where appropriate, the adaption of workers and firms to new demands, increase their efforts in the areas of training and education and to develop the skills needed for green jobs, thus increasing employability in both existing and new industries and services;

17. INVITES the Commission and Member States to promote sustainable consumption and production patterns, based on a proper understanding of consumer behaviour and of social impacts through developing instruments to increase demand for eco-efficient goods and services; NOTES the importance of corporate social responsibility in this regard;
18. NOTES the importance of identifying measures with significant environmentally damaging effects and to make appropriate reforms to halt or minimise these effects; INVITES the Commission and Member States to continue incentives to energy-efficiency measures in industry in line with state aid rules, to encourage measures to internalise external costs in industry and transport in line with investment horizons, and to promote the development and use of information and communication technology in support of environmental technologies and services, taking into account the specificities of Member States;
19. INVITES the Commission to further improve existing statistics on eco-business sectors, notably with regard to their growth, employment and access to financing, and to take account of developments in new technologies, goods and services;

Ensuring sustainable access to raw materials

20. SUPPORTS the three pillars of the Commission's raw materials initiative; ensuring sustainable management of raw materials and access to raw materials outside the EU, ensuring the right framework conditions for the access of raw materials within the EU and promoting more efficient and sustainable use of natural resources and raw materials and; INVITES the Commission to present, in its progress report in 2010, a list of raw materials identified as critical, as well as actions taken and future steps foreseen, within a timeframe for implementing these recommendations on raw materials, following the invitation expressed in the Council conclusions of 28 May 2009;

21. RECOGNISES that the pressure on non-energy resources is structural and will remain after the current economic crisis. UNDERLINES the need for the EU to combat market distortions that undermine sustainable and competitive access to crucial raw materials, including through raw materials diplomacy;
22. POINTS OUT that many opportunities exist for securing a more sustainable use of resources and supplies by developing research and development, improving best practices for supply from EU sources, resource efficiency and recycling; INVITES the Commission and Member States to take further actions on these challenges in line with the raw materials initiative;

Creating the best framework conditions for growth and jobs

Internal Market and the External Dimension

23. STRESSES that the EU needs to further strengthen and deepen its internal market to meet new challenges. NOTES WITH SATISFACTION the Commission's intention to carry out a major internal market analysis including evaluation of existing legislation; STRESSES in this respect the need for an effective coordination and INVITES the next Commission to present a new internal market package with proposals for specific actions and new initiatives, where necessary; CALLS on the Commission to take into account infrastructure network needs as well as to pay due attention to the social dimension and to services of general interest, and at the same time ensuring benefits for SMEs;
24. RECALLS the necessity for practical measures to further improve the functioning of the internal market, especially practical information, administrative cooperation and enforcement, including problem-solving; STRESSES that the services sector is a core asset for future growth and jobs; that the Services Directive is a crucial step towards facilitating the free movement of services and that additional measures should be considered, where necessary, to further improve cross border provision of services; RECALLS the importance of the mutual evaluation process of the Services Directive; ENCOURAGES the Commission to continue its efforts to adapt the existing Community harmonisation legislation to the new legislative framework and CALLS for a broader view on market surveillance; WELCOMES the Commission's initiative to review the European standardisation system with special consideration to well-functioning national structures;

STRESSES that a well functioning internal market is necessary in order to strengthen consumers' confidence and CONFIRMS the need to ensure benefits for both consumers and businesses, including SMEs; STRESSES the importance of the free movement of knowledge and innovation (the "fifth freedom") for growth and jobs and WELCOMES the Commission's intention to present a comprehensive strategy for IPR;

25. HIGHLIGHTS that a well functioning internal market is of key importance for the EU's external competitiveness; STRESSES the need to ensure that the EU market remains open to the world, and that other markets are open to our trade, by continuing to press for increasingly open markets which should lead to reciprocal benefits. A seamless flow of trade and investments within the EU and between the EU and our external trading partners is key for longer-term productivity, growth and welfare; UNDERLINES the crucial role of open international standards for market access; AGREES that the renewed EU strategy for growth and jobs need to contain an explicit external agenda subject to evaluation and follow-up; UNDERLINES the need for more effective coordination and reporting between different policy areas, including between internal market policies and trade policies;

Better Regulation

26. EXPRESSES ITS CONVICTION that Better Regulation will continue to be a key factor for strengthening the competitiveness of businesses – in particular micro, small and medium-sized enterprises – and for creating sustainable economic growth and jobs;
27. UNDERLINES the need for all levels in the EU institutions as well as in the Member States to put Better Regulation principles at the heart of their decision-making processes, make better use of existing better regulation instruments, including impact assessments and stakeholder consultation, continue to reduce administrative burdens and simplify their legislation; INVITES the Member States to develop impact assessment systems in accordance with their national circumstances;

28. CONSIDERS that Better Regulation needs to be based on a comprehensive approach that in the future may comprise, where appropriate, new incentives, indicators and targets that also take into account aspects of regulatory burdens other than just administrative ones, such as compliance costs and perceptions of the effects of regulatory requirements; RECOGNISES also the need to consider transposition, implementation and enforcement aspects of regulatory requirements and costs arising from cross-border activities; ACKNOWLEDGES at the same time the importance of keeping the better regulation work easy to administrate and user-friendly;

Competitiveness through competition policy

29. INVITES THE COMMISSION to ensure an effective enforcement of competition rules, together with national competition authorities and courts, and to examine the functioning of EU markets and if further markets can be opened up for competition where appropriate;
30. UNDERLINES that the State aid regime is crucial for keeping a level playing field in the Internal Market. State aid should only be granted if it is compatible with the Treaty and State aid rules and distortions of competition are kept to a minimum;
31. STRESSES that the Temporary Community framework for State aid measures, which the Commission adopted in December 2008, is a short-term response to the present economic difficulties that will be phased out;

Global competitiveness through enhanced innovation and research

32. LOOKS FORWARD TO the Commission's proposal for an ambitious, business-oriented and forward-looking European Innovation Plan with the necessary weight and scope to address major societal challenges, as well as a new Digital Agenda for Europe, to increase competitiveness;
33. CONSIDERS that the European Innovation Plan should include all forms of innovation in both the public and the private sector, including non-technological innovation, research-based innovation, innovation in services, design and eco-innovation;

34. UNDERLINES the importance of better access to finance, simpler governance, improving the innovation capability of SMEs, and demand-driven measures such as public procurement, pre-commercial procurement and standardisation;
35. STRESSES that it is important to introduce a Community patent, and a European and Community patents Court, and to further improve the protection and enforcement of Intellectual Property Rights, and including relevant support for IPR management in SMEs, in order to strengthen the competitiveness of European enterprises;
36. STRESSES the need to increase the effectiveness of innovation and research policies through greater coordination, more efficient interlinking and streamlined governance of the various instruments in support of innovation, the importance of linking research and innovation policies and of speeding up payment procedures that should encourage higher participation of SMEs in the Competitiveness and Innovation Framework Programme, the Seventh Research Framework Programme and the structural funds, while also bearing in mind that better coordination at Community, Member State and regional level is needed;
37. HIGHLIGHTS the importance of investments in innovative sectors and businesses, including fostering the innovative potential of SMEs. RECOGNISES the potential of clusters and innovation networks to stimulate the growth of companies. INVITES the Commission and Member States to improve, streamline and simplify their support for innovation, including non-technological innovation, in particular for SMEs;
38. CONSIDERS that while financial instruments and public private partnerships supported by the Community programmes play an important role, it is also important to ensure that the overall economic framework conditions provide for adequate access to innovation financing and risk capital, in particular venture capital;
39. RECOGNISES the importance of key enabling technologies for competitiveness and the need for strengthening the industrial and innovation capacity, including joint programming of key demonstration projects, increasing technology transfer especially for SMEs, improving standardisation, ensuring the availability of appropriate higher education and training and improving the framework conditions for the deployment of these technologies to address societal challenges;

40. ACKNOWLEDGES the contribution of the lead market initiative for facilitating the emergence of new markets, and INVITES the Commission to evaluate the lead market initiative in 2011 and on this basis consider the need for further expanding the lead market initiative;
41. Promoting investment in excellent research and knowledge and facilitating research based innovation are decisive elements of a new European strategy for growth and jobs in which research and innovation better respond to the societal challenges. Implementing the European Research Area Vision, including an efficient governance, as well as the aim of the European Innovation Plan are necessary in this respect. Achieving systemic and continuous interactions between higher education, research and innovation (the knowledge triangle) is crucial for improving the impact of investments in knowledge and needs to be reflected in future structures of governance and implementation of programmes;
42. SUPPORTS the role of EIT to promote European innovation by excellence in the knowledge triangle and promotes the examples and best practices for new ways of business models and knowledge management used by the first Knowledge and Innovation Communities;

SMEs at the heart of Europe's economy

43. The implementation of the Small Business Act for Europe at both EU and national level is a key priority. The measures included in the three priorities set out in the SBA Action Plan (i.e. improving access to finance, establishing a regulatory environment supportive of SMEs needs and enhancing market access) need to be delivered. A long-term perspective is essential for SME-policy to support the growth and competitiveness;
44. CONSIDERS that, with a view to speeding up economic recovery, priority should continue to be given to reduction of late payments and adequate access to finance for SMEs, as this remains a problem for SMEs in most Member States;
45. ENCOURAGES the Commission, the European Investment Bank, the European Investment Fund and Member States to promote and improve existing financial instruments that effectively support the growth and innovation of SMEs, especially in the transition to the eco-efficient economy;

46. HIGHLIGHTS the importance of embedding the “Think Small First” principle in policy making at all levels, including through applying an SME test in impact assessments to improve and simplify the regulatory environment for SMEs and reduce costs for starting businesses;
47. EMPHASISES that SMEs, to be able to grow and operate across the EU as they do in their domestic markets, should benefit more fully from the Internal Market; e.g. through access to public procurement and standardisation by removing unnecessary barriers to SME participation in public contracts; they should also be encouraged and supported to access third country markets;
48. RECOGNISES that unlocking the potential for entrepreneurship is crucial for job creation and long-term growth;
49. EMPHASISES that the promotion of women's entrepreneurship is crucial to achieve a strong and sustainable economy. It is therefore crucial to incorporate the entrepreneurial dimension in business related policies – including to address the needs of underrepresented groups, in particular women;
50. URGES the Commission and Member States to promote entrepreneurship as a career option for all citizens since the demographic challenge creates opportunities for new enterprises and entrepreneurs of all ages in growth sectors such as services, as well as opportunities for business transfers in many industries. RECOGNISES that Member States should promote creativity and entrepreneurship as a key competence in education at all levels and life long learning strategies as being important;
51. RECOGNISES that SMEs should be given framework conditions that promote the transition to an eco-efficient economy;
52. STRESSES the need to promote a culture in the EU in which honest entrepreneurs who have failed and start a new business are given a new chance, without being discriminated as a result of their earlier failure."

BETTER REGULATION - Council conclusions

The Council adopted the following conclusions :

"THE COUNCIL,

1. EXPRESSES ITS CONVICTION that Better Regulation will continue to be a key factor for strengthening the competitiveness of businesses – in particular micro, small and medium-sized enterprises – and for creating sustainable economic growth and jobs;
2. REAFFIRMS that Better Regulation is about better policy and law-making, a process for shaping a better regulatory environment for businesses, citizens and public administrations and a well-functioning internal market, while respecting the *acquis communautaire* and the principles of subsidiarity and proportionality;
3. ACKNOWLEDGES that important progress has been achieved both at EU level and in the Member States in taking the Better Regulation Agenda forward; STRESSES, however, that more needs to be done and that continued progress requires joint responsibility and commitment by all parties concerned; UNDERLINES the need for all levels in the EU institutions as well as in the Member States to put Better Regulation principles at the heart of their decision-making processes;

Impact assessments

4. STRESSES that the use of impact assessments by EU institutions must be improved and that the presentation and quality of assessments must be enhanced so as to allow for better evidence-based decision-making and high quality legislation; ACKNOWLEDGES the importance of highlighting impacts of substantive amendments to legislative proposals during the negotiating process, where appropriate, in line with the Inter-Institutional Common Approach to Impact Assessment; WELCOMES the work done by the Commission's Impact Assessment Board to improve the quality of impact assessments in line with the Commission's Impact Assessment Guidelines; TAKES NOTE with interest of the initiative taken by the European Court of Auditors to assess the Impact Assessment system; CONSIDERS that there is scope for improvement as regards, *inter alia*, evaluation of alternative policy options, transparency and quantification of administrative burdens as well as other costs and benefits; CALLS FOR impact assessments for all forthcoming significant proposals presented within the framework of the Action Programme for Reducing Administrative Burdens in the EU;

5. INVITES THE COMMISSION to further enhance the use and quality of impact assessments;
6. COMMITS ITSELF to take the Commission's impact assessments, including the opinions of the Impact Assessment Board, into full account when examining legislative proposals;
7. INVITES THE MEMBER STATES to develop impact assessment systems in accordance with their national circumstances, including providing their civil servants with training in handling impact assessments;

Reduction of administrative burdens and simplification

8. CALLS FOR reinforced joint efforts by EU institutions and the Member States to reach the agreed target of reducing the administrative burdens on business stemming from EU legislation by 25 per cent by 2012 and with the aim of having some impacts felt by businesses by the end of 2010; REITERATES that progress in reducing administrative burdens would be undermined by additional administrative costs resulting from new legislative proposals; WELCOMES the Commission's Communication on the Action Programme for Reducing Administrative Burdens in the EU with sectoral reduction plans and new actions (COM (2009) 544 final) as well as the progress achieved so far by the Commission in tabling reduction proposals; CONSIDERS that greater progress needs to be made in adopting simplification proposals under the co-decision procedure;
9. INVITES THE COMMISSION to
 - ensure that impact assessments thoroughly analyse the administrative burdens, as far as possible in quantitative terms, with a view to avoiding all unnecessary burdens;
 - take into consideration that the reduction measures should not transfer excessive administrative burdens to public administrations;
 - closely monitor progress in reducing administrative burdens, involve business in providing 'reality checks' of the effects of the reduction measures and report annually to the spring European Council on the implementation of reduction measures as well as on significant changes in administrative burdens;

- launch further reduction measures whenever necessary to meet the target set and continue to identify new proposals for simplification of EU legislation;
 - put the sectoral reduction plans in the aforementioned Commission's Communication into practice, follow-up on the results and report on an annual basis;
10. COMMITS ITSELF, AND INVITES THE EUROPEAN PARLIAMENT, to avoid adding unnecessary administrative burdens to legislative proposals in general;
11. INVITES THE MEMBER STATES to continue to reduce the administrative burdens, simplify their legislation and enhance their sharing of good practices;

Consultation and access to law

12. STRESSES the need for early and timely stakeholder consultation, using appropriate methods including on-line consultation, throughout the policy-making cycle to enhance regulatory quality; REAFFIRMS the importance of enhancing access to law and the need for clear and simple language in order to make the regulatory framework easier to comply with;
13. INVITES THE COMMISSION, in cooperation with other EU institutions, to consider further ways to facilitate the access to law for businesses and citizens and CALLS ON the Commission to report on important achievements in this regard within the existing reporting framework;

The future better regulation agenda

14. UNDERLINES that concrete action needs to be undertaken soon to pave the way for the future agenda for Better Regulation and a smart regulatory framework; ACKNOWLEDGES that new solutions may be needed to tackle future challenges and TAKES NOTE with interest of the input already provided by various Member States and stakeholders for the Better Regulation Agenda from 2010 and onwards;

IN THIS REGARD, THE COUNCIL

15. CALLS FOR enhanced political ownership of the Better Regulation Agenda across the EU and a positive long term cultural change as regards attitudes towards Better Regulation principles among those involved in the decision-making processes, better use of preparatory policy documents, more extensive training of regulators and other civil servants, better communication, enhanced use of stakeholder consultation during the decision-making processes and better use of “Think Small First” as a guiding principle;
16. UNDERLINES the need for efficient allocation and use of resources for carrying out impact assessments; CONSIDERS that assessments that reflect potential impacts of substantive amendments by the Institutions to legislative proposals during the co-decision procedure would enable better evidence-based decision-making and would be of value for all parties involved at EU level and in Member States when EU legal acts are transposed into national law; WELCOMES the assistance already offered by the Commission to try to ensure that its impact assessments better anticipate issues that are likely to be raised by the Council or the Parliament and also consider other appropriate ways to facilitate the assessment of impacts during the co-decision procedure; RECOGNISES the need to review the Inter-Institutional Common Approach to Impact Assessment, *inter alia* for finding a practical way for the handling of substantive amendments during the co-decision procedure;
17. STRESSES that, in addition to the importance of improved use of existing better regulation instruments, the need for new instruments and better use of eGovernment in the better regulation work should be considered continuously;
18. CONSIDERS that Better Regulation must be based on a comprehensive approach that in the future may comprise, where appropriate, new incentives, indicators and targets that also take into account aspects of regulatory burdens other than just administrative ones, such as compliance costs and perceptions of the effects of regulatory requirements; RECOGNISES also the need to consider transposition, implementation and enforcement aspects of regulatory requirements and costs arising from cross-border activities; ACKNOWLEDGES at the same time the importance of keeping the better regulation work easy to administrate and user-friendly;

19. INVITES THE EU INSTITUTIONS AND THE MEMBER STATES to

- find ways to evaluate effectively existing instruments, structures and work done to create a better regulatory environment at EU level;
- improve the communication with and consider strengthening existing advisory groups, and make better use of current structures, while also considering possible future needs, such as other forms of co-operation at EU level and with national regulatory experts, for better coordination, advice and input;

20. INVITES THE COMMISSION to

- ensure effective consultation with stakeholders when drafting impact assessments and consider more possible alternative policy options, as regards both content and type of action, and carry out high quality impact assessments, in particular on key strategic initiatives;
- expand its use of *ex-post* evaluations of relevant existing pieces of legislation and consider how to link those evaluations to impact assessments in a more systematic way;
- consider to extend the minimum period for consultation of stakeholders to 12 weeks, with exceptions where appropriate;
- find ways to ensure better input from stakeholders – in particular from micro, small and medium-sized enterprises – and make ‘reality checks’ of planned or undertaken measures;
- take into consideration input by Member States and stakeholders and present how to develop current work on administrative burdens reduction and simplification and how to develop the future agenda for Better Regulation and a smart regulatory framework from 2010 and onwards."

EUROPEAN PRIVATE COMPANY

At a public session, the Council agreed that further work is required on the draft regulation aimed at establishing the legal form for the European private company (also called "*Societas Privata Europaea*" or "SPE").

The draft regulation was presented by the Commission on 27 June 2008 ([11252/08](#)) as part of a series of measures in the Small Business Act for Europe (SBA). It has been examined on a number of occasions in the Council's preparatory fora and, last May, the Council took note of a progress report ([9658/09](#)) during discussions concerning the implementation of the SBA.

The objective of the proposal is to create a new instrument which seeks to enhance the competitiveness of small and medium-sized enterprises (SMEs) with limited liability by facilitating their establishment and operation in the single market, providing for a flexible corporate law regime across the EU and reducing the compliance costs which arise at the stage of setting-up and operating of SMEs.

PRIORITIES FOR THE INTERNAL MARKET - Council conclusions

The Council adopted the following conclusions with a view to preparing the post-2010 Lisbon agenda for sustainable jobs and growth: ([16112/09](#)).

OTHER BUSINESS

Working lunch discussion on the automotive industry

The Presidency invited representatives of General Motors (GM) to present their plans for restructuring their European operations at an informal lunch in connection with the Competitiveness Council. After this presentation ministers discussed the situation in the industry. The Presidency noted converging views on the following principles:

- A restructured European automotive industry must build on unique European areas of strength, primarily the internal market and targets to create a greener European car fleet that will contribute to meeting our climate objectives.
- The whole automotive industry can thrive on efficient business processes spanning Europe without market distorting state aid.
- Understanding of the need for manufacturers to adapt production capacities to market developments.
- Member states and the Commission play an important role in promoting research, development and innovation, not least technological development measures taken as part of the European Economic Recovery Plan.
- Any financial support granted to the industry should be based on strictly objective and economic criteria, under the continued strict monitoring and approval by the Commission.
- There is a need for a high degree of transparency, sharing information and not allowing non-commercial conditions influence the geographic distribution of restructuring measures taken by GM or other companies in the automotive industry.
- Information and consultation practices must be respected and a socially responsible approach should be used.

- It remains essential to avoid subsidy races between the member states and any fragmentation of the internal market.

On the basis of these principles the Commission was invited to continue their efforts to coordinate member states in this matter, including to make an ex-ante evaluation of the business plan, and verify compliance with state aid and internal market rules.

The Belgian delegation contributed with an information note ([16693/09](#)).

Baltic Sea research project (BONUS-169)

The Commission made a brief presentation on the proposal ([15234/09](#)) for combating negative impact of pollution, climate change, acidification, overexploitation and biodiversity loss in the Baltic Sea by means of a joint research and development project (the "BONUS-169" programme) undertaken by EU Baltic Sea countries ([16768/09](#)).

ITER experimental fusion reactor project

The Council took note of information by the Commission on the outcome of a meeting of the council of the ITER International Fusion Energy Organization that took place in Cadarache (France) on 18 and 19 November.

Development of low carbon technologies (SET-Plan)

The Commission provided the Council with information referring to its communication on Investing in the development of low carbon technologies (SET-plan). The European Strategic Energy Technology Plan (SET-Plan) was launched by Council conclusions of 28 February 2008. It is aimed at an accelerated development and wide-scale application of clean, sustainable and efficient energy technologies, thereby contributing to the achievement of the EU's energy and climate goals for 2020 as well as to a worldwide transition to a low-carbon economy by 2050.

Extreme Light Infrastructure (ELI) research project

Ministers responsible for research of the Czech Republic, Hungary and Romania proclaimed their will and readiness to construct the ELI research project and invited all member states to participate in the initiative ([16197/09](#)).

Cross-border business to consumer e-Commerce in the EU

The Commission made a brief presentation on a communication ([15058/09](#)) which analyses the impact of the current policy framework affecting the cross-border sale of goods through the Internet. It shows also that e-Commerce is still largely fragmented along national lines, despite considerable potential for more cross-border trade. A number of regulatory barriers are identified in different policy areas.

Conference "Consumer rights when purchasing digital content" (Stockholm, 4 November)

The Presidency briefed the Council on the outcome of the conference¹.

Global Monitoring for Environment and Security (GMES):

The Commission provided with an information note ([16546/09](#)) on its communication on GMES: Challenges and Next Steps for the Space Component ([15496/09](#)).

Gambling and betting in the EU

The Council took note of a Presidency report ([16571/09](#)) concerning the legal framework for gambling and betting in the EU member states. The Swedish Presidency conducted a number of experts meetings on exchange of best practices with a particular focus on socio-economic costs of gambling, gambling responsibility measures and bans of promotion and abetting of crimes.

Marketing of construction products in the internal market

The Council took note of a Presidency progress report regarding the state of play of negotiations of a draft regulation laying down harmonised conditions for the marketing of construction products ([16570/09](#)).

¹ [Consumer rights when purchasing digital content](#)

Better regulation: exercise on sharing good examples

The Presidency briefly presented the result of a survey, inviting member states to list good examples of better regulation measures and their effects ([16596/09](#)).

Google Books

The Commission presented to ministers for competitiveness a written report on the draft settlement of the pending class action concerning the "Google Library" project. The report was also presented to the Education, Youth and Culture Council on 26/27 November ([15109/09](#)).

Work programme of the incoming Presidency

The Spanish delegation informed the Council about the working programme in the field of competitiveness policies under its presidency in the first semester of 2010. The programme is in line with the combined programme prepared by the Spanish, Belgian and Hungarian presidencies covering the period January 2010 to June 2011 ([16771/09](#)).

OTHER ITEMS APPROVED

INTERNAL MARKET

Thresholds for award of contracts - Public procurement

The Council decided not to oppose the adoption by the Commission of a regulation aimed at adapting the thresholds for the procedures for the award of contracts of:

- directive 2004/17/EC concerning entities operating in the water, energy, transport and postal services;
- directive 2004/18/EC on the coordination of procedures for the award of public contracts; and
- directive 2009/81/EC on the award of contracts in the fields of defence and security.

GENERAL AFFAIRS

Implementation of the Lisbon Treaty - appointments

The Council adopted by common accord with the President-elect of the next Commission, José Manuel Durão Barroso, and in accordance with article 17(3) and (4) and 17(7) of the Lisbon Treaty the list of the other persons whom it proposes for appointments as members of the Commission for the period from the end of the current term of office of the Commission until 31 October 2014 ([16937/09](#)).

Separately, the European Council appointed, with the agreement of the President of the Commission, and in accordance with article 18(1) of the Lisbon Treaty, Catherine Ashton as High Representative of the Union for Foreign Affairs and Security Policy for the period from the end of the current term of office of the Commission until 31 October 2014 ([1/09](#)).

In accordance with article 17(7), third paragraph, of the Lisbon Treaty, the President, the High Representative of the Union for Foreign Affairs and Security Policy and the other members of the Commission will be subject as a body to a vote of consent by the European Parliament.

AGRICULTURE**Type-approval of agricultural or forestry tractors - regulatory procedure with scrutiny**

The Council decided not to oppose a Commission's decision adapting a number of directives relating to the type-approval of agricultural or forestry tractors to technical progress. In accordance with the regulatory procedure with scrutiny, the Council can oppose the Commission's adoption of an act which exceeds the implementing powers of the Commission, is not compatible with the aim or content of the basic instrument or does not respect subsidiarity or proportionality if the regulatory committee before supported the envisaged measures.
