



Malta-EU Steering & Action Committee

# COMPETITIVENESS AND CONSUMER AFFAIRS



05.06.09

## **TIR Convention**

**COM(2009) 239 - Proposal for a Council Decision on the position to be taken by the Community concerning the proposal to amend the Customs Convention on the International Transport of goods under cover of TIR carnets (TIR Convention 1975)**

The TIR Convention, which is administrated by the United Nations Economic Commission for Europe (UNECE) based in Geneva, has established a customs transit procedure for the international movement of goods by road. The Convention enables goods, which are under customs and tax suspension, to cross international borders with a minimum of intervention *en route* by the customs authorities. By easing traditional impediments to the international movement of goods, the TIR system encourages the development of international trade. By reducing delays in transit, it enables significant economies to be made in transport costs. The most important advantage of the system is the fact that the TIR Convention provides, through its international guarantee chain, relatively simple access to the required guarantees.

The UNECE Working Party on Customs Questions Affecting Transport agreed that some modifications of the TIR Convention are necessary. These modifications concern mainly articles that deal with the financial responsibility and recovery of the customs debt. By reorganizing and clarifying the relevant articles the procedure is easier to understand and to apply. Other amendments that were proposed introduce in the text of the Convention the definition of the international organization and clearly define the process of authorization of this organization to organize the international guarantee chain.

The Customs Convention on the international transport of goods under cover of TIR carnets (TIR Convention) was approved by way of Council Regulation (EEC) No 2112/78. The Convention entered into force in the Community on 20 June 1983. The purpose of the proposed Decision is for the Community to adopt latest amendments to the TIR Convention agreed by the UNECE Working Party on Customs Questions Affecting Transport.

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### Anaerobic biodegradation

#### COM(2009) 230 – Report from the Commission to the European Parliament and the Council pursuant to Article 16 of Regulation (EC) No 648/2004 of the European Parliament and of the Council of 31 March 2004 on detergents, concerning anaerobic biodegradation

This report concerns the anaerobic biodegradation of detergent surfactants with a focus on linear alkylbenzene sulphonate (LAS) which is a widely-used surfactant that is reported to be poorly biodegradable under anaerobic conditions. The report covers the properties of LAS obtained from the scientific literature, risk assessment reports on the risks associated with the use of LAS in detergents, and a review of anaerobic testing methodology.

Following a systematic evaluation of the risks from the presence of non-degradable surfactants in various anaerobic compartments, it was concluded that the lack of anaerobic degradation does not seem to be correlated with any apparent risk for these environmental compartments. It can therefore be concluded that anaerobic biodegradability should not be used as an additional pass/fail criterion for the environmental acceptability of surfactants such as LAS which are readily biodegradable under aerobic conditions.

The remaining concerns thus focus on the possible environmental toxicity of surfactants, rather than on their biodegradability. At present, however, there is no evidence that would justify legislative measures at EU level, such as regulatory limit values for LAS in sludge.

### Food labels revisited

The EU is considering expanding the use of food labels to show where the product was farmed. The step follows a Europe-wide consultation on the issue of food quality. Farmers, producers and consumers voiced strong support for greater use of 'place-of-farming' labels.

Such labels indicate the country of harvest, not where the product was processed. They are already mandatory for some foods sold in the EU, including unprocessed beef, poultry, fruit, vegetables, eggs, honey, wine and olive oil.

The commission wants to abolish the EU label for identifying and protecting the names of traditional products. EU labels referring to a product's geographical origin such as the Camembert cheese from the Normandy region of France, and the prosciutto from Parma, would also be revised.

Meanwhile, an EU logo for organic foods is being developed. Starting in 2010, it will be mandatory for all products sold as organic in the EU.

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### **New European system to help look after our planet**

Through the GMES (Global Monitoring for Environment and Security) initiative, Europe is developing its own system to monitor the state and evolution of our environment. This flagship project was one of the topics covered by European space policy ministers and European Space Agency (ESA) representatives meeting at the Sixth Space Council on 29 May.

GMES will produce Earth observation data collected from space- and ground-based infrastructure. Services will be provided in 5 different domains:

1. Land (geo-data on land cover, crop monitoring)
2. Marine (oil-spill detection, weather forecasts)
3. Atmosphere (air quality, UV exposure)
4. Emergency response (rapid maps for humanitarian aid)
5. Security (border surveillance).

GMES will give access to timely and reliable data, which can, for instance, help mitigate the impact of climate change and improve civil security. Users will include decision-makers, businesses or anyone who may find the information useful. The GMES core services and their applications are expected to give a major boost to European innovation and competitiveness.

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### **Commission's study finds out that European 20% renewables target can give jobs to 2.8 million people**

Reaching the 2020 renewable energy targets is expected to lead to around 2.8 million jobs in the renewable energy sector and generate a total value added of around 1.1% of GDP. This is the main conclusion of a European Commission's study on the impact of renewable energy policy on economic growth and employment in the European Union (Employ-RES).

The study underlines that stronger policies are needed to reap maximum economic benefits from renewable energy. More innovative technologies such as photovoltaic, offshore wind, solar thermal electricity and second-generation biofuels require more financial support in the short term, but are precisely the key to achieving the EU's 2020 target, which in turn will help maintain the EU's current competitive position in the global market and to increase employment and GDP in the mid term.

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### **Informal meeting with EU ministers on the situation of GM**

Last week the Commissioner for Enterprise and Industry Günter Verheugen, together with Competition Commissioner Neelie Kroes held a second informal meeting with ministers in charge of the automotive industry.

This second meeting reconfirmed the consensus reached at the first ministerial meeting on the situation of General Motors' European subsidiaries on 13<sup>th</sup> March, where Member States and the Commission had concluded that EU rules (in particular on state aid and the Single Market) must be fully respected and that no national measures should be taken without prior information and coordination with other involved countries and the Commission.

The participants stressed the European dimension of the problem and the common interest to find a viable solution for the European subsidiaries of GM while insisting on the primary responsibility of GM itself. There was appreciation that Germany takes a leading role in this respect in the first stage of the rescue process.

The participants reconfirmed the need for a continuous and comprehensive flow of information amongst all parties concerned and for close involvement of the Commission. They decided to create a supportive working structure to ensure information and coordination on both industrial and competition issues. The Commission representatives promised swift assessment and advice to assist Member States to ensure all their measures are fully compatible with State aid and Single Market rules.

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### **State aid: Commission adopts guidance on training aid and aid to disadvantaged and disabled workers**

The European Commission has adopted two guidance papers setting out criteria for the in-depth assessment of large amounts of training aid and of aid to disadvantaged and disabled workers.

The recently adopted General Block Exemption Regulation enables Member States to grant a large number of aid measures, including training aid and aid for the employment of disabled or disadvantaged workers, without prior notification to the Commission. However, individual aid measures involving large aid amounts can entail a higher risk of distorting competition. Therefore, for such measures a notification remains necessary in order to assess whether the



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positive effects outweigh the negative effects.

The guidance papers outline the kind of information required by the Commission for its assessment and the assessment methodology, which is based on the balancing of the positive and negative effects of the aid. The criteria are in line with the Commission's refined economic approach in state aid analysis, based on the principles set out in the State Aid Action Plan. They are part of the Commission's efforts to clarify and simplify state aid rules.

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### JUDGEMENTS OF THE EUROPEAN COURT OF JUSTICE

#### *CASE C-243/08 - Pannon GSM Zrt. v. Erzsébet Sustikné Győrfi*

In this judgement the Court held that **national courts are required to examine, of their own motion, the unfairness of a term contained in a contract concluded between a consumer and a seller or supplier.** Thus, the role of the national court in the area of consumer protection is not limited to a mere power to rule on the possible unfairness of a contractual term, but also consists of the obligation to examine that issue of its own motion, where it has available to it the legal and factual elements necessary for that task, including when it is assessing whether it has territorial jurisdiction.

The Court pointed out that a term, contained in a contract concluded between a consumer and a seller or supplier, which has been included without being individually negotiated and which confers exclusive jurisdiction on the court in the territorial jurisdiction of which the seller or supplier has his principal place of business (as was the case here), may be considered to be unfair.

The Court further held that a national law does not comply with the Directive where it provides that it is only in the event that the consumer has successfully contested the validity of a contract term before the national court that such a term is not binding on the consumer. Such a law would rule out the possibility of the national court assessing, of its own motion, the unfairness of a contractual term.

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***CASE C-8/08 - T-Mobile Netherlands BV and Others v Raad van bestuur van der Nederlandse Mededingingsautoriteit***

In this judgement the Court held that a single meeting between companies may constitute a concerted practice in breach of Community competition law.

The Court made a number of observations on concerted practices:

- In order for a concerted practice to be regarded as having an anti-competitive object, it is sufficient that it has the potential to have a negative impact on competition. In other words, it must simply be capable in an individual case, having regard to the specific legal and economic context, of resulting in the prevention, restriction or distortion of competition within the common market;
- A concerted practice may be regarded as having an anti-competitive object even though the practice has no direct effect on the price paid by end users but relates simply to the remuneration paid to dealers for concluding post-paid subscription agreements (as was the case here);
- Any exchange of information between competitors pursues an anti-competitive object if it is capable of removing uncertainties as to the anticipated conduct of the participating undertakings, including where, as in the present case, the conduct relates to the reduction in the standard commission paid to dealers;
- If the objective of the exercise is only to concert action on a selective basis with reference simply to one parameter of competition, a single meeting between competitors may constitute a sufficient basis on which to implement the anti-competitive object which the participating undertakings aim to achieve;
- What matters is not the number of meetings held between the participating undertakings but whether the meeting or meetings which took place afforded them the opportunity to take account of the information exchanged with their competitors in order to determine their conduct on the market in question and knowingly substitute practical cooperation between them for the risks of competition;
- In so far as the undertaking participating in the concerted action remains active on the market in question, there is a presumption of a causal connection between the concerted practice and the conduct of the undertaking on that market, even if the concerted action is the result of a meeting held by the participating undertakings on a single occasion.

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***JOINED CASES C-22/08 & C- 23/08 – Vatsouras and Koupatantze v. ARGE Nürnberg 900***

In this judgement the Court ruled that a job-seeker who has established genuine links with the labour market of a Member State can receive a benefit of a financial nature intended to facilitate access to employment. The Court pointed out that a condition such as that provided for in Germany for basic benefits in favour of job-seekers, under which the person concerned must be capable of earning a living, could constitute an indication that the benefit is intended to facilitate access to employment. It added that despite its status under national law, such a benefit is not 'social assistance' which Member States may refuse to job-seekers.

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***CASE T-185/07 - Calvin Klein Trademark Trust v. OHIM***

In 2003 a Spanish company, Zafra Marroquinos, filed an application for registration of the mark CK CREACIONES KENNYA at the Office for Harmonisation in the Internal Market (OHIM). Calvin Klein Trademark Trust filed a notice of opposition to the registration of the mark on the ground that there was a likelihood that consumers would confuse it with its own trade mark.

OHIM dismissed the opposition as it found that there were sufficient differences between the conflicting signs to preclude a likelihood of confusion on the part of the relevant public. Calvin Klein challenged the OHIM decision before the Court of First Instance which dismissed Calvin Klein's application on the basis that the absence of similarity between the conflicting signs precludes a likelihood of confusion on the part of consumers.

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## **COUNCIL CONCLUSIONS**

The last Council meeting on matters of Competitiveness was held on the 28<sup>th</sup> and 29<sup>th</sup> May 2009. At the meeting the Council:

- held a debate on an integrated approach to a competitive and sustainable industrial policy in the EU;
- examined the state of the implementation of the Small Business Act for Europe initiative, following a presentation by the Commission on the progress made;
- discussed on ongoing negotiations aimed at establishing a Community patent and a unified patent litigation system;
- adopted a Resolution on European Space Policy, approved by the Space Council at its sixth meeting;
- reached a political agreement on a draft regulation for establishing a legal framework applicable to an European Research Infrastructure Consortium (ERIC);
- adopted conclusions on:
  - evaluation and impact assessment of European research framework programmes;
  - research infrastructures and the regional dimension of the European Research Area;
  - the first steps towards the realisation of the European Research Area (Vision 2020).