

In This Issue:

- [Chemicals](#)
- [Pesticides/Biocides](#)
- [Life Sciences](#)
- [Food](#)
- [Environment General Issues](#)
- [Energy](#)
- [Consumers/Safety/Intellectual Property](#)
- [Institutional Issues](#)

Chemicals

▶ Rotterdam Convention

On February 24, the Convention on Prior Informed Consent (PIC) procedure for the international trade of hazardous chemicals and pesticides entered into force. The Convention had already been transposed in the Community legal order by Regulation 304/2003 of January 28, 2003 concerning the export and import of dangerous chemicals.

▶ Persistent Organic Pollutants-First Reading

On February 26, the European Parliament adopted its First Reading position on the Commission proposal for a Regulation on persistent organic pollutants and amending Directives 79/117/EEC and 96/59/EC.

The European Parliament amendments aim to prevent the production, placing on the market and use of new chemicals and pesticides which exhibit characteristics of POPs according to Annex D to the Convention. The Parliament position pays specific attention to waste contamination and isolation of dangerous substances. It prohibits the re-use, recycling or recovery of contaminated waste and it creates a Committee for waste matters. The Parliament also introduces an exemption for the continued use of DDT as close-system site-limited intermediate and for HCH in professional and industrial uses; these exemptions will be applicable within specific deadlines. Furthermore, the Parliament adopted so-called "name and shame" amendments which require the information on infringements and name of contravening companies to be published. This position has been adopted after

■ Contact Us

If you would like more information, please contact any of the McKenna Long & Aldridge attorneys with whom you regularly work. You may also contact our Brussels attorneys or brussels@mckennalong.com:

Koen Van Maldegem

32.2.278.1215

Robert Matthews

202.496.7737 or
32.2.278.1225

Ursula Schliessner

32.2.278.1224

Claudio Mereu

32.2.278.1265

Ruxandra Cana

32.2.278.1263

**When dialing from North America, dial the prefix "011"; when dialing from European countries outside of Belgium, dial "00".*

informal discussions with the Council in a way to secure a first reading agreement.

On February 19, the Council adopted a Decision concerning the conclusion, on behalf of the European Community, of the Protocol to the 1979 Convention on Long Range Transboundary Air Pollution on POPs.

(Ref: COM(2003)333 and Decision 2004/259)

▶ **Marketing Restrictions on PAH**

On February 16, the Commission adopted a proposal for a Directive on restrictions on the marketing and use of certain polycyclic aromatic hydrocarbons (PAH) in extender oils and tyres (27th amendment of Council Directive 76/769/EEC). The Commission presented its proposal after the CSTEE confirmed the scientific findings which identified the adverse health effects of PAHs. In addition, the proposal aims to contribute to the reduction of total annual emissions of PAHs as required in the 1998 Protocol to the 1979 Convention on Long Range Transboundary Air Pollution on Persistent Organic Pollutants.

(Ref.: COM(2004)98 / IP/04/208)

▶ **Critical Uses of Ozone-Depleting Substances**

On January 28, the Commission adopted a Decision amending Regulation (EC) No 2037/2000 on substances that deplete the ozone layer. It allocates the quantities of controlled substances allowed for essential uses in the Community in 2004. The exemptions are applicable to those companies listed and for the identified essential medical or laboratory uses only.

(Ref.: Commission Decision 2004/209/EC)

On March 3, the Commission also adopted a Decision amending Regulation (EC) No 2037/2000 on substances that deplete the ozone layer. It grants critical-use exemptions to Acceding Countries for the uses of halon 2402 listed in the Annex.

(Ref.: Commission Decision 2004/232/EC)

▶ **European Pollutant Emission Register**

On February 23, the Commission and the European Environment Agency launched the European Pollutant Emission Register (EPER) and its website: www.eper.cec.eu.int. The EPER is created in the framework of the IPPC Directive (Directive 96/61/EC), under Decision 2000/479. It contains Member States data on emissions collected as of 2001.

(Ref.: IP/04/249)

▶ **Azo-Colorants**

On February 24, the Commission adopted a Directive incorporating harmonized test standards for testing and detecting azo-colorants into Annex I to Directive 76/769/EEC, in the implementation of Directive 2002/61/EC.

(Ref.: Commission Directive 2004/21/EC)

▶ Detergents

On March 11, the Competitiveness Council formally adopted the compromise Second Reading Position reached by the European Parliament on January 13.

The future Regulation will replace, update and consolidate the existing legislation (Ref: Council Directive 73/404/EEC on detergents; Council Directive 73/405/EEC relating to methods of testing the biodegradability of anionic surfactants; Council Directive 82/242/EEC on methods of testing the biodegradability of non-ionic surfactants).

The compromise text clarifies the conditions for granting derogations and allows Member States to lay down or maintain national rules on the use of phosphates. The Commission must submit a proposal on a ban of phosphate within three years from the entry into force of the Regulation.

On February 27, the Commission also published a report on Good Environmental Practice for Household Laundry Detergents pursuant to Article 9 of Commission Recommendation 98/480/EC of 22 July 1998.

(Ref.: COM(2004)134)

▶ Good Laboratory Practice

On February 11, the European Parliament and Council adopted two Directives on good laboratory practice (GLP). The First one concerns the inspection and verification of GLP and the second one is a codified version of the application of the principles of GLP and the verification of their application for tests on chemical substances. The Directives repeal Council Directive 87/18/EEC and Commission Directive 1999/11/EC.

(Ref.: Directives 2004/9/EC and 2004/10/EC)

▶ Azodicarbonamide as Blowing Agent

On January 6, the Commission adopted a Directive which amends Directive 2002/72/EC and suspends the use of azodicarbonamide as a 'blowing agent'. Azodicarbonamide is used in the manufacture of plastic gaskets in metal lids used for closure of glass jars, including those used in food. It has been shown to decompose under heat to semicarbazide (SEM), which may have weak carcinogenic activity. SEM has been detected at up to 25µg/kg in baby foods. The Directive must be transposed in national legislation by August 2005.

(Ref. Commission Directive 2004/1/EC)

▶ Transport of Dangerous Good by Road

On January 26, the Commission published, according to Directive 2001/7, the third adaptation to technical progress of Annexes A and B to Directive 94/55/EC on the transport of dangerous good by road.

(Ref.: O.J. L18/1)

Pesticides/Biocides

▶ France Bans PPP Containing Fipronil, Possibly Linked to Bee Mortality

On February 23, the French Ministry for Agriculture suspended the marketing of all plant protection products containing the active substance "fipronil". The ban will be in force until the European evaluation procedure is completed, which is due by December 31, 2005. Farmers are however allowed to use their current stocks during the upcoming planting.

France, as the Rapporteur Member State (RMS) under the Community scheme for evaluation of existing plant protection products, has sent to the European Food Safety Authority its report proposing that fipronil should not be listed in Annex I to Directive 91/414/EC, because the information available leaves some uncertainty as regards the behavior of the active substance in the environment, notably its persistence and its concentration in soils and water. Furthermore, it is said to present possible unacceptable risks for several species (particularly bees).

Previously, France had strengthened the classification of these products (imposing the most stringent classification in the EU). It had also asked its Committee on Pesticides Toxicity Evaluation to give an opinion on imidacloprid (Denmark is the designated RMS), which has the same properties as fipronil and is also denounced by beekeepers. If the Committee opinion is similar to the fipronil opinion, pesticides containing imidacloprid will be banned in France until the European evaluation procedure is concluded.

▶ Plant Protection Products Review Progress

The Commission adopted a series of Decisions concerning the non-inclusion of simazine, atrazine, fenthion and amitraz in Annex I to Council Directive 91/414/EEC and the withdrawal of authorizations for plant protection products (PPP) containing these active substances by September 10 (simazine, atrazine), August 11 and 12, 2004 respectively. Certain essential uses are permitted until June 2007.

(Ref.: Decisions 2004/247/EC, 2004/248/EC, 2004/140/EC and 2004/141/EC)

On January 30, the Commission adopted a Decision concerning the non-inclusion of 108 active substances in Annex I to Council Directive 91/414/EEC and the withdrawal of authorizations for PPP containing these substances. Member States must ensure that authorizations for PPP containing these substances are withdrawn by March 31, 2004. Certain exceptions are allowed until June 30, 2007.

(Ref.: Commission Decision 2004/129/EC)

The Commission adopted a Directive amending Council Directive 91/414/EEC to include chlorpropham as an active substance, and a Directive including benzoic acid, flazasulfuron and pyraclostrobin. Member States shall apply these provisions from August 1, 2005 and December 1, 2004 respectively.

(Ref.: Commission Directives 2004/20/EC and 2004/30)

On February 9, the Commission adopted a Decision recognizing in principle the completeness of the dossiers submitted for detailed examination in view of the possible inclusion of FEN 560 and penoxsulam in Annex I to Council Directive

91/414/EEC.

(Ref.: Commission Decision 2004/131/EC)

▶ **Paraquat Authorization**

Sweden and environmental NGOs (EEB and others) challenge the Commission Directive 2003/112 including paraquat in Annex I to Directive 91/414/EEC on Plant Protection Products before the European Court of Justice and the Court of First Instance. The substance is banned in five Member States, namely Sweden, Denmark, Finland, Austria and Luxembourg, as it is reported to present recognized adverse health effects. The Applicants allege that the stringent conditions for its use applicable in the EU cannot be guaranteed in developing countries.

(Ref.: Pending Case C-102/04 and T-94/04)

▶ **Monitoring Program for Pesticide Residues in Food**

On January 9, the Commission adopted a coordinated Community monitoring program for 2004 to ensure compliance with maximum levels of pesticides residues in and on cereals and certain other products of plant origin (Directives 86/326/EEC and 90/642/EEC).

The Commission wants to estimate the dietary exposure to actual pesticides. Because pesticide uses show changes within timescales of three-year periods, each pesticide should generally be monitored in 20 to 30 food products over series of three-year cycles.

The Commission invites the Member States to take and analyze samples for the product/pesticide residue combination listed in Annex I to this Recommendation; they should also report, by 31 August 2005, on the results of the analysis of samples tested, indicating the method used, the number and type of infringements as well as the action taken. The Member States should also send to the Commission, by September 30, 2004, their national program for monitoring maximum levels of pesticides residues in and on products of plant origin.

(Ref.: 2004/74)

[▶ Back to top](#)

Life Sciences

▶ **GMOs Authorization Status**

On February 18, the members of the Regulatory Committee on the release of genetically modified organisms into the environment failed to reach a qualified majority agreement on the Commission proposal to authorize a GM maize product in the EU under Directive 2001/18/EC on the deliberate release of GMOs in the environment. This concerned import and processing of Monsanto genetically modified maize NK603. The Commission will now have to adopt a formal proposal for a Decision to be adopted by Council.

A similar procedure is taking place for Syngenta BT11 sweet corn, after the Standing Committee on the food chain and animal health failed to reach agreement on its

marketing as a novel food and novel food ingredient (under Regulation 258/97). The Commission adopted a formal proposal on January 28. (Ref.: COM(2004)10)

In both cases, if the Council does not reject or adopt the Decisions by qualified majority, after a three-month period, the proposal goes back to the Commission for adoption.

Green parties and interest groups continue to call for the moratorium against GMOs not to be lifted before the questions of liability for GM contamination and coexistence are solved.

▶ Registers of Information on Genetic Modification

On February 23, the Commission adopted a Decision laying down detailed arrangements for the operation of the registers for recording information on genetic modifications in GMOs, provided for in Directive 2001/18/EC. The registers will comprise two sections, the first one will be accessible to the public, and the second one will contain additional confidential data accessible only to the Member States, the Commission and EFSA. The Competent Authorities are in charge of submitting the data to the registers and/or checking the companies' submissions.

(Ref.: Decision 2004/204/EC)

▶ GM Identification

On January 14, the Commission adopted a Regulation establishing a system for the development and assignment of unique identifiers for genetically modified organisms. Applications for the placing on the market of GMOs according to Directive 2001/18 must include a unique identifier for each GMO concerned. The consent or authorization for the placing on the market must specify the unique identifier for that GMO. Unique identifiers are recorded in the Commission registers. These provisions are also applicable for authorizations granted prior to the entry into force of this Regulation (January 16).

(Ref.: Commission Regulation 65/2004)

▶ Pharmaceuticals Package

On March 11, the Council adopted the package of Community legislation on pharmaceuticals updating existing rules in an attempt to respond to technical and scientific innovations and ensure the proper functioning of the internal market. The adopted texts are the following proposals as amended by the European Parliament at second reading:

- Proposal for a Regulation on authorisation and supervision of medicinal products for human and veterinary use and on the European Medicines Agency (replacing Regulation 2309/03)
- Proposal for a Directive on the Community code relating to medicinal products for human use (amending Directive 2001/83)
- Proposal for a Directive on the Community code relating to medicinal products for veterinary use (amending Directive 2001/82)
Proposal for a Directive on traditional herbal medicinal products (amending Directive 2001/83)

(Ref.: COM(2001(404) and COM(2002)1)

▶ **Public Health**

On February 25, the Commission adopted the 2004 work plan for the implementation of the program of Community action in the field of public health (2003 to 2008), including the annual work program for grants.

(Ref.: Decision 2004/192/EC)

[↗ Back to top](#)

Food

▶ **Plastic Food-Contact Materials**

On March 1, the Commission adopted a Directive amending Directive 2002/72/EC relating to plastic materials and articles intended to come into contact with foodstuffs. It notably prepares the finalization of a positive list of additives which may be used for the manufacture of plastic food contact materials. Requests for inclusion of existing additives must be sent to national authorities by December 31, 2006. The Commission will publish, by December 31, 2007, the provisional list of additives which may continue to be used after 2007, until EFSA has evaluated them. Monomers listed in Annex II Section B may be used until December 31, 2004. Member States must adopt the necessary measures by September 1, 2005.

(Ref.: Commission Directive 2004/19/EC)

▶ **Epoxy Derivatives in Food Contact**

On January 29, the Commission adopted a Directive amending Directive 2002/16/EC on the use of certain epoxy derivatives in materials and articles intended to come into contact with foodstuffs. This amendment extends the provisional authorization for badge until December 31, 2005. It also requires that the labeling of those food packaging indicate the date of their filling. It also amends Directive 89/109 on food contact materials extending the provisional period during which certain epoxy derivatives may be used in food contact materials, following favorable toxicology data.

(Ref.: Commission Directive 2004/13/EC)

▶ **Cellulose Packaging**

On January 29, the Commission adopted a Directive amending Directive 89/109 concerning materials and articles made of regenerated cellulose film intended to come into contact with foodstuffs. The amendment allows the use of plastic-coated regenerated cellulose film to be used in packaging of food materials, provided the plastic has already been authorized under the Directive. Previously, regenerated cellulose had not been authorized for use in contact with food. Member States must permit the trade in and use of regenerated cellulose film which is intended to come into contact with foodstuffs from July 29, 2005. Member States will also prohibit from January 29, 2006 the food contact materials not complying with this Directive.

(Ref.: Commission Directive 2004/14/EC)

▶ **Tin Content in Foods**

On February 12, the Commission adopted a Regulation amending Regulation 466/2001 as regards inorganic tin in foods. Following a 2001 Scientific Committee on Food opinion that some levels of inorganic tin in canned food may cause gastric irritation, this Regulation lowers the authorized maximum levels, specifically for food intended for children.

(Ref.: Commission Regulation 242/2004)

▶ **Additives**

On February 25, the Commission published the List of authorized additives in feedingstuffs, according to Council Directive 70/524/EEC.

(Ref.: O.J. C50)

▶ **Enzymes as Additives in Feedingstuffs**

On February 17, the Commission adopted two Regulations on the authorization of enzymes as additives in feedingstuffs. The First one authorizes Nautuphos FTU-8 without a time-limit; the second concerns the provisional authorization of a new use of Avizyme 1300, an additive already authorized in feedingstuffs.

(Ref.: Regulations 277/2004 and 278/2004)

▶ **Extraction Solvents**

On March 9, the European Parliament adopted without amendment the proposed Directive codifying Council Directive 88/344/EC on extraction solvents in the production of foodstuffs and food ingredients.

(Ref.: COM(2003)467)

▶ **Food Supplements**

On January 20, the Commission adopted a Directive amending Directive 2001/15/EC to include certain substances in the list of substances that may be added for specific nutritional purposes in foods for particular nutritional uses. Member States shall implement this Directive by March 31.

(Ref.: Commission Directive 2004/5/EC)

▶ **Case Law / Enriched Food**

On February 5, the Court of Justice judged that the French procedure of prior authorization for marketing of foodstuffs for human consumption enriched with nutrients hinders the free movement of goods. The French procedure for inclusion of a nutrient on the national list of authorized substances shall be more accessible, completed within a reasonable time and any refusal shall be based on real risk to public health and be challengeable before the courts.

(Ref.: Case C-24/00 / ECJ 12/04)

▶ Chilli Products

On January 21, the Commission adopted a Decision on emergency measures regarding chilli and chilli products. Member States must prohibit the import of chilli and curry products unless it is proven they do not contain sudan I, II, III or IV. Each consignment has to be checked. This Decision will be reviewed within one year and repeals Decision 2003/460/EC.

(Ref.: Commission Decision 2004/92)

[↗ Back to top](#)

Environment General Issues

▶ Environment Council

On March 2, the Ministers for Environment of the EU Member and Acceding States met for the first Environment Council under the Irish Presidency. The discussion covered among others:

- Shipment of waste: policy debate on a proposal for a Regulation. Council requested the Permanent Representatives' Committee to resolve the outstanding issues, in the light of the debate, in order to enable the Council to reach a Political Agreement at its meeting on June 28-29;
- Chemicals, Proposal for a Regulation (REACH): Council took note of the progress on this file; it will hold policy debates at its Competitiveness and Environment sessions on May 17-18 and June 28-29, 2004;
- Greenhouse gas emissions allowance trading - Kyoto Protocol: Council took note of the progress on this file; the Presidency will pursue contacts with the Parliament on the possibility of reaching an agreement in first reading;
- Action Plan on Environment and Health: preparation of an action plan in view of the 4th World Health Organisation Ministerial Conference on Environment and Health, to be held in Budapest on 23-25 June.

(Ref.: 6511/04 (Press 55))

▶ Competitiveness Council

On March 11, the Ministers of the EU Member and Acceding States met for the Competitiveness Council. The discussion covered among others:

- Pharmaceuticals : adoption of legislative package;
- Stimulating entrepreneurship (Communication from the Commission on the Action Plan: The European agenda for entrepreneurship): Council conclusions;
- Chemicals, Proposal for a Regulation (REACH): Progress report;
- Proposal for a Regulation of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws: Progress report;
- Framework conditions for competitive services industries: Council conclusions;
- Proposal for a Council Regulation on the Community Patent: Political Agreement could not be reached.

(Ref.: 6648/04 (Press 62))

▶ **Environmental Liability Adopted in Conciliation**

On February 19, the Council and the European Parliament reached an agreement in Conciliation (Third Reading of the Codecision procedure) on the proposal for a Directive on environmental liability with regard to the prevention and remedying of environmental damage.

Conciliation centered notably on the question whether to require mandatory financial guarantees (insurance). The agreement adopted in Conciliation leaves this to Member States and requires the Commission to report within 6 years on the national situations and to consider whether to propose a mandatory system (formally Council Common Position). Furthermore, the Conciliation clarified that the Directive will not impeach operators to invoke the existing international Convention on limitation of liability linked to maritime claims or inland navigation. The Commission will also review this issue after two years.

Based on "the polluter pays" principle, the Directive will put into place a regime of strict liability for operators of dangerous activities, and of liability based on fault or negligence for other operators. Defenses are provided for operators acting within a permit and complying with "state of the art". The Conciliation Joint Text still needs to be formally adopted by the Council and the European Parliament. It will enter into force from the date of its publication (probably mid April 2004) and must be implemented by the 25 Member States within three years from that date. This is an unusually long implementation period.

(Ref.: COM(2002)17)

▶ **Volatile Organic Compounds**

On January 7, the Council adopted a Common Position on the proposal for a Directive on the limitations of emissions of volatile organic compounds due to the use of organic solvents in decorative paints and varnishes and vehicle refinishing products, following Political Agreement reached on October 27.

This future Directive will impose stricter limits for ready use paints in 12 groups of products used as decorative paints and varnishes and 5 groups of products used in vehicle finishing to be implemented from 2007. The Commission will propose further restrictions for a second phase due to begin in 2010.

▶ **Packaging Waste**

On February 11, the European Parliament and Council formally adopted Directive 2004/12/EC amending Directive 94/62/EC on packaging and packaging waste. The purpose of this revision is to increase the packaging recycling/recovery targets. Notably also, the Council, Commission and Parliament published a Statement in which they declared their common intention to review at the earliest opportunity the issue of the recovery definition raised by recent ECJ cases.

In accordance with the agreement reached in Conciliation, the Commission presented on February 24 a proposal for a Directive granting an extended deadline for Accessing States.

(Ref.: COM(2004)127)

▶ **Waste Directive**

On March 9, the European Parliament adopted without amendment the proposed Directive codifying Council Directive 75/442/EC on waste.

(Ref.: COM(2003)731)

▶ **Motor Vehicles Recycling**

On March 11, the Commission put forward a proposal for a Directive on the type-approval of motor vehicles with regard to their re-usability, recyclability and recoverability and amending Council Directive 70/156/EEC. This is a follow-up action to Directive 2000/53 on end-of-life vehicles. The Commission proposes minimum re-use, recycle and recovery percentages in its Annex I for the components of passenger vehicles and other light vehicles (less than 3.5 tons). The vehicles and components exempted are listed exhaustively in Article 3 and Annex V.

Once adopted, this Directive will be automatically included in the list of technical harmonization Directives. 3 years after its entry into force, Member States must refuse EC type-approval to motor vehicles not conforming to this Directive.

(Ref.: COM(2004)162 / IP/04/371)

▶ **Action Plan for Environmental Technologies**

On January 28, the Commission adopted an Action Plan aimed at stimulating technologies for sustainable development called ETAP, Environmental Technologies Action Plan. The Commission defines environmental technologies as *"all technologies whose use is less environmentally harmful than relevant alternatives."*

The Plan sets eleven priority actions involving the Commission, national and regional governments, industry and other stakeholders. They contain, among others, the launch of technology platforms bringing together researchers, industry, financial institutions, decision-makers and other relevant stakeholders. In 2004, two of these platforms will start, one on hydrogen and fuel cells, the other on photovoltaic; and in 2005, a third one on water supply and sanitation technologies. The action plan will also focus on mobilizing financial instruments at EU and international level.

This Communication will be presented to the European Parliament, to the Council of Ministers (meetings on Environment, on Research and on Competitiveness), as well as to the March European Council.

(Ref.: COM(2004)38)

▶ **Integration of Environmental Aspects into Standardization**

On February 25, the Commission adopted a Communication on the integration of environmental aspects into standardization. The Commission wishes to raise awareness for the need to integrate environmental aspects into European standardization. It will initiate discussion with stakeholders and organize regular stakeholder meetings and workshops at least once a year. On this basis, the Commission will continually assess the integration of environmental aspects into European standardization.

(Ref.: COM(2004)130)

▶ Greenhouse Gas Monitoring

On February 11, the European Parliament and Council adopted a Decision concerning a mechanism for monitoring Community greenhouse gas emissions and for implementing the Kyoto Protocol. On January 29, the Commission adopted guidelines for the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC.

(Ref.: Decisions 2004/156/EC and 280/2004/EC)

▶ Infringement Proceedings

- Directive 91/676 on protection of waters against pollution caused by nitrates: ECJ condemned Ireland for non-compliance (C-396/01) (third phase of the infringement procedure);
- Directive 98/81 on the contained use of genetically modified micro-organisms: Commission urged Belgium and Spain to comply with ECJ rulings (C-436/01 and C-333/01);
- Directive 96/61 on integrated pollution prevention and control (IPPC): Commission sent letters of formal notice to Belgium, Denmark, Greece, Ireland, Luxembourg and the Netherlands (first phase of the infringement procedure);
- Directive 98/8 on biocides: Commission sent a letter of formal notice to France requiring it to conform to Court ruling (C-114/02) – In the meantime, France adopted on February 26, 2004 the Decree 2004-187 implementing the Directive;
- Directive 96/82 on major accidents hazards: Commission sent a reasoned opinion to Spain (second phase of the infringement procedure);
- Water legislation: Commission continued legal proceedings against Greece, France, the Netherlands, Belgium, Portugal, Spain, Germany and Ireland;
- Directive 85/337 and 97/11 on environmental impact assessment: Commission continued legal proceedings against Belgium, Italy, Spain and UK;
- Waste Framework Directive (75/442): Italy referred to ECJ;
- Directive 99/31 on landfill: formal notice to Italy; Spain and France referred to ECJ;
- Directive 96/59 on PCB: ECJ condemned Luxembourg (Case C-174/01);
- Directive 2000/76 on waste incineration: Belgium, Italy, Greece and Portugal referred to ECJ;
- Directive 2000/69 on ambient air: Netherlands and Greece referred to ECJ;
- Directive 96/62 on ambient air quality: Italy referred to ECJ;
- Directive 2001/81 on national emission ceilings: Netherlands, Germany, Italy and Greece referred to ECJ;
- Directive 2001/80 on large combustion plants: Belgium, the Netherlands, Austria, Italy, Greece and Spain referred to ECJ;
- Directive 2037/2000 on ozone depleting substances: Commission sent reasoned opinions to Spain, Greece and Portugal; Italy referred to ECJ.

Energy

▶ Electricity Labeling

On March 3, the Commission published a note on electricity labeling, a strategy paper on the medium term vision for the electricity market, and a report on the implementation of the electricity and gas market.

The note on electricity labeling defines further the obligation contained in Article 3 to Directive 2003/54/EC on the internal electricity market, which states that Member States shall ensure that electricity suppliers specify the composition of energy sources and give references to information sources on the various energies' environmental impacts. This document constitutes a guideline for Member States to implement their obligations

(Ref.: http://europa.eu.int/comm/energy/electricity/whatsnew/index_en.htm)

[▶ Back to top](#)

Consumers/Safety/Intellectual Property

▶ New Scientific Committees

On March 3, the Commission adopted a Decision creating three non-food scientific committees responsible for giving scientific opinions to the Commission:

- Scientific Committee on Consumer Products (SCCP), responsible for cosmetics, toys, textiles, clothing, personal care products, detergents and tattooing;
- Scientific Committee on Health and Environmental Risks (SCHNER), responsible for new and existing chemicals, restrictions and marketing of dangerous substances, biocides, waste, environmental contaminants, plastic and other materials used for water pipework, drinking water, indoor and ambient air quality, human exposure to mixtures of chemicals, sensitization and identification of endocrine disrupters;
- Scientific Committee on Emerging and Newly Identified Health Risks (SCENIHR), responsible for potential risks associated with interaction of risk factors, synergic effects, cumulative effects, antimicrobial resistance, new technologies, medical devices, tissue engineering, blood products, fertility reduction, cancer of endocrine organs, physical hazards and methodologies for assessing new risks.

The existing three Committees established by Decisions 97/404/EC and 97/579/EC (SCCNFP, CSTE and SCMPMD) shall remain in office until the new Scientific Committees established by this Decision take office.

The Commission will appoint the members of the Scientific Committees from a list of suitable candidates established following a call for expressions of interest.

(Ref.: Decision 2004/210/EC)

▶ Product Safety

From January 15, the revised Directive for General Product Safety (GPSD) is

applicable (2001/95/EC adopted on December 3, 2001). The new GPSD broadens/clarifies obligations regarding notification of products recalls and market monitoring of products previously marketed, is also creates a revised Rapid Alert System ('RAPEX') allowing quick circulation of information in the case of products posing serious risks. Since the coming into force of the revised GPSD, the Commission is publishing weekly overviews of RAPEX notifications (usually between 4 and 10 per week, mostly so far electrical appliances and items of concern for child safety) providing the information deemed most relevant for the general public.

Furthermore, a Committee was set up to assist the Commission to help certain aspects of the GPSD. Finally, the revised GPSD provides for the establishment of a European Product Safety Network to organize administrative co-operation between Member States authorities.

(Ref.: IP/04/53)

▶ **Health and Safety at Work**

On February 5, the Commission adopted a report on the implementation of the Framework Health and Safety at work Directive 89/391 and its five first individual Directives.

(Ref.: COM(2004)62)

▶ **Intellectual Property**

On March 9, the European Parliament adopted its First Reading position on the proposal for a Directive on measures and procedures to ensure the enforcement of intellectual property rights. This position results from a compromise with the Council and should be formally adopted by the Council in the coming weeks. The future Directive will provide for remedies to right holders, such as recall, permanent withdrawal from the market of illegal goods and financial compensation. The question of whether to introduce criminal sanctions for counterfeiters remains up to Member States.

(Ref.: COM(2003)46)

[▶ Back to top](#)

Institutional Issues

▶ **Enlargement**

On February 18, the Commission announced that the 10 new Commissioners from the Acceding States joining the Commission on May 1, will not have specific portfolios before the Commission's next mandate, which starts on October 31. They will however, from May, vote in the College of Commissioners as full members.

▶ **Spring Summit**

On March 25-26, the heads of States and Governments of the Member States met in Brussels for a European Council focused on employment, growth and competition.

[▶ Back to top](#)

■ About Us

McKenna Long & Aldridge LLP is a full-service law firm of approximately 375 lawyers and public policy advisors. The firm provides business solutions in the areas of corporate law, government contracts, intellectual property and technology, complex litigation, public policy and regulatory affairs, real estate, environmental, energy and finance.

■ Subscription Info for EURW

If you would like others to receive future mailings of the EU Regulatory Watch, please email their contact information to us at information@mckennalong.com

If you would like to be removed from our EU Regulatory Watch mailing list, please email information@mckennalong.com

*This **EU Regulatory Watch** is for informational purposes only and does not constitute specific legal advice or opinions. Such advice and opinions are provided by the firm only upon engagement with respect to specific factual situations. This message is intended as a transactional message for clients of the Firm. If you are not a client of the Firm, you have received it for informational purposes only and should not consider it an advertisement or solicitation.

• Atlanta • Brussels • Denver • Los Angeles • Philadelphia • San Diego • San Francisco • Washington D.C.

© 2004, [McKenna Long & Aldridge LLP](#), 56 rue des Colonies (Box 14), B-1000 Brussels, Belgium