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# EU Law News

A bi-monthly review of EU legal developments  
affecting business in Europe



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## German Presidency

### **EU energy policy will be a key issue for the German EU Presidency under Chancellor Angela Merkel**

For the German Presidency, the environment and energy issues are inter-linked. Climate change and decreased carbon dioxide emissions will be important topics. Chancellor Merkel is very keen to see the adoption of an Energy Action Plan at the March European Council. At present, energy remains under national sovereignty. However, pan-European solutions are needed in the short term and Germany is working with the Commission to address the energy mix. Any EU move regarding European energy champions easily leads to controversy at national level and the same goes for unbundling of energy sources, as German energy companies, for example, are totally against the idea. Even if France and Germany stave off the threat of unbundling legislation, Neelie Kroes, EU Competition Commissioner, said she could still use new powers to break up companies for anti-trust abuses.

Progress in EU constitutional reform is rather difficult given various concerns and the impact of national elections. It is likely that Portugal will preside in the second half of this year over a final decision on the Constitutional treaty. Other topics include relations with Russia and China and the Japan-EU Summit. In addition, Germany wants to simplify the EU's regulatory environment.



## Customs and Trade Facilitation

### **Customs today plays a vital role in facilitating logistics as well as the fight against terrorism.**

Introducing new customs measures, László Kovács, the Commissioner responsible for Taxation and Customs said that "taking into account the continuously growing global trade, we have to follow a balanced approach between security and trade facilitation". From 1 January 2008, "reliable traders" (Authorised Economic Operators) who meet high-standard security criteria will benefit from trade facilitation measures. From 1 July 2009, the electronic exchange of advance information between traders and customs authorities on all goods entering or leaving the EU will be introduced. New regulations also require customs authorities to exchange information electronically on exports in order to speed up export procedures. These measures should produce faster and better targeted customs controls that facilitate legitimate trade but tighten security and safety requirements. Also introduced is a new risk management framework, including the status of Authorised Economic Operator for reliable traders; and the requirement for pre-arrival and pre-departure information to be given to the customs authorities on all goods brought into or out of the Community customs territory.

## Anti-dumping Review

**Trade Commissioner Mandelson has launched a total review of the anti-dumping system.**

Disagreements between Member States about punitive tariffs on cheap Asian imports have proved more contentious than expected. "Recent months have shown what can happen when Member States cannot agree", Peter Mandelson said. "A system that does not work or one in which solidarity or cohesion is not strong risks becoming inoperable". The EU imposes around 20 anti-dumping measures a year, affecting 0.45% of its external trade. Mr Mandelson is seeking to bridge a significant gap between countries such as the UK and Sweden, dominated by retailers who want low-cost goods for consumers, and those whose manufacturers want protection from China. For the future, Mandelson requested the Commission to let him ask Member States for a mandate to negotiate new bilateral trade deals with India, South Korea, the Asean group of countries, Central America and the Andean community.

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## REACH

**Billed by some as the EU's most important legislative achievement, it is not yet clear how much it will affect Europe's competitiveness and environmental record.**

In December 2006, the Environment Council adopted the new Regulation on the registration, evaluation, authorisation and restriction of chemicals (REACH). REACH is a single EU regulatory system for chemical substances, aimed at improving protection of the environment and citizens' health. It will come into force on 1 June 2007 and will require the registration over a period of 11 years of some 30,000 chemical substances. The day-to-day management of the new requirements will be the responsibility of the new European Chemicals Agency in Helsinki. Industry is working on implementation, which includes the definition of responsibilities in the supply chain, and the co-ordination of information provision within consortia of manufacturers or users of substances to comply with REACH.

## Competition Law – Leniency Notice

**The Commission has updated its policies on cartels.**

It has adopted a revised Notice on Immunity from Fines and Reduction of Fines in Cartel Cases (the "Leniency Notice"). Leniency allows the Commission to offer full immunity or a reduction in the fines that would otherwise have been imposed on a cartel member, in exchange for disclosure of information on the cartel and co-operation with the investigation. Where justified, an application can be accepted on the basis of only limited information, with time granted for supply of additional evidence. The revised Leniency Notice clarifies the information an applicant needs to give to the Commission to benefit from immunity. It also introduces a procedure to protect corporate statements made under the Leniency Notice from being made available to claimants in civil damage proceedings. Competition Commissioner Neelie Kroes hopes that these changes will offer clearer guidance for business and further strengthen the effectiveness of the Commission's measures to detect and terminate cartels. The revised Leniency Notice came into force on 8 December 2006.

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## Sustainable Energy

**The Sustainable Energy Europe plan for 2005-2008 is a Commission initiative within the framework of "Intelligent Energy – Europe".**

The plan will contribute to the achievement of the EU's energy policy targets within the fields of renewable energy sources, energy efficiency, clean transport and alternative fuels. A European Sustainable Energy Week was held at the end of January. Comprising a series of events bringing together 44 stakeholders in Brussels and other European cities, its aim is to become the key annual reference point for sustainable energy issues in Europe. It identifies several action programmes, and European Technology Platforms for wind energy, photovoltaics and solar thermal. Its major aims are to boost energy efficiency and accelerate the shift to low carbon energy.

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**This publication has been carefully prepared but is intended for general guidance only. On any specific matter, reference should be made to the appropriate adviser.**

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