



EBLIDA

# Hot News February 2001

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### Copyright: Parliament report finally adopted

On 14 February, nineteen months after the first reading and following difficult compromise talks, Parliament modified the Council common position on copyright with nine compromise amendments from the Parliamentary Legal affairs committee (Boselli report). The future directive will define the rights for reproduction, communication and dissemination of works, as well as private copying and will take into account technical measures taken to protect and control access to works.

Parliament's amendments focus on the exceptions and limitations to the exclusive right of authors and rightholders. The concept of 'private copying' was restricted by enabling private

copies to be made only 'by a natural person' rather than by an institution on their behalf, while attempting to allow private individuals to undertake reasonable copying for their own use e.g. recording a TV programme to watch at a more convenient time. Other amendments adopted have a stronger requirement that the source of the document and/or author's name is quoted on copies made. Parliament has also reduced the time for the transposition of the directive into national law from two to one and a half years, in line with the e-commerce directive.

There are 21 listed exceptions to Articles 2 and 3 of the directive. Only one of these exceptions is compulsory for member states to implement (Article 5.1 on temporary, 'technical' copies). It is up to the member states to decide which of 20 other exceptions they wish to take into their national law. Implementation of the directive may be reassessed after 18 months.

A fast adoption of the directive is expected, as it is unlikely that it will go to conciliation. This is because Parliament has on the whole maintained the balance of the Council's common position. Moreover, Frits Bolkestein, Commissioner for the Internal Market, supports the final result. Once Parliament's amendments have been accepted by COREPER, the directive will be adopted into European law. This would be as early as April 2001. With the adoption of the directive, EU member states will accede to the WIPO Copyright Treaty (1996) and will so accelerate ratification of this international treaty.

For an account of the debate and vote in the European Parliament in Strasbourg, go to: [http://www.europarl.eu.int/plenary/default\\_en.htm](http://www.europarl.eu.int/plenary/default_en.htm), then Minutes Proceedings of the sitting by date. Select 13 February for the debate and 14 February for the results of the vote.

Further information on copyright and intellectual property rights can be found at: [http://europa.eu.int/comm/internal\\_market/en/intprop/index.htm](http://europa.eu.int/comm/internal_market/en/intprop/index.htm)

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### **Access to documents: further meetings held to reach a compromise**

Following its latest proposal, the Swedish Presidency has re-introduced a rule which would allow individual member states to veto the publication of papers they have authored. If plans put forward are adopted, internal EU documents will automatically be posted on the web as soon as they are circulated among member states. The EU governments agree that legislative proposals, provisional agendas and other working papers should be made available on a publicly accessible website. Tony Bunyan from Statewatch has mixed views about the proposals and warned that a compromise could affect wider talks on openness.

Council, Parliament and Commission are in charge of the agreement of a new code under the codecision procedure by 1 May. All three institutions have taken different positions on fundamental issues. Therefore, it was decided to hold a series of three meetings, behind closed doors, in order to reach a compromise. In addition, a seminar on the new code of access was held on 27 February. Further information on access to documents can be found at: [www.statewatch.org](http://www.statewatch.org) or [www.euopen.com](http://www.euopen.com)

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### **eCommerce: Council debates Commission communication on financial services**

On 12 February, the European Commission presented the ECOFIN Council with its communication on eCommerce and financial services, a key issue in the development of a European market in financial services, to be completed by 2005. The eCommerce directive is designed to ensure that online services can be freely provided throughout the Community. Its cornerstone is the principle of country of origin, known as the 'internal market clause', which will enable online providers to supply services throughout the Union based on the rules of the member states where they are established.

The communication looks at the way the eCommerce directive can interact with existing and future financial services legislation. The Commission is proposing a new policy framework in order to overcome the significant divergences in national rules. The suggested framework would cover three areas:

- a programme of convergence covering contractual and non-contractual rules;
- targeted steps to encourage consumer confidence in cross-border appeal mechanisms and internet payments;
- enhanced supervisory co-operation.

Furthermore, the Commission will carry out an analysis (revisable in 2003) to determine which kind of national provisions could be applied by member states in providing services. This is expected before the end of this year.

Further information on financial services can be found at:  
[http://europa.eu.int/comm/internal\\_market/en/finances/index.htm](http://europa.eu.int/comm/internal_market/en/finances/index.htm)

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### **Telecommunications: Parliament adopted three reports on telecoms package proposals**

On 6 February, the Parliamentary industry committee adopted the Paasilinna report on the regulatory framework by 43 votes for, 1 against and 3 abstentions. The proposed directive aims at adapting the former 1998 telecom package to new technological developments and to grant greater flexibility to the NRAs. One of the amendments voted clarifies the notion of 'significant market power' in order to ensure that companies have greater legal security. The amendment also took into account the possibility of two operators forming a significant market power together. Other amendments adopted set out the role of the NRAs, including the obligation to provide the Commission on request with the information required. The directive should take effect from 1 January 2003.

In addition, the committee adopted on 13 February, another two of the seven proposals of the telecom package presented last July; the draft directive on access (Brunetta report) and the draft directive on authorisation (Niebler report).

As regards authorisation of networks and services, the report generally supports the Commission's approach of establishing a simpler Community authorisation regime, which would reduce obstacles and therefore, allow providers as well as consumers to benefit from economies of scale achieved in the single market. The committee wished to ensure the continuity of operators' rights. It emphasised that member states should not introduce restrictions on licences before expiry of the period for which they were granted, unless this was necessary on grounds of public safety. In such cases, operators should be entitled to appropriate compensation.

With regard to access to networks, the report requests both the terminology and the implementation arrangements of the directive to be clarified, in order to avoid disputes between

operators and NRAs.

All three reports can be downloaded from the Parliament's website, section 'latest reports': [http://www.europarl.eu.int/plenary/default\\_en.htm](http://www.europarl.eu.int/plenary/default_en.htm)

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### **eContent: 28 projects selected under first call for proposals**

As a result of the call for proposals published on 20 April 2000, the European Commission has chosen 28 projects, which aim at stimulating the development and use of European digital content. The 28 projects are related to the three action lines of the programme: access to risk capital for Internet related SMEs and start-ups; exploitation of public sector information and linguistic and cultural customisation of digital products and services.

The projects selected as well as further information on the eContent programme are available from: <http://www.cordis.lu/econtent/home.html>

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### **EU/Canada: Parliament adopted proposal on higher education**

On 14 February, Parliament adopted MEP Zorba report on the renewal of the agreement for a co-operation programme in higher education and training with Canada. Last January, seven new projects were presented in the field of higher education and training. This makes it a total of 38 projects in the framework of co-operation between the Union and Canada, since the establishment of the programme in 1996. With its renewal, the Commission intends to broaden its field of application as to explore new venues for co-operation.

The new selected projects aim at promoting structural transatlantic co-operation between consortia of education and training institutions. Each consortium must comprise at least three establishments on each side. Funding granted by the Commission is around Euro 740 000 over three years. Details of the new projects and participating institutions are available at the Spokesman's office. Further information on the programme: <http://europa.eu.int/comm/education/canada/canada.html>

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### **EU/USA: Parliament adopted proposal on education and training**

In addition, Parliament adopted on the same date (see above) a report by MEP Perry on the renewal of the co-operation agreement between the European Union and the United States in higher education and vocational training. Further information on the programme: <http://europa.eu.int/comm/education/ec-usa/usa.html>

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### **IST programme: key action line III launches 24 take-up projects**

A total of 53 proposals were received last December under action line III.1 Interactive publishing, digital content and cultural heritage - [Trials on new access modes to cultural and scientific content](#) of the IST 2000 work programme.

Out of these, 24 projects were selected for funding. A meeting was held on 6 February with the project co-ordinators in order to brief them on the next steps. The meeting was also an opportunity to exchange experiences and discuss future co-operation activities. The projects are due to start in the summer. Further information on selected projects can be found at: <http://www.cordis.lu/ist/ka3/digicult/en/projects.html>

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### **Media Plus: Commission launches first call for proposals**

The European Commission launched a first call for proposals on 20 February in the framework of the New Media programme (*see Official Journal no 2001/C 53/07 of 20.02.01*).

Further information on the Media programme (2001-2005) is available from: [http://europa.eu.int/comm/avpolicy/media/index\\_en.html](http://europa.eu.int/comm/avpolicy/media/index_en.html)

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### **Research: Commission proposals for new research and innovation programme (FP6)**

The Commission adopted on 21 February, proposals for a new research and innovation programme, with a budget of Euro 17.5 billion - Euro 1.2 billion for the Euratom programme (an increase of 17% over current budget) for a four year period (2003-2006). The sixth framework programme (FP6) is part of a wider political initiative which aims at creating a European Research Area.

Seven key priorities are proposed: **genomes and biotechnology; information society technologies** in order to strengthen European industry and help people benefit from the knowledge-based society; **nanotechnologies; intelligent materials, new production methods; aeronautics and space; food safety and health risks; sustainable development and global change; citizens and governance in European society**, in order to address issues related to the emergence of the knowledge-based society across different cultures in Europe.

In addition to these priorities, special measures are proposed for SMEs, innovation, mobility of researchers and the networking of national initiatives. Moreover, measures include help in fields

such as intellectual property rights, access to risk capital and finding partnership for co-operation.

These priorities have been chosen following a wide public consultation (<http://europa.eu.int/comm/research/area.html>). The proposal will now be submitted to the Council and Parliament (codecision procedure). Further information: <http://www.cordis.lu/rtd2002/>

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### **Research: Parliament adopted report on the European Research Area guidelines**

On 15 February, Parliament adopted a resolution (Plooij-van-Gorsel report) on the Commission communication on the European Research Area (*see Hot News January 2001, p.5*). Parliament stresses that the financial resources applied to the FP6 programme should in future reflect the new objectives and the new instruments, as well as enlargement. It also notes that at least 10% of EU funding should be allocated to SME-related research (Commission proposes 15%).

MEPs approve the development of 'networks of excellence' provided that they promote co-operation between universities, research centres, industry and SMEs, and that they do **not** focus exclusively on large-scale projects. Parliament also feels that the Commission should oversee the rapid creation of a high-speed trans-European research network with a capacity of 100 gigabits/second as well as the recruitment of EU science and engineering students.

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### **Socrates programme: results after evaluation now available**

On 12 February, the Commission adopted a report on the implementation of the first phase of the Socrates programme (1995-1999). The report, aimed at improving the success of the second phase of the programme, encompasses all available analyses; in particular the conclusions of four external evaluations that resulted from the call for proposals:

- a global evaluation;
- an evaluation of the participation of people with special educational needs in the Socrates programme;
- an evaluation of the impact of Erasmus in the field of engineering;
- an evaluation of the results of the Comenius (action one) and Lingua (action E).

After adoption, the Commission decided for reasons of transparency, to allow access to all of these external evaluations, although published under the sole responsibility of their authors. The report as well as the evaluation results are available from: [http://europa.eu.int/comm/education/evaluation/socrates\\_en.html](http://europa.eu.int/comm/education/evaluation/socrates_en.html)

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### **Audiovisual: Commission report on protection of minors adopted**

On 28 February, the Commission adopted its evaluation report on the protection of minors and human dignity. This follows the Green Paper on the protection of minors (1996). The Commission regrets that consumers have been insufficiently involved in the introduction of codes of conduct. Commissioner Reding called on industry and public authorities to foster self-regulation, combined with education in the use of the media in order to ensure a worthwhile level of protection for minors and young people in Europe.

The recommendations set out in the report call for, amongst others, the implementation of national self-regulation frameworks, the foundation of associations of Internet operators and the development of rating and filtering systems. The assessment report will be taken into account in the debate over the possible revision of the 'Television without Frontiers' directive.

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### **Book-price systems: Council resolution adopted**

On 12 February, the Education Council adopted, following the meeting of the culture/audiovisual Council of 23 November, a resolution on the application of national book-price systems. The resolution calls on the Commission, when applying competition rules and rules on the free movement of goods, to take account of the specific value of the book as a cultural object, the importance of books in promoting cultural diversity, and of the cross-border dimension of the book market.

Moreover, it calls on the Commission, when examining national rules and agreements on fixed book prices insofar as these affect trade between the member states, to pay particular attention to the risk of evasion, the consequences of the development of eCommerce and questions relating to imports between countries operating fixed book-price systems.

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### **Culture: Parliament endorsed proposal on export of cultural goods**

In the context of the operation of the single market, Regulation 3911/92/EEC and Directive 93/7/EEC seek to reconcile the fundamental principle of free movement of cultural goods with that of the protection of national treasures.

The Regulation introduces uniform controls for the prevention of exports of cultural goods at the external borders of the Community. The Directive complements this preventative instrument by providing mechanisms and a procedure for restoring national treasures when these have been unlawfully removed from the territory of a Member States.

On 14 February, Parliament adopted a proposal which aims at introducing two technical amendments to the Annex to Directive 93/7/EEC announced in the report on the application of Regulation 3911/92/EEC and Directive 93/7/EEC. The proposal is now awaiting the Council

common position.

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### **eCommerce: Commission launches FIN-NET**

On 1 February, the European Commission launched a network for the out-of-court settlement of disputes in the financial services sector. FIN-NET, the first ADR (Alternative Dispute Resolution) European network in the financial services field, brings the different schemes together on the basis of a voluntary Memorandum of understanding.

See [http://europa.eu.int/comm/internal\\_market/en/finances/consumer/adr.htm](http://europa.eu.int/comm/internal_market/en/finances/consumer/adr.htm).

ADR systems do not replace the possibility of court action, but offer an alternative.

FIN-NET aims at allowing companies and consumers to resolve disputes in an effective and inexpensive manner, mainly when the service provider is established in a member state other than that where the consumer resides. More information on FIN-NET can be found on the Internal Market website:

[http://europa.eu.int/comm/internal\\_market/en/finances/consumer/index.htm](http://europa.eu.int/comm/internal_market/en/finances/consumer/index.htm)

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### **Education: Council approves report on future EU education and training systems**

On 12 February, the Education Council adopted a report on '*Future objectives of education and training systems*', which is a reflection of the enhanced role given to education ministers in contributing to the European employment strategy. The report is divided into three chapters where it identifies common challenges, lays down concrete objectives and outlines the future role of education in the Lisbon follow-up. It will now be submitted to the Spring European Council in Stockholm and forwarded to the European Parliament for information. The Commission report is available for downloading at:

<http://europa.eu.int/comm/education/what.html>

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### **Employment: Parliament adopted report on Community incentive measures**

On 14 February, Parliament adopted the resolution on Community incentive measures in the field of employment. The resolution highlights the need to make European employment strategy more accessible and transparent to the general public. In addition, it suggests that part of the funding allocations provided should be targeted at promoting co-operation; the improvement of knowledge, exchange of information and best practices and evaluation of experience in implementing National Action Plans for employment at local and regional level. Parliament is in favour of a global amount of Euro 65m instead of Euro 55m proposed by the Commission, for the 2001-2005 period.



The Commission presented its modified proposal on 27 February. The Council common position is expected in early March.

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### **ePublishing: Plenary endorsed report on new forms of publishing**

On 1 February, Parliament adopted a resolution calling on the Commission to come up with a legislative framework for electronic publishing (*see Hot News January 2001, p.8*).

The resolution takes the view that member states should consider applying special VAT arrangements to publications downloaded from the Internet. They should ensure, however, that VAT exemptions or reductions granted to educational and cultural institutions for the purchase of non-electronic publications include the purchase of electronic ones.

The Commission is urged to take up measures to foster creative European content in e-publishing in all European languages, and to enable workers in the publishing/book retailing industries, as well as authors, to benefit from training.

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### **EU/Turkey: pre-accession strategy adopted**

On 14 February, Parliament adopted the report by MEP Swoboda covering assistance to Turkey in the framework of the pre-accession strategy, and in particular the establishment of an accession partnership. The report calls for Turkey to be included in two financial instruments, the pre-accession structural instrument (ISPA) and the special accession programme for agriculture and rural development (SAPARD). It also calls for the financial instruments (Phare, Ispa and Sapard) to be unified and the administrative committees of the three financial instruments to be merged within six months of adoption of the regulation. The regulation is awaiting publication in the Official Journal.

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### **Information society: Council programme for implementation of civil matters discussed**

On 8 February, the Justice and Home Affairs Council discussed the programme for the mutual recognition of decisions in civil and commercial matters, adopted last November, on the basis of two questions put forward by the Swedish Presidency.

The Presidency has proposed to proceed in stages, starting with a pilot project first. As for the second question of which project to start with, it was noted that the Commission is currently working on the issue of minor litigations. This issue, however, requires considerable preparatory work. The Presidency therefore, proposes to carry out a pilot project on the issue of

unchallenged claims. When this 'potential' project deals with the issue of general judgement, ministers will be invited to discuss the necessary security mechanisms and to move towards the free movement of judgements in civil and commercial matters.

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### **Information Society: Commission presents report on key priorities for Stockholm**

The Commission has published a report where it sets the agenda for the Stockholm European Council in March. Ten priority areas for action and targets for the next 12 months are proposed. Both successes and disappointments are identified in the report, which also identifies delays on certain actions, e.g. Community patent, lifelong learning. With its report, the Commission seeks a clear mandate for work to be carried out by the Commission together with the Council in the course of 2001.

Ten priority areas have been recommended: **jobs; labour market**, e.g. mobility, educational and skills barriers to be tackled; **economic reforms**, e.g. liberalisation of postal services, public procurement; **financial markets; regulatory environment; eEurope 2002 action plan**, e.g. communications sector, support the development of eCommerce and electronic provision of financial services; **IT skills gap** through e.g. education, lifelong learning and investment; **research, innovation and enterprise**, e.g. FP6 (2002-2006) under preparation; **frontier technologies**, e.g. protection of patents and innovation, financing research; **social protection**, e.g. social inclusion programme to be solved. Further information is available from: [http://europa.eu.int/comm/stockholm\\_council/](http://europa.eu.int/comm/stockholm_council/)

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### **Information society: Organisation and management of the Internet**

On 13 February, Parliament adopted a report by MEP Carraro on the organisation and management of Internet, which aims at presenting a communication on international and European Internet policy issues. The communication addresses recent developments in the area of technical co-ordination functions involved in Internet infrastructure, during the 1998-2000 period; transferring the US Government's responsibilities to ICANN; the principal policy issues for the EU and internationally, and operational conclusions for the European Union.

Parliament will vote on the report at next plenary in March.

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### **Telecommunications: Parliament hearing on the framework directive**

On 23 January, during a public hearing (*see Hot News January 2001, p.2*), the European Parliamentary committee on Industry examined the notion of 'single market power' as it applies

to competition law in the framework directive on electronic communications. MEPs expressed their determination to ensure that the national regulatory authorities (NRAs), responsible for regulating the sector, apply the directive in a uniform way in all member states as to avoid creating fifteen different telecommunications markets in Europe.

The current plan would cut down on the EU-level red tape imposed on the sector when telecom markets were opened in 1998, by leaving NRAs to apply the new rules and regulate companies. Under the proposal, the Commission would be able to veto NRAs' decisions if they were unfair or threatened to fragment markets by diverging from an EU-wide approach. However, many member states including Germany, Austria and Spain have declared that they will **not** tolerate a Commission veto on national decisions. Moreover, industry groups argue that EU efforts to boost the veto will have a damaging effect on the sector.

This issue is one of several potential threats to the telecoms package. These include plans to reserve the toughest regulations for firms enjoying 'significant market power' (SMP), obligations on firms to ensure a 'universal service', and measures to protect customers' personal data.

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### **Telecommunications: private operators want unbundling of local loop to speed up**

The European Competitive Telecommunications Association (ECTA) has recently published a scoreboard showing the relevant success of different member states in opening up their local loops. Phil Evans, director of ECTA, notes that despite the fact that the regulation on local loops came into force at the beginning of the year, new entrants are still being kept out of most European markets. In his view, key markets such as France and the UK remain virtually unbundled. In the case of Germany, which has been unbundling for the past two years, new entrants have just 600 000 lines out of the incumbent's 47 million analogue lines, less than 2% of the total.

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### **Trans-European Networks: Council approves TEN for statistics**

On 12 February, the Education Council adopted a decision relating to the Trans-European network (TEN) for the collection, production and dissemination of statistics on the trading of goods within the Community and between the Community and non-member countries (Edicom). This decision aims at developing and modernising the Trans-European network for intra and extra-Community trade statistics, which are better achieved at Community rather than at national level only.

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### **Trade: Council approved regulation on co-operation with industrialised countries**

After Parliament approval, the General Affairs Council adopted on 26 February a regulation which aims at implementing a series of projects to promote co-operation and trade relations with the industrialised countries of North America, the Far East and Australasia (USA, Canada, Australia, New Zealand, South Korea and Japan). This regulation will enable the European Union to engage in a whole range of fields beyond the usual activities.

Funding will be available until 31 December 2005, for activities linked to **education and information society, cultural and academic relations**, promotion of political, economic and **social dialogue, research** and studies all to contribute to further bilateral relations. The regulation also provides the legal basis necessary for the continuation of the programme which aims at promoting trade relations between the Union and Japan.

This regulation is to allow the EU to contribute to the promotion of exports towards these countries, although member states remain mainly responsible for this kind of action. In addition, the Commission will have to present new proposals on the basis of experience gained by September 2003 at the latest.

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### **Trademarks: Parliament calls for update of trademark legislation**

The EP Legal affairs committee is strongly in favour of introducing the international exhaustion of rights conferred by a trademark. The report by MEP Mayer report comes in the wake of a Commission paper published in December 1999. Mayer explains that it is not the position of trademark owners that should be strengthened, but the rights of consumers. He welcomes the support by the Swedish Presidency, who shares his opinion.

Directive 89/104/EEC entitles trademark owners, when they have given permission for a product featuring the trademark to be marketed outside the EU, to monitor and restrict the use of the product inside the EU. Hence Community law does not recognise the international exhaustion of trademark rights. On this basis, trademark owners can apply two different prices - a higher one in the EU and a lower one outside the Community. However, if a system which involves international exhaustion of trademark rights is applied, trademark owners could not prevent retailers/wholesales from obtaining the products on the world market, importing them back into the Community and then marketing them subject to different conditions from those imposed by trademark owners.

This report aims at examining the distinction in the trademark right exhaustion system between the various intellectual property rights. In addition, progress in the information society, including eCommerce, should also be reflected in the debate. The draft report should be voted in March before plenary, probable in May.

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### **Treaties: Treaty of Nice signed**

The foreign ministers of the fifteen EU member states signed the new Treaty in Nice on 26 February. Member states must now ratify the Treaty by 31 December 2002. A final decision on the Treaty will depend on satisfactory progress in the post-Nice process. A body with

representatives of the Commission, Parliament and Council as well as national governments and parliaments is to be convened in 2002. Meanwhile, MEPs expressed concern on the extension to qualified majority voting, which they feel is too limited.

With regard to the future development of the EU, the Swedish Presidency will report periodically on how it intends to carry forward work in launching the public debate agreed at the Nice Intergovernmental Conference. This debate seeks to involve member states, national and EU institutions, as well as European citizens and civil society, mainly universities and young people in the EU future development.

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### **WTO: Parliament recommendations on the WTO built-in Agenda**

The Parliamentary committee on Industry requested authorisation on 25 January 2001, to draw up a report on the built-in Agenda negotiations conducted within the WTO framework. In its draft report, Parliament calls on the Commission to conduct the present WTO negotiations on agricultural trade, trade in services and specific intellectual property issues, on the basis of the guidelines given to it by the Council for the Seattle WTO ministerial conference.

As regards services, Parliament backs the Commission in its efforts to achieve further progressive liberalisation of trade in services, within the meaning of article XIX of the GATS. Furthermore, it calls for the GATS agreements not to be allowed to restrict the scope of the EU and of its member states to adopt specific rules on the performance of public services within the health, education and cultural service fields. The report also stresses that liberalisation in trade in services should also be compatible with the concept of sustainable development.

Parliament and Commission want the built-in Agenda negotiations to lead to a new multilateral negotiating round no later than at the WTO ministerial conference, scheduled for November 2001.

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*Created: 9 April 2001*