

Company law: takeover bids

2002/0240(COD) - 03/03/2003

The Council took note of the presidency's report on the progress made so far on the proposal for a Directive on take-over bids as well as of Delegations' concern on individual aspects of a presidency compromise proposal, in particular with regard to the balancing of Article 9 and 11, notably the question of multiple voting rights. The Council instructed the Permanent Representative Committee to pursue its work on this file as a matter of priority. Following the European Parliament's rejection of the outcome of the Conciliation Procedure in July 2001 on a previous proposal, the new text makes a fresh attempt at establishing a level playing field of take-over bids in the Community. However, broad agreement exists with the Council preparatory bodies not to re-open the debate on those Articles which appeared already in the text agreed upon by the Conciliation Committee and which have not changed substantially. Taking account of delegations' comments and building upon previous compromise proposal put forward by the Danish Presidency, the Greek Presidency tabled on 14 February 2003 a compromise proposal on most of the Article under discussion. No formal agreement has yet been reached on any of the Articles under examination. However, considerable progress has been achieved in building substantial consensus around a number of issues. The core outstanding issues in search of a global compromise is the appropriate balance to strike between, on the one hand, Article 9 which aims at ensuring that it is for the shareholders to decide on defensive measures once a take-over bid has been made public, and, on the other hand, Article 11 which provides for the neutralisation, both during and following a successful take-over bid, of measures that could be seen as pre-bid preferences (restrictions on transfer of securities, restrictions on voting rights).