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HOTREC

Hotels, restaurants & cafés in Europe

Under the responsibility of

Marguerite Sequaris,

Chief Executive of HOTREC

111, boulevard Anspach – boîte 4

B-1000 Bruxelles – Belgique

Tel.: 32 2 513 63 23

Fax: 32 2 502 41 73

E-mail: main@hotrec.org

www.hotrec.org

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INTERNAL MARKET

□ *Services in the internal market*

As reported in previous issues of *Live from Brussels*, the Commission issued in January 2004 a proposal for a Directive on services in the internal market (COM (2004) 2 final/3). This text includes provisions aiming at securing

- The freedom of establishment for service providers;
- The free movement of services; and
- The quality of services.

Over the last months, the proposal has made the headlines of newspapers of all political tendencies in all EU countries as its reference to the “*country of origin*” principle is supposed to lead to social dumping and cause unfair competition between enterprises.

The first part of the draft report by the socialist MEP Evelyne Gebhardt, rapporteur for the EP Committee on the Internal Market and Consumer Protection (IMCO), was released on 8 April 2005 and a first discussion of this document will take place at the next meeting of IMCO, on 19 April. It is unlikely that the European Parliament will be in a position to vote on the report before next September.

The first part of the report deals with the most criticized elements of the Commission proposal, namely its scope and the application of the country of origin principle. As far as tourism services including hotels and restaurants are concerned, the report suggests that they should always be consistent with the laws and administrative provisions of the country of destination.

When the proposal was issued in January 2004, HOTREC welcomed it in as far as it should facilitate the administrative procedures for hoteliers and restaurateurs wishing to provide services or to establish a business in another Member State. HOTREC, however, immediately expressed reservations about the call in Article 31 of the proposed Directive for the development of standards by the standardisation bodies.

Indeed, little has been said so far about this Article 31. This is why HOTREC wrote to MEP Malcolm Harbour, coordinator for the European People’s Party (EPP) in IMCO, and to MEP Toine Manders, coordinator for the Alliance of Liberals and Democrats (ALDE) in IMCO, to suggest amendments to Article 31 and the corresponding Recital 65 in the Preamble. The letter is available on www.hotrec.org

The view of HOTREC is that the issue of quality of services should be left to the industry: the development of standards should remain fully market-driven and, therefore, does not need to be encouraged by the Member States or by the Commission.

HOTREC expressed also the view that, in as far as European standards were deemed useful for the establishment of an internal market for services, a thorough review of the working methods of CEN would be necessary in order to ensure the full consultation of all stakeholders at all stages of the procedure and full transparency (including free and easy access to all documents). The financial aspect should also be clarified.

Very close attention needs to be paid to the development of standards at all levels because, although supposedly “voluntary” in principle, standards may become de facto mandatory as a result of market forces. They can also easily be integrated into law and used as benchmark by tribunals and the Courts, thus making them binding on the industry.

As the Commission has already indicated, following strong pressures of the most varied origins, that it is prepared to substantially review the proposal, HOTREC also sent its proposed amendments to Article 31 to Commissioner Verheugen.

STANDARDS

□ ISO and CEN activities in relation to tourism

As explained in the last issue of *Live from Brussels*, on a proposal by AENOR (the Spanish standardisation body), the creation of a new field of activity for ISO (International Organisation for Standardisation) in relation to tourism and related activities, including hospitality activities, was approved in January 2005. Subsequently, at its meeting in February, the ISO Technical Management Board established a new technical committee “*ISO/TC 228 Tourism and related services*”. The first meeting of this new committee is expected to take place in October 2005.

Also in February 2005, CEN (European Committee for Standardisation) finally made public the report it was asked to prepare by the Commission in relation to a “*standardisation work programme to support the internal market for services*” (see the last 4 issues of *Live from Brussels*).

The report explains that standards are “*a mean to increase transparency in the market and the confidence of service buyers, as well as ease regulation*”. The report insists on the development of standards in areas not yet dealt with at CEN level (new service areas) but also indicates that “*based on the national standardisation work identified, further projects could be proposed at the European level thus enabling the CEN members to work on common European standards*”. The report also calls for the work by CEN in relation to services to be financed by the European Commission.

*For HOTREC, all these news are quite alarming. The CEN report clearly acknowledges that standards “ease regulation”. It also indicates that national standardisation work could be moved up to the European level, which brings immediately back to mind the extensive proposals in relation to the hospitality sector made by AENOR to CEN in July 2004 (see *Live from Brussels* n° 31). Finally the report states that the work of CEN can be financed by the European Commission: this could incite CEN and its members to initiate work notwithstanding the reluctance of the industry.*

HOTREC is of the opinion that any initiative relating to standards for accommodation and restaurants services should be left to the full responsibility of the industry. High quality services are crucial for the hospitality industry but standards developed by the European or international standardisation bodies are not a prerequisite for quality.

Very close attention needs to be paid to the development of standards because, although supposedly “voluntary” in principle, standards may become de facto mandatory as a result of market forces. They can also easily be integrated into law and used as benchmark by tribunals and the Courts, thus making them binding on the industry.

HOTREC is also very worried about the working methods of CEN and has suggested a thorough review of these methods in order to ensure the full consultation of all stakeholders at all stages of the procedure as well as full transparency (including free and easy access to all documents). The financial aspect should also be clarified.

This message was passed on to Commissioner Verheugen at the occasion of his meeting with the NET associations on 18 February 2005 (see Live from Brussels n° 32), and subsequently, via a letter in relation to the proposed Directive on services in the internal market (see section above).

CLASSIFICATION

□ *HOTREC position paper on European and international hotel classification*

On 22 February 2005 HOTREC issued a position paper on European and international hotel classification based on the conclusions of the HOTREC Seminar “*Hotel classification revisited*” held in Bergen in October 2004.

The HOTREC position paper stresses that:

- *Classification systems already exist at national and regional level in most European Union Member States. These systems are widely used and widely known.*
- *HOTREC member associations fully agree with the call for more transparency in relation to classification made in the proposal for a Directive on services and in the conclusions of the workshop on services at the Budapest Tourism Forum. HOTREC member associations will, therefore, on their own initiative, endeavor to increase the accessibility to information on their various classification systems.*
- *As far as approximation or harmonisation of the existing systems is concerned, HOTREC member associations will continue to oppose any attempt by the public authorities or the standardisation bodies at European or international level to initiate work on a European-wide or world-wide classification system.*
- *Differences in culture and geographical situations explain that the criteria and methodology of the systems of classification currently in force in the European countries vary.*

- *Nonetheless, HOTREC member associations will undertake to bring the classification systems closer together, using a bottom-up approach, in full respect of the principle of subsidiarity. The overall objective will be similar results and not identical criteria.*

The full text of this new HOTREC position on hotel classification is available on the HOTREC website www.hotrec.org

VAT

- *Some action to be expected soon in relation to VAT rates?*

Since December 2004, reduced VAT rates have not been on the agenda of the meetings of the Council of Ministers for Economic and Monetary Affairs (ECOFIN). No progress has been reported on the discussions on the 2003 July proposal for a global review of the VAT rates (COM (2003) 397 final).

However, the transitional special scheme on reduced rates for labour-intensive services expires at the end of the year. This deadline is likely to bring back the issue of reduced VAT rates in general on the table of ECOFIN in the coming months. Furthermore, the UK Presidency has announced that simplification of the VAT rules would be its priority as far as taxation is concerned. This could also contribute to bringing back the July proposal on the table of ECOFIN.

In the meantime, the Commission is working on the review of the determination of place of taxation for the supply of services. So far, the current rule provided for the taxation at the service provider's place of establishment. But an alternative could be the place where the consumer is established. However, a number of exceptions are foreseen: as far as hotel services are concerned, the place of supply would remain the place where the immovable property (the hotel) is located and, as far as restaurant services are concerned, the place of supply would be the place where *"the services are physically carried out"*.

HOTREC continues to watch very carefully all developments in relation to VAT and in particular to VAT rates. HOTREC advocates the application of the lowest possible rates to both hotel and restaurant services in all EU countries.

SOCIAL AFFAIRS

- *Working time Directive*

The Commission proposal for a revised working time Directive (COM (2004) 607), issued on 22 September 2004, has been subject to negotiations in the Council which have so far failed to overcome the differences between Member States (See *Live from Brussels* nos. 31 and 32). In the meanwhile, the European Parliament has been working on its opinion on the Commission proposal. The Committee on Employment and Social Affairs is due to vote on amendments to the proposal on 20 April. The *rapporteur*, Spanish socialist Alejandro Cercas, has submitted a number of compromise amendments, which he expects to rally a

majority in the Committee. The main amendments Mr. Cercas would like the Committee and, subsequently, the European Parliament, to vote are the following:

- Definition of working time: contrary to the Commission proposal, the entire period of on-call time, including the inactive part, should be regarded as working time. Mr. Cercas accepts, however, that law or collective agreement may provide for inactive on-call periods to be counted in a specific manner with regard to the Directive's 48-hour ceiling on average weekly working time
- Reference period for weekly working time: Mr. Cercas agrees with the Commission proposal to give Member States the right to extend the reference period up to 12 months if they so wish. However, should a Member State extend the reference period beyond 4 months, it needs to ensure that employers respect a number of conditions:
 - Workers or their representatives should be informed and consulted;
 - The employer makes a written assessment establishing potential risks to the health and safety of workers and describing, where appropriate, how these will be prevented;
 - The employer informs the workers “*well in advance*” of any change in work periods;
 - The employer keeps a written record of the working time pattern of each worker and enables workers to undergo free annual medical check-ups;
 - Pregnant women and parents of children under the age of one can be exempted, if they so request.
- Opt-out: Whereas the Commission proposed to maintain the opt-out from the 48-hour limit on the basis of a collective agreement (with an individual opt-out only possible in the absence of collective agreement and a workers' representation capable of concluding one), Mr. Cercas suggests to abolish the opt-out altogether as of 1 January 2010.
- Reconciliation of work and family life: The Commission did not propose a specific article on this subject. Mr. Cercas, however, would like workers to have the right to request changes to their hours and patterns of work, which the employers should be obliged to consider fairly and refuse only if the organisational disadvantages are disproportionate to the benefit to the worker.

The Committee amendments, once adopted, will be submitted to the European Parliament plenary for a vote, which is likely to take place in early May. As the Directive on working time is subject to co-decision, the European Parliament must reach agreement with the Council before the legislation can pass.

HOTREC does not agree with Mr. Cercas' amendments, in particular as regards the list of conditions for extending the reference period beyond 4 months, the deletion of the opt-out clause, and the suggestions relating to the reconciliation of work and family life. For each of these issues, Mr. Cercas' amendments imply reduced flexibility and additional burdens for enterprises. HOTREC has sent a letter along these terms to the Members of the European Parliament Committee on Employment and Social Affairs. – The letter is available on www.hotrec.org

□ ***A new social policy agenda 2005-2010***

On 9 February 2005, the Commission published a new social policy agenda (COM(2005)33) which sets out the initiatives the EU executive is planning in the social field for 2005-2010. The social agenda includes:

- a second phase of consultation of the social partners on the issue of corporate restructuring and on Directive 1994/45 on European Works Councils (see article below);
- a Green paper analysing labour law in the context of new work patterns, “*which could lead to proposals for a whole range of measures to modernise and simplify the current rules*”;
- an initiative concerning the protection of the personal data of workers;
- updating of Directives 2001/23 (transfers of undertakings) and 1998/59 (collective redundancies);
- a new strategy for health and safety at work 2007-2012 focusing on new and emerging risks;
- initiatives to promote the development and transparency of corporate social responsibility;
- a legislative proposal to remove obstacles to labour mobility arising from occupational pension schemes;
- an optional framework for transnational collective bargaining at either enterprise level or sectoral level;
- an European initiative for youth, including the incorporation of the youth dimension into the employment and social inclusion strategies (see below); and
- an assessment of the impact of EU enlargement on labour mobility.

The reception of the social agenda has been mixed. While it has not met with approval from business, with UNICE pointing to the risk of undermining growth and job creation, the trade unions represented by ETUC welcomed that the Commission has placed, among other measures, the European Work Councils Directive on the agenda. ETUC stressed, however, that the social agenda must not remain merely a statement of good intent.

Although the content of most of the measures set out in the social agenda is still unknown, at least it is clear in which areas the Commission intends to take action. It remains to be seen what the Commission will propose for each individual item - only then can the impact on business be assessed. In general, HOTREC would stress the need for flexibility in the labour market and not to overburden business, especially SMEs, with cumbersome rules.

□ ***Second-stage consultation on corporate restructuring and European works councils***

The Commission launched, on 5 April 2005, the second-stage consultation with the social partners on corporate restructuring and European works councils, respectively. These two issues, which previously were subject to separate consultation procedures, have been merged into one consultation due to their close links.

Restructuring is, according to the Commission, essential to the survival and development of enterprises. It is driven by international competition, technological innovation, the development of legislative rules, and by changes in consumer demand. While restructuring, in this sense, is both welcome and inevitable, it tends to hit the most vulnerable population groups, especially low-skilled workers, particularly hard. There is therefore a need for measures anticipating and accompanying restructuring.

The Commission outlines a number of instruments it will propose in this area, including:

- reform of the European Social Fund and other EU financial instruments;
- creation of a “growth adjustment fund” with a budget of €1 billion per year, permitting the EU to intervene in a crisis; and
- creation of a “restructuring forum”

The second-stage consultation consists of calling on the social partners to become more involved in the ways and means of anticipating and managing restructuring. The Commission encourages them, *inter alia*, to start negotiations with a view to implementing already existing guidelines on restructuring as well as promoting best practice in the way that European works councils operate.

The Commission will look at the progress the social partners make in these fields between now and the March 2006 Tripartite social summit.

HOTREC considered in its reply to the first-stage consultation on European work councils that a revision of the Directive was not necessary. It is thus satisfying that the Commission, in spite of launching a second consultation, does not seem to have the intention of proposing a revised Directive.

□ ***European Youth Pact***

The European Council of 22-23 March 2005 adopted a European Youth Pact which aims to improve employment, education, training, mobility, and social inclusion of young Europeans. Under the Youth Pact, the EU and the Member States have undertaken to implement a number of measures, including:

- increase employment of young people;
- invite employers and businesses to display social responsibility in the area of vocational integration of young people;
- encourage young people to develop entrepreneurship;
- tackle the problem of drop-outs from the school system;
- encourage mobility of young people by removing obstacles for trainees; and
- develop closer cooperation on transparency and comparability of occupational qualifications.

Progress in these areas will be regularly reviewed under the Lisbon Strategy.

As the European hotel and restaurant sector is a major employer of young people (almost half its workforce is aged below 35 years), the Commission asked EFFAT and HOTREC to send a contribution to the European Council. EFFAT and HOTREC welcomed the establishment of a European Youth Pact and outlined a number of actions within their social dialogue which could benefit young people. The EFFAT-HOTREC contribution is available at www.hotrec.org

HEALTH

□ Antismoking campaign launched in March 2005

As referred to in *Live from Brussels N° 32*, on 1 March 2005, the European Commission launched a new 72 million Euro anti-smoking publicity campaign under the title “*HELP-For a life without tobacco*”, which should run until 2008. The “*HELP*” campaign consists of a road-show and public relations campaign, an advertising campaign and a web site with advice on how to quit. (See website: www.help-eu.com.)

In his introductory speech, Commissioner for Health and Consumer Protection, Markos Kyprianou encouraged all Member States to follow the lead of Ireland, Italy and Malta and ban smoking in public places.

HOTREC will continue to follow closely the developments at European level, which for the time being are not likely to result in the elaboration of legislative measures of a binding character – at least not under the heading of public health given the limited competences of the Commission in this field.

□ EP Resolution on the Commission Health Action Plan 2004-2010

On 9 June 2004, the Commission launched an Action Plan on Environment and Health for the period of 2004-2010. The paper identifies 13 actions. Of particular interest to the hospitality sector is action no. 12 focussing on the improvement of indoor air quality.

The Action Plan was examined by the European Parliament in February 2005. MEP Toine Manders, Alliance of European Liberals and Democrats (ALDE), managed to introduce into the paragraph of the resolution referring to indoor air quality and the issue of environmental tobacco smoke, an alternative to the total ban of smoking in enclosed spaces, which was worded as follows: “[the Commission shall act to put an end to smoking in enclosed spaces] *or allow for designated physically separate smoking areas which are properly ventilated*”

While acknowledging the importance of tackling health problems and their link to environmental factors, HOTREC welcomes the initiative undertaken by MEP Toine Manders and the successful introduction of the amendment to the original text as it adds more flexibility for the enterprises of the hospitality sector.

□ *Commission Health and Consumer Protection Strategy*

On 6 April 2005, the Commission presented in a Communication entitled “*Healthier, safer, more confident citizens: a Health and Consumer protection strategy*” the Community action programme for health and consumer protection for the period 2007-2013 (COM(2005) 115 final).

The action programme for the first time brings together the two fields of activity of public health and consumer protection – until now dealt with separately. This “*combined approach*” takes account of the fact that public health and consumer protection are closely linked in so far as lifestyle choices always influence public health.

Among the measures announced is the creation of the so-called “*European Consumer Institute*” – a single executive agency divided into a “*Health Department*” and a “*Consumer Institute*”. Its task shall be to assist the Commission in implementing the joint Health and Consumer programme.

The programme proposes a public health and consumer protection budget of €1.203 billion representing a substantial increase vis-à-vis the current expenditure. It still needs to be adopted by the European Parliament and the Council of Ministers.

HOTREC is concerned with the increase in resources made available for the health and consumer protection strategy.

One specific point of concern for HOTREC is the reference to the “drafting of CEN standardisation mandates for products and services” as one of the actions envisaged to achieve better consumer protection regulation. HOTREC insists on the use of the “self-regulatory initiatives” mentioned in this context rather than favouring “legislative and other regulatory initiatives”. HOTREC will monitor future developments carefully.

TOURISM

□ *European Tourism Forum 2005 – programme update*

The 2005 European Tourism Forum (ETF) will take place in Malta on Thursday 20 and Friday 21 October 2005. Two meetings of the Steering Group for the preparation of the event have taken place so far (one in February and one in April).

The 2005 Forum will consist of several plenary sessions as well as three workshops on the following issues:

- Competitiveness
- Better Regulation
- Sustainable Development

HOTREC welcomes the fact that another Forum bringing together the entire tourism sector is organised, enabling an exchange of views between the various stakeholders and the representatives of the European institutions. HOTREC is participating in the preparatory work and has proposed speakers to intervene in the workshop sessions.

□ ***First public meeting of EP Intergroup Tourism & Queiró draft report***

After its official launch in January 2005 (see *Live from Brussels*, No. 32), the newly established Intergroup for Tourism in the European Parliament held its first public meeting on 13 April 2005 in Strasbourg. Participants included MEPs from the different party groups represented in the European Parliament as well as representatives of the DG Enterprise Tourism Unit and representatives of the industry.

The main topic on the agenda was the draft report by MEP Queiró on “*new prospects and new challenges for a sustainable European tourism*” (2004/2229)(INI).

The next meeting of the Intergroup with the industry is scheduled for 8 June 2005.

HOTREC welcomes the draft report by Mr. Queiró, which accurately acknowledges the importance of the tourism industry and the fact that tourism is affected by many policies which come under the Community’s remit. HOTREC appreciates in particular

- *the call for specific references to tourism in the new structural policy instruments;*
- *the call for better coordination within the Commission in relation to developments affecting tourism (a demand we have been expressing regularly over the last 10 years);*
- *and the call on the Commission to propose, after consultation of the sector’s representative bodies, the implementation of a multi-annual action plan to strengthen the consistency of Union action on tourism.*

HOTREC hopes that the Intergroup meetings will allow for a successful exchange of views and productive co-operation among the representatives of the European Institutions – especially of the European Parliament - and the tourism sector.

EU GENERAL

□ ***A new challenge for Europe: the EU Constitution***

The EU Constitution, which was signed by the Heads of State or Government of the 25 Member States and the 3 candidate countries in Rome on 29 October 2004, has so far been ratified by Lithuania, Hungary, Italy, Slovenia, and Spain. If all Member States ratify the Constitution, it could enter into force on 1 November 2006.

Depending on the countries' legal and historical traditions, the procedures laid down by the national constitutions for this purpose are not identical: they comprise either or both of the following two types of mechanism:

- the "parliamentary" method: the text is adopted following a vote on a text ratifying an international Treaty by the State's parliamentary Chamber(s); (e.g. Italy, Germany)
- the "referendum" method: a referendum is held, submitting the text of the Treaty directly to citizens, who vote for or against it. (e.g. Spain, France)

There may be variants or combinations of these two methods, depending on the country, or other requirements, e.g. when the ratification of the Treaty entails a prior adjustment of the national Constitution because of the content of the text.

The Constitution introduces a number of changes in the institutional framework of the EU, among which:

- There will be a President of the European Council, appointed for a period of two and a half years;
- The Presidency of the Council of Ministers, which today rotates every six months between the Member States, will become a “team presidency” of three countries during “eighteen months”. Each member of the group shall in turn chair for a six-month period all configurations of the Council, but members of the group may decide alternative arrangements among themselves (please note, however, that the rotation system could be changed by a qualified majority vote in the Council in the future);
- The issues subject to qualified majority voting in the Council will be extended (Unfortunately, taxation remains, however, under the unanimity rule)
- National parliaments will keep watch over the application of the subsidiarity principle;
- The present legislative acts of the EU – Regulations and Directives – will be renamed “Laws” and “Framework laws”, respectively.

Of special interest to the hospitality industry is the inclusion of an article on tourism (Article III-281), according to which “*The Union shall complement the action of the Member States in the tourism sector, in particular by promoting the competitiveness of Union undertakings in that sector*”. The EU shall also encourage “*the creation of a favourable environment for the development of undertakings*” in the tourism sector. While excluding the harmonisation of national laws and regulations, the article provides for European laws or framework laws to establish “*specific measures to complement actions within the Member States to achieve the objectives referred to in this Article...*”

HOTREC is pleased with the introduction of an article on tourism, which reflects the increasing importance of this industry in the eyes of policy-makers. It is also satisfied with the pro-business formulation of the article which should serve as a safeguard against any attempts at increasing the regulatory burden on tourism enterprises. However, great care will be needed to ensure that the European laws or framework laws adopted on the basis of the tourism article do respond to the real needs of enterprises.

□ **Commission Work Plan 2005**

On 26 January 2005, the Commission published its work programme for 2005 (COM(2005) 15 final) including a list of new proposals and strategic priorities that the Commission will put forward during the current year.

Of particular interest to our sector will be:

- a framework programme for competitiveness and innovation, including the improvement of the business environment and the aspect of SME access to investment capital;

- a proposal for a Directive on payment services in the Internal Market;
- a proposal for a Directive concerning the collective management of collecting societies and neighbouring rights in the Internal market;
- a Communication on youth policy;
- a Communication on corporate restructuring and employment (see article above under Social Affairs);
- a proposal for a Directive concerning infringements of an intellectual property right and its treatment as a criminal offence;
- a Communication on a new programme on health and consumer policy and proposal of a Decision (see article above under Health);
- a Communication concerning a European Programme on nutrition and health (Green Paper)

It is important to stress that these are the new proposals to be initiated in 2005.

In addition, the legislative work in relation to proposals already issued and for which the legislative process is not finalised yet, will be pursued (for example, concerning the proposed Council Directive as regards reduced VAT rates, the proposal for a Directive on working conditions for temporary workers, the proposal for a Directive on the organisation of working time and the proposal for a Directive on services in the internal market).

HOTREC will continue to watch carefully all legislative activities at European level of interest to the sector.

□ ***“Your Europe” Internet portal***

Under the name of “Your Europe” a new portal has been created on the EU website. It is an on-line public information service divided into two parts - for citizens on the one hand and businesses on the other. Citizens are offered detailed practical information on their rights and opportunities in the EU and its Internal Market including advice on how to exercise these rights in practice.

The business part provides general EU-wide information as well as information at national level in a variety of thematic areas and languages aimed at European based enterprises and entrepreneurs that need to interact with administrations in another country and on the rights and opportunities in running a business in the EU and its Internal Market.

In addition, the "Your Europe - Business" provides a number of useful links to the most useful sites providing services for business activities, such as the Euro Info Centres (EICs) - 300 contact points in Europe, which inform, advice and assist SMEs in all Europe-related matters, also helping SMEs access EU Programmes.

HOTREC welcomes the launch of this new portal and especially its part for businesses. By taking a very practical approach it should support enterprises and especially SMEs, which are interested in cross-border business.

HOTREC INTERNAL

□ *General Assemblies in London (April 2005) and Vienna (October 2005)*

HOTREC will hold its 51st General Assembly in London on 21-23 April 2005 coupled with a seminar on the issue of “*The image of the sector as an employer*”. The autumn General Assembly will take place in Vienna from 13-15 October 2005 and will be accompanied by a seminar on the issue of standards (on this see article above on standards).

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