



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2001)1530 final

Brussels, 11 July 2001

MINUTES
of the 1530th meeting of the Commission
held in Strasbourg
on Tuesday 3 July 2001
(afternoon)

These minutes were approved by the Commission at its 1531st meeting, held in Brussels on 11th July 2001.

They contain 24 pages.

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TRANSPORT AND TELECOMMUNICATIONS (LUXEMBOURG, 27 AND 28 JUNE)

(SEC(2001)1126; SI(2001)750 and /2)..... 24

Single sitting: Tuesday 3 July (afternoon)

The sitting opened at 1330 hours with Mr Prodi, President, in the chair.

Present:

Mr PRODI	President
Mr KINNOCK	Vice-President
Ms de PALACIO	Vice-President
Mr MONTI	
Mr FISCHLER	
Mr LIIKANEN	
Mr BOLKESTEIN	
Mr BUSQUIN	
Mr SOLBES	
Mr NIELSON	
Mr VERHEUGEN	
Mr PATTEN	
Mr LAMY	
Mr BYRNE	
Mr BARNIER	
Ms REDING	
Ms SCHREYER	
Ms WALLSTRÖM	
Mr VITORINO	
Ms DIAMANTOPOULOU	

The following also sat in

Mr PETITE	Director-General, Legal Service	
Mr MANSERVISI	Chef de cabinet to the President	
Mr GUSSETTI	A member of the President's staff	Item 13
Mr FAULL	Commission Spokesman	
Ms TORRES	Spokesman	Items 9, 10 and 12
Mr FIELDING	Spokesman	Item 13
Mr VERON	Spokesman	
Mr SCHINAS	Deputy Chef de cabinet to Ms de Palacio	Items 13 and 15
Mr CARDANI	Deputy Chef de cabinet to Mr Monti	Items 9, 10 and 12
Mr STAHL	Deputy Chef de Cabinet to Mr Solbes	Item 13
Ms BARDENHEWER	A member of Mr Byrne's staff	
Mr FONSECA	Deputy Chef de Cabinet to Mr Vitorino	
Mr GLYNOS	Chef de cabinet to Ms Diamantopoulou	Item 13

Secretary: Mr O'SULLIVAN, Secretary-General, assisted by Mr BISARRE, Director in the Secretariat-General.

1. AGENDAS

(OJ(2001)1530/2; SEC(2001)1018/2)

The Commission took note of the agenda for that day's meeting and of the tentative agendas for forthcoming meetings.

2. WEEKLY MEETING OF CHEFS DE CABINET

(SEC(2001)1530)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Friday 29 June.

3. APPROVAL OF MINUTES AND SPECIAL MINUTES OF 1529th MEETING

(27 June)

(PV(2001)1529 and /2; PV(2001)1529, Part II)

The Commission approved the minutes of its 1529th meeting.

4. PARLIAMENT

PARLIAMENTARY AFFAIRS GROUP

(SP(2001)2256)

The Commission took note of the record of the meeting of the Parliamentary Affairs Group held on Thursday 28 June.

It paid particular attention to the following:

a) Preparations for July part-session

(point 2 of the record)

The Commission, in accordance with the rules in force, authorised the Commission Members responsible, in agreement with the PRESIDENT, Ms de PALACIO and any other Members associated, to take a position on Parliament's amendments to its proposals.

It paid particular attention to the following:

2nd reading

- BONINO report, Anti-personnel landmines,
COM(2000)111 - 2000/0062/A (COD)

Noting that no amendment to the Council common position had been tabled, the Commission adopted the line set out in SP(2001)2220.

Empowerment

The Commission, acting under Article 13 of its Rules of Procedure, empowered Mr PATTEN, in agreement with the PRESIDENT, the Member responsible for relations with Parliament and any other Members associated, to adopt and transmit to the Council, in accordance with Article 251(2)(c) of the Treaty, once Parliament had given its view, its opinion on the amendments, together with any amended proposals, on the basis of the line set out in SP(2001)2220 for the following:

- BONINO report, Anti-personnel landmines,
COM(2000)111 - 2000/0062 (COD)

Information sheets

- HAUG report, Situation concerning the European Union's own resources in 2001

The Commission took note of the information in SP(2001)2216.

- COSTA NEVES report, 2001 budget: conciliation procedure

The Commission took note of the information in SP(2001)2217.

b) Action taken on Parliament's opinions and resolutions

(point 5 of the record)

- The Commission adopted the replies to own-initiative resolutions adopted by Parliament to which the Commission had undertaken to reply (SP(2001)2189), for transmission to Parliament.
- The Commission adopted SP(2001)2087 on the action taken on Parliament's opinions and resolutions at the May I, II and III part-sessions, subject to the addition of the action taken on the BREYER report (p. 8-9) as distributed in the Parliamentary Affairs Group meeting, for transmission to Parliament.

5. MONITORING THE APPLICATION OF COMMUNITY LAW: STATE AID AND INFRINGEMENTS

(SEC(2001)1106 and /2)

The Commission adopted the decisions in SEC(2001)1106/2, subject to the following amendment concerning the 15 following matters:

NN 39/2000

FRANCE

Headquarters and logistic centres

(SEC(2001)1058 to /4)

NN 41/2000

FRANCE

Centrales de tresorerie
(SEC(2001)1063 to /3)

NN 42/2000

GERMANY

Control and coordination centres of foreign companies
(SEC(2001)1059 to /5)

NN 43/2000

SPAIN

Bizkaia coordination centres
(SEC(2001)1033 to /5)

NN 46/2000

LUXEMBOURG

Coordination centres
(SEC(2001)1060 to /4)

NN 47/2000

LUXEMBOURG

Finance companies
(SEC(2001)1064 to /3)

NN 48/2000

NETHERLANDS

International financing activities
(SEC(2001)1027 to /4)

NN 51/2000

UNITED KINGDOM

Gibraltar qualifying offshore companies
(SEC(2001)1042 to /4)

NN 52/2000

UNITED KINGDOM

Gibraltar exempt offshore companies
(SEC(2001)1043 to /4)

NN 55/2000

IRELAND

Foreign income

(SEC(2001)1061 to /3)

NN 98/2000

FINLAND

Åland Islands Captive Insurance

(SEC(2001)1028 to /6)

E 1/2000

BELGIUM

Tax scheme for coordination centres

(SEC(2001)1035 to /5)

E 3/2000

SWEDEN

Foreign insurance companies taxation regime

(SEC(2001)1036 to /4)

E 4/2000

GREECE

Taxation of foreign commercial and industrial firms covered by Act No 89/67

(SEC(2001)1037 to /4)

E 5/2000

ITALY

Trieste Financial service and insurance centre

(SEC(2001)1038 to /5)

Decision: Held over for one week.

6. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

6.1. WRITTEN PROCEDURES APPROVED

(SEC(2001)1019 to /5; SEC(2001)1078; SEC(2001)1114)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted by written procedure between 25 and 29 June.

6.2. SENSITIVE WRITTEN PROCEDURES

(SEC(2001)1079)

The Commission took note of the following written procedure initiated between 25 and 29 June for the adoption of decisions with political implications:

Time limit: 5.07.2001

E/2001/1252 - COM(2001)374 DG ECFIN

Commission report to the budgetary authority on guarantees covered by the general budget - situation at 31 December 2000

6.3. EMPOWERMENT

(SEC(2001)1081 to /5; SEC(2001)1082 to /3)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the empowerment procedure between 25 and 29 June.

6.4. DELEGATION OF POWERS

(SEC(2001)1092)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation procedure between 25 and 29 June.

7. ADMINISTRATIVE AND BUDGETARY MATTERS

(SEC(2001)1084/2)

ADMINISTRATIVE MATTERS

(PERS(2001)199/2)

7.1. APPOINTMENTS

DG EMPL.C - A2 post of Director

The Commission had before it applications under Article 29(1)(a) of the Staff Regulations for the A2 post of Director in the Employment and Social Affairs DG from Maria BARREIROS, Philippe HATT, Werner HERRMANN, Antonis KASTRISSIANAKIS, Sven KJELLSTROM, Michel LAINE and Robert SHOTTON and under Article 29(1)(c) of the Staff Regulations from Robert HULL, A2 official in the Committee of the Regions (PERS(2001)105, /2, /4 and /5).

The Commission took note of the opinions of the Consultative Committee on Appointments of 17 May and 16 June (PERS(2001)105/3, /6 and /7).

The Commission proceeded to compare the applicants' qualifications for the post. It also examined the reports on their ability, efficiency and conduct in the service. On a proposal from Mr KINNOCK, it then decided to appoint Mr Sven KJELLSTROM to the post.

This decision would take effect from a date to be fixed later.

7.2. VACANCY NOTICES

DG ENV - A1 post of Director-General

The Commission approved the vacancy notice in PERS(2001)200/3 and instructed the Personnel and Administration DG to publish it.

7.3. APPLICATION OF ARTICLE 50 OF THE STAFF REGULATIONS

DG INFSO

The Commission continued its discussions on this matter, begun on 23 May (PV(2001)1524).

The Commission, on a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Mr LIIKANEN, adopted the decision in PERS(2001)203 to apply the second stage of the procedure laid down in Article 50 of the Staff Regulations with respect to Mr Nicholas ARGYRIS, A2 official and Director in the Information Society DG.

This decision would take effect from 1 November.

DG ENV

The Commission continued its discussions on this matter, begun on 20 June (PV(2001)1528).

The Commission, on a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Ms WALLSTRÖM, adopted the decision in PERS(2001)204 to apply the second stage of the procedure laid down in Article 50 of the Staff Regulations in respect of Mr James CURRIE, A1 official and Director-General for the Environment.

This decision would take effect on 16 October.

7.4. RETIREMENT OF A2 OFFICIALS

On a proposal from Mr KINNOCK, in agreement with the PRESIDENT, the Commission accepted the requests to be retired submitted by Mr Giuseppe CIAVARINI AZZI and Mr Jean-Claude EECKHOUT, A2 officials, Directors in the Secretariat-General, and in accordance with

Article 52 of the Staff Regulations it set the date from which this decision would take effect at 1 October 2001.

It paid tribute to their competence and great professional qualities during their many years of service to the Commission.

**8. REORGANISATION OF FINANCIAL CONTROL AND INTERNAL AUDIT
IN THE COMMISSION - ESTABLISHMENT OF TWO INDEPENDENT
SERVICES**

(SEC(2001)1077 and /2)

The Commission approved the communication in SEC(2001)1077/2 on:

- the splitting of the present Financial Control DG into two separate Directorates-General, one responsible for financial control, particularly ex-ante control, and the other for the Commission's internal audit, and the transfer of staff between these two entities as set out in Annex I (revised) to the communication;
- the adoption of the organisation chart for the two Directorates-General thus created, and the assignment of the senior staff, as set out in Annexes II and III to the communication respectively.

**9. APPLICATION OF ARTICLE 82 OF THE EC TREATY
(C(2001)1695 to /5; SEC(2001)1017)**

CASE COMP/38-044 - IMS HEALTH / NDG HEALTH

The Commission:

- took note of the final report of the Hearing Officer in C(2001)1695;

- took note of the opinion of the Advisory Committee on Restrictive Practices and Dominant Positions of 19 June in C(2001)1695;
- adopted, in the authentic language (English), the decision on temporary measures in C(2001)1695/5;
- authorised Mr MONTI to implement Articles 2 and 3 of the decision, particularly by the appointment of one or more experts responsible for fixing the amount to be paid for the licence and by taking a decision approving this amount.

The decision would be published in the Official Journal (with all business secrets deleted) in the eleven official Community languages.

**10. APPLICATION OF COUNCIL REGULATION (EC) No 4064/89 ON THE
CONTROL OF CONCENTRATIONS BETWEEN UNDERTAKINGS
(C(2001)1723 to /5)
CASE COMP/JV 55 - HUTCHINSON/RCPM/ECT**

The Commission:

- took note of the final report of the Hearing Officer in C(2001)1723/2;
- took note of the opinion of the Advisory Committee on Concentrations delivered at its 96th meeting on 19 June, as set out in C(2001)1723;
- approved, in the authentic language (English), the decision in C(2001)1723/4 and /5, declaring the planned merger to be compatible with the common market and the EEA Agreement, subject to fulfilment of the undertakings proposed by the parties and set out in the decision;
- empowered Mr MONTI to take the necessary steps for implementation of the undertakings by the parties in accordance with Article 1 of the decision.

The decision would be published in the Official Journal (with all business secrets deleted) in the eleven official Community languages.

11. PARLIAMENT (continued from item 4)

LEHNE report - Company law concerning takeover bids

Mr BOLKESTEIN reported on progress in Parliament on the proposal for a Parliament and Council Directive on company law concerning takeover bids.

He noted that, after 10 years of negotiations which had secured the support of 14 Member States for this proposal, the outcome of Parliament's vote at its plenary session on 4 July, on the draft agreement reached at the conciliation meeting in June, seemed uncertain.

It was important that the Commission do everything possible to secure a favourable majority for this proposal.

**12. APPLICATION OF COUNCIL REGULATION (EC) No 4064/89 ON THE
CONTROL OF CONCENTRATIONS BETWEEN UNDERTAKINGS
CASE COMP/M.220 GENERAL ELECTRIC/HONEYWELL
(C(2001)1746 to /8; SEC(2001)1111)**

Mr MONTI tabled a draft decision to prohibit the merger operation by which the American firm General Electric (GE) proposed to take control of the American firm Honeywell International Inc. (Honeywell).

The markets that would have been affected by this merger operation were those in aerospace industry products (aircraft engines and avionics and non-avionics products) and energy generation systems (small marine gas turbines).

He reminded the meeting of the various stages of the procedure followed in this particular case, as well as the attempts made to find agreement on remedies that would have eliminated the competition problems identified. These attempts had failed, mainly because the commitments proposed by the parties had not been sufficient to eliminate these competition problems.

He concluded that, on the basis of the results of the market survey and the analysis of the parties' replies to the communication of objections on the one hand, and of the hearing on the other hand, the operation notified would have had the effect of creating or strengthening dominant positions on several of the markets in question and that therefore effective competition in the common market would be hindered.

The Advisory Committee on Concentrations, at its meeting of 25 June, had supported the Commission proposal to prohibit the operation.

Mr MONTI referred to criticisms made of the Commission's handling of this case, and regretted that attempts had been made to politicise it.

In the light of this information, the Commission:

- took note of the final report of the Hearing Officer in C(2001)1746/6;
- took note of the opinion of the Advisory Committee on Concentrations of 25 June as set out in C(2001)1746/3;
- adopted, in the authentic language (English), the decision in C(2001)1746/8, declaring the notified merger incompatible with the common market and the operation of the EEA Agreement.

This decision would be published in the Official Journal (with all business secrets deleted) in the eleven official Community languages.

The Commission paid particular tribute to the professionalism of the Competition DG, the Legal Service and the other departments involved in dealing with this case.

**13. SUPPORTING NATIONAL STRATEGIES FOR SAFE AND SUSTAINABLE
PENSIONS THROUGH AN INTEGRATED APPROACH
(COM(2001)362 to /5; SEC(2001)1102)**

Ms DIAMANTOPOULOU tabled a communication on supporting national strategies for safe and sustainable pensions.

The ageing of the population, together with growth and stability in the Union, obliged the governments of the Member States to contemplate the modernisation of their pension systems.

The European Council had addressed the issue on several occasions and, at its meeting in Gothenburg, had highlighted the need for an integrated approach in this matter, adopting the three broad principles aimed at securing the long-term sustainability of pensions systems:

- to safeguard the ability of pension systems to meet their social aims (a safe and adequate income for retired persons, and decent living conditions for elderly persons);
- to ensure the financial sustainability of pension systems;
- to enhance the capacity of pension systems to meet the constantly changing needs of society and individuals.

To initiate this reform process Ms DIAMANTOPOULOU proposed an integrated approach at European level consisting of combining the existing political processes with an open coordination method, without altering the present division of responsibilities between national and European decision-making bodies.

Implementation of this open coordination method would entail:

- setting common objectives;
- translating these objectives into national policy strategies;
- the periodic assessment of progress made and results obtained on the basis, among other things, of indicators agreed in common beforehand.

The Commission held a wide-ranging exchange of views on the advantages and disadvantages of the open coordination method and on the use to which it should be put depending on subject areas and circumstances.

The Commission adopted two amendments to COM(2001)362/5 (English version):

- on page 2, second paragraph, the following text was added to the third sentence:
"Although the ageing of the population is the result of positive evolutions in the patterns of health care systems and thus constitutes in itself a positive development, the rise in the number of older..." (rest unchanged);
- the last sentence of the same paragraph was amended to read as follows: ***"...level of immigration. Immigration can, however, make a significant..."*** (rest unchanged);
- footnote 5 on page 6 was amended to read as follows: ***"In this context, the importance of tax policies should be noted. In its communication of 11 October 2000 on safe and sustainable Pensions (COM(2001)622 final) the Commission pointed out that 'on the revenue side, a continued ability of governments to collect taxes and contributions is crucial. This may be affected by tax evasion, by cross-border differentials or by a higher mobility of tax bases and hence the possibility for economic activities to move to countries where the best balance between taxes/contributions and public departments can be found'. See also the Commission communication ..."*** (rest unchanged).

Following this discussion, and subject to the inclusion of the above amendments, the Commission approved the communication in COM(2001)362/5 for transmission to Parliament, the Council and the Economic and Social Committee.

It asked the Legal Service to prepare an analytical note on the conditions for use of the open coordination method with a view to a policy debate to be held soon in the Commission.

14. SAPARD ANNUAL REPORT - 2000 (COM(2001)341 to /4)

Mr FISCHLER presented the first report on implementation of the SAPARD programme (Special Accession Programme for Agriculture and Rural Development) for 2000.

This programme, endowed with over €0.5 billion per year for 2000-06, was designed to assist structural improvements in the agriculture and rural environment of 10 Central and East European applicant countries.

Implementation of the programme was fully decentralised, and called for:

- Commission approval of programmes for each recipient country;
- negotiation with those countries of legal texts defining all the arrangements for implementation (from eligible costs to anti-fraud clauses and arbitration procedures);
- the establishment of management systems capable of producing this outcome, and in particular the creation of executive agencies whose national accreditation must be approved by the Commission.

The third stage had proved the most difficult: while it had been possible to confer on two countries (Bulgaria and Estonia) the management of several measures contained in their programme, it would probably be difficult to achieve this result before 2002 for at least three countries.

Mr FISCHLER drew the Commission's attention to the effects of these delays on the use of the budgetary appropriations, since the appropriations for year *n* had to be used before the end of year *n+2*, while an additional year of validity would be necessary.

He would shortly be asking the Commission for powers, to be exercised in agreement with the PRESIDENT, to approve the national accreditation of the executive agencies.

The Commission took note of the information supplied by Mr FISCHLER and adopted the report in COM(2001)341/4 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

15. COMMUNICATION ON THE DEVELOPMENT OF THE EXTERNAL SERVICE

(COM(2001)381 to /5)

Mr PATTEN tabled a communication on the Commission's External Service, recalling the role of the Commission's delegations in non-member countries, giving an update on implementation of the programme for devolving activities from headquarters to the delegations, and proposing a plan for opening new delegations in certain countries, balanced, in the interests of budgetary neutrality, by redeployments and by the closure of or staff reductions in other delegations.

Presentation of this report constituted a response to the conditions laid down by Parliament for the release of part of the operating appropriations of the delegations, which had been entered in the reserve chapter in the 2001 budget.

The continuation of the devolution effort in 2003 and 2004 would necessitate the redeployment of a substantial number of statutory posts to the delegations if the implementation of regional and horizontal programmes were to be decentralised and an acceptable balance maintained between statutory and non-statutory staff in the delegations.

The Commission discussed:

- the cost of the annual redeployment operations and their impact on the utilisation of appropriations in heading 5 of the financial perspective;
- the priorities for openings and closures, staff reductions in certain delegations and increases in others, in the various parts of the world;
- the need for the Commission to improve its methods for evaluating the work of the delegations.

Following this discussion, the Commission:

- approved the communication in COM(2001)381/5 for transmission to Parliament and the Council;
- took note of the confirmation by Mr PATTEN of the list in COM(2001)381 of the delegations to be opened, the delegations whose staff would be reduced, and the offices which would be closed, as well as the posts to be redeployed to delegations that would assume increased regional responsibilities; it confirmed in particular that four posts would be allocated to the delegations in Guyana, Mauritius, Cameroon and Gabon;
- agreed on the need to continue the effort to devolve activities to the delegations in the context of the reform of external assistance;

- asked the Commission Members of the RELEX group, with Mr KINNOCK and Ms SCHREYER, to clarify the devolution plan for the later years (2003 and 2004), to consider the other questions connected with the long-term development of the External Service and to report back to it before 1 November.

16. COUNCIL MEETINGS

(SI(2001)789)

TRANSPORT AND TELECOMMUNICATIONS

(LUXEMBOURG, 27 AND 28 JUNE)

(SEC(2001)1126; SI(2001)750 and /2)

Ms de PALACIO and Mr LIIKANEN reported on the Council meeting.

A detailed record of the discussions was set out in the information note from Mr LIIKANEN (SEC(2001)1126), as well as in SI(2001)750 for the telecommunications aspects and in SI(2001)750/2 for the transport aspects.

The Commission's discussions on certain agenda items are recorded in the special minutes.

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The meeting closed at 1640 hours.