



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2002)1563 final

Brussels, 24 April 2002

MINUTES
of the 1563rd meeting of the Commission
held in Brussels
(Breydel)
on Wednesday 17 April 2002
(morning)

These minutes were approved by the Commission at its 1564th meeting, held in Brussels on 24th April 2002.

They contain 21 pages.

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Single sitting: Wednesday 17 April (morning)

The sitting opened at 0925 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 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	

Absent:

Mr LIIKANEN

The following sat in to represent absent Members of the Commission

Mr SALMI Chef de cabinet to Mr LIIKANEN

The following also sat in

Mr PETITE	Director-General, Legal Service	
Mr MANSERVISI	Chef de cabinet to the President	
Mr FAULL	Commission Spokesman	
Ms ROGER	Chef de cabinet to Mr Barnier	Item 12
Mr CALLEJA	Chef de cabinet to Ms de Palacio	Item 14
Mr KOOPMAN	Deputy Chef de cabinet to Mr Kinnock	Item 14
Mr FONSECA	Deputy Chef de cabinet to Mr Vitorino	
Mr PONZANO	Director in the Secretariat-General	Item 12
Mr SMULDERS	A member of the President's staff	Item 12
Mr GUSSETTI	A member of the President's staff	Item 14
Ms CORUGEDO STENEBOERG	Unit Head in DG PRESS	
Mr BROCHART	Unit Head in the Secretariat-General	
Mr KERSTING	Principal Administrator in the Secretariat-General	
Mr MAMER	Spokesman	Item 8
Mr DE RYNCK	Spokesman	Item 14
Mr MORRIS	Spokesman	Item 13

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

1. AGENDAS

(OJ(2002)1563/3; SEC(2002)395/2)

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(2002)1563)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 15 April.

3. APPROVAL OF MINUTES OF 1562nd MEETING (9 April)

(PV(2002)1562 and /2)

The Commission approved the minutes of its 1562nd meeting.

4. PARLIAMENT

4.1. APRIL I PART-SESSION

(SP(2002)1161)

The Commission took note of the record of Parliament's part-session held in Strasbourg from 8 to 11 April.

4.2. ACTION TO BE TAKEN ON PARLIAMENT'S OPINIONS
(SP(2002)1165 and /2)

The Commission approved the proposed empowerment decisions relating to action to be taken on the amendments presented by Parliament under the codecision and consultation procedures (see list produced by the Secretariat-General in SP(2002)1165/2).

5. PERMANENT REPRESENTATIVES COMMITTEE
(SI(2002)379)

COUNCIL AFFAIRS GROUP (CAG)

The Commission took note of the record of the meeting of the Council Affairs Group held on Friday 12 April.

It paid particular attention to the following:

a) Debate in the Permanent Representatives Committee on the institutional balance in the codecision procedure

The Commission took note of the outcome of these initial discussions and in particular of the suggestion made by the Council and Commission Legal Services on a standard formula for invitations addressed to the Commission which did not prejudice its right of initiative. It noted that the President and Ms de PALACIO would make appropriate contacts in Parliament with a view to the trialogue on 17 April and that the Commission Legal Service, in cooperation with the Council Legal Service, would contact Parliament's Legal Service prior to the trialogue.

b) International conventions and the "Brussels I" Regulation: "*HNS*" and "*Bunkers*" Conventions

The Commission agreed to deal with this issue along the lines advocated by the Council and Commission Legal Services.

d) Community patent

The Commission stressed the importance of this matter and noted the possibility of positive developments in the Council bodies (cf. SI(2002)358). It noted that the Member States would like to be briefed as to the Commission's intentions as regards the judicial system, even in the absence at this stage of a legal basis for a formal proposal.

6. MONITORING THE APPLICATION OF COMMUNITY LAW
(C(2002)1336 and /2; C(2002)1341)

STATE AID - CASES DEFERRED

(C(2002)1336 and /2; C(2002)1341)

The Commission adopted the following decisions:

N 641/2001 NETHERLANDS

Aid in the onion sector

(C(2002)1336 and /2)

Decision: to raise no objection, holding the aid to be compatible with the EC Treaty, as set out in C(2002)1336/2.

C 36/2001

BELGIUM

Aid to the Beaulieu group (Ter Lembeek International)

(C(2002)1341)

Decision: held over

7. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

7.1. WRITTEN PROCEDURES APPROVED

(SEC(2002)396 to /5)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted by written procedure between 8 and 12 April.

7.2. SENSITIVE WRITTEN PROCEDURES

(SEC(2002)397)

The Commission took note of the following written procedures initiated between 8 and 12 April for the adoption of decisions with political implications:

Time limit: 18.04.2002

E/2002/521 - COM(2002)159 DG JAI

Proposal for a Council Regulation creating a European enforcement order for uncontested claims.

Time limit: 19.04.2002

E/2002/658 - C(2002)1433 DG AIDCO

To take note of the memorandum to the Commission on the level of contribution to indirect costs to be given to World Food Programme operations financed or cofinanced by the European Commission; to approve the arrangement set out at item 9.

E/2002/659 - COM(2002)196 DG JAI

Green Paper on alternative dispute resolution in civil and commercial law.

7.3. *EMPOWERMENT*

SEC(2002)398 to /5)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the empowerment procedure between 8 and 12 April.

7.4. *DELEGATION AND SUBDELEGATION OF POWERS*

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation procedure between 8 and 12 April, as archived on the "Grefe 2000" (Registry) website.

8. ADMINISTRATIVE AND BUDGETARY MATTERS
(SEC(2002)399/2)

ADMINISTRATIVE MATTERS
(PERS(2002)57 and /2)

8.1. VACANCY NOTICES

DG RELEX - A1 post of Director-General

On a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Mr PATTEN, the Commission approved the vacancy notice in PERS(2002)58 and asked DG ADMIN to publish it.

DG RELEX - A1 post of Deputy Director-General

On a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Mr PATTEN, the Commission approved the vacancy notice in PERS(2002)31 and asked DG ADMIN to publish it.

DG RELEX - A1 post of Deputy Director-General

On a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Mr PATTEN, the Commission approved the vacancy notice in PERS(2002)39 and asked DG ADMIN to publish it.

8.2. APPOINTMENTS

JRC - A1 post of Deputy Director-General

The Commission had before it applications under Article 29(1)(a) of the Staff Regulations for the A1 post of Deputy Director-General in the Joint Research Centre (PERS(2002)23/2 and /5).

The Commission took note of the opinions of the Consultative Committee on Appointments of 11 and 13 March (PERS(2002)23/3, /4 and /6).

The Commission proceeded to compare the applicants' qualifications for the post. In this connection, Mr BUSQUIN drew the Commission's attention to the special qualifications and experience of Mr SCHENKEL, particularly in the scientific and technical field. He pointed out that the Deputy Director-General's responsibilities would include:

- deputising for the Director-General in the day-to-day management of the JRC, in the specific context of a multi-site operation;
- supervising the JRC's nuclear portfolio, the activities of the various sites involved and the implementation of the comprehensive decommissioning programme;
- strengthening relations with the JRC stakeholders, including networking with national research organisations;
- optimising interaction between the Directorate for Science Strategy and the Directorate for Resources.

In the light of this opinion, and after considering the opinion of the JRC Board of Governors and the reports on the ability, efficiency and conduct in the service of each of the candidates, the Commission, on a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Mr BUSQUIN, decided to appoint Mr Roland SCHENKEL to the post.

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

Legal Service - A1 post of Deputy Director-General

The Commission had before it applications under Article 29(1)(a) of the Staff Regulations for the A1 post of Deputy Director-General of the Legal Service (PERS(2002)11/2).

The Commission took note of the opinions of the Consultative Committee on Appointments of 25 and 28 February (PERS(2002)11/3 and /4).

The Commission proceeded to compare the applicants' qualifications for the post. In this connection, the PRESIDENT stressed the extensive experience of Mr Giulano MARENCO in the practical management of legal dossiers. He also noted that Mr MARENCO had been responsible for running the "competition" team for ten years (1991 to 2001) and thereafter the "institutions" team of the Legal Service and had given general satisfaction. Finally, he emphasised the contribution made by Mr MARENCO to the academic study of Community law both in the papers he had produced and in his lectures. The Deputy Director-General's responsibilities would include:

- deputising for the Director-General in all matters handled by the Legal Service;
- advising the Commission and its departments on legal issues and preparing common legal positions under the authority of the Director-General;
- guiding and supervising the work of the Legal Service's "legal revisers", "codification" and "information technology" groups, coordinating work on infringement proceedings within the Legal Service and DGs, and supervising the Legal Service's financial team;
- managing high-level relations among legal and academic circles.

In the light of this opinion and after examining the reports on the ability, efficiency and conduct in the service of each of the candidates, the Commission, on a proposal from Mr KINNOCK, in agreement with the PRESIDENT, decided to appoint Mr Giulano MARENCO to the post.

This decision would take effect from 1 May.

DG AIDCO.D - 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 of Directorate D (Asia) in the EuropeAid Cooperation Office (PERS(2001)269/3).

The Commission took note of the opinions of the Consultative Committee on Appointments of 23 January and 6 February (PERS(2001)269/4 and /5).

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, in agreement with the PRESIDENT, Mr PATTEN and Mr NIELSON, the Commission decided to appoint Mr Erich-Wilhelm MÜLLER to the post.

This decision would take effect from 1 May.

**9. APPLICATION OF COUNCIL REGULATION (EC) NO 4064/89 ON
MERGER CONTROL (BAYER/AVENTIS CROP SCIENCE CASE)
(C(2002)1462 to /4)**

The Commission:

- took note of the final report of the Hearing Officer in C(2002)1462/2;

- took note of the opinions of the Advisory Committee on Concentrations of 27 March and 12 April, as set out in C(2002)1462 and C(2002)1462/2 respectively;
- adopted, in the authentic language (English), the decision in C(2002)1462/4 declaring the planned merger compatible with the common market and the EEA Agreement, subject to compliance with the commitments set out in the decision;
- decided that the version set out in C(2002)1462/3 with certain business secrets removed would be notified to Bayer AG;
- empowered Mr MONTI to take all the measures necessary for the fulfilment of these commitments.

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

10. OTHER MATTERS

GALILEO - RESULTS OF COUNCIL MEETING (TRANSPORT) (26 MARCH) AND ESTABLISHMENT OF THE JOINT UNDERTAKING (SEC(2002)413 and /2)

The Commission took note of the information in SEC(2002)413/2.

11. PARLIAMENT (continued from item 4)

DISCHARGE FOR 2000 BUDGET

(SP(2002)1135; SP(2002)1138; SP(2002)1162)

Ms SCHREYER briefed the Commission on the background to Parliament's vote on the discharge for 2000 (439 for, 68 against and 6 abstentions). She welcomed the spirit of cooperation which had prevailed throughout, pointing out that Parliament had submitted 144 requests to the Commission, and thanked Commission Members and departments for their diligence in responding to the questions raised by Parliament, despite the short deadline (10 days).

While endorsing the comments made by Ms SCHREYER, Ms de PALACIO observed that the positive outcome was due primarily to the way the Commission had handled the dossier in policy terms. However, she referred to the request, formulated in connection with the discharge, for renegotiation of the framework agreement on relations between the Commission and Parliament, particularly as regards access to information, and pointed out that in the event of such renegotiation the Council should be fully involved.

The PRESIDENT thanked Ms SCHREYER.

12. WORK OF THE CONVENTION

(SEC(2002)441; SEC(2002)443)

Mr BARNIER briefed the Commission on the meetings of the Presidium and the Convention held on 15 and 16 April. After reminding Members of Mr GISCARD d'ESTAING's intention to set up three working groups dealing respectively with simplification of the Treaties, fundamental rights and the issue of competences, he pointed out that the work of the Convention was now proceeding at

a steady pace, which meant that the Commission would have to comply with the timetable it had set for the presentation of its communication on the future of Europe.

In this connection, Mr BARNIER pointed out that it would be for the Commission, in the communication, to send out a strong political message in support of preserving the existing corpus of Community law and the Community method, the latter to be adapted to the "new frontiers" constituted for example by the CFSP and the euro.

In terms of substance, Mr BARNIER noted in particular that a large majority of speakers at the meeting of the Convention had come out against the drawing-up of a "catalogue" of competences but that the idea of monitoring subsidiarity *ex ante* had received some support.

**13. SERIES OF MEASURES RELATING TO SENIOR OFFICIALS:
APPRAISAL OF A1 AND A2 OFFICIALS; ADVISORY COMMITTEE FOR
UPSTREAM MONITORING OF A1 AND A2 APPOINTMENTS; RULES OF
PROCEDURE FOR THE CCA
(SEC(2002)301 to /8)**

Following a wide-ranging debate focusing on the advisability of allowing the use of outside consultants to collate information to supplement the material to be used in the appraisal and on the role and membership of the body for the upstream monitoring of appointments to management posts, the Commission:

- approved the approach and basic methodology to be used as the basis for launching a pilot project and asked Mr KINNOCK, in the light of experience gained from the pilot project, to present a proposal to the Commission on the

final methodology to be applied in the appraisal of A1 and A2 officials (see SEC(2002)301/8);

- approved the draft rules of procedure for the Consultative Committee on Appointments (see also SEC(2002)301/8);
- agreed to put in place a group of Commission Members, comprising the President and the two Vice-Presidents, responsible for ensuring an indicative programming of appointment decisions to senior management posts reflecting the need for gender and geographical balance and mobility, which would report regularly to the Commission on developments.

14. OPENING OF NEGOTIATIONS - PARIS CONVENTION

(SEC(2002)123 to /7; SEC(2002)334)

The Commission resumed its discussions on this matter, begun on 9 April (PV(2002)1562, item 14).

Ms de PALACIO thanked the Legal Service for its cooperation in the complex matter of the Protocol amending the Paris Convention, and referred to its opinion focusing on the scope of Article 71 of Regulation No 44/2001 ("Brussels I") with regard to the draft Protocol. This opinion was quite clear as to the non-applicability of Article 71 and she therefore considered that it was absolutely necessary for the Commission, as guardian of the Treaties, to recommend to the Council that it be authorised to open negotiations, given the unquestionable implications of the new protocol for the Community legislation contained in Regulation No 44/2001. She pointed out the positive aspects of the Paris Convention with regard to nuclear liability and declared that she was willing to negotiate this dossier in the Council

with maximum flexibility, given the sensitivity surrounding the issue, particularly in the three Member States not party to the Convention.

To take account of this sensitivity, Ms de PALACIO proposed that the negotiating directives set out in the annex to the recommendation be worded as follows:

"The Protocol of amendment to the Paris Convention will have to contain a clause allowing the accession of regional economic integration organisations, in particular the European Community for matters which fall within its competence.

The objective of accession by the Community is to ensure application of the provisions of Article 13 of the Protocol of amendment as regards determining the competent court and as regards the procedures for recognition and enforcement of judgments."

The Commission endorsed this approach and adopted the recommendation for a Council Decision set out in SEC(2002)123/4 and /7, as amended during the meeting, for transmission to the Council. It authorised Ms de PALACIO to update the explanatory memorandum in the light of the new wording of the negotiating directives annexed to the recommendation.

15. COUNCIL MEETINGS

(SI(2002)378)

15.1. INFORMAL MEETING OF MINISTERS FOR ECONOMIC AND FINANCIAL AFFAIRS

(OVIEDO, 12-14 APRIL)

Mr SOLBES and Mr BOLKESTEIN gave a brief rundown of the outcome of the informal meeting of Economic and Financial Affairs Ministers.

Mr SOLBES focused in particular on the relative optimism which had prevailed at Oviedo, with Ministers welcoming signs of economic recovery for 2002 and the agreement reached in March by the German Government, the *Länder* and the municipal authorities, which should enable Germany to keep to its budgetary commitments for 2004.

After reporting on possible developments in the negotiations with Switzerland on the taxation of savings, Mr BOLKESTEIN mentioned the discussions initiated on coordination of systems for financial supervision. He emphasised in particular the letter from the Finance Ministers of two Member States to the President of the Council pointing out that the supervision of financial institutions fell within the scope of subsidiarity. Mr BOLKESTEIN expressed concern as to the implications of this type of initiative in terms of compliance with the Commission's institutional role and reminded the meeting of the links with the debate in progress within the Convention on the allocation of powers.

In a similar attempt to preserve the Commission's prerogatives, Ms de PALACIO referred to the initiative taken by certain Member States on the basis of the third indent of Article 88(2) of the EC Treaty attempting to secure Council unanimity for declaring state aid to road transport compatible with the common market, without applying the normal procedures.

15.2. GENERAL AFFAIRS

(LUXEMBOURG, 15-16 APRIL)

(SI(2002)390)

Mr PATTEN reviewed various items on the Foreign Ministers' very heavy agenda. He outlined in particular the latest developments in the situation in the Middle East, following the long visit to the region by US Secretary of State POWELL. While emphasising the extreme difficulty of this mission and what were likely to be its modest results, he reminded the meeting of the

European Union's total support for Mr POWELL. He also announced that, according to information currently available, the Euro-Mediterranean conference of Foreign Ministers would be held in Valencia on 22 and 23 April and that, on that occasion, a meeting was planned between the representatives of the European Union and Mr PERES, Israeli Foreign Minister. The scale of participation of the Arab countries at the conference was not yet entirely clear. In conclusion, Mr PATTEN reiterated the need for a strong European Union political presence in the various initiatives to restore peace in the region.

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The meeting closed at 1200 hours.