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SECRETARIAT-GENERAL

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Brussels, 9 October 2002

MINUTES

of the 1583rd meeting of the Commission

held in Brussels

(Breydel)

on Wednesday 2 October 2002

(morning)

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These minutes were approved by the Commission at its 1584th meeting, held in Brussels on 9th October 2002.

They contain 23 pages.

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Single sitting: Wednesday 2 October (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 LIIKANEN	
Mr BOLKESTEIN	
Mr BUSQUIN	
Mr SOLBES	
Mr VERHEUGEN	
Mr LAMY	
Mr BYRNE	
Mr BARNIER	
Ms REDING	
Ms SCHREYER	
Ms WALLSTRÖM	
Mr VITORINO	
Ms DIAMANTOPOULOU	

Except items 15 and 16

Absent:

Mr NIELSON
Mr PATTEN

The following sat in to represent absent Members of the Commission

Mr CARY	Chef de cabinet to Mr Patten	Items 1 to 7
Mr KORTE	Deputy Chef de cabinet to Mr Patten	Items 8 to 16
Mr SCHMIDT	A member of Mr Nielson's staff	
Ms HOFFMAN	Deputy Chef de cabinet to Ms Reding	Items 15 and 16

The following also sat in

Mr PETITE	Director-General, Legal Service	
Mr MANSERVISI	Chef de cabinet to the President	
Mr FAULL	Commission Spokesman	
Mr CARVOUNIS	Director in the Press and Communication DG	
Mr TODD	Spokesman	Item 15
Mr KEMPPINEN	Spokesman	
Mr FILORI	Spokesman	Item 14
Mr FIELDING	Spokesman	Item 15
Ms HOUTMAN	Deputy Chef de cabinet to the President	Items 14 to 16
Mr ABOU	Chief Adviser in the President's Office	Item 14
Mr KOOPMAN	Chef de cabinet to Mr Kinnock	Items 4 and 13
Mr CALLEJA	Chef de cabinet de Ms de Palacio	
Mr NØRLUND	Chef de cabinet to Mr Bolkestein	
Ms SCHWIMANN	A member of Mr Bolkestein's staff	Item 15
Mr TEMPEL	Chef de cabinet to Mr Verheugen	
Mr FONSECA MORILLO	Deputy Chef de cabinet to Mr Vitorino	Item 11
Mr LANDABURU	Director-General, Enlargement	
Mr RUETE	Director in the Enlargement DG	Item 14
Mr KERSTING	Secretariat-General	Item 14

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

**1. AGENDAS AND QUARTERLY ROLLING PROGRAMME
(OJ(2002)1583/3; SEC (2002)1010/2; SEC(2002)1047)**

The Commission took note of that day's agenda, the tentative agendas for future meetings, and the rolling programme of items to be entered on the agenda from 9 October to 17 December.

**2. WEEKLY MEETING OF CHEFS DE CABINET
(SEC(2002)1583)**

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 30 September.

**3. APPROVAL OF MINUTES AND SPECIAL MINUTES OF 1582nd
MEETING (24 September)
(PV(2002)1582; PV(2002)1582, Part II)**

The Commission approved the minutes of its 1582nd meeting.

4. PARLIAMENT

4.1. SEPTEMBER II PART-SESSION

(SP(2002)3072)

The Commission took note of the record of Parliament's part-session held in Strasbourg from 23 to 26 September.

4.2. ACTION TO BE TAKEN ON PARLIAMENT'S OPINIONS

(SP(2002)3068)

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.

5. PERMANENT REPRESENTATIVES COMMITTEE

(SI(2002)1005)

The Commission took note of the Secretariat-General's reports on recent meetings of the Permanent Representatives Committee.

It paid particular attention to the following:

***PREPARATIONS FOR COUNCIL MEETING (TRANSPORT /
TELECOMMUNICATIONS / ENERGY) ON 3 AND 4 OCTOBER IN
LUXEMBOURG
(SI(2002)1005)***

Regulation on the granting of Community financial assistance to improve the environmental performance of the freight transport system (Marco Polo Programme)

The Commission authorised Ms de PALACIO, in agreement with the PRESIDENT, to adopt a flexible approach to the eligibility thresholds, so that their levels, and that of the budgetary allocation as a whole, did not compromise the objective of the programme.

Proposal for a Parliament and Council decision amending Decision No 1692/96/EC on Community guidelines for the development of the trans-European transport network

The Commission took note of the situation in this matter and decided to maintain its existing line as regards Annex III on the list of priority projects.

**6. MONITORING THE APPLICATION OF COMMUNITY LAW: STATE AID AND INFRINGEMENTS
(SEC(2002)1008 and /2; C(2002)2147 to /3; SEC(2002)980)**

***6.1. STATE AID
(SEC(2002)1008 and /2)***

The Commission adopted the decisions in SEC(2002)1008/2.

6.2. STATE AID - CASE DEFERRED

(C(2002)2147 to /3)

The Commission adopted the decision in C(2002)2147/3 (case C 44/2001 - Aid for Technische Glaswerke Ilmenau GmbH, Thuringia).

6.3. INFRINGEMENTS - URGENT CASE

(SEC(2002)980)

The Commission adopted the decision in SEC(2002)980.

7. WRITTEN PROCEDURES AND EMPOWERMENT

7.1. WRITTEN PROCEDURES APPROVED

(SEC(2002)1011 to /5)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted by written procedure between 23 and 27 September.

7.2. SENSITIVE WRITTEN PROCEDURES

(SEC(2002)1012)

The Commission took note of the following written procedures initiated between 23 and 27 September for the adoption of decisions with political implications:

Time limit: 30.09.2002

E/2002/1829 - COM(2002)533 DG EMPL

Commission report on EURES activities 2000-01 *Towards an integrated employment market: the contribution of EURES.*

Time limit: 2.10.2002

E/2002/1840 - COM(2002)535 DG FISH

Commission communication laying down a Community action plan for the conservation and sustainable exploitation of fishery resources in the Mediterranean Sea under the common fisheries policy.

E/2002/1845 - COM(2002)539 DG ENV

Commission communication *Towards a strategy to protect and conserve the marine environment.*

7.3. *EMPOWERMENT*

(SEC(2002)1013 to /5)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the empowerment procedure between 23 and 27 September.

7.4. *UPDATING OF GENERAL EMPOWERMENT IN THE FIELD OF AGREEMENTS ON MUTUAL RECOGNITION OF RESULTS OF CONFORMITY ASSESSMENT CONCLUDED BETWEEN THE EC AND CERTAIN NON-MEMBER COUNTRIES*

(SEC(2002)1035 and /2)

The Commission approved the empowerment decisions set out in section V of SEC(2002)1035.

7.5. *DELEGATION AND SUBDELEGATION OF POWERS*

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation procedure between 23 and 27 September, as archived on the "Greffé 2000" (Registry) website.

8. ADMINISTRATIVE AND BUDGETARY MATTERS

(SEC(2002)1014/3)

ADMINISTRATIVE MATTERS

(PERS(2002)138)

8.1. *APPOINTMENTS*

DG ENV.F - 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 F (Resources management) in the Environment DG (PERS(2002)63 to /3).

The Commission took note of the opinions of the Consultative Committee on Appointments of 11 June and 11 July (PERS(2002)63/4 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 and Ms WALLSTRÖM, it then decided to appoint Ms Viola GROEBNER to the post.

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

8.2. *DG ADMIN - AMENDMENT OF THE RULES ON COMMISSION*

SPECIAL ADVISERS

(SEC(2002)1044)

The Commission approved the amendment to the rules on Commission special advisers as set out in SEC(2002)1044.

OTHER MATTERS

8.3. *DELIVERING REFORM AND IMPROVING INTERDEPARTMENTAL COORDINATION*

(SEC(2002)1040 and /2)

The Commission had before it a communication from the PRESIDENT, in agreement with Mr KINNOCK, on the arrangements for implementing administrative reform, in particular the improvement of interdepartmental coordination.

The Commission decided:

- to instruct the Secretary-General to pursue the approach set out in SEC(2002)1040/2 and to report to the Commission, via the group of Commission Members responsible for reform, on progress made by the end of next year;
- to widen the terms of reference of the ABM steering committee (Activity-based management) by asking it to actively coordinate questions of a strategic or political nature relating to the reform and to keep the Commission regularly informed via the group of Commission Members responsible for reform.

8.4. *BERLAYMONT*

The Commission approved the conditions proposed by Mr KINNOCK, in agreement with the PRESIDENT and Ms SCHREYER, for finalising and initialling the convention on the BERLAYMONT with the Belgian authorities.

- 9. PROPOSALS FOR A COUNCIL DECISION AND A COUNCIL REGULATION ON THE CONCLUSION OF A NEW PROTOCOL TO THE FISHERIES AGREEMENTS BETWEEN THE EUROPEAN ECONOMIC COMMUNITY AND THE REPUBLIC OF SENEGAL
(COM(2002)496 to /4; COM(2002)497 and /2)**
- 10. PROPOSALS FOR A COUNCIL DECISION AND A COUNCIL REGULATION ON THE CONCLUSION OF A NEW PROTOCOL TO THE FISHERIES AGREEMENTS BETWEEN THE EUROPEAN ECONOMIC COMMUNITY AND THE REPUBLIC OF ANGOLA
(COM(2002)492 to /3; COM(2002)495 to /3; SEC(2002)1042)**

The Commission approved the proposals for Regulations and Decisions in COM(2002)496/3, COM(2002)497/2, COM(2002)492/3 and COM(2002)495/2 and /3, for transmission to the Council and Parliament, as regards the proposals for Regulations, and to the Council as regards the proposals for Decisions.

The Commission decided that in future certain procedures must be followed and certain analyses carried out with a view to the conclusion of such agreements: interdepartmental coordination at an early stage, coherence in the implementation of the various policies pursued in cooperation with the developing countries, guidelines on cost/benefit and impact assessments for future agreements. It also agreed to consider the ecological impact of implementing the two protocols in question, and a mid-term review for the protocol concluded with Senegal.

It asked the Secretariat-General, in cooperation with all Directorates-General involved, to consider the possibility of improving preliminary contacts between departments concerned with international negotiations, before the stage of initialling agreements was reached.

It noted that Parliament's Committee on Budgets would be kept duly informed of the payments laid down in the new Protocols, in line with the procedures in force.

**11. PROPOSAL FOR A COUNCIL DECISION ON THE SIGNING BY THE
COMMUNITY OF THE COUNCIL OF EUROPE CONVENTION ON
CONTACT CONCERNING CHILDREN
(COM(2002)520)**

The Commission approved the proposal for a Decision in COM(2002)520 for transmission to the Council.

**12. 2002 ANNUAL MEETINGS OF THE INTERNATIONAL MONETARY
FUND AND THE WORLD BANK
(WASHINGTON DC, 28-30 SEPTEMBER)
(SEC(2002)1058)**

The Commission took note of the information supplied by Mr SOLBES in SEC(2002)1058.

13. PARLIAMENT (continued from item 4)

***13.1. PLENARY SESSION - BUDGET DEBATE (DRAFT BUDGET FOR 2003)
(STRASBOURG, 24 SEPTEMBER)***

Ms SCHREYER reported on the outcome of Parliament's first-ever general debate on the draft budget for the following year, ahead of its first reading

scheduled for the October part-session (21-24 October). This debate had included an exchange of views of a political nature between the Commission's representatives (Mr BARNIER, Mr VITORINO, Mr FISCHLER and Ms SCHREYER) and the Chairs of the Parliamentary Committees and representatives of the political groups.

13.2. COMMITTEE ON BUDGETARY CONTROL

(BRUSSELS, 30 SEPTEMBER)

(SP(2002)3147)

Mr KINNOCK reported on the Committee's discussions on whether to have a hearing with Ms ANDREASEN, and commented on the various paragraphs of the resolution adopted by the Committee.

The resolution focused on the basic problem of reforming the Commission's accounting system, and made any possible hearing of Ms ANDREASEN subject to a written submission on her part detailing her allegations.

14. ENLARGEMENT: PROGRESS REPORT

Introducing the debate, the PRESIDENT pointed to the historic nature of the proposals that the Commission was about to adopt on 9 October after this first preparatory debate, and thanked Mr VERHEUGEN and the departments placed under the authority of Mr LANDABURU for the scope and quality of the work carried out over several years.

The regular draft reports had been drafted in cooperation with all the departments concerned, and the purpose of this preliminary exchange of views was to take stock of progress, and of any shortcomings or inadequacies which had come to light in various sectors, and on the various aspects of the negotiations.

Mr VERHEUGEN pointed out that enlargement was the major project of the Commission's term of office and that it must now identify the countries which appeared ready to join the European Union from 1 January 2004.

He outlined the key elements of the enlargement package (regular reports and strategic document for 2002) which was in process of finalisation within his departments and which he proposed to table at the Commission meeting on 9 October.

He commented on:

- the structure of the regular reports for 2002: as well as the traditional chapters (political criteria, economic criteria, adoption of the existing body of Community law and practice, and administrative and judicial capacity) there were new assessment chapters (on the process of preparation for accession over the past five years, the establishment of action plans to strengthen administrative and judicial capacity, and the results of the negotiations and the commitments made by the applicant countries);
- the main trends of the horizontal conclusions of the regular reports, emphasising the work yet to be completed in certain areas.

He drew attention to the importance of the permanent monitoring process to be set up with each applicant country at the close of each chapter of the negotiations, which would follow the conclusion of the negotiations and culminate in the drawing-up of a final report to be published six months before the planned accession date. The process of strengthening administrative and judicial capacity would have to continue, with Commission support, after accession.

Mr VERHEUGEN gave an update on the prospects concerning Romania, Bulgaria and Turkey.

Mr SOLBES set out the main trends in the development of these countries as regards economic criteria, emphasising that full compliance with these criteria depended on further reform efforts by 2004. He confirmed the importance of monitoring the commitments made after the conclusion of negotiations, and the need to put in place systems to give early warning in the event of any slippage.

The Commission held a round-table discussion on the main subject areas requiring particular attention.

Following this exchange of views, the Commission asked Mr VERHEUGEN to finalise the regular reports and the strategic document for 2002 in the light of the observations made and guidelines agreed during the meeting.

15. PROPOSAL FOR A DIRECTIVE ON TAKEOVER BIDS (COM(2002)534 to /4; SEC(2002)1034; SEC(2002)1061)

Mr BOLKESTEIN presented a proposal for a Directive on takeover bids.

He reminded the meeting of the initiatives taken by the Commission in this matter since 1989, and Parliament's rejection on 4 July 2001 of the proposal for a Directive presented by the Commission on 8 February 1996.

There was a need to define a common framework for cross-border takeover bids and to present a new proposal that would allay Parliament's concerns, based on the recommendations of a high-level group of experts in company law (chaired by Professor Jaap WINTER).

The new proposal, like the previous one, had two key objectives: to strengthen the legal certainty of takeover operations, and to ensure the protection of minority shareholders in such cases.

He set out the key principles underlying the proposal:

- transparency (defensive structures and mechanisms for companies targeted);
- protection of minority shareholders: compulsory offer to all shareholders at a fair price ("squeeze-out right"); rules for compulsory purchase ("sell-out right");
- neutrality of the board of companies targeted (abolition of various legal restrictions likely to be used as obstacles to bids or to lead to unjustified protection of management);
- compliance with employees' rights (informing and consulting worker representatives).

The WINTER report's recommendation on the neutralisation of defensive measures following a successful takeover bid (the "breakthrough rule") had been limited in its effects (Article 11), taking into account the legal problems involved in the abolition of multiple voting rights. The revision clause in Article 18 would allow this point to be revisited if necessary, and should further improve the conditions of competition in relation to takeover bids.

The Commission held an in-depth discussion on various aspects of the proposal, in particular:

- the advisability of harmonising these rules at Community level;
- the need to ensure fair conditions of competition;
- the extent to which the new proposal responded to Parliament's objections to the previous proposal.

During the discussion, the Commission adopted the following amendments:

- Explanatory memorandum, item 1 "General considerations": in the last paragraph but one (page 5 of COM(2002)534/4), the following sentence was added to the reference to the problem of "golden shares":

"This precision is useful in the light of the resolution adopted by Parliament on 5 April 2001 concerning the updating of certain legal aspects relating to intra-Community investments".

- In Article 6(1), the last sentence was amended as follows:

"As soon as the bid has been made public, the boards of the offeree company and of the offeror shall inform respectively the representatives of their employees, or, where there are no such representatives, the employees themselves".

- In Article 6(2), first indent: the last sentence was amended as follows:

"When [the document] is made public, the boards of the offeree company and of the offeror shall communicate it respectively to the representatives of their employees, or, where there are no such representatives, to the employees themselves".

Subject to these amendments, the Commission adopted the proposal in COM(2002)534/4 for transmission to the Council, Parliament and the Economic and Social Committee.

16. COUNCIL MEETINGS

(SI(2002)1070)

16.1. GENERAL AFFAIRS AND EXTERNAL RELATIONS

(BRUSSELS, 30 SEPTEMBER AND 1 OCTOBER)

The PRESIDENT reported on exchanges of views in the Council (General Affairs and External Relations) on Iraq and the Middle East.

Mr VERHEUGEN reported on the discussions on enlargement, including the specific problem of Kaliningrad.

Mr BARNIER mentioned Mr AMATO's report to the Council on the work of the Convention. He noted in particular the agreement between Member States on the deadline for the end of the Convention's discussions (March 2003).

Agreement had not been reached on the creation of the Solidarity Fund, despite majority support for a compromise proposal on the thresholds for triggering intervention by the fund, and this question had had to be referred back to Coreper.

Mr VITORINO proposed that a briefing paper be prepared, for public relations purposes, to counter the circulation of certain very negative interpretations of the Council decision concerning the International Criminal Court (authorisation for Member States to sign agreements with the United States on exemption from the jurisdiction of the International Criminal Court).

16.2. ECONOMIC AND FINANCIAL AFFAIRS

(LUXEMBOURG, 8 OCTOBER)

Mr SOLBES announced that the Eurogroup, meeting on the fringe of the Council (Economic and Financial Affairs) on 8 October, would be considering

the Commission report drawn up on the basis of Article 104(3) of the EC Treaty (excessive deficit) concerning Portugal.

He reported on the reactions provoked by the Commission communication *Budgetary challenges in the euro area*.

Mr BOLKESTEIN noted that the Council (General Affairs and External Relations) had adopted conclusions making a link between the negotiations with Switzerland on the taxation of savings and other negotiations in progress with Switzerland.

On 8 October he would have to report to the Council (Economic and Financial Affairs) on the negotiations with Switzerland concerning the introduction of an exclusive "exchange of information" system in the field of the taxation of savings.

The Commission took note of this information; it agreed to identify the possibilities for breaking the deadlock on this item in the light of the exploratory contacts made with Switzerland, and to inform the Council accordingly before the deadline of the end of 2002 set by the European Council.

The Commission also noted that the slowness of the negotiations on the taxation of savings should not directly affect the negotiations in other areas such as research.

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

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The meeting closed at 1405 hours.