



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2002)1593 final

Brussels, 17 December 2002

MINUTES
of the 1593rd meeting of the Commission
held in Brussels
(Breydel)
on Wednesday 11 December 2002
(morning)

These minutes were approved by the Commission at its 1594th meeting, held in Strasbourg on 17th December 2002.

They contain 35 pages.

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Single sitting: Wednesday 11 December (morning)

The sitting opened at 0920 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 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 BOLKESTEIN

The following sat in to represent absent Members of the Commission

Mr NØRLUND Chef de cabinet to Mr Bolkestein

The following also sat in

Mr PETITE	Director-General, Legal Service	
Mr MANSERVISI	Chef de cabinet to the President	
Mr FAULL	Commission Spokesman	
Mr KEMPPINEN	Spokesman	
Ms TORRES	Spokesman	Items 6, 16 and 17
Mr MUECH	Spokesman	
Mr DE RYNCK	Spokesman	Item 14
Ms HOUTMAN	Deputy Chef de cabinet to the President	Items 6, 16 and 17
Mr GUSSETTI	A member of the President's staff	Items 9 and 15
Mr GOZI	A member of the President's staff	
Mr CALLEJA CRESPO	Chef de cabinet to Ms de Palacio	Items 4, 6, 13, 19 and 20
Mr CANGA FANO	A member of Ms de Palacio's staff	
Mr ESTEVA MOSSO	A member of Mr Monti's staff	Items 16 and 17
Mr CARVOUNIS	Director in the Press and Communication DG	
Mr MOAVERO	Deputy Secretary-General	Items 9 and 15
Mr PONZANO	Director in the Secretariat-General	Items 9, 14 and 15
Mr TRIANTAFYLLOU	Secretariat-General	Items 9 and 15

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

1. AGENDAS

(OJ(2002)1593/3; SEC(2002)1320/2)

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

2. WEEKLY MEETING OF CHEFS DE CABINET

(SEC(2002)1593)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 9 December.

3. APPROVAL OF MINUTES AND SPECIAL MINUTES OF 1592nd MEETING (3 and 4 December)

(PV(2002)1592 and /2; PV(2002)1592, Part II)

The Commission approved the minutes of its 1592nd meeting.

4. PARLIAMENT

4.1. DECEMBER I PART-SESSION

(SP(2002)3974 and /2)

The Commission took note of the information supplied relating to Parliament's part-session of 4 to 5 December.

4.2. ACTION TO BE TAKEN ON PARLIAMENT'S OPINIONS
(SP(2002)3979)

The Commission approved the proposed empowerment decisions relating to action to be taken on the amendments presented by Parliament under the consultation procedure (see list produced by the Secretariat-General in SP(2002)3979).

4.3. PARLIAMENTARY AFFAIRS GROUP
(SP(2002)4001)

The Commission took note of the record of the meeting of the Parliamentary Affairs Group held on Thursday 5 December.

It paid particular attention to the following:

- a) **Preparations for December II part-session**
(point 2 of the record)

Specific points to consider: December II

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.

Empowerment

Under Article 13 of its Rules of Procedure, the Commission empowered Mr SOLBES and Ms REDING respectively, in agreement with the PRESIDENT, the Member responsible for relations with Parliament and any other Members associated, to adopt its opinion on the amendments, together with any amended proposals, on the basis of the line set out in

SP(2000)3946, 3945 and 3929, once Parliament had given its opinion, and transmit them to the Council in accordance with Article 251(2)(c) of the Treaty, for the following:

- MAYOL i RAYNAL report, Labour cost index
COM(2001)418, 01/0166 (COD)
- POHJAMO report, Statistical returns in respect of carriage of passengers, freight and mail by air
COM(1995)353 - 95/0232 (COD)
- PACK report, European Year of Education through Sport 2004,
COM(2001)584 - 01/0244 (COD)

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(2002)3924), for transmission to Parliament.

5. PERMANENT REPRESENTATIVES COMMITTEE
(SI(2002)1514)

COUNCIL AFFAIRS GROUP (CAG)
(SI(2002)1514)

The Commission took note of the record of the meeting of the Council Affairs Group held on Monday 9 December (SI(2002)1514).

The operational points mentioned in the record are dealt with under item 19
(Council meetings) of these minutes.

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

(SEC(2002)1313; C(2002)4831 to /8; C(2002)4787 to /8)

STATE AID

The Commission had before it a series of proposals for decisions concerning state aid (SEC(2002)1313).

The Commission held an in-depth exchange of views on case C 19/2002 Greece - *Olympic Airways*.

Ms de PALACIO reminded the meeting of the background to the case and the decisions taken by the Commission in 1994 and 1998.

She outlined the reasons for proposing a negative final decision and for confining the recovery to aid granted after the 1998 decision.

The Commission held a detailed analysis of all the legal, economic and social implications of the proposed decision, as it had in the Sabena case.

Following this discussion, the Commission adopted all the decisions in SEC(2002)1313, subject to the following amendments:

C 19/2002 GREECE

Olympic Airways

(C(2002)4831 to /8)

Decision: to terminate the formal examination procedure by a
negative final decision in C(2002)4831/8.

N 287/2002 DENMARK

Environmental subsidies for the transport of goods by rail

(C(2002)4787 to /8)

Decision: to raise no objection, holding that the measure was
compatible with the common market, in accordance with
the letter in C(2002)4787/8.

7. WRITTEN PROCEDURES AND EMPOWERMENT

7.1. WRITTEN PROCEDURES APPROVED

(SEC(2002)1321 to /5)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted by written procedure between 2 and 6 December.

7.2. SENSITIVE WRITTEN PROCEDURES

(SEC(2002)1322)

The Commission took note of the following written procedures initiated between 2 and 6 December for the adoption of decisions with political implications:

Time limit: 09.12.2002

E/2002/2373 - COM(2002)694 Employment and Social Affairs DG

Commission communication *Free movement of workers - achieving the full benefits and potential.*

Time limit: 11.12.2002

E/2002/2449 - COM(2002)715 Secretariat-General

Tenth Commission report *Better lawmaking 2002.*

E/2002/2463 - COM(2002)727 Fisheries DG

Proposal for a Council Regulation fixing for 2003 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks.

Time limit: 13.12.2002

E/2002/2262 - COM(2002)736 Health & Consumer Protection DG

Proposal for a Council Directive on Community measures for the control of foot-and-mouth disease and amending Directive 92/46/EEC.

E/2002/2443 - COM(2002)730 Trade DG

Proposal for a Council Regulation amending and updating Regulation (EC) No 1334/2000 setting up a Community regime for the control of exports of dual-use items and technology.

7.3. EMPOWERMENT

(SEC(2002)1323 to /5)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted by written procedure between 2 and 6 December.

**7.4. EMPOWERMENT IN THE FISHERIES SECTOR - MEASURES TO BE ADOPTED IN THE EVENT OF THE COUNCIL'S FAILING TO ACT, FIXING FOR 2003 THE FISHING OPPORTUNITIES AND ASSOCIATED CONDITIONS FOR CERTAIN FISH STOCKS AND GROUPS OF FISH STOCKS, APPLICABLE IN COMMUNITY WATERS AND, FOR COMMUNITY VESSELS, IN WATERS WHERE LIMITATIONS IN CATCH ARE REQUIRED
(SEC(2002)1316)**

The Commission approved the empowerment decision set out in Section IV of SEC(2002)1316.

**7.5. EXTENSION OF EMPOWERMENT IN AGRICULTURE
(SEC(2002)1348)**

The Commission approved the empowerment decision set out in Section E of SEC(2002)1348.

7.6. DELEGATION AND SUBDELEGATION OF POWERS

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation procedure between 2 and 6 December, as archived on the "Greffé 2000" (Registry) website.

8. ADMINISTRATIVE AND BUDGETARY MATTERS
(SEC(2002)1324/2)

ADMINISTRATIVE MATTERS
(PERS(2002)168)

8.1. DG AIDCO - CREATION OF A POST OF CHIEF ADVISER AND
APPOINTMENT OF AN A2 OFFICIAL TO THE POST FOLLOWING
LEAVE ON PERSONAL GROUNDS
(PERS(2002)168)

The Commission, on a proposal from Mr KINNOCK, in agreement with the PRESIDENT, Mr PATTEN and Mr NIELSON, decided:

- to create a post of Chief Adviser, reporting to the Director-General of the EuropeAid Cooperation Office, with responsibility for management advice in relation to the completion of the devolution exercise;
- to appoint to this post Ms Irma PETTERSSON, an A2 official, currently on leave on personal grounds.

The appointment would be for a period of 12 months.

These decisions would take effect on 1 February.

OTHER MATTERS

8.2. DRAFT COMMISSION DECISION APPOINTING THE CHIEF AUTHORISING OFFICER FOR THE EUROPEAN DEVELOPMENT FUND (EDF) (C(2002)4995 to /3)

The Commission adopted the decision appointing the Director-General of the EuropeAid Cooperation Office as chief authorising officer for the European Development Fund, as set out in C(2002)4995.

9. EUROPEAN GOVERNANCE: BETTER LAWMAKING (COM(2002)704 to /3; COM(2002)705 to /3; COM(2002)709 to /3; COM(2002)713 to /4; COM(2002)718 to /3; COM(2002)719 to /4; COM(2002)725 to /3; SEC(2002)1344 to /3; SEC(2002)1351)

9.1. COMMISSION REPORT ON EUROPEAN GOVERNANCE (COM(2002)705 to /3; SEC(2002)1351)

Subject to the finalisation of the text under the authority of the PRESIDENT, the Commission adopted the report in COM(2002)705/3 for transmission to Parliament, the Council, the Economic and Social Committee, the Committee of the Regions and the Ombudsman.

**9.2. TOWARDS A REINFORCED CULTURE OF CONSULTATION AND
DIALOGUE - GENERAL PRINCIPLES AND MINIMUM STANDARDS
FOR CONSULTATION OF INTERESTED PARTIES BY THE
COMMISSION**

(COM(2002)704 to /3; SEC(2002)1351)

The Commission adopted the communication in COM(2002)704/3 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

**9.3. COMMUNICATION ON THE COLLECTION AND USE OF EXPERTISE
BY THE COMMISSION: PRINCIPLES AND GUIDELINES -
IMPROVING THE KNOWLEDGE BASE FOR BETTER POLICIES**

(COM(2002)713 to /4; SEC(2002)1351)

The Commission adopted the communication in COM(2002)713/4 for transmission to Parliament, the Council, the Economic and Social Committee, the Committee of the Regions and the Ombudsman.

**9.4. A FRAMEWORK FOR TARGET-BASED TRIPARTITE CONTRACTS
AND AGREEMENTS BETWEEN THE COMMUNITY, THE STATES
AND REGIONAL AND LOCAL AUTHORITIES**

(COM(2002)709 to /5; SEC(2002)1351)

Subject to the finalisation of the text under the authority of the PRESIDENT, the Commission adopted the communication in COM(2002)709/5 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

9.5. APPLICATION OF COMMUNITY LAW

**- COMMISSION COMMUNICATION BETTER MONITORING OF
THE APPLICATION OF COMMUNITY LAW
(COM(2002)725 to /3; SEC(2002)1351)**

Subject to a final check on consistency between the different language versions, the Commission adopted the communication in COM(2002)725/3 for transmission to Parliament, the Council, the Economic and Social Committee, the Committee of the Regions, the Ombudsman and the Court of Justice.

**- FOLLOW-UP TO THE WHITE PAPER ON GOVERNANCE - BETTER
MONITORING OF THE APPLICATION OF COMMUNITY LAW -
OPERATIONAL MEASURES
(SEC(2002)1344 to /4; SEC(2002)1351)**

The Commission took note of the communication in SEC(2002)1344/4. It asked the departments concerned to implement the procedural and structural recommendations set out in the communication, and to consider the implications of the planned operational measures in the "infringements" group under the coordination of the Secretariat-General, with a view to defining the corresponding amendments to the manual of procedures by the end of June 2003.

**9.6. OPERATING FRAMEWORK FOR THE EUROPEAN REGULATORY
AGENCIES**

(COM(2002)718 to /3; SEC(2002)1351)

The Commission adopted the communication in COM(2002)718/3 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

**10. THE EU ECONOMY - 2002 REVIEW - SUMMARY AND MAIN
CONCLUSIONS**

(COM(2002)712 to /3; SEC(2002)1346)

The Commission approved the communication in COM(2002)712/3 for transmission to the Council and the European Central Bank and, for opinions, to Parliament, the Economic and Social Committee and the Committee of the Regions.

**11. PROPOSALS FOR COUNCIL DECISIONS CONCERNING THE
CONCLUSION OF AGREEMENTS IN THE FORM OF EXCHANGES OF
LETTERS BETWEEN THE EUROPEAN COMMUNITY AND THE UNITED
STATES OF AMERICA AND BETWEEN THE EUROPEAN COMMUNITY
AND CANADA, RELATING TO THE MODIFICATION OF CONCESSIONS
WITH RESPECT TO CEREALS PROVIDED FOR IN SCHEDULE CXL
ANNEXED TO THE GATT 1994**

(COM(2002)731 and /2)

**12. COUNCIL REGULATION AMENDING REGULATION (EEC) No 1766/92
WITH REGARD TO THE CALCULATION OF IMPORT DUTIES ON
CERTAIN CEREALS**

(COM(2002)732 and /2)

The Commission decided:

- to adopt the proposals for Council Decisions in COM(2002)731 on the approval of the agreements concluded between the European Community and the United States of America and between the European Community and Canada, for transmission to the Council;
- to adopt the proposal for the amendment of Council Regulation (EEC) No 1766/92 in COM(2002)732, for transmission to the Council and Parliament.

13. PARLIAMENT (continued from item 4)

PARLIAMENTARY AFFAIRS GROUP

(SP(2002)4001)

Work of the high-level technical group for interinstitutional cooperation

(political level)

(Brussels, 4 December)

Ms de PALACIO reported on the work of the high-level technical group for interinstitutional cooperation, following its second meeting at political level (4 December).

The Seville European Council had invited the three institutions (Parliament, Council and Commission) to adopt an interinstitutional agreement to improve the quality of Community legislation and the conditions for its transposal into national legislation on the basis of the technical group's work before the end of 2002.

In view of the respective positions of the different institutions, and despite intensive work by the group both at senior official level and at political level, it would not be possible to conclude an interinstitutional agreement within the deadline laid down by the European Council.

The dossier on committee procedure was one of the main causes of the blockage.

The Commission took note of this information.

14. WORK OF THE CONVENTION
(SEC(2002)1352 and /2)

PLENARY SESSION OF 5 AND 6 DECEMBER

Mr BARNIER and Mr VITORINO reported on the twelfth plenary session of the European Convention (Brussels, 5 and 6 December).

Mr BARNIER noted that the new Commission communication *For the European Union - Peace, Freedom, Solidarity*, presented by the PRESIDENT, had been warmly welcomed, even though there had been criticism of the proposed solution as regards external relations and the general impact had been somewhat undermined by the simultaneous distribution of a draft constitutional Treaty (the "Penelope" working document).

The working party on simplification chaired by Vice-President Giuliano AMATO, and that on freedom, security and justice chaired by Mr John BRUTON, had presented their final reports, and two other group chairmen (Vice-President Jean-Luc DEHAENE for the external action group and himself for the defence group) had presented progress reports, with the final reports to be tabled in mid-December for the Convention's last plenary session (Brussels, 20 December).

Mr BARNIER noted that in the defence group, two important proposals had been approved: the creation of an armaments and research agency, and the inclusion in the future treaty of a solidarity clause in the event of a Member State being subject to a terrorist attack on its territory.

Mr GISCARD D'ESTAING would be reporting to the Copenhagen European Council (12 and 13 December) on progress in the Convention.

Mr VITORINO commented on the conclusions of the reports of the simplification group and the freedom, security and justice group, noting that they departed from

the guidelines agreed by the Commission (reintroduction in the simplification report of the principle that the Council could reserve executive powers to itself; refusal to create a European public prosecutor for the protection of the Community's financial interests in the freedom, security and justice report).

He confirmed that the Commission communication had been generally welcomed, but reminded the meeting that the key criticisms had been directed at the introduction of a system of dual Commission accountability to both Parliament and the Council, and also the idea of a Commission Member being at the same time both High Representative of the Union and Member of the Commission responsible for external relations.

The Presidium would be holding a general debate on the institutional architecture at its meeting in January 2003, and would also begin consideration of the articles of the draft constitutional Treaty.

It was important for the Commission to prepare for this detailed discussion on the draft articles.

The Commission took note of this information.

15. EUROPEAN GOVERNANCE: BETTER LAWMAKING

(continued from item 9)

***COUNCIL DECISION AMENDING DECISION 1999/468/EC LAYING DOWN
THE PROCEDURES FOR THE EXERCISE OF IMPLEMENTING POWERS
CONFERRED ON THE COMMISSION
(COM(2002)719 to /4; SEC(2002)1351)***

The PRESIDENT introduced the debate by emphasising the importance and the quality of all the documents submitted to the Commission which constituted the second stage of the follow-up to the White Paper on European governance adopted by the Commission on 25 June 2001. He paid tribute to the decisive contribution made by the Secretariat-General, and in particular Mr MOAVERO MILANESI, Deputy Secretary-General, and Mr VIGNON, Chief Adviser in the Secretariat-General, for the work done on the finalisation of this package.

Among all the documents under consideration, there was a consensus on the general report on European governance and six communications on specific subjects (minimum consultation standards; use of expertise by the Commission; tripartite contracts and agreements between the Community, the Member States and the regional and local authorities; application of Community law and framework for European regulatory agencies) (see the items and corresponding documents adopted under item 9 of these minutes).

He opened the debate on the proposal for a Council Decision amending Decision 1999/468/EC laying down the procedures for the exercise of implementing powers conferred on the Commission (committee procedure).

The Commission held an exchange of views on the advisability of submitting to the Council and Parliament a proposal to amend the 1999 Decision under the Treaty as

it stood, when a more fundamental amendment of the committee system was being proposed by the Commission within the Convention.

Following this discussion, the Commission decided to redraft the explanatory memorandum to the proposal for a Council Decision in order to emphasise that the present proposal, which took account of the lessons from the past, under the Treaty as it stood, was necessary to cover the period remaining before the entry into force of the future constitutional Treaty.

Subject to this redrafting of the explanatory memorandum, the Commission adopted the proposal for a decision in COM(2002)719/4 for transmission to Parliament and the Council.

**16. PROPOSAL FOR A COUNCIL REGULATION ON THE CONTROL OF
CONCENTRATIONS BETWEEN UNDERTAKINGS
(COM(2002)711 to /5; SEC(2002)1350)**

**17. DRAFT COMMISSION NOTICE ON THE APPRAISAL OF HORIZONTAL
MERGERS UNDER THE MERGER REGULATION
(SEC(2002)1337 to /3; SEC(2002)1350)**

Mr MONTI presented a proposal for the reform of the merger control system, made up of three parts:

- a proposal for a Council Regulation to replace Regulation (EEC) No 4064/89;
- a draft Commission notice concerning the appraisal of horizontal mergers under the merger Regulation;

- a series of non-legislative measures aimed at improving the implementation of investigations of mergers, the degree of economic expertise within the Competition DG, and the operation of the decision-making process in general.

The 1989 Council Regulation provided for a periodic review limited to certain of its provisions (turnover thresholds and case referral rules), and since the last revision in 1997 it had become necessary to re-examine the operation of the Regulation as a whole.

This revision had been preceded by the publication of a Green Paper adopted by the Commission exactly a year earlier (11 December 2001), which had given rise to consultations with the Member States, companies and the legal community, as well as other interested parties. The present revision took full account of three recent judgments by the Court of First Instance on various merger cases (Airtours/First Choice, Schneider/Legrand and Tetra Laval/Sidel).

Mr MONTI reviewed the main points of these proposals:

- on questions of substance: the maintenance and clarification of the dominant position criterion, which, among other advantages, allowed the case law developed over the years to be preserved; an increase in the degree of legal certainty for all interested parties through the clear and complete description of the policy operated by the Commission in a draft communication on the appraisal of horizontal mergers, to be put out for consultation; taking into account the efficiency gains generated by a merger;
- on questions of procedure and internal organisation: updating the system to improve the quality of the Commission's decision-making process, while strengthening guarantees as regards the rights of the defence for companies involved in the merger.

He thanked Mr Philip LOWE and the relevant departments of the Competition DG, which had drawn up this reform proposal in record time, the Legal Service, the President's Office and the other Members' Offices and departments concerned.

This reform of the merger control system, which came on top of the modernisation of the anti-trust and state aid rules and procedures already carried out, would enable the Commission to bequeath to its successor a rejuvenated range of instruments for the control of competition conditions.

The Commission, while supporting all these proposals, held an exchange of views on some specific aspects (definition of the concept of dominance; taking into account the economic efficiency produced by a merger; definition of relevant markets; judicial review; etc.) and agreed that it would be possible to re-examine certain points following the public consultation on the draft Commission notice on the appraisal of horizontal mergers.

In the light of the details supplied by Mr MONTI, and subject to an amendment (addition of a footnote) to paragraph 56 of the explanatory memorandum and a linguistic correction to Article 10 of the proposal for a Regulation, the Commission:

- adopted the proposal for a Council Regulation on the control of concentrations between undertakings (COM(2002)711/4 and /5) for transmission to the Council, Parliament and the Economic and Social Committee;
- also adopted the draft Commission notice on the appraisal of horizontal mergers under the Council Regulation on the control of concentrations between undertakings (SEC(2002)1337/3), and decided to publish it with a view to wider public consultation;

- took note of the non-legislative measures set out in the communication from Mr MONTI (COM(2002)711/4 and /5), and in particular the creation in DG COMP of an A2 post of Chief Economist.

18. INDUSTRIAL POLICY IN AN ENLARGED EUROPE

(COM(2002)714 to /3; SEC(2002)1340; SEC(2002)1347)

Introducing the debate, the PRESIDENT noted that the key objective of the communication tabled by Mr LIIKANEN was to trigger a process intended, in cooperation with all those concerned (Commission and other institutions, Member States), to restore industry to its proper place on the Community agenda.

Mr LIIKANEN confirmed this general approach, already outlined in the Lisbon and Gothenburg agendas and clarified at the Commission seminar on industrial policy on 10 July.

The Community was resolutely embarked on the path of sustainable development, reconciling growth, social cohesion and environmental protection. Industrial policy should preserve a balance between a horizontal approach (on which too much emphasis had been placed in the past) and a sectoral approach. Entrepreneurial spirit and innovation would remain the essential keys to competitiveness, and enlargement, through the diversification of outlets and the opening-up of new markets, constituted an opportunity for industry.

He thanked all the Directorates-General and departments for their assistance in drawing up the communication.

Subject to a final linguistic check of the text under the authority of Mr LIIKANEN, the Commission approved the communication on industrial policy in an enlarged

Europe, as set out in COM(2002)714/3, for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

19. COUNCIL MEETINGS

(SI(2002)1513)

19.1. TRANSPORT, TELECOMMUNICATIONS, ENERGY

(BRUSSELS, 5 AND 6 DECEMBER)

(SI(2002)1483; SI(2002)1484; SI(2002)1485 and /2)

Transport

(SI(2002)1484)

Ms de PALACIO reported on the positive results of the Council meeting, in particular:

- unanimous agreement on the Single European Sky package;
- agreement by qualified majority on a Presidency compromise on common rules for compensation and assistance to air passengers in the event of denied boarding and of cancellation or long delay of flights;
- unanimous political agreement on the Regulation relating to the Marco Polo Programme (improving the environmental performance of the freight transport system);
- unanimous adoption of the draft conclusions presented by the Presidency, inviting the Member States to take concrete measures following the sinking of the *Prestige*.

On the last point, following the agreement in principle already given by the Council, the Commission empowered Ms de PALACIO, in agreement with the PRESIDENT, to finalise and transmit to the Council a proposal for a Regulation that would:

- prohibit the transport of heavy fuel oil in single-hull tankers to or from a Community port;
- reintroduce the timetable originally proposed by the Commission for the ban on single-hull tankers, which had been extended by the Council when it approved the *Erika 1* package.

The acceleration of this process would demonstrate at the Copenhagen European Council that the Commission was giving appropriate priority to safety at sea, and would enable the proposal for a Regulation to be adopted by July 2003, as provided for in the Council conclusions of 5 December.

Ms de PALACIO regretted on the other hand that no consensus had been reached in the Council on Alpine transit (Ecopoints), a situation which had not changed in the Council (General affairs and external relations) on 9 and 10 December.

Telecommunications

(SI(2002)1483; SI(2002)1485 and /2)

Mr LIIKANEN reported briefly on the Council's discussions on telecommunications.

19.2. GENERAL AFFAIRS AND EXTERNAL RELATIONS

(BRUSSELS, 9 AND 10 DECEMBER)

PREPARATIONS FOR EUROPEAN COUNCIL

(COPENHAGEN, 12 AND 13 DECEMBER)

(SI(2002)1534)

Mr VERHEUGEN gave an update on outstanding issues as regards enlargement and on the consequent prospects for the outcome of the Copenhagen European Council (12 and 13 December).

Mr PATTEN reported on the Council's discussions on, and his personal assessment of, the situation in the Middle East, the western Balkans, Albania and the Former Yugoslav Republic of Macedonia (FYROM).

19.3. ENVIRONMENT

(BRUSSELS, 9 AND 10 DECEMBER)

(SI(2002)1515)

Ms WALLSTRÖM reported on the main results of the Council meeting:

- unanimous political agreement on the proposal for a Parliament and Council Directive establishing a greenhouse gas emission trading system within the Community;
- political agreement by qualified majority on the proposal for a Parliament and Council Regulation on the traceability and labelling of genetically modified organisms.

The Commission noted that, thanks to this political agreement on the Regulation on the traceability and labelling of GMOs, the Member States would have at their disposal Community reference criteria for the establishment of measures on traceability and labelling planned in

Directive 2001/18. This would facilitate the speedy application of the Directive and the resumption of marketing authorisations for GMOs. The Commission also noted that a clear communication was necessary on Article 4.3 of the Regulation so as to avoid any interpretation involving a major obstacle to trade in GMOs as regards bulk loadings.

19.4. FISHERIES

(BRUSSELS, 16-19 DECEMBER)

Follow-up to the sinking of the oil tanker *Prestige* - request for empowerment in the fisheries sector

(SEC(2002)1353)

In the light of the explanations supplied during the meeting by Mr FISCHLER, the Commission decided to empower Mr FISCHLER, in agreement with the PRESIDENT and Ms SCHREYER, to adopt and transmit to the Council and Parliament a proposal for a Regulation to make a suitable Community contribution to repairing the damage caused by the sinking of the oil tanker *Prestige*, as set out in SEC(2002)1353.

Preparations for Council meeting (Fisheries)

(Brussels, 16-19 December)

Mr FISCHLER reported on the forthcoming discussions of the Council (Fisheries) on the reform of the common fisheries policy.

The Commission held an exchange of views on the prospects for securing agreement on an overall package, subject to the introduction of certain elements of flexibility in its proposals.

It agreed to consider the state of play at its next meeting (Strasbourg, 17 December) in the light of the debates on 16 and 17 December in the

Council (Fisheries) and, if necessary, on the basis of the conclusions of a special meeting of Chefs de cabinet (17 December, morning), and to empower Mr FISCHLER at that time, if necessary, to finalise the negotiation of a compromise.

20. OTHER BUSINESS

20.1. G7 - THIRD MINISTERIAL MEETING ON HEALTH, SECURITY AND BIOTERRORISM (MEXICO, 6 DECEMBER) (SEC(2002)1361)

The Commission took note of the information supplied by Mr BYRNE in SEC(2002)1361 on the discussions and the action plan of the G7 at its third ministerial meeting on health, security and bioterrorism.

20.2. COURT OF JUSTICE JUDGMENT - CASE C-29/99 COMMISSION v COUNCIL

Ms de PALACIO reported on the Court judgment annulling the declaration of accession of Euratom to the Convention on Nuclear Safety, on the grounds that the Council had not mentioned in the declaration all the powers of Euratom in the subject areas covered by the Convention.

20.3. COURT OF JUSTICE JUDGMENT - CASE C-491/01 BRITISH AMERICAN TOBACCO (INVESTMENTS) AND IMPERIAL TOBACCO v SECRETARY OF STATE FOR HEALTH

Mr BYRNE explained that in this judgment the Court had confirmed the validity of Directive 2001/37/EC on the manufacture, presentation and sale of

tobacco products, and in particular the fact that this Directive, whose aim was to improve the conditions of operation of the internal market, could be adopted on the legal basis of the harmonisation of the internal market (Article 95 of the EC Treaty) and that the harmonisation measures provided for by the Directive did respect the proportionality principle.

This was an important judgment, which confirmed the validity of one of the most effective instruments for combating tobacco consumption.

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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 1330 hours.