



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

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Brussels, 26 February 2003

MINUTES
of the 1601st meeting of the Commission
held in Brussels
(Breydel)
on Wednesday 19 February 2003
(morning)

These minutes were approved by the Commission at its 1602nd meeting, held in Brussels on 26 February 2003.

They contain 24 pages.

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Single sitting: Wednesday 19 February (morning)

The sitting opened at 0930 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

Except items 1 to 15

Mr VERHEUGEN

Mr PATTEN

Mr LAMY

Mr BYRNE

Mr BARNIER

Ms SCHREYER

MS WALLSTRÖM

Mr VITORINO

Ms DIAMANTOPOULOU

Absent:

Ms REDING

The following sat in to represent absent Members of the Commission

Mr PAULGER Chef de cabinet to Ms Reding

The following also sat in

Mr PETITE	Director-General, Legal Service	
Mr MANSERVISI	Chef de cabinet to the President	
Mr DE LECEA	Adviser in the President's Office	Items 15 to 19
Mr STROHMEIER	Adviser in the President's Office	Items 17 and 19
Mr GUSSETTI	A member of the President's staff	Item 13
Mr SMULDERS	A member of the President's staff	Item 6
Mr FAULL	Commission Spokesman	
Mr DE RYNCK	Spokesman	Item 12
Mr MANN	Spokesman	Items 13 and 14
Mr MAMER	Spokesman	Item 14
Mr CARVOUNIS	Press and Communication DG	
Mr KOOPMAN	Chef de cabinet to Mr Kinnock	
Ms OLIVI	A member of Mr Monti's staff	Item 12
Mr PLANAS	Chef de cabinet to Mr Solbes	Items 15, 16 and 18
Mr BECHET	Deputy Chef de cabinet to Mr Nielson	Items 1 to 15
Mr FONSECA	Deputy Chef de cabinet to Mr Monti	Items 4 and 12
Mr FITZMAURICE	Secretariat-General	Item 13
Mr SAGREDO	Secretariat-General	Item 13

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

1. AGENDAS

(OJ(2003)1601/3; SEC(2003)178/2)

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(2003)1601)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 17 February.

**3. APPROVAL OF MINUTES AND SPECIAL MINUTES OF 1600th MEETING
(11 February)**

(PV(2003)1600 and /2; PV(2003)1600, Part II and /2)

The Commission approved the minutes of its 1600th meeting.

4. PARLIAMENT

4.1. FEBRUARY PART-SESSION

(SP(2003)502)

The Commission took note of the record of Parliament's part-session held in Strasbourg from 10 to 13 February.

**4.2. ACTION TO BE TAKEN ON PARLIAMENT'S OPINIONS
(SP(2003)500)**

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 requiring a single reading.

**5. PERMANENT REPRESENTATIVES COMMITTEE
(SI(2003)139)**

The Commission took note of the record of the meeting of the Council Affairs Group held on Friday 14 February.

It paid particular attention to the following:

Proposal for a Council framework decision on racism and xenophobia

In view of the potential impact of two Court of Justice judgments of 11 February (Cases C-187/01 and C-385/01), the Commission decided that, should the Council adopt the framework decision despite the Community competence laid down in Article 13 of the Treaty, the Commission's representative would put on record the statement set out in Annex 2 of SI(2003)139.

Community patent

The Commission authorised Mr BOLKESTEIN to support the Presidency compromise, subject to the clarifications that would need to be made as regards the problem of jurisdiction.

It noted that, depending on the results of the Council meeting (Competitiveness) on 3 March, and in the light of the letter of 19 November from the PRESIDENT to the

Heads of State or Government, the Commission might have to consider this item again.

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

(SEC(2003)173; SEC(2003)99 to /3; SEC(2002)1188 and /2; SEC(2003)184)

6.1. STATE AID

(SEC(2003)173)

The Commission adopted the decisions in SEC(2003)173.

6.2. DRAFT BLOCK-EXEMPTION REGULATION CONCERNING THE APPLICATION OF ARTICLES 87 AND 88 OF THE EC TREATY TO AID FOR SMALL AND MEDIUM-SIZED ENTERPRISES INVOLVED IN THE PRODUCTION, PROCESSING AND MARKETING OF AGRICULTURAL PRODUCTS

(SEC(2003)99 to /3)

The Commission adopted in principle the draft Regulation in SEC(2003)99/3, empowered Mr FISCHLER to approve it formally in the official Community languages, and authorised him to continue the legislative procedure laid down in Regulation 994/1998/EC, involving its referral to the Advisory Committee on State Aid, with a view to putting the final proposal for the block-exemption Regulation before the Commission.

6.3. INFRINGEMENTS - URGENT OR DEFERRED CASES

(SEC(2003)184)

The Commission adopted the decisions in SEC(2003)184.

7. WRITTEN PROCEDURES AND EMPOWERMENT

7.1. WRITTEN PROCEDURES APPROVED

(SEC(2003)179 to /5)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 10 and 14 February.

7.2. SENSITIVE WRITTEN PROCEDURES

(SEC(2003)180)

The Commission took note of the following written procedures initiated between 10 and 14 February for the adoption of decisions with political implications:

Time limit: 17.02.2003

E/2003/179 - COM(2003)73 DG EMPL

Commission communication concerning the introduction of a European health insurance card.

E/2003/222 - C(2003)564 DG COMP

EXPEDITED

Commission decision to terminate Article 88(2) proceedings concerning State aid C 15/2002 - Belgium: Tax scheme applicable to coordination centres.

E/2003/222 - C(2003)568 DG COMP

EXPEDITED

Commission decision to terminate Article 88(2) proceedings concerning State aid C 51/2001 - Netherlands: international financing activities.

E/2003/225

DG COMP

EXPEDITED

Commission decision to terminate Article 88(2) proceedings concerning
State aid C 54/2001 (ex NN 55/2000) - Ireland: Foreign Income.

As regards written procedures E/2003/222, E/2003/223 and E/2003/225 the
Commission noted the specific nature of these decisions in the context of the
tax package.

7.3. EMPOWERMENT

(SEC(2003)181 to /5)

The Commission took note of the Secretariat-General's memoranda recording
decisions adopted between 10 and 14 February.

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 10 and
14 February, as archived on the "Grefe 2000" (Registry) website.

8. ADMINISTRATIVE AND BUDGETARY MATTERS

(SEC(2003)182/2)

ADMINISTRATIVE MATTERS

(PERS(2003)27/2)

8.1. DG ENV - AMENDMENT OF ORGANISATION CHART

(PERS(2003)28)

On a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Ms WALLSTRÖM, the Commission approved the amendment of the Environment DG's organisation chart, as set out in PERS(2003)28.

This decision would take effect on 1 March.

8.2. DG ECFIN - APPLICATION OF ARTICLE 50 OF THE STAFF REGULATIONS (SECOND STAGE) WITH RESPECT TO AN A2 OFFICIAL

The Commission continued its discussions on this matter, begun on 24 September (PV(2002)1582, Part II).

The Commission, on a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Mr SOLBES, adopted the decision in PERS(2003)31 to apply the second stage of the procedure laid down in Article 50 of the Staff Regulations with respect to Mr Henry Joly DIXON, an A2 official, currently Chief Adviser in the Economic and Financial Affairs DG.

This decision would take effect on 1 May.

**8.3. APPLICATION OF ARTICLE 50 OF THE STAFF REGULATIONS
(INITIAL STAGE) WITH RESPECT TO AN A1 OFFICIAL**

The Commission decided to initiate the procedure laid down in Article 50 of the Staff Regulations in respect of an A1 official.

8.4. DG REGIO - DEPUTISING FOR DIRECTOR-GENERAL

On a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Mr BARNIER, the Commission decided to ask Mr Graham MEADOWS, an A2 official, currently Director of Directorate REGIO/E (Regional operations in France, Greece and Italy), to stand in for the Director-General, Regional Policy, from 1 March 2003 until the post was definitively filled.

This decision would take effect on 1 March.

**8.5. DRAFT COMMISSION DECISION ON THE PROPOSAL TO FILL THE
POST OF EXECUTIVE DIRECTOR OF THE EUROPEAN AVIATION
SAFETY AGENCY
(C(2003)604 and /2)**

The Commission adopted the decision in C(2003)604/2 and asked Ms de PALACIO to communicate it to the Management Board of the European Aviation Safety Agency.

It noted that the Commission's representative would provide the Management Board of the Agency with a complete dossier containing all necessary information on the selection procedure followed by the Commission, and on the assessment of the various candidates for the post, to enable the Management Board to take a view on the appointment in complete transparency and in full knowledge of the facts.

9. GREEN PAPER ON PROCEDURAL SAFEGUARDS FOR SUSPECTS AND DEFENDANTS IN CRIMINAL PROCEEDINGS THROUGHOUT THE EUROPEAN UNION

(COM(2003)75 to /3; SEC(2003)189)

The Commission approved the Green Paper in COM(2003)75/3 for transmission to the Council, Parliament and the Economic and Social Committee.

10. COMMISSION OPINION ON THE APPLICATIONS FOR ACCESSION TO THE EUROPEAN UNION BY TEN CANDIDATE COUNTRIES

(COM(2003)79 and /2)

The Commission approved the opinion in COM(2003)79 for transmission to the Council and, for information, to Parliament.

11. PARLIAMENT (continued from item 4)

DISCHARGE RELATING TO IMPLEMENTATION OF THE 2001 BUDGET

Ms SCHREYER reported on progress in the discharge procedure for 2001.

Following the Commission's replies to the questionnaire from Parliament's Committee on Budgetary Control, a draft report was already in process of finalisation within that Committee. She mentioned certain subject areas which had particularly attracted the Committee's attention and for which certain requirements could be included in the draft resolution.

The Commission took note of this information and decided to give high priority to dealing with these dossiers, supplying Parliament with all the clarifications and further information requested.

12. WORK OF THE CONVENTION

Mr BARNIER and Mr VITORINO reported on the work of the Convention and its Presidium:

- draft Articles 1 to 6 proposed by the Presidium had been distributed in plenary session, provoking the tabling of some 100 amendments by Commission Members;
- the Presidium at its meeting of 18 February had carried out an initial examination of the subsidiarity protocol;
- the timetable for subsequent work was discussed.

The Commission took note of this information, and confirmed the arrangements already in place under which it was for each Member to make any useful proposal concerning the wording of the draft articles so that the Commission's position would be widely known and could be defended on the basis of precise proposals for texts.

13. REGULATION ON THE STATUTE AND FINANCING OF EUROPEAN POLITICAL PARTIES **(COM(2003)77 to /4; SEC(2003)197)**

The PRESIDENT presented a proposal for a Parliament and Council Regulation on the statute and financing of European political parties.

A first proposal, presented in February 2001, then amended in June 2001 in the light of Parliament's opinion, was still under consideration in the Council when the Treaty of Nice entered into force on 1 February 2003. This gave the Commission the opportunity to submit a proposal based on a solid and permanent legal basis (Article 191), which would enable it to be adopted under the codecision procedure by qualified majority.

The new proposal was based on the constructive work already carried out by the three institutions on the intermediate proposal of June 2001, and included the points on which a consensus had been secured during this process.

The budget allocation had been revised upwards (from €7 million to €8.4 million) to take account of the future growth of the Union's population resulting from enlargement, and it was proposed to finance this action in the form of specific expenditure by Parliament (Section I of the Budget), in accordance with the decision taken by the budgetary authority when the budgets for 2002 and 2003 were adopted.

In the light of these explanations, the Commission adopted the proposal set out in COM(2003)77/4 for transmission to the Council and Parliament.

14. COMMUNICATION CONCERNING THE RECRUITMENT OF COMMISSION OFFICIALS FROM THE NEW MEMBER STATES (C(2003)436 to /5; SEC(2003)142)

Mr KINNOCK tabled a communication on the recruitment of Commission officials from the new Member States.

He drew particular attention to:

- the method of calculation used to set the quantitative objectives for the recruitment of nationals of the new Member States (objective criteria combining population, the weighting of votes in the Council, and the number of seats in Parliament; recruitment to be spread over a transitional period of 7 years);
- the abandonment of the previous practice whereby senior management posts were individually reserved for specific nationalities: nationals of all the new Member States could compete for all the posts earmarked for those countries;
- the effects of applying the new Staff Regulations (to be adopted by the middle of 2003) to the recruitment of officials, and in particular the introduction of a probationary period for all, including A2 and A1 officials;
- the underlying basis for deciding the number of middle and senior management posts to be filled (maintenance of current ratios; maintenance of administrative units of a manageable size; taking into account the extension of current activities to ten new countries).

In the light of these clarifications, the Commission:

- approved the general approach proposed, as set out in C(2003)436/5;
- approved the proposed increase in the number of middle and senior management posts;
- mandated Mr KINNOCK to implement this new approach and monitor the results.

**15. COMMISSION RECOMMENDATIONS FOR COUNCIL OPINIONS,
PURSUANT TO REGULATION (EC) NO 1466/97, ON THE UPDATED
STABILITY PROGRAMMES OF PORTUGAL AND LUXEMBOURG
(SEC(2003)198 and /2; SEC(2003)199; SEC(2003)205)**

Mr SOLBES presented two Commission recommendations for Council opinions on the updated stability programmes of Luxembourg and Portugal.

He reviewed the forecast trends in the various indicators used for the assessment of these updated programmes.

As regards Luxembourg, he concluded that the updated stability programme met the criteria of the stability and growth pact, while emphasising the possible need for further measures to restrict public expenditure in the event of a marked deterioration in economic growth.

As for Portugal, he reminded the meeting of the decision taken by the Council on 5 November that an excessive deficit existed in Portugal, and the corrective measures adopted by the national authorities on a transitional basis from the end of the 2002 financial year.

He outlined the key points of the strategy presented by Portugal, which provided for a return to a budgetary position close to balance in 2005, in accordance with the recommendation adopted by the Council under Article 104(7) of the Treaty.

Implementation by Portugal of the structural reform programme was crucial.

In the light of this analysis, the Commission approved the recommendations in SEC(2003)198 and SEC(2003)199 for transmission to the Council.

**16. COMMISSION OPINION ON EUROPEAN CENTRAL BANK
RECOMMENDATION ECB/2003/1 OF 3 FEBRUARY 2003 FOR A
COUNCIL DECISION ON AN AMENDMENT TO ARTICLE 10(2) OF THE
STATUTES OF THE EUROPEAN SYSTEM OF CENTRAL BANKS AND
OF THE ECB
(COM(2003)81 to /4; SEC(2003)205)**

Mr SOLBES presented a draft Commission opinion on a proposal for the amendment of the statutes of the European System of Central Banks and the European Central Bank.

The procedure in force was for the ECB to adopt a recommendation - which it had done on 3 February - for a Council decision amending the statutes, and for the Commission and Parliament to deliver opinions on this recommendation before the decision could be adopted by the Council. The Council decision, once adopted unanimously, would enter into force only after being ratified by the fifteen current Member States.

He also reminded the meeting of the origin of this initiative: the Nice Intergovernmental Conference had recognised the need to reform the governance of the ECB with a view to enlargement, and had decided to add an enabling clause to the statutes of the ESCB and the ECB, allowing the Council, meeting at Heads of State or Government level, unanimously to amend Article 10(2) of the statutes.

He outlined the content of the proposed opinion, in which the Commission noted that the system recommended by the ECB preserved the capacity of the Governing Council to take effective decisions in a substantially enlarged euro area.

He noted, however, that the explanatory memorandum to the opinion set out a number of clarifications that could be made.

Following a brief exchange of views, and given the limits inherent in the enabling clause itself, and the constraints connected with the decision-making process in this area, the Commission adopted the opinion on the recommendation of the European Central Bank in COM(2003)81/4 for transmission to the Council, Parliament and the European Central Bank.

This opinion would be published in the Official Journal.

**17. PARLIAMENT AND COUNCIL DIRECTIVE RELATING TO THE
PROTECTION OF PEDESTRIANS AND OTHER VULNERABLE ROAD
USERS IN THE EVENT OF A COLLISION WITH A MOTOR VEHICLE
AND AMENDING DIRECTIVE 70/156/EEC
(COM(2003)67 to /4; SEC(2003)174)**

Mr LIIKANEN presented a proposal for a Parliament and Council Directive on the protection of pedestrians and other vulnerable road users in the event of a collision with a motor vehicle.

The Commission had begun its consideration of this subject several years earlier, and after addressing two communications to the Council and Parliament - one on 21 December 2000 on the possibility of voluntary undertakings by industry, and the other on 11 July 2001 presenting the undertaking by the European Automobile Manufacturers Association - Parliament in its resolution of 13 June 2002 had finally invited the Commission to present a framework Directive laying down the timetable, the objectives to be achieved and the method for monitoring implementation.

He outlined the key points of the proposal for a Directive (fundamental requirements to be met by the frontal structures of vehicles; timetable for

implementation of the planned measures; definition of the tests to be undergone by new types of vehicles and by new vehicles).

As regards the tests to which vehicles would be subject, the proposal provided for a process in two stages:

- a first series of tests would apply to all new types of vehicles with effect from 1 January 2005 and to all new vehicles put on the market after 31 December 2012;
- a second series of tests based on the recommendations of the EEVC would apply to all new types of vehicles with effect from 1 September 2010 and to all new vehicles from 2015. A feasibility study would be carried out by 1 July 2004 to investigate other measures having at least the same effects in terms of protection.

The Commission held a brief exchange of views and agreed the following:

In the event the feasibility assessment shows that there are alternative measures to the EEVC tests or a combination of alternative measures and the EEVC tests which will ensure a better level of protection for pedestrians and other vulnerable users than the EEVC tests, the Commission will present a proposal for an amendment of the Directive on pedestrian protection.

In any case, the high level of pedestrian protection according to the EEVC tests will be guaranteed.

Subject to this clarification, the Commission adopted the proposal for a Directive in COM(2003)67/4 for transmission to Parliament, the Council and the Economic and Social Committee.

18. COUNCIL MEETINGS

(SI(2003)123)

18.1. - INFORMAL MEETING OF FOREIGN MINISTERS

(BRUSSELS, 17 FEBRUARY)

- INFORMAL SPECIAL EUROPEAN COUNCIL MEETING

(BRUSSELS, 17 FEBRUARY)

(SI(2003)300; SEC(2003)227)

On the basis of communications from the PRESIDENT and Mr PATTEN on the discussions and conclusions of the Foreign Ministers and Heads of State or Government on 17 February on Iraq, the Commission discussed the overall situation.

The PRESIDENT reported on the talks he had had with Mr PUTIN in Moscow on 18 February at his request.

Mr PATTEN reported on his meeting with the Foreign Ministers of the Arab League before the meeting of Heads of State or Government.

Following this exchange of views, the Commission agreed, among other things, to intensify the political dialogue with the candidate countries.

18.2. ECONOMIC AND FINANCIAL AFFAIRS

(BRUSSELS, 18 FEBRUARY)

Mr SOLBES reported on the discussions of the Council (Economic and Financial Affairs) and the Eurogroup in Brussels on 18 February.

19. RELATIONS WITH NON-MEMBER COUNTRIES

19.1. WTO - MINISTERIAL CONFERENCE

(TOKYO, 15 -16 FEBRUARY)

Mr LAMY and Mr FISCHLER reported on the World Trade Organisation ministerial mini-conference held in Tokyo on 15 and 16 February.

Mr LAMY noted that this conference had removed any uncertainty as to the scope of the negotiations, but had also confirmed the scale of the differences of view on the quantitative objectives of the agricultural reform.

Mr FISCHLER stated that the debates on the agricultural sector had proceeded on the basis of a first draft compromise on the arrangements for the agricultural reform presented by Mr HARBINSON, President of the negotiating committee on agriculture, which had been submitted very late, and was considered by some participants, including the EU, to be unbalanced in terms of the commitments to be made by the various parties.

The Commission took note of this information.

19.2. ALGERIA

Ms de PALACIO reported on her talks with Mr BOUTEFLIKA and other representatives of the government during her visit to Algeria from 6 to 9 February.

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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 1300 hours.