



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2003)1605 final

Brussels, 26 March 2003

MINUTES

of the 1605th meeting of the Commission

held in Brussels

(Breydel)

on Wednesday 19 March 2003

(morning)

and

on Friday 21 March 2003

(afternoon)

(extra sitting held after the European Council of 20-21 March 2003)

These minutes were approved by the Commission at its 1606th meeting, held in Brussels on 26 March 2003.

They contain 28 pages.

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Sitting: Wednesday 19 March (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	Except items 11 to 15
Mr SOLBES	Except items 10 to 15
Mr NIELSON	
Mr VERHEUGEN	
Mr PATTEN	
Mr LAMY	
Mr BYRNE	
Mr BARNIER	
Ms REDING	
Ms SCHREYER	
Ms WALLSTRÖM	
Mr VITORINO	
Ms DIAMANTOPOULOU	Except items 9 to 12

The following sat in to represent absent Members of the Commission

Mr CAPOUET	Chef de cabinet to Mr Busquin	Items 11 to 15
Mr ANGEL	A member of Mr Solbes's staff	Items 10 to 15
Mr GLYNOS	Chef de cabinet to Ms Diamantopoulou	Items 9 to 12

The following also sat in

Mr PETITE	Director-General, Legal Service	
Mr MANSERVISI	Chef de cabinet to the President	
Mr KEMPPINEN	Commission Spokesman	
Mr KREUZHUBER	Spokesman	Item 12
Mr DE RYNCK	Spokesman	Item 12
Mr TODD	Spokesman	Item 9
Mr SMULDERS	A member of the President's staff	Items 9 and 12
Mr NØRLUND	Chef de cabinet to Mr Bolkestein	Items 9 and 12
Ms MANFREDI	A member of Mr Bolkestein's staff	Item 9
Mr ERLER	A member of Mr Verheugen's staff	
Ms ROGER	Chef de cabinet to Mr Barnier	Items 9 and 12
Mr FONSECA	Deputy Chef de cabinet to Mr Vitorino	Items 8 and 12
Mr CARVOUNIS	Director in the Press and Communication DG	
Ms GONZALEZ LAYA	Press and Communication DG	Item 12
Mr PONZANO	Director in the Secretariat-General	Item 12
Mr VAN NUFFEL	Secretariat-General	Item 12
Mr WINTERSTEIN	Secretariat-General	Item 12
Mr LEVI	GOPA	Item 12
Mr NAVA	GOPA	Item 12

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

1. AGENDAS

(OJ(2003)1605/3; SEC(2003)309/2)

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)1605)

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

**3. APPROVAL OF MINUTES AND SPECIAL MINUTES OF 1604th MEETING
(11 March)**

(PV(2003)1604 and /2; PV(2003)1604, Part II)

The Commission approved the minutes of its 1604th meeting.

4. PARLIAMENT

4.1. MARCH I PART-SESSION

(SP(2003)914)

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

4.2. ACTION TO BE TAKEN ON PARLIAMENT'S OPINIONS
(SP(2003)920)

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. MONITORING THE APPLICATION OF COMMUNITY LAW: STATE AID
(SEC(2003)305; C(2003)647 to /6)

5.1. STATE AID
(SEC(2003)305)

The Commission adopted the decisions in SEC(2003)305.

5.2. STATE AID - CASE DEFERRED
(C 18/1999 - GERMANY: AID FOR LINDE AG)
(C(2003)647 to /6)

The Commission adopted the decision in C(2003)647/6.

6. WRITTEN PROCEDURES AND EMPOWERMENT

6.1. WRITTEN PROCEDURES APPROVED
(SEC(2003)107) 310 to /5)

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

6.2. SENSITIVE WRITTEN PROCEDURES

(SEC(2003)311)

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

Time limit: 17.03.2003

E/2003/355 - SEC(2003)296 Budget DG

Commission decision updating the Internal Rules on the implementation of the general budget of the European Communities to reflect the new headings in the 2003 budget; to authorise the Director-General, Budget, to draw up the final version of the 29th edition of the rules

Suspended written procedure

E/2003/356 - SEC(2003)298 Budget DG

Commission decision on the approval of the charters of tasks and responsibilities of authorising officers by delegation and subdelegation; to authorise the Director-General, Budget, to annex them to the internal rules on implementation of the budget

Suspended written procedure

E/2003/376 - C(2003)799 Research DG

Commission decision adopting a model contract in the context of the implementation of the sixth framework programme of the European Community and the European Atomic Energy Community (2002-06)

Time limit: 21.03.2003

E/2003/400 - COM(2003)130 Fisheries DG

Commission communication *Towards uniform and effective implementation of the common fisheries policy*

E/2003/404 - COM(2003)131 Environment DG

Commission communication *Developing an action plan for environmental technology*

6.3. EMPOWERMENT

(SEC(2003)312 to /5)

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

6.4. 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 March, as archived on the "Greffé 2000" (Registry) website.

7. ADMINISTRATIVE AND BUDGETARY MATTERS

(SEC(2003)313/2)

ADMINISTRATIVE MATTERS

(PERS(2003)43)

APPLICATION OF ARTICLE 50 OF THE STAFF REGULATIONS (SECOND STAGE) WITH RESPECT TO AN A1 OFFICIAL

The Commission continued its discussions on this matter, begun on 19 February (PV(2003)1601).

The Commission, on a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Mr BOLKESTEIN, adopted the decision in PERS(2003)44 to apply the second stage of the procedure laid down in Article 50 of the Staff Regulations with respect to Mr John MOGG, an A1 official, currently Adviser *hors classe* in the Internal Market DG.

This decision would take effect on 1 April.

**8. FOLLOW-UP REPORT ON THE GREEN PAPER ON THE
CRIMINAL-LAW PROTECTION OF THE FINANCIAL INTERESTS OF
THE COMMUNITY AND THE ESTABLISHMENT OF A EUROPEAN
PROSECUTOR**

(COM(2003)128 to /3)

The Commission approved the report in COM(2003)128 for transmission to Parliament, the Council, the Economic and Social Committee, the Committee of the Regions, the Court of Justice, the Court of Auditors and the European Central Bank.

It also agreed to inform the European Convention and to distribute the report widely to the bodies established under the Treaties.

9. MONITORING THE APPLICATION OF COMMUNITY LAW

(continued from item 5)

INFRINGEMENTS - CASE DEFERRED

(SEC(2003)320)

2001/2154 (RESTRICTIONS ON INVESTMENT IN VOLKSWAGEN)

The Commission resumed its discussions on this matter, begun on 5 March (PV(2003)1603, item 14).

Mr BOLKESTEIN presented a detailed legal analysis and reported on contacts with the German authorities.

He proposed to initiate proceedings under Article ex-226 of the EC Treaty by sending the German authorities a letter of formal notice.

The Commission held an in-depth discussion on various aspects of the specific law on Volkswagen which constituted exemptions from German law on quoted companies (blocking minority of 20% for the adoption of important decisions; restriction of voting rights to 20% per shareholder, irrespective of the proportion of capital held; appointment of a fixed number of government representatives on the company's supervisory Board). It examined in particular the question whether the combination of these provisions, introduced by a specific law, involved any restriction on investments, and hence on capital movements, because of the dissuasive effect that a measure concerning decision-making in a company could have on potential investors.

Following this exchange of views, the Commission decided to send the German authorities a letter of formal notice, on the understanding that this opening stage of the proceedings was aimed at introducing a structured dialogue between the Commission and the German authorities, in order to reach an amicable solution as far as possible, particularly in relation to the restriction of voting rights to 20% per shareholder.

The Commission noted that consideration of this specific case raised the more general question of the harmonisation of company law at Community level. It noted that Mr BOLKESTEIN would shortly be tabling a communication on corporate governance, which would refer to future legislative proposals.

10. ADMINISTRATIVE AND BUDGETARY MATTERS

(continued from item 7)

(SEC(2003)313/2)

OTHER MATTERS

REFORM OF THE STAFF REGULATIONS

Mr KINNOCK reported on discussions in the Council on the reform of the Staff Regulations (Coreper meeting of 17 March with a view to the Council meeting (General affairs) on 19 March).

At this stage the Council aimed to adopt principles and guidelines for the continuation of negotiations up to the end of the first half of 2003, with a view to the conclusion of a political agreement on a global package before the end of June.

He drew particular attention to some key aspects of the draft guidelines:

- the possibility, noted by the Council on the basis of the assurance given by the Commission, of reconciling the objectives of the reform with budgetary rigour and savings under heading V of the financial perspective;
- the need to maintain a highly qualified and efficient European civil service reflecting the diversity of the Member States; the Commission proposals concerning remuneration and allowances were considered, in the main, as a valid basis for future work, provided they did not involve an increase in overall net income in real terms;
- the fact that the transitional measures towards a new career system could be acceptable to the Council as an integral part of a satisfactory final package;
- acceptance of the principle of a multiannual mechanism for adjusting remunerations and pensions, including a "method" applicable over a given period.

The problem of the adaptation of the pension scheme required more detailed analysis, as the Council wished to see it develop more in line with current guidelines in the Member States.

Beyond the assurances secured as regards compliance with the acquired rights and legitimate expectations of existing staff, it would be desirable to take into account certain distinctive features of the European civil service compared with the national civil services (average age of entry into service at the Commission: 32, or even 34 for certain grades, instead of the assumption of 23 made by certain Member States; average retirement age: 63 at the Commission, 60 on average in the Member States, and 61 in the Member State where the figures were highest).

Mr KINNOCK also reported on the exchanges of views between the PRESIDENT, himself and staff representatives.

The Commission took note of this information.

11. PARLIAMENT

(continued from item 4)

11.1. COMMITTEE ON BUDGETARY CONTROL

(BRUSSELS, 18 MARCH)

The Commission resumed its discussions on this matter, begun on 11 March (PV(2003)1604, item 7).

Mr KINNOCK and Ms SCHREYER reported on the hearing by the Committee on Budgetary Control, and in their presence, of Mr MUIS, Commission Director-General and internal auditor, as well as on the ensuing exchange of views, during which the scope of the reform process undertaken by the Budget DG had been highlighted.

The Commission took note of this information.

11.2. ADJUSTMENT OF THE FINANCIAL PERSPECTIVE FOR ENLARGEMENT

Ms SCHREYER outlined the problems created by the inclusion in the accession treaties of maximum amounts for commitment appropriations, set by the Copenhagen European Council (12-13 December 2002) in order to cover the expenditure necessitated by the accession of new Member States, for the period 2004-06.

The European Council had confined itself to asking the Commission to take this expenditure into account in its proposal to adjust the financial perspective, to be adopted by Parliament and the Council in accordance with

paragraph 25 of the Interinstitutional Agreement of 6 May 1999 on budgetary discipline and improvement of the budgetary procedure.

She reported on the solutions explored at the meeting of the budget triologue (Brussels, 18 March) at Parliament's request, viz.: amendment of the text of the Accession Treaty or adaptation of the financial perspective, according to the procedure laid down in the interinstitutional agreement, before the signing of the Treaties in Athens on 16 April. Discussion of this item would continue at a triologue between the Presidents of the three institutions (Mr COX, Mr SIMITIS and Mr PRODI) on the fringe of the European Council on 20-21 March.

The Commission took note of this information.

12. WORK OF THE CONVENTION

(SEC(2003)318 to /3; SEC(2003)350)

12.1. PLENARY SESSION OF THE CONVENTION

(BRUSSELS, 17-18 MARCH)

(SEC(2003)350)

Mr BARNIER and Mr VITORINO reported on the plenary session of the Convention on 17-18 March. They referred Members to the detailed record produced by the Task Force on the Future of the Union and Institutional Matters (SEC(2003)350).

They drew particular attention to the following points:

- support for the Presidium's texts on legal instruments and on the protocols on subsidiarity and national parliaments;

- agreement that legislative delegation to amend or add to the non-essential elements of the law be conferred exclusively on the Commission;
- guideline to allow each branch of the legislative authority (Parliament and Council) to use the "call back" procedure or to revoke the delegation;
- as a general rule, recognition of Commission responsibility for implementing measures, subject to a streamlined committee procedure (advisory committees);
- broad agreement on monitoring of subsidiarity by the national parliaments using the "early warning" system (reasoned opinion expressed by 1/3 of the national parliaments within six weeks);
- differences of view on extending the monitoring of subsidiarity to cover proportionality.

The fundamental rule that Council unanimity was required to amend a Commission proposal had been included by the President of the Convention in the general debate on the possible abolition of the unanimous vote.

The Commission held an exchange of views on these guidelines and decided to ask the Task Force on the Future of the Union and Institutional Matters to draw up a briefing paper highlighting the logic and sound basis of the rule referred to in the previous paragraph, which was an illustration of the Community method (taking into account the interest general and protection of minorities).

**12.2. ARTICLES OF TITLE VII OF THE DRAFT CONSTITUTIONAL
TREATY: THE UNION'S FINANCES
(SEC(2003)107) 318 to /3)**

Ms SCHREYER, in agreement with the PRESIDENT, Mr BARNIER and Mr VITORINO, presented an analytical note on the draft articles of Title VII of the draft constitutional Treaty concerning:

- the Union's resources;
- budgetary and financial principles;
- the Union's budgetary procedure.

She reminded the meeting of the key objectives to be pursued:

- the simplification of texts;
- strengthening Parliament's budgetary powers;
- the financing of the Community budget by genuine own resources.

The Commission held an exchange of views on the financing of the Union's budget, and adopted the text in SEC(2003)318/3 subject to one change, in order to enable the Commission's representatives in the Convention (Mr BARNIER and Mr VITORINO) and in the think tank on budgetary procedure (Mr O'SULLIVAN) to take a position on the draft articles of the Treaty in this area.

**13. INFORMATION ON PROGRESS IN WTO NEGOTIATIONS ON THE
DOHA DEVELOPMENT AGENDA
(SEC(2003)317)**

The Commission took note of the information supplied by Mr LAMY and Mr FISCHLER on the state of negotiations in the WTO on the Doha development agenda (SEC(2003)317).

**14. COUNCIL MEETINGS
(SI(2003)260)**

***14.1. AGRICULTURE AND FISHERIES
(BRUSSELS, 17 AND 18 MARCH)***

Mr FISCHLER reported on the Council's discussions on the reform of the common agricultural policy, and in particular on the amendments proposed for certain common market organisations (milk; cereals and rice) and on the "rural development" aspect of the reform.

The dossier on breaking the link between aid and production would be dealt with at the next Council meeting (Agriculture and Fisheries) (7 April).

Mr BYRNE reported that the Council had agreed by qualified majority to suspend the authorisation to use the pesticide aldicarb in crops with effect from 30 June 2007. He reminded the meeting that the Commission had decided by urgent written procedure to support this compromise.

The Commission took note of this information.

14.2. GENERAL AFFAIRS AND EXTERNAL RELATIONS

(BRUSSELS, 18 AND 19 MARCH)

The PRESIDENT and Mr PATTEN reported on the main subjects raised at the Council meeting, particularly the Iraq crisis, the annual debate on the Union's political and budgetary priorities, and the presentation of the Commission communication *Wider Europe — Neighbourhood: A new framework for relations with our eastern and southern neighbours*.

Mr PATTEN also outlined the conclusions to be drawn from his visit to Serbia from 12 to 14 March.

Mr LAMY drew the Commission's attention to the Council's rejection of anti-dumping measures proposed by the Commission on imports of certain steel products originating in non-member countries (Egypt, Turkey and Slovakia).

The Commission took note of this information.

15. RELATIONS WITH NON-MEMBER COUNTRIES

OFFICIAL VISIT BY Mr NIELSON TO CUBA

(9-14 MARCH)

(SEC(2003)354)

Mr NIELSON explained the purpose of his visit to Cuba and reported on his talks with representatives of the Cuban Government on various subjects such as the development of cooperation between the European Union and Cuba, and Cuba's accession to the Cotonou agreement.

He also mentioned his meetings with President Fidel CASTRO and with a group of dissidents.

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

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The meeting closed at 1300 hours.

**Extra sitting (held after the European Council meeting of
20-21 March 2003): Friday 21 March 2003 (afternoon)**

The sitting opened at 1700 hours with Mr Prodi, President, in the chair.

Present:

Mr PRODI	President
Ms de PALACIO	Vice-President
Mr BOLKESTEIN	
Mr BUSQUIN	
Mr SOLBES	
Mr NIELSON	
Mr VERHEUGEN	
Mr PATTEN	
Ms SCHREYER	
Ms WALLSTRÖM	
Mr VITORINO	
Ms DIAMANTOPOULOU	

Absent:

Mr KINNOCK	Vice-President
Mr MONTI	
Mr FISCHLER	
Mr LIIKANEN	
Mr LAMY	
Mr BYRNE	
Mr BARNIER	
Ms REDING	

The following sat in to represent absent Members of the Commission

Ms SUPERTI	A member of Mr Kinnock's staff
Ms VANNINI	A member of Mr Monti's staff
Ms NEVALAINEN	A member of Mr Liikanen's staff
Mr THERY	Chef de cabinet to Mr Lamy
Mr POWER	Chef de cabinet to Mr Byrne
Ms JORNA	A member of Mr Barnier's staff
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 KEMPPINEN	Commission Spokesman
Mr CURTIS	Spokesman
Ms HOUTMAN	Deputy Chef de cabinet to the President
Mr ABOU	Adviser in the President's Office
Mr SMULDERS	A member of the President's staff
Mr SANNINO	Adviser in the President's Office
Mr CALLEJA	Chef de cabinet to Ms de Palacio
Mr CAPOUET	Chef de cabinet to Mr Busquin
Mr PLANAS	Chef de cabinet to Mr Solbes
Mr SØRENSEN	Chef de cabinet to Mr Nielson
Mr JOHANSSON	A member of Mr Nielson's staff
Ms GONZALEZ DURANTEZ	A member of Mr Patten's staff
Mr THOMAS	Press and Communication DG
Mr FETELIAN	Press and Communication DG
Mr WALCKE	Press and Communication DG
Mr ASBECK	Personnel and Administration DG
Mr DI BUCCI	Personnel and Administration DG
Mr LEVI	GOPA

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

16. AGENDA

The PRESIDENT opened the sitting, explaining that this extra Commission meeting had been arranged to take stock of any initiatives that the Commission might need to take following the start of the war in Iraq and to inform Members of the results of the European Council meeting.

17. WAR IN IRAQ

17.1. CONSEQUENCES OF THE WAR IN IRAQ FOR ENERGY AND TRANSPORT (SEC(2003)382)

Ms de PALACIO presented an information note on the consequences of the war in Iraq for energy and transport.

She considered the possible dangers in the air and sea transport sectors, potential developments in oil prices, and the measures that might be necessary for the safety and security of nuclear installations.

On air transport, she outlined possible measures to support the sector, but emphasised that these must not have the effect of creating distinctions between States or between companies, and that the present situation must not serve as a pretext for delaying necessary restructuring in the aviation industry. It was important that the rules of the EC Treaty concerning state aid be strictly complied with.

As regards sea transport, Ms de PALACIO drew attention to safety shortcomings that might arise, and announced various initiatives or actions:

- communication on maritime safety (currently at the interdepartmental consultation stage);

- support for work in various international bodies in this area (ILO, World Customs Organisation, G8);
- negotiation of a bilateral agreement with the United States to replace the unilateral US approach on the security of containers (US container security initiative);
- definition of supplementary security measures to be applied in Community ports.

As regards oil, although price movements were difficult to predict, she drew the Commission's attention to the increased importance of:

- a Community instrument for the management of oil and gas stocks (proposals for Directives adopted by the Commission on 11 September 2002, under discussion in the Council and Parliament);
- the coordination of any tax measures that Member States might be tempted to take to cushion oil price rises;
- the coordination of measures for the security of energy infrastructure (oil tankers, gas pipelines, electricity distribution networks) which fell within the responsibility of the Member States.

In the field of nuclear security and safety, she mentioned various possible measures concerning the physical security of nuclear installations, the use of radioactive material for other than medical or industrial purposes, and a strengthening of controls at all stages.

The Commission took note of this analysis of the situation and the potential risks, and approved the main points of the actions planned by Ms de PALACIO.

**17.2. EMERGENCY AID TO DEAL WITH URGENT HUMANITARIAN
SITUATIONS FOLLOWING THE WAR IN IRAQ
(SEC(2003)379)**

The Commission referred to the information note from the PRESIDENT, in agreement with Mr NIELSON and Ms SCHREYER.

Mr NIELSON noted that the already precarious situation of the Iraqi people from the humanitarian point of view would be made even more serious by war. To deal with calls for funds from humanitarian organisations, he proposed:

- mobilising €21 million from the annual budget of ECHO for 2003 (maximum amount available in view of budget constraints and the existence of other emergency situations in the world, particularly in Africa);
- asking the budgetary authority to replace the appropriations available for humanitarian aid by drawing €79 million from the emergency aid reserve.

The Commission approved this proposal, noting that this initial assessment could be adjusted in the light of events.

It noted that any assessment of possible requirements as regards aid for reconstruction and any statement on Community participation in the reconstruction effort would be premature at this stage.

17.3. OTHER ASPECTS

Mr SOLBES referred to the possible effects of the Iraq crisis on economic growth, and referred to the press release distributed by the Council (Economic and Financial Affairs) on 20 March, which announced that the situation would be monitored by the Council (Economic and Financial Affairs), the European Central Bank and the Commission, with a view to their next meeting in two weeks.

Mr VITORINO pointed to possible problems of an influx of refugees from Iraq, and the assessment by Europol of the risks of terrorist attacks on European territory.

18. EUROPEAN COUNCIL

The PRESIDENT and Mr PATTEN reported on the European Council's discussions on the situation in Iraq and the Middle East peace process (implementation of the road map proposed by the Quartet).

The Commission took note of this information.

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The meeting closed at 1800 hours.