



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2003)1609 final

Brussels, 30 April 2003

DRAFT MINUTES
of the 1609th meeting of the Commission
held in Brussels
(Breydel)
on Wednesday 23 April 2003
(morning)

These minutes were approved by the Commission at its 1610th meeting, held in Brussels on 30th April 2003.

They contain 20 pages.

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Single sitting: Wednesday 23 April (morning)

The sitting opened at 0925 hours with Mr Prodi, President, in the chair.

Present:

Mr PRODI	President	
Mr KINNOCK	Vice-President	
Ms de PALACIO	Vice-President	
Mr MONTI		
Mr FISCHLER		
Mr LIIKANEN		
Mr BOLKESTEIN		
Mr BUSQUIN		
Mr SOLBES		
Mr LAMY	Items 1 to 12	
Mr BYRNE		
Mr BARNIER	Item 1	
Ms REDING		
Ms SCHREYER		
Ms WALLSTRÖM		
Mr VITORINO	Item 1	
Ms DIAMANTOPOULOU		

Absent:

Mr NIELSON
Mr VERHEUGEN
Mr PATTEN

The following sat in to represent absent Members of the Commission

Mr MØRCH	A member of Mr Nielson's staff
Mr TEMPEL	Chef de cabinet to Mr Verheugen
Mr CARY	Chef de cabinet to Mr Patten

The following also sat in

Mr WAINWRIGHT	Principal Legal Adviser, Legal Service	
Mr MANSERVISI	Chef de cabinet to the President	
Mr DE RYNCK	Spokesman	Item 1
Mr MAMER	Spokesman	
Mr DIXON	Press and Communication DG	
Ms HOUTMAN	Deputy Chef de cabinet to the President	Items 1 and 7
Mr de LECEA	A member of the President's staff	Item 1
Mr SMULDERS	A member of the President's staff	Items 1 and 16
Mr CALLEJA	Chef de cabinet to Ms de Palacio	
Mr VAN HOOFF	Chef de cabinet to Mr Monti	Item 7
Mr SOUKUP	A member of Mr Monti's staff	Item 7
Mr PLANAS	Chef de cabinet to Mr Solbes	Items 1 to 4
Mr MARTINEZ MONGAY	A member of Mr Solbes's staff	Item 1
Mr THERY	Chef de cabinet to Mr Lamy	Items 11 to 16
Ms BENOLIEL	Deputy Chef de cabinet to Mr Byrne	Item 1
Mr TERRITT	A member of Mr Byrne's staff	Item 15
Ms ROGER	Chef de cabinet to Mr Barnier	Item 1
Ms GALLO ALVAREZ	A member of Mr Barnier's staff	Items 2 to 16
Mr ANNERBERG	Chef de cabinet to Ms Wallström	
Mr CAVACO	Chef de cabinet to Mr Vitorino	
Mr ALEIXO	A member of Mr Vitorino's staff	Item 1
Mr LEVI	Director, GOPA	Item 1
Mr REES	Transport and Energy DG	Item 14

Mr VAN NUFFEL

Secretariat-General

Items 1 and 16

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

1. WORK OF THE CONVENTION

The PRESIDENT referred to the document on the Union's institutions presented the previous day by Mr GISCARD D'ESTAING to the Presidium and the press. The ideas put forward by the President of the Convention were very worrying for the Commission itself but also for the balance of the institutional architecture of the Union as a whole.

Mr BARNIER and Mr VITORINO considered that the proposals presented in Mr GISCARD D'ESTAING's document did not constitute an acceptable basis for the Commission. On the role of the Community executive, the proposals were clearly a backward step compared with all the positions expressed both by the Commission and by the Member States. While agreeing to propose amendments article by article in the Presidium, Mr BARNIER and Mr VITORINO indicated that an alternative proposal on the institutions of the Union should be presented by the Commission so as to avoid Mr GISCARD D'ESTAING's document ending up as the only basis for discussion for want of any alternative.

Following a wide-ranging discussion and without prejudice to the standpoint of its representatives in the Presidium and the plenary session of the Convention, the Commission decided to frame its reaction to the proposals presented by Mr GISCARD D'ESTAING on two levels.

Firstly, at the press conference following the Commission meeting, the Commission would indicate its strong disagreement with the institutional proposals, with a clear explanation of the reasons of principle for opposing the scenario set out in the document. Then in the light of, among other things, the outcome of the plenary session of the Convention (Thursday 24 and Friday 25 April), a more detailed text could be produced together with concrete proposals for articles. It was agreed that this text, though based on the Commission's past contributions (for instance the

communication on institutional architecture, COM(2002)728), should not simply restate them, but should update them on the basis of recent discussions in the Convention. The Commission's position must not be seen as merely a defence of its prerogatives, but should embrace a global vision of the Community interest.

2. AGENDAS

(OJ(2003)1609/3; SEC(2003)451/2)

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

3. WEEKLY MEETING OF CHEFS DE CABINET

(SEC(2003)1609)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Tuesday 22 April.

4. MINUTES AND SPECIAL MINUTES OF 1608th MEETING (8 April)

(PV(2003)1608 and /2; PV(2003)1608, Part II)

The Commission approved the minutes of its 1608th meeting.

5. PARLIAMENT

5.1. APRIL PART-SESSION

(SP(2003)1331)

The Commission took note of the information supplied relating to Parliament's part-session held in Strasbourg from 7 to 10 April.

5.2. ACTION TO BE TAKEN ON PARLIAMENT'S OPINIONS

(SP(2003)1323)

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.

5.3. PARLIAMENTARY AFFAIRS GROUP

(SP(2003)1341)

The Commission took note of the record of the meeting of the Parliamentary Affairs Group held on 14 April.

It paid particular attention to the following:

Action taken on Parliament's opinions and resolutions

(point 5 of the record)

The Commission adopted SP(2003)1340/2 on the action taken on Parliament's opinions and resolutions at its March I and II part-sessions, for transmission to Parliament.

6. PERMANENT REPRESENTATIVES COMMITTEE

(SI(2003)436)

The Commission took note of the record of the meeting of the Council Affairs Group held on Thursday 10 April.

It paid particular attention to the following:

Working methods for an enlarged Council - Council code of conduct - consequences for the Commission.

The Commission approved the guidelines for rules for Commission participation in meetings of the various enlarged Council bodies as set out at Annex 2 of SI(2003)436.

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

(SEC(2003)440; C(2003)1218 and /2; SEC(2003)480)

7.1. STATE AID

(SEC(2003)440)

The Commission adopted the decisions in SEC(2003)440.

7.2. FORM FOR STATE AID COMPLAINTS

(C(2003)1218 and /2)

The Commission approved the form in C(2003)1218/2.

7.3. INFRINGEMENTS

(SEC(2003)480)

This item was held over to the following week.

8. WRITTEN PROCEDURES AND EMPOWERMENT

8.1. WRITTEN PROCEDURES APPROVED

(SEC(2003)452 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 7 and 16 April.

8.2. SENSITIVE WRITTEN PROCEDURES

(SEC(2003)453)

The Commission took note of written procedures initiated between 7 and 16 April for the adoption of decisions with political implications.

8.3. EMPOWERMENT

(SEC(2003)454 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 7 and 16 April.

8.4. EMPOWERMENT IN THE FIELD OF BIOCIDAL PRODUCTS

(SEC(2003)456 and /2)

The Commission empowered the Commission Member responsible for the environment as set out in SEC(2003)456.

8.5. *DELEGATION PROCEDURE*

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation procedure between 7 and 16 April, as archived on the "Greffé 2000" (Registry) website.

9. ADMINISTRATIVE AND BUDGETARY MATTERS

(SEC(2003)455/2)

ADMINISTRATIVE MATTERS

(PERS(2003)68)

9.1. *DG MARKT - SELECTION OF THE EUROPEAN DATA PROTECTION SUPERVISOR AND DEPUTY SUPERVISOR*

(C(2003)1412; PERS(2003)72 to /4)

The Commission approved the list of candidates for consideration as set out in C(2003)1412, for transmission to Parliament and the Council.

9.2. *SG.G - A2 POST OF DIRECTOR*

(PERS(2003)39 to /4)

The Commission had before it applications under Article 29(1)(a) of the Staff Regulations for the A2 post of Director in the Secretariat-General (PERS(2003)39 and /2).

The Commission took note of the opinions of the Consultative Committee on Appointments of 28 March and 3 April (PERS(2003)39/3 and /4).

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, it then decided to appoint Ms Marleen HARFORD to the post.

This decision would take effect on 1 May.

9.3. *DG JAI - TEMPORARY OCCUPATION OF AN A2-LEVEL POST*

The Commission, on a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Mr VITORINO, decided under Article 7(2) of the Staff Regulations that Mr Carel EDWARDS, an A4 official, currently Head of Unit JAI/C/1 (Human and financial resources, information technology, security), should be deemed temporarily to have been occupying the post of Director of Directorate JAI/C since 16 June 2002, until the new Director was appointed, subject to a maximum of twelve months.

This decision would take effect immediately.

10. RELATIONS WITH NON-MEMBER COUNTRIES

10.1. *POLITICAL SITUATION IN CUBA*

Ms de PALACIO referred to the Commission's discussions the previous week on the political situation in Cuba and drew attention to the sudden execution of three Cubans who had attempted to flee the island. She hoped the Commission would hold an in-depth discussion at its next meeting in the presence of Mr PATTEN and Mr NIELSON. The Commission felt this was a serious situation, and agreed to return to this topic the following week.

**10.2. SPRING 2003 MEETINGS OF THE IMF AND THE WORLD BANK
(SEC(2003)490)**

The Commission's attention was drawn to the information note distributed by Mr SOLBES concerning these meetings.

**11. EU/US: FOREIGN SALES CORPORATIONS - LATEST INFORMATION
AND NEXT STEPS
(SEC(2003)469 to /3)**

Mr LAMY reminded the meeting of the backdrop to the proposal he was now tabling and the stages of the procedure. In the dispute with the United States concerning US legislation on Foreign Sales Corporations, the Commission had to take action following the WTO arbitration decision authorising the Community to impose countermeasures, of an equivalent amount, in the form of customs duties on certain imports from the United States. The list of products on which countermeasures could be imposed had been drawn up after wide consultation with interested parties and had been endorsed by the Member States. The next step was for the Commission to present the list to the WTO and request authorisation from the disputes settlements panel for the imposition of the planned countermeasures. Mr LAMY pointed out that the objective was still to get the United States to conform as soon as possible with the WTO decision, failing which the final stage would be presentation to the Council of a proposal for a Regulation to activate actual implementation of the countermeasures.

The Commission took note of these explanations and approved the approach and the list of products set out in SEC(2003)469.

12. COUNCIL MEETINGS

(SI(2003)418)

INFORMAL EUROPEAN COUNCIL

(ATHENS, 16 APRIL)

The PRESIDENT reported on the informal European Council held in Athens on 16 April. Two main items had been on the agenda, the signature of the Treaty of Accession and the work of the Convention.

As regards the Treaty of Accession, the PRESIDENT noted that all present had felt its signing to be a historic event. The Commission's essential role in the enlargement process had been underscored. As for the next steps and in particular the appointment and integration of Commission Members from the new Member States, he had decided to ask the Secretary-General to prepare a discussion paper and guidelines to be put before the Commission in good time for discussion.

Concerning the Convention, the discussion had focused on institutional matters and highlighted the differences of view between the larger Member States on the one hand and the small and medium-sized Member States on the other, with the second group enjoying the support of all the new Member States. The PRESIDENT felt the Commission had an essential role to play in reconciling these points of view and easing the transition of the new Member States into the European family.

13. ESTABLISHMENT OF AN EU WATER FUND

(COM(2003)211; SEC(2003)471 to /3)

The PRESIDENT introduced a communication presented by himself and Mr NIELSON, in agreement with Mr PATTEN, Mr LAMY and Ms WALLSTRÖM. He reminded the meeting of the many initiatives taken in the

past in favour of investments in water, particularly in Africa; these unfortunately had not always been sufficiently coherent. On this basis and in line with the commitments entered into at recent international gatherings, the draft communication proposed the creation of a European water fund for the ACP countries using the "conditional" €1 billion provided for under the Cotonou Agreement. The PRESIDENT pointed to the importance of this operation, given the essential role that water played for any form of human life. He reminded the meeting of the development objective for the millennium laid down at Johannesburg in September 2002 of reducing by half the number of people without access to drinking water and sanitation by 2015. The amount of €1 billion, currently possible from a budgetary point of view, represented a minimum in comparison with the immensity of the requirements. Optimal flexibility in the management of resources was therefore necessary so as to be able to attract additional investment, whether private or public. The PRESIDENT was prepared to encourage management by some other means than an executive agency, in so far as that proved possible.

The Commission held a short exchange of views on the most appropriate methods for managing the new fund. It decided to approve the communication in COM(2003)211, subject to an amendment to the last bullet point of the conclusions, which would read: "Examine the most appropriate implementation method ... by the EDF, **for example** that of a **possible** Executive Agency ... ". It agreed to transmit this communication to the Council and Parliament, and authorised Mr NIELSON to make appropriate contacts with the ACP countries to encourage them to accept the recommendations put forward in the communication.

The Commission also felt that it would be a good idea in future to undertake similar operations in favour of energy investments in the developing countries.

**14. - DEVELOPING THE TRANS-EUROPEAN TRANSPORT NETWORK:
INNOVATIVE FUNDING SOLUTIONS
- PROPOSAL FOR A PARLIAMENT AND COUNCIL DIRECTIVE ON THE
WIDESPREAD INTRODUCTION AND INTEROPERABILITY OF
ELECTRONIC ROAD TOLL SYSTEMS IN THE COMMUNITY
(COM(2003)132 to /5; SEC(2003)466)**

Ms de PALACIO tabled a two-part communication, firstly a communication on developing the trans-European transport network, particularly through innovative funding solutions, and secondly a proposal for a directive on the widespread introduction and interoperability of electronic road toll systems. The rate of achievement of the TEN projects launched at the Essen European Council was clearly inadequate, and the "innovative funding" aspect of the document sought to identify supplementary measures (with a view to facilitating the participation of private capital in financing European infrastructure) and to launch a debate with the Member States to find remedies to the present logjam. In response to concerns expressed by Ms SCHREYER, Ms de PALACIO confirmed that the text did not in any way prejudice the results of the discussions in progress on the next financial perspective. The second part of the document included a legislative proposal for the creation, for the whole of the Community road network, of a generalised and compatible electronic road toll system built on the basis of satellite and mobile communications technologies. The adoption of such a system was of great importance, particularly in the context of charging for infrastructure use, a subject to which Ms de PALACIO expected to return with a legislative proposal before the summer.

Following a brief exchange of views, the Commission agreed that the last sentence of item 3.4 on the development of new Community financial instruments (page 19 of the English version of COM(2003)132/5) would be amended to read as follows:

"A future increase in funds for completing the trans-European networks would make it possible to create major arteries ... the enlarged EU."

Subject to this amendment, the Commission adopted the communication and the proposal for a Directive in COM(2003)132/5 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

15. OTHER BUSINESS

15.1. SEVERE ACUTE RESPIRATORY SYNDROME EPIDEMIC (SARS)

Mr BYRNE outlined his analysis of the situation and the measures set in train both by the Commission and by the Member States' health authorities to deal with the SARS epidemic. He intended before the summer to table a proposal to set up a European prevention centre to strengthen the Union's ability to deal with problems of this kind.

15.2. AVIAN INFLUENZA IN THE NETHERLANDS AND BELGIUM (SEC(2003)491)

The Commission's attention was drawn to the information note distributed by Mr BYRNE.

16. WORK OF THE CONVENTION (continued from item 1)

Subject to certain amendments agreed during the meeting, the Commission agreed to the public distribution of a statement presenting its standpoint on the proposals

for the institutional reform of the European Union submitted by Mr GISCARD D'ESTAING to the Presidium of the Convention and the press.

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The PRESIDENT concluded the meeting by offering sympathy and condolences on behalf of Commission Members to Mr BUSQUIN on the death of his wife.

Mr BUSQUIN thanked his colleagues.

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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 1205 hours.