



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2003) 1621 final

Brussels, 23 July 2003

MINUTES
of the 1621st meeting of the Commission
held in Brussels
(Breydel)
on Wednesday 16 July
(morning)

These minutes were approved by the Commission at its 1622nd meeting, held in Brussels on 23 July 2003.

They contain 24 pages.

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Single sitting: Wednesday 16 July (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 NIELSON	
Mr VERHEUGEN	
Mr LAMY	
Mr BYRNE	
Mr BARNIER	
Ms REDING	
Ms WALLSTRÖM	
Mr VITORINO	
Ms DIAMANTOPOULOU	

Absent:

Mr PATTEN
Ms SCHREYER

The following sat in to represent absent Members of the Commission

Mr CARY	Chef de cabinet to Mr Patten
Mr LEHNER	Chef de cabinet to Ms Schreyer

The following also sat in

Mr PETITE	Director-General, Legal Service	
Mr MANSERVISI	Chef de cabinet to the President	
Mr DE OLIVEIRA E SOUSA	Director-General, Press and Communication	
Mr KEMPPINEN	Commission Spokesman	
Ms CORUGEDO STENEBOG	Spokesman	
Mr DE RYNCK	Spokesman	Item 23
Ms GMINDER	Spokesman	Item 21
Mr HENIN	Spokesman	Item 18
Mr TODD	Spokesman	Item 18
Mr CALLEJA	Chef de cabinet to Ms de Palacio	Item 21
Ms KIRCHNER	A member of Mr Fischler's staff	
Mr VAN BALLEKOM	Deputy Chef de cabinet to Mr Bolkestein	Item 18
Mr PLANAS	Chef de cabinet to Mr Solbes	
Mr POWER	Chef de cabinet to Mr Byrne	
Mr TERRIT	A member of Mr Byrne's staff	
Mr EMSCHERMANN	A member of Ms Schreyer's staff	
Mr ANNERBERG	Chef de cabinet to Ms Wallström	Item 21
Mr ARP	A member of Ms Wallström's staff	Item 21
Mr VERRUE	Director-General, Taxation and Customs Union	Item 18
Mr AUJEAN	Taxation and Customs Union DG	Item 18
Mr BILL	Taxation and Customs Union DG	Item 18

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

1. AGENDAS

(OJ(2003)1621/3; SEC(2003)806/2)

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)1621)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 14 July.

3. PARLIAMENT

3.1. PARLIAMENTARY AFFAIRS GROUP

(SP(2003)2345)

The Commission took note of the record of the meeting of the Parliamentary Affairs Group held on Thursday 10 July.

**3.2. LEGISLATIVE AND WORK PROGRAMME 2003 - QUARTERLY
REVIEW (JUNE 2003)**

(SEC(2003)839)

The Commission took note of the quarterly review of its legislative and work programme for the current year, as at the end of June, as set out in SEC(2003)839.

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

4.1. STATE AID - SPECIFIC CASES

TAX SCHEME FOR BELGIAN COORDINATION CENTRES - FOLLOW-UP TO DECISION C(2003)564 FINAL OF 17 FEBRUARY (SEC(2003)732/4 and /5)

The Commission noted that the Council might take a decision under the third subparagraph of Article 88(2) concerning aid for coordination centres between the expiry date of their approval and 31 December 2005.

It felt that such a decision would be tantamount to partly annulling or amending the Commission decision of 17 February, in violation of the Treaty.

The Commission also took note of the Legal Service's analysis of 11 July (SEC(2003)732/4) of the prospects and the procedural possibilities following the order by the President of the Court of 26 June. It referred in particular to the order suspending execution of the ban on the renewal of approvals for coordination centres until the substantive judgment was handed down.

It noted that the reasoning given in the order and the form of words used gave the impression, according to the Legal Service, that aid already granted on this basis would not be recoverable, even if the Court should ultimately dismiss Belgium's action on the substance.

In these circumstances, the Commission decided:

- to bring an action before the Court of Justice if the Council should adopt a decision under the third subparagraph of Article 88(2) in favour of the Belgian coordination centres, and to ask the Legal Service to proceed accordingly;

- that, on the basis of the factors mentioned above, it would not be appropriate to bring an action to secure recovery of the aid.

**4.2. *INFRINGEMENTS - CASES POSTPONED BECAUSE OF
UNAVAILABILITY OF DOCUMENTS - REGULARISATION
(SEC(2003)830)***

The Commission adopted the decisions in SEC(2003)830.

5. *WRITTEN PROCEDURES AND EMPOWERMENT*

**5.1. *WRITTEN PROCEDURES APPROVED
(SEC(2003)807 et seq.)***

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 7 and 11 July.

**5.2. *SENSITIVE WRITTEN PROCEDURES
(SEC(2003)808)***

The Commission took note of written procedures initiated between 7 and 11 July for the adoption of decisions with political implications.

**5.3. *EMPOWERMENT
(SEC(2003)809 et seq.)***

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 7 and 11 July.

5.4. DELEGATION AND SUBDELEGATION OF POWERS

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation procedure between 7 and 11 July, as archived on the "Grefte 2000" (Registry) website.

6. ADMINISTRATIVE AND BUDGETARY MATTERS (SEC(2003)810)

ADMINISTRATIVE MATTERS (PERS(2003)108)

6.1. DG ADMIN.D - A2 POST OF DIRECTOR (PERS(2003)92 to /3)

The Commission had before it applications under Article 29(1)(a) of the Staff Regulations for the A2 post of Director in the Personnel and Administration DG (PERS(2003)92).

The Commission took note of the opinions of the Consultative Committee on Appointments of 30 June and 10 July (PERS(2003)92/2 and /3).

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 Emer DALY to the post.

This decision would take effect on 16 September.

6.2. DG COMP - A2 POST OF CHIEF ECONOMIST
(PERS(2003)14 to /7)

The Commission had before it applications for the A2 post of Chief Economist in the Competition DG under Article 29(2) of the Staff Regulations (PERS(2003)14/4 and /5). No applications had been received under Articles 29(1)(a) or 29(1)(c).

The Commission took note of the opinions of the Consultative Committee on Appointments of 5 and 25 June (PERS(2003)14/6 and /7).

The Commission proceeded to compare the applicants' qualifications for the post. Mr MONTI stated that a large number of applications had been received and these had all been considered in depth. Several of the candidates considered by the CCA, enlarged for the occasion by the addition of two outside experts in economics, were of very high quality. The CCA had interviewed five candidates following its first meeting and narrowed them down to a shortlist of three persons. Mr MONTI pointed to the particularly appropriate qualifications and profile of Mr RÖLLER, particularly his European and international experience, given the requirements of the post.

On a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Mr MONTI, the Commission then decided to appoint Mr Lars-Hendrik RÖLLER to the post.

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

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

The Commission continued its discussions on this item, begun on 27 May (PV(2003)1614, Part II).

The Commission, on a proposal from Mr KINNOCK, in agreement with the PRESIDENT, adopted the decision in PERS(2003)109 to apply the second stage of the procedure laid down in Article 50 of the Staff Regulations with respect to Mr KOMAZ, an A2 official, currently Chief Adviser in the Taxation and Customs Union DG.

This decision would take effect on 1 October, and the post of Chief Adviser in the Taxation and Customs Union DG would be abolished from that date.

OTHER MATTERS

6.4. *COMMISSION DECISION ON THE PROTECTION OF STAFF AGAINST THE EFFECTS OF TOBACCO SMOKE IN COMMISSION BUILDINGS*
(C(2003)1670 to /3)

The Commission adopted the decision in C(2003)1670/3 and approved the information and support measures set out therein.

**7. COMMISSION COMMUNICATION ON FOUR APPLICATIONS BY SPAIN AND ITALY TO MOBILISE THE EU SOLIDARITY FUND
(SEC(2003)827 to /3)**

The Commission adopted SEC(2003)827/3 and the conclusions set out therein; it decided to empower Mr BARNIER, in agreement with the Commission Members concerned, to take the actions stipulated in the document.

**8. DRAFT PARLIAMENT AND COUNCIL DECISION ON THE MOBILISATION OF THE EU SOLIDARITY FUND IN ACCORDANCE WITH POINT 3 OF THE INTERINSTITUTIONAL AGREEMENT OF 7 NOVEMBER 2002
(COM(2003)431 and /2; SEC(2003)841)**

The Commission adopted the proposal for a Decision in COM(2003)431 for transmission to Parliament and the Council.

**9. DRAFT SUPPLEMENTARY AND AMENDING BUDGET NO 5/2003
(SEC(2003)826 to /3; SEC(2003)841)**

The Commission adopted preliminary draft supplementary and amending budget No 5/2003 as set out in SEC(2003)826/3, for transmission to Parliament and the Council. It empowered Ms SCHREYER, in agreement with the PRESIDENT, Mr BARNIER and Mr FISCHLER, to finalise the explanatory memorandum to the draft supplementary and amending budget before its transmission to Parliament and the Council.

**10. REPORT ON THE IMPLEMENTATION OF COMMITMENTS
UNDERTAKEN BY THE ACCEDING COUNTRIES - REGIONAL POLICY
AND COORDINATION OF STRUCTURAL INSTRUMENTS
(COM(2003)433 to /3; SEC(2003)828 and /2)**

The Commission approved the communication in COM(2003)433/3 for transmission to the Council, Parliament and the acceding countries, together with the Commission staff working paper in SEC(2003)828/2.

**11. COMMISSION DECISION UNDER ARTICLE 82 OF THE EC TREATY
(CASE COMP/38.233 - WANADOO INTERACTIVE)
(C(2003)2430 to /4; SEC(2003)836; SEC(2003)855)**

The Commission:

- took note of the opinions of the Advisory Committee on Restrictive Practices and Dominant Positions of 30 June and 10 July in C(2003)2430 and /4;
- took note of the final report of the Hearing Officer in C(2003)2430/2;
- adopted, in the authentic language (French), the decision in C(2003)2430/4, as supplemented by the Annexes in C(2003)2430, concluding that Wanadoo Interactive had infringed Article 82 of the EC Treaty and imposing on it a fine of €10.35 million.

The decision would be published in the Official Journal (with business secrets removed) in all the official languages.

**12. COMMISSION DECISION UNDER ARTICLE 81 OF THE EC TREATY
AND ARTICLE 53 OF THE EEA AGREEMENT**

(CASE COMP/37.975 - YAMAHA)

(C(2003)2502 to /3; SEC(2003)855)

The Commission:

- took note of the opinions of the Advisory Committee on Restrictive Practices and Dominant Positions of 30 June and 10 July in C(2003)2502 and /3;
- took note of the final report of the Hearing Officer in C(2003)2502;
- adopted, in the authentic language (English), the decision in C(2003)2502/3, concluding that the parties had infringed Article 81(1) of the EC Treaty and imposing on them a fine of €2.56 million for which they would be jointly and severally liable.

The decision would be published in the Official Journal (with business secrets removed) in all the official languages.

**13. PROPOSAL FOR A PARLIAMENT AND COUNCIL DIRECTIVE
RELATING TO ARSENIC, CADMIUM, MERCURY, NICKEL AND
POLYCYCLIC AROMATIC HYDROCARBONS IN AMBIENT AIR
(COM(2003)423 to /5; SEC(2003)831)**

The Commission approved the proposal for a Directive on arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air, as set out in COM(2003)423/4 and /5, for transmission to the Council and Parliament and also, for opinions, to the Economic and Social Committee and the Committee of the Regions.

**14. PROPOSAL FOR A PARLIAMENT AND COUNCIL REGULATION ON
NUTRITION AND HEALTH CLAIMS MADE ON FOODS
(COM(2003)424 to /4; SEC(2003)834)**

The Commission adopted the proposal for a Regulation in COM(2003)424/4 for transmission to Parliament, the Council and the Economic and Social Committee.

15. OTHER BUSINESS

***WORLD RADIOCOMMUNICATION CONFERENCE
(GENEVA, JUNE/JULY 2003)
(SEC(2003)856)***

The Commission took note of the information note distributed by Ms de PALACIO.

**16. COMMUNICATION AND PROPOSAL FOR A COUNCIL REGULATION
ON THE PROTECTION OF ANIMALS DURING TRANSPORT AND
RELATED OPERATIONS AND AMENDING DIRECTIVES 64/432/EEC
AND 93/119/EEC
(COM(2003)425 to /5; SEC(2003)840; SEC(2003)835)**

Mr BYRNE presented a proposal for a Regulation, together with a communication, on the protection of animals during transport and related operations. The proposal, based on scientific opinion and taking into account contributions from the various parties involved, was aimed at introducing stricter standards, especially for long-distance transport.

The Commission held an in-depth exchange of views, in which it considered the maximum duration of and physical conditions for such transport, particularly in connection with temperature and ventilation; the possibility of allowing stricter regulation of transport within a single Member State; the impact of the planned measures in terms of the costs incurred by operators and by final consumers; the regional impact; and the level of detail in the text. Following this discussion, the Commission agreed as follows:

- a form of words allowing Member States to implement stricter regulation than that proposed, as regards the maximum duration for the transport of animals within a single Member State, would be included in the proposal;
- the European Food Safety Authority would be consulted on the precise requirements for temperature and ventilation during transport. The Commission would take the results of this consultation into consideration in the course of the legislative procedure. Sufficient reference to this consultation would be included in the explanatory memorandum accompanying the proposal for a Regulation;
- the Health and Consumer Protection DG would check the legal exactitude of Article 20(1) of the proposal as regards the powers of "official veterinarians" in monitoring transport crossing the Community's external borders.

Subject to these clarifications, the Commission adopted the proposal for a Regulation and the communication in COM(2003)425/5 for transmission to Parliament and the Council and also, for opinions, to the Economic and Social Committee and the Committee of the Regions.

17. OTHER BUSINESS (continued from item 15)

***FOLLOW-UP TO THE COMMISSION SEMINAR ON THE POST-2006
FINANCIAL PERSPECTIVE***

On the basis of a letter from the PRESIDENT to Commission Members, the Commission held an exchange of views on the action to be taken following its 13 July seminar on the post-2006 financial perspective. It agreed to hold a second seminar, provisionally scheduled for 1 October. The preparations for this seminar would continue to be based on the six groups of Commission Members, who would continue their work and would closely involve the various Commission Members concerned. Coordination at political level would be carried out by the PRESIDENT and Ms SCHREYER. The Chef de cabinet to the PRESIDENT (assisted by the Secretariat-General and the group of policy advisers) and the Chef de cabinet to Ms SCHREYER (assisted by the Director-General, Budget) would monitor progress weekly with the Chefs de cabinet to the Commission Members responsible for the groups and with the Directors-General concerned. Mr Landaburu would continue to provide expertise, but would not be able to undertake a coordinating role on account of the workload arising from his new responsibilities.

The Commission also referred to the study prepared by the "Sapir group", presented at the seminar. This was a wholly independent study, intended to inform the discussions, which did not in any way commit the Commission and was not to be regarded as reflecting its position.

**18. PROPOSAL FOR A COUNCIL DIRECTIVE AMENDING DIRECTIVE
77/388/EEC AS REGARDS REDUCED RATES OF VALUE ADDED TAX
(COM(2003)397 to /7; SEC(2003)794 and /2)**

Mr BOLKESTEIN presented a proposal to simplify and rationalise the sixth VAT Directive as regards various reduced rates that might be applied by Member States. In line with the VAT strategy adopted by the Commission in 2000, the suggested approach should help increase harmonisation of VAT rate structures by reducing inconsistencies and disparities in the present systems. It also took account of the negotiations with the future new Member States and the conditions laid down for them. For this purpose, Mr BOLKESTEIN proposed limiting the use of zero rates and super-reduced rates and, in a limited number of cases, to extend to all Member States the ability, currently granted only to some of them, to apply reduced rates. All exemptions to normal rates would be listed in a new version of Annex H to the sixth VAT Directive.

After an in-depth exchange of views, particularly on the political advisability of the proposal, the effects of certain VAT rate reductions on the single market and final consumer prices, and the impact on the various Member States and regions concerned, the Commission agreed the following amendments to the text:

- the ability to apply a reduced rate to home help services (one of the five types of labour-intensive services currently the subject of an experiment in VAT rates) would be extended;
- a passage emphasising the need for reductions in the cost of unskilled labour would be included in an appropriate section of the document;
- the third paragraph of item 81 on the results of the experiment enabling temporary application of reduced rates to certain labour-intensive services

would be adjusted to take better account of certain social aspects of the experiment.

Subject to these amendments, the Commission adopted the proposal in COM(2003)397/7. It empowered Mr BOLKESTEIN, in agreement with the PRESIDENT, to finalise the document to take account of these amendments, for transmission to Parliament, the Council and the Economic and Social Committee.

19. APPROVAL OF MINUTES AND SPECIAL MINUTES OF 1620th MEETING (9 July)

(PV(2003)1620 to /3; PV(2003)1620, Part II)

The Commission approved the minutes of its 1620th meeting.

20. PERMANENT REPRESENTATIVES COMMITTEE

COUNCIL AFFAIRS GROUP (CAG)

(SI(2003)807)

The Commission took note of the record of the Council Affairs Group meeting of Friday 11 July.

It paid particular attention to the following:

Draft joint Council and Commission declaration on the use of the Community civil protection mechanism for crisis management

The Commission approved the joint declaration at Annex 3 to SI(2003)807.

Proposal for a Council Regulation on the management of the fishing effort relating to certain Community fishing areas and resources and amending Regulation (EEC) 2847/93 - Western waters

Since consideration of this item by the Council had been held over to September, the Commission decided to return to this subject in good time.

21. PROPOSAL FOR A DIRECTIVE AMENDING DIRECTIVE 2003/.../EC ESTABLISHING A SCHEME FOR GREENHOUSE GAS EMISSION ALLOWANCE TRADING WITHIN THE COMMUNITY, IN RESPECT OF THE KYOTO PROTOCOL'S PROJECT MECHANISMS (COM(2003)403 to /4; SEC(2003)785 to /3; SEC(2003)798)

The Commission took note of the information supplied during the meeting by Ms WALLSTRÖM concerning the key points of the draft proposal for a Directive before it. Following an initial exchange of views on the scope of the proposal, it agreed to continue its discussions on this item at its next meeting.

22. PARLIAMENT (continued from item 3)

EUROSTAT ENQUIRIES

The Commission noted that Mr KINNOCK and Mr SOLBES would be attending the meeting of Parliament's Committee on Budgetary Control on Wednesday 16 July to discuss the investigations into Eurostat; several senior Commission officials had also been invited. The Commission confirmed its determination to monitor the situation with vigilance.

23. WORK OF THE CONVENTION

(SEC(2003)825)

Mr BARNIER and Mr VITORINO reported on the last plenary session of 9 and 10 July, which had brought the Convention's work to a close.

The Commission took note of the latest amendments to parts III and IV of the draft Constitution, some of which gave cause for concern. It noted that an in-depth analysis of these various amendments was being drawn up by the Task force on the future of the Union.

The Commission confirmed that, as part of its debate on the major political questions arising after the summer break, to be held at its meeting on 27 August, it would hold an initial exchange of views on the main points of its opinion on the convening of the Intergovernmental Conference. The draft opinion itself would be considered at the meeting on 10 September.

24. COUNCIL MEETINGS

(SI(2003)799)

ECONOMIC AND FINANCIAL AFFAIRS

(BRUSSELS, 15-16 JULY)

(SI(2003)819)

Mr SOLBES reported on the main points of the Council meeting on 15 July, and on the discussions in the Eurogroup about the Stability Pact.

25. RELATIONS WITH NON-MEMBER COUNTRIES

25.1. PARTICIPATION BY THE PRESIDENT AND Mr NIELSON AT THE ASSEMBLY OF HEADS OF STATE AND GOVERNMENT OF THE AFRICAN UNION (10-12 JULY) (SEC(2003)853/2)

Mr NIELSON reported on the meeting of Heads of State or Government of the African Union, attended by the PRESIDENT and himself. The positive atmosphere of the contacts and discussions underscored the vitality of the Union's dialogue with Africa.

25.2. WTO ARBITRATION REPORT ON US SAFEGUARD MEASURES FOR STEEL (SEC(2003)852)

The Commission took note of the note from the Legal Service, distributed under the authority of the PRESIDENT.

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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 1345 hours.