



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2003)1624 final

Brussels, 10 September 2003

MINUTES
of the 1624th meeting of the Commission
held in Strasbourg
(Winston Churchill Building)
on Tuesday 2 September 2003
(afternoon)

These minutes were approved by the Commission at its 1625th meeting, held in Brussels on 10th September 2003.

They contain 14 pages.

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Single sitting: Tuesday 2 September (afternoon)

The sitting opened at 1350 hours with Mr Prodi, President, in the chair.

Present:

Mr PRODI	President
Mr KINNOCK	Vice-President
Mr MONTI	
Mr FISCHLER	
Mr LIIKANEN	
Mr BOLKESTEIN	
Mr SOLBES	
Mr NIELSON	
Mr PATTEN	
Mr LAMY	
Mr BYRNE	
Mr BARNIER	
Ms REDING	
Ms SCHREYER	
Ms WALLSTRÖM	
Mr VITORINO	
Ms DIAMANTOPOULOU	

Absent:

Ms de PALACIO	Vice-President
Mr BUSQUIN	
Mr VERHEUGEN	

The following sat in to represent absent Members of the Commission

Mr SCHINAS	Deputy Chef de cabinet to Ms de Palacio
Ms RUSSO	A member of Mr Busquin's staff
Mr TEMPEL	Chef de cabinet to Mr Verheugen

The following also sat in

Mr MARENCO	Deputy Director-General, Legal Service	
Mr MANSERVISI	Chef de cabinet to the President	
Mr KEMPPINEN	Commission Spokesman	
Mr MANN	Spokesman	
Mr RICHTER	A member of Mr Bolkestein's staff	Items 9 and 12
Mr PLANAS	Chef de cabinet to Mr Solbes	Item 9
Mr ANNERBERG	Chef de cabinet to Ms Wallström	Item 10
Mr MOAVERO MILANESI	Deputy Secretary-General	Items 1 to 3

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

1. AGENDAS AND QUARTERLY ROLLING PROGRAMME
(OJ(2003)1624/3; SEC(2003)929/2; SEC(2003)942)

The Commission took note of that day's agenda, the tentative agendas for future meetings, and the quarterly rolling programme of items to be entered on the agenda from 10 September to 26 November.

2. WEEKLY MEETING OF CHEFS DE CABINET
(SEC(2003)1624)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 1 September.

3. APPROVAL OF MINUTES OF 1623rd MEETING (27 August)
(PV(2003)1623 and /2)

The Commission approved the minutes of its 1623rd meeting.

4. PARLIAMENT

PARLIAMENTARY AFFAIRS GROUP
(SP(2003)2889)

The Commission took note of the record of the meeting of the Parliamentary Affairs Group held on 29 August.

Preparations for September I part-session

(point 2 of the record)

Further to its discussions of 23 July and 27 August (PV(2003)1622, item 4, and 1623, item 4) and in accordance with the rules in force, the Commission authorised the relevant Members, in agreement with the PRESIDENT and Ms de PALACIO and any other Members associated, to take a position on Parliament's amendments towards its proposals.

It paid particular attention to the following:

- TURCO report, Application of the *non bis in idem* principle

The Commission adopted the line set out in SP(2003)2888 and /2.

- SYLLA report, - Situation concerning fundamental rights in the European Union

The Commission took note of SP(2003)2859/3.

Action taken on Parliament's opinions and resolutions

(point 5 of the record)

The Commission adopted SP(2003)2694 on the action taken on Parliament's opinions and resolutions at its July 2003 part-session, for transmission to Parliament.

The Commission adopted the replies to own-initiative resolutions adopted by Parliament to which the Commission had undertaken to reply (SP(2003)2708), for transmission to Parliament.

**5. MONITORING THE APPLICATION OF COMMUNITY LAW:
INFRINGEMENTS**

***INFRINGEMENTS - URGENT CASE
(SEC(2003)945)***

IRELAND	Proceedings against the UK under the UN
2002/2011	Convention on the Law of the Sea - MOX plant, Sellafield

The Commission adopted the decision in SEC(2003)945.

6. WRITTEN PROCEDURES AND EMPOWERMENT

**6.1. *WRITTEN PROCEDURES APPROVED
(SEC(2003)930 et seq.)***

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 25 and 29 August.

**6.2. *SENSITIVE WRITTEN PROCEDURES
(SEC(2003)931)***

The Commission took note of written procedures initiated between 25 and 29 August for the adoption of decisions with political implications.

**6.3. *EMPOWERMENT
(SEC(2003)932 et seq.)***

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 25 and 29 August.

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 25 and 29 August, as archived on the "Grefte 2000" (Registry) website.

7. COMMISSION DECISION CONCERNING A PROCEEDING UNDER ARTICLE 8(2) OF COUNCIL REGULATION No 4064/89 (CASE COMP/M.3083 - GENERAL ELECTRIC / INSTRUMENTARIUM) (C(2003)3156 to /3)

The Commission:

- took note of the opinion of the Advisory Committee on Concentrations of 12 August, as set out in C(2003)3156, for publication in the Official Journal;
- took note of the final report of the Hearing Officer in C(2003)3156;
- adopted, in the authentic language (English), the decision in C(2003)3156 to /3 declaring the merger in question compatible with the common market and the EEA Agreement, subject to compliance with the undertakings given by the notifying party.

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

**8. COMMISSION DECISION RELATING TO NATIONAL PROVISIONS ON
BANNING THE USE OF GENETICALLY MODIFIED ORGANISMS IN
THE REGION OF UPPER AUSTRIA PURSUANT TO ARTICLE 95(5) OF
THE EC TREATY
(C92003)3117 to 5; SEC(2003)943; SEC(2003)956)**

The Commission adopted, in the authentic language (German), the decision set out in C(2003)3117/4 and /5 for publication in the Official Journal.

**9. BILATERAL INVESTMENT TREATIES BETWEEN THE UNITED
STATES AND THE FUTURE MEMBER STATES AND CANDIDATE
COUNTRIES
(SEC(2003)926 to /6)**

The Commission had before it a communication from Mr LAMY and Mr VERHEUGEN together with a draft protocol of agreement on certain bilateral investment treaties concluded between eight acceding or candidate countries and the United States.

Mr LAMY reported on the thrust and context of the long and difficult negotiations held with the United States with a view to removing the incompatibilities with Community law arising from the existence of these bilateral agreements. The negotiations had made substantial progress, reaching acceptable solutions enabling an agreement to be concluded without prejudice to the continuation of consultations on questions relating to capital movements (Article 59 EC).

The Commission took note of this information and compared the advantages and disadvantages of approving the protocol at this stage despite the questions remaining to be settled. Following this discussion, the Commission decided:

- to approve the protocol of agreement and to authorise Mr LAMY and Mr VERHEUGEN or their Directors-General to sign it on behalf of the Commission alongside the representatives of the United States and the eight acceding or candidate countries. This approval was without prejudice to possible later changes in the light of developments in the field of capital movements or, in the absence of such changes, any measure deemed necessary by the Commission;
- to mandate the Commission Members responsible to continue consultations with the United States to find a solution to the questions relating to capital movements (Article 59 EC);
- with this in this view, particularly in the light of the consultations on capital movements, to ensure that the new Member States' bilateral investment agreements were brought into line with the Treaty by the date of accession;
- to make sure that bilateral investment agreements concluded by the current Member States with non-member countries were in conformity with the Treaty.

**10. WTO DOHA DEVELOPMENT AGENDA - INFORMATION ON THE
STATE OF PLAY OF THE NEGOTIATIONS
(SEC(2003)938 to /3)**

The Commission took note of SEC(2003)938/3 and the further information presented during the meeting by Mr LAMY and Mr FISCHLER on the progress of negotiations under the Doha process. It took note of their analysis and assessment of the issues at stake at the forthcoming Cancun meeting and the positions being taken on the various subject areas of the negotiations.

11. RELATIONS WITH NON-MEMBER COUNTRIES

11.1. ASIA-EUROPE MINISTERIAL MEETINGS, 23 AND 24 JULY (SEC(2003)944)

The Commission took note of the information note distributed by Mr LAMY and Mr PATTEN (SEC(2003)944).

11.2. WTO DEAL ON TRADE-RELATED INTELLECTUAL PROPERTY RIGHTS (TRIPS) AND PUBLIC HEALTH (SEC(2003)955 and /2)

The Commission took note of SEC(2003)955 and /2 and the further information supplied during the meeting by Mr LAMY on the context and scope of the agreement reached.

12. EU-US TALKS ON AIRLINE PASSENGER DATA (SEC(2003)947 to /5)

Mr BOLKESTEIN and Mr PATTEN reported on their discussions so far with the USA and other non-member countries about the use of data on air passengers, and gave their views on the next steps to take.

The Commission took note of this information and held an in-depth discussion on the issues at stake, noting that there were several intertwined aspects, particularly: the obligations laid down by the Directive on the protection of personal data; the responsibility of the Member States in applying the Directive; Parliament's position and that of its Committee on Citizens' Freedoms and Rights; the justifiable concerns

about security; the interests of European airlines; the sensitivity of the United States in this matter and more generally the multilateral dimension of the problem.

On the basis of the comments made during the meeting, the Commission:

- authorised Mr BOLKESTEIN to inform Parliament's Committee on Citizens' Freedoms and Rights, which he would be meeting on 9 September, that, as things currently stood, it was not yet possible to say that there was adequate protection (*adequacy finding*) under Article 25(6) of Directive 95/46/EC on data protection. Consequently, the Commission would continue its discussions with the US authorities with a view to reaching appropriate solutions on a bilateral or even multilateral basis. It noted that the dossier must be considered in a global context, taking account of the various aspects raised during the meeting, including the establishment of a European position on what kinds of data could be transferred;
- agreed that it would reconsider this question before the end of September in the light of a progress report to be made by Mr BOLKESTEIN and Mr PATTEN.

13. COUNCIL MEETINGS

PREPARATIONS FOR INFORMAL COUNCIL MEETING (GENERAL AFFAIRS AND EXTERNAL RELATIONS) (RIVA DEL GARDA, 5 AND 6 SEPTEMBER)

The PRESIDENT referred to the preparations for the Intergovernmental Conference on the draft European Constitution, to be discussed at the informal Council meeting in Riva del Garda. He reported on the Italian Presidency's intentions concerning the organisation and conduct of the IGC and on the positions of the Member States and

acceding countries on the main points under discussion. On this basis, he noted that there was no reason for the Commission to go back on its conclusions of the previous week concerning the style, structure and content of the opinion it had to deliver under Article 48 of the EU Treaty (PV(2003)1623, item 9).

14. TRENDS IN THE MEMBER STATES (SEC(2003)948)

Mr VITORINO briefly presented the main subjects of media attention in July and August. He drew particular attention to the results of four Eurobarometer polls on support for enlargement in the Member States, support for the CFSP in the acceding countries, the adoption of the euro in Denmark, Sweden and the United Kingdom, and the referendums in Estonia and Latvia on accession to the Union.

The Commission took note of this information and expressed the hope that there would be opinion polls of a more long-term kind covering events in the more distant future.

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

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The meeting closed at 1615 hours.