



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2003)1628 final

Brussels, 15 October 2003

MINUTES
of the 1628th meeting of the Commission
held in Brussels
(Breydel)
on Wednesday 1 October 2003
(morning and afternoon)

These minutes were approved by the Commission at its 1630th meeting, held in Brussels on 15 October 2003.

They contain 26 pages.

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The 1628th meeting of the Commission took place in two parts:

- Wednesday 1 October, morning
- Wednesday 1 October, afternoon.

First sitting: Wednesday 1 October (morning)

The sitting opened at 1045 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 SOLBES	
Mr NIELSON	
Mr VERHEUGEN	
Mr PATTEN	
Mr LAMY	
Mr BYRNE	
Mr BARNIER	
Ms REDING	
Ms SCHREYER	
Ms WALLSTRÖM	
Mr VITORINO	
Ms DIAMANTOPOULOU	

Absent:

Mr BUSQUIN

The following sat in to represent absent Members of the Commission

Mr ROBIN-CHAMPIGNEUL A member of Mr Busquin's staff

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 UDWIN	Spokesman	
Ms HOUTMAN	Deputy Chef de cabinet to the President	Item 14
Mr ABOU	Chief Adviser in the President's Office	Items 11 and 12
Mr DE LECEA	Adviser in the President's Office	
Mr SMULDERS	A member of the President's staff	Item 13
Ms KENT	A member of Mr Kinnock's staff	
Mr CALLEJA	Chef de cabinet to Ms de Palacio	Item 11
Mr SCHINAS	Deputy Chef de cabinet to Ms de Palacio	Items 11 to 16
Ms MANFREDI	A member of Mr Bolkestein's staff	Item 13
Mr PLANAS	Chef de cabinet to Mr Solbes	Items 11 to 16
Mr DANIELSSON	Deputy Chef de cabinet to Mr Verheugen	Items 11 to 20
Mr GALEROS	A member of Ms Diamantopoulou's staff	
Mr CARVOUNIS	Press and Communication DG	

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

1. AGENDAS

(OJ(2003)1628/3; SEC(2003)1042/2)

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)1628)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 29 September.

3. MINUTES OF 1627th MEETING (23 September)

(PV(2003)1627 and /2)

The Commission approved the minutes of its 1627th meeting.

4. MONITORING THE APPLICATION OF COMMUNITY LAW: STATE AID

4.1. STATE AID - SPECIFIC CASES

(SEC(2003)1036)

The Commission adopted the decisions in SEC(2003)1036.

**4.2. STATE AID - DRAFT PROPOSAL FOR A COMMISSION REGULATION
SETTING OUT IMPLEMENTING PROVISIONS FOR REGULATION
(EC) NO 659/1999
(SEC(2003)970 to /12; SEC(2003)1035)**

The Commission adopted the draft proposal for a Regulation in SEC(2003)970/9 to /12 and authorised Mr MONTI to consult the Advisory Committee on State Aid in accordance with Article 29 of Regulation (EC) No 659/1999.

**4.3. STATE AID - COMMISSION COMMUNICATION ON PROFESSIONAL
SECREC Y IN STATE AID DECISIONS
(SEC(2003)1041 and /2; SEC(2003)1035)**

The Commission adopted, in principle, the communication in SEC(2003)1041/2 and empowered Mr MONTI, in agreement with the PRESIDENT, Ms de PALACIO and Mr FISCHLER, to adopt the communication in all the official languages.

5. WRITTEN PROCEDURES AND EMPOWERMENT

**5.1. WRITTEN PROCEDURES APPROVED
(SEC(2003)1043 et seq.)**

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 22 and 26 September.

5.2. SENSITIVE WRITTEN PROCEDURES
(SEC(2003)1044)

The Commission took note of written procedures initiated between 22 and 26 September for the adoption of decisions with political implications.

5.3. EMPOWERMENT
(SEC(2003)1045 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 22 and 26 September.

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 22 and 26 September, as archived on the "Grefte 2000" (Registry) website.

6. MADRID CONFERENCE ON RECONSTRUCTION IN IRAQ -
24 OCTOBER
(COM(2003)575 to /3)

The Commission approved the communication presented by Mr PATTEN, in agreement with Ms SCHREYER, in COM(2003)575/3, for transmission to Parliament and the Council.

**7. PROPOSAL FOR A PARLIAMENT AND COUNCIL DECISION ON THE
MOBILISATION OF THE FLEXIBILITY INSTRUMENT IN FAVOUR OF
THE REHABILITATION AND RECONSTRUCTION OF IRAQ
ACCORDING TO POINT 24 OF THE INTERINSTITUTIONAL
AGREEMENT OF 6 MAY 1999
(COM(2003)576 and /2)**

The Commission approved the proposal presented by Ms SCHREYER, in agreement with Mr PATTEN, in COM(2003)576 and /2, for transmission to Parliament and the Council.

**8. LETTER OF AMENDMENT NO 1 TO THE PRELIMINARY DRAFT
BUDGET FOR 2004
(SEC(2003)1058 to /3)**

The Commission approved the letter of amendment presented by Ms SCHREYER, in agreement with Mr PATTEN, in SEC(2003)1058 and /3, for transmission to Parliament and the Council.

**9. COMMISSION DECISION UNDER ARTICLE 81 OF THE EC TREATY
AND ARTICLE 53 OF THE EEA AGREEMENT
(CASE COMP/E-1/37370-SORBATES)
(C(2003)3426 to /9; SEC(2003)1077)**

The Commission:

- took note of the opinion of the Advisory Committee on Restrictive Practices and Dominant Positions of 22 September in C(2003)3426;

- took note of the final report of the Hearing Officer in C(2003)3426/2;
- adopted, in the authentic languages (English and German), the decision in C(2003)3426/4, concluding that the parties in question had infringed Article 81(1) of the EC Treaty and, with effect from 1 January 1994, Article 53(1) of the EEA Agreement, and imposing fines on them totalling €138.4 million;
- decided that the versions with certain business secrets removed, as set out in C(2003)3426/5 to /9, would be notified to Chisso Corporation, Daicel Chemical Industry Ltd, Hoechst AG, The Nippon Synthetic Chemical Industry Ltd and Ueno Fine Chemicals Industry Ltd respectively.

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

10. RELATIONS WITH NON-MEMBER COUNTRIES

DUBAI 2003: ANNUAL MEETINGS OF THE IMF AND THE WORLD BANK (SEC(2003)1061)

The Commission took note of the information note distributed by Mr NIELSON.

11. PARLIAMENT

11.1. SEPTEMBER II PART-SESSION

(SP(2003)3182)

The Commission took note of the information supplied relating to Parliament's part-session of 22 to 25 September (SP(2003)3182).

11.2. ACTION TO BE TAKEN ON PARLIAMENT'S OPINIONS

(SP(2003)3186)

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 (SP(2003)3186).

11.3. MEETING BETWEEN THE PRESIDENT AND THE ENLARGED CONFERENCE OF PRESIDENTS, 25 SEPTEMBER

The PRESIDENT reported on his meeting with Parliament's enlarged Conference of Presidents about the Eurostat affair. He felt the meeting had been satisfactory on the whole, and it was now clear to Parliament that he and the Commission wished to be completely transparent and honest in this matter. However, Parliament was still waiting for full clarification of the facts and for appropriate decisions to be taken in response to these facts. As Commission President he had given firm and specific undertakings to this effect, and he was determined that they should be honoured scrupulously within the deadlines indicated to Parliament. The PRESIDENT thanked his colleagues for their support in preparing for this meeting. He also thanked Mr Abou, the Secretariat-General and all who had taken part in the investigations and in drawing up the various reports produced by Mr Romero, Mr Muis and Mr Zangl, for all their excellent work.

The Commission took note of this information and held an in-depth discussion on the background to the dossier, the state of the information available, and suitable arrangements for the decisions and initiatives to be taken or in progress. It agreed on the need to have comprehensive and ongoing information at its disposal, to be updated as the situation developed.

(See also item 12.2 below)

12. ADMINISTRATIVE AND BUDGETARY MATTERS

(SEC(2003)1046)

ADMINISTRATIVE MATTERS

(PERS(2003)125)

12.1. APPLICATION OF ARTICLE 50 OF THE STAFF REGULATIONS (INITIAL STAGE) WITH RESPECT TO AN A2 OFFICIAL

The Commission decided to initiate the procedure laid down in Article 50 of the Staff Regulations in respect of an A2 official.

12.2. EUROSTAT - NEW ORGANISATION CHART

(C(2003)3548/2)

The Commission took note of the information provided by Mr KINNOCK and Mr SOLBES on the proposed amendments to Eurostat's organisation chart. Based on the conclusions drawn from, and the problems encountered in, the past financial management of Eurostat and on the need to ensure the continued production of statistics, the new organisation chart was based on two major changes - the refocusing of the Directorates on the EU's major

activities and policies, and the strengthening of financial management and control over Eurostat, especially at Director-General level.

Having taken note of the assurances given by Mr SOLBES on maintaining the quality of the statistics supplied by Eurostat, and without prejudice to bilateral contacts between Eurostat and the various Directorates-General for the purpose of identifying priority statistical requirements with a view to preparations for the Eurostat 2004 work programme, the Commission:

- approved, with effect from 1 November, the amendment of the Eurostat organisation chart as set out in C(2003)3548/2, with Directorate D henceforth being named "Statistics on the internal market, employment and social affairs";
- approved the abolition of one Directorate and one A2 Director post with immediate effect;
- approved the publication, with immediate effect, of the vacancy notices for the posts of Directors of Directorates ESTAT/B, ESTAT/C, ESTAT/D, ESTAT/E and ESTAT/F, under Article 29(1)(a), (1)(c) and (2) of the Staff Regulations simultaneously.

12.3. *ESTAT.A - A2 POST OF DIRECTOR*

The Commission decided under Article 7 of the Staff Regulations to transfer, with his post and in the interest of the service, Mr Stephen KAISER, an A2 official, currently Director, Directorate A, Directorate-General for Translation, to the post of Director, Directorate A, Eurostat, in view of his merits and taking into account his experience and qualifications.

This decision would take effect on 16 October.

12.4. DGT.A - A2 POST OF DIRECTOR

The Commission decided under Article 7 of the Staff Regulations to transfer, with her post and in the interest of the service, Ms Marian O'LEARY, an A2 official, currently Chief Adviser, Eurostat, to the post of Director, Directorate A, Directorate-General for Translation, in view of her merits and taking into account her experience and qualifications.

This decision would take effect on 16 October.

The Commission expressed its appreciation for the work carried out by Ms O'LEARY in assisting Mr VANDEN ABEELE, Director-General, Eurostat, and the Eurostat Task force and the IAS audit team over recent months.

12.5. DG ADMIN - STANDING IN FOR DIRECTOR-GENERAL

On a proposal from Mr KINNOCK, in agreement with the PRESIDENT, the Commission decided to ask Ms Irène SOUKA, an A2 official, currently Director of Directorate ADMIN/A (Staff and careers), to stand in for the Director-General, Personnel and Administration, from 26 September to 6 October.

**13. MONITORING THE APPLICATION OF COMMUNITY LAW:
INFRINGEMENTS (continued from item 4)**

***INFRINGEMENTS - URGENT OR POSTPONED CASES
(SEC(2003)1026; SEC(2003)1054)***

The Commission adopted the decisions in SEC(2003)1026, subject to the following clarifications:

B/2003/2133 GERMANY

German system for returnable drinks containers - transitional period

After taking note of the information supplied during the meeting by the PRESIDENT and Mr BOLKESTEIN, and following a brief exchange of views on progress in this case, the Commission decided to hold over its decision for three weeks.

- 14. A EUROPEAN INITIATIVE FOR GROWTH: INVESTING IN NETWORKS AND KNOWLEDGE FOR GROWTH AND EMPLOYMENT - INTERIM REPORT TO THE EUROPEAN COUNCIL
(COM(2003)579 to /5; SEC(2003)1064)**
- 15. AMENDED PROPOSAL FOR A PARLIAMENT AND COUNCIL DECISION AMENDING DECISION NO 1692/96/EC ON COMMUNITY GUIDELINES FOR THE DEVELOPMENT OF THE TRANS-EUROPEAN TRANSPORT NETWORK
(COM(2003)564 to /6; SEC(2003)1060/2; SEC(2003)1039)**
- 16. AMENDED PROPOSAL FOR A PARLIAMENT AND COUNCIL REGULATION AMENDING THE AMENDED PROPOSAL FOR A PARLIAMENT AND COUNCIL REGULATION AMENDING COUNCIL REGULATION (EC) NO 2236/95 LAYING DOWN GENERAL RULES FOR THE GRANTING OF COMMUNITY FINANCIAL AID IN THE FIELD OF TRANS-EUROPEAN NETWORKS
(COM(2003)561 to /4; COM(2003)564/3; SEC(2003)1039)**

The Commission decided to take these three items together since they were closely intertwined and mutually complementary.

The PRESIDENT presented the draft interim report on the EU initiative for growth, produced for the Brussels European Council on 16 and 17 October. The report developed the points first identified at the launch of the initiative by the Commission on 9 July (PV 1620, item 22), and described the scope and scale of the investments in networks and knowledge that would be needed to kickstart economic growth in the Union. It also proposed a number of recommendations in support of growth that the European Council could put to Member States. A final report would be put before the European Council on 12 and 13 December.

Ms de PALACIO introduced two legislative proposals on trans-European transport networks, which were part of the initiative for growth. Following the report by the high-level group chaired by Mr Karel VAN MIERT, these proposals took over and extended some earlier Commission proposals. Besides the publication of a new list of priority projects covering the enlarged Union, the main points involved attaching a "statement of European interest" to these projects, which should thereby benefit from priority Community financing, and introducing procedures to improve cooperation between Member States, particularly where cross-border projects were concerned.

The Commission took note of this information and held an exchange of views on the scope and contents of the three dossiers before it, in particular: the integrated nature of the initiative for growth and the multiplier effect it could be expected to have on the momentum for growth; the initiative's relationship to other existing instruments such as the Cohesion Fund and the Structural Funds; the increased growth that could be stimulated through closer coordination of economic and budgetary policies; the importance of investing to support employment, and more generally the need to invest in human capital and training; taking the necessary financial resources into account in future budget exercises and in the financial perspective post-2006; arrangements for ensuring the completion of the transport projects identified; the number of these projects and whether or not they should be ranked in some order.

Following this discussion, the Commission agreed the following amendments:

- the title of the interim report on the initiative for growth (COM(2003)579/5) was to be "A European Initiative for Growth - Investing in networks and knowledge for growth and employment";
- a note would be added to Article 19a of the proposal for a decision to the effect that the Commission would encourage Member States, in their

Structural Funds programming, to take account of the projects declared to be of European interest;

- the title of the first project cited in the list in the Annex to the proposal for a decision (COM(2003)564/6) would be "Extension of project No 1 over the Berlin - Verona/Milan - Bologna - Naples - Messina - Palermo rail corridor".

The Commission noted that a large number of priority investments were identified in the proposal for a decision for the period up to 2020. So as to be able to rank them in date order, the Commission, in advance of the European Council meeting - and in the context of the initiative for growth - would clarify the state of technical and financial maturity of the various projects, taking into consideration the capacities of the countries involved.

Subject to these clarifications and amendments, the Commission:

- approved the interim report in COM(2003)579/5 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions;
- adopted the proposal for a decision (COM(2003)564/6) and the proposal for a Regulation (COM(2003)561/4) for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, together with the enlarged impact assessment (SEC(2003)1060/2), to be transmitted as a staff working paper.

17. OTHER BUSINESS

POWER CUT IN ITALY

(SEC(2003)1079)

The Commission took note of the information supplied during the meeting by Ms de PALACIO supplementing her note SEC(2003)1079. Ms de PALACIO explained the specific causes of the electricity breakdown in Italy, which was the result of a storm. These had no connection with the process of opening up the market or the creation of the internal market in electricity. Nevertheless, over the coming years Europe would have to deal with extra production and interconnection capacity requirements. To this end, and without prejudice to the primary responsibility of the Member States in this area, Ms de PALACIO announced that a series of initiatives was already in preparation at Community level to deal with these questions and that she would be presenting specific proposals in due course.

The PRESIDENT pointed out that the power cut had occurred at a time when consumption was at its lowest and so could not be ascribed either to a lack of capacity in the system or to an isolated event. Rather, it was due to weakness in the decision-making chain and to insufficient coordination in what was a complex European network. An open electricity market could not be operated on a national basis, but needed to be managed on an integrated European scale.

18. TRENDS IN THE MEMBER STATES

(SEC(2003)1055)

Mr VITORINO briefly presented the main subjects of media attention over the previous four weeks (27 August to 25 September): the collapse of the Cancun conference, the outcome of the Swedish referendum on the euro, and the

forthcoming Intergovernmental Conference. He drew particular attention to the results of a Eurobarometer poll on the Swedish vote against adopting the euro.

Having taken note of this information, the Commission held an exchange of views on worrying developments in public opinion towards European integration at a time when Europe was on the threshold of very important developments. The impact of the provisions of the new Financial Regulation on the subsidies granted to networks and information relays was mentioned in this connection. The Commission decided that at a future meeting it would hold a discussion, suitably organised and prepared, on these various questions and the possible solutions.

19. COUNCIL MEETINGS

(SI(2003)963)

ECONOMIC AND FINANCIAL AFFAIRS

(LUXEMBOURG, 7 OCTOBER)

Mr SOLBES referred to the meeting of the Eurogroup to be held the day before the Council meeting (Economic and Financial Affairs). Noting that the French budgetary position would be one of the main points of discussion, he reported on the current state of the dossier and the arrangements in place for dealing with it.

20. OTHER BUSINESS (continued from item 17)

***RECENT JUDGMENTS OF THE COURT OF FIRST INSTANCE IN THE
FIELD OF COMPETITION***

Mr MONTI reported on various judgments delivered by Community lawcourts on six important competition cases. Although the Court of First Instance had annulled the fines imposed on the shipping companies in the Trans-Atlantic Conference Agreement (TACA), it had accepted the Commission's position in principle. The CFI had also confirmed the Commission decisions in the other five cases.

Mr MONTI expressed satisfaction with this overall result, and thanked the Legal Service for its excellent cooperation.

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The sitting closed at 1400 hours.

Second sitting: Wednesday 1 October (afternoon)

The sitting opened at 1845 hours with Mr Prodi, President, in the chair.

Present:

Mr PRODI	President
Mr KINNOCK	Vice-President
Mr MONTI	
Mr LIIKANEN	
Mr BUSQUIN	
Mr NIELSON	
Mr VERHEUGEN	
Mr BYRNE	
Mr BARNIER	
Ms SCHREYER	
Ms WALLSTRÖM	
Ms DIAMANTOPOULOU	

Secretary: Mr GUTH, Deputy Secretary-General, assisted by Ms BUGNOT, Director in the Secretariat-General.

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

(CASE COMP/E-1/37370-SORBATES)

(continued from item 9)

(C(2003)3426 to /10; SEC(2003)1077)

The Commission decided to annul its decision on this matter as set out at item 9 of these minutes. Having become aware of the second opinion of the Advisory Committee on Restrictive Practices and Dominant Positions, the Commission:

- took note of the opinions of the Advisory Committee on Restrictive Practices and Dominant Positions of 22 and 29 September in C(2003)3426 and /10;
- took note of the final report of the Hearing Officer in C(2003)3426/2;
- adopted, in the authentic languages (English and German), the decision in C(2003)3426/4, concluding that the parties in question had infringed Article 81(1) of the EC Treaty and, with effect from 1 January 1994, Article 53(1) of the EEA Agreement, and imposing fines on them totalling €138.4 million;
- decided that the versions with certain business secrets removed, as set out in C(2003)3426/5 to /9, would be notified to Chisso Corporation, Daicel Chemical Industry Ltd, Hoechst AG, The Nippon Synthetic Chemical Industry Ltd and Ueno Fine Chemicals Industry Ltd respectively.

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

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The Commission's discussions on certain agenda items are recorded in the special minutes.

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The meeting closed at 1850 hours.