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SECRETARIAT-GENERAL

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Brussels, 11 November 2003

MINUTES
of the 1633rd meeting of the Commission
held in Brussels
(Breydel)
on Wednesday 5 November 2003
(morning)

These minutes were approved by the Commission at its 1634th meeting, held in Brussels on 11 November 2000

They contain 25 pages.

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Single sitting: Wednesday 5 November (morning)

The sitting opened at 0930 hours with Mr KINNOCK, Vice-President, in the chair for items 1 to 10 and Mr PRODI, President, in the chair for items 11 to 17.

Present:

Mr PRODI	President
Mr KINNOCK	Vice-President
Ms de PALACIO	Vice-President
Mr MONTI	
Mr FISCHLER	
Mr BOLKESTEIN	
Mr BUSQUIN	
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 LIIKANEN

The following sat in to represent absent Members of the Commission

Mr SALMI Chef de cabinet to Mr Liikanen

The following also sat in

Ms DURAND	Chief Adviser, Legal Service	
Mr MANSERVISI	Chef de cabinet to the President	
Mr DE OLIVEIRA E SOUSA	Director-General, Press and Communication	
Mr KEMPPINEN	Commission Spokesman	
Mr DIXON	Spokesman	
Ms GONZALEZ LAYA	Spokeswoman	
Ms MOCHAN	Spokeswoman	Item 14
Mr THOMAS	Spokesman	
Mr GUSSETTI	A member of the President's staff	Items 9 to 14
Mr TEMPEL	Chef de cabinet to Mr Verheugen	Items 15 and 16
Mr THERY	Chef de cabinet to Mr Lamy	Items 14 to 17
Mr BALDWIN	Deputy Chef de cabinet to Mr Lamy	
Ms GAGO-FILORI	A member of Mr Vitorino's staff	Items 11 to 16
Mr LOPES ALEIXO	A member of Mr Vitorino's staff	Item 11
Mr FIELDING	Deputy Chef de cabinet to Ms Diamantopoulou	Item 14
Mr AZEMOPOULOS	A member of Ms Diamantopoulou's staff	Items 15 and 16
Ms HELFFERICH	A member of Ms Diamantopoulou's staff	Item 14
Mr BARBASO	Enlargement DG	Items 15 and 16
Mr RUETE	Enlargement DG	Items 15 and 16
Mr TYSON	Employment and Social Affairs DG	Item 14
Mr DAVILA MURO	Secretariat-General	Item 8
Ms LORENZI	Secretariat-General	Item 14

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

1. AGENDAS

(OJ(2003)1633/3; SEC(2003)1188/2)

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)1633)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 3 November.

**3. APPROVAL OF MINUTES AND SPECIAL MINUTES OF 1632nd
MEETING (29 October)**

(PV(2003)1632 and /2; PV(2003)1632, Part II and /2)

The Commission approved the minutes of its 1632nd meeting.

4. PARLIAMENT

PARLIAMENTARY AFFAIRS GROUP

(SP(2003)3604)

The Commission took note of the record of the meeting of the Parliamentary Affairs Group held on 30 October.

It paid particular attention to the following:

i) **Preparations for November I part-session**

(point 2.1 of the record)

The Commission, in accordance with the rules in force, authorised the Commission Members responsible, in agreement with the PRESIDENT, Ms de PALACIO and any other Members associated, to take a position on Parliament's amendments to its proposals.

It paid particular attention to the following:

1st reading and simple consultation

- PRETS report, European youth bodies,
COM(2003)272, 03/0113 (COD)
- PACK report, Education and training,
COM(2003)273, 03/0114 (COD)
- IIVARI report, European cultural bodies,
COM(2003)275, 03/0115 (COD)

The Commission adopted the line set out in SP(2003)3593 and /2, SP(2003)3595 and /3 and SP(2003)3594 and /2 and authorised Ms REDING and Ms SCHREYER to continue contacts with the co-legislators with a view to reaching agreement as soon as possible.

- WÜRMELING report, Credit for consumers,
COM(2002)443, 02/0222 (COD)

The Commission adopted the line set out in SP(2003)3504.

- SANDERS-TEN-HOLTE report, Community cooperation with Asian and Latin American countries,
COM(2002)340, 02/0139 (COD)

The Commission adopted the line set out in SP(2003)3601.

Non-legislative matters

- BLAK report, Discharges 2001 (decentralised agencies)

The Commission took note of SP(2003)3505 and /2.

ii) Empowerment

1st reading and simple consultation

- PRETS report, European youth bodies,
COM(2003)272, 03/0113 (COD)
- PACK report, Education and training,
COM(2003)273, 03/0114 (COD)
- IIVARI report, European cultural bodies,
COM(2003)275, 03/01115 (COD)

In view of the urgency of these matters, the Commission, under Article 13 of its Rules of Procedure, empowered Ms REDING and Ms SCHREYER, in agreement with the PRESIDENT, Ms de PALACIO and any other Members associated, to adopt amended proposals on the basis of the line set out in SP(2003)3593 and /2, SP(2003)3595 and /5 and SP(2003)3594 and /2, once Parliament had given its opinion, and transmit them to the Council in accordance with Article 250(2) of the Treaty.

iii) **Action taken on Parliament's opinions and resolutions**

(point 5.2 of the record)

The Commission adopted the replies to non-legislative opinions and own-initiative resolutions adopted by Parliament to which the Commission had undertaken to reply (SP(2003)3557), for transmission to Parliament.

iv) **Presence of Commission Members at Question Time in Strasbourg in 2004**

(point 8.4 of the record)

The Commission approved the table in SP(2003)3597/2 and asked the Secretariat-General to send it to Parliament.

5. PERMANENT REPRESENTATIVES COMMITTEE

COUNCIL AFFAIRS GROUP (CAG)

(SI(2003)1135 to /3)

The Commission took note of the record of the Council Affairs Group meeting held on Friday 31 October.

It paid particular attention to the following:

i) **Proposal for a Parliament and Council Directive amending Council Directives 72/166/EEC, 88/357/EEC and 90/232/EEC and Directive 2000/26/EC relating to insurance against civil liability in respect of the use of motor vehicles**

The Commission took note of progress in the Council on this item. With a view to political agreement at the Council meeting (Competitiveness) on

10 November, it took note of Mr BOLKESTEIN's intention to accept *ad referendum* the Presidency compromise set out in SI(2003)1135/3, which it would be required to confirm later.

ii) **Proposal for a Council Regulation on the Community patent**

The Commission authorised Mr BOLKESTEIN to accept a final compromise on this matter in accordance with the line set out in Annex 2 to the record, subject to the check requested by the Legal Service.

iii) **Proposal for a Parliament and Council Regulation establishing the European Network and Information Security Agency**

The Commission asked Mr LIIKANEN to continue contacts with the co-legislators with a view to arriving at a coherent solution concerning the question of the number of members on the Management Board of the Agency, bearing in mind the need to encourage, as far as possible, a solution in line with the Commission's position in this matter.

As regards the arrangements for voting, the Commission authorised Mr LIIKANEN to take the position set out at Annex 3 to the record.

iv) **Agency in the field of defence capabilities development, research, acquisitions and armaments**

The Commission took note of progress on this item and the fact that it would be entered on the agenda for a future meeting.

6. MONITORING THE APPLICATION OF COMMUNITY LAW

6.1. STATE AID - CASE POSTPONED

(C(2003)3910 to /4)

The Commission adopted the decision in C(2003)3910/4 concerning the following case:

C 19/2003 SPAIN

(ex NN 5/2003)

Aid for the coverage of exceptional charges in favour of González y Díez - Aid corresponding to 2001 and abusive application of aid corresponding to 1998 and 2000

Decision: Final partly positive / partly negative decision.

6.2. INFRINGEMENTS - CASES POSTPONED BECAUSE OF UNAVAILABILITY OF DOCUMENTS - REGULARISATION (SEC(2003)1197)

The Commission adopted the decision in SEC(2003)1197.

7. ADMINISTRATIVE AND BUDGETARY MATTERS

(SEC(2003)1192/2)

ADMINISTRATIVE MATTERS

(PERS(2003)141)

7.1. *DG ADMIN - DEPUTISING FOR THE POST OF DIRECTOR-GENERAL IN HIS ABSENCE - ARTICLE 24 OF THE RULES OF PROCEDURE*

On a proposal from Mr KINNOCK, in agreement with the PRESIDENT, the Commission decided, in accordance with Article 24 of its Rules of Procedure, that in the absence of the Director-General, Personnel and Administration, the following would deputise for him, in this order:

Ms Marina MANFREDI-MAGILLO, an A2 official, currently permanent rapporteur of the Consultative Committee on Appointments, and

Ms Irène SOUKA, an A2 official, Director of Directorate A (Staff and careers).

This decision would take effect immediately.

7.2. *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.

7.3. *DG ENTR - TRANSFER OF AN A2 OFFICIAL IN THE INTEREST OF THE SERVICE WITH HIS POST UNDER THE ARRANGEMENTS FOR MOBILITY OF A2 OFFICIALS*

On a proposal from Mr KINNOCK, in agreement with the PRESIDENT, Ms de PALACIO and Mr LIIKANEN, the Commission decided under the mobility policy for senior officials to transfer, with his post and in the interest

of the service, Mr Michel AYRAL, an A2 official, currently Director, Directorate F (Air transport) in the Energy & Transport DG, to the post of Director, Directorate G (Single market: regulatory environment, standardisation and new approach) in the Enterprise DG.

The date on which this decision would take effect would be fixed later by Mr KINNOCK, Ms de PALACIO and Mr LIIKANEN, in agreement with the PRESIDENT.

7.4. *DG INCO - PUBLICATION OF VACANCY NOTICE FOR A1 POST OF DIRECTOR-GENERAL*

The Commission authorised the internal publication, under Article 29(1)(a) of the Staff Regulations, of the vacancy notice for the post of Director-General, Interpretation, as annexed to PERS(2003)141.

This decision would take effect immediately.

OTHER MATTERS

7.5. *ADMINISTRATIVE GUIDE TO THE CONDUCT EXPECTED OF COMMISSION OFFICIALS (SEC(2003)1245)*

The Commission took note of the information note distributed by Mr KINNOCK and Ms SCHREYER.

**8. PROPOSAL FOR A COUNCIL REGULATION ESTABLISHING
ADDITIONAL CUSTOMS DUTIES ON IMPORTS OF CERTAIN
PRODUCTS ORIGINATING IN THE UNITED STATES OF AMERICA
(COM(2003)661 and /2; SEC(2003)1181)**

The Commission adopted the proposal presented by Mr LAMY in COM(2003)661,
for transmission to the Council.

9. OTHER BUSINESS

***DATA ON AIR PASSENGERS
(SEC(2003)1238 and /2; SEC(2003)1234)***

The Commission took note of the information note distributed by the PRESIDENT,
in agreement with Ms de PALACIO, Mr BOLKESTEIN, Mr PATTEN and
Mr VITORINO (SEC(2003)1238), particularly the conclusions set out at point III,
and the supporting notes drawn up by the Justice and Home Affairs DG and the
Legal Service.

**10. COUNCIL MEETINGS
(SI(2003)1129)**

***EUROGROUP AND ECONOMIC AND FINANCIAL AFFAIRS
(BRUSSELS, 3 AND 4 NOVEMBER)
(SI(2003)1154)***

Mr SOLBES reported on the meetings of the Eurogroup and the Council (Economic
and Financial Affairs), at which the main point of discussion had been the excessive

deficit procedure concerning France. He commented on the reasons for the Council's decision to hold over until 25 November the vote on the two recommendations presented by the Commission under Article 104(8) and (9) of the Treaty, and outlined his concerns about the way the case was developing.

Having taken note of this information, the Commission held an exchange of views on the implications of any failure to abide by the Stability Pact and the potential implications for the economies of the countries of the euro area, the international financial markets and the position of the euro. It agreed to return to the question in preparation for the Council meeting (Economic and Financial Affairs) on 25 November.

11. TRENDS IN THE MEMBER STATES (SEC(2003)1236)

Mr VITORINO briefly presented the main points covered by the media in October, particularly the work of the Intergovernmental Conference and the growing attention paid to the holding of possible referendums, the development of transatlantic relations, and the Eurostat case, where the Commission's desire for transparency seemed to be bearing fruit. He drew attention to the results of a Eurobarometer flash opinion poll on globalisation, which, while reflecting certain nuances, showed a mainly positive perception of this process and of the Commission's role in international trade negotiations. As regards the Eurobarometer opinion poll on countries likely to threaten world peace, Mr VITORINO felt the Commission needed to tackle the issues involved at its next seminar on external relations.

The Commission took note of this information. It held an exchange of views on the controversial results of the opinion poll on world peace and on the arrangements for

devising and using such polls. While emphasising that Eurobarometer opinion polls were an important and useful tool in view of the diversity of European public opinion, the Commission agreed on the need to analyse the procedures currently in force with a view to their improvement. Without prejudice to the discussions it would be holding on the Union's external relations post-Cancun, the Commission also took note of the PRESIDENT's intention to organise a seminar, including representatives of the Jewish community and others, to discuss the repercussions of the opinion poll in question.

12. RELATIONS WITH NON-MEMBER COUNTRIES

VISIT BY Mr LAMY TO THE UNITED STATES

Mr LAMY reported on his visit to the United States, during which he had discussed the relaunch of the Doha round of multilateral negotiations and various bilateral trade issues with the US authorities. On the latter point, discussions had focused particularly on the US willingness to bring its legislation on the tax scheme for Foreign Sales Corporations into line with WTO rules. The measured approach of the proposal for a Regulation establishing additional customs duties on imports of certain products from the USA, adopted that day by the Commission (cf. item 8 above), was part of the long process of settling this dispute. Steel, and the safeguard measure applied by the USA to imports of certain steel products from the European Community and elsewhere, were another source of dispute between the EU and the United States. Provided the WTO appeal body confirmed the Union's position, the decision to lift the safeguard measure would be one for President Bush. In that event, Mr LAMY would exercise the empowerment granted to him by the Commission that day (cf. item 13 below). However, it was difficult to anticipate the US position at this stage.

13. WRITTEN PROCEDURES AND EMPOWERMENT

13.1. WRITTEN PROCEDURES APPROVED

(SEC(2003)1189 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 27 and 31 October.

13.2. SENSITIVE WRITTEN PROCEDURES

(SEC(2003)1190)

The Commission took note of written procedures initiated between 27 and 31 October for the adoption of decisions with political implications.

It paid particular attention to the following:

PE/2022/2003

Financial instrument for the environment (LIFE) - extension of the Regulation

(COM(2003)667 to /3)

Without prejudice to the budgetary concerns expressed by Ms SCHREYER concerning the situation of heading 3 of the financial perspective in 2005 and 2006, the implications of which would have to be considered horizontally by the Commission, the Commission decided:

- to approve the proposal for a Parliament and Council Regulation amending Regulation (EC) No 1655/2000 concerning the Financial Instrument for the Environment (LIFE), as set out in COM(2003)667;

- to transmit it to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

13.3. EMPOWERMENT

(SEC(2003)1191 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 27 and 31 October.

13.4. GENERAL EMPOWERMENT FOR THE IMPLEMENTATION OF COUNCIL REGULATION (EC) No 953/2003 TO AVOID TRADE DIVERSION INTO THE EUROPEAN UNION OF CERTAIN KEY MEDICINES

(SEC(2003)1195 and /2)

The Commission granted general empowerment for the adoption of decisions to accept or reject requests made under Article 4(1) of Council Regulation (EC) No 953/2003 to avoid trade diversion into the European Union of certain key medicines, as set out in SEC(2003)1195 and /2.

13.5. PROPOSAL FOR A COUNCIL REGULATION REPEALING REGULATION (EC) No 1031/2002 ESTABLISHING ADDITIONAL CUSTOMS DUTIES ON IMPORTS OF CERTAIN PRODUCTS ORIGINATING IN THE UNITED STATES OF AMERICA (STEEL EMPOWERMENT)

(SEC(2003)1233)

The Commission decided:

- to adopt the proposal for a Council Regulation repealing Regulation (EC) No 1031/2002, as set out in SEC(2003)1233;

- to empower Mr LAMY, in agreement with the PRESIDENT, according to the terms of SEC(2003)1233:
 - to declare that the condition laid down by Article 5 of Council Regulation No 1031/2002 had been met. This declaration would be based on an assessment that appropriate action according to the US rules in force had been taken by the President of the United States to repeal Proclamation No 7529 of 5 March 2002 as well as any act based on that Proclamation, and that such repeal had entered into force;
 - to complete the text of the proposal accordingly;
 - to transmit the proposal to the Council at the appropriate time.

13.6. DELEGATION AND SUBDELEGATION OF POWERS

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation procedure between 27 and 31 October, as archived on the "Greffé 2000" (Registry) website.

14. PROPOSAL FOR A DIRECTIVE IMPLEMENTING THE PRINCIPLE OF EQUAL TREATMENT BETWEEN WOMEN AND MEN IN THE ACCESS TO AND SUPPLY OF GOODS AND SERVICES (COM(2003)657 to /4; SEC(2003)1213 and /2; SEC(2003)1232)

Ms DIAMANTOPOULOU set out the main points of the proposal for a Directive. This proposal, which was part of the Commission's social policy agenda and also met a specific request by the Nice European Council, was based on Article 13, which authorised the Community to take the measures necessary to combat any

discrimination based among other things on sex. Taking an approach by stages, it was proposed to focus the application of the principle of equal treatment between women and men on the supply of goods and services, where sex discrimination was particularly evident. Ms DIAMANTOPOULOU was aware of the reactions provoked by this approach in certain industrial circles, as had been the case for previous advances in the field of sexual equality. The economic considerations and the statistics put forward to support these concerns could be counterbalanced by many other figures. The same went for various legal analyses. In this particular case and in the first place, there were political reasons for not accepting gender as an element justifying a differentiation of the treatment of individuals in access to the supply of goods or services. Without underestimating the difficulties of the dossier, Ms DIAMANTOPOULOU concluded her presentation by emphasising the importance of taking this new step, as a signal of solidarity between women and men in European society.

The Commission took note of these observations and considered the various implications of the measures proposed. It examined in particular the proposed ban in Article 4 (actuarial factors) on the use of sex as a factor in the calculation of premiums and the provision of services in the field of insurance, and possible alternative solutions. The question of the inversion of the burden of proof, as laid down in Article 8 of the proposal, and that of the participation of NGOs in the mechanisms created by the Directive, were also raised.

Following this exchange of views, the Commission adopted the proposal for a Directive in COM(2003)657/4 for transmission, together with the staff working paper in SEC(2003)1213/2, to the Council, Parliament, the Economic and Social Committee and the Committee of the Regions.

15. COMPREHENSIVE MONITORING REPORTS ON THE TEN ACCEDING COUNTRIES' PREPARATIONS FOR MEMBERSHIP

(COM(2003)675 to /3; SEC(2003)1200/4; SEC(2003)1201/4; SEC(2003)1202/5; SEC(2003)1203/4; SEC(1204)4; SEC(2003)1205/5; SEC(2003)1206/5; SEC(2003)1207/4; SEC(2003)1208/5; SEC(2003)1209/6; SEC(2003)1231 and /2)

Mr VERHEUGEN presented the comprehensive monitoring report on the state of preparedness for EU membership of the ten countries that would be joining the Union on 1 May 2004. This was based on the various specific reports for each of the acceding countries, in SEC(2003)1200/4; SEC(2003)1201/4; SEC(2003)1202/5; SEC(2003)1203/4; SEC(1204)4; SEC(2003)1205/5; SEC(2003)1206/5; SEC(2003)1207/4; SEC(2003)1208/5; SEC(2003)1209/6. Mr VERHEUGEN pointed to the progress made towards accession by all these countries since October 2002 as well as the efforts still needing to be made, in particular on a limited number of questions which still raised serious concerns.

Mr SOLBES referred to the economic development of the ten acceding countries during the same period. While there were certain differences between countries, he confirmed the overall positive assessment as to their state of readiness for accession.

The Commission held an exchange of views, after which it:

- adopted the communication from Mr VERHEUGEN, as set out in COM(2003)675/2 and /3, for transmission, together with the ten reports by country, to the Council and Parliament;
- noted that the next Commission would be faced with the priority task of making a success of the present enlargement in the medium term, for the benefit of all Member States and Union citizens;
- asked the Enlargement DG, under the responsibility of Mr VERHEUGEN, in close association with all departments concerned, to follow the development of

the situation attentively and to draw up internal guidelines to ensure effective coordination;

- agreed to consider in good time what measures it might need to propose in the absence of progress in any given field;
- asked the departments concerned to speed up the administrative preparations for enlargement, particularly as regards the transformation of the current Delegations into Representations.

The Commission thanked Mr VERHEUGEN and congratulated all the departments which had prepared these reports, particularly the Enlargement DG, on the high standard of the work carried out.

16. REGULAR REPORTS ON THE THREE CANDIDATE COUNTRIES' PROGRESS TOWARDS ACCESSION

**(COM(2003)676 to /3; SEC(2003)1210/3; SEC(2003)1211/3; SEC(2003)1212/3;
SEC(2003)1231 and /2)**

Mr VERHEUGEN presented the composite paper on the progress made towards accession since October 2002 by Bulgaria, Romania and Turkey. This was based on the three specific reports relating to each of the countries concerned in SEC(2003)1210/3; SEC(2003)1211/3; SEC(2003)1212/3. Mr VERHEUGEN drew attention to the progress made towards accession by these countries and the major efforts still needing to be made.

Mr SOLBES referred to the economic development of these three countries over the same period, and drew particular attention to the progress made by the Bulgarian economy.

The Commission held an exchange of views, after which it:

- adopted the communication from Mr VERHEUGEN in COM(2003)676/2 and /3, for transmission, together with the three country reports, to the Council and Parliament;
- reminded the meeting of the objective of accession by Bulgaria and Romania in 2007, while confirming that the pace of the negotiating process for each of these two countries would vary in the light of their individual progress;
- noted that the opinion that it would be delivering for the European Council in October 2004 on the accession of Turkey would have to take account of a number of key questions, including the development of the situation in Cyprus.

The Commission thanked Mr VERHEUGEN and congratulated all the departments which had prepared the reports, particularly the Enlargement DG, on the high standard of the work carried out.

17. COUNCIL MEETINGS (continued from item 10)

ITER PROGRAMME (INTERNATIONAL THERMONUCLEAR EXPERIMENTAL REACTOR)

Mr BUSQUIN drew attention to the holding of an informal meeting, on the fringe of the Council (Competitiveness) the following week, to identify a European site for the experimental thermonuclear reactor. Since the international fusion community was bringing very strong pressure for a decision before the end of the year, the Council meeting (Competitiveness) on 27 November would have to finalise the Union's proposal.

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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 1315 hours.