



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2004)1657 final

Brussels, 19 May 2004

MINUTES
of the 1657th meeting of the Commission
held in Brussels
(Breydel)
on Wednesday 12 May 2004
(morning)

These minutes were approved by the Commission at its 1658th meeting, held in Brussels on 19 May 2004.

They contain 23 pages.

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Single sitting: Wednesday 12 May (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	Items 11 et seq.
Mr LIIKANEN	
Mr BOLKESTEIN	
Mr BUSQUIN	
Mr NIELSON	
Mr VERHEUGEN	
Mr PATTEN	
Mr LAMY	
Ms REDING	
Ms SCHREYER	
Ms WALLSTRÖM	
Mr DIMAS	
Mr BARROT	
Mr ALMUNIA	
Mr BALÁZS	
Ms HÜBNER	
Mr KALLAS	
Mr BORG	
Ms KALNIETE	
Ms GRYBAUSKAITĒ	
Mr POTOČNIK	

Mr FIGEL'

Mr KYPRIANOU

Mr TELIČKA

Absent:

Mr BYRNE

Mr VITORINO

The following sat in to represent absent Members of the Commission

Mr POWER	Chef de cabinet to Mr Byrne
Mr CAVACO	Chef de cabinet to Mr Vitorino

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 GMINDER	Spokeswoman	Items 11 to 16
Mr FILORI	Spokesman	Item 17
Mr THOMAS	Spokesman	
Mr TODD	Spokesman	Item 19
Ms HOUTMAN	Deputy Chef de cabinet to the President	Items 8 to 10, 18 and 19
Mr DE LECEA	Adviser in the President's Office	Items 10 to 16
Ms ZAMPIERI	A member of Ms de Palacio's staff	Item 20
Mr SANCHEZ RICO	A member of Ms de Palacio's staff	Item 19
Mr SOUKUP	A member of Mr Monti's staff	Items 9 and 10
Mr PIRZIO-BIROLI	Chef de cabinet to Mr Fischler	

Mr PAQUET	Deputy Chef de cabinet to Mr Busquin	Item 18
Mr DANIELSSON	Deputy Chef de cabinet to Mr Verheugen	Item 17
Ms BENOLIEL	Deputy Chef de cabinet to Mr Byrne	Item 19
Mr PLANAS	Chef de cabinet to Mr Almunia	
Mr FISCHER	A member of Mr Almunia's staff	Items 11 to 16
Mr JAVORCIK	Chef de cabinet to Mr Figel'	Items 17 to 20
Mr ITALIANER	Chef de cabinet to Mr Telička	
Mr CARVOUNIS	Press and Communication DG	
Mr LEIGH	External Relations DG	Item 17
Mr HAAG	Secretariat-General	Item 10

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

1. AGENDAS

(OJ(2004)1657/3; SEC(2004)550/2)

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(2004)1657)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 10 May.

3. WRITTEN PROCEDURES AND EMPOWERMENT

3.1. EMPOWERMENT

(SEC(2004)553 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 3 and 7 May.

3.2. DELEGATION AND SUBDELEGATION OF POWERS

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation procedure between 3 and 7 May, as archived on the "Greffé 2000" (Registry) website.

4. ADMINISTRATIVE AND BUDGETARY MATTERS
(SEC(2004)554/2)

ADMINISTRATIVE MATTERS
(PERS(2004)82)

**4.1. DG ECFIN - INTERNAL AND EXTERNAL PUBLICATION OF POST
OF DIRECTOR / SECRETARY OF THE ECONOMIC AND FINANCIAL
COMMITTEE AND THE ECONOMIC POLICY COMMITTEE**
(PERS(2004)82/2)

In view of the specific nature of the post and in order to attract the widest possible range of candidates, the Commission authorised the internal, interinstitutional and external publication in the Official Journal of the vacancy notice in PERS(2004)82/2.

This decision would take effect immediately.

**4.2. DG ADMIN - SELECTION PROCEDURE FOR RESOURCES
DIRECTORS AND HEADS OF INTERNAL AUDIT CAPABILITY**

The Commission decided that:

- for all Director posts with responsibility for management of the resources of the Directorate-General concerned, the Director-General, Budget, would be involved as follows:
 - he would be kept informed by the Directorate-General concerned throughout the selection process;
 - he would be invited to sit in as an observer at meetings of the Consultative Committee on Appointments to interview candidates for these Director posts;

- for all the posts of Head of Internal Audit Capability, a representative of the Internal Audit Service would be a member of the selection panel at Directorate-General level.

**5. PRELIMINARY DRAFT AMENDING BUDGET No 7/2004 - GENERAL
STATEMENT OF REVENUE
(SEC(2004)593 to /3)**

The Commission approved preliminary draft amending budget No 7/2004 as set out in SEC(2004)593 and /3, for transmission to Parliament and the Council.

**6. CONNECTING EUROPE AT HIGH SPEED: NATIONAL BROADBAND
STRATEGIES
(COM(2004)369 to /3; SEC(2004)599; SEC(2004)588)**

The Commission approved the communication in C(2004)369/3 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, together with the Commission staff working paper in SEC(2004)599.

**7. APPROVAL OF MINUTES OF 1656th MEETING (7 May)
(PV(2004)1656 and /2)**

The Commission held over approval of the minutes of its 1656th meeting for the following week.

8. PERMANENT REPRESENTATIVES COMMITTEE

COUNCIL AFFAIRS GROUP (CAG)

(SI(2004)415 to /3)

The Commission took note of the record of the Council Affairs Group meeting held on 7 May.

It paid particular attention to the following:

- i) **Proposal for a Parliament and Council Directive concerning unfair business-to-consumer commercial practices in the internal market and amending Directives 84/450/EEC, 97/7/EC, 92/27/EC and 2002/65/EC**
(point 6 of the record)

After hearing the opinion of the Legal Service and following a wide-ranging exchange of views, particularly on the implications for the principles governing the operation of the internal market, the Commission decided to authorise Mr BYRNE to accept the Irish Presidency compromise along the lines discussed during the meeting and subject to the entry of the following statement in the Council minutes:

“The Commission can only agree to the deletion of Article 4.1 on the understanding that the present Directive provides for a full harmonisation of the domain covered by the Directive and that for this reason Article 4.1 is not legally required to ensure the proper functioning of the Internal Market in this field. The practical implementation of this Directive will be actively monitored by the Commission so as to achieve its uniform application.”

ii) **Transmission to the Council of the Pricewaterhouse Coopers study *The financial and macroeconomic consequences of the draft proposed new requirements for banks and investment firms in the EU***

(point 7 of the record)

Having taken note of the study in question, the Commission authorised Mr BOLKESTEIN to send it to the Council for transmission under the appropriate procedure to the European Council on 17 and 18 June. A copy of the study would also be sent by Mr BOLKESTEIN to Parliament for information.

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

(point 8 of the record; SI(2004)412; SI(2004)415/2 and /3)

Having taken note of the negotiations in progress in the Council concerning the establishment of a European defence agency by means of a joint action, the Commission:

- instructed departments to ensure that a suitable reference was inserted in the text of the joint action expressly preserving Community powers in connection with Article 47 of the Union Treaty;
- endorsed the statement in SI(2004)415/3 with a view to consideration in Coreper and adoption in the Council;
- asked the departments concerned to continue their collaboration in the ad hoc interdepartmental defence agency group, chaired by the External Relations DG, with a view to developing arrangements for cooperation between Commission departments and the future agency.

iv) **Proposal for a Council Decision establishing Regional Advisory Councils
under the common fisheries policy**

(point 9 of the record)

The Commission authorised Mr FISCHLER to support the Presidency
compromise for the Council meeting on 24 and 25 May, along the lines set out
in Annex 3 to the record.

9. MONITORING THE APPLICATION OF COMMUNITY LAW: STATE AID

SPECIFIC CASES

(C(2004)1620/3; SEC(2004)477)

The Commission considered the following dossier:

C40/2000 *Spain*

Further restructuring of Spanish shipyards

The Commission held an in-depth discussion on this matter, covering among other
things:

- the specific characteristics of the case, particularly the failure to implement
the necessary restructuring;
- the sensitivity of this matter and the possible economic and social
consequences of the proposed decision;
- the non-dogmatic nature of the decision and its degree of flexibility;
- the need to maintain a coherent approach and equal treatment in applying the
competition rules to state aid;

- the situation of European shipyards faced with competition from non-member countries.

After its discussions, it adopted the decision in C(2004)1620/3. Mr BARROT and his departments would be available to consider any requests from the Spanish authorities to deal with the possible consequences of the decision by means of an adjustment to the programming arrangements for the relevant Structural Funds.

10. WHITE PAPER ON SERVICES OF GENERAL INTEREST (COM(2004)374 to /7; SEC(2004)596)

The PRESIDENT set out the main points of the draft White Paper on services of general interest. This was a politically sensitive topic, and there had been very wide public consultation on the basis of a Green Paper. The White Paper presented the conclusions the Commission had drawn therefrom. The consultation had revealed a broad consensus on the central role of services of general interest in the European model and on the need to ensure a smooth interface between market mechanisms and public service tasks. The consultation had also highlighted the shared responsibility of the Union and the Member States, and the need to leave to the latter the detailed definition of these services and the choice as to how they should be provided. In line with these factors, the White Paper outlined the main points of a Community strategy to ensure effective access to a whole series of services of general interest in a framework of enhanced legal certainty. The PRESIDENT pointed out that the essential issue in the debate was not the tasks of services of general interest, which were protected at Treaty level, but the best way of enabling operators to perform these tasks in an open and competitive environment. He concluded by thanking the departments concerned, in particular the Secretariat-General, for the quality of their work on the dossier.

Following the PRESIDENT's review, the Commission adopted the White Paper in COM(2004)374/7 for transmission to the Council, Parliament, the Economic and Social Committee and the Committee of the Regions.

In the reports and communications mentioned in the White Paper, in particular the planned communication on social services and health services, the sections concerning the competition aspects would be drafted by the Competition DG.

- 11. EXCESSIVE DEFICIT IN THE CZECH REPUBLIC: REPORT PREPARED IN ACCORDANCE WITH ARTICLE 104(3) OF THE TREATY
(SEC(2004)575 to /3; SEC(2004)592)**
- 12. EXCESSIVE DEFICIT IN POLAND: REPORT PREPARED IN ACCORDANCE WITH ARTICLE 104(3) OF THE TREATY
(SEC(2004)575/2; SEC(2004)576 and /2; SEC(2004)592)**
- 13. EXCESSIVE DEFICIT IN SLOVAKIA: REPORT PREPARED IN ACCORDANCE WITH ARTICLE 104(3) OF THE TREATY
(SEC(2004)575/2; SEC(2004)577 and /2; SEC(2004)592)**
- 14. EXCESSIVE DEFICIT IN HUNGARY: REPORT PREPARED IN ACCORDANCE WITH ARTICLE 104(3) OF THE TREATY
(SEC(2004)575/2; SEC(2004)578 and /2; SEC(2004)592)**
- 15. EXCESSIVE DEFICIT IN CYPRUS: REPORT DRAWN UP IN ACCORDANCE WITH ARTICLE 104(3) OF THE TREATY
(SEC(2004)575/2; SEC(2004)579 to /4; SEC(2004)592)**

**16. EXCESSIVE DEFICIT IN MALTA: REPORT DRAWN UP IN
ACCORDANCE WITH ARTICLE 104(3) OF THE TREATY
(SEC(2004)575/2; SEC(2004)580 to /3; SEC(2004)592)**

Mr ALMUNIA presented the six communications before the Commission. In line with the conclusions of the meeting of the economic and financial committee with the acceding countries held in Athens in 2003, the Union's budgetary surveillance arrangements were applicable to these Member States from 1 May. Their situation was, however, specific in two respects. First, since these Member States were not part of the euro area, the last two stages of the excessive deficit procedure, viz. enhanced budgetary surveillance and sanctions, were not applicable. Second, as indicated by the Commission in its recommendation on the 2004 update of the broad economic policy guidelines, the circumstances of most of these countries might justify lengthening the period allowed for adjustment of the deficit. Aside from the procedural aspects, Mr ALMUNIA was aware that the politically sensitive question arose of the advisability of producing such reports in the first days of accession; but he considered that the Commission could not evade its responsibilities under the Treaty and the stability and growth pact, and that it should apply the rules according to the same criteria to all Member States.

The Commission took note of this information and considered various implications of the reports presented by Mr ALMUNIA, particularly:

- the impact of the reports on public perceptions in the Member States concerned;
- the need for very careful and positive presentation of these reports, emphasising the “mechanical” and non-punitive nature of the exercise. It would be desirable to highlight the specific circumstances of the countries concerned as well as the objective of improving the convergence process through a multiannual approach;

- the importance of correcting any erroneous suggestion of a link between this exercise and the granting of Structural Funds;
- the statistical impact of the decisions expected from Eurostat on the categorisation of pension funds;
- within the Commission, the usefulness of closer monitoring of the planning of the dossiers.

Following this exchange of views, the Commission approved the reports in SEC(2004)575/3, 576/2, 577/2, 578, 579/4 and 580/3 for transmission to the Council with a view to their consideration by the economic and financial committee.

**17. EUROPEAN NEIGHBOURHOOD POLICY: STRATEGY PAPER
(COM(2004)373 to /4; SEC(2004)564/2; SEC(2004)565/2; SEC(2004)566/2;
SEC(2004)567/2; SEC(2004)568/2; SEC(2004)569/2; SEC(2004)570/2;
SEC(2004)589)**

Mr VERHEUGEN introduced the strategy paper he was tabling in agreement with Mr PATTEN. Following the Commission's March 2003 communication defining the principles that should inform the Union's neighbourhood policy, the text proposed a method and concrete means to secure the implementation of these objectives. It was accompanied by a first group of seven national reports evaluating the situation of each of the countries concerned. The approach was based on many discussions with the Member States as well as on contacts with certain partners of the Union; it had been prepared in close cooperation with the Secretary-General of the Council as far as the CFSP aspects were concerned. On the basis of the Council's reception of the document and its conclusions, the Commission would begin work on implementing the policy defined in the strategy paper.

In the light of this information and additional observations by Mr PATTEN, the Commission held an exchange of views, in which the following aspects were highlighted:

- the need to make clear that the neighbourhood policy constituted an alternative, and not a prelude, to enlargement of the Union;
- the situation concerning cooperation with Russia, with which privileged relations had already been forged, the principles as well as the instruments and procedures for which were similar to those adopted under the neighbourhood policy;
- the relationship between the neighbourhood policy and multilateral cooperation with the countries concerned under existing arrangements, particularly the Barcelona process;
- the non-mechanical nature of the principle of conditionality, which was aimed at a genuine alignment on common values, with incentives depending on compliance with the priorities individually enumerated in each action plan;
- the hoped-for degree of participation by the neighbouring countries in the internal market, which would be stipulated in the specific action plans;
- the synergies and efficiency gains that could be achieved through appropriate coordination between the neighbourhood policy and bilateral cooperation between Member States and neighbouring countries;
- the importance of dialogue, cultural relations, the strengthening of cooperation in education, and person-to-person contacts with a view to instigating and promoting shared common values;

- in view of the importance of the agricultural aspect in relations with the countries concerned, the need to involve Mr FISCHLER and the Agriculture DG in the implementation of the policy;
- the Commission's intention to propose an appropriate allocation for the new neighbourhood policy financial instrument, and flexible and efficient operating rules matching the expectations and ambitions expressed.

Following this exchange of views, the Commission approved the communication from Mr VERHEUGEN, in agreement with Mr PATTEN, in COM(2004)373/4, possibly with some amendments in the light of comments made during the meeting, for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, accompanied by seven Commission staff working papers (SEC(2004)564/2; SEC(2004)565/2; SEC(2004)566/2; SEC(2004)567/2; SEC(2004)568/2; SEC(2004)569/2; SEC(2004)570/2).

**18. SCIENCE AND TECHNOLOGY, THE KEY TO EUROPE'S FUTURE -
GUIDELINES FOR FUTURE EUROPEAN UNION POLICY TO SUPPORT
RESEARCH
(COM(2004)353 to /4; SEC(2004)560; SEC(2004)613)**

Mr BUSQUIN introduced the main points of his communication. The aim at this stage was to present a summary of the guidelines for the Commission's approach to enhancing and rejuvenating the Union's research policy. He intended to give an oral presentation of the guidelines at the Council meeting (Competitiveness) on 17 and 18 May. They would be developed and set out in more detail in a communication he would be tabling before the end of May for the debate on the future financial framework and for the preparation of the 7th research and technological development framework programme.

The Commission held a brief exchange of views, covering the following questions: in a context where the Commission was proposing a major increase in funds for research, the need to highlight the value added by Community action and the differences between the current arrangements for implementing this policy and those planned in the new framework; the need to strike a balance between concentration of research operations and spreading them thinly, and between top-down and bottom-up actions; the relationship between national research projects and efforts at Union level, the latter not being intended to replace the former; as regards the next financial perspective, the confirmation of the approach by objectives decided upon by the Commission in its communication of 10 February and of the presentation in July of the corresponding legislative proposals.

Following this exchange of views, the Commission:

- took note of the guidelines in SEC(2004)613 subject to the addition, at the end of the second bullet point in item 5, of the words “mobile communications or embedded systems;”;
- authorised Mr BUSQUIN to present these guidelines at the Council meeting (Competitiveness) on 17 and 18 May;
- decided to present a communication on this theme towards the end of May, detailing these guidelines, as a contribution to the debate on the future financial framework of the Union and to discussion and debate in the scientific community, industry and the institutions, with a view to the preparation of the Commission proposal for the 7th research framework programme.

**19. COMMISSION DECISION ON THE ADEQUATE PROTECTION OF
PERSONAL DATA CONTAINED IN THE PASSENGER NAME RECORD
OF AIR PASSENGERS TRANSFERRED TO THE UNITED STATES
BUREAU OF CUSTOMS AND BORDER PROTECTION (U.S. CBP)
(C(2004)1799 to /5; SEC(2004)581; SEC(2004)591)**

The PRESIDENT had received a letter from the President of Parliament in relation to this item, asking the Commission to suspend adoption of its decision on the adequate protection of data pending the opinion of the Court of Justice on the compatibility of the draft international agreement with the provisions of the Treaty. The PRESIDENT attached great importance to maintaining a close dialogue with Parliament on this extremely sensitive question, and intended to reply to the President of Parliament, clarifying the Commission's position.

Mr BOLKESTEIN reminded the meeting of the procedural factors underlying the dossier, particularly

- the favourable opinion delivered by the committee set up under Article 31 of Directive 95/46/EC (C(2004)1799/5);
- approval of the draft international agreement as an “A” item at the Council meeting (General affairs and external relations) scheduled for the following Monday, 17 May.

Having taken note of this information, the Commission held a brief exchange of views, after which it:

- approved in principle the decision in C(2004)1799/4;
- empowered Mr BOLKESTEIN, in agreement with the PRESIDENT, to adopt the decision formally, in good time for the Council meeting on 17 May;

- decided that notification of the decision, and hence its entry into force, would not take place until the international agreement had been signed and had entered into force;
- stressed the importance of careful presentation of the dossier to the outside world.

20. RELATIONS WITH NON-MEMBER COUNTRIES

FOLLOW-UP TO COMMISSION VISIT TO RUSSIA

(SEC(2004)563 to /3; SEC(2004)595; SEC(2004)597)

The PRESIDENT reported on his exchange of views with President PUTIN during the visit that he and certain Commission Members had recently made to Moscow. Ms de PALACIO, Mr PATTEN, Mr LAMY and Ms WALLSTRÖM also gave their assessments of the Russian positions on ratification of the Kyoto protocol, the negotiations for Russia's accession to the WTO, and the energy dialogue with Russia.

Having taken note of this information, the Commission discussed what conclusions could be drawn from these talks and the strategy to be implemented, given the Union's specific interests and the linkage made by the Russian authorities between these various dossiers. It agreed to ask Mr LAMY, in cooperation with Ms de PALACIO, Mr PATTEN, Mr VERHEUGEN, Ms WALLSTRÖM and Mr BUSQUIN and their respective departments, to draw up a common platform on the approach to be taken.

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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 1320 hours.