



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

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Brussels, 9 June 2004

MINUTES
of the 1660th meeting of the Commission
held in Brussels
(Breydel)
on Wednesday 2 June 2004
(morning)

These minutes were approved by the Commission at its 1661st meeting, held in Brussels on 9 June 2004.

They contain 23 pages.

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Single sitting: Wednesday 2 June (morning)

The sitting opened at 0930 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 BUSQUIN	
Mr NIELSON	
Mr VERHEUGEN	
Mr PATTEN	
Mr LAMY	
Ms REDING	
Ms SCHREYER	
Ms WALLSTRÖM	
Mr VITORINO	
Mr DIMAS	
Mr BARROT	
Mr BALÁZS	
Ms HÜBNER	
Mr BORG	
Ms KALNIETE	
Ms GRYBAUSKAITĖ	
Mr POTOČNIK	
Mr FIGEL	
Mr KYPRIANOU	

Mr TELIČKA

Absent:

Mr BOLKESTEIN

Mr BYRNE

Mr ALMUNIA

Mr KALLAS

The following sat in to represent absent Members of the Commission

Ms BURY	Deputy Chef de cabinet to Mr Bolkestein
Mr POWER	Chef de cabinet to Mr Byrne
Ms LAMELA DIAZ	Chef de cabinet to Mr Almunia
Mr SCHMIDT	A member of Mr Kallas'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	
Mr KREUZHUBER	Spokesman	Items 11 and 12
Mr PETRUCCI	Spokesman	Item 8
Mr CALLEJA	Chef de cabinet to Ms de Palacio	Item 7
Mr SANCHEZ	A member of Ms de Palacio's staff	
Mr VAN HOOFF	Chef de cabinet to Mr Monti	Items 1 to 10
Mr LEHNER	Chef de cabinet to Ms Schreyer	Items 11 to 16
Mr ANNERBERG	Chef de cabinet to Ms Wallström	
Mr CAVACO	Chef de cabinet to Mr Vitorino	Items 8 and 10
Mr LEVI	GOPA	Item 8

Mr CARVOUNIS	Press and Communication DG	
Ms ADAMO	Justice and Home Affairs DG	Item 10
Mr BORCHARDT	Secretariat-General	Item 7
Mr PONZANO	Secretariat-General	Item 8

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

1. AGENDAS

(OJ(2004)1660/3; SEC(2004)663/2)

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)1660)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Friday 28 May.

3. APPROVAL OF MINUTES AND SPECIAL MINUTES OF 1659th MEETING

(26 May)

(PV(2004)1659; PV(2004)1659, Part II)

The Commission approved the minutes of its 1659th meeting.

4. MONITORING THE APPLICATION OF COMMUNITY LAW

4.1. STATE AID - SPECIFIC CASES

(SEC(2004)650/2)

The Commission adopted the decisions in SEC(2004)650/2.

4.2. *INFRINGEMENTS - URGENT CASES*

(SEC(2004)655)

The Commission adopted the decisions in SEC(2004)655.

5. *WRITTEN PROCEDURES AND EMPOWERMENT*

5.1. *WRITTEN PROCEDURES APPROVED*

(SEC(2004)665 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 24 and 28 May.

5.2. *SENSITIVE WRITTEN PROCEDURES*

(SEC(2004)666)

The Commission took note of written procedures initiated between 24 and 28 May for the adoption of decisions with political implications.

5.3. *EMPOWERMENT*

(SEC(2004)667 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 24 and 28 May.

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 24 and 28 May, as archived on the "Greffé 2000" (Registry) website.

**5.5. DELEGATION OF POWERS FOR AWARDING GRANTS IN THE
FIELD OF EMPLOYMENT AND SOCIAL AFFAIRS FOR THE
ORGANISATION OF EVENTS SCHEDULED IN THE PRESIDENCY
WORK PROGRAMME
(SEC(2004)685)**

The Commission delegated powers to the Director-General, Employment and Social Affairs, as set out in SEC(2004)685.

**6. APPLICATION OF ARTICLE 82 OF THE TREATY
(CASE COMP/38.096 - CLEARSTREAM)
(C(2004)1958 to /4)**

The Commission:

- took note of the opinion of the Advisory Committee on Restrictive Practices and Dominant Positions of 30 April in C(2004)1958/3;
- took note of the final report of the Hearing Officer in C(2004)1958/4;
- adopted, in the authentic language (German), the decision in C(2004)1958, noting that the companies concerned had infringed Article 82 of the EC Treaty;
- decided that the most important parts of the decision would be published in all the official languages in the L series of the Official Journal (with business secrets removed). The decision would also be made available on the internet.

7. PERMANENT REPRESENTATIVES COMMITTEE

(SI(2004)499)

COUNCIL AFFAIRS GROUP (CAG)

(SI(2004)499)

The Commission took note of the record of the Council Affairs Group meeting held on Thursday 27 May.

It paid particular attention to the following:

- i) **Proposal for a Parliament and Council Decision establishing a multiannual Community programme to make digital content in Europe more accessible, usable and exploitable (e-Content+)**

(point 1 of the record)

With the aim of securing political agreement by qualified majority, the Commission authorised Mr LIIKANEN to defend at the Council meeting (Telecommunications) on 10 June the line set out in the note at Annex 1 to the record.

- ii) **Proposal for a Parliament and Council Decision laying down guidelines for trans-European energy networks and repealing Decisions No 1996/391/EC and No 2003/1229/EC**

(point 1 of the record)

The Commission took note of Ms de PALACIO's intention to have a statement reserving the Commission's position entered in the Council minutes pending Parliament's first reading. It was agreed that the Council should deal with this matter in the same way as it had already accepted in a similar field.

iii) **Galileo - Proposal for a Council Regulation on the establishment of structures for the management of the European satellite radionavigation programme**

(point 1 of the record)

The Commission decided to make the usual statement, with a strengthened content, on the composition of the Management Boards of the Agencies.

iv) **Proposal for a Parliament and Council Directive amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures (Eurovignette)**

Proposal for a Parliament and Council Directive on a transparent system of harmonised rules for restrictions on heavy goods vehicles involved in international transport on designated roads

Proposal for a Parliament and Council Regulation on the harmonisation of certain social legislation relating to road transport and amending Council Regulation (EEC) No 3821/85 on recording equipment in road transport

Proposal for a Parliament and Council Directive on minimum conditions for the implementation of Directive 2002/15/EC and Council Regulation (EEC) No 3821/85 concerning social legislation relating to road transport activities

(point 1 of the record)

Ms de PALACIO reported on the negotiations on this package of four proposals. There was some possibility of reaching a legally and politically balanced compromise in this sensitive matter, which set the peripheral Member States against the Member States of transit and divided them into

several groups on the key question of the allocation of revenue from the Eurovignette.

In its debate, the Commission discussed the following questions in particular:

- how to reconcile the positions of the peripheral Member States and the Member States of transit;
- the necessary components of a compromise solution;
- the possible implications of the choice between a legal basis concerned with the field of transport (requiring in principle only a qualified majority of Member States) and one relating to taxation (requiring unanimity);
- the arguments used by those in favour of adopting a compulsory allocation rule, those against the adoption of any allocation criterion, and those wishing to establish a non-compulsory allocation system;
- the relationship between toll revenue and direct investment in infrastructure;
- the content of the Commission proposal as regards the ban on traffic at weekends as well as the advisability and limits of a possible amendment thereof;
- the scope of the harmonisation and the level of protection of social rights and security;
- the sensitivity of the dossier and the possible impact, just weeks before the European elections, of certain concessions that might be made in order to reach agreement.

Following its debate, the Commission authorised Ms de PALACIO, in agreement with the PRESIDENT, to introduce a degree of flexibility,

particularly as regards the obligation to allocate toll revenue, with a view to securing agreement at the Council meeting (Transport) on 11 June, as part of an overall compromise that would meet the key objectives of the Commission's road transport proposals. It was vital that the final compromise should strike a balance between free movement within the internal market in a transparent and non-discriminatory framework, without detracting from existing measures that were in conformity with Community law, the charging of costs for the use of the infrastructure, and the staff relations implications for the road haulage industry.

Ms de PALACIO would inform the Commission of the outcome of the Council meeting on these matters.

v) **Proposal for a Parliament and Council Regulation on conditions for access to the gas transmission networks**

(point 1 of the record)

The Commission agreed that the line it had defended thitherto should be maintained and noted that the text of a possible statement to be entered in the Council minutes would be put before it in good time, on the understanding that the Council should be warned immediately that the consultation of the Madrid Forum could be envisaged, but on a non-compulsory basis.

vi) **Proposal for a Council Decision establishing the European Refugee Fund for the period 2005-10**

(point 2 of the record)

The Commission authorised Mr VITORINO to take a position in the Council meeting (Justice and home affairs) on 8 June in accordance with the line set out in the note at Annex 3 to the record.

vii) **Commission communication on the follow-up to the high-level reflection process on patient mobility and healthcare developments in the European Union - new item 26 of the draft Council conclusions**

(point 4 of the record)

The Commission decided on the entry of a statement in the Council minutes if the wording of item 26 of the draft conclusions (on the high-level group that the Council planned to set up) was kept unchanged.

viii) **Finalisation of negotiations for an agreement on bank capital adequacy (Basel II Capital Accord)**

(point 7 of the record)

The Commission noted:

- the Basel G10 agreement in the Committee on Banking Supervision, and
- the fact that the proposal for a Directive on capital adequacy would soon be put before it so that it could be adopted speedily.

ix) **Commission “non-paper” on EU-US cooperation in financial services to be tabled at the Council meeting (Economic and Financial Affairs) on 2 June**

(point 7 of the record)

The Commission authorised Mr BOLKESTEIN to transmit to the Council meeting (Economic and Financial Affairs) on 2 June the “non-paper” set out in Annex 5 to the record.

8. INTERGOVERNMENTAL CONFERENCE

The Commission took note of the information provided by Mr VITORINO and of the fact that the next major stage in the Intergovernmental Conference process would take place at the Council meeting (General affairs and external relations) on 14 June, although the content of that meeting had not yet been decided. The Commission focused its attention on the problem of the Foreign Minister and the creation of the common External Service, noting that these questions, though not officially on the table, were being discussed unofficially. The debate covered the following factors in particular:

- taking into account its potential impact on the ratification process, the question of the anticipated implementation of the provisions on the Foreign Minister, once the Treaty was signed;
- the various possibilities for the introduction and management of the position of Foreign Minister and the organisational consequences for the Commission;
- the fundamental role of the Commission in preparations for the future External Service and the most appropriate tactical means and approaches for highlighting the Commission's positions on this issue.

Following this exchange of views, the PRESIDENT pointed to the need to ensure consistency between the solution to be chosen for the Foreign Minister and the External Service and, in the meantime, to work for the organisation of synergies between departments which would remain separate until the entry into service of the Foreign Minister.

9. ADMINISTRATIVE AND BUDGETARY MATTERS
(SEC(2004)668/2)

ADMINISTRATIVE MATTERS
(PERS(2004)90)

9.1. DG ADMIN - POST OF DIRECTOR-GENERAL
(PERS(2004)81 to /4)

The Commission had before it applications under Article 29(1)(a) of the Staff Regulations for the post of Director-General, Personnel and Administration (PERS(2004)81/2).

The Commission took note of the opinions of the Consultative Committee on Appointments of 11 and 14 May (PERS(2004)81/3 and /4).

The Commission considered the applicants' qualifications for the post. It took note of Mr KINNOCK's assessment that Mr CHENE was particularly well qualified to tackle the triple challenge of further administrative reform, the implementation of the new Staff Regulations and the completion of the organisational and functional transition between DG ADMIN and the three offices. Mr CHENE combined in-depth knowledge of the institution and its operation with a proven management capacity. His wide experience in various posts within the Commission and his openness to the requirements of a modern administration would enable him to tackle the various responsibilities of this post with the necessary expertise and confidence.

In the light of this opinion, the Commission, on a proposal from Mr KINNOCK, in agreement with the PRESIDENT, decided to appoint Mr Claude CHENE to the post.

This decision would take effect on 1 October.

9.2. DG JRC - TEMPORARY OCCUPATION OF A DIRECTOR POST

The Commission, on a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Mr BUSQUIN, decided under Article 7(2) of the Staff Regulations that Mr Michel FAHY, an A*14 official, currently Head of Unit A5 (Management support and relations with Parliament) in the Joint Research Centre, should temporarily occupy the post of Director of Directorate A (Institutional and scientific relations), from 1 February and until the new Director was appointed, subject to a maximum of twelve months.

This decision would take effect immediately.

10. ASSESSMENT OF THE TAMPERE PROGRAMME AND FUTURE ORIENTATIONS **(COM(2004)401 to /4; SEC(2004)680; SEC(2004)693; SEC(2004)683)**

Mr VITORINO tabled a communication whose twin objective was to take stock of the Tampere programme for the establishment of an area of freedom, security and justice and to propose guidelines for future priorities. As regards the stocktaking exercise, while the assessment was positive overall, a number of the objectives set had yet to be achieved, and he argued in favour of continuing this work. With respect to drawing up a second programme, Mr VITORINO thought it important to maintain the working method followed for the Tampere I programme and to ensure the involvement of civil society, Parliament and the national parliaments. As to the substance, it would be a matter of finalising the priorities that were in line with Tampere, taking particular account of the effects of enlargement and the prospects offered by the new Constitution, while focusing on effective implementation at national level of the instruments adopted. Mr VITORINO concluded by emphasising that, although the substantial progress made in this very sensitive area

was satisfactory, it was important to remain vigilant in relation to any initiatives by the Member States seeking to deal with these matters outside the Treaty framework.

After noting this information, the Commission held a brief exchange of views, and agreed the following amendments:

- footnote 7 would be incorporated into the body of the text in a suitable form;
- the second sentence of the last paragraph of item 2.1 to read: “It will also have to reflect the prospect of rationalising the supervisory authorities that already exist at the European Union level for the protection of data used for the purposes of law enforcement, while respecting ...”;
- at the end of the penultimate sentence of the first paragraph of item 2.4, the following words were added: “ within an overall framework including the respect of Community preference.”

Subject to these amendments, the Commission approved the communication in COM(2004)401/4 for transmission to the Council (for the European Council meeting on 17 and 18 June), Parliament, the Economic and Social Committee and the Committee of the Regions, accompanied by two Commission staff working papers, SEC(2004)680 and SEC(2004)693.

**11. COMMISSION COMMUNICATION ON THE MODIFICATION OF THE
EUROPEAN COMMUNITY'S IMPORT REGIME FOR BANANAS
(COM(2004)399 to /7)**

**12. COMMISSION RECOMMENDATION TO THE COUNCIL TO
AUTHORISE THE COMMISSION TO OPEN NEGOTIATIONS WITH A
VIEW TO MODIFYING THE BOUND DUTIES FOR BANANAS
(SEC(2004)652 to /6)**

Mr FISCHLER introduced the two communications in COM(2004)399/7 and SEC(2004)652/6. He reminded the meeting of the context and the challenges of the dossier and outlined the reasons why the Community banana import regime would have to be amended so as to move to an exclusively tariff-based regime by 2006 at the latest. Mr LAMY, noting the complexity of the negotiations to be held in the WTO and the multiplicity of the very well-organised and divergent interests in this area, pointed to the need to send a clear message on the Commission's line.

Following a brief exchange of views, the Commission:

- approved the communication in COM(2004)399/7 for transmission to the Council and, for information, to Parliament, the Economic and Social Committee and the Committee of the Regions;
- approved the recommendation in SEC(2004)652/6, subject to the inclusion in item 3 of the explanatory memorandum of a reference to the consequences of the proposals for EU banana producers. The document as thus amended would be transmitted to the Council.

13. TRENDS IN THE MEMBER STATES
(SEC(2004)689)

Mr VITORINO drew attention to the main events covered by the media in May, as set out in SEC(2004)689. He commented on the Eurobarometer opinion polls concerning the level of citizens' knowledge of the European elections, the forecasts for turnout, voting intentions, and the underlying socio-demographic factors. The results of the polls were significantly more positive than those conducted in April as regards support for enlargement and the increased interest in the future stages of this process.

The Commission took note of this information; it noted that the data on the European elections could be of use in supporting efforts to mobilise the maximum participation of European citizens.

14. COUNCIL MEETINGS
(SI(2004)512)

EDUCATION, YOUTH AND CULTURE
(BRUSSELS, 27 AND 28 MAY)
(SI(2004)491)

Ms REDING reported on the Council meeting, which had welcomed the Commission's guidelines concerning the new generation of Community education and training programmes post 2006, and youth, culture and audiovisual policy. Ms REDING also drew attention to the Council's conclusions on the designation of European Capitals of Culture for 2007 and 2008 and the political agreement enabling the new Member States to take part in this operation from 2009.

On the debate on the future of European regulatory policy in the field of audiovisual media and a possible revision of the *Television without frontiers* Directive, Ms REDING said that certain Member States were calling into question the principle of the country of origin, and pointed to the need to remain vigilant on this essential aspect of the internal market.

15. RELATIONS WITH NON-MEMBER COUNTRIES

15.1. EU-LATIN AMERICA SUMMIT (GUADALAJARA, 28-29 MAY)

The PRESIDENT reported on the EU-Latin America-Caribbean summit held on 28 and 29 May in Mexico. This had been the first international summit in which the European Union had taken part in the presence of all the Member States following enlargement. It was an important occasion and had provided an opportunity to restate the Union's interest in the region and its commitment to regional integration and multilateralism. Mr PATTEN, Mr LAMY and Mr FISCHLER gave their assessments of the meeting and of the situation concerning the dossiers relevant to their respective areas of responsibility.

The Commission took note of this information and held a brief exchange of views, emphasising the desirability of a strong EU presence in Latin America. Also mentioned was the advisability of giving further thought to the frequency of this type of summit and other high-level meetings so as to establish guidelines for the future.

**15.2. *SUSPENSION BY RUSSIA OF IMPORTS OF PRODUCTS OF ANIMAL
ORIGIN FROM THE EUROPEAN UNION***

Ms KALNIETE referred to Russia's suspension of imports of products of animal origin with effect from 1 June, following its introduction of new veterinary certificates. The Commission noted that initial contacts with the competent Russian authorities had been made by its departments and by the Irish Presidency in order to solve this problem.

16. OTHER BUSINESS

***CONFERENCE ON RENEWABLE ENERGIES
(BONN, 1-4 JUNE)***

Ms de PALACIO referred to the conference on renewable energy being held in Bonn from 1 to 4 June. She pointed to the importance of close collaboration between the Commission departments concerned as regards the drafting of the conclusions of the conference, which in any case must comply with the principles of Community policy in this area, particularly those set out in the communication on renewable energy (COM(2004)366 final).

Ms WALLSTRÖM drew attention to the information note she had distributed concerning the Bonn conference. It was important to promote renewable energy and to invest in this industry of the future.

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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 1240 hours.