



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2004)1680 final

Brussels, 1st December 2004

MINUTES
of the 1680th meeting of the Commission
held in Brussels
(Berlaymont)
on Wednesday 24 November 2004
(morning)

These minutes were approved by the Commission at its 1681st meeting, held in Brussels on 1st December 2004.

They contain 20 pages.

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Single sitting: Wednesday 24 November (morning)

The sitting opened at 1000 hours with Mr Barroso, President, in the chair.

Present:

Mr BARROSO	President
Ms WALLSTRÖM	Vice-President
Mr VERHEUGEN	Vice-President
Mr BARROT	Vice-President
Mr KALLAS	Vice-President
Mr FRATTINI	Vice-President
Ms REDING	
Mr DIMAS	
Mr ALMUNIA	
Ms HÜBNER	
Mr BORG	
Ms GRYBAUSKAITĖ	
Mr FIGEL	
Mr KYPRIANOU	
Mr KOVÁCS	
Ms KROES	
Ms FISCHER BOEL	
Ms FERRERO-WALDNER	
Mr McCREEVY	
Mr ŠPIDLA	
Mr MANDELSON	
Mr PIEBALGS	

Absent:

Mr POTOČNIK

Mr REHN

Mr MICHEL

The following sat in to represent absent Members of the Commission

Mr DRÖLL Chef de cabinet to Mr Potočnik

Mr PESONEN Chef de cabinet to Mr Rehn

Ms WEYAND Chef de cabinet to Mr Michel

The following also sat in

Mr PETITE Director-General, Legal Service

Mr VALE DE ALMEIDA Chef de cabinet to the President

Mr DE OLIVEIRA E SOUSA Director-General, Press and Communication

Ms LE BAIL Commission Spokeswoman

Mr LE BRET Chef de cabinet to Mr Barrot Item 1

Mr SCHINAS Chef de cabinet to Mr Kyprianou Item 11

Mr CHILD Chef de cabinet to Ms Ferrero-Waldner Item 11

Mr MOAVERO MILANESI Secretariat-General

Ms CORUGEDO STENEGERG Press and Communication DG

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

1. ENTRY INTO OFFICE OF THE COMMISSION

The PRESIDENT welcomed Commission Members. He emphasised the importance of the tasks ahead of them and the need for the Commission to demonstrate its clear commitment to Europe and an unfailing spirit of collective responsibility in handling its tasks. He was sure that the Commission's return to the Berlaymont building, an icon of the whole history of European integration, would be an additional source of inspiration for the institution. Further to the confirmation procedure in Parliament, the PRESIDENT noted that there had been an unprecedented degree of politicisation and polarisation. He felt the decision he had taken, with the agreement of his fellow-Members, to ask for the confirmation vote to be postponed, had made it possible to overcome the problems and strengthen the Commission's legitimacy, as borne out by the substantial vote in support of it. In relation to the questions raised by a Member of Parliament regarding Mr BARROT, he asked Mr BARROT to brief the Commission on the steps he had taken with his agreement.

Mr BARROT thanked his colleagues for the support they had given him and expressed regret that the Commission's entry into office had been overshadowed by these events. He mentioned the letter he had sent to the President of Parliament and the analysis by the Commission's Legal Service confirming his explanations, copies of which had been sent to Commission Members. He outlined the legal context and the nature of the facts in question relating to questions of political party financing in France, prior to the subsequent adoption of a clear legal framework in the matter. His personal honesty had never been questioned, all accusations of personal enrichment had been dismissed, and he had never been deprived of his civic rights, and the light sentence passed by the court had been covered by a General Amnesty Act passed by the French Parliament. The fact that he had not mentioned the case did not indicate a deliberate intention by himself or the French authorities to

mislead anybody; he had remained silent on the matter solely because under French law, the only law applicable in this case, the effect of the amnesty voted on by Parliament was to expunge the conviction, which as a result could no longer be mentioned. Had he foreseen the subsequent misunderstandings, he would without doubt have taken the initiative of mentioning the matter. Although the legal situation was clear, however, Mr BARROT was aware of the political impact. He had therefore contacted President BORRELL and the Presidents of Parliament's political groups to give them the necessary explanations, and was available to supply them with further clarifications. Mr BARROT concluded by stating that if his colleagues wanted further information, they simply had to ask, and he remained confident that the future would show that the accusations against him were unfounded.

Ms WALLSTRÖM offered her assessment of the situation in Parliament. Beyond the specific circumstances of the case in point and the advisability of considering the lessons to be drawn for the future, she felt that the Commission should rapidly look into ways and means of strengthening its relations with Parliament and should define its strategy, particularly in the run-up to renegotiation of the framework agreement.

The Commission took note of this information and held a wide-ranging exchange of views, during which it confirmed its support for Mr BARROT and highlighted the need for team spirit and solidarity in its present and future activities. It took note of the clarification supplied by Mr FRATTINI to the effect that, without prejudice to new openings as regards harmonisation of national criminal laws, the Constitution did not provide for the principle of a European criminal code. He underlined the importance of guarantees for individual fundamental rights.

To conclude, the PRESIDENT noted that in relations with Parliament a distinction had to be made between the Commission's confirmation procedure and relations for

the future. On the first point, Parliament had begun discussing the hearings procedure, on which the Commission could also offer a contribution. With respect to future relations between Parliament and the Commission, he asked Ms WALLSTRÖM to reflect on a policy strategy to be developed to enhance relations between the two institutions and prepare proposals with a view to the revision of the framework agreement. In the immediate future, one of the Commission's responses should be to comply strictly with the code of conduct for Commissioners that it was to approve at that meeting.

With respect to Mr BARROT's situation, on the basis of the letter he had sent President BORREL and the analysis by the Commission's Legal Service, the legal situation was clear. In the absence of a European Criminal Code, the coexistence of separate criminal law systems in the Member States was a reflection of the diversity of their legal traditions and cultures. Mr BARROT had made his position clear on the politically sensitive fact that he had not provided prior information. It was up to Parliament to put all the questions that it considered useful at the hearings. In the light of these factors, the PRESIDENT asked Commission Members to display solidarity in a full spirit of collective responsibility. Noting finally that the best response that the Commission could provide was to produce quality work, he informed the Commission that on 9 December it would hold a general debate to consider the five-year multiannual programme, the 2005 work programme and the strategic priorities for 2006.

2. AGENDAS

(OJ(2004)1680/3; SEC(2004)1465/2)

The Commission took note of that day's agenda and of the tentative agendas for forthcoming meetings.

**3. WEEKLY MEETING OF CHEFS DE CABINET
(SEC(2004)1680)**

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Tuesday 23 November.

**4. PERMANENT REPRESENTATIVES COMMITTEE
(SI(2004)941/2; SI(2004)944; SI(2004)973; SEC(2004)1489)**

The Commission took note of the information communicated to it relating to the work of Coreper.

It paid particular attention to the following:

- i) **Draft Council decision implementing Joint Action 2002/589/CFSP on the European Union's contribution to combating the destabilising accumulation and spread of small arms and light weapons**

Having taken note of the state of play in the Council bodies and noting that it endorsed the political objectives of the action, the Commission instructed the Secretariat-General that it should not formally oppose the political option for proceeding under the second pillar but have a Commission statement entered in the Council minutes reserving the Commission's right to take appropriate action, in the courts if necessary.

- ii) **Proposal for a Parliament and Council Directive on cross-border mergers of companies with share capital**
(COM(2003)703 final)
(SI(2004)944; SEC(2004)1489)

The Commission took note of the information on the current state of play and the possibility that political agreement would be reached at the Council meeting (Competitiveness) on 25 and 26 November on the basis of a Presidency compromise. It noted that the two most sensitive outstanding questions concerned the scope of the Directive and the protection of acquired rights as regards worker participation in the management of the firm created by the cross-border merger.

The Commission authorised Mr McCREEVY, in agreement with the PRESIDENT, to facilitate a majority agreement safeguarding the key objective of facilitating and simplifying cross-border mergers in the European Union, while taking into account the need to strike the proper balance as regards worker participation and to preserve the broadest possible scope.

- iii) **Proposal for a Council Regulation amending Regulation (EC) No 2340/2002 and Regulation (EC) No 2347/2002 as concerns fishing opportunities for deep sea species for the Member States which acceded in 2004**
(COM(2004)685 final)
(SI(2004)941/2)

The Commission took note of the technical adjustments made by its departments to the quotas proposed for the new Member States.

iv) **Preparations for Council meeting (Competitiveness) on 25-26 November**
(Research aspect)
(SI(2004)973)

The Commission noted that the first Council meeting (Space) was to be held on 25 November.

5. WRITTEN PROCEDURES AND EMPOWERMENT

5.1. WRITTEN PROCEDURES APPROVED
(SEC(2004)1466 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 15 and 19 November.

5.2. EMPOWERMENT
(SEC(2004)1468 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 15 and 19 November.

5.3. DELEGATION AND SUBDELEGATION OF POWERS

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation procedure between 15 and 19 November, as archived on the "Greffé 2000" (Registry) website.

6. SWEARING-IN OF NEW MEMBERS

The PRESIDENT pointed out that the ceremony for swearing the oath of office before the Court of Justice was to take place in Luxembourg on 21 January 2005. The Court of Justice had confirmed that only new Members needed to swear the oath of office, the other Members being bound by their original oath.

Pending the swearing of their oath of office, the Commission took note that the new Commission Members undertook to comply with the obligations arising from their appointment, as laid down in the Treaty.

7. DECISION BY THE COMMISSION PRESIDENT ON THE ORGANISATION OF RESPONSIBILITIES OF THE MEMBERS OF THE COMMISSION (C(2004)4596 and /2)

The Commission had before it the communication from the PRESIDENT in C(2004)4596 and /2, and it:

- approved the proposal for the appointment of Ms WALLSTRÖM, Mr VERHEUGEN, Mr BARROT, Mr KALLAS and Mr FRATTINI as Vice-Presidents;
- took note of the allocation of portfolios decided on by the PRESIDENT;
- took note of the order of precedence drawn up by the PRESIDENT;
- took note of the identification of the departments reporting to each Commission Member, as set out in Annex 1 to the PRESIDENT's decision. As clarified in the PRESIDENT's decision, their responsibility was based on the letter that the PRESIDENT had sent each Member of the Commission.

Changes to the names of departments took effect on the Commission's entry into office. As regards changes affecting the composition of departments, Members had direct political responsibility for the departments listed in the letter they had received, and the corresponding administrative revision of organisation charts would be proposed to the Commission before the end of the year, with a view to their entry into force on 1 January 2005.

The Commission took note that there would be a subsequent decision on the operational and administrative mechanisms needed for smooth cooperation between Commission Members and between departments covered by different portfolios, taking account of the clarifications of which Parliament had already been apprised.

The Commission also took note that the PRESIDENT had instructed the Director-General, Legal Service, in agreement with the Secretary-General and the Director-General, Competition, to formalise the final administrative arrangements to avert all risk of conflicts of interest in relation to dossiers within the remit of Ms KROES for the next meeting. The arrangements that he had already announced in Parliament would operate in the meantime.

8. CODE OF CONDUCT FOR COMMISSION MEMBERS

(SEC(2004)1487/2)

The PRESIDENT stated that the text he had laid before the Commission corresponded to the draft considered by the Commissioners-designate at their informal seminar on 20 August, with one exception. The exception concerned the resignation of a Commission Member if requested by the President (item 1.2.1), in accordance with the undertaking given him by each Commission Member and the commitment that he had given Parliament.

The Commission adopted the code of conduct for Commission Members and the two Annexes to it in SEC(2004)1487/2, which replaced SEC(1999)1479 and SEC(1999)1481, as amended by SEC(2004)227 and COM(2004)93/Annex 4 respectively, with immediate effect.

**9. RULES GOVERNING THE COMPOSITION OF MEMBERS' CABINETS
AND SPOKESPERSONS
(SEC(2004)1485 and /2)**

The PRESIDENT stated that the rules corresponded to those presented at the informal seminar on 20 August, subject to minor amendments to take account of certain concerns expressed since then.

The Commission took note of the rules on the composition of Members' Offices and spokesmen in SEC(2004)1485/2.

10. PARLIAMENT

***10.1. NOVEMBER PART-SESSION
(SP(2004)2936)***

The Commission took note of the information supplied relating to Parliament's part-session held from 15 to 18 November (SP(2004)76).

(See also item 1 of these minutes)

**10.2. ACTION TO BE TAKEN ON PARLIAMENT'S OPINIONS
(SP(2004)2758)**

Having noted the summary of the opinions expressed by Parliament at its November part-session as regards legislative proposals and the undertakings given by Commission Members, the Commission approved the proposals for empowerments for action to be taken on Parliament's amendments under the codecision and consultation procedures (SP(2004)2758).

**10.3. PARTICIPATION OF MEMBERS OF PARLIAMENT IN THE REVIEW
CONFERENCE ON THE OTTAWA CONVENTION ON
ANTI-PERSONNEL MINES
(SP(2004)2941 and /2)**

The Commission took note of the letter from President BORRELL concerning the inclusion of three members of Parliament in the Union delegation to the first Review Conference of States parties to the Convention on the prohibition of the use, stockpiling, production and transfer of anti-personnel land mines and their destruction, to be held in Nairobi from 29 November to 3 December.

The Commission decided to accept this request and approved the draft answer for signature by the PRESIDENT (SP(2004)2941/2).

10.4. 2003 DISCHARGE PROCEDURE

Following the information provided by Mr KALLAS concerning the commencement of the 2003 discharge procedure on Monday 22 November and the hearings of certain Commission Members by Parliament's Committee on Budgetary Control, several members highlighted the constructive atmosphere at these first contacts and commented on the prospects for achieving a positive statement of assurance from the Court of Auditors in due course.

The PRESIDENT concluded the exchange of views by emphasising:

- the importance of this dossier, to which all Commission Members must attach priority, and the need to devote great care and attention to relations with the Committee on Budgetary Control;
- the need to mobilise all efforts to achieve the best possible result, without underestimating the fact that there had never been a positive statement of assurance;
- the need for a collective approach and the value of having a briefing paper to ensure consistent communication;
- the need for sound coordination of work and information flows in Members' Offices and departments.

11. COUNCIL MEETINGS

11.1. GENERAL AFFAIRS AND EXTERNAL RELATIONS (BRUSSELS, 22 AND 23 NOVEMBER)

Ms WALLSTRÖM drew attention to the exchange of views at the General Affairs Council on the crucial question of communication on the Constitution. She had stressed the Commission position regarding the ratification process, to the effect that the responsibility for communication in this matter lay with the Member States, though the Commission could offer a contribution if requested.

Referring to the concerns expressed by the Slovak Minister concerning the serious storm damage to the forests in the Tatra Mountains,

Ms WALLSTRÖM pointed to the need to give urgent consideration to ways

and means of coming to the aid of Slovakia. The PRESIDENT stated that he had assured the President of Slovakia of the Commission's solidarity and that it would provide support if a request for assistance was made and the eligibility criteria were met. Ms HÜBNER confirmed that her departments were working on an assessment of the situation in contact with their Slovak counterparts and were looking into possible forms of support. Mr FIGEL thanked the Commission for its solidarity with his country.

Ms FERRERO-WALDNER reported on the main issues addressed by the Council (General Affairs) in its External Relations configuration. She noted in particular:

- the Middle East peace process, particularly the priority attached to the question of the succession to the President of the Palestinian Authority and on Commission secondment and financing of an electoral observers mission for the elections in the Palestinian Territories, under the aegis of Mr Michel Rocard;
- preparations for that Thursday's EU-Russia summit in The Hague and the remaining difficulties in the way of a comprehensive agreement on the four "common areas"; the prospects as regards minority rights; the situation of Kaliningrad; cooperation in combating terrorism and differences of opinion concerning the concept of "common neighbourhood";
- the Council's wish to send China a positive signal ahead of the EU-China summit on 8 December as regards lifting the arms embargo, once the conditions laid down by the Union were met, particularly compliance with human rights and strengthening of the EU code of conduct on arms sales;

- Iran's agreement to suspend its uranium enrichment activities and to open its plants to inspectors from the International Atomic Energy Agency (IAEA);
- as regards European defence policy, the endorsement of the results of the Conference on the Military Capabilities of the Union and the Conference on the Civilian Capabilities;
- the situation following the elections in Ukraine.

The Commission took note of this information. The PRESIDENT described the thrust of the remarks he would be making to the press following the Commission meeting, expressing concern at the situation in Ukraine and the hope that a political solution could speedily be found.

11.2. AGRICULTURE AND FISHERIES
(BRUSSELS, 22 AND 23 NOVEMBER)
(SI(2004)981)

Mr KYPRIANOU reported on the main points of the political agreement reached at the Council meeting (Agriculture) concerning the delicate question of transport of breeding animals. Among the positive aspects of the compromise were the obligation for all lorries to be equipped with the global positioning system (GPS) from 2009, improved inspection of transport conditions and improved comfort of animals in lorries, and the inclusion of a clause providing for the presentation of a report by the Commission, possibly accompanied by a proposal for revision regarding time spent travelling and load densities in lorries. Mr KYPRIANOU also drew attention to recent plant health problems as regards exports from several Member States to Russia, which had expressed a preference for solving the problem with the Community rather than in bilateral negotiations.

Mr BORG reported on the Council meeting (Fisheries). He particularly mentioned the first general discussion on the Commission proposal of last July on the European Fisheries Fund for the period 2007-13; the current negotiations with Norway for an agreement on fishing opportunities between the two parties; and the agreement in the Council on 2004 quotas for fishing for deep-sea species to be allocated to the new Member States concerned.

Regarding the Council meeting (Agriculture), Ms FISCHER BOEL also drew attention to differences of opinion between the Member States concerning the scope and arrangements for the reform of the sugar regime.

12. OTHER BUSINESS

TRANSITIONAL LANGUAGE ARRANGEMENTS

Mr FIGEL drew the Commission's attention to the transitional language arrangements established by the communication for *Matching supply and demand for translation* (SEC(2004)638/6, 25 May), whose supply and demand measures aimed to ensure that the institutions operated effectively and that multilingualism was preserved as one of the fundamental principles of the Union.

13. RELATIONS WITH NON-MEMBER COUNTRIES

SHARM EL SHEIKH INTERNATIONAL CONFERENCE ON IRAQ

Ms FERRERO-WALDNER reported on the results of the International Conference on Iraq held in Sharm el Sheikh on 22 and 23 November. She drew particular

attention to the support expressed for the political process in Iraq and the willingness of Iraq's neighbours to step up regional cooperation.

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The meeting closed at 1210 hours.