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SECRETARIAT-GENERAL

PV(2007)1788 final

Strasbourg, 22 May 2007

MINUTES
of the 1788th meeting of the Commission
held in Brussels
(Berlaymont)
on Wednesday 16 May 2007
(morning)

PV(2007)1788 final

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Single sitting: Wednesday 16 May 2007 (morning)

The sitting opened at 0907 hours with Mr BARROSO, President, in the chair. It was adjourned at 1126 hours and resumed at 1147 hours.

Present:

Mr BARROSO	President	
Ms WALLSTRÖM	Vice-President	Items 1 to 19 (in part)
Mr VERHEUGEN	Vice-President	
Mr BARROT	Vice-President	Items 1 to 8
Mr FRATTINI	Vice-President	Items 1 to 8
Ms REDING		
Mr ALMUNIA		
Ms HÜBNER		Items 1 to 5
Mr BORG		
Ms GRYBAUSKAITĖ		
Mr POTOČNIK		
Mr FIGEL'		
Mr KYPRIANOU		Items 1 to 8
Mr KOVÁCS		
Ms KROES		Items 1 to 8
Ms FISCHER BOEL		
Ms FERRERO-WALDNER		
Mr McCREEVY		
Mr PIEBALGS		Items 5 to 19
Mr ORBAN		

Absent:

Mr KALLAS

Vice-President

Mr DIMAS

Mr REHN

Mr MICHEL

Mr ŠPIDLA

Mr MANDELSON

Ms KUNEVA

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The following sat in to represent absent Members of the Commission:

Mr HOLOLEI	Chef de cabinet to Mr KALLAS	Items 1 to 8
Mr SCHMIDT	Deputy Chef de cabinet to Mr KALLAS	Items 9 to 19
Mr SCHELLEKENS	Deputy Chef de cabinet to Mr DIMAS	Items 1 to 8
Mr GIOTAKOS	A member of Mr DIMAS 's staff	Items 9 to 19
Ms ÅSENIUS	Acting Deputy Chef de cabinet to Mr REHN	
Ms WEYAND	Chef de cabinet to Mr MICHEL	
Mr OUAKI	Deputy Chef de cabinet to Mr ŠPIDLA	
Mr HILL	A member of Mr MANDELSON's staff	
Mr BELL	Chef de cabinet to Ms KUNEVA	Items 1 to 8
Ms GARCÉS TOLON	A member of Ms KUNEVA's staff	Items 9 to 19

The following also sat in:

Mr VALE DE ALMEIDA	Chef de cabinet to the PRESIDENT	
Mr PETITE	Director-General, Legal Service	
Mr CARVOUNIS	Deputy Director-General, Communication DG	Items 1 to 18
Mr LAITENBERGER	Commission Spokesman	Items 1 to 8
Ms AHRENKILDE	Communication DG – Spokesman's Service	Items 9 to 19
Mr GASPAR	Acting Director-General, Bureau of European Policy Advisers (BEPA)	
Mr THEBAULT	Deputy Chef de cabinet to the PRESIDENT	Items 5 (in part) to 19
Mr CABRAL	Adviser hors classe in the PRESIDENT's Office	Items 9 to 19
Mr KLAUS	A member of the PRESIDENT's staff	Items 1 to 5, 18 and 19 (in part)
Ms MARTÍNEZ ALBEROLA	A member of the PRESIDENT's staff	Items 6 to 8
Mr LE BRET	Chef de cabinet to Mr BARROT	Items 5 (in part) to 17
Ms JORNA	Deputy Chef de cabinet to Mr BARROT	Item 5

(16 May 2007)

Mr SAGREDO	A member of Mr BARROT's staff	Items 18 and 19
Mr BERTOZZI	A member of Mr FRATTINI's staff	Items 6 to 8
Mr DUCATEL	A member of Ms REDING's staff	Items 9 to 18
Mr THOMAS	Chef de cabinet to Mr ALMUNIA	Item 19
Mr WATSON	A member of Ms HÜBNER's staff	Items 6 to 19
Mr BAUDRU	A member of Ms GRYBAUSKAITĖ's staff	Items 1 to 5
Mr SCHINAS	A member of Mr KYPRIANOU's staff	Items 9 to 19 (in part)
Ms PINHO	A member of Mr KYPRIANOU's staff	Item 19 (in part)
Mr SMULDERS	Chef de cabinet to Ms KROES	Items 9 to 19
Ms BURY	Deputy Chef de cabinet to Mr MCCREEVY	Item 19
Mr RUETE	Director-General, Energy and Transport DG	Item 5

Secretary: Ms DAY, Secretary-General, assisted by Mr AYET PUIGARNAU, Director in the Secretariat-General.

1. AGENDAS

(OJ(2007)1788/3; SEC(2007)608/2)

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(2007)1788**

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Friday 11 May 2007.

**3. APPROVAL OF MINUTES AND SPECIAL MINUTES OF 1787th MEETING
(10 MAY 2007)
(PV(2007)1787 AND /2; PV(2007)1787, Part II)**

The Commission approved the minutes of its 1787th meeting.

**4. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF
POWERS**

**4.1. WRITTEN PROCEDURES APPROVED
(SEC(2007)609 ET SEQ.)**

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 7 and 11 May 2007.

4.2. SENSITIVE WRITTEN PROCEDURES

(SEC(2007)610 AND /2)

The Commission took note of the sensitive written procedures for which the time limit expired between 11 and 16 May 2007.

4.3. EMPOWERMENT

(SEC(2007)611 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 7 and 11 May 2007.

4.4. DELEGATION AND SUBDELEGATION OF POWERS

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation procedure between 7 and 11 May 2007, as archived on the "Greffé 2000" (Registry) website.

5. COMMISSION COMMUNICATION TO PARLIAMENT, THE COUNCIL, THE ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – GALILEO AT A CROSS-ROAD – THE IMPLEMENTATION OF THE EUROPEAN GNSS PROGRAMMES (COM(2007)261 TO /4; SEC(2007)624 AND /2; SEC(2007)627)

The PRESIDENT introduced the initiative concerning the GALILEO programme being presented by Mr BARROT, emphasising the importance of the guidelines and proposals for adoption by the Commission that day. He set out the three main reasons why it was essential to continue the GALILEO programme: its strategic importance for Europe, its economic and commercial aspects, and the impetus it gave to technological innovation. Added to this there was the symbolic nature of GALILEO, particularly in terms of the European Union's capacity to deliver practical results.

Mr BARROT began by stressing GALILEO's importance, given its enormous potential in numerous sectors. Pointing out that GALILEO was more accurate than other systems, he urged the Members of the Commission to consider how it could contribute to developing individual Community policies.

He conceded, however, that on the basis of an in-depth assessment of the results achieved so far it was no longer possible to continue to develop GALILEO along the lines set out in the initial road map. In particular, this envisaged the private sector taking over from the public sector after the launch of the first four satellites and being responsible for putting into orbit the other twenty-six satellites which would complete the constellation and thus provide coverage of the entire surface of the globe. Following the invitation to tender in 2005 and after a year of negotiations with the successful consortium, Mr BARROT had to conclude that the conditions were not yet ripe for such an advanced public/private partnership to succeed. In particular, the consortium was not prepared to accept any risk and wanted the public sector to assume all of the market and design risks.

In the light of this, Mr BARROT therefore proposed that the Commission redesign the public/private partnership so that the private sector would take over once the entire constellation (30 satellites and associated ground segments) was in place, rather than after the launch of four satellites. The process of establishing the infrastructure would thus be placed under public control and would benefit from the technical expertise of the European Space Agency as project manager and contracting authority on behalf of the European Union. A new invitation to tender would be organised for operating and maintaining the constellation of 30 satellites from 2012 onwards.

Mr BARROT then turned to the question of how to finance this new approach, which implied greater public sector involvement during the initial phase of the programme. He emphasised that this increased involvement did not automatically mean a more expensive solution for the public sector, the difference between this and the previous approach lying more in the way the respective contributions were spread over the entire period. The public contribution would amount to

approximately 3.4 billion euros, 1 billion of which was already provided for in the proposal for a financial regulation concerning GALILEO. This left about 2.4 billion euros, which should be seen in the context of the six years it would take to put the infrastructure in place. Mr BARROT presented two financing options: the ceiling of heading 1.A of the financial perspective 2007-2013 could be raised or the Member States could provide the additional funds required outside the multiannual financial framework.

Lastly, he outlined the proposed timetable: the new approach would be presented to Parliament that day and to the Transport, Telecommunications and Energy Council on 7 and 8 June; a new road map would be established and the financial aspect would probably be approved by the European Council. On this basis, GALILEO could be operational by 2012, which would be two years earlier than the original timetable.

Mr BARROT concluded by warmly thanking the PRESIDENT and Ms GRYBAUSKAITĖ for their help and support in this difficult matter. Addressing Mr VERHEUGEN in particular, he expressed his satisfaction at the fact that the GALILEO programme provided an opportunity to strengthen the links between the Commission and the European Space Agency, thereby helping to reinforce the foundations of the new European space policy.

During an in-depth exchange of views on these proposals, the Commission considered the following aspects in particular:

- the extreme complexity and sensitivity of this highly strategic issue and the need to remain committed to supporting it, despite the problems, and at the same time to preserve the Commission's credibility;
- the obvious link between implementation of the GALILEO programme and the Commission's commitments to producing practical results in due course;
- the strategic importance and enormous potential of GALILEO as a source of technological innovation;

- the lessons to be learned from the experience gained since the adoption of the initial proposals on GALILEO, particularly as regards governance;
- the importance of forming a viable new consortium of private investors as soon as possible and of getting future users of the system more involved;
- the current state of the market in satellite radio navigation services, including in terms of competition;
- possible use of GALILEO for military and security purposes;
- possible opportunity costs of the proposed new approach and its impact on achieving other Commission and EU priorities;
- the need to reach agreement on the financing schedule before deciding to establish the redesigned public/private partnership;
- the importance at this stage of retaining both financing options in order to give maximum flexibility in the forthcoming negotiations with Parliament and the Council;
- the pros and cons of each of the two financing options;
- possible duplication between the GALILEO programme and other satellite projects for which the Commission is responsible, or between GALILEO and other satellite radio navigation systems;
- the European Space Agency's involvement in the programme and the effects of this on future European space policy.

Replying to Members' remarks, Mr BARROT thanked them for their support for his proposals and confirmed that the reorientation of the programme concerned not only financing but also governance. In particular, the new invitation to tender was intended to introduce more competition and to produce a genuine commitment by industry.

As regards satellite navigation systems, of which there were many, Mr BARROT said that some would be available from 2008, thanks to the launch of the European EGNOS system, which would precede GALILEO. He also thought that certain military uses were not to be ruled out. Referring to the commercial dimension of the programme, he mentioned the important benefits that were already being derived through existing satellite radio navigation systems, not least for public finances.

Finally, Mr BARROT promised to consult the Commission again if, towards the end of the year, there remained any doubts about the viability of the approach adopted.

The PRESIDENT concluded by noting the Commission's unanimous support for the approach set out by Mr BARROT. He emphasised the enormous potential of the market for satellite radio navigation and the European Union's paramount interest in being fully involved in this market.

He welcomed the agreement reached within the Commission on the two financing options and felt that it was not an anomaly to finance the programme from public resources until it reached operational maturity, given what was at stake with GALILEO. However, he stressed the responsibility of all the players involved: the private sector, the Member States and the Community institutions. He also reaffirmed the Commission's intention of cooperating closely with both the Member States and Parliament in order to reach the best possible solution.

Finally, he felt that the adoption of the communication sent a strong political signal about Europe's independence in this area, the huge commercial potential, technological development and innovation in this field. It was also a demonstration of a Europe of results, as advocated repeatedly by the Commission. He therefore urged all Commission Members to maintain their support for Mr BARROT in order to take the programme forward as fast as possible, despite the problems it had run into.

Following these discussions, the Commission approved the communication in COM(2007)261/4, subject to some light editing and the addition of the following sentence in Chapter 9, at the end of the first bullet point on page 16 of the English

version: "*This procedure implies both branches of the Budgetary Authority.*". The amended version would be sent to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions and to the national parliaments, together with the staff paper distributed as SEC(2007)624/2, the contents of which were noted.

- 6. COMMISSION COMMUNICATION TO PARLIAMENT, THE COUNCIL, THE ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – APPLYING THE GLOBAL APPROACH TO MIGRATION TO THE EASTERN AND SOUTH-EASTERN REGIONS NEIGHBOURING THE EUROPEAN UNION**
(COM(2007)247 TO /4; SEC(2007)628)

- 7. COMMISSION COMMUNICATION TO PARLIAMENT, THE COUNCIL, THE ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – CIRCULAR MIGRATION AND MOBILITY PARTNERSHIPS BETWEEN THE EUROPEAN UNION AND THIRD COUNTRIES**
(COM(2007)248 TO /4; SEC(2007)628)

- 8. PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL PROVIDING FOR SANCTIONS AGAINST EMPLOYERS OF ILLEGALLY STAYING THIRD-COUNTRY NATIONALS**
(COM(2007)249 TO /4; SEC(2007)603; SEC(2007)604; SEC(2007)596 AND /2; SEC(2007)606; SEC(2007)628)

Mr FRATTINI presented the two communications and the proposal for a directive on migration which he was tabling for approval. He explained that the text on applying the global approach to migration to the eastern and south-eastern regions

neighbouring the European Union was being tabled jointly with Mr REHN and Ms FERRERO-WALDNER. He also thanked all the Commission Members who had actively participated in the drafting of these three texts throughout the process, particularly in the group responsible for migration, which he had chaired.

Mr FRATTINI introduced the three proposals by saying that they constituted a coherent and balanced package in response to the calls from the European Council after its adoption of the global approach to migration in December 2005. The three initiatives conveyed the same political message: on the one hand they reiterated the European Union's commitment to combating illegal immigration and, on the other, they testified to Europe's willingness to strengthen dialogue and cooperation with non-member countries on matters relating to migration.

Mr FRATTINI briefly outlined the content of each of the three texts in question, starting with the communication on applying the global approach to migration to the eastern and south—eastern regions neighbouring the European Union, which constituted the second stage of an approach already started in relation to Africa and the countries around the Mediterranean. He pointed out that the institutional frameworks negotiated with all of the countries concerned – Turkey, the countries of the Western Balkans, Eastern Europe and the Southern Caucasus covered by the neighbourhood policy, as well as Russia – were already in place, and a dialogue about migration was already under way with most of them. He also referred to the specific situation in the Black Sea region, which called for special attention.

He then turned to the communication on circular migration and mobility partnerships between the EU and non-member countries. He emphasised that the main objective was to find innovative ways of organising legal forms of economic migration. He highlighted the return to the country of origin which was a distinctive feature of the circular migration approach and which would help, in particular, to minimise the damage caused by the brain drain affecting these countries.

Lastly, Mr FRATTINI discussed the directive providing for sanctions against employers of nationals of non-member countries who were illegally residing in the EU. He explained that the aim of this proposal was to prevent and reduce the

employment of illegal immigrants within the European Union. This was, in his view, a moral imperative for the Commission, because it was a way of helping to eradicate a modern form of slavery. It would also reinforce the credibility of its fight against illegal immigration. In this connection he mentioned the precarious living and working conditions of the workers concerned, who were denied the most basic employment rights.

Mr FRATTINI pointed out that the proposal for a directive did not encroach upon the Member States' prerogatives in criminal matters. The proposed directive merely aimed to ensure the more effective and consistent application of the laws in force in each of the Member States, for example by clarifying the situations being targeted, introducing a minimum level of checks to be made by employers when recruiting nationals of non-member countries, establishing annual inspections by the competent national authorities and providing for sanctions.

The PRESIDENT congratulated Mr FRATTINI on the relevance of the proposals. He felt that these initiatives, and particularly the proposal for a directive, sent a very strong political signal from the Commission about combating illegal migration. It was a matter of counteracting illegal practices and tackling the problem in the interests of the internal market, the free movement of persons and the fight against social dumping, but also out of respect for fundamental rights. The PRESIDENT endorsed Mr FRATTINI's view that the proposed directive would not encroach on Member States' prerogatives in matters of criminal law.

The Commission held an exchange of views which focused particularly on the proposal for a directive, in the course of which it considered the following questions:

- the justification for the proposal for a directive in terms of the principles of subsidiarity and proportionality, and, more specifically, in relation to the criminal nature of certain offences, with reference to the results of the impact assessment and the links with the internal market;

- the prospects of successfully implementing the directive, in the light of the evident shortcomings in the Member States' enforcement of their own legislation and the endemic nature of the situations observed in certain economic sectors and particular regions;
- the need to coordinate the enforcement/sanctions approach with the preventive accompanying measures/approach (public awareness campaigns, etc.);
- the Commission's moral duty to use all the means at its disposal to remedy a situation in which numerous illegal immigrants employed in the European Union were deprived of their fundamental rights and employment rights;
- the need to ensure that selective enforcement of certain measures provided for in the proposed directive did not distort competition between operators in the different Member States, particularly in agriculture;
- how the two communications (global approach and neighbouring regions; circular migration and mobility partnerships) fitted into the wider picture of the EU's external relations;
- the prospects of applying the global approach to migration to the countries of Latin America.

After examining these proposals, the Commission:

- approved the communication set out in COM(2007)247/4, for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, and to the national parliaments;
- approved the communication set out in COM(2007)248/4, subject to the deletion of the following words from the third paragraph of point IV, on page 13 of the English version: "*in the Eastern and Southern Neighbourhood and in other parts of the world*". The communication, thus amended, would be sent to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, and to the national parliaments.

The Commission also:

- adopted the proposal for a directive set out in COM(2007)249/4, subject to light editing and the replacement of the words "*may also, if appropriate, be subject*" by "*shall also be subject*" in the first sentence of Article 8, on page 18 of the English version. The proposal, thus amended, would be sent to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, and to the national parliaments, together with the impact assessment, executive summary and list of measures intended to prevent and reduce the illegal employment of nationals of non-member countries, contained in the staff papers distributed as SEC(2007)603, SEC(2007)604 and SEC(2007)596/2 respectively, the contents of which were noted;
- took note of the opinion of the Impact Assessment Board on this dossier, as set out in SEC(2007) 606.

**9. CONVERGENCE REPORT 2007 FOR CYPRUS IN ACCORDANCE WITH ARTICLE 122(2) OF THE EC TREATY
(COM(2007)255 AND /2; SEC(2007)623 AND /2; SEC(2007)626;
SEC(2007)629)**

Mr ALMUNIA briefly presented to the Commission the set of proposals concerned by items 9 to 17 of the agenda for that day's meeting.

They were the convergence reports relating to Cyprus and Malta, drawn up at the request of these Member States, and legislative proposals on the introduction of the euro in the two countries. The reports looked at compliance by Cyprus and Malta with the conditions required for the adoption of the euro on 1 January 2008. Mr ALMUNIA announced that the conclusion of the reports was that Cyprus and Malta have reached a high and sustainable level of convergence with the countries of the euro area, and that their national legislation was compatible with the requirements of the Treaty and the statute of the European Central Bank.

Mr ALMUNIA stressed that in both countries the inflation rate was below the 3% reference figure and that price stability was on a sound basis that would make it possible to resist any shocks and augured well for the maintenance of this stability after the introduction of the euro. Both countries satisfied the public-sector deficit criterion with ratios in comparison with gross domestic product in 2006 of 1.5% for Cyprus and 2.6% for Malta. The ratio between public debt and gross domestic product was steadily falling and was close to the reference value of 60% in both cases. For this reason, Mr ALMUNIA proposed in respect of Malta a recommendation for a Council Decision repealing the excessive deficit procedure. He also noted that the long-term interest rate and exchange rate criteria were also met in both cases. In conclusion, he welcomed the preparedness of the two Member States for the introduction of the euro.

He pointed out that the Commission report was being published the same day as that of the European Central Bank which, while highlighting the budgetary consequences that could follow the reunification of Cyprus, reached the same conclusions as the Commission as regards compliance with the convergence criteria enabling these two Member States to adopt the euro.

Mr ALMUNIA then turned to the recommendations to the Council for terminating the excessive deficit procedures concerning Germany, Greece and Malta. He was pleased that the efforts made by these countries had corrected the excessive deficit situation in a credible and sustainable manner.

As regards Germany, he mentioned the Council recommendations that budgetary discipline be maintained when the economic situation was favourable and the upturn came. While welcoming the very positive results achieved by Greece, he emphasised the need keep up the efforts in the medium term in order to reduce the structural deficit even more since, despite the substantial fall over the last two years, it remained above 3%. For Malta he noted the good results and recommended that it take advantage of the period of sustained economic growth to maintain the budgetary discipline efforts.

Lastly, Mr ALMUNIA referred to the seven Member States still the subject of excessive deficit procedures that would have to be reviewed during 2007, particularly the United Kingdom, the Czech Republic, Hungary, Poland and Slovakia.

After this presentation, the Commission commended the departments under the responsibility of Mr ALMUNIA for the excellent work they had done in considering the requests made in February 2007 by Cyprus and Malta.

The PRESIDENT in turn expressed his satisfaction with the results achieved by Germany, Greece and Malta, which confirmed the usefulness and effectiveness of budgetary surveillance. He also emphasised that the euro area was open to new members provided they satisfied the convergence criteria, and its enlargement would contribute to the strengthening of European integration.

The Commission approved the convergence report on Cyprus in COM(2007)255/2, for transmission to the Council and, for information, to Parliament and to the European Central Bank, and to the national parliaments, together with the technical annexes in the staff paper distributed as SEC(2007)623/2, the contents of which were noted.

**10. PROPOSAL FOR A COUNCIL DECISION IN ACCORDANCE WITH
ARTICLE 122(2) OF THE TREATY ON THE ADOPTION BY CYPRUS OF
THE SINGLE CURRENCY ON 1 JANUARY 2008
(COM(2007)256 AND /2; SEC(2007)626; SEC(2007)629)**

The Commission adopted the proposal for a Council Decision in COM(2007)256/2, for transmission to Parliament and the Council, and to the national parliaments, and for information to the European Central Bank.

11. PROPOSAL FOR A COUNCIL REGULATION AMENDING REGULATION (EC) 974/98 ON THE INTRODUCTION OF THE EURO IN CYPRUS (COM(2007) 257; SEC(2007)626; SEC(2007)629)

The Commission adopted the proposal for a Council Regulation in COM(2007)257, for transmission to the Council and to the European Central Bank, and for information to Parliament, and to the national parliaments.

12. CONVERGENCE REPORT 2007 FOR MALTA PREPARED IN ACCORDANCE WITH ARTICLE 122(2) OF THE EC TREATY (COM(2007)258 AND /2; SEC(2007)622 AND /2; SEC(2007)626; SEC(2007)629)

The Commission approved the convergence report on Malta in COM(2007)258/2, for transmission to the Council and, for information, to Parliament and the European Central Bank, and to the national parliaments, together with the technical annexes in the staff paper distributed as SEC(2007)622/2, the contents of which were noted.

13. PROPOSAL FOR A COUNCIL DECISION IN ACCORDANCE WITH ARTICLE 122(2) OF THE TREATY ON THE ADOPTION BY MALTA OF THE SINGLE CURRENCY ON 1 JANUARY 2008 (COM(2007)259 AND /2; SEC(2007)626; SEC(2007)629)

The Commission adopted the proposal for a Council Decision in COM(2007)259/2, for transmission to Parliament and the Council, and to the national parliaments, and for information to the European Central Bank.

14. PROPOSAL FOR A COUNCIL REGULATION AMENDING REGULATION (EC) 974/98 ON THE INTRODUCTION OF THE EURO IN MALTA (COM(2007)260 AND /2; SEC(2007)626; SEC(2007)629)

The Commission adopted the proposal for a Council Regulation in COM(2007)260/2, for transmission to the Council and to the European Central Bank, and for information to Parliament, and to the national parliaments.

15. RECOMMENDATION FOR A COUNCIL DECISION ABROGATING DECISION 2005/186/EC ON THE EXISTENCE OF AN EXCESSIVE DEFICIT IN MALTA IN ACCORDANCE WITH ARTICLE 104(12) OF THE TREATY (SEC(2007)621 AND /2; SEC(2007)625; SEC(2007)629)

The Commission approved the recommendation in the document distributed as SEC(2007)621/2, for transmission to the Council.

16. RECOMMENDATION FOR A COUNCIL DECISION ABROGATING DECISION 2003/89/EC ON THE EXISTENCE OF AN EXCESSIVE DEFICIT IN GERMANY IN ACCORDANCE WITH ARTICLE 104(12) OF THE TREATY (SEC(2007)619 AND /2; SEC(2007)625; SEC(2007)629)

The Commission approved the recommendation in the document distributed as SEC(2007)619/2, for transmission to the Council.

**17. RECOMMENDATION FOR A COUNCIL DECISION ABROGATING
DECISION 2004/917/EC ON THE EXISTENCE OF AN EXCESSIVE
DEFICIT IN GREECE IN ACCORDANCE WITH ARTICLE 104(12) OF
THE TREATY**

(SEC(2007)620 AND /2; SEC(2007)625; SEC(2007)629)

The Commission approved the recommendation in the document distributed as SEC(2007)620/2, for transmission to the Council.

18. INTERINSTITUTIONAL RELATIONS

(SEC(2007)617)

The Commission took note of the record of the meeting of the Interinstitutional Relations Group held on Thursday 10 May 2007 (SEC(2007)617).

It paid particular attention to the following:

18.1. LEGISLATIVE MATTERS

i) Action to be taken on Parliament's opinions

(SP(2007)2326)

The Commission decided to empower the Commission Members responsible for the sectors in question, in agreement with the PRESIDENT and Ms WALLSTRÖM and, if necessary, with the other Members concerned, to adopt the amended proposals for transmission to Parliament and the Council, as set out in SP(2007)2326, drawn up following the May I 2007 part-session of Parliament, the contents of which were noted.

ii) Preparation for the May II 2007 part-session of Parliament

(point 1.2 of the record of the IRG)

In accordance with the rules in force, the Commission authorised the Commission Members responsible, in agreement with the PRESIDENT and

Ms WALLSTRÖM and any other Members concerned, to take a position on Parliament's amendments to its proposals.

It paid particular attention to the following:

Codecision, 2nd reading

- General programme "Fundamental Rights and Justice" – Specific programme "to combat violence" (Daphne III) 2007-2013 (Decision) – GRÖNER report – 2005/0037A (COD)

The Commission approved the line set out in SP(2007)2168.

- General rules for the granting of Community financial aid in the field of the trans-European transport and energy networks (Regulation) – MAURO report – 2004/0154 (COD)

The Commission approved the line set out in SP(2007)2302.

Empowerment

- General programme "Fundamental Rights and Justice" – Specific programme "to combat violence" (Daphne III) 2007-2013 (Decision) – GRÖNER report – 2005/0037A (COD)
- General rules for the granting of Community financial aid in the field of the trans-European transport and energy networks (Regulation) – MAURO report – 2004/0154 (COD)

The Commission empowered Mr FRATTINI and Mr BARROT, each for the item within their area of responsibility, under Article 13 of its Rules of Procedure, in agreement with the PRESIDENT and Ms WALLSTRÖM and any other Members associated, to adopt and transmit to the Council their opinion on the amendments, in accordance with Article 251(2)(c) of the Treaty, once Parliament had taken its position, together with an amended

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proposal if necessary, on the basis of the line set out in SP(2007)2168 and SP(2007)2302.

Codecision, 1st reading

- Environmental quality standards in the field of water policy (Directive) – LAPERROUZE report – 2006/0129 (COD)

The Commission approved the line set out in SP(2007)2303.

- Improving the effectiveness of review procedures concerning the award of public contracts (Directive) – FRUTEAU report – 2006/0066 (COD)

The Commission approved the line set out in SP(2007)2304, and authorised Mr McCREEVY to pursue contacts with Parliament and the Council in order to reach agreement at first reading following the line set out in the document.

iii) Preparations for Council meeting (Competitiveness) (21-22 May 2007)

(point 1.3 of the record of the IRG)

- Consumer credit (Directive) – LECHNER report – 2002/0222 (COD)

The Commission authorised Ms KUNEVA to support a Presidency compromise that would secure a qualified majority in the Council (Competitiveness) on 21 and 22 May 2007, following the line set out in SI(2007)442/2.

iv) Preparations for Council meeting (Education, Youth and Culture) (24-25 May 2007)

(point 1.4 of the record of the IRG)

- Television without frontiers (Directive) – HIERONYMI report – 2005/0260 (COD)

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The Commission authorised Ms REDING to accept the compromise that the Presidency would present at the Council meeting (Education, Youth and Culture) on 24 and 25 May 2007, following the line set out in SI(2007)443/2, and to make the statement set out in the annex to that note.

v) Preparation of an agreement at first reading – Results of the informal trialogue meeting (Brussels, 15 May 2007)

(SPI(2007)46; SI(2007)493)

- Roaming on public mobile networks (Regulation) – RÜBIG report – 2006/0133 (COD)

After thanking the PRESIDENT and the Commission Members for the support they had provided in the recent months' intense negotiations on the issue of roaming, Ms REDING reported on the compromise reached at the trialogue (Parliament, Council and Commission) on Tuesday 15 May 2007. She pointed out that if the compromise was formally endorsed by the institutions in the days ahead, an unusual decision would have been taken in terms of content and timetable, as the Commission had only adopted its initial proposal in July 2006. This would be a very good example of the EU's ability to come up with results quickly.

Ms REDING then outlined certain details of the compromise, that she considered broadly to be very close to the Commission's initial proposal. She mentioned the arrangements and levels of charges adopted and the lifespan of the future Regulation, pointing out that, subject to an in-depth assessment of the operation of the market to be carried out by the Commission eighteen months after its entry into force, the Regulation would expire automatically after three years. She also explained the arrangements and precise timetable for the implementation of the new provisions, focusing on the operation of the opt-in/opt-out mechanism provided for in the new Article 4 of the Regulation.

In conclusion Ms REDING asked the Commission to authorise her to support the compromise at the meeting of the Permanent Representatives Committee

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(Coreper) that day and, if necessary, before the bodies of Parliament the following week. She added that the representatives of Parliament wanted the Commission to make a declaration to the plenary on Wednesday 23 May spelling out the operation of the opt-in/opt-out mechanism. If necessary a draft declaration would be submitted to the Commission at its next meeting. Ms REDING stated finally that if it was not possible to secure a definitive agreement on the compromise, the Commission's position for Parliament's first reading would be laid down by the normal procedures (at the next Commission meeting and on the basis of the results of the work of the Interinstitutional Relations Group that day).

The PRESIDENT thanked Ms REDING for her work on this matter and congratulated her for the very satisfactory result that was taking shape.

After a brief exchange of views on certain technical aspects of the future Regulation, the Commission authorised its representatives to support the compromise as set out in SI(2007) 493, both at the Coreper meeting that day and before the bodies of Parliament from Monday 21 May. It noted that if a declaration was necessary, it would be put before the Commission at its next meeting, and that if the compromise could not be definitively secured, it would also have before it at the same meeting the position to be taken for Parliament's first reading.

18.2. RELATIONS WITH THE COUNCIL

vi) Programming of Council business

(SI(2007)461)

The Commission took note of the information in SI(2007)461 on the Council meetings between 10 and 23 May 2007.

**vii) Report on the General Affairs and External Relations Council –
External Relations meeting (Brussels, 14 and 15 May 2007)
(SEC(2007)673)**

Ms FERRERO-WALDNER reported on the main results of the Council meeting on external relations.

The matter that had provoked the most discussion was the preparation of the summit between the EU and Russia on 18 May 2007 in Samara. Despite the efforts of the Council Presidency and the Commission's representatives during the preparatory work, a great deal still remained to be done to ensure that the summit, which would be of long-term importance for the Union, was successfully completed and yielded concrete results in the four "common spaces".

While expressing cautious optimism as to the outcome of the summit, Ms FERRERO-WALDNER drew the Commission's attention to the disputes currently dividing the two partners in the commercial, economic and diplomatic field. She referred in particular to the Russian embargo on meat products from Poland and the question of the overflying of Siberia by European aircraft. She went on to outline the questions on which there was already a convergence of views or agreement, i.e. cooperation in the field of science, research and education, the implementation of agreements on visa facilitation and readmission, the agreement on a strategy to reduce traffic congestion at common border crossings, the early warning system for energy security and the continuing dialogue on global warming and post-2012 international negotiations. It was also necessary to reaffirm the importance of European values such as human rights, democracy and the rule of law, particularly ahead the forthcoming elections in Russia.

Lastly, Ms FERRERO-WALDNER drew attention to international questions on which, in her view, dialogue and cooperation with Russia remained essential, i.e. Kosovo, the Middle East peace process, Iran, Lebanon, and the

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fight against international terrorism and the proliferation of weapons of mass destruction.

Following the contribution by Ms FERRERO-WALDNER, the Commission held a brief exchange of views on the summit's prospects of success, during which reference was made to relations between Estonia and Russia.

The Commission took note of these observations and of Ms FERRERO-WALDNER's briefing note in SEC(2007)673.

viii) Eligibility of Bulgaria and of Romania to take part in the tendering procedures under the 9th European Development Fund

(point 2.3 of the record of the IRG)

The Commission authorised its departments to make the declaration annexed to SI(2007)441 within the Council.

18.3. RELATIONS WITH PARLIAMENT

ix) Results of Parliament's May I 2007 part-session

(SP(2007)2385)

The Commission took note of the information on Parliament's part-session held on 9 and 10 May 2007 in Brussels, set out in SP(2007)2385.

x) Action taken on Parliament's non-legislative resolutions

(points 3.3.1 and 3.3.2 of the record of the IRG)

The Commission approved documents SP(2007)2139/3 and SP(2007)2329 on the action taken on the non-legislative resolutions adopted by Parliament at its March I and II 2007 part-sessions respectively, for transmission to Parliament.

xi) Participation by Members of Parliament in international conferences

(point 3.5 of the record of the IRG)

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- High-level segment of the 14th meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (The Hague, 3 to 15 June 2007)

The Commission decided to give a positive answer to the request from Mr PÖTTERING, President of Parliament, to the PRESIDENT, concerning the participation of three members of Parliament in this conference.

19. OTHER MATTERS

19.1. HEDGE FUNDS

(SEC(2007)640 AND /2)

The PRESIDENT reminded the meeting briefly of the main issues concerning hedge funds, in particular their impact on economic and financial stability, an issue that had been raised during the Commission's debate on the European economy on 21 March. He pointed out the importance of this matter for the G8 summit to be held in Heiligendamm from 6 to 8 June 2007. He asked Mr ALMUNIA and Mr McCREEVY to make their presentations.

Mr ALMUNIA began by pointing out that there was no agreed definition of hedge funds. Such funds were associated with aggressive investment strategies, significant leverage effects and high returns, but the members of this group could differ widely as to their objectives, investment strategies and behaviour on the market.

He spoke about the positive contributions hedge funds made to the international financial system, for example in the mobilisation of liquidity, in investment and in the innovation of the financial markets. He also pointed out the considerable expansion of hedge funds since 2000: there were currently around 9000, holding some 4% of global capital, and their activities and investments were highly diversified. He added that European hedge funds,

80% of which were based in London, managed €325 billion, i.e. 20% of total hedge fund capital.

Mr ALMUNIA referred to the exceptional times the international financial system was currently experiencing, a particular feature being persistently low interest rates. This situation had led some investors to turn to new, complex and high-risk financial instruments such as hedge funds which, in turn, had developed their activities at the core of financial innovation.

There were two theories as to the underlying factors that could explain the current situation in the financial system: the first had to do with the structural improvement of risk management, and the second the underestimation of the inherent risks of the system, which could give rise to significant corrections. According to the second theory, M. ALMUNIA considered that hedge funds would be particularly exposed and that major adjustments concerning them could also have effects on the financial system as a whole, given the links between the funds and banks and their key role with respect to the liquidity of the financial markets.

Mr ALMUNIA also looked at the indirect mechanisms for supervising hedge funds through banks and investors. He referred to the supervision of bank assets in hedge funds by the financial supervisory authorities, whose main role was to ensure that investors and banks had necessary and adequate information on the funds in question. However, it was more difficult, on the basis of the still too fragmented data available, to assess the risks posed by hedge funds with respect to the functioning of the markets.

In this connection, Mr ALMUNIA referred to the proposal by the current G8 Presidency to look into the adequacy and effective use of the information on hedge funds. He recalled the conclusions of the assessment carried out by the Financial Stability Forum (FSF), published in April 2007: hedge funds played a positive role and risk management connected with such funds had been improved, but the indirect approach to supervision needed to be strengthened. He also mentioned the conclusions of the Economic and Financial Affairs

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Council of 8 May, which had confirmed the FSF's findings and recommendations, and called on the authorities and interested parties to remain vigilant, to cooperate and to consider whether the activities of hedge funds were sufficiently transparent at present.

Mr ALMUNIA welcomed the fact that the subject would be discussed at the G8 summit from 6 to 8 June and at the meeting of the G8 Finance Ministers on 18 and 19 May. He thought that the G8 would probably support the FSF's assessment and recommendations and would ask the FSF to present reports on the implementation of its recommendations. Summing up, Mr ALMUNIA proposed that the Commission align itself with the approach of the G8 and of the Economic and Financial Affairs Council with regard to hedge funds.

Mr McCREEVY then made his presentation supplementary that of Mr ALMUNIA. He began by emphasising the beneficial effects of hedge funds on the financial markets and the economy as a whole. Their considerable share in market liquidity helped to reduce the cost of capital for firms and stimulated growth. He also talked about the positive effects of these funds on the effectiveness of the market, the diversification of assets and risks and financial innovation.

He went on to challenge the general claim that hedge funds operated outside the scope of all regulations. He explained that hedge funds were already subject to a large number of controls at Community and national level. He mentioned in particular the Directives on market abuse and transparency and the Markets in Financial Instruments Directive (MiFID), which would enter into force on 1 November 2007. He also recalled the implementation of the new Basel Accord and the authorisation and supervision mechanisms in force.

Mr McCREEVY nevertheless acknowledged that there were concerns about the impact of hedge funds on financial stability, their accessibility to retail investors and the aggressive behaviour of certain funds with respect to corporate management.

With specific reference to access by retail investors, Mr McCREEVY noted that there were differences in legislation among the Member States. However, under the new MiFID Directive the transactions of retail investors would be subject to common rules.

Mr McCREEVY also pointed out the relatively low volatility of many hedge funds, even at a time of falling stock prices. He put this down to the active strategies put in place by the funds to protect themselves against market fluctuations. In this connection he referred to the consultations of the Committee of European Securities Regulators currently under way, the outcome of which would be presented soon.

On the subject of certain behaviour of hedge funds, as investors, vis-à-vis internal corporate governance, Mr McCREEVY felt that this was legitimate provided it did not constitute a market abuse and they respected the legislation in force. He emphasised, on the other hand, the advantages for shareholders in terms of profitability, and pointed out that hedge funds were subject to the same rules as other investors, including the market abuse Directive.

Mr McCREEVY also touched on the question of transparency, pointing out that under the transparency Directive hedge funds were obliged to disclose any participation over 5%. He felt that this provision was appropriate and adequate, and that the introduction of an obligation to disclose participation below 5% would have adverse effects on the market. In this connection, he referred to banks' new responsibility with regard to obtaining necessary information and risk assessment, and the responsibility of supervisors with respect to the banks' action in this area.

Mr McCREEVY also expressed his support for a code of conduct vis-à-vis investors and customers drafted by the sector, which could cover, for example, the transparency of risk management techniques, risk profiles and investment style.

On the subject of supervision, Mr McCREEVY gave examples of risk-reduction measures taken by the United Kingdom supervisory authority. These included specific risk-reduction programmes, observation of the practices of agents and banks vis-à-vis hedge funds, the identification of funds with a high debt ratio, the creation of a centre of expertise on hedge funds, proactive market supervision and measures to promote an international code of good conduct on estimating the assets of such funds.

In conclusion, Mr McCREEVY felt that the regulatory framework in force applicable to hedge funds was appropriate and adequate, that supervision of these funds was being stepped up regularly and that consequently no further legislative initiative appeared to be necessary at Community level.

Following these presentations, the Commission held a brief discussion during which the following aspects were examined:

- the usefulness of this debate for the Commission, particularly ahead of the upcoming G8 summit;
- recognition of the adequacy of Community legislation in force;
- the positive effects of the activity of hedge funds in terms of mobilising capital and corporate restructuring;
- the effects of hedge funds' short-term profit strategy on certain firms and their employees;
- the importance of social dialogue in such cases;
- the links between these funds and tax evasion.

The PRESIDENT closed the discussion by thanking Mr ALMUNIA and Mr McCREEVY for their presentations and noting the Commission's full support for the analysis and conclusions presented. He also recalled the conclusions of the Economic and Financial Affairs Council of 8 May 2007

and in particular the invitation to the Commission to report on the arguments for and against framework legislation on hedge funds.

The Commission took note of this information and of the note by Ms WALLSTRÖM distributed as SEC(2007)640 and /2.

19.2. PREPARATION OF THE NEGOTIATIONS CONCERNING THE CONSTITUTIONAL TREATY (BERLIN, 15 MAY 2007)

The PRESIDENT reported on the results of the first meeting, following bilateral consultations, of the personal representatives of the Heads of State or Government and the Presidents of the Commission and of Parliament held on Tuesday, 15 May in Berlin.

He felt that this first meeting had been very useful and noted that all the Member States, the Commission and Parliament had been represented. The meeting had focused in large part on presenting positions and checking the level of commitment to various ideas.

The PRESIDENT moved swiftly on to summarise the main arguments put forward by the 18 Member States that had already ratified the Constitutional Treaty and by Poland, the Czech Republic, the Netherlands and the United Kingdom (France having made a purely formal statement). He also outlined the position taken by his personal representative, Mr João VALE DE ALMEIDA, who had emphasised the political urgency of an agreement, the need to involve all the Member States and the importance of keeping an appropriate level of ambition with respect to the institutional challenges facing the Union. The PRESIDENT pointed to the central role played by the Commission in the process hitherto and the importance of maintaining it.

He said that the Council Presidency now intended to continue the process at the highest political level, with the personal backing of Ms Angela MERKEL. A final meeting of the personal representatives would be held a few days before the European Council on 21 and 22 June 2007.

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The PRESIDENT concluded by saying that, at this stage, the progress made so far in the process pointed to significant negotiations at the European Council meeting.

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The meeting closed at 13.15 hours.