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MINUTES
of the 1900th meeting of the Commission
held in Brussels
(Berlaymont)
on Wednesday 6 January 2010
(morning)

PV(2010)1900 final

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Single sitting: Wednesday 6 January 2010 (morning)

The sitting opened at 09.08 hours with Mr BARROSO, President, in the chair.

Present:

Mr BARROSO	President	
Baroness ASHTON	High Representative/ Vice-President	
Mr VERHEUGEN	Vice-President	
Mr BARROT	Vice-President	
Mr KALLAS	Vice-President	
Mr TAJANI	Vice-President	
Ms REDING		Items 1 to 8 (in part)
Mr DIMAS		
Mr ALMUNIA		Items 7 and 8
Mr BORG		
Mr POTOČNIK		
Mr REHN		Items 7 and 8
Mr KOVÁCS		
Ms KROES		
Ms FISCHER BOEL		
Mr McCREEVY		Items 1 to 7 (in part)
Mr ŠPIDLA		
Mr PIEBALGS		Items 1 to 7 (in part)
Ms KUNEVA		
Mr ORBAN		
Mr ŠEMETA		
Mr SAMECKI		
Mr DE GUCHT		
Mr ŠEFČOVIČ		

Absent:

Ms WALLSTRÖM

Vice-President

Ms FERRERO-WALDNER

Ms VASSILIOU

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

Ms BERGENFELT	Deputy Chef de cabinet to Ms WALLSTRÖM	
Mr CHILD	Chef de cabinet to Ms FERRERO- WALDNER	Items 7 (in part) and 8 (in part)
Ms SPANOU	Deputy Chef de cabinet to Ms VASSILIOU	

The following also sat in:

Mr FRUTUOSO DE MELO	Deputy Chef de cabinet to the PRESIDENT	
Mr ROMERO REQUENA	Director-General, Legal Service	
Ms AHRENKILDE HANSEN	Commission Spokeswoman	
Mr CABRAL	Adviser <i>hors classe</i> in the PRESIDENT's office	Item 7 (in part)
Mr BALDWIN	Adviser in the PRESIDENT's Office	Item 7 (in part)

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

1. AGENDAS

(OJ(2010)1900/4; SEC(2010)1/2)

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(2010)1900)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 4 January.

3. APPROVAL OF MINUTES AND SPECIAL MINUTES OF 1899TH MEETING (15 DECEMBER)

(PV(2009)1899; PV(2009)1899, PART II)

The Commission held over approval of the minutes of its 1899th meeting for the following week.

4. INTERINSTITUTIONAL RELATIONS

4.1. LEGISLATIVE MATTERS

i) Action to be taken on Parliament's legislative opinions

(SP(2009)5483)

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(2009)5483, drawn up following the December part-session of Parliament, the contents of which were noted.

4.2. *RELATIONS WITH THE COUNCIL*

ii) *Programming of Council business*

(SI(2010)1)

The Commission took note of the information in SI(2010)1 on the Council meetings between 7 and 20 January.

4.3. *RELATIONS WITH PARLIAMENT*

iii) *Results of Parliament's December part-session*

(SP(2009)5467 to /3)

The Commission took note of the information in SP(2009)5467 to /3 on the proceedings of the part-session of Parliament held in Strasbourg from 14 to 17 December.

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

5.1. *WRITTEN PROCEDURES APPROVED*

(*SEC(2010)3 ET SEQ.*)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 14 and 31 December.

5.2. *EMPOWERMENT*

(*SEC(2010)4 ET SEQ.*)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 14 and 31 December.

5.3. DELEGATION AND SUBDELEGATION OF POWERS**(SEC(2010)5 ET SEQ.)**

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 14 and 31 December, as archived in e-Greffe.

5.4. SENSITIVE WRITTEN PROCEDURES**(SEC(2010)6)**

The Commission took note of the sensitive written procedures for which the time limit expired between 4 and 8 January.

5.5. AD HOC EMPOWERMENT CONCERNING MEASURES TO BE ADOPTED IN RELATION TO A PROCEEDING UNDER ARTICLE 102 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION AND ARTICLE 54 OF THE EEA AGREEMENT (CASE COMP/39.530 – MICROSOFT (TYING))**(SEC(2009)1732)**

The Commission decided to empower Ms KROES, Commission Member responsible for competition, in agreement with the PRESIDENT, to adopt, on behalf of the Commission and under its responsibility, the decisions needed to implement the commitments annexed to the decision of 16 December 2009 in order to ensure that the company concerned complies with the commitments forming part of that decision, according to the terms laid down in SEC(2009)1732.

6. ADMINISTRATIVE AND BUDGETARY MATTERS

(SEC(2010)2/3)

ADMINISTRATIVE MATTERS

(PERS(2010)1)

6.1. *LEGAL SERVICE / DG HUMAN RESOURCES AND SECURITY – COMMISSION DECISION TO BRING PROCEEDINGS BEFORE THE COURT OF JUSTICE OF THE EUROPEAN UNION SEEKING THE ANNULMENT OF THE COUNCIL REGULATION OF 23 DECEMBER 2009 ADJUSTING WITH EFFECT FROM 1 JULY 2009 THE REMUNERATION AND PENSIONS OF OFFICIALS AND OTHER SERVANTS OF THE EUROPEAN COMMUNITIES AND THE CORRECTION COEFFICIENTS APPLIED THERETO* **(C(2010)1)**

The Commission took note of the information at point 1 of PERS(2010)1 and adopted the decision, set out in C(2010)1,

- to bring proceedings before the Court of Justice seeking the annulment of the Council Regulation of 23 December 2009 adjusting with effect from 1 July 2009 the remuneration and pensions of officials and other servants of the European Communities and the correction coefficients applied thereto, and
- to authorise the Legal Service to make the appropriate application to the Court of Justice and to request that the expedited procedure be applied.

These decisions would take effect immediately.

6.2. *DG AGRICULTURE AND RURAL DEVELOPMENT – AD14 DIRECTOR POST*

The Commission took note of the information at point 2 of PERS(2010)1 and, on a proposal from Mr KALLAS, in agreement with the PRESIDENT and Ms FISCHER BOEL, noted that Mr Dacian CIOLOȘ would not be taking up

the post of Director (Rural Development Programmes I) in the Directorate-General for Agriculture and Rural Development.

7. RELATIONS WITH NON-EU COUNTRIES

7.1. OUTCOME OF THE UNITED NATIONS CLIMATE CHANGE CONFERENCE (COPENHAGEN, 7-18 DECEMBER 2009)

The PRESIDENT went back to the outcome of the Copenhagen climate change conference, referring to the historic nature of the conference, the high expectations surrounding it and the extensive efforts to ensure its success, and underlined the disappointment at the outcome.

He acknowledged that a legally binding agreement appeared to be out of the question even before the meeting had started, but there had still been hopes that a process could be initiated that would lead to such a result. He regretted the fact, therefore, that the plenary meeting had not adopted any formal agreement and had simply "taken note" of the pact.

Unfortunately China and India had completely blocked the possibility of securing an ambitious deal and the United States had played an ambiguous role, helping to ensure greater transparency while at the same time refraining from efforts to achieve a higher level of ambition and practical progress on the question of short-term financing and mitigation measures, contrary to expectations in the days prior to the conference.

The PRESIDENT felt, however, that the Copenhagen conference should not be regarded as a total failure but as a sign that the efforts to obtain the European objectives would take longer than expected. Now it was a question of building on the foundations laid in Copenhagen: (1) the agreement to keep global warming to below 2 degrees, a target enshrined for the first time by an international conference; (2) the deadline of the end of January for setting goals to mitigate climate warming by around thirty countries producing 75%

to 80% of greenhouse gas emissions; and (3) the agreements reached on verification and deforestation.

Europe had played an active role during the conference. In particular the Commission, the Council presidency, France, the United Kingdom and Germany had worked to achieve as ambitious a result as possible. It was easier to stall the negotiations in order to reduce the level of ambition than to work to achieve an ambitious agreement, and unfortunately China, India and the United States had set their sights very low.

The Commission and the European Union must maintain their credibility by pursuing their efforts to introduce the "20-20-20" target and maintain their conditional offer of a 30% reduction of emissions in order to encourage other countries to achieve progress on this front despite the lack of interest in this outside the European Union.

The PRESIDENT turned to the other aspects brought to light at the conference, namely global climate governance and policy, the ability of the UN approach to produce tangible results and the role which the EU could play in such processes. These considerations should play an essential part in the work of the future Commission and the EU in general.

It was difficult for the EU to have a real say given the rules relating to its representation at the UN. There was still a lot of ground to be covered, but it was important to move on from the disappointment and to pursue efforts on the basis of the agreement reached. The EU could not solve the climate problem on its own, and it was difficult to negotiate with partners which did not have any binding targets for the moment.

A discussion would have to be held with Member States on the limit which the EU intended to set itself and on how to cope with the vital challenge of climate change. Considerable efforts had been made by the Swedish presidency of the Council and by the Danish presidency of the conference, but some countries had blocked the negotiations. All of these aspects must be

thoroughly discussed and an innovative strategy defined, in particular to get China to adopt a more flexible position. The divisions that had emerged during the conference had broader geopolitical implications, going beyond strictly environmental issues.

The PRESIDENT ended by underlining the key nature of this issue for the coming five years and the need for a different approach than that taken in the past.

The Commission then held an exchange of views during which the following aspects were raised:

- a question about the quality of the cooperation between non-government organisations (NGOs) and the European Union during the conference and the outlook for the future in this respect;
- the imminent end of the distinction between developed and developing countries as laid down in the Kyoto protocol, since China, which produces significant and increasing emissions, would soon no longer count as a developing country, and the poorest countries were not capable of reducing their emissions without financial assistance;
- the question whether the UN process was appropriate for dealing with the complex issue of climate change as it was not possible, in line with UN procedures, to reach agreement on conflicting points of view, and the need therefore to find other solutions and to give the EU a more active role on the international scene, issues which the next Commission should discuss in depth;
- the need to work with the international partners so that they draw up, as agreed, a list of their commitments and the measures they intended to take, and to lay the foundations for the creation of the "green climate fund" agreed on at Copenhagen;
- the great importance of this set of measures in combating climate change,

of energy for the competitiveness and future of the European economy and of European progress on developing a low carbon economy, thanks to the binding targets set;

- the similarities between the UN discussions and World Trade Organisation discussions, where big world players influenced the outcome in their favour, and the need to restore a climate of mutual trust between the partners and to find other ways of dealing with the climate question; the need to prepare the Bonn and Mexico meetings properly in the meantime as another failure could not be countenanced;
- the fact that there was little likelihood in the short term of a commitment by China and the United States to an international compulsory emissions reduction system;
- the technological battle that would emerge from climate change and would be won by innovative countries and above all countries that produced emission-reducing technologies; Europe's shortcoming in this respect as it had innovative capacity but not sufficient industrial production capacity at the moment;
- the lack of a suitable technological response at the moment, and the need to take all possible steps to promote technological development in Europe;
- the problem posed by the representation of the EU at international level, which had been illustrated in Copenhagen by representatives of the Commission, the Council and some Member States adopting positions that were not identical; the importance of reaching agreement with the European Council President on this and of clarifying the limits of competence;
- the failure by some big partners to respect the commitments made in Kyoto and the inadmissibility of their current arguments against binding targets;

- the debate to be held internally to secure a common European position on a reduction target of 30%.

The PRESIDENT first addressed the question of cooperation with NGOs, which, since they were in favour of the most ambitious deal possible, had supported the objectives set by the EU but considered that it had not done enough to obtain an unconditional 30% reduction in emissions.

He then referred to the intention expressed by many countries to set aside the Kyoto protocol, and to consider the possibility and formalities involved in making commitments directly with other countries, in the absence of major world players.

Although he noted the positive nature of the common objectives recognised in Copenhagen, he deplored the opposition of certain countries to any type of global and binding agreement or verification mechanism and to the idea of global governance for climate change. This opposition had led to stalemate.

This explicit refusal to enter into global, binding agreements was not limited to climate issues; there were likely to be difficulties in the areas of monetary affairs and financial regulation too, and the Copenhagen conference had undermined trust between global partners more generally.

However, as far as measures to combat climate change were concerned, the PRESIDENT noted that the states that opposed a binding global agreement were taking action at the domestic level; to illustrate this point he cited the commitments made by the US President and China's leading position in the renewable energy sector.

On the subject of EU representation in international forums he stressed the need for close cooperation with the President of the European Council and the High Representative for Foreign Affairs and Security Policy, but pointed out that the European Union had only observer status at the UN. It would nevertheless be useful to examine these issues in order to maximise Europe's influence. It was also difficult, he said, for the European Union to assert its

influence when large Member States, which were also members of the United Nations, championed positions in that forum that were different from those agreed by the EU – in this instance the question of the target of a 30% reduction. He called for greater consistency.

Finally, the PRESIDENT underlined the special nature of the EU's internal objectives, which had been agreed by all 27 members and therefore had an international dimension. He pointed here to the inequality that arose because the Member States were bound by the rules of the internal market, whereas other states were able to provide state aid to support their energy-intensive industries. This matter needed detailed examination, given the impact on the competitiveness of European firms.

He concluded by emphasising the vital importance of the EU's work in the field of development and the problematic nature of the Chinese position, particularly given its influence on the G77.

The Commission took note of this information.

7.2. CONSEQUENCES OF THE ATTEMPTED TERRORIST ATTACK ON 25 DECEMBER 2009 ON BOARD AN AIRCRAFT BETWEEN AMSTERDAM AND DETROIT

Mr BARROT reported on the situation following the attempted attack on a flight from Amsterdam to Detroit on 25 December. The follow-up to this incident was the subject of close cooperation with the US authorities, and the Commission had invited the US Secretary of Homeland Security, Janet Napolitano, to attend a discussion at the informal meeting of ministers of justice and the interior in Toledo on 20-22 January.

The thwarted attack had highlighted the need for even tighter security and closer cooperation between the European Union and the United States. Although the incident had shown that the European systems worked properly, including the processing and transfer of passenger name records (PNR) to the US authorities, it had also revealed a number of problems in the way the

information was used and in the internal coordination between the various US departments responsible for security.

As far as the lessons to be learnt at European level were concerned, Mr BARROT felt that cooperation between Member States needed to be further strengthened, and in particular there was a need for a single European PNR database and a more effective intra-European data exchange mechanism. It was also important to step up cooperation on the prevention of terrorism, which should include measures to counter radicalisation, for example in prisons, and to intensify cooperation in the field of aviation security.

He also spoke of the need to continue and develop the dialogue between the European Union and the US authorities on airport security and passenger checks. The EU should speak to the US with one voice in this area, to prevent the United States resorting to bilateral negotiations with the Member States and avoid any discrimination between nationals of different Member States, which would be counter-productive.

Mr TAJANI thanked Mr BARROT for the excellent cooperation between their departments following the Christmas Day incident. He spoke of the high level of aviation and airport security, which had successfully protected European citizens from attacks in the air transport sector since 11 September 2001, and the important part played by airport security measures in the fight against terrorism.

He agreed with Mr BARROT on the need for the US authorities to cooperate more closely among themselves and for a re-examination of intra-European cooperation. He had convened a meeting of the Member States' experts responsible for aviation security, on Thursday 7 January, in order to review national strategies and consider other possible measures at European level.

He then turned to the question of body scanners, which several Member States had already decided to introduce. The European Parliament had rejected the Commission's proposal in October 2008, but the question should now be

looked at again, in the light of the Christmas Day incident, with due regard for concerns about individual liberties, human dignity and health. The new Commission would have to attach a high priority to these issues, and it would be helpful to have an agreed policy line for the European Parliament hearings of the Commissioners designate.

Baroness ASHTON also stressed the importance of international cooperation in the fight against terrorism. She mentioned the role played by terrorist groups in Yemen in preparing the failed attack and felt that there was a need for greater counter-terrorist efforts in this area.

She also reported on the preparations for a meeting of representatives from the European Union, the United States and Yemen to be held at the initiative of the UK government on the fringes of the conference on Afghanistan in London on 28 January. She also briefed the Commission on the measures taken in connection with the closure of the French and British embassies in Yemen following threats of an attack.

The PRESIDENT discussed the political significance of the issue. He agreed with the points that had been made and felt that the next Commission would have to continue to highlight the various challenges involved, particularly the safety and security of passengers, but also the need to respect their personal integrity and liberties and safeguard their health, and the need to work for a fair solution at European level. He stressed the need for a common European approach on both personal data (PNR) and airport checks, and announced that the Commission would be producing a proposal on this issue shortly.

The Commission took note of this information.

8. OTHER BUSINESS

REPORT ON GREEK STATISTICS ON GOVERNMENT DEBT AND THE GOVERNMENT DEFICIT

(SEC(2010)17)

Presenting his information note, Mr ALMUNIA explained that, after having sent statistics for the last five budget years and forecasts for 2009 a few days before the election of a new government in October, Greece had then sent new figures which contained significant changes for past years and a sharp increase in the government deficit forecast for 2009, which was set to reach 12.5% of gross national product.

In the light of these new developments, Eurostat had for the fifth time since 2004 expressed a general reservation regarding the figures it had received. Mr ALMUNIA mentioned the impact of this state of affairs on the financial markets and noted that in November 2009 the Economic and Financial Affairs Council had asked the Commission to lay before it a report on the situation regarding the Greek statistics and proposals for measures to rectify the problems that had been found.

He stressed that the structural flaws in the Greek national statistical system and its lack of independence from the Government raised very serious problems and he pointed to the risks that this situation posed for the other Member States and for economic and monetary union. He then presented the report drawn up by Eurostat which would be submitted to the Commission for adoption by written procedure and sent to the Council ahead of its Economic and Financial Affairs meeting on 19 January. The matter would also be discussed at the next Eurogroup meeting.

Mr ALMUNIA mentioned a number of key points in the report: (1) serious irregularities in the notifications made by Greece in April and October 2009 under the excessive deficit procedure, particularly the notification of incorrect data and the non-compliance with the accounting rules and timetable for notifications; (2) inadequate cooperation between the various national departments responsible for collecting the data required for the procedure and their lack of independence from the Finance Ministry; (3) a defective institutional framework and system of public

accounts in terms of producing correct statistics, and particularly an untransparent and inadequately documented account management system; (4) a lack of responsibility in the individual supply of data used in the excessive deficit procedure; and (5) the poorly defined, inadequate or even non-existent responsibility on the part of the national departments responsible for collecting and supplying statistical data and a degree of ambiguity in the assignment of tasks delegated to the officials concerned.

He also pointed out that in 2004 the Commission had proposed an increase in its powers regarding statistics collected and submitted by the Member States, and that key parts of these proposals had been rejected by the Council at that time.

Concluding his presentation, Mr ALMUNIA insisted that the Greek authorities must make clear and detailed commitments to rectify their government deficit and reform and improve their national statistical system. In this context he argued that the Commission should keep a close eye on implementation of the measures decided on by the Greek authorities and apply where necessary the relevant provisions of the Treaty on the Functioning of the European Union, in particular Article 121(4), and the rules of the Stability and Growth Pact.

The Commission then held a discussion, during which the following points were made:

- lingering uncertainty over the reliability and accuracy of the Greek statistics;
- the need for Greece to make clear and firm commitments and to adopt measures to remedy the problems that had been found;
- the importance of Commission action to monitor and verify the measures taken by Greece;
- a reminder of the problems encountered for a number of years by some European companies, particularly in the pharmaceutical and defence industries, in obtaining the payment of invoices by the Greek authorities; this had a detrimental effect on the companies concerned and on the smooth operation of

the single market.

Thanking Mr ALMUNIA for his presentation, the PRESIDENT stressed that, for the euro area and economic and monetary union to operate smoothly, there had to be a high degree of trust between the Member States concerned.

He too recalled the proposals made by the Commission in 2004 to improve its capacity to verify Member States' statistical data which, regrettably, certain countries had opposed; it was important not to lose sight of this fact in the present case.

Finally, the PRESIDENT said that it would be up to the new Commission to propose once again the introduction of a real European system for auditing and verifying the Member States' data and accounts so that the Commission could intervene in good time in order to safeguard the general interest of the European Union and the smooth functioning of economic and monetary union.

The Commission took note of this information and of the note from Mr ALMUNIA set out in SEC(2010)17.

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The meeting closed at 11.33.