



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2013) 2029 final

Brussels, 23 January 2013

MINUTES
of the 2029th meeting of the Commission
held in Brussels
(Berlaymont)
on Wednesday 9 January 2013
(morning)

PV(2013) 2029 final

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Single sitting: Wednesday 9 January 2013 (morning)

The sitting opened at 9.09 hours with Mr BARROSO, President, in the chair.

Present:

Mr BARROSO	President	
Baroness ASHTON	High Representative/ Vice-President	
Ms REDING	Vice-President	
Mr ALMUNIA	Vice-President	
Mr KALLAS	Vice-president	
Ms KROES	Vice-president	
Mr TAJANI	Vice-president	
Mr ŠEFČOVIČ	Vice-president	
Mr REHN	Vice-president	Items 7 (in part) and 8 (in part)
Mr POTOČNIK	Member	
Mr BARNIER	Member	
Ms VASSILIOU	Member	
Mr ŠEMETA	Member	
Mr DE GUCHT	Member	
Ms GEOGHEGAN-QUINN	Member	
Mr LEWANDOWSKI	Member	
Ms DAMANAKI	Member	
Mr OETTINGER	Member	Items 1 to 8 (in part)
Mr HAHN	Member	
Ms HEDEGAARD	Member	
Mr FÜLE	Member	
Mr ANDOR	Member	
Ms MALMSTRÖM	Member	Items 1 to 7
Mr CIOLOŞ	Member	
Mr BORG	Member	

Absent:

Mr PIEBALGS

Member

Ms GEORGIEVA

Member

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

Mr KARHUNEN	Deputy Chef de cabinet to Mr PIEBALGS
Mr DELPHIN	Chef de cabinet to Ms GEORGIEVA

The following also sat in:

Mr LAITENBERGER	Chef de cabinet to the PRESIDENT	
Mr ROMERO REQUENA	Director-General, Legal Service	
Mr PAULGER	Director-General, DG Communication	
Mr DOENS	Head of the Commission Spokesperson Service	Items 1 to 7
Ms AHRENKILDE HANSEN	Commission Spokeswoman	
Mr THEBAULT	Head of the Bureau of European Policy Advisers	
Ms DE RICHEMONT	Adviser in the PRESIDENT's Office	
Mr HOLOLEI	Chef de cabinet to Mr KALLAS	
Mr FITCH	Deputy Chef de cabinet to Mr KALLAS	Items 1 to 7
Ms CHAPUIS	A member of Mr KALLAS's staff	Items 7 (in part) and 8
Mr RUETE	Director-General, DG Mobility and Transport	

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

1. AGENDAS

(OJ(2013) 2029/FINAL; SEC(2012) 722/2)

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

2. WEEKLY MEETING OF CHEFS DE CABINET

(RCC(2013) 2029)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Tuesday 8 January.

3. APPROVAL OF THE MINUTES OF THE 2027TH MEETING OF THE COMMISSION (12 DECEMBER 2012) AND THE MINUTES AND SPECIAL MINUTES OF THE 2028TH MEETING (19 DECEMBER 2012)

(PV(2012) 2027; PV(2012) 2028; PV(2012) 2028, PART II)

The Commission approved the minutes of its 2027th meeting and decided to hold over for one week approval of the minutes of its 2028th meeting.

4. INTERINSTITUTIONAL RELATIONS

LEGISLATIVE MATTERS

Ordinary legislative procedure

Dossier at Parliament first reading

- General provisions for macro-financial assistance to third countries (Regulation) – KAZAK report – 2011/0176 (COD)

The Commission approved the line set out in SI(2012) 574/2.

5. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

5.1. WRITTEN PROCEDURES APPROVED (SEC(2012) 723 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 17 December 2012 and 4 January 2013.

5.2. EMPOWERMENT (SEC(2012) 724 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 17 December 2012 and 4 January 2013.

5.3. DELEGATION AND SUBDELEGATION OF POWERS

(SEC(2012) 725 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 17 December 2012 and 4 January 2013, as archived in e-Greffe.

5.4. SENSITIVE WRITTEN PROCEDURES

(SEC(2012) 726)

The Commission took note of the sensitive written procedures for which the time limit expired between 3 and 11 January.

6. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – ENTREPRENEURSHIP 2020 ACTION PLAN – REIGNITING THE ENTREPRENEURIAL SPIRIT IN EUROPE

(COM(2012) 795 TO /3; RCC(2012) 135)

The Commission approved the Communication in COM(2012) 795/3 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, and, for information, to the national parliaments.

7. DEBATE TO PREPARE THE FOURTH RAILWAY TRANSPORT PACKAGE – COMPLETING THE SINGLE EUROPEAN RAILWAY AREA TO REINFORCE GROWTH AND COMPETITIVENESS IN EUROPE (RCC(2013) 2)

Before opening the debate itself the PRESIDENT wished the Commissioners a Happy New Year at this first meeting of 2013. He took the opportunity to praise the significant work achieved in 2012 by the European institutions in general and the Commission in particular to put in place tools and mechanisms capable of warding off the threats that had for a time hung over the Economic and Monetary Union. The work awaiting the Commission this year was no less significant in order to set about achieving the European objectives of a return to growth and employment by means of concrete proposals, given the continuing economic and social fragility.

He therefore welcomed the first major initiative of 2013, the fourth railway package being submitted today by Mr KALLAS for a general policy discussion. There would be several legislative proposals and reports on this package, which would be submitted to the Commission in due course.

The PRESIDENT explained that the chief objective of this initiative was to stimulate competitiveness in the European transport sector while promoting the smooth operation of the internal market and the EU economy. He stressed that this should bring about tangible results both in terms of efficiency and of quality of the services offered to users, against a background of recovery and job creation. Given the interests at stake and the resistance to change that it was sure to arouse, the Commission's initiative must be supported by a solid basis of evidence and figures, as well as on an in-depth analysis of the cost-effectiveness of the measures advocated. On the political front, for evident reasons of credibility, the Commission must make proposals that could go through the complete interinstitutional examination process without being significantly modified or watered down in terms of substance.

The aim of that day's debate was to reach a consensus on the line to be followed in order to adopt proposals that all the Commission Members could go on to defend in the Member States, the Council and Parliament. He therefore called on the Commissioners to focus on a long-term view, in particular on the issue of competitiveness, which would be the subject of part of the discussion seminar to be held on 18 January.

In conclusion, he reminded the meeting of the three key topics in the questionnaire that would guide the discussion, namely (i) governance and the level of ambition of the provisions submitted on the separation between infrastructure management and operation of rail services; (ii) the ways and means of opening up national rail passenger transport markets, particularly in terms of public service obligations, but also in terms of the possibilities of opening up European markets to undertakings in third countries, with the consequent issue of reciprocity; (iii) the role of the European Railway Agency, although the related issue of resources must be examined in the broader framework of the general approach to all agencies in the light of the commitments undertaken by the Commission in the interinstitutional negotiations on the EU's 2014-2020 Multiannual Financial Framework.

Mr KALLAS presented the fourth railway package aimed at completing the single European Railway Area and thereby reinforcing competitiveness and growth in Europe, based on a vision of the long-term viability of this sector and the transition to more sustainable means of transport. He explained the validity of the initiative in terms of the need to overcome the barriers that still prevented rail operators and the rail equipment industry from fully exploiting the possibilities of the single market. The internal market was key to guaranteeing that the rail equipment industry remained in the forefront and retained all its export advantages. Despite considerable public investment, rail transport was still not competitive; the investment gave low added value and moreover there was a general climate of dissatisfaction on the part of users.

Mr KALLAS referred first to the concept of interoperability at the heart of the planned initiative. Its aim was to overcome the problem of the plethora of national regulations within the Union and to reduce the unnecessary burden placed on

operators in the sector by national approval procedures. This was why he was proposing to give the European Railway Agency new powers to issue a single approval for placing rolling stock on the market and certifying the related safety mechanisms. It was also planned to give the Agency a bigger role in supervising national rules and monitoring security agencies in the Member States.

He went on to present the objective of opening up the national rail passenger transport markets, where the lack of competition resulted in mediocre service, insufficient consumer choice and inefficient use of public funds. He was proposing an opening up of national markets while providing for the possibility of limiting this so as not to compromise the economic equilibrium of public service contracts. He also suggested making public tendering of public service contracts obligatory from December 2019, which would help to make public procurement more transparent, faster and less costly. As regards working conditions in the rail sector, he stressed that the rules applying to transfers of personnel would be maintained.

Turning lastly to the issue of governance, Mr KALLAS referred to the need to remedy the inefficient management of infrastructure and discriminatory access to this infrastructure. One of the main aims of the single European railway area was to introduce the principle of complete separation of infrastructure management from transport operation. While recognising the highly sensitive nature of this issue in political terms, he emphasised that full unbundling of activities was needed to ensure that railway networks were developed in the interest of all stake-holders, not just the incumbent operators, and to improve their operational efficiency by entrusting infrastructure managers with all the functions needed for optimum operation. As regards the option defended by certain parties who wished to maintain an integrated structure (holding) with the introduction of solid ‘Chinese walls’, he felt it was best to opt for complete separation since this would eliminate the possibilities of conflicts of interest and have the advantage of significantly lightening the burden of administrative management.

Mr KALLAS concluded by emphasising that this initiative came under the Single Market Act, the Europe 2020 strategy for Jobs and Growth and the green growth policy pursued in the European Union. Welcoming the fact that it would improve

the return on public investment in the rail transport sector, he said that it would mean increased demand for skilled workers.

In the course of the ensuing debate the following main points were raised:

- broad support for the general principles and objectives of the fourth railway package, regarded as a major contribution to boosting growth and providing European consumers, industry and rail users in general with concrete benefits; the importance of enhancing the competitiveness of the rail transport sector and of encouraging a modal shift to rail transport, an alternative solution that was more environment-friendly than road transport, thereby helping to improve road traffic fluidity and the European energy situation;
- the need to promote private investment in the development and maintenance of rail infrastructure as this was insufficient in a large number of Member States because of the absence of an integrated European market; the economic importance of the initiative, which would help reinforce the position of European manufacturers as world leaders in rail technology, in particular in relation to high-speed trains;
- as regards the reforms in the rail sector in general, the case for taking into account, in the proposals to be put forward by the Commission, the experiences of various Member States, in particular those that had already opened up their rail networks to competition;
- the importance of a clear separation between infrastructure managers and rail service operators, which was now regarded as the most appropriate and least costly way of avoiding conflicts of interest arising in particular from the nature of this means of transport, and which would eliminate the cross-subsidies inherent to the integrated model and encourage freedom of access and more competition for market newcomers; a middle way was not satisfactory when it came to achieving these objectives;
- the comment that competition was possible even without a complete unbundling of integrated structures as the latter were capable of providing

benefits in terms of synergies and communication between infrastructure managers and transport companies, and in terms of costs; as a result, the need to provide convincing, objective facts to demonstrate the actual gains to be made from separation, with some Commission Members urging caution as regards extreme solutions and expressing concern about the organisational issues that had emerged as a result of the reforms conducted in some Member States and the mixed results obtained in terms of a real reduction in costs and improvement in the service provided;

- a warning about the risk of replacing integrated rail groups by a European oligopoly for operations, while maintaining monopolies in the area of infrastructure, which would hardly help achieve the objective pursued by this initiative, namely increased competition in the interests of users;
- questions as to whether it was a good idea to set cut-off dates for unbundling that would be difficult to comply with; the need to establish a sufficiently long transition period to enable the various economic operators to adjust;
- the case for showing a certain amount of flexibility when deciding on the models for unbundling and calls for tender that best suited each Member State, and in relation to public service obligations;
- the importance, likewise, of leaving sufficient room for manoeuvre in terms of the social dimension of the reform of governance to ensure that this aspect did not become a variable to be adjusted;
- as regards the obligation to award public service contracts on the basis of a call for tenders, the need to take account of public service requirements and maintain the working conditions of staff laid down in the legislation in force when companies were sold; likewise the need to define public service limits, for instance as regards long-distance routes;
- the importance of consulting the public transport employers and workers concerned;

- as regards the regional impact, the need to take account of territorial cohesion and ensure that links between major urban centres were not the sole links favoured in order to avoid a rural exodus and improve the inter-connectivity of the road and rail networks;
- doubts about the envisaged timetable for proposals given the forthcoming Court of Justice rulings on infringements relating to the correct implementation of the various pieces of basic EU legislation in the first rail package on opening up the European rail transport market to competition;
- the importance of ensuring good communication on the social impact of the initiative, the job-creation potential in the sector and the benefits for users and tourism;
- the need to discuss separately the question of human and financial resources set aside for the European Railway Agency in the light of the functions allocated to it under this initiative and in the broader context of resources allocated to the various agencies in general.

In reply to these various comments, Mr KALLAS explained why this was a good time to present a Commission initiative on the single European railway area. There was a window of opportunity of a few months in which to do so, taking into account the political calendar – the time needed for legislative proposals to be examined in the Council and the European Parliament and the present Commission's term of office – and the priorities of the Irish Council Presidency, which had just begun and was keen to make progress on these proposals. Moreover, he felt that there was nothing to be gained from awaiting the forthcoming judgments by the Court of Justice on the infringement proceedings under way, since these judgments would be concerned specifically with possible abuses of law rather than the content of future policies in this area, which was a matter for the legislator.

He then returned to the key political question of separating the activities of infrastructure managers and rail service operators, which would no doubt be the focus of a wide-ranging public debate. Although not a miracle solution, unbundling

was a vital prerequisite for establishing a real pan-European network and opening up national rail transport markets. Mr KALLAS pointed out that there was already broad consensus on these ideas. Market access would become more attractive for new investors in rail services, as there would no longer be any risk of unfair competition arising from the possible cross-subsidisation of a company's transport operations using revenue from infrastructure charges or public infrastructure aid.

The end date of the transition period for unbundling, 2019, was not set in stone, but sticking to this date would show the Commission's determination to adopt an ambitious approach. As for the question of defining public service obligations, he felt it was reasonable to allow Member States a certain margin for manoeuvre.

He advocated taking an objective view of the staffing situation at the European Railway Agency by comparing its relatively modest human resources with the efficiency gains that could be achieved by the single approval system and safety certification, and by looking into the possibility of setting up a system of fees, which was supported by stakeholders in the industry.

Mr KALLAS ended by stressing that this was a politically sensitive issue that had already generated a great deal of pressure within the Union, and by confirming his intention to present shortly, once the final details had been examined, a set of legislative proposals which he regarded as a major contribution to restoring growth and jobs in Europe.

The PRESIDENT noted the general support from the Commissioners for the principle of fully opening up the national rail passenger transport markets and promoting a single European market in this sector. He asked Mr KALLAS to build on this support and continue his work in order to present corresponding proposals in the near future.

He also noted that a number of aspects would still have to be examined further, in particular the question of the resources to be allocated to the European Railway Agency and consistency in public service obligations across Europe.

As regards the communication strategy to be pursued, he felt that the Commission

should try to get its point across by presenting objective data to back up its initiative and highlighting the prospects of growth and jobs to be expected from a more dynamic and innovative industry.

On the key question of separating the activities of infrastructure managers and rail service operators, he noted that there were some concerns regarding the detailed implementing arrangements, which would call for some careful political fine-tuning. For the moment he suggested that Mr KALLAS continue his analysis of the options for unbundling integrated structures so that the Commission could put forward the best possible policy proposal in order to achieve a satisfactory compromise during the legislative procedure in Council and Parliament.

He concluded by welcoming the broad support of the Commissioners for this initiative, which promised much for Europe's citizens and for the economic future of the transport industry, in which Europe had always been at the forefront.

8. PREPARATORY DEBATE ON THE PROPOSAL ON CLEAN POWER FOR TRANSPORT (RCC(2013) 1)

The PRESIDENT invited the Members of the Commission to continue the debate, raising the issue of clean power for transport, which would be the subject of a proposal for a directive and a communication from Mr KALLAS to be tabled at a later date.

Against this background, he felt that the discussion could usefully focus on the following issues: (i) the types of fuel covered by the forthcoming proposal and any risks associated with the choice of the relevant technologies; (ii) the targets set for the Member States, whether binding or subject to modification, including those on applicable rules and standards, for example for electric vehicles; and finally (iii) a cost-benefit analysis of the proposal and what was expected in terms of investment by the Member States and the private sector.

Mr KALLAS outlined the main features of the new legislative proposal, which would be concerned primarily with infrastructure and standards in the context of a European strategy for alternatives to oil as a transport fuel.

As regards possible alternative fuels for transport, he stressed first the need to ensure the security of Europe's energy supply by means of diversification, given the current over-dependence on imported oil and the attendant risks in the medium and longer term. Alternative solutions would, in his view, make it possible to reduce the current high cost of Europe's energy imports, contribute effectively to achieving the goal of sustainable transport and form part of the Union's overall strategy for growth and jobs by promoting new possibilities for trade for European industry and particularly its small and medium-sized businesses.

He briefly presented the different possible types of fuel according to the means of transport under consideration. He then turned to the question of targets and standards, noting here that European industry needed a strong, unequivocal signal in order to invest and there was an urgent need to create a globally competitive European market that was conducive to investment and would also instil confidence in consumers and win their support. He stressed the importance of developing infrastructure that met common standards, incentives to revitalise the market and legislative and regulatory measures to ensure the sustainability of the market concerned.

Finally, he mentioned the cost of the future proposal, arguing that the estimated cost of 10 billion euros for creating the infrastructure would be more than offset by the expected benefits, particularly by avoiding the impact of future oil price rises, improving the security of Europe's supply, helping the environment, growth and jobs, and generating demand among consumers for the new products available on the market.

The Commission voiced its support for the principles, timetable and objectives of the new proposal, before considering the following aspects:

- the importance of putting the future proposal firmly in the context of the

Union's overall objectives for decarbonisation;

- the need for rapid investment in research and innovation, avoiding fragmentation and technological bottlenecks;
- questions about the binding nature of the targets, particularly given the risk of promoting technological solutions which might prove not to be viable, and the preference of some participants for prioritising incentives to the market which would then decide which instruments were appropriate, with review clauses to ensure monitoring of implementation in practice; other participants' preference for ambitious and binding targets coupled with common standards to ensure real progress in Europe towards interoperability, clean power and the reduction in greenhouse gas emissions in the transport sector in a highly competitive international environment;
- the merits of setting minimum levels for infrastructure and standards rather than targets;
- a reminder of the environmental externalities to be taken into account and the relevance here of provisions which did not leave decisions to the market alone;
- mention of the proposals under examination for European energy terminals and questions about how these related to the present discussion in terms of investment, connections and geographical spread;
- the importance of coordination and complementarity within the Union to develop synergies;
- the need for a careful and detailed cost-benefit analysis, particularly as regards the initial public or private sector investment required and a reminder of the European funds already provided, including those invested in public-private partnerships, for example.

Mr KALLAS replied to the questions raised and spoke of the importance of avoiding an excessively prescriptive proposal while at the same time ensuring clear, realistic and ambitious objectives based on expert analyses which did not rule out

any possibility for technological innovation. On the question of investment, he felt that the current economic situation militated in favour of private investment, but this did not preclude changes at a later date, if appropriate.

The PRESIDENT concluded by thanking Mr KALLAS for his initiative and the participants for their valuable contributions. He noted that certain questions remained regarding how prescriptive the future proposal should be, but was confident that agreement could be reached on this point when Mr KALLAS' proposal was presented to the Commission for adoption.

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The meeting closed at 12.04.