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SECRETARIAT-GENERAL

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MINUTES
of the 1539th meeting of the Commission
held in Brussels
(Breydel)
on Wednesday 10 October 2001
(morning)

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They contain 23 pages.

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Single sitting: Wednesday 10 October (morning)

The sitting opened at 0920 hours with Mr Prodi, President, in the chair.

Present:

Mr PRODI	President	
Mr KINNOCK	Vice-President	
Ms de PALACIO	Vice-President	
Mr MONTI		Except items 12 to 18
Mr LIIKANEN		
Mr BUSQUIN		
Mr SOLBES		
Mr VERHEUGEN		
Mr LAMY		
Mr BARNIER		
Ms REDING		
Ms SCHREYER		
Ms DIAMANTOPOULOU		

Absent:

Mr FISCHLER
Mr BOLKESTEIN
Mr NIELSON
Mr PATTEN
Mr BYRNE
Ms WALLSTRÖM
Mr VITORINO

The following sat in to represent absent Members of the Commission

Ms DORAN	Deputy Chef de cabinet to Mr Fischler
Mr POST	Chef de cabinet to Mr Bolkestein
Mr MØRCH	A member of Mr Nielson's staff
Mr CARY	Chef de cabinet to Mr Patten
Ms BENOLIEL	Deputy Chef de cabinet to Mr Byrne
Mr ANNERBERG	Chef de cabinet to Ms Wallström
Mr FONSECA MORILLO	Deputy Chef de cabinet to Mr Vitorino

The following also sat in

Mr PETITE	Director-General, Legal Service	
Mr MANSERVISI	Chef de cabinet to the President	
Ms HOUTMAN	Deputy Chef de cabinet to the President	
Mr GUSSETTI	A member of the President's staff	
Mr SMULDERS	A member of the President's staff	
Mr FAULL	Commission Spokesman	
Mr MONKCOM	Member of the Group of Political Advisers	
Mr CALLEJA	Chef de cabinet to Ms de Palacio	Items 12 to 15
Mr CANGA FANO	A member of Ms de Palacio's staff	Items 12 to 15
Mr ESTEVA MOSSO	A member of Mr Monti's staff	Items 12 to 18

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

1. AGENDAS

(OJ(2001)1539/3; SEC(2001)1586/2)

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

2. WEEKLY MEETING OF CHEFS DE CABINET

(SEC(2001)1539)

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

3. APPROVAL OF MINUTES OF 1539th MEETING (3 October)

(PV(2001)1538 and /2)

The Commission approved the minutes of its 1538th meeting.

4. PARLIAMENT

4.1. OCTOBER I PART-SESSION

(SP(2001)3241)

The Commission took note of the record of Parliament's part-session held in Strasbourg from 1 to 5 October.

**4.2. ACTION TO BE TAKEN ON PARLIAMENT'S OPINIONS
(SP(2001)3239)**

The Commission approved the empowerment decisions in SP(2001)3239.

**5. PERMANENT REPRESENTATIVES COMMITTEE
(SI(2001)1033; SI(2001)1055; SEC(2001)1048)**

The Commission took note of the Secretariat-General's reports on recent meetings of the Permanent Representatives Committee.

It paid particular attention to the following:

**5.1. DIRECTIVE ON DATA PROTECTION: EFFECTS OF THE
CONCLUSIONS OF THE SPECIAL COUNCIL MEETING (JUSTICE
AND HOME AFFAIRS) OF 20 SEPTEMBER
(SI(2001)1050)**

Following the request of the Council (Justice and Home Affairs) of 20 September that a balance be struck between private data protection and the requirements of the security authorities, certain Member States considered that the common approach already reached on Articles 6 and 15 of the data protection Directive should be re-examined.

Without prejudice to clarification by the Commission of the scope of Articles 6 and 15 of the proposal, the Commission decided to re-examine the question in the light of developments in the Council bodies, particularly the Council meeting (Transport and Telecommunications) on 15 and 16 October.

**5.2. EUROPEAN AVIATION SAFETY AGENCY (EASA)
(SI(2001)1033)**

In the light of the information available (see SI(2001)1033) on progress in the discussions in the Council bodies on the question of the headquarters of the Agency (Article 19) and on navigability and environmental certification (Article 15), the Commission empowered Ms de PALACIO to facilitate the Presidency's compromise on the question of the headquarters while maintaining the Commission's initial line on certification.

**6. MONITORING THE APPLICATION OF COMMUNITY LAW: STATE AID
AND INFRINGEMENTS**

**6.1. STATE AID
(SEC(2001)1488/2; SEC(2001)1483/3)**

The Commission adopted the following decisions:

N 568/2001 NETHERLANDS

Rationalisation of pig slaughterhouses

(SEC(2001)1488 and /2)

Decision: Held over

C 66/2000 GERMANY

Aid to Zeitzer-Maschinen, Anlagen Geräte ZEMAG GmbH

(SEC(2001)1483 to /3)

Decision: to terminate the Article 88(2) proceedings by adopting a negative final decision with recovery, in accordance with the decision set out in SEC(2001)1483/3.

**6.2. INFRINGEMENTS - DOSSIERS HELD OVER FOR UNAVAILABILITY
OF TEXT - REGULARISATION
(SEC(2001)1601)**

The Commission adopted the decisions in SEC(2001)1601.

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

**7.1. WRITTEN PROCEDURES APPROVED
(SEC(2001)1587 to /5)**

The Commission took note of the Secretariat-General's memoranda recording decisions adopted by written procedure between 1 and 5 October.

**7.2. SENSITIVE WRITTEN PROCEDURES
(SEC(2001)1589)**

The Commission took note of written procedures initiated between 1 and 5 October for the adoption of decisions with political implications.

**7.3. EMPOWERMENT
(SEC(2001)1590 to /5; SEC(2001)1591 to /4)**

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the empowerment procedure between 1 and 5 October.

8. ADMINISTRATIVE AND BUDGETARY MATTERS
(SEC(2001)1592/2)

ADMINISTRATIVE MATTERS
(PERS(2001)275)

8.1. MIDDLE-MANAGEMENT POSTS AND ORGANISATION CHARTS
(PERS(2001)274)

The Commission took note of the decisions adopted by Mr KINNOCK in September.

8.2. INITIAL COMMUNICATION UNDER ARTICLE 50 OF THE STAFF REGULATIONS

The Commission, on a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Mr LIIKANEN, decided to initiate the first stage of the procedure laid down in Article 50 in respect of Mr Vicente PARAJON COLLADA, A1 official and currently Deputy Director-General for the Information Society.

The PRESIDENT would send Mr PARAJON COLLADA a letter notifying him of the Commission's intentions and asking for a reply by 9 November.

8.3. EXTENSION OF CONTRACT OF A TEMPORARY A2 OFFICIAL

On a proposal from Commission, in agreement with the PRESIDENT and Mr BUSQUIN, and after consulting the Board of Governors of the Joint Research Centre, the Commission authorised the renewal for five years of the temporary contract of Mr Manfred GRASSERBAUER, temporary A2 official and currently Director of the Institute for Reference Materials and Measurements at the Joint Research Centre in Geel, which was due to expire on 31 January 2002.

**9. SECOND REPORT ON THE PREPARATIONS FOR THE INTRODUCTION
OF EURO NOTES AND COINS**

(COM(2001)561 to /5; SEC(2001)1604)

The Commission approved the communication in COM(2001)561/4 and /5 for transmission to the Council, with a view to the Ghent European Council on 19 October, and to Parliament, the Economic and Social Committee, the Committee of the Regions and the European Central Bank.

10. APPLICATION OF ARTICLE 81 OF THE TREATY

(C(2001)3028 to /4; SEC(2001)1612)

The Commission:

- took note of the final report of the Hearing Officer in C(2001)3028;
- took note of the opinion of the Advisory Committee on Restrictive Practices and Dominant Positions of 1 October on the draft decision in case COMP/36.264, as set out in C(2001)3028, and of the Committee's opinion of 5 October on the amount of the fines, as set out in C(2001)3028/4;
- adopted, in the authentic language (German), the decision in C(2001)3028/3, concluding that the firm in question had infringed Article 81(1) of the EC Treaty and imposing a fine of €71.825 million;
- decided to publish the decision in the Official Journal with all business secrets removed.

**11. APPLICATION OF COUNCIL REGULATION (EC) No 4064/89 ON THE
CONTROL OF CONCENTRATIONS BETWEEN UNDERTAKINGS
(C(2001)3014 to /6; SEC(2001)1598)**

Mr MONTI introduced a case involving the merger of two French public limited companies, Schneider and Legrand, active at world level in the manufacture and sale of electrical equipment.

Analysis of this operation showed that, depending on the markets considered, it would have the effect of creating or strengthening a dominant position that would significantly reduce competition on various markets.

Following the statement of objections by the Commission to the notifying party, the latter had tabled, within the deadline laid down (14 September), proposals for commitments which had been invalidated following the Commission's inquiry, and then alternative proposals for commitments after the deadline (24 September), which had likewise been deemed insufficient.

Where commitments were submitted late, they could be accepted by the Commission only if they left no uncertainty as to the elimination of the competition problems noted (item 43 of the Commission statement on corrective measures).

Mr MONTI therefore proposed that the Commission declare the merger incompatible with the common market and with the EEA agreement.

The Commission held an exchange of views on this case. A more general discussion was held on the relationship between competition policy and industrial policy.

Mr MONTI pointed out that, in the field of merger operations, the number of negative decisions by the Commission and of cases where the notifying party had withdrawn its notification at the second stage represented around 2% of all operations notified.

The conditions for applying the merger Regulation would be discussed at the time of presentation of a Green Paper on this subject, planned for adoption before the end of the year.

Following this discussion, the Commission:

- took note of the opinion of the Advisory Committee on Concentrations of 28 September in C(2001)3014;
- took note of the final report and the supplementary report of the Hearing Officer of 1 October, as set out in C(2001)3014 and /5;
- adopted, in the authentic language (French), the decision in C(2001)3014/5 declaring a merger operation notified to the Commission by *Schneider* on 16 February 2001 (COMP/M.2283), enabling it to acquire exclusive control of *Legrand*, incompatible with the common market and with the operation of the EEA Agreement.

- 12. PROPOSAL FOR A REGULATION LAYING DOWN THE FRAMEWORK FOR THE CREATION OF THE SINGLE EUROPEAN SKY TOGETHER WITH A COMMUNICATION ON THE ACTION PROGRAMME ON THE CREATION OF A SINGLE EUROPEAN SKY
(COM(2001)123 TO /11)**
- 13. COMMISSION COMMUNICATION ON THE IMPLEMENTATION OF THE SINGLE EUROPEAN SKY
PROPOSALS FOR PARLIAMENT AND COUNCIL REGULATIONS ON THE PROVISION OF AIR NAVIGATION SERVICES IN THE SINGLE EUROPEAN SKY, ON THE ORGANISATION AND USE OF THE AIRSPACE IN THE SINGLE EUROPEAN SKY AND ON THE INTEROPERABILITY OF THE EUROPEAN AIR TRAFFIC MANAGEMENT NETWORK
(COM(2001)564 TO /4; SEC(2001)1603)**

Ms de PALACIO presented a communication on the creation of an integrated European airspace ("single sky") and a proposal for a Parliament and Council Regulation laying down principles and working methods in this field.

These proposals embodied the conclusions of the report submitted in November 2000 by the high-level group set up at the beginning of 2000 and consisting of the civilian and military authorities responsible for air traffic control in the Member States, with the participation of representatives from Switzerland, Norway and Eurocontrol.

On the basis of these guidelines, Ms de PALACIO proposed an action programme and a schedule whose implementation would make European airspace an integrated area from 2004, organised according to the same principles and governed by the same rules. In carrying out this programme, the Community would exercise fully its powers as regulator, and the Commission would call on the competence and

expertise available within Eurocontrol for the technical preparation and implementation of the Community rules.

In addition to the proposal for a Regulation laying down the framework for the creation of the single sky, she also presented three technical proposals for Parliament and Council regulations on:

- the provision of air navigation services in the single sky;
- the organisation and use of the airspace in the single sky;
- the interoperability of the European air traffic management network;

with the aim of ensuring better management of air traffic.

The Commission approved:

- the communication and the proposal for a Regulation in COM(2001)123/9 and /11,
- the communication and the proposals for Regulations in COM(2001)564/4;

for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

14. PROPOSAL FOR A PARLIAMENT AND COUNCIL REGULATION ESTABLISHING COMMON RULES IN THE FIELD OF CIVIL AVIATION SAFETY

(COM(2001)575 to /4; SEC(2001)379; SEC(2001)1603; SEC(2001)1630)

Ms de PALACIO presented a proposal for a Parliament and Council Regulation laying down common rules in the field of civil aviation safety.

The adoption of such measures, made necessary by the attacks of 11 September in the United States, had been called for several times in various bodies (Council (Transport) of 14 September, European Council of 21 September).

The interdependence of the Member States in the face of the terrorist threat justified the adoption of common standards based on the work of the European Civil Aviation Conference (ECAC) and the setting-up of mechanisms for monitoring their application.

To deal with certain exceptional events, Member States could make additional provisions, this flexibility being nevertheless subject to a Community monitoring mechanism.

Ms de PALACIO pointed to the need to establish quickly an effective system for monitoring the implementation of these measures in all Member States.

In this connection, she distributed in the meeting the interim report of the *ad hoc* multidisciplinary group on civil aviation safety, to be put to the Council meeting (Transport) on 16 October.

The Commission took note of the report of the *ad hoc* multidisciplinary group in SEC(2001)1630, and approved the communication in COM(2001)575/4 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

**15. THE REPERCUSSIONS OF THE TERRORIST ATTACKS IN THE UNITED STATES ON THE AIR TRANSPORT INDUSTRY
(COM(2001)574 to /5; SEC(2001)1608)**

Ms de PALACIO presented an analysis of the economic situation of the air transport industry following the attacks of 11 September and the various measures taken in the industry in the Member States and the United States.

The Commission had to make sure that any support measures for the sector taken or planned by the Member States would not create distortions of competition between airlines, and also that they did not jeopardise the competitiveness of European airlines compared with American ones likewise benefiting from substantial support measures.

In the light of this dual requirement, she reviewed the various areas of possible intervention:

- the application of state aid rules to two types of payment: compensation for the costs caused to the airlines by the closure of US airspace for four days, and payment, under certain conditions, of the extra insurance costs;
- assumption of responsibility by the state for the cost of strengthening security measures;
- the possibility of mutualising the coverage of insurance risks at European level;
- the maintenance of the time slots allocated to airlines, although their utilisation rate was less than 80% as a result of the terrorist attacks.

On the international relations front, she would be proposing a code of conduct between the Community and the United States so as to avoid distortions of competition caused by aid for American airlines, and pointed out that the Council should agree as soon as possible to the draft mandate put before it in 1995, enabling the Commission to negotiate an agreement with the United States to create a framework providing safe, reliable and competitive operating conditions for airlines on both sides of the Atlantic.

The Commission held an exchange of views on the various measures planned, and noted in particular the need to check whether support measures for American airlines could have an effect on the markets where these companies were in strong competition with European airlines, principally the transatlantic routes.

It agreed to incorporate a number of amendments in a revised version of COM(2001)574/5.

Following this discussion, the Commission approved the communication in COM(2001)574/5 for transmission to Parliament and the Council.

**16. DRAFT JOINT REPORT ON THE BASIS OF NATIONAL ACTION PLANS
ON SOCIAL INCLUSION - COMMISSION COMMUNICATION
(COM(2001)565 to /9; SEC(2001)1609)**

Ms DIAMANTOPOULOU presented a draft report on social inclusion, which constituted the Commission's contribution to the drawing-up of the joint Council/Commission report on social inclusion to be submitted to the Laeken European Council.

She reminded the meeting of the origins of this initiative: provisions relating to combating social exclusion introduced in the Treaty of Amsterdam; conclusions of the Lisbon European Council on eliminating poverty by 2010; invitation by the Nice European Council to identify good practices and innovative approaches on the basis of national action plans against poverty and social exclusion put forward by the Member States in June 2001.

The draft report was the first concrete application in the social field of the coordination method laid down at the Lisbon European Council, and showed the active commitment of the Commission and the Member States to the process of developing common indicators to improve future monitoring of progress achieved.

The rate of relative poverty - defined as the percentage of the population whose income was below 60% of the national median income - was 18% on average in the Community in 1997, representing 60 million persons, and varied according to the

levels of expenditure on social protection in the Member States (8% in Denmark, 23% in Portugal).

The Commission:

- approved the draft joint report in COM(2001)565/3, /6 to /8 and /9 for transmission to the Council, Parliament, the Economic and Social Committee and the Committee of the Regions, and, on this basis,
- empowered Ms DIAMANTOPOULOU, in agreement with the PRESIDENT, to adopt, on behalf of the Commission, the joint report on social inclusion following the discussions to be held in the Council.

17. COUNCIL MEETINGS

(SI(2001)1043/2)

GENERAL AFFAIRS

(LUXEMBOURG, 8 AND 9 OCTOBER)

The PRESIDENT and Mr BARNIER reported on the main conclusions of the Council meeting (General Affairs) of 8 and 9 October on combating terrorism and on the future of the European Union.

As regards combating terrorism, the Council had adopted a policy declaration (solidarity with the United States, substantial humanitarian aid effort, dismantling organisations and financing structures supporting terrorism) and formal conclusions containing specific guidelines:

- ratification and speedy implementation of all existing international conventions on combating terrorism;

- development of a reference framework for a systematic assessment of the Union's relations with non-member countries in the light of their possible support for terrorism;
- re-examination of relations with certain countries (strengthening of Community aid to Pakistan, consultations with Iran with a view to the negotiation of a trade and cooperation agreement, enhanced cooperation with India and with the central Asian countries).

On the future of the European Union, the PRESIDENT and Mr BARNIER reported on progress made since the informal meeting of Foreign Ministers ("Gymnich") in Genval on 8 and 9 September on:

- the structure of the Laeken declaration;
- the convening of a convention in 2002 to prepare for the next Intergovernmental Conference;
- the organisation of the convention: quadripartite composition (representatives of governments, members of national parliaments, members of the European Parliament, Commission); participation of applicant countries, including Turkey, without voting rights; appointment of the President by the Laeken European Council; quadripartite praesidium; secretariat provided by the Council Secretariat-General, assisted by Commission experts;
- the work schedule for the Convention: beginning before the Barcelona European Council, ending in mid-2003;
- the organisation of the public debate: civil society forum to be organised in the form of a structured network of organisations.

The content of the mandate for the Convention, and the identification of topics for further thought, were still being studied.

The Commission took note of this information and agreed to hold a general debate on this subject before the Laeken European Council.

Mr BARNIER would transmit to his colleagues a note summarising progress in the public debate on the future of the Union since the first statement by Mr J. FISCHER.

18. RELATIONS WITH NON-MEMBER COUNTRIES

COMMON FOREIGN AND SECURITY POLICY

18.1. MEETING OF FINANCE MINISTERS AND CENTRAL BANK

GOVERNORS OF THE G7

(WASHINGTON, 6 OCTOBER)

(SEC(2001)1631)

The Commission took note of the information communicated by Mr SOLBES on the meeting of the G7 Finance Ministers on 6 October in SEC(2001)1631.

18.2. TRADE RELATIONS WITH PAKISTAN: IMPORTS OF TEXTILE PRODUCTS

Mr LAMY reported on the trade negotiations in progress between the Community and Pakistan on the opening-up of the European market to imports of certain textile products by means of tariff consolidations on the part of Pakistan under the WTO.

Since the terrorist events of 11 September, Pakistan had seen a significant fall in its textile product exports to the Community; the possibility of introducing additional tariff concessions for these products under the generalised tariff preferences system (GSP) had therefore been explored.

The Regulation on the revision of the GSP was being studied in the Council with an eye to its entry into force on 1 January 2002, and he proposed putting a supplementary proposal before the Council concerning textile products originating in Pakistan.

Given Pakistan's situation in the anti-terrorist coalition, and the invitation of the Council (General Affairs) of 8 and 9 October to consider ways of strengthening Community assistance to Islamabad, the Commission approved the principle of such a proposal.

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The meeting closed at 1130 hours.