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SECRETARIAT-GENERAL

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Brussels, 17 April 2002

MINUTES

of the 1562nd meeting of the Commission

held in Strasbourg

(Winston Churchill Building)

on Tuesday 9 April 2002

(afternoon)

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These minutes were approved by the Commission at its 1563rd meeting, held in Brussels on 17th April 2002.

They contain 25 pages.

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Single sitting: Tuesday 9 April (afternoon)

The sitting opened at 1325 hours with Mr Prodi, President, in the chair.

Present:

Mr PRODI	President
Mr KINNOCK	Vice-President
Ms de PALACIO	Vice-President
Mr MONTI	
Mr FISCHLER	
Mr LIIKANEN	
Mr BOLKESTEIN	
Mr BUSQUIN	
Mr SOLBES	
Mr NIELSON	
Mr VERHEUGEN	
Mr PATTEN	
Mr LAMY	
Mr BYRNE	
Mr BARNIER	
Ms REDING	
Ms SCHREYER	
Ms WALLSTRÖM	
Mr VITORINO	
Ms DIAMANTOPOULOU	

The following also sat in

Mr WAINWRIGHT	Chief Adviser, Legal Service
Mr MANSERVISI	Chef de cabinet to the President
Mr FAULL	Commission Spokesman
Mr MAMER	Spokesman
Mr CURTIS	Spokesman
Mr CALLEJA	Chef de cabinet de Ms de Palacio
Mr JEAN	Deputy Chef de cabinet to Mr Liikanen
Mr PAQUET	A member of Mr Verheugen's staff
Mr POWER	A member of Mr Patten's staff
Mr FONSECA	Deputy Chef de Cabinet to Mr Vitorino

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

1. AGENDAS

(OJ(2002)1562/3; SEC(2002)367/2)

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(2002)1562)

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

3. APPROVAL OF MINUTES OF 1561st MEETING (3 April)

(PV(2002)1561)

The Commission approved the minutes of its 1561st meeting.

4. PARLIAMENT

PARLIAMENTARY AFFAIRS GROUP

(SP(2002)1121)

The Commission took note of the record of the meeting of the Parliamentary Affairs Group held on Friday 5 April.

It paid particular attention to the following:

a) **Interinstitutional relations**

(point 1 of the record)

Annual Policy Strategy, execution and preparation of the Commission's legislative and work programmes

In response to certain requests from Parliament concerning the specific arrangements for implementing the timetable for preparations for the Commission's legislative and work programmes, the Commission adopted the line set out in SP(2002)1121.

b) **Preparations for April I part-session**

(point 2 of the record)

The Commission, in accordance with the rules in force, authorised the Commission Members responsible, in agreement with the PRESIDENT, Ms de PALACIO and any other Members associated, to take a position on Parliament's amendments to its proposals.

It paid particular attention to the following:

2nd reading

- RIES report, Dangerous substances and preparations,
COM(2001)12 - 01/0018 (COD)

The Commission adopted the line set out in SP(2002)1022, involving the rejection of all the amendments, but decided to add the following sentence to the comments on amendment 1 (end of second paragraph):

"The Commission will ensure consistency between this new proposal and its proposed Directive on the restriction of hazardous substances in electrical and electronic equipment" (cf. FLORENZ report).

- FLORENZ report, Waste electrical and electronic equipment,
COM(2000)347 - 00/0158 (COD)
- FLORENZ report, Hazardous substances in electrical and electronic
equipment,
COM(2000)347 - 00/0159 (COD)

The Commission adopted the line set out in SP(2002)1019/2, involving the rejection of some amendments.

Empowerment

Under Article 13 of its Rules of Procedure, the Commission empowered Mr LIIKANEN and Ms WALLSTRÖM, in agreement with the PRESIDENT, the Member responsible for relations with Parliament and any other Members associated, to adopt its opinion on the amendments, together with any amended proposals, on the basis of the line set out in SP(2002)1022 and SEC(2002)1019/2, once Parliament had given its opinion, and transmit them to the Council in accordance with Article 251(2)(c) of the Treaty for the following:

- RIES report, Dangerous substances and preparations,
COM(2001)12 - 01/0018 (COD)
- FLORENZ report, Waste electrical and electronic equipment
COM(2000)347 - 00/0158 (COD)
- FLORENZ report, Hazardous substances in electrical and electronic
equipment,
COM(2000)347 - 00/0159 (COD)

c) **Action taken on Parliament's opinions and resolutions**

(point 5 of the record)

- The Commission adopted SP(2002)896 on the action taken on Parliament's opinions and resolutions adopted at its January, February I and February II part-sessions.
- The Commission adopted the replies to own-initiative resolutions (Article 192 of the EC Treaty) adopted by Parliament to which the Commission had undertaken to reply (SP(2002)1096), for transmission to Parliament.

5. MONITORING THE APPLICATION OF COMMUNITY LAW

(SEC(2002)365/2; SEC(2002)384; SEC(2002)392)

5.1. STATE AID

(SEC(2002)365/2)

Subject to the following clarifications, the Commission adopted the decisions in SEC(2002)365/2:

N 560/2001

and NN 17/2002 UNITED KINGDOM

Brighton West Pier

(C(2002)942 to /6)

Decision: to raise no objection, holding the aid to be compatible with the EC Treaty, as set out in C(2002)942/6.

C 72/2001

(ex N 361/2001) GERMANY

Aid in favour of Hamburger AG

(C(2002)1340 to /5)

Decision: to terminate the Article 88(2) proceedings by adopting a partially negative final decision, as set out in C(2002)1340/5.

5.2. INFRINGEMENTS

(SEC(2002)384; SEC(2002)392)

a) URGENT OR DEFERRED CASES

(SEC(2002)384)

Subject to the following clarification, the Commission adopted the decisions in SEC(2002)384:

DG SANCO 2001/2137

FRANCE

BSE - prohibition on placing thymus on the market

Decision: held over (in view of further information recently supplied by the French authorities).

B) CASE DEFERRED BECAUSE OF NON-AVAILABILITY OF DOCUMENTS - REGULARISATION

(SEC(2002)392)

The Commission adopted the decision in SEC(2002)392.

6. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

6.1. WRITTEN PROCEDURES APPROVED

(SEC(2002)368 to /4)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted by written procedure between 2 and 5 April.

6.2. SENSITIVE WRITTEN PROCEDURES

(SEC(2002)369)

The Commission took note of written procedures initiated between 2 and 5 April for the adoption of decisions with political implications.

6.3. EMPOWERMENT

SEC(2002)370 to /4)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the empowerment procedure between 2 and 5 April.

6.4. DELEGATION AND SUBDELEGATION OF POWERS

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation procedure between 2 and 5 April, as archived on the "Grefte 2000" (Registry) website.

7. ADMINISTRATIVE AND BUDGETARY MATTERS
(SEC(2002)371/2)

ADMINISTRATIVE MATTERS

(PERS(2002)50; PERS(2002)51; PERS(2002)52)

**7.1. APPLICATION OF ARTICLE 50 OF THE STAFF REGULATIONS -
SECOND STAGE**

The Commission continued its discussions on this matter, begun on 30 January (PV(2002)1553, Part II).

The Commission, on a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Mr LIIKANEN, adopted the decision in PERS(2002)52 to apply the second stage of the procedure laid down in Article 50 of the Staff Regulations with respect to Mr Jörn KECK, A1 official and Deputy Director-General in the Enterprise DG.

This decision would take effect from 1 September.

7.2. DG AUDIT/IAS - TEMPORARY OCCUPATION OF AN A1-LEVEL POST

On a proposal from Mr KINNOCK, in agreement with the PRESIDENT, the Commission decided that Mr Antony WRIGHT, A2 official, should be deemed temporarily to have occupied the post of Deputy Director-General responsible for the Internal Audit Service within the Financial Control DG, under Article 7(2) of the Staff Regulations, from 21 June 2000 to 19 March 2001.

This decision would take effect immediately.

7.3. TEMPORARY A2 APPOINTMENTS

DG ENV

On a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Ms WALLSTRÖM, the Commission decided that Mr Stephen KAISER, A3 Unit Head, should temporarily occupy the post of Director of Directorate C (Environment and health) in the Environment DG, under Article 7(2) of the Staff Regulations, from 24 September 2001 until the new Director took up the post, subject to a maximum of twelve months.

This decision would take effect immediately.

DG REGIO

- On a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Mr BARNIER, the Commission decided that Mr Manfred BESCHEL, A3 Unit Head, should be deemed temporarily to have occupied the post of Director of Directorate C (Regional operations in Germany, Denmark, Finland, Ireland, the United Kingdom and Sweden) in the Regional Policy DG, under Article 7(2) of the Staff Regulations, from 1 August 2001 to 31 January 2002.

This decision would take effect immediately.

- On a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Mr BARNIER, the Commission decided that Mr Jean-Marie SEYLER, A3 Unit Head, should be deemed temporarily to have occupied the post of Director of Directorate F (ISPA and pre-accession measures) in the Regional Policy DG, under Article 7(2) of the Staff Regulations, from 1 June 2001 to 15 February 2002.

This decision would take effect immediately.

DG RELEX

- On a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Mr PATTEN, the Commission decided that Mr Robert VAN DER MEULEN, A3 Unit Head, should be deemed temporarily to have occupied the post of Director of Directorate F (Middle East and South Mediterranean) in the External Relations DG, under Article 7(2) of the Staff Regulations, from 1 June 2001 to 15 March 2002.

This decision would take effect immediately.

- On a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Mr PATTEN, the Commission decided that Mr Reinhold HACK, A3 Unit Head, should be deemed temporarily to have occupied the post of Director of Directorate I (Headquarters resources, information and interinstitutional relations) in the External Relations DG, under Article 7(2) of the Staff Regulations, from 16 March 2001 to 28 February 2002.

This decision would take effect immediately.

7.4. MIDDLE-MANAGEMENT POSTS AND ORGANISATION CHARTS
(PERS(2002)50)

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

**8. CONFERENCE INTERPRETING AND ENLARGEMENT - A STRATEGY
FOR THE JICS IN THE LEAD-UP TO 2004**

(SEC(2002)349 and /2)

**9. COMMUNICATION A *STRATEGY FOR THE TRANSLATION SERVICE:
OUTLOOK FOR 2002 AND BEYOND***

(SEC(2002)382 and /2)

The Commission approved the communications in SEC(2002)349/2 and
SEC(2002)382/2.

**10. RECOMMENDATION FOR A COUNCIL DECISION AUTHORISING THE
COMMISSION TO NEGOTIATE ECONOMIC PARTNERSHIP
AGREEMENTS WITH THE ACP COUNTRIES AND REGIONS**

(COM(2002)168 and /2; SEC(2002)351 to /4)

The Commission approved the recommendation in SEC(2002)351/3 and /4, for
transmission to the Council.

**11. COMMISSION DECISION ON A PROCEEDING UNDER ARTICLE 8(2) OF
COUNCIL REGULATION (EEC) No 4064/89 (CASE COMP/M.2568 -
HANIEL/YTONG)**

(C(2002)1396 to /3)

The Commission:

- took note of the final report of the Hearing Officer in C(2002)1396;

- took note of the opinion of the Advisory Committee on Concentrations of 27 March as set out in C(2002)1396;
- approved, in the authentic language (German), the decision in C(2002)1396 and /3, declaring the planned merger to be compatible with the common market and the EEA Agreement, subject to fulfilment of the undertakings set out in the decision;
- empowered Mr MONTI to take all the measures necessary for the fulfilment of these undertakings.

The decision would be published in the Official Journal (with business secrets deleted) in all the official Community languages.

12. RELATIONS WITH NON-MEMBER COUNTRIES

12.1. SITUATION IN THE MIDDLE EAST

(SEC(2002)394 and /2)

In the light of information and analysis given orally by the PRESIDENT and Mr PATTEN, and of the information note distributed by Mr NIELSON on the humanitarian situation in the Gaza Strip and the West Bank (SEC(2002)394 and /2), the Commission held an in-depth discussion on the situation in the Middle East.

It took note of the various occasions at which this subject would be mentioned at international level (on the fringe of the EU/United States ministerial meeting in Madrid on 10 April) and at Community level (Council meeting (General Affairs) on 15 April), and the instruments that could be used to reactivate the dialogue between the Community and Israel. The PRESIDENT

reminded the meeting of the position taken by the Commission in recent weeks and pointed to the initiatives to be taken to convene a special meeting of the Association Council as well as in the field of humanitarian aid.

It agreed to continue its discussions on this item in the light of the outcome of the meeting in Madrid on 10 April and of the Council meeting (General Affairs) on 15 April.

In this connection, Ms de PALACIO referred to price trends on the oil market, and announced her intention to convene quickly a meeting of the "oil supply group" made up of experts from the national governments in order to assess the situation and identify the measures to be taken if the situation should deteriorate.

(For the remainder of the discussions concerning relations with non-member countries, see item 15 below).

**12.2. ANNUAL COMMISSION REPORT ON THE STABILISATION AND
ASSOCIATION PROCESS FOR SOUTH-EAST EUROPE
(COM(2002)163)
(WRITTEN PROCEDURE E/539/2002)**

At the PRESIDENT's invitation, Mr PATTEN drew the Commission's attention to the content of the Commission's first annual report on the stabilisation and association process for south-east Europe (Western Balkans), adopted by the Commission by written procedure on 27 March.

This process, based on a programme of developing special political and economic relationships with the countries of the region, supported by a broad programme of financial assistance (CARDS), was already starting to produce the desired results, the countries of the region having embarked upon

ambitious programmes of political and economic reform based on EU legislation and practice.

Over the years ahead, new mechanisms would have to be developed to help the countries of the region tackle persistent problems (weakness of the rule of law and democratic institutions, corruption, threat of a resurgence of extreme nationalism, poverty and social exclusion) and to encourage them to increase regional cooperation substantially between themselves.

The Commission held an exchange of views, after which the PRESIDENT concluded that there was a need to place particular emphasis on regional cooperation, to which the Community could contribute at a later date by developing greater complementarity with the Interreg programme, as well as on strengthening democracy at local level.

13. KEY POINTS OF THE DRAFT COMMON POSITIONS FOR CHAPTER 30 (INSTITUTIONS) OF THE ACCESSION NEGOTIATIONS (SEC(2002)385 to /6)

Mr VERHEUGEN, in agreement with the PRESIDENT, Mr BARNIER and Mr VITORINO, presented an information note on the main points of the draft common positions relating to Chapter 30 (Institutions) of the accession negotiations.

The Commission should speedily present the draft common positions enabling the European Union to adopt a common negotiating position on institutional matters, so as to comply with the timetable for the accession negotiations drawn up at the Nice European Council.

These drafts would be based on the provisions of the Treaty of Nice and the protocol on the enlargement of the Union, on the agreements laid down in declarations No 20

(relating to EU enlargement) and No 21 (relating to the qualified majority threshold in the Council) annexed to the Treaty of Nice, and on the applicable provisions of the current Treaties and of the corresponding secondary legislation.

With respect to the proposals concerning transitional provisions that might be necessary for 2004 in the light of the number of countries joining and the date of their accession, the problems would have to be reviewed at a later stage of the negotiations. He suggested holding a Commission seminar to consider these points.

The Commission held an exchange of views on the method and timetable for the detailed consideration of the impact of the transitional period on the institution's internal operation.

It noted the possible interferences between the negotiation of proposals for common positions on the "Institutional" chapter and the work of the Convention, as well as the outcome of the referendum in Ireland. In this connection, particular care would be given to the presentation of the dossier to the press.

Following this discussion, the Commission approved the general approach proposed at this stage by Mr VERHEUGEN, as set out in SEC(2002)385/6, which would constitute the basis on which the Commission's draft common position would be drawn up for subsequent transmission to the Council.

14. OPENING OF NEGOTIATIONS - PARIS CONVENTION **(SEC(2002)123 to /5)**

Ms de PALACIO tabled a proposed recommendation for a Council Decision authorising the Commission to negotiate, for those matters which fell within the responsibility of the Community, the protocol of amendment to the Paris Convention of 29 July 1960 on third-party liability in the field of nuclear energy.

The Paris Convention laid down the principles of liability of operators of nuclear installations and the mechanisms for compensating victims, and the draft protocol of amendment to the Convention contained provisions likely to affect Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

Based on the Legal Service's analysis, there was a need for the Community to exercise its powers (exclusive powers in judicial matters), by negotiating its accession to the protocol of amendment to the Convention.

The Commission held an in-depth exchange of views on all the legal and political aspects of this matter, taking particular account of the fact that three Member States (Ireland, Austria and Luxembourg) were not parties to the Convention, and that the Council decision authorising the Commission to negotiate should be agreed unanimously.

Following this discussion, the Commission asked the Legal Service to develop its analysis in greater detail in the light of suggestions made during the meeting, and decided to resume discussion of this item at its next meeting.

15. RELATIONS WITH NON-MEMBER COUNTRIES

(CONTINUED FROM ITEM 12)

15.1. EU-US REGULATORY COOPERATION AND TRANSPARENCY

(SEC(2002)386 and /2)

The Commission took note of the agreement reached at technical level between the Community and the United States on guidelines for regulatory cooperation and transparency (SEC(2002)386/2), which would be ratified by

means of political declarations by both parties at the next EU/US summit on 2 May.

It took note of the conditions for implementation of these guidelines as set out in the note distributed by Mr LIIKANEN (SEC(2002)386).

15.2. *TRADE PROTECTION MEASURES IN THE STEEL INDUSTRY*

Mr LAMY reported on the procedures in progress and to be started in the implementation of Community trade protection measures following the measures adopted by the United States on imports of steel products.

The Community reaction comprised three aspects: initiation of the safeguard clause for imports of steel products into the Community, lodging of a complaint with the WTO disputes settlement panel, and negotiations with the United States for compensation for the damage suffered.

Negotiations with the United States on compensation had already begun and, if these should break down, the Community would have to adopt retaliatory measures against imports into Europe of products from the United States.

In order to prepare for this possibility, the proposal for a list of planned measures should be approved by the Commission under the procedures in force (interdepartmental consultation, adoption by written procedure), and then adopted by the Council for notification to the WTO before 17 May.

The Commission took note of this information.

**16. PROPOSAL FOR A PARLIAMENT AND COUNCIL DECISION
ADOPTING A MULTIANNUAL PROGRAMME FOR ACTION IN THE
FIELD OF ENERGY - "INTELLIGENT ENERGY FOR EUROPE" (2003-06)
(COM(2002)162 to /5)**

Ms de PALACIO presented a multiannual programme containing a series of actions in the field of energy for 2003-06, the "Intelligent energy for Europe" programme, aimed at ensuring continuity with action taken under the ALTENER, SAVE and, in part, SYNERGY programmes, which would expire at the end of 2002.

This programme was structured in four specific subject areas: the rational use of energy and the management of demand (SAVE), new and renewable energies (ALTENER), the energy aspects of transport (STEER), and the international promotion of renewable energy and energy efficiency (COOPENER).

As regards the budgetary aspects of the proposal, the Commission noted that:

- the overall allocation for the programme for 2003-06 was €215 million within the current financial perspective, and this amount should be increased by around €50 million for 2004-06 as part of the adjustment of the financial perspective for enlargement;
- the situation of heading 4 required that any other energy programme in the field of external cooperation should be part of the agreed allocation for COOPENER or the geographical allocations as programmed.

The Commission also adopted the following amendment to COM(2002)162/5:

On page 4 of the communication, the following text was added to the last paragraph on international cooperation:

"this cooperation will focus on security of energy supply (...) and the creation of institutional capacities. **The COOPENER field is linked and**

complementary to this initiative. In this context, Europe must promote (...)".

Subject to this amendment, the Commission adopted the proposal for a decision on a multiannual energy programme as set out in COM(2002)162/5, for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

**17. COMMISSION COMMUNICATION AND RECOMMENDATIONS FOR
COUNCIL DECISIONS CONCERNING NEGOTIATIONS WITH
SWITZERLAND
(SEC(2002)379 to /5)**

The Commission had before it a communication from Mr PATTEN, Mr LAMY, Ms REDING and Mr VITORINO, in agreement with Mr BOLKESTEIN and Ms SCHREYER, on the current state of various negotiations in progress with Switzerland, and proposals to secure a negotiating mandate from the Council on four new subject areas:

- association of Switzerland with the implementation of the Schengen *acquis*;
- agreement on the criteria and mechanisms for determining the State responsible for examining applications for asylum;
- agreement relating to free trade in services;
- bilateral agreement in the audiovisual field.

The Commission felt it important that other negotiations, in which the Community had a particular interest, should be speeded up (combating fraud) or begun as soon

as possible (taxation of savings), so that a better balance could be found in EEC-Switzerland relations and in the priorities agreed for these negotiations.

Subject to these clarifications, the Commission adopted the communication and recommendations in SEC(2002)379/4 and /5 for transmission to the Council.

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The meeting closed at 1645 hours.