



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

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Brussels, 24 July 2002

MINUTES
of the 1576th meeting of the Commission
held in Brussels
(Breydel)
on Wednesday 17 July 2002
(morning)

These minutes were approved by the Commission at its 1577th meeting, held in Brussels on 24th July 2002.

They contain 27 pages.

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Single sitting: Wednesday 17 July (morning)

The sitting opened at 0915 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		Except items 18 to 21
Mr LIIKANEN		
Mr BOLKESTEIN		
Mr BUSQUIN		Except items 19 to 21
Mr SOLBES		
Mr VERHEUGEN		
Mr BYRNE		
Mr BARNIER		
Ms REDING		Except items 20 and 21
Ms SCHREYER		
Ms WALLSTRÖM		
Mr VITORINO		
Ms DIAMANTOPOULOU		

Absent:

Mr NIELSON
Mr PATTEN
Mr LAMY

The following sat in to represent absent Members of the Commission

Ms DORAN-SCHIRATTI	Deputy Chef de cabinet to Mr Fischler	Items 18 to 21
Mr JACOB	Chef de cabinet to Mr Busquin	Items 19 to 21
Mr MØRCH	A member of Mr Nielson's staff	
Mr CARY	Chef de cabinet to Mr Patten	
Mr BALDWIN	Deputy Chef de cabinet to Mr Lamy	
Mr PAULGER	Chef de cabinet to Ms Reding	Items 20 and 21

The following also sat in

Mr PETITE	Director-General, Legal Service	
Mr MANSERVISI	Chef de cabinet to the President	
Mr FAULL	Commission Spokesman	
Mr CARVOUNIS	Director in the Press and Communication DG	
Mr DE RYNCK	Spokesman	Item 19
Mr TSCHERNY	Spokesman	
Ms HOUTMAN	Deputy Chef de cabinet to the President	Items 20 and 21
Mr ABOU	Chief Adviser in the President's Office	Item 20
Mr DE LECEA	Adviser in the President's Office	Items 15, 17 and 18
Mr SMULDERS	A member of the President's staff	Items 14, 15 and 16
Mr CALLEJA CRESPO	Chef de cabinet to Ms de Palacio	Items 18 and 20
Ms MASCARDI	A member of Ms de Palacio's staff	Item 20
Mr VAN HOOFF	Chef de cabinet to Mr Monti	Item 16
Ms VANNINI	A member of Mr Monti's staff	Item 16
Ms VIGNAL	A member of Mr Lamy's staff	Item 21
Mr VAN GINDERACHTER	Competition DG	Item 16

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

1. AGENDAS

(OJ(2002)1576/3; SEC(2002)804/2)

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)1576)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 15 July.

3. APPROVAL OF MINUTES OF 1575th MEETING (10 July)

(PV(2002)1575 and /2)

The Commission approved the minutes of its 1575th meeting.

4. PARLIAMENT

PARLIAMENTARY AFFAIRS GROUP

(SP(2002)2385)

The Commission took note of the record of the meeting of the Parliamentary Affairs Group held on Thursday 11 July.

It paid particular attention to the following:

Action taken on Parliament's opinions and resolutions

The Commission adopted SP(2002)2219 on the action taken on Parliament's opinions and resolutions adopted at its May I and II part-sessions.

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

(SEC(2002)795; SEC(2002)809; SEC(2002)825; SEC(2002)843; SEC(2002)848)

5.1. STATE AID

(SEC(2002)795)

The Commission adopted the decisions in SEC(2002)795.

5.2. INFRINGEMENTS - URGENT OR DEFERRED CASES

(SEC(2002)809)

The Commission adopted the decisions in SEC(2002)809.

5.3. INFRINGEMENTS - REPORT A1/2002 - CASES DEFERRED BECAUSE OF NON-AVAILABILITY OF DOCUMENTS - REGULARISATION

(SEC(2002)825)

The Commission adopted the decisions in SEC(2002)825.

5.4. INFRINGEMENTS - URGENT CASE

(SEC(2002)843; SEC(2002)848)

1999/2247

FRANCE

Failure to comply with Community decisions on British beef

Decision: Second referral to the Court of Justice, together with a request for expedited procedure under Article 62a of the Rules of Procedure of the Court of Justice, and a proposal for a penalty payment of €158 250 per day.

6. WRITTEN PROCEDURES AND EMPOWERMENT

6.1. WRITTEN PROCEDURES APPROVED

(SEC(2002)805 to /5)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted by written procedure between 8 and 12 July.

6.2. SENSITIVE WRITTEN PROCEDURES

(SEC(2002)806)

The Commission took note of the following written procedures initiated between 8 and 12 July for the adoption of decisions with political implications:

Time limit: 15.07.2002

E/2002/1350 - C(2002)2701

DG TRADE

Commission Regulation amending Annex 3 to Regulation (EC) No 560/2002 of 27 March 2002 imposing provisional safeguard measures against imports of certain steel products.

Time limit: 17.07.2002

E/2002/1301 - COM(2002)407 DG ENV

Commission report on the implementation of Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources - Synthesis from Member States' reports for 2000.

E/2002/1342 - C(2002)2690 DG TRADE

Notice of initiation of an anti-dumping proceeding concerning imports of farmed Atlantic salmon originating in Chile and the Faeroe Islands.

6.3. *EMPOWERMENT*

(SEC(2002)807 to /5)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the empowerment procedure between 8 and 12 July.

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 8 and 12 July, as archived on the "Grefte 2000" (Registry) website.

7. ADMINISTRATIVE AND BUDGETARY MATTERS

(SEC(2002)808/3)

ADMINISTRATIVE MATTERS

(PERS(2002)109/2)

7.1. DG BUDG - EXTENSION OF LEAVE ON PERSONAL GROUNDS FOR AN A2 OFFICIAL

On a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Ms SCHREYER, the Commission decided to grant an extension of leave on personal grounds requested by Mr LIUKKONEN from 1 September 2002 to 30 August 2003.

This decision would take effect immediately.

7.2. DG AGRI - NEW POST OF CHIEF ADVISER

The Commission, in agreement with the PRESIDENT and Mr FISCHLER, decided to create a post of Chief Adviser, attached to the Director-General for Agriculture, and to transfer Mr BARBASO to it, with his post and in the interest of the service.

This decision would take effect immediately.

7.3. MIDDLE-MANAGEMENT POSTS AND ORGANISATION CHARTS (PERS(2002)107)

The Commission took note of the decisions taken by Mr KINNOCK in June.

**8. FRAMEWORK FINANCIAL REGULATION FOR COMMUNITY BODIES
(COM(2002)403 and /2; SEC(2002)816; SEC(2002)836)**

The Commission adopted the draft framework Financial Regulation in SEC(2002)836 for transmission for an opinion to Parliament, the Council and the Court of Auditors.

**9. PROPOSAL FOR AMENDMENT OF THE CONSTITUENT ACTS OF
COMMUNITY BODIES FOLLOWING THE ADOPTION OF THE NEW
FINANCIAL REGULATION
(COM(2002)406 to /3; SEC(2002)816; SEC(2002)837)**

Subject to a final revision of the text concerning in particular the treatment of Eurojust as a decentralised Community body for budgetary and financial purposes, the Commission adopted the proposals for Council Regulations amending the constituent acts of a number of Community bodies in COM(2002)406/3, for transmission to Parliament, the Council, the Economic and Social Committee, the Committee of the Regions and the Court of Auditors.

**10. DRAFT COMMISSION DECISION WITHDRAWING AMENDED
PROPOSALS FOR COUNCIL REGULATIONS (EC) AMENDING THE
BASIC REGULATIONS OF CERTAIN DECENTRALISED COMMUNITY
AGENCIES (COM(1998)289)
(C(2002)2672 and /2; SEC(2002)816)**

The Commission adopted the decision in C(2002)2672 to withdraw the amended proposals for Council Regulations concerning the basic regulations of certain Community bodies, for transmission to the Council.

**11. LETTER OF AMENDMENT No 1 TO PRELIMINARY DRAFT BUDGET
2003
(SEC(2002)823 and /2)**

The Commission adopted Letter of amendment No 1 to the preliminary draft budget as set out in SEC(2002)823/2, for transmission to the Council and Parliament.

**12. PROPOSAL FOR A PARLIAMENT AND COUNCIL DECISION
ESTABLISHING A PROGRAMME FOR THE ENHANCEMENT OF
QUALITY IN HIGHER EDUCATION AND THE PROMOTION OF
INTERCULTURAL UNDERSTANDING THROUGH COOPERATION
WITH THIRD COUNTRIES (ERASMUS WORLD) (2004-08)
(COM(2002)401 to /5; SEC(2002)801)**

The Commission approved the proposal in COM(2002)401/5 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

**13. ENVIRONMENTAL AGREEMENTS AT COMMUNITY LEVEL UNDER
THE ACTION PLAN ON THE SIMPLIFICATION AND IMPROVEMENT
OF THE REGULATORY ENVIRONMENT
(COM(2002)412 to /5; SEC(2002)834)**

The Commission adopted the communication in COM(2002)412/5 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

**14. COMMISSION DECISION ON THE TERMINATION OF THE
PROCEEDINGS INITIATED ON THE NORWEGIAN JOINT MARKET
REGIME FOR GAS (GFU)
(C(2002)2691 to /3)**

Mr MONTI presented a communication and a draft Commission decision to terminate the proceedings initiated in June 2001 under Article 81 of the EC Treaty and Article 53 of the EEA Agreement against 32 gas producers operating on the Norwegian continental shelf for their participation in a system of joint gas sales to the countries of the European Economic Area, controlled by a gas negotiation committee (GFU).

The proposal to terminate these proceedings was based on the undertakings entered into by the main operators on the market in question, viz.:

- abandonment of the joint marketing agreement and activities, and an undertaking to switch to individual gas sales and individual negotiations when the existing supply relationships were reviewed, and

- the adoption of measures to alleviate the long-term effects of the GFU system, including giving priority to new customers for certain quantities of gas.

Mr MONTI emphasised the political sensitivity and the particular economic importance of this conclusion, which would help the process of liberalisation of the energy market and improve the structure of the European market, and would be an important step in compliance with Community competition rules by non-Union operators.

Ms de PALACIO added that the negotiation of similar arrangements with Russian and Algerian gas producers was in progress and should be actively pursued.

The Commission adopted the decision in C(2002)2691 and /2 in the authentic language (English).

It noted the importance of very careful presentation of this matter to the press and the general public.

15. TAKING STOCK OF FIVE YEARS OF THE EUROPEAN EMPLOYMENT STRATEGY (COM(2002)416 to /3)

On the occasion of the adoption of *Taking stock of five years of the European employment strategy* presented by Ms DIAMANTOPOULOU, the PRESIDENT reported on the decisions he had taken, in agreement with Ms DIAMANTOPOULOU and Mr SOLBES, on the timetable for work in connection with various economic and social policy coordination processes.

He reminded the meeting that the guidelines for rationalising these procedures had been announced by the Commission and approved by the Barcelona European Council (15 and 16 March), and would be put into practice as follows:

- in January each year, in support of the summary report to the European Council in the spring, presentation of an "implementation package" including the report on implementation of the broad economic policy guidelines for the previous year, and the joint employment report;
- after the spring European Council (April - May each year), presentation of a "guidelines package" made up of the broad economic policy guidelines and the employment guidelines, together with recommendations, for adoption by the Council immediately after their approval by the European Council in June.

He asked Mr SOLBES and Ms DIAMANTOPOULOU, in agreement with Mr BOLKESTEIN, to prepare a communication on the implementation of this new cycle, for the information of the other institutions.

In order to organise the transition to the new system, and to take account of the conclusions of *Taking stock of five years of the European employment strategy* presented by Ms DIAMANTOPOULOU, a solution should be agreed by the end of July.

The Commission noted that, in implementing the Lisbon strategy and preparing for the spring European Council, two specific aspects of economic and social policy coordination must be taken into account, viz.: education, and in particular lifelong learning, and the target for resources to be allocated to research and innovation (3% of GDP).

The PRESIDENT pointed to the advantages of the timetable proposed for the new cycle: increased coherence in the economic and social governance strategy, thanks to the synchronisation of processes; strengthened authority of the Commission's

contribution to the spring European Council, thanks to the lessons drawn from the assessment of the implementation of the main guidelines and recommendations for the previous year.

Following this exchange of views, the Commission adopted the communication in COM(2002)416/3 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

16. DRAFT REGULATION ON THE APPLICATION OF ARTICLE 81(3) OF THE TREATY TO CATEGORIES OF VERTICAL AGREEMENTS AND CONCERTED PRACTICES IN THE MOTOR VEHICLE INDUSTRY (C(2002)2628 to /6; SEC(2002)813)

The PRESIDENT introduced the debate by noting that the motor vehicle distribution sector had for a long time been exempt from the normal internal market rules, and this had penalised consumers by depriving them of a possible benefit they were entitled to expect from the internal market - the right to buy a vehicle, and to be provided with after-sales service, wherever they wished in the Community.

Despite the current difficulties of the motor industry, which was undergoing restructuring, the current situation of fragmentation of the distribution market must be remedied.

The most controversial provision - the abolition of the location clause - was essential to the achievement of the Regulation's objective, although it had not been welcomed by Parliament or by a number of Member States.

As regards Parliament, more than half of the proposed amendments had been adopted, and the new Regulation should in any case provide the necessary legal

certainty as regards the regime applicable (precise and immediate decision on the abolition of the location clause) while providing for adequate monitoring of developments on the market following adoption of the new rules.

Mr MONTI reminded the meeting of the long process that had been scrupulously followed to arrive at this proposal: adoption in November 2000 of a report and assessment of the application of the previous Regulation (EC No 1475/95); adoption of a draft new Regulation on 5 February 2002; two consultations of the Advisory Committee on Restrictive Practices and Dominant Positions; parallel consultation of Parliament, the Economic and Social Committee, the Member States and interested parties.

The main objectives of the new draft were largely accepted and the most controversial provision concerned the ban on the location clause for distributors in a selective distribution system.

To take account of the significant impact of this change in the system, he proposed:

- to delay entry into force of the ban until 1 October 2005, in order to give the industry a sufficiently long transitional period;
- to introduce a clause on monitoring of the market following entry into force of the Regulation.

The Commission held an in-depth discussion on the impact of abolishing the location clause and on alternative solutions proposed during the consultation process.

Following this discussion, the Commission adopted the following amendments to C(2002)2628/6:

- the date of entry into force of the ban on the location clause in a selective distribution system was set at 1 October 2005 (cf. recital No 37 and Article 12(2));
- the introduction of a clause on permanent monitoring of the effects of the application of the Regulation was covered in an additional recital and an addition to Article 11, as follows:

- new recital (No 38):

"The Commission should monitor the operation of this Regulation on a regular basis, with particular regard to its effects on competition in motor vehicle retailing and in after sales servicing in the common market or relevant parts of it. This should include monitoring the effects of this Regulation on the structure and level of concentration of motor vehicle distribution and any resulting effects on competition. The Commission should also carry out an assessment of the operation of this Regulation and draw up a report not later than 31 May 2008."

- Article 11 (amended):

"1. The Commission shall monitor the operation of this Regulation on a regular basis, with particular regard to its effects on:

- a) competition in motor vehicle retailing and in after sales servicing in the common market or relevant parts of it,
- b) the structure and level of concentration of motor vehicle distribution and any resulting effects on competition.

2. The Commission shall draw up a report on this Regulation not later than 31 May 2008 having regard in particular to the conditions set out in Article 81(3)."

Subject to these amendments, the Commission adopted, in principle, the Regulation in C(2002)2628/6 and empowered Mr MONTI, in agreement with the PRESIDENT, to adopt it formally in all the official Community languages.

17. COUNCIL MEETINGS

(SI(2002)863)

17.1. AGRICULTURE AND FISHERIES

(15 JULY, BRUSSELS)

Mr FISCHLER reported on the main items dealt with at the Council meeting on 15 July, in particular:

- the Commission proposals on the mid-term review of the common agricultural policy, which had provoked the expected divergent reactions on the part of two groups of Member States, each being nevertheless prepared to take part in a process of intensive negotiations on the basis of these proposals;
- the effects of increasing imports into the Community of cereals from the Odessa region: disruption of the market, risks of increase in expenditure under the intervention scheme, and export refunds. The dossier had been referred back to the Special Committee on Agriculture.

17.2. ECONOMIC AND FINANCIAL AFFAIRS

(12 JULY, BRUSSELS)

Mr SOLBES reported on two of the items dealt with by the Council meeting on 12 July, viz.:

- the economic situation in the euro area;

- the stability and convergence pact and the budgetary position of certain Member States.

**17.3. INFORMAL MEETING OF EMPLOYMENT AND SOCIAL POLICY
MINISTERS
(12 AND 13 JULY, KOLDING)**

Ms DIAMANTOPOULOU reported briefly on the conclusions to be drawn from the recent informal meeting of employment and social policy ministers.

18. PARLIAMENT

***BUDGET 2003 - MOBILISATION OF THE FLEXIBILITY INSTRUMENT IN
CATEGORY 5***

Ms SCHREYER reported on the results of recent dialogues and the prospects for the Council meeting (Economic and Financial Affairs) on 19 July as regards the Commission proposal to make use of the flexibility instrument to cover the Commission's requirements for administrative expenditure in 2003, particularly the financing of 500 non-permanent posts in preparation for enlargement.

In addition to refusing the use of the flexibility instrument, the Council and Parliament planned to apply discriminatory rates of increase in administrative expenditure as between the institutions: +7% for the Council while the Council (Economic and Financial Affairs) had imposed a rate of 3.5% for all the institutions.

The Commission emphasised that its request to recruit nationals of applicant countries for six months from 2003 with a view to preparing for the implementation of the various policies in these States from the beginning of 2004 was an absolute necessity.

It noted that the attitude of the budgetary authority, if it persisted in being negative over this item, greatly exceeded what was necessary for compliance with the principles of budgetary rigour, and posed a major institutional problem by unreasonably reducing the Commission's administrative capacity, to the point of calling into question the harmonious outcome of the enlargement process.

It agreed that the PRESIDENT would make the necessary contacts with the Presidents of the Council and Parliament in order to overcome this difficulty before the Council meeting on 19 July.

It also noted that the possible alternative solution of anticipating from 2002 the financing of major expenditure planned for 2003, by using unused appropriations in the budget of the Commission or even of another institution, would not be in line with the principle of sound financial management as it would not allow normal procedures to be followed, particularly where public procurement was concerned.

19. WORK OF THE CONVENTION

19.1. STATE OF PLAY AT 10 JULY

(SEC(2002)817)

The Commission referred to SEC(2002)817 setting out the state of play in the Convention after four months of activity.

19.2. PLENARY SESSION OF 11 AND 12 JULY

(SEC(2002)818 and /2)

Mr BARNIER and Mr VITORINO reported on the work of the Convention in two different areas:

- the meeting of the "Convention of young people", which had not produced the expected results;
- the plenary session, which had dealt with two subjects: the common foreign and security policy and external relations, and the problems of defence.

Mr BARNIER pointed out that in general the work was speeding up, particularly with a view to the drawing-up of a draft constitutional treaty, and that therefore the Commission should actively prepare its second contribution on the institutional aspects, for transmission to the Convention as early as possible in the autumn.

Mr VITORINO drew the Commission's attention to the fact that a new item had arisen in the debate on foreign policy with the idea of conferring on the High Representative /Secretary-General of the Council not only prerogatives and a right of initiative in this area, but also budgetary means, even in subject areas that were currently the Commission's responsibility.

The Commission took note of this information.

**20. COMMISSION COMMUNICATION TO THE COUNCIL AND
PARLIAMENT ON ENERGY COOPERATION WITH THE DEVELOPING
COUNTRIES
(COM(2002)408 to /5; SEC(2002)815)**

Ms de PALACIO, on her own behalf and that of Mr NIELSON, tabled a communication to the Council and Parliament on energy cooperation with the developing countries, noting that the presentation of the various options (including

the nuclear option) was balanced and equitable in the place it accorded to renewable energy and energy efficiency concerns.

After a brief debate the Commission agreed to amend COM(2002)408/5 as follows:

- under item (d) (nuclear option), on page 24 (French version) the fourth paragraph and the next two indents were merged into one paragraph as follows:

"Where developing countries have none the less opted or are opting for nuclear energy, and where this is consistent with a national strategy promoting sustainable development, and sufficient safeguards exist, the EU may supply technical assistance for establishing and implementing the necessary regulatory framework and institutional capacity to manage nuclear energy safely, including control of nuclear materials (safeguards), waste management, and the safest technologies".

Subject to this amendment, the Commission approved the communication in COM(2002)408/5 for transmission to Parliament and the Council.

21. RELATIONS WITH NON-MEMBER COUNTRIES

21.1. SPAIN-MOROCCO

The PRESIDENT reported on the thrust of his contacts with Mr AZNAR, the Spanish Prime Minister, and on the content of the message of support for Spain which he proposed to publish on behalf of the Commission.

**21.2. MEASURES TAKEN BY THE UNITED STATES ON CONTAINER
SECURITY**

(SEC(2002)845 and /2)

Mr BOLKESTEIN, in agreement with Ms de PALACIO and Mr LAMY, tabled a communication on the measures taken by the United States concerning container security.

He emphasised the unilateral nature of the initiative taken by the United States, the first stage of which consisted of identifying 10 major ports which shipped containers to the United States, three of them in the Community: Rotterdam, Antwerp and Le Havre.

In agreement with Mr LAMY, he had initiated approaches to the US authorities.

Ms de PALACIO stated that this initiative risked being extended to air transport. She drew the Commission's attention to the fact that such provisions concerning the overall objective of security in trade were the responsibility of international organisations such as the International Maritime Organisation and the International Civil Aviation Organisation, and pointed out that initiatives had already been taken to this end within the IMO.

She pointed to the risks of distortion of competition and discrimination between Member States that these individual arrangements were likely to involve. She had made contact with the US administration (Mr LARSON: Under-Secretary for Economic, Business, and Agricultural Affairs).

She suggested, as part of the strengthening of cooperation for combating terrorism in the United States, that balanced bilateral relations be maintained and based on reciprocity, that these problems be dealt with by the competent international organisations, that the security of European ports be assessed by

Europeans, and that any agreement with the United States be concluded at European level and not at the level of individual Member States.

The Commission approved these guidelines.

21.3. *POLITICAL SITUATION IN TURKEY*

Mr VERHEUGEN outlined his concerns about developments in the political situation in Turkey and possible consequences for the enlargement negotiations.

The Commission decided to analyse the situation in depth so as to be able to inform the Council of its possible impact on the enlargement process.

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The meeting closed at 1330 hours.