



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2002)1585 final

Brussels, 22 October 2002

MINUTES

of the 1585th meeting of the Commission

held in Brussels

(Breydel)

on Wednesday 16 October 2002

(morning)

These minutes were approved by the Commission at its 1586th meeting, held in Strasbourg on 22nd October 2002.

They contain 25 pages.

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Single sitting: Wednesday 16 October (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

Mr LIIKANEN

Mr BOLKESTEIN

Mr BUSQUIN

Mr SOLBES

Mr NIELSON

Mr PATTEN

Mr LAMY

Except items 14 to 17

Mr BYRNE

Mr BARNIER

Ms REDING

Ms SCHREYER

M_S WALLSTRÖM

Mr VITORINO

Ms DIAMANTOPOULOU

Absent:

Mr VERHEUGEN

The following sat in to represent absent Members of the Commission

Mr DANIELSSON	Deputy Chef de cabinet to Mr Verheugen	
Ms ERLER	A member of Mr Verheugen's staff	
Ms WEYAND	A member of Mr Lamy's staff	Items 14 to 17

The following also sat in

Mr PETITE	Director-General, Legal Service	
Mr MANSERVISI	Chef de cabinet to the President	
Mr FAULL	Commission Spokesman	
Mr FILORI	Deputy Spokesman	
Ms TORRES	Spokesman	Items 6 and 12
Mr CARVOUNIS	Director in the Press and Communication DG	
Ms HOUTMAN	Deputy Chef de cabinet to the President	Items 6 and 12
Ms GROEBNER	Adviser in the President's Office	Items 15 and 17
Mr DE LECEA	Adviser in the President's Office	Items 9, 11 and 14
Mr SMULDERS	A member of the President's staff	
Mr VAN HOOFF	Chef de cabinet to Mr Monti	Items 6 and 12
Mr SOUKUP	A member of Mr Monti's staff	Items 6 and 12
Ms MANFREDI	A member of Mr Bolkestein's staff	
Mr PLANAS	Chef de cabinet to Mr Solbes	Item 11
Mr FONSECA MORILLO	Deputy Chef de cabinet to Mr Vitorino	
Mr PONZANO	Director in the Secretariat-General	Item 13

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

1. AGENDAS

(OJ(2002)1585/3; SEC(2002)1081/2)

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

In this connection, the PRESIDENT announced that two Commission seminars would be organised, on 13 and 27 November.

2. WEEKLY MEETING OF CHEFS DE CABINET

(SEC(2002)1585)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 14 October.

3. APPROVAL OF MINUTES OF 1584th MEETING (9 October)

(PV(2002)1584)

The Commission approved the minutes of its 1584th meeting.

4. PARLIAMENT

4.1. OCTOBER I PART-SESSION

(SP(2002)3244)

The Commission took note of the information supplied relating to Parliament's part-session on 9 and 10 October.

4.2. ACTION TO BE TAKEN ON PARLIAMENT'S OPINIONS
(SP(2002)3241)

The Commission approved the proposed empowerment decisions relating to action to be taken on the amendments presented by Parliament under the consultation procedure.

4.3. PARLIAMENTARY AFFAIRS GROUP
(SP(2002)3273)

The Commission took note of the record of the meeting of the Parliamentary Affairs Group held on Thursday 10 October.

It paid particular attention to the following:

a) Preparations for October II and November I part-sessions

(point 2 of the record)

Specific points to consider: October II

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

- EVANS report, Non-commercial movement of pet animals,
COM(2000)529, 00/0221 (COD)

The Commission adopted the line set out in SP(2002)3236/2 involving the rejection of certain amendments. Nevertheless, in order to facilitate

the conclusion of this matter at second reading, it authorised Mr BYRNE to take a position on amendments 5 and 12 with a certain margin of flexibility, while respecting the Commission's right of initiative and a correct committee procedure.

Empowerment

Under Article 13 of its Rules of Procedure the Commission empowered Mr BYRNE, Mr BOLKESTEIN, Ms de PALACIO and Mr SOLBES, 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)3226/2, 3229, 3223, 3222 and 3256, 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:

- EVANS report, Non-commercial movement of pet animals, COM(2000)529, 00/0221 (COD)
- GARCÍA-MARGALLO Y MARFIL report, FISCALIS Programme, COM(2002)10-2, 02/0015 (COD)
- COLLINS report, Occurrence reporting in civil aviation, COM(2000)247, 00/0343 (COD)
- CAMISON ASENSIO report, Rail transport statistics, COM(2000)798, 01/0048 (COD)

b) Action taken on Parliament's opinions and resolutions

(point 5 of the record)

The Commission adopted the replies to own-initiative resolutions adopted by Parliament to which the Commission had undertaken to reply (SP(2002)3192), for transmission to Parliament.

5. PERMANENT REPRESENTATIVES COMMITTEE

(SI(2002)1139 and /2)

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. *IMPORT OR EXPORT OF DANGEROUS CHEMICALS*

In the light of the discussions in Coreper on the proposal for a Council Regulation on the import and export of dangerous chemicals and on the draft Council decision on the ratification, on behalf of the Community, of the Rotterdam Convention, the Commission decided to maintain its position in favour of the legal basis originally proposed (Article 133 of the Treaty) and to request the entry of a statement to this effect in the Council minutes.

5.2. *TRANSBOUNDARY MOVEMENT OF GENETICALLY MODIFIED ORGANISMS*

Taking note of developments within the Council bodies on the proposal for a Parliament and Council Regulation on the transboundary movement of genetically modified organisms (GMOs), the Commission decided to confirm its initial proposal.

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

(COM(2002)555 to /3; C(2002)3576 to /4; SEC(2002)975; SEC(2002)976 and /2; SEC(2002)977)

6.1. *PROGRESS REPORT ON THE REDUCTION AND REORIENTATION OF STATE AID*

(COM(2002)555 to /3)

The Commission approved the report in SEC(2002)555/3 for transmission to the Council.

6.2. *STATE AID - CASE DEFERRED (N 195/2002)*

(C(2002)3576 to /4)

The Commission adopted the decisions in C(2002)3576/3 and /4.

6.3. *INFRINGEMENTS*

(SEC(2002)975; SEC(2002)976/2; SEC(2002)977)

The Commission adopted the decisions in SEC(2002)977.

7. WRITTEN PROCEDURES AND EMPOWERMENT

7.1. *WRITTEN PROCEDURES APPROVED*

(SEC(2002)1082 to /5)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted by written procedure between 7 and 11 October.

7.2. SENSITIVE WRITTEN PROCEDURES
(SEC(2002)1083)

The Commission took note of the following written procedures initiated between 7 and 11 October for the adoption of decisions with political implications:

Time limit: 14.10.2002

E/2002/1967 - COM(2002)564 DG JAI

URGENT PROCEDURE

Commission communication on a Community return policy on illegal residents.

The Commission decided that this communication submitted by a written procedure which expired on Monday 14 October at 1100 hours and transmitted immediately to the institutions would be re-examined on 6 November, jointly with the communication concerning migration and development, and might therefore be amended. The institutions had been informed of this (see also item 15.1 (page 20) of these minutes).

E/2002/1881 - C(2002)3881 DG AGRI

URGENT PROCEDURE

Commission decision approving a programme to support the pineapple sector in Martinique pursuant to Council Regulation (EC) No 1452/2001.

Time limit: 15.10.2002

E/2002/1949 - COM(2002)557 DG REGIO

Commission annual report on the Cohesion Fund, 2001.

7.3. EMPOWERMENT
(SEC(2002)1084 to /6)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the empowerment procedure between 7 and 11 October.

7.4. DELEGATION AND SUBDELEGATION OF POWERS

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation procedure between 7 and 11 October, as archived on the "Greffé 2000" (Registry) website.

8. ADMINISTRATIVE AND BUDGETARY MATTERS
(SEC(2002)1085/2)

ADMINISTRATIVE MATTERS
(PERS(2002)145)

8.1. DG AGRI.J - A2 POST OF DIRECTOR

The Commission had before it applications under Article 29(1)(a) of the Staff Regulations for the A2 post of Director of Directorate J (Audit of agricultural expenditure) in the Agriculture DG (PERS(2002)105).

The Commission took note of the opinions of the Consultative Committee on Appointments of 11 July and 18 September (PERS(2002)105/2 and /3).

The Commission proceeded to compare the applicants' qualifications for the post. It also examined the reports on their ability, efficiency and conduct in the service. On a proposal from Mr KINNOCK, in agreement with the

PRESIDENT and Mr FISCHLER, it then decided to appoint Ms Chantal HEBETTE to the post.

This decision would take effect on 1 November.

8.2. *DG PRESS.A - A2 POST OF DIRECTOR*

The Commission had before it applications under Article 29(1)(a) of the Staff Regulations for the A2 post of Director of Directorate A (Interinstitutional Relations, Information Policy, Representations) in the Press and Communication Service (PERS(2001)288, /2, /3 and /5).

The Commission took note of the opinions of the Consultative Committee on Appointments of 31 May and 11 July (PERS(2002)288/4 and /6).

The Commission proceeded to compare the applicants' qualifications for the post. It also examined the reports on their ability, efficiency and conduct in the service. On a proposal from Mr KINNOCK, in agreement with the PRESIDENT, the Commission then decided to appoint Mr Panayotis CARVOUNIS to the post.

This decision would take effect on 1 November.

OTHER MATTERS

**8.3. *IMPLEMENTATION OF REGULATION (EC) NO 1746/2002
INTRODUCING, IN THE CONTEXT OF THE REFORM OF THE
COMMISSION, SPECIAL MEASURES TO TERMINATE THE
SERVICE OF OFFICIALS APPOINTED TO AN ESTABLISHED POST
IN THE COMMISSION
(C(2002)3909 and /2)***

The Commission adopted the draft decision in C(2002)3909/2 and asked the Personnel and Administration DG to oversee its application, in cooperation with all departments.

**8.4. *COMMUNICATION TO THE COUNCIL AND PARLIAMENT
CONCERNING ACQUISITION OF THE BERLAYMONT BUILDING
(SEC(2002)1094 to /3)***

The Commission:

- approved the communication in SEC(2002)1094 and /3 for transmission to the Council and Parliament;
- authorised Mr KINNOCK to inform the Council and Parliament on the basis of this communication;
- empowered Mr KINNOCK, in agreement with the PRESIDENT and Ms SCHREYER, to adopt and to sign the basic agreement on the Berlaymont after informing the Council and Parliament.

9. STRUCTURAL INDICATORS

(COM(2002)551 to /4; SEC(2002)1095; SEC(2002)1107)

The Commission approved the communication in COM(2002)551/4 for transmission to Parliament and the Council.

**10. PROVIDING NEW MOMENTUM FOR THE EUROPEAN RESEARCH
AREA: STRENGTHENING, REORIENTING, OPENING UP NEW
PERSPECTIVES**

(COM(2002)565 to /3; SEC(2002)1103)

The Commission approved the communication in COM(2002)565/3 for transmission to the Council, Parliament, the Economic and Social Committee and the Committee of the Regions.

**11. COMMISSION OPINION ON THE APPLICATION OF ARTICLE 104(5) OF
THE EC TREATY**

**COMMISSION RECOMMENDATION FOR A COUNCIL DECISION ON
THE EXISTENCE OF AN EXCESSIVE DEFICIT (ARTICLE 104(6))**

**COMMISSION RECOMMENDATION FOR A COUNCIL
RECOMMENDATION WITH A VIEW TO BRINGING AN END TO AN
EXCESSIVE DEFICIT (ARTICLE 104(7))**

(SEC(2002)1110 and /2; SEC(2002)1117; SEC(2002)1118)

Mr SOLBES presented three documents concerning implementation, in the case of Portugal, of the procedure laid down in Article 104 of the EU Treaty relating to excessive public deficits.

He reminded the meeting of the stages of the process which had been completed since the Portuguese Government had confirmed on 25 July that the country's deficit for 2001 was 4.1% of GDP, clearly exceeding the reference threshold of 3% of GDP, viz.:

- report adopted by the Commission on 24 September, under Article 104(3);
- opinion given by the Economic and Financial Committee on 3 October.

He proposed that the Commission send to the Council:

- an opinion under Article 104(5) on the existence of an excessive deficit in Portugal;
- a recommendation under Article 104(6) for a Council decision on the existence of an excessive deficit;

- a recommendation under Article 104(7) for a Council recommendation to Portugal with a view to bringing an end to the situation of an excessive government deficit.

The "excessive deficit" procedure was subject to a very tight timetable, requiring a Council decision within a maximum of three months, which meant in this case by 1 December.

In the light of these explanations, the Commission approved the Commission opinion concerning the application of Article 104(5) of the Treaty (SEC(2002)1117), the Commission recommendation for a Council decision on the existence of an excessive public deficit, under Article 104(6) of the Treaty (SEC(2002)1118) and the recommendation for Council recommendations to terminate an excessive public deficit, based on Article 104(7) of the Treaty (SEC(2002)1110 and /2).

It decided to transmit the three documents to the Council.

12. MONITORING THE APPLICATION OF COMMUNITY LAW: STATE AID AND INFRINGEMENTS (continued from item 6)

STATE AID

(SEC(2002)1079; C(2002)3744 to /5)

The Commission had before it a series of proposals for decisions concerning state aid (SEC(2002)1079).

Among these proposals for decisions, Mr MONTI singled out a file on aid received in France by "Electricité de France" (EDF), and reminded the meeting briefly of the

background of the examination of the case and contacts with the French authorities (C(2002)3744 to /5).

He proposed to the Commission three separate decisions:

- a proposal for "appropriate measures" (Article 88 of the EC Treaty) which involved withdrawing or neutralising certain aid granted in the form of State guarantees (abolition of the unlimited State guarantee on all EDF commitments by virtue of its status as a public industrial and commercial enterprise (Établissement public à caractère industriel et commercial - EPIC) which meant that the legislation on bankruptcy and insolvability did not apply to EDF; neutralisation of the advantage constituted by the State guarantee on the portion of the EDF bond issues still outstanding, by requiring EDF to pay a premium at the market price);
- opening of the formal examination procedure into fiscal aid provided by accounting adjustments in 1997;
- a demand that information be supplied on earlier fiscal aid.

These proposals did not call into question either the EPIC status of EDF, or the process of privatising this enterprise which had just been launched by the French authorities.

Following an in-depth discussion, the Commission adopted, without amendment, all the decisions in SEC(2002)1079.

13. WORK OF THE CONVENTION

(SEC(2002)1096)

PROCEEDINGS OF THE EUROPEAN CONVENTION - WORKING GROUPS

(SEC(2002)1096)

Mr BARNIER and Mr VITORINO reported on the state of play within the Convention, and in particular on the line being taken by certain working groups.

Mr BARNIER drew particular attention to the crucial role of working groups in drawing up proposals or alternative options which would be referred to the Convention later, as well as the need for active participation of Commission Members in these groups.

For the adoption of the next Commission contribution relating to the future institutional architecture of the Union, he proposed a realistic timetable taking account both of certain immediate political issues and of the date of the first December plenary session of the Convention (5 and 6 December).

Mr VITORINO noted that *de facto*, during the "sectoral" discussions of each group, an institutional debate was starting.

He also drew the Commission's attention to the conclusions of Group III "Legal Personality", and in particular to the effects which could flow from the recognition of the Union as a single legal person (recasting the Treaties in a single legal act integrating all Community law, which would have to be submitted for ratification in all the Member States).

He also singled out the proposals of Group I "Subsidiarity" and in particular the "early warning system" enabling direct participation by national parliaments to monitor compliance with subsidiarity.

The Commission held a wide-ranging exchange of views on this matter, after which it agreed to hold a policy discussion on 30 October on the subject of the institutional architecture of the Union, with a view to the meeting with President Valéry GISCARD D'ESTAING on 6 November, and to the adoption, at a later meeting, of the Commission's contribution on this subject to the Convention, which should be informed of it before its meeting on 5 and 6 December.

**14. CONTACTS BETWEEN THE COMMISSION AND THE COURT OF
AUDITORS IN CONNECTION WITH THE PREPARATION OF THE
COURT'S 2001 ANNUAL REPORT: EMPOWERMENT REQUEST
(SEC(2002)1093 to /4)**

Ms SCHREYER reminded the meeting of the timetable for the work on preparation of the Court of Auditors annual report for the 2001 financial year (Draft remarks of the Court; adversarial meetings between Court staff and Commission staff; finalisation of Commission's answers; presentation of the final report by the Court).

The annual report of the Court and the statement of assurance would provide the basic material for initiating the discharge procedure for the 2001 financial year. She identified the specific aspects of budgetary and accounting management which might attract the attention of the discharge authority.

The Commission took note of this information and decided:

- to take note of the guidelines in SEC(2002)1093/3 and /4;
- to empower Ms SCHREYER, in agreement with the PRESIDENT and Mr KINNOCK, to adopt the definitive texts of the documents below for transmission to the Court of Auditors, Parliament and the Council:

- the Commission's reply to the 2001 Annual Report;
- the follow-up report to the 2000 European Parliament Discharge Resolutions;
- the follow-up report to the 2000 Council recommendation for discharge;
- the report containing the Member States' replies to the 2001 Annual Report;
- the action plan that follows up the 2001 Annual Report.

15. COUNCIL MEETINGS

(SI(2002)1177)

15.1. JUSTICE AND HOME AFFAIRS

(LUXEMBOURG, 14 AND 15 OCTOBER)

Mr VITORINO reported briefly on the Council meeting (Justice and Home Affairs) and in particular on the proposal for a Directive relating to the examination procedures for requests for asylum.

During the debate on cooperation with non-member countries for combating illegal immigration, the Council had recalled the request addressed to the Commission by the Seville European Council to present by the end of October 2002 a report on "the effectiveness of financial resources available at Community level for repatriation of immigrants and rejected asylum-seekers, for management of external borders and for asylum and migration projects in third countries".

In this connection, Mr VITORINO and Mr NIELSON confirmed that the Commission communication on a Community return policy on illegal

residents and the Commission communication on migration and development would be examined together at the meeting on 6 November.

15.2. *AGRICULTURE AND FISHERIES*
(LUXEMBOURG, 14 AND 15 OCTOBER)
(SI(2002)1194)

Mr BYRNE reviewed the items covered by the Council (Agriculture) in the field of food safety and in particular on genetically modified food and feed.

The general discussion on this matter had revealed a large degree of convergence for keeping a "centralised" procedure ("one door, one key" procedure) for authorisation of genetically modified food and feed.

He noted the effects that this option could have on the choice of legal basis (Article 308 versus Article 95).

15.3. *ENVIRONMENT*
(LUXEMBOURG, 17 OCTOBER)
(SI(2002)1139)

Ms WALLSTRÖM reported on the discussions to date on the proposal for a Regulation concerning the traceability and labelling of genetically modified organisms and the outlook for the discussions of the Council (Environment) on 17 October.

16. RELATIONS WITH NON-MEMBER COUNTRIES

16.1. PREPARATIONS FOR THE EU-ISRAEL ASSOCIATION COUNCIL: IMPORTS FROM THE OCCUPIED TERRITORIES (SEC(2002)1111)

The Commission took note of the information in SEC(2002)1111.

16.2. COMMUNITY RESPONSE TO THE HUMANITARIAN CRISIS IN SOUTHERN AFRICA (SEC(2002)1114)

The Commission took note of the information in SEC(2002)1114.

17. OTHER BUSINESS

17.1. 2002 ANNUAL MEETINGS OF THE IMF AND THE WORLD BANK (SEC(2002)1091)

The Commission took note of the information in SEC(2002)1091.

17.2. SITUATION IN THE TELECOMMUNICATIONS SECTOR

Mr LIIKANEN explained the situation in the telecommunications sector. He outlined certain initiatives that the Commission could take in this connection.

The Commission took note of this information and agreed to keep a close watch over the development of the sector. It also noted that Mr LIIKANEN might be tabling proposals by the usual procedures.

Mr LIIKANEN would be happy to provide Members with more precise information on the seriousness of the situation in this sector.

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The Commission's other discussions on certain agenda items are recorded in the special minutes.

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The meeting closed at 1300 hours.