EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2002)1588 final

Brussels, 13 November 2002

MINUTES

of the 1588th meeting of the Commission

held in Brussels

(Breydel)

on Wednesday 6 November 2002

(morning)

These minutes were approved by the Commission at its 1589th meeting, held in Brussels on 13th November 2002.

They contain 23 pages.

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Single sitting: Wednesday 6 November (morning)

The sitting opened at 0855 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 BYRNE	
Mr BARNIER	
Ms READING	
Ms SCHREYER	
Ms WALLSTRÖM	
Mr VITORINO	
Ms DIAMANTOPOULOU	

Absent:

Mr LAMY

The following sat in to represent absent Members of the Commission

Mr THERY	Chef de cabinet to Mr Lamy	

The following also sat in

Mr PETITE	Director-General, Legal Service	
Mr MANSERVISI	Chef de cabinet to the President	
Mr FAULL	Commission Spokesman	
Mr KEMPPINEN	Spokesman	
Ms CORUGEDO STENEBERG	Press and Communication DG	
Mr GUSETTI	A member of the President's staff	
Mr PEREZ MONTES	A member of Ms de Palacio's staff	
Ms AVENEL	A member of Ms de Palacio's staff	Item 17
Mr SOUKUP	A member of Mr Monti's staff	Items 6, 15, 16 and 17
Mr ANNERBERG	Chef de cabinet to Ms Wallström	
Ms COMMEAU-YANNOUSSIS	Energy and Transport DG	Item 17

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

1. AGENDAS

(OJ(2002)1588/3; SEC(2002)1147/2)

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

2. WEEKLY MEETING OF CHEFS DE CABINET

(SEC(2002)1588)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 4 November.

3. APPROVAL OF MINUTES AND SPECIAL MINUTES OF 1587th MEETING (30 October)

(PV(2002)1587; PV(2002)1587, Part II)

The Commission approved the ordinary minutes of its 1587th meeting.

It decided to hold over adoption of the draft special minutes to a later meeting.

4. PARLIAMENT

PARLIAMENTARY AFFAIRS GROUP

(SP(2002)3516)

The Commission took note of the record of the meeting of the Parliamentary Affairs Group held on Thursday 31 October.

It paid particular attention to the following:

a) Interinstitutional relations (point 1 of the record)

Codecision procedure - Article 251 EC

– Cosmetics, 2000/0077 (COD)

The Commission adopted the line set out in SP(2002)3049/2 for the conciliation committee meeting on 6 November.

b) Preparations for November I to February I part-sessions (point 2 of the record)

Specific points to consider: November I and 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:

1st reading and simple consultation

November II

– MEDINA ORTEGA report, Advertising and sponsorship of tobacco products,
COM(2001)283, 01/0119 (COD)

The Commission noted the political sensitivity of this matter, particularly in view of the Court of Justice's annulment of the first Commission proposal in this area, and decided to adopt the line set out in SP(2002)3508, but to reject amendments 4, 14, 15 and 19.

Given the urgency of adopting an amended proposal for the Council meeting (Employment, social policy, health and consumers) on 2 and 3 December, the Commission, under Article 13 of its Rules of Procedure, empowered Mr BYRNE, in agreement with the PRESIDENT, Ms de PALACIO and any other Members associated, to adopt an amended proposal on the basis of the line set out above once Parliament had given its opinion, and transmit it to the Council in accordance with Article 250(2) of the Treaty. It also agreed to widen this empowerment to enable Mr BYRNE to react flexibly to any developments in the Council bodies, subject to the Commission being informed in parallel of any amendment likely to call into question the balance of the initial proposal.

c) 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)3470), for transmission to Parliament.

d) Other matters (point 8 of the record)

Presence of Commission Members at Question Time in Strasbourg in 2003 (SP(2002)3513/2).

The Commission adopted the rota set out in SP(2002)3513/2 and asked the Secretariat-General to send it to Parliament.

5. PERMANENT REPRESENTATIVES COMMITTEE
(SI(2002)1269)

COUNCIL AFFAIRS GROUP (CAG)
(SI(2002)1269)

The Commission took note of the record of the meeting of the Council Affairs Group held on Friday 31 October.

(On the specific point relating to the Protocol to the 1992 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (FIPOL Convention), see item 14 below.)

6. MONITORING THE APPLICATION OF COMMUNITY LAW: STATE AID AND INFRINGEMENTS
(C(2002)3728 to /11; SEC(2002)1168; SEC(2002)1184)

6.1. CASE DEFERRED: COMMISSION REGULATION ON THE APPLICATION OF ARTICLES 87 AND 88 OF THE EC TREATY TO EMPLOYMENT AID
(C(2002)3728 to /11)

The Commission decided to set at 50% the gross aid intensity of the total aid provided for in Article 5 for employment for disadvantaged workers. It adopted in principle the Regulation in C(2002)3728/11 and empowered Mr MONTI, in agreement with Ms DIAMANTOPOULOU, to adopt it formally in all the official Community languages.

It also agreed to hold, at the appropriate time, a horizontal debate on the differences between general measures and state aid.

6.2. INFRINGEMENTS - DOSSIERS POSTPONED BECAUSE OF UNAVAILABILITY OF DOCUMENTS - REGULARISATION (SEC(2002)1168)

The Commission adopted the decisions in SEC(2002)1168.

6.3. INFRINGEMENTS - URGENT CASE (SEC(2002)1184)

The Commission adopted the following decision:

2002/2281 FRANCE

(SEC(2002)1184)

Non-compliance with Directive 76/116/EEC (Free movement of fertilisers) and Article 95 EC

Decision: Letter of formal notice to be sent immediately (deadline for reply: 15 days)

7. WRITTEN PROCEDURES AND EMPOWERMENT

7.1. WRITTEN PROCEDURES APPROVED (SEC(2002)1148 to /4)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted by written procedure between 28 and 31 October.

7.2. SENSITIVE WRITTEN PROCEDURES
(SEC(2002)1149)

The Commission took note of the following written procedures initiated between 28 and 31 October for the adoption of decisions with political implications:

Time limit: 4.11.2002

E/2002/2095 - COM(2002)595 DG RELEX

- Commission communication on an EU strategy to reduce atmospheric emissions from seagoing ships.
- Proposal for a Parliament and Council Directive amending Directive 1999/32/EC as regards the sulphur content of marine fuels.

Time limit: 4.11.2002

E/2002/2105 - COM(2002)600 DG FISH

Commission communication on an action plan to counter the social, economic and regional consequences of the restructuring of the EU fishing industry.

Time limit: 7.11.2002

E/2002/2132 - COM(2002)610 DG ENTR

Commission communication *Better environment for enterprises*.

7.3. EMPOWERMENT
(SEC(2002)1150 to /4)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the empowerment procedure between 28 and 31 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 28 and 31 October, as archived on the "Greffe 2000" (Registry) website.

8. ADMINISTRATIVE AND BUDGETARY MATTERS
(SEC(2002)1151/2)

ADMINISTRATIVE MATTERS
(PERS(2002)152)

8.1. DG BUDG - A1 POST OF DEPUTY DIRECTOR-GENERAL

The Commission had before it applications under Article 29(1)(a) of the Staff Regulations for the A1 post of Deputy Director-General in the Budget DG (PERS(2002)119/3).

The Commission took note of the opinions of the Consultative Committee on Appointments of 10 and 17 October (PERS(2002)119/4 and /5).

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 Ms SCHREYER, it then decided to appoint Mr Brian GRAY to the post.

This decision would take effect on a date to be fixed later.

8.2. APPLICATION OF ARTICLE 50 OF THE STAFF REGULATIONS (STAGE TWO)

The Commission continued its discussions on this matter, begun on 24 September (PV(2002)1582).

The Commission, on a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Mr FISCHLER, adopted the decision in PERS(2002)151 to apply the second stage of the procedure laid down in Article 50 of the Staff Regulations with respect to Mr David ROBERTS, an A1 official, currently Adviser *hors classe* in the Agriculture DG.

This decision would take effect on 1 December.

8.3. SG - INTERIM A2 APPOINTMENT

The Commission, on a proposal from Mr KINNOCK, in agreement with the PRESIDENT, decided under Article 7(2) of the Staff Regulations that Ms Marleen HARFORD, an A3 official and currently Head of Unit SG.G.1 (Human and financial resources), should temporarily occupy the post of Director of Directorate SG.G (Resources and general matters) in the Secretariat-General with effect from 1 September 2002 until Ms Sarah EVANS resumed her duties.

OTHER MATTERS

8.4. INSTITUTIONAL AGREEMENT CONCERNING THE SOLIDARITY FUND

The Commission authorised Ms SCHREYER to sign, on behalf of the Commission, the Interinstitutional Agreement on the Solidarity Fund.

9. COMMISSION DECISION ESTABLISHING AN OFFICE FOR THE ADMINISTRATION AND PAYMENT OF INDIVIDUAL ENTITLEMENTS (C(2002)4367 to /3)

10. COMMISSION DECISION ESTABLISHING AN OFFICE FOR INFRASTRUCTURE AND LOGISTICS IN BRUSSELS (C(2002)4367 to /3) C(2002)4368 and /2)

11. COMMISSION DECISION ESTABLISHING AN OFFICE FOR INFRASTRUCTURE AND LOGISTICS IN LUXEMBOURG (C(2002)4367 to /3) C(2002)4369 and /2)

The Commission adopted the decisions in question, as set out in C(2002)4367/3, C(2002)4368/2 and C(2002)4369/2 respectively.

12. OTHER BUSINESS

COMMISSION DECISION ON A PROCEEDING UNDER ARTICLE 81 OF THE EC TREATY (CASE COMP/E-2/37.784 - FINE ART AUCTION HOUSES) (C(2002)4283 to /8)

Further to its decision of 30 October (PV(2002)1587, item 12), the Commission decided that the texts in C(2002)4283/7 and /8 (versions with certain business secrets removed) would be notified respectively to Sotheby's (/7) and Christie's (/8).

13. PARLIAMENT (continued from item 4)

Work of the Committee on Budgetary Control: presentation of the Court of Auditors annual report for 2001

Ms SCHREYER reported on the main points of the presentation by President FABRA-VALLES of the Court of Auditors annual report for 2001 to Parliament's Committee on Budgetary Control.

She also commented on the prospects for the 2002 discharge procedure, which was of particular importance as it would cover a more advanced stage of the implementation of administrative and financial reform.

She suggested that the Commission organise speedily the annual meeting between Commission Members and the Court of Auditors.

The Commission took note of this information and request.

14. PERMANENT REPRESENTATIVES COMMITTEE (continued from item 5)
(SI(2002)1269)

Community competence concerning the Brussels I Convention - new Protocol to the 1992 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (FIPOL Convention)

Mr VITORINO reported on the complex situation in which the Council and the Commission were placed with regard to the decision on Community participation in a protocol to an existing convention (1992 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage - FIPOL Convention), to which the EU was not a party and in which one Member State did not wish to take part.

Without going into a detailed legal analysis, he pointed out that this type of difficulty was not an isolated case, and called for a firm approach on the principle (defence of Community competence resulting from "Brussels I"), although exceptional cases justified a degree of flexibility in the actual exercise of this responsibility.

The Commission noted that a note from the Legal Service would be put before it on the problem of the "Brussels I" Regulation as regards jurisdiction in external affairs.

15. PROPOSAL FOR A COUNCIL DECISION RAISING THE BORROWING CEILING FOR EURATOM LOANS
(COM(2002)457 to /4; SEC(2002)1165)

16. PROPOSAL FOR A COUNCIL DECISION ADAPTING THE SCOPE OF EURATOM LOANS
(COM(2002)456 to /6; SEC(2002)1165)

Mr SOLBES presented two proposals for Council Decisions amending previous decisions aimed at:

– increasing the ceiling of Euratom loans that may be contracted in relation to nuclear power stations (from €4 000 million to €6 000 million), given the investment requirements identified so far both within the Community and in certain candidate countries or non-member countries;

– clarifying the scope of Euratom loans so as to ensure equal treatment between current and future Member States, and confirming the importance and priority to be given to the criteria of security and efficiency of nuclear power stations for decisions on the eligibility of projects, as well as the eligibility of dismantling projects within the Community.

He outlined the reasons for referring these two proposals to the Council.

The Commission held an in-depth exchange of views on these two proposals, after which it decided to adopt the proposals for decisions set out in COM(2002)457/4 (Decision concerning the loan ceiling) and COM(2002)456/6 (consolidation Decision), for transmission to the Council and Parliament.

17. SUMMARY OF PROPOSALS ON NUCLEAR SAFETY IN THE EUROPEAN UNION

- NUCLEAR SAFETY IN THE ENLARGED EU

- MANAGEMENT OF SPENT NUCLEAR FUEL AND RADIOACTIVE WASTE

- TRADE WITH RUSSIA IN NUCLEAR MATERIALS

(COM(2002)605 to /4; COM(2002)606 to /4; SEC(2002)1166)

Ms de PALACIO presented a series of supplementary proposals in the field of nuclear safety, both as regards the safety of nuclear plants themselves and from the point of view of nuclear waste management. The package was made up of the following:

– a summary communication on nuclear safety in the European Union together with two legislative proposals:

  - a draft proposal for a Council Directive (Euratom) defining the basic obligations and general principles to be complied with by the Member States in the field of the safety of nuclear installations;

  - a draft proposal for a Council Directive (Euratom) on the management of spent nuclear fuel and radioactive waste;

– a communication on trade in nuclear materials with Russia, together with a proposal for a Council Decision giving the Commission directives for negotiating a cooperation agreement between Euratom and the Russian Federation in the field of trade in nuclear materials.

These proposals had their origin and their basis in the conclusions drawn from the general public debate stimulated by the publication of the Green Paper on the security of energy supply, which had highlighted the seriousness of nuclear safety and waste treatment problems.

In this connection Ms de PALACIO pointed out that the Laeken European Council had undertaken to maintain a high level of nuclear safety.

Both proposals for Directives were put before the Commission at this stage in the form of drafts, for transmission first to the "Article 31 Committee" of the Euratom Treaty for an opinion, followed by Commission adoption for transmission to the Economic and Social Committee, the Council and Parliament.

The Commission held an in-depth discussion on various aspects of these proposals, in particular:

– the legal basis to be used for both legislative proposals;

– the degree of rigour to be imposed on Member States to guarantee the availability in all circumstances of funds for dismantling;

– the relative levels of nuclear safety identified in the nuclear installations of the fifteen Member States and those of the candidate countries;

– the added value provided by the safety standards suggested in the proposals for Directives compared with the standards laid down by the International Atomic Energy Agency (which were only recommendations).

Following this discussion, the Commission adopted an amendment to the communication in COM(2002)605/4, and in particular the section headed *The special case of Temelin* (page 12 of the French version):

- The last sentence of the fifth paragraph was deleted.

Subject to this amendment, the Commission:

– adopted the communication summarising proposals and projects on nuclear safety in the European Union (set out in COM(2002)605/4), for transmission to Parliament and the Council;

– approved the draft proposal for a Directive (Euratom) defining basic obligations and general principles in the field of the safety of nuclear

installations, as well as the draft proposal for a Directive (Euratom) on the management of spent nuclear fuel and radioactive waste (in COM(2002)605/4), for transmission for an opinion to the Article 31 Committee (Euratom Treaty);

– adopted the communication on trade in nuclear materials with Russia, set out in COM(2002)606/4, including in particular a proposal for a decision giving the Commission negotiating directives, for transmission to the Council.

The Commission noted:

– that the summary communication would be transmitted to the Council and Parliament simultaneously with the transmission of the draft proposals for directives to the Article 31 Committee;
– that it would adopt both proposals for directives after the opinion delivered, within two months, by the Article 31 Committee, with a view to their adoption for transmission to the Economic and Social Committee, Parliament and the Council, pursuant to Article 31 of the Euratom Treaty.

18. COUNCIL MEETINGS
(SI(2002)1259)

ECONOMIC AND FINANCIAL AFFAIRS
(BRUSSELS, 5 NOVEMBER)

Mr SOLBES summarised the discussions of the Eurogroup (analysis of the economic situation; Stability Pact and budgetary position) and of the Council (Economic and Financial Affairs) itself.

Mr BOLKESTEIN reported that agreement by qualified majority had been reached on a Presidency compromise proposal (amended) as regards the proposal for a

Parliament and Council Directive on the prospectus to be published when securities are offered to the public or admitted to trading.

The Commission took note of this information.

19. OTHER BUSINESS (continued from item 12)

19.1. COURT OF JUSTICE JUDGMENTS ON BILATERAL "OPEN SKIES" AIR TRAFFIC AGREEMENTS BETWEEN CERTAIN MEMBER STATES AND THE UNITED STATES

Ms de PALACIO reported on the judgments handed down by the Court of Justice to the effect that bilateral "open skies" air traffic agreements concluded between certain Member States and the United States were contrary to Community law.

These judgments should pave the way for the negotiation of an agreement between the Community itself and the United States, in order to bring an end to the fragmentation of this market.

The Commission took note of this information.

19.2. SITUATION OF THE "EURONEWS" TELEVISION CHANNEL

Mr BARNIER outlined the financial difficulties facing the European television news channel "Euronews".

The Commission took note of this information.

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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 1100 hours.