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SECRETARIAT-GENERAL

PV(2002)1591 final

Brussels, 3 December 2002

MINUTES
of the 1591st meeting of the Commission
held in Brussels
(Breydel)
on Wednesday 27 November 2002
(morning)

These minutes were approved by the Commission at its 1592nd meeting, held in Brussels on 3rd December 2002.

They contain 23 pages.

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Single sitting: Wednesday 27 November (morning)

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

Present:

Mr PRODI President

Mr KINNOCK Vice-President

Ms de PALACIO Vice-President

Mr MONTI

Mr LIIKANEN

Mr BOLKESTEIN

Mr BUSQUIN

Mr SOLBES

Mr VERHEUGEN

Mr BYRNE

Mr BARNIER

Except items 15, 16 and 17

Ms REDING

Ms SCHREYER

MS WALLSTRÖM

Mr VITORINO

Ms DIAMANTOPOULOU

Absent:

Mr FISCHLER

Mr NIELSON

Mr PATTEN

Mr LAMY

The following sat in to represent absent Members of the Commission

Ms DORAN	Deputy Chef de cabinet to Mr Fischler	
Mr SCHMIDT	A member of Mr Nielson's staff	
Mr CHILD	A member of Mr Patten's staff	
Mr THERY	Chef de cabinet to Mr Lamy	
Ms JORNA	A member of Mr Barnier's staff	Items 15, 16 and 17

The following also sat in

Mr WAINWRIGHT	Chief Adviser, Legal Service	
Mr MANSERVISI	Chef de cabinet to the President	
Mr FAULL	Commission Spokesman	
Mr KEMPPINEN	Spokesman	
Mr TODD	Spokesman	Item 16
Mr THOMAS	Spokesman	Items 9, 10 and 14
Mr KREUZHUBER	Spokesman	
Mr GABRICI	Spokesman	
Ms HOUTMAN	Deputy Chef de cabinet to the President	
Ms VANNINI	A member of Mr Monti's staff	Items 6 and 13
Mr VAN BALLEKOM	Deputy Chef de cabinet to Mr Bolkestein	
Mr PLANAS	Chef de cabinet to Mr Solbes	Item 14
Mr MARTINEZ	A member of Mr Solbes's staff	Item 14
Ms CORUGEDO STENEBOURG	Press and Communication DG	
Mr JUNGINGER-DITTEL	Competition DG	Items 6 and 13
Ms STROPP	Competition DG	Items 6 and 13
Mr AUJEAN	Taxation and Customs Union DG	Item 16
Mr KERMODE	Taxation and Customs Union DG	Item 16
Mr LEVI	GOPA	Item 14
Mr BUTI	GOPA	Item 14

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

1. AGENDAS

(OJ(2002)1591/3; SEC(2002)1257/2)

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)1591)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 25 November.

3. APPROVAL OF MINUTES OF 1590th MEETING (19 November)

(PV(2002)1590)

The Commission decided to hold over adoption of the minutes of its 1590th meeting to its next meeting.

4. PARLIAMENT

4.1. NOVEMBER II PART-SESSION

(SP(2002)3706)

The Commission took note of the record of Parliament's part-session held in Strasbourg from 18 to 21 November.

4.2. ACTION TO BE TAKEN ON PARLIAMENT'S OPINIONS
(SP(2002)3704)

The Commission approved the proposed delegation of powers decisions relating to action to be taken on the amendments presented by Parliament under the codecision and consultation procedures (see list produced by the Secretariat-General in SP(2002)3704).

5. PERMANENT REPRESENTATIVES COMMITTEE
(SI(2002)1419 and /2; SEC(2002)1305)

The Commission took note of the record of the meeting of the Council Affairs Group held on Friday 22 November (SI(2002)1419/2).

It paid particular attention to the following:

a) Readmission agreements

The Commission noted that Mr VITORINO, Mr PATTEN and Mr NIELSON, in agreement with the PRESIDENT, would be defining the approach to adopt for the Council meeting (General Affairs and External Relations) on 9 December.

In this connection, it agreed to give further thought to the Commission's position on the admissibility of bilateral agreements negotiated by Member States where a request for a negotiating mandate had been transmitted to the Council.

**b) Proposal for a Regulation on genetically modified food and feed
(SEC(2002)1305)**

The Commission authorised Mr BYRNE, in agreement with the PRESIDENT and Ms WALLSTRÖM, to take a position in the Council, according to the terms set out at point VI (Conclusion) of SEC(2002)1305, on the elements of a possible compromise to be adopted by qualified majority.

c) BCRN Programme

The Commission approved the proposal for a programme to improve cooperation between Member States for the protection of the population against the effects of the use for terrorist purposes of bacteriological, chemical, radiological or nuclear weapons (BCRN programme).

d) Hague Convention on the law applicable to certain rights in respect of securities held with an intermediary - Directive 2002/47/EC on financial collateral arrangements

The Commission decided to accept the negotiating mandate tabled by the Presidency for the Council meeting (Justice and Home Affairs) on 28 and 29 November and to take note, in the light of the results of the diplomatic conference to be held in The Hague from 2 to 13 December, of the possibility of presenting a proposal for a Directive amending Article 9 of Directive 2002/47/EC on financial collateral arrangements.

**6. MONITORING THE APPLICATION OF COMMUNITY LAW: STATE AID
(COM(2002)636 to /3; COM(2002)638 to /4; C(2002)4484 to /5)**

**6.1. STATE AID - COMMISSION REPORT ON THE STATE OF PLAY IN
THE WORK ON THE GUIDELINES FOR STATE AID SERVICES OF
GENERAL ECONOMIC INTEREST
(COM(2002)636 to /3)**

The Commission approved the report in COM(2002)636/3 for transmission to Parliament and the Council.

**6.2. STATE AID SCOREBOARD - AUTUMN 2002 UPDATE - SPECIAL
EDITION ON THE CANDIDATE COUNTRIES
(COM(2002)638 to /4)**

The Commission approved the scoreboard in COM(2002)638/4 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

**6.3. STATE AID - COMMUNITY GUIDELINES FOR STATE AID
CONCERNING TSE TESTS, FALLEN STOCK AND
SLAUGHTERHOUSE WASTE
(C(2002)4484 to /5)**

The Commission adopted in principle the guidelines in C(2002)4484/5 and empowered Mr FISCHLER to adopt them formally in the official Community languages.

7. WRITTEN PROCEDURES AND EMPOWERMENT

7.1. WRITTEN PROCEDURES APPROVED

(SEC(2002)1258 to /5)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted by written procedure between 18 and 22 November.

7.2. SENSITIVE WRITTEN PROCEDURES

(SEC(2002)1259)

The Commission took note of the following written procedures initiated between 18 and 22 November for the adoption of decisions with political implications:

Time limit: 26.11.2002

E/2002/2255 - COM(2002)656 DG FISH

Commission communication on a Community action plan to reduce discards of fish.

Time limit: 02.12.2002

E/2002/2271 - C(2002)4565 DG ESTAT

Statistical programme for 2003.

7.3. EMPOWERMENT

(SEC(2002)1260 to /5)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the empowerment procedure between 18 and 22 November.

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 18 and 22 November, as archived on the "Greffé 2000" (Registry) website.

7.5. REQUEST FOR EMPOWERMENT IN THE FISHERIES SECTOR (SEC(2002)1294)

The Commission decided to grant to Mr FISCHLER the empowerment set out in SEC(2002)1294.

8. ADMINISTRATIVE AND BUDGETARY MATTERS (SEC(2002)1261/2)

ADMINISTRATIVE MATTERS (PERS(2002)160)

8.1. DG MARKT - 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, Internal Market (PERS(2002)122/2 and /3).

The Commission took note of the opinions of the Consultative Committee on Appointments of 13 and 14 November (PERS(2002)122/4 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 Mr BOLKESTEIN, the Commission decided to appoint Mr Thierry STOLL to the post.

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

8.2. *DG MARKT - CREATION OF A POST OF CHIEF ADVISER AND TRANSFER OF AN A2 OFFICIAL TO THE POST*

On a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Mr BOLKESTEIN, the Commission decided:

- to create a post of Chief Adviser, reporting to the Director-General, Internal Market;
- to transfer to it, with his post and in the interest of the service, Mr Paul WATERSCHOOT, an A2 official, currently Director of Directorate D (Free movement of goods, regulated professions and postal services) in the Internal Market DG, in line with the policy of mobility for senior officials.

The Chief Adviser's tasks would be specified later.

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

8.3. *DG MARKT - A2 POST OF DIRECTOR*

On a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Mr BOLKESTEIN, the Commission decided to authorise the publication internally, interinstitutionally and externally of the post of Director of Directorate D (Free movement of goods, regulated professions and postal services) in the Internal Market DG under Articles 29(1)(a), 29(1)(c) and 29(2) of the Staff Regulations, so as to be able to choose from the widest possible range of candidates.

This decision would take effect immediately.

**9. COMMUNICATION ON THE NEED AND THE MEANS TO UPGRADE
THE QUALITY OF BUDGETARY STATISTICS
(COM(2002)670 and /2; COM (2002)668/2; SEC(2002)1285)**

The Commission adopted the communication in COM(2002)670/2 for transmission to Parliament, the Council, the European Central Bank, the Economic and Social Committee and the Committee of the Regions.

**10. COMMUNICATION ON EUROZONE STATISTICS
(COM(2002)661 and /2; SEC(2002)1285)**

The Commission adopted the communication in COM(2002)661 for transmission to Parliament and the Council. It also empowered Mr SOLBES to adopt, on behalf of the Commission and on the basis of the communication, the report on statistics in the euro area to be presented jointly by the Commission and the Council to the spring 2003 European Council.

**11. COMMISSION DECISION ON APPLICATION OF ARTICLE 81 OF THE
EC TREATY AND ARTICLE 53 OF THE EEA AGREEMENT(CASE
COMP/E-1/37.978 - METHYLGLUCAMINE)
(C(2002)4557 to /4)**

The Commission:

- took note of the final report of the Hearing Officer in C(2002)4557/3;
- took note of the opinion of the Advisory Committee on Restrictive Practices and Dominant Positions of 18 November (C(2002)4557) and the opinion of 25 November concerning fines (C(2002)4557/3);
- adopted, in the authentic language (English), the decision set out in C(2002)4557/4, concluding that the companies in question had infringed Article 81(1) of the EC Treaty and Article 53(1) of the EEA Agreement, and imposing on two of the companies a fine for which they would be jointly and severally liable.

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

**12. COMMISSION DECISION ON APPLICATION OF ARTICLE 81 OF THE
EC TREATY (CASE COMP/E-1/37.152 - PLASTERBOARD)
(C(2002)4570 to /4)**

The Commission:

- took note of the final report of the Hearing Officer in C(2002)4570/3;
- took note of the opinion of the Advisory Committee on Restrictive Practices and Dominant Positions of 18 November (C(2002)4570) and the opinion of 25 November concerning fines (C(2002)4570/3);
- adopted, in the authentic languages (Dutch, English, French and German), the decision in C(2002)4570/4, concluding that the companies concerned had infringed Article 81(1) of the EC Treaty and imposing fines on them.

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

13. MONITORING THE APPLICATION OF COMMUNITY LAW: STATE AID

(continued from item 6)

(SEC(2002)1253)

STATE AID

The Commission had before it a series of proposals for decisions concerning state aid (SEC(2002)1253).

Following a discussion on the following three specific cases:

- **C 85/1998 - Thuringia consolidation programme** (C(2002)4357 to /3);
- **C 87/1998 - Thuringia loan programme for SMEs** (C(2002)4358 to /3);
- **C 28/1999 - Thuringia working capital programme** (C(2002)4359 to /3),

the Commission adopted all the decisions in SEC(2002)1253 without amendment.

14. STRENGTHENING THE COORDINATION OF BUDGETARY POLICIES

(COM(2002)668 to /4; SEC(2002)1285)

Mr SOLBES tabled a communication on strengthening the coordination of budgetary policies, which suggested ways of clarifying the interpretation and improving the implementation of the stability and growth pact.

He referred to recent Commission discussions (meeting of 24 September: PV(2002)1582; seminar of 13 November) and pointed out that this communication was also a follow-up to the conclusions of the Barcelona European Council (15-16 March) in which the Commission had been invited "to present proposals to

reinforce economic policy coordination in time for the 2003 spring European Council".

The communication was part of the strategy to strengthen economic policy coordination (including the recent efforts to rationalise the procedures for adopting and implementing the broad economic policy guidelines and the employment guidelines).

While focusing on the objective of budgetary stability, the communication also sought to harness the public finances more effectively to encouraging growth and employment, and was based on the proposals which the Commission had submitted to the Convention.

Mr SOLBES outlined the five suggestions intended to clarify the interpretation of the stability and growth pact, and the four points of the programme to improve its implementation.

He pointed out in particular that these proposals could be implemented within the existing legal framework, that the Commission must continue to play an active role in ensuring compliance by Member States with the Treaty requirements on excessive deficits, and that the pact's objective of budgets close to or above balance must be firmly maintained.

The Commission held a discussion which revealed general support for the proposals tabled by Mr SOLBES.

The Commission therefore adopted the communication in COM(2002)668/4 for transmission to Parliament, the Council, the European Central Bank, the Economic and Social Committee and the Committee of the Regions.

15. COUNCIL MEETINGS

(SI(2002)1403; SI(2002)1420; SI(2002)1422; SEC(2002)1304)

15.1. TRANSPORT, TELECOMMUNICATIONS, ENERGY

(BRUSSELS, 25 NOVEMBER)

(SI(2002)1420; SEC(2002)1304)

Ms de PALACIO reported on the Council meeting, and in particular the political agreement reached on two key issues:

- a proposal for a directive to speed up the opening-up of the electricity and gas markets;
- a proposal for a regulation on conditions for access to the network for cross-border trade in electricity.

She stressed the importance of this agreement for the competitiveness of the European economy and for European citizens.

The Commission congratulated Ms de PALACIO on this result.

15.2. COMPETITIVENESS

(BRUSSELS, 26 NOVEMBER)

(SI(2002)1422)

Internal market

Mr MONTI announced that the Council had unanimously approved (political agreement) the proposal for a Council Regulation on the implementation of the competition rules laid down under Articles 81 and 82 of the Treaty.

This text, presented in September 2000, was aimed at decentralising the monitoring of the application of Community law by abolishing the present centralised system of notification and authorisation of restrictive practices,

and by creating a system in which the Commission, national legal systems and the national competition authorities would have parallel responsibility for applying Article 81 of the EC Treaty. Certain of the Commission's powers, particularly its powers of investigation, would be strengthened by the Regulation.

He emphasised the symbolic significance of this unanimous agreement, where a qualified majority would have been sufficient.

The Commission congratulated Mr MONTI on this result.

Industry and research

Mr LIIKANEN reported that the Council had welcomed the presentation of the Commission communication *Better environment for enterprises*. The debate had revealed a consensus on the usefulness of setting - on a voluntary basis and under the open coordination method - quantitative objectives for enterprise policy.

Mr BUSQUIN reported that the Council had given a warm welcome to the two Commission communications:

- *Providing new momentum for the European research area. Strengthening - Reorienting - Opening up new perspectives*
- *More research for Europe: Towards 3% of GDP.*

In spring 2003 he would be proposing specific measures to meet the goals defined at the Lisbon European Council.

The Commission took note of this information.

15.3. GENERAL AFFAIRS AND EXTERNAL RELATIONS
(BRUSSELS, 9-10 DECEMBER)

Mr VERHEUGEN and the PRESIDENT gave an update on developments in the enlargement negotiations and the debate which had been stimulated by the tour of European capitals by Mr ERDOGAN, leader of the Justice and Development Party (AKP) in Turkey.

16. RELATIONS WITH NON-MEMBER COUNTRIES

**REPORT ON NEGOTIATIONS WITH CERTAIN NON-MEMBER
COUNTRIES ON THE TAXATION OF SAVINGS INCOME**
(SEC(2002)1287 to /3)

Mr BOLKESTEIN presented a factual report for the Council (ECO-FIN) which outlined the development and results of the negotiations with six non-member countries (United States, Switzerland, Liechtenstein, Monaco, Andorra, San Marino) with a view to securing the adoption by those countries of measures equivalent to those to be applied within the Community so as to ensure effective taxation of savings income in the form of interest payments.

He reminded the meeting of the thrust of the Commission's initial proposal and the circumstances in which the Feira European Council had rejected it and had invited the Presidency and the Commission to start negotiations with certain non-member countries.

He outlined the four-point plan (deduction at source; voluntary supply of information by the actual beneficiary; genuine system for the exchange of information on request; revision clause enabling arrangements to be made after the end of the transitional period of the Directive) that the Commission had drawn up

and put to its interlocutors, in the light of Switzerland's refusal to accept an automatic exchange of information.

A basis for agreement existed on three of the four points, the outstanding problem still being assessment of the Swiss offer as regards the exchange of information on request - which Switzerland wished to see limited to cases of tax fraud and the like.

Following a brief exchange of views on the thrust of the four-point plan and the possibility of treating it as "equivalent measures" to those to be applied within the Community, the Commission adopted the report on the negotiations with certain non-member countries on the taxation of savings income, as set out in SEC(2002)1287/3, for transmission to the Council and, for information, to Parliament.

17. OTHER BUSINESS

CONSEQUENCES OF THE SINKING OF THE OIL TANKER "PRESTIGE" OFF THE COAST OF SPAIN

Ms de PALACIO announced that a draft communication had just been distributed by the Energy and Transport DG to the other Directorates-General and services under the interdepartmental consultation procedure with a view to its adoption by the Commission on 3 December and its entry on the agenda for the Copenhagen European Council.

She briefly outlined its content (acceleration of the adoption of the Erika 1 and Erika 2 legislative packages and additional initiatives both at European level and within the International Maritime Organisation).

Ms WALLSTRÖM drew attention to the need to give further thought to the question of operators' responsibility and to possible precautionary measures to limit the impact of such accidents on the environment.

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 1200 hours.