



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2003)1600 final

Brussels, 19 February 2003

MINUTES
of the 1600th meeting of the Commission
held in Strasbourg
(Winston Churchill Building)
on Tuesday 11 February 2003
(afternoon)

These minutes were approved by the Commission at its 1601st meeting, held in Brussels on 19 February 2003.

They contain 25 pages.

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Single sitting: Tuesday 11 February (afternoon)

The sitting opened at 1520 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 SOLBES	
Mr NIELSON	
Mr PATTEN	
Mr LAMY	
Mr BYRNE	
Mr BARNIER	
Ms REDING	
Ms SCHREYER	
Ms WALLSTRÖM	
Mr VITORINO	
Ms DIAMANTOPOULOU	

Absent:

Mr BUSQUIN
Mr VERHEUGEN

The following sat in to represent absent Members of the Commission

Ms RUSSO	A member of Mr Busquin's staff
Mr PROUT	A member of Mr Verheugen's staff

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
Mr MAMER	Spokesman
Mr GUSSETTI	A member of the President's staff
Mr SCHINAS	Deputy Chef de cabinet to Ms de Palacio
Mr MØRCH	A member of Mr Nielson's staff
Ms GARZON	A member of Mr Lamy's staff
Mr NUNES de ALMEIDA	A member of Mr Vitorino's staff

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

1. AGENDAS

(OJ(2003)1600/3; SEC(2003)147/2)

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(2003)1600)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 10 February.

**3. APPROVAL OF MINUTES AND SPECIAL MINUTES OF 1599th MEETING
(5 February)**

(PV(2003)1599; PV(2003)1599, Part II)

The Commission approved the minutes of its 1599th meeting.

4. PARLIAMENT

PARLIAMENTARY AFFAIRS GROUP

(SP(2003)493)

The Commission took note of the record of the meeting of the Parliamentary Affairs Group held on Friday 7 February.

It paid particular attention to the following:

a) **Interinstitutional relations** (point 1 of the record)

Codecision procedure - Article 251 EC

Specific points to consider

— EVANS report, Pet animals - 00/0221 (COD)

The Commission adopted the line set out in SP(2003)464 so that this item could be concluded at a forthcoming meeting of the conciliation committee, at which the Commission would make a statement to be finalised by agreement between the PRESIDENT, Ms de PALACIO and Mr BYRNE, with the assistance of the Legal Service.

— NISTICO report, Dangerous substances - 01/0110 (COD)

The Commission adopted the line set out in SP(2003)450 so that this item could be concluded at the conciliation committee meeting to be held on 18 February.

— CALLANAN report, Recreational craft - 00/0262 (COD)

The Commission adopted the line set out in SP(2003)452 with a view to a speedy conclusion of this matter.

b) **Preparations for February part-session**

(point 2 of the record)

Specific points to consider: February

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.

- c) **Action taken on Parliament's opinions and resolutions**
(point 5 of the record)

The Commission adopted the replies to own-initiative and non-legislative resolutions adopted by Parliament to which the Commission had undertaken to reply (SP(2003)414), for transmission to Parliament.

5. WRITTEN PROCEDURES AND EMPOWERMENT

5.1. WRITTEN PROCEDURES APPROVED *(SEC(2003)148 to /5)*

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 3 and 7 February.

5.2. SENSITIVE WRITTEN PROCEDURES *(SEC(2003)149)*

The Commission took note of the following written procedures initiated between 3 and 7 February for the adoption of decisions with political implications:

Time limit: 10.02.2003

E/2003/189 - COM(2003)74

**DG RELEX - EMERGENCY
PROCEDURE**

Proposal for a Council Regulation concerning certain restrictive measures in respect of Zimbabwe.

Time limit: 11.02.2003

E/2003/168 - C(2003)497 DG INFSO

Commission recommendation on relevant product and service markets within the electronic communications sector susceptible to *ex ante* regulation in accordance with Parliament and Council Directive 2002/21/EC on a common regulatory framework for electronic communication networks and services.

E/2003/181 - C(2003)501 DG RELEX - EXPEDITED

Commission Regulation amending Council Regulation (EC) No 2368/2002 implementing the Kimberley Process certification scheme for the international trade in rough diamonds.

Time limit: 12.02.2003

E/2003/158 - COM(2003)68 SANCO/ENTR/MARKT/JAI

Commission communication *A more coherent European contract law - An action plan.*

5.3. EMPOWERMENT

(SEC(2003)150 to /4)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 3 and 7 February.

5.4. DELEGATION AND SUBDELEGATION OF POWERS

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation procedure between 3 and 7 February, as archived on the "Grefte 2000" (Registry) website.

6. ADMINISTRATIVE AND BUDGETARY MATTERS

(SEC(2003)151/3)

ADMINISTRATIVE MATTERS

(PERS(2003)23)

6.1. DG JAI - CREATION OF A POST OF ADVISER HORS CLASSE AND TRANSFER OF AN A1 OFFICIAL TO THE POST

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

- to create a post of Adviser *hors classe*, reporting to the Director-General, Justice and Home Affairs;
- to transfer to it, with his post and in the interest of the service, Mr Adrian FORTESCUE, an A1 official, currently Director-General, Justice and Home Affairs.

These decisions would take effect on a date to be fixed later.

6.2. DG JAI - REASSIGNMENT OF AN A1 OFFICIAL TO A POST OF DIRECTOR-GENERAL

On a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Mr VITORINO, the Commission decided to transfer, with his post and in the interest of the service, Mr Jonathan FAULL, an A1 official, currently Director-General, Press and Communication, to the post of Director-General, Justice and Home Affairs.

This decision would take effect on 15 March.

6.3. DG PRESS - POST OF COMMISSION SPOKESMAN

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

- to make the post of Commission Spokesman directly answerable to the Director-General, Press and Communication. The Commission Spokesman would also be responsible for Unit PRESS/01 (Spokesman's Group and support staff);
- to appoint as Commission Spokesman Mr Reijo KEMPPINEN, currently Spokesman for the President;
- to grant Mr KEMPPINEN a temporary A3 (type 2.c) contract for this purpose.

These decisions would take effect on 15 March.

**6.4. DG PRESS - PUBLICATION OF POST OF DIRECTOR-GENERAL
(PERS(2003)24)**

On a proposal from Mr KINNOCK, in agreement with the PRESIDENT, the Commission decided to authorise the internal publication of the vacancy notice for the post of Director-General, Press and Communication, under Article 29(1)(a) of the Staff Regulations.

This decision would take effect immediately.

**6.5. DG REGIO - CREATION OF A POST OF ADVISER HORS CLASSE
AND TRANSFER OF AN A1 OFFICIAL TO THE POST**

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

- to create a post of Adviser *hors classe*, reporting to the Director-General, Regional Policy;
- to transfer to it, with his post and in the interest of the service, Mr Guy CRAUSER, an A1 official, currently Director-General, Regional Policy.

These decisions would take effect on 1 March.

**6.6. DG REGIO - PUBLICATION OF POST OF DIRECTOR-GENERAL
(PERS(2003)25 to /3)**

On a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Mr BARNIER, the Commission decided to authorise the internal publication of the vacancy notice for the post of Director-General, Regional Policy, under Article 29(1)(a) of the Staff Regulations, as set out in PERS(2003)25/3.

This decision would take effect immediately.

6.7. DG REGIO.G - REASSIGNMENT OF AN A2 OFFICIAL TO A POST OF DIRECTOR

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

- to terminate publication No COM/009/03 for the vacant post of Director of Directorate REGIO/G (Financial management, Legal matters, Monitoring, Informatics and Human resources);
- to transfer, with his post and in the interest of the service, Mr Walter DEFFAA, an A2 official, currently Director of Directorate C (Planning and coordination of policies) in the Secretariat-General, to the post of Director of Directorate G (Financial management, Legal matters,

Monitoring, Informatics and Human resources) in the Regional Policy DG.

Mr DEFFAA would take up his new duties on 15 March.

6.8. DG RELEX - A1 POST OF DEPUTY DIRECTOR-GENERAL

The Commission had before it applications under Articles 29(1)(a), 29(1)(c) and 29(2) of the Staff Regulations for the A1 post of Deputy Director-General in the External Relations DG (PERS(2002)31 to /5).

The Commission took note of the opinions of the Consultative Committee on Appointments of 30 July and 12 September 2002 (PERS(2002)31/6 and /7).

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, Mr PATTEN and Mr NIELSON, the Commission decided to appoint Mr Michael LEIGH to the post.

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

6.9. DG EAC - SECONDMENT OF AN A2 OFFICIAL IN THE INTEREST OF THE SERVICE

On a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Ms REDING, the Commission decided to approve the secondment in the interest of the service of Mr Jean-Michel BAER, currently Chief Adviser in the Education and Culture DG, as special adviser to the Association Relative à la Télévision Européenne (ARTE).

The date of the start and the duration of the secondment would be fixed later.

6.10. DG TREN - EXTENSION OF LEAVE ON PERSONAL GROUNDS FOR AN A2 OFFICIAL

On a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Ms de PALACIO, the Commission decided to grant an extension of leave on personal grounds requested by Ms LALIS from 1 March 2003 to 29 February 2004.

This decision would take effect immediately.

6.11. DG TREN - TRANSFER OF A UNIT FROM THE ENVIRONMENT DG TO THE ENERGY AND TRANSPORT DG

On a proposal from Mr KINNOCK, in agreement with the PRESIDENT, Ms WALLSTRÖM and Ms de PALACIO, the Commission decided to approve the transfer of unit C.4 (Radiation protection) from the Environment DG to the Energy and Transport DG.

This decision would take effect on 16 February.

OTHER MATTERS

**6.12. A LONG-TERM SOLUTION FOR THE LUXEMBOURG SITE
(C(2003)540 and /2)**

The Commission:

- approved the long-term solution for the Luxembourg site as set out in C(2003)540/2;
- authorised Mr KINNOCK, in agreement with the PRESIDENT, to clarify the decisions at items 1, 2 and 4 of the communication with the Luxembourg authorities at the appropriate level, in the form of an exchange of letters;

- authorised Mr KINNOCK to take all the internal measures necessary for the implementation of this solution.

6.13. COMMISSION DECISION CONCERNING THE EXERCISE OF THE POWERS CONFERRED BY THE STAFF REGULATIONS ON THE APPOINTING AUTHORITY AND BY THE CONDITIONS OF EMPLOYMENT OF OTHER SERVANTS ON THE AUTHORITY RESPONSIBLE FOR CONCLUDING CONTRACTS OF EMPLOYMENT (C(2003)441)

The Commission adopted the decision in C(2003)441.

7. UPDATING AND SIMPLIFYING THE COMMUNITY ACQUIS (COM(2003)71 to /5; SEC(2003)165; SEC(2003)177)

The Commission approved the communication in COM(2003)71/5 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

The Commission thanked the author of the communication, Mr MOGG, Adviser *hors classe*, for the quality and scope of this framework for action.

8. OTHER BUSINESS

***DECISION ON ACTIONS AGAINST THE COUNCIL AND PARLIAMENT
FOR THE ANNULMENT OF***

- THE COUNCIL DECISION APPROVING, ON BEHALF OF THE
COMMUNITY, THE ROTTERDAM CONVENTION, AND***
- THE COUNCIL AND PARLIAMENT REGULATION CONCERNING THE
EXPORT AND IMPORT OF DANGEROUS CHEMICALS***

(C(2003)538 to /4)

The Commission decided to launch the legal actions in question, seeking to substitute Article 133 EC (common commercial policy) as the legal basis for these acts instead of Article 175 EC (environmental protection) as currently used.

The Commission therefore approved the communication in C(2003)538 and /4.

- 9. - PROPOSAL FOR A COUNCIL REGULATION AMENDING
REGULATION (EC) NO 2501/2001 APPLYING A SCHEME OF
GENERALISED TARIFF PREFERENCES FOR THE PERIOD FROM 1
JANUARY 2002 TO 31 DECEMBER 2004
(FORMER WRITTEN PROCEDURE PE/104/2003)**
- PROPOSAL FOR A COUNCIL REGULATION IMPLEMENTING
ARTICLE 12 OF COUNCIL REGULATION (EC) NO 2501/2001 APPLYING
A SCHEME OF GENERALISED TARIFF PREFERENCES FOR THE
PERIOD FROM 1 JANUARY 2002 TO 31 DECEMBER 2004
(FORMER WRITTEN PROCEDURE PE/105/2003)
(COM(2003)43 to /5; COM(2003)45 to /5; SEC(2003)166)**

Mr LAMY presented two proposals for Council regulations concerning the implementation of, and the conditions for applying, the generalised tariff

preferences scheme, in particular its "sectoral graduation" mechanism, under which certain sectors in a beneficiary country may gradually be excluded from the scheme.

The graduation mechanism came into play when a sector, under the effect of the tariff preferences granted, was fully developed and had so increased its market share as to exceed certain indicators laid down in the Regulation over three consecutive years. The aim was to target such preferences on the countries which needed them most, by removing preferential treatment from sectors of countries which had proved able to face international competition without preferential market access. In nearly all cases, the "graduation" did not prove disadvantageous for the exports of the countries concerned.

He therefore proposed:

- to amend the scheme by introducing a clause under which the graduation was postponed for countries experiencing a grave economic crisis (at least 10% drop in real gross domestic product over the past twelve months, expressed in national currency);
- to apply the graduation clause to a number of countries for the period 2003-04.

The Commission held an exchange of views on the advisability and timetable for implementation of this graduation in respect of certain countries, particularly those which had made specific commitments in matters such as combating drugs.

Following this discussion, the Commission decided not to derogate from the implementing rules of the graduation system for certain individual countries, and to set the date for the abolition of tariff preferences for countries subject to the graduation at 1 June 2003 instead of 1 January 2003.

The Commission adopted both proposals for Council regulations as set out in COM(2003)43/5 and COM(2003)45/5, for transmission to the Council.

**10. PROPOSAL FOR A PARLIAMENT AND COUNCIL DECISION ON THE
ADJUSTMENT OF THE FINANCIAL PERSPECTIVE FOR
ENLARGEMENT
(COM(2003)70 to /3)**

Ms SCHREYER presented a proposal for a Parliament and Council Decision to adjust the financial perspective for the period 2004-06 in the light of the situation created by the enlargement of the Union to 25 members and to carry out a technical adjustment of these new amounts for 2004 in the light of trends in prices and gross national income.

The adjustments connected with enlargement resulted from the decisions of the Copenhagen European Council (12-13 December 2002) on the common agricultural policy, the Structural Funds, internal policies and administrative expenditure.

Under the Interinstitutional Agreement on budgetary discipline and improvement of the budgetary procedure (paragraph 25), this adjustment of the financial perspective had to be agreed between Parliament and the Council, and Parliament had already reminded the Council of the importance it attached to compliance with its prerogatives in this area.

Since the European Council had included the amounts of the financial transfers in favour of the new Member States in an Annex to the Conclusions of the Presidency, and the Council intended to include these same amounts in the Accession Treaty, the question now arose of the margin for manoeuvre left to Parliament for the adjustment of the financial perspective.

The Commission took note of this further information and, subject to a final linguistic check, adopted the proposal for a decision in COM(2003)70 and /3, for transmission to Parliament and the Council.

**11. - PROPOSAL FOR A PARLIAMENT AND COUNCIL REGULATION
ESTABLISHING THE EUROPEAN NETWORK AND INFORMATION
SECURITY AGENCY**

**- ELECTRONIC COMMUNICATIONS: THE ROAD TO THE
KNOWLEDGE ECONOMY**

- E-EUROPE 2002 -- FINAL REPORT

**(COM(2003)63 to /4; COM(2003)65 to /3; COM(2003)66 and /2;
SEC(2003)168)**

Following a brief exchange of views on the justification for the use of a European agency to ensure the security of networks and information, the Commission adopted the communications in COM(2003)63/3 and /4, COM(2003)65/3 and COM(2003)66/2, for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

12. WORK OF THE CONVENTION

PLENARY SESSION OF 6 AND 7 FEBRUARY

(SEC(2003)176 and /2)

Mr BARNIER and Mr VITORINO reported on the plenary session of the Convention held on 6 and 7 February, and in particular on President

GISCARD D'ESTAING's presentation to the Convention of the first 16 articles of the draft constitution.

These articles were the result of a compromise within the Presidium, particularly as regards the presentation agreed for the allocation of powers; nevertheless, these texts enabled the existing body of Community law and practice and the Community model to be preserved, and left open the possibility of developments in the allocation of powers (flexibility clause: Article 16).

The Commission held a round-table discussion on the amendments and improvements that might be made to these texts, after which the Commission decided:

- that any amendments desired by Members must reach Mr BARNIER and Mr VITORINO before Thursday 13 March at 1800 hours;
- that Members would be kept informed of the guidelines and alternative wordings agreed by Mr BARNIER and Mr VITORINO with a view to their action within the Convention.

The PRESIDENT reported on his recent meeting (8 February) with the Prime Ministers of the Benelux countries, mainly covering the work of the Convention and the future of the Union.

13. COUNCIL MEETINGS

(SI(2003)103)

SITUATION IN IRAQ

The PRESIDENT announced that, according to the latest information available, an informal meeting of Foreign Ministers should be held on Monday 17 February

(morning), followed by a meeting of Heads of State or Government from 1800 hours the same day, in order to seek a common position on the situation in Iraq.

Mr PATTEN outlined the conclusions he drew from his recent visits to Iran, Turkey and Lebanon, and set out various possible scenarios in the light of the report that Mr BLIX, head of the UN nuclear inspectors, would be making to the UN Security Council on 14 February.

He gave his assessment of the state of public opinion in the Member States on the prospects for war in Iraq, and recommended an article by Timothy GARTON ASH in the New York Review of Books, *Anti-Europeanism in America*.

The Commission took note of this information and these comments, and agreed that Mr PATTEN, in agreement with the PRESIDENT, would supply Members with a briefing paper to be used and a line to be followed in response to questions likely to be raised concerning the various initiatives taken in Europe in the context of the present international crisis over the situation in Iraq.

14. TRENDS IN THE MEMBER STATES **(SEC(2003)183)**

Mr VITORINO presented a summary of the press coverage of the main topical subjects since the beginning of 2003 (Stability Pact, situation in Iraq, work of the Convention), as well as the results of a public opinion survey in the Member States, the candidate countries, Norway and Switzerland, on the possibility of war with Iraq.

He emphasised the need for the Commission to redouble its communication efforts on the work of the Convention and the Commission's contribution to it.

15. RELATIONS WITH NON-MEMBER COUNTRIES

15.1. COUNTRY STRATEGY PAPER AND NATIONAL INDICATIVE PROGRAMME FOR AFGHANISTAN (C(2003)438 to /4)

Ms DIAMANTOPOULOU referred to the strategy document and the proposal for an indicative programme for Afghanistan originally tabled by Mr PATTEN, Mr SOLBES, Mr NIELSON, Mr VERHEUGEN and Mr LAMY, for adoption by written procedure (C(2003)438, formerly PE/137/2003).

It was important, in any project or programme concerning Afghanistan, that the gender dimension be systematically taken into account. Since the end of the Taliban regime, the situation of women in Afghanistan had not improved, and the statistics on women's access to education, medical care and the labour market were alarming.

In the light of these considerations, which had led to the text of the proposal being amended during prior bilateral contacts, the Commission adopted the communication in C(2003)438/4.

15.2. EU-AFRICA SUMMIT

Mr NIELSON reported on the prospects for the holding of the EU-Africa summit, scheduled in principle for 5 April 2003 in Lisbon.

The sanctions against Zimbabwe adopted in February 2002 included a ban on Mr MUGABE visiting the Union and a freezing of his assets; this had already disrupted the process of holding meetings between the European Union and

certain African countries (EU-SADDC ministerial meeting held in Maputo and not in Copenhagen as planned).

Nevertheless, at France's invitation, Mr MUGABE would be taking part in the Franco-African summit on 20 and 21 February in France.

The Union must revitalise its political dialogue with Africa by taking concrete and visible initiatives set in a long-term context.

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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 1800 hours.