



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2003)1613 final

Brussels, 27 May 2003

MINUTES
of the 1613th meeting of the Commission
held in Brussels
(Breydel)
on Wednesday 21 May 2003
(morning)

These minutes were approved by the Commission at its 1614th meeting, held in Brussels on 27th May 2003.

They contain 19 pages.

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Single sitting: Wednesday 21 May (morning)

The sitting opened at 0740 hours with Mr Prodi, President, in the chair.

Present:

Mr PRODI	President	Items 1 to 18
Mr KINNOCK	Vice-President	
Mr MONTI		
Mr FISCHLER		
Mr LIIKANEN		
Mr BOLKESTEIN		
Mr BUSQUIN		
Mr SOLBES		
Mr NIELSON		
Mr VERHEUGEN		
Mr PATTEN		
Mr LAMY		
Mr BYRNE		
Mr BARNIER		Items 1 to 15
Ms REDING		
Ms SCHREYER		
Mr VITORINO		Items 1 to 15
Ms DIAMANTOPOULOU		

Absent:

Ms de PALACIO	Vice-President
Ms WALLSTRÖM	

The following sat in to represent absent Members of the Commission

Mr CALLEJA Chef de cabinet to Ms de Palacio

Mr ANNERBERG Chef de cabinet to Ms Wallström

The following also sat in

Mr PETITE Director-General, Legal Service

Mr MANSERVISI Chef de cabinet to the President

Mr DE OLIVEIRA E SOUSA Director-General, Press and Communication

Mr KEMPPINEN Commission Spokesman

Mr DE RYNCK Spokesman Item 14

Mr MAMER Spokesman Item 15

Mr PETRUCCI Spokesman Item 14

Mr TODD Spokesman Item 17

Ms UDWIN Spokesman Items 18 and 19

Ms CORUGEDO STENEBOG Press and Communication DG

Mr THOMAS Press and Communication DG

Ms HOUTMAN Deputy Chef de cabinet to the President Item 17

Mr SMULDERS A member of the President's staff Item 14

Mr KOOPMAN Chef de cabinet to Mr Kinnock Item 15

Mr LUCHNER Deputy Chef de cabinet to Mr Kinnock

Ms OLIVI A member of Mr Monti's staff Item 14

Ms BURY A member of Mr Bolkestein's staff Items 17 to 19

Mr PLANAS Chef de cabinet to Mr Solbes Items 14 to 16

Mr MARTINEZ-MONGAY A member of Mr Solbes's staff Item 16

Mr KORTE Deputy Chef de cabinet to Mr Patten Items 18 and 19

Mr ROCK A member of Mr Patten's staff Item 18

Ms ROGER Chef de cabinet to Mr Barnier Item 14

Mr JORNA A member of Mr Barnier's staff Items 17 to 19

Mr CAVACO	Chef de cabinet to Mr Vitorino	
Mr FONSECA	Adviser in Mr Vitorino's Office	Item 14
Mr ALEIXO	A member of Mr Vitorino's staff	Item 14
Mr LEVI	Director, GOPA	Item 14
Mr MOAVERO MILANESI	Deputy Secretary-General	Items 14 and 17
Mr PONZANO	Secretariat-General	Item 14
Mr HAAG	Secretariat-General	Item 17
Mr WINTERSTEIN	Secretariat-General	Item 17

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

1. AGENDAS

(OJ(2003)1613/3; SEC(2003)560/2)

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)1613)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 19 May.

3. APPROVAL OF MINUTES OF 1612th MEETING (13 May)

(PV(2003)1612)

The Commission approved the minutes of its 1612th meeting.

4. PARLIAMENT

4.1. MAY PART-SESSION

(SP(2003)1746)

The Commission took note of the information supplied relating to Parliament's part-session held in Strasbourg from 12 to 15 May.

4.2. ACTION TO BE TAKEN ON PARLIAMENT'S OPINIONS
(SP(2003)1743)

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

5. PERMANENT REPRESENTATIVES COMMITTEE

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:

WORKING METHODS FOR AN ENLARGED COUNCIL

The Commission decided to hold this item over for a later meeting.

6. WRITTEN PROCEDURES AND EMPOWERMENT

6.1. WRITTEN PROCEDURES APPROVED
(SEC(2003)561 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 12 and 16 May.

6.2. SENSITIVE WRITTEN PROCEDURES
(SEC(2003)562)

The Commission took note of written procedures initiated between 12 and 16 May for the adoption of decisions with political implications.

6.3. EMPOWERMENT
(SEC(2003)563 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 12 and 16 May.

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 12 and 16 May, as archived on the "Greffé 2000" (Registry) website.

**7. COMMISSION DECISION ON APPLICATION OF ARTICLE 82 OF THE
EC TREATY**

(CASES COMP/37.451, 37.578, 37.579 - DEUTSCHE TELEKOM)

(C(2003)1536 to /3; SEC(2003)585 and /2)

The Commission:

- took note of the opinion of the Advisory Committee on Restrictive Practices and Dominant Positions of 5 and 19 May in C(2003)1536 and /3;
- took note of the final report of the Hearing Officer in C(2003)1536;

- adopted, in the authentic language (German), the decision in C(2003)1536/3, concluding that the firm in question had infringed Article 82 of the EC Treaty and imposing a fine of €12.6 million.

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

**8. MODERNISING COMPANY LAW AND ENHANCING CORPORATE GOVERNANCE IN THE EU - A PLAN TO MOVE FORWARD
(COM(2003)284 to /5; SEC(2003)603)**

The Commission adopted the communication on an action plan on modernising company law and enhancing corporate governance in the European Union, as set out in COM(2003)284/5, for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, and for public consultation until 31 August.

**9. REINFORCING THE STATUTORY AUDIT IN THE EU
(COM(2003)286 to /5; SEC(2003)603)**

The Commission adopted the communication on reinforcing the statutory audit in the European Union, as set out in COM(2003)286/5, for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

**10. FOREST LAW ENFORCEMENT, GOVERNANCE AND TRADE:
PROPOSAL FOR AN EU ACTION PLAN
(COM(2003)251 to /3; SEC(2003)605)**

The Commission adopted the communication on the proposal for an EU action plan on forest law enforcement, governance and trade, as set out in COM(2003)251/3, for transmission to Parliament and the Council.

11. RELATIONS WITH NON-MEMBER COUNTRIES

***WTO DOHA DEVELOPMENT AGENDA - PROGRESS OF NEGOTIATIONS
(SEC(2003)612)***

The Commission took note of the information note distributed by Mr LAMY and Mr FISCHLER.

12. OTHER BUSINESS

***12.1. G8 - PREPARATIONS FOR EVIAN SUMMIT (1-3 JUNE)
(SEC(2003)584 and /2)***

The Commission took note of the information supplied.

***12.2. G8 - PREPARATORY MEETING OF FINANCE MINISTERS
(DEAUVILLE, 16 - 17 MAY)
(SEC(2003)618)***

The Commission took note of the information note distributed by Mr SOLBES.

12.3. *ADVANCED PASSENGER INFORMATION SYSTEM (APIS)*
(SEC(2003)620)

The Commission took note of the information note distributed by Mr BOLKESTEIN and Mr PATTEN on contacts between the EU and the United States on the transfer by airlines of personal data in relation to transatlantic flights.

13. ADMINISTRATIVE AND BUDGETARY MATTERS
(SEC(2003)564/2)

ADMINISTRATIVE MATTERS
(PERS(2003)78)

13.1. *DG ADMIN.C - A2 POST OF DIRECTOR*
(PERS(2003)70 to /3)

The Commission had before it applications under Article 29(1)(a) of the Staff Regulations for the A2 post of Director of Directorate C in the Personnel and Administration DG (PERS(2003)70).

The Commission took note of the opinions of the Consultative Committee on Appointments of 29 April and 8 May (PERS(2003)70/2 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, it then decided to appoint Ms Mercedes DE SOLA DOMINGO to the post.

This decision would take effect on 1 June.

13.2. REFORM OF THE STAFF REGULATIONS

Mr KINNOCK outlined the main points of the political agreement reached in the Council (General Affairs) on Monday 19 May, the details of which had been communicated to staff the same day. A major item, and the most difficult aspect of the negotiations, was the pension scheme. Mr KINNOCK considered that the overall package negotiated was satisfactory and complied with the undertakings given to the staff. As for the next stage, he had asked the Greek Presidency to meet the conciliation committee informally, since this committee could not be established formally until Parliament had given its opinion. Work would have to continue on finalising the legislative texts, with a view to entry into force of the new Staff Regulations on the date of enlargement. Mr KINNOCK praised the commitment of the Greek Presidency of the Council and its staff, and Mr REICHENBACH and the Personnel and Administration DG, in dealing with this matter. He also thanked the PRESIDENT and Commission Members, whose understanding and support had been vital.

The PRESIDENT expressed the Commission's thanks to Mr KINNOCK and his departments for the results secured in these difficult negotiations. He also paid tribute to the efforts made by the Greek Presidency.

14. WORK OF THE CONVENTION

(SEC(2003)576 and /2; SEC(2003)614)

The Commission took note of the information supplied by the PRESIDENT, Mr BARNIER and Mr VITORINO as to the tactical challenges in play at this final stage of the negotiations in the Convention and, particularly, at the Presidium meetings to be held on 21, 22 and 23 May.

Following an in-depth discussion and in the light of comments by the PRESIDENT, it decided on the line to be taken by Mr BARNIER and Mr VITORINO with the aim of seeking a compromise that would be in compliance with the main options of the Commission.

15. ADMINISTRATIVE AND BUDGETARY MATTERS

(continued from item 13)

OTHER MATTERS

EUROPEAN ANTI-FRAUD OFFICE (OLAF) INVESTIGATION INTO CERTAIN EUROSTAT DOSSIERS

The Commission took note of the requests by Mr FRANCHET and Mr BYK to be relieved of their responsibilities in Eurostat. These requests were justified by a wish to defend the interests and the image both of the institution itself and of themselves.

The Commission decided to accept these requests. Mr FRANCHET and Mr BYK were relieved of their functions in Eurostat and temporarily transferred to a post of Adviser *hors classe* and a post of Chief Adviser, respectively, in DG ADMIN in Luxembourg. The Commission stressed that these measures did not constitute disciplinary sanctions.

The Commission reiterated its previous statements on the subject of investigations by the Anti-Fraud Office into certain Eurostat dossiers which had recently been mentioned in the press.

The Commission emphasised the need for compliance with the presumption of innocence. It pointed out that the information available to it at this stage did not enable it to draw any conclusions as to the officials concerned. Moreover, it noted that the information published in the press seemed to be based mainly on internal

audits that Mr FRANCHET had launched several years previously on his own initiative.

The Commission also decided to provide assistance under Article 24 of the Staff Regulations to preserve the reputations of Mr FRANCHET and Mr BYK and their rights of defence.

Mr VANDEN ABEELE was appointed to take over temporarily the responsibilities of Director-General of Eurostat. Mr KINNOCK, in agreement with the PRESIDENT and Mr SOLBES, was empowered to define the arrangements for this and to communicate them to Mr VANDEN ABEELE.

The Commission decided in principle to join a civil claim to the criminal proceedings initiated by the French public prosecutor at the Tribunal de Grande Instance in Paris, following the referral to the Anti-Fraud Office. It asked the Budget DG to analyse the action taken on the audit reports drawn up by Eurostat as regards compliance with the Financial Regulation.

The Commission noted that the Anti-Fraud Office intended to speed up its investigations under way and, in particular, to give officials identified as being potentially involved the opportunity to state their case. The Commission also noted that the Director-General of the Anti-Fraud Office expected the results to be available by the end of June.

The Commission asked the Secretary-General to coordinate the various aspects of this matter and to propose the necessary internal measures and procedures.

**16. PUBLIC FINANCES IN ECONOMIC AND MONETARY UNION - 2003
(COM(2003)283 to /5; SEC(2003)571 and /2; SEC(2003)604)**

Mr SOLBES introduced the fourth report on public finances in economic and monetary union, together with a communication identifying the main political conclusions. He outlined recent developments and the budgetary prospects in the short and medium term, and reported on various questions in relation to the implementation of the Stability Pact and the development of public investment.

The Commission approved the communication in COM(2003)283/5 and took note of the staff working paper in SEC(2003)571/2, for transmission to Parliament, the Council, the Economic and Social Committee, the Committee of the Regions and the European Central Bank.

The Commission also noted that Mr SOLBES would be giving an update on the present economic situation at its next meeting, and agreed to hold an in-depth discussion on that occasion.

**17. GREEN PAPER ON SERVICES OF GENERAL INTEREST
(COM(2003)270 to /5; SEC(2003)568)**

The PRESIDENT presented a Green Paper on services of general interest, produced in response to requests by Parliament and the European Council to study this issue in greater detail. The objective was to launch a wide-ranging debate on the possible content of a framework directive and its added value. While enabling the Commission to explain the policy it had followed thitherto, based on striking a balance between a controlled liberalisation, sector by sector, and the preservation of social and territorial cohesion and sustainability, this debate would be an opportunity openly to tackle various fundamental questions. These included

whether to adopt a more general or horizontal approach consolidating the principles and objectives common to all services, or whether the current texts were sufficient and the sectoral approach more appropriate. The same went for various questions relating to the application of the subsidiarity principle and governance in the field of public services. This debate would take place over the next four months with a view to drawing conclusions in the autumn.

Following a brief exchange of views and subject to finalisation of the various language versions, the Commission approved the Green Paper in COM(2003)270/5 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

The Commission thanked the Secretariat-General (particularly Mr MOAVERO MILANESI and Mr HAAG), Ms HOUTMAN, Deputy Chef de cabinet to the PRESIDENT, and all the departments concerned for the high quality of their work.

18. THE WESTERN BALKANS AND EUROPEAN INTEGRATION (COM(2003)285 to /4; SEC(2003)602)

Mr PATTEN presented the main points of the communication on the western Balkans and European integration. The communication took a carefully balanced approach. Conceived as a political strategy document for the Thessaloniki European Council, it examined ways and means of enriching the stabilisation and association process, based in particular on experience gained from the present enlargement process.

Following an exchange of views, particularly on the tone of the message to be delivered in relation to the prospects for the integration of these countries into the

European Union, the Commission approved the communication in COM(2003)285/4 for transmission to the Council and Parliament.

19. COUNCIL MEETINGS

(SI(2003)571)

GENERAL AFFAIRS AND EXTERNAL RELATIONS - DEFENCE

(BRUSSELS, 19-20 MAY)

The Commission took note of the information supplied by Mr PATTEN and Mr NIELSON.

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

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The meeting closed at 1245 hours.