



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2003)1634 final

Strasbourg, 18 November 2003

MINUTES
of the 1634th meeting of the Commission
held in Brussels
(Breydel)
on Tuesday 11 November 2003
(morning)

These minutes were approved by the Commission at its 1635th meeting, held in Strasbourg on 18 November 2000

They contain 24 pages.

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Single sitting: Tuesday 11 November (morning)

The sitting opened at 0930 hours with Mr PRODI, President, in the chair for items 1 to 14 and Mr KINNOCK, Vice-President, in the chair for items 15 to 17.

Present:

Mr PRODI	President
Mr KINNOCK	Vice-President
Ms de PALACIO	Vice-President
Mr MONTI	
Mr FISCHLER	
Mr LIIKANEN	
Mr BOLKESTEIN	
Mr BUSQUIN	
Mr NIELSON	
Mr LAMY	
Mr BYRNE	
Mr BARNIER	
Ms REDING	
Ms SCHREYER	
Mr VITORINO	
Ms DIAMANTOPOULOU	

Absent:

Mr SOLBES
Mr VERHEUGEN
Mr PATTEN
Ms WALLSTRÖM

The following sat in to represent absent Members of the Commission

Mr BEKX	Deputy Chef de Cabinet to Mr Solbes
Mr TEMPEL	Chef de cabinet to Mr Verheugen
Mr CHILD	Chef de cabinet to Mr Patten
Ms CARPARELLI	Deputy Chef de cabinet to Ms Wallström

The following also sat in

Mr WAINWRIGHT	Chief Adviser, 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 THOMAS	Spokesman	
Mr ABOU	Chief Adviser in the President's Office	Item 13
Mr DE LECEA	Adviser in the President's Office	Item 14
Mr GUSSETTI	A member of the President's staff	
Mr SMULDERS	A member of the President's staff	Item 11
Mr KOOPMAN	Chef de cabinet to Mr Kinnock	Item 13
Mr CALLEJA	Chef de cabinet to Ms de Palacio	Item 14
Mr SCHINAS	Deputy Chef de cabinet to Ms de Palacio	Items 13 and 14
Mr LAITENBERGER	Chef de cabinet to Ms Reding	Item 15
Mr LEHNER	Chef de cabinet to Ms Schreyer	
Mr CAVACO	Chef de cabinet to Mr Vitorino	Item 12
Mr LOPES ALEIXO	A member of Mr Vitorino's staff	Items 11 and 12
Mr NUNES de ALMEIDA	A member of Mr Vitorino's staff	Item 11
Mr FIELDING	Deputy Chef de cabinet to Ms Diamantopoulou	
Mr CARVOUNIS	Press and Communication DG	

Mr MAYET	Energy and Transport DG	Item 14
Mr DAVILA MURO	Secretariat-General	Item 14
Mr SANDLER	Secretariat-General	Item 14

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

1. AGENDAS

(OJ(2003)1634/3; SEC(2003)1239/2)

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)1634)

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

3. APPROVAL OF MINUTES AND SPECIAL MINUTES OF 1633rd MEETING (5 November)

(PV(2003)1633; PV(2003)1633, Part II to /2)

The Commission approved the minutes of its 1633rd meeting.

4. 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:

**CREATION OF AN AGENCY IN THE FIELD OF DEFENCE
CAPABILITIES DEVELOPMENT, RESEARCH, ACQUISITION AND
ARMAMENTS**

(SEC(2003)1266 to /3)

The Commission took note of information note SEC(2003)1266/3 and instructed departments:

- To continue their work on the follow-up to the communication approved by the Commission on 11 March (COM(2003)113 final) and to speed up this work as appropriate in the light of the agency's development.
- To work with and/or within the agency. Since the institutional options could vary depending on the extent to which Community policies were involved, the arrangements should reflect a modulated approach, while fully respecting Community powers.
- To consider arrangements for a contribution from the Community budget to the agency, especially in the field of research.

5. MONITORING THE APPLICATION OF COMMUNITY LAW

5.1. STATE AID - RECAPITULATIVE LIST

(SEC(2003)1218)

The Commission adopted the decisions in SEC(2003)1218.

5.2. INFRINGEMENTS - URGENT OR POSTPONED CASES

(SEC(2003)1252)

The Commission adopted the decisions in SEC(2003)1252.

**5.3. TWO LETTERS SENT TO THE UNITED KINGDOM AND SPAIN
BASED ON ARTICLE 26(2) OF REGULATION (EC) No 2371/2002 AND
ARTICLE 226 OF THE EC TREATY
(SEC(2003)1227 and /2; SEC(2003)1252)**

The Commission adopted the decisions in SEC(2003)1227/2.

**6. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF
POWERS**

**6.1. WRITTEN PROCEDURES APPROVED
(SEC(2003)1240 et seq.)**

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

**6.2. SENSITIVE WRITTEN PROCEDURES
(SEC(2003)1241)**

The Commission took note of written procedures initiated between 3 and 7 November for the adoption of decisions with political implications.

It paid particular attention to the following:

**ESTABLISHING PROCEDURAL MODALITIES FOR RESEARCH
ACTIVITIES INVOLVING BANKED OR ISOLATED HUMAN
EMBRYONIC STEMS CELLS IN CULTURE (EX-E/1410/2003)
(C(2003)2952 to /4)**

The Commission approved the decision in C(2003)2952/4.

6.3. EMPOWERMENT

(SEC(2003)1242 et seq.)

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

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 3 and 7 November, as archived on the "Greffé 2000" (Registry) website.

**7. LETTER OF AMENDMENT No 3 TO PRELIMINARY DRAFT BUDGET
2004**

(SEC(2003)1251 and /2)

The Commission approved letter of amendment No 3 to the preliminary draft budget for 2004 as set out in SEC(2003)1251, for transmission to Parliament and the Council.

**8. WHITE PAPER - IMPLEMENTING THE EUROPEAN SPACE POLICY
(COM(2003)673 to /4; SEC(2003)1249; SEC(2003)1253)**

The Commission approved the White Paper on implementing the European space policy (COM(2003)673/4) for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

**9. COMMISSION DECISION CONCERNING A PROCEEDING UNDER
ARTICLE 8(2) OF COUNCIL REGULATION (EEC) No 4064/89 (CASE
COMP/M.2621 - SEB/MOULINEX)
(C(2003)4157 to /3)**

The Commission:

- took note of the opinion of the Advisory Committee on Concentrations of 3 November, as set out in C(2003)4157, for publication in the Official Journal;
- took note of the final report of the Hearing Officer in C(2003)4157;
- adopted, in the authentic language (French), the decision in C(2003)4157/2 and /3, declaring the merger concerned to be compatible with the common market and the operation of the EEA Agreement.

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

**10. PROPOSAL FOR A COUNCIL REGULATION DEROGATING FROM
REGULATION (EC) No 1251/199 AS REGARDS THE SET-ASIDE
REQUIREMENT FOR THE 2004/05 MARKETING YEAR
(COM(2003)691 and /2)**

The Commission adopted the proposal for a Regulation in COM(2003)691 for transmission to Parliament and the Council.

**11. PROPOSAL FOR A COUNCIL REGULATION ESTABLISHING A
EUROPEAN AGENCY FOR THE MANAGEMENT OF OPERATIONAL
COOPERATION AT THE EXTERNAL BORDERS
(COM(2003)687 to /4; SEC(2003)1258)**

Mr VITORINO presented a proposal for a Regulation to set up a European agency to manage cooperation at the Union's external borders. The document, which built directly on the existing body of Schengen rules and practice, proposed a Community response in this field where opinions on the question of powers over external border control were still divided. Mr VITORINO emphasised that the agency's powers would be limited. Its purpose would be to help Member States implement Community policy on the control and surveillance of the external borders and the return of nationals of non-member countries. It would not have a policy-making role, nor would it make legislative proposals or exercise implementing powers.

The Commission held an exchange of views, dealing in particular with the following points:

- powers of the agency: Mr VITORINO confirmed the strictly operational nature of the agency's tasks; these would not include law enforcement, which would remain a matter for Member States;
- the lack of clarity as a result of this question being split between the first and third pillars: Mr VITORINO stated that the existing situation arose out of the circumstances in which the existing body of Schengen rules and practice had developed, and the future Constitution should provide the necessary clarifications;
- relationships between the agency and the Member States, particularly the United Kingdom, which did not take part in certain Schengen provisions:
Mr VITORINO confirmed that the Regulation was not applicable to the

Member States in question; nevertheless, he was prepared to seek practical solutions so as not to compromise the use of the UK's expertise in this field.

Following this discussion, the Commission adopted the communication presented by Mr VITORINO in COM(2003)687/4 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

**12. DIFFICULTIES IN IMPLEMENTING THE INFORMATION AND
COMMUNICATION STRATEGY FOR THE EUROPEAN UNION
(SEC(2003)1267 to /3; SEC(2003)1237)**

Having noted that this matter would be put before it again with a view to taking a definitive position following the outcome of the budget trilogue on 13 November and after preparation by the group of Commission Members concerned, the Commission approved the communication presented by the PRESIDENT, in agreement with Mr VITORINO, in SEC(2003)1267/3.

Replying to comments made during the meeting, Mr VITORINO said it was important to establish a suitable control and audit system based on risk analysis. The Commission also noted that before the end of the year Mr VITORINO would be tabling a communication on implementing the information and communication strategy beyond 2004.

13. PARLIAMENT

13.1. NOVEMBER I PART-SESSION

(SP(2003)3676)

The Commission took note of the information supplied relating to Parliament's part-session held on 5 and 6 November (SP(2003)3676).

13.2. ACTION TO BE TAKEN ON PARLIAMENT'S OPINIONS

(SP(2003)3680)

The Commission approved the proposed empowerment decisions relating to action to be taken on the amendments presented by Parliament under the codecision procedure (SP(2003)3680).

13.3. PARLIAMENTARY AFFAIRS GROUP

(SP(2003)3691)

The Commission took note of the record of the meeting of the Parliamentary Affairs Group held on 6 November (SP(2003)3691).

It paid particular attention to the following:

i) Interinstitutional relations

(point 1.1 of the record)

Codecision procedure - Article 251 EC

— COSTA report, Ecopoints - 01/0310 (COD)

The Commission adopted the line set out in SP(2003)3687 for the conciliation committee meeting on 11 November.

ii) **Preparations for November II part-session**

(point 2.1 of the record)

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

- READ report, Community financial aid in the field of trans-European networks,
COM(2003)220, 03/0086 (COD)

The Commission noted that no amendments to the Commission proposal had been suggested, and adopted the line set out in SP(2003)3682.

- READ report, Interoperable delivery of pan-European e-Government services,
COM(2003)406, 03/0147 (COD)

The Commission adopted the line set out in SP(2003)3694.

- MIGUELEZ-RAMOS report, Enhancing ship and port facility security,
COM(2003)229-2, 03/0089 (COD)

The Commission adopted the line set out in SP(2003)3653.

- BLOKLAND report, Shipments of waste,
COM(2003)379, 03/0139 (COD)

The Commission adopted the line set out in SP(2003)3684.

- LIESE report, Integrating and strengthening the European
Research Area,
COM(2003)390, 03/0151 (CNS)

The Commission adopted the line set out in SP(2003)3690.

- KAUPPI report, Diesel fuel used for commercial purposes,
COM(2002)410, 02/0191 (CNS)

The Commission adopted the line set out in SP(2003)3688 and /2.

- ADAM report, Identification and registration of ovine and caprine
animals,
COM(2002)729, 02/0297 (CNS)

The Commission adopted the line set out in SP(2003)3700.

Empowerment

Given the urgency of the matter and with a view to the Council meeting on 20 November, the Commission, under Article 13 of its Rules of Procedure, empowered Mr LIIKANEN, 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 in SP(2003)3694, once Parliament had given its opinion, and transmit it to the Council in accordance with Article 250(2) of the Treaty, for the following.

- READ report, Interoperable delivery of pan-European e-Government services,
COM(2003)406, 03/04177 (COD)

iii) **Attendance at plenary sessions**

The PRESIDENT noted that difficulties had arisen in connection with Commission Members' presence at Parliament's plenary sessions. He reminded the meeting that, under the framework agreement, each Commission Member must take charge in the House of the dossiers for which he or she was responsible. He asked the Commission Members concerned to make sure they were present at forthcoming sessions of Parliament up to the end of the present term of office. In the event of a major problem preventing a Commission Member from attending the session, the Member concerned must make the necessary arrangements for another to stand in for him or her.

iv) **Other matters**

The PRESIDENT reminded the meeting of the undertaking he had given to the Parliament's Conference of Presidents on 25 September to present the Commission action plan for remedying the shortcomings revealed by the Eurostat case. He would be setting out the main points of the action plan in plenary the following week, when presenting the legislative and work programme for 2004, as well as at a special meeting of the Committee on Budgetary Control.

The PRESIDENT outlined the ideas he was minded to put forward on these two occasions. Mr KINNOCK and Ms SCHREYER made additional observations on certain points.

Having emphasised that the latest report by the Internal Audit Service did not alter his diagnosis of 25 September, the PRESIDENT noted that events had revealed a number of communication failures (both between the Anti-Fraud Office and the Commission, and within the Commission) and some difficulty for the Commission in identifying, gathering and dealing adequately with information on this case. On the basis of the main points of the reform, and in order to remedy this state of affairs, existing instruments would have to be strengthened in accordance with the following guidelines:

- As regards the Anti-Fraud Office, and taking as a starting-point the shared view that the current situation was unsatisfactory, certain measures must be taken immediately, and others in the longer term. To begin with, a speedy solution to the operational problems arising should include the presentation of a proposal to amend Regulations Nos 1073/1999 and 1074/1999, with a view to its approval during the present term of office. This proposal should address, among other things, the arrangements applicable to investigations (speed, principle of discretionary investigations by the Anti-Fraud Office); the Anti-Fraud Office's duty to inform the institutions concerned; the handling of this information by the institution concerned; the exclusivity or primacy of investigations by the Anti-Fraud Office; and protection of defence rights. In the longer term, with an eye to the creation of a European public prosecutor, the goal should be complete independence for the Anti-Fraud Office.
- As regards the handling of information about reprehensible acts, the PRESIDENT proposed to announce the introduction of a new system for gathering the information available, analysing it and informing

the Commission so that it might take all the measures necessary to protect the Union's financial interests.

- In order that Commission Members might better exercise their political responsibility over the departments under their authority, the 1999 code of conduct on relations between Commission Members and departments should be revised.
- Lastly, based on the achievements of the reform and on suggestions by the internal auditor, the information circuits between central departments and operating departments should be strengthened.

The Commission took note of this information and held an exchange of views on the thrust of the measures identified, particularly concerning the scope of the Commission's political responsibility and that of Commission Members as well as the advisability of the two-stage approach planned for the Anti-Fraud Office. It noted that, in the light of Parliament's reactions, concrete proposals would be tabled for a formal decision.

**14. FINAL REPORT TO THE DECEMBER EUROPEAN COUNCIL ON A
EUROPEAN INITIATIVE FOR GROWTH
(COM(2003)690 to /4; SEC(2003)1260; SEC(2003)1279)**

The PRESIDENT outlined the main points of the final report on the European initiative for growth. Following the conclusions of the October European Council on the interim report presented by the Commission, the report, produced for the December European Council, was designed to clarify certain aspects of the initiative and proposed a series of specific measures to bring them into operation. To this end,

it identified a programme of projects that could be launched speedily, focusing on transport and energy networks and on research and innovation. The report, drawn up in close cooperation with the European Investment Bank, also identified financial instruments that could help accomplish the actions proposed.

The Commission took note of this information and went on to discuss the dossier, including the financial implications of the proposed measures, particularly as regards the mobilisation of private capital.

Following this exchange of views, the Commission approved the final report on the European initiative for growth in COM(2003)690/4 and SEC(2003)1279, for transmission to the Council (for the European Council on 12 and 13 December) and to Parliament, the Economic and Social Committee and the Committee of the Regions.

**15. "EDUCATION AND TRAINING 2010" - THE SUCCESS OF THE LISBON STRATEGY HINGES ON URGENT REFORMS
(COM(2003)685 to /3; SEC(2003)1250)**

Ms REDING tabled a communication designed to provide a basis for the preparation of a joint Commission and Council report on the implementation of the Education and Training 2010 work programme, for presentation to the spring European Council 2004. This was in line with the Lisbon strategy, in which the European Council had emphasised the crucial importance of education and training for a successful transition to the most competitive knowledge-based society in the world by 2010. Responding more specifically to the request by the Barcelona European Council in March 2002, it took stock of the progress made and proposed essential urgent measures to achieve the objectives laid down before 2010.

Ms REDING pointed out that Community action under this work programme, and

particularly the incentives to speed up the reform of national education and training systems, met the expectations of the Member States and the acceding countries and fully complied with the subsidiarity principle.

Having taken note of these observations, the Commission adopted the communication in COM(2003)685 and /3 for transmission to the Council and, for information, to Parliament, the Economic and Social Committee and the Committee of the Regions.

16. COUNCIL MEETINGS

(SI(2003)1169)

16.1. JUSTICE AND HOME AFFAIRS

(BRUSSELS, 6 NOVEMBER)

(SI (2003)1158)

Mr VITORINO reported on the main results of the Council meeting. Besides a general discussion on the proposal for a Directive on compensation for crime victims, the meeting had reached political agreement on the granting of a short-term residence permit for victims of human trafficking who cooperated with the judicial authorities. Mr VITORINO also reported on the negotiations in progress on readmission agreements, and announced the forthcoming finalisation of the agreement with Albania, for which he wished to thank Mr PATTEN and his departments.

**16.2. COMPETITIVENESS (INTERNAL MARKET, INDUSTRY AND RESEARCH)
(BRUSSELS, 10 NOVEMBER)**

Mr LIIKANEN drew attention to the presentation of the REACH project on the modernisation of legislation on chemicals. The Council meeting had generally welcomed this. The October European Council had conferred the role of coordinator of the dossier on the Council (Competitiveness). However, there were already concerns about the impact assessment, for which it would probably be necessary to seek the opinion of an independent panel of professionals in order to boost its credibility.

17. RELATIONS WITH NON-MEMBER COUNTRIES

**17.1. EU-UNITED STATES NEGOTIATIONS ON AVIATION
(SEC(2003)1277)**

The Commission took note of the information note distributed by Ms de PALACIO.

**17.2. IMPORTS OF CERTAIN PRODUCTS FROM THE UNITED STATES
(WTO-STEEL)**

Mr LAMY reported that on Monday 10 November the WTO appeal body had upheld the WTO's condemnation of the safeguard measures applied by the USA to imports of certain steel products from the European Community and elsewhere. The United States had until 15 December to conform to WTO rules, and Mr LAMY mentioned a number of possible scenarios depending on what decision President Bush took.

**17.3. BIOTERRORISM - DEBRIEFING OF THE MINISTERIAL GROUP ON
HEALTH SECURITY**

(BERLIN, 6-7 NOVEMBER)

(SEC(2003)1280)

Mr BYRNE reported on the main results of the meeting, as set out in his
information note SEC(2003)1280.

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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 1140 hours.