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SECRETARIAT-GENERAL

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Brussels, 10 December 2003

MINUTES
of the 1637th meeting of the Commission
held in Brussels
(Breydel)
on Wednesday 3 December 2003
(morning)

These minutes were approved by the Commission at its 1638th meeting, held in Brussels on 10 December 2003.

They contain 23 pages.

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Single sitting: Wednesday 3 December (morning)

The sitting opened at 0930 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

Items 1 to 9

Mr SOLBES

Mr NIELSON

Mr VERHEUGEN

Mr LAMY

Mr BYRNE

Mr BARNIER

Ms REDING

Ms SCHREYER

MS WALLSTRÖM

Mr VITORINO

Ms DIAMANTOPOULOU

Absent:

Mr FISCHLER

Mr PATTEN

The following sat in to represent absent Members of the Commission

Mr PIRZIO-BIROLI Chef de cabinet to Mr Fischler

Mr CHILD Chef de cabinet to Mr Patten

The following also sat in

Mr WAINWRIGHT Director in the Legal Service

Mr MANSERVISI Chef de cabinet to the President

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

Mr KEMPPINEN Commission Spokesman

Ms CORUGEDO STENEBOER Spokesman

Mr THOMAS Spokesman

Ms GONZALEZ-LAYA Spokeswoman

Mr DE LECEA Adviser in the President's Office Item 13

Mr STROHMEIER Adviser in the President's Office Item 9

Mr SMULDERS A member of the President's staff Item 12

Mr CALLEJA Chef de cabinet to Ms de Palacio Item 9

Mr GARCIA PORRAS A member of Ms de Palacio's staff

Ms KIRCHNER A member of Mr Fischler's staff Item 9

Mr VANDENBERGHE A member of Mr Busquin's staff Item 9

Mr ROBIN-CHAMPIGNEUL A member of Mr Busquin's staff Items 9 to 17

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

Mr POWER Chef de cabinet to Mr Byrne

Mr FONSECA Deputy Chef de cabinet to Mr Vitorino Item 12

Mr LOPES ALEIXO A member of Mr Vitorino's staff Items 12 to 14

Mr LEVI GOPA Item 13

Mr BORCHARDT Secretariat-General Item 9

Mr LATRICHE Secretariat-General

Mr PONZANO Secretariat-General Item 12

Mr VAN NUFFEL Secretariat-General Item 12

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

**1. AGENDAS AND QUARTERLY ROLLING PROGRAMME
(OJ(2003)1637/3; SEC(2003)1363/3; SEC(2003)1398)**

The Commission took note of that day's agenda, the tentative agendas for future meetings, and the rolling programme of items to be entered on the agenda from 10 November 2003 to 25 February 2004.

**2. WEEKLY MEETING OF CHEFS DE CABINET
(SEC(2003)1637)**

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 1 December.

**3. APPROVAL OF MINUTES OF 1636th MEETING (26 November)
(PV(2003)1636)**

The Commission approved the minutes of its 1636th meeting subject to the following amendment:

– Item 11, last paragraph to read:

“ ... it was agreed that a further study be made, to be coordinated by Mr PATTEN, Mr LAMY, **Mr FISCHLER**, Mr BOLKESTEIN and Mr VERHEUGEN.”

4. MONITORING THE APPLICATION OF COMMUNITY LAW

STATE AID - CASE POSTPONED

(C(2003)4075 and /2)

The Commission adopted the decision in C(2003)4075/2 concerning the following case:

N 204/2003 AUSTRIA (STYRIA)

***Directive on measures to combat fire blight (Erwinia amylovora) and to
compensate related losses in commercial fruit growing***

Decision: No objection: aid compatible.

5. WRITTEN PROCEDURES AND EMPOWERMENT

5.1. WRITTEN PROCEDURES APPROVED

(SEC(2003)1364 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 24 and 28 November.

5.2. SENSITIVE WRITTEN PROCEDURES

(SEC(2003)1365)

The Commission took note of written procedures initiated between 24 and 28 November for the adoption of decisions with political implications.

5.3. EMPOWERMENT

(SEC(2003)1366 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 24 and 28 November.

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 24 and 28 November, as archived on the "Greffé 2000" (Registry) website.

6. 2003 ENVIRONMENT POLICY REVIEW - CONSOLIDATING THE ENVIRONMENTAL PILLAR OF SUSTAINABLE DEVELOPMENT (COM(2003)745 to /6; SEC(2003)1391)

The Commission approved the communication from Ms WALLSTRÖM in COM(2003)745/6 for transmission to Parliament and the Council and, for information, to the Economic and Social Committee and the Committee of the Regions.

7. COMMISSION DECISION UNDER ARTICLE 81 OF THE EC TREATY AND ARTICLE 53 OF THE EEA AGREEMENT (CASE COMP/E-2/38.359 - ELECTRICAL AND MECHANICAL CARBON AND GRAPHITE PRODUCTS) (C(2003)4457 to /7; SEC(2003)1416)

The Commission:

- took note of the opinions of the Advisory Committee on Restrictive Practices and Dominant Positions of 24 November and 1 December in C(2003)4457 and /3;
- took note of the final report of the Hearing Officer in C(2003)4457/2;

- adopted, in the authentic languages (English, French and German), the decision in C(2003)4457/3, concluding that the parties in question had infringed Article 81(1) of the EC Treaty and, with effect from 1 January 1994, Article 53(1) of the EEA Agreement, and imposing fines on them totalling €101.44 million;
- decided that the versions with certain business secrets removed in C(2003)4457/4 to /7 would be notified respectively to Schunk GmbH, Schunk Kohlenstofftechnik GmbH, Hoffmann & Co. Elektrokohle AG, C. Conradty Nürnberg GmbH, The Morgan Crucible Company plc, Le Carbone Lorraine S.A. and SGL Carbon AG.

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

8. COUNCIL MEETINGS

(SI(2003)1296)

COMPETITIVENESS (RESEARCH)

(BRUSSELS, 26-27 NOVEMBER)

Mr BUSQUIN reported that the Council had unanimously agreed on the choice of Cadarache (France) as the site for the ITER international experimental reactor. The presentation of a single European candidate underlined the Union's desire for unity. It was now up to the Commission to defend this choice vis-à-vis the other parties to the project, since it was vital for the Union and its Member States to present a united front in the face of the other applications on the table. Mr BUSQUIN would keep the Commission regularly informed of developments.

9. PERMANENT REPRESENTATIVES COMMITTEE

COUNCIL AFFAIRS GROUP (CAG)

(SI(2003)1301 to /3)

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:

- i) **Proposal for a Parliament and Council Directive on a transparent system of harmonised rules for restrictions on heavy goods vehicles involved in international transport on designated roads**
(point 5 of the record)

The Commission authorised Ms de PALACIO to accept a possible compromise along the lines set out at Annex 2 to SEC(2003)1301/2, as long as this did not affect the general objective of establishing a clear Community framework, with a view to facilitating agreement by qualified majority at the Council meeting (Transport) on 4 and 5 December.

- ii) **Proposal for a Council Decision amending Decision 2002/834/EC adopting a specific programme for research, technological development and demonstration *Integrating and strengthening the European Research Area (2002-06) – stem cells***
(point 1 of the record)

The Commission took note of the information supplied orally by Mr BUSQUIN in support of the note SI(2003)1031/3, concerning the latest developments in Parliament and the Council in this matter. Further to its in-depth discussion of the ethical and political challenges underlying its initial proposal, the Commission held an exchange of views on the

implications of the compromise formulas planned by the Presidency. It also noted the effects of the expiry on 31 December 2003 of the moratorium currently applicable to the funding of this type of research. Following this discussion, the Commission authorised Mr BUSQUIN to accept a possible amendment to the Commission proposal to facilitate a qualified majority to prohibit the funding of stem cell procurement, together with a cut-off date for the creation of supernumerary embryos.

10. PARLIAMENT

PARLIAMENTARY AFFAIRS GROUP

(SP(2003)3929)

The Commission took note of the record of the meeting of the Parliamentary Affairs Group held on 27 November.

It paid particular attention to the following:

i) Interinstitutional relations

(point 1(b) of the record)

- ZAPPALA report, Public procurement,
00/0115 and 0117 (COD)

The Commission confirmed the approach taken by Mr BOLKESTEIN at the conciliation committee meeting on 2 December (SP(2003)3475 and /2 and PV 1631, item 8(i).

- FAVA report, Creation of the single European sky,
01/0060 (COD)

The Commission adopted the line set out in SP(2003)3237/2 for the conciliation committee meeting on 9 December.

- SANDERS-TEN HOLTE report, Air navigation services, Organisation and use of the airspace in the single European sky, Interoperability of the European air traffic management network,
01/0235 (COD), 01/0236 (COD), 01/0237 (COD)

The Commission adopted the line set out in SP(2003)3260/2 for the conciliation committee meeting on 9 December.

- CORBEY report, Packaging and packaging waste,
01/0291 (COD)

The Commission adopted the line set out in SP(2003)3815 for the conciliation committee meeting on 9 December.

ii) **Preparations for December I part-session**

(point 2 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

- JENSEN report, Alignment of rights and simplification of procedures in the application of social security schemes,
COM(2003)378, 03/0138 (COD)

The Commission adopted the line set out in SP(2003)3882.

- RANDZIO-PLATH report, Reduced rates of value added tax,
COM(2003)397, 03/0169 (CNS)

At this stage, the Commission decided to follow the line set out in SP(2003)3938 and agreed that at its meeting on 10 December it would hold a debate on the position to be taken in the light of developments.

- SANTINI report, Programme for financial and technical assistance to third countries in the area of migration and asylum,
COM(2003)355 - 03/0124 (COD)

The Commission adopted the line set out in SP(2003)3930.

Non-legislative matters

- BÖSCH report, Activities of the European Anti-Fraud Office (progress report),
COM(2003)154

Having noted the comments by Mr KINNOCK and Ms SCHREYER as to the best approach to take in this matter and the Commission's work in progress concerning the Anti-Fraud Office, the Commission took note of SP(2003)3816/4.

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

The Commission adopted the replies to non-legislative opinions and own-initiative resolutions adopted by Parliament to which the Commission had undertaken to reply (SP(2003)3874), for transmission to Parliament.

The Commission also approved SP(2003)3813/2 listing the action taken on the opinions and resolutions adopted by Parliament at its October I and II part-sessions, for transmission to Parliament.

11. PERMANENT REPRESENTATIVES COMMITTEE (continued from item 9)

COUNCIL AFFAIRS GROUP (CAG)

(SI(2003)1301 to /3)

Proposal for a Parliament and Council Regulation amending Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports

Having noted the information supplied during the meeting by Ms de PALACIO on the current state of play and the reasoning behind her approach, the Commission authorised Ms de PALACIO to accept a compromise along the lines set out in Annex 1 to SI(2003)1301/2 with a view to facilitating political agreement by qualified majority at the Council meeting (Transport) on 4 and 5 December.

In the event of such a compromise, the Commission would have the following statement entered in the Council minutes:

“The Commission deplores the fact that the Council has not reached agreement on strengthening discipline in the distribution of slots. That is why, as it announced

when making its proposal, it intends to make a second proposal in 2004 specifically on this aspect in order to facilitate access to airports, particularly those most saturated, and thereby to encourage competition; this second proposal will be based on the study in progress and on wide consultations with the players concerned. The Commission trusts that this proposal will be considered speedily by both institutions.”

Lastly, quite aside from the above, the Commission agreed that Ms de PALACIO would try to get the Council Presidency to put to a vote the text of Article 8(a)(1)(c) on the exchange of slots, as set out in the Commission proposal.

12. INTERGOVERNMENTAL CONFERENCE

MINISTERIAL CONCLAVE, NAPLES, 28 AND 29 NOVEMBER (SEC(2003)1413)

Mr BARNIER and Mr VITORINO presented the results of the Foreign Ministers' conclave in Naples on 28 and 29 November. The meeting had consisted largely of a restatement of the various national positions, with few subjects being the subject of real debate. Over lunch there was still a clear difference of view both on a possible reference to Christian heritage in the preamble to the Constitution and on the criminal law provisions, but over dinner there had been a constructive exchange on defence. The discussions on the most sensitive institutional matters (particularly, the composition of the Commission; definition of the qualified majority; minimum number of seats in Parliament) had produced no concrete results, and these issues would have to be negotiated in the European Council. Mr BARNIER and Mr VITORINO also reported on the situation concerning various specific aspects of interest to Commission Members under their respective portfolios.

Following the Commission's exchange of views in the light of this information, the PRESIDENT confirmed that at its next meeting the Commission would hold an in-depth debate on the stand to be taken in the final stage of the negotiations. The thrust of the Commission's message would be set out in the traditional letter from the President to the European Council, without prejudice to a later Commission statement making its position public.

Mr BARNIER also indicated that in the coming days the Task Force on the future of Europe and institutional matters would produce reference material for Commission Members to use, to support any public statements they may be called upon to make on this subject in the short term.

13. GENERAL DEBATE ON THE ANNUAL POLICY STRATEGY 2005 (SEC(2003)1399)

Following a brief introduction by the PRESIDENT, the Commission held a general discussion on the policy priorities for 2005, which would be a key year for completing the package of measures in connection with the future financial perspective, including legislative proposals on the next generation of Structural Funds. The general context and the specific nature of 2005 were recalled: it would be the first year of the new Commission, which would want to pursue its own policy agenda for the duration of its term of office. The main operational priority would be the smooth operation of the enlarged Europe and the full application of policies and rules in all Member States. It would also be necessary to ensure the continuation of activities in progress, particularly the main common policies, such as agriculture and fisheries. Lastly, it would be necessary to prepare for the institutional and political changes that would result from the IGC.

On the basis of this debate, the following priorities were identified:

Competitiveness and cohesion

The Commission's central objective should be to bring about an upturn in economic growth through an ongoing drive for improvements in the competitiveness of the European model, while maintaining prosperity, economic and social cohesion, environmental protection and consumer confidence as essential components of the sustainable development agenda. A stable macroeconomic framework and the furtherance of the structural reforms inherent in the Lisbon strategy would be vital. Special emphasis should be placed on:

- industrial policy, for both manufacturing industry and services. Services now represented two thirds of GDP and the majority of jobs created in the Union. It was this sector that had the greatest room for improvement in productivity and job creation, and helped maintain a solid industrial base;
- reducing the persistent gap between Europe and its main partners as regards efforts both in research and in the development of human and technological capital (particularly information and communication technologies, education, lifelong learning);
- the extension and development of transport, energy and telecommunications networks;
- preparing the new social policy agenda.

Citizenship

Enlargement of the Union's territory and the increase in its population would call for increased effort and better coordination because of the need to manage new common borders and the increased mobility of individuals within this area. In 2005, it was proposed that:

- the European area of security, freedom and justice, started under the Tampere programme, be consolidated, which would involve the adoption of additional legislative instruments. The main issues would be asylum and immigration along with combating organised crime and terrorism;
- going beyond security issues alone, the focus should be on consolidating everyone's right to protection (from natural disasters and crises relating to health, environmental or nuclear energy) and access to basic public services (health, education, transport, consumer safety);
- initiatives be promoted to bring Europe closer to its citizens.

External responsibility

The new dimensions of the Union and the new external borders resulting from enlargement would make it necessary to establish a stable and comprehensive political framework with the countries of the south and the new neighbours to the east. As enlargement became a reality, the implementation of this second ring of stability would become a priority.

- In 2005, the Commission would be assisting in the completion of the enlargement process under way. This would include preparations for the accession of Romania and Bulgaria as well as the continued implementation of the pre-accession strategy with Turkey in the light of the decisions taken in 2004.
- As regards the Union's immediate neighbours, the Commission would implement the new neighbourhood policy (paying special attention to the extension of the internal market and its regulatory structures, the enhancement of preferential trade relations and the drawing-up of the desired timetable) and seek to promote intra-regional cooperation. This approach would be based on an overall package to be presented to the Council in spring 2004 and would include

a strategy document, country reports, action plans and a proposal for a new neighbourhood policy instrument. As regards the other countries of the western Balkans, the stabilisation and association process would continue to be the policy keystone.

- An enlarged Europe could and should embrace greater global responsibilities. The Commission would be called upon to play an increased role in promoting sustainable development in line with Europe's international commitments, including the millennium development objectives, which would need to be reviewed in 2005. The Union's integrated commercial policy and its leading role in development would give it enhanced responsibility in multilateral governance.
- Lastly, the increase in the size of the Union would go hand in hand with an increase in international responsibility requiring even more coherence in its external operations, using all the instruments at its disposal. The future Foreign Minister would play a crucial role here. This enhanced coherence would also involve establishing suitable capacity for crisis management using both civilian and military means, in which the future armaments agency could play a significant part.

Concerning resources and internal organisation

In 2005 staff numbers were expected to increase by some 700 in connection with enlargement. The resources needed for implementing the priority initiatives would also have to be found by means of redeployment. To enable the necessary resources to be allocated for the priorities for 2005, the Commission should restate its commitment to effectiveness by setting up a central redeployment pool on the basis of a percentage of total staff. This would be adjusted in the light of indicators such as the balance between the level of human resources and workload, performance indicators tailored to each Directorate-General's tasks (for instance in

financial management or the implementation of the work programme) and internal redeployment. The priority activities would have to be carefully reviewed for this purpose.

Finally, the next Commission would need to continue the reform and modernisation process launched in 2000.

14. TRENDS IN THE MEMBER STATES (SEC(2003)1396)

Mr VITORINO briefly outlined the main subjects covered by the media in November: the Council (Economic and Financial Affairs) decision on the German and French budgetary deficits and its impact on the image of the stability and growth pact; the draft European Constitution and the Intergovernmental Conference. A reading of public opinion concerning these subjects, together with the results of the relevant Eurobarometer polls, gave cause for concern over the deterioration in the public's positive attitude vis-à-vis the European Union in view of the results secured in spring 2003.

The Commission took note of this information and held a brief exchange of views on the results presented by Mr VITORINO. It also noted that he intended shortly to present a more detailed analysis on the development of the sense of belonging to the Union on the basis of a breakdown of the data by Member State, age, sex and profession.

15. RELATIONS WITH NON-MEMBER COUNTRIES

15.1. WORLD SUMMIT ON THE INFORMATION SOCIETY

(GENEVA, 10-12 DECEMBER)

(SEC(2003)1402)

The Commission noted the information note distributed by Mr LIIKANEN on the latest developments in the preparatory negotiations for the world summit on the information society and the likely outcome at the end of negotiations, which would be resuming in Geneva on 5 and 6 December. It authorised Mr LIIKANEN to conclude an agreement at the final negotiations along the lines set out in SEC(2003)1402.

15.2. EU-INDIA SUMMIT (29 NOVEMBER)

The PRESIDENT reported briefly on the summit, drawing attention to the positive results concerning the conclusion of a customs cooperation agreement, the launch of negotiations for a maritime agreement and India's participation in the Galileo project.

16. COUNCIL MEETINGS (continued from item 8)

(SI(2003)1296)

16.1. EMPLOYMENT AND SOCIAL POLICY

(BRUSSELS, 1 DECEMBER)

(SI(2003)1302 to /3)

Ms DIAMANTOPOULOU reported that, after very complex negotiations, hard work by five successive Presidencies had culminated in a unanimous overall political agreement on the modernisation of Council Regulation (EEC)

No 1408/71 on the application of social security schemes. This was a significant breakthrough in European citizenship and the free movement of workers.

16.2. ECONOMIC AND FINANCIAL AFFAIRS (BUDGET)

(BRUSSELS, 24 NOVEMBER)

(SI(2003)1266)

Ms SCHREYER reported on the Council meeting, which had reached political agreement at second reading on the draft budget for 2004. She reported on the results in the various expenditure categories and the changes compared with the 2003 budget.

The Commission took note of this information and held a brief exchange of views, particularly on the implementation of appropriations.

17. RELATIONS WITH NON-MEMBER COUNTRIES

EURO-MEDITERRANEAN ENERGY FORUM

(ROME, 1 AND 2 DECEMBER)

Ms de PALACIO reported on the very positive outcome of the Euro-Mediterranean energy forum, which had confirmed the major advances achieved in the field of energy cooperation and at which several important agreements had been signed.

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The meeting closed at 1250 hours.