



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2003)1639 final

Brussels, 7 January 2004

MINUTES

of the 1639th meeting of the Commission

held in Strasbourg

(Winston Churchill Building)

on Tuesday 16 December 2003

(afternoon)

—

These minutes were approved by the Commission at its 1640th meeting, held in Brussels on 7 January 2004.

They contain 24 pages.

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Single sitting: Tuesday 16 December (afternoon)

The sitting opened at 1400 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 BUSQUIN	
Mr SOLBES	
Mr NIELSON	
Mr VERHEUGEN	
Mr PATTEN	
Mr BYRNE	
Mr BARNIER	
Ms REDING	
Ms SCHREYER	
Ms WALLSTRÖM	
Mr VITORINO	
Ms DIAMANTOPOULOU	

Absent:

Mr LAMY

The following sat in:

Mr PETITE	Director-General, Legal Service	
Mr MANSERVISI	Chef de cabinet to the President	
Mr KEMPPINEN	Commission Spokesman	
Mr SCHINAS	Deputy Chef de cabinet to Ms de Palacio	
Ms LOCATELLI	A member of Mr Bolkestein's staff	Items 4 and 14
Mr BEKX	Deputy Chef de Cabinet to Mr Solbes	Items 1 to 3
Mr FONSECA	Deputy Chef de cabinet to Mr Vitorino	Items 14 and 15
Mr FIELDING	Deputy Chef de cabinet to Ms Diamantopoulou	

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

1. AGENDAS

(OJ(2003)1639/3; SEC(2003)1436/2)

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)1639)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 15 December.

3. APPROVAL OF MINUTES AND SPECIAL MINUTES OF 1638th MEETING

(10 September)

(PV(2003)1638; PV(2003)1638, Part II)

The Commission approved the minutes of its 1638th meeting.

4. PARLIAMENT

PARLIAMENTARY AFFAIRS GROUP

(SP(2003)4154)

The Commission took note of the record of the meeting of the Parliamentary Affairs Group held on 12 December (SP(2003)4154).

It paid particular attention to the following:

i) **Preparations for December II part-session**

(point 2 of the record)

2nd reading

- MULLER report, European Agency for the Evaluation of Medicinal Products,
COM(2001)404-1, 01/0252 (COD)
- GROSSETÊTE report, Community code relating to medicinal products for human use,
COM(2001)404-2, 01/0253 (COD)
- GROSSETÊTE report, Community code relating to veterinary medicinal products,
COM(2001)404-3, 01/0254 (COD)

Further to the position taken at its previous meeting (PV(2003)1638) on the MÜLLER (European Agency for the Evaluation of Medicinal Products) and GROSSETÊTE (Community code relating to medicinal products for human use) reports, the Commission adopted, as regards the GROSSETÊTE report on the Community code relating to veterinary medicinal products, the line set out in SP(2003)4025 and /2.

- LIESE report, Human tissues and cells,
COM(2002)319, 02/0128 (COD)

The Commission confirmed the line adopted at its meeting of 10 December (PV(2003)1638 and SP(2003)3897 and /2).

1st reading

- LULLING report, Statistics relating to the trading of goods between Member States,
COM(2003)364, 2003/0126 (COD)

The Commission adopted the line set out in SP(2003)4152, involving the acceptance of all the amendments.

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

Confirming the position it had approved at its meeting of 12 November (PV(2003)1634), the Commission adopted the line set out in SP(2003)3688/3, involving the maintenance of its proposal.

Non-legislative matters

- GRÄFE ZU BARINGDORF report, Coexistence of genetically modified crops and conventional and organic crops

The Commission took note of the information sheet in SEC(2003)4230.

ii) **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)4028/2), for transmission to Parliament.

iii) **Appearance by Mr BOLKESTEIN, Ms de PALACIO, Mr PATTEN and Mr VITORINO before Parliament's Committee on Citizens' Freedoms and Rights, Justice and Home Affairs, on Tuesday 16 December on the Transfer of air passenger name record (PNR)**

(point 5 of the record)

The Commission approved the communication in COM(2003)826 (formerly SEC(2003)1460/2) for transmission to Parliament and the Council.

iv) **Presence of Commission Members at Question Time in 2004**

The Commission approved the revised version of the rota for Commission Members' attendance at Question Time in 2004 (SP(2003)4159/2) and asked the Secretariat-General to transmit it to Parliament.

5. PERMANENT REPRESENTATIVES COMMITTEE

COUNCIL AFFAIRS GROUP (CAG)

(SI(2003)1370)

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 Council Regulation fixing for 2004 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where limitations in catch are required**

Proposal for a Council Regulation establishing measures for the recovery of cod stocks

Proposal for a Council Regulation establishing measures for the recovery of the Northern hake stock

(point 4 of the record)

The Commission authorised Mr FISCHLER, at the Council meeting (Agriculture/Fisheries) from 17 to 19 December, to accept a Presidency compromise along the lines set out in the notes in Annexes 1, 2 and 3 to SI(2003)1370.

ii) **Letter to be sent to the Financial Action Task Force on Money Laundering**

(point 5 of the record)

The Commission authorised Mr BOLKESTEIN to send the letter at Annex 4 to SI(2003)1370 to the President of the Financial Action Task Force on Money Laundering (FATF), and authorised departments to continue to follow the Task Force's work.

iii) **Proposal for a Parliament and Council Directive concerning the quality of bathing water**

(point 6 of the record)

The Commission authorised Ms WALLSTRÖM, at the Council meeting (Environment) on 22 December, to support the Presidency compromise to facilitate political agreement on a common position by qualified majority, along the lines set out in the note at Annex 5 to SI(2003)1370.

- iv) **Proposal for a Council Regulation establishing a system for the identification and registration of ovine and caprine animals and amending Regulation (EEC) No 3508/92**
(point 7 of the record)

The Commission authorised Mr BYRNE, at the Council meeting (Agriculture/Fisheries) from 17 to 19 December, to support the Presidency compromise along the lines set out in the note at Annex 6 to SI(2003)1370, with a view to adoption of the Regulation by qualified majority.

6. MONITORING THE APPLICATION OF COMMUNITY LAW

6.1. STATE AID - SPECIFIC CASES **(SEC(2003)1422; SEC(2003)1421)**

The Commission adopted the decisions in SEC(2003)1422.

6.2. CASES POSTPONED **(C(2003)4328 to /3; C(2003)4474 to /3)**

The Commission adopted the decisions set out in C(2003)4328/3 and C(2003)4474/3 respectively on the following:

C 12/B/1995 ITALY
(ex NN 31/1994)

National Law No 185/92 on natural disasters (Articles 3, 4, 5, 6, 8 and 9):
aid granted from 1.1.2000

Decision: Partly positive / partly negative final decision without
recovery

C 11/1997 ITALY

(ex N 340/B/1996)

***Aid provided for by Articles 1, 10, 13 (2) and (3), 17, and 19 of Regional
Law No 33/1996 in favour of the agriculture sector***

Decision: Partly positive / partly negative final decision.

**6.3. *INFRINGEMENTS - REPORT A2/2003 ON SUSPECTED
INFRINGEMENTS
(SEC(2003)1308; SEC(2003)1311; SEC(2003)1312)***

The Commission adopted the decisions in SEC(2003)1312.

7. WRITTEN PROCEDURES AND EMPOWERMENT

**7.1. *WRITTEN PROCEDURES APPROVED
(SEC(2003)1437 et seq.)***

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 8 and 12 December.

**7.2. *SENSITIVE WRITTEN PROCEDURES
(SEC(2003)1438)***

The Commission took note of written procedures initiated between 8 and 12 December for the adoption of decisions with political implications.

7.3. EMPOWERMENT

(SEC(2003)1439 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 8 and 12 December.

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 8 and 12 December, as archived on the "Greffé 2000" (Registry) website.

8. ADMINISTRATIVE AND BUDGETARY MATTERS

(SEC(2003)1440/3)

ADMINISTRATIVE MATTERS

(PERS(2003)160)

8.1. JICS - A1 POST OF DIRECTOR-GENERAL

(PERS(2003)150 to /3)

The Commission had before it an application under Article 29(1)(a) of the Staff Regulations for the A1 post of Director-General, Joint Interpreting and Conference Service (PERS(2003)150).

The Commission took note of the opinions of the Consultative Committee on Appointments of 28 November and 3 December (PERS(2003)150/2 and /3).

The Commission proceeded to consider the applicant's qualifications for the post. Mr KINNOCK pointed out that Mr BENEDETTI was particularly well qualified to tackle the twin challenges of the completion of the reorganisation

of the JICS and its major expansion to deal with the imminent unprecedented increase in the number of languages in use. Mr BENEDETTI combined technical expertise in interpretation with a unique mix of management and motivational capacities for securing the best results. His wide experience in various posts within the Commission, both in the JICS and in horizontal departments, would enable him to take on this post with confidence. As Head of service, he had already proved his worth in successfully reorganising the JICS, laying the groundwork for fruitful interinstitutional cooperation and winning substantial productivity gains while maintaining high quality standards.

In the light of this opinion, the Commission, on a proposal from Mr KINNOCK, in agreement with the PRESIDENT, decided to appoint Mr Marco BENEDETTI to the post.

This decision would take effect on 1 January 2004.

8.2. DG SANCO - A1 POST OF DIRECTOR-GENERAL
(PERS(2003)82 to /6)

The Commission had before it applications under Article 29(1)(a) of the Staff Regulations for the A1 post of Director-General, Health and Consumer Protection (PERS(2003)82/2, /3 and /5).

The Commission took note of the opinions of the Consultative Committee on Appointments of 5 and 12 September (PERS(2003)82/4 and /6).

The Commission proceeded to compare the applicants' qualifications for the post. Mr BYRNE pointed out that Mr MADELIN, in his wide experience both within and outside the Commission, had shown a talent for management at the highest level. In the Trade DG he had been responsible for mastering complex technical questions while identifying the key policy issues. He had wide

experience of negotiations with the Council and Parliament and of involving civil society in the decision-making process. Thanks to his experience successively in a permanent representation and a Member's Office and as a Director, he had a particularly keen awareness of the political constraints on the management of policy. His strategic vision and capacity for motivation made him the ideal candidate to take over as Director-General, Health and consumer protection.

In the light of this opinion, the Commission, on a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Mr BYRNE, decided to appoint Mr Robert MADELIN to the post.

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

8.3. *DG ELARG/C - A2 POST OF DIRECTOR*

(PERS(2003)131 to /7)

The Commission had before it applications under Article 29(1)(a) of the Staff Regulations for the A2 post of Director in the Enlargement DG (PERS(2003)131 to /5).

The Commission took note of the opinions of the Consultative Committee on Appointments of 21 November and 3 December (PERS(2003)131/6 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 and Mr VERHEUGEN, it then decided to appoint Mr Rutger WISSELS to the post.

This decision would take effect on 1 January 2004.

8.4. INITIAL COMMUNICATION UNDER ARTICLE 50 OF THE STAFF REGULATIONS

The Commission decided to initiate the procedure laid down in Article 50 of the Staff Regulations in respect of an A2 official.

**8.5. DG ADMIN – APPOINTING AUTHORITY TABLE
CORRIGENDUM TO THE COMMISSION DECISION OF 6 FEBRUARY
2003 AMENDING THE APPOINTING AUTHORITY TABLE
(C(2003)4918/2)**

The Commission adopted the decision in C(2003)4918/2 with effect from 1 January 2004.

**9. ALLOCATION OF HUMAN RESOURCES AND DECENTRALISED
ADMINISTRATIVE EXPENDITURE (FORMER TITLE A-7) FOR 2004
(SEC(2003)1435 to /4; SEC(2003)1458)**

Having taken note of the observations in the record of the weekly meeting of Chefs de cabinet concerning this item (SEC(2003)1639, item 9), the Commission approved the communication presented by Ms SCHREYER, in agreement with the PRESIDENT and Mr KINNOCK, in SEC(2003)1435/4.

The Commission also noted that, once the Intelligent Energy Agency was operational, the four posts concerned in the Energy and Transport DG would be released and placed in the reserve for 2004.

**10. ALLOCATION OF HUMAN RESOURCES FOR REFORM FOLLOWING
IMPLEMENTATION OF REGULATION No 1746/2002 (EARLY
RETIREMENT – SECOND ROUND)
(SEC(2003)1434 and /2; SEC(2003)1458)**

The Commission approved the communication presented by Ms SCHREYER, in agreement with the PRESIDENT and Mr KINNOCK, in SEC(2003)1434/2.

**11. GUIDELINES ON THE ASSESSMENT OF HORIZONTAL MERGERS
UNDER THE COUNCIL REGULATION ON THE CONTROL OF
CONCENTRATIONS BETWEEN UNDERTAKINGS
(SEC(2003)1441 to /4)**

The Commission approved in principle the guidelines set out in SEC(2003)1441/4. It empowered Mr MONTI, in agreement with the PRESIDENT, to finalise these guidelines, particularly as regards the formal references to the Merger Regulation, and adopt them in all the official languages for publication simultaneously with entry into force of the new Regulation.

**12. COMMISSION DECISION UNDER ARTICLE 81 OF THE EC TREATY
AND ARTICLE 53 OF THE EEA AGREEMENT
(CASE COMP/E-1/38.240 - INDUSTRIAL TUBES)
(C(2003)4820 to /9; SEC(2003)1464)**

The Commission:

- took note of the opinions of the Advisory Committee on Restrictive Practices and Dominant Positions of 8 and 15 December in C(2003)4820 and /4;

- took note of the final report of the Hearing Officer in C(2003)4820;
- adopted, in the authentic languages (Finnish, French, German and Italian), the decision in C(2003)4820/4, 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 €78.73 million;
- decided that the versions with certain business secrets removed, set out in C(2003)4820/5 to /9, would be notified to Wieland Werke AG (C(2003)4820/5); Outokumpu Oyj and Outokumpu Copper Products OY (C(2003)4820/6); KM Europa Metal AG (C(2003)4820/7); Europa Metalli SpA (C(2003)4820/8); and Tréfinmétaux S.A. (C(2003)4820/9), respectively.

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

13. OTHER BUSINESS

RESULTS OF THE GROUP ON PATIENT MOBILITY (SEC(2003)1446/2)

The Commission took note of the information note distributed by Mr BYRNE and Ms DIAMANTOPOULOU.

14. INTERGOVERNMENTAL CONFERENCE

The PRESIDENT, Mr BARNIER and Mr VITORINO commented on the results of the IGC of Heads of State or Government held on Friday 12 and Saturday

13 December. There had been no prospect of agreement at any point, with each delegation sticking to its position. Most of the discussions had taken the form of bilateral meetings conducted by the Italian Presidency. The only meeting of all the Heads of State or Government together had merely taken note of the lack of will to negotiate and concluded that the process would have to be suspended. The responsibility for this state of affairs was shared between several players, and it would be futile to seek to allot blame. The question now was on what basis and according to what timetable the process could be relaunched.

The Commission took note of this information and discussed the causes and consequences of the failure of the meeting. Without underestimating their impact on European public opinion and various forthcoming elections, it would not be right to overdramatise the events of the weekend, which were on a par with many other temporary setbacks that had marked the European integration process from the outset. Freed from the pressure of the timetable that had weighed on the IGC in recent months, there would now be time for reflection to study the problems in greater depth, identify what had been achieved and lay the groundwork for the resumption of the Conference. The Commission should carry out this reflection and consider the most appropriate ways and means of taking initiatives of its own, in contact with the Irish Presidency. While taking account of certain Member States' declared intentions to press ahead with a smaller pioneering group, the Commission should also demonstrate through its daily actions over the year ahead, consistently but without arrogance, the relevance and strength of the Community method.

Following this discussion, the President drew the following conclusions:

- he expressed the Commission's thanks to Mr BARNIER and Mr VITORINO for their past and future work, in terms of both quality and quantity. He also thanked Mr PONZANO and the Task force on the Future of the Union and the staff of Mr BARNIER's and Mr VITORINO's Offices and of his own Office;

- as regards the texts on the table, as he had repeatedly pointed out, only the draft as it had emerged from the Convention should be regarded as valid.
Nevertheless, the Commission should continue its discussions on the most appropriate reference text, since European integration could not go forward at the pace of the slowest member;
- the letter from six Heads of State or Government seeking to freeze the budgetary framework for 2007-2013 supplied an opportunity to launch a debate on the contradictions between the stated ambitions and the resources made available for achieving them;
- it must be spelled out very clearly that the European Council's failure was due not to enlargement but primarily to problems between the 15 existing Member States;
- lastly, the Commission should continue its discussions to define the line it should take in following up the IGC's work.

15. TRENDS IN THE MEMBER STATES

(SEC(2003)1465 and /2)

Mr VITORINO mentioned the main events on which the media had focused in recent weeks and days, as set out in SEC(2003)1465/2 (particularly: Intergovernmental Conference and failure of the Brussels summit; results of the elections in the northern part of Cyprus; arrest of Saddam Hussein). He also drew attention to the summary in the document of the most positive and most negative points of the media coverage in 2003.

The Commission took note of this information and held a brief exchange of views on the arrangements for drafting the questions to be asked in opinion polls and for making available the replies received.

16. COUNCIL MEETINGS

(SI(2003)1367)

TRANSPORTS, TELECOMMUNICATIONS, ENERGY (ENERGY)

(BRUSSELS, 15 DECEMBER)

(SI(2003)1374)

Ms de PALACIO reported on the main results of the Council meeting, particularly:

- unanimous political agreement, together with a Commission statement, on the proposal for a Directive concerning measures to safeguard the security of natural gas supply;
- agreement on the guidelines set out in the questions of the Presidency concerning the proposal for a framework Directive setting eco-design requirements for energy-using products and amending Council Directive 92/42/EC;
- presentation by Ms de PALACIO of the new series of measures adopted by the Commission the previous week with a view to completing the establishment of a single energy market;
- presentation by Ms de PALACIO of the Commission communication on energy infrastructure and policies in an enlarged Europe and information on the state of various dialogues with the Union's partners;

- follow-up to the informal energy and environment Council in Montecatini (July 2003) and discussions with Ministers on the strategy to be followed given the latest developments in the ratification of the Kyoto Protocol.

The Commission took note of this information. It held a brief exchange of views, after which it confirmed its position on the Kyoto Protocol and the need for its speedy ratification by the parties, including Russia.

17. RELATIONS WITH NON-MEMBER COUNTRIES

17.1. RESULTS OF THE NINTH CONFERENCE ON CLIMATE CHANGE

(MILAN, 1-12 DECEMBER)

(SEC(2003)1466)

The Commission took note of the information note distributed by Ms WALLSTRÖM.

17.2. WORLD SUMMIT ON THE INFORMATION SOCIETY

(GENEVA, 10-12 DECEMBER)

(SEC(2003)1467)

The Commission took note of the information supplied during the meeting by Mr LIIKANEN in support of his note SEC(2003)1467. He intended to follow up the summit by updating the communication on information and communications technologies in development policy (COM(2001)770 final). The Commission would thereby have at its disposal a single reference framework for its actions in this area, based on the principles and actions agreed in the texts adopted at the world summit.

**17.3. RESULTS OF GENERAL ELECTION IN THE NORTHERN PART OF
CYPRUS**

Mr VERHEUGEN referred to the results of the previous Sunday's general election in the northern part of Cyprus. Although the opposition parties had won in terms of votes, they had not secured an overall majority of seats.

Mr VERHEUGEN commented on the impact of these results on the prospects for reunification and the conclusions to be drawn for the Union's strategy.

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In conclusion, the PRESIDENT thanked Commission Members for their solidarity and cooperation and the important work done in 2003. He offered his best wishes for the festive season.

The PRESIDENT also thanked Mr O'SULLIVAN, the members of his Office and of those of Commission Members, the interpreters, and the Registry of the Secretariat-General.

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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 1620 hours.