



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2004)1641 final

Brussels, January 21 2004

MINUTES
of the 1641st meeting of the Commission
held in Strasbourg
(Winston Churchill Building)
on Tuesday 13 January 2004
(afternoon)

These minutes were approved by the Commission at its 1642nd meeting, held in Brussels on 21st January 2004.

They contain 17 pages.

CONTENTS

Attendance list	4-5
1. AGENDAS (OJ(2004)1641/3; SEC(2004)15/2).....	6
2. WEEKLY MEETING OF CHEFS DE CABINET (SEC(2004)1641)	6
3. APPROVAL OF MINUTES OF 1640TH MEETING (7 JANUARY) (PV(2004)1640 TO /3)	6
4. PERMANENT REPRESENTATIVES COMMITTEE	7
<i>EMPOWERMENT OF Mr FISCHLER IN THE FIELD OF FISHERIES RELATING TO:</i>	7
- <i>PROPOSAL FOR A COUNCIL REGULATION ESTABLISHING MEASURES FOR THE RECOVERY OF THE SOLE STOCKS IN THE WESTERN CHANNEL AND THE BAY OF BISCAY (COM(2003)819)</i>	7
- <i>PROPOSAL FOR A COUNCIL REGULATION ESTABLISHING MEASURES FOR THE RECOVERY OF THE SOUTHERN HAKE AND NORWAY LOBSTER STOCKS IN THE CANTABRIAN SEA AND WESTERN IBERIAN PENINSULA AND AMENDING REGULATION (EC) No 850/98 (COM(2003)818) (SEC(2004)56)</i>	7
5. MONITORING THE APPLICATION OF COMMUNITY LAW	7
<i>INFRINGEMENTS - CASES POSTPONED BECAUSE OF UNAVAILABILITY OF DOCUMENTS - REGULARISATION (SEC(2004)7)</i>	7
6. WRITTEN PROCEDURES AND EMPOWERMENT	8
6.1. <i>WRITTEN PROCEDURES APPROVED (SEC(2004)16 et seq.)</i>	8
6.2. <i>SENSITIVE WRITTEN PROCEDURES (SEC(2004)17)</i>	8
6.3. <i>EMPOWERMENT (SEC(2004)18 et seq.)</i>	8
6.4. <i>DELEGATION AND SUBDELEGATION OF POWERS</i>	8
7. ADMINISTRATIVE AND BUDGETARY MATTERS (SEC(2004)19/3)	9
7.1. <i>DG RELEX.G - A2 POST OF DIRECTOR (PERS(2003)118 to /6)</i>	9

7.2. DG TRADE.D - A2 POST OF DIRECTOR (PERS(2003)120 to /3).....	9
7.3. COMMISSION DECISION AMENDING THE GENERAL PROVISIONS FOR IMPLEMENTING ARTICLE 43 OF THE STAFF REGULATIONS COMMISSION DECISION AMENDING DECISION C(2002) 4867/5 OF 27/12/2002 ON THE GENERAL IMPLEMENTING PROVISIONS OF ARTICLES 43 AND 45 OF THE STAFF REGULATIONS: SPECIFIC RULES RELATING TO THE APPRAISAL AND PROMOTION OF STAFF WORKING IN THE EXTERNAL SERVICE (C(2004)49 and /2)	10
8. REFORM OF THE STAFF REGULATIONS - ADAPTING THE IMPLEMENTING RULES - PACKAGES 1 AND 2 (SEC(2004)12 TO /4).....	11
9. FOLLOW-UP TO COUNCIL AND COMMISSION DECISIONS OF 25 AND 26 NOVEMBER 2003 (SEC(2004)26; SEC(2004)27; SEC(2004)49)	11
10. PROPOSAL FOR A PARLIAMENT AND COUNCIL DIRECTIVE ON SERVICES IN THE INTERNAL MARKET (COM(2004)2 TO /5; SEC(2004)21; SEC(2004)43)	13
11. PARLIAMENT	15
PARLIAMENTARY AFFAIRS GROUP (SP(2004)67)	15
12. PERMANENT REPRESENTATIVES COMMITTEE (CONTINUED FROM ITEM 4).....	16

Single sitting: Tuesday 13 January (afternoon)

The sitting opened at 1345 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 LAMY	
Mr BYRNE	
Mr BARNIER	
Ms REDING	
Ms SCHREYER	
Ms WALLSTRÖM	
Mr VITORINO	
Ms DIAMANTOPOULOU	

The following sat in

Mr PETITE	Director-General, Legal Service	
Mr MANSERVISI	Chef de cabinet to the President	
Mr KEMPPINEN	Commission Spokesman	
Mr DE LECEA	Adviser in the President's Office	
Mr SCHINAS	Deputy Chef de cabinet to Ms de Palacio	
Mr CARDANI	Deputy Chef de cabinet to Mr Monti	
Ms NEVALAINEN	A member of Mr Liikanen's staff	
Ms LOCATELLI	A member of Mr Bolkestein's staff	
Mr PLANAS	Chef de cabinet to Mr Solbes	
Mr BEKX	Deputy Chef de Cabinet to Mr Solbes	Item 9
Mr MARTINEZ MONGAY	A member of Mr Solbes's staff	
Mr MØRCH	A member of Mr Nielson's staff	Item 9
Ms CARPARELLI	Deputy Chef de cabinet to Ms Wallström	
Ms GAGO FILORI	A member of Mr Vitorino's staff	
Mr AZEMOPOULOS	A member of Ms Diamantopoulou's staff	Item 9

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

1. AGENDAS

(OJ(2004)1641/3; SEC(2004)15/2)

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(2004)1641)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 12 January.

3. APPROVAL OF MINUTES OF 1640th MEETING (7 January)

(PV(2004)1640 to /3)

The Commission approved the minutes of its 1640th meeting.

4. PERMANENT REPRESENTATIVES COMMITTEE

***EMPOWERMENT OF Mr FISCHLER IN THE FIELD OF FISHERIES
RELATING TO:***

- PROPOSAL FOR A COUNCIL REGULATION ESTABLISHING
MEASURES FOR THE RECOVERY OF THE SOLE STOCKS IN THE
WESTERN CHANNEL AND THE BAY OF BISCAY (COM(2003)819)***
- PROPOSAL FOR A COUNCIL REGULATION ESTABLISHING
MEASURES FOR THE RECOVERY OF THE SOUTHERN HAKE AND
NORWAY LOBSTER STOCKS IN THE CANTABRIAN SEA AND WESTERN
IBERIAN PENINSULA AND AMENDING REGULATION (EC) No 850/98
(COM(2003)818)
(SEC(2004)56)***

The Commission empowered Mr FISCHLER, in agreement with the PRESIDENT, to adapt these two proposals as set out in SEC(2004)56.

5. MONITORING THE APPLICATION OF COMMUNITY LAW

***INFRINGEMENTS - CASES POSTPONED BECAUSE OF UNAVAILABILITY
OF DOCUMENTS - REGULARISATION
(SEC(2004)7)***

The Commission approved the decisions in SEC(2004)7.

6. WRITTEN PROCEDURES AND EMPOWERMENT

6.1. *WRITTEN PROCEDURES APPROVED*

(SEC(2004)16 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 5 and 9 January.

6.2. *SENSITIVE WRITTEN PROCEDURES*

(SEC(2004)17)

The Commission took note of written procedures initiated between 5 and 9 January for the adoption of decisions with political implications.

6.3. *EMPOWERMENT*

(SEC(2004)18 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 5 and 9 January.

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 5 and 9 January, as archived on the "Grefte 2000" (Registry) website.

7. ADMINISTRATIVE AND BUDGETARY MATTERS
(SEC(2004)19/3)

ADMINISTRATIVE MATTERS
(PERS(2004)8/2)

7.1. DG RELEX.G - A2 POST OF DIRECTOR
(PERS(2003)118 to /6)

The Commission had before it applications under Article 29(1)(a) of the Staff Regulations for the A2 post of Director in the External Relations DG (PERS(2003)118 to /4).

The Commission took note of the opinions of the Consultative Committee on Appointments of 25 November and 3 December 2003 (PERS(2003)118/5 and /6).

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 PATTEN, it then decided to appoint Mr Tomas DUPLA DEL MORAL to the post.

This decision would take effect on 16 January.

7.2. DG TRADE.D - A2 POST OF DIRECTOR
(PERS(2003)120 to /3)

The Commission had before it applications under Article 29(1)(a) of the Staff Regulations for the A2 post of Director in the Trade DG (PERS(2003)120).

The Commission took note of the opinions of the Consultative Committee on Appointments of 28 October and 11 November 2003 (PERS(2003)120/2 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 and Mr LAMY, it then decided to appoint Mr Raffaele Mauro PETRICCIONE to the post.

This decision would take effect on 16 January.

OTHER MATTERS

7.3. COMMISSION DECISION AMENDING THE GENERAL PROVISIONS FOR IMPLEMENTING ARTICLE 43 OF THE STAFF REGULATIONS COMMISSION DECISION AMENDING DECISION C(2002) 4867/5 OF 27/12/2002 ON THE GENERAL IMPLEMENTING PROVISIONS OF ARTICLES 43 AND 45 OF THE STAFF REGULATIONS: SPECIFIC RULES RELATING TO THE APPRAISAL AND PROMOTION OF STAFF WORKING IN THE EXTERNAL SERVICE (C(2004)49 and /2)

The Commission decided:

- to approve the draft general implementing provisions of the Staff Regulations, as set out in C(2004)49;
- to authorise Mr KINNOCK to open the required conciliation with the trade unions and staff associations;

- to authorise Mr KINNOCK to consult the Staff Regulations Committee and the Central Staff Committee;
- to empower Mr KINNOCK, in agreement with the PRESIDENT, to make any minor amendments necessary following these consultations and definitively to adopt these general implementing provisions of the Staff Regulations.

**8. REFORM OF THE STAFF REGULATIONS - ADAPTING THE
IMPLEMENTING RULES - PACKAGES 1 AND 2
(SEC(2004)12 to /4)**

The Commission approved the communication presented by Mr KINNOCK in SEC(2004)12 and /4. It authorised Mr KINNOCK to begin consultations at interinstitutional level on the first package and to begin conciliation with the staff representatives and consultations at interinstitutional level on the second package. It also asked Mr KINNOCK to table all these texts again for final decision after the conclusion of the necessary consultations.

**9. FOLLOW-UP TO COUNCIL AND COMMISSION DECISIONS OF 25 AND
26 NOVEMBER 2003
(SEC(2004)26; SEC(2004)27; SEC(2004)49)**

Mr SOLBES presented the strategy he was proposing following the decisions taken by the Council (Economic and Financial Affairs) on 25 November. Noting the political implications of the Council's decisions, he proposed a three-pronged Commission strategy, viz.: continuation by the Commission of economic and

budgetary surveillance of all the Member States under the Treaty and the Stability and Growth Pact; the presentation of proposals to improve implementation of the Pact and strengthen the economic governance of the Union; the re-establishment of legal certainty for the future and the clarification of the applicable legal framework by making an application to the Court of Justice for annulment of some of the conclusions of the Council (Economic and Financial Affairs), together with a request for expedited procedure.

The Commission held an in-depth discussion on all aspects of the matter, and more particularly the proposal for bringing an action in the Court of Justice, in the light of the following factors:

- the role of the Commission as guardian of the Treaties and, as such, its responsibility to ensure compliance with the legal framework and equal treatment between Member States;
- without underestimating the legal problem, the advisability of court action, given the importance of the political and economic aspects of the issues in play;
- the most effective options for bringing all the Member States into line behind the basic amendments to be proposed by the Commission to the Stability and Growth Pact;
- the need clearly to circumscribe the use of purely legal and procedural aspects;
- the Commission's follow-up to the Court of Justice judgment;
- whether to ask the Court for application of the expedited procedure from the point of view of the need for a speedy restoration of legal certainty;

- whether to bring an action simultaneously with the adoption of the Commission's proposals for the modernisation of the Stability and Growth Pact, or to do these things separately one at a time.

After its discussion, the Commission:

- decided to bring before the Court of Justice an application for annulment of the conclusions of the Council (Economic and Financial Affairs) of 25 November 2003 concerning the implementation by France and Germany of the Stability and Growth Pact, on the basis of the complaints identified in the note from the Legal Service (SEC(2004)27);
- instructed the Legal Service to bring the action, together with a request for expedited procedure under Article 62a of the Rules of Procedure of the Court of Justice;
- agreed to make clear, in the press release to be distributed, that the Commission's action covered only procedural questions and the need to comply with the rules of law;
- agreed to hold a debate by 4 February on the preliminary guidelines for an initiative to improve the framework of the Union's economic governance, with a view to approving appropriate proposals as soon as possible.

**10. PROPOSAL FOR A PARLIAMENT AND COUNCIL DIRECTIVE ON
SERVICES IN THE INTERNAL MARKET
(COM(2004)2 to /5; SEC(2004)21; SEC(2004)43)**

Mr BOLKESTEIN outlined the main points of the proposal for a Directive before the Commission. Based on the economic reform process launched by the Lisbon

European Council, the proposal was designed to establish the legal framework applicable to the provision of services and to facilitate the exercise of freedom of establishment of service providers and the free movement of services between Member States. To this end, measures were proposed for administrative simplification and the application to services (subject to a number of general transitional or individual exemptions) of the principle of the country of origin, under which a service provider was subject only to the national provisions of the country where it was established. The proposal also included certain measures to establish the necessary mutual confidence between Member States in order to be able to abolish the obstacles in question. Lastly, the proposal set out clearly the rights of consumers and companies using services. After commenting on certain exemptions to the principle of the country of origin as provided for in the Directive, Mr BOLKESTEIN concluded by thanking the Commission Members concerned and their departments for their help in drawing up the proposal.

Having taken note of this information, the Commission held an exchange of views and considered in particular the advisability and the scope of exemption provisions concerning gambling, postal services, electricity and gas distribution and financial services.

After its discussions, the Commission:

- adopted the proposal for a Directive in COM(2004)2/5 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions;
- agreed to the transmission of the in-depth impact analysis in SEC(2004)21 as a staff working paper.

The Commission also took note of comments by Mr VITORINO to the effect that the proposal for a Directive did not prejudice the work in progress on the instruments for the communitisation of the Rome I Convention.

11. PARLIAMENT

PARLIAMENTARY AFFAIRS GROUP

(SP(2004)67)

The Commission took note of the record of the meeting of the Parliamentary Affairs Group held on 9 January (SP(2004)67).

It paid particular attention to the following:

i) Preparations for January I part-session

(point 2.1 of the record)

Non-legislative matters

- HERZOG report - Services of general interest,
COM(2003)270

The Commission took note of SP(2004)70/2.

- ALMEIDA GARRETT report – Operating framework for the European
Regulatory Agencies,
COM(2002)718

The Commission took note of SP(2004)49/2.

ii) **Other matters**

(point 8 of the record)

Letter from Mr BOLKESTEIN to Mr COX concerning the maintenance of the proposal for a Directive on diesel fuel used for commercial purposes following Parliament's vote to reject it

The Commission approved the draft letter in SP(2004)74 and authorised Mr BOLKESTEIN to send it to the President of Parliament.

Presence of Commission Members at Question Time in 2004

The Commission approved the rota in SP(2004)71, for transmission to Parliament. It noted that certain adjustments could be made to it following the accession of the ten new Member States.

iii) **Interinstitutional relations**

(point 1 of the record)

Ms de PALACIO referred to the problems raised by Parliament concerning the timetable agreed by the Commission for the adoption of the spring report and the general policy framework for the new financial perspective. She drew attention to Parliament's wish to be informed under the framework agreement, and pointed to the need to find an appropriate solution.

12. PERMANENT REPRESENTATIVES COMMITTEE (continued from item 4)

SEATS IN THE ROOM AT COUNCIL MEETINGS

(SI(2004)9)

The Commission decided to hold this item over for one week.

*

* *

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

*

* *

The meeting closed at 1730 hours.