



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2004)1646 final

Brussels, 25 February 2004

MINUTES
of the 1646th meeting of the Commission
held in Brussels
(Breydel)
on Wednesday 18 February 2004
(morning)

These minutes were approved by the Commission at its 1647th meeting, held in Brussels on 25th February 2004.

They contain 22 pages.

CONTENTS

Attendance list

5-7

1. ADMINISTRATIVE AND BUDGETARY MATTERS (SEC(2004)168/2)	8
<i>ADMINISTRATIVE ARRANGEMENTS FOR THE ENLARGED COMMISSION</i>	
<i>(1 May-31 October 2004) (SEC(2004)181 and /2).....</i>	<i>8</i>
2. AGENDAS (OJ(2004)1646/3; SEC(2004)164/2).....	9
3. WEEKLY MEETING OF CHEFS DE CABINET (SEC(2004)1646)	9
4. PARLIAMENT	9
4.1. FEBRUARY I PART-SESSION (SP(2004)501)	9
4.2. ACTION TO BE TAKEN ON PARLIAMENT'S OPINIONS (SP(2004)551).....	10
5. MONITORING THE APPLICATION OF COMMUNITY LAW	10
5.1. STATE AID - SPECIFIC CASES (SEC(2004)138; SEC(2004)182).....	10
5.2. INSTRUMENTS RELATING TO THE LAWFULNESS OF THE ARRANGEMENTS FOR FINANCING SERVICES OF GENERAL ECONOMIC INTEREST WITH REGARD TO THE COMMUNITY RULES ON STATE AID (SEC(2004)103 to /6; SEC(2004)138)	10
6. WRITTEN PROCEDURES AND EMPOWERMENT	11
6.1. WRITTEN PROCEDURES APPROVED (SEC(2004)165 et seq.)	11
6.2. SENSITIVE WRITTEN PROCEDURES (SEC(2004)166).....	11
6.3. EMPOWERMENT (SEC(2004)167 et seq.).....	11
6.4. DELEGATION AND SUBDELEGATION OF POWERS	12
7. DRAFT COMMISSION REGULATION IMPLEMENTING COUNCIL REGULATION (EC) NO 139/2004 ON THE CONTROL OF	

CONCENTRATIONS BETWEEN UNDERTAKINGS (SEC(2004)201; COM(2004)118 AND /2; SEC(2004)200)	12
8. APPROVAL OF MINUTES	12
8.1. SPECIAL MINUTES OF 1641st MEETING (13 January) (PV(2004)1641, Part II)	12
8.2. MINUTES AND SPECIAL MINUTES OF 1645th MEETING (9 and 10 February) (PV(2004)1645 and /2; PV(2004)1645, Part II to /3)	13
9. PERMANENT REPRESENTATIVES COMMITTEE (SI(2004)112)	13
COUNCIL AFFAIRS GROUP (CAG) (SI(2004)112)	13
10. ADMINISTRATIVE AND BUDGETARY MATTERS (CONTINUED FROM ITEM 1) (SEC(2004)168/2).....	17
10.1. DG EPSO - A2 POST OF DIRECTOR (PERS(2003)71 to /5)	17
10.2. APPOINTMENT, APPRAISAL AND CAREER DEVELOPMENT OF SENIOR MANAGERS IN THE COMMISSION IN THE LIGHT OF ENLARGEMENT AND THE INTRODUCTION OF REVISED STAFF REGULATIONS IN 2004 (SEC(2004)217 and /2).....	17
11. OTHER BUSINESS.....	18
IMPLEMENTATION OF THE RESEARCH FRAMEWORK PROGRAMME FOLLOWING DISCUSSIONS IN THE COUNCIL ON THE PROPOSAL TO AMEND THE SPECIFIC PROGRAMME INTEGRATING AND STRENGTHENING THE EUROPEAN RESEARCH AREA ADOPTED ON 9 JULY 2003 AND AMENDED ON 26 NOVEMBER 2003 (SEC(2004)207)	18
12. THIRD REPORT ON ECONOMIC AND SOCIAL COHESION (COM(2004)107 TO /9; SEC(2004)185).....	19
13. COMMISSION RECOMMENDATIONS FOR COUNCIL OPINIONS, PURSUANT TO ARTICLE 5(3) OF COUNCIL REGULATION (EC) NO 1466/97 OF 7 JULY 1997, ON THE UPDATED STABILITY PROGRAMMES OF SPAIN, BELGIUM, GERMANY AND	

PORTUGAL (SEC(2004)189 TO /4; SEC(2004)190 AND /2; SEC(2004)192 TO /4; SEC(2004)193 AND /2; SEC(2004)194)	21
14. GENERAL COMMISSION DEBATE ON STRENGTHENING ECONOMIC GOVERNANCE IN ECONOMIC AND MONETARY UNION (SEC(2003)203 AND /2).....	21

Single sitting: Wednesday 18 February (morning)

The sitting opened at 0850 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 VERHEUGEN	
Mr BYRNE	
Mr BARNIER	
Ms REDING	
Ms SCHREYER	
Mr VITORINO	
Ms DIAMANTOPOULOU	

Absent:

Mr NIELSON
Mr PATTEN
Mr LAMY
Ms WALLSTRÖM

The following sat in to represent absent Members of the Commission

Mr SCHMIDT	Deputy Chef de cabinet to Mr Nielson
Mr CHILD	Chef de cabinet to Mr Patten
Ms VIGNAL	A member of Mr Lamy's staff
Ms CARPARELLI	Deputy 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 HENIN	Spokesman	Item 12
Mr KREUZHUBER	Spokesman	
Mr MAMER	Spokesman	Item 14
Mr THOMAS	Spokesman	
Ms WERNER	Spokeswoman	Item 12
Mr DE LECEA	Adviser in the President's Office	Items 12 to 14
Mr GUSSETTI	A member of the President's staff	
Mr SMULDERS	A member of the President's staff	
Mr KOOPMAN	Chef de cabinet to Mr Kinnock	
Mr CALLEJA	Chef de cabinet to Ms de Palacio	
Mr GARCIA PORRAS	A member of Ms de Palacio's staff	Items 5 to 9
Mr PEREZ MONTES	A member of Ms de Palacio's staff	Item 12
Ms ZAMPIERI	A member of Ms de Palacio's staff	Item 14
Ms VANNINI	A member of Mr Monti's staff	Item 12
Mr LOSCH	A member of Mr Fischler's staff	
Ms BURY	A member of Mr Bolkestein's staff	Items 5 to 9
Ms LOCATELLI	A member of Mr Bolkestein's staff	Item 14
Mr PLANAS	Chef de cabinet to Mr Solbes	

Mr MARTINEZ MONGAY	A member of Mr Solbes's staff	
Mr TEMPEL	Chef de cabinet to Mr Verheugen	
Ms ROGER	Chef de cabinet to Mr Barnier	
Mr HALL	Deputy Chef de cabinet to Mr Barnier	Item 12
Mr VERDEAUX	A member of Mr Barnier's staff	Item 12
Mr GLYNOS	Chef de cabinet to Ms Diamantopoulou	
Mr FIELDING	Deputy Chef de cabinet to Ms Diamantopoulou	Item 14
Mr GALEROS	A member of Ms Diamantopoulou's staff	Item 12
Mr CARVOUNIS	Press and Communication DG	
Mr LEVI	GOPA	Item 14
Mr SAPIR	GOPA	Item 14
Mr REGLING	Director-General, Economic and Financial Affairs	Items 13 and 14
Mr BUTI	Economic and Financial Affairs DG	Items 13 and 14
Mr DEROOSE	Economic and Financial Affairs DG	Items 13 and 14
Mr LEYGUES	Regional Policy DG	Item 12
Mr DE MICHELIS	Regional Policy DG	Item 12
Mr BORCHARDT	Secretariat-General	Item 9
Ms LORENZI	Secretariat-General	Item 12

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

1. ADMINISTRATIVE AND BUDGETARY MATTERS

(SEC(2004)168/2)

ADMINISTRATIVE ARRANGEMENTS FOR THE ENLARGED

COMMISSION (1 May-31 October 2004)

(SEC(2004)181 and /2)

The PRESIDENT reported on the pairings he had decided upon for involving the ten future Commission Members from the new Member States in the work of current Commission Members, viz.:

Mr Markos KYPRIANOU (Cyprus) - Ms SCHREYER

Mr Siim KALLAS (Estonia) - Mr SOLBES

Mr Peter BALÁZS (Hungary) - Mr BARNIER

Ms Sandra KALNIETE (Latvia) - Mr FISCHLER

Ms Dalia GRYBAUSKAITE (Lithuania) - Ms REDING

Mr Joe BORG (Malta) - Mr NIELSON

Ms Danuta HÜBNER (Poland) - Mr LAMY

Mr Ján FIGEL (Slovakia) - Mr LIIKANEN

Mr Janez POTOČNIK (Slovenia) - Mr VERHEUGEN

Mr Miloš KUZVART (Czech Republic) - Mr BYRNE.

These pairings were provisional, and the PRESIDENT reserved the right to change them if necessary in the light of experience. These arrangements would not affect the present allocation of portfolios and involved no political responsibility on the part of the new Commission Members in the subject areas concerned. The objective was to enable them to familiarise themselves with the Commission's operation and to take part in its collective debates, without prejudging the decisions to be taken by the next Commission President.

The PRESIDENT thanked the Members concerned for making themselves available, and indicated that the Commission would be meeting the ten Commissioners-designate on 16 March.

The Commission took note of this information and of the administrative arrangements set out in SEC(2004)181/2, and held a brief exchange of views on developments in the situation in Cyprus.

2. AGENDAS

(OJ(2004)1646/3; SEC(2004)164/2)

The Commission took note of that day's agenda and of the tentative agendas for forthcoming meetings.

3. WEEKLY MEETING OF CHEFS DE CABINET

(SEC(2004)1646)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 16 February.

4. PARLIAMENT

4.1. FEBRUARY I PART-SESSION

(SP(2004)501)

The Commission took note of the information supplied relating to Parliament's part-session held from 9 to 12 February (SP(2004)501).

**4.2. ACTION TO BE TAKEN ON PARLIAMENT'S OPINIONS
(SP(2004)551)**

The Commission approved the empowerment decisions relating to action to be taken on the amendments presented by Parliament under the codecision and consultation procedures (SP(2004)551).

5. MONITORING THE APPLICATION OF COMMUNITY LAW

**5.1. STATE AID - SPECIFIC CASES
(SEC(2004)138; SEC(2004)182)**

The Commission adopted the decisions in SEC(2004)182.

As regards Case C 28/2002 (ex NN 5/2002) - Restructuring aid to Bankgesellschaft Berlin AG, the Commission empowered Mr MONTI to adopt all the decisions necessary for the implementation of the commitments set out in Article 2 of the positive final decision in C(2004)327/4.

**5.2. INSTRUMENTS RELATING TO THE LAWFULNESS OF THE
ARRANGEMENTS FOR FINANCING SERVICES OF GENERAL
ECONOMIC INTEREST WITH REGARD TO THE COMMUNITY
RULES ON STATE AID
(SEC(2004)103 to /6; SEC(2004)138)**

The Commission took note of the draft Commission decision on the application of Article 86 of the EC Treaty to state aid in the form of compensation granted to certain companies responsible for managing services of general economic interest, and the draft Commission Directive amending Directive 80/723/EEC on the transparency of financial relations between

Member States and public undertakings (SEC(2004)103/6). It agreed that Mr MONTI would hold appropriate informal consultations on both texts after their revision by the lawyer-linguists.

The Commission also noted that Ms de PALACIO would begin discussions on the possible application of Article 86 EC to the whole of the transport sector; this was not covered by the decision to be put before the Commission, which concerned only sea transport to small islands.

6. WRITTEN PROCEDURES AND EMPOWERMENT

6.1. WRITTEN PROCEDURES APPROVED

(SEC(2004)165 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 9 and 13 February.

6.2. SENSITIVE WRITTEN PROCEDURES

(SEC(2004)166)

The Commission took note of written procedures initiated between 9 and 13 February for the adoption of decisions with political implications.

6.3. EMPOWERMENT

(SEC(2004)167 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 9 and 13 February.

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 9 and 13 February, as archived on the "Greffé 2000" (Registry) website.

7. DRAFT COMMISSION REGULATION IMPLEMENTING COUNCIL REGULATION (EC) No 139/2004 ON THE CONTROL OF CONCENTRATIONS BETWEEN UNDERTAKINGS (SEC(2004)201; COM(2004)118 and /2; SEC(2004)200)

The Commission approved the draft Regulation and the draft forms annexed thereto, as set out in SEC(2004)201. These would be referred to the Advisory Committee on Concentrations for consultation, and put out to public consultation until 11 March.

The Commission took note that a definitive version of these texts would be put before it later, for definitive adoption.

8. APPROVAL OF MINUTES

8.1. SPECIAL MINUTES OF 1641st MEETING (13 January) (PV(2004)1641, Part II)

The Commission approved the special minutes of its 1641st meeting.

**8.2. MINUTES AND SPECIAL MINUTES OF 1645th MEETING (9 and
10 February)**

(PV(2004)1645 and /2; PV(2004)1645, Part II to /3)

The Commission:

- approved the minutes of its 1645th meeting subject to the following amendment:
 - Item 16, 4th indent, add the word “various” before “scenarios”;
- held over approval of the special minutes.

9. PERMANENT REPRESENTATIVES COMMITTEE

(SI(2004)112)

COUNCIL AFFAIRS GROUP (CAG)

(SI(2004)112)

The Commission took note of the record of the Council Affairs Group meeting held on Friday 13 February.

It paid particular attention to the following:

- i) **Proposal for a Parliament and Council Directive on measures and
procedures to ensure the enforcement of intellectual property rights
(point 1 of the record)**
(SI(2004)90; SEC(2004)218)

The Commission referred to the compromise solution presented by the Council Presidency on the proposal for a Directive. It held an exchange of views on the danger that its position could be weakened, in related subject areas, if the provisions it had proposed for criminal penalties were deleted. Noting that the

TRIPS agreements laid down an obligation to adopt criminal penalties for infringements of intellectual property rights, it considered how to preserve its ability under the Union Treaty to propose suitable harmonisation measures for criminal penalties in line with the international commitments given.

Given the desirability of reaching agreement at first reading on a dossier that was keenly awaited by both industry and the public, the Commission decided to authorise Mr BOLKESTEIN to accept the Council Presidency's compromise along the lines set out in the note distributed to the CAG, subject to the following clarifications:

- the Commission would ask that Article 2 of the proposal for a Directive be amended to make reference to the Community's international obligations; the last sentence of the Commission statement would therefore be amended;
- if this amendment could not be secured, the last sentence of the statement in its present wording would be deleted, as suggested by the Legal Service.

ii) Information to the Commission on the state of play on certain dossiers in the Council

(point 2 of the record)

The Commission took note of the information put before it, particularly concerning the discussions in the Council (Economic and Financial Affairs) on the latter's role as a catalyst for economic reform.

iii) Proposal for a Council Directive amending Directive 77/388/EEC as regards reduced rates of VAT – “non-paper” on reduced rates

(point 4 of the record)

The Commission took note of the “non-paper” in Annex 1 to the record, which had been sent to the Council.

- iv) **Amended proposal for a Council Regulation amending Regulation (EC) No 384/96 on protection against dumped imports from countries not members of the European Community and Regulation (EC) No 2026/97 on protection against subsidised imports from countries not members of the European Community**
(point 5 of the record)

The Commission authorised Mr LAMY to support the Presidency compromise and to make the statements relating thereto, along the lines set out in Annex 2 to the record.

- v) **Proposal for a Council Regulation amending Regulation (EEC) No 2092/91 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs**
(point 6 of the record)

The Commission authorised Mr FISCHLER to support the Presidency compromise and to make a joint statement with the Council along the lines set out in Annex 3 to the record.

- vi) **FIPOL - entry into force of the 2003 protocol relating to the compensation ceiling**
(point 7 of the record)

The Commission took note of the revised version of the statement, set out in Annex 4 to the record.

vii) Seats at the main table at Council meetings

(SI(2004)125)

The Commission held a fresh exchange of views on the line to take in the light of discussions in the Council. It then instructed its representative to table the following compromise proposal:

“Without prejudice to Articles 5(2) and 20(1) of the Council's Rules of Procedure, the Presidency will determine in advance the meeting room to be used for each Council meeting and the seating arrangements for delegations (one, two or three seats at the main table). The Commission, in order to fulfil its institutional role, will usually have four seats at the main table. Under well justified circumstances, the Presidency can decide that the number of seats for the Commission exceeds four. On the other hand, if required for logistical/organisational reasons, the number of seats for the Commission at the main table can be reduced, at the request of the Presidency and in agreement with the Commission, to a level which still allows the Commission fully to play its institutional role.”

10. ADMINISTRATIVE AND BUDGETARY MATTERS (continued from item 1)
(SEC(2004)168/2)

ADMINISTRATIVE MATTERS
(PERS(2004)30)

10.1. DG EPSO - A2 POST OF DIRECTOR
(PERS(2003)71 to /5)

The Commission had before it applications for the temporary A2 post of Director of EPSO (European Personnel Selection Office) under Article 2(a) of the Conditions of Employment for Other Servants (PERS(2003)71 to /3).

The Commission took note of the selection procedure agreed by the Management Board of EPSO and of the opinions of the Consultative Committee on Appointments delivered on 29 January and 4 February (PERS(2004)71/4 and /5).

In the light of the applications, the report of the selection board and the opinions of the CCA, the Commission decided to inform the Management Board of EPSO, for an opinion, of its intention to employ Mr HALSKOV as Director of the Office.

**10.2. APPOINTMENT, APPRAISAL AND CAREER DEVELOPMENT OF
SENIOR MANAGERS IN THE COMMISSION IN THE LIGHT OF
ENLARGEMENT AND THE INTRODUCTION OF REVISED STAFF
REGULATIONS IN 2004**
(SEC(2004)217 and /2)

Having noted the oral presentation and further clarifications made by Mr KINNOCK in response to questions raised during the meeting (concerning particularly: the arrangements for filling the posts of Head of Delegation in

New York and Washington; the capacity for absorbing staff from the new Member States and the guarantees of qualifications and expertise attached to these recruitments; the timetable for the publication of the newly created Chief Adviser posts), the Commission:

- adopted the guidelines in Chapters II and III of SEC(2004)217/2;
- adopted the decisions in Chapter V of the document and empowered Mr KINNOCK, in agreement with the PRESIDENT and the Commission Member concerned, to take all measures necessary for their implementation;
- noted that detailed provisions would be put before it by 3 March for the implementation of the guidelines in Chapters II and III.

11. OTHER BUSINESS

IMPLEMENTATION OF THE RESEARCH FRAMEWORK PROGRAMME FOLLOWING DISCUSSIONS IN THE COUNCIL ON THE PROPOSAL TO AMEND THE SPECIFIC PROGRAMME INTEGRATING AND STRENGTHENING THE EUROPEAN RESEARCH AREA ADOPTED ON 9 JULY 2003 AND AMENDED ON 26 NOVEMBER 2003 (SEC(2004)207)

The Commission took note of SEC(2004)207 and the clarifications given during the meeting by Mr BUSQUIN to the effect that, as long as there was no agreement in the Council on an additional framework, the Commission would not propose to finance research on the procurement of stem cells from supernumerary human embryos.

**12. THIRD REPORT ON ECONOMIC AND SOCIAL COHESION
(COM(2004)107 to /9; SEC(2004)185)**

Mr BARNIER set out the main points of the third report on economic and social cohesion. This was a major political exercise, achieved thanks to close cooperation with Ms DIAMANTOPOULOU, Mr FISCHLER and their respective Offices and departments, and with the PRESIDENT's Office, the Secretariat-General and the Regional Policy DG. The document was wholly consistent with the framework proposed by the Commission the previous week for the future financial perspective, and presented a new political project for a reformed cohesion policy in the enlarged Union. It highlighted the complementarity between national policies and those implemented at Union level, and identified specific recommendations for reducing economic disparities between Member States and between regions, speeding up growth, and promoting sustainable development. To this end, it was proposed to increase the concentration of aid on the least-developed regions by granting them, on an indicative basis, 78% of the overall allocation. 18% of the remaining funds would be devoted to other regions for the objectives defined by the Lisbon and Gothenburg European Councils, and 4% to cooperation. During the period concerned, a balanced split of funds between new and current Member States would be achieved. Lastly, special attention was paid to the outermost regions of the Union, in accordance with the Treaty provisions and the mandate from the Seville European Council. This would include a proposal for a special fund endowed with €150 million per year for these regions. Based on the experience gained in implementing the current programmes and while maintaining their key principles, the report identified a series of reforms aimed at improving the effectiveness of the implementing mechanisms, in full compliance with the rules for sound financial management and for public procurement. Mr BARNIER asked his colleagues to

present this proposal as the means whereby the Union could make a success both of enlargement and of the goal of competitiveness.

Having taken note of this information, the Commission considered the report's conclusions, in particular:

- the relationship between the Union's cohesion policy and its competition policy, especially concerning the arrangements for granting transitional state aid to the regions leaving Objective 1 as a result of the statistical effects of enlargement;
- the balance of the aid effort granted, particularly as between the new and the current Member States;
- the situation of the outermost regions and the advisability of applying to them, if necessary, the transitional state aid regime planned for the "statistical effect" regions;
- the new instrument for rural development and for fisheries structural policy;
- the need for complementarity between structural policy and research policy.

Following this exchange of views and taking note of the additional explanations given by Mr BARNIER in reply to various questions raised, the Commission:

- adopted the third report on economic and social cohesion as set out in COM(2004)107, /3, /6 and /9, subject to minor amendments to take into account the comments made during the meeting and after verification of concordance of the different language versions;
- decided to transmit it to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

The Commission also agreed to present political, budgetary and regulatory proposals in June in the context of this new partnership for cohesion.

**13. COMMISSION RECOMMENDATIONS FOR COUNCIL OPINIONS,
PURSUANT TO ARTICLE 5(3) OF COUNCIL REGULATION (EC)
No 1466/97 OF 7 JULY 1997, ON THE UPDATED STABILITY
PROGRAMMES OF SPAIN, BELGIUM, GERMANY AND PORTUGAL
(SEC(2004)189 to /4; SEC(2004)190 and /2; SEC(2004)192 to /4; SEC(2004)193
and /2; SEC(2004)194)**

Having taken note of Mr SOLBES's presentation of the main points of the situation in each of the Member States concerned, the Commission adopted the recommendations in SEC(2004)189/4, SEC(2004)190/2, SEC(2004)192/4 and SEC(2004)193/2, for transmission to the Council.

**14. GENERAL COMMISSION DEBATE ON STRENGTHENING ECONOMIC
GOVERNANCE IN ECONOMIC AND MONETARY UNION
(SEC(2003)203 and /2)**

Taking note of the analysis and suggestions for further study put forward by Mr SOLBES, the Commission held a general discussion on the factors to be taken into account with a view to strengthening the economic governance of the Union and improving implementation of the stability and growth pact.

*

* *

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

*

* *

The meeting closed at 1300 hours.