



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

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Brussels, 28 April 2004

MINUTES
of the 1654th meeting of the Commission
held in Strasbourg
(Winston Churchill Building)
on Tuesday 20 April 2004
(afternoon)

These minutes were approved by the Commission at its 1655th meeting, held in Brussels on 28 April 2004.

They contain 24 pages.

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Single sitting: Tuesday 20 April (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	Items 14 to 16
Mr MONTI		
Mr FISCHLER		
Mr LIIKANEN		
Mr BOLKESTEIN		
Mr BUSQUIN		
Mr NIELSON		
Mr VERHEUGEN		
Mr PATTEN		
Mr LAMY		
Mr BYRNE		
Ms REDING		
Ms SCHREYER		
Ms WALLSTRÖM		
Mr VITORINO		
Mr DIMAS		

The following sat in

Mr MARENCO	Deputy Director-General, Legal Service	
Mr MANSERVISI	Chef de cabinet to the President	
Mr KEMPPINEN	Commission Spokesman	
Ms WERNER	Commission Spokeswoman	
Ms RYAN	A member of Mr Kinnock's staff	
Mr CARDANI	Deputy Chef de cabinet to Mr Monti	Items 12 and 13
Mr COZIGOU	Deputy Chef de cabinet to Mr Liikanen	
Mr RICHTER	A member of Mr Bolkestein's staff	
Mr ROCK	A member of Mr Patten's staff	Items 9 to 11
Mr LEHNER	Chef de cabinet to Ms Schreyer	
Ms GAGO	A member of Mr Vitorino's staff	

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

On the fringe of the meeting, the Commission welcomed Mr BARNIER, who wished to take leave of Commission Members following his resignation upon appointment as Foreign Minister in the French Government.

Mr BARNIER thanked the PRESIDENT and his colleagues for their cooperation and support over the years. He also thanked their Members' Offices, and the departments and interpreters. His term of office as a Commission Member had been an enriching time. It had enabled him to put his European commitment to practical effect, and should prove a useful experience in the performance of his new duties.

The PRESIDENT thanked Mr BARNIER for his visit and for his work for the Commission. He was pleased that he would be able to continue working with him in his new ministerial post on the major items on the Union's policy agenda over the coming months. On behalf of the Commission, he offered Mr BARNIER best wishes for success in the future.

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1. AGENDAS

(OJ(2004)1654/3; SEC(2004)431/2)

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)1654)**

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 19 April.

**3. APPROVAL OF MINUTES AND SPECIAL MINUTES OF 1653rd
MEETING (7 April)
(PV(2004)1653; PV(2004)1653, Part II)**

The Commission approved the minutes of its 1653rd meeting.

4. PERMANENT REPRESENTATIVES COMMITTEE

***COUNCIL AFFAIRS GROUP (CAG)*
*(SI(2004)333)***

The Commission took note of the record of the Council Affairs Group meeting held on 16 April.

It paid particular attention to the following:

- i) Proposal for a Directive amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures (Eurovignette)**
(point 4 of the record)

The Commission took note of the state of play in this matter, and Ms de PALACIO's undertaking to look at it again once the Member States had clarified their position.

- ii) **Proposal for a Council Regulation amending Regulation (EC) No 2792/1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector**
(point 5 of the record)

The Commission authorised Mr FISCHLER to support the Presidency compromise with a view to a speedy Council decision, in accordance with the line set out in the note at Annex 1 to the record.

5. MONITORING THE APPLICATION OF COMMUNITY LAW: STATE AID

5.1. SPECIFIC CASES

(SEC(2004)421/2)

The Commission adopted the decisions in SEC(2004)421/2.

5.2. STATE AID SCOREBOARD - SPRING 2004 UPDATE

(COM(2004)256 to /3)

The Commission approved the state aid scoreboard in COM(2004)256/3 for transmission to the Council, Parliament, the Economic and Social Committee and the Committee of the Regions.

6. WRITTEN PROCEDURES AND EMPOWERMENT

6.1. *WRITTEN PROCEDURES APPROVED*

(SEC(2004)432 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 5 and 16 April.

6.2. *SENSITIVE WRITTEN PROCEDURES*

(SEC(2004)433)

The Commission took note of written procedures initiated between 5 and 16 April for the adoption of decisions with political implications, as set out in SEC(2004)433, subject to the following amendment:

- E/2004/890 - COM(2004)304
to read “Employment and Social Affairs DG” instead of “Health and Consumer Protection DG”.

6.3. *EMPOWERMENT*

(SEC(2004)434 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 5 and 16 April.

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 16 April, as archived on the "Grefte 2000" (Registry) website.

7. ADMINISTRATIVE AND BUDGETARY MATTERS

(SEC(2004)435/2)

ADMINISTRATIVE MATTERS

(PERS(2004)61/2)

7.1. *DG ESTAT - SECONDMENT OF AN A2 OFFICIAL TO ETUC IN THE INTEREST OF THE SERVICE*

The Commission, on a proposal from Mr KINNOCK, in agreement with the PRESIDENT, decided in the interest of the service to approve the secondment to the European Trade Union Confederation (ETUC) of Ms Gabrielle CLOTUCHE, an A2 official, currently Chief Adviser answering to the Director-General of EUROSTAT.

The secondment would start on 1 May, with a duration of two years.

This decision would take effect immediately.

7.2. *DG TREN - AMENDMENT OF ORGANISATION CHART* **(PERS(2004)62)**

On a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Ms de PALACIO, the Commission approved the amendment of the Energy & Transport DG's organisation chart, as set out in PERS(2004)62.

This decision would take effect immediately.

**7.3. DG ADMIN – RULES FOR THE PROMOTION PROCEDURE OR THE
AMENDED CLASSIFICATION OF STAFF PAID FROM THE
APPROPRIATIONS IN THE RESEARCH BUDGET
(C(2004)1508)**

On a proposal from Mr KINNOCK, in agreement with the PRESIDENT, the Commission:

- approved the draft decision in C(2004)1508;
- authorised Mr KINNOCK to carry out the necessary consultations with the trade unions and staff associations and to consult the Staff Regulations Committee and the Central Staff Committee;
- empowered Mr KINNOCK, in agreement with the PRESIDENT, to make any minor amendments necessary in the light of these consultations and definitively to adopt the decision concerning the rules for the promotion procedure or the amended classification of staff paid from the appropriations in the research budget.

These decisions would take effect immediately.

**7.4. DG TRADE.F - A2 POST OF DIRECTOR
(PERS(2004)24 to /5)**

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(2004)24 to /3).

The Commission took note of the opinions of the Consultative Committee on Appointments of 9 and 18 March (PERS(2004)24/4 and /5).

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 João AGUIAR MACHADO to the post.

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

**7.5. *DG ADMIN - EARLY RETIREMENT EXERCISE 2004 (3rd
INSTALMENT) - DECISION INTRODUCING SPECIAL MEASURES TO
TERMINATE THE SERVICE OF OFFICIALS, AND ADOPTION OF
LIST OF OFFICIALS SELECTED
(C(2004)1522/2)***

The Commission approved with immediate effect the decision in C(2004)1522/2 and the list of officials annexed thereto. It noted that a specific decision on the application of the early retirement measures to officials of the Publications Office would be tabled separately.

**8. COMMISSION REGULATION AMENDING REGULATION (EC)
No 1972/2003 ON TRANSITIONAL MEASURES TO BE ADOPTED IN
RESPECT OF TRADE IN AGRICULTURAL PRODUCTS ON ACCOUNT
OF THE ACCESSION OF THE CZECH REPUBLIC, ESTONIA, CYPRUS,
LATVIA, LITHUANIA, HUNGARY, MALTA, POLAND, SLOVENIA AND
SLOVAKIA
(C(2004)1317 and /2)**

The Commission adopted the Regulation in C(2004)1317, to be published immediately in the Official Journal for the information of the authorities and

operators of the acceding countries. In case it received any information that could lead it to amend the list of products before 1 May, the Commission also empowered Mr FISCHLER if necessary to adopt a new Regulation amending the list before that date, as set out in C(2004)1317.

9. PARLIAMENT

PARLIAMENTARY AFFAIRS GROUP

(SP(2004)1565)

The Commission took note of the record of the meeting of the Parliamentary Affairs Group held on 16 April.

It paid particular attention to the following:

i) Preparations for April 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.

Second reading

- BRADBURN report, – Development of the trans-European transport network,
COM(2003)564 - 01/0229 (COD)

The Commission adopted the line set out in SP(2004)1584.

First reading

- FERNANDEZ MARTIN report, - Development cooperation,
COM(2003)639 - 2003/0250 (COD)

The Commission adopted the line set out in SP(2004)1566.

- DE ROO report, - Air pollution, greenhouse gas emission quotas trading
(revised information following the PAG meeting on 6 April)

The Commission adopted the line set out in SP(2004)1437 and
SP(2004)1437/2.

Simple consultation

- BOOGERD-QUAAK report, - EC-USA agreement on the processing and
transfer of PNR data,
COM(2004)190, 04/0064 (CNS) (SP(2004)1560)

Mr BOLKESTEIN and Mr PATTEN reported on the state of play concerning the transfer of PNR (Passenger Name Records) data to the United States and the contacts in progress with the American authorities to find a satisfactory solution as regards the transfer of data to non-member countries, and on the problems arising in Parliament. In line with the approach decided upon by the Commission in December 2003, priority had been given to the speedy creation of a sound legal framework for the transfer of these data, which should take the form of an “adequacy finding” decision under Article 25(6) of the data protection Directive, coupled with an international agreement with the United States based on the first subparagraph of Article 300(3) of the Treaty. Quite aside from Parliament's position on these two instruments as reflected in its 31 March resolution and in its debates in progress and the expected vote on the draft international agreement, the question facing the Commission was to what

extent the United States' intention to transfer PNR data to other non-member countries was likely to call into question the approach taken and the adequacy finding. Mr BOLKESTEIN and Mr PATTEN set out the terms of the assurances needing to be secured from the American authorities for such an adequacy finding to be maintained, and explained the approach being taken in the negotiations with the American administration.

Following an exchange of views on the scope of the terms in question and the possible effects of any failure, the Commission agreed to the line set out by Mr BOLKESTEIN and Mr PATTEN, of which Parliament would be informed. It noted that this matter would be put before it again after Parliament's vote on the BOOGERD-QUAAK report.

- COELHO report, Establishing the Visa Information System (VIS),
COM(2004)99, 04/0029 (CNS)

While taking note of the risk of rejection of its proposal by Parliament, the Commission adopted the line set out in SP(2004)1583.

- HERMANGE report, Guidelines for Member States' employment policies

The Commission adopted the line set out in SP(2004)1542.

- CERDEIRA and STOCKTON reports, – Regime of local border traffic at the temporary external land borders between Member States,
COM(2003)502-2, 03/0193 (CNS), 03/0194 (CNS)

The Commission adopted the line set out in SP(2004)1581.

- KLAMT report, - Secure web-based information and coordination network for Member States' migration management services, COM(2003)727, 03/0284 (CNS)

The Commission adopted the line set out in SP(2004)1582.

ii) Empowerment

Under Article 13 of its Rules of Procedure the Commission empowered Ms de PALACIO, in agreement with the PRESIDENT and any other Members associated, to adopt its opinion on the amendments, together with any amended proposals, on the basis of the line set out in the document concerned, once Parliament had given its opinion, and transmit it to the Council in accordance with Article 251(2)(c) of the Treaty, for the following:

- BRADBURN report, Development of the trans-European transport network (SP(2004)1584).

iii) Other matters

(point 8 of the record)

Motion of censure against the Commission in the Eurostat affair

On the basis of the scheduled rota for Commission Members in attendance in plenary session, the Commission agreed that Mr FISCHLER and Ms REDING would take the Commission statement on the action taken in the Eurostat case on Tuesday at 1700 hours and the debate on the censure motion on Wednesday at 2100 hours, respectively.

**Code of conduct on the establishment of executive agencies
(SEC(2004)455)**

The Commission adopted the line set out in SEC(2004)455.

**10. MONITORING THE APPLICATION OF COMMUNITY LAW:
INFRINGEMENTS**

10.1. URGENT OR DEFERRED CASES

(SEC(2004)450; SEC(2004)452; SEC(2004)457; SEC(2004)470)

The Commission adopted the decisions in SEC(2004)457, subject to the following clarifications:

Case *Germany*
2003/2133

Packaging (mandatory deposit) recycling scheme

The Commission took note of the information supplied by Mr BOLKESTEIN in support of his proposal. What was at issue was not the principle of the mandatory deposit scheme, different versions of which worked satisfactorily in some other Member States, with positive consequences for the environment, but the detailed arrangements, the implementation of which produced a disproportionate barrier to the free movement of the products concerned. Consequently, after an exchange of views on the nature and scope of the complaints received, the Commission decided to send a reasoned opinion while at the same time maintaining appropriate contacts with the German authorities to find a solution to the problems identified.

**10.2. CASE DEFERRED BECAUSE OF NON-AVAILABILITY OF
DOCUMENTS - REGULARISATION
(SEC(2004)445)**

The Commission adopted the decision in SEC(2004)445.

**11. COMMISSION OPINION ON CROATIA'S APPLICATION FOR EU
MEMBERSHIP
- COUNCIL DECISION ON THE PRINCIPLES, PRIORITIES AND
CONDITIONS CONTAINED IN THE EUROPEAN PARTNERSHIP WITH
CROATIA
(COM(2004)257 to /5; COM(2004)275 and /2; SEC(2004)440 and /2)**

Mr PATTEN and Mr VERHEUGEN tabled two communications on Croatia. Further to the draft opinion on Croatia's application for EU membership, these set out the reasoning and the analysis leading to the conclusion that Croatia satisfied the criteria set by the Copenhagen European Council and the conditions laid down for the stabilisation and association process underlying the Commission recommendation to open accession negotiations with Croatia. The proposal for European partnership stipulated the short- and medium-term priority actions, as identified in the opinion on the application for membership, that Croatia must take in order to be ready to accede to the European Union.

Having noted the importance of this matter and the powerful political signal which it sent out for all other countries in the region, the Commission held an exchange of views, in particular on the possible timetable for finalising accession negotiations with Croatia and the state of the negotiations under way with Bulgaria and Romania. The timetable reflected the judgment made on compliance with the

various political and economic criteria and on the ability shown by each country to meet the obligations arising from Community law and practice.

Following this discussion, the Commission approved the communication from Mr PATTEN and Mr VERHEUGEN in COM(2004)257/5, subject to an amendment to the text of the conclusions emphasising the efforts still needing to be made by Croatia in certain political respects, especially as regards minorities' rights and the return of refugees. The Commission decided to transmit the communication as thus amended to the Council, Parliament, the Economic and Social Committee and the Committee of the Regions.

The Commission also approved the communicated from Mr PATTEN and Mr VERHEUGEN in COM(2004)275/2 for transmission to the Council, Parliament, the Economic and Social Committee and the Committee of the Regions.

The Commission thanked all the departments that had contributed to the preparation of the two documents, particularly the External Relations, Enlargement, and Economic and Financial Affairs DGs.

12. A PRO-ACTIVE COMPETITION POLICY FOR A COMPETITIVE EUROPE (COM(2004)293 to /4; SEC(2004)453)

Mr MONTI tabled his communication, produced in response to a request from the Council meeting (Competitiveness) on 11 March, which should also be seen in the context of the communication on industrial policy in the enlarged Europe, dealt with below. The communication, which came at the moment of entry into force on 1 May of the new regulatory framework for the implementation of Articles 81 and 82 of the Treaty, outlined the manner in which the Commission proposed to implement a new

pro-active approach to competition policy in order to stimulate European competitiveness and growth and to achieve the Lisbon objectives.

After taking note of this information, the Commission adopted the communication in COM(2004)293/3 and /4 for transmission to the Council, Parliament, the Economic and Social Committee and the Committee of the Regions.

**13. FOSTERING STRUCTURAL CHANGE: AN INDUSTRIAL POLICY FOR AN ENLARGED EUROPE
(COM(2004)274 to /4; SEC(2004)451)**

Mr LIIKANEN presented the main points of the communication before the Commission. In response to a request by the European Council in October 2003, it sought to address various concerns about the risks of deindustrialisation in Europe and to tackle the question of how to anticipate and deal with the structural changes under way in European industry. The communication approached the problem by diagnosing European industry in the face of deindustrialisation, analysing the opportunities offered by enlargement, and identifying the actions needed to accompany the process of structural change.

The Commission took note of this information and held a wide-ranging exchange of views, particularly on the following:

- the importance of tackling this complex problem and the need to re-establish the objective facts: the implications for the perception of European integration by the public and the dangers of political exploitation were stressed;
- since the launch of the initiative, the debate, which had originally focused on the need to rejuvenate industrial policy, had shifted to the question of the relocation

- of firms and jobs, and potentially to the market opening policy developed by the Union in the globalised economy;
- the lack of enthusiasm in certain spheres for scientific and technological development and the consequences (including inconsistencies) of this for the various subject areas concerned;
 - the inadequacy of current instruments for the implementation of an integrated industrial policy at Union level;
 - without underestimating the costs and constraints, the potential and the opportunities offered by the environment and sustainable development policy in support of European competitiveness.

After its discussions and subject to certain drafting amendments in connection with the last point above, the Commission adopted the communication in COM(2004)274/4 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

14. IMPLEMENTING THE INFORMATION AND COMMUNICATION STRATEGY FOR THE EUROPEAN UNION (COM(2004)196 to /6; SEC(2004)355 and /2)

The Commission took note of the information supplied by Mr VITORINO in support of the communication before it, the objective of which was to clarify how the Commission intended to implement the information and communication strategy for the EU in the light of the new situation of enlargement and the provisions introduced by the new Financial Regulation. Emphasising the importance of a modern and effective communication policy, it highlighted the need to study in greater detail the various problems faced in practice, particularly those likely to

arise from an excessively rigid administrative and financial framework, and to identify possible solutions.

Following this exchange of views, the Commission adopted the communication in COM(2004)196/5 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

15. COUNCIL MEETINGS
(SI(2004)332)

INFORMAL MEETING OF FOREIGN MINISTERS (GYMNICH)
(TULLAMORE, 16-18 APRIL)

Mr PATTEN reported on the informal meeting of Foreign Ministers, where the discussions had covered the state of the Middle East peace process, the situation in Kosovo and Iraq, and the prospects for the enlargement of ASEM.

16. RELATIONS WITH NON-MEMBER COUNTRIES

16.1. LIBYA

Referring to Libya's evolving position on the international scene and its wish to establish relations with the European Union, the PRESIDENT reported on the possibility of a future visit to the Commission by Mr GADAFI at the latter's request.

16.2. NEGOTIATIONS WITH MERCOSUR

Mr LAMY reported that negotiations for an association agreement between the Community and Mercosur had entered an active phase, the mutual objective at this stage still being to finalise them in October. Mr LAMY referred to the main challenges in the negotiations and the importance of arriving at a balanced compromise as soon as possible.

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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 1700 hours.