



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

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Brussels, 22 September 2004

MINUTES
of the 1670th meeting of the Commission
held in Strasbourg
(LOW R11)
on Tuesday 14 September 2004
(afternoon)

These minutes were approved by the Commission at its 1671st meeting, held in Brussels on 22 September 2004.

They contain 16 pages.

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Single sitting: Tuesday 14 September (afternoon)

The sitting opened at 1330 hours with Mr Prodi, President, in the chair.

Present:

Mr PRODI	President	
Mr KINNOCK	Vice-President	Items 1 to 10
Ms de PALACIO	Vice-President	
Mr MONTI		
Mr FISCHLER		
Mr BOLKESTEIN		Items 1 to 10
Mr NIELSON		
Mr VERHEUGEN		
Mr PATTEN		
Mr LAMY		
Ms REDING		
Ms SCHREYER		Items 1 to 10 (in part)
Ms WALLSTRÖM		
Mr VITORINO		
Mr DIMAS		
Mr BARROT		
Mr ALMUNIA		
Mr BALÁZS		
Ms HÜBNER		Items 1 to 10
Mr KALLAS		
Mr BORG		
Ms GRYBAUSKAITĖ		
Mr POTOČNIK		
M. FIGEL		
Mr KYPRIANOU		

Mr TELIČKA

Mr REHN

Mr MICHEL

Absent:

Mr BYRNE

Ms KALNIETE

The following sat in to represent absent Members of the Commission

Mr KERTENS	A member of Mr Byrne's staff
Ms RASA	A member of Ms Kalniete's staff

The following also sat in

Mr MARENCO	Deputy Director-General, Legal Service
Mr MANSERVISI	Chef de cabinet to the President
Mr KEMPPINEN	Commission Spokesman
Mr KRIBBE	A member of Mr Bolkestein's staff
Ms GAGO-FILORI	A member of Mr Vitorino's staff
Ms KONIKOWSKI	A member of Ms Hübner's staff
Ms OLIVAN	Internal market DG

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

1. TAKING-UP OF OFFICE OF Mr MICHEL

The PRESIDENT welcomed Mr Louis MICHEL.

Under Article 3 of the Rules of Procedure and following the normal practice, Mr MICHEL would, until the end of the present Commission's term of office, take over the portfolio previously held by Mr BUSQUIN (research).

The Commission noted that Mr MICHEL had agreed to accept the obligations arising from his appointment.

2. AGENDAS

(OJ(2004)1670/3; SEC(2004)1122/2)

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)1670)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 13 September.

**4. APPROVAL OF MINUTES AND SPECIAL MINUTES OF 1669th MEETING
(8 September)
(PV(2004)1669; PV(2004)1669, Part II and /2)**

The Commission approved the minutes of its 1669th meeting.

5. PARLIAMENT

***PARLIAMENTARY AFFAIRS GROUP
(SP(2004)2042)***

The Commission took note of the record of the meeting of the Parliamentary Affairs Group held on 9 September (SP(2004)2042).

6. PERMANENT REPRESENTATIVES COMMITTEE

***COUNCIL AFFAIRS GROUP (CAG)
(SI(2004)726)***

The Commission took note of the record of the Council Affairs Group meeting held on 10 September (SI(2004)726).

It paid particular attention to the following:

i) **Proposal for a Parliament and Council Regulation on certain fluorinated greenhouse gases**

(point 4 of the record; SI(2004)711)

Taking note of the state of play in the discussions, the Commission authorised departments to take a position in the Council bodies in accordance with the line set out in the note at Annex 1 to the record.

ii) **Taking the population factor into account in verifying a qualified majority in the Council**

(point 5 of the record)

The Commission referred to the fact that, with effect from 1 November, the population factor would be part of the mechanism for taking decisions by qualified majority in the Council and would therefore have to be verified if a Member State so requested.

Having noted the analysis by the Legal Service, the Commission agreed to the methodology set out in the record.

iii) **Method of voting to be used for the adoption of Council conclusions**

(point 8 of record)

The Commission took note of the approach of the Council's Legal Service concerning the method of voting to be used for the adoption of Council conclusions, bearing in mind that it must remain vigilant as to compliance with its power of initiative.

iv) **Draft Council Decision establishing the European Civil Service Tribunal**

The Commission noted that political agreement had been reached in the Council bodies on this matter. With a view to forthcoming adoption as an A item, it instructed departments to transmit a Commission statement to be entered in the

Council minutes, which the Council would be invited to endorse, making clear that the Tribunal's draft internal rules should provide a mechanism for a ceiling for fees to be charged to officials and other servants ordered to pay costs.

7. WRITTEN PROCEDURES AND EMPOWERMENT

7.1. WRITTEN PROCEDURES APPROVED

(SEC(2004)1123 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 6 and 10 September.

7.2. SENSITIVE WRITTEN PROCEDURES

(SEC(2004)1124)

The Commission took note of written procedures initiated between 6 and 10 September for the adoption of decisions with political implications.

7.3. EMPOWERMENT

(SEC(2004 1125 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 6 and 10 September.

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 6 and 10 September, as archived on the "Greffé 2000" (Registry) website.

8. ADMINISTRATIVE AND BUDGETARY MATTERS
(SEC(2004)1126/2)

ADMINISTRATIVE MATTERS
(PERS(2004)161/2)

8.1. APPLICATION OF ARTICLE 50 OF THE STAFF REGULATIONS
(INITIAL STAGE) WITH RESPECT TO AN A*15 OFFICIAL

The Commission decided to initiate the procedure laid down in Article 50 of the Staff Regulations with respect to an A*15 official.

8.2. ARRANGEMENTS FOR EMPLOYING TEMPORARY STAFF UNDER
ARTICLES 2(A), (B) AND (D) OF THE CONDITIONS OF
EMPLOYMENT OF OTHER SERVANTS
(C(2004)3492)

The Commission adopted, with immediate effect, the decision in C(2004)3492 amending the Commission decision of 28 April on a new policy on the engagement and use of temporary staff.

8.3. DG ESTAT - POST OF DEPUTY DIRECTOR-GENERAL
(PERS(2004)112 to /6)

The Commission had before it applications under Article 29(2) of the Staff Regulations for the post of Deputy Director-General of Eurostat (PERS(2004)112, /4 and /5), created by the Commission decision of 18 February and reserved for a national of one of the new Member States.

The Commission took note of the opinions of the Consultative Committee on Appointments of 2 and 8 July (PERS(2004)112/2 and /3).

The Commission proceeded to consider the applicant's qualifications for the post. On a proposal from Mr KINNOCK, in agreement with the PRESIDENT and Mr ALMUNIA, it then decided to appoint Ms Marie BOHATA to the post.

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

Notwithstanding this decision, the Commission also noted the qualifications of Ms STEINBUKA.

9. PROPOSAL FOR A COUNCIL DECISION AUTHORISING FRANCE TO APPLY DIFFERENTIAL LEVELS OF TAXATION TO MOTOR FUELS UNDER ARTICLE 19 OF DIRECTIVE 2003/96/EC (COM(2004)597 to /3; SEC(2004)1143)

The Commission approved the proposal for a Council Decision in COM(2004)597/3 for transmission to the Council.

10. PROPOSAL FOR A DIRECTIVE AMENDING DIRECTIVE 98/71/EC ON THE LEGAL PROTECTION OF DESIGNS (COM(2004)582 to /5; SEC(2004)1097; SEC(2004)1114)

Mr BOLKESTEIN presented the proposal before the Commission. He reminded the meeting of the background and previous history of the proposal, whose objective, by completely liberalising the market in spare parts, was to complete the internal market in the field of the legal protection of designs and models for spare parts identical to original parts (known as "must-match" spare parts) intended for the repair of complex products. The proposal was limited in scope, and did not affect

the protection of spare parts on the primary market; it concerned only the replacement of visible parts. Having reviewed the main points and potential effects of the proposal as they appeared from the preparatory work (particularly the in-depth impact study) and contacts with the industry and other interested parties, Mr BOLKESTEIN considered that the proposal represented a balanced compromise between the interests of motor manufacturers, spare parts manufacturers and consumers.

Having noted this information and the complexity of the dossier, the Commission considered the proposal in depth, in particular:

- whether it was appropriate for the Commission to take a decision so near to the end of its term of office;
- how the dossier related to the Lisbon agenda and to current and future discussions on the relaunch of European growth and competitiveness;
- the need to strike the right balance between the advantages afforded by growth in competition and the completion of the internal market in this area, on the one hand, and, on the other, the need to protect intellectual property as an essential factor in innovation and competitiveness; the means of ensuring this protection (duration of the protection; transitional period; possible remuneration of the rights-holder to the design);
- going beyond this particular case, the scale of the potential for creating a precedent in other areas of activity where the protection of intellectual property applied;
- taking into account the situation in certain non-member countries, the challenges of the approach chosen for the commercial and industrial strategy of the Union on the world scene and vis-à-vis its international competitors;

- how the proposal related to other instruments applicable in the field of competition, particularly Regulation (EC) No 1400/2002 on block exemptions in the motor vehicle sector;
- the lessons to be learned from the experience of the Member States where the market in spare parts was already liberalised;
- the potential economic effects and the impact on the structure of the labour market;
- the advantages for consumers, bearing in mind that they would have to be properly informed so as to be able to make a clear choice;
- the importance of the product safety aspects (including for pedestrians) and the possibility of further analysis in this matter.

Having considered all these arguments, the Commission agreed the following conclusions:

- the deadline for Member States to comply with the provisions of the Directive (Article 2) would be two years from the date of adoption of the Directive;
- whilst the legal protection of designs does not have as its purpose the safety of complex products or their parts, which is regulated by Community legislation relating to product safety and regulating the construction and functioning of motor vehicles, the Commission notes that it intends to conduct a further study on the potential effects of this proposal, if any, on the safety of automobiles and pedestrians..

Subject to these amendments and clarifications, the Commission adopted the proposal for a Directive in COM(2004)582/5 for transmission to Parliament, the Council and the Economic and Social Committee. The Commission also took note

of the in-depth impact assessment in SEC(2004)1097, to be transmitted to the same institutions as a staff paper.

11. COUNCIL MEETINGS

(SI(2004)723)

11.1. INFORMAL MEETING OF ECONOMIC AND FINANCIAL AFFAIRS

MINISTERS

(SCHEVENINGEN, 10 AND 11 SEPTEMBER)

Mr ALMUNIA reported on the informal meeting of Economic and Finance Ministers, and on the Eurogroup meeting which had preceded it. He drew particular attention to: the appointment of Mr Jean-Claude JUNCKER as President of the Eurogroup for a period of two years and of Mr Karl-Heinz GRASSER as its Vice-President; discussions on its future working methods; the quality of the debate on strengthening economic governance and the clarification of the stability and growth pact, where the Commission proposals had been generally well received. Ministers had also heard a report from Mr KOK on the progress of the group he was chairing on the mid-term review of the Lisbon Strategy. They had also agreed to set up a working party on company taxation. There had also been a discussion on the future financial perspective, essentially on the methodological aspects.

The Commission took note of this information and held a brief exchange of views on the question of the future representation of the European Union in international bodies such as the IMF and G7/G8 following the appointment of a permanent President of the Eurogroup.

11.2. GENERAL AFFAIRS AND EXTERNAL RELATIONS
(BRUSSELS, 13 and 14 SEPTEMBER)

Mr PATTEN and Mr NIELSON reported on the external relations component of the Council meeting. Among the points discussed, they mentioned in particular: prospects for improving the operation of the union of Serbia and Montenegro; the EU's contribution to the financing of the protection force for UN staff in Iraq; Iran's nuclear activities and the need for a coherent policy of the EU and the Member States in this matter; the seriousness of the political and humanitarian situation in Darfur, and how the Union could improve its support for the efforts being made by the African Union; relations with Russia.

12. RELATIONS WITH NON-MEMBER COUNTRIES

12.1. VISIT BY Mr VERHEUGEN TO TURKEY

Mr VERHEUGEN reported on his recent visit to Turkey and his contacts with the Turkish authorities and with representatives of civil society. There was a broad consensus among them as to the importance of opening accession negotiations, the European dimension being a key element of Turkey's democratisation and liberalisation process. The visit had provided an opportunity to take stock with his interlocutors of the progress made by Turkey in complying with the Copenhagen political criteria as well as on the efforts that still needed to be made. On the ongoing preparation of the various documents to be put before the Commission on 6 October, Mr VERHEUGEN asked colleagues to let him have any useful information and observations, pointing out that no conclusions had been reached at this stage.

12.2. EUROPEAN UNION-MERCOSUR RELATIONS

Mr LAMY reported on his talks with the Brazilian Foreign Minister on the prospects for the conclusion of an association and free trade agreement between the EU and Mercosur before the end of October. In view of the delays in the negotiations because of offers deemed inadequate by both parties (agriculture for the EU; public procurement, telecommunications and banking services for Mercosur), it had been agreed to continue the discussions as planned on 20 September on the basis of revised proposals by both sides.

13. OTHER BUSINESS

VISIT BY Mr FISCHLER TO CYPRUS

Mr FISCHLER reported briefly on his visit to Cyprus, where he had met the President of the Republic, the Minister for Agriculture, the President of the national parliament and the parliament's committee on agriculture and fisheries, as well as representatives of Cypriot agriculture.

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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 1640 hours.