



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2004)1674 final

Brussels, 20 October 2004

MINUTES
of the 1674th meeting of the Commission
held in Brussels
(Breydel)
on Wednesday 13 October 2004
(morning)

These minutes were approved by the Commission at its 1675th meeting, held in Brussels on 20 October 2004.

They contain 25 pages.

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Single sitting: Wednesday 13 October (morning)

The sitting opened at 0925 hours with Mr Prodi, President, in the chair.

Present:

Mr PRODI	President	
Mr KINNOCK	Vice-President	
Ms de PALACIO	Vice-President	Items 14 to 19
Mr MONTI		
Mr FISCHLER		
Mr BOLKESTEIN		Items 1 to 16
Mr NIELSON		
Mr VERHEUGEN		Items 1 to 16
Mr PATTEN		
Mr LAMY		
Mr BYRNE		
Ms REDING		
Ms SCHREYER		
Ms WALLSTRÖM		
Mr VITORINO		
Mr DIMAS		
Mr BARROT		
Mr ALMUNIA		Items 1 to 16
Mr BALÁZS		
Ms HÜBNER		Items 1 to 16
Mr KALLAS		
Mr BORG		
Ms GRYBAUSKAITĖ		
Mr POTOČNIK		
Mr FIGEL		

Mr KYPRIANOU

Mr TELIČKA

Mr REHN

Mr MICHEL

Absent:

Ms KALNIETE

The following sat in to represent absent Members of the Commission

Mr PIEBALGS Chef de cabinet to Ms Kalniete

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

Ms GMINDER Spokeswoman

Mr PETRUCCI Spokesman Item 17

Mr SMULDERS A member of the President's staff Item 13

Mr CALLEJA Chef de cabinet to Ms de Palacio

Ms ZAMPIERI A member of Ms de Palacio's staff Item 16

Ms LAMELA Chef de cabinet to Mr Almunia

Mr KORTE Chef de cabinet to Ms Hübner Items 16 to 19

Ms CORUGEDO STENEGERG Press and Communication DG

Mr KARAMITSOS Energy and Transport DG Item 16

Mr MEGALIDIS Energy and Transport DG Item 16

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

1. AGENDAS

(OJ(2004)1674/3; SEC(2004)1219/2)

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)1674)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 11 October.

**3. APPROVAL OF MINUTES AND SPECIAL MINUTES OF 1673rd
MEETING (6 October)**

(PV(2004)1673 and /2; PV(2004)1673, Part II)

The Commission approved the minutes of its 1673rd meeting.

4. PARLIAMENT

PARLIAMENTARY AFFAIRS GROUP

(SP(2004)2447)

The Commission took note of the record of the meeting of the Parliamentary Affairs Group held on 7 October (SP(2004)2447).

Action taken on Parliament's opinions and resolutions

The Commission adopted SP(2004)2350 on the action taken on Parliament's opinions and resolutions adopted at its September part-session, for transmission to Parliament.

5. PERMANENT REPRESENTATIVES COMMITTEE

The Commission took note of the information communicated to it relating to the work of Coreper.

It paid particular attention to the following:

i) Proposal for a Parliament and Council Regulation on certain fluorinated greenhouse gases (SI(2004)791)

The Commission took note of developments in the Council bodies since it had last considered this matter on 10 September (PV(2004)1670, item 6).

It noted that a majority political agreement could be reached in the Council meeting (Environment) on 14 October on the basis of a Presidency compromise providing for a regulatory committee instead of the management committee proposed by the Commission.

Having regard to the new tasks of the committee under this compromise, the Commission authorised Ms WALLSTRÖM, in agreement with the PRESIDENT, to support this change and to facilitate majority agreement in the Council bodies that would strike the right balance between the objective of reducing emissions of certain fluorinated greenhouse gases and the requirements of the smooth operation of the internal market.

**ii) Proposal for a Parliament and Council Directive on the management of waste from the extractive industries
(SI(2004)791)**

The Commission took note of the details of the Presidency compromise, particularly concerning the scope of the Directive and the financial guarantee.

With a view to possible political agreement in the Council meeting (Environment) on 14 October on the basis of this compromise, the Commission authorised Ms WALLSTRÖM, in agreement with the PRESIDENT, to facilitate a majority agreement striking the right balance between the objective of minimising the effects of pollution from waste management installations on the environment and health, on the one hand, and the economic and administrative burden for operators, on the other.

6. WRITTEN PROCEDURES AND EMPOWERMENT

6.1. WRITTEN PROCEDURES APPROVED

(SEC(2004)1220 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 4 and 8 October.

6.2. SENSITIVE WRITTEN PROCEDURES

(SEC(2004)1221)

The Commission took note of written procedures initiated between 4 and 8 October for the adoption of decisions with political implications.

6.3. EMPOWERMENT

(SEC(2004)1222 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 4 and 8 October.

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 4 and 8 October, as archived on the "Greffé 2000" (Registry) website.

**7. LETTER OF AMENDMENT No 1 TO PRELIMINARY DRAFT BUDGET
2005**

(SEC(2004)1235 to /4; SEC(2004)1249)

The Commission approved letter of amendment No 1 to the preliminary draft budget for 2005 as set out in SEC(2004)1235/4, for transmission to Parliament and the Council.

**8. PROPOSAL FOR A DECISION ON THE REVISION OF THE FINANCIAL
PERSPECTIVE 2000-06**

(COM(2004)666 to /3; SEC(2004)1249)

The Commission adopted the proposal for a Regulation in COM(2004)666/3 for transmission to Parliament and the Council.

**9. PRELIMINARY DRAFT AMENDING BUDGET No 11/2004: INCREASING
PAYMENT APPROPRIATIONS FOR THE STRUCTURAL FUNDS
(SEC(2004)1234 to /5; SEC(2004)1249)**

The Commission approved preliminary draft amending budget No 11/2004 as set out in SEC(2004)1234/4, for transmission to Parliament and the Council.

The Commission stressed the importance of a speedy decision by the budgetary authority and the need for Commission departments to take all necessary measures to implement the payments concerned as soon as the appropriations were available.

**10. WHITE PAPER ON THE REVIEW OF REGULATION (EEC) No 4056/86
APPLYING THE EC COMPETITION RULES TO MARITIME
TRANSPORT
(COM(2004)675 to /3; SEC(2004)1254)**

The Commission took note of the communication from Mr MONTI and adopted the White Paper on the review of Regulation (EEC) No 4056/86 as set out in COM(2004)675, for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, together with the staff paper in SEC(2004)1254.

**11. TEXTILES AND CLOTHING AFTER 2005 - RECOMMENDATIONS OF
THE HIGH-LEVEL GROUP FOR TEXTILES AND CLOTHING
(COM(2004)668 to /3; SEC(2004)1240)**

The Commission approved the communication in COM(2004)668/3 for transmission, accompanied by the staff paper in SEC(2004)1240, to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

**12. ADMINISTRATIVE AND BUDGETARY MATTERS
(SEC(2004)1223/3)**

**ADMINISTRATIVE MATTERS
(PERS(2004)191)**

***12.1. DG PRESS - AMENDMENT OF ORGANISATION CHART AND
REDEPLOYMENT OF AN A*15 OFFICIAL***

In the context of strengthening the communication policy as announced by Mr BARROSO, President-designate, and pending more detailed amendment of the organisation chart of the Press and Communication DG, the Commission decided with immediate effect:

- to create a function of Deputy Director-General in the Press and Communication DG;
- to create a function of Chief Adviser, reporting to the Director-General, Press and Communication;
- to fill the Chief Adviser function by the redeployment, with her post and in the interest of the service, of Ms Françoise LE BAIL, an A*15 official, currently Director, Directorate D, in the Trade DG;

- to ask Ms Françoise LE BAIL to carry out the duties of the Deputy Director-General from the date of creation of the function until it was definitively filled.

12.2. DG AIDCO/A - TEMPORARY APPOINTMENT OF DIRECTOR

The Commission, on a proposal from Mr KINNOCK, in agreement with the PRESIDENT, Mr PATTEN and Mr NIELSON, decided under Article 7(2) of the Staff Regulations that Mr Basile PAPADOPOULOS, an A*14 official, currently Head of Unit AIDCO/A2 (Centralised operations for Europe), should be deemed temporarily to have occupied the function of Director, Directorate A (Europe, Caucasus, Central Asia) in the EuropeAid Cooperation Office, from 1 January to 31 August 2004.

This decision would take effect immediately.

12.3. DG SCIC/A – FUNCTION OF DIRECTOR (PERS(2004)163 to /6)

The Commission had before it applications under Article 29(1)(a) (i) and (iii) of the Staff Regulations for the function of Director, Directorate A (Interpreters) in the Interpretation DG (PERS(2004)163 to /4).

The Commission took note of the opinions of the Consultative Committee on Appointments of 20 and 24 September (PERS(2004)163/5 and /6).

The Commission proceeded to compare the applicants' qualifications for the function. 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, it then decided to appoint Mr Carlos ALEGRIA to the function.

This decision would take effect on 16 October.

Notwithstanding the above decision, the Commission noted the excellent professional qualities of Mr FOX.

12.4. DG SCIC/C – FUNCTION OF DIRECTOR

(PERS(2004)164 to /4)

The Commission had before it applications under Article 29(1)(a) (i) and (iii) of the Staff Regulations for the function of Director, Directorate C (Provision of interpretation) in the Interpretation DG (PERS(2004)164 and /2).

The Commission took note of the opinions of the Consultative Committee on Appointments of 20 and 24 September (PERS(2002)164/3 and /4).

The Commission proceeded to compare the applicants' qualifications for the function. 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, it then decided to appoint Ms Ann D'HAEN-BERTIER to the function.

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

12.5. DG SCIC/D – FUNCTION OF DIRECTOR

(PERS(2004)165 to /3)

The Commission had before it applications under Article 29(1)(a) (i) and (iii) of the Staff Regulations for the function of Director, Directorate D (Conferences) in the Interpretation DG (PERS(2004)165).

The Commission took note of the opinions of the Consultative Committee on Appointments of 20 and 24 September (PERS(2004)165/2 and /3).

The Commission proceeded to compare the applicants' qualifications for the function. 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, it then decided to appoint Mr Jupp HAMACHER to the function.

This decision would take effect on 16 October.

**12.6. DG PRESS – FUNCTION OF HEAD OF COMMISSION
REPRESENTATION IN FINLAND**

In agreement with the PRESIDENT, the Commission decided:

- to end the contract under Article 2(c) of the Conditions of Employment of Other Servants by which Mr Reijo KEMPPINEN had been engaged as Commission Spokesman;
- to appoint Mr Reijo KEMPPINEN Head of the Commission Representation in Finland, by means of a new temporary staff contract under Article 2(c) of the Conditions of Employment of Other Servants, at grade A*12 (without weighting).

This decision would take effect on 1 November.

**12.7. DG ADMIN - APPLICATION OF THE ARTICLE 50 PROCEDURE
(SECOND STAGE) WITH RESPECT TO AN A*15 OFFICIAL
(PERS(2004)194)**

The Commission continued its discussions on this matter, begun on 3 September (PV(2004)1668).

The Commission, on a proposal from Mr KINNOCK, in agreement with the PRESIDENT, adopted the decision in PERS(2004)194 to apply the second stage of the procedure laid down in Article 50 of the Staff Regulations with

respect to Ms Marina MANFREDI-MAGILLO, an A*15 official, currently Chief Adviser in the Personnel and Administration DG.

This decision would take effect on 16 April 2005.

12.8. DG INFSO/A – FUNCTION OF DIRECTOR

On a proposal from Mr KINNOCK, in agreement with the PRESIDENT, Ms REDING and Mr REHN, the Commission decided to fill the function of Director, Directorate A (Internet, network security and general affairs) in the Information Society DG by the redeployment, in the interest of the service and with his post, of Mr Gregory PAULGER, an A*15 official, currently Director, Directorate C (Culture, audiovisual policy and sport) in the Education and Culture DG.

This decision would take effect from 1 January 2005.

OTHER MATTERS

12.9. DISCIPLINARY DECISION

(SEC(2004)1257 and /2)

On a proposal from Mr KINNOCK, in agreement with the PRESIDENT, the Commission decided to follow the recommendation of the Disciplinary Board and adopted the decision in SEC(2004)1257/2, removing Ms Marta ANDREASEN from her post without reduction in pension rights.

13. MONITORING THE APPLICATION OF COMMUNITY LAW: INFRINGEMENTS

13.1. REPORT B 2/2004 ON ALLEGED INFRINGEMENTS

(SEC(2004)1108; SEC(2004)1111; SEC(2004)1112)

The Commission adopted the decisions in SEC(2004)1112, subject to the following clarifications:

2004/4409 *France*

Procurement procedure for motorway concessions (A9)

2004/4438 *France*

Procurement procedure for motorway concessions (A89)

Decisions: Letter of formal notice

The Commission held a brief exchange of views on these cases. It took note of the clarifications supplied by Mr BOLKESTEIN as to the nature and scope of the letters of formal notice, which provided a basis for dialogue with the competent authorities in the search for possible solutions taking into account the specific details of the dossiers concerned in compliance with Community law.

After its discussions, the Commission adopted the above decisions.

2004/2218 *Hungary*

Air-Directive 2003/87/EC - Emissions trading - Allocation plans

Decision: Termination, in view of transmission of the plan by the Hungarian authorities.

2004/2216 **Cyprus**

Air-Directive 2003/87/EC - Emissions trading - Allocation plans

Decision: Held over for two weeks.

2004/2219 **Malta**

Air-Directive 2003/87/EC - Emissions trading - Allocation plans

Decision: Held over for two weeks.

13.2. URGENT CASES

(SEC(2004)1108; SEC(2004)1239)

The Commission adopted the decisions in SEC(2004)1239.

14. FIVE YEARS ON: OBJECTIVES AND RESULTS - THE RECORD OF THE PRODI COMMISSION

(SEC(2004)1252 and /2)

The PRESIDENT presented the communication in SEC(2004)1252/2. Subject to the clarifications made during the meeting and to a final technical revision, it would serve as a basis for his speech to Parliament on Wednesday afternoon 13 October.

The PRESIDENT took this opportunity to express his great satisfaction at having presided for five years over the destiny of an institution such as the Commission, which held a unique place on the European and international scene as the harbinger of the future Europe and a force for peace and prosperity in the world. He expressed sincere gratitude to all Commission Members for their unstinting spirit of cooperation and collective responsibility, which had enabled the Commission to

fulfil its mandate and to make a success of the priorities it had set itself. He was convinced that the present Commission would remain forever associated with the most profound transformation the European Union had ever known, involving among other things the biggest enlargement in its history, the introduction of the single currency, the culmination of the draft Constitution and the internal reform of the Commission. Without pre-empting the priorities of the new Commission, the PRESIDENT felt that furthering the Lisbon Strategy, consolidating enlargement and establishing the policy towards neighbouring countries already seemed bound to be key items in its mandate.

Mr KINNOCK endorsed the PRESIDENT's analysis as to the quality of the results of the present Commission. He paid tribute to President PRODI's personal style of imparting to the Commission's work an unparalleled degree of amicable and effective collective responsibility, while unfailingly supporting the personal efforts of each Member. Mr KINNOCK was joined by all the Commission Members in proffering his warmest thanks.

**15. COMMUNICATION TO THE COMMISSION ON THE ANNUAL REPORT
OF THE COURT OF AUDITORS FOR 2003
(SEC(2004)1233 and /2; SEC(2004)1249)**

The Commission took note of the communication (SEC(2004)1233/2) presented by Ms SCHREYER and further information supplied by her during the meeting concerning the current state of play. She pointed to the smooth cooperation achieved between the present Commission and the Court of Auditors.

Having taken note of the information from Ms SCHREYER, the Commission observed that it was important for the institution to adopt a coherent approach to communication and information vis-à-vis the outside world on this matter,

particularly in the light of the procedural amendments introduced by Parliament for the current discharge exercise.

16. PARLIAMENT AND COUNCIL DIRECTIVE ON MARKET ACCESS TO PORT SERVICES

(COM(2004)654 to /5; SEC(2004)1248)

Ms de PALACIO introduced the proposal before the Commission. Port services were the only sector in the transport field where the freedom to provide services - a fundamental freedom enshrined in the Treaty - was still not guaranteed. It was in the interests of operators, port authorities and consumers alike that clear and specific rules be introduced in this sphere; failing a Regulation on the subject, the applicable legal framework would be the general Directive on services in the internal market, once it had been adopted. The new proposal sought not only to abolish restrictions on competition in port services and to strengthen their effectiveness, but also to increase the performance of sea transport by encouraging the decongestion of roads and, in due course, a rebalancing between transport modes, in such a way that the missing link was supplied. Having reviewed the main changes made in comparison with the 2001 text, Ms de PALACIO reminded the meeting of the political and institutional background to the Commission's initial proposal. One of the essential novelties of the current proposal was the mandatory nature of authorisations for the use of self-handling, within the limits defined in the proposal. She concluded by emphasising the balanced nature of the approach adopted, which met the need for liberalisation and competitiveness in the European economy as set forth in the Lisbon Strategy.

The Commission took note of this information and held a wide exchange of views, covering in particular:

- the advisability of taking a decision at this stage, given the background to the dossier, the commitments made by the present Commission and the likely reaction of the legislative authority as well as of the various interested parties in the industry;
- the proposed approach in relation to the Lisbon agenda and the Commission's responsibility in contributing to its achievement;
- the importance of ensuring the necessary protection of the social rights of workers at Community ports and the question whether the conditions laid down, particularly for the practice of self-handling by ships' crews, constituted a sufficient guarantee to avoid any risk of unfair competition between Member States or wage/social dumping;
- whether the consultations held with interested parties were sufficient, particularly with the trade unions, the shipowners and the port operators, whose status and influence varied between Member States;
- the clarity of the definitions laid down in the text and whether the various transitional periods provided for in the proposal were soundly based;
- the respective situation of smaller ports and those which had already removed restrictions on competition;
- the effects of rejection of the supply of port services in a given port because of lack of capacity;
- the real economic impact of the introduction of competition in Community ports, particularly on prices of services supplied and the shortened periods of concessions;

- the possible effects on certain existing concessions, in particular those involving a long depreciation period, and the need to ensure equal treatment and the transparency of criteria.

After its discussions, taking into account the various arguments in the discussion, the Commission:

- decided to add the following sentence to Article 7(3)(c): **"in any case, those minimal rules set out in Community social law will be respected"**;
- adopted the proposal in COM(2004)654/5, as amended above, for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

17. TRENDS IN THE MEMBER STATES (SEC(2004)1250)

Further to the information note in SEC(2004)1250, Mr VITORINO commented in particular on European press coverage of the Commission recommendation on Turkey's application for membership and the link in the public's mind in a number of Member States between this issue and the draft Constitution. Tensions over the Boeing/Airbus dossier had helped rekindle the recurring debate on relations between the United States and the Union. In relation to the question of the ratification process for the constitutional Treaty, he also mentioned the work of the informal conference of European Affairs Ministers in Amsterdam, on the theme of communication in Europe and how to improve it. Ms WALLSTRÖM provided further information on the latter point, emphasising the importance, recognised by the ministers, of implementing national communication strategies, tailored to public opinion in each Member State and designed to allay citizens' major concerns.

The Commission took note of this information.

18. COUNCIL MEETINGS

(SI(2004)813)

GENERAL AFFAIRS AND EXTERNAL RELATIONS

(11 AND 12 OCTOBER, LUXEMBOURG)

(SI(2004)822; SI(2004)823)

Mr PATTEN reported on the external relations component of the Council meeting. He commented in particular on the lifting of sanctions against Libya; the situation in Iran and the strategy the EU should adopt towards it, particularly as regards the Iranian nuclear programme. He also referred to the action plan approved by the EU-Jordan Association Council at its meeting in Luxembourg on 11 October.

19. RELATIONS WITH NON-MEMBER COUNTRIES

19.1. CONCLUSION OF A BILATERAL AGREEMENT WITH VIETNAM ON VIETNAM'S ACCESSION TO THE WORLD TRADE ORGANISATION

(SEC(2004)1269)

The Commission took note of the information note distributed by Mr LAMY.

19.2. FIFTH CONFERENCE OF EURO-MEDITERRANEAN INDUSTRY MINISTERS

(CASERTA, 3 AND 4 OCTOBER)

(SEC(2004)1270)

The Commission took note of the information note distributed by Mr FIGEL.

19.3. FOREIGN SALES CORPORATIONS

Mr LAMY reported on the adoption by the US Congress of a new tax law repealing the tax advantages granted to US exporters (Foreign Sales Corporations). The legislation was intended to bring the situation into line with WTO decisions, with the aim of lifting the trade sanctions that the European Union had gradually imposed on certain imports from the United States. The new US legislation was complex, and would need to be considered in detail before a conclusive position could be taken on it.

19.4. VISIT BY Ms DE PALACIO TO CHINA

Ms de PALACIO reported briefly on her visit to China. She drew particular attention to: the signing of an agreement on China's participation in the Galileo joint venture; talks with the Chinese ministers for technology and transport concerning the preparation of an EU-China bilateral agreement in the air transport sector; and a visit to Shanghai to take part in the activities organised for the centenary of the Michelin company.

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

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The meeting closed at 1240 hours.