



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2004)1684 final

Strasbourg, 11 January 2005

MINUTES
of the 1684th meeting of the Commission
held in Brussels
(Berlaymont)
on Wednesday 22 December 2004
(morning)

These minutes were approved by the Commission at its 1685th meeting, held in Strasbourg on 11 January 2005.

They contain 25 pages.

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Single sitting: Wednesday 22 December (morning)

The sitting opened at 0930 hours with Mr Barroso, President, in the chair.

Present:

Mr BARROSO	President	
Ms WALLSTRÖM	Vice-President	Except items 15 and 16
Mr VERHEUGEN	Vice-President	
Mr BARROT	Vice-President	
Mr KALLAS	Vice-President	
Mr FRATTINI	Vice-President	
Mr DIMAS		
Mr ALMUNIA		Except item 16
Ms HÜBNER		
Ms GRYBAUSKAITĖ		
Mr POTOČNIK		
Mr FIGEL		
Mr KYPRIANOU		
Mr REHN		
Mr MICHEL		
Mr KOVÁCS		
Ms KROES		
Ms FISCHER BOEL		
Ms FERRERO-WALDNER		Except items 15 and 16
Mr McCREEVY		
Mr ŠPIDLA		
Mr MANDELSON		
Mr PIEBALGS		

Absent:

Ms REDING

Mr BORG

The following sat in to represent absent Members of the Commission

Ms HOFFMAN Acting Chef de cabinet to Ms Reding

Mr KÖHLER Deputy Chef de cabinet to Mr Borg

The following also sat in

Mr PETITE Director-General, Legal Service

Mr VALE DE ALMEIDA Chef de cabinet to the President

Mr DE OLIVEIRA E SOUSA Director-General, Press and Communication

Ms LE BAIL Commission Spokeswoman

Mr TORRES Spokesman

Mr ITALIANER Deputy Chef de cabinet to the President Items 1 to 10

Mr CHILD Chef de cabinet to Ms Ferrero-Waldner Items 15 and 16

Ms CORUGEDO STENEGERG Press and Communication DG

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

1. AGENDAS

(OJ(2004)1684/3; SEC(2004)1606)

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

2. WEEKLY MEETING OF CHEFS DE CABINET

(SEC(2004)1684)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 20 December.

3. MINUTES OF 1683rd MEETING (14 December)

(PV(2004)1683)

The Commission approved the minutes of its 1683rd meeting.

4. MONITORING THE APPLICATION OF COMMUNITY LAW

***INFRINGEMENTS - CASES DEFERRED BECAUSE OF
NON-AVAILABILITY OF DOCUMENTS - REGULARISATION
(SEC(2004)1619)***

The Commission adopted the decisions in SEC(2004)1619.

5. WRITTEN PROCEDURES AND EMPOWERMENT

5.1. WRITTEN PROCEDURES APPROVED

(SEC(2004)1607 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 13 and 17 December.

5.2. SENSITIVE WRITTEN PROCEDURES

(SEC(2004)1608)

The Commission took note of written procedures initiated between 13 and 17 December for the adoption of decisions with political implications.

5.3. EMPOWERMENT

(SEC(2004)1609 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 13 and 17 December.

5.4. DELEGATION AND SUBDELEGATION OF POWERS

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation procedure between 13 and 17 December, as archived on the "Greffé 2000" (Registry) website.

**6. ALLOCATION OF HUMAN RESOURCES FOR REFORM FOLLOWING IMPLEMENTATION OF REGULATION No 1746/2002 (EARLY RETIREMENT – THIRD ROUND)
(SEC(2004)1600 and /2; SEC(2004)1636)**

The Commission approved the communication in SEC(2004)1600 and asked the departments concerned to implement it according to the instrument laid down in item 6 of the document.

**7. FINAL ALLOCATION OF HUMAN RESOURCES AND DECENTRALISED ADMINISTRATIVE EXPENDITURE (GLOBAL ENVELOPE) FOR 2005
(SEC(2004)1602 to /5; SEC(2004)1516; SEC(2004)1636)**

The Commission approved the communication in SEC(2004)1602/5 and asked the Personnel and Administration DG and the Budget DG to implement it as provided for in the document.

**8. INTERINSTITUTIONAL RELATIONS
(SEC(2004)1620)**

The Commission took note of the record of the meeting of the Interinstitutional Relations Group held on 17 December (SEC(2004)1620).

It paid particular attention to the following:

8.1. *LEGISLATIVE MATTERS*

i) Preparations for January I part-session

(point 2.2.1 of the record)

The Commission, in accordance with the rules in force, authorised the Commission Members responsible, in agreement with the PRESIDENT, Ms WALLSTRÖM and any other Members associated, to take a position on Parliament's amendments to its proposals.

It paid particular attention to the following:

- MEDINA ORTEGA report - Fifth motor vehicle insurance Directive: civil liability, coverage of accident victims - COM(2002)244 - 02/0124 (COD).

The Commission adopted the line set out in SP(2004)3411 and authorised Mr McCREEVY to maintain contacts with Parliament and the Council to help reach an agreement at second reading.

8.2. *RELATIONS WITH PARLIAMENT*

ii) Action to be taken on Parliament's opinions and resolutions

(point 1.7 of the record)

The Commission adopted and decided to transmit to Parliament SP(2004)3145, setting out the replies to non-legislative resolutions adopted by Parliament for which it had undertaken to give a reply, and SP(2004)3173 on the action taken on Parliament's opinions and resolutions at its November 2004 part-session.

iii) **December II part-session**

(point 4.2 of the record)

The Commission took note of the information supplied relating to Parliament's part-session of 13 to 16 December (SP(2004)3281).

iv) **Rota for Commission Members at Question Time in 2005**

(point 7.2 of the record)

The Commission approved the rota for Commission Members at Question Time in 2005, as set out in SP(2004)3412/2.

v) **Action to be taken on Parliament's opinions**

(SP(2004)3154)

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)3154).

8.3. RELATIONS WITH THE COUNCIL

vi) **Council meetings 16 December 2004 to 12 January 2005**

(SI(2004)1114)

European Council

(Brussels, 16-17 December)

(SI(2004)1000)

Ms FERRERO-WALDNER reported on the European Council meeting on the external relations front. She drew particular attention to the following: the welcome given to the action plans drawn up under the policy towards neighbouring countries, particularly Ukraine; cautious optimism as to

prospects for the development of the Middle East peace process; the political will to work towards developing relations between the Union and China and the invitation made to the next Luxembourg Presidency to complete this work with a view to lifting the embargo on arms; the support expressed for the work carried out by the UN Secretary-General.

The PRESIDENT gave his overall assessment of the European Council meeting. He commented in particular on the discussions on the accession negotiations with Turkey, the opening of which should be preceded by the signature by Turkey of the protocol on the adaptation of the Ankara agreement. The Commission had played an important role in this process, which had enabled agreement to be reached on the dossier. Work on the preparation of the respective negotiating frameworks with Turkey and Croatia should start without delay. As regards the financial framework 2007-13, while noting that negotiations on the substance had not yet properly begun, the PRESIDENT welcomed the European Council conclusions, which encouraged the Luxembourg Presidency to reach political agreement before June 2005. After emphasising the importance of the summit's conclusions in the field of the justice, freedom and security, he mentioned the progress made on the question of the European External Action Service, the preparatory work having been started jointly by the Commission and the High Representative of the Council. The PRESIDENT concluded by expressing satisfaction with the positive contribution made by the Commission to the success of the European Council.

Endorsing the PRESIDENT's remarks on the decisions taken by the European Council in relation to enlargement, Mr REHN reviewed the timetable and the work to be started and completed, taking into account the respective situation of each of the countries concerned.

Environment (20 December)

(SI(2004)1115)

Mr DIMAS drew attention to the political agreement reached in the Council on the conclusion of the Aarhus Convention (Convention on access to information, public participation in decision-making and access to justice regarding environmental matters) and on the application of the Convention to the Union institutions. He also referred to the political agreement reached on the proposal for a Parliament and Council Directive on batteries and accumulators and waste batteries and accumulators, imposing a partial ban on batteries containing cadmium and defining collection targets.

Mr DIMAS also mentioned the UN Conference on climate change held in Buenos Aires. He welcomed the progress made in several areas, such as aid for developing countries to deal with the consequences of climate change, the Kyoto protocol market mechanisms, and emission allowance trading, in which the Union was a world leader. The United States had agreed to a meeting being held in spring on the current and post-2012 situation, despite its refusal to make any specific commitments.

Agriculture and Fisheries (21 and 22 December)

(point 3.1 of the record)

► **Proposal for a Council Regulation fixing for 2005 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where limitations in catch are required**

► **Proposal for a Council Regulation fixing for 2005 and 2006 the fishing opportunities for Community vessels for certain deep-sea fish stocks and amending Council Regulation (EC) No 2347/02**

The Commission authorised Mr BORG, at the Council meeting (Agriculture and Fisheries) on 21 and 22 December, to accept a Presidency compromise on total allowable catches (TAC) and quotas for 2005 and on certain deep-sea fish stocks, in accordance with the line set out in SI(2004)1113.

vii) **Other matters**

EU-USA relations

(point 7.3 of the record)

The PRESIDENT drew attention to the information note on EU-United States relations distributed by Ms FERRERO-WALDNER. This was intended as a contribution to the drawing-up of a common document by the Council Secretariat and the Commission, which would be discussed at the Council meeting (General affairs and external relations) in preparation for the visit of President BUSH to Europe at the end of February. On the simplified consultation and information procedure used in this particular case, the PRESIDENT pointed out that it was the first time the new "tacit procedure" had been used (see item 10 of these minutes) designed to

improve the effectiveness of coordination and collective responsibility, while retaining the necessary flexibility. This would be put formally to the Commission after the meeting of the "External relations" group of Commission Members scheduled for 20 January.

The Commission took note of the information note distributed by Ms FERRERO-WALDNER in SEC(2004)1703/2.

9. ADMINISTRATIVE AND BUDGETARY MATTERS
(SEC(2004)1610/3)

ADMINISTRATIVE MATTERS
(PERS(2004)243/2)

9.1. OLAF – POST OF DIRECTOR-GENERAL
(PERS(2004)244)

Having noted the information supplied during the meeting by Mr KALLAS concerning the specific interinstitutional details of the procedure applicable to the appointment of the Director-General of OLAF, the Commission approved the publication of vacancy notice PERS(2004)244 under Article 29(1)(a)(i) and (iii) and (1)(b) of the Staff Regulations.

9.2. DG TRADE – REQUEST FOR EARLY RETIREMENT OF AN A*15 OFFICIAL

The Commission accepted the request for early retirement from Mr James Ian WILKINSON, an A*15 official, currently Director of Directorate E (Industrial trade issues, Bilateral trade relations II, Market access, Export-related trade policy) in the Trade DG, and in accordance with

Article 52 of the Staff Regulations it set 1 March 2005 as the date from which this decision would take effect.

9.3. DG PRESS – REQUEST FOR EARLY RETIREMENT OF AN A*15 OFFICIAL

The Commission accepted the request for early retirement from Mr Niels THOGERSEN, an A*15 official, currently Director of Directorate B (Communication, media and services) in the Press and Communication DG, and in accordance with Article 52 of the Staff Regulations it set 1 March 2005 as the date from which this decision would take effect.

9.4. DG ADMIN – SECONDMENT OF AN A*15 OFFICIAL TO THE EUROPEAN ADMINISTRATIVE SCHOOL

The Commission approved the secondment of Mr David WALKER, an A*15 official, currently Director of Directorate B (Administration and resources) in the Interpretation DG, as Head of the European Administrative School during the period while the school was attached to the European Personnel Selection Office staff (EPSO).

This decision would take effect on 1 February 2005.

**9.5. DG ECFIN/EBRD - POST OF DIRECTOR
(PERS(2004)198 to /4)**

The Commission had before it applications under Article 29(1)(a (i) and (iii) of the Staff Regulations for the post of Director of the Directorate responsible for relations with the European Bank for Reconstruction and Development in the Economic and Financial Affairs DG (PERS(2004)198 and /4).

The Commission took note of the opinions of the Consultative Committee on Appointments of 12 and 18 November (PERS(2004)198/2 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 KALLAS, in agreement with the PRESIDENT and Mr ALMUNIA, it then decided to appoint Mr Vassili LELAKIS to the post.

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

**9.6. COMMISSION DECISION ON THE REVISION OF ORGANISATION
CHARTS FOLLOWING THE APPOINTMENT OF THE NEW
COMMISSION
(C(2004)5367 to /3)**

The Commission approved the communication in C(2004)5367/2 and /3.

The PRESIDENT explained that this decision brought the organisation charts of departments into line with the new allocation of portfolios to Commission Members. He thanked Members and departments for the constructive spirit in which this exercise had been brought to a successful conclusion.

**10. FUNCTIONING OF THE COMMISSION AND INTERNAL
COORDINATION
(SEC(2004)1617 to /3)**

The PRESIDENT reminded the meeting that at the first seminar of the Commission-designate in August he had emphasised the need for effective collective responsibility as an essential key to the success of the new Commission. Without calling for any radical changes in the Commission's working methods, the communication he was presenting aimed to ensure that collective responsibility worked in practice and at all the levels of the Commission. To this end, it sought to

strengthen working methods and to put in place a genuine culture of coordination. The proposed approach was based on a number of key principles, viz.: the Commission should be in a position to define the priorities and policies that enjoyed the support of the Commissioners and engaged their collective responsibility; it should be clear in the messages it delivered and disciplined in its communication; the groups of Commission Members, without being given decision-making powers, could contribute to improving coordination and to the preparations for the Commission's work. The methods outlined sought to achieve these objectives and would mean a number of changes in the Rules of Procedure. The communication was accompanied by an annex setting out the details of the composition of the various groups of Commission Members, their mandates and their composition as well as the frequency of their meetings. In conclusion, the PRESIDENT emphasised the importance of the proposed measures for the smooth operation of the Commission, while maintaining flexibility and common sense in their implementation. He proposed to review the situation after one year, and called on all Commission Members to implement effective collective responsibility in their areas of responsibility.

The Commission took note of these observations and discussed the matter. It paid particular attention to the following:

- the advisability of a written rule providing for the possibility for the Commission to vote by secret ballot and the definition of the exceptional circumstances in which such a vote could be held;
- the composition of the groups of Commission Members and the possibility for Commission Members to be invited to take part in the work of a group of which they were not members when their portfolios were occasionally concerned by the activities of that group;

- the conditions inherent in the smooth operation of collective responsibility, particularly: confidentiality; the need to strike the right balance between rigorous discipline and the need for flexibility arising from the specific circumstances and nature of the matters being dealt with; the advisability of maintaining the possibility of the full Commission discussing a particular dossier irrespective of the procedure; the importance of the quality of documents, including their translation;
- the role and powers of the Secretariat-General as regards internal coordination;
- the role of Directors-General in defining and implementing policies;
- the advisability of mentioning the efforts made by the Commission towards equal opportunities;
- the advisability of adding a reference to the effect that Commission initiatives must take into account compliance with fundamental rights.

After its discussions, the Commission agreed to make the following amendments to SEC(2004)1617/2:

- the last two sentences of item 22 to read: "*Working conditions for Cabinets should as much as possible coincide with those of the services, **including the promotion of gender equality**. The Secretariat-General will offer **IT support and a helpdesk** to Cabinets.*";
- the third sentence of item 27 to read: "*The regular meetings of Directors-General and the work of the Interservice Coordination Group must be used **under the guidance and control of the College** to provide **direction** in policy development, ...*";
- the end of the first sentence of item 29 to read: " **and their respect for fundamental rights as set out in the Charter of Fundamental Rights.**";

- the first sentence of item 29(d) to read: "*The Secretariat-General, in liaison with the lead department and the Commission Legal Service, will screen proposals to ensure that the principles of subsidiarity, proportionality, good legislative practice **as well as linguistic requirements** are respected ...*".

The Commission also took note of the clarifications made by the PRESIDENT to the effect that voting by secret ballot, as maintained in the document, would be used only in exceptional circumstances to be assessed on a case-by-case basis, particularly in the event of votes concerning persons.

Subject to these amendments and clarifications, the Commission approved the communication as set out in SEC(2004)1617/2 and /3.

11. COMMISSION COMMUNICATION TO PARLIAMENT AND THE COUNCIL TOWARDS A EUROPEAN GOVERNANCE STRATEGY FOR FISCAL STATISTICS

(COM(2004)832 to /4; SEC(2004)1637)

12. COMMISSION RECOMMENDATION FOR A COUNCIL DECISION UNDER ARTICLE 104(8) OF THE EC TREATY CONCERNING GREECE
(SEC(2004)1622 to /3; SEC(2004)1637)

13. COMMISSION RECOMMENDATION FOR A COUNCIL DECISION UNDER ARTICLE 104(8) OF THE EC TREATY CONCERNING HUNGARY
(SEC(2004)1621 to /4; SEC(2004)1637)

**14. COMMISSION COMMUNICATION TO THE COUNCIL ON ACTION
TAKEN BY THE CZECH REPUBLIC, CYPRUS, MALTA, POLAND AND
SLOVAKIA IN RESPONSE TO THE COUNCIL RECOMMENDATIONS
UNDER THE EXCESSIVE DEFICIT PROCEDURE (ARTICLE 104(7))
(SEC(2004)1630 and /2; SEC(2004)1637)**

Mr ALMUNIA presented these four communications as a package. Having reminded the meeting of the background to this case, he outlined the strategy he proposed for improving governance of the European budgetary statistics system (cf. COM(2004)832/3 and /4). Three approaches were identified to support this strategy, concerning respectively the development of the legislative instrument, the operational capacity of Eurostat and of the Economic and Financial Affairs DG and, without departing from full compliance with the subsidiarity principle, the updating of European standards for the independence and responsibility of the national statistics institutes. Corresponding legislative proposals would be tabled in the coming months.

Mr ALMUNIA then presented the three dossiers on the deficit procedures concerning Greece, Hungary, the Czech Republic, Cyprus, Malta, Poland and Slovakia. He reviewed the measures that the authorities of these seven Member States had taken in response to the recommendations of the Council (Economic and Financial Affairs) in July 2004 urging them to bring their respective excessive deficit situations to an end. Since, in his view, neither Greece nor Hungary had taken adequate measures to bring their deficits below the 3% threshold, Mr ALMUNIA proposed that the Commission recommend that the Council take decisions noting that these Member States had not taken effective measures in response to its recommendations. As regards the other five Member States, the assessment carried out showed that they were in line with the Council recommendations and had taken the necessary measures to get control of the

slippage in their deficits. No additional recommendation was therefore required at this stage.

As an aside to his presentation of these documents, Mr ALMUNIA reported on the state of play in the Council on the reform of the Stability and Growth Pact. Given the situation of most of the Member States in relation to the excessive deficit procedure, it was clear that reform of the pact was needed. Although the discussions in the Council confirmed broad agreement by the Member States as to the principles laid down by the Commission in its September communication (COM(2004)581 final), differences of view remained as to the practical implications of the reform. After reviewing the various issues at the centre of the discussions, Mr ALMUNIA said he was convinced that the improvements suggested by the Commission would enable the economic basis of the pact and its implementation to be strengthened. It was important for EMU to have at its disposal a system based on positive rules of law. Finally, on the Luxembourg Presidency's aim of completing this exercise for the March 2005 European Council, Mr ALMUNIA intended to table in good time suitable proposals to reconcile the various points of view.

The Commission took note of this information. It held a brief exchange of views on the reform of the Stability and Growth Pact, after which the PRESIDENT confirmed the Commission's support for Mr ALMUNIA's approaches in this matter, where the role of the Commission was crucial.

After its discussions, the Commission:

- approved the communication on the European governance strategy for budgetary statistics, as set out in COM(2004)832/3, for transmission to Parliament and the Council;

- approved the recommendation for a Council Decision concerning Greece, as set out in SEC(2004)1622/3, for transmission to the Council;
- approved the recommendation for a Council Decision concerning Hungary, as set out in SEC(2004)1621/4, for transmission to the Council;
- approved the communication on the action taken by the Czech Republic, Cyprus, Malta, Poland and Slovakia in response to the Council recommendations under the excessive deficit procedure, as set out in SEC(2004)1630/2, for transmission to the Council;
- took note of the information note from Mr ALMUNIA concerning recent developments in the reform of the Stability and Growth Pact (SEC(2004)562).

15. RELATIONS WITH NON-MEMBER COUNTRIES

15.1. VISIT BY Mr REHN TO SARAJEVO

(19-20 December)

(SEC(2004)1708)

Mr REHN reported on his recent visit to Sarajevo and on the political situation in Bosnia-Herzegovina as well as on the various developments arising from the sanctions taken by the United States and the High Representative of the international community/representative of the European Union for failure to cooperate with the International Criminal Tribunal for the former Yugoslavia (ICTY) at The Hague. It was important to maintain the political stability in Bosnia-Herzegovina and to coordinate efforts to this end, so that it could bring to a successful conclusion the

reform process that was crucial to the opening of negotiations on the stabilisation and association agreement.

The Commission took note of this information. It held a brief exchange of views on the challenges for the security of the European continent of the stability of the Western Balkans and the need for close cooperation by the players concerned with the ICTY. It referred in this connection to the conclusions of the European Council on the progress made by Croatia in preparation for the opening of accession negotiations.

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

15.2 VISIT BY Mr MICHEL TO THE GREAT LAKES REGION
(16-20 December)
(SEC(2004)1709)

Mr MICHEL reported on his generally satisfactory visit to the Great Lakes Region. He reported on his various contacts with government authorities at the highest level in the Democratic Republic of Congo, Rwanda, Burundi and Uganda, and gave his assessment of the prospects for development in those countries.

The Commission took note of this information and the information note supplied by Mr MICHEL.

16. OTHER BUSINESS

***ORDER BY THE PRESIDENT OF THE COURT OF FIRST INSTANCE IN
CASE T-201/04 R MICROSOFT v COMMISSION***

Ms KROES reported on the order handed down that Wednesday morning by the President of the Court of First Instance in *Microsoft v Commission*. Without pre-empting the judgment to be delivered later on the substance, the order of the President of the Court rejected Microsoft's request for suspension and enabled the immediate entry into force of the corrective measures imposed by the Commission in its decision of 24 March. Implementation of the March decision would not only benefit consumers of the computer products in question, but would also help stimulate innovation. Ms KROES thanked Mr PETITE and the Legal Service for the quality of their work in this case.

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The meeting closed at 1210 hours.