



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2005)1695 final

Brussels, 6 April 2005

MINUTES
of the 1695th meeting of the Commission
held in Brussels
(Berlaymont)
on Tuesday 22 March 2005
(morning)

These minutes were approved by the Commission at its 1696th meeting, held in Brussels on 6 April 2005.

They contain 21 pages.

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Single sitting: Tuesday 22 March (morning)

The sitting opened at 0930 hours with Mr BARROSO, President, in the chair for items 1 to 8 and Mr VERHEUGEN, Vice-President, in the chair for items 9 and 10.

Present:

Mr BARROSO	President	Items 1 to 8
Mr VERHEUGEN	Vice-President	
Mr KALLAS	Vice-President	
Mr FRATTINI	Vice-President	Items 1 to 9
Ms REDING		Items 1 to 9
Mr DIMAS		
Mr ALMUNIA		
Ms HÜBNER		
Mr BORG		
Ms GRYBAUSKAITĖ		
Mr POTOČNIK		
Mr FIGEL		
Mr KYPRIANOU		
Mr REHN		
Mr MICHEL		Items 1 to 9
Mr KOVÁCS		
Ms KROES		
Ms FISCHER BOEL		
Mr McCREEVY		
Mr ŠPIDLA		Items 1 to 8
Mr MANDELSON		
Mr PIEBALGS		

Absent:

Ms WALLSTRÖM	Vice-President
Mr BARROT	Vice-President
Ms FERRERO-WALDNER	

The following sat in to represent absent Members of the Commission

Ms CARPARELLI	Deputy Chef de cabinet to Ms Wallström
Mr LE BRET	Chef de cabinet to Mr Barrot
Mr CHILD	Chef de cabinet to Ms Ferrero-Waldner

The following also sat in

Mr PETITE	Director-General, Legal Service	
Ms LE BAIL	Commission Spokeswoman	
Mr KREUZHUBER	Spokesman	Item 8
Ms HELFFERICH	Spokeswoman	Item 7
Ms MARTINHO	Adviser in the President's Office	Item 8
Mr ELLIS	A member of the President's staff	Item 7
Ms MARTINEZ ALBEROLA	A member of the President's staff	Items 5 and 7
Mr TEMPEL	Chef de cabinet to Mr Verheugen	Item 9
Mr STROHMEIER	Chef de cabinet to Ms Reding	Item 10
Ms KONTOU	Chef de cabinet to Mr Dimas	Item 7
Mr SCHINAS	Chef de cabinet to Mr Kyprianou	Item 7
Ms BURY	Deputy Chef de cabinet to Mr McCreevy	Item 8
Mr FRASER	Chef de cabinet to Mr MANDELSON	Items 9 to 10
Mr CARVOUNIS	Press and Communication DG	
Mr TAVARES	Group of Policy Advisers (GOPA)	Items 5 and 7

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

1. AGENDAS

(OJ(2005)1695/3; SEC(2005)377/2)

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(2005)1695)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Friday 18 March.

3. MINUTES OF 1694th MEETING (16 March)

(PV(2005)1694 and /2)

The Commission approved the minutes of its 1694th meeting.

4. WRITTEN PROCEDURES AND EMPOWERMENT

4.1. WRITTEN PROCEDURES APPROVED

(SEC(2005)378 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 14 and 18 March.

4.2. SENSITIVE WRITTEN PROCEDURES

(SEC(2005)379 and /2)

The Commission took note of written procedures initiated between 14 and 18 March for the adoption of decisions with political implications.

4.3. EMPOWERMENT

(SEC(2005)380 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 14 and 18 March.

4.4. GENERAL EMPOWERMENT FOR THE IMPLEMENTATION OF COUNCIL REGULATION (EC) No 953/2003 TO AVOID TRADE DIVERSION INTO THE EUROPEAN UNION OF CERTAIN KEY MEDICINES

(SEC(2005)399)

The Commission decided:

- to empower the Commission Member responsible for trade policy as set out in SEC(2005)399;
- to repeal the existing empowerment, as provided for in SEC(2003)1995 and /2, adopted by the Commission on 5 November 2003 (PV(2003)1633 final).

4.5. DELEGATION AND SUBDELEGATION OF POWERS

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation procedure between 14 and 18 March, as archived on the "Greffé 2000" (Registry) website.

5. ADMINISTRATIVE AND BUDGETARY MATTERS

(SEC(2005)381/3)

ADMINISTRATIVE MATTERS

(PERS(2005)41/3)

5.1. *DG SANCO - APPLICATION OF ARTICLE 50 OF THE STAFF REGULATIONS IN RESPECT OF AN A*15 OFFICIAL (SECOND STAGE)*

(PERS(2005)40)

The Commission continued its discussions on this matter, begun on 9 February (PV(2005)1689).

The Commission, on a proposal from Mr KALLAS, in agreement with the PRESIDENT and Mr KYPRIANOU, adopted the decision in PERS(2005)40 to apply the second stage of the procedure laid down in Article 50 of the Staff Regulations in respect of Mr Fernand SAUER, an A*15 official, currently Director, Directorate C (Public health and risk assessment) in the Health and Consumer Protection DG.

This decision would take effect on 1 January 2006.

5.2. *DG/ADMIN – PROGRAMMING OF RECRUITMENT PROCEDURES UNDER WAY RELATING TO SENIOR OFFICIALS (EU-10)*

On a proposal from Mr KALLAS, in agreement with the PRESIDENT, the Commission adopted measures concerning the timetable for the recruitment of senior officials from the new Member States, as set out in PERS(2005)41/3.

This decision would take effect immediately.

5.3. DG MARKT/H - A*14-A*15 POST OF DIRECTOR (EU-10)
(SEC(2004)212 to /4)

The Commission had before it applications under Article 29(2) of the Staff Regulations for the post of Director, Directorate H (Financial institutions) in the Internal Market and Services DG, reserved for a national of one of the new Member States (PERS(2004)212 and /2).

The Commission took note of the opinions of the Consultative Committee on Appointments of 31 January and 17 February (PERS(2004)212/3 and /4).

The Commission proceeded to compare the candidates' qualifications for the post. On a proposal from Mr KALLAS, in agreement with the PRESIDENT and Mr McCREEVY, it then decided to appoint Mr Elemér TERTAK to the post.

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

5.4. JRC - INITIAL COMMUNICATION UNDER ARTICLE 50 OF THE
STAFF REGULATIONS

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

5.5. DG PRESS – AWARD OF A FELLOWSHIP TO AN A*16 OFFICIAL

On a proposal from Mr KALLAS, in agreement with the PRESIDENT and Ms WALLSTRÖM, the Commission:

- approved the award of a fellowship at Harvard University (USA) to Mr DE OLIVEIRA E SOUSA, an A*16 official, currently Director-General, Press and Communication, for academic year 2005-06, starting on 1 August;

- decided to create a function of Adviser *hors classe* in the Secretariat-General and to transfer Mr DE OLIVEIRA E SOUSA to it in the interest of the service from 1 April.

These decisions would take effect immediately.

The PRESIDENT and Ms WALLSTRÖM paid tribute to Mr DE OLIVEIRA E SOUSA for his many years' remarkable work carried out competently and diligently in the service of the Commission, and thanked him personally for his professional commitment in support of the new Commission.

The whole Commission concurred.

5.6. DG ADMIN - ADMINISTRATIVE STATUS OF AN A*15 OFFICIAL

The Commission referred to its decision of 9 February (PV(2005)1689) to approve the secondment to the Greek Ministry for the National Economy, in the interest of the service for a period of six months and with immediate effect, of Mr Photius NANOPOULOS, an A*15 official, Chief Adviser in the Personnel and Administration DG.

Given the limited duration of this secondment, the Commission decided, in agreement with the PRESIDENT and Mr KALLAS, that it would take the form of a “*Mise à disposition*” within the meaning of the Commission decision of 5 January 1995 (C(1994)3895) on exchanges of officials between the Commission and the Member States.

5.7. DG ADMIN - AMENDMENT OF ORGANISATION CHART

On a proposal from Mr KALLAS, in agreement with the PRESIDENT, the Commission decided that the conversion of all functions in the organisation chart not attracting a management allowance, particularly the functions of

Adviser *hors classe* (A*16/15), Chief Adviser (A*15/14) and Adviser (A*14/9), into functions attracting the management allowance of 4.2%, as well as the transfer of officials and other agents from Adviser functions to management functions, would be subject to agreement by the PRESIDENT, the Commission Member responsible for personnel and administration, and the Commission Member directly concerned.

This decision would take effect immediately.

6. RELATIONS WITH NON-MEMBER COUNTRIES

EU-RUSSIA AGREEMENT ON THE INTRODUCTION OF A HARMONISED PLANT HEALTH CERTIFICATE ***(SEC(2005)402)***

The Commission took note of the information note from Mr KYPRIANOU.

7. COMMUNICATION TO THE COMMISSION FOR AN ORIENTATION DEBATE ON GENETICALLY MODIFIED ORGANISMS **(SEC(2005)369 to /3; SEC(2005)403; SEC(2005)397)**

The PRESIDENT reminded the meeting that the Commission and the EU as a whole had spent a great deal of time and energy on the definition of a regulatory framework for genetically modified organisms. This framework, probably one of the strictest in the world, provided for a high-level scientific assessment and preserved freedom of choice for consumers. It had already been implemented by the previous Commission in 2004. Given the complexity and sensitivity of the dossier, and since the present Commission was about to take its first decisions in

this matter, the PRESIDENT felt Commission Members should discuss this dossier so as to be fully informed as to the regulatory context, its operation and its consequences, and to agree a common approach.

On this basis and following supplementary remarks by Ms FISCHER-BOEL, Mr DIMAS, Mr KYPRIANOU, Mr MANDELSON, Mr VERHEUGEN and Mr POTOČNIK, as the Members concerned in presenting the communication now before the Commission, the Commission held an in-depth discussion. It considered the following aspects in particular:

- the legal obligation on the Commission to exercise its powers of implementation diligently and to take the necessary decisions pursuant to the existing regulatory framework;
- the respective responsibilities of the Commission, the Member States in the regulatory committee, and the Council;
- the possible implications of the dossier for the present political situation in certain Member States, particularly in relation to the process of ratifying the Constitution;
- the dispute currently pending before a WTO panel; the effects (sanctions, etc.) that could arise for the Community and the Member States from any unfavourable decision by the panel;
- the emotional dimension of the public debate on GMOs and the need to pay great attention to the concerns expressed, taking account also of the arguments of other interested parties;
- the importance of ensuring freedom for consumers to choose between products with and without GMOs; the measures (particularly legislative) that could be taken so that their choice would be as free and informed as possible;

- questions relating to the coexistence of GMO crops and traditional and organic crops, and the application of the subsidiarity principle in this area;
- the situation of European researchers active in this subject; the brain drain to the United States;
- the potential represented by biotechnologies, including GMOs, for growth, employment and the competitiveness of the Union;
- the importance of holding a debate on biotechnologies at the appropriate time and of tackling, among other things, certain questions relating to the competitiveness and conditions of the industry;
- the impetus that GMOs could give developing countries, particularly as regards agriculture and combating hunger;
- the communication strategy to be adopted: the importance of explaining clearly the operation of the decision-making framework, the role of the various Community players and the impact of the decisions that would be taken; similarly, the need to improve training and information in this area, so that the debate could be held on the most rational basis possible.

During its debate, the Commission decided to delete the first paragraph and the first two bullet points from item 5 (page 8 of the French version of SEC(2005)396/2).

Subject to this amendment, the Commission approved the approach set out at item 5 of the communication. It agreed to keep in mind the need to incorporate its concerns concerning the decision-making process in any later discussions on the operation of the committee procedure.

Having emphasised the importance of developing a proactive communication strategy, based on paying heed to the observations of the various players, the

PRESIDENT reminded Members that a Commission seminar would be held on the communication on 23 April.

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

CASE POSTPONED

(SEC(2005)395)

– **Case 2004/5083**

Greece

**Incompatibility of Act No 3310/05 implementing Article 14(9) of the
Greek Constitution with the EC Treaty and the public procurement
directives**

Decision: Letter of formal notice + deadline for reply of 15 days +
press release.

Mr McCREEVY reported on the latest contacts with the Greek authorities. The discussions at both political and civil-servant levels had not found a solution to the problem of the incompatibility of the Greek legislation with Community law. Since the legislation in question could cause irreparable damage for the economic operators concerned, the Commission must act with due diligence, particularly if it had to refer the matter to the Court of Justice. Mr McCREEVY therefore proposed to send a letter of formal notice with a deadline for reply of 15 days, together with a press release; this would not detract from his availability to continue contacts with the Greek authorities with a view to remedying the situation.

The Commission took note of this information and held a wide-ranging exchange of views. While sharing the objectives of transparency and combating corruption

pursued by the Greek legislative authority and the Greek Government, it noted that any solutions arrived at must not infringe Community law. The Commission therefore adopted the decision proposed by Mr McCREEVY. Given the sensitivity of this matter in Greek public opinion, the Commission pointed to the need for careful presentation of its decision.

The Commission took note of the information provided by Ms HÜBNER concerning the implications of the decision for payments from the Structural Funds and the need for a coordinated approach by the departments concerned, considering the work currently in progress on the management of the Structural Funds in Greece.

9. INTERINSTITUTIONAL RELATIONS (SEC(2005)384)

The Commission took note of the record of the meeting of the Interinstitutional Relations Group held on 17 March (SEC(2005)384).

It paid particular attention to the following:

9.1. RELATIONS WITH PARLIAMENT

i) *Action taken on Parliament's non-legislative resolutions*

(point 1.7.2 of the record)

The Commission adopted the replies to non-legislative resolutions adopted by Parliament which the Commission had undertaken to follow up (SP(2005)1070), for transmission to Parliament.

9.2. RELATIONS WITH THE COUNCIL

(SI(2005)226)

- ii) ***Proposal for a Council decision approving the accession of the European Community to the International Convention for the Protection of New Varieties of Plants, as revised at Geneva on 19 March 1991***

(point 3.1 of the record; SI(2005)205)

The Commission decided to have the statement set out at Annex C to the record entered in the Council minutes if the Council, once Parliament had given its view, adopted the decision in question.

- iii) ***Proposals for Council Decisions on the conclusion, on behalf of the European Community, of***
- the United Nations Convention against Transnational Organised Crime,***
 - the Protocol against the smuggling of migrants by land, sea and air, supplementing the United Nations Convention against Transnational Organised Crime,***
 - the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organised Crime***

(point 3.2 of the record)

The Commission authorised Mr FRATTINI, with a view to the meeting of the Article 36 committee on 4 April, to adopt the line set out in the note at Annex D to the record.

iv) ***Preparations for European Council (Brussels, 22 and 23 March)***

Reform of the Stability and Growth Pact

Mr ALMUNIA outlined the main points of the political agreement reached on Sunday 20 March within the Eurogroup and the enlarged Eurogroup on the reform of the stability and growth pact. This was expected to be endorsed by the European Council on 22 and 23 March. The agreement was in line with the guidelines developed by the Commission in its September 2004 communication and with the positions it had defended. The agreement was acceptable since it preserved the essential rules and fundamental objectives of the Treaty and the pact as well as the Commission's powers and its right of initiative. The preventive aspect of the pact was significantly strengthened in exchange for a greater degree of flexibility in its corrective aspect. An important role was conferred on the Commission in the shape of the overall qualitative assessment that it would be required to carry out in the event of an excessive deficit exceeding 3%. After clarifying the agreed solution as regards taking the impact of the reform of pension systems into account in assessing budgetary situations, Mr ALMUNIA concluded by outlining the proposals that the Commission would need to present once the European Council had confirmed the agreement reached within the Eurogroup.

The Commission took note of this information and welcomed the outcome of the negotiations. It held a brief exchange of views, covering among other things:

- the weight of the arguments in favour of a greater degree of flexibility for certain components of the pact compared with the arguments for sticking to a more rigid application of its provisions, as laid down thitherto;

- the methodology that the Commission could apply to take into account factors relating to a temporary excessive deficit situation;
- the increased responsibilities conferred on the Commission and the need for the Commission to make suitable arrangements for these to be discharged correctly.

v) ***Trade issues in the textiles sector - political situation of dossier***

Mr MANDELSON reported on the Council meeting (General affairs and external relations) on 16 March concerning several questions relating to external trade in textiles. The problems arose primarily from a significant growth in Chinese textile exports to the European Union following the expiry of the multifibre agreement. After emphasising the close attention he had been paying to this matter and his wish to meet the concerns expressed, Mr MANDELSON referred to the difficulty at this stage of reaching agreement in the Council on the changes to be made to the generalised preferences system, as proposed by the Commission. He commented on the implications of the apparent growth in these exports for the European industry and the developing countries, particularly Mediterranean countries, and referred to the communication that he would be tabling at the Commission meeting on 6 April. The Commission would also shortly be discussing a proposal to grant a short-term exemption to the GSP rules of origin so as to assist the countries affected by the tsunami.

The Commission took note of the information supplied by Mr MANDELSON and supported his desire to find solutions enabling agreement to be reached in the Council, without prejudging their content.

10. OTHER MATTERS

10.1. ASSESSMENT OF FIGURES BY EUROSTAT IN THE CONTEXT OF THE MARCH 2005 EDP NOTIFICATION (SEC(2005)409)

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

10.2. NEGOTIATIONS WITH THE UNITED STATES ON AIRBUS/BOEING

Mr MANDELSON reported on the latest developments in the negotiations with the United States concerning public aid for Airbus and Boeing. After reminding the meeting of the main points of the arrangement concluded on 11 January and the agreed principle of a negotiation in two stages, he outlined the thrust of the discussions he had had since then with his US counterpart. Referring to the announcement made unilaterally and without warning by the US authorities that they were withdrawing from the negotiations, Mr MANDELSON confirmed his availability to return to the negotiating table and his willingness to comply with the provisions of the arrangement of 11 January. He wanted to avoid any risk of this issue contaminating other areas of transatlantic relations.

The Commission took note of this information and held a brief exchange of views, after which Mr MANDELSON undertook to send Commission Members a copy of the letter he had sent in this case to the four Member States most concerned.

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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 1210 hours.