



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

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Brussels, 22 February 2006

MINUTES
of the 1733rd meeting of the Commission
held in Strasbourg
(Winston Churchill Building)
on Tuesday 14 February 2006
(afternoon)

PV(2006)1733 final

CONTENTS

Attendance list	4-5
1. AGENDAS (OJ(2006)1733/3; SEC(2006)174/2).....	6
2. WEEKLY MEETING OF CHEFS DE CABINET (SEC(2006)1733)	6
3. MINUTES OF 1732ND MEETING (8 FEBRUARY) (PV(2006)1732).....	6
4. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS.....	6
4.1. WRITTEN PROCEDURES APPROVED (SEC(2006)175 et seq.)	6
4.2. SENSITIVE WRITTEN PROCEDURES (SEC(2006)176 and /2).....	6
4.3. EMPOWERMENT (SEC(2006)177 et seq.).....	7
4.4. AMENDMENTS TO THE EMPOWERMENT TO ADOPT DECISIONS ON CONDITIONAL IMMUNITY FROM FINES OR REDUCTION OF FINES IN CARTEL CASES AND TO INFORM COMPANIES OF THESE DECISIONS (SEC(2006)187 and /2).....	7
4.5. GENERAL DELEGATION OF POWER WITH A VIEW TO THE ADOPTION OF DECISIONS NOT TO OBJECT TO AID MEASURES THAT WILL BE REGARDED AS EXISTING AID FROM THE DATE OF ACCESSION UNDER THE PROCEDURE PROVIDED FOR IN ANNEX V, CHAPTER 2, PARAGRAPH 1(C) (UNDER ARTICLE 18) OF THE TREATY OF ACCESSION OF BULGARIA AND ROMANIA TO THE EUROPEAN UNION (SEC(2006)190).....	7
4.6. DELEGATION AND SUBDELEGATION OF POWERS	7
4.7. DELEGATION OF POWERS IN THE FIELD OF THE EURATOM TREATY (SEC(2006)191 and /2).....	8
5. INTERINSTITUTIONAL RELATIONS (SEC(2006)192).....	8
5.1. LEGISLATIVE MATTERS	8
5.2. RELATIONS WITH THE COUNCIL (SI(2006)101).....	12
5.3. RELATIONS WITH PARLIAMENT	13

6.	ADMINISTRATIVE AND BUDGETARY MATTERS (SEC(2006)178/2)	14
6.1.	<i>OLAF – A*15/16 POST OF DIRECTOR-GENERAL</i>	14
6.2.	<i>DG BUDG - APPLICATION OF THE ARTICLE 50 PROCEDURE (SECOND STAGE) WITH RESPECT TO AN A*15 OFFICIAL (PERS(2006)19)</i>	15
7.	OTHER BUSINESS	15
7.1.	<i>AVIAN INFLUENZA – CURRENT SITUATION AND PROSPECTS</i>	15
7.2.	<i>MEETING OF G8 FINANCE MINISTERS (MOSCOW, 10 AND 11 FEBRUARY) (SEC(2006)222)</i>	16

Single sitting: Tuesday 14 February (afternoon)

The sitting opened at 1312 hours with Mr Barroso, President, in the chair. Items 6 and 7 were chaired by Mr VERHEUGEN.

Present:

Mr BARROSO	President	Items 1 to 5
Mr VERHEUGEN	Vice-President	
Mr BARROT	Vice-President	
Mr KALLAS	Vice-President	Items 1 to 7 (in part)
Mr FRATTINI	Vice-President	
Ms REDING		
Mr DIMAS		
Ms HÜBNER		
Mr BORG		
Ms GRYBAUSKAITĖ		
Mr POTOČNIK		
Mr FIGEL'		
Mr KYPRIANOU		
Mr MICHEL		Items 1 to 5 (in part)
Mr KOVÁCS		
Ms KROES		
Ms FISCHER BOEL		
Ms FERRERO-WALDNER		
Mr McCREEVY		Items 1 to 5
Mr ŠPIDLA		
Mr PIEBALGS		Items 5 to 7

Absent:

Ms WALLSTRÖM Vice-President

Mr ALMUNIA

Mr REHN

Mr MANDELSON

The following sat in to represent absent Members of the Commission

Mr ÅSTRÖM A member of Ms Wallström's staff

Mr BEKX Deputy Chef de cabinet to Mr Almunia

Ms ÅSENIUS A member of Mr Rehn's staff

Ms NIKOLAY A member of Mr Mandelson's staff

The following also sat in

Mr VALE DE ALMEIDA Chef de cabinet to the President Items 1 to 5

Ms DURAND Deputy Director-General, Legal Service

Mr WORINGER DG Press and Communication Items 1 to 5

Mr LAITENBERGER Commission Spokesman Items 1 to 5

Mr MOAVERO-MILANESI Director-General, Bureau of European Policy Advisers (BEPA)

Mr THEBAULT Chief Adviser in the President's Office Items 1 to 5

Mr JENSEN Chief Adviser in the President's Office Items 1 to 5

Mr ELLIS A member of the President's staff Item 5

Mr POWER Chef de cabinet to Mr McCreevy Items 1 to 5

Mr KERSTENS A member of Mr McCreevy's staff Items 1 to 5

Mr ROMERO REQUENA Director-General, Budget Items 1 to 5 (in part)

Secretary: Ms DAY, Secretary-General, assisted by Mr AYET PUIGARNAU, Director in the Secretariat-General.

1. AGENDAS

(OJ(2006)1733/3; SEC(2006)174/2)

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(2006)1733)

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

3. MINUTES OF 1732nd MEETING (8 February)

(PV(2006)1732)

The Commission approved the minutes of its 1732nd meeting.

4. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

4.1. WRITTEN PROCEDURES APPROVED

(SEC(2006)175 et seq.)

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

4.2. SENSITIVE WRITTEN PROCEDURES

(SEC(2006)176 and /2)

The Commission took note of written procedures initiated between 6 and 10 February for the adoption of decisions with political implications, as set out in SEC(2006)176/2.

4.3. EMPOWERMENT
(SEC(2006)177 et seq.)

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

**4.4. AMENDMENTS TO THE EMPOWERMENT TO ADOPT DECISIONS
ON CONDITIONAL IMMUNITY FROM FINES OR REDUCTION OF
FINES IN CARTEL CASES AND TO INFORM COMPANIES OF THESE
DECISIONS**
(SEC(2006)187 and /2)

The Commission granted the empowerment to the Commission Member responsible for competition as set out in SEC(2006)168/2.

**4.5. GENERAL DELEGATION OF POWER WITH A VIEW TO THE
ADOPTION OF DECISIONS NOT TO OBJECT TO AID MEASURES
THAT WILL BE REGARDED AS EXISTING AID FROM THE DATE OF
ACCESSION UNDER THE PROCEDURE PROVIDED FOR IN
ANNEX V, CHAPTER 2, PARAGRAPH 1(C) (UNDER ARTICLE 18) OF
THE TREATY OF ACCESSION OF BULGARIA AND ROMANIA TO
THE EUROPEAN UNION**
(SEC(2006)190)

The Commission granted the empowerment as set out in SEC(2006)190 to the Commission Member responsible for competition, the Commission Member responsible for state aid to fisheries and to the Commission Member responsible for state aid to the coal industry, each in his or her area of responsibility.

4.6. 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 February, as archived on the "Greffé 2000" (Registry) website.

**4.7. DELEGATION OF POWERS IN THE FIELD OF THE EURATOM
TREATY
(SEC(2006)191 and /2)**

The Commission granted the empowerment to the Commission Member responsible for energy as set out in documents SEC(2006)191 and /2.

The Commission decided to delegate to the Director-General responsible for energy the power to adopt, on behalf of the Commission and under its responsibility, the reports to be drawn up under Article 5 of the Nuclear Safety Convention and Article 32 of the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, in accordance with the terms of SEC(2006)191 and /2.

**5. INTERINSTITUTIONAL RELATIONS
(SEC(2006)192)**

The Commission took note of the record of the meeting of the Interinstitutional Relations Group held on Friday 10 February (SEC(2006)192).

It paid particular attention to the following points:

5.1. LEGISLATIVE MATTERS

**i) Preparations for February II part-session
(point 1.2 of the record)**

In accordance with the rules in force, the Commission 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:

- GEBHARDT report – Services in the internal market
COM(2004)2 – 2004/0001(COD) – SEC(2006)184

Mr McCREEVY began by emphasising the crucial importance of the vote to be taken in Parliament on Thursday 16 February. It was vital that there should be a broad consensus in Parliament if the Services Directive was to proceed further, which would also be a positive signal for the implementation of this Commission's reform strategy. He was convinced that Parliament could reach a consensus of this kind, which would allow the Directive to move towards adoption. He assured the Members of the Commission that he would not accept any solution that did not provide real added value in terms of growth and employment.

He reminded the Members that at its meeting on 8 March 2005 the Commission had agreed that it would be open to substantial amendments of its initial proposal if they were suggested by Parliament and the Council; he reviewed the amendments that Parliament might approve at the vote this week, which he considered were on the whole positive. In this context he welcomed Mr ŠPIDLA's announcement that he would draw up a memorandum to Member States on the application of the Directive to workers on postings if Parliament voted to delete Articles 24 and 25 of the draft Directive, which made specific provision for such posting. He emphasised the importance of these provisions to the "EU-10" states, and the advantages of the alternative solution announced by Mr ŠPIDLA, especially in terms of time.

He was in favour of keeping services of general economic interest, temporary employment agencies and security services within the scope of the Directive. It would be a mistake to reject all exclusions on grounds of principle. The Commission's own initial proposal excluded services whose provision was regulated by specific Community legislation. If areas felt to be sensitive in particular Member States, such as health, patient mobility or gambling, were to be excluded from the scope of the Directive, the Commission could always consider whether specific legislation should be proposed on a case-by-case basis.

On Article 16 of the draft, dealing with freedom to provide services, the situation in Parliament was fluctuating. He considered that the proposed compromise on this difficult question that was circulating at this stage was a good basis for moving ahead, especially in view of the guarantees it offered to people who wanted to provide services across borders. He was ready to accept the overall approach of the proposed compromise, but he could not agree with its current wording, because there were basic principles that had to be respected. Any restriction that a Member State imposed had to be examined in the light of the principles of necessity, proportionality and non-discrimination.

He concluded by saying that if Parliament did succeed in securing a broad consensus the Commission would then have a basis to draw up an amended proposal, which would probably be submitted to the whole Commission for approval towards the end of April. In that event he considered that a final agreement on the Directive could be arrived at by the end of the year, which would be very good news for growth and employment in Europe.

Mr McCREEVY's review of the situation was followed by an in-depth discussion in which the following questions in particular arose:

- the prospects for a compromise approved by a large majority in Parliament;
- the points that a compromise imperatively had to contain if the Commission was to accept it;
- the importance of approaching the next stage with pragmatism, and the margin of manoeuvre available to the Commission;
- the possibility of pressing for conclusions on the matter at the spring European Council;
- the implications of any Parliamentary compromise for the drafting of an amended proposal;
- the crucial importance for growth and employment of the three institutions arriving at an agreement on the proposal for a Directive on services in the internal market;

- the importance of showing the outside world that the twenty-five-member Union was able to take decisions in difficult and complex matters;
- the treatment of Article 16 of the proposal for a Directive during the proceedings in Parliament;
- the advisability of the Commission's accepting the various aspects of amendment 293 concerning Article 16, and in particular Article 16(3);
- the need to ensure that the text ultimately voted was not a step backwards by comparison with the law as it currently stood;
- the probable treatment of Article 16 in the final negotiations leading to the vote in Parliament;
- the importance of keeping services of general economic interest within the scope of the Directive;
- the probable course of the proposal in the Council;
- the justification and usefulness of the memorandum to Member States that Mr ŠPIDLA intended to draw up if Parliament proposed to delete Articles 24 and 25 from the proposal for a Directive.

Following discussion, the PRESIDENT expressed his support for the approach advocated by Mr McCREEVY; he noted that that support was very generally shared by the Commission. The Commission authorised Mr McCREEVY to pursue his contacts with Parliament in accordance with the line set out in SP(2006)5068/4, with a view in particular to obtaining as broad a consensus as possible in Parliament.

ii) Instruments for financing foreign policy (EXPOL)
(point 1.4 of the record)

The Commission authorised Ms FERRERO-WALDNER, Mr MICHEL and Mr REHN to pursue contacts with Parliament and the Council in accordance with the line set out in SI(2006)107/2.

5.2. RELATIONS WITH THE COUNCIL
(SI(2006)101)

iii) Draft Interinstitutional Agreement on budgetary discipline and improvement of the budgetary procedure
(COM(2006)75; SEC(2006)225)
(point 2.1 of the record)

The PRESIDENT observed that the Commission's main aim should be to maintain the momentum generated at the December European Council and help conclude negotiations between the Community institutions in order to reach a final agreement on the 2007-13 financial perspective in time. To this end, an amended proposal for renewing the interinstitutional agreement had been transmitted to Parliament and the Council following the Commission meeting on 1 February, accompanied by letters from the PRESIDENT to the Presidents of Parliament and the European Council. For the next stage, i.e. the trialogue on Tuesday 21 February, for which preparations would begin in Coreper on Thursday 16 February, the Commission would help drive the process forward by presenting a new working document, distributed as COM(2006)75, which expressed in more formal terms certain points contained in the accompanying letters of 1 February.

The PRESIDENT and Ms GRYBAUSKAITĖ briefly presented this document, a Commission staff paper assessing the impact of the financial framework defined by the European Council in December, distributed as SEC(2006)225 and drafted in response to a specific request by Parliament, and, finally, a technical memo circulated at the meeting setting out an indicative breakdown of expenditure within each heading and subheading, based on the conclusions of the European Council. They stressed that this breakdown was indicative and subject to the outcome of the negotiations in progress. In some areas there was still room for improvement, which the Commission should exploit as far as possible. In conclusion, they warmly thanked all the Members of the Commission and their Offices for the very positive attitude they had adopted in preparing the indicative breakdown of expenditure.

During a brief exchange of views, the Commission looked at certain specific aspects of the dossier, in particular the charging of certain expenditure (on the sugar scheme), the timetable for the next steps to be taken - together with the implications for the presentation of legislative proposals compatible with resources under the financial perspective - and the importance of striving to retain the flexibility instrument.

Following this exchange of views, the Commission approved in principle the working document distributed as COM(2006)75, empowered Ms GRYBAUSKAITĖ, in agreement with the PRESIDENT and Ms WALLSTRÖM, to adopt the final text, and decided to transmit it to Parliament and the Council. The PRESIDENT asked the Members of the Commission to send any observations they had on technical matters as soon as possible to Ms GRYBAUSKAITĖ, so that she could act on these powers.

iv) Peace Facility for Africa
(point 2.3 of the record)

The Commission adopted the line set out in SP(2006)105.

5.3. RELATIONS WITH PARLIAMENT

v) Action taken on Parliament's opinions and resolutions
(point 3.5 of the record)

- Commission communication on the action taken on opinions and resolutions adopted by Parliament at the January part-session

The Commission approved and decided to transmit to Parliament the communication on action taken on Parliament's opinions and resolutions at the January part-session, as set out in SP(2006)584.

- Action taken on the Resolution on the Commission's legislative and work programme for 2006 adopted by Parliament at its December 2005 part-session

The Commission approved and decided to transmit to Parliament SP(2006)461/4 on the action taken on the resolution on the Commission's

legislative and work programme for 2006 adopted by Parliament at its December 2005 part-session.

6. ADMINISTRATIVE AND BUDGETARY MATTERS
(SEC(2006)178/2)

ADMINISTRATIVE MATTERS
(PERS(2006)20/2)

6.1. OLAF – A*15/16 POST OF DIRECTOR-GENERAL
(PERS(2004)244 to /10)

The Commission had before it applications under Articles 29(1)(a)(i) and (iii), (1)(b) and 29(2) of the Staff Regulations for the post of Director-General, European Anti-Fraud Office (OLAF) (PERS(2004) 244, /2, /3, /5, /6, /7 and /10).

The Commission took note of the procedure followed in this matter, as presented during the meeting by Mr KALLAS and set out under item 1 of PERS(2006)20/2, and in particular of the opinions given by the Consultative Committee on Appointments on 6 and 19 July 2005 (PERS(2004)244/4 and /8), the opinion of the OLAF Supervisory Committee given on 28 July 2005 (PERS(2004)244/9) and the consultations with Parliament and the Council.

After comparing the applicants' qualifications for the post, the Commission, on a proposal from Mr KALLAS, in agreement with the PRESIDENT, decided to confirm Mr Franz-Hermann BRÜNER in the vacant post.

This decision would take effect immediately.

**6.2. *DG BUDG - APPLICATION OF THE ARTICLE 50 PROCEDURE
(SECOND STAGE) WITH RESPECT TO AN A*15 OFFICIAL
(PERS(2006)19)***

The Commission continued its discussions on this matter, begun on 21 December 2005 (PV(2005)1727).

On a proposal from Mr KALLAS, in agreement with the PRESIDENT and Mr MICHEL, the Commission adopted the decision in PERS(2005)19 to apply the second stage of the procedure laid down in Article 50 of the Staff Regulations with respect to Ms Maria Lidia BARREIROS, an A*15 official, currently Director, Directorate A (General matters and operational support) in DG Development.

This decision would take effect on 1 June.

7. OTHER BUSINESS

7.1. *AVIAN INFLUENZA – CURRENT SITUATION AND PROSPECTS*

Mr KYPRIANOU reported on the cases of avian influenza recently detected in migratory wild birds (swans and geese) in Greece, Italy and Bulgaria. The results of the analyses on the suspected cases in Slovenia were still awaited.

MR KYPRIANOU recalled that warnings on the risk of propagation of the disease within the European Union had been issued as far back as October. At this stage, no cases had been detected north and west of the Alps, but there was no reason to rule out such a development. In all the cases detected, appropriate protection measures had been taken in close cooperation with the competent national authorities. These measures were aimed at the affected areas and hence limited in geographical scope, but would soon be backed up by general preventive measures that would enable Member States to prepare the emergency operations to be launched as soon as they detected a case of avian influenza, whether in wild or farmed birds.

On the question of public health, Mr KYPRIANOU reminded the meeting that no case of transmission to humans had been detected in Europe to date. However, the risk of transmission did exist. Referring to an article published in that day's press on Community coordination in combating avian influenza, he said that the information it contained was both inexact and irrelevant and displayed a particularly poor understanding of the Community's powers in that field.

Mr KYPRIANOU also mentioned the cases of avian influenza recently detected in Nigeria, which represented a major risk, particularly because of the almost total lack of proper infrastructure to combat the disease both in Nigeria and in Africa as a whole.

Following up Mr KYPRIANOU's statements, Ms FISCHER BOEL drew attention to the specific problems currently being encountered by poultry breeders, as demand for their produce was largely determined by consumer behaviour, which was in turn strongly influenced by the spread of avian influenza. She outlined a number of measures that could be taken to enable stockbreeders to cope with the crisis effectively.

The Commission took note of this information.

**7.2. MEETING OF G8 FINANCE MINISTERS (MOSCOW, 10 AND
11 FEBRUARY)
(SEC(2006)222)**

The Commission took note of the information note from Mr ALMUNIA in SEC(2006)222.

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The meeting closed at 1523 hours.