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SECRETARIAT-GENERAL

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MINUTES

of the 1736th meeting of the Commission

held in Brussels

(Berlaymont)

Wednesday 8 March 2006

(morning)

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Single sitting: Wednesday 8 March 2006 (morning)

The sitting opened at 09.13 with Mr BARROSO, President, in the chair. Items 11 and 12 were chaired by Ms WALLSTRÖM.

Present:

Mr BARROSO	President	Items 1 to 10
Ms WALLSTRÖM	Vice-President	
Mr VERHEUGEN	Vice-President	
Mr BARROT	Vice-President	
Mr KALLAS	Vice-President	
Mr FRATTINI	Vice-President	Item 10 (in part)
Ms REDING		Items 1 to 10 (in part)
Mr DIMAS		
Mr ALMUNIA		
Ms HÜBNER		
Mr BORG		Items 10 (in part) to 12
Ms GRYBAUSKAITĖ		
Mr POTOČNIK		
Mr FIGEL'		
Mr KYPRIANOU		
Mr MICHEL		Item 10 (in part)
Mr KOVÁCS		
Ms KROES		Items 10 to 12
Ms FERRERO-WALDNER		
Mr McCREEVY		
Mr ŠPIDLA		Items 10 (in part) and 11 (in part)
Mr MANDELSON		
Mr PIEBALGS		Items 1 to 10

Absent:

Mr REHN

Ms FISCHER BOEL

The following sat in to represent absent Members of the Commission

Mr PESONEN	Chef de cabinet to Mr Rehn
Mr CHRISTOFFERSEN	Chef de cabinet to Ms Fischer Boel

The following also sat in

Mr VALE DE ALMEIDA	Chef de cabinet to the President	Items 10 (in part) to 12
Mr PETITE	Director-General, Legal Service	
Mr SØRENSEN	Director-General, DG Press and Communication	
Mr LAITENBERGER	Commission Spokesman	Items 1 to 10
Mr MOAVERO-MILANESI	Director-General, Bureau of European Policy Advisers (BEPA)	Items 1 to 10
Mr ITALIANER	Deputy Chef de cabinet to the President	Items 1 to 10 (in part)
Mr ELLIS	A member of the President's staff	Items 1 to 10
Ms HOFFMANN	Deputy Chef de cabinet to Ms Reding	Items 10 (in part) to 12
Ms DARMANIN	A member of Mr Borg's staff	Items 1 to 10 (in part)
Ms WEYAND	Chef de cabinet to Mr Michel	Items 1 to 10 (in part), 11 and 12
Mr SMULDERS	Deputy Chef de cabinet to Ms Kroes	Items 1 to 9
Ms BOIX ALONSO	A member of Ms Kroes's staff	Item 11
Mr SCHWAIGER	Deputy Chef de cabinet to Ms Ferrero-Waldner	Items 1 to 10
Mr KESTERIS	Chef de cabinet to Mr Piebalgs	Item 10
Mr JONES	Deputy Chef de cabinet to Mr Piebalgs	Item 10
Mr RUETE	Director-General, DG Energy and Transport	Items 1 to 10

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

1. AGENDAS

(OJ(2006) 1736/3; SEC(2006)299/2)

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)1736)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 6 March.

3. APPROVAL OF MINUTES AND SPECIAL MINUTES OF 1735TH MEETING

(1 MARCH)

(PV(2006) 1735; PV(2006)1735, PART II)

The Commission approved the minutes of its 1735th meeting.

4. INTERINSTITUTIONAL RELATIONS

(SEC(2006)293)

The Commission took note of the record of the meeting of the Interinstitutional Relations Group held on Friday 3 March (SEC(2006)293).

It paid particular attention to the following points:

4.1. LEGISLATIVE MATTERS

i) Preparations for March I part-session: legislation

(point 1.2 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 concerned, to take a position on Parliament's amendments to its proposals.

It paid particular attention to the following:

First reading

- GRÖNER/SARTORI report - European Institute for Gender Equality - COM(2005) 81 – 2005/0017 (COD)

The Commission adopted the line set out in SP(2006)884.

- KAUPPI report – Formation and capital of public limited liability companies – COM(2004) 730 – 2004/0256 (COD)

The Commission adopted the line set out in SP(2006)885 and authorised Mr McCREEVY to continue contacts with Parliament and the Council with a view to securing agreement at first reading.

- TRAKATELLIS report (ENV) – Health and THYSSEN (IMCO) report - Consumer Protection – Health and Consumer Protection Programme 2007-13 – COM(2005) 115 – 2005/0042 (COD)

The Commission adopted the line set out in SP(2006)886 and SP(2006)887 and /2.

Simple consultation:

- PAPADIMOULIS report – Rapid response and preparedness instrument for major emergencies – COM(2005) 113 – 2005/0052 (CNS)

The Commission adopted the line set out in SP(2006)888 and /2.

ii) Withdrawal of the proposal for a directive on market access to port services (JARZEMBOWSKI report)

(point 1.3 of the record)

The Commission decided to withdraw the proposal for a directive on market access to port services. It took note of the PRESIDENT's intention, with the agreement of Ms WALLSTRÖM and Mr BARROT, to inform the European Parliament and the Council of this decision in writing and to publish it in the Official Journal. It also approved the "next steps" approach set out in SPI(2006) 23/2.

iii) Preparation of a codecision agreement – second reading: “Guidelines for trans-European energy networks (TEN-E)” (LAPERROUZE report) – COM(2003) 742 – 2003/00297 (COD)

(point 1.4 of the record)

The Commission authorised Mr PIEBALGS to lend his support to the compromise and to continue negotiations with the aim of finding an agreement at second reading along the lines set out in SPI(2006) 24/2.

iv) Withdrawal of pending proposals – Result of the screening of legislative proposals pending before the legislator

(point 1.5 of the record)

The Commission decided to withdraw the 67 proposals still pending which are annexed to SPI(2006 29/2. It took note of the President' intention, with the agreement of Ms WALLSTRÖM and Mr VERHEUGEN to inform the European Parliament and the Council of this decision in writing and to publish it in the Official Journal.

4.2. RELATIONS WITH THE COUNCIL

(SI(2006) 183)

v) Preparation for Council meeting (Environment) on 9 March – Policy debate on next steps on genetically modified organisms (GMOs)

(point 2.3 of the record)

The Commission authorised Mr DIMAS to take part in the Council meeting (Environment) on 9 March in accordance with the line set out in SI(2006) 166/2.

vi) Comprehensive Planning Overview – Democratic Republic of Congo

(point 2.4 of the record)

The Commission approved the fiche in SI(2006) 189/2.

5. MONITORING THE APPLICATION OF COMMUNITY LAW

5.1. STATE AID - RECAPITULATIVE LIST

(SEC(2006)337; SEC(2006)326)

The Commission adopted the decisions in the recapitulative list (SEC(2006)337).

5.2. INFRINGEMENTS - URGENT CASE
(SEC(2006)319)

The Commission adopted the decision in SEC(2006)319.

6. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

6.1. WRITTEN PROCEDURES APPROVED
(SEC(2006)300 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 27 February and 3 March.

6.2. SENSITIVE WRITTEN PROCEDURES
(SEC(2006)301 and /2)

The Commission took note of sensitive written procedures initiated between 27 February and 3 March and of final written procedures initiated on 8 March.

6.3. EMPOWERMENT
(SEC(2006)302 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 27 February and 3 March.

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 27 February and 3 March, as archived on the "Greffé 2000" (Registry) website.

7. ADMINISTRATIVE AND BUDGETARY MATTERS
(SEC(2006)303/2)

ADMINISTRATIVE MATTERS
(PERS(2006)31)

7.1. DG COMP – APPOINTMENT OF A*14 DIRECTOR (EU-10)
(PERS(2005)71 to /5)

The Commission had before it applications under Article 29(2) of the Staff Regulations for the function of Director, Directorate D (Industry, consumer goods and manufacturing) in DG COMP, reserved for a national of one of the new Member States (PERS(2005)71 to /3).

The Commission took note of the opinions of the Consultative Committee on Appointments of 1 and 8 December 2005 (PERS(2005)71/4 and /5).

The Commission proceeded to compare the applicants' qualifications for the post. On a proposal from Mr KALLAS, in agreement with the PRESIDENT and Ms KROES, it then decided to appoint Mr Paul CSISZAR to the vacant post.

This decision would take effect on a date to be determined.

7.2. JRC – PUBLICATION OF AN EXTERNAL VACANCY NOTICE FOR A*15 DEPUTY DIRECTOR-GENERAL (EU-25)
(PERS(2005)32 and /2)

The Commission noted the information in point 2 of PERS(2006) 31 on the procedure followed in this matter. On a proposal from Mr KALLAS, in agreement with the PRESIDENT and Mr POTOČNIK, it authorised the publication, under Article 29(2) of the Staff Regulations, of the vacancy notice in PERS(2006) 32 and /2 for Deputy Director-General, Joint Research Centre.

This decision would take effect immediately.

7.3. DG ADMIN – DRAFT COMMISSION DECISION ON GENERAL PROVISIONS FOR THE IMPLEMENTATION OF ARTICLE 45 OF THE STAFF REGULATIONS
(SEC(2006)324 and /2)

The Commission:

- approved the draft decision on the general provisions for the implementation of Article 45 of the Staff Regulations, as set out in SEC(2006)324/2;
- authorised Mr KALLAS to begin consultations with the trade unions and staff associations on this basis;
- authorised Mr KALLAS to consult the Staff Regulations Committee and the Central Staff Committee;
- empowered Mr KALLAS, in agreement with the PRESIDENT, to make the necessary amendments following this consultation and to definitively adopt the draft decision on behalf of the Commission.

- 8. PROPOSAL FOR A COUNCIL DECISION ON THE SYSTEM OF THE EUROPEAN COMMUNITIES' OWN RESOURCES; COMMISSION WORKING DOCUMENT ON CALCULATION, FINANCING, PAYMENT AND ENTRY IN THE BUDGET OF THE CORRECTION OF BUDGETARY IMBALANCES IN FAVOUR OF THE UNITED KINGDOM ("THE UK CORRECTION") IN ACCORDANCE WITH ARTICLES 4 AND 5 OF COUNCIL DECISION 2006/XXX/EC, EURATOM ON THE SYSTEM OF THE EUROPEAN COMMUNITIES' OWN RESOURCES**
(COM(2006)99 TO /3); SEC(2006)322)

The Commission adopted the proposal for a Council decision and the working document in COM(2006) 99/3 for transmission to Parliament, the Council, the Economic and Social Committee and the Court of Auditors.

9. RELATIONS WITH THIRD COUNTRIES

9.1. VISIT TO UKRAINE (2 AND 3 MARCH)
(SEC(2006)336)

The Commission took note of the information note from Ms FERRERO-WALDNER in SEC(2006)336.

9.2. VISIT TO KALININGRAD (28 FEBRUARY)
(SEC(2006)340)

The Commission took note of the information note from Ms FERRERO-WALDNER in SEC(2006)340.

9.3. AVIAN INFLUENZA – GENERAL SITUATION AND MAIN RESULTS OF THE VISIT TO NIGERIA (2 AND 3 MARCH)
(SEC(2006)338)

The Commission took note of the information note from Mr KYPRIANOU in SEC(2006)338.

**10. GREEN PAPER - A EUROPEAN STRATEGY FOR SUSTAINABLE, COMPETITIVE AND SECURE ENERGY
(COM(2006)105 TO /4); (SEC(2006)317 AND /2; SEC(2006)323)**

The PRESIDENT presented the draft Green Paper he was tabling jointly with Mr PIEBALGS, in agreement with Mr DIMAS and Ms FERRERO-WALDNER. He straight away drew the Members' attention to the main issue: did the will to create a common European energy strategy exist? Many Community policies were affected by energy issues, and he underlined the importance of the role these policies could play in defining the common European strategy that the Commission was proposing. He also mentioned current issues concerning the energy sector and the balanced passages devoted to nuclear energy. Lastly, he thanked all those who had contributed to drawing up this important and necessary document, which responded in particular to the wishes expressed by the Heads of State and Government meeting at Hampton Court last October.

Mr PIEBALGS followed up the PRESIDENT's presentation by highlighting the priority areas identified in the document:

- completion of the European gas and electricity market;
- security of energy supply;
- definition of the energy mix;
- consideration of the effects of climate change;
- technological aspects and innovation;
- the external dimension of energy policy.

The Commission then held an in-depth discussion on this draft Green Paper, during which it looked at the following points, which should serve as a guide for follow-up action after its adoption:

- the case for this Green Paper, and the importance and urgent nature of the debate it would provoke in an area which calls in particular for anticipation, reliability and the definition of a long-term, stable strategy;
- the balance between the main priorities; completion of the internal energy market and the competitiveness of European industry; due regard for the principles and aims of sustainable development; security of energy supply;
- the strategic importance for the European Union of adopting a general and unified response to the energy challenges faced by all European countries, avoiding protectionist reactions which are in evidence in certain acquisitions and mergers presently under way;
- the priority which must be given to achieving an ambitious liberalisation of the energy sector, while taking particular account of experience gained in the liberalisation of other economic sectors, the characteristics of each type of energy and the differing national situations as regards infrastructure;
- the universally acknowledged importance of energy issues in international relations;
- the diversity of situations (producer countries, countries of transit, consumer countries) which must be borne in mind as regards energy, particularly in Russia, the countries covered by the neighbourhood policy, non-member countries (such as Norway or Switzerland), the Union's other main partners (such as the United States, China, Japan, Canada, Brazil and India) and the countries of Central Asia and Africa;
- the importance of capitalising on the cooperation between the Union and some of its neighbours, in particular Russia and the countries covered by the neighbourhood policy;

- the need to ensure the competitiveness of European industry and to include it in the definition and implementation of European energy policy;
- the importance of having European-scale businesses;
- consideration of the effects on the European energy sector of the reduction in the use of concessions in developing countries;
- the repercussions at Community level of choices made at national level, in particular as regards the composition of the energy mix;
- the benefits of conducting a thorough cost-benefit analysis of the energy mix decided at national level;
- the close link between energy policy and other Community policies, e.g. competition, transport, the internal market, the environment, research and innovation;
- whether or not to envisage quantifiable objectives and the exact form such objectives might take;
- having regard for the interests of final energy consumers;
- the role of energy – as one of the issues that directly affect the public - in the Commission's communication policy;
- the need to encourage a free debate on all issues which arise, including the use of nuclear energy.

At the end of its discussion the Commission agreed to make the following changes to the draft Green Paper in COM(2006) 105/4 (without ruling out the possibility of other minor drafting changes):

- to add a reference to the difficulties for consumers caused by the rise in energy prices (point 1, fifth bullet);

- to add a sentence at the beginning of point 2.1 emphasising the importance of opening up markets and renouncing protectionism in order to strengthen the European project;
- to add a reference to the importance of relations with Switzerland (at the end of point 2.1(ii));
- to replace “the Structural Funds” by “cohesion policy” in point 2.4(i), last line of the third indent;
- to add a penultimate paragraph to item 2.6(ii)(b) regarding the line to be followed vis-à-vis Norway.

Subject to these amendments, the Commission approved the Green Paper in COM(2006)105/4 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, together with an analysis of the energy issues in the staff paper SEC(2006)317/2, the contents of which were noted.

**11. COMMISSION DECISION ON A PROCEEDING UNDER ARTICLE 21 OF COUNCIL REGULATION (EC) No 139/2004 ON MERGERS (CASE COMP/M.4125 – UNICREDITO/HVB(II))
(C(2006)716 TO /4; SEC(2006)321)**

Ms KROES briefly introduced the background to the case. In particular, she explained why she had come to the preliminary conclusion that the Polish authorities had infringed Article 21 of the Merger Regulation by preventing or seriously compromising a merger operation with a Community dimension which had previously been authorised by the Commission. The letter sent to the Polish Government was only the first step in the proceeding. The Polish authorities were invited to submit their observations on the points raised by the Commission before a final decision was taken.

Mr McCREEVY summarised the infringement procedure which he was suggesting the Commission should launch simultaneously by sending the Polish authorities a letter of formal notice based on Articles 43 and 56 of the EC Treaty (see item 5.2 of these minutes). He stressed that compliance with these provisions on freedom of establishment and the free movement of capital was essential for the proper functioning of the internal market and that, consequently, their application could in no circumstances be unilaterally hampered by one Member State.

The Commission held a brief exchange of views, covering the following questions:

- the undoubted need to apply Community law equally and consistently in cases of this type which the Commission was or would be called on to investigate, no matter who was involved;
- the benefits of trying to find, wherever possible, an out-of-court solution to the matter in question;

In answer to comments made, Ms KROES and Mr McCREEVY assured Members that Community law was applied equally and consistently in their respective areas of responsibility.

At the end of the discussion, the Commission decided to send the Polish Government the letter in C(2006)716/4 in the authentic language (Polish).

12. COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT ON IMPROVING THE ECONOMIC SITUATION IN THE FISHING INDUSTRY (COM(2006)103 TO /4); SEC(2006)320)

Mr BORG summarised the communication which aimed to improve the economic situation in the fishing industry and should be approved by the Commission by "finalisation" written procedure on Thursday 9 March (E/432/2006). The communication had been prepared with the help of many departments and he

welcomed the result as balanced and reflecting a consensus. He thanked in particular Ms KROES and Mr MANDELSON for their departments' cooperation, and the Legal Service.

He described the structural difficulties in the fisheries sector and cyclical difficulties connected to the rise in the price of oil. The proposals in the communication would not in any circumstances lead to an increase in the fishing fleet's capacity but would, on the contrary, help to combat overcapacity.

Short-term action would consist largely of applying the Community guidelines on the rescue and restructuring of firms in difficulty to the fisheries sector. This communication thus provided a framework in which Member States could put forward their own rescue and restructuring programmes and benefit in certain circumstance from Community fisheries funds.

There would also be adjustment measures to tackle the deeper causes of the crisis and ensure the long-term profitability and prosperity of the industry.

Lastly, the communication ruled out Member States subsidising oil and gas prices, which would lead to distortions of competition, preferring instead general remedial measures for the whole of the European fisheries sector.

Mr BORG finished by pointing out that a strict decision had been taken the previous week regarding the implementation of control measures in the fisheries sector. The communication therefore showed that the Commission was not indifferent to the difficulties experienced by this sector.

The Commission took note of this information.

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The meeting closed at 12.05