



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2006) 1743 final

Brussels, 10 May 2006

MINUTES

of the 1743rd meeting of the Commission

held in Brussels

(Berlaymont)

on Wednesday 3 May 2006

(morning)

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PV(2006) 1743 final

CONTENTS

Attendance list	5-7
1. AGENDAS (OJ(2006)1743/3; SEC(2006)533/2).....	8
2. WEEKLY MEETING OF CHEFS DE CABINET (SEC(2006)1743)	8
3. APPROVAL OF MINUTES AND SPECIAL MINUTES OF 1742ND MEETING (26 APRIL) (PV(2006)1742 TO /3; PV(2006)1742, PART II)	8
4. MONITORING THE APPLICATION OF COMMUNITY LAW	8
4.1. INFRINGEMENTS - URGENT CASES (SEC(2006)556; SEC(2006)544).....	8
4.2. INFRINGEMENTS - CASES POSTPONED BECAUSE OF UNAVAILABILITY OF DOCUMENTS - REGULARISATION (SEC(2006)555)	8
5. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS	9
5.1. WRITTEN PROCEDURES APPROVED (SEC(2006)534 et seq.)	9
5.2. SENSITIVE WRITTEN PROCEDURES (SEC(2006)535)	9
5.3. EMPOWERMENT (SEC(2006)536 et seq.).....	9
5.4. EMPOWERMENT IN THE FIELD OF THE EUROPEAN UNION SOLIDARITY FUND (SEC(2006)550)	9
5.5. DELEGATION AND SUBDELEGATION OF POWERS	10
6. ADMINISTRATIVE AND BUDGETARY MATTERS (SEC(2006)537)	10
6.1. JRC – EXTERNAL PUBLICATION OF VACANCY NOTICE FOR AD14 (EU-10) DIRECTOR (PERS(2006)55)	10
6.2. DG MARKT – INTERNAL PUBLICATION OF A VACANCY NOTICE FOR AD15/16 DIRECTOR-GENERAL (PERS(2006)56)	10
7. GREEN PAPER - A EUROPEAN TRANSPARENCY INITIATIVE (COM(2006)194 TO /4; SEC(2006)551)	11

8. COMMISSION REPORT TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS ON THE IMPLEMENTATION OF THE FIRST RAILWAY PACKAGE (COM(2006)189 TO /4; SEC(2006)530 TO /3; SEC(2006)552)	11
9. COMMUNICATION TO THE COMMISSION – HUMAN RESOURCE MANAGEMENT/ SIMPLIFYING PROCEDURES FOR STAFF (SEC(2006)529 TO /3; SEC(2006)553)	12
10. COMMISSION DECISION UNDER ARTICLE 81 OF THE EC TREATY AND ARTICLE 53 OF THE EEA AGREEMENT (CASE COMP/F/38.620 – HYDROGEN PEROXIDE AND PERBORATE) (C(2006)1766 TO /8; SEC(2006)573)	12
11. INTERINSTITUTIONAL RELATIONS	13
11.1. LEGISLATIVE MATTERS	13
11.2. RELATIONS WITH THE COUNCIL (SI(2006)356)	13
11.3. RELATIONS WITH PARLIAMENT	15
12. PRELIMINARY DRAFT GENERAL BUDGET OF THE EUROPEAN COMMUNITIES FOR THE 2007 FINANCIAL YEAR (SEC(2006)531 TO /15; SEC(2006)548; SEC(2006)549; SEC(2006)554)	15
13. COMMISSION COMMUNICATION TO PARLIAMENT, THE COUNCIL, THE ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – ENLARGEMENT, TWO YEARS AFTER: AN ECONOMIC SUCCESS (COM(2006)200 TO /4; SEC(2006)565)	17
14. RELATIONS WITH THIRD COUNTRIES	18

<i>14.1. NEGOTIATIONS BETWEEN THE EUROPEAN UNION AND SERBIA AND MONTENEGRO ON A STABILISATION AND ASSOCIATION AGREEMENT</i>	<i>18</i>
<i>14.2. MEETING OF G8 HEALTH MINISTERS (MOSCOW, 27 AND 28 APRIL) (SEC(2006)586).....</i>	<i>20</i>
15. OTHER BUSINESS	20
<i>APPLYING THE TRANSITIONAL ARRANGEMENTS TO THE FREE MOVEMENT OF WORKERS SET OUT IN THE 2003 ACCESSION TREATY (SEC(2006)585).....</i>	<i>20</i>

Single sitting: Wednesday 3 May (morning)

The sitting opened at 09.10 with Mr BARROSO, President, in the chair.

Present:

Mr BARROSO	President	
Ms WALLSTRÖM	Vice-President	
Mr VERHEUGEN	Vice-President	
Mr BARROT	Vice-President	
Mr KALLAS	Vice-President	Items 1 to 13 (in part)
Mr FRATTINI	Vice-President	Items 1 to 14
Ms REDING		Items 1 to 13 (in part)
Mr DIMAS		
Mr ALMUNIA		Items 1 to 14
Ms HÜBNER		
Ms GRYBAUSKAITĖ		Items 1 to 13 (in part)
Mr POTOČNIK		
Mr FIGEL'		
Mr KYPRIANOU		
Mr REHN		Items 1 to 14
Mr MICHEL		Items 1 to 13
Mr KOVÁCS		
Ms KROES		
Ms FISCHER BOEL		
Ms FERRERO-WALDNER		
Mr McCREEVY		
Mr ŠPIDLA		
Mr MANDELSON		
Mr PIEBALGS		Items 1 to 13 (in part)

Absent:

Mr BORG

The following sat in to represent absent Members of the Commission

Mr TABONE Chef de cabinet to Mr Borg

The following also sat in

Mr VALE DE ALMEIDA	Chef de cabinet to the President	
Mr PETITE	Director-General, Legal Service	
Mr SØRENSEN	Director-General, DG Communication	
Mr LAITENBERGER	Commission Spokesman	
Ms CARVALHO	Acting Director-General, Bureau of European Policy Advisers (BEPA)	
Mr THEBAULT	Deputy Chef de cabinet to the President	Items 1 to 13 (in part)
Mr CABRAL	Adviser hors classe in the President's Office	Item 13
Ms HOFFMANN	Deputy Chef de cabinet to Ms Reding	Items 13 (in part) to 15
Mr THOMAS	Chef de cabinet to Mr Almunia	Item 13
Mr QUEST	Chef de cabinet to Ms Grybauskaitė	Items 1 to 13 (in part), 14 and 15
Mr PESONEN	Chef de cabinet to Mr Rehn	Items 12 to 14
Mr OUAKI	Deputy Chef de cabinet to Mr Špidla	Items 14 and 15
Mr KESTERIS	Chef de cabinet to Mr Piebalgs	Item 13 (in part)
Mr VAN BALLEKOM	A member of Mr Piebalgs's staff	Items 13 (in part) to 15

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

1. AGENDAS

(OJ(2006)1743/3; SEC(2006)533/2)

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)1743)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Tuesday 2 May.

3. APPROVAL OF MINUTES AND SPECIAL MINUTES OF 1742ND MEETING

(26 APRIL)

(PV(2006)1742 TO /3; PV(2006)1742, PART II)

The Commission approved the minutes of its 1742nd meeting.

4. MONITORING THE APPLICATION OF COMMUNITY LAW

4.1. INFRINGEMENTS - URGENT CASES

(SEC(2006)556; SEC(2006)544)

The Commission adopted the decision in SEC(2006)556.

**4.2. INFRINGEMENTS - CASES POSTPONED BECAUSE OF
UNAVAILABILITY OF DOCUMENTS - REGULARISATION**

(SEC(2006)555)

The Commission adopted the decisions in SEC(2006)555.

5. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

5.1. WRITTEN PROCEDURES APPROVED

(SEC(2006)534 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 24 and 28 April.

5.2. SENSITIVE WRITTEN PROCEDURES

(SEC(2006)535)

The Commission took note of written procedures initiated between 24 and 28 April for the adoption of decisions with political implications.

5.3. EMPOWERMENT

(SEC(2006)536 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 24 and 28 April.

5.4. EMPOWERMENT IN THE FIELD OF THE EUROPEAN UNION SOLIDARITY FUND

(SEC(2006)550)

The Commission granted the empowerment as set out in SEC(2006)550 to the Commission Member responsible for regional policy.

5.5. DELEGATION AND SUBDELEGATION OF POWERS

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation procedure between 24 and 28 April, as archived on the "Greffé 2000" (Registry) website.

6. ADMINISTRATIVE AND BUDGETARY MATTERS

(SEC(2006)537)

ADMINISTRATIVE MATTERS

(PERS(2006)57)

**6.1. JRC – EXTERNAL PUBLICATION OF VACANCY NOTICE FOR AD14
(EU-10) DIRECTOR
(PERS(2006)55)**

On a proposal from Mr KALLAS, in agreement with the PRESIDENT and Mr POTOČNIK, the Commission authorised the publication under Article 29 (2) of the Staff Regulations of a vacancy notice for an AD14 Director at the Joint Research Centre's Institute for Energy (Petten) (PERS(2006) 55). This post was reserved for a national of one of the new Member States.

This decision would take effect immediately.

**6.2. DG MARKT – INTERNAL PUBLICATION OF A VACANCY NOTICE
FOR AD15/16 DIRECTOR-GENERAL
(PERS(2006)56)**

On a proposal from Mr KALLAS, in agreement with the PRESIDENT and Mr McCREEVY, the Commission authorised the publication under Article 29(1)(a)(i) and (iii) of the Staff Regulations of a vacancy notice for an

AD15/16 Director-General in the Internal Market and Services DG
(PERS(2006) 56).

This decision would take effect immediately.

**7. GREEN PAPER - A EUROPEAN TRANSPARENCY INITIATIVE
(COM(2006)194 TO /4; SEC(2006)551)**

The Commission approved the Green Paper in COM(2006)194/4 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions. It also approved the launch of the public consultation procedure and asked the Secretariat-General, in cooperation with the Budget and Communication DGs to conduct this consultation and to inform it of the results.

The questions raised in the Green Paper would be re-examined in the light of the results of the public consultation.

**8. COMMISSION REPORT TO THE EUROPEAN PARLIAMENT, THE
COUNCIL, THE ECONOMIC AND SOCIAL COMMITTEE AND THE
COMMITTEE OF THE REGIONS ON THE IMPLEMENTATION OF THE
FIRST RAILWAY PACKAGE
(COM(2006)189 TO /4; SEC(2006)530 TO /3; SEC(2006)552)**

The Commission approved the report in COM(2006)189/4 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, together with the annexes in the staff paper distributed as SEC(2006)530/3, the contents of which were noted.

**9. COMMUNICATION TO THE COMMISSION – HUMAN RESOURCE MANAGEMENT/ SIMPLIFYING PROCEDURES FOR STAFF
(SEC(2006)529 TO /3; SEC(2006)553)**

The Commission approved the principles, the aims and the method proposed in the communication distributed as SEC(2006) 529/3. It authorised Mr KALLAS to inform the staff and set up a task force to evaluate staff proposals and to report to the Commission by the end of the year.

**10. COMMISSION DECISION UNDER ARTICLE 81 OF THE EC TREATY AND ARTICLE 53 OF THE EEA AGREEMENT (CASE COMP/F/38.620 – HYDROGEN PEROXIDE AND PERBORATE)
(C(2006)1766 TO /8; SEC(2006)573)**

The Commission:

- took note of the opinion of the Advisory Committee on Restrictive Practices and Dominant Positions of 18 and 28 April in C(2006)1766/3 and /5;
- took note of the final report of the Hearing Officer of 20 April in C(2006)1766/4;
- adopted, in the authentic languages (English, French and Italian), the decision set out in C(2006) 1766/6 to /8 finding that the undertakings named had infringed Article 81 of the EC Treaty and Article 53 of the Agreement on the European Economic Area and imposing fines on some of these undertakings totalling €388.128 million;
- decided that the decision in C(2006) 1766/6 to /8 would be notified to the companies concerned (C(2006)1766/6), together with the final report of the Hearing Officer;

- decided that the most important parts of the decision, together with the opinions of the Advisory Committee and the final report of the Hearing Officer, would be published in the official languages in the Official Journal (with business secrets removed);
- decided to publish the decision (with business secrets removed) on the Internet.

11. INTERINSTITUTIONAL RELATIONS

11.1. LEGISLATIVE MATTERS

i) Action to be taken on Parliament's opinions

(SP(2006)1833)

The Commission decided to empower the Members responsible for the areas concerned, in agreement with the PRESIDENT and Ms WALLSTRÖM and any other Commission Members concerned, to adopt the amended proposals for transmission to Parliament and the Council (SP(2006)1833)

11.2. RELATIONS WITH THE COUNCIL

(SI(2006)356)

ii) Comitology negotiations – state of play

(SEC(2006)572)

The Commission took note of the information note from the PRESIDENT and Ms WALLSTRÖM in SEC(2006)572.

iii) Legislative framework for cohesion policy

(SI(2006)321); SI(2006)359)

In relation to work within the Council on the legislative framework for cohesion policy, the Commission decided to authorise its representative to support the compromise presented by the Presidency at the COREPER

meeting of 3 May and, consequently, the political agreement approved there, and to make the Commission statement on earmarking distributed at the weekly meeting of Chefs de cabinet on Tuesday 2 May.

iv) Tenth European Development Fund – Financing support expenditure and cooperation with overseas countries and territories

Mr Michel described the difficulties encountered at the Council during negotiations on the 10th European Development Fund (EDF) as regards the allocation of amounts for support expenditure for its implementation and amounts for financing cooperation with the overseas countries and territories. He explained the implications and pointed out the need to find a solution politically acceptable to both the ACP countries and all the Member States. He stressed the extreme political sensitivity of these negotiations, the broad lines of which had been sketched out by the conclusions of the December 2005 European Council.

Mr Michel wound up by outlining the compromise submitted to the Council, which was to change the amounts concerned to the overall allocation of €22 682 million devoted to cooperation with the ACP countries for 2008-13, subject to an amendment of the second part of the sunset clause. This amendment would allow the decommitments from the 9th EDF to be allocated to the 10th EDF's reserve in order to maintain more or less the level of financing which had been offered to the ACP countries.

The Commission noted this information and agreed on the importance of supporting a consensus from all Member States on the compromise presented by Mr MICHEL.

11.3. RELATIONS WITH PARLIAMENT**v) Results of the April II part-session**

(SP(2006)1879)

The Commission took note of the information supplied relating to Parliament's part-session held in Brussels on 26 and 27 April. This information was contained in note SP(2006)1879.

12. PRELIMINARY DRAFT GENERAL BUDGET OF THE EUROPEAN COMMUNITIES FOR THE 2007 FINANCIAL YEAR**(SEC(2006)531 TO /15; SEC(2006)548; SEC(2006)549; SEC(2006)554)**

Ms GRYBAUSKAITĖ briefly presented the dossier on the preliminary draft budget for 2007. She began by referring to the information note on budgetary implementation in SEC(2006)549 and drew the Commission's attention to the need for special efforts in this area. She mentioned in particular DG Budget's preparation of an internal early warning system intended to improve budgetary implementation, to be backed up by two annual Commission information meetings in July and October, allowing closer monitoring and appropriate adjustments.

She stressed that the figures for the preliminary draft budget for 2007 took into account the needs of the forthcoming enlargement without, however, prejudging the future decisions on Romania's and Bulgaria's accession, as at present it was only a question of drawing up a preliminary draft which could be adapted by letters of amendment according to political developments. This preliminary draft put the accent on growth and employment with an allocation of nearly 43% of the total and she pointed out that the new Member States would now be participating fully in all Community policies.

As regards the breakdown of spending, discussions had taken place with all departments and she acknowledged that there were some difficulties, such as the

appropriations allocated to communication, but pointed out that the margin of the 3b heading was extremely limited. There would probably also be difficulties during negotiations with Parliament, especially as the situation regarding budgetary implementation was not yet ideal and explanations would have to be given for why some amounts had not been used in 2005.

As regards the Commission's questions on the political presentation to be given to the increase in resources for research, the PRESIDENT stressed the historical importance of this increase in terms of the previous financial framework and current practice in the Member States, and the incentive such a development would give to researchers, students and universities in general.

The PRESIDENT congratulated Ms GRYBAUSKAITĖ and the Budget DG for the excellent work carried out and thanked all the Commission Members for their collaboration; this preliminary draft budget was a reflection of the quality of work done by all departments. He ended by stressing that all efforts should now focus on its implementation, thus demonstrating the Commission's ability to achieve the results expected.

After taking note of this information, the Commission:

- approved the expenditure estimates in SEC(2006)531/11, /12, /13 and /14 as a basis for the preliminary draft budget of the European Communities for the 2007 financial year;
- approved the additional allocation of human resources for 2006 as set out in SEC(2006)531/4;
- noted the activity statements in SEC(2006) 531/6, /10 and /15;
- authorised Ms GRYBAUSKAITĖ to transmit to Parliament and the Council for information SEC(2006) 531/11, /12 and /14, in the three procedural languages, and the annex to SEC(2006) 531/12 incorporating activity statements SEC(2006) 531/6, /10 and /15;

(3 May 2006)

- empowered Ms GRYBAUSKAITĖ, in agreement with the PRESIDENT, to complete the various documents comprising the preliminary draft budget and to transmit them to Parliament and the Council;
- took note of the information notes distributed as SEC(2006) 548 and SEC(2006) 549.

**13. COMMISSION COMMUNICATION TO PARLIAMENT, THE COUNCIL, THE ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – ENLARGEMENT, TWO YEARS AFTER: AN ECONOMIC SUCCESS
(COM(2006)200 TO /4; SEC(2006)565)**

MR ALMUNIA presented the communication he was tabling jointly with Mr REHN. He thanked the Commission departments which had helped to draw up this initial review of the economic results obtained two years after the European Union's fifth enlargement. The enlargement had given a boost to the whole of the European Union and there were positive consequences for each Member State. Lastly, there was a positive link between integration and preparation of the European Union's economies to meet the challenges set by globalisation.

The PRESIDENT expressed satisfaction with the work carried out, for which he particularly thanked Mr ALMUNIA and Mr REHN. He stressed the usefulness of this document as an explanation, based on thorough research, of the advantages of enlargement for the economy.

The Commission held an exchange of views on the communication, covering the following points in particular:

- the unprecedented scale of the fifth enlargement and the close link, two years after 1 May 2004, between its results and what had been forecast;

- the importance of the right of establishment and the free movement of workers for the proper functioning of the internal market of the enlarged Union;
- the political importance of relocation and migration flows;
- highlighting the economic dimension of the fifth enlargement, in particular the macroeconomic stimulus provided;
- the usefulness of a proper presentation of the communication in order to make a positive contribution to the present debate on the benefits and costs of the fifth enlargement;
- the value of periodic updatings of this document, so that these initial results could be followed in the coming years.

Following these discussions, and subject to the replacement of the third sentence of paragraph 19 on page 8 of the English version by the sentence " *Maintaining labour restrictions does not appear justified on purely economic grounds.*", the Commission approved the communication in COM(2006) 200/4 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

14. RELATIONS WITH THIRD COUNTRIES

14.1. NEGOTIATIONS BETWEEN THE EUROPEAN UNION AND SERBIA AND MONTENEGRO ON A STABILISATION AND ASSOCIATION AGREEMENT

Mr REHN described the state of play of negotiations initiated in October 2005 with Serbia and Montenegro with a view to a stabilisation and association agreement. One of the basic conditions for holding these negotiations, mentioned in the negotiation directives adopted by the Council, was the full cooperation of Serbia and Montenegro with the International

Criminal Tribunal for the former Yugoslavia. This condition was not fulfilled, notably because of the attitude of the Serbian authorities as regards the arrest of Mr Ratko Mladic and his transfer to The Hague for trial.

Since the end of 2005 the efforts made by Serbia and Montenegro to ensure full cooperation had seriously decreased and the PRESIDENT had therefore delivered a warning to the Serbian authorities during his visit to Belgrade last February. Given the extension of the deadline fixed for Ratko Mladic's arrest to the end of April, Mr REHN considered that the situation was still very negative, an opinion shared by Ms Carla Del Ponte, Chief Prosecutor at the International Criminal Tribunal. He therefore saw no alternative to freezing negotiations in order to secure the restoration of full cooperation with the International Criminal Tribunal. Lastly, Mr REHN stressed that the Member States and the various international parties concerned supported this approach.

A brief exchange of views followed, during which the Commission looked at the possibility of fixing a new deadline for Ratko Mladic's arrest, the real chances of the Serbian authorities making such an arrest and the impact the freezing of negotiations might have on the referendum on the future of the union between the two parts of Serbia and Montenegro due to take place in Montenegro on 21 May.

For Mr REHN, accepting a new extension of the deadline was unthinkable, given the negative results of the one previously given. It was now important that democratic forces in Serbia should get together to ensure the necessary cooperation with the International Criminal Tribunal.

The PRESIDENT wound up the debate by confirming the Commission's support for the freezing of negotiations proposed by Mr REHN. He underlined the importance for the Commission and the whole of the European Union of maintaining credibility by having a sound basis for the pursuit of the negotiations. Lastly, he referred to Ms Carla Del Ponte's report, the conclusions of which were completely negative.

The Commission took note of this information.

14.2. MEETING OF G8 HEALTH MINISTERS (MOSCOW, 27 AND 28 APRIL)

(SEC(2006)586)

The Commission took note of the information note from Mr KYPRIANOU in SEC(2006)586.

15. OTHER BUSINESS

APPLYING THE TRANSITIONAL ARRANGEMENTS TO THE FREE MOVEMENT OF WORKERS SET OUT IN THE 2003 ACCESSION TREATY (SEC(2006)585)

M. ŠPIDLA reported on the use made by the EU-15 Member States of the transitional period before full application of the free movement of workers set out in the 2003 Accession Treaty.

The three stages of this transitional period (2004-06, 2006-09 and 2009-11) were intended to progressively reduce restrictions justified by imbalances in the labour market. He reviewed the situation in the EU-15 Member States which had:

- completely opened up their labour markets as of 1 May 2004 (United Kingdom, Ireland and Sweden), followed on 1 May 2006 by Spain, Finland, Greece and Portugal;
- decided to relax but not totally lift restrictions as of 1 May 2006 (Belgium, France and Luxembourg on the one hand and Denmark, Italy and the Netherlands on the other);
- decided to leave restrictions in place during the second stage, until 30 April 2009 (Germany and Austria).

(3 May 2006)

Mr ŠPIDLA pointed out the fundamental legal distinction, based on the corresponding provisions of the 2003 Accession Treaty, which should be made between the second stage, running from 1 May 2006 to 30 April 2009, and the first stage. In this second stage Community law applicable to free movement would apply in all Member States, except those which had notified the Commission in good time of the continued application of national measures. In any event, 1 May 2011 would mark the absolute end of any imposition of restrictions on the free movement of workers.

M. ŠPIDLA shared the Commission Members' satisfaction with the progress made and the extremely positive results as regards freedom of movement. While finding that the Commission had been extremely efficient in influencing the Member States and explaining this issue to them, he stressed that efforts must continue, notably in sending positive messages to the citizens of Member States which had decided to maintain restrictions at this point.

The Commission took note of this information and the note from Mr ŠPIDLA in SEC(2006)585.

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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 11.36