



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2006)1759 final

Brussels, 4 October 2006

MINUTES

of the 1759th meeting of the Commission

held in Strasbourg

(Winston Churchill Building)

on Tuesday 26 September

(afternoon)

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PV(2006)1759 final

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Single sitting: Tuesday 26 September (afternoon)

The sitting opened at 13.14 with Mr BARROSO, President, in the chair. Items 14 (in part), 15 and 16 were chaired by Ms WALLSTRÖM.

Present:

Mr BARROSO	President	Items 1 to 14 (in part)
Ms WALLSTRÖM	Vice-President	
Mr VERHEUGEN	Vice-President	
Mr BARROT	Vice-President	
Mr KALLAS	Vice-President	
Mr FRATTINI	Vice-President	
Ms REDING		
Mr DIMAS		
Mr ALMUNIA		Items 1 to 14 (in part) and 15
Ms HÜBNER		
Mr BORG		
Ms GRYBAUSKAITĖ		
Mr POTOČNIK		Items 1 to 14 (in part) and 15
Mr FIGEL'		
Mr KYPRIANOU		
Mr REHN		Items 1 to 13
Mr MICHEL		Items 1 to 14 (in part)
Mr KOVÁCS		
Ms KROES		
Mr McCREEVY		Items 1 to 15
Mr ŠPIDLA		
Mr PIEBALGS		

Absent:

Ms FISCHER BOEL

Ms FERRERO-WALDNER

Mr MANDELSON

The following sat in to represent absent Members of the Commission

Mr ELLERMANN-KINGOMBE	A member of Ms FISCHER BOEL's staff
Mr SCHWAIGER	Deputy Chef de Cabinet to Ms FERRERO-WALDNER
Ms WENDT	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 14 (in part)
Mr PETITE	Director-General, Legal Service	
Mr CARVOUNIS	Deputy Director-General, Communication DG	
Mr LAITENBERGER	Commission Spokesman	
Ms CARVALHO	Acting Director-General, Bureau of European Policy Advisers (BEPA)	
Ms MARTINHO	Chief Adviser in the President's Office	Items 1 to 14 (in part)
Ms ÅSENIUS	Deputy Chef de cabinet to Mr REHN	Items 14 (in part) to 16
Mr HEDBERG	A member of Mr REHN's staff	Items 1 to 13
Mr SUMMA	DG Enlargement	Item 13

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

1. AGENDAS

(OJ(2006)1759/3; SEC(2006)1177/2)

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)1759)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 25 September.

3. APPROVAL OF MINUTES AND SPECIAL MINUTES OF 1758TH MEETING OF THE COMMISSION (20 SEPTEMBER)

(PV(2006)1758; PV(2006)1758, PART II)

The Commission approved the minutes of its 1758th meeting.

4. MONITORING THE APPLICATION OF COMMUNITY LAW

4.1. STATE AID - RECAPITULATIVE LIST

(SEC(2006)1223/3)

The Commission adopted the decisions in the recapitulative list SEC(2006)1223/3.

4.2. INFRINGEMENTS - URGENT CASE
(SEC(2006)1217)

The Commission adopted the decision in SEC(2006)1217.

5. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

5.1. WRITTEN PROCEDURES APPROVED
(SEC(2006)1178 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 18 and 22 September.

5.2. SENSITIVE WRITTEN PROCEDURES
(SEC(2006)1179 and /2)

The Commission took note of the sensitive written procedures for which the time limit expired between 25 and 29 September and of the "finalisation" written procedures initiated following the weekly meeting of Chefs de cabinet on 25 September.

5.3. EMPOWERMENT
(SEC(2006)1180 et seq.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 18 and 22 September.

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 18 and 22 September, as archived on the "Grefte 2000" (Registry) website.

6. ADMINISTRATIVE AND BUDGETARY MATTERS
(SEC(2006)1181/2)

ADMINISTRATIVE MATTERS
(PERS(2006)132/2)

**6.1. DG ENV – INTERNAL AND EXTERNAL PUBLICATION OF VACANCY
NOTICE FOR AD14 CHIEF ADVISER POST (EU-25)**
(PERS(2006)131)

On a proposal from Mr KALLAS, in agreement with the PRESIDENT and Mr DIMAS, the Commission decided to authorise the publication, under Article 29(1a) and (2) of the Staff Regulations, of the vacancy notice in PERS(2006)131 for the function of Chief Adviser in the Environment Directorate-General.

This decision would take effect immediately.

6.2. DG ENTR – APPOINTMENT OF AD15 DIRECTOR

On a proposal from Mr KALLAS, in agreement with the PRESIDENT and Mr VERHEUGEN, the Commission decided, under Article 7 of the Staff Regulations, to fill the function of Director, Coordination for Competitiveness, in the Enterprise and Industry Directorate-General by transferring in the interest of the service Mr John FARNELL, AD15 Director, Conservation Policy, in the Fisheries and Maritime Affairs Directorate-General, currently on leave on personal grounds.

This Decision would take effect on 1 November.

6.3. DG FISH – APPOINTMENT OF AD14/15 DIRECTOR

On a proposal from Mr KALLAS, in agreement with the PRESIDENT and Mr BORG, the Commission decided, under Article 7 of the Staff Regulations,

to fill the post of Director, Conservation Policy, in the Fisheries and Maritime Affairs Directorate-General, by transferring in the interest of the service Mr Reinhard PRIEBE, AD15 official, currently Director, Albania, Bosnia & Herzegovina, Montenegro, Serbia and Kosovo Issues, in the Enlargement Directorate-General.

This Decision would take effect on 1 November.

6.4. MEMORANDUM OF UNDERSTANDING ON THE ESTABLISHMENT OF A PARTNERSHIP BETWEEN THE COMMISSION OF THE EUROPEAN COMMUNITIES AND THE COMMISSION OF THE AFRICAN UNION TO FOSTER TWINNING AND EXCHANGE (SEC(2006)1244)

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

- took note of the communication distributed as SEC(2006)1244;
- approved the memorandum of understanding on the establishment of a partnership between the Commission of the European Communities and the Commission of the African Union, distributed as SEC(2006)1244;
- authorised Mr KALLAS to sign the memorandum of understanding on behalf of the Commission.

The partnership would take effect on the day when the Protocol was signed, for a period of four years. The content of the partnership would be reviewed two years after its entry into force.

7. ANNUAL MONITORING REPORT ON THE 4TH ACTION PROGRAMME FOR EQUAL OPPORTUNITIES FOR WOMEN AND MEN AT THE

EUROPEAN COMMISSION

(SEC(2006)1184 TO /3 ; SEC(2006)1197)

The Commission approved the communication, including the recommendations set out at point 4, and took note of 2nd annual monitoring report, the communication and report being distributed as SEC(2006)1184/3.

**8. AMENDING LETTER No 2 TO THE PRELIMINARY DRAFT BUDGET 2007
– GENERAL STATEMENT OF REVENUE**

(SEC(2006)1176 TO /3 ; SEC(2006)1182 ; SEC(2006)1183)

The Commission approved letter of amendment No 2 to the Preliminary draft budget for 2007 in documents SEC(2006)1176 to /3, for transmission to Parliament and the Council and to the national parliaments.

**9. COMMISSION COMMUNICATION – CONSULTATION REGARDING
COMMUNITY ACTION ON HEALTH SERVICES**

(SEC(2006)1195 TO /4 ; SEC(2006)1214)

The Commission approved the communication in SEC(2006)1195/4 for a public consultation on nine specific questions to which replies were to be sent to the Commission by 31 January 2007.

10. COMMISSION REGULATION ESTABLISHING A MECHANISM FOR APPROPRIATE MEASURES IN THE FIELD OF AGRICULTURAL SPENDING IN RESPECT OF BULGARIA AND ROMANIA

(C(2006)4271 TO /3 ; SEC(2006)1198)

The Commission adopted the Regulation in C(2006)4271/3, and took note of its publication in the Official Journal.

The Commission also decided that the Member responsible for agricultural and rural development should write a letter to inform Bulgaria and Romania of the adoption of the Regulation.

11. COMMISSION DECISION ON A PROCEEDING UNDER ARTICLE 21 OF COUNCIL REGULATION (EC) No 139/2004 ON THE CONTROL OF CONCENTRATIONS BETWEEN UNDERTAKINGS (CASE COMP/MR 4197 – E.ON ENDESA)

(C(2006)4279 TO /3 ; SEC(2006)1191)

The Commission adopted, in the authentic language (Spanish), the decision in C(2006)4279/3.

12. RELATIONS WITH THIRD COUNTRIES

61st UNITED NATIONS GENERAL ASSEMBLY (NEW YORK, 18 to 22 SEPTEMBER)

(SEC(2006)1243)

The Commission took note of the information note from Ms FERRERO-WALDNER in SEC(2006)1243.

13. COMMISSION COMMUNICATION TO PARLIAMENT AND THE COUNCIL – MONITORING REPORT ON THE STATE OF PREPAREDNESS FOR EU MEMBERSHIP OF BULGARIA AND ROMANIA

(COM(2006)549 TO /7 ; SEC(2006)1198)

The PRESIDENT introduced the final monitoring report, emphasising the historical impact of the decision that the Commission was about to take, which would end the fifth process of EU enlargement (to countries of Central and Eastern Europe, Malta and Cyprus). He pointed out that the decision to accept Bulgaria and Romania as full members of the Union on 1 January 2007 was the result of considerable efforts made by the two countries on the way to accession for several years, and particularly since the Commission report of the previous May. He stated that these efforts now made the two countries eligible on the political and economic criteria and the adoption of the *acquis communautaire*, subject to further progress to be made by 1 January 2007.

The PRESIDENT pointed to the dual concern for rigour and fairness that had inspired the drafting of this monitoring report, the credibility and objectivity of which offered the best chances of convincing Union citizens and the national parliaments that it was well founded. He reminded the meeting of the role played by the national parliaments in the ongoing process of ratifying the Treaty of Accession of Bulgaria and Romania to the EU. He stressed the importance of devising and applying a suitable communication strategy with the objective of showing the public, the current Member States and Bulgaria and Romania how rigorous and balanced the final Commission report was and how little risk there was for the smooth operation of the Union from the accession of these two countries.

The PRESIDENT felt that the European Union was reaching the limits of its absorption capacity within the existing institutional framework. He considered that a solution should be found to institutional matters currently arising in the Union before any further enlargement. That was the only way of ensuring that the enlarged Europe could operate effectively and harmoniously. He pointed out that the need to

adapt the institutional framework was generated in any event by the Treaty of Nice, which stipulated that the composition of the (next) Commission should be reviewed as soon as the 27th country had acceded. But changing the composition of the Commission was conceivable only as part of a more general institutional review. The June European Council had set a timetable for the institutional reform process, whereby the necessary measures would have to be taken at the latest in the second half of 2008. That timetable would make it possible to abide by the commitments given to other applicant countries, which was essential, and to continue consolidating peace, democracy and prosperity in Europe.

Mr REHN thanked the PRESIDENT for his introduction, which he entirely endorsed, and the Commission for the support he had received throughout the process. He reviewed the efforts made by Bulgaria and Romania, particularly since May, and highlighted the two main characteristics of the approach followed: fairness – recognition of the progress made – and rigour – establishment of monitoring mechanisms to successfully the reform process in the two countries. He mentioned in particular the progress made on freedom, security and justice, which was a major concern for the general public. And he mentioned the areas where flanking measures would be taken according to the report, viz. reform of the legal system, combating corruption and organised crime, management of agricultural funds, food safety, and aviation safety in the case of Bulgaria.

The Commission held an exchange of views in which it shared the political analysis developed by the PRESIDENT and Mr REHN, and examined the following questions in particular:

- the historical importance of welcoming Bulgaria and Romania in the Union, anchoring them sustainably and irreversibly in European values and offering them the prospect of stability, peace and economic progress in the long-term, for the benefit of the two countries and of the European Union as a whole;
- the geographical dimension of this fifth enlargement, which extended the Union to the Black Sea;

- the progress made and the efforts still needed in areas such as justice, freedom and security, macro-economic questions, nuclear safety, the environment, aviation safety, health and consumer protection, the audiovisual media, etc;
- the vital importance of a sound communication strategy to emphasise the level of preparedness of the two countries and the rigorous and fair approach that had been followed, excluding any notion of accession by default;
- the need for prior adaptation of the institutional framework to prepare for future enlargements.

Following its discussions, the Commission noted that, given the progress made, Bulgaria and Romania would be in a position to assume the rights and obligations flowing from accession to the EU on 1 January 2007.

The Commission approved the detailed report in COM(2006)549/6 and /7, subject to linguistic revision of the German version and to amendment of the last sentence of second paragraph of item 4, Conclusions, to read: *“Bulgaria and Romania are sufficiently prepared to meet the political, economic and acquis criteria by 1 January 2007”*.

The Commission decided to transmit the report to Parliament, the Council and the national parliaments.

The PRESIDENT concluded by expressing the warmest congratulations of the Commission to Mr REHN and all the departments involved – and first and foremost the Enlargement Directorate-General – on the work they had done to produce a particularly balanced and credible report. He reiterated the historic importance of that moment, which was worth celebrating.

14. INTERINSTITUTIONAL RELATIONS **(SEC(2006)1185)**

The Commission took note of the record of the meeting of the Interinstitutional Relations Group held on Friday 22 September (SEC(2006)1185).

It paid particular attention to the following points:

14.1. LEGISLATIVE MATTERS

i) Codecision procedure

(point 1.1.1 of the record of the meeting of the Interinstitutional Relations Group)

Dossiers pending a common position

- MITCHELL Report – Financing instrument for development cooperation and economic cooperation – COM(2004)629 – 2004/0220 (COD) – Results of trialogue of 19 and 20 September

The Commission authorised Mr MICHEL and Ms FERRERO-WALDNER to support the compromise text that might soon be considered in Coreper for adoption as the common position at the Council meeting (General affairs and external relations) on 16 and 17 October, following the line set out in SI(2006)766.

14.2. RELATIONS WITH THE COUNCIL **(SI(2006)825)**

ii) Information on developments in the Council since 15 September

(point 2.1 of the record of the meeting of the Interinstitutional Relations Group)

- Nominal quantities for pre-packed products – COM(2004)708 – 2004/0248 (COD)
(SI(2006)835)

Mr VERHEUGEN reported on the political agreement which he had supported *ad referendum* at the Council meeting (Competitiveness) that Monday 25 September. He particularly emphasised the importance of the discussions in the Council for bringing this item to a successful conclusion and welcomed the result secured, which was a good example of the concern for better lawmaking.

The Commission took note of this information.

iii) Results of the informal meeting of justice and home affairs ministers (Tampere, 20 to 22 September) and preparations for Council meeting (Justice and Home Affairs), 5 and 6 October

(point 2.2 of the record of the meeting of the Interinstitutional Relations Group ; SI(2006)837)

Mr FRATTINI reported on the main questions addressed at the informal meeting of ministers of justice and home affairs at Tampere on 20, 21 and 22 September. He mentioned in the first place the positions of the Member States on the use of the “passerelle” clause. While all the Member States considered that it was necessary to improve the decision-making process as regards justice and home affairs, a number of them remained opposed to the clause, considering that it would prejudice the outcome of the debate on the Constitution. Mr FRATTINI highlighted the political risk inherent in not having effective decision-making methods in this area.

Mr FRATTINI then mentioned the fruitful discussions on matters such as the fight against terrorism, the management of external borders and management of migratory flows, where agreement had been reached on principles for formal decisions on concrete initiatives to be taken in the months ahead,

particularly at the Council meeting (Justice and Home Affairs) at the beginning of October.

Lastly, Mr FRATTINI reported on the introduction of the new Schengen Information System (SIS II) and outlined the various reasons for the delays so far (in particular an action in the Court of First Instance, technical problems on the central site of the system, problems in connection with adoption of the legal basis and many delays in the component national projects). On this basis, Mr FRATTINI presented the new timetable that the Council might approve at its next meeting (Justice and Home Affairs) on 5 and 6 October: migration of the present system to SIS II in June 2008 for the Member States already in Schengen, connection of the new Member States by June 2008, and possibility of a multi-stage approach to the removal of border checks (land and sea borders first, and then the airports). He stated that integration into SIS II was only one of the conditions for joining the enlarged Schengen area. The Member States must also respect all the provisions of the Schengen Agreement itself. Inspections were currently in progress in the Member States, and a report was expected to go before the Council by the end of the year.

The PRESIDENT, while acknowledging the technical causes for the delays in the SIS II project, highlighted the political dimension of the problem. The new Member States were finding it very difficult to accept that their connection to SIS II, a necessary condition for the abolition of borders within Schengen, was a purely technical question. The Commission consequently faced a threat to its reputation and should do all it could to ensure the speedy success of SIS II. To do this, the PRESIDENT asked Mr KALLAS and Ms GRYBAUSKAITĖ to be allocated the technical and human resources needed in the relevant departments. The PRESIDENT pointed out that while the responsibility for the delays was without doubt shared, it was the Commission that would probably be called to account, particularly in the discharge procedure. It was therefore necessary to look very carefully into the

events that had brought the situation about so that the Commission could be ready to answer criticisms.

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

- the need for the Commission to assume its share of the responsibility for the delays in line with the observations made by its internal audit bodies;
- the need to establish a new strict and practicable timetable specifying the division of responsibilities between the various players and the deadlines, in order to succeed complete the project as soon as possible;
- the political importance and great sensitivity of this matter, which had raised expectations in the new Member States that were comparable to those raised by the internal market;
- interest for all the Member States of ensuring that the new information system operated smoothly, without prejudice to the particularly negative consequences of the delays for the new Member States;
- the financial consequences of the delays and the management problems raised by the project;
- importance of avoiding all forms of separation between old and new Member States;
- advisability of setting up a *task force* in the Commission to coordinate the various aspects of developing the system;
- the need to ensure close contacts between the Commission Members most concerned to prepare for communication with the outside world;
- the need for the Commission to be regularly informed of new developments.

Ms WALLSTRÖM concluded by emphasising that from now on a positive and coordinated approach had to be taken and a practical road map had to be set up, with the clearest possible responsibilities and deadlines. There was also a need for transparent information on the problems already met and the causes. Ms WALLSTRÖM asked Mr FRATTINI to inform the Commission regularly on new developments.

The Commission took note of this information.

iv) Revision of the Agreement on Trade, Development and Cooperation between the European Community and the Republic of South Africa – COM(2006)348

(point 2.3 of the record of the meeting of the Interinstitutional Relations Group)

The Commission authorised Mr MICHEL and Mr MANDELSON to accept a Presidency compromise concerning the new formal presentation of the revision of the Agreement on Trade, Development and Cooperation between the European Community and its Member States, of the one part, and the Republic of South Africa, on the other, following the line set out in SI(2006)814.

v) Proposal for a Council REGULATION amending Regulations (EC) No 51/2006 and (EC) No 2270/2004 as regards fishing opportunities and associated conditions for certain fish stocks – COM(2006)461

(point 2.4 of the record of the meeting of the Interinstitutional Relations Group)

The Commission authorised Mr BORG to accept the Presidency compromise concerning the *splitting* of the proposal, following the line set out in SI(2006)823.

14.3. RELATIONS WITH PARLIAMENT

vi) Preparations for September II part-session

(point 3.1 of the record of the meeting of the Interinstitutional Relations Group)

- QO 0094/2006 – GALILEO programme

The Commission took note of the draft statement to be made by Mr BARROT, distributed as SP(2006)4419.

vii) Participation by Members of Parliament in international conferences

(point 3.7 of the record of the meeting of the Interinstitutional Relations Group)

- United Nations High-level Dialogue on migration and development (New York, 14 and 15 September)

The Commission decided to reply to the request made by Mr BORRELL, President of Parliament, to the PRESIDENT, concerning the participation of Members of Parliament in the above-mentioned conference, emphasising the importance of complying with the procedure agreed between the institutions.

- Second meeting of the UN Human Rights Council (Geneva, 18 September)

The Commission decided to reply to the request made by Mr BORRELL, President of Parliament, to the PRESIDENT, concerning the participation of Members of Parliament in the above-mentioned conference, emphasising the importance of complying with the procedure agreed between the institutions.

**14.4. RELATIONS WITH THE ECONOMIC AND SOCIAL COMMITTEE,
THE COMMITTEE OF THE REGIONS, THE EUROPEAN
OMBUDSMAN AND NATIONAL PARLIAMENTS**

**viii) Action taken on Economic and Social Committee opinions for the
third quarter of 2006 (April and May plenary sessions)**

(point 4.1 of the record of the meeting of the Interinstitutional Relations
Group)

The Commission approved the replies to the opinions adopted by the
Economic and Social Committee during the first quarter of in SC(2006)44
and /2 for transmission to the European Economic and Social Committee.

**15. COMMISSION RECOMMENDATION FOR A COUNCIL OPINION IN
ACCORDANCE WITH THE THIRD PARAGRAPH OF ARTICLE 9 OF
COUNCIL REGULATION (EC) NO 1466/97 - ADJUSTED CONVERGENCE
PROGRAMME UPDATE OF HUNGARY (2005-09)**

**COMMISSION RECOMMENDATION FOR A COUNCIL
RECOMMENDATION ON HUNGARY, IN ACCORDANCE OF ARTICLE
104(7) OF THE EC TREATY, WITH A VIEW TO BRINGING AN END TO
THE SITUATION OF AN EXCESSIVE GOVERNMENT DEFICIT
(SEC(2006)1196 TO /3 ; SEC(2006)1199)**

Mr ALMUNIA outlined the proposals which he was tabling. He reviewed the
background since the Council opinion on the first Hungarian convergence
programme (July 2004) with a first recommendation made under the excessive
deficit procedure. Since then, the Council had twice, in January and November
2005, concluded that Hungary was not complying with the recommendation.

Mr ALMUNIA considered that, if implemented fully and rigorously, the updated
convergence programme presented at the beginning of September should make it

possible to put an end to Hungary's excessive public deficit in 2009, falling from 10.1% to 3.2% of gross domestic product, subject to major adjustments, with 40% of the correction being accounted for by tax increases and 60% by expenditure cuts. The new programme was perfectly credible, and the measures provided for in it would be bound to have an impact on growth. He stated that the implementation of the programme would be kept under close scrutiny and that the Hungarian authorities would report on progress every six months.

Lastly, Mr ALMUNIA pointed out that, when the matter came up for consideration in Council bodies, certain Member States would probably raise the question of suspending the Cohesion Fund, although there was no automatic link between the implementation of the excessive deficit procedure and payments from that Fund.

The Commission considered the following questions in a brief exchange of views:

- the Commission's intention of doing everything possible to help the Hungarian authorities implement the planned measures;
- the absence of an automatic link between implementation of the excessive deficit procedure and suspension of Cohesion Fund payments; this suspension, provided for by the Fund Regulation, was a mechanism regulating access to the Fund and not a punitive measure relating to the excessive deficit procedure;
- the present political situation in Hungary.

Following this exchange of views, the Commission adopted the two recommendations in SEC(2006)1196/3 for transmission to the Council.

16. OTHER MATTERS

PRESIDENTIAL ELECTION IN ESTONIA

Mr KALLAS reported that on Saturday 23 September Mr Toomas Hendrik Ilves, former Minister of Foreign Affairs and currently Member of the European Parliament, had been elected President of Estonia. Mr KALLAS pointed to the personal qualities and European commitment of the new President.

The Commission took note of this information.

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The Commission's discussions on certain agenda items are recorded in the special minutes.

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The meeting closed at 16.07