



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

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Strasbourg, 25 September 2007

MINUTES
of the 1801st meeting of the Commission
held in Brussels
(Berlaymont building)
on Wednesday 19 September 2007
(morning)

PV(2007)1801 final

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Single sitting: Wednesday 19 September 2007 (morning)

The sitting opened at 09.06 hours with Mr BARROSO, President, in the chair. Item 21 was chaired by Mr KALLAS.

Present:

Mr BARROSO	President	Items 1 to 20
Ms WALLSTRÖM	Vice-President	Items 1 to 18
Mr VERHEUGEN	Vice-President	Items 1 to 19
Mr BARROT	Vice-President	Items 1 to 14/18 in part
Mr KALLAS	Vice-President	
Mr FRATTINI	Vice-President	Items 14/18 (in part) and 19
Ms REDING		
Mr DIMAS		
Ms HÜBNER		Items 1 to 19
Mr BORG		
Ms GRYBAUSKAITĖ		Items 1 to 14/18 (in part)
Mr POTOČNIK		
Mr FIGEL'		
Mr KYPRIANOU		
Mr REHN		Items 1 to 19
Mr MICHEL		Items 1 to 14/18 (in part)
Mr KOVÁCS		
Ms KROES		Items 1 to 20
Ms FISCHER BOEL		
Ms FERRERO-WALDNER		
Mr McCREEVY		
Mr ŠPIDLA		
Mr MANDELSON		Items 14/18 (in part) and 19
Mr PIEBALGS		Items 1 to 18
Ms KUNEVA		
Mr ORBAN		

Absent:

Mr ALMUNIA

1. AGENDAS

(OJ(2007)1801/3; SEC(2007)1172/2)

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(2007)1801)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 17 September 2007.

3. MINUTES OF 1800TH MEETING (12 SEPTEMBER 2007)

(PV(2007)1800)

The Commission approved the minutes of its 1800th meeting.

4. INTERINSTITUTIONAL RELATIONS

(SEC(2007)1163)

The Commission took note of the record of the meeting of the Interinstitutional Relations Group held on Friday 14 September 2007 (SEC(2007)1163).

It paid particular attention to the following.

4.1. LEGISLATIVE MATTERS

i) Preparation for the September II 2007 part-session of Parliament (point 1.2 of the record of the IRG)

In accordance with the rules in force, the Commission authorised the Commission Members responsible, in agreement with the PRESIDENT and 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:

Codecision – 1st reading

- Production and development of statistics about education and lifelong learning (Regulation) – SIFUNAKIS report – 2005/0248 (COD)

The Commission approved the line set out in SP(2007)4735 and authorised Mr ALMUNIA to accept the amendments in order to reach agreement at first reading.

- European qualifications framework for lifelong learning (Recommendation) – MANTOVANI report – 2006/0163 (COD)

The Commission approved the line set out in SP(2007)4739 and authorised Mr FIGEL' to accept the amendments in order to reach agreement at first reading.

- Creation of the European Technology Institute (Regulation) – PAASILINNA report – 2006/0197 (COD)

The Commission approved the line set out in SP(2007)4738 and /2 and authorised Mr FIGEL' to pursue the contacts with Parliament and the Council in order to reach an agreement at second reading.

Comitology

- Implementing powers conferred on the Commission – prevention of the use of the financial system for the purpose of money laundering and terrorist financing (Directive) – BRADBOURN report – 2006/0281 (COD)

The Commission approved the line set out in SP(2007)4740, rejecting all the amendments proposed.

- Implementing powers conferred on the Commission – European Insurance and Occupational Pensions Committee (Directive) – BERES report – 2006/0292 (COD)

The Commission approved the line set out in SP(2007)4741.

- Implementing powers conferred on the Commission – Community Code on the rules governing the movement of persons across borders (Schengen borders code) (Regulation) – CASHMAN report – 2006/0279 (COD)

The Commission approved the line set out in SP(2007)4759.

ii) Results of Parliament's July 2007 part-session

(point 1.3 of the record of the IRG)

- Rejection of the proposal on the approximation of the rates of excise duty on alcohol and alcoholic beverages (Directive) – LULLING report – 2006/0165 (CNS)

The Commission approved the line set out in SP(2007)4736/3.

4.2. RELATIONS WITH THE COUNCIL

iii) Programming of Council business (SI(2007)796)

The Commission took note of the information in SI(2007)796 on the Council meetings between 13 and 26 September 2007.

4.3. RELATIONS WITH PARLIAMENT

iv) Action taken on Parliament's non-legislative resolutions (point 3.4.2 of the record of the IRG)

The Commission approved the documents SP(2007)4733 and /2 on the action taken on the non-legislative resolutions adopted by Parliament at its July 2007 part-session, for transmission to Parliament.

5. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

5.1. WRITTEN PROCEDURES APPROVED (SEC(2007)1173 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 10 and 14 September 2007.

5.2. SENSITIVE WRITTEN PROCEDURES (SEC(2007)1174 AND /2)

The Commission took note of the sensitive written procedures for which the time limit expired between 17 and 21 September 2007 and of the "finalisation" written procedure initiated following the weekly meeting of Chefs de cabinet on 17 September 2007.

5.3. EMPOWERMENT

(SEC(2007)1175 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 10 and 14 September 2007.

**5.4. EMPOWERMENT DECISIONS RELATING TO THE
IMPLEMENTATION OF THE INTERNAL MARKET IN ROAD
TRANSPORT**

(SEC(2007)1200)

The Commission granted the general empowerment as set out in SEC(2007)1200 to the Commission Member responsible for transport.

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 10 and 14 September 2007, as archived on the "Greffé 2000" (Registry) website.

**5.6. DELEGATION OF DECISIONS RELATING TO THE CONFIDENTIAL
TREATMENT OF INFORMATION REQUIRED UNDER THE TERMS
OF REGULATION (EC) 1831/2003 ON ADDITIVES FOR USE IN
ANIMAL NUTRITION**

(SEC(2007)1201)

The Commission decided to delegate to the Director-General responsible for health and consumer protection, the adoption, on behalf of the Commission and under its responsibility, of decisions in the field of additives for use in animal nutrition, under the terms laid down in SEC(2007)1201.

6. ADMINISTRATIVE AND BUDGETARY MATTERS
(SEC(2007)1176)

ADMINISTRATIVE MATTERS
(PERS(2007)94)

**6.1. DG COMPETITION – INTERNAL PUBLICATION OF A VACANCY
NOTICE FOR AN AD 15/16 DEPUTY DIRECTOR-GENERAL**
(PERS(2007)92)

On a proposal from Mr KALLAS, in agreement with the PRESIDENT and Ms KROES, the Commission decided to authorise the publication, under Article 29(1)(a)(i) and (iii) of the Staff Regulations, of the vacancy notice in PERS(2007)92 for the post of Deputy Director-General responsible for state aid in the Competition Directorate-General.

This decision would take effect immediately.

**6.2. DG ENVIRONMENT – INTERNAL PUBLICATION OF A VACANCY
NOTICE FOR AN AD15/16 DEPUTY DIRECTOR-GENERAL**
(PERS(2007)93)

On a proposal from Mr KALLAS, in agreement with the PRESIDENT and Mr DIMAS, the Commission decided to authorise the publication, under Article 29(1)(a)(i) and (iii) of the Staff Regulations, of the vacancy notice in PERS(2007)93 for the post of Deputy Director-General in the Environment Directorate-General.

This decision would take effect immediately.

**6.3. DG TAXATION AND CUSTOMS UNION – AMENDMENT OF THE
ORGANISATION CHART**

Having noted the information in point 3 of document PERS(2007)94, the Commission, on a proposal from Mr KALLAS, in agreement with the PRESIDENT and Mr KOVÁCS, decided to abolish the post of Chief

Adviser in the Taxation and Customs Union Directorate-General, which had fallen vacant on the retirement of the holder on 1 July 2007.

This decision would take effect immediately.

7. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS: PROGRESSING GALILEO: RE-PROFILING EUROPEAN GNSS PROGRAMMES

(COM(2007)534 AND /2; SEC(2007)1210; SEC(2007)1183; SEC(2007)1195)

8. AMENDED PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE FURTHER IMPLEMENTATION OF THE EUROPEAN SATELLITE RADIONAVIGATION PROGRAMMES (EGNOS AND GALILEO)

(COM(2007)535 AND /2; SEC(2007)1183; SEC(2007)1195)

The Commission

- approved the communication set out in COM(2007)534/2;
- adopted the amended proposal for a regulation, set out in COM(2007)535/2;
- decided to transmit the amended proposal for a regulation and the communication to Parliament, the Council, the Economic and Social Committee, the Committee of the Regions, and to the national parliaments, together with the staff paper distributed as SEC(2007)1210, the contents of which were noted.

9. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL CONCERNING THE REVISION OF THE MULTIANNUAL FINANCIAL FRAMEWORK (2007-2013)

**PROPOSAL FOR A DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING THE INTERINSTITUTIONAL AGREEMENT OF 17 MAY 2006 ON BUDGETARY DISCIPLINE AND SOUND FINANCIAL MANAGEMENT AS REGARDS THE MULTIANNUAL FINANCIAL FRAMEWORK (2007-2013)
(COM(2007)549 TO /3; SEC(2007)1211)**

The Commission approved the communication and adopted the proposal for a decision in COM(2007)549/3, for transmission to Parliament and the Council, and to the national parliaments.

**10. COMMISSION REGULATION (EC) ESTABLISHING A PROHIBITION OF FISHING FOR BLUEFIN TUNA BY COMMUNITY VESSELS IN THE ATLANTIC OCEAN, EAST OF LONGITUDE 45° W, AND THE MEDITERRANEAN SEA
(C(2007)4272 AND /2; SEC(2007)1196)**

The Commission adopted the Regulation in C(2007)4272 for publication in the Official Journal.

**11. COMMISSION DECISION ON A PROCEEDING UNDER ARTICLE 81 OF THE EC TREATY (CASE COMP/39.168 – PO/HARD HABERDASHERY: FASTENERS)
(C(2007)4257 TO /15; SEC(2007)1221)**

The Commission

- took note of the opinions of the Advisory Committee on Restrictive Practices and Dominant Positions of 5 and 14 September 2007 in C(2007)4257/3 and /7;
- took note of the final report of the Hearing Officer of 11 September 2007 in C(2007)4257/5;
- adopted, in the authentic languages (English, French and German), the decision set out in C(2007)4257/8, noting that the companies to whom the decision was addressed had infringed Article 81 of the EC Treaty and imposing on these companies fines totalling €328 644 000;
- decided that the decision in C(2007)4257/9 to /15 would be notified to the companies concerned 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 EU official languages in the Official Journal (with business secrets removed);
- decided to publish the decision (with business secrets removed) on the Internet.

12. COMMISSION DECISION ON A PROCEEDING UNDER ARTICLE 8(2) OF COUNCIL REGULATION (EC) NO 139/2004 ON THE CONTROL OF CONCENTRATIONS BETWEEN UNDERTAKINGS AND ARTICLE 57 OF THE EEA AGREEMENT (CASE COMP/M.4525 – KRONOSPAN/CONSTANTIA) (C(2007)4293 TO /7)

The Commission

- took note of the opinion of the Advisory Committee on Concentrations of 5 September 2007 in C(2007)4293/4;

- took note of the final report of the Hearing Officer of 10 September 2007 in C(2007)4293/5;
- adopted, in the authentic language (English), the decision set out in C(2007)4293/6, declaring the notified operation compatible with the common market and with operation of the Agreement on the European Economic Area subject to full compliance with the commitments made, as set out in document C(2007)4293/2;
- decided to notify the decision in C(2007)4293/2 to /7 to the firm concerned, together with the final report of the Hearing Officer and the opinion of the Advisory Committee;
- decided that the most important parts of the decision and the opinion of the Advisory Committee and the report of the Hearing Officer would be published in the EU official languages in the Official Journal (with business secrets removed);
- decided to publish the decision (with business secrets removed) on the Internet.

13. RELATIONS WITH THIRD COUNTRIES

VISIT TO CHINA (BEIJING, HONG KONG AND MACAO, 11 TO 15 SEPTEMBER 2007) ***(SEC(2007)1225; SEC(2007)1226)***

The Commission took note of the information notes from Mr KYPRIANOU in SEC(2007)1225 and SEC(2007)1226.

- 14. PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL AMENDING DIRECTIVE 2003/54/EC
CONCERNING COMMON RULES FOR THE INTERNAL MARKET IN
ELECTRICITY**
(COM(2007)528 TO /3; SEC(2007)1179 TO /3; SEC(2007)1180 AND /2;
SEC(2007)1181; SEC(2007)1182; SEC(2007)1198)
- 15. PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL AMENDING DIRECTIVE 2003/55/EC
CONCERNING COMMON RULES FOR THE INTERNAL MARKET IN
NATURAL GAS**
(COM(2007)529 TO /3; SEC(2007)1179 TO /3; SEC(2007)1180 AND /2;
SEC(2007)1181; SEC(2007)1182; SEC(2007)1198)
- 16. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL ESTABLISHING AN AGENCY FOR THE
COOPERATION OF ENERGY REGULATORS**
(COM(2007)530 TO /3; SEC(2007)1179 TO /3; SEC(2007)1180 AND /2;
SEC(2007)1181; SEC(2007)1182; SEC(2007)1198)

17. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING REGULATION (EC) NO 1228/2003 ON CONDITIONS FOR ACCESS TO THE NETWORK FOR CROSS-BORDER EXCHANGES IN ELECTRICITY

(COM(2007)531 TO /3; SEC(2007)1179 TO /3; SEC(2007)1180 AND /2; SEC(2007)1181; SEC(2007)1182; SEC(2007)1198)

18. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING REGULATION (EC) NO 1775/2005 ON CONDITIONS FOR ACCESS TO THE NATURAL GAS TRANSMISSION NETWORKS

(COM(2007)532 TO /3; SEC(2007)1179 TO /3; SEC(2007)1180 AND /2; SEC(2007)1181; SEC(2007)1182; SEC(2007)1198)

Mr PIEBALGS briefly presented the package of measures which he was tabling for approval in agreement with Ms KROES. At the request of the Spring 2007 European Council and Parliament's resolution of 10 July 2007, the package was designed to follow up past Community measures establishing an internal market in energy.

Developments in the energy market in recent years, in particular record oil and gas prices and the emergence of supply difficulties in certain countries, had shown that the Commission had been right in anticipating the need for an internal European energy market. As things stood at present, neither security of supply, which was imperative, nor attainment of the targets for combating climate change could be guaranteed. The proposed measures were designed to rectify those shortcomings.

On the actual content, Mr PIEBALGS first referred to the proposal to ensure effective unbundling of production and supply activities on the one hand and the management of transmission networks on the other, which, he felt, was equally crucial for both the gas and electricity sectors. In practice, two options were being proposed: total unbundling of ownership; and the independent system operator model, under which separate ownership would not be required, but management

would have to be entirely independent. Under the proposed measures the same unbundling requirement would also apply to investors from non-member countries wishing to acquire interests in a European transmission network, and a special agreement between the EU and non-member countries would be required in the event of major acquisitions or acquisition of the control of a European network.

Mr PIEBALGS then turned to the measures aimed at developing a genuine, interconnected European network, in particular an increase in cross-border flows, the setting of a common level of powers and independence for national regulators, based on the highest common denominator across the Union, and the establishment of a European Agency for the Cooperation of Energy Regulators.

Finally, he mentioned the consumer-protection aspects of the proposals and stressed the expected benefits for consumers. In this respect the dossier was balanced and comprehensive, and he was convinced that all the measures proposed were justified from the point of view of both consumer interests and security of supply.

Ms KROES expressed her total agreement with Mr PIEBALGS, highlighting the excellent cooperation between the departments concerned. This set of proposals could provide an effective response to the problems facing Europe today on the energy front. Importance would have to be attached to the problem of the lack of competition, which hit consumer interests first and foremost.

On the detailed content of the proposals, she argued that, while certain adjustments had already been required to take account of the realities in certain Member States, in particular the proposal to offer two options – total unbundling of ownership or the independent system operator model – it was the effect on European households that was important at the end of the day. She pointed here to the considerable price differences between countries where activities had already been unbundled and those where activities were still integrated.

Lastly, she announced two last-minute drafting changes to be made to recital No 14 in both COM(2007)528/3 and COM(2007)529/3.

The PRESIDENT began by stressing the major importance of this package of measures, which was emblematic of the work of this Commission. He placed the initiative in the context of the strong support of the European Council and Parliament for the Commission's proposal in January advocating an integrated response to the combined challenges of climate change and energy. As a result there were high expectations of this dossier. The proposals as a whole presented an opportunity for crucial progress towards a truly competitive European energy market, while at the same time supplying tools to combat climate change and ensuring greater energy security, three objectives which he felt were inseparable.

He noted that the proposals on unbundling were ambitious, but also politically realistic, incorporating the option of an independent system operator model, the viability of which had been carefully examined. It was important to make it clear that the sole purpose of the proposals on the unbundling of activities was to reduce distortions of competition.

Suitable safeguard measures had been proposed to ensure that investors from non-member countries complied with the same rules on the unbundling of activities as European companies. The aim was to protect the integrity of the newly established European market. It was preferable to adopt a harmonised initiative in this field rather than have fragmented measures emanate from the different Member States.

Although other aspects had been discussed at length during the preparatory meetings, he urged the Commission Members to concentrate in this debate on the main themes he had just mentioned. He thanked Mr PIEBALGS and Ms KROES for their excellent cooperation.

The ensuing exchange of views highlighted the following points:

General features

- the importance of finally completing European energy policy in order to end the current compartmentalisation of national markets in the Union and create a healthy, competitive environment;
- the value of the current proposals for growth and competitiveness in the Union, given the benefits that could be reaped from lower energy prices;
- the need to ensure open access to transmission networks and to encourage greater investment in network interconnection;
- the relevance of the package of proposals to combating climate change;

Unbundling of ownership of production and transmission activities or the independent system operator model

- the importance of having a proposal which was ambitious and set out clearly the preferred option of unbundling production and supply activities on the one hand and transmission activities on the other, and of not prejudging the results of the negotiations in the Council;
- given the situation in certain Member States, the need to present a second option in the form of an independent system operator model, while laying down detailed arrangements to ensure that the guarantees of network independence would be honoured and that the general objectives in terms of competition and full liberalisation of the energy market would be achieved;
- because of this, the need to include in the independent system operator model the establishment of an autonomous regulatory authority in order to ensure that Member States implemented the proposals properly;

- as part of this option, the case for maintaining a certain degree of participation by owner companies in the investment decisions of the independent system operator;
- the importance of recognising the existence of diversified ownership models and the positive results achieved in certain Member States or groups of Member States, and of ensuring that those results were not undermined;
- certain requests to maintain the possibility of a minority shareholding by owner companies in transmission activities, despite unbundling;
- the need to underline the inherent differences in the electricity and natural gas markets, particularly from the point of view of the ownership of transmission networks;
- over and above the unbundling and independent system management options, the importance of having an effective regulatory framework in order to ensure smooth operation;

Establishment of a European Agency

- while bearing in mind the guidelines on the creation of new agencies laid down by the Commission on 29 August 2007, the value of having such a structure enabling close cooperation between national regulators;
- the usefulness of the Agency as a means of ensuring transparency of information, particularly on prices, and respect for consumer rights;
- the importance of giving the Agency a sound governing structure;

Aspects relating to non-member countries

- the value of the international provisions of the proposal, which were aimed at preserving the integrity of the internal energy market and defending the interests of the European energy sector;

- recognition of the specific and strategic dimension of the energy sector and the exceptional nature of these measures;
- to this end the need to implement proportionate, harmonised provisions at European level rather than individual initiatives by Member States;
- the importance of having a specific communication on these provisions in order to avoid erroneous interpretations and in particular to explain that the proposed measures were aimed at ensuring equal treatment of all operators who met the conditions laid down therein;
- the importance for such a communication to reiterate the Union's resolve to keep the European energy market open to foreign investors;
- the need to comply with existing international rules, particularly those of the World Trade Organisation, to respect the international powers of the Member States, and to take account of existing bilateral agreements concluded by certain Member States with non-member countries;
- the advisability of examining the proposed safeguard measures in the light of the application of the Treaty provisions on right of establishment and free movement of capital;

Other aspects

- the importance of stressing that consumers play a key role in the proposals, the aim of which was to ensure greater security of supply, more favourable pricing and better information, particularly in the context of preparations for the European Charter of Energy Consumers planned for the end of 2007;
- the need to establish a dialogue with the social partners;
- the positive prospects that stronger competition would open up in terms of innovation and hence investment in long-term research and development,

particularly with a view to creating an interconnected and sustainable European network;

- the importance of avoiding in the references to innovative technologies any wording that was potentially ambiguous as to the technologies to be promoted;
- the importance of conveying a clear message on the objectives of the current proposals, particularly the expected benefits for consumers and businesses, the contribution to combating climate change and the prevention of market-distorting behaviour.

Following this discussion, Mr PIEBALGS stressed again the key importance of unbundling production and supply activities from the management of transmission networks, in relation both to companies owned by private investors and to those controlled by the State, in order to ensure optimum competition on the energy market.

He insisted on the need for similar treatment of the electricity and gas industries, given their similarities from the consumers' point of view. He also highlighted the importance of setting up an Agency for Cooperation between Energy Regulators in order to bring the regulators in all the Member States together in an independent body. As regards the provisions relating to operators from non-member countries, he stressed that the energy industry was an exceptional case and that the aim of these provisions was to ensure compliance with the rules of the internal European market both by companies in the Union and by companies from non-member countries and to facilitate relations with third countries.

Finally, he reminded the meeting that consumer interests were at the heart of these proposals and that account had to be taken of the need for information on prices and on the operation of the market, in particular by granting greater powers to the national regulatory authorities to monitor compliance with transparency obligations.

Ms KROES came back to the aim of the proposal, which was to improve competition within the Union and hence boost the Union's competitiveness in the

world. She pointed to the expected benefits for economic activity and hence for growth and employment, in line with the Lisbon Strategy. The unbundling of production and transmission activities was vital to achieve that goal, as was similar treatment for the electricity and gas markets, which were now faced with the same difficulties.

The unbundling measures were not discriminatory, as they applied to both the private and public sectors and made no distinction between companies within the Union and those from non-member countries in order to ensure that all operators complied equally with the rules of the internal energy market and that the European market operated in an open and stable way.

The PRESIDENT thanked the Commission Members for their general support for the proposals, and in particular for the unbundling measures which had already been included in the general energy policy guidelines set out by the Commission in January. At the same time he acknowledged, from a pragmatic point of view, the case for presenting – in parallel with the option of total ownership unbundling – a second option avoiding that solution but guaranteeing independent management of production and transmission activities, which met the expectations of certain Member States. However, he insisted on the importance of maintaining proposals that set a high level of ambition, without prejudice at this stage to the discussions to be held in the Council.

He noted that the provisions relating to non-member countries formed an integral part of the balance of the package, safeguarding the European energy market against the risks arising from anti-competitive behaviour. These harmonised provisions were justified at European level and were in the reciprocal interest of all partner operators, with due regard for the Treaty and international rules, particularly those of the World Trade Organisation.

As regards the social dimension, he was deeply convinced that the proposed measures would help create jobs in the sector. On the question of the wording concerning innovative technologies, he explained that the use of the expression "low carbon" in no way implied the choice of any particular technology and did not

call into question the past and future decisions taken by each Member State on its energy mix.

Finally, he welcomed the quality and balance of the proposed measures, which would help build an internal energy market, guarantee the Union's energy security, combat climate change and ensure compliance with the rules of the market by all operators, including those from non-member countries. He therefore asked all the Commission Members to lend their support over the coming months to drive forward this important initiative and to take every opportunity to point out that it was clearly directed at consumers' interests.

The PRESIDENT noted the Commission's agreement on the following amendments to the following documents in English:

- in the document distributed as COM(2007)528/3, the beginning of recital No 14 was amended to read as follows:

"The safeguarding of energy supply is an essential element of public security and is therefore inherently connected to the efficient functioning of the EU electricity market. Electricity can only reach EU citizens through the network. Functioning electricity markets and in particular the networks and other assets associated with electricity supply are essential for public security, for the competitiveness of the economy and for the well-being of the citizens of the Community. Without prejudice...";

- in the document distributed as COM(2007)529/3, the beginning of recital No 14 was amended to read as follows:

"The safeguarding of energy supply is an essential element of public security and is therefore inherently connected to the efficient functioning of the EU gas market. Use of the network is essential for gas to reach EU citizens. Functioning gas markets and in particular the networks and other assets associated with gas supply are essential for public security, for the competitiveness of the economy and for the well-being of the citizens of the Community. Without prejudice...".

Subject to the inclusion of the above amendments and final linguistic revision, the Commission:

- adopted the proposals for Directives in COM(2007)528/3 and COM(2007)529/3;
- adopted the proposals for Regulations in COM(2007)530/3; COM(2007)531/3 and COM(2007)532/3;
- decided to transmit these proposals to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, and to the national parliaments, accompanied by the impact assessment and summary in the staff papers distributed as SEC(2007)1179/3 and SEC(2007)1180/2, the contents of which were noted;
- took note of the opinion of the Impact Assessment Board on this dossier, as set out in SEC(2007)1182.

**19. COMMUNICATION TO THE COMMISSION ON THE ANNUAL REPORT
OF THE EUROPEAN COURT OF AUDITORS FOR THE FINANCIAL
YEAR 2006 – CURRENT SITUATION
(SEC(2007)1208 TO /3; SEC(2007)1213 AND /2; SEC(2007)1191)**

Mr KALLAS thanked the Commission Members and all departments for their cooperation in preparing the Commission's replies to the Court of Auditors' observations. He stressed the importance of following up the Court's annual report in meticulous fashion and mentioned in this connection the Action Plan towards an Integrated Internal Control Framework, regarding which a progress report on implementation had been approved by the Commission on 7 March 2007.

He ran through the main observations contained in the report on the 2006 financial year. Although in some areas progress had been made compared with 2005, in others the targets had not been met. He therefore asked the Commission Members

and the departments under their responsibility to continue their efforts and to put across the main points of the Commission's replies in their contacts with representatives of the budgetary authority and the Court of Auditors.

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

- the excellent cooperation between the Commission Members, their private offices and their departments during preparatory work on this dossier;
- the importance of following up the Court of Auditors' report comprehensively and thoroughly;
- the extent of the Commission's contacts with the Court and also with the budgetary authority and the national parliaments;
- the measures undertaken to implement the Court's recommendations, particularly as regards Chapters 5 and 6 of the annual report on the common agricultural policy and structural operations, and also in the research field;
- the special nature of audit work in the context of shared management;
- the importance of explaining clearly to the Court the mechanism in place whereby Directors-General and department heads entered reservations in the annual activity reports;
- the large number of staff and resources devoted to internal audit tasks in certain Commission departments.

Winding up, the PRESIDENT thanked Mr KALLAS, the other Commission Members and all departments for the important work already accomplished in order to implement the Court of Auditors recommendations and thus improve the management of the Community budget and the European Development Fund. He asked all the Commission Members and all departments to step up their preparatory

and explanatory efforts up until 12 November 2007, the date of publication of the Court's report.

The PRESIDENT mentioned here the progress made in the research field as a result of the effective implementation of the new audit strategy. He thanked Mr POTOČNIK, Ms REDING and Mr VERHEUGEN and the departments under their responsibility for achieving these results and encouraged them to do their utmost to reach the target of 300 audits in the research field in 2007 and to ensure that the results of those audits were systematically analysed and acted on.

He also mentioned structural operations, the biggest area of budget expenditure, where the Court had not found any substantial progress in 2006. He therefore asked Ms HÜBNER and Mr ŠPIDLA, in cooperation with Mr KALLAS, to explore the possibility of developing a common audit strategy for all the Structural Funds.

Lastly, the PRESIDENT pointed out that the Commission's annual meeting with the Court of Auditors on Monday 22 October 2007 in Luxembourg was a unique opportunity to present to the Members of the Court the measures which the Commission was proposing to implement in response to the report on the 2006 financial year.

Following this exchange of views, the Commission:

- took note of the communication and the annex thereto, distributed respectively as SEC(2007)1208/3 and SEC(2007)1213/2;
- asked departments to comply scrupulously with the commitments made in the Commission's replies to the Court of Auditors, to report on the results of their implementation in their annual activity reports and to supply all the requisite information on follow-up measures, so that these measures could be evaluated by the Internal Audit Service, the Audit Progress Committee where necessary, and the Court of Auditors;
- decided to keep the contents of the communication confidential until the date of publication of the Court of Auditors annual report.

20. OTHER BUSINESS

JUDGMENT OF THE COURT OF FIRST INSTANCE OF 17 SEPTEMBER IN CASE T-201/04 (MICROSOFT CORPORATION v EUROPEAN COMMISSION)

Ms KROES reported on the content of the judgment delivered on 17 September 2007 by the Court of First Instance in the case *Microsoft v Commission*. The Court had essentially upheld the main points of the Commission decision of 24 March 2004, which had set out to offer consumers a greater choice of software on the market and to preserve the incentive for all companies operating in this industry to innovate.

She reminded the meeting that the 2004 decision constituted an important precedent requiring companies holding a dominant position, particularly in leading-edge technologies, to allow competition. The Court had therefore confirmed that *Microsoft* could not regulate the market by imposing its products and services on consumers.

In upholding the part of the Commission decision on interoperability, the Court had confirmed the importance of interoperable products for both consumer choice and innovation in the sector. Furthermore, in upholding the part of the decision on the abusive tying of Windows Media Player with the Windows PC operating system, the Court had reaffirmed the importance of free consumer choice. The Court had found that, although *Microsoft* was entitled to improve its products, consumers had not benefited from this application software being bundled with the operating system.

Ms KROES also noted the Court's finding that *Microsoft* had been unable to demonstrate that the Commission decision had undermined its innovation policy.

She argued that both the judgment and developments on the markets over the last three years had demonstrated the relevance of the Commission decision and

justified the effective application of corrective measures. She considered that *Microsoft* should now comply fully with the decision and cease all anti-competitive behaviour; if it failed to do so, she would have to lay before the Commission new corrective measures to enforce the 2004 decision.

Nevertheless, the Court had annulled certain parts of the 2004 decision, in particular concerning the appointment of an independent trustee to monitor implementation of the corrective measures. This question would have to be examined in depth before any conclusions were drawn. Ms KROES pointed out that the Court had not challenged the legality of having an independent trustee appointed by the Commission from a list drawn up by *Microsoft* in order to give impartial technical opinions on the company's compliance with the decision. However, she conceded that certain parts of the 2005 decision on the appointment of an independent trustee would have to be amended shortly in order to guarantee that *Microsoft* complied with the decision.

In conclusion Ms KROES extended special thanks to the Legal Service and the Directorate-General for Competition for their excellent work during the examination of the case and preparations for the decision, and for their objectivity and dedication throughout. She noted that the outcome served to boost the Commission's credibility in the world as the European competition authority.

The PRESIDENT also expressed his satisfaction at the judgment, the substance of which could only strengthen the Commission's powers on competition and the internal market. He thanked Ms KROES, the Directorate-General for Competition and the Legal Service for their excellent work on this dossier.

The Commission took note of this information.

21. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS ON A NEW ANIMAL HEALTH STRATEGY FOR THE EUROPEAN UNION (2007-2013)
(COM(2007)539 TO /4; SEC(2007)1189; SEC(2007)1190; SEC(2007)1193 SEC(2007)1197)

Mr KYPRIANOU presented the main points of the new animal health strategy, which he was tabling for approval.

He began by explaining that the new strategy was aimed in particular at putting prevention at the heart of EU action on animal health over the next six years, in keeping with the well-known motto "prevention is better than cure". The strategy had also been shaped by a broad public consultation launched in 2004.

He then evoked the scale of the negative consequences of animal diseases on the economy, the environment, animal welfare and public confidence in livestock products and food safety.

He recalled certain events in the past, from which lessons should be learned, and explained that the new strategy was based on the experience acquired by the Commission, while at the same time seeking appropriate responses to new challenges.

He stressed that the proposed strategy was not just concerned with the monitoring of animal diseases, but covered many aspects of animal health. Alongside the priority to be attached to public health and food safety considerations, these aspects included animal welfare, agriculture, fisheries, trade, sustainable development, external aid, the internal market, customs matters, research and information technologies, etc. There was therefore a case for an integrated approach so that each animal health measure adopted in future would have a beneficial social and economic impact on the public.

He mentioned again the increased emphasis on prevention in the new strategy. In future there would have to be more investment in prevention measures and a monitoring and early warning systems in order to reduce cases of disease; moreover, all this would have to be done at a lower cost across the board.

In conclusion Mr KYPRIANOU stressed that the success of this strategy would depend on the level of involvement of and cooperation between the many departments concerned. He therefore asked all the Commission Members for their active support in its implementation.

Ms FISCHER BOEL lent her full support to the strategy document proposed by Mr KYPRIANOU, highlighting the importance of the preventive approach proposed, given the high costs that had arisen from various crises in the past.

Following this presentation, the Commission approved the communication in COM(2007)539/4 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, and to the national parliaments, accompanied by the impact study and its summary in staff papers distributed as SEC(2007)1189 and SEC(2007)1190, the contents of which were noted.

The Commission also took note of the opinion of the Impact Assessment Board on this dossier, as set out in SEC(2007)1193.

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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 12.54 hours.