



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2008)1822 final

Brussels, 19 March 2008

MINUTES
of the 1822nd meeting of the Commission
held in Strasbourg
(Winston Churchill)
on Tuesday 11 March 2008
(afternoon)

PV(2008)1822 final

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Single sitting: Tuesday 11 March 2008 (afternoon)

The sitting opened at 13.12 hours with Mr BARROSO, President, in the chair.

Present:

Mr BARROSO	President	
Ms WALLSTRÖM	Vice-President	
Mr VERHEUGEN	Vice-President	
Mr BARROT	Vice-President	
Mr FRATTINI	Vice-President	
Ms REDING		Items 12 and 13
Mr DIMAS		
Mr ALMUNIA		Items 12 and 13
Mr BORG		
Ms GRYBAUSKAITĖ		
Mr POTOČNIK		
Mr. FIGEL'		Items 1 to 13 (in part)
Mr MICHEL		
Mr KOVÁCS		
Ms KROES		
Ms FISCHER BOEL		
Ms FERRERO-WALDNER		
Mr ŠPIDLA		
Mr MANDELSON		Item 13
Mr PIEBALGS		
Ms KUNEVA		Items 12 and 13
Mr ORBAN		
Ms VASSILIOU		

Absent:

Mr KALLAS

Vice-President

Ms HÜBNER

Mr REHN

Mr McCREEVY

The following sat in to represent absent Members of the Commission:

Ms OEN	A member of Mr KALLAS's staff
Mr CASINI	A member of Ms HÜBNER's staff
Mr KERSTENS	A member of Mr McCREEVY's staff

The following also sat in:

Mr VALE DE ALMEIDA	Chef de cabinet to the PRESIDENT	
Ms DURAND	Acting Director-General, Legal Service	
Mr CARVOUNIS	Deputy Director-General, Communication DG	
Mr LAITENBERGER	Commission Spokesman	
Ms CARVALHO	Bureau of European Policy Advisers	
Ms MARTINHO	Chief adviser in the PRESIDENT's Office	Item 13 (in part)
Ms MARTÍNEZ ALBEROLA	A member of the PRESIDENT's staff	
Mr KOSSEY	A member of Mr FIGEL's staff	Item 13 (in part)

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

1. AGENDAS

(OJ(2008)1822/3; SEC(2008)310/2)

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(2008)1822)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 10 March 2008.

3. MINUTES OF 1821ST MEETING (5 MARCH 2008)

(PV(2008)1821)

The Commission approved the minutes of its 1821st meeting.

4. MONITORING THE APPLICATION OF COMMUNITY LAW

STATE AID – INDIVIDUAL CASES – RECAPITULATIVE LIST

(SEC(2008)328; SEC(2008)327; SEC(2008)332)

The Commission adopted the decisions in the recapitulative list in SEC(2008)328.

5. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

5.1. WRITTEN PROCEDURES APPROVED

(SEC(2008)311 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 3 and 7 March 2008.

5.2. SENSITIVE WRITTEN PROCEDURES

(SEC(2008)312)

The Commission took note of the sensitive written procedures for which the time limit expired between 10 and 14 March 2008.

5.3. EMPOWERMENT

(SEC(2008)313 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 3 and 7 March 2008.

5.4. DELEGATION AND SUBDELEGATION OF POWERS

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 3 and 7 March 2008, as archived in "Greffé 2000" (Registry).

5.5. DELEGATION IN THE FIELD OF INTERMODAL TRANSPORT (MARCO POLO II PROGRAMME)

(SEC(2008)331)

The Commission decided to delegate powers to the Director-General responsible for transport to adopt, on behalf of the Commission and under its responsibility, decisions relating to the Marco Polo II programme in accordance with the terms laid down in SEC(2008)331.

6. ADMINISTRATIVE AND BUDGETARY MATTERS
(SEC(2008)314)

ADMINISTRATIVE MATTERS
(PERS(2008)40)

6.1. EUROPEAID – APPOINTMENT OF AD14/15 DIRECTOR
(PERS(2007)118 TO /4)

The Commission had before it applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Director, Thematic Operations, in the EuropeAid Cooperation Office (PERS(2007)118 and /2).

The Commission took note of the opinions of the Consultative Committee on Appointments of 28 November 2007 and 31 January 2008 (PERS(2007)118/3 and /4).

The Commission proceeded to compare the applicants' qualifications for the post. It also considered the applicants' ability, efficiency and conduct in the service. On a proposal from Mr KALLAS, in agreement with the PRESIDENT and Ms FERRERO-WALDNER, it then decided to appoint Mr Aristotelis BOURATSIS to the vacant post.

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

6.2. DG HUMANITARIAN AID (ECHO) – APPLICATION OF THE
ARTICLE 50 PROCEDURE (SECOND STAGE) WITH RESPECT TO AN
AD16 OFFICIAL
(PERS(2008)41)

The Commission continued its discussions on this matter, begun on 27 February 2008 (PV(2008)1820).

On a proposal from Mr KALLAS, in agreement with the PRESIDENT and Mr MICHEL, the Commission adopted the decision in PERS(2008)41 applying the second stage of the procedure provided for in Article 50 of the

Staff Regulations to Mr António SERVINHO CAVACO, an AD16 official, currently Director-General of the Humanitarian Aid DG (ECHO).

This decision would take effect on 1 April 2008.

6.3. DG HUMANITARIAN AID (ECHO) – APPOINTMENT OF AD16 DIRECTOR-GENERAL

On a proposal from Mr KALLAS, in agreement with the PRESIDENT and Mr MICHEL, the Commission decided under Article 7 of the Staff Regulations to fill the post of Director-General of DG Humanitarian Aid (ECHO) by transferring Mr Peter ZANGL, an AD16 official, currently Deputy Director-General in the Information Society and Media DG, in the interests of the service.

This decision would take effect on 1 April 2008.

6.4. PROMOTION OF SENIOR MANAGEMENT OFFICIALS TO GRADE AD15 – 2007 ROUND

Having noted the procedure followed, as set out at point 4 of document PERS(2008)40, the Commission, on a proposal from Mr KALLAS, in agreement with the PRESIDENT, decided to promote Mr Bruno DETHOMAS to grade AD15 to a post equivalent to Director.

This decision took effect from 1 September 2007.

**6.5. REVISED IMPLEMENTATION RULES FOR APPRAISING AND PROMOTING COMMISSION STAFF
(SEC(2008)337)**

The Commission took note of the communication set out in SEC(2008)337 and authorised Mr KALLAS:

- to organise, on behalf of the Commission, a meeting with the trade unions and staff associations under the conciliation procedure;

- to ensure that the objectives and key components of the proposal were preserved;
- to inform the Commission of the results of this conciliation meeting.

7. COMMISSION COMMUNICATION TO PARLIAMENT AND THE COUNCIL – EUROPEAN AGENCIES – THE WAY FORWARD (COM(2008)135 TO /4; SEC(2008)323 TO /3; SEC(2008)322)

The Commission approved the communication set out in COM(2008)135/4, for transmission to Parliament and the Council, and to the national parliaments, together with the Annex thereto, set out in staff paper SEC(2008)323/3, the contents of which were noted.

It also decided to carry out a review, the results of which should be communicated towards the end of 2009.

8. COMMISSION DECISION CONCERNING A PROCEEDING UNDER ARTICLE 81 OF THE EC TREATY AND ARTICLE 53 OF THE EEA AGREEMENT (CASE COMP/38543 - INTERNATIONAL REMOVAL SERVICES) (C(2008)926 TO /25; SEC(2008)347)

The Commission

- took note of the opinions of the Advisory Committee on Restrictive Practices and Dominant Positions of 18 February and 7 March 2008 in C(2008)926/4 and /24;
- took note of the final report of the Hearing Officer of 25 February 2008 in C(2008)926/5;

(11 March 2008)

- adopted, in the authentic languages (English, French and Dutch), the decision in C(2008)926/6 finding that the companies to which the decision was addressed had infringed Article 81 of the EC Treaty and Article 53 of the Agreement on the European Economic Area and imposing fines on these companies totalling €32 755 500;
- decided to authorise the Commission Accounting Officer to accept payment in instalments of the fine imposed on Interdean NV without having to require a bank guarantee;
- decided that the decision in C(2008)926/7 to /23 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 opinion of the Advisory Committee and the final report of the Hearing Officer, would be published in the official languages in the Official Journal of the European Union (with all business secrets removed);
- decided to publish the decision (with business secrets removed) on the Internet.

**9. COMMISSION DECISION CONCERNING A PROCEEDING UNDER ARTICLE 8(1) OF COUNCIL REGULATION (EC) 139/2004 ON THE CONTROL OF CONCENTRATIONS BETWEEN UNDERTAKINGS AND ARTICLE 57 OF THE EEA AGREEMENT (CASE COMP/M.4731 – GOOGLE/DOUBLECLICK)
(C(2008)927 TO /6)**

The Commission

- took note of the opinion of the Advisory Committee on Concentrations of 28 February 2008 in C(2008)927/3;

- took note of the final report of the Hearing Officer of 3 March 2008 in C(2005)927/4;
- adopted, in the authentic language (English), the decision in C(2008)927/5 and /6, declaring the notified operation to be compatible with the common market and the agreement on the European Economic Area;
- decided to notify the decision in C(2008)927/5 to /6 to the company 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 official languages in the Official Journal of the European Union (with business secrets removed);
- decided to publish the decision (with business secrets removed) on the Internet.

10. RELATIONS WITH THIRD COUNTRIES

VISIT TO ALGERIA (ALGIERS, 3 AND 4 MARS 2008) (SEC(2008)346)

The Commission took note of the information note from Ms FERRERO-WALDNER in SEC(2008)346.

11. OTHER BUSINESS

11.1. MEASURES RELATING TO THE ACTIVITY OF A MEMBER OF THE COMMISSION

(11 March 2008)

The PRESIDENT announced that Mr FRATTINI had informed him of his intention to play an active role in the general election campaign in Italy and of his wish to be granted unpaid leave for the duration of his active participation in that campaign from 14 March to 15 April 2008.

The PRESIDENT noted that, in accordance with the Code of Conduct for Commissioners of 24 November 2004, Mr FRATTINI's plans to take part in the campaign meant that he could not simultaneously carry out his duties as Member of the Commission. The PRESIDENT decided that, during the period in question, Mr BARROT would replace Mr FRATTINI for the particular subject areas that fell within the latter's responsibility.

Mr FRATTINI would therefore withdraw from the work of the Commission between 14 March and 15 April 2008. During that period, he would receive no salary or any other form of remuneration from the European Community.

The Commission took note of this information.

11.2. CONFERENCE TO MARK INTERNATIONAL WOMEN'S DAY
(BRUSSELS, 6 MARCH 2008)
(SEC(2008)344)

The Commission took note of the information note from Ms FERRERO-WALDNER in SEC(2008)344.

12. INTERINSTITUTIONAL RELATIONS
(SEC(2008)316)

The Commission took note of the record of the meeting of the Interinstitutional Relations Group held on Friday 7 March 2008 (SEC(2006)316).

It paid particular attention to the following:

12.1. LEGISLATIVE MATTERS

i) Preparation of agreement at first reading

(point 1.1.3 of the IRG record)

- European Training Foundation (recasting – Regulation) – LEHIDEUX report – 2007/0163 (COD)

The Commission authorised Mr FIGEL' to pursue contacts with Parliament and the Council in order to reach agreement at first reading following the line set out in SI(2008)168.

12.2. RELATIONS WITH THE COUNCIL

ii) Programming of Council business

(SI(2008)163)

The Commission took note of the information in SI(2008)163 on the Council meetings between 6 and 19 March 2008.

iii) Adoption by the Commission of non-binding instruments at international level

(point 2.3 of the IRG record)

- Memorandum of Understanding between the EU and Turkmenistan in the field of the energy

The Commission authorised Mr PIEBALGS to sign, with the Council Presidency, on behalf of the EU, the Memorandum of Understanding between the EU and Turkmenistan in the field of energy, as set out in SI(2008)169 and following the line set out therein.

iv) Preparations for European Council (Brussels, 13 and 14 March 2008)

The PRESIDENT reported to the Members of the Commission on preparations for the Spring Summit in Brussels on 13 and 14 March 2008,

which would focus in particular on economic issues, the renewed Lisbon Strategy for growth and employment and the climate change and energy package.

He had been invited by the Council Presidency to present on 13 March the Commission's proposals on the new three-year programming cycle of the Lisbon Strategy, the series of climate change and energy measures proposed by the Commission on 23 January on the basis of the guidelines set by the European Council in spring 2007 and, with Mr Javier Solana, the joint report on the security implications of climate change.

He expected that the European Council would welcome the proposals on the Lisbon strategy and lend its support to measures to boost growth and employment in a more difficult economic environment.

As regards the climate and energy proposals, the PRESIDENT thought that the European Council would give its support to an agreement by June 2008 on the Commission proposals regarding liberalisation of the internal energy market, and on the dossier as a whole before the end of 2008. He stressed the importance of arriving at a common position on energy and climate protection in 2008 with a view to reaching an international agreement in 2009.

Other issues to be discussed by the Heads of State and Government over dinner included security of supply, financial stability and the Mediterranean Union project proposed by the forthcoming French Council Presidency. He felt that this European Council would be able to make a significant and constructive contribution to progress on all the issues under discussion, in particular the package of measures on climate change and energy.

The Commission took note of this information.

12.3. RELATIONS WITH PARLIAMENT

v) Preparation for the March I 2008 part-session of Parliament – Oral questions

(point 3.4 of the IRG record)

- Questions H-0075/08, H-0076/08, H-0078/08, H-0079/08 (joint with H-0080/08, H-0085/08, H-0122/08, H-0124/08, H-0153/08), H-0081/08, H-0083/08, H-0086/08, H-0088/08, H-0090/08, H-0092/08, H-0094/08, H-0096/08, H-0098/08, H-0100/08, H-0102/08, H-0104/08, H-0105/08, H-0107/08, H-0109/08, H-0111/08, H-0113/08, H-0115/08, H-0117/08, H-0118/08, H-0120/08, H-0125/08, H-0126/08, H-0128/08, H-0129/08, H-0130/08, H-0133/08, H-0135/08, H-0136/08, H-0137/08 (joint with H-0140/08), H-0139/08, H-0143/08, H-0144/08, H-0145/08, H-0149/08, H-0150/08 and H-0151/08

The Commission approved the draft answers set out in documents SP(2008)1266 to /5, following the agreement reached between the Chefs de cabinet on revisions to certain draft answers and on draft supplementary answers, revisions to answers and supplementary answers as set out in SP(2008) 1266/6 *et seq.*

vi) Action taken on Parliament's non-legislative resolutions

(point 3.5.1 of the IRG record)

The Commission approved document SP(2007)1340 on the action taken on the non-legislative resolutions adopted by Parliament at its January I 2008 part-session, for transmission to Parliament.

13. COMMISSION RECOMMENDATION TO THE COUNCIL TO AUTHORISE THE COMMISSION TO BEGIN NEGOTIATIONS FOR THE CONCLUSION OF AN AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND THE UNITED STATES CONCERNING CERTAIN CONDITIONS OF ACCESS TO THE AMERICAN VISA WAIVER PROGRAM (SEC(2008)335 TO /4; SEC(2008)336)

The PRESIDENT began by highlighting the usefulness for the Commission to hold a policy debate on this highly sensitive matter. He reminded everybody that the issues they were addressing had been the subject of difficult discussions between the Member States and the Commission, on account of their political implications in terms of security and data protection, went to the very foundations of the Schengen system and concerned the EU's relations with one of its principal partners. He therefore stressed the importance for the Commission to promote a balanced approach, that would unite the Member States rather than divide them.

He also noted that the most recent contacts with the American negotiators revealed a better understanding not only of the sensitivity of these questions for the Union but also of the need to give due heed to the Community dimension.

The PRESIDENT expressed his support for the text of the recommendation to the Council as presented by Mr FRATTINI, which took into account the various political sensitivities and presented a clear line from the legal angle, preserving the interests of both the Community and the Member States.

Mr FRATTINI likewise referred to the sensitive nature of these questions, which were not new as the Commission had been systematically raising them for a number of years in the dialogue with the American partners. There had, however, been developments in the situation since August 2007, first with the legislative revision of the American Visa Waiver Program, driven by security considerations and involving the introduction of an electronic travel authorisation system, and second with the United States' apparent option of a bilateral approach with Member States.

He recalled that the Commission's intention continued to be that all the EU Member States, without distinction, should be covered by the American Visa Waiver Program. He noted that the new American legislation applied to all the Member States, whether already party to the American Visa Waiver Program or aspiring to join it, and therefore considered it unwise for the Member States to negotiate the measures for implementing this new legislation bilaterally. In this connection he took the view that the memorandum of understanding with the United States signed by a Member State on 26 February last, which should now be followed by implementing provisions, was a document of a political nature. He added that the situation had been discussed, in the Council, by the Joint Committee at ambassador level, which had agreed, on 5 March, on a common approach to be applied in contacts with the United States. He emphasised that a distinction should be made, and explained to the American partners, between aspects that were a Community competence and would therefore have to be the subject of an agreement between the European Community and the United States, and other aspects on which bilateral negotiations between the Member States and the United States were in order.

Mr FRATTINI announced in conclusion that the matter would be considered the following day at a special meeting of the Permanent Representatives Committee and that the issue would be raised at the ministerial troika meeting with the United States on 13 March.

Ms FERRERO-WALDNER noted in turn that these were extremely sensitive matters for Europeans and Americans alike; she felt that some degree of flexibility was required on both sides. She reported briefly on the meeting of the troika with the United States at Foreign Minister level, held on 6 March, and pointed out that the item had also been raised during the ministerial lunch at the Council meeting (General Affairs and External Relations), on 10 March last. She felt that it was sometimes difficult for non-member countries to grasp the concept of Community competence and how it should be exercised. She also warned against any development that would mean a step backward for the Member States already eligible for the American Visa Waiver Program. Finally she expressed her support for the recommendation to the Council as proposed by Mr FRATTINI.

The Commission held an in-depth discussion which focused on the following aspects:

- the unanimous support for the draft recommendation to the Council together with negotiating directives, which came at an appropriate time;
- the good balance between the setting of clear objectives and certain factors of flexibility, which lent credibility and realism to the proposed approach;
- certain timing considerations;
- the sensitive nature of the issue, particularly for some members of the public, and its political importance at Community and Member State levels, and also for relations between the EU and the United States;
- the importance of a Community approach based on solidarity that offered a better guarantee of results and preserved the credibility of the Union;
- the need to ensure strict compliance with the Community *acquis* and competences;
- the importance of preserving the integrity of the Schengen system;
- as regards the inter-relationship between Community competence and Member States' competence, the exemplary nature of this dossier for other areas of Community policies;
- the link that could be made between this dossier and the ratification process of the Treaty of Lisbon;
- the importance of respecting fundamental rights, particularly the protection of personal data, while at the same time facilitating travel;
- the relevance of the agreement on the treatment and transfer of personal data (PNR) by airlines;
- the possible parallels between this dossier and the open skies agreement ;

- the application of the principle of reciprocity as regards the visa arrangements between the EU and the United States;
- the need for an American visa waiver scheme that had the same rules for all European citizens, with no discrimination or differentiation by Member State of origin;
- the encouraging signals received from the American negotiators for taking into account the positions of the Union and reaching an outcome that was satisfactory for both parties;
- the importance of communicating and explaining to the public what the matter really involved and what was at stake.

After this discussion the Commission adopted the recommendation to the Council in SEC(2008)335/4, for transmission to the Council.

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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 14.45 hours.