EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2009)1864 final

Brussels, 4 March 2009

MINUTES

of the 1864th meeting of the Commission

held in Brussels

(Berlaymont)

on Wednesday 25 February 2009

(morning)

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<u>Single sitting</u>: Wednesday 25 February 2009 (morning)

The sitting opened at 9.05 in the Jean Monnet room with Mr BARROSO, President, in the chair.

<u>Present</u>:

Mr BARROSO	President	
Mr VERHEUGEN	Vice-President	Items 1 to 15
Mr BARROT	Vice-President	
Mr TAJANI	Vice-President	
Ms REDING		Item 1 (in part)
Mr DIMAS		
Mr ALMUNIA		Items 1 to 15
Ms HÜBNER		Items 1 to 14 (in part)
Mr BORG		
Ms GRYBAUSKAITĖ		
Mr POTOČNIK		
Mr FIGEL’		
Mr MICHEL		Items 1 to 14 (in part)
Mr KOVÁCS		
Ms KROES		Items 1 (in part) to 15
Ms FISCHER BOEL		
Ms FERRERO-WALDNER		
Mr McCREEVY		
Mr ŠPIDLA		
Mr PIEBALGS		Items 1 to 15 (in part)
Ms KUNEVA		
Mr ORBAN		
Ms VASSILIOU		
Baroness ASHTON		

Absent:

Ms WALLSTRÖM	Vice-President
Mr KALLAS	Vice-President
Mr REHN	

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

Mr RAMSTEDT	A member of Ms WALLSTRÖM's staff	
Ms MANFREDI	A member of Mr KALLAS' staff	
Mr PESONEN	Chef de cabinet to Mr REHN	Items 1 to 14 (in part)

The following also sat in:

Mr VALE DE ALMEIDA	Chef de cabinet to the PRESIDENT	
Ms DURAND	Director-General, Legal Service	
Mr SØRENSEN	Director-General, DG Communication	
Mr LAITENBERGER	Commission Spokesman	Items 1 to 15 (in part)
Mr GRAY	DG Communication – Commission Spokesman's Service	Items 15 (in part) and 16
Ms CARVALHO	Bureau of European Policy Advisers	
Mr THEBAULT	Deputy Chef de cabinet to the PRESIDENT	Items 14 to 16
Mr CABRAL	Adviser hors classe in the PRESIDENT's office	Items 1 to 15
Ms MARTINHO	Chief adviser in the PRESIDENT's office	Item 1
Ms ERLER	Chef de cabinet to Mr VERHEUGEN	Item 14
Mr PRONK	Adviser in Ms REDING's office	Items 1 (in part) to 16
Mr THOMAS	Chef de cabinet to Mr ALMUNIA	Items 14 (in part) to 16
Mr LEMAÎTRE	Chef de cabinet to Ms HÜBNER	Items 14 (in part) to 16
Mr WHELAN	Chef de cabinet to Ms KROES	Items 1 (in part) and 14 (in part) to 16
Mr KLEINER	A member of Ms KROES's staff	Item 15
Mr POWER	Chef de cabinet to Mr McCREEVY	Items 15 and 16
Mr UEBE	A member of Mr ŠPIDLA's staff	Item 1
Ms PEREZ-MINAYO	A member of Mr ŠPIDLA's staff	Item 1

Mr VERRUE	Director General, DG Taxation and Customs Union	Item 1

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

1. MEETING WITH THE EUROPEAN SOCIAL PARTNERS

The PRESIDENT welcomed Mr John Monks, Secretary General of the European Trade Union Conference (ETUC), accompanied by Mr Reiner Hoffmann, Deputy Secretary General, Mr Ernest-Antoine Seillière, President of BusinessEurope, accompanied by Mrs Thérèse de Liedekerke, Director, Mr Carl Cederschiöld, President of the European Centre of Employers and Enterprises providing Public services (CEEP), accompanied by Mrs Inge Reichert, Acting Secretary General, and Mr Georg Toifl, President of the European Association of Craft, Small and Medium-sized Enterprises (UEAPME), accompanied by Mr Andrea Benassi, Secretary General.

The PRESIDENT declared the working meeting open, emphasising that it reflected a willingness on the part of the Commission to cooperate with the social partners, the seriousness of the current economic and social situation, and the need for a partnership approach to translate the European Economic Recovery Plan into reality.

He reminded the meeting that the Recovery Plan endorsed by the European Council in December, pursued a number of objectives: it encouraged a coordinated stimulation of demand, sought to ensure competitiveness and sustainability in the European economy, focused on ways to lessen the impact on the groups most affected, and ensured that Community rules were taken as the framework for action, while at the same time applying a degree of flexibility, all these on top of the specific proposals drawn up in response to the crisis in the financial sector.

A major concern was the current impact of the crisis on the real economy and employment, something that would be at the heart of the Commission’s contribution at the forthcoming European Council. The measures to be proposed would have to be carefully targeted and capable of producing results.

There was an increased risk, in times of crisis, that the foundations of the European Union’s success might be forgotten, and it was worth stressing the interdependence of the Member States and the benefits of coordination, which was a more effective means of resolving the crisis than yielding to national interests. The internal market was a valuable asset and it was important to ensure that optimum use was made of it; hence the value of drawing on the experience, analyses and recommendations of the social partners as to what should be undertaken at Community level – notably with an eye to the informal meeting of Heads of State or Government on 1 March and the forthcoming European Council, to be followed by the employment summit scheduled for May.

In conclusion, there was a need for the Commission to send a strong signal of confidence and to showcase the added value of Europe, and it was desirable that the social partners should be closely associated with the work and deliberations involved.

Mr Monks first of all expressed his gratitude for being afforded the opportunity to speak with the full Commission about the challenges resulting from the deepest economic crisis ever faced by the European Union. He agreed with the need to safeguard the internal market and to collaborate to that end with the employers' organisations on the key issues, but he felt that, from the point of view of the European Trade Union Conference (ETUC), the measures taken to date were still inadequate.

A particular concern of his was the difficulties encountered in the area of the posting of workers and workers' fundamental rights, in his view the recent judgments of the Court of Justice posed a threat to the free movement of workers and the internal labour market. He was willing to discuss those matters soon with the Commission and the other social partners, and he pointed to the need to attach to a future Treaty a protocol on social progress and to strengthen substantially the Directive on the posting of workers.

He reminded the meeting of the support given by ETUC to the Economic Recovery Plan drawn up by the Commission, but, in view of the steadily worsening situation he felt that the plan was not strong enough to divert Member States from their protectionist tendencies and should clearly seek, among other things, to put an end to certain banking practices.

The Commission should be at the heart of the action and as part of a second recovery plan it should produce a more powerful and coordinated response in the economic, industrial, environmental and social policy fields, failing which the risk of protectionist reactions might increase still further. Measures should be taken to bolster demand, it being important to preserve workers' purchasing power. And any policy of cutting public sector spending would be counterproductive.

There should be more consultation and information on restructurings so as to explore every possible means of avoiding redundancies, more short-term employment opportunities coupled with suitable remuneration and training and recycling offers, and new measures aimed specifically at young people coming on to the job market in the year.

Lastly, the Commission should show ambition and play a leading role at the G20 summit on 2 April, in particular adopting a firm attitude towards the past conduct of certain financial institutions and in the fight against tax havens.

While a good start had been made, much still needed to be done, in close consultation with the social partners.

Mr Seillière then spoke on behalf of BusinessEurope, remarking first of all on the exceptional nature of the meeting and expressing the hope that it marked the beginning of a consultation process aimed at finding concrete solutions to the crisis.

He drew attention to the immediate severe financial difficulties facing millions of businesses and the absolute necessity of restoring credit flows. Referring to the concrete measures to be presented that day by Mr Jacques de Larosière, he was counting on the Commission to take them as a basis for firm proposals and international action for submission to the G20 with a view to re-establishing the normal functioning of the financial markets.

To tackle the crisis, BusinessEurope recommended a strategy based on the four pillars of improved access by businesses to financing, support for growth and employment by the Member States through incentive measures, a speeding-up of the implementation of structural reforms, and resistance to any form of protectionism.

The internal market and the euro had had an essential stabilising effect, which had to be maintained, and there was a consensus among employers and trade unions on the risks that protectionism posed for businesses and workers alike.

As far as the financial crisis was concerned, much still remained to be done to improve the effectiveness of financial rescue plans and the Commission might propose a common approach as to how to administer impaired assets without distorting competition in the internal market. BusinessEurope had set up a high-level group which would be presenting concrete proposals aimed at restoring credit flows and he suggested that its findings could be shared with the Commission in the weeks to come.

His organisation supported the European Economic Recovery Plan, which should be speedily implemented in full. The exceptional circumstances called for some flexibility in applying the Stability and Growth Pact, but this flexibility had to be accompanied by a careful watch on the public deficit and indebtedness trends. It was important, in that context, to ensure that the recovery measures were centred on investment and helped to back up structural reforms.

On the labour market front, there was a need for a constructive social dialogue, a matter of relevance here being flexicurity, and in particular the three elements of working time flexibility, labour cost control and the promotion of education and training. Tensions in the labour market should not lead to the creation of obstacles to the free movement of workers, and the practical implementation of the Posting of Workers Directive could be improved.

In conclusion, it was important in the current difficult situation that employers, trade unions and public authorities should fully face up o their responsibilities. Agreement had been reached between the European social partners on presenting a new social dialogue work programme at the Tripartite Social Summit in March and on updating their joint analysis of European labour markets with an eye to the employment summit in May. Considerable efforts were being made by businesses to continue trading, and the attitude of workers' representatives in this regard had been constructive, but continuing credit problems were jeopardising those efforts. There was a need for Member States to respect the commitments made at the December 2008 European Council in terms of coordination and it was important that the Commission should formulate ambitious proposals enabling such coordination in time for the spring European Council and, at the international level, with an eye to the G20 meeting on 2 April.

Mr Cederschiöld thanked the President for giving him the opportunity to meet the Commission, saying what a tough challenge it was to take over the presidency of the European Centre of Employers and Enterprises providing Public services (CEEP) in the current climate. The businesses he represented provided services that met people's essential needs, which meant that the quality of those services had to be maintained through effective investment; the restoration of confidence in the economy through recovery measures was crucial for this.

Current circumstances also afforded an opportunity to demonstrate the existence of solidarity among Member States.

The measures being taken in the short term to combat the crisis were important, but there was a risk that they might ultimately prove to be counterproductive unless accompanied by structural reforms and investment in social infrastructure and services. The concept of a European Infrastructure Fund might be relaunched and, more generally, the European Funds' resources might be more effectively redistributed so as to limit the impact of the crisis on the provision of services to citizens and on employment in those services. The flexibility introduced into the use of the Globalisation Adjustment Fund was a major – and welcome - step forward, but the challenge posed by restructuring called for an even greater effort.

Points to be taken into consideration were demographic growth and its effect on the demand for health care, and the jobs that would have to be created to cope with climate change – challenges to which more thought ought to be given.

Lastly, it was important to re-establish market confidence, an essential ingredient in enabling business people to overcome the crisis and recover.

Mr Toifl, President of the European Association of Craft, Small and Medium-sized Enterprises (UEAPME), also praised the exceptional character of the meeting, reflecting as it did the economic conditions that Europe was experiencing. He welcomed the positive signal that it sent out regarding Europe's readiness to respond to the crisis and the opportunity it afforded to improve the dialogue between the various stakeholders. He accordingly thanked the Commission, not least for the particular attention it paid to small and medium-sized enterprises (SMEs).

Referring to the difficulties all businesses were experiencing as a result of the crisis, he added his voice to the warnings already expressed about the protectionist reactions of some Member States and trade unions in recent weeks in the form of a number of national recovery plans and said he was looking to the Commission to counter this tendency and protect the internal market.

There were three key concerns for SMEs: the problem of access to financing, the exclusion of SMEs from recovery plans' employment support measures, which was quite unacceptable, and the scale of the operation and its implementing phase.

With regard to access to financing, SMEs were finding it very difficult to obtain the loans they needed not just to invest but to stay in business. The possibilities afforded by the new temporary framework for state aid were therefore most welcome - though the Commission needed to make sure it was approved as quickly as possible - as were the new European Investment Bank and European Investment Fund instruments, which were still at the planning stage. Much remained to be done in some areas, chief among them being late payment: it was important that the review of the Directive also include transactions between business and consumers.

As regards labour markets and employment, SMEs needed support in the form of scope for flexible working arrangements, temporary unemployment allowances and training and retraining measures if they were to be able to keep on as many staff as possible. Cuts in staffing and activities by larger businesses were having knock-on effects on their SME suppliers and subcontractors: future measure in support of restructuring should therefore cover SMEs.

In short, there was a pressing need for immediate action to help SMEs, in particular by sparing them any additional administrative burden. The Commission should carry out the measures adopted or announced for this purpose in recent months as quickly as possible. The dialogue between SMEs and other stakeholders could contribute to that objective. The present meeting could perhaps mark the beginning of an ongoing consultation process.

Mr ALMUNIA thanked the representatives of the social partners for their contributions.

As regards the issues relating to the implementation of the European economic recovery plan, the Commission would be monitoring and assessing the effectiveness and appropriateness of governments' tax incentives and any obstacles that might diminish that effectiveness. The combination of those measures, the financial support provided and the operation of the automatic stabilisers were together expected to amount to budget support equivalent to 4% of GDP, though it was too soon to assess the real impact and effectiveness of the support.

A number of Member States, especially outside the Eurozone, had had difficulty controlling their official debt over the past two months, and it was clear that some Member States had little scope for applying incentive measures. It was also clear that such measures would not be sufficient without a resumption in the normal working of the financial markets, and in particular of credit flows.

Measures had been taken to recapitalise the banks, governments had offered considerable guarantees and discussions were under way on how best to deal with impaired assets. The functioning of the banking system remained, however, a major challenge: new risks had come to light, particularly in a number of Member States for which European support mechanisms had been established as a result.

Credit conditions were worsening and demand was weak owing to the recession: that downward spiral had to be stopped. It was particularly necessary to combat any protectionist tendencies, which would only make matters worse. Even greater coordination was needed if drastic human and economic consequences were to be avoided.

The G20 summit on 2 April was of great importance for improving the global financial system and making it more effective and less hazardous.

Mr VERHEUGEN outlined the overall situation in the industrial sector. The crisis would leave behind a changed business environment: the necessary structural changes delayed in recent years now seemed inevitable. The current and future bankruptcies were attributable not solely to the crisis but to a great extent to past errors. Public opinion had to be prepared for this new reality. The roles and responsibilities had to be clearly defined: deciding whether to reduce capacity or restructure was a matter for businesses alone, not for the authorities.

In this period of structural upheaval, the social partners were particularly important, as was cooperation between Member States, and between Member States and the Commission, which made it possible to respond rapidly and appropriately.

On the issue of access to financing and the untenable credit terms currently facing businesses, governments clearly could not stand in for the banks indefinitely.

In reply to the specific question raised by Mr Toifl concerning the revision of the Late Payment Directive, which was currently the subject of consultations, Mr VERHEUGEN pointed out how difficult this was in view of the Commission's limited powers in the matters raised. He nevertheless undertook to do everything he could, citing the discussions under way on a possible regulatory moratorium to avoid any additional burden that might in the current circumstances prove fatal to many businesses.

Mr ŠPIDLA began by expressing his conviction that the crisis could not be resolved without the social partners. Projections suggested that average unemployment in the European Union would be of the order of 10% in 2010, with peaks of up to 18% in some regions. The crisis had considerable social repercussions, and its impact on the labour market and welfare in general had to be managed. It was necessary to agree key principles for handling the crisis in the short term and to create conditions conducive to getting people back to work in the medium and long term by means of structural reforms.

Priorities included keeping people in jobs by various means, boosting active labour market measures and active inclusion, investing in lifelong education and training and stepping up the social dialogue.

The Commission, for its part, would be mobilising every instrument available to it – the European Social Fund, the Globalisation Adjustment Fund, the EURES network, enhanced policy coordination and the promotion of good practice – to support efforts by Member States, just as it would be supporting the work of Europe's social partners, and in particular work on the link between workers' fundamental rights and economic freedoms.

The Commission would at the same time continue strengthening cooperation between the Member States on the implementation of the Posted Workers Directive and would be launching studies aimed at pinpointing the implementing problems on the ground.

It would also be necessary to work together to prepare for the spring European Council and the employment summit in May. To that end, the Commission wanted to launch a European Employment Pact, the details of which needed to be worked out in close consultation with the social partners.

He concluded by endorsing the remarks on the dangers of protectionism, maintaining that the current challenges could only be resolved at European level and observing that the old adage "United we stand, divided we fall" was more relevant than ever.

Mr McCREEVY addressed the problems of access to credit caused by the shortcomings of the banking system and the pressing need to remedy them as quickly as possible to avoid prolonging the recession. He was, however, aware of the need to reduce to a minimum the exposure of taxpayers to a new wave of bank bail-outs. Whatever means were used, the flow of credit to the real economy had to be restored if businesses, investment and jobs were to survive.

At the same time further action was needed to tackle the factors that had led to the banking crisis. The Commission had done well to respond so rapidly in the autumn with proposals aimed at securing assets and raising the levels of guarantees for savers. Those and other actions had enabled the Commission to keep pace with the international response to the crisis.

Additional measures in the financial services sector would figure in the communication to the European Council. These would include boardroom pay and a regulatory ceiling for solvency ratios. The Commission would be drawing up in April proposals concerning hedge funds and venture capital funds.

The crisis was still unfolding, and efforts would be needed to preserve hard-won liberties and to make sure one country's solutions did not adversely affect the other Member States. The Commission was ready to assume its responsibilities and to defend the Treaty and the internal market acquis, which continued to offer considerable scope for finding a way out of the crisis, though this would demand the active support of the social partners.

The PRESIDENT closed the meeting by remarking on the broad consensus that had emerged. New meetings should be planned to permit a longer, more interactive discussion between the Commission and the social partners, whose strong commitment to Europe, rejection of protectionism and support for the Commission's role in the crisis was to be applauded. A consensus had emerged on the need for the effective implementation of Community measures to tackle the crisis, especially the economic recovery plan. Support had also been expressed for the proposal to hold an employment summit in May. The social partners were also asked to help the Commission mobilise public opinion through the organisation of debates with the social partners and civil society in various Member States. This consultation process could perhaps be launched at the Tripartite Social Summit in March.

There was also widespread support for an ambitious approach to the G20 Summit, in line with the outcome of the Berlin meeting. The PRESIDENT would that day be receiving the report of the High Level Expert Group chaired by Mr Jacques de Larosière, which would give rise to specific proposals. The European model had to be defended by highlighting Europe's lead in the area of combining an open economy with a policy of social inclusion and social dialogue. Confidence in the economy – not just capital - had to be restored, and the social partners had a key role to play in this. Cooperation had to continue.

The first part of the meeting, attended by the social partners, closed at 10.22.

* * *

The Commission meeting resumed at 10.26.

2. AGENDAS
(OJ(2009)1864/3 ; SEC(2009)209/2)

The Commission took note of that day's agenda and of the tentative agendas for forthcoming meetings.

3. WEEKLY MEETING OF CHEFS DE CABINET
(SEC(2009)1864)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 23 February.

4. MINUTES OF 1863RD MEETING (18 FEBRUARY)
(PV(2009)1863)

The Commission approved the minutes of its 1863rd meeting.

5. INTERINSTITUTIONAL RELATIONS

5.1. LEGISLATIVE MATTERS

i) Action to be taken on Parliament's legislative opinions
(SP(2009)847)

The Commission decided to empower the Commission Members responsible for the sectors in question, in agreement with the PRESIDENT and Ms WALLSTRÖM and, if necessary, with the other Members concerned, to adopt the amended proposals for transmission to Parliament and the Council, as set out in SP(2009)847, drawn up following the February II part-session of Parliament, the contents of which were noted.

5.2. RELATIONS WITH THE COUNCIL

ii) Programming of Council business
(SI(2009)47)

The Commission took note of the information in SI(2009)47 on the Council meetings between 26 February and 11 March.

5.3. RELATIONS WITH THE EUROPEAN PARLIAMENT

iii) February II part-session
(SP(2009)906)

The Commission took note of the information in SP(2009)906 on Parliament's part-session held on 18 and 19 February in Brussels.

6. MONITORING THE APPLICATION OF COMMUNITY LAW

6.1. STATE AID – INDIVIDUAL CASES – RECAPITULATIVE LIST (SEC(2009)232 AND /2)

The Commission adopted the decisions in SEC(2009)232/2.

6.2. STATE AID – HORIZONTAL CASES

i) Commission notice on the application of state aid law by national courts
(C(2009)1114 to /3)

The Commission:

– adopted in principle the notice in C(2009)1114/3;

– Empowered, under Article 13 of the Rules of Procedure, Ms KROES, in agreement with the PRESIDENT, to adopt the notice formally in all the official languages and to have it published in the Official Journal of the European Union.

ii) Commission notice amending the temporary Community framework for state aid measures to support access to finance in the current financial and economic crisis
(C(2009)1270 and /2; SEC(2009)250)

The Commission adopted the notice in SEC(2009)1270/2.

7. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

7.1. WRITTEN PROCEDURES APPROVED (SEC(2009)211 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 16 and 20 February.

7.2. EMPOWERMENT (SEC(2009)212 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 16 and 20 February.

7.3. DELEGATION AND SUBDELEGATION OF POWERS (SEC(2009)213 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 16 and 20 February, as archived in e-Greffe.

7.4. SENSITIVE WRITTEN PROCEDURES (SEC(2009)214 AND /2)

The Commission took note of the sensitive written procedures for which the time limit expires between 23 and 27 February and of the "finalisation" written procedure initiated following the weekly meeting of Chefs de cabinet on 23 February.

8. ADMINISTRATIVE AND BUDGETARY MATTERS (SEC(2009)210/2)

ADMINISTRATIVE MATTERS (PERS(2009)29/2)

8.1. DG AGRICULTURE AND RURAL DEVELOPMENT – APPOINTMENT OF AD14 DIRECTOR (EU-12) (PERS(2008)48 TO /5)

The Commission had before it applications under Article 29(2) of the Staff Regulations for the post of Director, Directorate Rural Development Programmes I, in the Directorate-General for Agriculture and Rural Development (PERS(2008)48 to /3).

The Commission took note of the opinions of the Consultative Committee on Appointments of 1 and 12 December 2008 (PERS(2008)48/4 and /5).

It proceeded to compare the applicants' qualifications for the post. On a proposal from Mr KALLAS, in agreement with the PRESIDENT and Ms FISCHER BOEL, it decided to appoint Mr Dacian CIOLOS to the post.

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

8.2. DG AGRICULTURE AND RURAL DEVELOPMENT – APPOINTMENT OF AD14 DIRECTOR (EU-12) (PERS(2008)49 TO /6)

The Commission had before it applications under Article 29(2) of the Staff Regulations for the post of Director, Directorate Relations with other Institutions, communication and documentation, in the Directorate-General for Agriculture and Rural Development (PERS(2008)49 to /4).

The Commission took note of the opinions of the Consultative Committee on Appointments of 1 and 12 December 2008 (PERS(2008)49/5 and /6).

It proceeded to compare the applicants' qualifications for the post. On a proposal from Mr KALLAS, in agreement with the PRESIDENT and Ms FISCHER BOEL, it decided to appoint Mr Mario MILOUCHEV to the post.

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

8.3. DG MARITIME AFFAIRS AND FISHERIES – APPOINTMENT OF AD14/15 DIRECTOR (PERS(2008)117 TO /6)

The Commission had before it applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Director, Directorate Mediterranean and Black Sea, in the Directorate-General for Maritime Affairs and Fisheries (PERS(2008)117 to /3 and /6).

The Commission took note of the opinions of the Consultative Committee on Appointments of 15 October 2008 and 8 January 2009 (PERS(2008)117/4 and /5).

It 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 Mr BORG, it then decided to appoint Ms Carla MONTESI to the post.

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

8.4. *DG INFORMATION SOCIETY AND MEDIA – ADOPTION OF A LIST FOR THE FUNCTION OF AD14 EXECUTIVE DIRECTOR OF THE ARTEMIS JOINT UNDERTAKING TO IMPLEMENT A JOINT TECHNOLOGY INITIATIVE IN EMBEDDED COMPUTER SYSTEMS (PERS(2009)24)*

The Commission took note of the procedure followed, as set out in point 4 of PERS(2009)29/2, and, on a proposal from Mr KALLAS, in agreement with the PRESIDENT and Ms REDING, decided:

- to approve the list of two candidates set out in point 4 of PERS(2009)29/2;
- to ask Mme REDING to communicate this decision to the governing board of the ARTEMIS joint undertaking to implement a joint technology initiative in embedded computer systems.

These decisions would take effect immediately.

8.5. *AMENDMENT OF CONTRACT OF A SPECIAL ADVISER TO THE PRESIDENT*

The Commission noted the information at point 5 of PERS(2009)29/2 and, on a proposal from Mr KALLAS, in agreement with the PRESIDENT, decided to amend the contract of Mr José Manuel BRIOSA E GALA to add 30 unpaid days.

This decision would take effect retroactively from 1 February 2009.

8.6. *DG EDUCATION AND CULTURE – INCREASE IN QUOTA OF NON-STRUCTURAL ADVISER FUNCTIONS*

On a proposal from Mr KALLAS, in agreement with the PRESIDENT and Mr FIGEL', the Commission decided to increase the quota of non-structural adviser functions in DG Education and Culture from 0 to 1, to facilitate stabilisation of management staff.

This decision would take effect immediately.

9. COMMISSION RECOMMENDATION FOR A COUNCIL OPINION IN ACCORDANCE WITH ARTICLE 5(3) OF COUNCIL REGULATION (EC) 1466/97 ON THE UPDATED STABILITY PROGRAMME OF ITALY (2008-2011)
(SEC(2009)233 AND /2; SEC(2009)236; SEC(2009)237)

10. COMMISSION RECOMMENDATION FOR A COUNCIL OPINION IN ACCORDANCE WITH ARTICLE 5(3) OF COUNCIL REGULATION (EC) 1466/97 ON THE UPDATED STABILITY PROGRAMME OF LUXEMBOURG (2008-2010)
(SEC(2009)235 TO /3; SEC(2009)236; SEC(2009)237)

11. COMMISSION RECOMMENDATION FOR A COUNCIL OPINION IN ACCORDANCE WITH ARTICLE 5(3) OF COUNCIL REGULATION (EC) 1466/97 ON THE UPDATED STABILITY PROGRAMME OF PORTUGAL (2008-2011)
(SEC(2009)234 AND /2; SEC(2009)236; SEC(2009)237)

12. COMMISSION RECOMMENDATION FOR A COUNCIL OPINION IN ACCORDANCE WITH ARTICLE 9(3) OF COUNCIL REGULATION (EC) 1466/97 ON THE UPDATED CONVERGENCE PROGRAMME OF LITHUANIA (2008-11)
(SEC(2009)231 TO /3; SEC(2009)236; SEC(2009)237)

The Commission adopted the recommendations for Council opinions on the updated stability programmes of Italy (2008-2011), Luxembourg (2008-2010) and Portugal

(2008-2011), and on the updated convergence programme of Lithuania (2008-2011) in SEC(2009)233/2, SEC(2009)235/2, SEC(2009)234/2 and SEC(2009)231/3, for transmission to the Council.

13. RELATIONS WITH NON-MEMBER COUNTRIES

VISIT TO SYRIA AND LEBANON (DAMASCUS AND BEIRUT, 15 TO 17 FEBRUARY 2009)
(SEC(2009)259)

The Commission took note of the information note from Ms FERRERO-WALDNER distributed as SEC(2009)259.

14. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE ECONOMIC AND SOCIAL COMMITTEE – RESPONDING TO THE CRISIS IN THE EUROPEAN AUTOMOTIVE SECTOR
(COM(2009)104)

Presenting the Communication he had submitted for approval by the Commission, Mr VERHEUGEN began by stressing the economic importance of the automotive sector in Europe, a point already made by the Commission in the past. It was not a question of introducing a specific policy for the sector, but rather of enabling it to benefit from the opportunities provided by existing horizontal policies whilst observing the existing rules and principles. The impact of the economic crisis on the industry and the consequences in terms of jobs were serious.

Restructuring was vital to guarantee the sector’s survival, but the responsibility lay with companies themselves rather than the Commission or the authorities in the Member States. Moreover, the future of the automotive sector affected all the Member States of the European Union, including – via repair, maintenance or distribution networks – those that did not have or no longer had any national manufacturers. Commercial vehicles were facing problems too and their recovery also had to be promoted.

Regarding the situation of one of the big American car makers, a question deliberately not covered in the Communication on account of the considerable uncertainty currently surrounding its future and what action the United States Government might take in its case, Mr_ VERHEUGEN pointed to the possible consequences of that manufacturer's bankruptcy and the difficult and complex situation faced by those European car makers which are its subsidiaries.

Companies should be given easy access, subject to certain limits, to the credit they needed, in particular through the European Investment Bank. It was up to the Commission to explain to everyone the need to avoid taking measures of a purely national nature and to comply with the rules governing the internal market and competition. The possible implementation of an early warning system would be examined at a round table meeting to be held as part of the CARS 21 process, involving Member States, entrepreneurs, and trade unions in the automotive sector. The Member States had a certain margin for manoeuvre to act efficiently, but if state aid was granted which did not comply with the competition rules, the Commission would have to take the appropriate measures.

Mr VERHEUGEN rounded off his presentation by stressing once again the difficult situation faced by the automotive sector and the consequent social impact, something that was particularly sensitive in the run-up to the European Parliament elections. Concluding, he said that the Commission could pride itself on having been the first to raise these issues in relation to Europe's automotive industry, as early as 2005 in the case of the CARS 21 initiative, and in the autumn of 2008 as regards the possible consequences of the economic crisis.

Ms KROES congratulated him on the document before the Commission and on the quality of the combined effort which had made it possible. With regard to the competition rules, the Communication made it clear that several options were open to Member States for providing support to their automobile industries within the existing regulatory framework. Decisions were essentially a matter for companies themselves and it should not be forgotten that car makers' financial subsidiaries were also eligible for the general support offered to the banking sector. She herself and her departments were willing to speak with the Member States and to assist them in drawing up national aid measures for the automotive sector.

The PRESIDENT in turn reiterated the point that the automotive industry was one of Europe's main sources of employment, exports, and innovation and that economic recovery in Europe would not be possible without a recovery in this sector. The industry was truly European in that there was a clear interdependence, a 'network' so to speak, between one Member State and another, between suppliers, manufacturers, and distributors, and to consider automobile manufacturers as national 'champions' was no longer appropriate in today's world. Action at European level was therefore especially important for the sector and if none was taken there was a great risk that short-term national measures would seek to put an end to this interdependence, with a spiralling loss of competitiveness and retaliatory measures between Member States as a result.

Such measures were likely to lead to similar action by non-member countries, even though the volume of European exports was double that of imports. The automotive sector was very exposed to international competition and despite the uncertainty surrounding what measures the United States Government might take regarding one of its main car makers, it was important to know what Member States could do without breaking existing Community rules.

By way of example, the European Economic Recovery Plan included objectives which specifically met the needs of the automotive sector in terms of credit, investment in new and future technologies, and the opening-up of markets, as well as in terms of aid for workers laid off or needing to retrain in order to face new challenges. Any criticisms of alleged inaction on the part of the Commission were totally unfounded and Member States should be clearly told that any isolated initiatives on their part would lead to an impasse and that only joint coordinated action could be effective.

Any action by the Member States must in any case comply with a certain number of common rules so that the internal market could work to produce the maximum benefit, though this did not mean imposing a single solution on them. The PRESIDENT reiterated what Mr VERHEUGEN and Ms KROES had said about the need for the Commission to ensure compliance with the rules governing the single market and competition. He finished by noting that although the Communication was primarily directed at the 'Competitiveness' Council, it could and should be used by each Member of the Commission to reinforce the message that the European Union was at the heart of strategies to overcome the crisis and that the Commission was actively working towards this end.

The Commission then held a discussion which featured the following major points:

- the need for the Commission to be highly vigilant to ensure that the rules on state aid and competition were respected, and the importance of an early warning system to allow it to assess rapidly whether or not Member States had infringed Community law when taking decisions on government aid for their automobile industries;

- the importance of encouraging *ex ante* coordination at Community level so that the measures the Member States intended to take in support of their automotive industries could be examined more effectively;

- the value of giving a positive signal to public-private partnerships in order to stimulate research and innovation in the automotive sector and the importance of promoting dialogue between all stakeholders in the sector;

- the importance for the European Union of protecting its automotive industry and its citizens without falling into the trap of protectionism;

- the hope that the European Investment Bank (EIB) could, whilst adhering to its internal procedures, consider more rapid and higher lending to companies; here reference was made to the loans it had already granted or would soon be granting;

- the high quality of Europe's automobile equipment manufacturers, the need to preserve intact the skills of the workforce of these small and medium-sized enterprises, and the importance of encouraging training and investment in human resources in particular;
- the scope for support from the European Social Fund;
- the importance of encouraging the Member States to draw up measures to modernise production capacity in the automotive sector;
- the need to ensure that the same rules and principles are observed and fully applied by all of Europe's international partners and the benefits of existing or future free-trade agreements with non-member countries giving European products better access to foreign markets within a fair competition framework;
- the very difficult situation for heavy goods vehicles, sales of which had fallen drastically in recent months;
- perplexity over the initiative in the United States to favour American products ('*Buy American*') and doubts as to its compatibility with the rules of the World Trade Organisation, and the need to discuss these questions with the US authorities before mounting any challenge or taking legal action;
- the value of taking an approach specifically geared to the automotive sector, in view of the other industrial sectors likely to be affected by the economic crisis;
- the value of making the case for the action taken at Community level to combat the consequences of the crisis in certain key sectors of the European economy.

In response Mr VERHEUGEN pointed to the importance of a horizontal approach whereby the existing rules and instruments could be applied beyond the short term, noting that they were not specific to the automobile industry. He recalled the research partnerships under way with the industry and noted that such initiatives would now be supported by the European Economic Recovery Plan. He also confirmed that the European Investment Bank was working constructively to assist the automotive sector.

The PRESIDENT thanked Members for their contributions and concluded the discussion by stressing the need for effective communication on this issue, especially in terms of concrete results, as it was a matter of interest for both the media and public opinion.

The Commission approved the communication in COM(2009)104, subject to final adjustments to the table in Annex 3, for transmission to the European Parliament, the Council and the Economic and Social Committee, as well as to the national parliaments.

15. COMMUNICATION FROM THE COMMISSION ON THE TREATMENT OF IMPAIRED ASSETS IN THE EU BANKING SECTOR (C(2009)1345 AND /2; SEC(2009)252)

The PRESIDENT noted that the main objective of this communication was to help re-establish credit flows by dealing with impaired assets in banking institutions in such a way as to make those institutions function again and restore confidence. The Commission's guidelines were appropriate, the aim being to offer a level playing field to the entire European financial sector by establishing a Community framework within which Member States could implement the necessary measures. Such an initiative was urgently needed as some Member States had already announced their intention of taking such measures, and the guidelines on guarantees and recapitalisation published by the Commission in 2008 needed supplementing. This was a technical document setting out general principles and clarifying complex and relatively new concepts, and Ms KROES, Mr ALMUNIA and Mr McCREEVY, their offices and the departments for which they were responsible were to be congratulated for the quantity and quality of the work done.

Ms KROES traced the origins of the current economic crisis to the malfunctioning of the financial system, particularly the existence of impaired assets and inadequate risk assessment. It was the duty of the Commission to propose a solution to the problem and to play a leading role through the support it could give the Member States in their efforts to rescue the financial institutions concerned.

The degree to which the Member States were affected by the problem, and were willing to take action to tackle it, varied, something that could threaten competition. It was important to protect the internal market and ensure that state aid did not create an advantage for the banks concerned to the detriment of those which had been more prudent. The unfolding of the crisis and the resulting higher risk of defaults could swell the number of bank assets at risk. In view of the measures planned in the Member States, rules had to be developed that were rooted in sound principles but also offered the flexibility needed to respond to different national circumstances.

The communication proposed a common approach designed to ensure that the anticipated losses were properly accounted for and managed, and that banks had the necessary capital to return to normal economic working. The basic principles underlying the guidelines were:

– complete transparency and identification of impaired assets prior to any government intervention;

– a coordinated approach to identifying eligible assets by defining categories of eligible assets (baskets);

– a coordinated approach to the valuation of assets based on common principles such as real economic value and certification by independent experts;

– appropriate sharing of the costs of impaired assets among shareholders, creditors and governments;

– correct remuneration of the public support given by governments;

– coverage of the losses incurred from the valuation of the assets at real-economic-value by the bank benefiting from the scheme;

- alignment of incentives for participating in the programme with the public-policy objectives pursued, thanks to a six-month enrolment window for applications;
- management of assets so as to exclude any conflict of interest;
- suitable restructuring, including appropriate measures to prevent distortions of competition on the basis of case-by-case assessments and to ensure the long-term viability of banks and a return to normal market conditions.

It was up to the Member States to design the national programmes on the understanding that when it came to state aid they would be subject to uniform evaluation criteria to ensure fair competition. Thanks were due to the departments and the Members' offices responsible for drafting the communication for their excellent work, which confirmed the key role played by the Commission in the response to the economic and financial crisis.

Mr ALMUNIA said it was necessary to explain clearly what the guidelines did and did not set out to do: they did aim to ensure fair competition, uphold state-aid rules and ensure that the measures taken by individual Member States were consistent; they were not designed to evaluate individual assets or judge the individual decisions of Member States regarding the selection of banks. Competition in Europe had to be preserved and any discrimination avoided in order to ensure the viability of the banks concerned and the compatibility of the public expenditure needed with the Member States' budgetary constraints. Those guidelines were to be taken into account when drawing up the guarantee and recapitalisation programmes and, more generally, they formed part of a coordinated response to a complex issue.

At the last meeting of the Economic and Financial Affairs Council all the finance ministers had been in favour of an approach that combined the needed flexibility with strict compliance with the competition rules, and the necessary appropriate assessment of programmes of great technical complexity with the urgency that was felt in the Member States. There was a need for caution when it came to restructuring requirements in view of the exceptional conditions then prevailing.

Mr McCREEVY said the guidelines were both timely and necessary; they underpinned the guarantee and recapitalisation measures that had not been sufficient to restore the flow of credit to businesses and individuals. The main reason for this, as he saw it, was the uncertainty reigning in the banking sector as to the extent and worth of the impaired assets. The Member States were exploring avenues to revive credit and lending, and dealing with impaired assets was one of the solutions envisaged. The Commission should therefore provide guidelines before any such measures were adopted so as to ensure that the latter complied with competition and internal market principles, given their potential distorting effects.

Although the treatment of impaired assets was a useful part of any economic recovery plan, it was up to the Member States to decide how to do this. The role of the communication was simply to propose options. The Member States were waiting for such guidelines, as had been said at the Economic and Financial Affairs Council on 10 February. The guidelines struck the right balance between consistency and flexibility, and they established a framework conducive to fair competition and a consistent approach across the EU. That approach offered good incentives for banks to act accordingly, while allowing the Commission to play its role as guardian of the rules.

After these presentations, the Commission held an exchange of views during which the following points were raised:

- the relevance of the guidelines and recognition of the great amount of work done by the Commission's departments in a very short time;
- the broad consensus among Member States as to the importance of action to revive bank lending and restore confidence in the banking system, and expectations that the Commission should provide a framework to ensure consistency and coordination between Member States, particularly in the lead-up to the G20 summit;

- the importance of tougher monitoring of the financial sector's activities in order to prevent abuses and to ensure the transparency of the recovery process and compliance with common rules and principles;

- the need to prevent any distortion of competition as an upshot of the process to deal with impaired assets and to ensure a level playing field for banks whether or not they were beneficiaries of the measures;

- the advisability, given the complexity of asset-evaluation methods, of subjecting them to the supervision of bodies such as for example the Committee of European Banking Supervisors;

- the need for a coordinated overall vision of the Union, while taking into account the worrying situation of some Member States and the possibility canvassed by some of them of joining the European exchange rate mechanism.

The PRESIDENT said he was persuaded of the relevance of the proposed guidelines and congratulated all the Offices and departments involved in formulating them. He welcomed the fact that these guidelines had won the general approval of the Commission. They were designed to provide a European framework and to ensure compliance with the competition rules. They had been drawn up with the support of the European Central Bank and built on the guarantee and recapitalisation guidelines adopted earlier. It was a valuable document at a time when some Member States were debating what measures to take, particularly as regards restructuring. It was important to have a European vision in the run-up to the G20 summit in London and, as the debate intensified around the world, the European guidelines for a common framework drawn up by the Commission constituted the first initiative in this area.

The objectives of the communication had to be explained, but it also had to be made clear that the aim was not to impose a specific methodology on the Member States but to provide them with a framework for action where appropriate. Within that common framework the Member States had all the flexibility they needed to respond to the specific problems and constraints they were faced with.

The PRESIDENT ended by referring to the specific situation of the Central and Eastern European countries both inside and outside the European Union, and invited Mr ALMUNIA, Ms KROES and Mr McCREEVY to assess the situation of those countries with a view to establishing a common Union approach ahead of the informal lunch of Heads of State or Government on 1 March, which would be preceded by a meeting of the Heads of State or Government of Central and Eastern European countries that were EU Member States. He endorsed the relevance of that meeting for the specific problems faced by those countries and said he would be present, as would the Presidency-in-Office of the Council. While he recognised the need for a cautious and pragmatic approach to the problems of certain Member States, he thought that a collective and coordinated response to the challenges faced by all EU Member States had to be devised.

Following this exchange of views, the Commission:

– adopted in principle the English-language communication in C(2009)1345/2;

– under Article 13 of its Rules of Procedure, empowered Ms KROES, in agreement with the PRESIDENT, to formally adopt the communication in all the official languages of the Union and to publish it in the *Official Journal of the European Union*;

– decided to send it to the Council for information.

16. OTHER BUSINESS

16.1. BUDGET IMPLEMENTATION AT 31 DECEMBER 2008 (SEC(2009)238 AND /2; SEC(2009)239)

The Commission took note of the information note from Ms GRYBAUSKAITĖ in SEC(2009)238/2.

16.2. *REPORT OF HIGH-LEVEL EXPERT GROUP ON FINANCIAL SUPERVISION CHAIRED BY JACQUES DE LAROSIERE (SEC(2009)261)*

The PRESIDENT referred to the report on financial supervision drawn up by the high-level expert group on financial supervision, chaired by Jacques de Larosière, submitted to the Commission on Tuesday 24 February, which was distributed to the Members during the meeting.

He paid tribute to the excellent work carried out and extended warm thanks to the members of the group, in particular the Chair, Jacques de Larosière, as well as the rapporteur, David Wright, and the Commission's other collaborators who had run the secretariat for the group. He noted the outstanding quality of the report and felt that the approach of entrusting this important analysis to persons of undisputed eminence with the greatest possible experience in their fields had been a successful one. The analysis made had been a full one and the report had come at the right time given the severity of the financial crisis and the challenges that had to be addressed.

The PRESIDENT then briefly reviewed the main results of the working group. The Commission would proceed immediately to examine in depth the 31 recommendations put forward by the experts. The report showed clearly that the Community dimension of financial supervision would have to be substantially reinforced, and the Commission would study the possible initiatives in this area. He also referred to the links between certain recommendations and proposals already approved by the Commission as well as with other initiatives currently being prepared, for example those relating to hedge funds and private equity funds, which were expected in April.

He also underlined the importance of the recommendations for the forthcoming Community and international meetings. In the coming days and weeks the Commission must prepare contributions to the discussion to be held at the informal lunch of Heads of State and Government to be held in Brussels on Sunday 1 March, the spring European Council on 19 and 20 March and the

G20 summit on 2 April in London.

He referred to the high expectations that existed and the responsibility incumbent upon the Commission to contribute ideas and solutions to improve financial supervision. The Commission's contributions should focus on financial supervision at global as well as Community level and the Commission, together with the other world players, should continue its efforts to reinforce international supervision and make it more effective.

He also stressed the importance of exchanging views with the social partners and of the initiatives approved by the Commission at this meeting. For the remainder of its term of office, the Commission must not let up in its action to combat the economic crisis. The challenges facing the European Union and its Member States at Community and international level required a pro-active and long-term approach and the Community institutions must not slacken their efforts.

He informed the meeting that a first assessment of the report would be put before the Commission at its next meeting, namely in the context of the preparation of the European Council, and that an information meeting of Chefs de cabinet had been called for Thursday 26 February. He also proposed to invite Jacques de Larosière to an informal discussion with the Commission Members to discuss in depth certain important issues addressed in the report.

Mr McCREEVY joined in the thanks extended by the PRESIDENT. He commended the report for its balanced nature, the full analysis made in it and its strategic but also pragmatic approach, and stressed the importance of appropriate follow-up to its recommendations.

The Commission took note of this information and of the report submitted as SEC(2009) 261.

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The meeting closed at 12.38.