EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2009)1895 final

Strasbourg, 24 November 2009

<u>MINUTES</u>

of the 1895th meeting of the Commission

held in Brussels

(Berlaymont)

on Thursday 19 November 2009

(afternoon)

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<u>Single sitting</u>: Thursday 19 November 2009 (afternoon)

The sitting opened at 15.21 in the Jean Monnet room with Mr BARROSO, President, in the chair.

<u>Present</u>:

Mr BARROSO	President	
Ms WALLSTRÖM	Vice-President	Items 1 to 9
Mr BARROT	Vice-President	
Mr TAJANI	Vice-President	
Ms REDING		
Mr DIMAS		
Mr BORG		
Mr POTOČNIK		
Mr REHN		
Mr KOVÁCS		
Ms KROES		Items 1 to 7, and 10 (in part)
Ms FISCHER BOEL		
Mr McCREEVY		
Mr ŠPIDLA		
Mr PIEBALGS		
Ms KUNEVA		
Mr ORBAN		
Baroness ASHTON		
Mr ŠEMETA		
Mr SAMECKI		
Mr DE GUCHT		
Mr ŠEFČOVIČ		

<u>Absent</u>:

Mr VERHEUGEN	Vice-President
Mr KALLAS	Vice-President
Mr ALMUNIA	
Ms FERRERO-WALDNER	
Ms VASSILIOU	

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

Ms ERLER	Chef de cabinet to Mr VERHEUGEN
Mr SCHMIDT	Deputy Chef de cabinet to Mr KALLAS
Mr QUERO MUSSOT	Acting Chef de cabinet to Mr ALMUNIA
Mr CHILD	Chef de cabinet to Ms FERRERO-WALDNER
Ms SPANOU	Deputy Chef de cabinet to Ms VASSILIOU

The following also sat in:

Mr LAITENBERGER	Chef de cabinet to the PRESIDENT	
Mr ROMERO REQUENA	Director-General, Legal Service	
Mr SØRENSEN	Director-General, DG Communication	
Ms AHRENKILDE HANSEN	Commission Spokeswoman	
Mr CONDOMINES BERAUD	Bureau of European Policy Advisers	
Mr FRUTUOSO DE MELO	Deputy Chef de cabinet to the PRESIDENT	
Mr KLAUS	A member of the PRESIDENT's staff	Items 1 to 6

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

1. AGENDAS
(OJ(2009)1895/3; SEC(2009)1568/2)

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(2009)1895)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 16 November.

3. APPROVAL OF MINUTES AND SPECIAL MINUTES OF 1894th MEETING (11 NOVEMBER)
(PV(2009)1894 AND /2; PV(2009)1894, PART II)

The Commission approved the minutes of its 1894th meeting.

4. MONITORING THE APPLICATION OF COMMUNITY LAW

4.1. STATE AID – INDIVIDUAL CASES
(SEC(2009)1587; SEC(2009)1585)

The Commission adopted the decisions in SEC(2009)1587.

4.2. STATE AID – IMPLEMENTATION OF STATE AID POLICY IN THE BANKING SECTOR FOLLOWING THE FINANCIAL CRISIS (SEC(2009)1607)

The Commission took note of the information note from Ms KROES in SEC(2009) 1607.

5. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

5.1. WRITTEN PROCEDURES APPROVED (SEC(2009)1570 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 9 and 13 November.

5.2. EMPOWERMENT (SEC(2009)1571 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 9 and 13 November.

5.3. DELEGATION AND SUBDELEGATION OF POWERS (SEC(2009)1572 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 9 and 13 November, as archived in e-Greffe.

5.4. SENSITIVE WRITTEN PROCEDURES (SEC(2009)1573 AND /2)

The Commission took note of the sensitive written procedures for which the time limit expired between 16 and 20 November and of the ‘finalisation’ written procedure initiated following the weekly meeting of Chefs de cabinet on 16 November.

6. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – MOBILISING PRIVATE AND PUBLIC INVESTMENT FOR RECOVERY AND LONG TERM STRUCTURAL CHANGE: DEVELOPING PUBLIC PRIVATE PARTNERSHIPS (COM(2009)615 TO /4; SEC(2009)1588)

The PRESIDENT presented the communication on developing public-private partnerships, which he was submitting to the Commission for approval. He prefaced his remarks by stating that in the European recovery plan of November 2008 the Commission sought to clarify and facilitate the use of financing methods that brought together public and private partners, and that he himself had announced the creation of a new framework for public-private partnerships last summer, in his political guidelines for the next Commission.

The PRESIDENT said that, largely because of the current economic crisis, public finances were and would continue to be subject to tighter constraints and that, in this context, public-private partnerships were a particularly good way of combining public and private resources in major infrastructure projects and effectively mobilising private funding. Such partnerships could also help to sustain economic activity at a time of crisis and promote a rapid return to sustainable economic growth.

In the longer term, as it defined its strategy for 2020, the Commission would identify several strategic objectives, such as tackling climate change, energy security, sustainable and competitive transport, the digital economy, high quality education and healthcare, which were all policy challenges for the 21st century requiring billions of euros of investment, not all of which could come from the public purse.

The proposed communication had three aims: to pinpoint the potential benefits of public-private partnerships, to address the problems that arose by implementing an action plan, and to facilitate and promote the use of such partnerships, which cover infrastructure projects but also research, for example joint technology initiatives. The choice of whether or not to use such partnerships would be entirely up to the public authorities concerned.

The PRESIDENT then went over the proposals in the communication, saying first that the Commission proposed launching a dialogue with the various stakeholders through an ad hoc group which would become the focal point for discussion of issues relating to such partnerships. There was a need to improve access to funding for partnerships and to do so by strengthening existing Community instruments and developing closer relations with the European Investment Bank to promote and finance public-private partnerships, particularly in sectors with strong European added value. Once the ongoing impact assessment of concessions had been completed, the possibility of promoting public procurement in public-private partnerships would be examined. It would also be important to improve the public authorities' level of knowledge and expertise in the area of such partnerships.

He also referred to the importance and specific challenges of joint technological initiatives, which were public-private partnerships in the field of research at European level, arising out of the framework programme. These should be developed further, in the interests of European industrial policy, and this meant finding proper solutions to the problems encountered, including, if necessary, changing the Community's regulatory environment.

Finally, the PRESIDENT highlighted the balanced and coherent nature of the text being presented, which took account of the need to protect the EU's financial interests, but without prejudging any solutions that the Commission might subsequently make in that respect.

A brief discussion followed this presentation, in which the following points were mentioned in particular:

- this was a timely, well-balanced text, particularly in the areas of transport and energy where it was useful to be able to give firmer financial guarantees to private partners wishing to explore this avenue;

- public-private partnerships raised a number of specific questions, particularly as regards how they were accounted for in the national budget and the distinction to be drawn between partnerships that were simple financial constructions and those that genuinely contributed technological added value.

The Commission approved the communication in COM(2009)615/4 for transmission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, and to the national parliaments.

7. INTERINSTITUTIONAL RELATIONS (SEC(2009)1577)

The Commission took note of the record of the meeting of the Interinstitutional Relations Group held on Friday 13 November (SEC(2009)1577).

It paid particular attention to the following points.

7.1. LEGISLATIVE MATTERS

i) Action to be taken on Parliament's legislative opinions
(SP(2009)4907)

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)4907, drawn up following the November I part-session of Parliament, the contents of which were noted.

ii) Co-decision procedure
(point 1.2 of the IRG record)

– Energy performance of buildings (Directive – recast) – TICĂU report – 2008/0223 (COD)

The Commission authorised Mr PIEBALGS to pursue contacts with Parliament and the Council in order to reach agreement on a common position following the line set out in SPI(2009)89/2 and /3.

iii) Preparations for the November II 2009 part-session of Parliament
(point 1.3 of the IRG record)

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:

<u>Consultation</u>

– Common system of value added tax (Council Directive) – BULLMANN report – 2007/0238 (CNS)

The Commission approved the line set out in SP(2009)4860.

iv) Preparations for Council meeting (Agriculture and Fisheries) (Brussels, 20 November)
(point 1.4 of the IRG record)

– Conservation of fisheries resources through technical measures (Council Regulation) – VISSER report – 2008/0112 (CNS)

The Commission approved the approach set out in SI(2009)273/2.

– Common rules for direct support schemes for farmers under the common agricultural policy (Council Regulation) – DE CASTRO report – 2009/0084 (CNS)

The Commission authorised Ms FISCHER BOEL to follow the line set out in note SI(2009)280 at the Council meeting (Agriculture and Fisheries) on 20 November.

v) Preparations for Council meeting (Employment, Social Policy, Health and Consumer Affairs) (Brussels, 30 November and 1 December)
(point 1.5 of the record)

– Application of patients' rights in cross-border healthcare (Directive) – GROSSETÊTE report – 2008/0142 (COD)

The Commission approved the approach set out in SI(2009)274/2.

7.2. RELATIONS WITH THE COUNCIL

vi) Programming of Council business
(SI(2009)282)

The Commission took note of the information in SI(2009)282 on the Council meetings between 19 November and 2 December.

vii) Progress of work on the Lisbon Treaty
(point 2.3 of the IRG record)

– Transitional rules for budget implementation – Follow-up to budgetary conciliation meeting of 18 November

The Commission approved the line followed by Mr ŠEMETA in the negotiations with the budgetary authority at the budgetary conciliation meeting which had taken place on 18 November, with a view to reaching agreement on a joint declaration in accordance with note SI(2009)275.

– Preparations for the application of Articles 290 and 291 of the Lisbon Treaty on delegated acts and implementing acts

The Commission took note of note SI(2009)281.

viii) Results of the Council meeting (Economic and Financial Affairs – budget session) (Brussels, 18 November)
(SI(2009)291)

Mr ŠEMETA reported that Parliament and the Council had reached agreement at the conciliation meeting on the draft European budget for 2010 and that the Council had then taken a decision on Wednesday 18 November.

He noted that the results were very much in line with the preliminary draft budget and with the expectations expressed by the two arms of the budgetary authority and by the Commission itself. Under the agreement that had been reached, commitment appropriations in the 2010 budget came to around €141 billion and payment appropriations to around €123 billion, respectively 1.19% and 1.04% of the EU's gross national income.

The negotiations on 18 November had focused among other things on identifying the remaining €258 million which had to be found to finance the €5 billion European economic recovery plan. It had been agreed to fund this amount through redeployment in heading 1A ('Competitiveness for growth and employment'), mobilisation of the flexibility instrument, further use of the margin in heading 2 ('Preservation and management of natural resources') and the reallocation of various other appropriations.

He highlighted the importance of the compromise that had been struck, which had demanded considerable efforts by Parliament, the Council and the Commission. In particular he thanked Ms FISCHER BOEL and her departments for their contribution.

He also reported that the representatives of Parliament and the Council had agreed to increase the budget for additional aid to dairy producers from €280 million to €300 million by reducing the appropriations for export refunds, and to provide support of €75 million for decommissioning the Kozloduy nuclear power station in Bulgaria by mobilising the flexibility instrument.

The Commission took note of this information and endorsed the results of the budgetary conciliation and the Council meeting. It drew particular attention to the important outcome concerning aid to dairy producers and noted with satisfaction the agreement on funding the European economic recovery plan.

Winding up the discussion, the PRESIDENT noted the Commission's support for the results obtained and congratulated Mr ŠEMETA and his departments on the outcome of the negotiations with the budgetary authority.

7.3. RELATIONS WITH PARLIAMENT

ix) Results of Parliament's November I part-session
(SP(2009)4934)

The Commission took note of the information on Parliament's part-session held in Brussels on 11 and 12 November, set out in SP(2009) 4934.

x) Participation by Members of the European Parliament in international conferences
(point 3.5 of the IRG record)

– Seventh Ministerial Conference of the World Trade Organisation (Geneva, 30 November to 2 December)

The Commission decided to agree to the request from Mr BUZEK, President of Parliament, to the PRESIDENT regarding the attendance of seven Members of the European Parliament at the above-mentioned conference.

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

xi) Implementation of the Lisbon Treaty provisions concerning national parliaments, in particular the system for monitoring subsidiarity provided for in Protocol (N° 2) attached to the Treaty
(point 4.1 of the IRG record)

The Commission took note of the guidelines for implementing the provisions of the Lisbon Treaty concerning national parliaments, as set out in SP(2009)4862 and /2.

xii) Action taken on opinions of the European Economic and Social Committee –Second quarter 2009
(point 4.3 of the record)

The Commission approved the replies to the opinions adopted by the Economic and Social Committee during the second quarter of 2009 as set out in SC(2009)39 and /2, for transmission to the Economic and Social Committee.

8. TRENDS IN THE MEMBER STATES (SEC(2009)1604)

Ms WALLSTRÖM presented the periodic information note on the latest trends in the Member States, focusing on the main issues currently being covered by the European media, in particular unemployment and climate change. She firmly believed that the Commission needed to demonstrate the added value of Community action in these fields, which were widely regarded as priorities, and that these efforts should be pursued in future.

On the issue of jobs, she stressed the need to restore confidence in the long term; meanwhile, young people were being hit particularly hard by unemployment and there had been a noticeable deterioration in working conditions, with an increase in part-time work and short-term contracts.

On climate change, she noted the reports in the media that it would be impossible to achieve consensus on the adoption of a legally binding international treaty at the United Nations Climate Change Conference in Copenhagen on 7 to 18 December.

She also reported the media interest in the ratification of the Lisbon Treaty in the Czech Republic, the filling of the new posts in the European institutions and the composition of the next Commission, including the importance attached to female representation in these bodies, and the discussions on the future role of the new Commission.

The Commission took note of this information and of Ms WALLSTRÖM's note SEC(2009)1604.

9. OTHER BUSINESS

9.1. “EU 2020” STRATEGY (FOR GROWTH AND JOBS)

The PRESIDENT described the current work on the draft Commission working document aimed at launching a consultation process prior to the elaboration of the post-2010 strategy for growth and jobs (“EU 2020”), with a view to producing a communication which the Commission would adopt at the beginning of 2010, ready for the spring European Council. This document had been the subject of a series of discussions in the Commission, notably at a working breakfast on 11 November and in a meeting of the Chefs de cabinet that day. As a result of these discussions it should be possible to finalise the working document, which would be presented to the Commission for approval at its next meeting, on 24 November.

The PRESIDENT explained that the improvements that would be introduced as a result of this preparatory process would relate mainly to the presentation of the context requiring the formulation of a new strategy for European economic development, taking into account the economic crisis, on the one hand, but emphasising, on the other, the achievements of the Lisbon Strategy for Growth and Jobs. The document would also highlight the external dimension of European growth in the context of globalisation and would clearly reiterate the importance of the two pillars of the Stability and Growth Pact, which should be applied in a way that complied with the rules on budgetary stability while at the same time taking advantage of its growth potential. Finally, he stressed the importance of the governance of the future “EU 2020” strategy and the involvement of the Member States in its implementation.

He reported on the favourable response to the preparation of this strategy at the meeting he had had with the Conference of Presidents of the European Parliament that day, which augured well for constructive cooperation in implementing the strategy in future. He was therefore convinced that the consultations should be started at once on this document, which was also eagerly awaited by the upcoming Spanish Council Presidency. He called on the Members of the Commission to make their contributions to this initiative as soon as possible, so that, even in the limited amount of time available, proper preparations could be made for the Commission meeting in Strasbourg on 24 November.

The Commission then held a brief exchange of views in which Members stressed the broad support given to the initial ideas presented by the Commission at the General Affairs and External Relations Council on 16 and 17 November and the importance of investing in skills, innovation and job creation in the service sector.

The Commission took note of this information.

9.2. CREATION OF A STEERING GROUP ON SETTING UP THE EUROPEAN EXTERNAL ACTION SERVICE (SEC(2009)1602 AND /2)

The Commission took note of the information note from the PRESIDENT and Ms FERRERO-WALDNER in SEC(2009)1602/2.

10. RELATIONS WITH NON-MEMBER COUNTRIES

10.1. PROGRESS IN THE WTO NEGOTIATIONS ON BANANAS (SEC(2009)1610 AND /2)

Baroness ASHTON referred to the progress made in the World Trade Organisation (WTO) negotiations with a view to reaching agreement on the banana issue. It was gratifying to see that this issue, one of the longest-running trade disputes in history, was now close to a solution because of the reconciliation of the various stakeholders' positions and the support of the Council's 133 Committee.

The Commission then held a brief exchange of views during which the treatment of European producers was raised, for instance under the Programme of Options Specifically Relating to Remoteness and Insularity (POSEI), designed to take account of the geographic and economic handicaps affecting the outermost regions of the European Union.

Baroness ASHTON pointed out that these negotiations had largely been prepared in consultation with the producers concerned and that all necessary steps had been taken with the Council and Member States with a view to finding a compromise.

The Commission took note of this information and of the information note from Baroness ASHTON, Ms FISCHER BOEL and Mr DE GUCHT set out in SEC(2009)1610/2.

10.2. *TWENTY-FOURTH SUMMIT BETWEEN THE EUROPEAN UNION AND RUSSIA (STOCKHOLM, 18 NOVEMBER)*

The PRESIDENT reported on the summit between the European Union and Russia held in Stockholm on Wednesday 18 November, and on the very good atmosphere which prevailed during it.

The discussions with the Russian President, Mr Dmitri Medvedev, and the other Russian representatives had been frank and constructive, and had concerned climate change, the economic and financial crisis, energy, the development of bilateral relations between the European Union and Russia, and international issues such as Afghanistan, Iran and Georgia. The EU representatives had also expressed concern about human rights and the rule of law.

With regard to combating climate change, Mr Medvedev had informed the European delegation of his intention to set a target to reduce greenhouse gas emissions by 20% to 25% by 2020. This amenable approach was important in the run-up to the Copenhagen conference. The PRESIDENT asked Mr DIMAS and his departments to examine in detail this announcement and its possible implications.

In the case of energy, the PRESIDENT said that an agreement had been signed on Monday 16 November between Mr PIEBALGS and the Russian Energy Minister on an enhanced early warning mechanism. This agreement and the recent decisions by Sweden and Finland on the "Nordstream" gas pipeline constituted major progress for Euro-Russian relations in the field of energy.

It was important, however, to develop mutual trust still further in relation to energy and to ensure a long-term approach in line with the Energy Charter Treaty. While Mr Medvedev had indicated a certain willingness to accept the principles in the Energy Charter Treaty, he had also expressed some reservations.

Turning next to the question of gas transit via Ukraine, the PRESIDENT said that the European representatives had expressed concern about the lack of guarantees given by Russia in this respect and the possibility of further cuts in supplies during the coming winter.

Referring to the new partnership agreement currently being negotiated, the PRESIDENT underlined its importance for the establishment of stable energy relations between the European Union and Russia. Progress in these negotiations would largely depend on whether or not Russia joined the World Trade Organisation (WTO) as its intentions in this respect were not clear, although the Russian President had confirmed at the summit that one of his government's objectives was accession to the WTO.

The PRESIDENT had asked Mr Medvedev to develop bilateral relations with a view to a strategic approach aimed at achieving a "partnership for modernisation" within five years between the European Union and Russia. Mr Medvedev had welcomed this initiative and expressed interest in activities relating to technologies, the possible adoption by Russia of European technical standards, Russian participation in the WTO, and contact between Russians and Europeans. It had been agreed that the Commission departments would examine these issues in depth with a view to the next summit.

Lastly, the PRESIDENT said that five cross-border cooperation programmes had been signed during the summit, amounting to a total of €370 million, the aim being to facilitate contacts between people living on either side of the EU-Russian border.

The Commission took note of this information.

10.3. FOURTH MEETING OF THE INTERNET GOVERNANCE FORUM (SHARM EL-SHEIKH, 15 TO 18 NOVEMBER)

Ms REDING briefly presented the outcome of the debates at the Internet Governance Forum held in Sharm el-Sheikh from 15 to 18 November. The discussions had concerned in particular the global governance of the Internet, especially in relation to the role of the Forum, which was a meeting-place for all stakeholders, and that of the Internet Corporation for Assigned Names and Numbers (ICANN), which managed domain names. Progress had been made as regards the use on the Internet of non-Latin characters, which would mean a significant step forward for the European Union in particular given the many languages and different alphabets used there.

The Commission took note of this information.

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The meeting closed at 16.12