EUROPEAN COMMISSION

SECRETARIAT-GENERAL

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Brussels, 18 May 2011

MINUTES

of the 1959th meeting of the Commission

held in Strasbourg

(Winston Churchill building)

on Tuesday 10 May 2011

(afternoon)

TABLE OF CONTENTS

Single sitting: Tuesday 10 May 2011 (afternoon)

The sitting opened at 13.11 with Mr BARROSO, President, in the chair. The discussion of item 9 (in part) was chaired by Mr ALMUNIA.

Present:

Mr BARROSO	President	Items 1 to 9 (in part)
Baroness ASHTON	High Representative/ Vice-President	
Ms REDING	Vice-President	Items 1 to 9 (in part)
Mr ALMUNIA	Vice-President	
Mr KALLAS	Vice-President	Items 8 and 9
Mr TAJANI	Vice-President	
Mr ŠEFČOVIČ	Vice-President	
Mr REHN	Member	
Mr BARNIER	Member	
Mr ŠEMETA	Member	Items 8 (in part) and 9
Mr DE GUCHT	Member	
Mr LEWANDOWSKI	Member	
Ms DAMANAKI	Member	
Ms GEORGIEVA	Member	
Mr OETTINGER	Member	
Mr HAHN	Member	
Ms HEDEGAARD	Member	
Mr FÜLE	Member	
Mr ANDOR	Member	
Mr CIOLOŞ	Member	

Absent:

Ms KROES	Vice-President
Mr POTOČNIK	Member
Mr PIEBALGS	Member
Ms VASSILIOU	Member
Mr DALLI	Member
Ms GEOGHEGAN-QUINN	Member
Ms MALMSTRÖM	Member

<u>The following sat in to represent absent Members of the Commission</u>:

Mr POWER	A member of Ms KROES's staff
Ms SOEWARTA	A member of Mr PIEBALGS's staff
Mr HILL	A member of Ms VASSILIOU's staff
Mr DEMICOLI	A member of Mr DALLI's staff
Ms ARANA ANTELO	Deputy Chef de cabinet to Ms GEOGHEGAN-QUINN
Mr VOLLBRACHT	A member of Ms MALMSTRÖM's staff

<u>The following also sat in</u>:

Mr LAITENBERGER	Chef de cabinet to the PRESIDENT	Items 1 to 9 (in part)
Mr ROMERO REQUENA	Director-General, Legal Service	
Mr VANDERSTEEN	DG Communication	
Mr DOENS	Head of the Commission Spokesperson Service	
Ms AHRENKILDE HANSEN	Commission Spokeswoman	
Mr SCHINAS	Bureau of European Policy Advisers	
Ms MARTÍNEZ ALBEROLA	Adviser in the PRESIDENT's Office	Item 8 (in part)
Ms DE RICHEMONT	Adviser in the PRESIDENT's Office	Items 1 to 8
Ms RISO	Deputy Chef de cabinet to Mr REHN	Item 9
Ms PERESSO	A member of Mr DE GUCHT's staff	Items 1 to 8

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

1. AGENDAS
(OJ(2011)1959/4; SEC(2011)552/2)

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(2011)1959)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Friday 6 May.

3. APPROVAL OF MINUTES AND SPECIAL MINUTES OF 1958th MEETING (4 MAY)
(PV(2011)1958; PV(2011)1958, PART II)

The Commission approved the minutes of its 1958th meeting.

4. INTERINSTITUTIONAL RELATIONS
(SEC(2011)558)

The Commission took note of the record of the meeting of the Interinstitutional Relations Group held on Thursday 5 May (SEC(2011)558).

It paid particular attention to the following points.

4.1. *LEGISLATIVE MATTERS*

i) Horizontal dossier
(point 1.1 of the IRG record)

– Correlation tables

The Commission took note of the information in SI(2011)134.

ii) Ordinary legislative procedure
(point 1.2 of the IRG record)

<u>Dossiers at first reading</u>

– Economic governance package – FEIO / FORD / GOULARD / HAGLUND / WORTMANN-KOOL / FERREIRA reports – 2010/0277 (NLE) / 2010/0276 (CNS) / 2010/0278 to 0281 (COD)

The Commission took note of the information in SI(2011)132.

– European Year for Active Ageing (2012) (Decision) – KASTLER report – 2010/0242 (COD)

The Commission approved the line set out in SI(2011)142.

– Amendment of Directive 2000/25/EC as regards the provisions for tractors placed on the market under the flexibility scheme (Directive) – TATARELLA report – 2010/0301 (COD)

The Commission approved the line set out in SI(2011)135.

– Amendment of Council Regulation (EC) 73/2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers (Regulation) – DE CASTRO report – 2010/0267 (COD)

– Amendment of Council Regulation (EC) 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (Regulation) – DE CASTRO report – 2010/0266 (COD)

The Commission took note of notes SI(2011)136/2 and SI(2011)137/2.

– Financial rules applicable to the annual budget of the Union (Regulation) – RIVELLINI / GRÄSSLE reports – 2010/0395 (COD)

The Commission approved the line set out in SI(2011)139/2.

– EU guarantee to the European Investment Bank against losses under loans and guarantees for projects outside the European Union (Decision) – KALFIN report – 2010/0101 (COD)

The Commission authorised Mr REHN to pursue contacts with Parliament and the Council in order to reach agreement, following the line set out in SI(2011)147.

iii) Preparation of Parliament's May part-session
(point 1.3 of the IRG record)

Ordinary legislative procedure – Codecision

– Amendment of Council Regulation (EC) 1215/2009 introducing exceptional trade measures for countries and territories participating in or linked to the European Union's Stabilisation and Association process (Regulation) – MOREIRA Report – 2010/0036 (COD)

The Commission approved the line set out in SP(2011)3819/2 and /3, further to document SP(2011)3819 approved at its meeting on 4 May.

4.2. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL

iv) Programming of Council business
(SI(2011)146)

The Commission took note of the information in SI(2011)146 on the Council meetings between 12 and 25 May.

v) Preparation of the Foreign Affairs Council – Trade session (Brussels, 13 May)
(point 2.3.2 of the IRG record)

– European Union position within the General Council of the World Trade Organisation on the accession of the Republic of Vanuatu to the World Trade Organisation (Council Decision) – 2011/0077 (NLE)

The Commission approved the line set out in SI(2011)144.

4.3. RELATIONS WITH PARLIAMENT

vi) Preparation of May part-session – Non-legislative matters
(point 3.1 of the IRG record)

– Discharge for implementation of the general budget of the European Union for 2009 – 39 reports

The Commission approved the line set out in SP(2011)3976 to /3.

– Interinstitutional agreement on a common transparency register between Parliament and the Commission / Amendment of rules following the establishment of a common transparency register between Parliament and the Commission – CASINI reports

The Commission:

– approved the line set out in SP(2011)3978 and the draft interinstitutional agreement on a common transparency register between the Parliament and the Commission, as set out in the annex to that document;

- authorised the PRESIDENT and Mr ŠEFČOVIČ to approve the interinstitutional agreement, including, if necessary, any technical adjustments to the text;
- authorised the PRESIDENT or Mr ŠEFČOVIČ to sign the interinstitutional agreement on behalf of the Commission, once Parliament had completed the procedures and endorsed the agreement.

vii) Preparation of May part-session of Parliament – Oral questions
(point 3.4 of the IRG record)

- H-154/11, H-157/11, H-158/11 (jointly with H-192/11), H-159/11, H-162/11, H-164/11, H-166/11, H-169/11, H-170/11, H-172/11, H-173/11, H-174/11, H-175/11, H-177/11, H-179/11, H-180/11, H-181/11, H-185/11, H-187/11, H-190/11, H-193/11

The Commission approved the draft answers set out in SP(2011)3970 to /3, following the agreement reached between the Chefs de cabinet, and certain draft supplementary answers, revisions to answers and draft answers as set out in SP(2011)3970/4.

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

viii) Action taken on opinions of the European Economic and Social Committee – Fourth quarter 2010
(point 4.3 of the IRG record)

The Commission approved document SC(2011)17/2 on the action taken by the Commission on the opinions adopted by the European Economic and Social Committee during the fourth quarter of 2010, for transmission to that Committee.

5. MONITORING THE APPLICATION OF EUROPEAN UNION LAW

STATE AID – INDIVIDUAL CASES
(SEC(2011)561 AND /2)

The Commission adopted the decisions in SEC(2011)561/2.

6. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

6.1. WRITTEN PROCEDURES APPROVED (SEC(2011)553 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 2 and 6 May.

6.2. EMPOWERMENT (SEC(2011)554 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 2 and 6 May.

6.3. DELEGATION AND SUBDELEGATION OF POWERS (SEC(2011)555 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 2 and 6 May, as archived in e-Greffe.

6.4. SENSITIVE WRITTEN PROCEDURES (SEC(2011)556 AND /2)

The Commission took note of the sensitive written procedures for which the time limit expired between 10 and 13 May.

7. ADMINISTRATIVE AND BUDGETARY MATTERS (SEC(2011)557/2)

ADMINISTRATIVE MATTERS
(PERS(2011)52/2)

7.1. DG ECONOMIC AND FINANCIAL AFFAIRS – APPOINTMENT OF AD14/15 DIRECTOR (PERS(2011)36 TO /3)

The Commission had before it an application under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Director, ‘Fiscal Policy’, in DG Economic and Financial Affairs (PERS(2011)36).

It took note of the opinions of the Consultative Committee on Appointments of 30 March and 28 April 2011 (PERS(2011)36/2 and /3).

The Commission proceeded to consider the applicant’s qualifications for the post. It also considered his ability, efficiency and conduct in the service. On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Mr REHN, it then decided to appoint Mr Lucio PENCH to the post.

This decision would take effect on 16 May 2011.

7.2. DG ENERGY – APPOINTMENT OF MEMBERS AND ALTERNATES OF THE BOARD OF APPEAL OF THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS (C(2011)3198 TO /3)

The Commission noted the procedure followed, as set out in point 2 of PERS(2011)52/2, and, on a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Mr OETTINGER, decided:

- to adopt the decision in C(2011)3198/3;
- to authorise Mr OETTINGER, the Commission Member responsible for energy, to sign that decision on behalf of the Commission;
- to ask Mr OETTINGER to communicate the decision (proposals) to the Administrative Board and the Board of Regulators of the Agency for the Cooperation of Energy Regulators;
- to communicate the decision, for information, to the European Parliament and the Council;
- to empower Mr OETTINGER, in agreement with the PRESIDENT, in the event that one of the members or alternates mentioned in the annex to the decision withdrew their application, stepped down or was unable to take up their duties, or if the Administrative Board decided not to appoint one of the members or alternates proposed, to propose as a replacement the best qualified candidate from among those who had expressed an interest following the public call for interest.

8. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL APPLYING A SCHEME OF GENERALISED TARIFF PREFERENCES

(COM(2011)241 TO /5; SEC(2011)536 (VOLUMES I AND II); SEC(2011)537; SEC(2011)538; SEC(2011)531; SEC(2011)539; SEC(2011)566)

The PRESIDENT introduced the proposal for a regulation to renew the scheme of generalised tariff preferences (GSP) submitted to the Commission for adoption, and pointed out the political significance of this dossier. GSP had been a key instrument for forty years in the European Union's trading relations with developing countries and had contributed to successfully integrating an increasing number of these countries in international trade. He explained that the purpose of the scheme of generalised tariff preferences was to further the Union’s political objectives in the areas of good governance and sustainable environmental and social development by stimulating development in the beneficiary companies by means of carefully thought-through conditions. The proposal for a regulation aimed to achieve the best possible balance between, on the one hand, stricter conditions for accessing the general GSP scheme and, on the other, expanding the GSP+ instrument, which would be open to a potentially larger number of poorer developing countries. It was important to ensure that the GSP instrument complied with the requirements of the World Trade Organisation.

He welcomed the efforts made to strike a balance between these different factors and invited the Commission to discuss the means of optimising the impact of the proposal on the level of support provided to developing countries and on the stepping up of political relations with the beneficiary countries, as well as the means of minimising any adverse effects on certain important EU industrial and agricultural products. He hoped that there would be a political discussion on the key objectives of the proposal, in the light of the international context. He felt that this discussion should focus chiefly on the sensitive issue of reducing the vulnerability threshold, from 1% to 2%, which would enlarge the scope of the GSP system and might make countries such as Pakistan or the Philippines eligible.

Mr DE GUCHT listed the principles underlying the proposal for a regulation. These were the creation of a more targeted system that would encourage poor countries to take part in world trade, and the good governance and sustainable development of these countries. This had to be achieved without penalising the former beneficiaries or European industry, by providing the generalised, non-reciprocal and non-discriminatory framework laid down in the Enabling Clause of the World Trade Organisation. He also placed the proposal in the context of world trade, considering it in terms of trade volume and the potential number of countries affected.

He explained how the proposed new system would work, referring to the three instruments of the initiative (the 'Everything But Arms' arrangement, the general GSP system and the GSP+ system), presenting the planned changes to the generalised system of preferences in force and the implications for each of the three instruments.

He also spelled out the reasons why it was proposed to raise the vulnerability threshold, a key point of the proposal, explaining that a political choice had been made in favour of a slightly more restrictive general system for 24 countries and territories, offset by a more generous GSP+ system that would give greater access to the developing countries with most need of it. He pointed out that it was an open instrument with no fixed duration.

M. DE GUCHT went on to respond to certain concerns raised while the proposal was being drawn up, in particular concerning the political conditions laid down for eligibility for the instrument and the safeguard clauses. He conceded that including anti-terrorism provisions in the conditions for eligibility for the GSP+ system was justified, but warned that overstating the political conditions could give rise to situations in which no country could any longer meet the conditions for benefiting from the scheme of generalised tariff preferences. With regard to the safeguard clauses, he also called for a degree of prudence concerning additional safeguards applicable to specific products, which might pose a significant risk of incompatibility with the rules of the World Health Organisation.

Specifically with regard to Pakistan, he said that it did not currently meet the condition concerning effective implementation of all international conventions referred to in the proposal for a regulation, and that the regulation should not come into force until mid-2014. Several other countries could also be affected by the extension of the GSP+ system, for example the Philippines and Cape Verde. Mr DE

GUCHT concluded his presentation by calling for an open and non-defensive approach.

The Commission then held a brief discussion during which the following main aspects were examined:

- general support for the principles and objectives of the proposed new system, which was more generous to poor developing countries;

- a call for an assurance to be given of a global strategy for potential beneficiary countries and a duly supported consideration of the economic and political consequences of eligibility for the GSP+;

- given the current international context, some concerns about the appropriateness of the political signal that would be sent by the European Union if Pakistan were granted access to GSP+, but also the need to look at ways of using incentives to further political progress in the process of reform in Pakistan. However, it was important not to pursue too many political objectives at the same time and not to forget that the ultimate aim of the proposed system was also to help the people of the countries concerned;

- support for the idea of enhanced conditionality by the addition of anti-terrorism instruments in the list of international conventions to be complied with in order to benefit from the GSP+ system and a call for confirmation that a recital would be included on good governance in tax matters;

- a warning against the potentially damaging social and economic consequences of the proposed regulation, in particular on the textile industry in certain EU Member States (for this industry, it was proposed to reduce the trigger threshold for the safeguard clause in Article 29 of the proposal);

- questions as to whether there might be a contradiction between the political message of Union support for the transition to democracy of the southern Mediterranean countries and the possible adverse consequences of the new GSP system on trade with these countries, particularly in textile products;

- a suggestion that specific conditions should apply to ethanol in the interests of predictability and balance both for ethanol-exporting countries and European industry, and a warning against the risk of importing ethanol that failed to meet sustainable development criteria;

- finally, a question concerning the conditions for implementing follow-up measures, particularly as regards the sustainability of biofuels.

Replying to the various comments made, Mr DE GUCHT made the general point that it was important not to attach too much weight to the possibility of Pakistan being eligible for the GSP+ system, and not to draw foregone conclusions about its future development, but to regard the proposed scheme as a political choice to be viewed in a broader, longer-term context.

He went on to talk about more technical aspects, stressing that the proposal for a regulation had been analysed by numerous experts. On the question of monitoring the sustainability of biofuels, he drew attention to the recital stating that the Commission should report regularly on the effects of the new scheme, and to the review process that would be conducted five years after the Regulation's entry into force. These follow-up measures would take climate action issues into account.

He explained that the addition of a specific safeguard clause for ethanol would be incompatible with WTO rules under which the scheme of tariff preferences to be granted must be of a general nature. As regards the 15% threshold for triggering the safeguard clause under Article 29, he pointed out that the current rate was 20%, that the proposed rate of 15% would apply to all countries and that, consequently, any rate lower than 15% would very probably be contested.

When questioned on this point by the PRESIDENT, the Director-General of the Legal Service pointed out there was little room for manoeuvre in the WTO system of concessions. He reminded the meeting of the conditions laid down by the WTO Enabling Clause, which provided for a non-reciprocal and non-discriminatory scheme of generalised preferences responding to the requirements relating to development, finances and trade of the beneficiary countries. He therefore advised basing the European approach on a risk analysis, noting that any tightening-up of the requirements laid down by the EU might be more easily contested.

The PRESIDENT noted that the Commission's proposal for a new scheme of generalised preferences was a response to a request by the European Council. The Member States had unanimously asked for a gesture to be made to help Pakistan, in particular through the granting of tariff preferences, following the serious floods it had suffered in summer 2010. Although he appreciated the arguments put forward in view of recent events in the fight against international terrorism, he felt that this scheme of generalised tariff preferences, drawn up in a spirit of openness rather than protectionism, enshrined the best guarantees and should be supported.

In conclusion the PRESIDENT noted that the proposal presented by Mr DE GUCHT was widely supported by the Commission Members, who also agreed with the following amendments to the English version of the document distributed as COM(2011)241/5:

– **on page 3, a seventh paragraph was added to the explanatory memorandum as follows:**

"*The reasons which justify the temporary withdrawal of preferences have also been clarified. In particular, it has been made explicit that unfair trading practices include those affecting the supply of raw materials. Furthermore, it has been underlined that preferences may be temporarily withdrawn if beneficiaries fail to comply with international conventions on anti-terrorism. Finally, the wording on international fisheries arrangements was expanded to underline that these arrangements may well be international ones*.";

– **on page 9, the beginning of recital 27 of the proposal for a regulation was amended to read as follows:**

"*The Commission should report regularly to the Council and the European Parliament on the effects of the scheme. Five years after its entry into force, the Commission should report on the operation of the Regulation and assess the need to review the scheme, including the special incentive arrangement for sustainable* *development and good governance and temporary withdrawal provisions of tariff preferences, taking into consideration the fight against terrorism and the field of international standards on transparency and exchange of information in tax matters.*";

– **on page 19, Article 19(1)(c) of the proposal for a regulation was amended to read as follows:**

"*(c) serious shortcomings in customs controls on the export or transit of drugs (illicit substances or precursors), or failure to comply with international conventions on anti-terrorism and money laundering;"*.

Subject to inclusion of the above amendments and to a final linguistic revision of the text, the Commission adopted the proposal for a regulation in COM(2011)241/5 for transmission to Parliament, the Council, the Economic and Social Committee and, for information, to the national parliaments, together with the impact assessment and the summary thereof contained in the staff working papers distributed as SEC(2011)536 (volumes I and II) and SEC(2011)537 respectively, the contents of which were noted.

It also took note of the opinion of the Impact Assessment Board on the above proposal for a regulation, as set out in SEC(2011)538.

Finally, the Commission agreed to have the following statement by Mr DE GUCHT, in agreement with Mr PIEBALGS, entered in these minutes:

"*Once the list of developing countries that no longer benefit under the new GSP scheme has been established, the Commission will positively explore options to enhance trade relations with them.*".

9. PROPOSAL FOR A COUNCIL DECISION ON GRANTING UNION FINANCIAL ASSISTANCE TO PORTUGAL (COM(2011)273; SEC(2011)576; SEC(2011)577)

At the PRESIDENT's invitation, Mr REHN presented the economic and financial adjustment programme submitted to the Commission and the Council by Portugal with a view to correcting external and internal imbalances so that the country could return to sustainable growth and job creation and restore the confidence of the financial markets in its sovereign debt and banking sector. He explained that the programme was based on three pillars: an ambitious fiscal adjustment to put public finances back on a sound footing by the end of 2013, a series of structural reforms to boost growth and stimulate competitiveness, and measures to increase the stability of the financial sector. The programme was being submitted in return for the granting of financial assistance of EUR 78 billion, of which two thirds would come from the European Union and one third from the International Monetary Fund. He explained that 50% of the European support would be provided under the European Financial Stabilisation Mechanism and 50% under the euro stabilisation facility.

He welcomed the declarations of support from Portuguese opposition parties for the economic and financial adjustment programme, pointing out that responsibility for implementing all its measures would fall to the next government.

Mr REHN then presented the proposal for a Council Decision on the granting of a maximum of EUR 26 billion of financial assistance to Portugal under the European Financial Stabilisation Mechanism, which he was submitting to the Commission for adoption. The proposal reflected the memorandum of understanding concluded between Portugal, the Commission and the International Monetary Fund, in liaison with the European Central Bank. The Eurogroup and the Economic and Financial Affairs Council would discuss the financial assistance to Portugal at their respective meetings on 16 and 17 May.

Mr REHN also spoke about the informal meeting of finance ministers of the euro-area countries that were also members of the G20.

He deplored the fact that this meeting had given rise to speculation and to the spread of information that was entirely without foundation. He then touched briefly on the joint mission by the Commission, the IMF and the European Central Bank to Athens to assess the progress made in implementing the fiscal consolidation programme in Greece.

The Commission held a brief exchange of views during which it discussed a possible strategy to support renewed growth in countries that were in serious difficulties and the use in that context of the structural funds or European Investment Bank loans to increase the leverage effect and attract private investment.

In reply to the comments made, Mr REHN stressed that a return to growth lay at the heart of the economic adjustment programme in Greece, although the early stages of its implementation were generally dominated by budgetary aspects.

Following this exchange of views, the Commission adopted the proposal for a Decision in COM(2011)273 for transmission to Parliament and the Council.

It also took note of the memorandum addressed to it and of the staff working paper, distributed respectively as SEC(2011)576 and SEC(2011)577.

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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 14.46.