



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2011)1979 final

Brussels, 23 November 2011

MINUTES

**of the 1979th meeting of the Commission
held in Strasbourg
(Winston Churchill building)
on Tuesday 15 November 2011
(afternoon)**

PV(2011)1979 final

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Single sitting: Tuesday 15 November 2011 (afternoon)

The sitting opened at 13.16 with Mr BARROSO, President, in the chair. The discussion of item 19 (in part) was chaired by Ms REDING.

Present:

Mr BARROSO	President	Items 1 to 19 (in part)
Ms REDING	Vice-President	
Mr ALMUNIA	Vice-President	
Mr KALLAS	Vice-President	
Ms KROES	Vice-President	
Mr TAJANI	Vice-President	
Mr ŠEFČOVIČ	Vice-President	Items 1 to 19 (in part)
Mr REHN	Vice-President	
Mr POTOČNIK	Member	
Mr PIEBALGS	Member	Items 1 to 19 (in part)
Mr BARNIER	Member	
Ms VASSILIOU	Member	
Mr ŠEMETA	Member	
Mr DE GUCHT	Member	
Mr DALLI	Member	
Ms GEOGHEGAN-QUINN	Member	
Ms GEORGIEVA	Member	Items 1 to 19 (in part)
Mr OETTINGER	Member	Items 18 (in part) and 19
Mr HAHN	Member	Items 1 to 19 (in part)
Ms HEDEGAARD	Member	
Mr FÜLE	Member	
Mr ANDOR	Member	Items 1 to 19 (in part)
Ms MALMSTRÖM	Member	
Mr CIOLOŞ	Member	

Absent:

Baroness ASHTON

High Representative/
Vice-President

Mr LEWANDOWSKI

Member

Ms DAMANAKI

Member

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

Mr EVERTS	A member of Baroness ASHTON's staff
Mr INOTAI	A member of Ms DAMANAKI's staff

The following also sat in:

Mr LAITENBERGER	Chef de cabinet to the PRESIDENT	
Mr ROMERO REQUENA	Director-General, Legal Service	
Mr VANDERSTEEN	Acting Director-General, DG Communication	
Mr DOENS	Head of the Commission Spokesperson Service	
Ms AHRENKILDE HANSEN	Commission Spokeswoman	
Mr THEBAULT	Head of the Bureau of European Policy Advisers	
Mr FRUTUOSO DE MELO	Deputy Chef de cabinet to the PRESIDENT	Items 1 to 19 (in part)
Ms SUTTON	A member of the PRESIDENT's staff	Item 19
Ms DEJMEK	A member of Mr BARNIER's staff	Items 18 (in part) and 19
Mr HAGER	A member of Mr OETTINGER's staff	Items 1 to 18 (in part)

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

1. AGENDAS

(OJ(2011)1979/3; SEC(2011)1344/2)

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

2. WEEKLY MEETING OF CHEFS DE CABINET

(RCC(2011)1979)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 14 November.

3. APPROVAL OF THE SPECIAL MINUTES OF THE 1976TH MEETING OF THE COMMISSION (19 OCTOBER) AND THE MINUTES AND SPECIAL OF THE 1978TH MEETING (9 NOVEMBER)

(PV(2011)1976, PART II AND /2; PV(2011)1978; PV(2011)1978, PART II)

The Commission approved the special minutes of its 1976th meeting and decided to hold over for one week approval of the minutes of its 1978th meeting.

4. INTERINSTITUTIONAL RELATIONS

(RCC(2011)1009)

The Commission took note of the record of the meeting of the Interinstitutional Relations Group held on Friday 11 November (RCC(2011)1009).

It paid particular attention to the following points.

4.1. LEGISLATIVE MATTERS

i) Ordinary legislative procedure

(point 1.2 of the IRG record)

Dossiers at Parliament first reading

- Right to information in criminal proceedings (Directive) – SIPPEL report – 2010/0215 (COD)

The Commission approved the line set out in SI(2011)403.

- Amendment of Regulation (EC) 648/2004 as regards the use of phosphates and other phosphorous compounds in household laundry detergents (Regulation) – NEWTON DUNN report – 2010/0298 (COD)

The Commission approved the line set out in SI(2011)420.

- Amendment of Council Regulation (EC) 1698/2005 as regards certain provisions relating to financial management for certain Member States experiencing or threatened with serious difficulties with respect to their financial stability (Regulation) – DE CASTRO report – 2011/0209 (COD)

The Commission approved the line set out in SI(2011)405 to /3.

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

The Commission approved the line set out in SI(2011)414/2.

- Technical requirements for credit transfers and direct debits in euros and amendment of Regulation (EC) 924/2009 (Regulation) – ESSAYAH report – 2010/0373 (COD)

The Commission approved the line set out in SI(2011)419/2.

Dossier at second reading

- Placing on the market and use of biocidal products (Regulation) – KLASS report – 2009/0076 (COD)

The Commission approved the line set out in SI(2011)418/3.

ii) Preparation for the November I part-session of Parliament
(point 1.3 of the IRG record)

Ordinary legislative procedure – First reading

- Establishment of a single European railway area (Directive – recast) – SERRACCHIANI report – 2010/0253 (COD)

The Commission approved the line set out in SP(2011)8603 and /3.

- Programme to support the further development of an Integrated Maritime Policy (Regulation) – KOUMOUTSAKOS report – 2010/0257 (COD)

The Commission approved the line set out in SP(2011)8604.

- European statistics on permanent crops (Regulation) – NEDELICHEVA report – 2010/0133 (COD)

The Commission approved the line set out in SP(2011)8605.

- Short selling and certain aspects of credit default swaps (Regulation) – CANFIN report – 2010/0251 (COD)

The Commission approved the line set out in SP(2011)8606, further to note SI(2011)384/3, which it had already approved.

- Amendment of Regulation (EC) 1406/2002 establishing a European Maritime Safety Agency (Regulation) – FLECKENSTEIN report – 2010/0303 (COD)

The Commission approved the line set out in SP(2011)8627.

Non-legislative procedure

- Framework Programme of the European Atomic Energy Community for nuclear research and training activities (2012-2013) (Council Decision) / Rules for the participation of undertakings, research centres and universities in indirect actions under the Framework Programme of the European Atomic Energy Community and for the dissemination of research results (2012-2013) (Council Regulation (Euratom)) / Specific programme, to be carried out by means of direct actions by the Joint Research Centre, implementing the Framework Programme of the European Atomic Energy Community for nuclear research and training activities (2012-2013) (Council Decision) / Specific programme, to be carried out by means of indirect actions, implementing the Framework Programme of the European Atomic Energy Community for nuclear research and training activities (2012-2013) (Council Decision) – BŘEZINA reports – 2011/0046 (NLE) / 2011/0045 (NLE) / 2011/0044 (NLE) / 2011/0043 (NLE)

The Commission approved the line set out in SP(2011)8607 and /2.

4.2. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL

iii) Programming of Council business

(SI(2011)417)

The Commission took note of the information in SI(2011)417 on the Council meetings between 17 and 30 November.

iv) Signing of the European Convention on the legal protection of services based on, or consisting of, conditional access – 2010/0360 (NLE)

(point 2.2.1 of the IRG record)

The Commission approved the line set out in SI(2011)413/2.

4.3. RELATIONS WITH PARLIAMENT

v) Action taken on legislative opinions and non-legislative resolutions adopted by Parliament at its September I and II part-sessions

(point 3.5.2 of the IRG record)

The Commission approved document SP(2011)8584 on the action taken on Parliament's legislative opinions and non-legislative resolutions adopted at its September I and II part-sessions.

vi) Presence of Commission Members on Thursday afternoons during Parliament's part-sessions in Strasbourg in 2012

(point 3.7 of the IRG record)

The Commission approved document SP(2011)8299/2 setting out the list of Commission Members to be present on Thursday afternoons during Parliament's part-sessions in Strasbourg in 2012.

vii) Participation by Members of Parliament in international conferences

(point 3.8 of the IRG record)

- Eighth Ministerial Conference of the World Trade Organisation (WTO)
(Geneva, 15-17 December)

The Commission agreed to the request to the PRESIDENT from Mr Jerzy Buzek, President of Parliament, concerning the attendance of seven Members of the European Parliament at the above-mentioned meeting, with a reminder about the procedure to be followed.

- Eighth Regular Session of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC) (Koror, Palau, 5-9 December)

The Commission agreed to the request to the PRESIDENT from Mr Jerzy Buzek, President of Parliament, concerning the attendance of two

Members of the European Parliament at the above-mentioned meeting, with a reminder about the procedure to be followed.

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

**viii) Follow-up to Committee of the Regions opinions – Forty-fifth report
(April and May plenary sessions)
(point 4.3 of the IRG record)**

The Commission approved the replies to the opinions adopted by the Committee of the Regions during the April and May plenary sessions, contained in the document distributed as SR(2011)26, for transmission to the Committee of the Regions.

**ix) Follow-up to Committee of the Regions opinions – Forty-sixth report
(June and July plenary sessions)
(point 4.4 of the IRG record)**

The Commission approved the replies to the opinions adopted by the Committee of the Regions during its plenary sessions in June and July, contained in the document distributed as SR(2011)27/2, for transmission to that Committee.

4.5. *OTHER BUSINESS*

**x) First quarterly report by the Task Force for Greece (TFGR)
(point 7.1 of the IRG record)**

The Commission took note of document SI(2011)399/3.

5. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

**5.1. WRITTEN PROCEDURES APPROVED
(SEC(2011)1345 ET SEQ.)**

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 7 and 11 November.

**5.2. EMPOWERMENT
(SEC(2011)1346 ET SEQ.)**

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 7 and 11 November.

**5.3. DELEGATION AND SUBDELEGATION OF POWERS
(SEC(2011)1347 ET SEQ.)**

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 7 and 11 November, as archived in e-Greffe.

**5.4. SENSITIVE WRITTEN PROCEDURES
(SEC(2011)1348)**

The Commission took note of the sensitive written procedures for which the time limit expired between 14 and 18 November.

**5.5. DELEGATION OF POWERS CONCERNING THE ADOPTION OF CERTAIN UPDATES OF THE EGNOS SIGNAL IN PART A OF THE SPACE SAFETY CASE
(C(2011)8269)**

The Commission decided to delegate powers to the Director-General for Enterprise and Industry for the adoption, on behalf of the Commission and under its responsibility, of certain updates of EGNOS Space Safety Case Part A, in accordance with the terms set out in C(2011)8269.

5.6. *DELEGATION OF POWERS RELATING TO MINOR CHANGES TO BE MADE TO INDIVIDUAL COMMISSION DECISIONS IN THE CONTEXT OF THE EUROPEAN ENERGY PROGRAMME FOR RECOVERY (EEPR) – SUBPROGRAMME ON GAS AND ELECTRICITY INFRASTRUCTURES*
(C(2011)8270)

The Commission decided to delegate powers to the Director-General for Energy for the adoption, on behalf of the Commission and under its responsibility, of minor changes to be made to individual Commission decisions in the context of the European Energy Programme for Recovery (EEPR) – sub-programme on gas and electricity infrastructures, according to the terms set out in C(2011)8270.

6. ADMINISTRATIVE AND BUDGETARY MATTERS
(SEC(2011)1349/2)

ADMINISTRATIVE MATTERS
(PERS(2011)151/2)

6.1. *DG INTERNAL MARKET AND SERVICES – APPOINTMENT OF AD14/15 DIRECTOR*
(PERS(2011)123 TO /3)

The Commission had before it applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Director, ‘Services’, in DG Internal Market and Services (PERS(2011)123).

It took note of the opinions of the Consultative Committee on Appointments of 20 September and 13 October (PERS(2011)123/2 and /3).

The Commission proceeded to compare the applicants’ qualifications for the post. It also considered their ability, efficiency and conduct in the service. On

a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Mr BARNIER, it then decided to appoint Ms Claire BURY to the post.

This decision would take effect on 1 December 2011.

6.2. *LEGAL SERVICE – APPOINTMENT OF AD14/15 PRINCIPAL LEGAL ADVISER*
(PERS(2011)91 TO /3)

The Commission had before it applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Principal Legal Adviser responsible for the BUDG (Budget, Customs, Taxation) team in the Legal Service (PERS(2011)91).

It took note of the opinions of the Consultative Committee on Appointments of 18 July and 15 September (PERS(2011)91/2 and /3).

The Commission proceeded to compare the applicants' qualifications for the post. It also considered their ability, efficiency and conduct in the service. On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT, it then decided to appoint Mr Richard LYAL to the post.

This decision would take effect on 16 November 2011.

6.3. *DG JUSTICE / DG HOME AFFAIRS – TERMINATION OF SELECTION PROCEDURE FOR AN AD14/15 DIRECTOR POST*
(PERS(2010)118 TO /3)

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT, Ms REDING and Ms MALMSTRÖM, the Commission decided to terminate – without making any appointment – internal selection procedure COM/2010/1674 for the post of Director of the Shared Resource Directorate in DG Justice and DG Home Affairs.

This decision would take effect immediately.

6.4. DG JUSTICE / DG HOME AFFAIRS – APPOINTMENT OF AD14 DIRECTOR

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT, Ms REDING and Ms MALMSTRÖM, the Commission decided to fill the post of Director of the Shared Resource Directorate in DG Justice and DG Home Affairs by transferring in the interest of the service under Article 7 of the Staff Regulations Mr Thierry CRETIN, currently Director, ‘Investigations and Operations I’, in the European Anti-Fraud Office.

This decision would take effect on 16 November 2011.

The Commission also took note of the mandate given to the new Director by Mr ŠEFČOVIČ, Ms REDING and Ms MALMSTRÖM to improve, in close collaboration with the Directorates-General for Home Affairs and Justice and the central services, the efficiency of the Resources Directorate common to both these Directorates-General, in order to allow the amendment of the organisation chart by the end of 2012 at the latest, including gradual reductions in staff numbers at that Directorate while fully respecting the need to manage the current and future tasks of these two Directorates-General. This reduction would be spread equally between the two Directorates-General as soon as the posts in question were identified. Mr ŠEFČOVIČ would monitor closely the attainment of this objective.

6.5. DG HUMAN RESOURCES AND SECURITY – 2012 ROTATION OF NON-MANAGEMENT COMMISSION STAFF AT DELEGATIONS

The Commission took note of the information in paragraph 5 of PERS(2011)151/2 and, on a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT, Baroness ASHTON, Mr PIEBALGS, Mr DE GUCHT, Ms GEORGIEVA and Mr FÜLE, decided to:

- confirm that Commission officials assigned to the External Relations DGs continued to be subject to rotation;

- confirm that Article 2 of Annex X to the Staff Regulations continued to be implemented by the relevant provisions of Decision C(2002)5370, in particular Articles 13, 14 and 16 thereof, which would apply *mutatis mutandis*;
- consider that to the extent that the European External Action Service (EEAS) continued to publish posts subject to the rotation exercise under Article 98(1) of the Staff Regulations, with the result that Commission officials could apply for these posts, the Commission was in a position to consider expressions of interest by EEAS officials originating in the Commission for posts subject to the rotation exercise in accordance with Article 97 of the Staff Regulations;
- take note that final transfer decisions would be taken by the Director-General of the Directorate-General to which the official was assigned ('Home DG') in line with the rules established by the Appointing Authority, after consultation with the Heads of Delegation; decide that where a duly reasoned negative opinion had been issued regarding an individual case, the matter be submitted for decision to the Commissioner for Personnel, in agreement with the PRESIDENT, Baroness ASHTON, the Commissioner responsible for the Directorate-General for Development and Cooperation - EuropeAid and the Commissioner responsible for the Home DG in question (simplified procedure); if no agreement could be reached within five working days, the decision would be taken by the College ("QABD procedure");
- confirm that Commission posts not filled by the end of the rotation exercise would be published internally under Article 29 of the Staff Regulations, whereby EEAS officials originating from the Commission could also apply under the conditions set out in Article 98(2) of the Staff Regulations;
- authorise the Director-General of the Directorate-General for Development and Cooperation - EuropeAid (1), in agreement with all the

Directors-General concerned and after consultation with the EEAS, to draw up a consolidated list of all the Commission officials due for rotation in 2012, taking account of requests to extend postings in the interest of the service and requests for early rotation; (2) to agree with the EEAS, in agreement with the Secretariat-General, the Directorate-General for Human Resources and Security and the Legal Service, the necessary administrative arrangements for coordinating the rotation of Commission and EEAS officials; (3) to adapt the timetable for the rotation exercise provided for in Decision C(2002)5370 to account for this year's delay in the launch of the rotation exercise; (4) to notify all the officials concerned of these arrangements and of the updated calendar;

- establish that references in earlier Commission Decisions to the External Service Steering Committee (CDSE) would henceforth be construed, with regard to rotation aspects only and in the context of the 2012 and earlier exercises, as references to the Steering Committee for the management of Commission resources in Delegations (COMDEL), which would be composed of the Secretary-General and of the Directors-General or Heads of Service of the External Relations Directorates-General, the Directorate-General for Budget and the Directorate-General for Human Resources and Security, or their representatives; and that the COMDEL would act by consensus and that the roles of chair and secretariat would be carried out by the Directorate-General for Development and Cooperation – EuropeAid;
- lay down that, for the purposes of the rotation exercise, Delegation posts staffed by non-External Relations DGs would be subject to the same rules as those applicable to the posts staffed by External Relations DGs;
- establish that Article 15 of Commission Decision C(2008)5029 concerning the function of adviser would continue to apply only to those officials who occupied management posts in Delegations before the creation of the EEAS on 1 January 2011 and who were Commission officials at the date of the present decision, and that the references made in

Article 15 of this decision to the Director-General of the Directorate-General for External Relations (RELEX) would henceforth be construed as references to the Director-General of the home DG.

These decisions would take effect immediately.

6.6. *DG HUMAN RESOURCES AND SECURITY – AMENDMENT OF THE STAFF REGULATIONS OF OFFICIALS OF THE EUROPEAN UNION AND THE CONDITIONS OF EMPLOYMENT OF OTHER SERVANTS OF THE EUROPEAN UNION – MANDATE FOR HOLDING A CONCILIATION MEETING WITH STAFF REPRESENTATIVES*

The Commission took note the information set out in point 6 of PERS(2011)151/2 and decided to authorise Mr ŠEFCOVIČ:

- to hold, on behalf of the Commission, a meeting with the trade unions and staff associations under the conciliation procedure;
- to report on the results of that conciliation meeting at the next Commission meeting on 23 November;
- to ensure that the objectives and key elements of the proposal were maintained and that the overall savings still amounted to over EUR 1 billion up to 2020.

These decisions would take effect immediately.

7. *PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING FOR THE PERIOD 2014-2020 THE JUSTICE PROGRAMME*
(COM(2011)759 AND /2; SEC(2011)1364; SEC(2011)1365; SEC(2011)1366; RCC(2011)1012)

The Commission adopted the proposal for a Regulation in COM(2011)759/2 for

transmission to Parliament, the Council and the national parliaments, and, for information, to the Economic and Social Committee and the Committee of the Regions, together with the impact assessment and the summary thereof in staff working papers SEC(2011)1364 and SEC(2011)1365, 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)1366.

**8. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING FOR THE PERIOD 2014-2020 THE RIGHTS AND CITIZENSHIP PROGRAMME
(COM(2011)758 AND /2; SEC(2011)1364; SEC(2011)1365; SEC(2011)1366; RCC(2011)1012)**

The Commission adopted the proposal for a Regulation in COM(2011)758/2 for transmission to Parliament, the Council, the Economic and Social Committee, the Committee of the Regions and the national parliaments, together with the impact assessment and the summary thereof in staff working papers SEC(2011)1364 and SEC(2011)1365, 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)1366.

9. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – BUILDING AN OPEN AND SECURE EUROPE: THE HOME AFFAIRS BUDGET FOR 2014-2020

**(COM(2011)749 TO /3; SEC(2011)1358 AND /2; SEC(2011)1359 AND /2;
SEC(2011)1360; RCC(2011)1013)**

**10. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL ESTABLISHING, AS PART OF THE INTERNAL
SECURITY FUND, THE INSTRUMENT FOR FINANCIAL SUPPORT FOR
EXTERNAL BORDERS AND VISAS**

**(COM(2011)750 TO /3; SEC(2011)1358 AND /2; SEC(2011)1359 AND /2;
SEC(2011)1360; RCC(2011)1013)**

**11. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL ESTABLISHING, AS PART OF THE INTERNAL
SECURITY FUND, THE INSTRUMENT FOR FINANCIAL SUPPORT FOR
POLICE COOPERATION, PREVENTING AND COMBATING CRIME,
AND CRISIS MANAGEMENT**

**(COM(2011)753 AND /2; SEC(2011)1358 AND /2; SEC(2011)1359 AND /2;
SEC(2011)1360; RCC(2011)1013)**

**12. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL ESTABLISHING THE ASYLUM AND
MIGRATION FUND**

**(COM(2011)751 AND /2; SEC(2011)1358 AND /2; SEC(2011)1359 AND /2;
SEC(2011)1360; RCC(2011)1013)**

**13. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL LAYING DOWN GENERAL PROVISIONS ON
THE ASYLUM AND MIGRATION FUND AND ON THE INSTRUMENT
FOR FINANCIAL SUPPORT FOR POLICE COOPERATION,
PREVENTING AND COMBATING CRIME, AND CRISIS MANAGEMENT**

**(COM(2011)752 TO /3; SEC(2011)1358 AND /2; SEC(2011)1359 AND /2;
SEC(2011)1360; RCC(2011)1013)**

The Commission approved the Communication in COM(2011)749/3, for transmission to Parliament, the Council, the Economic and Social Committee, the Committee of the Regions, and, for information, to the national parliaments, and adopted the proposals for Regulations in COM(2011)750/3, COM(2011)753/2, COM(2011)751/2 and COM(2011)752/3, for transmission to Parliament, the Council, the Economic and Social Committee, the Committee of the Regions and the national parliaments, together with the impact assessment and the summary thereof in staff working papers SEC(2011)1358/2 and SEC(2011)1359/2, the contents of which were noted.

It also took note of the opinion of the Impact Assessment Board on the above proposals for Regulations, as set out in SEC(2011)1360.

**14. COMMISSION DECISION ON A PROCEEDING UNDER ARTICLE 102 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION AND ARTICLE 54 OF THE EEA AGREEMENT (CASE COMP/D2/39592 – STANDARD & POOR’S)
(C(2011)8209 TO /6)**

The Commission:

- took note of the opinion of the Advisory Committee on Restrictive Practices and Dominant Positions of 25 October in C(2011)8209/3;
- took note of the final report of the Hearing Officer of 26 October in C(2011)8209/6;
- adopted in the authentic language (English) the decision in C(2010)8209 and /5, finding that the proceedings against Standard & Poor’s should be closed and making the commitments offered by that company, as set out in the Annex to the Decision, binding;

- decided to authorise Mr ALMUNIA, Member of the Commission responsible for competition, acting in agreement with the PRESIDENT, to adopt the decisions necessary to implement the commitments forming part of this decision, in order to guarantee that the company concerned complied with them;
- decided to notify the company concerned of the decision in C(2010)8209 and /5 and of the Hearing Officer's final report;
- decided that the key parts of the decision, together with the Advisory Committee's opinion and the Hearing Officer's final report, would be published in the official languages of the Union in the *Official Journal of the European Union* (with business secrets and other confidential information removed);
- decided to make the decision (minus any business secrets and other confidential information) also accessible on the Internet.

15. PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING DIRECTIVE 2009/65/EC ON COORDINATION OF LAWS, REGULATIONS AND ADMINISTRATIVE PROVISIONS RELATING TO UNDERTAKINGS FOR COLLECTIVE INVESTMENT IN TRANSFERABLE SECURITIES (UCITS) AND DIRECTIVE 2011/61/EU ON ALTERNATIVE INVESTMENT FUND MANAGERS IN RESPECT OF THE EXCESSIVE RELIANCE ON CREDIT RATINGS

(COM(2011)746 AND /2; SEC(2011)1354 AND /2; SEC(2011)1355 AND /2; SEC(2011)1356; SEC(2011)1357; RCC(2011)1011)

The Commission adopted the proposal for a Directive in COM(2011)746/2, for transmission to Parliament, the Council, the European Central Bank, the Economic and Social Committee and the national parliaments, and, for information, to the Committee of the Regions, together with the impact assessment and the summary

thereof in staff working papers SEC(2011)1354/2 and SEC(2011)1355/2 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)1356.

16. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – THE GLOBAL APPROACH TO MIGRATION AND MOBILITY (COM(2011)743 AND /2; SEC(2011)1353; RCC(2011)1013)

On a proposal from the PRESIDENT, the Commission agreed that the Communication currently set out in COM(2011)743/2 would be adopted by ‘finalisation’ written procedure, the deadline for which was set at 10.00 on Friday 18 November (PE/2011/8101).

17. GREEN PAPER ON THE RIGHT TO FAMILY REUNIFICATION OF THIRD-COUNTRY NATIONALS LIVING IN THE EUROPEAN UNION (DIRECTIVE 2003/86/EC) (COM(2011)735 AND /2; RCC(2011)1013)

The Commission approved the Green Paper in COM(2011)735/2, for transmission to Parliament, the Council, the Economic and Social Committee, the Committee of the Regions, and, for information, to the national parliaments.

**18. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE COURT OF AUDITORS, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE, THE COMMITTEE OF THE REGIONS AND THE EUROPEAN DATA PROTECTION SUPERVISOR – COMMISSION WORK PROGRAMME 2012 – DELIVERING EUROPEAN RENEWAL
(COM(2011)777 TO /3)**

The PRESIDENT presented the main elements of the Commission Work Programme for 2012. He noted that the principal aim of the Work Programme was to implement the EU's response to the current economic and financial crisis and said that it showed very precisely and clearly what the Commission's contribution was. The Commission's initiatives were consistent and of high quality, as were the often urgent proposals it had made at the request of Member States and the other institutions. If required, the Commission was ready to take on more responsibility.

Next year's Work Programme contained very good proposals, which needed to be implemented as quickly as possible to show that the EU was responsive and could act in both the short and long term. There was a strong correlation between the proposals and Parliament's priorities; this consensus should enable better implementation of the measures once they have been adopted and increase their impact on EU citizens.

The Commission would have to discuss some points later with the co-legislators, such as the scope for speeding up interinstitutional procedures or procedures within each institution in emergencies. Ultimately, the important thing was for the priorities to be clearly recognised and shared by all the institutions.

He rounded off his presentation by asking each Member of the Commission to defend the proposals in the 2012 Work Programme, to be guided by them and to remain united around them, since their adoption and implementation was the EU's best way out of the crisis.

Following a brief discussion, the PRESIDENT noted the Commission's unanimous support for the proposed text and its agreement to the following changes to the English-language version of COM(2011)777/2 and /3:

- **on page 7 of the Communication, the first paragraph of section 3.2. ('Empowering people in inclusive societies') is amended as follows:**

'Job creation remains one of the greatest challenges for Europe today, and the EU can make a key contribution. The Europe 2020 flagships on Youth on the Move [footnote 17], the Agenda for New Skills and Jobs [footnote 18] and the Platform against Poverty [footnote 19] have highlighted the need to direct European renewal to those most in need. The new European Social Fund [footnote 20] and the Globalisation Adjustment Fund [footnote 21] will support Member States' efforts to tackle the jobs crisis in terms of job creation and boosting key skills. "Erasmus for all" will support strategic partnerships between higher education and business to ensure that young students can acquire the mix of skills that the labour market demands. Implementing these initiatives will have a major impact on the EU's work to tackle unemployment, social exclusion, and poverty.';

- **on page 5 of Annex I to the Communication ('Forthcoming initiatives'), in the section 'Forthcoming initiatives 2012' the description of initiative No 21 ('Pan European Framework for electronic identification, authentication and signature') is amended as follows:**

'The proposal will present legislation to boost trust and facilitate electronic transactions notably by ensuring the mutual recognition of electronic identification and authentication across the EU, and of Electronic Signatures. (2nd quarter 2012).';

- **on page 16 of Annex I to the Communication ('Forthcoming initiatives'), in the section 'Forthcoming initiatives 2012' under 'Industry and Entrepreneurship', a new initiative entitled 'European label in the sector of tourism' is added after initiative No 74. This legislative proposal reads as follows:**

'A European label would seek to enhance the competitiveness and sustainability of

European tourism by bringing transparency and consistency into the quality evaluation of tourism services, to gain consumer confidence and recognise high-quality tourism.’;

- **on page 17 of Annex I to the Communication (‘Forthcoming initiatives’), in the section ‘Forthcoming initiatives 2012’ under ‘Internal Market and Services’, a new initiative (No 79) entitled ‘Shadow banking’ is added. This non-legislative proposal reads as follows:**

‘A Communication will be adopted in the second half of the year to complement and implement the G20 workstream.’;

- **on page 32 of Annex I to the Communication (‘Forthcoming initiatives’), in the section ‘Forthcoming initiatives 2013’, a new area entitled ‘Regional policy; Employment, Social Affairs and Inclusion; Agriculture and Rural Development; Maritime Affairs and Fisheries’ is added after the area ‘Protection of the Financial Interests of the EU’ and includes a legislative initiative entitled ‘Partnership contracts with Member States’, which reads as follows:**

‘The partnership contracts between the Commission and each Member State will set out the commitments of partners at national and regional level, as well as those of the Commission. They will be linked to the objectives of Europe 2020 strategy and the national reform programmes. They will establish an integrated approach for territorial development, supported by the funds under cohesion policy, rural development, and the maritime and fisheries policy, and will include objectives, strategic investments and a number of conditionalities.’

Subject to the inclusion of the above amendments and a final linguistic revision of the text, the Commission approved the Communication in COM(2011)777/2 and /3 for transmission to Parliament, the Council, the Court of Auditors, the European Economic and Social Committee, the Committee of the Regions, the European Data Protection Supervisor, and, for information, to the national parliaments.

**19. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL AMENDING REGULATION (EC) NO 1060/2009
ON CREDIT RATING AGENCIES**

**(COM(2011)747 TO /3; SEC (2011)1354 AND /2; SEC (2011)1355 AND /2;
SEC(2011)1356; SEC(2011)1357; RCC(2011)1011.**

The PRESIDENT introduced the proposal tabled this day on credit rating agencies, stressing the fact that the European Union had been the first to adopt a regulation on these agencies in 2009, in line with the commitment it had made at the G20. The rules had in addition been reinforced in 2010, and in July the European Securities and Markets Authority (ESMA) had been entrusted with supervisory powers over the agencies at European level. The new phase of regulation proposed this day was a result of the developments in the previous two years which had caused uncertainty about sovereign debt.

He referred to the five areas in which progress would be achieved by the proposal for a Regulation: (i) reducing excessive reliance on external ratings, (ii) mitigation of conflicts of interest, (iii) the possibility for investors to take civil liability proceedings against credit rating agencies, (iv) solutions to remedy the high concentration of actors on the credit rating agency market, and (v) the rules aimed at enhancing the transparency, reliability and appropriateness of ratings in relation to sovereign debt, mindful of the consequences they could have and the risk of contagion, as demonstrated by the events of the summer.

Mr BARNIER then presented the proposal in more detail, expanding upon these five areas in particular.

As regards reducing dependence on ratings, there was a new general obligation on all regulated financial institutions to carry out their own risk assessments. Turning to the second objective, which was to promote diversity of ratings and the independence of agencies, he explained the decision to tackle the structures for owning capital in these agencies, to lay down rotation rules and to introduce a merger ban for the biggest credit rating agencies in the European Union. He presented the provisions to tighten up the rules on sovereign ratings which would

increase transparency by strengthening the provisions on prior notification of the countries rated and would also make it possible, in exceptional, strictly-regulated circumstances, to suspend the rating of sovereign debt for a limited period if ESMA deemed this useful. He referred to the structural firewalls introduced to avoid conflicts of interest, in particular as regards shareholders of rating agencies. He explained the proposal to introduce European civil liability for agencies in cases of infringements of the regulation either intentionally or through gross negligence.

He concluded by thanking the Commission Members for their broad support for the proposal.

The PRESIDENT thanked Mr BARNIER. Welcoming the fact that the Commission Members largely agreed with the objectives and content of the proposal, he launched the debate by turning to the two points still pending, namely the prohibition, under certain conditions, on mergers between large and small credit rating agencies for a period of ten years, and the power to be entrusted to ESMA to temporarily suspend the issuing and renewal of ratings relating to sovereign debt, in certain exceptional circumstances.

The Commission then held a discussion on the proposal, during which the following points were raised:

General aspects

- a reminder of the major work already accomplished by the European Union since 2009 on the regulation of credit rating agencies, plus the establishment of the European Securities and Markets Authority;
- the relevance of the proposal presented this day in terms of taking account of the latest economic and financial developments, in particular as regards sovereign debt, and the role played by rating agencies in these developments;

Prohibition on mergers between rating agencies (Article 6c)

- the importance of responding to prudential concerns to preserve the diversity of ratings and ensure the emergence of new actors on this market, and hence to

establish a clear, targeted ban on acquisitions by large agencies which have substantial activities in Europe;

- the need, at the same time, to preserve the quality and integrity of the current instrument in the field of competition law and, more particularly, of merger control; for this reason, the need to avoid introducing several different specific arrangements which, moreover, would not permit a correct response to this particular problem;

***Temporary suspension of the issuing and renewal of sovereign ratings
(Article 24a)***

- the importance, for the European Securities and Markets Authority, of having a regulatory tool that would, in a straightforward, binding way, permit the temporary suspension, for instance for two months, of the publication of ratings concerning a Member State, in exceptional circumstances and when certain strict and precise criteria are met; this would apply, for instance, where there was a risk to financial stability if the rating itself were suspended;
- the possibility that this suspension would apply only to Member States benefiting from or negotiating an international or European financial assistance programme;
- certain concerns, however, and questions given the globalisation of financial markets, the legal, political and practical effects of such a suspension, and in particular the possibility that the consequence of this measure, given market analyses and expectations, would be to place the Member State concerned in a more difficult situation than the one it is trying to avoid;
- the possibility, as an alternative to the suspension of the issuing and renewal of sovereign ratings, that the European Securities and Markets Authority could decide that financial institutions were not required to adjust their prudential positions following a rating concerning the sovereign debt of a Member State, provided that certain exceptional circumstances were met;

Other aspects

- the need to ensure that the rules and practices of rating agencies prevented the divulging of erroneous information and, more importantly, did not contain any provisions promoting the dissemination of insider or advance information to certain specific recipients.

Winding up the discussion, Ms REDING thanked Mr BARNIER for his work and for the detailed explanations he had given to the various speakers.

She noted the Commission's backing for the proposed text and its agreement that the following amendments be made to the English language version of COM(2011)747/3:

- on page 32, Article 6c ('Prohibition of concentrations involving certain rating agencies') is deleted;
- on page 38, Article 24a ('Temporary suspension of the issuing and the renewal of sovereign ratings') is deleted.

Subject to inclusion of the above amendments and to a final linguistic clean-up of the text, the Commission adopted the proposal for a Regulation in COM(2011)747/3 for transmission to Parliament, the Council, the European Central Bank, the Economic and Social Committee and the national parliaments, and, for information, to the Committee of the Regions, together with the impact assessment and the summary thereof in staff working papers SEC(2011)1354/2 and SEC(2011)1355/2 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)1356.

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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 15.45.