



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2013) 2038 final

Brussels, 20 March 2013

MINUTES

**of the 2038th meeting of the Commission
held in Strasbourg
(Winston Churchill building)
on Tuesday 12 March 2013
(afternoon)**

PV(2013) 2038 final

TABLE OF CONTENTS

Attendance list	5-7
1. AGENDAS (OJ(2013) 2038/FINAL; SEC(2013) 143/2).....	8
2. WEEKLY MEETING OF CHEFS DE CABINET (RCC(2013) 2038).....	8
3. APPROVAL OF THE MINUTES AND SPECIAL MINUTES OF THE 2036 TH MEETING OF THE COMMISSION (27 FEBRUARY) AND THE MINUTES OF THE 2037 TH MEETING (6 MARCH) (PV(2013) 2036; PV(2013) 2036, PART II).....	8
4. INTERINSTITUTIONAL RELATIONS (RCC(2013) 31)	8
4.1. LEGISLATIVE MATTERS	9
4.2. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL	10
4.3. EXTERNAL RELATIONS	10
5. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS.....	11
5.1. WRITTEN PROCEDURES APPROVED (SEC(2013) 144 ET SEQ.).....	11
5.2. EMPOWERMENT (SEC(2013) 145 ET SEQ.)	11
5.3. DELEGATION AND SUBDELEGATION OF POWERS (SEC(2013) 146 ET SEQ.).....	11
5.4. SENSITIVE WRITTEN PROCEDURES (SEC(2013) 147 AND /2)	11
6. ADMINISTRATIVE AND BUDGETARY MATTERS (SEC(2013) 148).....	12
6.1. DG HUMAN RESOURCES AND SECURITY – PROMOTION OF SENIOR MANAGEMENT OFFICIALS – 2012 EXERCISE (PERS(2013) 46).....	12
6.2. DG HUMAN RESOURCES AND SECURITY – APPROVAL OF LISTS OF CANDIDATES FOR HEAD OF EUROPEAN UNION DELEGATION POSTS (PERS(2013) 47; PERS(2013) 48; PERS(2013) 49; PERS(2013) 50; PERS(2013) 51).....	13

7. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – YOUTH OPPORTUNITIES INITIATIVE (COM(2013) 144 TO /3; RCC(2013) 35).....13

8. PROPOSAL FOR AN AMENDMENT TO THE COMMISSION'S PROPOSAL (COM(2011) 607 FINAL/2) FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE EUROPEAN SOCIAL FUND AND REPEALING COUNCIL REGULATION (EC) 1081/2006 (COM(2013) 145 TO /3; RCC(2013) 35).....13

9. PROPOSAL FOR AN AMENDMENT TO THE COMMISSION'S PROPOSAL (COM(2012) 496) FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL LAYING DOWN COMMON PROVISIONS ON THE EUROPEAN REGIONAL DEVELOPMENT FUND, THE EUROPEAN SOCIAL FUND, THE COHESION FUND, THE EUROPEAN AGRICULTURAL FUND FOR RURAL DEVELOPMENT AND THE EUROPEAN MARITIME AND FISHERIES FUND COVERED BY THE COMMON STRATEGIC FRAMEWORK AND LAYING DOWN GENERAL PROVISIONS ON THE EUROPEAN REGIONAL DEVELOPMENT FUND, THE EUROPEAN SOCIAL FUND AND THE COHESION FUND AND REPEALING COUNCIL REGULATION (EC) 1083/2006 (COM(2013) 146 TO /3; RCC(2013) 35)14

10. RECOMMENDATION FOR A COUNCIL DECISION AUTHORISING THE OPENING OF NEGOTIATIONS ON A COMPREHENSIVE TRADE AND INVESTMENT AGREEMENT, CALLED TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP, BETWEEN THE EUROPEAN UNION AND THE UNITED STATES OF AMERICA (COM(2013) 136 TO /3; SWD(2013) 68 AND /2; SWD(2013) 69 AND /2; SEC(2013) 154; RCC(2013) 33)14

11. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – PREPARING FOR THE 2014 EUROPEAN ELECTIONS: FURTHER ENHANCING THEIR DEMOCRATIC AND EFFICIENT CONDUCT (COM(2013) 126 TO /3; RCC(2013) 32)20
12. COMMISSION RECOMMENDATION ON ENHANCING THE DEMOCRATIC AND EFFICIENT CONDUCT OF THE ELECTIONS TO THE EUROPEAN PARLIAMENT (C(2013) 1303 TO /3; RCC(2013) 32).....20

Single sitting: Tuesday 12 March 2013 (afternoon)

The sitting opened at 15.35 with Mr BARROSO, President, in the chair.

Present:

Mr BARROSO	President	
Baroness ASHTON	High Representative/ Vice-President	Items 1 to 10 (in part)
Ms REDING	Vice-President	
Mr ALMUNIA	Vice-President	Items 1 to 10 (in part)
Mr KALLAS	Vice-President	
Mr TAJANI	Vice-President	Items 1 to 10
Mr ŠEFČOVIČ	Vice-President	
Mr REHN	Vice-President	
Mr POTOČNIK	Member	
Mr PIEBALGS	Member	
Mr BARNIER	Member	
Ms VASSILIOU	Member	
Mr ŠEMETA	Member	
Mr DE GUCHT	Member	Items 1 to 10
Ms GEOGHEGAN-QUINN	Member	Items 1 to 10
Mr LEWANDOWSKI	Member	Items 1 to 10 (in part)
Ms DAMANAKI	Member	Items 10 (in part) to 12
Ms HEDEGAARD	Member	Items 1 to 10
Mr FÜLE	Member	
Mr ANDOR	Member	
Ms MALMSTRÖM	Member	
Mr BORG	Member	Items 1 to 10

Absent:

Ms KROES	Vice-president
Ms GEORGIEVA	Member
Mr OETTINGER	Member
Mr HAHN	Member
Mr CIOLOŞ	Member

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

Mr POWER	A member of Ms KROES's staff
Mr GIOREV	A member of Ms GEORGIEVA's staff
Mr HAGER	Chef de cabinet to Mr OETTINGER
Ms OBST	A member of Mr CIOLOȘ's staff

The following also sat in:

Mr LAITENBERGER	Chef de cabinet to the PRESIDENT	
Mr ROMERO REQUENA	Director-General, Legal Service	
Ms AHRENKILDE HANSEN	Commission Spokeswoman	
Mr SCHINAS	Bureau of European Policy Advisers	
Mr CABRAL	Adviser hors classe in the PRESIDENT's Office	Items 1 to 10
Ms MARTÍNEZ ALBEROLA	Adviser in the PRESIDENT's Office	Items 10 (in part) to 12
Mr KLAUS	A member of the PRESIDENT's staff	Items 10 (in part) to 12
Mr BENGTSSON	A member of Mr DE GUCHT's staff	Items 1 to 10
Mr LEVIE	DG Trade	Items 1 to 10

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

1. AGENDAS

(OJ(2013) 2038/FINAL; SEC(2013) 143/2)

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(2013) 2038)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 11 March.

3. APPROVAL OF THE MINUTES AND SPECIAL MINUTES OF THE 2036TH MEETING OF THE COMMISSION (27 FEBRUARY) AND THE MINUTES OF THE 2037TH MEETING (6 MARCH)

(PV(2013) 2036; PV(2013) 2036, PART II)

The Commission approved the minutes of its 2036th meeting, and decided to hold over for one week approval of the minutes of its 2037th meeting.

4. INTERINSTITUTIONAL RELATIONS

(RCC(2013) 31)

The Commission took note of the record of the meeting of the Interinstitutional Relations Group held on Friday 8 March (RCC(2013) 31).

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

- Annual financial statements, consolidated financial statements and related reports of certain types of undertakings (Directive) – LEHNE report – 2011/0308 (COD)

The Commission approved the line set out in SI(2013) 114/3.

- Temporary derogation from Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community (Decision) – LIESE report – 2012/0328 (COD)

The Commission approved the line set out in SI(2013) 116.

- Non-commercial movement of pet animals (Regulation)/Amendment to Council Directive 92/65/EEC laying down animal health requirements governing trade in and imports into the Union of dogs, cats and ferrets (Directive) – SCHNELLHARDT reports – 2012/0039 (COD) / 2012/0040 (COD)

The Commission approved the line set out in SI(2013) 117.

ii) Preparation for Parliament's March part-session

(point 1.3 of the IRG record)

Ordinary legislative procedure – First reading

- Strengthening of economic and budgetary surveillance of Member States experiencing or threatened with serious difficulties with respect to their financial stability in the euro area (Regulation)/Common provisions for monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficit of the Member States in the euro area

(Regulation) – GAUZÈS / FERREIRA reports – 2011/0385
(COD) / 2011/0386 (COD)

The Commission approved the line set out in SP(2013) 162.

- Flag State responsibilities for the enforcement of Council Directive 2009/13/EC implementing the Agreement concluded by the European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) on the Maritime Labour Convention, 2006, and amending Directive 1999/63/EC (Directive) – BERÈS report – 2012/0065 (COD)

The Commission approved the line set out in SP(2013) 179 and /2.

Regulatory procedure with scrutiny

- Amendment of Annex III to Regulation (EC) 110/2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks (Commission Regulation) – SCHNELLHARDT report

The Commission took note of SP(2013) 177.

4.2. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL

iii) Programming of Council business

(SI(2013) 124)

The Commission took note of the information in SI(2013) 124 on the Council meetings between 14 and 27 March.

4.3. EXTERNAL RELATIONS

- iv) Recommendation for a Council Decision authorising the Commission to open negotiations on a plurilateral agreement on trade in services**

The Commission approved the line set out in SI(2013) 118.

5. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

5.1. WRITTEN PROCEDURES APPROVED (SEC(2013) 144 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 4 and 8 March.

5.2. EMPOWERMENT (SEC(2013) 145 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 4 and 8 March.

5.3. DELEGATION AND SUBDELEGATION OF POWERS (SEC(2013) 146 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 4 and 8 March, as archived in e-Greffe.

5.4. SENSITIVE WRITTEN PROCEDURES (SEC(2013) 147 AND /2)

The Commission took note of the sensitive written procedures for which the time limit expired between 11 and 15 March and of the 'finalisation' written procedure initiated following the weekly meeting of Chefs de cabinet on 11 March.

6. ADMINISTRATIVE AND BUDGETARY MATTERS
(SEC(2013) 148)

ADMINISTRATIVE MATTERS
(PERS(2013) 45)

**6.1. DG HUMAN RESOURCES AND SECURITY – PROMOTION OF
SENIOR MANAGEMENT OFFICIALS – 2012 EXERCISE**
(PERS(2013) 46)

The Commission noted the procedure followed, as set out at point 1 of PERS(2013) 45, and, on a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT, decided:

- to promote to grade AD 16 Mr João AGUIAR MACHADO, Mr Wolfgang BURTSCHER, Ms Nadia Maria CALVINO SANTAMARIA, Mr Servaas DEROOSE, Mr Patrick HETSCH, Mr Jerzy Bogdan PLEWA, Mr Stefano SANNINO and Mr Robert-Jan SMITS, presented in alphabetical order, exercising the basic function of Director General with effect from 1 January 2013;
- to promote to grade AD 15 Ms Elke ANKLAM, Mr Thomas FANGHAENEL, Ms Daniela GHEORGHE, Mr Olivier GUERSENT, Mr Ronald HALL, Ms Eva KRUZIKOVA, Mr Andrzej Jan RYS, Mr Andras SIEGLER and Mr Bernard VAN GOETHEM, presented in alphabetical order, exercising the basic function of Director with effect from 1 January 2013.

These decisions would take effect immediately.

6.2. DG HUMAN RESOURCES AND SECURITY – APPROVAL OF LISTS OF CANDIDATES FOR HEAD OF EUROPEAN UNION DELEGATION POSTS

(PERS(2013) 47; PERS(2013) 48; PERS(2013) 49; PERS(2013) 50; PERS(2013) 51)

The Commission took note of the information at point 2 of PERS(2013) 45 and, on a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT, decided to approve the lists of candidates in PERS(2013) 47, PERS(2013) 48, PERS(2013) 49, PERS(2013) 50 and PERS(2013) 51 for the posts of Head of the European Union Delegations to the Dominican Republic, El Salvador, Honduras, Paraguay and Venezuela (AD9-14/AD12); these lists would serve as a basis for the competent authority of the European External Action Service to make the final appointments.

This decision would take effect immediately.

**7. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – YOUTH OPPORTUNITIES INITIATIVE
(COM(2013) 144 TO /3; RCC(2013) 35)**

The Commission approved the Communication in COM(2013) 144/3 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, and, for information, to the national parliaments.

8. PROPOSAL FOR AN AMENDMENT TO THE COMMISSION'S PROPOSAL (COM(2011) 607 FINAL/2) FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE EUROPEAN SOCIAL

**FUND AND REPEALING COUNCIL REGULATION (EC) 1081/2006
(COM(2013) 145 TO /3; RCC(2013) 35)**

The Commission adopted the proposal for an amendment in COM(2013) 145/3 for transmission to Parliament, the Council, the Economic and Social Committee, the Committee of the Regions and the national parliaments.

- 9. PROPOSAL FOR AN AMENDMENT TO THE COMMISSION'S PROPOSAL (COM(2012) 496) FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL LAYING DOWN COMMON PROVISIONS ON THE EUROPEAN REGIONAL DEVELOPMENT FUND, THE EUROPEAN SOCIAL FUND, THE COHESION FUND, THE EUROPEAN AGRICULTURAL FUND FOR RURAL DEVELOPMENT AND THE EUROPEAN MARITIME AND FISHERIES FUND COVERED BY THE COMMON STRATEGIC FRAMEWORK AND LAYING DOWN GENERAL PROVISIONS ON THE EUROPEAN REGIONAL DEVELOPMENT FUND, THE EUROPEAN SOCIAL FUND AND THE COHESION FUND AND REPEALING COUNCIL REGULATION (EC) 1083/2006 (COM(2013) 146 TO /3; RCC(2013) 35)**

The Commission adopted the proposal for an amendment in COM(2013) 146/3 for transmission to the European Parliament, the Council, the Court of Auditors, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank, and to the national parliaments.

- 10. RECOMMENDATION FOR A COUNCIL DECISION AUTHORISING THE OPENING OF NEGOTIATIONS ON A COMPREHENSIVE TRADE AND INVESTMENT AGREEMENT, CALLED TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP, BETWEEN THE EUROPEAN UNION AND THE UNITED STATES OF AMERICA**

(COM(2013) 136 TO /3; SWD(2013) 68 AND /2; SWD(2013) 69 AND /2; SEC(2013) 154; RCC(2013) 33)

The PRESIDENT opened that day's discussion by calling the prospect of negotiating and concluding a comprehensive trade and investment agreement between the European Union and the United States of America an historic breakthrough. This had been made possible by the common will of the President of the United States, Barack Obama, the President of the European Council, Herman Van Rompuy, and himself, to strengthen transatlantic relations, and by their shared conviction of the beneficial effects that a comprehensive agreement could bring to both sides. The Commission was called on today to adopt the draft negotiating directives for submission to the Council, only one month after the Working Group on Jobs and Growth, composed of high-level experts from the European Union and the United States, had issued its report recommending the opening of negotiations. In addition to the considerable economic potential of the future agreement, it was very significant in geopolitical terms; the European Union and the United States shared the same democratic values and the respect of fundamental rights and individual freedoms.

There would be many challenges to be met during the negotiations. He noted the trade interests of the two parties and the particular difficulty in resolving the question of non-tariff barriers to trade, in particular because of the specific status of American regulatory agencies. The Commission would be in a position to accept an agreement only if, overall, it was in the interests of the European Union. That was why he wanted all Members of the Commission to take genuine political ownership of the proposed mandate. He highlighted the position of the principal negotiator of the Member of the Commission responsible for trade, Mr DE GUCHT, while noting the need for the latter to involve the Members of the Commission whose portfolios were most concerned and the advisability of keeping the College regularly informed of the state of play of the negotiations.

The PRESIDENT ended his introduction with the question of audiovisual and cultural services, noting the importance the Commission had always attached to the promotion of culture. The point which the Members of the Commission were

invited to discuss that day was whether or not to include audiovisual services in the draft negotiating mandate. The matter at issue was obviously not to reach a decision for or against the protection of European cultural works and goods. He supported the approach followed in the draft negotiating directives put before the College by the Member responsible.

Mr DE GUCHT agreed with the PRESIDENT's comments and stressed three points in particular. First, the absolute necessity of holding firm to the objective of a comprehensive agreement in order to achieve the desired results, hence the importance of not excluding this or that sector. Second, he underlined the pragmatic approach that had been proposed, which had already proved its worth during the preparatory discussions and had to be followed to continue to make progress. Third, the not inconsiderable political impact of these negotiations, which could reshape world trade if a positive outcome were achieved.

It was not desirable to exclude the cultural sector completely from the negotiating directives because that would be excessive and of little use in protecting Europe's cultural and linguistic diversity. Furthermore, it risked undermining the mutual confidence that the partners had taken such great pains so far to develop. Broadcasting quotas and grants intended to promote cultural diversity would not be called into question by including this sector in the negotiations; if necessary, he could clarify this point in the relevant paragraph of the negotiating directives. In this context, it was important to make a distinction between online products and new services in the audiovisual sector, such as video on demand.

On a practical level, it was desirable for the draft negotiating directives to be approved by the Council towards June in order to coincide, if at all possible, with the bilateral summit between the European Union and the United States. However, the preparatory work would continue in the meantime and he suggested organising, in the near future, a meeting with the Members of the Commission most directly concerned by the negotiations because of their remit. There was a need for strict coordination at all levels in order to meet the tight and ambitious deadline that had been proposed.

After these comments, the Commission embarked on a discussion during which the following points were raised:

- broad support for the draft negotiating directives, regarded as a decisive step towards a comprehensive trade and investment agreement with the United States; the observation that a global agreement of this kind was a geopolitical breakthrough that would boost and transform transatlantic relations, ensuring that the fundamental values both parties were bringing to this future agreement would be placed in the limelight on the world stage; a reminder of the potential positive impact of such a free trade agreement on growth and employment, and investor confidence; the importance of continuing at the same time to develop relations with the European Union's other major economic and strategic partners at world level;
- the fundamental value of comprehensive and open negotiations to maintain a positive dynamic, which had been made possible as a result of the change in the political context;
- a concern expressed by some that the audiovisual sector should be kept out of the negotiations in order to guarantee the continuity of the Union's policy in this domain and maintain its traditional position as a key promoter of cultural diversity; anticipation of the reactions by those in the cultural professions and industries who might feel that including the audiovisual sector in the negotiations signalled a change in Union policy; by the same token, the perception that the future of the European digital sector could be particularly threatened by being included;
- a feeling shared by a majority of Commission Members that, while the cultural domain deserved special attention, the safeguards included in the negotiating mandate were enough to guarantee compliance with European and national policies on the audiovisual sector and cultural diversity, in accordance with Article 207 of the Treaty on the Functioning of the European Union; the argument that the inclusion of the audiovisual sector in the mandate together

with the safeguard clauses would in fact establish Union policies in the cultural and audiovisual domains in the forthcoming negotiations;

- the importance of equipping the chief negotiator with the best possible tools in order to give the Union every chance of achieving the desired results during the tough negotiations ahead; the need to have as much negotiating leeway as possible and to start the negotiations on a constructive rather than a defensive basis; conversely, the risk that excluding a domain from the outset would unleash a series of consequences that could threaten the objective of the comprehensive agreement;
- the argument that isolating the cultural sector was not the only way of protecting cultural diversity and that other mechanisms should be explored to this end;
- the case for adopting a dynamic communication strategy on this sensitive subject which touched upon identity issues for Europeans in order to make it clear that the Union firmly intended to push for the protection of cultural diversity during the negotiations;
- the usefulness, lastly, of getting those Commission Members who had a direct legitimate interest involved in closely monitoring progress in the negotiations, and of keeping the Commission regularly informed.

Mr DE GUCHT replied to these observations by saying that the Commission must present a draft comprehensive mandate with a concrete starting point for the negotiations with the United States. As regards the audiovisual sector and cultural diversity, he referred again to the safeguard clauses included in draft mandate, stressing that they were in line with the Treaties. He cautioned against the suggestions made in relation to this point that could pave the way for a mixed agreement. The proposals for negotiating directives also took account of the offensive interests of this sector, the achievements and success of which (for instance European cinema) were recognised internationally; the Union would continue to support it by means of several programmes.

The PRESIDENT thanked the Commission Members for their contributions and

noted their broad support for the draft negotiating directives proposed by Mr DE GUCHT. With regard to the more operational aspects of the negotiations, the PRESIDENT asked Mr DE GUCHT to involve the Commission Members most concerned in this matter and to keep the Commission informed of the state of play of the discussions. He hoped that particular attention would be paid to the cultural issue, including the linguistic aspects, and pointed out that the Commission would take into account in the negotiations the interests of the audiovisual sector and the importance of maintaining cultural diversity. He agreed with Mr DE GUCHT about the safeguard clauses in the draft negotiating directives.

The PRESIDENT stressed once again that it was important for the Union to actively promote European cultural heritage and the advantages the cultural sector could gain from opening up more to the American market. He regretted the fact that Europe was made up of 27 different markets for cultural products and services. While emphasising the importance of cultural and linguistic diversity, he added that a single market for culture and the harmonisation of certain measures would enable the Union to position itself better with respect to non-Member States.

At the end of the debate, the PRESIDENT noted the Commission's broad support for the adoption of the Recommendation for a Council Decision authorising the opening of negotiations on a comprehensive trade and investment agreement between the European Union and the United States of America, and its approval on amending paragraphs 8 and 18 of the draft negotiating directives in COM(2013) 136/3.

Subject to these amendments approved at the Meeting, the Commission adopted the Recommendation for a Council Decision in COM(2013) 136/3 for transmission to the Council, together with the impact assessment and the summary thereof in staff working documents circulated as SWD(2013) 68/2 and SWD(2013) 69/2, the contents of which were noted.

It also took note of the opinion of the Impact Assessment Board on the above Recommendation, as set out in SEC(2013) 154.

11. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – PREPARING FOR THE 2014 EUROPEAN ELECTIONS: FURTHER ENHANCING THEIR DEMOCRATIC AND EFFICIENT CONDUCT (COM(2013) 126 TO /3; RCC(2013) 32)

12. COMMISSION RECOMMENDATION ON ENHANCING THE DEMOCRATIC AND EFFICIENT CONDUCT OF THE ELECTIONS TO THE EUROPEAN PARLIAMENT (C(2013) 1303 TO /3; RCC(2013) 32)

The Commission held a brief exchange of views on the communication and the recommendation on enhancing the democratic and efficient conduct of the elections to the European Parliament. With regard to the recommendation to the political parties to name the candidate for the Commission Presidency whom they supported, a question was raised concerning the risk that this measure would prejudice the position of the national political parties and concerning the added value with respect to the European Parliament's decision on this point. Another point raised was the possibility of organising a Commission seminar on how to strengthen the democratic legitimacy of Union action before the Commission adopted a position on a possible amendment of the Treaties.

The PRESIDENT noted the Commission's support for the proposed communication and recommendation. He stressed that their aim was to send a policy message in which the Commission would make suggestions and contribute to the efforts to increase the visibility of the European elections. He approved of the idea of organising a Commission seminar on the issues relating to the democratic legitimacy of European Union action.

The Commission:

- approved the Communication in COM(2013) 126/3 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, and, for information, to the national parliaments;
- adopted the recommendation set out in COM(2013) 1303/3 and decided to transmit it, for information, to Parliament, the Council, the Economic and Social Committee, the Committee of the Regions and the national parliaments;
- decided to publish this recommendation in the Official Journal of the European Union in order to inform the Member States and interested parties.

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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 17.35.