EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2013) 2040 final

Strasbourg, 16 April 2013

<u>MINUTES</u>

of the 2040th meeting of the Commission

held in Brussels

(Berlaymont)

on Wednesday 27 March 2013 (morning)

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<u>Single sitting</u>: Wednesday 27 March 2013 (morning)

The sitting opened at 9.07 with Mr BARROSO, President, in the chair.

<u>It was attended by</u>:

Mr BARROSO	President	
Ms REDING	Vice-President	Items 1 to 10
Mr ALMUNIA	Vice-President	
Mr KALLAS	Vice-President	
Ms KROES	Vice-President	
Mr TAJANI	Vice-President	
Mr ŠEFČOVIČ	Vice-President	
Mr POTOČNIK	Member	
Mr BARNIER	Member	
Ms VASSILIOU	Member	
Mr ŠEMETA	Member	
Mr DE GUCHT	Member	
Ms GEOGHEGAN-QUINN	Member	Items 1 to 10 (in part)
Mr LEWANDOWSKI	Member	
Ms DAMANAKI	Member	
Ms GEORGIEVA	Member	
Mr OETTINGER	Member	Items 1 to 11
Mr HAHN	Member	
Ms HEDEGAARD	Member	Items 1 to 11
Mr FÜLE	Member	
Mr ANDOR	Member	
Ms MALMSTRÖM	Member	
Mr CIOLOŞ	Member	

Absent:

Baroness ASHTON	High Representative/ Vice-President
Mr REHN	Vice-President
Mr PIEBALGS	Member
Mr BORG	Member

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

Mr CEBALLOS BARÓN	A member of Baroness ASHTON's staff	
Mr PESONEN	Chef de cabinet to Mr REHN	Items 1 to 10
Ms LEIB	A member of Mr REHN's staff	Items 1 to 10
Ms ARNOULD	A member of Mr PIEBALGS's staff	
Ms DARMANIN	Chef de cabinet to Mr BORG	

The following also sat in:

Mr LAITENBERGER	Chef de cabinet to the PRESIDENT	
Mr ROMERO REQUENA	Director-General, Legal Service	
Mr PAULGER	Director-General, DG Communication	
Mr DOENS	Head of the Commission Spokesperson Service	Items 1 to 10
Ms AHRENKILDE HANSEN	Commission Spokeswoman	
Mr THEBAULT	Head of the Bureau of European Policy Advisers	
Ms MARTÍNEZ ALBEROLA	Adviser in the PRESIDENT's Office	Items 1 to 10
Mr KLAUS	A member of the PRESIDENT's staff	Items 10 (in part) to 13
Mr DANDOY	A member of the PRESIDENT's staff	Items 11 to 13
Mr SELMAYR	Chef de cabinet to Ms REDING	Items 11 to 13
Mr NOCIAR	Chef de cabinet to Mr ŠEFČOVIČ	Items 1 to 9
Mr ARBAULT	A member of Mr BARNIER's staff	
Mr SUTHERLAND	A member of Ms GEOGHEGAN-QUINN's staff	Items 10 (in part) to 13
Ms PARI	A member of Mr LEWANDOWSKI's staff	

Secretary: Mr AYET PUIGARNAU, Director in the Secretariat-General, assisted by Mr GENISSON, Head of Unit in the Secretariat-General.

1. AGENDAS
(OJ(2013) 2040/FINAL; SEC(2013) 171/2)

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) 2040)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 25 March.

3. MINUTES OF 2039TH MEETING (20 MARCH)

The Commission held over approval of the special minutes of its 2039th meeting for a later date.

4. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

4.1. WRITTEN PROCEDURES APPROVED
(SEC(2013) 172 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 18 and 22 March.

4.2. EMPOWERMENT (SEC(2013) 173 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 18 and 22 March.

4.3. DELEGATION AND SUBDELEGATION OF POWERS (SEC(2013) 174 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 18 and 22 March, as archived in e-Greffe.

4.4. SENSITIVE WRITTEN PROCEDURES (SEC(2013) 175)

The Commission took note of the sensitive written procedures for which the time limit expired between 25 March and 5 April.

5. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN CENTRAL BANK, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – THE EU JUSTICE SCOREBOARD – A TOOL TO PROMOTE EFFECTIVE JUSTICE AND GROWTH (COM(2013) 160 AND /2; RCC(2013) 46)

The Commission approved the Communication in COM(2013) 160/2 for transmission to Parliament, the Council, the European Central Bank, the Economic and Social Committee and the Committee of the Regions, and, for information, to the national parliaments.

6. **GREEN PAPER – A 2030 FRAMEWORK FOR CLIMATE AND ENERGY POLICIES**
(COM(2013) 169 TO /3; RCC(2013) 44)

The Commission approved the Green Paper in COM(2013) 169/3 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, and, for information, to the national parliaments.

7. **COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – ESTABLISHING A EUROPEAN LAW ENFORCEMENT TRAINING SCHEME**
(COM(2013) 172 AND /2; RCC(2013) 47)

8. **PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE EUROPEAN UNION AGENCY FOR LAW ENFORCEMENT COOPERATION AND TRAINING (EUROPOL) AND REPEALING DECISIONS 2009/371/JHA AND 2005/681/JHA**
(COM(2013) 173 AND /2; SWD(2013) 98 (PARTS 1, 2 AND ANNEXES); SWD(2013) 99 (PARTS 1 AND 2); SWD(2013) 100; SEC(2013) 186; RCC(2013) 47)

The Commission:

– approved the Communication in COM(2013) 172/2, for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, and, for information, to the national parliaments and the European Data Protection Supervisor;

- adopted the proposal for a Regulation in COM(2013) 173/2 for transmission to Parliament, the Council, the European Data Protection Supervisor and the national parliaments, and, for information, to the European Economic and Social Committee and the Committee of the Regions, accompanied by the impact assessment, the summary thereof and the ex-ante evaluation in staff working papers distributed as SWD(2013) 98 (parts 1, 2 and annexes), SWD(2013) 99 (parts 1 and 2) and SWD(2013) 100, the contents of which were noted;

- also took note of the opinion of the Impact Assessment Board on the above proposal for a Regulation, as set out in SEC(2013) 186.

9. ADMINISTRATIVE AND BUDGETARY MATTERS (SEC(2013) 176/4)

ADMINISTRATIVE MATTERS (PERS(2013) 55/3 AND /4)

9.1. DG AGRICULTURE AND RURAL DEVELOPMENT − AMENDMENT OF ORGANISATION CHART, APPOINTMENT OF AN AD16 HORS CLASSE ADVISER AND AN AD16 DIRECTOR-GENERAL

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Mr CIOLOŞ, the Commission decided:

- to approve the creation of a temporary function of *Hors Classe* Adviser within the Agriculture and Rural Development Directorate-General; this function would be abolished automatically upon the departure of the jobholder;

- to entrust the *Hors Class* Adviser with the tasks of (i) ensuring the proper follow-up to the Multiannual Financial Framework and (ii) coordinating non-commercial international relations with emerging countries in the agricultural sector;

– to transfer to that *Hors Class* Adviser function, in the interest of the service, under Article 7 of the Staff Regulations, Mr José Manuel SILVA RODRIGUEZ, currently Director-General of the Agriculture and Rural Development Directorate-General;

– to transfer to that post of Director-General of the Agriculture and Rural Development Directorate-General in the interest of the service, under Article 7 of the Staff Regulations, Mr Jerzy Bogdan PLEWA, currently Deputy Director-General responsible for Directorates E, F, G and H in the same Directorate-General.

These decisions would take effect on 16 April 2013.

9.2. DG HUMAN RESOURCES AND SECURITY – SPECIAL ADVISERS TO COMMISSION MEMBERS – 1 APRIL 2013 TO 31 MARCH 2014 (PERS(2013) 56/2)

The Commission took note of the information in point 2 of PERS(2013) 55/3 and, on a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT, decided:

– to adopt the list of special advisers to Commission Members set out in PERS(2013) 56/2;

– to empower Mr ŠEFČOVIČ, member of the Commission in charge of administration, by way of derogation from point 6(2) of the Commission Decision of 19 December 2007 (C(2007) 6655), to amend the existing contracts, in agreement with the PRESIDENT, should urgent, unforeseen and duly justified needs arise between the first and second wave of appointments of special advisers, provided sufficient budgetary resources were available;

– to authorise the Director-General for Human Resources and Security to implement that decision by signing contracts of employment on behalf of the authority empowered to conclude contracts of employment.

These decisions would take effect immediately.

9.3. DG HUMAN RESOURCES AND SECURITY – SETTING RECRUITMENT TARGETS FOR COMMISSION OFFICIALS AND TEMPORARY AGENTS FROM CROATIA (SEC(2013) 190)

The Commission took note of the information in point 3 of PERS(2013) 55/3 and, on a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT, decided:

– to approve the Communication in SEC(2013) 190 and to set the targets for the recruitment of Croatian nationals by Directorate-General for administrators and assistances, and by family of Directorate-Generals for middle management, as shown in Annex 1 to the above document;

– to note that the senior management positions will be identified by the Commission during the transition period;

– to authorise Mr ŠEFČOVIČ, Member of the Commission in charge of administration, to implement that Communication and to adapt the targets, if necessary, to take account of any changes made to the total number of posts allocated to the Commission and to their distribution across the function groups and Directorate-Generals for administrators and assistants and families of Directorate-Generals for middle management;

– to report on the state of play of the recruitment between now and summer 2014.

These decisions would take effect immediately.

9.4. DG HUMAN RESOURCES AND SECURITY – REPORT ON THE STATE OF PLAY AND THE WAY FORWARD REGARDING ADMINISTRATIVE PREPARATIONS FOR THE ACCESSION OF CROATIA (SEC(2013) 191 AND /2)

The Commission took note of SEC(2013) 191/2.

9.5. DG HUMAN RESOURCES AND SECURITY – APPROVAL OF LISTS OF CANDIDATES FOR HEAD OF EUROPEAN UNION DELEGATION POSTS (PERS(2013) 57; PERS(2013) 58; PERS(2013) 59)

The Commission took note of the information in point 4 of PERS(2013) 55/3 and, on a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT, decided to approve the lists of candidates in PERS(2013) 57, PERS(2013) 58 and PERS(2013) 59 for the posts of Head of the European Union Delegations to Azerbaijan, Kyrgyzstan and the Republic of Moldova (AD9-14/AD12); on the basis of which the competent authority of the European External Action Service would make the final appointments.

This decision would take effect immediately.

9.6. DG HUMAN RESOURCES AND SECURITY – APPROVAL OF LISTS OF CANDIDATES FOR HEAD OF EUROPEAN UNION DELEGATION POSTS (PERS(2013) 60; PERS(2013) 61; PERS(2013) 62; PERS(2013) 63)

The Commission took note of the information in point 5 of PERS(2013) 55/3 and, on a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT, decided to approve the lists of candidates in PERS(2013) 60, PERS(2013) 61, PERS(2013) 62 and PERS(2013) 63 for the posts of Head of the European Union Delegations to Burma/Myanmar, Nepal, Sri Lanka and Vanuatu (AD9-14/AD12); on the basis of which the competent authority of the European External Action Service would make the final appointments.

This decision would take effect immediately.

9.7. *SECRETARIAT GENERAL / DG HUMAN RESOURCES AND SECURITY – CREATION OF A* **TASK FORCE** *FOR CYPRUS*

The PRESIDENT presented his decision to create a task force for Cyprus (see also items 9.8 and 10.2.x of these minutes). In particular, he stressed that the role of the task force would be to support the Cypriot authorities as they embarked on far-reaching and most likely difficult reforms. The task force would be expected to give effect to the Commission's desire to do all within its power to support Cyprus and its citizens and assist the Cypriot Government in drawing up the best possible strategy for creating new opportunities, relaunching the economy and optimising the management of the social consequences of the current crisis, especially youth unemployment and the problems mainly affecting small and medium-sized businesses.

In a brief discussion, the Commission referred to the need for the task force to adopt a creative approach, tailored to the specific situation of Cyprus, in order to provide all appropriate assistance to that Member State in the strategic discussions that would be needed for the design and introduction of an alternative, robust and sustainable economic model. While stressing that the Cypriot Government should be the driving force in this connection, the Commission emphasised that the task force would be giving its full support in view of the scale of the challenge facing Cyprus.

The PRESIDENT pointed out that the decision to be taken at that day's meeting concerned the actual creation of the task force, and that the complexities of the precise details of its mission should be addressed in greater detail in agreement with the Cypriot authorities. All the Members of the Commission and their departments would be required if necessary to make a contribution and provide expertise. He concluded by stating that the Commission would examine the exact content of the task force's mission in due course.

The Commission took note of the decision of the PRESIDENT, adopted in accordance with Article 22 of its Rules of Procedure, on the creation with immediate effect of a task force for Cyprus, the terms of which were set out below (see also item 9.8 of these minutes):

– responsibility for the general coordination of the task force for Cyprus lay with Mr REHN; the task force, which was coordinating closely with the task force for Greece, would draw on the contributions from all relevant Commission portfolios, including regional policy and employment, social affairs and inclusion;

– the task force for Cyprus was created with the mission of: (i) helping to alleviate the social consequences of the economic shock by mobilising funds from European Union instruments and by supporting the Cypriot authorities' efforts to restore financial, economic and social stability; and (ii) bringing in further expertise to facilitate the emergence of new sources of economic activity;

– the task force for Cyprus would work closely with the Cypriot authorities to support and supplement the programme agreed between the European Union and the International Monetary Fund; its work would have a strong focus on employment, competitiveness and growth; it would provide quarterly progress reports to the Cypriot authorities and the Commission;

– in administrative terms, the task force for Cyprus was created as an organisational entity attached to the Director-General of DG Economic and Financial Affairs with a function of Head of the Task Force at a level equivalent to a Director;

– the task force for Cyprus would be based in Brussels, with a support team in Nicosia.

9.8. SECRETARIAT GENERAL / DG ECONOMIC AND FINANCIAL AFFAIRS / DG BUDGET / DG HUMAN RESOURCES AND SECURITY – ADMINISTRATIVE AND BUDGETARY ARRANGEMENTS FOR THE CREATION AND OPERATION OF THE TASK FORCE FOR CYPRUS

The Commission, on a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT, Mr REHN and Mr LEWANDOWSKI, decided (see also items 9.7 and 10.2.x of these minutes):

– that the task force for Cyprus would be made up of:

  - full-time AD and AST officials who would be attached to the task force from their current departments;
  - Seconded National Experts, including, where appropriate, experts from an employer other than a public administration or intergovernmental organisation, who would be paid by their employers and whose suitability for this task would be confirmed to the Human Resources and Security DG by Member State Permanent Representations;
  - temporary staff, should other specialised external expertise be necessary;
  - contract staff for support and communication tasks;
  - retired Commission officials, should this be necessary;
  - all Commission officials who were currently seconded to the Cypriot authorities; their secondment would come to an end and be converted into attachment (“mise à disposition”) to the task force;

– that ceilings for the numbers of staff of different categories, as well as the mechanism for revising these ceilings subsequently, and the organisation chart of the task force for Cyprus would be adopted by the PRESIDENT in agreement with Mr ŠEFČOVIČ, Mr REHN and Mr LEWANDOWSKI;

- that the composition of the task force for Cyprus, including decisions on appointments, engagements, transfers and the termination of contracts, would be decided by the appointing authority and authority authorised to conclude contracts of employment in agreement with the Head of the Task Force and after consulting the Secretariat-General and the DG for Human Resources and Security;

- that, apart from the Head of the Task Force, all the Commission officials would be attached to the task force for Cyprus from their current services, including those who occupied organisation chart functions; that no organisation chart functions other than the Head of Task Force function would be created in the task force;

- that the Head of the Task Force would be responsible for the management of the task force's human resources, being the functional superior of all task force staff on a day-to-day basis and with regard to all tasks necessary for the accomplishment of its mission, including allocating the necessary staff for those tasks; without prejudice to the established appointing authority powers, the Head of the Task Force would be consulted by all Directorates-General which had sent staff to the task force on all relevant personnel and other administrative decisions, notably with regard to appraisals and promotions; that the Head of the Task Force would decide on leave, missions and working hours, without prejudice to the existing operational and financial workflows;

- that the Head of the Task Force would be able to count on all the Commission's departments for support, in particular DGs ECFIN, EMPL, REGIO, AGRI, ENER, MARKT, SANCO, TAXUD, COMP, MARE, JUST, HOME and COMM (including, if necessary, the representation in Nicosia), the Secretariat-General, the Legal Service, DG Budget and DG Human Resources and Security; that other Commission Directorate-Generals could be involved in the work of the task force if necessary; that the Secretariat-General would provide the training and support necessary to ensure consistency in the contributions from other

Directorates-General offering support to the task force;

- that the Directorate-General for Employment, Social Affairs and Inclusion and the Directorate-General for Regional Policy would assist the task force in identifying the relevant sources of funding available under the cohesion policy programmes, for which they were authorising officers by delegation, in order to provide the Cypriot authorities with the technical assistance they needed to implement the EU/IMF adjustment programme; that the assistance provided by the Directorate-General for Employment, Social Affairs and Inclusion and the Directorate-General for Regional Policy would be implemented according to the same rules and practices as already established between the Directorate-General for Employment, Social Affairs and Inclusion and the Directorate-General for Regional Policy, the Directorate-General for Economic and Financial Affairs and the task force for Greece in the Memorandum of Understanding signed on 18 June 2012;

- that the Commission decisions on derogations from applicable Commission rules in relation to the task force for Greece, taken on 20 July 2011, would also be applicable to the task force for Cyprus; that, accordingly, to ensure the rapid creation and efficient operation of the task force, the Member of the Commission with responsibility for administration would be authorised to deviate as necessary and in the case of the Head of the Task Force and of all staff assigned to this task force only from individual provisions of Commission Decisions, notably concerning provisions on publication, selection, justification for having recourse to temporary staff, maximum duration of employment, grading, minimum length of employment by the current employer in the case of seconded national experts, fees paid to Special Advisers, maximum period since retirement and restrictions with regard to assignments or tasking and remuneration in the case of retired officials: (i) Decision C(2008) 6866 of 12 November 2008 laying down rules on the secondment to the Commission of national experts and national experts in professional training; (ii) Decision C(2011) 1264 of 2 March 2011 on the general provisions for implementing Article 79(2) of the Conditions of Employment of Other Servants of the European Union, governing the conditions of employment of contract staff employed by the Commission under the terms of Articles 3a and 3b of the said Conditions; (iii) Decision C(2004) 1597/5 of 28 April 2004 on a new policy for the engagement and use of temporary agents; (iv) Decision C(2004) 1597/6 of 28 April 2004 on the maximum duration for the recourse to non-permanent staff in the Commission Services; (v) Decision C(2004) 1597/10 of 28 April 2004 on outside activities and assignments; (vi) Memorandum SEC(2006) 1702 of 13 February 2007 on organisation charts of Commission DGs and Services; and (vii) Decision C(2007) 6655 of 19 December 2007 on rules on Special Advisers to the Commission;

– that the decisions taken by the Commission on 12 October 2011 on the attachment arrangements of management staff to the task force for Greece as well as on their priority reintegration into management functions in the Directorate-General of origin after the end of their attachment to the task force, would also be applicable to the task force for Cyprus;

– that the decisions taken by the Commission on 18 April 2012 on arrangements for staff of the Directorate-General for Economic and Financial Affairs and the task force for Greece sent to countries subject to economic adjustment programmes would also be applicable to the task force for Cyprus; that, accordingly, officials and other staff sent by the Commission to work in Cyprus would be on long-stay mission lasting a minimum of twelve consecutive months with the possibility of prolongation by a maximum of another twelve consecutive months; that, by derogation from the Guide to Missions (C(2008) 6215 of 18 November 2008), the daily subsistence allowance paid to staff members on such long-stay missions would be reduced to 25% of the full daily subsistence allowance paid for missions to the corresponding country subject to an economic adjustment programme; that, in addition, the costs of accommodation would be reimbursed upon submission of the supporting documents within the limit of EUR 1 500 per month;

- that the Directorate-General for Communication would assist the Directorate-General for Economic and Financial Affairs and the task force for Cyprus with suitable and secure office space and associated logistical arrangements in Nicosia, as necessary with the dedicated support of the OIB, by derogation from Article 3 of Commission Decision 2003/523/EC, as well as with the necessary budgetary support;

- that the Directorate-General for Informatics would provide as a matter of priority the necessary IT and telephony equipment to the task force for Cyprus and bear all associated costs;

- that the financial needs would be covered by the available budget, making use as necessary of all the established budgetary procedures;

- that the operating procedures of the task force for Cyprus would be reviewed, if necessary, by the Secretariat-General, DG Budget and DG Human Resources and Security on an annual basis at least during the spring reorganisation; that the task force for Cyprus would also benefit from the customary administrative support from the Directorate-General for Human Resources and Security and priority service from the central services and administrative offices.

These decisions would take effect immediately.

10. INTERINSTITUTIONAL RELATIONS

10.1. LEGISLATIVE MATTERS

i) New Legislative Framework Alignment Package (Implementation of the Goods Package) – Harmonisation of the laws of the Member States (Directives – recast) – ROITHOVÁ reports –

2011/0350 to 2011/0358 COD)
(SI(2013) 157)

The Commission approved the line set out in SI(2013) 157.

ii) **Relations between the European Union on the one hand, and Greenland and the Kingdom of Denmark on the other (Council Decision) - CORTÉS LASTRA report – 2011/0410 (CNS)**
(SI(2013) 150)

The Commission approved the line set out in SI(2013) 150.

iii) **Annual financial statements, consolidated financial statements and related reports of certain types of undertakings (Directive) – LEHNE report – 2011/0308 (COD)**
(SI(2013) 146)

The Commission approved the line set out in SI(2013) 146.

iv) **Authorisation to France to apply reduced levels of taxation to petrol and gas oil used as motor fuels in accordance with Article 19 of Directive 2003/96/EC (Council Decision) – 2013/0018 (NLE)**
(SI(2013) 151)

The Commission approved the line set out in SI(2013) 151.

v) **Amendments to Regulations (EU) 44/2012, (EU) 39/2013 and (EU) 40/2013 as regards certain fishing opportunities (Council Regulation) − 2013/0076 (NLE)**
(SI(2013) 145)

The Commission approved the line set out in SI(2013) 145.

vi) Amendment to Directive 2003/98/EC on the re-use of public sector information (Directive) – KALFIN report – 2011/0430 (COD)
(SI(2013) 144 and /2)

The Commission approved the line set out in SI(2013) 144/2.

vii) Multiannual Financial Framework 2014-2020 − European Globalisation Adjustment Fund (2014-2020) (regulation) – HARKIN report − 2011/0269 (COD)
(SI(2013) 154)

The Commission took note of document SI(2013) 154.

viii) Amendment of Directives 2000/60/EC and 2008/105/EC as regards priority substances in the field of water policy (Directive) − SEEBER report – 2011/0429 (COD)
(SI(2013) 155)

The Commission approved the line set out in SI(2013) 155.

10.2. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL

ix) Programming of Council business
(SI(2013) 153)

The Commission took note of the information in SI(2013) 153 on the Council meetings between 27 March and 17 April.

x) Results of the extraordinary meeting of the Economic and Finance Ministers from the euro-area countries – Eurogroup (Brussels, 24 March 2013)

The PRESIDENT briefed the Commission on the agreement reached by the Economic and Finance Ministers from the euro-area countries (Eurogroup) on the Cyprus assistance programme at the extraordinary meeting of 24 March. At the end of 2011 the Commission had drawn the Cypriot Government's attention to its worsening economic and financial situation and had called for a programme to be devised which would deal specifically with the problems in its banking system. It had already been clear at the time that the two largest Cypriot banks, Laiki and Bank of Cyprus, required significant recapitalisation. For various reasons which he had already indicated the previous week, it had not been possible to start negotiations on an assistance programme with the previous government, which had remained in power until end-February 2013.

The In-depth Review carried out by the Commission in 2012 within the context of the procedure for prevention and correction of excessive macroeconomic imbalances and the recommendations it contained had clearly identified the problems of the Cypriot banking sector and the weak points of the economy in general. If this procedure had been in place a few years earlier, Cyprus could have avoided its current economic predicament. The same applied to the situation of the financial sector, which had deteriorated because of the lack of proper bank capital requirements and appropriate supervision arrangements like those that the Commission had been advocating since it took office, which were now under interinstitutional review.

It should be clearly stated where the origins of the current crisis lay; it was not Cyprus's membership of the euro that was to blame, but irresponsible behaviour on the part of the banks, coupled with inadequate financial and macroeconomic governance.

Referring to the initial agreement reached at the Eurogroup meeting of 16 March 2013 on an assistance programme and the subsequent developments, he said that nothing had come of the alternatives outlined by the Cypriot Government or the crisis resolution scenarios. Following the Cypriot Parliament's rejection of the first European proposal, an amended assistance programme from the other Member States of the euro-area was the only way of helping Cyprus.

He reviewed the developments that had given rise to a further Eurogroup meeting the previous Sunday in the light of the Commission's belief that the idea of an extraordinary levy on bank deposits of less than EUR100 000 had to be abandoned, that an orderly resolution had to be organised for Laiki Bank and that a structured approach was needed to tackle Bank of Cyprus's problems in order to avoid a disorderly default. He reported on the high-level meeting that had taken place between the President of Cyprus, Mr Nicos Anastasiades, the President of the European Council, Mr Herman Van Rompuy, and himself, which had also been attended by the President of the European Central Bank, Mr Mario Draghi, the Managing Director of the International Monetary Fund, Ms Christine Lagarde, the President of the Eurogroup, Mr Jeroen Dijsselbloem and Mr REHN, and which had prepared the ground for the Eurogroup agreement, and on the complex and difficult technical preparatory work for the agreement carried out by the departments in Brussels and Nicosia of Mr REHN, Mr ALMUNIA and Mr BARNIER and himself throughout the whole of Sunday.

The PRESIDENT then turned to the Eurogroup’s decision further to the agreement concluded with the Cypriot authorities and to the necessary measures to put in place a financial assistance programme for Cyprus. He did not underestimate the difficulty of implementing this programme; a common determination and sustained effort would be required to restore confidence in the viability of the country’s economy. Work was under way to tackle the serious problems in the banking sector and, in particular, to resolve the situation of Laiki and Bank of Cyprus.

Orderly resolution would be organised for Laiki, which would be split between a ‘bad bank’ which would gradually be wound down and a ‘good bank’ comprising deposits of less than EUR 100 000 (covered by a Government guarantee) and healthy assets which would eventually be transferred to Bank of Cyprus. The orderly resolution of Laiki Bank was vital to secure protected deposits, and this comprehensive solution ensured that all protected deposits in all Cypriot banks were safe. Bank of Cyprus would be recapitalised by converting unprotected deposits into capital, the full cost being borne by shareholders and bondholders. On the basis of this conversion, the European Central Bank would be able to continue to provide emergency liquidity assistance to the Cypriot banking system. The financial assistance granted to Cyprus by the euro area would not be used to recapitalise banks as such, but to cover budgetary requirements in the course of the programme.

The PRESIDENT said that the crisis would have a severe impact on the people of Cyprus. Bank resolution and restructuring and controls on movements of capital would have a shock effect on the country's economy. Unemployment would increase and the loss of wealth would have a lasting impact. He referred again to his decision to set up a task force for the recovery of the Cyprus economy to support the Cypriot authorities' reform efforts (see also items 9.7 and 9.8 of these minutes). The task force would do its utmost to lessen the social impact of the economic crisis, to encourage the emergence of new types of economic activity, to mobilise European funds and, in general, to help the national authorities re-establish financial, economic and social stability in Cyprus as soon as possible.

The Commission should respond firmly to criticism of the European Union's crisis management, particularly in the case of Cyprus. In spite of the negative impact of the measures that Cyprus had to take in return for European assistance, there was no easier crisis resolution scenario available, and a bigger loan would only have added to the country's debt.

The Commission had done, and would continue to do, everything in its power to help Cyprus. The Commission delegation would stay in Nicosia to finalise the memorandum of understanding and to provide the necessary assistance for implementation of the Eurogroup agreement. The European Union's determination to find solutions for Cyprus showed that those parties which continued to claim that this approach revealed Europe's weaknesses rather than its strengths were wrong.

Mr BARNIER thanked the PRESIDENT and Mr REHN and their departments for their considerable contribution to the Eurogroup agreement of 25 March on the Cyprus assistance programme. Putting this agreement into practice would be an equally delicate and arduous process. In particular, he evoked the immediate challenges of reopening the banks and preventing capital flight. The action taken subsequently would also be particularly challenging, as the Cypriot economy had taken losses equivalent to 10 to 15 GDP points and, therefore, the Commission needed to take not just economic measures, but also human and social ones.

Drawing on recent years' experience of crisis management, Mr BARNIER said that the solutions would inevitably be complex but the Commission would continue to carry out prevention work to ensure greater clarity in future. He referred in particular to the Commission's proposals on economic governance and banking supervision instruments, bank capital requirements and the establishment of procedures enabling orderly resolution of banks in distress so that taxpayers did not have bail them out. In the case in point, the taxation of bank deposits of more than EUR 100 000 had been proposed in view of the extremely severe crisis in Cyprus and the very large share of GDP accounted for by the banking sector. The particularities of the Cypriot crisis meant that it could not be regarded as a model for future bank resolutions in Europe. This experience raised, once again, the issue of banks which were too big to fail. The Commission was examining this matter and would put forward specific proposals in due course. Lastly, a more nuanced approach to communication was needed to enable ordinary people in the European Union to better understand the real purpose of measures taken in response to crisis situations.

Mr ALMUNIA endorsed the comments made by the PRESIDENT and Mr BARNIER on the delicate nature of the technical measures needed to implement the Eurogroup agreement on the Cyprus assistance programme. Preparations were under way on that day (which in principle was the last day of the extended bank holiday period) to protect the financial sector's stability and to allow banks in Cyprus to reopen in the most secure conditions possible. He also agreed that the EU, and the Commission in particular, needed to communicate more effectively to better explain the respective roles and responsibilities of the European institutions and national governments to the general public. The Commission should continue to advocate core European values such as solidarity in this context and should emphasise the connection between measures taken to restore financial stability, growth and jobs, even if they were highly technical, and those same values. He called for a real change of culture and for it to be made more obvious that the European Union was listening to the concerns of ordinary people.

During a detailed discussion, the following main points were raised:

– the observation that the European Union had taken a tough decision in an urgent context in order to respond to a very complex situation. This decision would enable Cyprus to break out of the current deadlock and regain stability and economic and financial sustainability; emphasis on the fact that the Cypriot economy could regain momentum once financial stability had been achieved;

– reference to the positive signal which the Commission intended to send to the authorities and people of Cyprus, supporting them in overcoming the difficulties ahead;

– emphasis on the role to be played by the Cypriot Government in the new phase now unfolding – the implementation of the agreement concluded by the Eurogroup on the assistance programme for Cyprus; determination to embark on a dialogue with the Cypriot Government and individual Ministries to discuss with them how to support the sectors in Cyprus that had significant assets that could be put to good use;

– a recommendation that it be clearly stated just why Cyprus was a unique case, referring in particular to the special features of its economic model;

– a suggestion about examining the instruments that could be deployed by the Commission to supplement the assistance plan for Cyprus in order to ensure the long-term sustainability of its economy; in addition to the short-term measures, a suggestion that the proposals to be put forward by the Commission in relation to the task force for Cyprus should cover all the sectoral measures likely to help boost the Cypriot economy and that these measures should be coordinated as much as possible with the various financing instruments available to the Union;

– support for the idea that the Commission should adopt the most dynamic, preventive and forward-looking approach possible in order to prevent economic malfunctions from eventually leading to the collapse of entire economic sectors, as in Cyprus;

– in the event of a crisis, the need to have sound analyses of the imbalances and financial and macroeconomic risks in order to look into ways of providing European aid;

– the wish that the Commission would engage in more direct dialogue with Member States as regards the potential weaknesses in their reform programmes aimed at overcoming the economic crisis, for instance in the country-specific recommendations that it would present at the European Council meeting in June in the context of the European Semester;

– the fact that communication problems had been brought to light by the Cypriot crisis, and the case for looking at ways of dispelling the lack of understanding caused by the Union's complex decision-making process and institutional structures;

– the need for the Union to send out a clear political signal about the steadfast nature of its policy priorities and plan; similarly, the fact that the Commission, given its visibility, should be more assertive in explaining its role, positions and responsibilities, and the way in which it exercised them, in order to avoid becoming a scape-goat for decisions for which it was not directly responsible but which were in fact the remit of other institutions or the Member States;

– the usefulness of ensuring appropriate communication to prevent generalisations and over-simplifications that fuelled populist, anti-European reactions; also a suggestion to raise this matter at a forthcoming Commission seminar;

– the need for a global in-depth examination of the choice of economic models and their implications for the Union as a whole and for individual Member States, in the context of the debate on competitiveness, productivity and the role of taxation;

– a suggestion that care should be taken to ensure that the arrival in neighbouring countries of huge numbers of refugees from the Syrian civil war did not adversely affect Cyprus because of its geographical position, thus further worsening its problems.

Mr BARNIER replied to these comments, saying that he agreed that some thought should be given to explaining better who did what in "Brussels" and clarifying the political responsibilities of the stakeholders. The two dimensions of crisis management – response and prevention – were in progress, as could be seen from the efforts being made by the present Commission since the start of the crisis to restore financial stability. He quoted the examples of stronger economic governance and initiatives such as the banking union. All the measures taken in the past three years had also been aimed at the situation now facing Cyprus, but it took time to get from proposals to actual implementation. This was because of the length of the democratic process in Europe, where there was a time-lag of up to eighteen months between the proposing of initiatives by the Commission and their final adoption by the Council and Parliament.

Ending the discussion, the PRESIDENT emphasised the importance of ensuring sound implementation of the financial assistance agreement and asked the departments led by Mr REHN, Mr ALMUNIA and Mr BARNIER to continue monitoring the situation closely in the coming months. He drew attention to the balance to be respected between national competences and those exercised by the Commission. The efforts to boost the economy would have to be managed by the Cypriot Government in the first instance; however, the Commission could provide support through its expertise in a number of areas and by showing creativity in helping Cyprus cope with the challenges ahead.

The PRESIDENT considered that, in such a complex situation involving the interaction of several stakeholders, the Commission should assume its political responsibility by providing answers to the questions being raised by ordinary people. He therefore recommended a confident approach to explaining the Commission's commitment to Cyprus. Thanking the Commission Members for their contributions to the debate, he ended by saying that some of the issues raised on this occasion would be discussed in more detail in future meetings.

The Commission took note of this information.

10.3. RELATIONS WITH PARLIAMENT

xi) Action taken on non-legislative resolutions adopted by Parliament at its December part-session
(SP(2013) 175 and /2)

The Commission approved, for transmission to Parliament, documents SP(2013) 175 and /2 on the action taken on the non-legislative resolutions adopted by Parliament at its December part-session.

11. DRAFT AMENDING BUDGET No 2 TO THE GENERAL BUDGET 2013 − GENERAL STATEMENT OF REVENUE AND STATEMENT OF EXPENDITURE BY SECTION (SECTION III – COMMISSION) (COM(2013) 183 AND /2; SEC(2013) 193; RCC(2013) 48)

Although agreement had already been reached on the content of draft amending budget No 2 for 2013 presented by the Commission this day, the PRESIDENT wanted to discuss it again briefly in order to underline the political dimension. This draft amending budget should be seen from two perspectives: the budget implementation for the 2013 financial year and the 2014-2020 Multiannual Financial Framework (MFF), the negotiation of which would start shortly with Parliament. Parliament had made the presentation of the draft amending budget by the Commission a precondition for starting negotiations on the MFF.

In this draft amending budget, the Commission was asking for an additional package of EUR 11.2 billion in payment appropriations, which corresponded to the ceiling of the current Multiannual Financial Framework for the period 2007-2013, and for which a unanimous vote in the Council was not required. This decision had been taken after an in-depth analysis by Mr LEWANDOWSKI and his department, based on current information, to ensure that the amount of the amending budget would enable the Commission to comply with all its legal obligations in 2013. He asked the Commissioners to defend this sound proposal.

Pointing out that the budget for 2013 was too low, Mr LEWANDOWSKI said that in presenting an amending budget for an additional EUR 11.2 billion in payments, the Commission had taken a strategic decision to make full use of the margins available under the ceiling for payments in order not to have to submit it to the Council for a unanimous decision, hence avoiding any risk of a freeze on the commencement of MFF negotiations with Parliament.

He underlined the fact that this draft amending budget covered all the needs for 2012 and 2013 and would enable the Commission to comply with its legal obligations. It was a decisive element in the last phase of the negotiations on the 2014-2020 MFF.

The PRESIDENT ended the debate, taking note of the agreement of the Commission Members.

The Commission adopted the draft amending budget set out in COM(2013) 183/2 for transmission to Parliament and the Council, and, for information, to the national parliaments.

It also took note of the Commission staff working paper set out in SEC(2013) 193, a technical document containing the breakdown per programme and year of the total amounts, adopted by the European Council in February, for headings 1 to 4 of the future 2014-2020 Multiannual Financial Framework.

12. PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING COUNCIL REGULATION (EC) 207/2009 OF 26 FEBRUARY 2009 ON THE COMMUNITY TRADE MARK (COM(2013) 161 AND /2; SWD(2013) 95; SWD(2013) 96; SEC(2013) 177; RCC(2013) 45)

13. PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL TO APPROXIMATE THE LAWS OF THE MEMBER STATES RELATING TO TRADE MARKS (RECAST) (COM(2013) 162 AND /2; SWD(2013) 95; SWD(2013) 96; SEC(2013) 177; RCC(2013) 45)

The PRESIDENT introduced the proposals to revise legislation on the Community trade mark by recalling the importance of this initiative and the political agreement that had emerged on the proposal upstream of the Commission meeting, for which reason it was not necessary to examine the content in detail.

However, he proposed that Mr DE GUCHT explain why he had wished to maintain a reservation on the question of counterfeit goods from non-EU countries destined for other non-EU countries which were in transit in the European Union, a concern that was shared by Baroness ASHTON, Mr LEWANDOWSKI and Ms MALMSTRÖM. Before giving them the floor, he asked Mr BARNIER to recall briefly the purpose of his initiative and what he was proposing in relation to the question of goods in transit in the Union.

Mr BARNIER said that this dossier, which was economically important, had a number of technical aspects. He illustrated what was at stake by explaining that the value of the ten main trade marks was, on average, almost 10% of the gross domestic product of each Union country. Thus, given that it had an open economy and focused on added value, the European Union needed trade mark legislation that was both competitive and effective. It should be remembered that this was also a precondition for innovation. There would be a return on investments in patents, research and development only if strong trade marks were available. Lastly, he justified his proposal for amendment by emphasising that it was vital to protect European trade marks better against the scourge of counterfeit goods. He thanked the Commission Members for their very broad support.

Turning to the specific point on which Mr DE GUCHT, Ms MALMSTRÖM and Mr LEWANDOWSKI had all expressed a reservation, he explained that it concerned the proposal to extend the rights conferred by a trade mark, making it possible to prevent the transit on the territory of the Union of counterfeit products bearing that mark. This proposal was intended to respond first and foremost to the very strong expectations expressed by European economic operators and consumers. The aim was also to fill a legal vacuum revealed by the Court of Justice in its judgment of 1 December 2011 in joined cases C-446/09 *Philips* and C-495/09 *Nokia* which ended the possibility for customs to seize counterfeit goods in transit, a practice that had not, however, caused any problems until then. Lastly, the Commission's proposal had been thoroughly examined by the Legal Service.

Mr BARNIER said that not only was counterfeiting undermining employment in Europe, but it was also causing risks to the health and safety of European and non-European consumers. Counterfeiting was a growing phenomenon, which was why the Commission's initiative was important.

Mr DE GUCHT said that he was not at all questioning the political principle of protecting intellectual property rights, which included trade marks. His reluctance had more to do with the need, in his view, to ensure that the European Union's means of action and legal treatment were consistent for trade marks and patents in the context of goods in transit. He referred to the case in which counterfeit medicine in transit in a Member State had been seized, which had pitted India and Brazil against the European Union before the World Trade Organisation (WTO) in 2011.

The conclusion reached was that the seizure was contrary to WTO rules because the products came from a non-EU country and were destined for another non-EU country whose legislation did not protect against counterfeit goods.

Mr LEWANDOWSKI and Ms MALMSTRÖM insisted that they were not challenging the principle of protecting trade marks and combating counterfeiting, but that they were concerned that the proposed measures would have a detrimental effect on the Union, for instance by placing it in a difficult position in terms of compliance with international rules, or by dissuading non-EU economic operators from using Union ports as a staging post for their goods in transit.

Mr ŠEMETA said that he fully supported the proposal, which filled an important vacuum as it established a legal instrument to combat counterfeiting. He emphasised the logic that had been applied which aimed to extend trade mark holders' rights and enable European customs authorities to seize, at the request of stakeholders, counterfeit goods in transit in the Union, which would in fact restrict the transit of such goods.

In the brief discussion that ensued, support was expressed for the proposal as it met the Union's need to defend its interests, which were also those of its consumers and producers, against the crime of counterfeiting. It would also protect employment and European undertakings.

At the request of the PRESIDENT, the Director-General of the Legal Service explained that the question that arose here was whether extending the rights of trade mark holders as set out in the Commission's proposal, by allowing them to request the seizure of counterfeit goods in transit in the Union, was compatible with GATT rules, and now with WTO rules. The Legal Service had already provided its response in writing, namely that it was not incompatible. Some WTO member countries were applying similar measures to the ones proposed by the Commission and these had never been challenged at the WTO. Moreover, the Commission had sound arguments in support of its proposal.

The PRESIDENT thanked the speakers for their contributions. He noted

Mr DE GUCHT's support for the proposal's objective, adding that the main question in fact concerned certain technical and legal aspects, on which Mr ŠEMETA and the Director-General of the Legal Service had provided clear answers. In general, he felt that Community trade mark holders were quite justified in having the means to ensure that their intellectual property rights were respected on the territory of the Union. While acknowledging that, with this proposal, the Commission was entering new territory, and this was something that should be noted, he stressed that the proposal was legally sound and consistent with the Union's political priorities.

He wound down the debate by noting that the vast majority of Commission Members were in favour of adopting Mr BARNIER's proposal.

The Commission adopted the proposals for a regulation and for a directive, set out in COM(2013) 161/2 and COM(2013) 162/2 respectively, for transmission to the European Parliament, the Council and to the national parliaments, and, for information, to the Court of Justice, the Court of Auditors, the European Economic and Social Committee, the Committee of the Regions, the European Ombudsman and the European Data Protection Supervisor, together with the impact analysis and the summary thereof in staff working papers SWD(2013) 95 and SWD(2013) 96, 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(2013) 177.

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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 12.32.