



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2014) 2098 final

- English language version of the French text which is authentic -

Brussels, 1 October 2014

TEXTE EN

MINUTES

of the 2098th meeting of the Commission

held in Strasbourg

(Winston Churchill building)

on Tuesday 16 September 2014

(afternoon)

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Single sitting: Tuesday 16 September 2014 (afternoon)

The sitting opened at 13.06 with Mr BARROSO, President, in the chair.

Present:

Mr BARROSO	President	
Mr ALMUNIA	Vice-President	Items 1 to 8 (in part)
Mr ŠEFČOVIČ	Vice-President	
Mr BARNIER	Vice-President	
Mr OETTINGER	Vice-President	Items 1 to 8 (in part)
Mr KATAINEN	Vice-President	Items 1 to 8 (in part)
Mr POTOČNIK	Member	
Mr PIEBALGS	Member	
Mr ŠEMETA	Member	
Mr DE GUCHT	Member	
Ms GEOGHEGAN-QUINN	Member	
Ms DAMANAKI	Member	
Ms GEORGIEVA	Member	Items 1 to 8 (in part)
Mr HAHN	Member	
Ms HEDEGAARD	Member	
Mr FÜLE	Member	Items 1 to 8 (in part)
Mr ANDOR	Member	
Ms MALMSTRÖM	Member	
Mr CIOLOŞ	Member	
Mr BORG	Member	
Mr MIMICA	Member	
Mr NELLI FEROCI	Member	
Ms REICHERTS	Member	
Mr DOMINIK	Member	Items 7 (in part) and 8

Absent:

Baroness ASHTON

High Representative/
Vice-President

Mr KALLAS

Vice-President

Ms KROES

Vice-President

Ms VASSILIOU

Member

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

Ms CASTAGNOLI	Adviser in Baroness ASHTON's Office	
Ms WOOD	A member of Ms KROES's staff	Items 1 to 8 (in part)
Mr HILL	Deputy Chef de cabinet to Ms VASSILIOU	

The following also sat in:

Mr LAITENBERGER	Chef de cabinet to the PRESIDENT	
Mr ROMERO REQUENA	Director-General, Legal Service	
Mr PAULGER	Director-General, DG Communication	
Ms AHRENKILDE HANSEN	Commission Spokeswoman	
Mr CABRAL	Adviser hors classe in the PRESIDENT's office	
Ms ÅSENIUS	Chef de cabinet to Ms MALMSTRÖM	
Mr PIEPER	A member of Ms GEORGIEVA's staff	Item 8 (in part)

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

1. AGENDAS

(OJ(2014) 2098/FINAL; SEC(2014)471)

The Commission took note of that day's agenda and of the tentative agendas for forthcoming meetings. It also took note of the addition of items 7.1, 7.2, 7.3 et 7.4 (on administrative decisions) to that day's agenda.

2. WEEKLY MEETING OF CHEFS DE CABINET

(RCC(2014) 2098)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 15 September.

3. APPROVAL OF THE MINUTES OF THE 2096TH AND 2097TH COMMISSION MEETINGS (3 AND 10 SEPTEMBER)

(PV(2014) 2096; PV(2014) 2097)

The Commission approved the minutes of its 2096th meeting and decided to hold over approval of the minutes of its 2097th meeting for a later meeting.

4. INTERINSTITUTIONAL RELATIONS

(RCC(2014) 73)

The Commission took note of the record of the meeting of the Interinstitutional Relations Group (IRG) held on Friday 12 September (RCC(2014) 73).

It paid particular attention to the following points.

4.1. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL

i) Programming of Council business

(SI(2014) 331)

The Commission took note of the information in SI(2014) 331 on the Council meetings between 18 September and 1 October.

4.2. EXTERNAL RELATIONS

ii) Recommendation for a Council decision authorising the Commission to negotiate an amendment to the Agreement between the United States of America and the European Community on cooperation in the regulation of civil aviation safety as regards additional areas of cooperation and acceptance (*Bilateral Aviation Safety Agreement – BASA*)

(SI(2014) 333)

The Commission approved the line set out in SI(2014) 333.

5. MONITORING THE APPLICATION OF EUROPEAN UNION LAW

STATE AID – INDIVIDUAL CASES

(SEC(2014) 489 AND /2; (RCC(2014) 74)

The Commission adopted the decisions in SEC(2014) 489/2.

6. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

6.1. WRITTEN PROCEDURES APPROVED

(SEC(2014) 472 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 8 and 12 September.

6.2. EMPOWERMENT

(SEC(2014) 473 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 8 and 12 September.

6.3. DELEGATION AND SUBDELEGATION OF POWERS

(SEC(2014) 474 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 8 and 12 September, as archived in e-Greffe.

6.4. SENSITIVE WRITTEN PROCEDURES

(SEC(2014) 475)

The Commission took note of the sensitive written procedures for which the time limit expired between 15 and 19 September.

7. ADMINISTRATIVE AND BUDGETARY MATTERS

(SEC(2014) 476/2)

ADMINISTRATIVE MATTERS

(PERS(2014) 119/2)

7.1. DG TRADE – APPOINTMENT OF AD15/16 DEPUTY DIRECTOR-GENERAL

(PERS(2014) 67 TO /5)

The Commission had before it applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Deputy Director-General in charge of Directorates B, C and D in DG Trade (PERS(2014) 67, /2 and /4).

It took note of the opinions of the Consultative Committee on Appointments of 23 July and 12 September 2014 (PERS(2014) 67/3 and /5).

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 DE GUCHT, it then decided to appoint Mr Mauro PETRICCIONE to the post.

This decision would take effect immediately.

7.2. DG TRADE – APPOINTMENT OF AD15/16 DEPUTY DIRECTOR-GENERAL**(PERS(2014) 68 TO /4)**

The Commission had before it applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Deputy Director-General in charge of Directorates E, F, G and H in DG Trade (PERS(2014) 68 and /2).

It took note of the opinions of the Consultative Committee on Appointments of 23 July and 12 September 2014 (PERS(2014) 68/3 and /4).

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 DE GUCHT, it then decided to appoint Mr Matthew BALDWIN to the post.

This decision would take effect immediately.

**7.3. SECRETARIAT-GENERAL – ADOPTION OF A LIST OF CANDIDATES FOR THE POST OF EUROPEAN DATA PROTECTION SUPERVISOR
(PERS(2014) 98 TO /4)**

The Commission noted the information at point 3 of PERS(2014) 119/2 and, on a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT, decided:

- to endorse the opinion of the Consultative Committee on Appointments (CCA), and to adopt the list of candidates for the post of European Data Protection Supervisor, presented in alphabetical order (PERS(2014) 98/4);
- to consider this list as the Commission proposal;

- to ask the Secretary-General to communicate this list to Parliament and the Council.

These decisions would take effect immediately.

7.4. SECRETARIAT-GENERAL – ADOPTION OF A LIST OF CANDIDATES FOR THE POST OF ASSISTANT EUROPEAN DATA PROTECTION SUPERVISOR

(PERS(2014) 99 TO /5)

The Commission noted the information at point 4 of PERS(2014) 119/2 and, on a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT, decided:

- to endorse the opinion of the Consultative Committee on Appointments (CCA), and to adopt the list of candidates for the post of Assistant European Data Protection Supervisor, presented in alphabetical order (PERS(2014) 99/5);
- to consider this list as the Commission proposal;
- to ask the Secretary-General to communicate this list to Parliament and the Council.

These decisions would take effect immediately.

7.5. DG INTERNAL MARKET AND SERVICES – APPOINTMENT OF AN INTERIM CHAIR OF THE SINGLE RESOLUTION BOARD

The Commission took note of the information set out in point 5 of PERS(2014) 119/2 and, on a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Mr BARNIER, decided to designate Mr Olivier SALLES, an AD13 official and currently head of the Task Force for the establishment of the Single Resolution Board at DG Internal Market and

Services, to fulfil the function of interim Chair of the Single Resolution Board, in addition to his current responsibilities and until the Chair of the Single Resolution Board took up office.

This decision would take effect immediately, subject to the availability of the relevant budget resources.

8. RELATIONS WITH NON-MEMBER COUNTRIES

STATE OF PLAY OF NEGOTIATIONS ON THE TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP AGREEMENT WITH THE UNITED STATES (TTIP)

The PRESIDENT explained that the objective of that day's discussion was to take stock of the negotiations between the European Union and the United States on the Transatlantic Trade and Investment Partnership Agreement (TTIP). As several Commission Members were involved in this process, he felt that it would be a good idea, as the term of office of this Commission drew to a close, to make an overall assessment a few weeks before the handover to the new Commission.

The Commission could feel proud of having embarked on these ambitious negotiations, at once technical and very political, which reflected the desire for an even closer relationship with the United States. It was, in addition, clear from the international situation that strengthening this particular strategic relationship was both important and necessary.

The PRESIDENT pointed out that the reasons for starting these negotiations were still valid, in the sense that Europe needed growth and employment, and trade and investment were powerful levers for this. However, the Commission was expecting the negotiations to be difficult because of their technical complexity, differences of

view between the Union and the United States that were difficult to reconcile and the scepticism of the European public, who were concerned about the impact that this partnership agreement might have on the European model. This scepticism had deepened with the initial American proposals, galvanising the opponents of the TTIP. Lastly, the prospect of a Transatlantic Trade and Investment Partnership Agreement was in any case an historic opportunity provided that the agreement ultimately concluded was mutually beneficial.

Before embarking on the discussion, the PRESIDENT asked Mr DE GUCHT to inform the Commission Members of the progress made in the negotiations and to share with them his thoughts on the forthcoming steps in the negotiations.

Recalling that the negotiations had started in July 2013, Mr DE GUCHT said that meetings with the United States had been held at a steady pace, involving negotiation rounds and political meetings such as the EU-US summit. The negotiators already had quite a solid analysis and understanding of their respective positions in relation to most of the issues for negotiation, which should make progress possible. However, substantial work was still vital, in particular in relation to regulations, given the considerable differences between the American and European systems. This meant that a good understanding of the institutional and legal situations on either side of the Atlantic was essential to achieve progress in terms of mutual recognition and making the two sets of regulations compatible.

Mr DE GUCHT considered, however, that there was very little prospect of progress in the short term on the main aspects of measures involving mutual access to markets. It was not, therefore, in the interest of the Union to table a second proposal on customs tariffs before the United States was willing to make bigger concessions on public procurement, which he thought unlikely before the midterm elections there in a few weeks' time.

The progress in the talks between the Union and the United States could also depend to a large extent on the ones being held concurrently by the United States with a

view to a future Trans-Pacific Partnership. These negotiations were at a more advanced stage and could thus be regarded as a priority by the American Authorities.

Mr DE GUCHT added that, given these circumstances, he and Mr Michael Froman, the American Trade Representative, had decided not to schedule an interim review meeting in the coming months, contrary to what had been initially envisaged.

However, in view of the situation in Ukraine, Mr DE GUCHT had gone to Washington the previous week in a bid to make progress on energy. The United States were applying crude oil export restrictions and limiting the granting of liquefied gas export licences. The Union and the US had a common strategic interest in emphasising, to Russia in particular, the importance of the energy chapter of their future partnership agreement. While many American stakeholders acknowledged that these export restrictions, introduced at a time when the US was a major net energy importer, had become anachronistic and counterproductive, the American administration did not appear to be willing as yet to change this regime.

More broadly, there would be a positive outcome to the negotiations only if there was strong political will on both sides, making it possible to overcome the deadlock and misgivings of a section of public opinion regarding the Transatlantic Trade and Investment Partnership Agreement.

Mr DE GUCHT ended by indicating what, in his view, could reinvigorate the negotiations and by the same token facilitate the task of his successor. Eight applications to import genetically modified products had been submitted to the Commission for approval, in line with the relevant rules, and it would now have to take a decision, as requested to do by the Court of Justice. The United States had protested vigorously against the length of European authorisation procedures, while the Union had, for its part, criticised the slowness of American authorisation procedures relating to fruit and vegetable exports from the Union, in particular apples and pears.

The opening up of the American market to European fruit and vegetable exports was an urgent problem that needed to be solved for European producers, given the impact of the Russian embargo on this sector. The American Trade Representative, Michael Froman, with whom he had discussed this specific matter, had expressed willingness to look into it, which might pave the way for faster procedures and definitive export licences. This would enable apple and pear exports to be redirected to the American market before the end of this year.

Mr DE GUCHT felt that a decision on the GMO export applications already submitted would probably make it possible to obtain progress on the Union's fruit and vegetable exports to the US market, thus benefiting both parties.

He ended by offering his best wishes to the incoming Commissioner responsible for trade in the new Commission.

During the ensuing discussion, the Commission raised the following main points:

- emphasis on the significant progress made, under the direction of Mr DE GUCHT and his department, in this matter, essential for the economic prospects of the Union; the case for continuing, even intensifying, the present approach beyond the current term of office; a reminder of the considerable advances made during the current Commission's term of office in relation to other free trade and economic partnership agreements;
- the opportunity afforded by the TTIP not just in terms of competitiveness and growth but from the point of view of labour law; the diverging standpoints of the European social partners on this matter and the key importance for the Commission of maintaining a dialogue with all the players involved in addition, a reminder of a number of substantive issues still to be negotiated with the United States concerning general employment policy and the interaction between this and other areas, currently being negotiated;

- the highlighting of the powerful leverage exerted by the interoperability of financial services so as to reap fully the benefits of the future free trade agreement with the United States; consequently, the need to take these services into account in the current negotiations, which could encourage greater convergence in financial regulation between the two sides of the Atlantic;
- with regard to communication with the outside world, the need to achieve a balance in matters of transparency, trade negotiations being by definition subject to a degree of confidentiality whereas other information might legitimately be made public; the suggestion that national parliaments' awareness of these questions in particular could be raised, and public communication of these issues stepped up;
- the importance of not underestimating the firm positions and strength of conviction among some strands of European public opinion; a request for further details of the Commission's position on the proposed European Citizens' Initiative on the TTIP; leaving aside the legitimate ideological divergences on certain substantive issues, a warning against confusing the issues, which could conceal the real advantages of the TTIP for the EU;
- as regards the Investor-to-State Dispute Settlement (ISDS) mechanism, the need to place this issue squarely in the centre of public debate and to bear in mind, in particular, that many trade agreements between EU Members States and non-EU countries already contain a mechanism of this kind; in addition, calls for clarification of the consequences should the mechanism be abandoned, both for the Comprehensive Economic and Trade Agreement with Canada (CETA) and the TTIP;
- the importance of striking a balance between the EU's offensive interests, for example in the area of legislation, and those of its US partner in relation to market access;

- the need to view the negotiations on the agricultural chapter of the TTIP in the light of the EU's trade negotiations with other third countries, for example in Asia; the necessary complementarity with the mechanisms introduced by the Southern Common Market (MERCOSUR) Agreement, particularly in the meat sector;
- the emphasis on the need for an effort by both sides to make progress on the chapter relating to food products and food safety; the impact of a number of applications for authorisations, still outstanding, for genetically modified food and feed; a reminder of the European legislative framework in this area.

Replying to these observations, Mr DE GUCHT began by emphasising that the justification for taking into account the mechanism for settling disputes between investors in the CETA negotiations was the request made in the negotiating mandate approved unanimously by the Council. He went on to say that the framework for the mechanism had been reviewed in order to ensure an open procedure allowing for the intervention of third parties in arbitration procedures and to maintain leeway for political decisions, in accordance with the UN rules on good practice. The planned mechanism therefore broadly fulfilled the objective of protecting European interests. However, he warned against withdrawing the mechanism at that stage.

As regards the future agreement with the United States, he referred to the recent public consultation conducted by his departments on the mechanism for settling disputes between investors, the results of which would be available in the coming weeks. More generally, he considered that a possible withdrawal of the mechanism, which was of limited significance in his view, risked having serious consequences for the Union elsewhere in the negotiations.

He reiterated that he wished to continue to report on the progress of the negotiations as transparently as possible. He supported a possible decision by the Council to make the negotiating mandate public, and referred also to the new trade policy powers available since the entry into force of the Treaty on the Functioning of the

European Union (TFEU) and the adjustment period that had been needed in order to incorporate the arrangements for closer monitoring by the European Parliament. However, he stressed the need to maintain a degree of confidentiality at certain key stages and to take account of diverging rules on the disclosure of information on either side of the Atlantic.

Regarding the proposed citizens' initiative submitted to the Commission in July, Mr DE GUCHT confirmed that it had been considered inadmissible following a legal analysis. He said that the TFEU and Regulation (EU) 211/2011 laid down specific conditions to be met in order to submit a citizens' initiative inviting the Commission to assess whether it would be appropriate to present a proposal for a legal act of the Union for the purpose of implementing the Treaties. He explained that the Council decision authorising the launching of international negotiations was merely a preparatory act to a possible legal act of the Union in the form of a Council decision to authorise, at a later stage, the signing and conclusion of an international agreement. He therefore concluded that proposals concerning the adoption or withdrawal of a preparatory act did not come under the regulation in question.

The PRESIDENT referred to the implications of the TTIP negotiations even before they were concluded. The prospect of this free trade agreement, the most ambitious ever, radically changed the scope of international bilateral trade agreements. He therefore welcomed the measures taken to ensure an unprecedented level of information on these negotiations, while recognising that it was impossible to fully satisfy all the parties concerned on this point. He pointed out, too, that the Commission's position in the negotiation process was largely determined by the choices made by the Member States and the negotiating partners. On the institutional front, apart from the closer monitoring by the European Parliament, he also welcomed the fact that the negotiations had had the effect of boosting cooperation between the Commission Members and their departments, in order to set out strong and consistent negotiating positions for the Union and obtain

significant concessions for its citizens.

He referred to a number of matters that he regarded as essential to the future conclusion of the agreement, one of which was the need to ensure a balance that would enable European protection standards to be maintained. He stressed the need to ensure that European public opinion understood the benefits to be gained. This would require an ongoing communication effort, in which the Member States must play their part. He ended by calling for the maintenance of a strong capacity for political initiative in this field.

He thanked Mr DE GUCHT for his work and commitment and welcomed the fact that the Commission was doing its utmost to ensure that maximum progress was made in these negotiations before handing over to the team that was to replace it. As for the state of play of trade policy in general, he said that, thanks to the numerous bilateral agreements concluded with third countries in Asia, Latin America and elsewhere, the Commission had to its credit the most extensive programme of opening-up of trade in the history of European integration. Many of these agreements having been concluded against a backdrop of economic crisis, he stressed the leverage provided by the EU's commercial policy for growth and employment. Winding up, he wished the next Commission, and in particular the future Commissioner responsible for trade, every success in the subsequent stages of the negotiations.

The Commission took note of this information.

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The meeting closed at 14.33.