



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2011)1984 final

Strasbourg, 17 January 2012

MINUTES

of the 1984th meeting of the Commission

held in Brussels

(Berlaymont)

on Tuesday 20 December 2011

(morning)

PV(2011)1984 final

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Single sitting: Tuesday 20 December 2011 (morning)

The sitting opened at 9.36 with Mr Barroso, President, in the chair.

Present:

| | | |
|-----------------|--|---------------------------|
| Mr BARROSO | President | |
| Baroness ASHTON | High Representative/ Vice-President | |
| Ms REDING | Vice-President | |
| Mr ALMUNIA | Vice-President | |
| Mr KALLAS | Vice-President | Items 1 to 18 (in part) |
| Ms KROES | Vice-President | |
| Mr ŠEFČOVIČ | Vice-President | |
| Mr REHN | Vice-President | |
| Mr POTOČNIK | | |
| Mr PIEBALGS | | |
| Mr BARNIER | | Items 1 to 18 (in part) |
| Ms VASSILIOU | | |
| Mr ŠEMETA | | |
| Mr DE GUCHT | | |
| Mr DALLI | | Items 1 to 18 (in part) |
| Mr LEWANDOWSKI | | Items 1 to 18 (in part) |
| Ms DAMANAKI | | |
| Ms GEORGIEVA | | |
| Mr OETTINGER | | Items 1 to 18 (in part) |
| Mr HAHN | | |
| Ms HEDEGAARD | | |
| Mr FÜLE | | |
| Mr ANDOR | | Items 17 (in part) and 18 |
| Ms MALMSTRÖM | | |
| Mr CIOLOŞ | | Item 18 (in part) |

Absent:

Mr TAJANI

Vice-President

Ms GEOGHEGAN-QUINN

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

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| Ms SUPERTI | Adviser in Mr TAJANI's Office |
| Mr BELL | Chef de cabinet to Ms GEOGHEGAN-QUINN |

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 | Items 17 (in part) and 18 (in part) |
| Mr BAILLY | European Commission Spokesperson Service | Items 1 à 17 (in part) |
| Mr THEBAULT | Head of the Bureau of European Policy Advisers | |
| Mr FRUTUOSO DE MELO | Deputy Chef de cabinet to the PRESIDENT | |
| Mr SOBRAL | A member of the PRESIDENT's staff | Item 17 (in part) |
| Mr LAHTI | A member of Mr REHN's staff | Items 1 to 17 (in part) and 18 |
| Mr HAEUSLER | Chef de cabinet to Mr CIOLOŞ | Items 1 to 18 (in part) |

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

1. AGENDAS

(OJ(2011)1984/3; SEC(2011)1591/2)

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

2. WEEKLY MEETING OF CHEFS DE CABINET

(RCC(2011)1984)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Friday 16 December.

3. APPROVAL OF THE MINUTES AND SPECIAL MINUTES OF THE 1982ND MEETING OF THE COMMISSION (7 DECEMBER) AND THE MINUTES OF THE 1983RD MEETING (13 DECEMBER)

(PV(2011)1982; PV(2011)1982, PART II; PV(2011)1983)

The Commission approved the minutes of its 1982nd and 1983rd meetings.

4. INTERINSTITUTIONAL RELATIONS

4.1. LEGISLATIVE MATTERS

i) Action to be taken on Parliament's legislative opinions and resolutions of a legal nature

(SP(2011)8750)

The Commission decided to empower the Commission Members responsible for the sectors in question, in agreement with the PRESIDENT and Mr ŠEFČOVIČ and, if necessary, with the other Members concerned, to adopt the amended proposals for transmission to Parliament and the Council, as set out in SP(2011)8750, drawn up following the December part-session of Parliament, the contents of which were noted.

4.2. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL

ii) Programming of Council business

(SI(2011)490)

The Commission took note of the information in SI(2011)490 on the Council meetings between 19 and 22 December.

4.3. RELATIONS WITH PARLIAMENT

iii) Results of Parliament's December part-session

(SP(2011)8739; SP(2011)8740)

The Commission took note of the information in SP(2011)8739 and SP(2011)8740 on the proceedings of the part-session of Parliament held in Strasbourg from 12 to 15 December.

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

- iv) Reply to the Contribution of the 46th Conference of Community and European Affairs Committees of Parliaments of the European Union (Warsaw, 2-4 October 2011)
(SNP(2011)8 and /2)**

The Commission approved documents SNP(2011)8 and /2 containing its reply to the Contribution of the 46th Conference of Community and European Affairs Committees of Parliaments of the European Union (COSAC), for transmission to the Presidency of COSAC.

5. MONITORING THE APPLICATION OF EUROPEAN UNION LAW

***STATE AID – INDIVIDUAL CASES
(SEC(2011)1628/2)***

The Commission adopted the decisions in SEC(2011)1628/2.

6. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

***6.1. WRITTEN PROCEDURES APPROVED
(SEC(2011)1592 ET SEQ.)***

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 12 and 16 December.

6.2. EMPOWERMENT

(SEC(2011)1593 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 12 and 16 December.

6.3. DELEGATION AND SUBDELEGATION OF POWERS

(SEC(2011)1594 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 12 and 16 December, as archived in e-Greffe.

6.4. SENSITIVE WRITTEN PROCEDURES

(SEC(2011)1595 AND /2)

The Commission took note of the sensitive written procedures for which the time limit expired between 19 and 22 December and of the 'finalisation' written procedures initiated following the weekly meeting of Chefs de cabinet on 12 and 16 December.

7. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS – A QUALITY FRAMEWORK FOR SERVICES OF GENERAL INTEREST IN EUROPE

(COM(2011)900 TO /3; RCC(2011)1039; RCC(2011)1044)

The Commission approved the Communication in COM(2011)900/3 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. COMMUNICATION FROM THE COMMISSION (NOTICE) ON THE APPLICATION OF THE EUROPEAN UNION STATE AID RULES TO COMPENSATION GRANTED FOR THE PROVISION OF SERVICES OF GENERAL ECONOMIC INTEREST

(C(2011)9404 TO /3; SEC(2011)1581; SEC(2011)1582; SEC(2011)1583; SEC(2011)1621; RCC(2011)1039; RCC(2011)1044)

The Commission:

- adopted the communication (notice) in C(2011)9404/3;
- decided to publish this communication in the Official Journal of the European Union and to transmit it, for information, to Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the national parliaments;
- took note of the impact assessment, the summary thereof and the opinion of the Impact Assessment Board in SEC(2011)1581, SEC(2011)1582 and SEC(2011)1583.

9. COMMISSION DECISION ON THE APPLICATION OF ARTICLE 106(2) OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION TO STATE AID IN THE FORM OF PUBLIC SERVICE COMPENSATION GRANTED TO CERTAIN UNDERTAKINGS ENTRUSTED WITH THE OPERATION OF SERVICES OF GENERAL ECONOMIC INTEREST

(C(2011)9380 TO /3; SEC(2011)1581; SEC(2011)1582; SEC(2011)1583; SEC(2011)1621; RCC(2011)1039; RCC(2011)1044)

The Commission:

- adopted the decision in C(2011)9380/3;

- decided to notify this decision to the Member States, to publish it in the Official Journal of the European Union and to transmit it, for information, to Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the national parliaments;
- took note of the impact assessment, the summary thereof and the opinion of the Impact Assessment Board in SEC(2011)1581, SEC(2011)1582 and SEC(2011)1583.

10. DRAFT COMMISSION REGULATION ON THE APPLICATION OF ARTICLES 107 AND 108 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION TO DE MINIMIS AID GRANTED TO UNDERTAKINGS PROVIDING SERVICES OF GENERAL ECONOMIC INTEREST

(C(2011)9381 DRAFT TO /3; SEC(2011)1581; SEC(2011)1582; SEC(2011)1583; SEC(2011)1621; RCC(2011)1039; RCC(2011)1044)

The Commission:

- adopted the draft regulation in C(2011)9381 draft/3;
- decided to publish this draft regulation in the Official Journal of the European Union and to transmit it, for information, to Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the national parliaments;
- authorised the Commission Member responsible for competition to follow the procedural steps laid down in Articles 6 and 8 of Council Regulation (EC) 994/98;
- took note of the impact assessment, the summary thereof and the opinion of the Impact Assessment Board in SEC(2011)1581, SEC(2011)1582 and SEC(2011)1583.

11. COMMUNICATION (NOTICE) FROM THE COMMISSION ON THE EUROPEAN UNION FRAMEWORK FOR STATE AID IN THE FORM OF PUBLIC SERVICE COMPENSATION (2011)

(C(2011)9406 TO /3; SEC(2011)1581; SEC(2011)1582; SEC(2011)1583; SEC(2011)1621; RCC(2011)1039; RCC(2011)1044)

The Commission:

- adopted the communication (notice) in C(2011)9406/3;
- decided to publish this communication in the Official Journal of the European Union and to transmit it, for information, to Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the national parliaments;
- took note of the impact assessment, the summary thereof and the opinion of the Impact Assessment Board in SEC(2011)1581, SEC(2011)1582 and SEC(2011)1583.

12. PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON PROCUREMENT BY ENTITIES OPERATING IN THE WATER, ENERGY, TRANSPORT AND POSTAL SERVICES SECTORS

(COM(2011)895 TO /3; SEC(2011)1585/2; SEC(2011)1586/2; SEC(2011)1587; RCC(2011)1039; RCC(2011)1044)

The Commission adopted the proposal for a Directive in COM(2011)895/3 for transmission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions and to the national parliaments, together with the impact assessment and the summary thereof in staff working papers SEC(2011)1585/2 and SEC(2011)1586/2 respectively, the contents of which were noted.

It also took note of the opinion of the Impact Assessment Board on the above proposal for a Directive, as set out in SEC(2011)1587.

**13. PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON PUBLIC PROCUREMENT
(COM(2011)896 TO /3; SEC(2011)1585/2; SEC(2011)1586/2; SEC(2011)1587;
RCC(2011)1039; RCC(2011)1044)**

The Commission adopted the proposal for a Directive in COM(2011)896/3 for transmission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions and to the national parliaments, together with the impact assessment and the summary thereof in staff working papers SEC(2011)1585/2 and SEC(2011)1586/2 respectively, the contents of which were noted.

It also took note of the opinion of the Impact Assessment Board on the above proposal for a Directive, as set out in SEC(2011)1587.

**14. PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE AWARD OF CONCESSION CONTRACTS
(COM(2011)897 TO /3; SEC(2011)1588/2; SEC(2011)1589/2; SEC(2011)1590;
RCC(2011)1039; RCC(2011)1044)**

The Commission adopted the proposal for a Directive in COM(2011)897/3 for transmission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions and to the national parliaments, together with the impact assessment and the summary thereof in staff working papers SEC(2011)1588/2 and SEC(2011)1589/2 respectively, the contents of which were noted.

It also took note of the opinion of the Impact Assessment Board on the above

proposal for a Directive, as set out in SEC(2011)1590.

**15. 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(2011)933 TO /3; RCC(2011)1046)**

The Commission approved the Communication in COM(2011)933/3 for transmission to Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, and, for information, to the national parliaments.

**16. ADMINISTRATIVE AND BUDGETARY MATTERS
(SEC(2011)1596/3)**

**ADMINISTRATIVE MATTERS
(PERS(2011)160/3)**

***16.1. DG COMMUNICATION – APPOINTMENT OF AD15/16 DIRECTOR-GENERAL AND TEMPORARY POSTING AS DEPUTY DIRECTOR-GENERAL
(PERS(2011)61 TO /4)***

The Commission had before it applications under Article 29(1)(a)(i) and (iii) of the Staff Regulations for the post of Director-General, DG Communication (PERS(2011)61 and /2).

The Commission took note of the opinions of the Consultative Committee on Appointments of 14 November and 1 December 2011 (PERS(2011)61/3 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 Ms REDING, it then decided to appoint Mr Gregory PAULGER to the post.

It also decided, under Article 7(2) of the Staff Regulations, to grant a temporary posting as Director-General of the Directorate-General for Communication to Mr Jean-Pierre VANDERSTEEN, an AD15 official and Director in that DG, until such time as the post was filled, but in principle without exceeding the maximum period of one year laid down in the Staff Regulations.

These decisions would take effect on 1 January 2012.

**16.2. EUROSTAT – APPOINTMENT OF AD15 ADVISER HORS CLASSE
(EU-2)
(PERS(2011)119 TO /4)**

The Commission had before it applications under Article 29(2) of the Staff Regulations for the post of adviser *hors classe* in Eurostat (PERS(2011)119 and /2).

The Commission took note of the opinions of the Consultative Committee on Appointments of 12 October and 10 November (PERS(2011)119/3 and /4).

The Commission proceeded to compare the applicants' qualifications for the post. On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Mr ŠEMETA, it then decided to appoint Ms Mariana Mihaylova KOTZEVA to the post.

This decision would take effect immediately. Ms Mariana Mihaylova KOTZEVA would take up her duties on 1 June 2012 at the latest.

**16.3. DG AGRICULTURE AND RURAL DEVELOPMENT –
TERMINATION OF THE SELECTION PROCEDURE FOR AN AD15
ADVISED HORS CLASSE POST
(PERS(2011)122 TO /4)**

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Mr CIOLOȘ, the Commission decided to terminate – without making any appointment – selection procedure COM/2011/10311 for the post of adviser *hors classe* in the Directorate-General for Agriculture and Rural Development.

This decision would take effect immediately.

**16.4. DG DEVELOPMENT AND COOPERATION - EUROPEAID –
TERMINATION OF THE SELECTION PROCEDURE FOR AN
AD15/16 DEPUTY DIRECTOR-GENERAL POST
(PERS(2010)175 TO /5)**

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT, Mr FÜLE and Mr PIEBALGS, the Commission decided to terminate – without making any appointment – internal selection procedure COM/2011/88 for the post of Deputy Director-General in the Directorate-General for Development and Cooperation - EuropeAid.

This decision would take effect immediately.

**16.5. DG DEVELOPMENT AND COOPERATION - EUROPEAID–
TERMINATION OF THE SELECTION PROCEDURE FOR AN
AD15/16 DEPUTY DIRECTOR-GENERAL POST
(PERS(2010)174 TO /5)**

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT, Mr FÜLE and Mr PIEBALGS, the Commission decided to terminate – without making any appointment – internal selection procedure COM/2011/89 for the post of Deputy Director-General in the Directorate-General for Development and Cooperation - EuropeAid.

This decision would take effect immediately.

**16.6. DG DEVELOPMENT AND COOPERATION - EUROPEAID -
INTERNAL PUBLICATION OF A VACANCY NOTICE FOR AN
AD 15/16 DEPUTY DIRECTOR-GENERAL
(PERS(2011)161)**

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT, Mr FÜLE and Mr PIEBALGS, the Commission decided to authorise the publication, under Article 29(1)(a)(i) and (iii) of the Staff Regulations, of the vacancy notice in PERS(2011)161 for the post of Deputy Director-General in the Directorate-General for Development and Cooperation - EuropeAid.

This decision would take effect immediately.

**16.7. DG DEVELOPMENT AND COOPERATION - EUROPEAID -
INTERNAL PUBLICATION OF A VACANCY NOTICE FOR AN
AD 15/16 DEPUTY DIRECTOR-GENERAL
(PERS(2011)162)**

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT, Mr FÜLE and Mr PIEBALGS, the Commission decided to authorise the publication, under Article 29(1)(a)(i) and (iii) of the Staff Regulations, of the vacancy notice in PERS(2011)162 for the post of Deputy Director-General in the Directorate-General for Development and Cooperation - EuropeAid.

This decision would take effect immediately.

**16.8. LEGAL SERVICE – APPOINTMENT OF AD14 PRINCIPAL LEGAL ADVISER (EU-2)
(PERS(2011)120 TO /4)**

The Commission had before it applications under Article 29(2) of the Staff Regulations for the post of Principal Legal Adviser responsible for the Quality of Legislation team in the Legal Service (PERS(2011)120 and /2).

The Commission took note of the opinions of the Consultative Committee on Appointments of 14 November and 1 December (PERS(2011)120/3 and /4).

The Commission proceeded to compare the applicants' qualifications for the post. On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT, it then decided to appoint Mr Victor SOLOVEYTCHIK to the post.

This decision would take effect immediately. Mr Victor SOLOVEYTCHIK would take up his duties on 1 June 2012 at the latest.

**16.9. DG RESEARCH AND INNOVATION – TERMINATION OF THE SELECTION PROCEDURE FOR AN AD14 PRINCIPAL ADVISER POST (EU-2)
(PERS(2011)132 TO /4)**

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Ms GEOGHEGAN-QUINN, the Commission decided to terminate – without making any appointment – external selection procedure COM/2011/10310 for the post of Principal Adviser on Gender in Research and Innovation in the Directorate-General for Research and Innovation.

This decision would take effect immediately.

**16.10. DG AGRICULTURE AND RURAL DEVELOPMENT –
TERMINATION OF THE SELECTION PROCEDURE FOR AN
AD14/15 DIRECTOR POST
(PERS(2011)51 TO /3)**

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Mr CIOLOȘ, the Commission decided to terminate – without making any appointment – internal selection procedure COM/2011/853 for the post of Director, Agricultural Legislation, in DG Agriculture and Rural Development.

This decision would take effect immediately.

**16.11. DG HUMAN RESOURCES AND SECURITY – APPROVAL OF A
TRANSFER IN THE INTEREST OF THE SERVICE IN ORDER TO
FILL AN AD12 EUROPEAN UNION REPRESENTATIVE POST
(PERS(2011)137 TO /3)**

The Commission took note of the information in point 11 of PERS(2011)160/3 and, on a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT, decided to approve the proposal to transfer in the interest of the service, under Article 95(2) of the Staff Regulations, Mr John GATT-RUTTER, currently Deputy Head of Delegation and acting EU Representative to the West Bank and Gaza Strip, and to the United Nations Relief and Works Agency (UNRWA), to the post of EU Representative to the West Bank and Gaza Strip, and to UNRWA; the final decision on this transfer would be taken by the competent authority of the European External Action Service.

This decision would take effect immediately.

16.12. DG HUMAN RESOURCES AND SECURITY – APPROVAL OF A LIST OF CANDIDATES FOR AN AD13/14 HEAD OF EUROPEAN UNION LIAISON OFFICE POST (PERS(2011)108 AND /2)

The Commission took note of the information in point 12 of PERS(2011)160/3 and, on a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT, decided to approve the list of candidates for the post of Head of the EU Liaison Office in Kosovo in PERS(2011)108/2, which would serve as a basis for the competent authority of the European External Action Service to make a final appointment.

This decision would take effect immediately.

16.13. DG ENTERPRISE AND INDUSTRY – AMENDMENT OF ORGANISATION CHART (SEC(2011)1634)

The Commission, on a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Mr TAJANI, decided to create a temporary adviser post in order to recruit a successful candidate from competition EU-2. The post would be abolished by 1 April 2013 at the latest on the transfer of the candidate to a head of unit post.

This decision would take effect immediately.

Following the reorganisation, the quota of adviser posts in DG Enterprise and Industry would be 7 structural advisers and 5 non-structural advisers.

16.14. DG ECONOMIC AND FINANCIAL AFFAIRS – AMENDMENT OF ORGANISATION CHART (SEC(2011)1634; SEC(2011)1635)

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

- to set up a new unit ECFIN-EFC.EPC-02 ‘Secretariat of the Eurogroup/EWG’;
- to set up a new unit ECFIN-DDG1.A.5 ‘Macroeconomy of the euro area’;
- to increase the quota of adviser posts by one structural adviser post and to convert a temporary adviser post into a structural adviser post;
- to authorise the Member of the Commission responsible for personnel to depart, if necessary, from the individual provisions on the publication, selection and justification for having recourse to temporary staff, laid down in the Commission decision on a new policy for the engagement and use of temporary agents, as published in C(2004)1597; such a derogation would be for a limited period in specific justified cases and only for posts relating to the crisis;
- to adopt the new organisation chart set out in SEC(2011)1635.

These decisions would take effect on 1 January 2012.

As a result of this reorganisation:

- the quota of adviser posts would be 15 structural advisers and one non-structural adviser;
- the number of units would increase from 43 to 45.

16.15. DG HUMAN RESOURCES AND SECURITY – APPOINTMENT OF SPECIAL ADVISER

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

- to appoint Mr Bertrand CARSIN as special adviser to the Commission on economic policy and European governance issues;

- to authorise the Member of the Commission responsible for administration to decide the date when Mr CARSIN would take up duties and the other conditions of his contract, and to depart, if necessary, from the individual provisions of Commission decision C(2004)1597 relating to external activities and assignments, and of Commission decision C(2007)6655 on the rules on special advisers to the Commission.

These decisions would take effect immediately.

16.16. COMMUNICATION TO THE COMMISSION ON THE ALLOCATION OF HUMAN RESOURCES AND DECENTRALISED ADMINISTRATIVE APPROPRIATIONS FOR 2012 (SEC(2011)1639)

The Commission adopted the communication in SEC(2011)1639.

17. RELATIONS WITH NON-MEMBER COUNTRIES

17.1. TWENTY-EIGHTH EU- RUSSIA SUMMIT (BRUSSELS, 14 AND 15 DECEMBER, AND FIFTEENTH EU-UKRAINE SUMMIT (KIEV, 19 DECEMBER)

The PRESIDENT gave an account of the summits with Russia and Ukraine; he began by recalling that the Russia summit was the last one to be attended by President Dmitry Medvedev.

Firstly he welcomed the holding of this summit in the context of Russia's accession to the World Trade Organisation, in which he felt the Commission had played a key role. The summit had enabled certain issues on which there were differences of opinion to be constructively tackled, including the taxation of trans-Siberian flights and the EU designation clause.

Progress had also been made with a number of issues relating to visas and

mobility, and a follow-up report on the modernisation partnership had been signed on the same occasion.

A consensus had emerged that this positive dynamic should be used to relaunch negotiations with a view to reaching a new agreement, even if clarification was needed as regards the provisions on trade and investment.

The PRESIDENT also mentioned the discussions held on the most recent developments, particularly in the economic sphere, in the European Union and Russia, including those concerning the latest European Council decisions, noting that Russia had expressed support for the Union's efforts.

However, the irregularities observed during the Russian elections had cast something of a shadow over the summit. He acknowledged that President Medvedev had entered into a frank and interesting discussion on the matter, in the course of which he explained that necessary political developments were under way in Russia and that the government had learned some lessons from the elections and their consequences. The PRESIDENT said he had voiced concerns about the general human rights situation in Russia.

He also said he had spoken on the issue of the Union's participation in the Convention on the Protection of the Black Sea and in the Arctic Council, but Mr Medvedev had remained evasive on these two points.

He described as constructive the discussions held on external policy issues, particularly those relating to Syria, on which Russia seemed to be beginning to change its position.

Finally, he expressed his overall satisfaction with this summit in a context of political transition in Russia and of growing dissatisfaction on the part of civil society.

As regards the summit with Ukraine, the PRESIDENT began by noting that it had been more difficult, given the country's political and geopolitical context.

In his view this made it all the more important to send Ukraine a clear

message that it was important to the Union, which appreciated the fact that it had opted for rapprochement with Europe, but, at the same time, to stand firm on the values which the Union sought to promote and the need for Ukraine to respect the principles of democracy and the rule of law if such rapprochement were to become a reality.

This double message had formed the background to the agreement reached on completing negotiations on the association agreement, which included a full, in-depth free-trade area which would allow for political association and economic integration with the Union. He had reiterated the fact that the signing and ratification of the agreement would depend on the extent to which Ukraine applied European values and principles.

The PRESIDENT noted that in this context he had referred explicitly to the case of the former Ukrainian Prime Minister, Ms Yulia Tymoshenko, stressing the fact that selective justice was unacceptable.

He took the view that the association agreement and the free trade agreement should be initialled now so as to avoid any new changes in the text; this should be done by the technical negotiators and, ideally, at the same time for the political and trade-related sections.

Energy had also been one of the key subjects raised during discussion at the summit, particularly the bilateral talks under way between Ukraine and Russia with a view to reducing gas prices. The PRESIDENT said Mr Viktor Yanukovich had given him to understand that Ukraine could withdraw from the Energy Community in response to the pressure from Russia to come to an agreement, and that he himself had recalled Ukraine's obligations to that Community, which, it should be noted, formed the basis for the association agreement. He said he had stressed that the talks under way with Russia must not under any circumstances affect Europe's supply and reminded his interlocutors that the Union was prepared to set up a triologue on energy with Ukraine and Russia.

The PRESIDENT rounded off his report by referring to discussions held on the visa dialogue and the recent agreement on visa liberalisation, which will create the conditions for increased travel between the EU and Ukraine.

The Commission then held a brief discussion during which the following main points were raised:

- the results of the parliamentary elections in Russia and their implications;
- Russia’s initiative for a ‘Eurasian Union’ and its potential geopolitical, economic and energy implications;
- the importance of the EU having a clear position in its relations with Ukraine taking account, on the one hand, of the need to make the signature of the association agreement conditional on Ukraine’s respect for the principles of democracy and rule of law and, on the other hand, of the support to be given to the country in order to confirm and crystallise its rapprochement with the EU;
- the need for the EU to draw attention to the independence of the judiciary in Ukraine and the general application of criminal law, without linking these matters to the case of Ms Tymoshenko;
- matters related to the timetable and framework for initialling the association agreement; the suggestion that the full, in-depth free-trade agreement between the EU and Ukraine should be initialled as soon as possible so that it can be used to develop bilateral relations;
- the importance of the energy discussions with Ukraine and the value of including this aspect in a more general EU strategy on Ukraine; disappointment with the major differences between Member States’ positions in this respect; in this context, the usefulness of clearly demonstrating the added value of Ukraine’s rapprochement with the EU, both for the country itself and for the Member States; the suggestion to examine whether the EU could offer greater incentives to Ukraine than

Russia does; the need to redouble efforts so that the Member States can formulate a common strategy with regard to Ukraine.

The PRESIDENT thanked Members for their comments and expressed the desire for Member States to make a common commitment to Ukraine and Russia, a country which is of major importance for the Union and its relations with its eastern neighbours. In particular, there was a need for a more global approach to the energy issue and its use as political leverage.

The Commission took note of this information.

17.2. LATEST DEVELOPMENTS CONCERNING THE FISHERIES AGREEMENT WITH MOROCCO

Ms DAMANAKI took stock of the interinstitutional discussions on the EU's fisheries partnership agreement with Morocco and, in particular, the protocol to the agreement, following the expiry of the interim protocol on 14 December 2011.

First of all, as regards the facts, she recalled that 11 Member States benefited from the agreement and that it was the second biggest agreement of its type in financial terms, with an annual budget of 36.1 million euros, and covered a fleet of 135 small vessels mainly involved in small-scale fishing.

She briefly described the background and pointed out that, on taking up office, she had asked the Moroccan authorities for precise information on the distribution and impact of regional aid in the sector. This information had been provided only two months before the expiry of the protocol and, therefore, a temporary solution had been required in the form of an interim protocol of one year, especially since some Member States had been particularly keen to avoid having to suspend their fishing activities at the end of February 2011 upon expiry of the initial protocol.

The mandate for the interim protocol had been adopted in the face of stiff opposition in the Council, Member States having been divided, in particular,

on the issue of including waters off Western Sahara in the protocol. The debate in Parliament had been equally difficult, with some parliamentary committees having given negative opinions and the vote having been postponed several times. Finally, on 14 December, Parliament had voted against concluding an interim protocol of one year.

The consequences of Parliament's negative vote were very serious, namely (i) the end of the temporary application of the protocol, which meant that all EU vessels had to cease their fishing activities immediately; (ii) the precedent set by Parliament, which might prove counter-productive for the EU; and (iii) the uncertainty about when the Moroccan authorities would want to negotiate a new protocol. While she and her departments were doing their best to move things forward, the Commission had immediately drawn up a proposal for a Council decision repealing the temporary application of the protocol, which would be adopted the same day by the Committee of Permanent Representatives (COREPER).

As far as the economic and social consequences of the current situation were concerned, particularly as regards jobs, unlike the protocol, the partnership agreement, which was still in force, contained an exclusivity clause preventing EU fishermen from concluding private agreements directly with the Moroccan authorities. She referred to Spain's request for compensation for the loss of revenue in its fisheries sector, and pointed out that the European Fisheries Fund provided for aid in cases of temporary or permanent cessation of fishing activities. However, the Member States concerned wanted a financial contribution from the EU, rather than a reallocation of funds at national level. The EU would also have to recover part of the financial contribution paid between then and 27 February 2012, when the protocol would originally have expired.

On the political front, she noted that Parliament had asked the Commission to press ahead with the negotiation of a new protocol that would be economically, ecologically and socially sustainable and beneficial to both parties. Certain Member States had also asked the Commission to prepare a

proposal for a negotiating mandate. She recommended that the Commission adopt the proposal for a new negotiating mandate as soon as possible and stressed its readiness to continue the talks with Morocco.

During a brief discussion the Commission raised the following important points:

- the importance of taking into account the current situation in Morocco, where the first positive changes were discernible in the recent legislative elections and the appointment of a new popularly elected government, and of remembering that Morocco was a more stable country than its neighbours that were involved in the Arab spring movement;
- as regards the Western Sahara, the need to remember that the EU did not have a common position on this question and hence the importance of supporting the United Nations' work in the region and, for some participants, the need to include this region in the fisheries protocol so that the local population could also benefit from its advantages;
- the need to distinguish between matters relating to trade or sectoral agreements and political questions, and not to lose sight of the goal, which was to reach a satisfactory fisheries agreement;
- the desire to ensure that other agreements were adopted by Parliament, the importance of the Commission explaining the issues to MEPs, and the need to emphasise Parliament's increased responsibilities in international negotiations, given the economic and social impact of the agreements subject to parliamentary vote;
- the suggestion that a more strategic approach be considered when examining what further action should be taken.

At the end of the discussion, Ms DAMANAKI stressed the need to proceed step by step to find a common approach acceptable to all the parties concerned. A written procedure relating to the approval by the Commission of

the recommendation for a Council decision on opening negotiations with Morocco on a new fisheries protocol had been launched the day before, with the agreement of Baroness ASHTON and Mr FÜLE.

The PRESIDENT wound up the discussion by calling for a constructive approach and warning more generally against the risk that attaching political conditions to trade could lead to double standards, while at the same time stressing that respect for human rights and the principles of the rule of law was a categorical imperative. Morocco was an important economic partner of the European Union which was, in his view, making promising progress. In these circumstances, Europe should be sending the country a positive signal. It was also important to engage in dialogue with Parliament. Finally, he noted the Commission's approval of the draft mandate presented by Ms DAMANAKI.

The Commission took note of this information.

18. OTHER BUSINESS

PREPARATORY WORK ON THE INTERNATIONAL AGREEMENT ON A REINFORCED ECONOMIC UNION

The PRESIDENT introduced the discussion on the follow-up to the most recent European Council, on 8 and 9 December, and specifically on the preparation and negotiation of the international agreement on the new fiscal compact and on reinforcing the coordination of economic policies between the 17 euro area Member States and the nine other EU Member States that were not part of the euro area but were expected to be party to the agreement.

He began by describing the process of preparing the agreement. There was a general desire to proceed very quickly, starting that very afternoon, taking as a basis the draft agreement of 16 December and aiming to conclude the agreement in January and have it signed by the beginning of March at the latest. He explained the

enlarged format of the negotiations in the framework of the Eurogroup Working Group: the 27 Member States would be represented, as would the Commission, Parliament, the *cabinet* of the President of the European Council and the Council's General Secretariat. The negotiations would be led by the Working Group's new Chairman, Mr Thomas Wieser, Chairman of the Economic and Financial Committee.

The PRESIDENT outlined the composition of the negotiating group, which contained senior officials from national ministries, national legal advisers and, for the European Parliament, Mr Elmar Brok, Mr Fausto Gualtieri and Mr Guy Verhofstadt representing the main political groups, and Mr Daniel Cohn-Bendit as an alternate member. He reminded the meeting that the Commission would be represented by the Legal Service, DG Economic and Monetary Affairs, its representative in COREPER II and members of his *cabinet*.

The meeting later that day would give some idea of what to expect from the subsequent negotiations, depending on whether general support was expressed for retaining the balance of the draft agreement of the previous Friday more or less as it stood, or serious disagreements emerged which would signal tough negotiations in the future.

In terms of substance, the Commission would participate in the new phase which was starting now in the same constructive but vigilant spirit as before; obviously the best outcome would be a rapid conclusion of the agreement on the basis agreed by the Commission. He then elaborated on three important and closely related points for the negotiations: (i) the international agreement must be fully compatible with European law; the Commission would be involved in this as the guardian of the Treaties, but also through its responsibility for economic governance; (ii) the agreement must not add new institutional mechanisms or lead in the long term to the development of intergovernmental decision-making processes or new monitoring or surveillance structures; and (iii) the agreement must not regulate matters that should really be dealt with under secondary legislation, a point already explicitly made by the Heads of State or Government, in order to safeguard the powers of the European legislator.

Assessing the draft agreement itself, the PRESIDENT was reassured by its structure and general content. He noted in particular that the draft guaranteed the primacy of and respect for European law and provided for firmer national commitments to budgetary management, which the Commission would review under its ordinary powers, without receiving an intergovernmental mandate to do so. He also noted that the position of non-euro area Member States was presented in such a way that they could sign the agreement immediately but without being required to apply it until they joined the euro area, which would maximise the number of Member States likely to adhere to the agreement.

However, he noted a number of points to be improved or monitored closely, in particular the less than satisfactory wording on intergovernmental coordination of economic policies outside the mechanisms of the European Union. He also referred to certain provisions in relation to which the Commission could propose secondary legislation and highlighted the need to avoid introducing confusion into the legal system. Lastly, he highlighted an article on the national parliaments and another on the euro-zone summit whose mandate exceeded the terms agreed at the European Council.

The PRESIDENT rounded off his presentation by raising the possibility of an informal meeting of the European Council at the end of January/beginning of February 2012. He therefore intended to organise a discussion in the College on all these questions at the beginning of next year, before the informal meeting, in order to define the Commission's positions in the forthcoming negotiations. The discussion would be the opportunity to examine in detail the content and the timing of new policy and legislative initiatives that the Commission might present, in particular to boost growth. He concluded by stressing the need to insist on retaining the Community method.

While noting that most of the proposed measures could be adopted as secondary legislation, Mr REHN welcomed the useful draft agreement and hoped it would be adopted quickly and smoothly, bearing in mind that the Commission was, for its part, technically ready to present, at the appropriate time, new proposals on the basis of Article 136 of the Treaty on the Functioning of the European Union.

With regard to the negotiations themselves, he felt that there were three important conditions, namely that (i) the agreement should be clear and concise and strengthen the existing legislation on economic governance ('six-pack'), (ii) the negotiations on the intergovernmental treaty should be as brief as possible in order to prevent linkage with the treaty on the European Stability Mechanism (ESM), which would defuse any risk of paralysis of both treaties, given that the treaty on the European Stability Mechanism was of prime importance, and (iii) the possibility of initialling both treaties at the same time should be examined, so that the second treaty could enter into force in mid-2012.

During the discussion which followed, the Commission raised the following main points:

- on reading the draft international agreement, the fact that most of the proposed measures could be implemented by means of secondary legislation and on the basis of the existing treaties; but also the acknowledgement of the political reality and the need for the Member States to affirm their commitment to budget discipline in an intergovernmental agreement;
- the satisfaction of seeing the affirmation of the primacy of Community law set out in the draft agreement, and the reference to subsequent incorporation of the agreement into the Union treaties;
- the desire for a more ambitious section on the coordination of economic policies, in particular in order to prevent speculative bubbles or the overheating of economies, but also the fact that the Member States had made a clear choice on these questions;
- the advisability of stressing the ambiguity of the wording of the draft agreement concerning the transposition of the golden rule on balanced budgets 'at constitutional level or equivalent' and the questions on the form of such transposition;
- with regard to the level of indebtedness, doubts about the severity of the national benchmark of 0.5% of nominal gross domestic product

(Article 3(1)(b) of the draft agreement) and questions about the deadline set to allow Member States to attain that objective;

- concerns about the procedure to be followed in the event that a Member State exceeded the 3% ceiling on budget deficits, in particular with regard to the vote by qualified majority (Article 7); questions too about the notification by the Member States, not only to the Commission but also to the Council, of the budget and economic partnership programme and of national debt issuance forecasts (Articles 5 and 6);
- in relation to the actions set out in the draft agreement, the need to strengthen the measures, such as the safety nets, in order to stabilise the markets in the short term; questions concerning the reactions of the financial markets to the outcome of the euro-zone summit on 8 December;
- doubts about the conduct of the negotiations in the light of the number of participants;
- the usefulness of regarding the future international agreement as a staging post en route to restoring the confidence of citizens and markets in national governments;
- questions concerning the involvement of the national parliaments in the process of negotiating the agreement, with a view to its ratification in the Member States.

Mr REHN replied to questions, acknowledging that although the draft international agreement was not a paragon of legal elegance, it was a response to the political reality and was the choice of the Member States, of which twenty-six supported it, and had the merit of providing for automatic sanctions in the field of budget discipline, which would not have been possible using secondary legislation. The package had to be considered as a whole and the outcome of the European Council on 8 and 9 December should be regarded as significant progress, having regard to the albeit imperfect safety nets that had been established and to private-sector participation in reducing the Member States' level of indebtedness in line with the

principles practised by the International Monetary Fund, for example. In the economic sphere, confidence could be lost very quickly but was restored very slowly, which was why the Commission would have to return to the key question of growth by putting forward additional proposals in the near future.

The PRESIDENT concluded by pointing out that the Commission was not a party to the agreement but stressed firmly that its duty was nonetheless to say that it would not accept an agreement that contradicted Community law and the Community method. While reaffirming the Member States' political prerogative with regard to the choice of an international agreement, he explained that the Commission had to remain very present in the debate, with its political and legal expertise, and had to make a positive contribution, follow the incipient negotiating process with the greatest attention, and continue to insist on a more energetic implementation of the measures that it had already proposed, for example with the road-map for stability and growth presented in October, its initiatives on economic governance and the introduction of financial stabilisation mechanisms, because all of these aspects were politically linked.

Ms REDING briefly went through the main findings of the latest public opinion survey in Europe, based on the Eurobarometer polls. She invited her colleagues to look at the graphs that spoke volumes, showing a worrying trend with, for the first time, a clear reversal of the trend concerning the perception of the European economy in all the Member States and, more generally, a deterioration of the image of Europe and of its institutions.

The Commission took note of this information.

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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 12.16.