



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

**PV(2012)2011 final**

Brussels, 25 July 2012

**MINUTES**  
**of the 2011th meeting of the Commission**  
**held in Brussels**  
**(Berlaymont)**  
**on Wednesday 18 July 2012**  
**(morning)**

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**PV(2012)2011 final**

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**Single sitting: Wednesday 18 July 2012 (morning)**

The sitting opened at 9.50 with Mr BARROSO, President, in the chair.

Present:

Mr BARROSO	President	
Ms REDING	Vice-President	Items 1 to 10/11/12 (in part)
Mr ALMUNIA	Vice-President	
Mr KALLAS	Vice-President	
Ms KROES	Vice-President	
Mr TAJANI	Vice-President	Items 1 to 10/11/12 (in part)
Mr ŠEFČOVIČ	Vice-President	
Mr REHN	Vice-President	Items 1 to 8/9 (in part)
Mr POTOČNIK	Member	
Mr PIEBALGS	Member	
Mr BARNIER	Member	
Ms VASSILIOU	Member	
Mr ŠEMETA	Member	
Mr DE GUCHT	Member	
Mr DALLI	Member	
Ms GEOGHEGAN-QUINN	Member	
Ms DAMANAKI	Member	
Ms GEORGIEVA	Member	
Mr OETTINGER	Member	Items 1 to 10/11/12 (in part)
Mr HAHN	Member	
Ms HEDEGAARD	Member	
Mr FÜLE	Member	
Ms MALMSTRÖM	Member	
Mr CIOLOŞ	Member	Items 1 to 10/11/12 (in part)

Absent:

Baroness ASHTON

High Representative/  
Vice-President

Mr LEWANDOWSKI

Member

Mr ANDOR

Member

(18 July 2012)

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

Mr CEBALLOS BARÓN	A member of Baroness ASHTON's staff	
Mr LEMAÎTRE	Chef de cabinet to Mr LEWANDOWSKI	Items 1 to 10/11/12 (in part)
Mr SLOWIK	A member of Mr LEWANDOWSKI's staff	Items 10/11/12 (in part)
Ms TÖRÖK	Deputy Chef de cabinet to Mr ANDOR	

The following also sat in:

Mr LAITENBERGER	Chef de cabinet to the PRESIDENT	Items 1 to 9
Mr SOBRAL	Deputy Chef de cabinet to the PRESIDENT	Items 10 to 12
Mr ROMERO REQUENA	Director-General, Legal Service	
Mr PAULGER	Director-General, DG Communication	Items 1-7 and 10-12
Mr DOENS	Head of the Commission Spokesperson Service	Items 1 to 10/11/12 (in part)
Ms AHRENKILDE HANSEN	Commission Spokeswoman	
Mr SCHINAS	Bureau of European Policy Advisers	
Mr CABRAL	Adviser <i>hors classe</i> in the PRESIDENT 's Office	Items 10 to 12
Ms MARTÍNEZ ALBEROLA	Adviser in the PRESIDENT's Office	Items 1 to 9, and 10/11/12 (in part)
Mr SELMAYR	Chef de cabinet to Ms REDING	Items 1 to 9
Ms HOFFMANN	Deputy Chef de cabinet to Ms REDING	Items 10/11/12 (in part)
Mr VANHEUKELEN	Chef de cabinet to Mr DE GUCHT	Items 10 to 12
Ms HANNONEN	A member of Mr DE GUCHT's staff	
Mr HAEUSLER	Chef de cabinet to Mr CIOLOŞ	Items 1 to 9
Mr DEMARTY	Director-General, DG Trade	Items 10 to 12
Mr SERVOZ	Deputy Secretary-General	Items 1 to 9

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

**1. AGENDAS**

**(OJ(2012)2011/FINAL; SEC(2012)446/2)**

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(2012)2011)**

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

**3. APPROVAL OF THE MINUTES AND SPECIAL MINUTES OF THE 2009<sup>TH</sup> MEETING OF THE COMMISSION (3 JULY) AND THE MINUTES OF THE 2010<sup>TH</sup> MEETING (11 JULY)**

**(PV(2012)2009; PV(2012)2009, PART II)**

The Commission approved the minutes of its 2009th meeting, and decided to hold over for one week approval of the minutes of its 2010th meeting.

**4. INTERINSTITUTIONAL RELATIONS**

**4.1. LEGISLATIVE MATTERS**

- i) European Year of Citizens (2013) (Decision) – PAPADOPOULOU report – 2011/0217 (COD)**

The Commission approved the line set out in SI(2012)367.

#### **4.2. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL**

##### **ii) Programming of Council business**

(SI(2012)365)

The Commission took note of the information in SI(2012)365 on the Council meetings between 19 and 31 July.

#### **4.3. RELATIONS WITH PARLIAMENT**

##### **iii) Action taken on legislative opinions and non-legislative resolutions adopted by Parliament at its June part-session**

(SP(2012)540)

The Commission approved, for transmission to Parliament, document SP(2012)540 on the action taken on the legislative opinions and non-legislative resolutions adopted by Parliament at its June part-session.

##### **iv) Action taken on non-legislative resolutions adopted by Parliament at its May I and II part-sessions**

(SP(2012)541 and /2; SP(2012)542 and /2)

The Commission approved, for transmission to Parliament, documents SP(2012)541 and /2 and SP(2012)542 and /2 on the action taken on the non-legislative resolutions adopted by Parliament at its May I and II part-sessions.

### **5. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS**

#### **5.1. WRITTEN PROCEDURES APPROVED**

*(SEC(2012)447 ET SEQ.)*



The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 9 and 13 July.

**5.2. EMPOWERMENT**

*(SEC(2012)448 ET SEQ.)*

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 9 and 13 July.

**5.3. DELEGATION AND SUBDELEGATION OF POWERS**

*(SEC(2012)449 ET SEQ.)*

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 9 and 13 July, as archived in e-Greffe.

**5.4. SENSITIVE WRITTEN PROCEDURES**

*(SEC(2012)450 AND /2)*

The Commission took note of the sensitive written procedures for which the time limit expired between 16 and 20 July and of the finalisation written procedures initiated following the weekly meeting of Chefs de cabinet on 9 and 16 July.

**5.5. AD HOC EMPOWERMENT FOR SIGNING, ON BEHALF OF THE COMMISSION, ITSELF ACTING ON BEHALF OF THE EURO AREA MEMBER STATES, A MEMORANDUM OF UNDERSTANDING WITH SPAIN**

*(C(2012)5032)*

The Commission decide to empower Mr REHN, Member of the Commission responsible for economic and monetary affairs and the euro, in agreement with the PRESIDENT, on its behalf and under its responsibility, to sign, after approval by the euro area Member States, the Memorandum of Understanding setting the detailed policy conditions attached to the financial assistance to Spain in the context of the restructuring and recapitalisation of the banking

sector, as set out in the Council decision and in accordance with the terms laid down in C(2012)5032.

**6. ADMINISTRATIVE AND BUDGETARY MATTERS  
(SEC(2012)451)**

**ADMINISTRATIVE MATTERS**

**(PERS(2012)90)**

***DG ENERGY – TERMINATION OF SELECTION PROCEDURE AND  
INTERNAL AND INTERINSTITUTIONAL PUBLICATION OF A NEW  
VACANCY NOTICE FOR AN AD14/15 DIRECTOR POST  
(PERS(2011)153 TO /3; PERS(2012)91)***

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

- to terminate the internal selection procedure COM/2011/2570 for the post of Director, ‘Internal Energy Market’, in DG Energy, without making an appointment;
- to authorise the publication, under Article 29(1)(a)(i) and (iii) and 29(1)(b) of the Staff Regulations, of the new vacancy notice set out in PERS(2012)91.

These decisions would take effect immediately.

**7. MONITORING THE APPLICATION OF EUROPEAN UNION LAW**

***COMMISSION DECISIONS TO LODGE TWO APPEALS WITH THE COURT  
OF JUSTICE***

***(C(2012)5069 AND /2; C(2012)5070 AND /2)***

The PRESIDENT began by pointing out that the two judgments in question concerned the Regulation on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies.

These Court judgments had annulled two decisions adopted by the Commission under the procedure laid down in Article 10 of the Regulation, whereby any non-governmental organisation actively promoting environmental protection was entitled to make a request to the Commission for internal review of a measure of individual application under environmental law on the basis that, by restricting the scope for administrative review to measures of individual application, the Regulation was incompatible with the Aarhus Convention and therefore failed to meet the relevant international obligations.

The PRESIDENT said that the potential consequences of these judgments were very far-reaching; leaving aside the damage done to the Commission's reputation by the finding that the European Union had failed to meet its international obligations, they could give rise to a drastic reduction in the discretionary powers of the legislator when transposing international obligations into EU law, to a considerable increase in requests for internal review of measures of general application in many areas, and to an increase in the number of appeals against review decisions taken by the Commission.

The PRESIDENT said that, in view of the importance of these consequences and the questionable arguments used, an appeal should be lodged with the Court of Justice, and noted that the European Parliament had already decided to proceed in that fashion. He took the view that lodging an appeal in this case would not damage the Commission's reputation because the institution was acting in its capacity as guardian of the treaties with responsibility for enforcing the law and was confident that the existing European legal and administrative appeals system was fully compatible with the Aarhus Convention.

A brief discussion ensued in which the Commission mooted the possibility of revising the Regulation, and the Member with special responsibility said that he would raise the matter with his officials in cooperation with the other departments concerned. A discussion also took place on whether an appeal would help to clarify the legal situation given the potential repercussions on areas such as genetically modified organisms or pesticides of annulling the two decisions and the political difficulties inherent in following the appeal route while at the same time announcing changes to existing legislation.

The PRESIDENT concluded that the Commission had taken note of the letter sent by the Member with special responsibility for the Regulation in question and the arguments it contained, and of his intention to work on a future proposal amending the Regulation, but would also bear in mind the concerns raised in the course of the discussion.

It was not possible at this stage to prejudge or decide on the contents of a future proposal, which would have to follow the Commission's usual internal procedures.

He noted that the decision to be taken by the Commission purely concerned the lodging of appeals against two judgments of the Court, and had no bearing on any future proposed amendments to the relevant legislation, which would be discussed in the fullness of time and would have to be prepared in accordance with requirements.

The Commission adopted the decisions set out in documents C(2012)5069/2 and C(2012)5070/2, and decided to authorise the Legal Service to implement these decisions.

**8. REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT  
AND THE COUNCIL ON PROGRESS IN BULGARIA UNDER THE  
COOPERATION AND VERIFICATION MECHANISM  
(COM(2012)411 AND /2; SWD(2012)232 AND /2)**

**9. REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL ON PROGRESS IN ROMANIA UNDER THE COOPERATION AND VERIFICATION MECHANISM (COM(2012)410 AND /2; SWD(2012)231 AND /2)**

The PRESIDENT opened the discussion on the two reports submitted to the Commission for approval under the cooperation and verification mechanism (CVM). He reminded the meeting that at the time of the negotiations on the accession of Romania and Bulgaria to the European Union, it had been agreed to establish this mechanism to enable further work to be done on the issues of reform of the judicial system, the fight against corruption and, in the case of Bulgaria, the fight against organised crime.

Until now, reports on the progress made or, as the case might be, the lack of progress, had been submitted every six months, and implementation of the CVM would continue until all its objectives had been met and all its criteria duly fulfilled.

In 2011 the Commission had decided that, five years after the accession of Bulgaria and Romania to the European Union, a report should be drawn up on the process under way, taking due account of the durability and irreversibility of the reforms decided on and undertaken by these two Member States. He felt that the progress made on reform in these five years had been uneven. The two reports submitted, which gave an overview of all these issues, would encourage those who had strongly advocated these reforms, sometimes incurring personal risks, while also sending a clear signal that the Commission would continue to support all the necessary changes, even if this entailed upsetting certain vested interests. He also felt that in the two reports the Commission offered a fair, prudent and authoritative assessment of these two highly sensitive issues.

The PRESIDENT stressed that the general assessment acknowledged the progress made by the two Member States in question while also recognising that the reforms in these countries were not yet sustainable or irreversible. Numerous aspects of the legislative and institutional framework were in place, although there were still some problems concerning this aspect in Bulgaria, and from now on attention should

focus on implementation, which in some cases was still at the initial stage, and on ownership of the reforms, which was very different in the two countries. These two aspects - implementation and ownership - were key to keeping the reforms on course and ensuring that they were sustainable.

The actions and decisions taken by the public authorities in Romania and Bulgaria to encourage the timely implementation of these reforms were encountering numerous obstacles in the areas of judicial reform, the fight against corruption and, in the case of Bulgaria, the fight against organised crime. He pointed out, too, that the Commission experts and those of the Member States had warned the Commission of the fragility of the reforms embarked on, adding that this was clearly demonstrated by the recent regrettable events that had occurred in Romania.

The PRESIDENT said that the two reports were being adopted at a time when exceptional circumstances were raising very serious and legitimate questions about respect for the rule of law and the independence of the justice system in Romania. An effective and independent judicial system and respect for democratic institutions were essential for the mutual trust that had to exist within the European Union. The recent decisions taken in Romania, even if they could be explained in part by the polarisation of the country's political forces, raised serious questions about the government's commitment to upholding the rule of law within a pluralist democratic system.

He felt, too, that the challenging of court decisions, the weakening of the constitutional court, the circumvention of the procedures in place and the removal of essential power-balancing mechanisms had cast doubt over the Romanian government's commitment to upholding the rule of law. He noted the high degree of political tension between the main parties and stressed the need for strict respect, by the government and at all political levels, of the separation of powers and the independence of the judicial system.

The PRESIDENT said he was shocked by the verbal attacks on and intimidation of judges by certain Romanian politicians, and extremely concerned by the recent restriction placed on the powers of the Romanian constitutional court with regard to

parliamentary decisions. He emphasised that despite the party political power struggles, the parties must accept that they can act only in accordance with certain fundamental principles. In his view, the recent controversies threatened to undermine the progress made so far and raised fundamental questions about the future of the reforms already embarked on.

The report on Romania contained certain specific recommendations concerning the current situation which he had discussed at his recent meeting with the Romanian Prime Minister, Mr Victor Ponta. He also informed the Commissioners of the letter he had received from Mr Ponta on Monday and confirmed that the Romanian Prime Minister had agreed to implement the Commission's recommendations and restore the powers of the constitutional court and the respect for the principles underpinning European democracy.

He considered that the CVM had clearly proved its value and pointed out that it had been set up precisely in order to address situations like this one. He emphasised once again that respect for the rule of law and the independence of the judicial system were at the heart of its benchmarks. He added that the case at hand, unlike what had happened in Hungary some months ago, did not concern secondary European legislation. The only alternative open to the Commission would have been to initiate a procedure pursuant to Article 7 of the Treaty on European Union. However, this solution should only be used as a last resort when all the other instruments available had failed.

He considered that as far as Romania was concerned, clear commitments had been given, in the text of the report and in his contacts with the Prime Minister and Ms REDING's contacts with the Romanian Justice Minister, to resolve promptly all the points raised by the Commission. The Commission would continue to monitor the situation, through the CVM among other channels, and would act if the commitments undertaken were not honoured.

More generally, he noted that the conclusion of the exercise for the two Member States in question showed that at this stage no substantial progress had yet been made in the benchmarks that would enable the Commission to bring the

CVM to an end. The experience of the last five years showed that this mechanism had helped to promote changes in Bulgaria and Romania even if these changes had not yet reached the stage where they could be considered to be irreversible.

The PRESIDENT ended his comments by saying that, in the case of Romania, given the current political uncertainty, a new report would be adopted by the end of 2012 in which respect for the rule of law and the independence of the judicial process in the country would be assessed. In the case of Bulgaria, the next overall assessment would be carried out at the end of 2013. This would allow the Commission to monitor progress in the reforms undertaken by the Bulgarian authorities and would give it time to assess the results of what had actually been achieved.

By way of introduction, Ms REDING said that this was the second time this year that the Commission was faced with a very worrying situation because a Member State had failed to respect the principles of the rule of law, the first occasion being the adoption by Hungary, at the start of 2012, of laws affecting the powers of its central bank, data protection authority and judiciary. This had led to the launching of three infringement procedures.

She went on to underline the strictly legal nature of the steps taken by the Commission, as the guardian of the Treaties, in relation to the situation in Romania. There were three reasons for the Commission's concerns: (i) the use of emergency orders to change the powers of the Romanian constitutional court, thereby infringing the Constitution, (ii) use of the same instrument to change the rules on the majority required to endorse the impeachment of the President of Romania, again contrary to an explicit ruling by the constitutional court, and (iii) the replacement from one day to the next of the Ombudsman, the only institution empowered to apply for repeal of emergency orders before the constitutional court and which was, moreover, very active in combating corruption. Ms REDING added that in just a few days the Romanian government had abolished important checks and balances of the constitutional system, thereby undermining the principles of the rule of law.

Referring to the means available to the Commission to act in this case, she cited as a legal basis the Treaty of Accession of Romania and Bulgaria, in other words



European primary law. As unanimously requested by the Member States, this Treaty had provided for the introduction of the “Cooperation and Verification Mechanism” (CVM) with a view to monitoring the establishment of an impartial, independent and effective judicial and administrative system in the wake of the accession of these two new Member States.

While she deplored the negative political signal being sent by the current situation in Romania, she welcomed the report produced under the CVM, which was in fact the only practical instrument the Commission had in order to get Romania to rectify its recent decisions. Stressing the need for the Commission to express its position on this matter firmly, clearly, equitably and objectively, she drew attention to the fact that if the Commission’s recommendations in the above-mentioned report were not respected, the last resort would be to invoke Article 7 of the Treaty on European Union, which stated that certain rights deriving from the application of this Treaty to the Member State in question could be suspended in the event of a serious and persistent breach of the values of the Union.

She noted that it had not yet come the point where Article 7 would have to be invoked and that such a move would, moreover, be unprecedented. However, there were serious doubts as to whether the process of judicial reform started in Romania in the past five years was actually irreversible. She therefore unreservedly supported the firm terms used in the report, its stated intention to monitor progress closely in the coming months and the announcement of a further detailed report on these matters at the end of 2012. It was now time for Romania to go beyond declarations of intent and to take practical steps to restore the independence of its constitutional court and confidence in its democratic checks and balances. In conclusion, Ms REDING recommended that the Commission make an unambiguous public statement on this matter to make it quite clear that the European Union’s principles and value were not negotiable.

Ms MALMSTRÖM agreed with Ms REDING’s comments, adding that she also unreservedly supported the content of the CVM reports on Bulgaria and Romania.

Underlining the positive effects of these reports, which encouraged Member States to act and could also step up external pressure to do so, she said that her only question concerned the timetable and frequency of future reports. She questioned the logic, in the case of Bulgaria, of cancelling the interim report usually produced in February and postponing the next report under the Mechanism for 18 months, i.e. the end of 2013.

In relation to Romania, she expressed concern despite the promises made by the authorities to act quickly to remedy certain decisions, and interpreted the recent events as a sign that the reforms and certain principles such as the separation of powers had not taken root.

In terms of prevention, she referred to some of the means that the Commission could use to report any breaches of the principles of the rule of law, for instance the reports on corruption that her departments would be drawing up more systematically in future. Having said that, she regretted the fact that the European Union had few real means for dealing with Member States that flouted fundamental European values. She therefore proposed holding a policy debate on how the Commission could prevent and deal effectively with situations like that in Romania without going so far as to invoke Article 7 of the Treaty on European Union.

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

***General aspects***

- support for the general approach taken by the Commission in the CVM reports on Bulgaria and Romania; the need to underline the fair and objective nature of this process and its practical benefits for the citizens of the Member States concerned; the importance of having included precise assessment criteria in these reports and of having set a time limit for applying the mechanism;
- recognition of how effective the mechanism had been over the past five years in reforming the Bulgarian and Romanian judicial systems, in the light of the positive trend noted year on year, even though considerable efforts were still

needed, and the advisability of giving the credit for this to the successive governments since the two Member States joined the European Union;

- the relevance of drawing a clear distinction between the situations in Bulgaria and Romania, where developments have been very different;
- with regard to communication, the need to take account of citizens' expectations of the Commission, which had to send a clear message, and the attention to be paid to the concerns of European citizens in today's particularly tight economic climate in the Union;
- the advisability, in the young democracies that had recently become members of the European Union, of making particularly sure that both the courts and the media were independent;
- caution against viewing the discussions on the CVM reports in the context of the future question of Bulgaria and Romania joining the Schengen area;

***Specifically with regard to Bulgaria***

- the support for the Commission's choice to draw up the next CVM report at the end of 2013 in order to give the country enough time to implement the outstanding reforms;

***Specifically with regard to Romania***

- serious misgivings about the current breaches of the principles of the rule of law in Romania, the insistence on the Commission's legitimacy in adopting a very firm stance in this context, and the call not to be satisfied with statements of intent, but to trust only tangible results;
- the approval by the Members of the Commission of use of the CVM to address recommendations to the Romanian government in order to encourage it to make good the breaches, and in particular to repeal without delay the emergency ordinances;

- however, questions from some Members about the idea of combining the use of this systemic tool for raising standards in the long term with specific recommendations to remedy a temporary situation; hence the suggestion to stress the exceptional nature of using the mechanism in this particular case to remedy a situation that was just as exceptional;
- the need to exploit all means at the Commission's disposal when European values were undermined, but also the need to provide long-term assistance to the countries that had just joined the European Union to equip themselves with legal structures of the same standard as those in the other Member States;
- the confirmation of the effectiveness and success of the Commission's action, in particular given the Romanian government's rapid reaction in taking initiatives to provide answers to the 11 points set out by the Commission and to repeal the emergency ordinances in question, in particular by calling an extraordinary session of parliament, and the visit by the Romanian Prime Minister to Brussels, where he had met the PRESIDENT and the Presidents of the European Council and the European Parliament, Mr Herman Van Rompuy and Mr Martin Schulz;
- given the particular political background to the measures recently taken by the Romanian government, the reminder, in relation to communication by the Commission, not to use any form of words that could be interpreted as a sign of interference in the conduct of Romania's internal affairs, in particular in the referendum campaign under way;
- the advisability of reiterating the Commission's proposal to strengthen Chapters 23 and 24 of the negotiations for accession to the Union in order to avoid having to use the CVM again in situations similar to that in Romania at the moment; the indication that this question would be placed at the heart of the negotiating process with a view to future enlargements;
- likewise, the need for consistency in the Commission's action and the usefulness of having a debate on the measures that could be considered at

European level if a Member State not subject to the CVM were to breach the principles of the rule of law; furthermore, support for the suggestion that the Commission hold a policy debate on these substantive issues.

The PRESIDENT thanked the Members of the Commission for their comments and their support for the two texts proposed. He also thanked Ms REDING et Ms MALMSTRÖM, and their departments, for the work they had done, and the Secretariat-General for its efficient coordination and preparation of these two cases.

In response to certain comments, he pointed out that it was not possible to separate the CVM from recent events in Romania since they were closely linked by the independence of the courts and compliance with the rule of law, two essential democratic counterbalances. He criticised what he regarded as a breach of the constitutional order in Romania, which undermined values at the core of our European democratic systems, and took the view that, in this context, it was perfectly legitimate and coherent that these questions were addressed under the CVM.

Moreover, if by any chance the government of another Member State that was not subject to such a monitoring mechanism were one day to commit such breaches of fundamental democratic principles, it would be for the Commission to act without delay, as it had done in the case of Hungary not long ago and on other recent occasions, and it would not hesitate to use all its political powers of persuasion as a lever and to bring certain decisions before the Court of Justice.

He stressed the impartiality of the Commission, which was the guarantee of its credibility, in defending the respect for the rule of law within the European Union and examining, when a Member State did not fulfil its duties, the most appropriate instrument in each situation, including recourse to Article 7 since the entry into force of the Treaty of Lisbon afforded that possibility.

The PRESIDENT recalled the principle of sincere cooperation between the Union and the Member States, which was enshrined in Article 4 of the Treaty on European Union. He concluded by expressing his confidence that the principle would be fully

applied by Romania and, more specifically with regard to Bulgaria, repeated the Commission's commitment to pursuing, until the next CVM report, the monitoring and evaluation of the implementation of reforms.

The Commission approved the reports concerning Bulgaria and Romania issued under the cooperation and verification mechanism, as set out in COM(2012)411/2 and COM(2012)410/2, for transmission to Parliament and the Council and, for information, to the national parliaments, together with staff working documents SWD(2012)232/2 and SWD(2012)231/2, the contents of which were noted.

**10. POLICY DEBATE ON EUROPEAN UNION TRADE POLICY**

**(SWD(2012)219; SEC(2012)478; RCC(2012)81)**

**11. JOINT RECOMMENDATION OF THE COMMISSION AND OF THE HIGH REPRESENTATIVE OF THE EUROPEAN UNION FOR FOREIGN AFFAIRS AND SECURITY POLICY AUTHORISING THE OPENING OF NEGOTIATIONS ON A FRAMEWORK AGREEMENT BETWEEN THE EUROPEAN UNION AND JAPAN**

**(JOIN(2012)390 AND /2; RCC(2012)81)**

**12. COMMISSION RECOMMENDATION FOR A COUNCIL DECISION AUTHORISING THE OPENING OF NEGOTIATIONS ON A FREE TRADE AGREEMENT BETWEEN THE EUROPEAN UNION AND JAPAN**

**(COM(2012)390 TO /3; SWD(2012)209 AND /2; SWD(2012)210; SEC(2012)441; SEC(2012)442; SEC(2012)443; SEC(2012)440; RCC(2012)81)**

The PRESIDENT introduced the two components of the day's discussion devoted to trade issues, noting that one of them, namely the opening of negotiations with a view to concluding a framework agreement and a free trade agreement with Japan, would have immediate operational consequences because it would enable the Council to give a mandate to the Commission to conduct the negotiations with

Japan. The second component, namely the policy debate on the European Union's trade policy, was aimed at defining a general policy framework.

He noted that open trade and investment arrangements were a pre-condition for sustained growth and that therefore trade liberalisation could be considered as a driver of growth, as demonstrated by the process of European economic integration. He noted the particular relevance of promoting this source of growth in times of economic recession, while recognising the difficulties involved in taking the concrete measures leading to greater trade liberalisation. He recalled that during the various G20 summits, the Commission had always been at the forefront of the fight against protectionism. However, he felt that the Commission should now clearly demonstrate its commitment to greater liberalisation by launching in practice the negotiation of new trade agreements, as it had done today by proposing two recommendations aimed at entering into negotiations with Japan.

At the same time, he stressed how important it was for the European Union to defend its economic interests by adopting an offensive market access approach, but without taking a protectionist stance.

As regards the agreements with Japan, he recalled that the Japanese economy was the world's third largest and therefore represented significant trade expansion potential for the Union. He was convinced that Japan was now ready to engage in fair negotiations. He therefore felt that the time had come to begin these negotiations and expressed his full support for the initiative.

Mr DE GUCHT started by presenting the proposed guidelines for the future of the European Union's trade policy.

He recalled first of all that EU growth was largely dependent on global growth, since external demand was currently its main source of growth. He noted that international trade would play an increasingly important role in this respect since forecasts suggested that 90% of future global economic growth would be produced outside of Europe, in particular in Asia. He added that trade liberalisation also

generated major structural reforms by stimulating competitiveness, innovation and productivity.

Using some graphs, he explained that the European Union was experiencing a very positive, growing trade surplus in the sectors of manufactured goods and of services, but pointed out that there were substantial imbalances between Member States, which needed to be remedied.

He reiterated the Union's commitment in principle to a multilateral trade liberalisation approach, but pointed out that bilateral processes should be pursued since little progress could be expected in the near future in the World Trade Organisation (WTO) negotiations. In this respect, he reviewed progress made in ongoing discussions or negotiations with a large number of trade partners, highlighting the magnitude of the task and the attending difficulties in terms of human resources within his departments.

He explained that trade and investment agreements now covered issues linked to market access for goods and services, non-tariff barriers and regulatory convergence, public procurement, intellectual property, investment liberalisation and protection, competition rules and sustainable development. He indicated that the removal of non-tariff barriers and regulatory convergence were currently the areas where the largest gains could be made, but were also the most difficult issues to negotiate.

He went on to talk about the economic benefits to be gained from this bilateral trade liberalisation approach in terms of gross domestic product (2%) and job creation (2 million jobs), and pointed out that two thirds of such benefits could be achieved through two agreements, namely with the USA and Japan.

The PRESIDENT then turned to the trade relationship with the United States, which was the biggest in the world in terms of both volume and the level of integration. He said that the interim report of the EU-US High-Level Working Group for Growth and Jobs should be adopted by the end of the year, paving the way for the launch of negotiations in early 2013.



On a more general note, Mr DE GUCHT stressed that it was important for the EU to take pains to defend its interests in all bilateral trade negotiations.

Turning to that day's proposal to open negotiations with Japan, Mr DE GUCHT noted that a free trade agreement with Japan would open up huge potential. The main difficulty in the negotiations would be to resolve the question of non-tariff barriers. Most European industries were broadly in favour of this development, except the car industry, which was already in difficulties and feared a negative impact. He stressed, however, that the industry's problems were mainly structural and unrelated to the conclusion of free trade agreements.

He was sure that the EU's offensive trade interests were properly defended in the proposed mandate, in particular because it defined specific goals on non-tariff barriers and set a one-year time-limit for achieving concrete results, failing which the negotiations would be suspended.

Lastly, he mentioned the problems in implementing the agreements because of the time needed to translate them.

In the ensuing Commission debate, the following points came to the fore in relation to the EU's general strategy on trade policy: wide support for the proposed idea of openness and unanimous recognition of the importance of trade as a key source of growth and as a factor complementing the Union's foreign policy, but also the need to promote and protect European interests in bilateral initiatives.

As regards the framework agreement and the free trade agreement between the European Union and Japan, the Commission gave its broad support to the two recommendations aimed at opening negotiations with a partner that offered the Union great trading potential, while stressing that the elimination of non-tariff barriers in many areas should be a prime concern.

The PRESIDENT thanked the Commission Members for their contributions and concluded with the remark that the European Union had a real interest in developing closer trade links with Japan in the near future. He stressed that, if the agreement came about, it would create the biggest free-trade area in the world.

He was pleased at the standard of the day's debate and noted that the Commission fully supported the trade policy guidelines presented by Mr DE GUCHT.

The Commission:

- took note of the results and conclusions of the policy debate, of the Commission staff working document on external sources of growth in SWD(2012)219 and of the factsheet on implementation of the European Globalisation Adjustment Fund distributed under the authority of Mr ANDOR as SEC(2012)478;
- adopted the joint recommendation in JOIN(2012)390/2 for transmission to the Council;
- adopted the recommendation in COM(2012)390/2 and /3 for transmission to the Council, accompanied by the impact assessment and the summary thereof in staff working documents SWD(2012)209/2 and SWD(2012)210 respectively, the contents of which were noted.
- also took note of the opinion of the Impact Assessment Board on the above recommendation, as set out in SEC(2012)440, and of the supporting documents distributed as SEC(2012)441, SEC(2012)442 and SEC(2012)443.

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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 13.13.