



EUROPEAN COMMISSION

SECRETARIAT-GENERAL

PV(2013) 2065 final

Brussels, 27 November 2013

MINUTES
of the 2065th meeting of the Commission
held in Brussels
(Berlaymont)
on Wednesday 6 November 2013
(morning)

PV(2013) 2065 final

TABLE OF CONTENTS

Attendance list	4-6
1. AGENDAS (OJ(2013) 2065/FINAL; SEC(2013) 562/2).....	7
2. WEEKLY MEETING OF CHEFS DE CABINET (RCC(2013) 2065).....	7
3. APPROVAL OF THE MINUTES AND SPECIAL MINUTES OF THE 2063RD AND 2064TH MEETINGS OF THE COMMISSION (16 AND 22 OCTOBER) (PV(2013) 2063; PV(2013) 2063, PART 2; PV(2013) 2064; PV(2013) 2064, PART 2).....	7
4. INTERINSTITUTIONAL RELATIONS.....	8
4.1. LEGISLATIVE MATTERS	8
4.2. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL	11
4.3. RELATIONS WITH PARLIAMENT	11
5. MONITORING THE APPLICATION OF EUROPEAN UNION LAW	12
STATE AID – INDIVIDUAL CASES (SEC(2013) 577/2).....	12
6. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS.....	12
6.1. WRITTEN PROCEDURES APPROVED (SEC(2013) 563 ET SEQ.).....	12
6.2. EMPOWERMENT (SEC(2013) 564 ET SEQ.)	12
6.3. DELEGATION AND SUBDELEGATION OF POWERS (SEC(2013) 565 ET SEQ.).....	12
6.4. SENSITIVE WRITTEN PROCEDURES (SEC(2013) 566 AND /2)	13
7. ADMINISTRATIVE AND BUDGETARY MATTERS (SEC(2013) 567/2).....	13
7.1. DG RESEARCH AND INNOVATION – APPOINTMENT OF AD14/15 DIRECTOR (PERS(2013) 106 TO /4).....	13

7.2. *DG ENERGY – APPOINTMENT OF AD16 DIRECTOR-GENERAL* 14

8. COMMISSION IMPLEMENTING DECISIONS AUTHORISING THE
PLACING ON THE MARKET OF PRODUCTS CONTAINING,
CONSISTING OF OR PRODUCED FROM GENETICALLY
MODIFIED MAIZE PURSUANT TO REGULATION (EC) 1829/2003
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON
GENETICALLY MODIFIED FOOD AND FEED (C(2013) 4719/3;
C(2013) 4755/3; C(2013) 4743/3; RCC(2013) 133).....14

9. PROPOSAL FOR A COUNCIL DECISION CONCERNING THE
PLACING ON THE MARKET FOR CULTIVATION, IN
ACCORDANCE WITH DIRECTIVE 2001/18/EC OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL, OF A MAIZE PRODUCT
(*ZEA MAYS L.*, LINE 1507) GENETICALLY MODIFIED FOR
RESISTANCE TO CERTAIN LEPIDOPTERAN PESTS
(COM(2013) 758; RCC(2013) 133).....15

Single sitting: Wednesday 6 November 2013 (morning)

The sitting opened at 10.08 with Mr BARROSO, President, in the chair.

Present:

Mr BARROSO	President	
Ms REDING	Vice-President	
Mr ALMUNIA	Vice-President	Items 8 and 9
Mr KALLAS	Vice-President	
Ms KROES	Vice-President	
Mr TAJANI	Vice-President	Items 8 and 9
Mr ŠEFČOVIČ	Vice-President	
Mr REHN	Vice-President	Items 8 and 9
Mr POTOČNIK	Member	
Mr BARNIER	Member	
Mr ŠEMETA	Member	
Mr DE GUCHT	Member	
Ms GEOGHEGAN-QUINN	Member	
Mr LEWANDOWSKI	Member	
Ms DAMANAKI	Member	
Mr OETTINGER	Member	Items 1 to 9 (in part)
Mr HAHN	Member	Items 8 and 9
Ms HEDEGAARD	Member	
Mr FÜLE	Member	
Ms MALMSTRÖM	Member	
Mr CIOLOŞ	Member	
Mr BORG	Member	
Mr MIMICA	Member	

Absent:

Baroness ASHTON	High Representative/ Vice-President
Mr PIEBALGS	Member
Ms VASSILIOU	Member
Ms GEORGIEVA	Member
Mr ANDOR	Member

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

Mr BANNERMAN	Adviser in Baroness ASHTON's Office
Mr KARHUNEN	Deputy Chef de cabinet to Mr PIEBALGS
Mr HILL	Deputy Chef de cabinet to Ms VASSILIOU
Ms HRISTCHEVA	Deputy Chef de cabinet to Ms GEORGIEVA
Ms GAGO	Chef de cabinet to Mr ANDOR

The following also sat in:

Mr LAITENBERGER	Chef de cabinet to the PRESIDENT	
Mr ROMERO REQUENA	Director-General, Legal Service	
Mr PAULGER	Director-General, DG Communication	
Mr DOENS	Head of the Commission Spokesperson Service	
Ms AHRENKILDE HANSEN	Commission Spokeswoman	Items 1 to 9 (in part)
Mr THEBAULT	Head of the Bureau of European Policy Advisers	Items 8 and 9 (in part)
Ms MARTÍNEZ ALBEROLA	Adviser in the PRESIDENT's Office	
Mr NOCIAR	Chef de cabinet to Mr ŠEFČOVIČ	Items 1 to 7
Ms DARMANIN	Chef de cabinet to Mr BORG	
Ms TESTORI COGGI	Director-General, DG Health and Consumers	

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

1. AGENDAS

(OJ(2013) 2065/FINAL; SEC(2013) 562/2)

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 item 7.2 (on an administrative decision) to this meeting's agenda.

2. WEEKLY MEETING OF CHEFS DE CABINET

(RCC(2013) 2065)

The Commission considered the Secretary-General's report on the weekly meeting of Chefs de cabinet held on Monday 4 November.

**3. APPROVAL OF THE MINUTES AND SPECIAL MINUTES OF THE 2063RD
AND 2064TH MEETINGS OF THE COMMISSION (16 AND 22 OCTOBER)
(PV(2013) 2063; PV(2013) 2063, PART 2; PV(2013) 2064; PV(2013) 2064,
PART 2)**

The Commission approved the minutes of its 2063rd and 2064th meetings.

4. INTERINSTITUTIONAL RELATIONS

4.1. LEGISLATIVE MATTERS

- i) **Multiannual Financial Framework 2014-2020 – Cohesion policy – Common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Council Regulation (EC) 1083/2006 (Regulation) – VAN NISTELROOIJ / KREHL report – 2011/0276 (COD)**
(SI(2013) 561 TO /3)

The Commission approved the line set out in SI(2013) 561/3.

- ii) **Multiannual Financial Framework 2014-2020 – Union programme to support specific activities in the field of financial reporting and auditing for the period 2014-2020 (Regulation) – STOLOJAN report – 2012/0364 (COD)**
(SI(2013) 562)

The Commission approved the line set out in SI(2013) 562.

- iii) **Multiannual Financial Framework 2014-2020 – Guidelines for trans-European telecommunications networks and repeal of Decision 1336/97/EC (Regulation) – TOŠENOVSKÝ report – 2011/0299 (COD)**
(SI(2013) 564 TO /3)

The Commission approved the line set out in SI(2013) 564/2 and /3.

- iv) Procedures for applying the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Serbia, of the other part, and for applying the Interim Agreement between the European Community, of the one part, and the Republic of Serbia, of the other part (Regulation) – WINKLER report – 2011/0465 (COD)**
(SI(2013) 565)

The Commission approved the line set out in SI(2013) 565.

- v) Multiannual Financial Framework 2014-2020 – Establishment for the period 2014 to 2020 of the Justice programme (Regulation) – CLAEYS / BERLINGUER report – 2011/0369 (COD) / Establishment for the period 2014 to 2020 of the Rights and Citizenship Programme (Regulation) – GÖNCZ report – 2011/0344 (COD)**
(SI(2013) 567)

The Commission approved the line set out in SI(2013) 567.

- vi) European Foundation (EF) Statute (Council Regulation) – REGNER report – 2012/0022 (APP)**
(SI(2013) 568)

The Commission approved the line set out in SI(2013) 568.

- vii) Data protection package – Protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data (Directive) / Protection of individuals with regard to the processing of personal data and the free movement of such data (Regulation) – DROUTSAS / ALBRECHT reports –**

2012/0010 (COD) / 2012/0011 (COD)
(SI(2013) 569 AND /2)

The Commission took note of the information in SI(2013) 569/2.

- viii) Conclusion of the Protocol between the European Union and the Kingdom of Morocco setting out the fishing opportunities and financial contribution provided for in the Fisheries Partnership Agreement in force between the two Parties (Council Decision) – FRAGA ESTÉVEZ report – 2013/0315 (NLE)**
(SI(2013) 572)

The Commission approved the line set out in SI(2013) 572.

- ix) Application of Protocol No 2 of the Treaty on the Functioning of the European Union on the application of the principles of subsidiarity and proportionality to the Proposal for a Council regulation on the establishment of the European Public Prosecutor's Office**
(SNP(2013) 8)

The Commission approved the line set out in SNP(2013) 8.

- x) Action to be taken on Parliament's legislative opinions and resolutions of a legal nature**
(SP(2013) 762)

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(2013) 762, drawn up following the October II part-session of Parliament, the contents of which were noted.

4.2. RELATIONS WITH THE EUROPEAN COUNCIL AND THE COUNCIL

xi) Programming of Council business

(SI(2013) 560; SI(2013) 573)

The Commission took note of the information in SI(2013) 560 and SI(2013) 573 on the Council meetings between 30 October and 20 November.

4.3. RELATIONS WITH PARLIAMENT

xii) Results of Parliament's October II part-session

(SP(2013) 748; SP(2013) 749)

The Commission took note of the information in SP(2013) 748 and SP(2013) 749 on the proceedings of the part-session of Parliament held in Strasbourg from 21 to 24 October.

xiii) Participation of Members of Parliament in international conferences

(SP(2013) 765)

- 23rd Regular Meeting of the International Commission for the Conservation of Atlantic Tunas (Cape Town, 18-25 November)

The Commission agreed to the request to the PRESIDENT from Mr Martin Schulz, President of Parliament, concerning the attendance of three Members of the European Parliament at the above-mentioned meeting as observers in the EU delegation, with a reminder about the procedure to be followed.

5. MONITORING THE APPLICATION OF EUROPEAN UNION LAW

STATE AID – INDIVIDUAL CASES

(SEC(2013) 577/2)

The Commission adopted the decisions in SEC(2013) 577/2.

6. WRITTEN PROCEDURES, EMPOWERMENT AND DELEGATION OF POWERS

6.1. WRITTEN PROCEDURES APPROVED

(SEC(2013) 563 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 21 October and 1 November.

6.2. EMPOWERMENT

(SEC(2013) 564 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted between 21 October and 1 November.

6.3. DELEGATION AND SUBDELEGATION OF POWERS

(SEC(2013) 565 ET SEQ.)

The Commission took note of the Secretariat-General's memoranda recording decisions adopted under the delegation and subdelegation procedure between 21 October and 1 November, as archived in e-Greffe.

6.4. SENSITIVE WRITTEN PROCEDURES
(SEC(2013) 566 AND /2)

The Commission took note of the sensitive written procedures for which the time limit expired between 4 and 8 November.

7. ADMINISTRATIVE AND BUDGETARY MATTERS
(SEC(2013) 567/2)

ADMINISTRATIVE MATTERS
(PERS(2013) 136 AND /2)

7.1. DG RESEARCH AND INNOVATION – APPOINTMENT OF AD14/15
DIRECTOR
(PERS(2013) 106 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, ‘Biotechnologies, Agriculture, Food’, in DG Research and Innovation (PERS(2013) 106 and /2).

It took note of the opinions of the Consultative Committee on Appointments of 18 September and 3 October 2013 (PERS(2013) 106/3 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 GEOGHEGAN-QUINN, it then decided to appoint Mr John BELL to the post.

This decision would take effect on a date to be determined.

7.2. DG ENERGY – APPOINTMENT OF AD16 DIRECTOR-GENERAL

On a proposal from Mr ŠEFČOVIČ, in agreement with the PRESIDENT and Mr OETTINGER, the Commission decided to fill the post of Director-General of DG Energy by transferring in the interest of the service, under Article 7 of the Staff Regulations, Mr Dominique RISTORI, currently Director-General of the Joint Research Centre.

This decision would take effect on 1 January 2014.

8. COMMISSION IMPLEMENTING DECISIONS AUTHORISING THE PLACING ON THE MARKET OF PRODUCTS CONTAINING, CONSISTING OF OR PRODUCED FROM GENETICALLY MODIFIED MAIZE PURSUANT TO REGULATION (EC) 1829/2003 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON GENETICALLY MODIFIED FOOD AND FEED

(C(2013) 4719/3; C(2013) 4755/3; C(2013) 4743/3; RCC(2013) 133)

The Commission:

- adopted the Dutch, English and French texts and decided to notify each of the companies to which the decision was addressed, of the Commission's implementing decisions set out in C(2013) 4719/3 and C(2013) 4755/3;
- adopted the Dutch and French texts and decided to notify the company to which the decision was addressed, of the Commission's implementing decisions set out in C(2013) 4743/3.

**9. PROPOSAL FOR A COUNCIL DECISION CONCERNING THE PLACING ON THE MARKET FOR CULTIVATION, IN ACCORDANCE WITH DIRECTIVE 2001/18/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL, OF A MAIZE PRODUCT (*ZEA MAYS L.*, LINE 1507) GENETICALLY MODIFIED FOR RESISTANCE TO CERTAIN LEPIDOPTERAN PESTS
(COM(2013) 758; RCC(2013) 133)**

The PRESIDENT opened the discussion on the proposal for a Council Decision concerning the placing on the market for cultivation of a maize product *Zea mays L.*, line 1507, genetically modified for resistance to certain pests, submitted by Mr BORG to the Commission for approval.

The PRESIDENT prefaced his remarks by saying that the legal framework for the authorisation to place genetically modified organisms (GMOs) on the market for cultivation, in force since 2001, was perfectly clear, and stressing that its sole objective was safety. He recalled, moreover, that the Commission and the co-legislators had agreed on a system based on the principle of the scientific rather than political assessment of each authorisation to place a product on the market, taken individually, and that the current legislation obliged the Commission to take decisions based on the scientific assessment provided by the European Food Safety Authority (EFSA).

The role of the Commission with respect to the proposal presented this day was not to take a position for or against GMOs in general or to exercise its power of legislative initiative or discretionary power as it did, for instance, in relation to infringement proceedings. It was rather a question of the Commission, as the executive power, applying the law in force and in addition taking the measures necessary to comply with the judgment of the General Court of 26 September in which the latter found that the Commission had failed to act by not forwarding to the Council a proposal for a decision concerning placing the GMO concerned on the

market for cultivation. It was the credibility of the Commission as guardian of the Treaties that was at stake.

The PRESIDENT thought it advisable in this case to remind Member States of their responsibilities. If they did not adopt the decisions proposed by the Commission, they could block them by means of a qualified majority vote in the Council or under the comitology procedure. He also referred to the proposal which the Commission had presented in July 2010 and which gave Member States the possibility of limiting or banning the cultivation of GMOs on their territories for reasons other than those based on a scientific assessment. This proposal was currently blocked in the Council.

Given the legal and political background and the sensitive nature of GMO issues in the eyes of the European public, he acknowledged that the task of Mr BORG, the Commission Member responsible, to get the Council to adopt the proposal presented this day, was no easy one. Therefore he urged the entire Commission to support him. He suggested that, in the communication efforts to be made, clear reference should be made to the existing legal framework and obligations the Commission must fulfil following the General Court's judgment, as well as to Member States' responsibilities.

Mr BORG took the floor and reviewed the history of the proposal submitted this day to the Commission for adoption. He reminded the meeting that the request for authorisation had been made in 2001 by the company Pioneer, under Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms. He referred to the first proceeding for failure to act brought by Pioneer against the Commission before the Court of Justice of the European Union on the grounds that the Commission had not submitted a decision on the authorisation of this crop to the vote of the Regulatory Committee. The General Court ended this proceeding when the Commission presented a draft authorisation decision to the Regulatory Committee in February 2009. However, the Committee had not issued an opinion. In 2010, Pioneer brought a second proceeding against the Commission for failure to act (case T-164/10), accusing it this time of failing, in the absence of an opinion of the Regulatory Committee, to submit the draft

authorisation decision to the Council, in line with the comitology procedure applicable at the time. He concluded by referring to the judgment of 26 September 2013 in case T-164/10, in which the Court stated that the Commission had failed to fulfil its obligations under Directive 2001/18/EC by failing to submit to the Council a proposal for authorisation, as it was bound to do by the 'comitology' decision. This was why he was proposing this day that the Commission, in line with Article 266 of the Treaty on the Functioning of the European Union and in application of the Court's decision, should submit to the Council a proposal for a decision to authorise the placing on the market of the genetically modified maize 1507 for cultivation.

Mr BORG called on the Commission, as both the guardian of the law and a political body, to distinguish between the technical and policy management issues. He pointed out that EFSA had issued six favourable scientific opinions in twelve years concerning the request for authorisation of the genetically modified maize 1507, in 2005, 2006, 2008, 2011 and 2012, and that the Commission was bound to respect those opinions.

He then set out the three options among which the Commission must choose. The first was to do nothing and ignore the Court's decision, which would be inconceivable for the institution designated as the guardian of European law under the treaties. The second option could be to bring an appeal. On this point, however, he referred to the analysis by the Commission's Legal Service, which considered that, in the absence of sound legal arguments, such an appeal would very probably be rejected as inadmissible by the Court of Justice. Moreover, it would not have suspensory effect on the Commission's obligation to submit a proposal for a decision to the Council. Lastly, the third option would be to adopt the proposal for a decision authorising the placing on the market of the genetically modified maize 1507 for cultivation, and to tie it in with the Commission's 2010 legislative proposal – which was still pending before the Council – to extend the subsidiarity principle by allowing the Member States to prohibit or restrict the cultivation of GMOs in their territory.

He himself favoured this third option, in his view the only one that was both legally and politically possible in order to comply with the law and allow the

Member States to adopt a position.

With regard to the content of the proposal for a decision submitted this day to the Commission, he emphasised the conditions accompanying it, in particular the obligation for the consent-holder to submit a monitoring plan to monitor the possible unforeseen effects of the product on insects not targeted by the pest-resistant GMO (Annex I to the Council's proposal for a decision).

Winding up his presentation, Mr BORG said he trusted that the Environment Council of 13 December would be able to examine the proposal for a decision if, as he hoped, it was adopted by the Commission this day.

In an in-depth discussion, the Commission referred to the following points of the proposal:

- the vital importance, in the context of the Council's proposal for a decision on the request for authorisation in question, to make progress with the proposal submitted by the Commission in 2010 in order to reinforce subsidiarity by allowing the Member States to restrict or prohibit the cultivation of GMOs in their territories;
- the need to analyse the possible options and select the one that best reflected the Commission's policy with regard to GMOs and the approach taken by it so far;
- for some, the need for the Commission to have political leeway to decide on the request for authorisation; likewise, the importance for the Commission to act as a political body, without taking cover behind a 'technocratic' argument; for others, though, recognition that a scientific evaluation could not be likened or reduced to a technical measure; hence the view that the Commission had to rely on purely scientific considerations, follow an approach based strictly on these considerations and, accordingly, let the EFSA carry out its task as laid down in the current legislation; in this context, the challenge of contributing to better acceptance of GMOs by public opinion on the basis of a robust scientific analysis;

- the view expressed by some Members that, by adopting the proposal in question, the Commission might run the risk of finding itself, unjustifiably, in the position of scapegoat in the eyes of the public, most of whom were hostile to GMOs and their authorisation in Europe; emphasis on the fact that Commission action in this field would be exploited by populist Eurosceptic movements, in particular in the context of the forthcoming elections to the European Parliament; hence the conclusion that, despite the General Court's judgment finding that the Commission had failed to act, it was in no way obliged to propose the authorisation of the cultivation request for genetically modified maize 1507, and that it could therefore propose to refuse the request if it justified this measure by sound arguments;
- questions about the interpretation of the EFSA's scientific opinions, felt by some to be nuanced, which made it impossible to interpret them unequivocally;
- the view in favour of lodging an appeal against the judgment by the General Court and the comment that the Commission remained free to assess the advisability of such an appeal which, in this case, would allow it to send an important political signal, along the same lines as the arguments it had put forward, in particular in its defence; acknowledgement that the option of an appeal remained a possibility, in relation to both a draft decision rejecting the authorisation request and one approving it;
- along the same lines, the usefulness of obtaining, through the appeal, an interpretation by the Court of Justice of the assessment by the General Court that the Commission, as a delaying tactic, had sent numerous requests for an opinion to the EFSA while waiting for new scientific data, thereby justifying the failure to send the proposal for a decision to the Council;
- the view that, given the sensitivity and complexity of the questions relating to authorisations to place GMOs on the market for cultivation, the Commission had to demonstrate that it had acted diligently rather than delaying proceedings;
- questions about the refusal by the applicant to amend the notification of its

authorisation request and the impact on the applicable comitology procedure in the case in question; the advisability for the Commission of taking into account the change in the comitology rules following the entry into force of the Treaty on the Functioning of the European Union and reference to the possibility of it reviewing the request on that basis;

- the importance of taking into account the consequences of a decision to refuse the authorisation for relations between the Union and non-member countries, and in particular with the major players in world trade; the need for an approach based on known rules;
- the need to distinguish the technical aspects from political considerations; at a technical level, the need to think of ways of alleviating the production shortfall of certain crops by supporting scientific research in the bio-economy field.

Questioned by the PRESIDENT about the viability of the different options put forward during the discussion, the Director-General of the Legal Service immediately raised three key aspects of primary legislation to be borne in mind in this case. He cited Article 41 of the Charter of Fundamental Rights of the European Union, which provided that every person had the right to have his or her affairs handled within a reasonable time by the institutions, bodies, offices and agencies of the Union. He also referred to the third paragraph of Article 265 and, in particular, the first paragraph of Article 266 of the Treaty on the Functioning of the European Union, which stated that the institution whose failure to act has been declared contrary to the Treaties was required to take the necessary measures to comply with the judgment of the Court of Justice of the European Union.

Noting the long history of this case and the judgment given by the General Court, which found the Commission had acted ‘in a dilatory manner’, the Director-General of the Legal Service stressed that the Commission was duty bound to adopt a decision without any more delay. Referring in particular to paragraph 79 of the grounds of the judgment, in which the General Court stated that ‘none of the arguments put forward by the Commission justify it not having submitted the proposal for a decision to the Council’, he insisted that, whatever legal arguments

were invoked to try to justify maintaining a wait-and-see approach, that paragraph simply could not be ignored.

He then turned to the proposal for a Council decision which had been laid before the Commission this day. He pointed out that, according to the principle underlying Directive 18/2001 on the deliberate release into the environment of genetically modified organisms, the Commission must propose to authorise the marketing of GMOs for cultivation purposes unless a scientific assessment proved that there was a risk to the environment or health. EFSA had rejected the existence of such a risk on six occasions.

As for the possibility of an appeal, the Director-General pointed out first of all that, under Article 278 of the Treaty on the Functioning of the European Union, actions brought before the Court of Justice of the European Union did not have a suspensory effect. He then gave two reasons why there was little scope for an appeal based on arguments regarding the applicable comitology rules. First, in paragraph 76 of its judgment, the General Court had agreed with the interpretation of both Pioneer and the Commission that the authorisation request lodged by the applicant was still subject to the comitology rules pre-dating the entry into force of the Treaty on the Functioning of the European Union, i.e. the 1999 rules, which applied at the time when the Committee delivered its opinion in the request procedure. Second, even if the new comitology rules were to apply in the case in question, the Commission would in any case not be in a better position, as it had not resubmitted its proposal for a decision to the committee responsible under the new comitology rules, even though, in its view, an EFSA opinion dating from October 2011 would have justified a change to the notification by Pioneer and hence to its proposal for a decision.

The PRESIDENT thanked the Director-General of the Legal Service for clarifying these points in the Commission's debate.

Mr BORG then returned to certain points that had been raised in the discussion, replying in particular to the argument that, in its assessments, EFSA did not conclude unambiguously that cultivation of this GMO would have no damaging

effects. He explained that this was why, in its proposal for a Council decision, the Commission had set prior conditions for authorising the marketing of the product for cultivation purposes, such as a monitoring plan. He also pointed out that the marketing of line 1507 genetically modified maize was already authorised for food and feed uses. Finally, he was adamant that the Commission could not present a proposal that was contrary to the law on the pretext that it would be favourably received by public opinion in certain Member States.

The PRESIDENT thanked Mr BORG and the other Members of the Commission for their contributions, which had provided the basis for a substantive debate on the different positions expressed. He noted that a majority of Commission Members supported the approach advocated by Mr BORG, while reminding everyone of the need to attach suitable importance to communication on this complex issue.

At the end of the discussion, the Commission adopted the proposal for a Council decision set out in COM(2013) 758, for transmission to the Council, and, for information, to the European Parliament and the national parliaments.

The Commission's other discussions on this item are recorded in the special minutes.

*

* *

The Commission's other discussions on certain agenda items are recorded in the special minutes.

*

* *

The meeting closed at 12.13.