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## **EUROPEAN COMMISSION RESIGNATION**

**March 18, 1999 UPDATE**

This memorandum provides an update to our March 16 Special Report on the En Bloc Resignation of the European Commission.

### **I. Overview of Developments**

Since the dramatic resignation of the European Commission on Monday evening, few decisions appear to have been made with respect to the calendar for ongoing work or the manner or timing of the appointment of the new Commission. However, a general trend toward viewing these political events as positive for the long-term effectiveness of the Commission and other European Institutions has begun to emerge. Described in the popular press as an opportunity for “a new culture of political responsibility and democratic accountability,” a “victory for democracy,” and a “cleansing of the EU stable,” one of the institutional questions presented is whether Member States will nominate strong leaders for the interim Commission to improve its management and effectiveness, or instead pave the way for the Parliament to increase its own influence over a weakened Commission. While the press has already characterized developments as the beginning of a power shift toward the Parliament, such newfound Parliamentary power has yet to be tested in any significant way.

### **II. Impact on the Commission's Work**

Of immediate interest and concern is the extent to which the caretaker Commission will carry on its work. On March 17, the outgoing Commissioners collectively announced that they had “no desire or intention of remaining in office a moment longer than {they} have to” and that while European law does not limit the power of the Commission under such circumstances, the Commission has nevertheless decided to exercise its powers “in a restrictive manner, i.e., to deal with current and urgent business, and to comply with { } institutional and legal obligations, but not to take fresh political initiatives.”

Commissioner Van Miert explained that the Commissioners decided not to carry on with business as usual because it might have created the impression that they wanted to stay in office for the remainder of their terms. Instead, the Commissioners decided to ensure that they would simply carry out their duties under Community law, e.g., to make decisions required by regulatory timeframes, as is the case under the Merger Control Regulation, or to take action on specific items when requested by other Institutions.

As the Commission's statement makes clear, however, they will not address new issues or undertake new initiatives. For example, at the first "regular" meeting of the caretaker Commission yesterday, the Commission did not adopt the eagerly awaited White Paper on Competition Policy that had been developed over the past two years.

On the other hand, the Commission did yield to Member State pressure yesterday by agreeing to establish a tougher office within the Commission to investigate fraud and misconduct, both internally and in the Member States. Commissioner Van Miert reportedly explained that this decision was possible because the measure had met with prior agreement of the Parliament and of the European Council. The office will be established as of June 1, 1999, and will have unlimited, unannounced and immediate access to buildings, offices and information. The office's director will be appointed by the Commission, in consultation with the Member States and Parliament, but will not seek or take instructions from the Commission, national governments or any other institutional body.

Whatever the intent of the Commissioners, German Chancellor Gerhard Schröder, the current President of the European Council, has made clear that he intends next week's Summit in Berlin to be a success. He also has publicly stated that he expects the Commission to conclude work on major aspects of its agenda, including the adoption of Agenda 2000 -- a package of reform measures aimed at EU finances, agricultural measures, and regional policies -- as scheduled.

### **III. Outlook for the Establishment of the Interim Commission**

#### **A. New Commission May Be In Place by June**

A general sense of urgency to end the "crisis" by quickly establishing the new Commission has been conveyed by a number of caretaker Commissioners and government officials in recent days. Some governments, however, have expressed concern about proceeding too quickly. France, for example, has cautioned against rushed decision-making and indicated interest in delaying the appointment of a new Commission until after the elections of the European Parliament in June.

Notwithstanding some indication of mixed views on the appropriate timeframe for appointing a new Commission, Parliament President Gil Robles has announced that the Parliament's political party leaders are unanimously in favor of the early appointment of a new Commission. He further suggested that it was possible that a candidate for Commission President could be proposed before the April 12-16 session of the Parliament, which would allow the Parliament to hold a hearing on the candidacy for President prior to beginning hearings on regular Commission between the April and May sessions of the Parliament. This, of course, would enable the present Parliament, which will be dissolved in May, to have a voice in the establishment of the interim Commission.

To enable a new Commission to be able to take office prior to the end of this year's legislative session in late May would require the presentation of candidates at the Berlin Summit next week (March 24-25). Alternatively, a separate Summit could be scheduled in the near future to discuss the candidates in advance of the April 12-16 session of the

Parliament. German Chancellor Gerhard Schröder has yet to publicly discuss a possible schedule for considering new Commission candidates or to say whether nominations for candidates would be accepted and considered at next week's Berlin Summit. The speed with which candidates will be considered and appointed for the new Commission is likely to be clearer at the end of this week when Chancellor Schröder completes his expedited tour of European capitals and meets again with the Parliament President Robles.

### **B. Prodi Remains Front-Runner for New Commission President**

Former Italian Prime Minister Romano Prodi has long been considered the frontrunner to serve as the next Commission President and is supported by current Italian Prime Minister Massimo D'Alema. D'Alema has been actively campaigning for Prodi since the Commission's resignation on Monday and reportedly has the support of UK Prime Minister Tony Blair and, possibly, French leaders as well.

In any event, a strong consensus exists for a candidate from a southern EU state who is politically center-left. Recent press also indicates strong support for Secretary-General Solana due, in part, to his successful efforts to enlarge NATO to the east. Reservations have been expressed, however, about the precedent of selecting a military leader as President of the Commission. Other outside candidates for Commission President include former Spanish Prime Minister Felipe Gonzalez, Portuguese Prime Minister Antonio Guterres, former German Chancellor Helmut Kohl, and NATO Secretary-General Javier Solana (Spain).

Other possibilities for Commission President include the appointment of an upstanding member of the outgoing Commission or recalling a previous Commissioner. In these categories, among the names being floated are current Commissioners Sir Leon Brittan (UK) and Mario Monti (Italy), and former Commissioners Peter Sutherland (Ireland) and Etienne Davignon (Belgium).

### **C. Composition and Structure of the New Commission**

As has been widely reported, numerous members of the caretaker Commission have indicated interest in being re-appointed to serve as part of the interim Commission. Some of these individuals have already announced their intentions to leave office at the end of the year while others have publicly or privately indicated an interest in serving in the 2000-2005 Commission. At present, it appears as if many of the former Commissioners could be re-appointed, but outgoing President Jacques Santer and Commissioner Cresson, who was a target for a great deal of the criticism in the Independent Committee's Report, are almost certainly permanently retired from the Commission. A list of the caretaker Commission with current information on their status is attached.

Whether the structure of the Commissioners' portfolios will be altered is currently unknown, but it would appear unlikely if Member States agree to move quickly in appointing an interim Commission. Changes in portfolios would give rise to extensive bargaining between Member States to get the portfolios for "their" Commissioner(s) that are perceived to be prestigious or of particular interest.

Some have suggested the need for the new Commission President to have a greater say in determining the composition of the remainder of the Commission in order to build a better team and to increase the accountability of the office of the President. France, for example, has called for fewer Commissioners and a strengthening of the role of the President. This would appear to be a long-term goal, given that it would require an amendment of the European Community's constitution. The Treaty establishing the European Community currently provides that the Commission acts as a college. It does not give the Commission President a casting vote or any other specific leadership role vis-à-vis his fellow Commissioners. Similarly, the composition of the Commission, including the current structure for 20 members, and specific requirements with respect to the nationalities of the Commissioners, is specifically set forth in the governing Treaty.

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We hope you find this update useful. Please do not hesitate to call us if you have additional questions.

**STATUS OF OUTGOING COMMISSION MEMBERS**

**Jacques Santer, President (Luxemburg)**

Areas of responsibility:

Secretariat-General; Legal Service; monetary matters; foreign and security policy

Status:

Chancellor Schroeder has publicly ruled out the re-appointment of Mr. Santer.

**Sir Leon Brittan, Vice-President (United Kingdom)**

Areas of responsibility:

External relations; common commercial policy; relations with OECD and WTO

Status:

The United Kingdom has publicly confirmed its confidence in Sir Leon Brittan and its intent to re-nominate him. Sir Leon is not expected to seek appointment for 2000-2005 Commission.

**Manuel Marin, Vice-President (Spain)**

Areas of responsibility:

External Relations; development aid

Status:

Unknown. Mr. Marin is not expected to seek appointment for 2000-2005 Commission.

**Martin Bangemann (Germany)**

Areas of responsibility:

Industrial affairs; information and telecommunications technologies

Status:

Unknown. Mr. Bangemann is not expected to seek appointment for 2000-2005 Commission.

**Karel Van Miert (Belgium)**

Areas of responsibility:

Competition

Status:

Belgium has indicated its intent to re-nominate Mr. Van Miert. He is not expected to seek appointment for 2000-2005 Commission.

**Hans van den Broek (Netherlands)**

Areas of responsibility:

External relations with third European countries; foreign and security policy

Status:

Unknown. Mr. van den Broeck is not expected to seek appointment for 2000-2005 Commission.

**Joao de Deus Pinheiro (Portugal)**

Areas of responsibility:

External relations with the ACP countries

Status:

Unknown. Mr. Pinheiro is not expected to seek appointment for 2000-2005 Commission.

**Padraig Flynn (Irish Republic)**

Areas of responsibility:

Employment and social affairs

Status:

Unknown. Mr. Flynn is not expected to seek appointment for 2000-2005 Commission.

**Marcelino Oreja (Spain)**

Areas of responsibility:

Institutional matters; culture and audiovisual policy

Status:

Mr. Oreja is likely to seek re-appointment for the interim Commission and membership in the 2000-2005 Commission.

**Anita Gradin (Sweden)**

Areas of responsibility:

Immigration; home affairs and justice

Status:

Unknown. Ms. Gradin is not expected to seek appointment for 2000-2005 Commission.

**Edith Cresson (France)**

Areas of responsibility:

Science; R&D; human resources

Status:

Re-appointment is extremely unlikely given specific findings of responsibility on the part of Ms. Cresson in the Independent Committee's Report.

**Ritt Bjerregaard (Denmark)**

Areas of responsibility:

Environment; Nuclear Safety

**Status:**

Ms. Bjerregaard has indicated interest in being reinstated and also is likely to seek membership in the 2000-2005 Commission.

**Monika Wulf-Mathies (Germany)****Areas of responsibility:**

Regional policies

**Status:**

Ms. Wulf-Mathies was criticized in the Report but has indicated interest in appointment to the interim Commission as well as the 2000-2005 Commission.

**Neil Kinnock (United Kingdom)****Areas of responsibility:**

Transport

**Status:**

The United Kingdom has publicly confirmed its confidence in Mr. Kinnock and its intent to re-nominate him. He is likely to seek re-appointment as well as membership in the 2000-2005 Commission.

**Mario Monti (Italy)****Areas of responsibility:**

Internal market; financial services; customs; taxation

**Status:**

Mr. Monti has received support by the Italian Government.

**Franz Fischler (Austria)****Areas of responsibility:**

Agriculture

**Status:**

Mr. Fischler is likely to seek re-appointment and membership in the 2000-2005 Commission.

**Emma Bonino (Italy)**

Areas of responsibility:

Fisheries; consumer policy; humanitarian issues

Status:

Mr. Bonino has received support from the Government of Italy.

**Yves-Thibault de Silguy (France)**

Areas of responsibility:

Economic, financial and monetary affairs; statistics

Status:

Mr. de Silguy is likely to seek re-appointment and membership in the 2000-2005 Commission.

**Erkki Liikanen (Finland)**

Areas of responsibility:

Budget; personnel and administration

Status:

Mr. Liikanen is likely to seek re-appointment and membership in the 2000-2005 Commission.

**Christos Papoutsis (Greece)**

Areas of responsibility:

Energy; small business; tourism

Status:

Unknown. Mr. Papoutsis is not expected to seek appointment for 2000-2005 Commission.