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## **EUROPEAN COMMISSION RESIGNATION**

**March 26, 1999 UPDATE**

This memorandum provides a final update on the unfolding situation in the European Union, supplementing our March 16 Special Report on the En Bloc Resignation of the European Commission and our March 18 update.

### **I. Nomination of a New Commission President**

With the conclusion of the Berlin Summit this week, has come the beginning of the end of the political crisis that has gripped Brussels since the European Commission's en masse resignation March 16. As has been widely reported, former Italian Prime Minister Romano Prodi was unanimously nominated by the European Council (comprised of the EU Heads of State) to be the new Commission President, after less than one hour of discussion. Mr. Prodi's appointment is subject to the approval of the European Parliament and will be taken up at its April 12-15 session.

While Parliamentary approval of the Commission President is required under existing EU law, the European Council decided to proceed with the establishment of the new Commission in accordance with the yet-to-be ratified Amsterdam Treaty. The Amsterdam Treaty, which is expected to have the force of law no earlier than May of this year, will also give the Parliament a say in the ratification of the other Commissioners and empowers the Commission President-designate to participate in the selection of his fellow Commissioners.

### **II. Process under the Amsterdam Treaty**

The Council's decision to proceed voluntarily under the Amsterdam Treaty is significant in two respects. First, it indicates a willingness on the part of the Council to support a stronger role for the Parliament, perhaps enhancing its power vis-à-vis the other Community Institutions. German Chancellor Schroder reportedly has confirmed that the Council's decision to proceed in this manner demonstrates the Council's interest in working more closely with the Parliament "in light of its growing power and prestige."

Proceeding under the terms of the Amsterdam Treaty also is significant because it will provide the President-designate with enhanced power both with respect to the appointment and work of the new Commission.

Specifically, the Amsterdam Treaty provides that the Member States and the nominee for Commission President shall, by common accord, nominate the other Commissioners. As under current law, the nominated Members of the Commission would then have to be approved, as a body, by the Parliament. The Treaty also provides that the Commission "shall work under the political guidance of its President." This provision, which obviously has yet to be tested, may allow President-designate Prodi to influence, in a manner not previously possible, the composition of the Commissioners' portfolios and their work. Increased oversight authority on the part of the Commission President is expected to increase the President's accountability as well as the overall performance of the Commission. It is not likely, however, to significantly decrease the political maneuvering by Member States that has characterized Commission appointments and assignment of duties in the past.

Long viewed as the frontrunner to succeed outgoing Commission President Jacques Santer, the selection of Mr. Prodi as Commission President was no surprise. Mr. Prodi, who is widely regarded as a man of honesty and integrity, also is respected for his leadership with respect to economic reform. As Prime Minister of Italy, Mr. Prodi carried out significant economic reforms, paving the way for Italy to be among the first countries to qualify for participation in the recently launched Economic and Monetary Union. This experience is expected to translate into the ability to effectively lead the effort to reform the Commission. Mr. Prodi has already been tasked by the European Council to prepare a program of reform for the new Commission and to present his proposals to Heads of State prior to his approval by the present Parliament.

The speed and unanimity with which Mr. Prodi was selected by the European Council was somewhat unexpected. It was likely a result of the collective sense of urgency to end the political crisis and divert attention and energy back to the critical issues requiring immediate resolution. The decision to operate under the more time-consuming provisions of the Amsterdam Treaty can be seen, on the other hand, as a means to buy time to resolve some of the larger institutional questions this crisis has precipitated, and to restore the credibility of the Commission. It also could result in a significant delay before the new Commission takes over the duties of the acting Commission.

### **III. Establishment of the Full Commission**

Contrary to most Member States' initial interest in establishing a new Commission by the end of May when the present Parliament is disbanded, the ratification of the interim Commission will now be delayed until after the June parliamentary elections. Consultations with Member States by President-designate Prodi regarding potential candidates for the new Commission, in accordance with the powers granted him under the Amsterdam Treaty, are expected to take place throughout April and May. These consultations will lead to the submission by the Member States and Mr. Prodi of an agreed college of Commissioners to the newly elected Parliament for ratification.

The European Council has indicated that the new Parliament should begin the procedure to ratify the new Commission as early as July during its brief session prior to the summer recess. If the process is not completed at that time, the next possibility for Parliament to consider and approve the Commission would be its regular September session. This could leave the acting Commission in place and a power vacuum in the Commission for much longer than was anticipated last week.

Prior to the commencement of the Berlin Summit, Chancellor Schroder indicated Germany's strong preference for putting in place a president who could prepare for and carry on in the next term as well as the establishment of a new Commission that, assuming good performance, could be re-nominated for the next five year term. This view prevailed at the Summit and the Council made clear its desire to have the new Commission begin work as soon as possible and to continue that work "with a full mandate as from January 2000 for the next five years." The decision not to create a true "interim" Commission is likely to have an impact on the selection of the new Commissioners. Outgoing Commissioners such as Karel Van Miert and Sir Leon Brittan, for example, who had previously indicated their intent not stand for another term, are not likely to be re-appointed under these circumstances.

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