

Statement on move by former commissioner Reding to the board of Nyrstar

by Corporate Europe Observatory, Friends of the Earth Europe, LobbyControl, Spinwatch

On 29 October 2014, the [Barroso Commission authorised](#) the move of its former colleague, [ex-commissioner Viviane Reding](#), to become a member of the board of directors at [Nyrstar](#), an international mining company. It apparently did this on the advice of the Commission's [ad hoc ethical committee](#) and under the rules of the [commissioners' code of conduct](#). Reding had been an EU commissioner since 1999, taking the portfolios of education, media and then finally justice. She left the Commission after becoming an [MEP](#) in the May 2014 elections.

We have a series of concerns about the authorisation of this 'revolving doors' move. In our view, the Commission should not have authorised Reding's participation on the board of a mining company at all, and the 18-month ban which prevents Reding from undertaking Nyrstar's lobbying activities is too short and too narrowly defined. We also believe this position is not compatible with Reding's role as an MEP.

Olivier Hoedeman of [Corporate Europe Observatory](#) says: "It seems that once again the revolving door between the college of commissioners and big business is spinning. Reding has been one of the longest-serving EU commissioners and it is not hard to imagine how her 15 years at the heart of the Commission, combined with her new role as an MEP, makes her an ideal catch for Nyrstar. Former commissioners should not be able to move, within a few months, from representing the interests of 500 million Europeans as commissioner, to sitting on the board of a private corporation."

Paul de Clerck of [Friends of the Earth Europe](#) says: "It is pretty shocking that someone who, until a few months ago, used to be European commissioner for justice, now proposes to join the board of an international mining company, which has been fined by Peruvian authorities for violating environmental regulations. This job might also cause a conflict of interest with her role as an MEP. Again we see former politicians going through the revolving door and selling out to big companies. Reding should urgently reconsider this move."

Max Bank of [LobbyControl](#) says: "The Commission needs to urgently review this particular decision and its wider policy and practice in this area before more former commissioners go through the revolving door. The lobby ban placed on Reding is full of loopholes and it is not clear if and how it will be monitored. Ex-commissioners have huge influence, insider know-how and an extensive contact book and the Commission needs to wise-up to the long-term risk of conflicts of interest that these can create."

Before publishing this statement, we contacted Viviane Reding for a response to our concerns; she did not reply.

Our concerns include the following:

- We consider that the role of board member at Nyrstar should not have been authorised as it represents a potential conflict of interest with Reding's previous roles as EU commissioner. Not least, Reding was a commissioner for 15 years and she took collective decisions on many issues that are likely to be of direct interest to Nyrstar as a European company. As a board member she will have a fiduciary duty to act in the interests of Nyrstar and this could bring her into conflict with her

ongoing commitments to the Commission and the wider public interest. In our view, there should be a three-year ban on former commissioners accepting such roles.

- As required by the commissioners' code of conduct, Reding has been told to abstain from “lobbying and defending Nyrstar's interests to the Commission” for 18 months. However, this ban is too narrowly drawn because it only covers direct lobbying activities by the ex-commissioner herself, meaning that Reding could still advise others at Nyrstar on how best to lobby the Commission or contribute in other ways to Nyrstar’s lobbying at the EU level. The lobby ban is also too short.
- Furthermore, Reding is now an MEP and is subject to the [code of conduct](#) which says that: “A conflict of interest exists where a Member of the European Parliament has a personal interest that could improperly influence the performance of his or her duties”. We consider that becoming a director at Nyrstar has the strong possibility to conflict with Reding's work as an MEP, including her role on the international trade (INTA) committee. During her time in Parliament, Reding will have to vote on issues that are highly relevant for Nyrstar, such as the upgrade of the EU-Mexico free trade agreement. Nyrstar operates internationally including in Mexico. (See below for a summary of some of Nyrstar's overseas activities.)

In addition:

- As an ex-commissioner, Reding is entitled to a very generous [transitional allowance for three years](#) after she leaves the Commission. It is reasonable to expect that the 'revolving door' rules would also apply for three years, but instead they only apply for 18 months according to the code of conduct for commissioners.
- A [recent report produced for the European Parliament](#) says that the current code of conduct for commissioners “is characterised by its poor checks and balances, the absence of a coherent implementation system, and opacity surrounding its operation (e.g. with regard to the Ad Hoc Ethical Committee). Whilst other ethics systems contribute to enhance public trust in government, the EC’s system appears tilted towards the Commissioners’ political and career interests.”
- The Commission continues to lack transparency about former commissioners' revolving doors moves. In 2011, Catherine Day, Secretary General at the European Commission, [wrote](#) that “We are committed to ensuring full transparency of these decisions [relating to departing commissioners' new professional activities], whether approving, rejecting or imposing possible restrictions and/ or conditions. We intend to publish these decisions on the Europa website...”. Publishing summary decisions buried in Commission minutes is not adequate to meet this commitment. All related documents, including the original applications for authorisation and the recommendations of the ad hoc ethical committee should be published as soon as a decision has been made and communicated to the commissioner concerned.

Background on Nyrstar

Nyrstar was founded in 2007 through the merger of the Australian mining company Zinifex and the Belgian materials company Umicore. Its [main business areas](#) are zinc mining and

lead smelting. Since 2009 Nyrstar has expanded its involvement in zinc mining, acquiring mines in Peru, Chile, Mexico and Honduras.

There is an [EU-Mexico free trade agreement](#) and the Commission and Mexican authorities are currently considering upgrading this. Reding is a member of the European Parliament's international trade (INTA) committee. The INTA committee and the full Parliament will have to approve an upgraded agreement.

In 2013, Nyrstar was fined more than US\$140,000 by Peruvian authorities [for violating environmental regulations](#). Nyrstar is reported to have dumped mining wastewater in a gorge exceeding the maximum concentration in zinc, iron and total dissolved solids, which, as the environmental tribunal concluded, could adversely impact health, human well being and the environment.

In October 2014 the [Chilean environmental authorities brought charges](#) against Sociedad Contractual Minera El Toqui for allegedly infringing various environmental regulations, such as unauthorised discharges of mining fluids, the failure to construct monitoring facilities for water quality and the failure to carry out promised reforestation programmes. Sociedad Contractual Minera El Toqui is a [100 per cent subsidiary of Nyrstar](#).

[Nyrstar says](#) that "Our aim is to minimize the environmental impact of both our production processes and our products. We will conduct our operations in compliance with all relevant environmental regulations, licenses and legislation."

Nyrstar are not listed in the EU lobby register themselves, but in 2013 they employed [Russchen Consultants](#) who are registered and who record them as a client. Russchen says it brings "the EU closer to our various clients - both by enhancing their access to people, access to information and access to funding...". Nyrstar is also a member of Eurometaux, the trade association representing the non-ferrous metals industry, which in 2012 had a lobby budget of €1,500,000 - €1,750,000.

Olivier Hoedeman, Corporate Europe Observatory, email: olivier@corporateeurope.org tel: +32 (0)2 893 0930, mobile: +32 (0)474 486545

Paul de Clerck, Friends of the Earth Europe, email: paul.declerck@foeeurope.org tel: +32 (0) 494 380 959

Max Bank, LobbyControl, email: m.bank@lobbycontrol.de; tel: +49 163 456 8741