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NO "FORTRESS EUROPE"

The European Commission, the EC's executive, has rejected charges that the EC would become a protectionist "Fortress Europe" in 1992, the date targeted for the elimination of economic barriers between its 12 member states.

The Commission has made it clear that the liberalization of trade within the EC will not mean adopting a protectionist policy on trade with non-EC countries.

Far from being a "Fortress Europe", the EC intends to continue to be a world partner, a role it already fulfills as the world's biggest trader (accounting for 20 per cent of total world trade). In its relations with third countries it will continue to abide by its international obligations under the GATT and other agreements. This will be done in accordance with the internationally-accepted principle of balance of mutual benefits and reciprocity.

Where there are no multilateral rules, as in the area of services, the EC will seek greater liberalization of world trade in the GATT's Uruguay Round and through bilateral negotiations where appropriate.

The Commission states clearly that it reserves the right to make access to the benefits of 1992 for non-EC firms conditional upon a guarantee of similar opportunities - or at least non-discriminatory opportunities - in those firms' own countries.

On the question of reciprocity, the Commission says that it does not mean that all non-EC countries would have to make the same concessions to the Community. The EC will not look for sectoral reciprocity, which it has fought against in US legislation, nor does reciprocity mean that it will ask its trading partners to adopt identical legislation to its own.

In banking, where an existing draft directive deals with the matter of reciprocity, the Commission says that there is no question of depriving the subsidiaries of foreign firms already established in the EC of the rights they have acquired.

With regard to sensitive spheres, where some EC member states have special import arrangements in certain sectors, the Commission says that these may have to be replaced by Community measures. But this will be done in line with its international obligations and will not result in a higher level of protection than exists at present.

On standards, the Commission makes it clear that any product which is imported from a third country by an EC member state will be entitled to free circulation throughout the Community as long as it satisfies the legislation of the importing country. On tests and certification, the EC will negotiate mutual recognition agreements where needed.

Liberalization of public procurement under the 1992 exercise will mean that foreign firms will have the same right to tender as European firms in sectors covered by GATT. In sectors not covered by GATT, the Community is prepared to negotiate reciprocal access, pending inclusion in GATT.

1992: THE STATE OF PLAY

EC Government leaders will debate a progress report on the implementation of the 1992 program on the economic integration of their 12 countries when they hold a summit meeting in Rhodes, Greece, on December 2-3.

The report, drawn up by Lord Cockfield on behalf of the European Commission, believes the overall position on the implementation of the near-300 legislative proposals of the program is satisfactory.

According to the report, the program has achieved an "irreversible momentum" and there is now a widespread feeling both inside and outside the EC that the 1992 target will be met and will be met on time.

However, Lord Cockfield points out that progress has been concentrated mainly in the area of the elimination of technical barriers to trade between the Twelve, while progress on the removal of physical and fiscal barriers has not been as speedy.

"We have been more successful so far at creating the conditions for the free movement of goods, services and capital than at securing free movement for the citizens within the Community", he told a Brussels news conference.

By the end of this year, the Commission expects to have forwarded 90 per cent of its proposals to the Council of Ministers and the Parliament. So far, one third of all the measures have been adopted and the Council has reached political agreement on a number of others.

New voting rules, which enable the Council to adopt many measures by a majority rather than by unanimity, are beginning to bite and have accelerated agreement. Its new cooperation procedure with the Parliament is also working well.

Of the more than 100 measures already agreed, 70 per cent relate to the removal of technical barriers. This is largely due to the smooth running of a new approach to harmonization which has broken through years of deadlock on many issues.

Major framework directives have been adopted on pressure vessels, toys, construction and electromagnetic compatibility, and work is well advanced on a machine safety directive. Significant progress has already been made in food law.

The services sector, previously the Cinderella of the common market, is catching up fast, notably in the financial services area. After years of deadlock, a directive, which opens up the whole EC market in large risk insurance, has been agreed upon. All the measures needed to create an EC-wide banking market are making good progress through the Council and Parliament, and some have already been agreed upon.

The legislation directly required for the complete liberalization of capital movements between the member states has also been adop ed. A directive liberalizing long-term capital movements is already in force; a second, liberalizing short-term movements, including bank accounts, has been adopted and generally comes into force in 1990. The Commission is working on a proposal to deal with potential tax evasion which could be a by-product of this liberalization.

Work on public procurement, which accounts for around 15 per cent of the Community's GDP, is making good progress. Two directives on public works and public supply contracts which are advertised for tender by Governments and other public authorities have been adopted by the Council. The Commission has presented a proposal for the liberalization of public procurement practices in the four major areas of water, electricity, transport and energy contracts, which are currently not systematically open to bidders from other member states. Early in 1989 the Commission will propose a directive which will extend liberalizing rules on public procurement to the services sector.

A directive is expected to be adopted by the end of this year which will guarantee that professional qualifications obtained in one member state will be recognized by all the others. This will enable professional people to move freely from one member state to another and to practice where they please.

After a long period of stagnation, the transport sector is at last being opened up to free competition. The Council has agreed to liberalize maritime transport between the member states and between the EC and third countries. It has also agreed on an extensive package of measures to open up competition in the airline business, and it has committed itself to total liberalization in the trucking business by the end of 1992, when Community licenses will replace national ones.

Despite general progress, the report points out that there has been little movement in three areas : harmonizing plant and animal health regulations, the reduction of differences in indirect tax rates, and easing procedures for citizens moving from one country to another, either temporarily or permanently.

LICENSING AGREEMENTS NOT LIKE DIAMONDS

A company which signs a licensing agreement with another for a fixed term can prevent the licensee from continuing to use the know-how it has acquired once the agreement comes to an end.

The European Commission has ruled that this is in keeping with EC law in a case involving a compressor manufacturer which had been licensed by another firm to use its know-how. When their agreement expired the firm demanded that the licensee return the know-how and refrain from using it in the future.

The licensee complained to the Commission, but it ruled that the firm which granted the license was neither guilty of a restrictive practice nor of an abuse of a dominant position in the market.

MORE COMPLIANCE WITH THE LAW

EC member states are becoming more law abiding, and that's good news for the 1992 program, which depends on Governments meeting their obligations.

The number of times the EC Commission had to bring Governments before the European Court of Justice for failure to implement EC legislation fell last year to 61. That was down from 71 cases the previous year and 113 in 1985.

According to a Commission spokesman, there is a greater tendency for the Governments to seek to regularize infringements at an early stage once they have been challenged, rather than let the matter come to the Court, which is the final arbiter on EC law.

Some legal landmarks in 1987 - the German and Greek Governments agreed to open their beer markets to imported brews, and the Commission moved against Denmark's high taxes on automobiles.

The Danes, however, along with the Luxembourgers, were in general the most law-abiding. The Danish Government was taken to court only once, compared with the Italians at the other end of the scale who found themselves in court 21 times.

SPLIT ON TAX

An informal meeting of EC Finance Ministers in Crete earlier this month revealed a division on the Commission's proposal for the approximation of indirect taxation. Nine were in favor, two against and one unsure. The latter has since come around to the majority view.

Lord Cockfield has now embarked on a round of one-to-one meetings with the Ministers to argue the Commission's ideas. He is also trying to identify common ground on which a consensus could be built, and to identify particularly difficult problems which some countries might face in implementing the proposals and which would oblige them to seek a derogation. Such a temporary authorization to delay implementation of legislation may be sought by countries whose indirect tax rates are far out of line with the EC average.

PACT ON PLASTIC

The major European banks have reached an agreement which will give their bank card holders access not only to the system of their own bank but also, on a reciprocal basis, to the systems of the other banks who are party to the agreement.

The move has been welcomed by the European Commission, which had been urging just such an accord and had published its own ideas on a system of interoperability of payment cards. It has already commissioned the relevant regulatory bodies to work out European standards.

ENERGETIC MOVE

Good progress was made towards opening up the Community's energy market when Energy Ministers met in Brussels this month. They gave broad approval for a European Commission strategy for freeing up the market, including the removal of restrictions on the cross-frontier supply of energy and greater transparency in the prices of gas and electricity which are charged by utilities to major consumers. Both measures should pave the way for a more competitive market.

THE MEANING OF RECIPROCITY

A committee of experts within the Council of Ministers is currently working on a definition of the concept of reciprocity, which is contained in the Commission's proposal for a second banking directive.

The draft directive has caused considerable comment both within the EC and in third countries, including the United States, in relation to the treatment which should be given to foreign banks wishing to open for business in a Community country.

At a meeting earlier this month, Finance Ministers discussed the proposal and handed it over to aides with instructions to try to come up with a clear definition of what reciprocity involves and how it would be applied in practice.

The Ministers also discussed a draft directive concerning banks' reserves and exposure to risks. It is hoped that agreement will be reached when they next meet on December 12.

NYT AND 1992

The New York Times is planning to publish a special supplement on 1992 in the Business Section of its December 12 issue. It is the first of a series of supplements which will be published every six months leading up to the 1992 deadline.

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Commission of the European Communities
3 Dag Hammarskjold Plaza, 305 East 47th St., New York, NY 10017
Telephone (212) 371-3804