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DELORS REJECTS FORTRESS EUROPE

EC Commission President Jacques Delors has dismissed as "unfounded" fears expressed by some third countries, including the United States, that post-1992 Europe will be protectionist.

Mr. Delors said that "it would be absurd for the largest exporter in the world to close its frontiers to foreign products", pointing out that the EC accounts for 20 % of world trade, compared to 15 % for the US and 9 % for Japan.

The President, in his annual address to the European Parliament in Strasbourg, said that the EC was demonstrating renewed dynamism and vitality in the run-up to 1992, and was not interested in "digging moats and building drawbridges."

However, he said that while the EC would remain open after 1992, the advantages of the new single market which will be created by then would not be given away to third countries which engaged in unfair trading practices.

The President stressed that the EC would maintain an "open, constructive attitude" to world trade and to the GATT, while warning that it would act firmly against discriminatory practices by any of its trading partners.

NEW PROPOSAL ON LIFE INSURANCE

In a further move to open up the insurance market to free competition, the EC Commission has proposed a directive which marks a first step towards freedom for companies to provide services in the life insurance sector.

The proposal, which aims at coordinating the laws of the member states, will enable the consumer to buy insurance where he or she wishes. At present, the laws of many member states prevent the consumer from shopping around for the best deal.

However, where an insurance company wishes to market its products rather than wait for an approach from the consumer, the authorities of the country where it is looking for business may impose an authorization requirement.

The proposed directive includes a clause relating to insurance companies from third coun-

tries which is similar to that contained in the banking directive, currently being considered by the Council of Ministers and the European Parliament. The access of such companies to the EC market would depend on the degree of access their governments allow to EC companies.

A further directive is being prepared by the Commission dealing with group life insurance and pension fund insurance. Last June, the Council agreed to open up the market in non-life insurance by allowing large companies to shop around for insurance. This right will be extended eventually to small companies and individuals.

Just before Christmas, the Commission adopted a proposal for a directive on the freedom to provide services in the field of motor insurance. The main aim of this proposal is to bring third-party motor insurance, which is compulsory, within the framework of the non-life directive which was agreed upon last June.

RAISING THE STOCK OF BROKERS

The EC Commission has proposed a directive to the Council of Ministers which would harmonize the essential supervisory rules for securities firms, thus creating a single market for investment services in the securities field.

Common supervisory rules would open the way for the recognition by the 12 member states of each other's authorization and supervisory systems. Once the directive is agreed upon, all investment firms will be able to establish themselves or supply services throughout the EC using a single national authorization.

The draft directive contains a list of approved activities, including broking, dealing, market making, portfolio management and advice, and a firm will be able to engage in any or all of these activities once it is authorized to do so in its home country.

The proposal is a follow-up to similar draft legislation for the banking sector and, like it, contains a clause governing access to the EC market for investment firms from third countries.

TRADE MARKS TO BE HARMONIZED

The EC member states are to harmonize their laws on the fundamental aspects of trade mark law, a measure which should make it easier for both goods and services industries to operate freely throughout the Community.

A directive agreed upon by the Council of Ministers applies to all registered national trade marks covering goods and services. It covers individual, collective or guarantee trade marks.

The directive provides a uniform definition of signs which may comprise a trade

mark. It lays down grounds for refusal or invalidity. Rights conferred by a trade mark on the proprietor, as well as limitations on those rights, are also included.

In order to reduce the number of trade marks and possible disputes, the directive introduces a use obligation. If a trade mark has not been put to genuine use for five years it will be revoked.

Member states will have three years to comply with the directive, by which time it is also hoped to have both an EC trade mark and an EC patent.

M&A AGREEMENT STILL ELUSIVE

Proposals from the EC Commission for a Community law on mergers have not yet found agreement in the Council of Ministers.

The main points still to be agreed upon are the size of a merger or acquisition which would trigger an investigation under EC competition laws; the appraisal criteria for such an investigation; the treatment of public undertakings; the respective powers of national and EC authorities; and general procedural questions.

MORE PROTECTION FOR SOFTWARE

The EC Commission has made a proposal to the Council of Ministers for greater legal protection for computer programs. At present, such protection is uncertain and unequal between member states.

In keeping with worldwide trends, particularly among the EC's main trading partners, the Commission has proposed protection under copyright law. It is envisaged that this will create incentives for software developers to

invest their intellectual and financial resources, and thus make the EC more competitive in this developing field.

KEY AGREEMENT ON MACHINERY

A landmark breakthrough on the road to 1992 has been achieved with political agreement in the Council of Ministers on a directive that will remove all remaining barriers to trade in machinery between the 12 EC member states.

The agreement, which must now be approved by the European Parliament, is also good news for third country exporters to the EC because, from the beginning of 1993, they will need to meet only a single standard for their exports to the EC.

The directive will harmonize national provisions concerning the health and safety aspects of new machines. Detailed standards for the design and construction of the machinery will be drawn up by EC standards bodies.

The significance of the agreement is that it covers one of the largest single economic sectors, valued at around \$140 billion a year. It also has important implications for health and safety in the workplace, a key element of the social protection goals of the 1992 program.

NEW CONTROLS FOR FOOD INDUSTRY

The Council of Ministers has adopted three directives which tighten rules on food processing by approximating the national laws of the member states covering packaging material, additives and frozen products.

The first directive applies to material and articles intended to come into contact with foodstuffs and determines the

sectors for which specific directives will be prepared. The second lays the foundations for drawing up authorized lists of additives and the conditions for their use. The third covers the various stages of the entire cold chain, including manufacture, storage, transport, distribution and retail sale.

The Council has also reached agreement on a directive laying down general principles of food inspection. These measures, which must be approved by the European Parliament, are aimed at preventing risks to public health, guaranteeing fair commercial transactions and protecting consumer interest.

Agreement was also reached on rules governing batch marking of foods, the rapid exchange of information on dangerous products, and the packaging, presentation and advertising of specific products such as dietary and baby foods.

AIDS TARGETED IN NEW HEALTH LAWS

In a bid to combat AIDS and other infectious diseases, the Council of Ministers has reached preliminary agreement on a rigorous system of testing industrially manufactured medicinal products derived from human blood and plasma. The tests will cover the manufacturing process, as well as the quality, safety and efficacy of these products before they are placed on the market.

The Council also reached a common position, to be approved by the Parliament, on removing disparities between the laws of the member states which hinder free trade between them in radiopharmaceuticals. The directive covers quality, safety and efficacy, as well as marketing authorization, packaging, labelling and instruction leaflets.

The Council also agreed to improve provisions on the labelling of cosmetics, which are contained in a 1976 directive.

TIGHTER RULES IN VET SECTOR

New controls of veterinary medicines, which represent the biggest step forward in this sector since national testing and marketing rules were harmonized eight years ago, have been proposed by the EC Commission.

The proposal would give the eventual human consumer additional protection from drug residues in food and from the results of dangerous products sold on the black market. It also deals with environmental risks.

It would offer manufacturers greater intellectual property protection and would improve the system whereby member states allow products which are authorized in another member state to be sold on their own markets.

EC PASSPORT FOR PROFESSIONALS

Professional people with university qualifications will in future be free to practice anywhere in the EC as a result of an agreement in the Council of Ministers on a general system for the mutual recognition between the member states of higher education diplomas.

The agreement represents a major breakthrough in the field of education and in the freedom of movement of citizens. Previous efforts to improve the mobility of professionals by legislating for individual sectors fell short of expectations.

In future, recognition will be based on the principle of mutual confidence, without the need for prior coordination of the educational and training systems

of the different countries. Where there are substantial differences, the directive makes provision for aptitude tests or a period of adaptation in the country where the professional decides to practice.

"QUOTES"

"The more the US talks about Fortress Europe, the more they get people in Europe saying: "That's a wonderful idea. We must have some of that." Ex-EC Commissioner Lord Cockfield.

"A major effort is required before 1992, when all hell is going to break loose unless everyone is well prepared." Prince Charles.

"Every entrepreneur has a duty to anticipate 1992. We must have a European vision if we are to compete in the international marketplace." Olivetti boss Carlo de Benedetti.

"By 1992, all the good-looking girls on the dance floor will have partners." London Business School's Gary Hamel.

"In the next 10 years, probably half of all the companies in Europe will disappear or form part of different groupings." Sir John Harvey Jones, former Chairman of ICI.

"I am confident that completing the internal European market will not spoil the climate of world trade, that a Fortress Europe will not develop." German Chancellor Helmut Kohl.

"It would be illusory to believe that the positive effects of the new internal market could be ensured or even reinforced by sealing it off vis-a-vis third countries. This would, on the contrary, have quite the opposite result." EC Commissioner Martin Bangemann.

IN BRIEF

... Transport of goods is to be speeded up by agreement between member states that goods crossing internal EC frontiers need to be presented for administrative checking at the point of entry only.

... member states have agreed on the dates on which they will switch their clocks to and from summertime right up to 1992. For the record, the clocks change to summertime this year on March 26 and change back on September 24, with the exception of the UK and Ireland which change on October 29.

... a seminar entitled "1992 : New Opportunities for US Banks and Businesses in Europe" will be held on February 23-24 in New York. Among the speakers will be Geoffrey Fitchew, the EC Commission's Director-General for Financial Institutions and Company Law. Details from the American Bar Association, tel. (312) 988.6200.

... the EC Commission has opened infringement proceedings against nine member states for failing to incorporate the terms of a 1985 directive on product

liability into their national laws. Only three member states - Greece, Italy and the UK - have passed national laws but the Commission maintains that, in the case of the UK and Italy, the legislation does not conform with the directive and it is therefore taking proceedings against them too.

... 23 major petrochemical firms, including two US companies, have been fined a total of approximately \$ 70 million for taking part in two European-wide price fixing and market sharing cartels in the plastics sector.

... the Commission has proposed to the Council of Ministers special VAT (sales tax) arrangements for second-hand goods, works of art, antiques and other collector's items. The aim is to eliminate the double taxation of these goods which heavily penalizes dealers and consumers in many member states.

... a ban on smoking in public places is being sought by the EC Commission. In the meantime, it has failed to get agreement in the Council of Ministers on maximum amounts of tar in cigarettes and on health warnings on tobacco products.

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