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DUBLIN SUMMIT SETS STAGE FOR TREATY CHANGES

At the recent meeting of the European Council in Dublin, the EC heads of government unanimously decided (albeit with healthy debate) on convening two intergovernmental conferences in December— one on economic and monetary union and the other on political union. These conferences will propose potential changes to the EC treaties in view of the Community's continuing evolution toward greater union.

Convinced that all the relevant issues have been (or are being) fully clarified, and that common ground is emerging among the Twelve, the European Council agreed to open an Intergovernmental Conference on December 13 next to establish the guidelines for the final two stages of economic and monetary union. (Stage 1 came into effect on July 1.) The objective is to ratify the conference's results by the end of 1992.

Regarding political union, the heads of government endorsed a paper submitted by the EC foreign ministers which emphasizes the need for greater democratic legitimacy for EC institutions, the powers of the European Parliament, the improvement of EC institutions' efficiency and coherence of the Community's international actions. This will feature prominently in the scheduled intergovermental conference on political union, which the EC leaders agreed to convene on December 14.

The summit brought to a close an eventful Irish presidency of the Council in which important strides were made on 1992 legislation (e.g. public procurement, company taxation, air transport and financial services). The European Council welcomed this progress and noted that two thirds of the White Paper measures are now complete. Still, it called for a final push on the single market front in advance of the intergovernmental conferences.

Italy will hold the rotating EC presidency for the second half of this year, and will play host to the intergovernmental conferences.

COMPANY TAX RELIEF ATTAINED

After two decades of stalemate, EC finance ministers have agreed to a package of three company taxation directives covering the following areas: the tax treatment of mergers, splits, asset contributions and share swaps; taxation of dividends distributed by subsidiaries to parent companies established in different member states; and an arbitration body to settle disputes on double taxation and transfer pricing between EC countries.

Commented EC Tax Commissioner Christiane Scrivener: "This is a historic decision. For the first time, the ministers for Economic and Financial Affairs have been able to reach agreement on company taxation measures, the adoption of which is a vital element of the creation of a single market."

Although stalled for 21 years, the package had recently been refashioned by the Commission and resubmitted to the Council for consideration (see EURECOM, June 1990). The Commission's "new approach" resulted in a speedy passage of the directives, indicating that the member states are capable of cooperating on tax matters as the 1992 program's deadline nears.

The directive on mergers will allow companies to defer taxes on capital gains resulting from cross-border acquisitions (or similar operations) as long as the acquired company continues to pay taxes in its home member state. In the second directive, subsidiaries will no longer be forced to deduct withholding tax on dividend payments to parent companies located in different member states. The Federal Republic of Germany initially resisted this measure, claiming it would require radical tax reform, but agreed to the directive after winning a transitional arrangement: it must cut its withholding tax from the current 10% to 5% when the directive takes effect in 1992, and then it must abolish it by mid-1996. The Commission's arbitration procedure— a standing committee to resolve transfer pricing and double taxation disputes— ensures that double taxation of companies in the Community will be eradicated.

"Improving competitiveness has always been the Commission's basic concern in its approach to company taxation," said Commissioner Scrivener. The tax package meets a need constantly expressed by companies. It should enable companies to take full advantage of the dynamic effects of the large single market."

COMMISSION DEFENDS ANTI-DUMPING POLICY

In its annual report on anti-dumping policy— actions taken against non-EC companies that "dump" products in EC markets at unfairly low prices— the Commission rejects the widely held notion that its policy "is used as a tool in the construction of a 'Fortress Europe'." According to the report, "the reality is rather that (the policy) is applied impartially to protect Community industry from isolated instances of injurious dumping," a practice condemned by the GATT (General Agreement on Tariffs and Trade).

Under the GATT, "dumping" occurs when a firm sells a product on a foreign market for less than it sells for at home or less than it costs to make. Anti-dumping policy aims to bring up a foreign producer's price to a realistic level through either a punitive duty or by convincing the company to raise its price.

Between 1980 and 1988 (the latest year for complete data) the Commission opened anti-dumping investigations only after receiving well-founded complaints from EC industry; the Commission has never opened a case on its own initiative. In fact, the vast majority of imports into the EC are unaffected by anti-dumping actions (e.g. the EC subjected only 0.9% of its total imports to anti-dumping levies in 1987).

Contrary to popular belief, the Commission's figures showed that Asian companies, in particular Japanese, Korean and Hong Kong firms, were not the primary targets of EC policy: non-EC European companies accounted for almost half of the 1980-88 total, and although Japanese firms were subject to 27 probes, this accounted for only 7.7% of all investigations.

Further, the number of measures imposed has been declining throughout the period under review. In 1988, the EC applied 18 punitive measures, compared with an annual average of 29 for the nine-year period. Of the 26 investigations concluded in 1988, eight were terminated without the imposition of protective measures (five by findings of no injury, three by withdrawal of charges).

TOUGHER RULES FOR TOUR OPERATORS

EC Consumer Affairs ministers have approved new rules for package travel (see EURECOM, April 1990), giving travelers more adequate means of redress vis-a-vis tour operators should that dream vacation turn into a nightmare.

The directive establishes rules on the information tour operators must give if they issue brochures. Statements made in the brochure will be binding on the tour organizer or retailer, providing a considerable incentive for accuracy. It also specfies that contracts must be confirmed in writing (although special provisions exist for last minute reservations). Operators are responsible for all aspects of the contact, whether this is carried out by the vendor or by third parties.

In a major victory for package travelers, if a consumer is unable take the package, it can be tranferred to another party. And if the price of the package goes up or arrangements are significantly altered between booking and departure, the consumer may cancel the package without penalty. Last, the directive tightens procedures for refunds and for getting vacationers home if an operator becomes insolvent.

EC-EAST GERMAN CUSTOMS UNION

In advance of German unification, the EC Commission has proposed a de facto customs union with East Germany. This would be the first stage of a transitional period to prepare East Germany's for full absorption into the Community. Said EC Tax and Customs Commissioner Christiane Scrivener: "Besides its economic implications, this proposal is particularly important because it represents one of the first concrete pieces of evidence of the Community's commitment to the process of German unification."

For years the two Germanies have been exchanging goods without significant restrictions under a special protocol; in principle, the Commission's proposal would extend this relationship to the other 11 EC countries. Some areas of Community competence would oblige East Germany to bring its industry into line with EC policy (e.g. the Common Agricultural Policy) as it unifies with the Federal Republic.

The Commission's proposals call for East Germany neither to apply customs tariffs nor quantitative restrictions to trade with the EC. In return, East German goods would receive reciprocal treatment throughout the EC. However, EC officials recognize that East Germany cannot afford to open its market completely to Community competition, and that some transitional, protective measures will be inevitable. Still, these must be limited to certain products and phased out as soon as possible.

FULL AIR TRANSPORT LIBERALIZATION AGREED

Building on a political agreement made last December, EC Transport ministers have committed themselves to full air transport liberalization by 1993. In addition, they also agreed on practical interim measures to pave the way for the open market.

In general, the measures scheduled for after 1992— the so-called second phase of air transport liberalization— will transform the system for setting fares so that the scope for governments to block new fares is reduced; end bilateral capacity and revenue-sharing arrangements guaranteeing a fixed share of traffic on a given route; and create new freedom to operate in and between member states through uniform licensing rules.

For the less radical but hard fought interim measures which take effect this autumn, the ministers agreed to allow airlines to set lower "deep discount" fares without obtaining government approval; to relax progressively capacity-sharing obligations between airlines until they are eliminated on January 1, 1993; and to ease conditions for "fifth freedom" services— those where passengers are either let off or taken on at an intermediate point en route to the final destination.

"This is a significant step toward a totally open market in air transport," said EC Transport Commissioner Karel Van Miert. "It creates new opportunities for the consumer and new foundations for the expansion for air services in the future."

PROGRESS ON INSURANCE FRONT

The Council of Ministers has adopted a Common Position on motor insurance legislation which would give insurance companies established in an EC country the right to sell car insurance in another member state without having to establish a branch. The only major condition is that a firm must at least have a claim representative in the countries where they sell.

The ministers also reached a Common Position which would allow consumers to seek better deals on life insurance in other member states or to use a broker to find the best policy. The same measure permits isurance companies to advertise in other member states, but it forbids companies to approach consumers directly.

These two insurance directives illustrate that the EC is starting to tackle the last major area of financial services where common rules for business after 1992 are still not established.

MURKY WATERS AHEAD FOR EC-EFTA NEGOTIATIONS

Armed with a mandate from the EC foreign ministers, the Commission has started negotiations with EFTA (European Free Trade Association) to create a huge common economic zone— the European Economic Space (EES)— which could create a market of nearly 370 million people. EFTA includes Austria, Finland, Iceland, Norway, Sweden and Switzerland.

The negotiations aim to extend, as far as possible, the EC's goal of free move ment of goods, capital, people and services to EFTA. In addition, cooperation between the two groupings would be intensified in other fields such as research and development, the environment and social policy.

There are, however, some fundamental differences between the two sides. A major bone of contention is how EC-EFTA decision-making would work. EFTA wants a voice in decisions affecting the EES, but the Commission's mandate stipulates that the Community must retain complete autonomy over its decision-making process. Another major hurdle is the number of exemptions from single market legislation EFTA countries seek in various sensitive areas. EC negotiators are willing to grant exceptions only where vital national interests are at stake, and only for a limited time.

QUOTES

*"I am convinced this is going to be the decade of the Europeans." West German Chancellor **Helmut Kohl.***

*"We have a great interest in ensuring that...in proceeding towards a single market, policies are framed in such a way that we will be able, as countries on the periphery, to compete effectively with the more favored regions of central Europe." Irish Prime Minister and outgoing European Council president **Charles Haughey.***

*"I think it would be a psychologically and politically dangerous development if in the end the EC became a DM zone." Former West German Chancellor **Helmut Schmidt.***

*"The United States and the European Community have a particular role, and a particular responsibility. We must not be diverted or overwhelmed by the pace change, but use the challenge of these exciting times to consolidate our cooperation, and to build our future." EC Commissioner **Sir Leon Brittan.***

*"German unification will have a dynamic influence on almost all areas of Community activity...This will give a new impulse to European integration, hastening progress towards economic, monetary and political union." EC Commissioner **Frans Andriessen.***

SCHENGEN AGREEMENT SIGNED

Five EC countries— France, Germany, Belgium, Luxembourg and the Netherlands— have signed a treaty lifting all frontier controls on the movement of people between them. Named after a small town in Luxembourg where Germany, France and the Grand Duchy converge, the agreement is the result of five years of tough negotiations, and could provide a blueprint for the Community in an almost intractable area.

Although some loose ends still exist, the accord covers a tremendous amount of "territory". For individuals traveling within "Schengenland", border checks will be abolished. There will be no passport checks for flights between Schengen states, but airports at "external" borders will retain checks. If nation- al security is threatened, a Schengen country may temporarily reimpose frontier controls after consultation with the other four countries.

Checks on goods will be kept to a minimum. Police cooperation will be increased to fight drug trafficking, terrorism and other serious crime. This includes the right to pursue crime suspects for up to 10 km (6 miles) into another Schengen country's territory, and a computerized information system with data on Schengen criminals and missing people. Schengen member states have also agreed to a common list of countries whose citizens would require a visa upon entering the territory. And the country where a seeker of political asylum first enters "Schengenland" will be responsible for processing the application.

The success of the agreement demonstrates the political feasibility of eliminating border checks on people while showing that the technical problems of maintaining a high level of security can be solved.

MAJOR US BANKER BULLISH ON EC

At a recent conference on investment in Europe, Thomas Johnson, president of Manufacturers Hanover Trust, said that the EC would have a single currency within five years, preceded by "even more volatility" in existing EC currencies. He also forecasts an era of unsurpassed European prosperity after 1992.

"Fears about a 'Fortress Europe' simply did not materialize," said Johnson. "The overall trend has moved to open markets, and very rapidly." He emphasized that the reunification of Germany will provide "a powerful engine" for the European economy, and that a central bank would be very good for the Community.

Despite being bullish on the EC, however, he warned would-be US investors and exporters that "clearly opportunities [in the EC] do not exist for everyone...as we see it, the market will be intensely competitive. It could turn into a disaster for the dabbler or the ill-prepared."

...IN BRIEF

...EC Commissioner for Economic and Monetary Affairs Henning Christopherson recently presented the Community's economic projections for 1990 and 1991. According to Christopherson, the EC can expect continued steady GDP growth of 3% this year and 3.1% in 1991. This growth will be underpinned by the transformation of the Central and Eastern European economies, the continued integration of Spain and Portugal into the Community and the monetary, economic and social unification of the two German states.

...Most US banks and securities firms do not plan to expand their businesses in the EC despite the new opportunities created by the 1992 single market program. This is the finding of a new study conducted by the General Accounting Office (GAO). The non-partisan US federal agency said that securities firms seek little expansion, and have been more defensive than expansive in some cases. According to the study, US banks have been reticent to expand in Europe because of limited capital resources, curbs under Glass-Steagall that separate commercial and investment banking and the perception of better opportunities in the US.

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