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PARTIAL EC-US PROCUREMENT DEAL AVERTS TRADE WAR

Avoiding a potential tit-for-tat trade war, the EC and the US reached a partial agreement to the transatlantic dispute over public procurement practices (see EURECOM, April 1993) after talks in Washington on April 19 and 20 between EC External Trade Commissioner Sir Leon Brittan and US Trade Representative Mickey Kantor.

The deal goes a long way toward meeting the chief concerns of both parties, guaranteeing US firms non-discriminatory access to the EC's heavy electrical equipment market while granting EC companies access to US federal utilities as well as eventual access to sub-federal contracts, including the transport and water sectors.

Because the US failed to gain access to the EC telecommunications sector, it will still impose sanctions, albeit substantially reduced ones. The EC Council of Ministers is free to react to the sanctions once the US reveals their extent.

Sir Leon urged the US to build on the partial accord to achieve fully open procurement markets rather than to pursue sanctions: "I would appeal to the US to continue the process of de-escalating and defusing the issue by recognizing that we both negotiated in good faith and that we both have legitimate objectives, and there is no justification or need for sanctions to be applied."

Under the accord, both sides agreed to remove all restrictions on bidding for central government contracts to supply goods, works and services, opening a huge market both for EC and US firms.

Pending Council approval, the EC agreed to waive Article 29 of the EC Utilities Directive for US companies in the electrical equipment sector. All other sectors remain unaffected. As EURECOM was going to print, the Council formally endorsed the partial accord.

For its part, the US agreed to lift all limitations against EC bids for tenders by the Tennessee Valley Authority and the five publicly-owned federal utilities. (Much of the US electrical utilities market is in the private sector, and is already open to EC bidders.) Further, the US government will begin a "credible" process to eliminate "Buy American" provisions carried out at the sub-federal level. As most public tenders for contracts in ports, airports, urban transport and water supplies are offered by state and municipal authorities rather than the federal government, this point is crucial to EC firms.

Finally, both sides will jointly finance an independent study of the procurement opportunities arising from their respective offers and requests in the GATT-related Public Procurement Code.

Either side may revoke the deal unilaterally after one year if they consider that insufficient progress has been made in reducing barriers.

COMMISSION BACKS FULL PHONE SERVICE LIBERALIZATION

After lengthy consultations with interested parties — both user groups and providers — the Commission has departed from its earlier, more cautious approach to deregulating EC phone services (see EURECOM, November 1992), calling for full liberalization of EC voice telephony by January 1, 1998 in a recently released "communication".

Last autumn, when the phone service discussion paper was issued, the Commission believed that partial liberalization, i.e opening up phone services to competition only between the member states, would be the best course of action. According to EC Commissioner Martin Bangemann, however, technological advances have made territorial monopolies largely irrelevant. Further, if the EC fails to establish an efficient phone network, it will be at a disadvantage vis-a-vis its international competitors.

To achieve effective (and acceptable) liberalization, the Commission concludes that the EC must ensure reliable universal service throughout the Community; maintain the financial stability of the telecommunications sector; allow transitional arrangements for peripheral regions and countries with small, less developed networks; and develop a legal framework for licensing telecom operators in the single market.

In general, the interest groups that responded to the Commission's discussion paper recognized that an adjustment period before full phone deregulation would be needed and that a five-year period to 1998 would be about right.

Before the Commission drafts legislation to start this process, the member states must first agree on the principles of liberalization outlined in the report.

GERMANY STILL TOPS IN LABOR COSTS

For the fourth successive year, Germany was the most expensive country in terms of manufacturing labor costs among 22 industrialized countries. This was one of the findings of the German Economic Institute's (IDW) 1992 annual survey of labor costs in the industrialized world.

At $26.84 per hour, Germany (excluding the former East Germany) easily topped the survey, followed by Switzerland at $25.15 and Norway at $24.94. In fact, the high-cost "top ten" was strictly a European affair, including six EC member states (Germany, Belgium, the Netherlands, Denmark, Italy and Luxembourg) and four EFTA countries (Switzerland, Norway, Sweden and Austria). The US and Canada, which were the most costly manufacturing sites in the mid-1980s, have joined the lower-cost third of the study at $15.89 and $17.65 per hour, respectively. This radical turnabout is primarily due to the US dollar's steady fall vis-a-vis the yen and the German mark (DM) since 1985. Once again, Portugal was the least expensive EC country at $5.74 per hour.

The study separates the average hourly manufacturing wage in each country into two components: direct wages and non-wage costs (e.g. medical insurance, social security and paid leave). It provides an important but incomplete measure of international competitiveness, omitting some important factors such as purchasing power parity, productivity, infrastructure, material and energy costs, product quality and service and real interest rates. To assess a country's true competitiveness, labor costs must be analyzed along with these factors.

By far, Germany had the highest non-wage costs at $12.45 per hour, an increasingly negative factor for Germany's international cost position. In both the second (Italy at $10.90) and third (Austria at 10.79) place countries in terms of non-wage costs, fringe benefits actually exceeded direct wages. Denmark had the highest direct hourly wage at $16.81, followed closely by Switzerland ($16.68) and Norway (16.44), but as a percentage of total hourly wage, Denmark also had the lowest non-wage component of the survey at $4.25. As in the past, the UK, Japan, and the US remain low non-wage cost countries.

According to the IDW, exchange rate movements often overshadow national labor cost trends. For example, in US dollar terms, the 1992 average hourly manufacturing cost in Germany increased by 10% over 1991, compared with only a 3.3% increase in DM terms. On the flip-side, while the US experienced a modest 3.2% rise in labor costs in US dollar terms, it saw an even better 3% decrease in costs in DM terms. In general, the weaker greenback in 1992 led to fairly sizeable increases in European labor costs (in US dollar terms), with Portugal, Belgium, Austria, Denmark, the Netherlands, France, Sweden and Germany all registering double digit growth over 1991.

EC REPORT ON US TRADE BARRIERS

Now a firmly established tradition, the EC has published its ninth annual report on US trade and investment barriers to EC firms. Given the sharp rise in EC-US trade scraps of late (see recent EURECOM issues), this year's study has added resonance. Still, it must be taken against the background of an overall positive (and essential) EC-US economic relationship.

The report sets out a comprehensive inventory of US measures considered to be trade or investment barriers. According to the study, the number of US impediments has not decreased since last year's report was published (see EURECOM, April 1992).

Sticking to custom, the EC report follows the publication of the US National Trade Estimate Report, which points out trade barriers faced by US companies abroad, but which also gives the often false impression that the US market is essentially open.

As in previous reports, the 1993 version identifies the **unilateral elements in US trade legislation** as the Community's chief concern. According to the EC, US unilateral (and potentially GATT-illegal) trade dispute settlement, particularly through "section 301" action, is increasingly endangering the objective of achieving freer trade on a multilateral basis. No other major EC trading partner has such legislation. Hence, the EC is reinforcing efforts to strengthen the multilateral dispute-settlement mechanism still being negotiated in the Uruguay Round. Of equal concern is the US' tendency to resolve trade problems through bilateral arrangements, and its reluctance to accept GATT Panel rulings or to modify laws when a GATT Panel report has been adopted.

Closely related to US unilateralism is the **extraterritorial reach of US law.** Not only may such laws conflict with the sovereignty of trading partners; they may also create conflicting legal demands on firms, seriously hampering trade and investment. For example, the US' Cuban Democracy Act, which seeks to speed up Cuba's transition to democracy through a reinforced trade embargo, implies that EC-based subsidiaries of US companies face US civil and criminal penalties if they trade with Cuba. Such actions would have to be applied extraterritorially of US jurisdiction, in clear violation of international law.

Among other worrying elements of US trade and investment legislation are: the increasing use of "national security" to justify trade restrictions; discriminatory public procurement practices (see article on page 1); high tariffs, fees, import quotas and invoice requirements; discriminatory tax legislation; and impediments to access to US services markets (e.g. banking and financial services, broadcasting and telecommunications).

For a copy of the EC's 1993 Report on US Trade and Investment Barriers, please write the EC Office of Press and Public Affairs, 2100 M Street N.W., 7th floor, Washington, DC 20037. Quantities are limited.

QUOTES

*"At Copenhagen we must take decisions. We need to tell the central Europeans clearly and unambiguously that we want them inside the European Union as full members." UK Prime Minister **John Major** on the upcoming European Council summit on June 21-22.*

*"I think we'll be ready to join before the EC is willing to accept us." Czech Prime Minister **Vaclav Klaus.***

*"Our relationships with Europe are directly responsible for an inordinate number of American jobs, and if we cultivate that relationship properly and grow our trade and investment, it will mean more economic opportunities for the American people...We fully support Europe's efforts toward further integration and we will work with the European Community to achieve our common goals." US President **Bill Clinton.***

*"What we want is that in each of the areas where we need a unified Europe, (member states) that are ready should move together and not wait for everyone, not wait for all 12 to be ready to advance." French European Affairs Minister **Alain Lamassoure.***

EC GROWTH INITIATIVE APPROVED

Marking an important step toward greater coordination of national economic policies, EC finance ministers have endorsed a package — otherwise known as the Edinburgh growth initiative — of national and EC-wide measures designed to boost waning economic growth in the Community.

By taking concerted action, the initiative's impact will be greater than if measures were taken by individual countries at different times. According to EC Economic Affairs Commissioner Henning Christophersen, the growth initiative will generate additional real GDP growth both in 1993 and 1994, taking it some 0.6% (35 billion ecu) higher in 1994 than it would have otherwise been. Further, the rise in economic activity will create some 450,000 jobs over two years (1993 and 1994) and lead to a 3% increase in the level of total fixed investment in 1994.

The Edinburgh initiative gives priority to the following areas: public expenditure on infrastructure and other growth-promoting capital investment; new facilities and incentives to encourage private investment, especially in small and medium-sized businesses; job retraining; wage restraint (particularly in the public sector to keep current expenditure under control); and structural reforms (i.e. making labor markets less rigid).

Already the European Investment Bank (EIB) has approved 1.6 billion ecu (1ecu=$1.21) of loans to 21 projects from the 5 billion ecu Edinburgh Facility (see EURECOM, January 1993), and the soon-to-be-established European Investment Fund will be able to support additional projects worth up to 20 billion ecu.

Christophersen emphasized, however, that the monetary stimulus is not the only key to European economic recovery: There must also be lower interest rates, credible budgetary policies, a return to monetary stability, ratification of the Maastricht treaty and a successful conclusion to the GATT Uruguay.

US REVERSAL ON UNITARY TAX CONCERNS EC

EC Tax Commissioner Christiane Scrivener has expressed concerns about recent developments in the long-running dispute over California's system of taxing foreign companies on a "unitary" basis.

In earlier proceedings, the petitioner of the test case (Barclays Bank) had the support of the US administration. But in the latest and final stage, the new US administration has decided not to file a brief favoring the petitioner. This withdrawal of support has caused considerable concern in several EC member states.

The dispute originated in the early 1980s when California introduced a system of taxing multinational companies (MNCs) operating in the state on the basis of a proportion of their worldwide profits rather than separately calculating profits arising in the state.

The constitutional validity of this method of taxing foreign MNCs was challenged by Barclays' US subsidiary, and now the case is before the US Supreme Court.

Given differences in worldwide accounting standards and tax regimes, California's unitary tax method was seen as both unfair and difficult to administer (i.e. for comparability, worldwide accounts had to be prepared to California standards). Following considerable pressure from the US government and other countries, most States with unitary taxation revised their legislation between 1984 and 1988 so that the unitary method applies only to US source income.

Yet California still retains the right to tax MNCs on a worldwide unitary basis at its sole discretion, although it has not been applied. The present Californian rules allow a MNC to opt out of unitary tax treatment, but only in return for a substantial non-returnable fee.

The central question in the case is whether the US States should retain powers to tax MNCs on a worldwide basis. A decision against Barclays' by the US Supreme Court would unquestionably have negative consequences for EC-based businesses operating in the US.

...IN BRIEF

...According to Mexican Foreign Minister Fernando Solana, Mexico may seek a trade agreement with the EC once NAFTA (North American Free Trade Agreement) has been ratified. Mexico already has a cooperation accord with the EC, which went into effect in October 1991, but there is a desire to "go beyond what we have," said Solana.

...EC foreign ministers have broadly welcomed a Commission strategy for closer ties with Central and Eastern European countries. The plan calls for a more intensive political dialogue, better access to EC markets for Eastern European exports and a clearer commitment to eventual EC membership for association agreement countries (i.e. Poland, Hungary, the Czech and Slovak republics, Bulgaria and Romania). EC External Trade Commissioner Sir Leon Brittan said the favorable Council response has created momentum for important decisions on these issues at the Copenhagen summit on June 21-22.

...Following the fifth EC-US Transatlantic ministerial meeting in Washington on May 7 — one of the biannual EC-US meetings established by the Transatlantic Declaration — US President Bill Clinton said that both sides had agreed to provide leadership to assure a successful conclusion to the Uruguay Round. "My guests and I are committed to wrapping up these negotiations by the end of the year. We've directed our negotiators to proceed urgently with other trading partners to restore momentum to the negotiations...We agreed we would take a lot of trouble to get it done," he said. The immediate aim is to have tangible progress to report by the Tokyo G-7 meeting in July.

...An exhibit featuring the work of 60 young US and European artists who were selected to compete for the 1991 FIAR International Prize will be on display at the National Academy of Design in New York from May 12 to June 13. The prize is an award for contemporary painting by an artist under 30 years of age. Participants were selected from Italy, France, the UK and the US.

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