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UNEMPLOYMENT AND EASTERN EUROPE DOMINATE COPENHAGEN SUMMIT

Wrapping up the Danish EC Council presidency, EC heads of government met in Copenhagen for a European Council meeting on June 21-22, where the EC's unemployment crisis headed the agenda.

Taking center stage, EC Commission President Jacques Delors presented a paper entitled "Entering the 21st Century", consisting of an eight-point program for long-term EC economic development and a five-point action plan to address immediately the Community's deep recession and inability to generate jobs.

President Delors' short-term plan to boost EC economic growth and job creation calls for: quick interest rate reductions; more emphasis on investment spending; an additional 3 billion ecu (1 ecu=$1.14) for the existing 5 billion ecu Edinburgh Growth Facility; a 5 billion ecu bridging facility to speed up EC structural fund investment; and new employment training initiatives, including sharing time between work and training. For the longer term, Delors recommended staying on course for a single EC currency; completing the Uruguay Round; devoting more resources to research and development; developing more efficient telecommunications and transport infrastructures; and overhauling employment and education policies with a view toward more flexibility.

Following the broad lines of a Commission plan for Central and Eastern Europe (see EURECOM, May 1993), the European Council agreed to criteria for the "Europe Agreement" (EA) countries — Poland, Hungary, Slovakia, the Czech Republic, Bulgaria and Romania — to join the Community (albeit without a timetable). Further, the Community is offering a more structured relationship with them, accelerated trade benefits and the use of PHARE money (up to 15% of the total) for infrastructure improvement.

The European Council set the following membership criteria for these countries: a stable democracy with respect for rule of law, human rights and protection of minorities; a market economy able to compete with EC market forces; and the ability to assume the obligations of membership, including a commitment to EC political, economic and monetary union. In addition, the member states agreed that the Community's capacity to absorb new members, while maintaining the momentum of European integration, will be an important factor for future accessions.

On trade with Eastern and Central Europe, the EC leaders decided to offer greater access to EC markets by accelerating the elimination of customs duties on EA countries' products and by raising quotas on EA goods by an additional 10% per year (i.e. quota increases of 30% per year instead of 20% in most cases). Improved access for sensitive sectors like steel, textiles and farm products was also agreed, but the concessions vary by sector and by EA country.

US DUTIES ON EC STEEL "UNACCEPTABLE"

The US Department of Commerce (DOC) recently announced its final determination of anti-dumping and countervailing duties on imports of flat-rolled steel products from 20 countries, including seven EC member states. These "definitive" decisions confirm, and in some cases severely increase, the very high preliminary duties already imposed on steel imports from the EC (see EURECOM, February 1993).

Affecting some 1.9 million tons of EC flat-rolled steel with a value of $815 million, the DOC's decisions add salt to the already festering EC-US trade relationship. Definitive imposition of these duties, which range from 0.5% to over 109%, is still subject to a final ruling by the US International Trade Commission (ITC) that imports have materially injured the US steel industry. This ruling is expected by August 4, 1993.

Reacting to the DOC announcement, EC External Economic Affairs Commissioner Sir Leon Brittan remarked:

> "It is simply unacceptable that steel imports from the European Community and 13 other countries should be used as a whipping boy for problems arising largely from domestic competition within the US. EC exporters voluntarily restrained their exports to the US for 10 years...on the clear understanding that this

would settle any question of duties or injury covering that period. American firms are now trying to claim a second time round advantages that they have already reaped."

At the EC's request, the GATT has already set up a dispute settlement panel to investigate the methodology used by the US to impose countervailing duties. Further, the Community does not exclude the possibility of challenging other anti-dumping and countervailing issues involved in these cases, particularly if the ITC gives a positive injury determination.

Newly appointed GATT Director General Peter Sutherland described the US actions an "important aggravation...to the (Uruguay Round) negotiations." He also suggested that such punitive actions should be suspended until after new anti-dumping and subsidy rules are agreed in the round.

DOWNWARD REVISIONS IN EC ECONOMIC FORECAST

Although increasingly evident, it is now official: the EC is in economic recession.

Because the EC's economic outlook has deteriorated significantly since the publication of its 1993 Annual Economic Report (see EURECOM, February 1993), Community GDP growth is now forecast to contract by 0.5% in real terms this year — the first decline since 1975 — and to expand by a modest 1.25% in 1994. This represents a substantial downward revision compared with earlier estimates of 0.8% and 1.8% growth, respectively, in the two years.

Anemic growth will cause unemployment to increase and to exceed 12% in 1994, the highest level since the previous peak in 1985. Compared with its main partners, the US and Japan, not only is the EC experiencing lower growth and higher unemployment, but it is also hampered by a lower capacity to create jobs.

According to present forecasts, GDP will decrease in five member states in 1993 — Germany, Belgium, France, the Netherlands and Spain — with the most severe drop in output occurring in Germany (-2%). Only in Ireland and the UK are positive rates of growth expected (2.25% and 1.5%, respectively).

Already in a precarious state, the EC member states' budgetary positions will worsen in light of the difficult economic conditions. In fact, the general government net borrowing requirement in the Community as a whole is expected to rise to 6.25% of GDP in 1993 from 5.1% in 1992. Attempts in several member states, particularly Denmark, France and the UK, to support economic activities through fiscal measures have led to larger deficits. In some countries, however, lack of control in public expenditure bears a significant responsibility.

Against this background, Economic Affairs Commissioner Henning Christophersen emphasized the need to reinforce concerted action to improve growth and employment, including structural measures to increase the EC's job-creating capacity. In addition, he stressed that member states must create conditions for further interest rate reductions, which include stemming the increase in fiscal deficits.

AGREEMENT ON COPYRIGHT PROTECTION

EC Internal Market ministers have reached a political agreement to harmonize the length of copyright protection for artistic and literary works in the Community at 70 years after an author's death. Further, the Council agreed to set "neighboring" or related rights (i.e. rights for performers, record producers and broadcasters) at 50 years after a work is first performed or broadcast.

Slated for effect on January 1, 1995, the directive aims to ensure the free circulation of "cultural goods" in the single market by ending distortions caused by varying terms of copyright protection in the EC. For example, protection for related rights ranges from 20 to 50 years among the member states.

Despite opposition from some smaller member states — the Netherlands, Portugal, Ireland and Luxembourg — the Council was able to secure a qualified majority in favor of the legislation. The dissenting countries opposed a clause that would apply the (in some cases) extended term of protection to rights which have already expired.

On the sticky subject of protection for cinematographic and audiovisual works, the Council achieved a compromise on the definition of authorship, falling somewhere between the divergent French and UK positions. Under the agreement, the main film producer should be recognized as the author (the UK position) or as one of the co-authors of a work (the French position). Member states could choose co-authors among four categories: the principal director, the scriptwriter, the screenwriter and the music composer. The 70 years of protection would count from the death of the last co-author.

The ministers also decided that unpublished works discovered after an author's death would receive 25 years' of protection after they are first made (lawfully) available to the public.

COUNCIL BACKS EC PHONE LIBERALIZATION

In response to a Commission "communication" calling for full liberalization of EC voice telephony by January 1, 1998 (see EURECOM, May 1993), the Telecommunications Council has agreed to liberalize basic telephone services in at least six of the 12 member states by the suggested 1998 deadline.

Keeping with the Commission's own conclusions that transitional arrangements for some countries may be necessary, the ministers decided that countries with small networks, i.e. Luxembourg and Belgium, could have until January 1, 2000 to liberalize if it is "justified". For the poorer, more peripheral member states — Spain, Portugal, Ireland and Greece — the Council set January 1, 2003 as the target date, giving them five more years to adapt to full competition.

EC Commissioners Martin Bangemann (telecommunications) and Karel Van Miert (competition) cautioned that member states which lag too far behind in liberalizing would put themselves at a competitive disadvantage. They also cited the examples of the US and the UK, where liberalization has increased the rate of phone service penetration in peripheral regions.

While the Council agreement falls short of the Commission's goal to end all member states' telephone monopolies by 1998, the countries that accepted the deadline — Germany, France, Italy, Denmark, the Netherlands and the UK — represent the lion's share of the EC's over 120 million ecu telecommunications services market.

The Commission is now charged with framing the necessary legislation for liberalization by the end of 1995 so that the 1998 target can be met. In addition, the Council endorsed future Commission Green Papers on mobile and personal communications and on telecommunications infrastructure and cable TV networks.

QUOTES

"Protectionism is a recipe for making Europe an industrial graveyard, a museum piece, paralyzed by inefficiencies. Look at the failure of the industries we've tried to protect — steel and shipyards. It's a basic fact that open trade has been positive for the world...The alternative to open multilateral trade could be terrible rifts both within the developed world, and between the developed world and developing countries." Former EC Commissioner and newly appointed GATT Director General ***Peter Sutherland.***

"There is a real danger that harmonization at the Community level is locking us in to costly labor market rigidities and driving away business to our competitors in third markets." British Prime Minister ***John Major.***

"Because of the decline of the economy, there will be increased competition and an increase in state aid. We must therefore increase the controls on such aid...If we are not successful in getting this round of state aid under control, the whole single market will be in danger." EC Commissioner ***Karel Van Miert.***

"The greatest tariff reduction in history..." US Trade Representative ***Mickey Kantor,*** *commenting on the Tokyo G-7 agreement on market access.*

"I think there is a distinction between a breakthrough and a conclusion of the (Uruguay) round. This is a breakthrough. EC Commissioner ***Sir Leon Brittan,*** *also commenting on the G-7 tariff-reduction package.*

UNLIMITED CABOTAGE AGREED FOR EC TRUCKERS

Filling in the largest pothole in the EC's single market for transport services, EC transport ministers have (finally) agreed to liberalize completely the Community's road haulage sector.

The complex accord features a common system of charging trucks for EC road use, which will allow the Community to phase-in total cabotage — the right of haulers from one member state to pick up and deliver goods within another member state — by July 1, 1998.

Overcoming Germany's opposition, which has by far the EC's highest road taxes and had refused to open its road haulage market until common road pricing was agreed, the accord provides for an annual road user's fee of 1,250 ecu, reviewable every two years, for trucks with 4 axles. The Council also agreed that infrequent road users will be charged 6 ecu per day; weekly and monthly rates will be determined later.

Five member states — Germany, Denmark, Belgium, Luxembourg and the Netherlands — will start paying the common fee (a "vignette") as a region as of January 1, 1995. To offset Germany's existing road tax disadvantage, the "vignette" receipts will be distributed as follows: Germany, 73%; Belgium, 13%; the Netherlands, 9%; Denmark, 4%; and Luxembourg, 1%.

France, Italy, Greece, Portugal and Spain will be allowed to charge half the minimum rate until the end of 1997.

Now that a system of road charging has been agreed, the current quota of 18,530 EC-wide cabotage permits will be increased to 30,000 on January 1, 1994, and then increased by 30% a year until the transition period is up.

...IN BRIEF

...Moving the UK one step closer toward ratification, the British House of Lords, after a heated debate, rejected an amendment sponsored by Lady Thatcher to force a national referendum on the Maastricht treaty by a vote of 445 to 176. Only the UK and Germany, where court cases on Maastricht's constitutionality are pending, have not yet ratified the treaty.

...When asked about the US-Japan trade agreement that was reached on the sidelines of the Tokyo G-7 summit, EC External trade Commissioner Sir Leon Brittan said that the agreement, as it stands, is innocuous because it does not contain numerical targets on specific sectors. But he warned that the Commission would be watching closely: "If movement into sectoral areas becomes a reality, we will have to look very closely. We are interested in a general market-opening, but not in benefits for one country at the expense of the EC and the rest of the world." Sir Leon has been assured by the US on several occasions that the agreement will not lead to a "carve-up" of markets to the exclusion of the EC or any other trading partner.

...The Commission's recently released opinion on Malta's and Cyprus' membership applications says that both could one day join the EC, but they must first overcome some serious hurdles before "something as substantial as negotiations" can begin. For Cyprus, a peaceful and lasting political solution to the ethnic dispute that has divided the island since 1975 would have to be reached before accession talks could start. Malta, in turn, would have to overhaul its highly protected and regulated economy because at present, it could not stand up to EC competition. In both cases, a scheduled review of the EC's institutional structure in 1996 will have to address how the EC can absorb two such tiny countries in the future. Until an institutional solution becomes clear, the Commission believes the two countries will be unable to join.

...According to the European-American Chamber of Commerce (EACC) in Washington DC, European subsidiaries in the US provide 2.9 million jobs, more than the affiliates of all other nations combined. In addition, they account for 7% of all US manufacturing employment and pay higher wages on average than US companies. Despite the obvious benefits of European investment, however, the EACC finds it is constantly fighting discriminatory measures in the US Congress. Said EACC President William Berry: "Those who propose policies that upset the European-American relationship may find that they are biting the hand that feeds their fellow Americans."

...Overcoming French concerns on immigration and drug trafficking, the nine EC Schengen countries have agreed to lift internal border controls on people starting December 1. Originally scheduled for last January 1, the Schengen accord has been held up by technical issues, ratification delays (in Germany in particular) and French objections. Based on a compromise proposed by Spain, the outgoing Schengen president, the nine countries pledged to continue to tighten external controls and illegal drug measures so that the internal controls can be lifted.

...The Fordham Corporate Law Institute's twentieth anniversary conference will take place on October 21-22 at Fordham Law School in New York City. This year's program — "Antitrust in a Global Economy" — features a notable contingent of top EC competition and legal officials.

The Fordham Center on EC Law and International Antitrust is offering two seminars in the coming fall semester: "European Community Law" and "EC Intellectual Property".

For further information on the conference and/or the seminars, please contact Helen S. Herman at (212) 636-6885.

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