EURECOM

Monthly bulletin of European Union Economic and Financial News

VOLUME 6, NUMBER 7 JULY/AUGUST 1994

## THE CORFU SUMMIT: STORMY, BUT PRODUCTIVE

Although it conspicuously (and rancorously) failed to designate a new European Commission President to succeed President Jacques Delors (Luxembourg Prime Minister Jacques Santer has since been selected by the member states), the European Council in Corfu, Greece on June 24-25 did yield positive results.

Demonstrating the continued attraction of the European Union, the heads of state and government from Austria, Finland, Sweden and Norway attended the Corfu summit and signed their respective Treaties of Accession. Further, Russian President Boris Yeltsin was on hand to sign a Partnership and Cooperation Agreement between the EU and Russia, an important event "in the efforts to promote peace, stability and prosperity on the [European] continent (see next article)."

Following up on the Commission's White Paper on Growth, Competitiveness and Employment (see EURECOM, December 1993), the EU heads of government endorsed six points emphasized by President Delors to combat unemployment: the need for more efficient member state employment systems; exploiting the job potential of EU small and medium-sized companies (SMEs); reinforced coordination of research; rapid implementation of priority trans-European network projects; fully developing the "information society"; and encouraging "sustainable development", including the environmental dimension.

The EU leaders stressed the need for more flexibility in EU labor markets — a priority area for the new German Council presidency — including possible changes in tax policies where they hamper employment. They also want the single market extended further into the telecommunications and energy sectors, where more liberalization would benefit the entire EU economy.

In regard to trans-European networks, the European Council agreed on 11 priority transport projects — worth an estimated 32 billion ecu — that will receive EU financing in the 1996-1999 period. Chiefly geared to improve north-south and east-west rail links across Europe, a majority of the projects will concentrate on high-speed train and combined (intermodal) freight transport. By emphasizing rail transport, the EU is giving more than lip service to environmental concerns, especially the problem of congested motorways and projections of growing truck traffic in Europe.

Recognizing the vast economic and employment possibilities afforded by the revolution in information technology, the European Council backed the findings of the "Bangemann Group" report on the information society (see EURECOM, April 1994), which advocates the acceleration of telecom liberalization and the primary role of the private sector and market forces in financing "information highways". In general, it agreed with the areas of application set out in the report: teleworking, distance learning, networks for universities and research centers, telematic services for SMEs, road traffic management, air traffic control, health care networks, electronic tendering, administrative networks and city information highways. It added that the member states have an important back-up role in creating a clear and stable regulatory framework, particularly as regards market access, compatibility between networks, data protection and intellectual property rights.

## EU AND RUSSIA SIGN LANDMARK PCA AGREEMENT

The EU and the Russian Federation have reached a major agreement that will boost their economic and political ties. Signed by the 12 EU leaders and by Boris Yeltsin at the Corfu summit, the Partnership and Cooperation Agreement (PCA) holds out the prospect for a free trade area between the European Union and Russia by 1998.

Welcoming the agreement, External Trade Commissioner Sir Leon Brittan said that "this agreement marks a milestone on the road towards greater economic and political stability across the entire continent. It builds a solid framework based on mutual respect. For European companies particularly, it will encourage investment in Russia by ensuring they are treated as fairly as domestic companies while guaranteeing them the right to repatriate profits earned on the Russian market."

The accord will not remove tariffs immediately.

Russia currently has a far higher tariff wall against EU imports than vice-versa (the average weighted Russian tariff for EU products is 12-14% compared with an average EU tariff of under 1% for Russian goods), suggesting that Russian industry would need time before all tariffs can be abolished. Both sides agree to consult one another before increasing tariffs on each other's imports — an important provision because Russia is not yet a member of GATT, and is largely free to impose tariff protection. Relatedly, the PCA also supports Russia's future accession to the GATT and the World Trade Organization.

Except for certain textile and steel products, the PCA calls for the removal of all quotas and quantitative restrictions on Russian exports to the EU. It also includes a clearly defined safeguard clause — similar to that in GATT —which protects domestic producers against unfairly subsidized or "dumped" imports.

As a general principle, European companies will be able to set up in Russia under conditions at least as favorable as other foreign companies and, once established, will be treated as favorably as Russian or other foreign firms. The same will hold for Russian companies in the EU.

On a political level, the agreement establishes a regular political dialogue between the two sides, including two meetings a year between the Russian president and the presidents of the European Council and the European Commission, and regular meetings between ministers and civil servants.

The PCA will enter into force after all EU member state parliaments, the European Parliament and the Federal Assembly of the Russian Federation have ratified it.

The EU has signed or is ready to sign comparable, but less substantial PCAs with Ukraine, Latvia, Lithuania and Estonia.

## SCORECARD ON SINGLE MARKET IMPLEMENTATION

True completion of the single market depends first and foremost on the member states' implementation of EU directives enacted as part of the 1992 program. Without transposition of this legislation into national law, the single market will not be able to function properly.

Given the importance of this relationship, the Commission recently released an analysis of member states' implementation of single market directives, finding that the overall transposition rate is nearly 89%, the highest level recorded since the Commission started publishing such statistics five years ago. According to Internal Market Commissioner Raniero Vanni d'Archirafi, however, the overall score is "no more than a formal reality", and does not investigate the actual application of single market legislation. (The Commission will publish a report on the quality of transposition procedures this autumn.)

The member states' performance varies widely in the different areas of activity. In areas such as the free movement of capital, excise duties and value-added tax (VAT), the implementation process has been completed, and in others (e.g. technical directives, chemicals and marketable securities), it is well on the way. But in some very important sectors, the member states are running behind.

With an average transposition rate of 64.8%, **insurance** is the sector in which the EC countries are lagging the most. To date, nine directives are in force, including the third life insurance and non-life insurance directives — the cornerstones of the single market for insurance. Except for France and Portugal, all the member states are behind schedule.

In the field of **intellectual property,** implementation is only at 66.6%. Delays apply chiefly to the directives on trademarks and on the protection of computer programs, with which only half of the member states have complied.

Greece, Spain and Italy are the worst laggards in **public procurement,** which sports an overall implementation rate of 75%. Most affected are the supplies directive (in force since January 1989), the directive on appeals procedures in the excluded sectors (in force since January 1993) and the more recent directive on services.

Among the member states, Denmark retains its distinction as the most efficient implementor with a 96% rate, followed by Portugal at 91%. Bringing up the rear are Germany (81%), Greece and Ireland (both at 78%).

## COMMON POSITION ON WORKER CONSULTATION PLAN

After 13 years of discussion, the Social Affairs Council has reached a Common Position on a worker consultation directive for large trans-European companies (see EURECOM, April 1994). Now the proposal goes to the newly-elected European Parliament for a Second Reading.

Social Affairs Commissioner Padraig Flynn welcomed the decision as "a historic breakthrough", which is "good for business and will improve competitiveness through better industrial relations."

Under the Council agreement, companies with at least 1,000 employees and at least two units located in different member states (each with 150 or more employees) would have to establish a European Works Council (which is defined in an annex to the legislation) or an employee information and consultation procedure to inform workers on business decisions taken outside their country that affect them.

Workers and management would be free to design a procedure best suited to their needs. To initiate a consultation procedure, at least 100 employees (or their representatives) from at least two member states would have to submit a written request.

Failing agreement between the parties on a procedure within a period of three years, the annex on a European Works Council would apply. Where central management refuses to start talks with employees, the Works Council rules would apply after a period of six months. It would apply immediately if the two parties so agree.

The proposal obliges member states to allow management, under certain conditions and guarantees, to withhold information if disclosure could seriously undermine the undertakings concerned.

Because the legislation is based on the Maastricht treaty's social policy chapter, the UK, having "opted out", was not involved in deliberations and will be exempt from the directive. However, certain pan-European companies with central headquarters in the UK (as well as in third countries) would be covered by the directive.

## QUOTES

*"The European Union cannot simply be a free trade area or even a single market. We need to develop a system for constructing our foreign policy better internally, and projecting it externally." UK Foreign Secretary* ***Douglas Hurd.***

*"After 40 years of regulation in Europe, we have to look at the possibility that it is being over-regulated." German Economics Minister* ***Gunther Rexrodt*** *commenting on a major theme of the current German Council presidency.*

*"The single market is potentially Europe's biggest single asset. But free trade is not just the elimination of tariffs; it is the elimination of old mindsets."* ***Edgar S. Woolard,*** *chief executive of DuPont.*

*"At least at football, eleven can play!" Belgian Prime Minister* ***Jean-Luc Dehaene*** *following the (sole) British veto of his appointment as Commission president.*

## JULY 1994: SUMMITS GALORE

Speaking at the press conference after the Group of Seven (G-7) economic summit in Naples, Italy on July 9, European Commission President Jacques Delors said that at his suggestion, the G-7 leaders had agreed to hold a special meeting on employment in Brussels, comparable to the meeting held in Detroit this past spring, but with emphasis on new information technology.

Delors also noted that the summit had decided to delay discussion of a new round of trade liberalization talks for services and investment — an idea broached by US President Bill Clinton — as it could delay ratification of the Uruguay Round agreement and the creation of the World Trade Organization.

Three days later German Chancellor (and current President of the European Council) Helmut Kohl and President Delors met with President Clinton for the twice-yearly Transatlantic summit, which aimed to develop closer ties and more effective cooperation and consultation between the EU and the US. The meeting also covered employment questions, relations with Russia and the Bosnian conflict.

To achieve concrete improvements in cooperation, the presidents asked for two reports by US and European experts: one on ways to strengthen democracy and economic cooperation with and between Central and Eastern European countries through joint EU-US actions; and another on methods to improve joint actions in EU-US international relations, including, more specifically, the fight against organized crime and drug trafficking.

These studies will be presented at the next Transatlantic summit during the French presidency.

## EU, US COMBINE ON KEY ANTITRUST CASE

In a potentially far-reaching case, US and EU antitrust authorities have jointly investigated the US-based software multinational Microsoft for anti-competitive licensing practices on both sides of the Atlantic. As a result of the probe, and after intense negotiations between Microsoft and a team of senior officials from the European Commission and the US Department of Justice (DOJ), Microsoft has agreed to modify its licensing policies.

Software users in both the EU and the US will profit from a greater choice of operating systems, and will pay only for what they use.

Although the case had been unsuccessfully investigated in the US for some time, it was first brought to the Commission's attention last year by the US software company Novell, which alleged that Microsoft blocked competitors out of the market for PC operating system software through certain anti-competitive practices. In particular, Microsoft's standard agreements for licensing software were claimed to exclude competitors from selling their products. PC manufacturers were also required to pay royalties for a fixed number of Microsoft operating systems irrespective of the software actually loaded in the computers.

After Microsoft agreed to an exchange of information between the Commission and US authorities (with the condition that Microsoft be informed on the information exchanged), the investigation gathered steam. Microsoft agreed to cooperate in the EU-US joint action when it found out the Commission was about to send a statement of objections.

In the "undertaking" obtained by the Commission and the DOJ, Microsoft agreed that it will not enter into license agreements for more than one year, and that it will no longer impose minimum commitments or "per processor" clauses on PC manufacturers. Further, any provisions of existing license contracts which breach these undertakings will not be enforced.

According to the Commission, this unprecedented example of cooperation is an important model for the future, showing how two competition authorities can combine efforts to deal effectively with large multinational companies.

## ...IN BRIEF

...Mr. Cees Maas, member of the Executive Board of the ING Group and former chairman of the EU Monetary Committee, has been appointed chairman of the independent Expert Group to study the practical aspects of introducing a single currency (see EURECOM, April 1994). Eleven other members have also been appointed, as well as three observers. The Group will focus on issues arising in the financial and other private sectors, and will work closely with the Monetary Committee and the European Monetary Institute. It will report on its first findings to the Commission before year's end.

...The European Court of Justice has rejected a temporary injunction from the Commission requiring Greece to halt its trade embargo of the former Yugoslav Republic of Macedonia (FYROM). This will allow Greece to continue blocking trade to and from FYROM until the Court delivers a final judgement on the case (see EURECOM, April 1994), a process that could last 18 months. Although it found substance in the Commission's legal arguments, the Court rejected the Commission's request for provisional measures because it had not demonstrated that the embargo would cause "grave and irreparable damage".

...To the dismay of many, including the Commission and the EU member states, the US Supreme Court upheld California's unitary tax method, which assesses tax on multinational companies based on their worldwide income (see EURECOM, February 1994).

...The Fordham Corporate Law Institute's twenty-first annual conference will take place on October 27-28 at Fordham Law School in New York City. This year's program — "International Antitrust Law and Policy" — features an "all star" group of EU antitrust and legal officials, including Dr. Claus-Dieter Ehlermann, Director General of DG-IV (Competition), who will present a paper on state aids. For more information, please contact Helen S. Herman at (212) 636-6885.

...On October 11-13, RIAO 94, a conference on intelligent multimedia and information retrieval systems, will take place at Rockefeller University in New York City. Held every three years, RIAO allows researchers, product developers and companies to demonstrate the latest innovations in information retrieval. It is sponsored in part by the European Union and organized by the Center for Advanced Study of Information Systems (US) and the Centre de Hautes Etudes Internationales d'Informatique Documentaire (France). For more information, please call Chris Matthews at (212) 371-3804.

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