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AUSTRIA JOINS EXCHANGE RATE MECHANISM

Demonstrating its resolve to be in the vanguard of economic and monetary union, Austria has taken its schilling into the exchange rate mechanism (ERM) of the European Monetary System after just one week of EU membership. The Austrian government decided to enter the ERM on January 9 after consultation with the EU's Monetary Committee (in a common procedure involving the Commission and the European Monetary Institute).

The schilling went into the ERM at a central rate of 1 ecu to 13.7167 schillings (1 ecu=$1.23), its most recent market rate. The current ERM fluctuation margins of 15% will be observed around its ecu central rate and its bilateral central rates with other ERM currencies. All other bilateral central rates and intervention rates within the ERM remain unchanged.

EU finance ministers and central bank governors welcomed the schilling's entry and Austria's intention to maintain its long-running exchange rate stability through its established approach (i.e. pegging the schilling to the German mark) to monetary policy.

"We will continue to pursue the very close ties to the mark. Now that we are in the ERM, there will be an added degree of stability, but everything else will be as it was in the past," commented Adolf Wala, head of Austria's central bank.

Fellow new EU members Finland and Sweden also applauded Austria's ERM membership, but both indicated that their economies have too many imbalances at present for ERM membership, and that their currencies would continue to float for some time.

In addition to the Swedish krona and the Finnish markka, three other EU member currencies — the British pound, the Italian lira and the Greek drachma — remain outside the ERM.

COMMISSION CLICKS ON CABLE TV LIBERALIZATION

As foreshadowed in last month's issue (see EURECOM, December 1994), the Commission has approved a directive lifting restrictions on the use of cable TV networks for the provision of liberalized telecommunication services by January 1, 1996.

In particular, it aims to allow cable operators to offer multimedia services, such as home banking and shopping, interactive video games and specialized on-line data bases. At present, most EU operators are restricted by national laws to one-way broadcasting services except in the UK, where cable TV networks are completely open for liberalized services, and, to a limited extent, in the Netherlands. The percentage of EU households subscribing to cable TV ranges from none in Greece and Italy to 95.5% in Belgium and 86.4% in the Netherlands.

Similar to the satellite communications directive adopted in October (see EURECOM, October 1994), the cable legislation is based on Article 90 of the EC Treaty, which gives the Commission the power to adopt legislation (without Council approval) curbing public monopolies when they are contrary to the public interest. Under this procedure, the Commission will consult member state governments and other interested parties before the legislation is formally adopted.

According to the Commission, liberalizing access to cable infrastructure would significantly lower costs and increase the capacity available for new services, especially since cable TV has a built-in advantage (through broad band co-axial cable) in signal quality for moving images over the telecom networks operated by the national monopolies (PTTs).

In most member states, only the PTTs are currently allowed to lease out capacity or to carry telecom services for third parties, severely constraining opportunities both for service providers and users. Moreover, PTTs charge, on average, 10 times more for the lease of high capacity lines than in deregulated "environments" like Sweden and North America.

The directive contains safeguards to prevent cable operators from using a dominant position in one market to impose predatory prices in another. It also requires that the member states monitor cross-subsidies between monopoly and liberalized activities when a single operator provides both (e.g. Deutsche Telekom also operates the German cable network).

PACKAGING WASTE DIRECTIVE ADOPTED

Following a lengthy conciliation process with the European Parliament (under the co-decision procedure), EU environment ministers have formally adopted the controversial Packaging and Packaging Waste Directive, balancing the need for high environmental protection in the EU with a smoothly functioning single market (see EURECOM, January 1994).

Under the agreement, member states have until mid-1996 to implement the directive into national law. Thereafter, the EU countries have five years to meet the following targets: between 50% and 65% recovery of all packaging waste (by weight); and between 25% and 45% recycling of all waste materials, with a minimum of 15% for each material. No later than 10 years from the implementation date, the targets must be revised with a view toward increasing them substantially.

The Industry Council on Packaging and the Environment (Incpen) welcomed the directive's passage, calling the targets "realistic and achievable." It also noted that the directive would prevent member states from introducing potentially incompatible national legislation.

The EU produces around 50 million metric tons of waste a year.

The Commission's original draft (see EURECOM, April 1992) called for 90% recovery with 60% to be recycled in ten years' time. This proved, however, much too ambitious, particularly in light of Germany's waste recovery and recycling system. Already Germany exceeds the EU directive's targets on recovery, but its recycling capacity has proven inadequate, leading to huge packaging waste flows from Germany to other member states, overwhelming their own fledgling recycling industries.

Based on their peripheral geographic positions and relatively low consumption of packaging, Greece, Ireland and Portugal have a five-year exemption from the targets. On the other hand, the other member states can exceed the EU targets on environmental grounds as long as the single market for packaging is not distorted by excessive export of waste.

In line with the subsidiarity principle, the directive leaves it to the member states to establish specific return, collection and recovery systems to meet the recovery and recycling objectives. It does, however, set out essential requirements on the composition of reusable, recoverable and recyclable packaging.

(YES, WE HAVE) EU-US BANANA DISPUTE

In a letter to EU External Economic Relations Commissioner Sir Leon Brittan, US Trade Representative Mickey Kantor has complained that the EU's banana import policies are "adversely affecting US economic interests", and that the US is considering retaliatory action under Section 301 of US trade law.

The EU's controversial banana import regime favors bananas from African, Caribbean and Pacific (ACP) countries of the Lomé Convention — the EU's major development aid pact with 70 developing countries — over the "dollar" banana producers of South and Central America.

In a preliminary finding, Kantor said that the discriminatory EU practices have cost US banana marketing and distribution companies (such as Chiquita Brands, which filed the complaint) hundreds of millions of dollars. According to Kantor, the EU has refused his suggestion to resolve the matter through negotiation.

In response, Sir Leon said that he remained confident that EU banana policy is in full conformity with its international obligations, notably those in the World Trade Organization (WTO). (Lomé Convention countries also recently obtained a waiver from the Uruguay Round agreement rules.) Further, he told Kantor that Europe cannot accept any unilateral action against its interests in breach of WTO obligations.

WTO obligations make it clear that withdrawal of concessions, whether in goods or services, is allowed only after WTO dispute settlement procedures have been fully exhausted.

Commissioner Brittan said he looked forward to "discussing bananas" with USTR Kantor when he visits Washington toward the end of January.

NEW WEAPONS TO COMBAT PIRACY

Stepping up the fight against counterfeit and pirated goods, the Council has formally adopted the "Scrivener Regulation" — named after outgoing Customs Commissioner Christiane Scrivener — which had been delayed by the Commission-Council row over trade negotiating authority (see EURECOM, November 1994).

Pleased that the Council's reservations about the regulation's legal basis had been overcome (the European Court of Justice ruled that the Commission has competence over measures to combat pirated goods at borders), Scrivener explained that the EU must have the means to defend its manufacturers and innovative products on the world market. "[This] decision will provide a simple and effective complement to member states' and companies' efforts to combat counterfeiting," she said.

Slated for effect on July 1, 1995, the directive strengthens the powers of customs authorities to confiscate suspected counterfeit goods without having to wait for a court order or to take interim protective measures. It also extends protection to copyright and related rights as well as to designs and models; hitherto only trademarks were covered. Finally, the regulation covers a wider range of customs operations, including transit and exports.

The legislation does not cover goods carried in personal luggage by travellers, but it does include tools, printing materials and films which could be used to attach a trademark or logo to luxury goods.

EU SIGNS EUROPEAN ENERGY CHARTER TREATY

Energy and Transport Commissioner Marcelino Oreja recently signed the European Energy Charter Treaty on behalf of the European Union at a ceremony in Lisbon.

The treaty gives legal force to the original European Energy Charter, which was adopted in December 1991 with the goal of assisting Eastern Europe — and especially Russia — to develop its resource-rich energy sector with Western investment, technology and know-how.

The Energy Charter was first proposed by former Dutch Prime Minister Rudd Lubbers in 1990, which led to an international conference on the charter starting in July 1991.

Commissioner Oreja said the treaty "will play a significant role in the economic and social development of the Central and Eastern European countries" by creating the legal framework necessary for an upsurge of Western investment in the region's energy sector.

Following three years of negotiations, almost all of the original 52 Charter signatories (including the European Union, the then 12 EU member states and the Russian Federation) signed the treaty. Some negotiating parties (namely Canada, Hungary, Japan and Norway) were unable to sign the treaty in Lisbon, but expect to as soon as their internal procedures permit. Although the US has not signed, it has issued a declaration reaffirming its commitment "to the overall goals of the Energy Charter and Treaty process." Signature of the treaty is open until June 16, 1995. Ratification of the treaty by signatories will proceed forthwith.

The treaty's main features are: greater legal certainty for investors, including national treatment; mandatory transparency in the treatment of investments; improved energy supplies for consumer countries; and trade in energy materials according to GATT. While the treaty recognizes state sovereignty over energy resources, the contracting parties have committed themselves to facilitate access to resources as well as transit of energy.

QUOTES

"Jacques Delors is a great European. He has rendered a great service to Europe and to the process of European unification. We all owe him a debt of thanks." German Chancellor ***Helmut Kohl****, speaking before the European Parliament.*

"I am and will remain opposed to allowing expansion to the east to dilute Community institutions and convert the European Community into a mere free trade zone. That would be contrary to the spirit of the Union." Commission President ***Jacques Santer****.*

"The European Union will in the future have certainly more than 20 member states, perhaps 25 and it isn't absurd to think there might be 30. That is when it would be inevitable to talk about a Europe of two, three or even four speeds." Portuguese Prime Minister ***Anibal Cavaco Silva****.*

"From Germany, through The Hague and Brussels to Paris and Madrid, people are debating monetary union and convergence. It is a dialogue which we either join and influence now or stand outside and fail to influence once again." British Labour party leader ***Tony Blair****.*

"In recent times it has become clear that Russia is not being seen as a full member of Europe...The country which gave the world Dostoevsky and Tolstoy can hardly be considered Asiatic." Member of Russian Parliament ***Vyacheslav Nikonov****.*

COMMISSION STREAMLINES EU MERGER REGULATION

After extensive consultation with industry representatives, the legal profession and national authorities, the Commission has adopted a series of measures to increase the transparency and efficiency of the EU merger regulation's implementing legislation.

A major goal of the Commission's review was to streamline notification requirements for joint ventures (JVs) of "minor importance" (i.e. JVs with turnover and/or assets below 100 million ecu). To achieve this, the Commission has introduced the option of a short-form notification (Form CO).

The Commission has also revised several procedural aspects of the merger regulation to clear up ambiguities in the current text: the calculation of deadlines; material changes in facts relating to a notification; and rights of parties to be heard. In addition, a time limit for notifying parties to submit modifications to their proposed mergers has been established.

After five years' experience with the regulation, the Commission has more clearly defined the distinction between cooperative and concentrative JVs, seeking to reduce, as far as possible, the need to examine substantive issues only for jurisdictional purposes.

Finally, the Commission has refined the conditions under which the two categories of concentration covered by the regulation — mergers and acquisitions of control (sole and joint) — may occur, thus triggering the notification requirement. In addition, the notions of "undertakings" (the parties involved in a merger) and "turnover" (a proxy for economic resources and activity being combined in a concentration) are clarified in relation to the three turnover thresholds in the regulation, which ultimately determine jurisdiction.

Commented Competition Commissioner Karel Van Miert: "These measures, in providing clear guidance to business and legal practitioners as to when and how the merger regulation may come into play, render EU merger control more transparent and user-friendly."

...IN BRIEF

...On the weekend of February 25-26, the Commission will host a G-7 ministerial conference on the "information society" in Brussels. Vice President Al Gore is expected to attend and address the conference on behalf of the US Administration.

Alongside the conference will run an exhibition entitled "Citizens of Change", which is designed to illustrate the importance and relevance of the ministers' discussions. Both the conference and the exhibition aim to demonstrate the reality of the information society, the economic opportunities it provides and the benefits its applications offer citizens in day-to-day life. The conference will initiate long-term cooperation on these issues between economic operators, academia, public authorities, international organizations and end-users.

Industry representatives will also hold parallel meetings that weekend to discuss these topics.

...EU unemployment remained steady at 10.7% in November, which is 0.1 percentage points lower than in November 1993. The UK experienced the largest drop in joblessness, as unemployment fell from 10.2% a year earlier to 8.8% in November 1994. Also, in Ireland it dropped from 18.3% to 17.5% over the same period. However, Italy's unemployment rate jumped from 11.2% in November 1993 to 12% a year later.

...In reaction to Russian government actions in the breakaway Russian republic of Chechnya, the Commission has delayed procedures to sign an interim trade accord between the EU and the Russian Federation, which would govern two-way trade until the broader EU-Russian Partnership and Cooperation Agreement is ratified (see EURECOM, July/August 1994).

...Thanks to the efforts of the German Council presidency, the long-delayed Schengen agreement to eliminate passport controls among nine EU member states is now "irreversibly" scheduled for effect on March 26, 1995 for seven of the signatories — Germany, France, the Netherlands, Belgium, Luxembourg, Spain and Portugal. Italy and Greece will miss the deadline due to technical glitches with the telematic Schengen Information System. It is hoped that Schengen will pave the way for the complete abolition of border controls at the EU level, which has been a major (and elusive) Community objective from the very start.

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If you would like additional information on any article in this issue, please write or telephone Christopher Matthews or Kerstin Erickson at (212) 371-3804.

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EURECOM is published by Barbara Noël, Director of Press & Public Affairs, the European Commission, 3 Dag Hammarskjold Plaza, 305 East 47th Street, New York, NY 10017. It is edited by Christopher Matthews.

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European Commission
3 Dag Hammarskjold Plaza, 305 East 47th St., New York, NY 10017
Telephone (212) 371-3804