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COMMISSION CALLS FOR SHARPER EU TRADE POLICY

To give EU industry and employment a boost, the Commission has called for a sharpened and refocused EU trade policy, aiming for more effective opening of foreign markets vital to European exports.

Commented Commission Vice President Sir Leon Brittan: "European trade policy is as much about open markets for European exports and investment abroad as it is about progressively lifting our own barriers to competition from outside...While remaining vigilant to unfair trade that damages European industry, it is time for Europe to abandon its defensiveness about liberalization and focus fully on opening those markets that remain closed to our products and investment."

Under the proposed new "Market Access" strategy (which the Council and the European Parliament will review), the Commission would invite industries and governments to identify the most stubborn trade and investment barriers in specific countries, which would then go into a comprehensive, user-friendly and easily accessible database. With the help of a special Action Group, the Commission would select the most effective trade instruments at its disposal to ensure faster, more coherent and more coordinated action to remove these obstacles. The proposed strategy would not, however, introduce any new policy instruments nor jeopardize the EU's World Trade Organization (WTO) obligations.

At the multilateral level, the Market Access strategy includes the following elements: ensuring that the EU's trading partners **respect their Uruguay Round commitments**, notably in sub-federal public contracts and intellectual property protection; striving for **further removal of trade barriers** in areas covered, but left unfinished by the Uruguay Round (e.g. financial services, telecommunications, maritime transport, rules for services, rules of origin, government procurement); ensuring that the priorities of European business are reflected in new policies for **worldwide international investment**; developing open trade in a way compatible with EU objectives in other fields, such as environmental protection and international labor standards; and promoting the **integration of developing countries** into the world economy.

Europe is heavily dependent on trade and investment, accounting for one fifth of world trade in goods and one third of foreign direct investment worldwide (the EU's stock of foreign investment amounts to $460 billion). In fact, the 1993-94 economic recovery in Europe has been led by steady export growth. Yet European firms encounter a multitude of obstacles when exporting or investing outside Europe. In the Commission's view, the EU must seek to open the markets of its trading partners and to build multilateral trade rules that enable European business to expand, exploiting the full weight conferred to it by being the world's largest trading partner.

EU ADOPTS LEGAL PROTECTION FOR DATABASES

Taking an important step toward the information society, the Council of Ministers has formally adopted a directive on the legal protection of databases, providing EU copyright protection to computerized and manual databases for the first time (see EURECOM, June 1995).

"This innovative and comprehensive measure will ensure an appropriate level of protection for database creators and investors throughout the EU," remarked Single Market Commissioner Mario Monti. "Such protection is essential to encourage the investment necessary to make the information society a commercially viable reality in Europe."

Aimed to combat piracy and unauthorized use of information, the directive's main feature is the creation of a new exclusive economic right protecting the substantial investments in time, money and effort made by database manufacturers. This "sui generis" protection will last 15 years from the finalization of a database — even if the contents do not qualify for "standard" copyright protection — giving the maker the right to prohibit the extraction or reuse of the database's content by third parties. However, member states will be able to grant certain exemptions from the "sui generis" right, notably extraction of information for private use and teaching purposes.

Further, the directive provides for the harmonization of copyright law applicable to the structure of both electronic and paper-based databases manufactured in the EU. Such protection may be extended to databases manufactured in third countries if their legislation provides a similar level of protection for EU firms.

The Commission expects that this legal

innovation will receive significant attention from the EU's most important trading partners, as well as in international fora dealing with intellectual property rights.

JAPAN CONCEDES ON EU-US WTO COPYRIGHT COMPLAINT

Under pressure from a joint EU-US complaint to the World Trade Organization (WTO), Japan has agreed to provide copyright protection for recorded music in line with the Uruguay Round agreement on Trade-Related Intellectual Property (TRIPs).

WTO rules require all WTO countries to give at least 50 years of intellectual property (IP) protection to producers and performers of sound recordings from the end of the year in which the performance took place or the recording was released, dating back as far as 1946.

The joint WTO action was in response to Japanese rules, introduced in January, which extended 50 years of IP protection to recordings released only since 1971. Many of Europe's most successful releases were produced between 1946 and 1971 — ranging from The Beatles to the Berlin Philharmonic — and would not have been protected under the Japanese legislation. Because the US and the EU had similar complaints (and because the complaints coincided at the WTO), the EU, for practical reasons, requested joint EU-US consultations with Japan.

The European recording industry estimates that yearly losses in Japan resulting from lack of IP protection for European releases over the 1946-1971 period exceed $120 million.

THE SINGLE MARKET IN 1995: PROGRESS, BUT PATCHY

1995 witnessed considerable progress toward making the EU's single market fully operational, but snags still remain according a recently released Commission report. While a number of important measures were either adopted by the Council or proposed by the Commission, some member states continue to lag in implementing directives or fail to apply them properly.

"The operation of the single market is reasonably satisfactory, but there is still a lot of hard work to be done to ensure that citizens can make full use of the rights to which they are entitled and that business enjoys a level playing field," commented Single Market Commissioner Mario Monti.

Among the highlights for 1995 were a transparent system of identifying new exceptions to the principle of free movement of goods; proposals for a new EU accounting strategy (see EURECOM, December 1995), the monitoring of insurance groupings (November 1995), the legal protection of databases (see this issue) and the legal protection of biological inventions (January 1996); the adoption of the personal data protection directive (September 1995), the Green Paper on copyright and related rights (September 1995) and the White Paper on integrating the Central and Eastern European countries into the single market (May 1995); and the start of the centralized EU system for authorizing medicines for human and veterinary use through the European Agency for the Evaluation of Medicines in London. In addition, the accelerated pace of telecom liberalization was a welcome and important development for the single market in 1995.

Areas which experienced little or no progress include the free movement of persons, company law (especially the European Company Statute), taxation and public procurement (214 infringement cases outstanding). Further, the liberalization of EU energy markets, which is essential to the completion of the single market and to spurring Europe's industrial competitiveness, remains deadlocked in the Council.

In terms of the member states' implementation of single market legislation, Germany and France, the traditional "engines" of European integration, together recorded almost 40% (54 and 48 complaints, respectively) of the 258 complaints on EU trade obstacles reported to the Commission in 1995. In contrast, the traditionally "Euro-skeptical" UK registered only 10 complaints, while Ireland received no complaints at all.

NEW EU RULES FOR DERIVATIVES

EU financial firms will be able to compete on equal terms with non-EU rivals after the Council's recent adoption of a directive on contractual netting for over-the-counter (OTC) derivatives instruments.

Bringing the EU into line with rules already approved by the Basel Committee of the Bank of International Settlements (BIS), the new legislation will reduce capital and solvency requirements associated with OTC derivatives, such as interest rate- and foreign exchange-related swaps, options and forward contracts, by allowing for bilateral netting arrangements other than the already permitted "novation" netting. In particular, it allows for recognition of "bilateral close-out" netting.

Bilateral netting agreements reduce credit risk by the offsetting of mutual claims and liabilities from pending OTC derivative contracts. Otherwise, credit institutions would have to set aside some of their own funds to cover such high risk investments. OTC derivatives are those traded between individual counterparties as opposed to standardized derivatives traded on exchanges.

According to the Commission, the new rules should encourage the wider use of netting arrangements between banks and investment firms, thus reducing credit and, consequently, systemic risk in derivatives markets. EU member states must implement the legislation (which amends the existing Solvency Ratio Directive) by June 30, 1996.

A recent BIS survey indicated that the global OTC derivatives market was worth $40.7 trillion at the end of March 1995, with currency exchange rate contracts accounting for more than half of the market's total value.

EU TELECOM LIBERALIZATION CONTINUES APACE

In parallel to the US 1996 Telecommunications Act, which fully overhauls US telecom regulation and market structure, the Commission has adopted a directive implementing full competition in the EU telecommunications market — including voice telephone services and infrastructure — by January 1, 1998. Although the Telecommunications Council has agreed for some time that 1998 is the deadline for telecom liberalization, the new legislation sets it in stone.

In addition to legislating the 1998 date, the directive accelerates the pace of liberalization by setting July 1, 1996 as the deadline for complete deregulation of the use of alternative infrastructure (i.e. telecom networks of railways, energy and water companies) for telecom services (except voice telephone).

Further, the legislation bolsters the basic principle of universal service by requiring EU member states to notify appropriate provisions to the Commission by July 1, 1997. In the coming weeks, the Commission will release a detailed Communication setting out the scope of universal service.

Last, the new directive establishes broad competition principles for the post-1998 environment, particularly in regard to interconnection, licensing and financing of universal service.

In meeting the respective 1996 and 1998 deadlines, member states with "less-developed networks" (Greece, Ireland, Portugal and Spain) will have up to five additional years to implement the directive. Member states with very small networks may be granted a derogation of up to two years.

QUOTES

"For the first time in history, Europe and Asia have sat down to discuss how to build their future region-to-region relations in their common interest and to their mutual advantage." Commission President ***Jacques Santer****, commenting on the Asia-Europe (ASEM) meeting in Bangkok on March 1-2 (see EURECOM, February 1996).*

"What we need are anchorage points we can hang on to, we need our nations but we also need to build Europe because, contrary to what some say, European construction is not the Trojan horse of globalization but the very element which permits us to adapt ourselves to globalization." Former Commission President ***Jacques Delors****.*

"If there is a major disappointment in the trade area it has been our inability to elicit the support of the EU in an energetic effort to open up Asian markets, particularly China and Japan." Outgoing US Ambassador to the EU ***Stuart Eizenstat****.*

"You have to wonder why Europe does not seem capable of taking decisive action in its own theater." (Now former) US Assistant Secretary of State for European Affairs ***Richard Holbrooke****.*

"A postponement of the introduction of the Euro would be the safest way to doom it to failure." Commissioner ***Yves-Thibault de Silguy****.*

"I see the arrival of the Euro as one of the great opportunities for the universe." International Monetary Fund Managing Director ***Michel Camdessus****.*

TRADE AND ENVIRONMENT NOT MUTUALLY EXCLUSIVE

A new Commission Communication on trade and the environment asserts that open trade and environmental protection can and should work hand-in-hand, both in industrialized and developing countries alike. It is designed to steer the debate in the run-up to the first ministerial meeting of the WTO in Singapore in December, where the environment will feature prominently.

The report maintains that an open multilateral trading system makes possible a more efficient use of natural resources and contributes to lessening demands on the environment. Trade has created a $250 billion annual market in green technology, which is growing at 8% a year. According to a 1995 survey, 67% of EU citizens had already purchased or were ready to buy "green" products, even at a higher price. Further, as regimes in the former communist bloc have shown, economic inefficiency can lead to disastrous environmental consequences.

Likewise, environmental costs do not automatically hinder the competitiveness of industry: they only represent 1 to 2% of overall production costs in the EU. And there is no persuasive evidence of "eco-dumping", nor any large-scale industrial exodus to "pollution havens". Friction arises when domestic rules hamper or discriminate against imports. Such rules must be non-discriminatory and must avoid disguised protectionism. Conflicts also occur when nations tackle trans-frontier problems by setting rules beyond their jurisdiction.

The Commission believes the EU must urge the WTO to accommodate within the multilateral trading system, under clear and predictable rules, trade measures taken in the framework of multilateral environment agreements (MEAs), such as the Montreal Protocol (ozone depletion) and the Basel Convention (toxic waste).

As the WTO Committee on Trade and Environment prepares its crucial report for Singapore, the EU wants it to tackle the following issues: MEAs; rule on "clean" products and processing; eco-labelling; "green" taxes and other financial instruments; dispute settlement; treatment of dangerous substances; and the environmental impact of services (e.g. transport, tourism, construction).

...IN BRIEF

...A solid majority of EU citizens are in favor of a single currency according to a Eurobarometer poll conducted shortly after the Madrid European Council (see EURECOM, January 1996). Based on 15,500 interviews conducted in all 15 member states, the survey reveals that 54% of citizens are "for" the single currency, 37% are "against" and 9% have "no opinion". As for the name — the "Euro" — 69% find it acceptable, compared with 23% opposed and 8% with no opinion. Looking at the member states individually, nine EU countries registered a majority for a single currency, with the Italians being the most enthusiastic (74% "for", 15% "against"). Of the six member states with majorities against the Euro, Denmark (64% "against", 29% "for") and Sweden (60% "against", 30% "for") are the most opposed. In Germany, 55% of those polled are against the single currency compared with 38% in favor.

...The European Union has warned the US Administration of the possible violations of international law contained in legislation on Cuba currently going through the US Congress. The Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 would, in the EU's opinion, represent the **extraterritorial application of US jurisdiction** and would restrict EU trade in goods and services with Cuba. The main points of the draft legislation opposed by the EU are: provisions related to confiscated properties in Cuba, which could lead to legal chaos; the proposed prohibition on US-owned or controlled firms from financing other firms with commercial transactions with Cuba; the prohibition on sugars, syrups and molasses entering the US unless certified as non-Cuban in origin; and provisions implying that the US would reduce payments to international institutions such as the IMF, and the possible reduction of US assistance to the Russian Federation. The EU reserves its right to defend its interests in the WTO and other appropriate international fora.

...EU economic growth is now expected to be below 2% in 1996 compared with an earlier forecast of 2.6% (see EURECOM, December 1995). According to Economic Affairs Commissioner Yves-Thibault de Silguy, the chief factors behind the weaker-than-expected growth are monetary fluctuations, a reduction in stocks in 1995, insufficient budgetary consolidation in some member states and an increase in interest rates in 1994. Still, de Silguy says that there is no recession, but rather "a crisis of confidence" despite "favorable fundamentals". On the positive side, world trade remains buoyant, EU inflation is at an all-time low, long-term interest rates have fallen and monetary conditions have improved.

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