

EU-US SUMMIT REACHES SANCTIONS DEAL, LAUNCHES NEW TRADE INITIATIVE

At the biannual EU-US summit held in London on May 18, US President Bill Clinton, UK Prime Minister (and current EU Council President) Tony Blair and European Commission President Jacques Santer announced a breakthrough on the vexing issue of **US sanctions legislation**. They also launched a new transatlantic trade initiative, calling it the **Transatlantic Economic Partnership (TEP)**.

After weeks of intense negotiations, the EU and the US agreed on measures to end the protracted transatlantic disputes involving the **extraterritorial and secondary boycott provisions** of the Iran Libya Sanctions Act (ILSA) and the Helms-Burton Act (see EURECOM, November 1997). On **Helms-Burton**, both sides agreed on disciplines to strengthen investment protection and to deter and inhibit future investment in illegally expropriated property in Cuba. These measures will apply once — if — the US Congress modifies Title IV of the legislation (i.e. US visa restrictions on third-country executives and shareholders “trafficking” in disputed Cuban assets) so that the President can exercise waiver power, and as long as the waiver for Title III remains in place. On **ILSA**, the US announced its intention to waive sanctions against EU companies (see EURECOM, October 1997).

The EU has roundly opposed such unilateral US laws on the grounds that they are illegal and counter-productive. They have

made EU-US cooperation to curb terrorism more rather than less difficult.

President Santer welcomed the breakthrough: “The deal . . . means that European companies and businessmen can conduct their business without the threat of US sanctions hanging over their heads . . . It is good for the transatlantic relationship, which can now develop further, free of this long-standing dispute.”

Although the Commission’s New Transatlantic Marketplace (NTM) proposal (see EURECOM, April 1998) was termed “too ambitious” by the EU Council of Ministers last month, thus keeping it off the summit’s agenda, the TEP initiative introduced in London captures the spirit (and much of the substance) of the NTM proposal. The TEP aims at strengthening the multilateral trading system through joint EU-US actions and commitments, while simultaneously working to remove remaining bilateral EU-US trade obstacles, especially regulatory and technical barriers that hinder market opportunities, both for goods and services.

“Our reinforced partnership can be instrumental in setting the agenda for a more open and accessible world trading system and at the same time greatly improve the economic relationship between the EU and the US, reduce frictions between us and promote prosperity on both sides of the Atlantic,” read the summit communique.

BIG BOOST TO EU-US ANTITRUST COOPERATION

Building on a less formal, but very successful 1991 Agreement (see EURECOM, May 1995), the European Commission and the US government have signed a new accord to strengthen transatlantic cooperation on antitrust cases. Known as the 1998 “Positive Comity Agreement”, it was signed — with immediate effect — by EU Competition Commissioner Karel Van Miert, US Attorney General Janet Reno and the US Federal Trade Commission Chairman Robert Pitofsky on June 4 in Washington, DC.

Commissioner Van Miert described the accord as a way to avoid “certain conflicts”, especially those arising from the extraterritorial application of antitrust laws.

The principle of “positive comity”, which was introduced into EU-US relations in 1991, provides that when a Party is adversely affected by anti-competitive behavior in the territory of the other Party, it may request the other Party to take action.

Compared with the 1991 Agreement, the new accord sets out the circumstances in which a request for positive comity will normally be made — and the manner in

which such requests should be treated — more clearly. Further, once a request is made, the Party would, in certain circumstances, suspend or defer its own enforcement activities if its counterpart is better placed to deal with the alleged infringement. There is no risk, however, that a Party to this Agreement will be obliged to investigate a case where it is not in its interests to do so. On the other hand, there will also be cases where it is appropriate for both sides to undertake parallel investigations when the public interest is potentially threatened by serious anti-competitive activity (like the current Microsoft antitrust case).

EOS:2



Like the 1991 version, the 1998 Agreement does not alter existing law. Mergers, however, do not fall within the scope of the new Agreement due to EU and US merger legislation, which does not allow a deferral or suspension of action like the Positive Comity Agreement.

VAN MIERT COMMENTS ON COMPETITION ISSUES

While he was in Washington to sign the Positive Comity Agreement, Commissioner Van Miert also met with the press to discuss a number of other EU-US competition policy issues, chiefly US "open skies" policy and the WorldCom/MCI merger.

According to Van Miert, the US bilateral "open skies" agreements being imposed on various EU member states to secure US antitrust immunity to alliances between their carriers and US airlines are hurting competition, not helping it.

While not blaming the US for this, he said that these bilateral deals are generating "a new kind of competition problem in Europe, because they introduce discrimination between carriers by carving up the market — and we are not prepared to close our eyes to that." As an example, he recalled that even a large carrier like American Airlines (AA) had been shut out of the Frankfurt market as a result of the United Airlines(UA)/Lufthansa deal.

Van Miert also remarked that he is unconvinced that partner airlines would really compete on other routes, and that conditions to make more slots available would not always make a difference for small airlines. "Small carriers are not certain to take on the big guys."

On both the British Airways/AA (which has not yet clinched US antitrust immunity) and the UA/Lufthansa files, the Commission hopes to present a full-fledged opinion by the end of June.

Concerning the proposed WorldCom/MCI merger (see EURECOM, March 1998), Commissioner Van Miert said that EU and US authorities were cooperating very closely, but that time was now running out on the European side. The remedies offered by WorldCom/MCI —

including the sell-off of MCI's Internet business — would "still have to be tested in the market", and Van Miert expressed his doubts that this would be sufficient. "What has been offered until now is not completely meeting our concerns," he added.

EU WINS WTO APPEAL ON US TARIFF CLAIM

A World Trade Organization (WTO) Appellate Body has backed the EU over a complaint filed by the US over tariffs on computer network equipment, completely overturning the original (positive) findings of the WTO panel.

The dispute arose in 1996, when the US filed a WTO complaint against the EU, Ireland and the UK, alleging they had violated WTO commitments by reclassifying Local Area Network (LAN) equipment into a higher tariff category. Prior to 1995, when LAN equipment was placed in the higher category throughout the EU, the UK and Ireland had placed the equipment in a lower tariff category; according to the US, reclassifying this tariff went against "legitimate" expectations.

The Appellate Body disagreed with the US charge, ruling that the EU, by reclassifying LAN equipment for tariff purposes, was in compliance with its GATT obligations. Further, on the US claim that the case had caused significant economic damage, the EU successfully countered that the Information Technology Agreement would soon phase out such duties anyway (see EURECOM, March 1997).

For the EU, the ruling's significance lay in a principle: the WTO has clearly and explicitly underlined the unitary nature of the customs union, identifying the relevant export market as the EU, not an individual member state.

COMMISSION PROPOSES RULES FOR ELECTRONIC SIGNATURES

To help European consumers embrace electronic commerce ("e-commerce") with confidence, the Commission has pro-

posed a directive that would establish minimum rules for security and liability vis-a-vis online transactions (see EURECOM, November 1997).

The proposal would ensure that "electronic signatures" are recognized throughout the EU on the basis of the single market's principles of free movement of services and home-country control.

Electronic signatures allow someone receiving data via electronic networks to determine the origin of the data (identity) and to verify whether the data has been altered or not (integrity). The data is accompanied by a certificate, issued by a certification provider, which allows the recipient to check the identity of the sender.

"Electronic commerce has the potential to become a key stimulus for the world's economy into the next century, but secure transactions are essential if this potential is to be realized in Europe," commented EU Information Technology Commissioner Martin Bangemann. "Once adopted, this directive will remove one of the main remaining obstacles to the widespread acceptance of e-commerce."

The main elements of the proposed legislation (which must gain the Council of Ministers' and the European Parliament's approval) are:

- **Essential requirements** for electronic signature certificates and certification services to ensure minimum levels of security, allowing their free movement throughout the single market;
- Minimum **liability** rules for service providers, who would be liable for the validity of a certificate's content;
- **Legal recognition**, whereby an electronic signature could not be legally discriminated against solely because it is in electronic form. If essential requirements are met, then the electronic signature would be recognized as legally equivalent to hand-written signatures;
- A **technology-neutral framework**, providing for legal recognition of electronic signatures irrespective of the technology used (e.g. asymmetric cryptography or biometrics);



- Limited *scope*, so that closed user groups (e.g. corporate Intranets), where a trust relationship already exists, would not necessarily have to apply the directive;
- **Certification**, i.e. certification services, which could be offered, in principle, without prior authorization since technology and markets are evolving rapidly, and as market forces will encourage high levels of security to meet consumers' concerns; and,
- An **international dimension** to facilitate e-commerce at the world level through mechanisms for cooperation with third countries on mutual recognition of certificates.

HEALTHY OUTLOOK FOR EU ECONOMY

In the Commission's Spring 1998 forecast, economic developments in the first few months of 1998 have confirmed the pace of economic recovery expected last autumn (see EURECOM, November 1997) despite an international environment that turned out less favorable than previously assumed. **Real GDP growth** is projected to accelerate from last year's 2.7% to **2.8% in 1998** and to **3.0% in 1999** (compared with 3.0% and 3.1%, respectively, in the Autumn 1997 forecast).

The impact of the Asian economic situation on Europe is expected to be limited, as domestic growth forces, especially **equipment investment**, take over for extra-EU exports as the main engine of the EU economy in 1998 and 1999. Moreover, the **prospect of a successful start to EMU** with 11 member states contributes to the favorable outlook for macroeconomic activity, price stability and public finances.

Budgetary consolidation in the member states and an appropriate "evolution of wages" have created a **favorable policy mix** in the EU. As a result, interest rates have decreased without raising inflationary fears (annual inflation is forecast to stay around 2.0%), which in turn is allowing domestic demand to strengthen,

QUOTES

"At the moment, Europe is pursuing three different tracks: one with Canada, one with the United States and one with Mexico . . . Soon, the time will come to converge the three roads into one super-highway across the Atlantic, involving free trade between Europe and all of the NAFTA countries." Canadian Trade Minister **Sergio Marchi**.

"It is imperative that all (EU) member states should reestablish as soon as possible a degree of budgetary flexibility which will allow them to respond to adverse economic shocks." European Central Bank (ECB) President **Wim Duisenberg**.

"He should back off, and he should back off now." UK Foreign Secretary and current EU Presidency holder **Robin Cook**, warning Yugoslav President

Milosevic after the EU agreed to ban all investment in Serbia for its aggression in the province of Kosovo.

"Since 1945, trade has been a much more potent agent for growth than domestic economic expansion. A substantial liberalizing agenda is also the best way to counter the protectionist temptations besieging Asian leaders in the wake of their region's financial crisis. This is no time for standing still. The so-called Millennium Round provides a wonderful opportunity." EU Trade Commissioner **Sir Leon Brittan**, commenting on the 50th anniversary of the General Agreement of Tariffs and Trade (GATT).

"You need a strong (European) Commission to push things through like the single market." UK Prime Minister **Tony Blair**.

underpinning the forecasted economic expansion. Supported by high and improving corporate profitability, gross fixed capital formation will be the strongest demand component.

Although still not bright, the outlook for EU employment is improving. Employment is projected to grow 0.8% in 1998 and to increase further to 1.1% in 1999, implying a net creation of 2.8 million jobs over the period. Correspondingly, the EU's unemployment rate is expected to fall from last year's 10.7% to 9.8% by 1999, which would be the lowest rate since 1992. But rates differ greatly among the member states.

...IN BRIEF

...Though it might have fallen off your radar screen, the EU's **Treaty of Amsterdam** (see EURECOM, July/August 1997) is still alive and going through the ratification process. On May 28 it cleared perhaps its biggest hurdle — if the past is any indicator — when the Danish people voted **55.1% "yes"** in a referendum on the

Treaty against 44.9% "no". Despite the "yes" on Amsterdam, however, Danish Prime Minister Poul Nyrup Rasmussen said he did not foresee a referendum on EMU in the near future, namely because Denmark has an opt-out and polls show a deep Danish mistrust of EMU. "The only right thing to do is to see how EMU works in practice," said Rasmussen.

...A recent **Securities Industry Association (SIA)** report warns that US securities firms are unprepared for the systems risk posed by the need to run parallel systems for the euro and the national currency units in the 1999-2002 transition period. In fact, it estimates that firms will need to pay 20% more on euro-related computer problems than on the Year 2000 problem. On the more positive side, the SIA sees the emergence of new markets in Europe to replace the lost revenues from trading in European currencies and government debt. In particular, US firms will be in a strong position to tap the predicted growth of a high-yield corporate bond market (i.e. "junk bonds"), the evolving European "equity culture", the burgeon-



ing use of US-style merger and acquisition practices and the rising securitization of household assets, such as mortgages and credit card debts. In the short term, sterling-denominated assets will be highly attractive to US investors for diversification purposes, but London cannot hope to remain a world-class financial center if the UK remains out of the euro indefinitely, says the report.

...In response to the US Trade Representative's recent decision to impose import quotas on EU wheat gluten for three years, European Commission Ambassador to the US **Hugo Paemen** made the following statement: "US import quotas on wheat gluten are a step backwards and go against multilateral decisions taken in the Uruguay Round negotiations to develop market-oriented agricultural policies. The increase in EU exports over the last year is market driven and is not the result of support to the EU industry."

...Member states continue to make significant progress implementing single market legislation, although some problems still linger. The newest "Single Market Scoreboard" (see EURECOM, December 1997) shows that the proportion of measures not implemented by all EU countries has fallen to 18%, down from

35% when the Single Market Action Plan was adopted last June (see EURECOM, June 1997). The overall rate of non-implementation in the member states ranges from only 1.2% in Finland to 7.1% in Belgium. Of particular concern is the proliferation of technical rules at the national level: doubts about their compatibility with the single market were raised in 240 instances last year. The full text of the Scorecard is available at: <http://europa.eu.int/comm/dg15>.

...As part of the taxation package agreed by the EU finance ministers last December (see EURECOM, December 1997), the Commission has proposed a

directive to ensure minimum effective taxation of savings income within the EU. The proposal is based on a "coexistence model", whereby each member state would have to apply either a withholding tax of at least 20% on interest payments to individuals resident in another member state, or provide information to other member states on interest income from savings. It would not cover interest income paid to residents of third countries. According to EU Single Market Commissioner Mario Monti, the directive would remove a significant distortion in the single market. As a tax measure, however, its ultimate passage requires unanimity in the Council.



MONTHLY BULLETIN OF EUROPEAN UNION
ECONOMIC AND FINANCIAL NEWS

For additional information on any article in this issue, please write or telephone Christopher Matthews or Kerstin Erickson at (212) 371-3804. EURECOM is also online at <http://www.eurunion.org/news>

Please send a regular free copy of EURECOM to:

Name _____
 Position _____
 Organization _____
 Address _____
 Special Interests _____



EURECOM is published by Wouter Wilton, Director of Press & Public Affairs, the European Commission, 3 Dag Hammarskjöld Plaza, 305 East 47th Street, New York, NY 10017. It is edited by Christopher Matthews. The contents of EURECOM do not necessarily reflect the views of the European Union's institutions. Any article may be reproduced without express permission. However, acknowledgement of the source and a copy of any material published would be appreciated.

Printed on Recycled Paper.

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

