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US AND EC AGREE TO INSTITUTIONAL LINKS

On a recent visit to Washington, Irish Prime Minister Charles Haughey, the current holder of the EC presidency, agreed in principle with President Bush on a formal structure of institutional links, including twice yearly meetings between the US president and the holder of the EC presidency (a position held in turn by the 12 member states' leaders for six months at a time).

This follows the initiative launched this past fall by President Bush, Secretary of State James Baker and Commission President Jacques Delors to institutionalize closer relations between Washington and the EC.

In addition to the meetings of the two presidents, it was also agreed that the EC foreign ministers will meet with the US Secretary of State at least twice a year. Further, the EC Commission is working toward more frequent formal meetings with the US Cabinet, which will be discussed in more detail when President Delors visits Washington at the end of this month.

Said Mr. Haughey: "These arrangements will give better overall structure and direction to the wide variety of existing contacts and discussions, and they will provide a new framework for enhanced political and economic ties between the EC and the US."

Achieving closer US-EC ties has been a major goal of Prime Minister Haughey's six-month EC presidency.

ANDRIESEN STRESSES EC'S IMPORTANCE TO US TRADE

EC Commissioner for External Affairs Frans Andriessen recently underscored the Community's importance to the US economy in a speech given at the Columbia Institute in Washington D.C.

Based on the EC's strong economic performance, he stated that the now-famous Cecchini Report apparently underestimated the positive effects of the 1992 single market program on business confidence and future investment plans. Even if there is slowdown in world economic activity, there is "enough endogenously generated vitality in the Community to sustain growth through the 1990s," he said. "This is good news for Europe and for our trading partners, not least the US."

Commissioner Andriessen reported that the EC is the largest export market for the US, taking one quarter (\$80 billion) of total US exports. This is slightly more than US exports to Canada and more than double the exports to Japan, which only accounts for 12% of total US exports.

Moreover, the EC is a crucial market for many specific US sectors. In 1989 over half of all US computer exports went to the EC, with a value of \$10 billion. Similarly, over one-third of all US scientific and control instruments go to the Community.

He also highlighted the fact that the EC market has been responsible for over 40% of the total US

trade deficit improvement over the past two years. Responding to the decrease in value of the US dollar, the growth of US exports to the Community has been rising steadily since 1985.

Said Andriessen: "The links and interdependencies of our two economies are so extensive that on a macroeconomic level the spill-over effect from high levels of economic performance in the EC will be substantial for the US. On a microeconomic level, both individual exporters to the EC and US firms established in Europe will gain from the completion of a single market of 320 million consumers, which, I would emphasize, will remain open to competition."

BREAKTHROUGH IN PUBLIC PROCUREMENT

After years of struggle to liberalize public procurement in the EC, the Council of Ministers has unexpectedly agreed to a common position opening up public procurement contracts to competition in the "excluded sectors" (telecommunications, energy, water and transport). The four sectors, which have always been excluded from open tendering rules, comprise over half of the Community's ecu 683 billion (ecu1=\$1.19) public procurement market.

The directive (yet to be approved by the European Parliament) applies to public purchasing contracts in these sectors above the following





thresholds: ecu 400,000 for water, energy and transport supplies; ecu 600,000 for telecommunications supplies; and ecu 5 million for public works. Energy purchases are excluded from the directive's scope, as are contracts for energy prospecting and extraction equipment.

For nine member states, the directive's entry into force is scheduled for January 1, 1993. Spain, Greece and Portugal have three to four and a half year grace periods in order to prepare for the increased competition.

There is much to gain from opening up procurement. According to the Cecchini Report, biased purchasing by the member states from national suppliers costs the Community around ecu 21.5 billion or 0.6% of EC GDP each year.

Included in the directive is a reciprocity clause, which may be modified if the Uruguay Round of the GATT trade negotiations abolishes national preference in public procurement on a multilateral basis. At present, the directive allows public entities to ignore third country bids if more than 50% of their products' content is non-EC. Further, if an EC firm's bid is not over 3% higher than an equivalent non-EC bid, by law the Community bid must be chosen.

MORE US-EC COOPERATION IN BROADCASTING URGED

In a recent speech to the American Film Market Association in Los Angeles, EC Commissioner for Audiovisual and Cultural Affairs Jean Dondelinger said that "the expanding [audiovisual] market in Europe should be seen as a major opportunity for a strong US film and television industry."

Dondelinger referred to the October 1989 adoption of the EC's Broadcasting Directive ("Television without Frontiers") as a necessary move "to open up and expand the European market — an expansion that will benefit us all — both Europeans and Americans."

He commented on the "wide misin-

terpretation" of the directive and the exaggerated US reaction to the clause reserving, "where practicable and by appropriate means", the majority of programming hours for European productions. The clause is not a "straightjacket" on non-EC productions, he explained, but rather a means of "progressively and flexibly" encouraging more European productions in an expanding market which by the mid-1990s will have the capacity to absorb a doubling or tripling of current US programming sales in Europe.

Dondelinger invited the US audiovisual industry to take advantage of the growing market which "until now has been a patchwork of sometimes contradictory and restrictive national legislation."

On HDTV, Commissioner Dondelinger expressed the hope that the European production standard would be adopted as the world standard in the upcoming meetings of the International Radio Consultative Committee. The EC's main competitor is Japan, which, unlike the EC, is proposing a standard that makes existing television equipment obsolete.

NEW RIGHTS FOR THE DISGRUNTLED TRAVELER

For those who have bought a package trip to an island paradise only to find out that "paradise" is something less than heaven, the Council of Ministers' adoption of a common position on the Package Travel Directive is an encouraging step toward ensuring travelers' rights.

The directive is designed to protect consumers traveling both for private and for business purposes, and will alleviate the uncertainty of the law in the member states that has led to many frustrated or dissatisfied consumers without means of adequate redress.

It contains explicit rules governing the liability of tour operators and retailers who must accept legal responsibility for services offered. In addition, it establishes a principle of compen-

sation payable when a package is not fulfilled, though such compensation will be subject to certain limits found in existing international conventions.

The legislation also provides guidelines on information the consumers receive, especially regarding the information contained in tour operators' brochures. Specific rules will apply to what the contract must contain and to cancellations (i.e. if the tour operator modifies the price or arrangements of a package significantly, the consumer may cancel without penalty.) Further, a consumer will be able to transfer a purchased package to another party.

EC NORMS FOR PLASTIC PACKAGING

In the framework of the Commission's action plan to remove technical obstacles to trade, the Commission has adopted a directive establishing EC standards for plastic matter that comes into contact with foodstuffs. Given the myriad of food products that come into contact with plastic, the directive will have a significant effect on food product manufacturers.

As of January 1, 1993, it will be illegal to bring foodstuffs into contact with plastic material which does not meet the criteria set out in the directive. This applies not only to plastic packaging (e.g. bottles for beverages and films for wrapping food), but also to plastic kitchen utensils and to machines and instruments for the production of foodstuffs (e.g. conveyer belts and siphons).

A "positive list" of safe plastic packaging material will be established, and any substance that does not appear on the list will be forbidden (after January 1, 1993). For a substance to make the list, it must have a technical dossier listing all the toxicological and technical data necessary to prove that its use poses no risks to human health.

The Commission has already submitted all substances currently in use by European industry to the Scientific Committee on Food for review.

COUNCIL AGREEMENT ON NUTRITIONAL LABELING

After expending many calories, EC Internal Market ministers took another important step toward a single market in food products by reaching a common position on rules governing the nutritional information on food labels.

The directive's detailed rules only become compulsory where food product manufacturers make a nutritional claim. But if claims are made, the legislation sets out two groups of nutrients for identification: the first group includes the calorie content of the product and the amounts of protein, carbohydrate and fat it contains; the second consists of the first group's items plus sugars, saturates, dietary fiber and sodium. For the second group, more nutritional information may be given on such things as vitamin and mineral content and cholesterol. A product's claim(s) determines which group must be used.

In addition, the legislation specifies strict rules for expressing and presenting the information on packages.

SCRIVENER CALLS FOR INTERNATIONAL TAX COOPERATION

In a recent address to the American Enterprise Institute in Washington, DC, EC Taxation Commissioner Christiane Scrivener stressed that the complete liberalization of capital movements in the EC (as of July 1) is not just a Community matter; it will also affect world-wide capital movements.

Consequently, she warned that a "tremendous competition between different tax systems worldwide to attract foreign capital" could arise. This would result in a very low level of taxation on capital income, which would be detrimental to each national budget. "Such a game could prove dangerous," she said.

Moreover, low capital income taxation could become politically volatile in countries where income from labor is subject to progressive taxation with no possibility for tax evasion.

QUOTES

*"We are building a broader bridge across the Atlantic." Irish Prime Minister and current EC Council President **Charles Haughey** commenting on new EC-US institutional links.*

*"The CSCE (Conference on Security and Cooperation in Europe) process offers the framework of stability within which to establish the peaceful order in Europe from the Atlantic to the Urals... The European Community is the anchor-age point for the stability of that peaceful order." German Foreign Minister **Hans-Dietrich Genscher**.*

"The 1992 process will definitely dilute the advantages that derive to European companies from the privileged

*relationship they have with their domestic market." **Vittorio Cassoni**, Managing Director, Olivetti.*

*"However breathtaking the events in Eastern Europe and however urgent the need for response to these events has been, we have not allowed them to deflect us from our internal objectives. Indeed, they have, if anything, given an additional impulse to the integration process of the Community." EC Commissioner **Frans Andriessen**.*

*"Industry in Europe needs quick, fair and conclusive decisions; we will give them just that." EC Commissioner **Sir Leon Brittan** on the EC's system of merger control.*

For these reasons, Commissioner Scrivener emphasized that it is essential to establish closer international tax cooperation among major industrialized countries. According to her, the Community and the US can play a leading role, both bilaterally and multilaterally (through institutions such as the OECD and the IMF). The main goal should be to foster conditions of fair competition on all capital markets, inside and outside of the EC, as well as to step up the fight against international tax fraud.

She remains convinced that a generalized withholding tax on capital income at a relatively low rate (not more than 10%) is the best way to prevent fraud without chasing away investors.

COMMISSION SPOILS TELECOM TARIFF-RIGGING ATTEMPT

Following the intervention of the EC Commission, the European Conference of Postal and Telecommunications Administrations (CEPT), which is comprised of 26 national European telephone authorities (including the 12 member states), dropped a recommendation to fix the tariffs for leasing their international circuits to private operators. The Commission had found that the CEPT recommendation was a price agreement in violation of

Article 85 (1) of the EC Treaty, which would have significantly restricted competition within the Community.

The Commission's action is important for two reasons. First, it reestablishes competition between telecom operators for the supply of international leased circuits, from which users — particularly value-added service companies — will benefit. Second, it marks the first time that EC competition rules have been applied to the activities of CEPT.

The Commission investigated the matter on its own initiative after receiving two complaints alleging CEPT's violation of competition rules and asserting that the recommendation would lead to higher telecommunications costs and limit the growth of value-added services.

PRINCIPLES FOR EASIER CROSS-FRONTIER BANK TRANSFERS

"We will not be satisfied until it is as easy to transfer money between the European Community countries as it is within a member state. Bank transfers should be as easy between Paris and London as between Paris and Strasbourg," declared EC Commissioner Sir Leon Brittan as he presented the Commission's recommendation on cross-border bank transfers.



Anyone who has tried to transfer money from one EC country to another knows that such transactions can be slow and expensive. The principles in the recommendation, which will apply to credit institutions and to postal administrations, are a step to improve the lot of consumers who wish to transfer money cross-border or to pay directly for goods in an EC country other than their own.

The principles include: understandable customer information on, for example, how fees are calculated; details of charges for each transfer; an explanation that costs can be charged either to the person making the transfer or to the beneficiary; the right to a refund on a charge if a transfer order has not been handled within two working days; a credit to the beneficiary no later than one working day following receipt of the funds; and a rapid complaints procedure.

The Commission has also asked each member state to establish an independent body to deal with customer complaints.

...IN BRIEF

...The importance of the Federal Republic of Germany's trade with the

rest of the EC increased further last year, with 55% of its total exports going to the EC compared with 54% in 1988 and only 51% in 1986. The increased EC share in the Federal Republic's trade is primarily due to the current investment boom within the Community.

...The Commission has approved a measure that will provide a system of clear and coherent customs rules vis-a-vis third countries. It will be a single code that will pull together all the diverse customs legislation of the member states, setting general conditions for the application of Community tariffs.

...Linklaters and Paines, a UK law

firm, has recently published a detailed report on the EC's merger regulation. For more information please call (212) 751-1000.

...To assist major US companies in examining the impact of regulatory and policy changes in Europe on their businesses, Ernst & Young has developed a three-day interactive workshop, "Beyond 1992." It brings together a company's US and European management and Ernst & Young's strategic and EC specialists; the goal is a prioritized action agenda by function and business unit. For more information, please contact Jean-Claude Goldenstein at (212) 830-5992.

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

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