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FRANCE SAYS "OUI" TO MAASTRICHT...

In a cliffhanger, the French electorate kept the beleaguered Maastricht Treaty on European Union alive by voting 51.05% to 48.95% in favor of ratification on September 20.

Commented EC Commission President and fellow Frenchman Jacques Delors: "[The French people] have said yes to an important step forward of the European Community. I believe they should be thanked for France, for Europe, for democracy and for history...Through their votes, many French people have also expressed anxieties to which we have to respond by more democratic institutions and policies which they can read more easily."

Meeting in extraordinary session in New York at the United Nations immediately after the referendum, EC foreign ministers also warmly welcomed the French referendum's positive result, agreeing to continue ratifying the Treaty without reopening the present text. At the same time, however, they pledged to take account of the doubts expressed about the Treaty (and about further European integration) across the EC. Further, the ministers endorsed the UK presidency's decision to convene a special European Council in Birmingham to consider (and respond to) these anxieties on October 16.

Ending just as EURECOM was going to press, EC heads of government agreed in Birmingham to a Declaration — "A Community Close to its Citizens" — in which they reaffirmed their commitment to Maastricht and pledged to make the EC more open, ensuring a better informed public debate on EC activities. Further, they agreed to develop clear guidelines for applying the principle of subsidiarity, i.e. "using the lightest form of legislation, with maximum freedom for the member states on how best to achieve the objective in question." EC leaders agreed that Community legislation must be implemented and enforced effectively, but without interfering unnecessarily in the daily life of citizens.

Before the Edinburgh European Council in December, EC foreign ministers will suggest concrete ways of opening up the work of all EC institutions, including the possibility of some open Council meetings (which at present are behind closed doors).

...BUT CURRENCY TURBULENCE CONTINUES

Currency markets did not wait for the outcome of the French referendum before mauling the two most vulnerable EC currencies, the British pound and the Italian lira. Facing huge speculative flows, unchecked by the Bundesbank's interest rate cuts and the lira's devaluation reported in last month's EURECOM, the Italian and UK governments decided to suspend their participation temporarily in the exchange rate mechanism (ERM) of the European Monetary System on September 17.

In a related development, after consultation with the EC Monetary Committee, Spain devalued the peseta 5% against the remaining ERM currencies to preempt a speculative attack after the lira and British pound left the system.

While agreeing that these ERM actions were appropriate given the exceptional disturbances in the currency markets, the Commission maintained that these events illustrate the need for stronger economic and monetary cooperation leading to economic and monetary union (EMU).

Despite France's positive vote for Maastricht, monetary tensions did not subside. The French franc, along with the Irish pound, the Spanish peseta and the Portuguese escudo, came under immense pressure after the referendum as currency traders flocked to the German mark (DM) and its "bloc" (i.e. the currencies of Austria, Switzerland, the Benelux countries and Denmark). Only the coordinated (and huge) intervention by the French and German monetary authorities, not to mention French interest rate hikes, staved off a speculative run on the franc-DM parity within the ERM.

Ironically, while the franc was under pressure, in terms of economic fundamentals, i.e. public finances and inflation, France has outperformed Germany over the last year.

In reaction to the turmoil, Spain, Ireland and Portugal have reintroduced some exchange controls to defend their currencies, something which all three countries had almost completely eliminated under EC legislation. (Spain, Portugal, Ireland and Greece have until the end of this year to scrap all controls on capital movements.) Although a setback for these countries, the Commission ruled that these measures are compatible with EC legislation currently in force. Spain has subsequently eased some controls without detriment to the peseta's position in the ERM grid.

ZERO VAT RATING PROPOSED FOR TRAVEL

In a move sure to cheer the travel and tourism industries, EC Tax Commissioner Christiane Scrivener recently introduced a Commission proposal to keep air and other passenger transport services exempt from value added tax (VAT) in the post-1992 single market.

Intra-EC air and shipping services have always been exempt from VAT because they were considered "international" journeys, but with the start of the single market in January, travel services between member states become "domestic" — and therefore subject to VAT. The proposed directive, which requires unanimous Council approval, provides the dispensation necessary to maintain a zero rating for such services, and would allow for member states to keep a zero rating on inland travel where it already exists. In the few cases where zero ratings are not granted, taxation would be determined at the point of departure.

Scrivener explained that if the EC allowed a VAT tax on transport, it would pave the way to increased EC ticket prices, sending "the wrong signal to consumers." In addition, the commission does not want to penalize EC air carriers vis-a-vis third country airlines in light of the tough transatlantic competition in the sector.

Under the proposal— the last measure necessary for the abolition of intra-Community tax borders — the VAT exemption would last up to 1997 with a review scheduled in 1994.

EC CUSTOMS CODE ACHIEVED

Capping the largest codification of EC law ever, the Council has formally adopted a regulation establishing an EC customs code, bringing together all EC customs legislation on trade with non-member countries under one roof. Set to take effect on January 1, 1994 (with the exception of a section on export declarations which will enter into force this January), the code will replace 30 separate regulations that were adopted between 1968 and 1990 with a single text.

EC Taxation Commissioner Christiane Scrivener welcomed the decision, saying it will help eliminate repetition, legal loopholes and disparate interpretations of EC customs law, ensuring consistency at the Community's external frontier.

According to the Commission, the code includes a number of innovations which should make trade easier without increasing costs for businesses. Under the code, a firm will generally be able to accomplish export formalities at the customs office nearest its headquarters. Further, it enshrines for the first time the principle of a trader's right of appeal against customs decisions. Last, with the abolition of internal EC frontier controls, business will be allowed to choose where goods leave the EC customs territory.

EC CONDITIONALLY APPROVES DU PONT/ICI ASSET SWAP

After months of inquiry under the EC's merger regulation, the Commission has cleared an acquisition making US-based chemicals giant Du Pont the largest carpet fiber producer in the EC, but not without some major concessions (i.e. "undertakings").

In order to acquire the UK-based Imperial Chemicals Industries'(ICI) European nylon fibers business, Du Pont has agreed to spin off a significant portion of its new capacity (12,000 tons), together with related research and development facilities, to a third party to be named. In addition, Du Pont must also transfer its "Timbrelle" trademark to the third party.

The operation involves the purchase by Du Pont of ICI's nylon interests, forming part of a wider swap between the two parties in which ICI will receive Du Pont's acrylics business in the US. The Commission's inquiry has not dealt with the US part of the transaction because it falls outside the scope of the EC's merger regulation.

In its initial investigation this past spring, the Commission found that the proposed acquisition would enable Du Pont to act independently of its competitors and customers, thereby impeding competition in the EC market for nylon fibers used in the manufacture of carpets. Du Pont was, however, willing to discuss ways to make the deal compatible with the common market.

Without the undertakings, Du Pont's EC market share would have increased from 23% to 43%, and its lead in the field of research and development — a critical advantage in the carpet fibers market where product innovation commands considerable product loyalty — would have lengthened considerably.

With the agreed modifications, Du Pont's future market share will drop to 38%, and competition from rivals such as Rhone Poulenc/SNIA will be maintained. Another mitigating element is the existence of some competitive pressure on nylon fibers from polypropylene at the lower end of the carpet market.

Commented EC Competition Commissioner Sir Leon Brittan: "It was important to avoid the creation of a dominant position. The undertakings that have been given will, however, enable a competitor to acquire, in effect, a substantial part of ICI's nylon fiber business. On that basis, it is reasonable for the acquisition to be approved."

REVISIONS FOR AIRLINES RESERVATION CODE

To prevent airlines, particularly national flag carriers, from using their computer reservation systems to sell more tickets than competitors, the Commission has proposed amendments to beef up a 1989 code of conduct. It wants to ensure that the new entrants to the soon-to-be liberalized EC air transport market (see EURECOM, July/August 1992) will not be disadvantaged by these computerized systems.

At present, the main computerized reservation systems are: AMADEUS (Air France, SAS, Lufthansa and Iberia), GALILEO (British Airways, KLM, TAP, Sabena, Swiss Air Alitalia and Aer Lingus), SABRE (American) and APOLLO (United Airlines).

The augmented rules, which would apply both to scheduled and charter airlines, would prohibit airline-owned systems from furnishing false information on other carriers' flights or from giving priority to their own through better information or presentation.

Under the code, fees charged for participation in a system should not discriminate against any airline, and carriers would not be penalized for withdrawing from a system if six months' notice is given. It also protects against owner airlines tapping other firms' confidential information (i.e. frequent passenger lists) for competitive advantage. And travel agents would be free to purchase software different from a system's offering.

Responding to complaints from EC carriers about discriminatory US systems, the code also includes a reciprocity clause, allowing EC systems to retaliate if foreign-owned systems — e.g. APOLLO and SABRE — discriminate against EC airlines.

QUOTES

"While there have been some excesses of regulation — often at the prompting of the member states — it is not our view that the Commission has generally been too intrusive...Our concerns are rather in the other direction — that the application of subsidiarity could be a pretext for rolling back existing Community achievements or heading off further integration in areas where we see this to be desirable." Irish Prime Minister ***Albert Reynolds****.*

"A 'little Europe on the Rhine', in which half a dozen EC members hare off alone, would be the worst option, for the stability of this inner core would be gained at the expense of those who remain outside." ***Edzard Reuter****, Chairman of Daimler-Benz*

"I have come to the conclusion that if you want a European currency and a European central bank you should not link that to too many other issues as was laid out in the Maastricht treaty." Former Bundesbank President ***Karl Otto Pöhl****.*

"The British believe that durable political institutions are like coral reefs: best built slowly but surely." British Prime Minister ***John Major****.*

"If European unity continues, and the economies are integrated in an open way, then that's a good thing for us. If European unity continues and they continue to raise trade barriers, that's not a good thing for us." US Democratic presidential candidate ***Bill Clinton****.*

"What is happening in Western Europe represents the single best opportunity I've seen in my business career, because what you have is the creation of an extremely large market place and the decision not to have fragmented markets on a country-by-country basis." ***John Bryan****, Chairman and CEO of Sara Lee Corporation.*

PROGRESS ON UNFAIR CONSUMER CONTRACTS

The Council has reached a Common Position on the Directive on Unfair Terms in Consumer Contracts, which, when formally adopted (after a Second Reading in the European Parliament), will significantly improve consumer protection in the EC.

The directive would force companies to refrain from adjusting standard contracts to include certain types of unfair clauses. To accomplish this, it would approximate member states' laws relating to such unfair, "non-negotiated" terms in contracts between consumers and sellers or suppliers (both in the public and private sector), and would establish a "black list" of unfair contract clauses.

Such "unfair" terms would include, for example, those which limit (or even exclude) a seller's responsibility should a product seriously injure or kill the buyer; allow suppliers to change a contract's terms without the purchaser's consent; enable suppliers to escape responsibility for not performing contractual obligations; and encourage uncertainty over price to the buyer's detriment.

Under the legislation, such "modifications" would be null and void if challenged by the consumer; however, the rest of the contract would still be binding.

Taking a minimalist approach, the directive would permit the member states to adopt stricter provisions.

DANES REFLECT ON MAASTRICHT

As promised, the Danish government has released a White Paper on Denmark's future relations with the EC, spelling out eight different options to solve the problems created by Denmark's rejection of the Maastricht treaty.

Rather than present a clear policy blueprint for action, however, the document instead gives a general idea of what is practicable. Among some of the proposed actions are: Denmark joins the European Economic Area (EEA) while the other 11 EC member states go forward with Maastricht; riders to the Maastricht treaty are introduced which will become effective for all member states; the Treaty of Rome remains the basis for cooperation among the Twelve, and the problems which Maastricht addresses would have to be solved in a different way; and (or) Denmark secures a special status within the Maastricht treaty.

Although a formal Danish proposal was not ready for the EC Council in Birmingham, Danish Prime Minister Poul Schlueter broached the subject with his EC colleagues, telling them Denmark wants the right to opt out of the treaty's plan for a single currency (which, de facto, it already has), the possibility of a common defense and joint law enforcement. Schlueter also announced that a formal proposal on Denmark's future status should be ready around November 1.

...IN BRIEF

...According to a study by the Centre for Economic Policy Research, the European Economic Area (EEA) could lift the Scandinavian and Alpine countries' GDP by 5% if it goes into effect next year. Further, the study contends that the economic benefits for Austria, Finland, Norway, Sweden and Switzerland from the EEA greatly surpass the potential gains from EC membership later in the decade. Still, it believes the EFTA (European Free Trade Association) countries will still join the EC because of the political benefits of full membership.

The study, entitled "Is Bigger Better: The Economics of EC Enlargement", cites the greater competition in the EFTA countries spurred by the EEA, leading to lower prices and better allocation of resources, as the primary source for the projected economic benefits. In addition, by linking up with the single market, EFTA states will receive additional capital investment that would have otherwise flowed to the EC.

...In a recent poll conducted by Ifo, a German economic research institute, German business is becoming increasingly skeptical about a single European currency. Only 40% of some 500 mangers polled support a single currency compared with 59% three years ago. Ifo said this was not surprising, however, because four-fifths of the companies surveyed receive payment for their exports in marks, thereby avoiding currency transaction costs. Hence, they have less to gain from the replacement of EC currencies by a single unit and are reluctant to give up the stable mark.

...Unchanged since May, Eurostat reports that EC unemployment in August remained stuck at 9.5%, which translates into 14 million workers across the Community. Last August, the EC's aggregate rate was at 9%. Over the year, the UK has shown the sharpest rise, up to 11% from 9.6%, while only the Netherlands has managed to cut its rate over the past year. Ireland and Spain still have the highest rates at 18.1% and 17.1%, respectively.

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