

# EURECOM

Monthly bulletin of European Union Economic and Financial News

VOLUME 7, NUMBER 5

MAY 1995

## **SIR LEON URGES "NEW DEAL" WITH US**

It has almost become a cliché to say that something has gone wrong in the transatlantic relationship, that the EU and the US have lost interest in each other and have found more exciting prospects elsewhere. For Sir Leon Brittan, EU Commissioner responsible for relations with North America, this is a gross exaggeration. But while EU-US links clearly represent the most important international relationship for both parties, Sir Leon perceives some drift: without a new sense of purpose in the aftermath of the Cold War, a dangerous vacuum could develop.

In a major address to the American Club of Brussels on April 27, Sir Leon gave his views on how Europe should update its relations with North America, explaining that the "new" EU-US relationship must involve security, economic relations and joint US and EU involvement in the rest of the world.

On security, he detects "an understandable US impatience with the EU as it struggles to develop coherence in foreign and security policy to match its single voice in trade matters." Yet it has long been a myth the US is opposed to the creation of a European defense identity. However, a European defense "pillar" would have to be operationally credible, especially since it would be using NATO logistics and material when operating outside NATO auspices. Achieving this will take time and patience; it depends on the outcome of the EU's 1996 review of the Maastricht treaty, NATO's own rethink and Russian caveats on NATO's eastward expansion.

In terms of international cooperation, Brittan said that "those who predict an American return to the isolationism of the past are wrong. Europe and America have shown we can work well together in the wider world. It is not a question of ganging up on the rest of the world so that other countries fall into line with some great EU-US plan. Rather, we must use our considerable resources to make a more effective, joint contribution to the most pressing of the world's problems."

On the economic side, Sir Leon has an open mind about ideas for a transatlantic trade initiative. In the coming months, the Commission will look seriously at the feasibility of an EU-US Free Trade Area (FTA), but having just completed ambitious tariff cuts in the Uruguay Round negotiations, he questioned if there are realistic prospects for further tariff reductions (or elimination). And because FTAs must be compatible with the WTO, they must cover "substantially all trade". This would be difficult for both sides, particularly in sectors like agriculture and textiles.

"Would we want a free trade area just with the US, or would a EU-NAFTA area be preferable?" he asked. An EU-NAFTA area would add more economic possibilities, but it is more difficult politically to negotiate with three governments than one.

The idea of going beyond tariff reduction toward the elimination of other barriers to business development is attractive to Brittan. An EU-US economic space, similar to the EEA, would go further than just free trade, including mutual recognition of standards and increased cooperation in competition policy.

"Finally, we need to look seriously at the idea of an EU-US treaty," he said, which could provide a way to integrate all aspects of the relationship — security, political and economic. Sir Leon hopes to announce the EU's ultimate objective, at least in general terms, by the end of the Spanish EU presidency (December 1995).

### **ASSOCIATED COUNTRIES' ROAD MAP TO SINGLE MARKET**

The Commission has released the "political" section of a White Paper geared to prepare the associated countries of Central and Eastern Europe (CEECs) for integration into the single market. This forms part of the pre-accession strategy adopted by the Essen European Council in December 1994 (see EURECOM, December 1994).

It is addressed not only to the six countries which already have Europe Agreements with the EU (Poland, Hungary, the Czech Republic, Slovakia, Bulgaria and Romania), but also to those countries negotiating Europe Agreements at present (the three Baltic Republics, which have initialed agreements, and Slovenia).

Alignment with the single market is expected to reinforce economic reform and industrial restructuring — something which has flagged in some CEECs of late — and to stimulate trade and investment. Progressive elimi-





nation of barriers will increase competitiveness and allow business to expand. At the same time, the White Paper's recommendations for legislation in the fields of competition, social and environmental policy, essential to single market's functioning, will ensure that "alignment" unfolds in a balanced way.

While implementation of the White Paper will help the CEECs in their bids for EU membership, it will not be sufficient in itself. "This is only part of the accession strategy, although it is an important part," said External Affairs Commissioner Hans van den Broek, responsible for relations with the CEECs. The White Paper is not part of negotiations leading to EU membership; it contains no timetables and has no legal effect. It is a guide, not a set of instructions. Each CEEC will have to set out its own implementation program, taking into account its progress with economic reform and its sectoral economic priorities.

The White Paper will assist the CEECs by identifying, on a country-by-country basis, the key measures in the single market area, indicating those which should have priority; by describing the administrative and technical structures needed to ensure that legislation is effectively implemented and enforced; and by outlining how EU technical assistance can best be used to support the CEECs' efforts.

#### **COMMISSION BIDS TO NEGOTIATE "OPEN SKIES" WITH US**

In response to the US government's attempts to sign "open skies" agreements with EU member states Austria, Finland, Sweden, Denmark, Luxembourg and Belgium (as well as non-EU members Norway, Iceland and Switzerland), the Commission has proposed a mandate for it to negotiate with the US in the field of civil aviation on behalf of the Union.

Until now, the lack of a common European position has enabled the US government to negotiate terms with EU countries that strongly favor US carriers. In fact, US airlines significantly exceed EU carriers in market share (in both directions) on

transatlantic routes. Because many EU carriers cannot operate beyond their gateways in the US, they are at a disadvantage in attracting passengers with destinations beyond their US gateways.

The key element of the Commission's proposal is fair and equal access for all EU member states. The draft mandate seeks to redress the current imbalance in EU-US civil aviation by establishing a reciprocal framework for market access, fair competition, ownership and control and dispute settlement. In this respect, member states would gain more than what is currently on offer in bilateral open skies agreements with the US.

"These are the advances that can best be achieved when Europe acts together in civil aviation, as it has in other areas of international commerce," said EU Transport Commissioner Neil Kinnock. "Sovereignty is about the ability to exercise power, and in this case, the member states are at their most powerful acting together," he remarked.

Kinnock also warned that the US model agreements distort the deregulation in progress under the EU's Third Package of liberalization measures: "The cumulative effect of these open skies agreements would undermine and ultimately destroy a policy that has been painstakingly put together." The Commissioner has threatened legal proceedings against member states if they implement deals breaking single market rules.

EU transport ministers will consider the Commission's proposed mandate on June 19-20.

#### **POSITIVE RESPONSE TO TELECOM GREEN PAPER**

Extensive consultations with several hundred organizations, including companies, associations, user and consumer organizations and trade unions, indicate wide-ranging support for the Commission's approach to the liberalization of telecommunications infrastructure.

Following up on the recent telecom Green Paper (see EURECOM, February

1995), the Commission has summarized its consultations with concerned parties in a new report, which shows a clear consensus in favor of the January 1, 1998 deadline (in most member states) to liberalize telecommunications markets and infrastructure. Accordingly, the Commission will issue legislation (based on Article 90 of the EC treaty, which does not require Council approval) to ensure the member states stand by their commitments.

In addition, the Commission said that it would adopt Article 90 directives before next January 1 to require EU countries to allow cable TV networks to carry some telecom services (see EURECOM, January 1995) and to liberalize mobile and personal communications.

Among the participants there is wide agreement on the need for a transparent, predictable and effective regulatory framework to allow competition, particularly as regards universal service, interconnection and licensing.

With respect to **universal service**, most parties consulted agree that it should be limited to "basic voice telephone service". This definition could, however, evolve with technological changes and market demand. Although there is considerable support for the Commission's universal service funds concept (as opposed to access charges) to finance such a service, the Commission believes the member states should, in line with the subsidiarity principle, choose their own financing methods, provided they are transparent and approved by the Commission.

On **licensing of infrastructure and services**, transparent measures and procedures need to be in place well in advance of 1998 so that the liberalization deadline can be respected.

**Interconnection** between existing and new networks, fixed and mobile, is recognized as a key element in the new competitive environment. There is broad support for a common European regulatory framework to ease and resolve difficulties in negotiating interconnection arrangements.

Finally, as regards the **international dimension**, there is strong agreement on the need for the EU to seek comparable and ef-



fective access to third country markets, both for operators and the equipment sector.

### **COUNCIL RUBBER-STAMPS EU-US ANTITRUST ACCORD**

The Council of Ministers recently approved the ground-breaking 1991 EU-US antitrust cooperation agreement that was annulled last August by the European Court of Justice on technical grounds (see EURECOM, September 1994).

Initially signed by the European Commission and the US Administration (specifically the Department of Justice and the Federal Trade Commission), the agreement provides for the exchange of information — under strict confidentiality — between antitrust authorities on cases potentially affecting competition in both markets.

Since September 1991, the Commission has informed its US counterparts of 102 cases, 69 of which concerned takeovers or mergers. US authorities, in turn, have notified 128 cases to the Commission, of which 84 have been mergers and acquisitions.

Without questioning the substance of the accord, France challenged that the Commission alone had concluded such an agreement with the US government without Council approval. In fact, the Court ruled that the conclusion of such an act was a matter for the Council, and it therefore annulled the Commission's action, but it did not annul the text of the accord, which remained valid under international law.

Commented Competition Commissioner Karel Van Miert: "I am pleased with the Council's support for the continued cooperation with the US competition authorities started in 1991. Strengthened by this support, the Commission will apply itself to broadening and deepening this cooperation within the limits of the agreement, which is unchanged in substance."

### **CHINA PLEDGES EQUAL IP TREATMENT FOR EU FIRMS**

During a recent visit to China by EU External Affairs Commissioner Sir Leon Brit-

*"We (the EU) have a foreign policy, but my main problem is becoming more and more whether we have a common foreign policy. Who is taking the decisions?" Commissioner **Hans van den Broek**.*

*"A (EU-US) free trade area of so many rich countries could give the feeling that we are again living in a divided world, with a rich area and a poor area." Incoming World Trade Organization (WTO) Director-General **Renato Ruggiero**.*

*"It never worked in the past just to rely on separate nation states and the alliances*

*tan, Chinese authorities agreed to give the European Union the same treatment as the US on protection of intellectual property rights (IPR).*

Hence, all benefits to US individuals and entities under the February 1995 US-China agreement on IPR protection apply to EU individuals and entities on the same basis.

The US-Chinese deal provides a detailed action plan for better enforcement of Chinese IPR laws. New enforcement structures will be created, and specific priority areas have been identified: audiovisual products, software and trademarked goods. On market access, the agreement covers the scope for foreign IPR holders to establish exclusive licensing agreements for publishing and computer software. In addition, no quotas, import licensing requirements or other restrictions will apply to the importation of audiovisual and published products.

"Without non-discrimination, no satisfactory relationship is possible," said Sir Leon. "That is why I welcome the clear assurances given to me that China will continue to grant equal treatment to its partners in the future, as in the past."

Sir Leon also announced that the Commission is prepared to increase significantly the level of technical assistance to China, including assistance for personnel and documentation training in the IP field.

### **QUOTES**

*they've had... We've had centuries of battles, we've had them in my own country. It's a question of having structures that stop people fighting each other." Outgoing GATT and WTO Director-General **Peter Sutherland**, commenting on the value of structures like the new WTO and the EU.*

*"Many in Eastern Europe are pressing for a date for accession, [and] we have rightly been reluctant to give them false hopes. But nor should we give the impression that those who are ready to join will be left languishing in the waiting room." British Foreign Secretary **Douglas Hurd**.*

### **BAN ON TOXIC WASTE EXPORTS TO DEVELOPING COUNTRIES**

Building on the Basel Convention on Cross-Border Shipments of Hazardous Waste, the Commission has proposed banning all hazardous waste exports from the EU to developing countries by January 1, 1998 at the latest.

"This is an important environmental proposal which would mean that the [Union] would again take an important lead role in the international cooperation to protect the environment," commented EU Environmental Commissioner Ritt Bjerregaard.

Already, the EU prohibits toxic waste exports intended for final disposal in countries outside the 25-nation OECD, but it has continued to allow exports of the same waste intended for recycling.

"By taking this step we will respond to the long-standing request from the non-OECD countries to stop exports of dangerous waste," said Commissioner Bjerregaard.

### **...IN BRIEF**

...Austria has become the tenth signatory of the border-free Schengen group (see EURECOM, April 1995), but it warned that it would take another two years to implement the accord. "It has to be remembered that



we have 1,400 km (875 miles) of borders with non-Schengen countries," said Austrian Interior Minister Caspar Einem. The two other new EU members, Sweden and Finland, will open Schengen negotiations shortly.

...The EU and Canada recently settled a bitter six-week dispute over fishing rights in the Northwest Atlantic. The dispute began on March 9 when Canadian authorities, acting in international waters, seized the Spanish trawler ESTAI for allegedly violating Canada's Coastal Fisheries Protection Act. The bilateral accord establishes a mutually agreed shareout of the Northwest Atlantic Fisheries Organization (NAFO) total allowable catch for the fish stock in question, Greenland Halibut ("turbot"), for 1995 and 1996; stronger control and enforcement measures, including satellite tracking and a pilot program to put independent monitors on board all Canadian and EU vessels; and Canada's repeal of a provision prohibiting Spanish and Portuguese vessels from fishing Greenland Halibut in the NAFO regulatory area.

...Stetson University College of Law in St. Petersburg, Florida, in cooperation with Tilburg University Law School in Tilburg, the Netherlands, is sponsoring a conference, "Doing Business in the European

Union — Focus on Labor and Employment Issues", August 27-29, 1995 in Amsterdam, the Netherlands. A distinguished faculty of international trade experts, including both legal scholars and practitioners, will lead participants in an intensive examina-

tion of EU labor and employment relations regulations. To request a complete brochure, including travel and accommodations information, please call the CLE Department, Stetson University College of Law, (813) 347-5044.

**EURECOM** Monthly bulletin of European Union Economic and Financial News

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EURECOM is published by Barbara Noël, 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.

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