ESBA Bulletin of October 2000 – Volume 2 – Number 8

HEADLINES

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Social Affairs

13 Oct 2000 EU: Biarritz Summit/UNICE

European Employers Want the Removal of Insularities in the Charter and Calls for Qualified Majority Voting to Different Areas.

Anticipating the Biarritz summit, UNICE sent an appeal to the French presidency of the council concerning three areas of interest:

- Charter of Fundamental Rights, here the employers emphasise that extending the powers of the EU is not necessary. UNICE's Secretary General said that "the final version of the Charter must displace the ambiguities in the way some articles are worded on economic and social rights.
- Institutional Reform, European business circles prefer the qualified majority voting for:

Implementation and simplification on a casual basis of tax measures already decided upon, while any new initiative, must remain submitted to unanimity.

Trade policy, services, intellectual property and foreign direct investment

Adoption of specific measures to support the competitiveness of the companies, entrepreneurship, innovation, research and technological development.

Execution of measures directed at adapting national social security systems to the free movement of labour and the self employed in the single market, while unanimity must be used for other aspects of social security.

- Endowment of a legal framework for the community patent. UNICE comments that the Lisbon Summit had taken the "fundamental decision to amend the treaty" in view of establishing such a framework, which is a priority for the economic world.

Competition

28 Sep 2000 Monti's competition reforms "would ease red tape for EU firms"

According to a statement by the Commission at 27 of September 2000, a regulation for radical competition law reforms aimed at decentralising the EU decision-making process, to encourage greater involvement of national competition authorities in routine competition cases was proposed by Competition Commissioner Mario Monti. Application by all decision-making authorities of a single rule of law covering trade between member states would be one of the main aspects. According to the Commission, this would mean that there would be a single Community instrument governing activities affecting trade between EU countries instead of contend with sixteen distinct legal systems. This would reduce compliance costs and give companies a level playing field throughout the Community. Also, the abolition of the notification system would ease the administrative constraints imposed on businesses under the current system. This will allow the Commission to concentrate on combating restrictive practices and abuses of dominant positions. This proposal which will have to be approved by a majority of EU countries in the Council of Ministers once it has been adopted by the Commission, does not apply to mergers or state aid to companies.

The proposals for regulation are available from the 28 of September on the DG Competition website. Also, further information can be found in www.eubusiness.com

27 Sep 2000 EU: Commission proposes new competition law regulation

Commission proposes regulation that extensively amends system for implementing Articles 81 and 82 of the Treaty, which set out the Community competition rules applicable to restrictive practices between businesses and abuses of dominant positions committed by them.

It is intended to replace the current system of administrative authorisation that is centralised at Commission level by one in which not only the Commission but also the national authorities and courts will be able to apply Article 81 in full.

The proposal does not concern state aid or merger control. It will replace Regulation 17 of 1962, which is one of the cornerstones of Community competition law but which needs to be adapted to a much different economic and institutional environment.

The proposal adopted today takes account of the contributions from the Parliament and the ECO SOC and many observations received from the national authorities and industry.

The Commission is proposing a system where, as they are already able to do in the case of Article 82, the national competition authorities and courts will be able to apply Article 81 in its entirety. The competition authorities and the Commission will form a network and work together to punish infringements of the Community competition rules. For their part, national courts will protect the rights that individuals enjoy under Community law by awarding damages or ruling on the enforcement of contracts.

The proposal is intended to strengthen competition in the Community. For this it will extend to national competition authorities and courts the power to apply Community law in full. The proposal will, improve the protection afforded to competition and ensure that consumers are able to benefit fully from the single market. Increased involvement of the national competition authorities and courts is at the heart of the proposal. It is important that the decision-making bodies should be brought closer to the individual so as to disseminate more widely a common competition culture and to foster the acceptance of Community rules.

However, greater decentralisation must not lead to any re-nationalisation of competition policy, which is an important pillar of the Community edifice. All economic agents must be treated on a non-discriminatory basis throughout the Community. It is for this reason that the proposal retains an autonomous decision-making power for the Commission and sets up information and cooperation mechanisms that will guarantee consistent application of the rules within the Community.

One of the key aspects of the proposal is the application by the authorities of a single rule of law whenever trade between Member States is affected. In future, businesses will be faced with a single Community instrument whenever their activities affect trade between Member States. This will guarantee them a level playing field throughout the Community and will reduce compliance costs significantly. In addition, abolition of the notification system will ease the administrative constraints imposed on them by the current system.

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European commission news release: IP/00/1064

Taxation

17 Oct 2000   EU set to simplify VAT rules for SMEs

The EU seems ready to approve European Commission plans for a directive to simplify VAT procedures in Europe for SMEs. The directive adopted by the European Council, would seek to end from January 2002 rules forcing small firms to undergo long VAT procedures when they offer their services in other EU countries. These new rules would give firms that trade in other EU countries an opportunity to submit VAT returns themselves, avoiding the need to employ European accountants. This directive is the first of a number of regulatory changes promised by the EU to cut the cost of red tape for European companies and help make them more competitive internationally.

Frits Bolkestein, the EU's taxation commissioner, welcomed the directive and was of the opinion that it would eliminate complex, obligatory VAT formalities that were extremely costly for millions of firms within the internal market. He stated that the adoption of the directive was a major turning point in the simplification of firms' obligations conducted by the EU and member states. He suggested that other proposals aimed at simplifying the VAT regime would now follow mainly regarding the right of non-established traders to deduct VAT. The directive states that the appointment of a tax representative or agent would no longer be an obligation, but an option for European traders carrying out taxable transactions in another member state. EU member states would retain the possibility of deciding that the recipient should be liable to VAT (reverse charge system) in business relations between taxable persons.

Community legislation can make the taxable costumer liable to the tax instead of the supplier whenever the person liable to VAT is not established in a member state where the transaction is carried out. This option was given to the member states because it gave the national administration the opportunity to ensure more easily that tax obligations were being met rather than having to do with a non-established taxable person.

The appointment of the recipient as the person liable to the tax is considered by operators as a simplification because it abolishes any tax obligation for the non-established operator. Its use is limited to transactions between taxable persons.

Tax representation has shown to be a complex and costly system for traders and the system was considered in the SLIM initiative as a major obstacles to the functioning of the internal market. This constraint is no longer justified since there is a community legal framework providing for mutual assistance between the member states.

See also EUROPE, 15 June 2000, p.12.

7 Oct 2000   Presidency progresses on savings taxation with option plan for transitional period

The French Presidency of the Council of Ministers is slowly moving ahead to negotiate an EU-wide agreement on a series of critical points in the draft Directive on savings taxation. The Council has still work to do on the technical details of the savings tax Directive. The Member States are now trying to find a consensus on one of three proposals that the French Presidency has presented on the transition period and a timetable for Council working group meetings to discuss and agree on these issues. Informally, the Member States have agreed on an interim withholding tax rate and the principle of citizens being taxed in the EU country in which they live.

The French Presidency had already prepared a framework paper on the practicalities of Member States adopting a Directive setting a single withholding tax on savings. The issue is whether any interim measure over a withholding tax (that would be applied by the country of residence of the citizens themselves) should be retroactive from the agreement at the Feira Summit in June and which particular approach the Member States take in the interim between now and the point when the EU Directive would ideally be universally enforced, expected to be in 2007. The French expect to reach an agreement soon on some crucial aspects of the draft Directive so that discussions with non-member countries may be initiated ahead of the EU's planned enlargement to the East.

Leading up the 17 October Finance Council, EU governments have more or less agreed to a 10% withholding tax on income from private savings. But they have yet to reach any agreement on just when the revenue-sharing scheme should start to be implemented, i.e. the date when the process could be recorded for Member States' governments.

Alarmingly, the implications for investors here are considerable since this might deter private investors from bond markets altogether and could affect growth funds on a broader scale meaning, taxing the dividends paid by EU companies that have a climbing share price. According to informed sources, the Council's Legal Service is currently working out whether the date of implementation could realistically be the date of full adoption. Political agreement must be reached by the end of this year, the Council stresses, with a further two years for securing full agreement by countries outside the EU's jurisdiction.

The French Presidency is behind the principle of 'debtor' taxing, but in the context of revenue-sharing it throws up further questions and a second scenario: the question of communication between the two types of withholding tax, where the debtor and the institution that intends to pay him or her interest, is in the same EU country. This appears to instigate two withholding tax regimes - domestic and cross-border - as the paying agent operates in a second EU country. However, this example seems not to be necessarily amended under any new clauses in the present draft. Yet it does throw the question of certification into the arena. The third scenario is where the debtor, the paying agent and the beneficial owner are all in different EU countries, something which also appears to create a double withholding tax principle, but would not be treated under the principles of the revenue-sharing system as, in theory, once the citizen has filed his tax return in his own Member State, the 'conventional' withholding tax will be offset against the new (10%?) rate set in the Directive.

Enterprise Policy

27 Sep 2000: a strategy for stimulating innovation in Europe.

In a Communication adopted on 20 September, the Commission provided an update of the measures taken so far by the EU to stimulate business innovation. The document admonishes the global performance of the EU as being inferior to that of its competitors and warns Member states that they must intensify their efforts if they are to rise to the challenge of the new economy.

This Communication follows in the wake of the Lisbon Summit in March, when the Council proposed to set up an Innovation Scoreboard, along the lines of the Single Market or Justice and Home Affairs Scoreboards. The Commission's decision for this does not really succeed in creating a general sense of optimism. Its research has shown that Europe's capacity to launch any new products or services is not strong enough and a survey has revealed that only 51% of European firms operating in the manufacturing industry and 40% of the services sector believe that they are innovative.

The Commission also deplores the lack of innovation in the services sector.

There are, however, some subtle differences in the EU executive's analysis and some positive signs. Each of the 15 Member States has an innovation policy. Their efforts are orientated towards 3 major areas: new administrative structures, promoting dialogue between different scientific and industrial circles and the public at large, and the elaboration of a strategic perspective. Financial support for innovation from venture capital sources has experienced a significant improvement. But these good results are still way below venture capital investment in technology in the United States. The performances of the different Member States are nevertheless very inconsistent.

The Commission has proposed a five-point strategy to offset this innovation shortfall:

- Ensure innovation policy coherence: a regularly-updated Innovation Scoreboard will enable the progress of ongoing innovation performance projects to be monitored with the Commission playing the role of "catalyst" in this regard.
- Create a regulation framework that promotes innovation: the Commission recommends moderation, ambition and efficiency; it also suggests limiting financial impediments for the private sector which would encourage more investment in research and innovation and create more employment opportunities for researchers.
- Encourage the creation and development of business innovators, meaning creating a more favourable environment for start-ups in technology by improving financial, fiscal and legal conditions; the guarantee of sufficient assistance on a regional scale and by stimulating education and training in management, innovation and entrepreneurial know-how.
- Improve key innovation system interfaces: the Commission focuses attention on the interface between research and development and teaching institutions.
- The evolution of a society that is open to innovation: encourage numerous debates between bodies which are involved in innovation, by getting scientists, businesses, consumers and public authorities to participate.

19 Oct 2000 Commission adopts communication aimed at strengthening coherence between different financial instruments to support SMEs

The Commission adopted on Wednesday a communication by Commissioner Pedro Solbes on Community instruments for financing SMEs in response to a request by the Council for a report on financial instruments by the EIB and EIF. The Commission recommends measures for:

- Refocusing of financial instruments available on political priorities identified at the Lisbon Council. The commission proposes a guarantee mechanism for micro credits; equity guarantees for investments in the start up phase; guarantees to underpin the financing of the Internet and e-commerce applications; and investment in business "incubators" and related services.
- Improving the coherence and coordination between different Community financial instruments. The Commission suggests an internal constitution of a high level steering committee for constant review of the consistency of new actions proposed as well as a joint Commission-EIB-EIF working group for joint actions.
- Increasing the visibility and accessibility of Commission actions. A creation of a single point of access for information covering all the Community's financial instruments including the EIB, is suggested

Trade and External Trade

16 Oct 2000 Online chat with Pascal Lamy on "trade policy, what's next?"

On Monday 16th October at 1800 CET, the 4th online chat with Pascal Lamy, European Trade Commissioner took place.

After the failure to launch a new round of trade negotiations in Seattle at the end of last year, it is time to reassess what the Union's attitude should be vis-à-vis the work of the WTO at the beginning of the 21st century.

Commissioner Lamy argues in favour of a new of round trade talks where all members have a stake. The round should respond to developing countries' desire to develop via trade. It should also take on board environmental and consumer concerns.

This is the 4th time Commissioner Lamy takes part in an online chat since he took over the trade portfolio. Over the course of the three chats to date, he has answered nearly 800 questions from participants.

11th Oct 2000 EU extends anti-dumping market economy regime

The Council of Ministers adopted a European Commission proposal to extend the EU's special market economy regime in anti-dumping proceedings to seven countries - Albania, Georgia, Kazakhstan, Kyrgyzstan, Mongolia, Vietnam and the Ukraine. This would give exporters from these countries a chance to prove they are operating under market economy conditions. The so-called ad hoc "market economy regime" first introduced in the anti-dumping legislation in 1998 applied only to Russia and China. It gave exporters the possibility, on a case-by case basis, to be treated as market economy exporters given that evidence was provided showing that prices and costs were not influenced by the state, and that they operated in market economy conditions according to criteria set out in the basic anti-dumping regulation. Practically, according to the Commission, this means that the "normal value", is calculated on the basis of the exporter's own prices and costs. In case the exporter fails to show that he operates in market economy conditions the "normal value" will be established on the basis of prices and costs in a comparable market economy third country.

Welcoming the news of the extension of the system, EU Trade Commissioner Pascal Lamy viewed the extension of this regime as a reflection of important economic reforms undertaken in these countries. From now on, all countries with an economy in transition who join the WTO will be automatically eligible for this special system. The new regulation would enter into force on 12 October and will apply to all anti-dumping investigations initiated after that date.

07 Oct 2000 Mexican president expresses great hopes for free trade agreement.

During an official visit to Brussels on 5 October, the new elected President of Mexico, Vincente Fox, said he hoped his country could become a commercial partner with the EU on the same footing as its NAFTA neighbours, the USA and Canada. Mr Fox told the EU CFSP chief Javier Solana that he believed the EU-Mexico Agreement, could achieve the same medium-and long-term results as the "extraordinary" NAFTA between Mexico, the US and Canada. Currently, 80% of Mexico's trade is with the US, and only 6% with the EU.

In another meeting with Commission President Romano Prodi, President Fox said that he hoped the Agreement could help the employment and wages of Mexicans. In return, Mexico could open up the large and rich US and Canadian markets to the EU. Both men agreed that the free trade pact should help everyone, not just multinationals, but also small and medium sized enterprises.

Mr Fox told his EU partners about Mexican plans to set up a political dialogue leading to a Free Trade Agreement with the Mercosur Southern Cone Common Market (Argentina, Brazil, Paraguay and Uruguay) and Chile.

02 Oct 2000 : EU and US agree truce in effort to avert trade war

An agreement on US tax breaks for exporters has removed the immediate threat of a major trade war between the US and the EU. It does not settle the dispute, but merely postpones until next year. The WTO will still need to rule on whether the US's proposed rule changes bring the regime into compliance with trade rules. Under the agreement, the EU will ask the WTO on November 10 for permission to impose sanctions, but will then suspend action to permit another panel to rule on the US plans.

Finance and European Monetary Union

16th Oct 2000 Green light for Visa plan to outlaw card usage fee

The Commission agreed on a rule by the credit card company Visa to prohibit merchants from charging customers a fee for using their card. The Commission has been examining mainly the so-called "no-discrimination" rule provision in the Visa International payment card scheme. This is the first time that the Commission has made an antitrust decision related to international credit cards. Also, the Commission has objected to Visa’s interchange fee arguing that this fee is a restrictive collective price agreement. Its amount is set by Visa International and amounts to an agreement between the member banks of Visa. Usually, the banks which have to pay the interchange fee pass it on to their clients. Eurocommerce, a trade association representing European retailers, formally complained to the Commission about the Visa rules on interchange fees as well as those of other payment card systems on the grounds that on average the interchange fee is about 80% of the overall amount paid by the merchant to his bank each time he accepts payment by a Visa card.

11th Oct 2000 New EU guidelines to speed up euro preparations

With just 15 months to go before the arrival of the euro, the Commission has published new guidelines to help businesses and consumers ensure they are ready for the change in the euro-zone. The Commission's recommendation to EU member states, professional organisations, banks and businesses puts forward 20 proposals which may help quicken preparations for the euro cash-changeover. The measures include:

- informing the future users, particularly SMEs and vulnerable groups
- helping citizens to become used to the euro
- encouraging citizens and economic operators to gain experience in using the euro
- reducing the transactions to be converted
- facilitating the cash changeover.

A statement by the EU's Economic and Financial affairs Commissioner Pedro Solbes called on Europeans to "embrace with enthusiasm" the euro-day project. "Member states in particular should provide the good example by taking decisions on all unresolved issues fast and by informing citizens and businesses as soon as possible in order to create trust and confidence in the cash-changeover arrangements across the euro-zone", he said. An earlier Commission communication, warned of delays in the preparation for the introduction of euro banknotes and coins. The Commission said its latest recommendation contained measures which would help to ameliorate the situation and make-up for lost time.

Information Society

6th Oct 2000 EU agreement paves way for cheaper, faster Internet

Cheaper and faster Internet access should be the result from an EU telecommunications ministers agreement in Luxembourg to be ratified by the Parliament. This means that EU countries will have to scrap any remaining monopolies on domestic telephone lines by January 1st 2001. The effect will be to open the door to other providers who could install new digital technology. This was warmly welcomed by Enterprise Commissioner Erkki Liikanen, who said: "We have completed liberalisation of the sector. We had done that with international and long distance calls but not with local. This last step is of growing importance because of the Internet." The new law is part of an action plan by the Commission to encourage the development of e-commerce in the EU. Absence of competition and high prices of leased lines was seen as a major burden to Internet business in Europe.

Single Market

11 Oct 2000 Commission assesses its legislative role.

The Commission is evaluating its legislative performance for 2000. In a preparatory questionnaire sent to its DGs, the Commission focused on its achievements in four areas: adhering to the principles of proportionality and subsidiarity, simplification, codification and better drafting, and public accessibility to Community law.

The guidelines for compiling the report address the criticism that the Commission's legislative output imposes a heavy burden, on other EU institutions that must adopt the legislation, and Member States which have to implement it.

The report will deal with Commission initiatives of this year. It will show where the EU has exclusive competence and where this is shared with the Member States, and also where disagreements have arisen over competence between the Council and the Parliament.

This year's proposals for consolidating and consolidating legislation will also be outlined.

Finally, the report will evaluate its achievements in making EU law more accessible, by such means as improving electronic access and having information campaigns.

Environment

27 Sep 2000 European Commission to reward innovative SMEs.

Environment Commissioner Margot Wallstroem will award European Environment Prizes on 5 November in Brussels to 4 European firms that have integrated environmental and social considerations in their management practices, products, technologies, or in international partnerships. The winning companies will be rewarded for showing an exceptional aptitude to make sustainable development a key concern whilst strengthening competitiveness.

This is the first time the Commission has itself organised a business event of this magnitude. It is hoping the awards will help promote sustainable development in enterprises across the EU. The Commission claims the examination of submissions has highlighted the extraordinary potential of the economic sector to contribute to sustainable development whilst increasing competitiveness. Dossiers reveal a rapid return on investments and the profitability of in-house sustainable development measures.

- Category 1: Best management for sustainable development
- Category 2: Best product for sustainable development
- Category 3: Best technology for sustainable development
- Category 4: Best international partnership for sustainable development

Enlargement

October 14th 2000 UNICE Fully Supports Enlargement. Quality More Important Than Speed.

Accession of new countries is beneficial for both Member States and the applicant countries. It will lead to a more competitive European economy and a favourable political and economic stability, declared UNICE recently. European employers will also benefit from this since there will be also an enlargement of the single market and structural reforms will be undertaken in Member States as well as the applicant countries. UNICE is of the opinion that time given to the accession countries for the implementation of the acquis in various fields, should be limited in scope and matched with strict conditions for its full application.

UNICE values the quality and speed of the negotiations, stressing mainly the quality and the results of negotiations as a decisive factor for accession. To assist the applicant countries dealing with the pressures of the single market, the employers suggest that pre-accession assistance should be focused on the initiatives needed to assure compliance with, and implementation of the acquis. For this, attention and support must be given to business organisations in the applicant countries, and UNICE is ready to share this experience as a representative of the European business.

UNICE pays great attention to the enlargement process and wants to increase its cooperation with the European institutions, civil servants and business circles in the applicant countries on this issue. This will be crucial for Europe and its enterprises.

13/10/2000 : Enlargement no damage for internal market and EMU

A new study by the Dutch Scientific Council for Government Policy (WRR), entitled "Long-run Economic Aspects of the European Union's Eastern Enlargement", is of the opinion that the EU's future enlargement towards Central Europe need not damage the internal market or the monetary union. If the new member states can meet the strict minimal conditions of EU law and policies than there is no reason why the internal market will not continue to function in a proper way. The monetary union already has strict requirements for accession. Also, according to the study, the economic and financial weight of the candidate countries relative to that of the Euro zone is still fairly small and a possible obstacle to enlargement will be posed by expenditure on the Common Agricultural Policy and the Structural and Cohesion Funds, and in particular by the issue of who will pay the additional budget outlays. The authors - Jacques Pelkmans, Daniel Gros en Jorge Núñez Ferrer, from the Centre for European Policy Studies, examine the risks of an undermining or erosion of the internal market, as well as the consequences of enlargement for the EMU and for the EU's system of financial transfers.