SURVEY OF LITERATURE

a. *Contents*

I. *European Communities*

1. General
2. Institutional
3. Court of Justice
   (a) General
   (b) Preliminary rulings
4. The relationship between Community Law and national law

A. *European Economic Community*

5. Agriculture
6. Free movement of persons, services and capital
7. Competition
8. Taxation
9. Harmonization of legislation
10. Economic policy
    (a) Commercial policy
    (b) Monetary policy
11. Company Law
12. Recognition of judgments
13. External relations

B. *European Coal and Steel Community*

C. *Euratom*

II. *Council of Europe*

A. General
B. Human rights

b. *List of abbreviations*

A.Ae	—	Ars Aequi (Netherlands)
A.J.C.L.	—	American Journal of Comparative Law
A.J.I.L.	—	American Journal of International Law
Ann.fr.dr.int.	—	Annuaire français de droit international
A.W.D.	—	Aussenwirtschaftsdienst des Betriebsberaters
B.B.	—	Der Betriebs-Berater
Buffalo Law Rev.	—	Buffalo Law Review
Cah.dr.europ.	—	Cahiers de droit européen
Dr.Soc.	—	Droit Social
E.A.	—	Europa Archiv
EuR.	—	Europarecht
Gaz.Pal.	—	Gazette du Palais
G.R.U.R.Int.	—	Gewerblicher Rechtsschutz und Urheberrecht—Internationaler Teil
Harv.L.Rev.	—	Harvard Law Review

[1] The abstracts of the articles marked with an asterisk have been prepared by Donald J. Wuebbling of the University of Michigan Law School, Ann Arbor, Michigan.

I.C.L.Q.	—	International and Comparative Law Quarterly
J.C.P.	—	Juris-Classeur Périodique (La Semaine juridique)
Journ.Comm.Mark. Studies.	—	Journal of Common Market Studies
Journ.dr.intern.	—	Journal du droit international
J.T.	—	Journal des Tribunaux
J.Z.	—	Juristenzeitung
M.D.R.	—	Monatsschrift für deutsches Recht
New L.J.	—	New Law Journal
N.J.	—	Nederlandse Jurisprudentie
N.J.B.	—	Nederlands Juristenblad
N.J.W.	—	Neue Juristische Wochenschrift
N.T.I.R.	—	Nederlands Tijdschrift voor Internationaal Recht
N.V.	—	De Naamloze Vennootschap
R.C.A.D.I.	—	Recueil des Cours de l'Académie de Droit International de la Haye
Rev. belge dr.int.	—	Revue belge de droit international
Rev.crit.dr.int. privé	—	Revue critique de droit international privé
Rev.crit.jur. belge	—	Revue critique de jurisprudence belge
Rev.dr.int.	—	Revue de droit international
Rev.dr.int. et dr.comp.	—	Revue de droit international et de droit comparé
Rev.fr. de Sc.polit.	—	Revue française de science politique
Rev.gen.dr.int.publ.	—	Revue générale de droit international public
Rev.int.dr.comp.	—	Revue internationale de droit comparé
Rev.trim.dr.europ.	—	Revue trimestrielle de droit européen
Riv.Dir.Eur.	—	Rivista di diritto europeo
R.M.C.	—	Revue du Marché Commun
R.W.	—	Rechtskundig Weekblad
S.E.W.	—	Sociaal Economische Wetgeving
S.M.A.	—	Sociaal Maandblad Arbeid
Sol.J.	—	Solicitors' Journal
Stanford L.Rev.	—	Stanford Law Review
T.P.R.	—	Tijdschrift voor Privaatrecht
Tul.L.Rev.	—	Tulane Law Review
T.V.V.S.	—	Tijdschrift voor Vennootschappen, Verenigingen en Stichtingen
U. Pittsburgh L.Rev.	—	University of Pittsburgh Law Review
Va.L.Rev.	—	Virginia Law Review
W.R.P.	—	Wettbewerb in Recht und Praxis
W.u.W.	—	Wirtschaft und Wettbewerb
Zeit.A.O.R.V.	—	Zeitschrift für ausländisches öffentliches Recht und Volkerrecht
Z.H.R.	—	Zeitschrift für das gesamte Handelsrecht und Wirtschaftsrecht

I. *EUROPEAN COMMUNITIES*

1. *General*

B. Aubenas, " Quelques considérations sur les infractions contre les Traités de Paris et de Rome ", (1969) R.M.C. No. 127, 458–468.

A. Deringer, " Das Europäische Gemeinschaftsrecht. Die Entwicklung bis Januar 1970 ", 23 N.J.W. 1970, 371–375.

In this instalment of his survey on the development of Community Law, Deringer makes some short comments on the legal consequences attendant

upon the expiry of the transitional period (continued from 22 N.J.W. 1969, 2078). This survey includes the Hague Summit Conference of December 1969 and the measures taken by the Commission to complete the customs union. Furthermore this article offers a succinct synopsis of all the major developments in the fields of the energy policy, the commercial policy and the regional policy of the Community.

D. Furnish, "A transnational approach to restrictive business practices", 4 *International Lawyer* 1970, 317.*

This article contains a brief history of the attempts made, at an international level, to regulate restrictive practices. The author suggests that the reason used in the past to explain the failure of these attempts—that national attitudes towards such regulation drastically differ—is no longer valid. Moreover, he argues that the extraterritorial application of national laws to control international restrictions has proved too controversial to be pursued much further. As a result, he believes that the time may be propitious to institute international regulations based on the EEC model.

G. van Ginsbergen, "Qualifikationsproblem; Rechtsvergleichung und Mehrsprachige Staatsverträge", 11 *Zeitschrift für Rechtsvergleichung* 1970, 1–15.

The problem of qualification (characterization) of legal concepts pervades every nook and cranny of the law (especially private international law) and is met with daily in the work of every lawyer, judge or translator of legal texts. The author discusses the possible solutions to this problem and offers his own solution for obtaining accurate translations of plurilingual treaties such as the EEC Treaty. He points out patent divergences between the various versions of the EEC Treaty which he ascribes to failing qualification of the rules translated and to insufficient comparative research. This study concludes with some remarks on the manner in which the Court of Justice deals with Community texts that present differences in the various versions.

C. Kingson, "Investment in Western Europe under the Foreign Direct Investment Regulations: Repatriation, Taxes and Borrowings", 69 *Columbia Law Review* 1969, 1–48.*

The author broadly describes the impact of the FDIR on the foreign operations of US corporations; especially with regard to its differing treatment of foreign subsidiaries and foreign branches. He also deals with the tax problems involved in the repatriation of earnings and capital, the advantages of altering the corporate structure of foreign operations, and the potential types of foreign borrowing, including Eurobonds. He suggests several changes in US tax law in order to facilitate foreign operations that are constrained by the FDIR.

F. H. M. Possen, "Het einde van de overgangsperiode van de E.E.G.", 1970 N.J.B., 397–409.

A commentary on the end of the transitional period on December 31, 1969. This point of time constitutes the final date for the coming into force of all the rules provided for and for the setting in order of all that is involved in establishing the Common Market (Article 8, para. 7). The author analyses this provision and makes an inventory of all that has been done and all that is still to be done for the establishment of the Common Market. The article ends with an examination of the legal consequences of the expiry of the transitional period on private individuals' rights to invoke certain Treaty

provisions that have become directly applicable at the end of this transitory stage.

" Transatlantic Investment and the Balance of Payments: A Symposium ", 34 *Law and Contemporary Problems* 1969, 1.*

This volume contains thirteen articles which treat different aspects of the problems created by the United States balance of payments deficits and the investment controls which were designed to mitigate these deficits. The first three articles investigate the nature of the balance of payments difficulties and analyse, from an economic point of view, US foreign investment activities.

Next, there are a series of articles which assess the impact and advisability of the foreign direct investment controls. The programme is considered from a European point of view and comparisons are drawn with the Canadian experience with foreign investment controls.

Finally, there are several articles which describe some of the special problems presented by US foreign investment in such areas as antitrust and tax law.

2. *Institutional*

M. Torelli, " Les ' habilitations ' de la Commission des Communautés Européennes ", (1969) R.M.C. No. 127, 465–472.

It follows from Article 163 of the EEC Treaty and Articles 16 and 17 of the Merger Treaty that the Commission shall act as a body when making decisions. Though it cannot delegate its powers, the Commission's rules of procedure (Article 27) provide for the giving of mandates to its members or to high officials. The author argues that such a mandate is more than a mere authorization to sign on behalf of the Commission and that Article 163 does not forbid the giving of such mandates. He concludes that delegation of powers should be admitted on a larger scale than is currently allowed under the strict criteria set forth in the *Meroni* case.

3. *Court of Justice*

(a) *General*

A. M. Donner, " Het kort geding bij het Hof van Justitie ", 17 S.E.W. 1969, 655–658.

Some reflections by a member of the Court of Justice on the summary procedure in case of urgency before the Court. Special attention is paid to the German application for suspension of enforcement of the Commission's decision concerning the problems around the revaluation of the D-Mark in the autumn of 1969 (Case 50/69 R. *Recueil* XV, 449).

H. van den Heuvel, " De omvang van het kort geding voor het Hof van Justitie van de Europese Gemeenschappen ", 18 S.E.W. 1970, 131–141.

A survey of recent developments in case law on the suspension of enforcement and other interim measures by way of summary procedure in case of urgency. The necessity of enlarging the possibilities of provisional relief.

Krateros Ioannou, " States as international judgment debtors within the European Communities ", 22 *Revue Hellénique de droit international* 1969, 17–44.

In the Treaties setting up the European Communities, relatively incomplete procedures have been laid down for the settlement of legal disputes between member States and for the enforcement of the Court's decisions in case of non-compliance. The author undertakes an analysis of those cases in

which a Court judgment, especially those involving a pecuniary obligation, can be enforced against the member States. The author advocates the establishment of an adequate enforcement mechanism against States-judgment debtors, by way of an amendment to Articles 92 of the ECSC Treaty and 192 of the EEC Treaty to the effect that member States are explicitly included within the field of application of these rules.

H. P. Ipsen, case note, 4 EuR. 1969, 336–337.

An annotation on the Court's decision of July 9, 1969, in Case 1/69, *Italian Republic* v. *EEC Commission*. The author examines the Court's statements concerning the power of the Commission to attach time limits to authorizations granted pursuant to Article 80, para. 2. He also deals with the formal requirement contained in Article 190 that a decision shall be fully reasoned.

G. Vandersanden, "Le recours en tierce opposition devant la Cour de Justice des Communautés européennes", 5 Cah.dr.europ. 1969, 666–682.

This article deals with claims by third parties for retrial of cases decided without their having been heard, where such judgments are prejudicial to their rights (Article 39 of the Statute of the Court). The author discusses the question of when this exceptional form of appeal can be granted. Special attention is focused on the conditions of admissibility. Though claims for retrial may be made by the member States, the Community institutions and natural or legal persons when the judgment is prejudicial to their rights, natural and legal persons can only make a successful application for retrial if their rights have been prejudiced in a manner which is both direct and individual. The latter category can therefore never make a claim for retrial of a case in which the legality of a regulation was at issue.

(b) *Preliminary rulings*

W. Gormley, "The Future Role of Arbitration within the EEC: The Right of an Arbitrator to Request a Preliminary Ruling Pursuant to Article 177", 12 *St. Louis Univ. Law Journal* 1968, 550.*

The author interprets the impact of the *Vaassen-Göbbels* case on the use of Article 177 by arbitration panels. He describes the characteristics a panel must have in order to be able to refer questions to the Court of Justice. Although the Court of Justice in the *Göbbels* case restricted the use of Article 177 to public and quasi-public arbitration panels the author argues that this first precedent in the "Community law of arbitration" clearly shows a trend which will result in allowing private arbitration panels access to the Court of Justice through Article 177.

M. Waelbroeck and G. Vandersanden, note on the Court's decision in Case 9/69 (*Sayag* v. *Leduc*), 85 J.T. 1970, 243–246.

4. *The relationship between Community Law and national law*

G. Bebr, "Directly applicable provisions of Community Law: The development of a Community concept", 19 I.C.L.Q. 1970, 257–258.

This article presents a comprehensive picture of the development of the concept of directly applicable provisions of Community Law. The author discusses the notion of self-executing provisions known in international law practice, investigates the effect of the end of the transitional period in con-

nection with the direct applicability, and examines the possibility that decisions and directives can be directly applicable within the member States.

R. Buxbaum, "Article 177 of the Rome Treaty as a Federalizing Device", 21 Stanford L.Rev. 1969, 1041.*

This is a "status report" on the use of Article 117 certification procedure by national courts. The author finds that in the administrative law field the procedure ". . . has began to take hold everywhere but in France". However, in the private law area, as exemplified by antitrust litigation, the national courts have been very reluctant to certify questions. He suggests that a practice similar to the United States Supreme Court's certiorari procedure should be implemented in order to improve judicial integration and to allow more private law cases to reach the Court of Justice.

P. Pescatore, "L'application directe des traités européens par les juridictions nationales: la jurisprudence nationale", 5 Rev.trim.dr.europ. 1969, 677–723.

The author discusses the different ways in which national courts deal with the problem of directly applicable provisions of Community Law. He examines the constitutional law, the doctrine and the case law of each of the member States and arrives at the conclusion that the uniform application of Community Law throughout the Community is put in jeopardy if legal thought in the member States does not evolve to recognize the supremacy of Community Law which is a necessary result of the special nature of the Community legal order.

J. Verhoeven, "Droit communautaire et droit national", case note on the decision of the District Judge of Antwerp of December 24, 1968, 5 Cah.dr.europ. 1969, 702–719.

The author discusses the predicament of a national judge whose constitution does not permit him to accord priority to a Community provision over a national law. In spite of the Court's judgment in *Costa* v. *ENEL* Verhoeven is inclined to treat the supremacy problem as a pure question of municipal law which is unaffected by the direct applicability of the international rules.

M. Zuleeg, case note, 4 EuR. 1969, 255–268.

An annotation on the decision of the Federal Finance Court (Germany) of July 10, 1968. See also 6 C.M.L.Rev. 1968–69, 414 *et seq.*

A. *EUROPEAN ECONOMIC COMMUNITY*

5. *Agriculture*

H. H. Götz, "Mit den Agrarproblemen leben lernen", 25 E.A. 1970, 213–222.

Some reflections on the position of agriculture in a changing society. The author thinks that the adoption of parts of the Mansholt plan would make it possible to combat the deficiencies of the present agricultural policy. What is needed is not price support but adequate social and regional policies, a better organization of the vocational training, measures concerning the problems of industrialization and transport and possibly temporary income subsidies.

"L'agriculture Européenne à un tournant", (1969) R.M.C. No. 128.

A special issue of this Journal, entirely devoted to problems of agriculture.

6. *Free movement of persons, services and capital*

P. Kalbe, "Niederlassungsfreiheit und freier Dienstleistungsverkehr der freien Berufe in der E.W.G.", 15 A.W.D. 1969, 429–433.

A discussion of the proposal for a directive concerning the activities of lawyers (J.O. 1969, C 65/1). This draft, if acted upon, may constitute a stage in the achievement of the free movement of services but not in the realization of the freedom of establishment.

C. O'Grada, "The vocational training policy of the EEC and the free movement of skilled labour", 8 Journ.Comm.Mark. Studies 1969, 79–109.

The author discusses the lack of tangible results in this field which is due to the Treaty's conservative approach to this problem and the Council's unwillingness to develop truly European solutions in this area. This article proposes guidelines for the framing of a policy that would encourage the free movement of skilled workers. At present the labour flow is nearly wholly made up of unemployed and unskilled workers.

H. O. C. R. Ruding, "Kapitaalliberalisatie in de EEG", 18 S.E.W. 1970, 71–95.

An account of the progress made towards the establishment of an integrated capital market. Since 1960 liberalization of capital movements has barely moved ahead. The elimination of the restrictions on the movement of capital is not enough to bring about an integrated capital market. Other conditions to be fulfilled are harmonized policies to maintain the equilibrium of the member States' overall balance of payments and approximation of the rules governing the operation of national capital markets.

7. *Competition*

R. Buxbaum, "The Group Exemption and Exclusive Distributorships in the Common Market—Procedural Technicalities", 14 *Antitrust Bulletin* 1969, 499.*

The author critically analyses the group exemption as a method of improving the administration of the Community's antitrust regulations. He concludes that this exemption provides very little protection to the borderline distribution system and that, in any case, ". . . caution would seem to dictate the pursuit of an individual exemption".

D. Cohen, "Application of Article 85 (3) of the Treaty Establishing the European Economic Community to Exclusive Dealing Agreements", 54 *Cornell Law Review* 1969, 379.*

The author presents a brief "legislative history" of Article 85 (3) and describes how each of the four criteria for exemption have been applied in recent exclusive dealership cases. He concludes that in granting exemption there are two competing considerations. First, there is the prospect that such agreements will lead to better distribution and more efficient allocation of resources while not raising barriers to the trade; however, there is also the chance that such agreements may lessen competition and should, as a result, be thwarted by a narrow reading of Article 85 (3). He favours the latter course since he believes that the removal of trade barriers and improvements in distribution will be of no avail in improving the operation of market forces if anti-competitive practices were to be simultaneously allowed to come into being.

L. Ebb, "Common Market Anti-Cartel Law and Trademark and Patent License Agreements", 16 *Univ. of California at Los Angeles Law Review* 1969, 545.

L. Focsaneanu, "La concurrence à l'intérieur des groupes de sociétés. Réflections sur l'attestation négative Christiani et Nielsen", (1970) R.M.C. No. 129, 32–38.

The author shares the Commission's view that the requirement of unrestricted competition does not apply as far as enterprises which constitute an economic unit are concerned but he feels that the Commission should have refrained from stating its position on this point in the context of an extreme case like the Christiani and Nielsen application.

R. Joliet, "Monopolisation et abus de position dominante. Essai comparatif sur l'Article 2 du Sherman Act et l'Article 86 du Traité de Rome", 5 Rev.trim.dr. europ. 1969, 645–696.

This article is a summary of an American thesis by Joliet called *Monopolization and Abuse of Dominant Position* (Nijhoff, The Hague, 1970).

K. Markert, "The Dyestuff Case: A Contribution to the Relationship between the Anti-Trust Laws of the European Economic Community and its Member States", 14 *Antitrust Bulletin* 1969, 869.*

This article concerns the decision of the Court in the *Walt Wilhelm* case (14/68; 6 C.M.L. Rev. 1968–69, 488–490). This decision includes the proviso that the national authorities may take action against agreements which could be the object of a Community decision on the basis of antitrust law in so far as their action does not interfere with "positive action" taken by the Commission.

The author argues that this restriction ought to be read narrowly to mean that national authorities cannot act when the Commission has granted an Article 85 (3) exemption as "a part of its economic policy". He believes that a narrow interpretation is important since the vigorous enforcement of the national laws is valuable to the Community as a whole.

K. Markert, "Antitrust Aspects of Mergers in the EEC", *5 Texas International Law Forum* 1969, 32.*

The author describes the present merger standards of the ECSC, EEC, and member States. He notes that the Commission's reliance solely on Article 86 to bar mergers has the effect of permitting many competition limiting mergers. He suggests that the Article 86 standards are similar to those of para. 2 of the U.S. Sherman Act which has been superseded, in application, by the much more stringent standards of para. 7 of the Clayton Act. He believes that Article 85 could be applied here to prevent more mergers.

He argues that the present policy of favouring mergers rests upon dubious theories and that what little empirical evidence exists points against such a policy. Finally, he favours applying the type of standard used in the ECSC to the EEC along with British and Japanese procedures.

E. Stassyns, "Enkele beschouwingen bij de problematiek van de ondernemingsconcentratie in de Lid-Staten der E.G.", 33 R.W. 1970, 1073–1078.

The pros and cons of the increasing number of concentrations between European and American companies. Stumbling blocks on the road toward concentrations. Removal of the obstacles by a co-ordination of company laws and better safeguards for minority stockholders and creditors.

D. Swann, "Concentration and Competition in the European Community", 13 *Antitrust Bulletin* 1968, 1473.*

This article reviews the arguments, pro and con, concerning the need for greater industrial concentration in the Common Market. The author criticizes the notion that greater economies of scale are necessarily the result of increased size. He notes that higher administrative costs, a traditional diseconomy of scale, may be more of a factor in Europe than in the U.S. due to the apparent difference in the level of managerial ability between the two. He also reviews the attitude of the Commission toward concentration, mergers, and the usefulness of Article 86 in controlling merger activity.

P. Ulmer, case note, 4 EuR. 1969, 344–348.

An annotation on the Court's decisions in Case 5/69 (*Völk* v. *Vervaecke*) and in Case 10/69 (*Portelange* v. *Smith Corona*), see this volume at 81 and 234.

G. Vandersanden, "La validité provisoire des ententes", 1969 R.M.C. No. 127, 473–483.

An annotation on the Court's judgment in Case 10/69 (*Portelange* v. *Smith Corona*) in which the author criticizes the Court's reasoning and proposes a solution that steers a middle course between the Commission's position and that of the Court.

8. *Taxation*

R. Geisler, "Das Steuergeheimnis im ausländischen Recht, insbesondere in den übrigen Mitgliedstaaten der E.W.G.", 16 A.W.D. 1970, 67–77.

A comparative study of the laws on fiscal secrets in Germany, Belgium, Holland, France, Austria, Switzerland and Sweden.

H. von der Groeben, "L'harmonisation fiscale et le Marché commun", 5 Rev. trim.dr.europ. 1969, 724–728.

A short analysis of some important aspects of tax harmonization in the Common Market by the former member of the Commission.

G. Insley, "Taxes and the Mobility of Capital in Europe", 24 *Business Lawyer* 1969, 743.*

The author describes in this article the numerous tax problems that are encountered by the financing subsidiary of a corporation which, having engaged in a euro-currency securities issue, must attempt to minimize the tax cost of lending the proceeds of the issue to the parent's operating subsidiaries, collecting interest on the loans, and funnelling this interest to its bondholders.

He concludes that, although differential tax costs do not exist in gathering capital by a euro-currency issue, actual tax costs still vary greatly when the proceeds are invested in various European countries.

J. Maes and J. Ghijsbrecht, "Les grandes lignes du Code de la TVA", 85 J.T. No. 4695, 213–221.

An outline of the new Belgian law which will introduce the Added Value Tax system in this country in 1971.

W. Missorten, "Some Problems in Implementing a Tax on Value-Added", 21 *National Tax Journal* 1968, 396.*

The author examines the various methods available to implement the Value Added Tax. He discusses alternative methods of computation and

concludes that one method, the "prior tax deduction method", should be followed. He also treats the problems resulting from the allowance of credits on capital goods expenditures, the use of differential tax rates, and the exemption from the tax of certain sectors, such as agriculture.

G. Nicolaysen, case note, 4 EuR. 1969, 349–353.

An annotation on the Court's decision of June 24, 1969 (Case 29/68, *Recueil* XV, 165).

A. Schulze-Brachmann, "Die Entwicklung des Steuerwesens in der E.W.G. (III)", 1969 *La Fiscalité du Marché Commun*, No. 37, 137–146.

The author discusses the development of taxation in the various member States and presents an extensive survey of the progress made with respect to tax harmonization in the EEC. The article ends with an account of the efforts made to draft a multilateral treaty concerning the abolition of double taxation within the Community.

9. *Harmonization of legislation*

P. von Wartburg, "E.E.C. on the Way to a Common Market for Drugs; its Meaning for Foreign Imports", 23 *Food, Drug and Cosmetic Law Journal* 1968, 500.*

This article briefly describes the Commission proposal that member States should recognize on a reciprocal basis the sales licences granted by member States to Community producers of pharmaceuticals. The author suggests that this proposal resulted from the inability of member States to agree on a single Community-wide licensing standard. He criticizes the proposal arguing that pharmaceuticals from third countries with stringent licensing standards would still have to qualify under the six national standards to be sold throughout the Community. This discrimination against third country pharmaceuticals places, he feels, protectionist interests above public health interests.

10. *Economic policy*

(a) *Commercial policy*

D. Ehle, "Basic aspects of the antidumping regulations of the Common Market", 3 *International Lawyer* 1969, 490.*

The author explains the provisions of the first Council regulation dealing with dumping. Special attention is paid to a description of the practices against which measures can be taken, the procedures to be utilized under the regulation, and the rights of exporters.

J. Schneider, "La mise en oeuvre de la politique commerciale commune de la CEE; Bilan et perspectives", (1970) R.M.C. No 129, 11–24.

The author draws up the balance sheet of the achievements made with regard to a common commercial policy. He observes that there are still quite a few measures that must be taken before such a policy can be conducted at the Community level. The intimate relationship between the commercial policy, on the one hand, and the economic and foreign policies on the other, will for the time being form an obstacle to the development of an entirely common commercial policy.

(b) *Monetary policy*

P. Mendès France, "Les problèmes monétaires de l'Europe", (1970) *L'Europe en Formation*, No. 119, 8–11.

Some short comments on the monetary aspects of European integration and a number of critical questions in connection with the monetary proposals of the Barre plan.

E. Thiel, "Europäische Währungskooperation und der britische Beitritt zur EWG", (1970) E.A. (No. 3), 91–98.

A study on the relationship between Britain's prospective entry into the Common Market and the progressing integration in the monetary field.

R. Triffin, "L'Europe et ses monnaies", (1970) *L'Europe en Formation*, No. 119, 3–7.

This article makes a plea for the creation of a European Reserve Fund and discusses the rules by which it should be operated and managed.

11. *Company Law*

H. Ault, "Harmonization of company law in the European Economic Community", 20 *Hastings Law Journal* 1968, 77.*

The author describes the scope of the Community institutions' power under Article 54 (3) (g) and the substance of the first directive for the co-ordination of company laws issued under this article. He compares the rules adopted in that directive with the present treatment of these subjects in the company laws of the member States. He concludes that even if there were a European company there would still be a need for the harmonization of national laws since many small companies would still be organized under national company law.

R. Kohler, "New Corporation Laws in Germany (1966) and France (1967) and the Trend towards a Uniform Corporation Law for the Common Market", 43 Tul.L.Rev. 1968, 58.*

In this article the author treats the harmonization of company law problem on two fronts. He traces first the development of company law on the national level. He describes and compares the changes brought about by the new French and German company laws. He concludes that their increased similarity is a result of their being based upon economic and social conditions rather than upon ideological considerations. Also, he believes that American corporation law has had a heavy impact. Second, he surveys the various proposals for harmonization made at the Community level.

P. van Ommeslaghe, "La première directive du Conseil du 9 mars 1968 en matière de sociétés (Suite)", 5 Cah.dr.europ. 1969, 495–563 and 619–665.

A discussion of the Council's first directive concerning companies and firms of the member States (J.O. 1968, L 65/8).

12. *Recognition of judgments*

P. Hay, "The Common Market Preliminary Draft Convention on the Recognition and Enforcement of Judgments—Some Considerations of Policy and Interpretations", 16 A.J.C.L. 1968, 149.*

A description of the terms of the Common Market Preliminary Draft Convention. The author concludes that the Draft unifies jurisdictional

standards although it unfairly allows the use of improper fora against non-domiciliaries.

K. Nadelmann, "The Common Market Judgments Convention and a Hague Conference Recommendation: What Steps Next?", 82 Harv.L.Rev. 1969, 1282–1292.*

The Convention on recognition of foreign judgments that resulted from the Hague conference would make enforceable judgments rendered at jurisdictionally improper forum, although a protocol to the Convention would allow individual signatories to limit such enforceability. The author suggests that the U.S. Government will have to make some effort to restrict the enforceability of foreign judgments in the U.S. in order to protect U.S. citizens against improperly rendered judgments.

13. *External relations*

J. Buchet de Neuilly, "L'accès des entreprises aux marchés financiés par le Fond Européen de Développement", (1970) R.M.C., No. 130, 84–105.

An elaborate description of the techniques used by the Commission which must ensure that contractors obtain the best information available with respect to calls for tender with regard to projects financed by the European Development Fund and that the conditions for awarding contracts to these persons are as nearly equal as possible.

A. Dagan, "Israël et le Marché Commun", (1970) R.M.C., No. 129, 25–31.

The consequences of the existence of the Common Market for the economy of Israel and the scope of the contemplated preferential agreement with that country.

D. Hijmans, "L'O.C.D.E. et les relations avec les Communautés européenes", (1970) R.M.C., No. 130, 77–83.

The relationship between the Organisation of Economic Co-operation and Development and the European Communities.

D. Rauschung, "Rechtsfragen zum handelspolitischen Arrangement zwischen der E.W.G. und den sich um Beitritt bewerbenden Staaten", 4 EuR. 1969, 287–297.

The author considers the legal questions relating to trade arrangements between the common market and the countries that wish to join the Communities.

Chr. Tomuschat, "EWG und DDR. Völkerrechtliche Überlegungen zum Sonderstatus des Aussenseiten liner Wirtschaftsunion", 4 EuR. 1969, 298–332.

The author offers a comprehensive survey of the factual and legal relations which can be said to exist between the EEC and the Democratic Republic of Germany.

B. *EUROPEAN COAL AND STEEL COMMUNITY*

H. Mueller, "The Policy of the ECSC towards Mergers and Agreements by Steel Companies", 14 *Antitrust Bulletin* 1969, 413.*

This article relates the changes that have taken place in the High Authority's attitude toward mergers and agreements since its inception. The author states that instead of the rather mechanical tests used in the past to decide whether

a merger should be allowed, the High Authority is now using a more flexible test involving the relation between the market share of the proposed combination and that of other large companies. He describes several recent merger applications to illustrate his point. He concludes that the High Authority now favours restructuring the steel industry into an oligopoly where there will be little price competition.

C. *EURATOM*

"Patent Policies of the European Atomic Energy Community", 30 *U. Pittsburgh L.Rev.*, 1968, 331.*

The author describes the evolution of Euratom's patent policies. He reviews its patent licensing and information disseminating capabilities. He observes that there has been little of the intended patent licensing but that the organization's ability to disseminate information has been successful. He argues that the treaty should be changed to eliminate its compulsory patent licensing provisions since, from an economic point of view, such a system would be unwise.

II. *COUNCIL OF EUROPE*

B. *Human rights*

W. Gormley, "Development of International Law through cases from the European Court of Human Rights: Linguistic and Detention Disputes", 9 *Ottawa Law Review* 1968, 382.*

The author suggests that after a long period of inactivity, the European Court of Human Rights may now be embarking on the path of creating substantive law. He argues that the Belgian Linguistic Cases and the Detention Cases will allow the Court to create important international law precedents rather than simply regional precedents as a result of the similarity between the European Convention and the United Nations Covenants. However, he expresses his disappointment that two recently decided Detention Cases did not have the precedential value he had hoped for.

C. Rasenack, "'Civil rights and obligations' or 'droits et obligations de caractère civil'—two crucial legal determinations in Art. 6 (1) of the European Convention for the Protection of Human Rights and Fundamental Freedom", 3 *Human Rights Journal* 1970, 51–82.

On the basis of an analysis of the provisions of Article 6 (1) of the Convention and in the light of the system of French and English law from whose arsenals of legal concepts the terms of Article 6 have presumably been borrowed, Rasenack concludes that a strict construction should be placed on the terms "civil rights and obligations" and "droits et obligations de caractère civil".