

## SURVEY OF LITERATURE

### a. *List of subjects* \*

#### I. *INTEGRATION, ECONOMIC AND POLITICAL*

#### II. *INTEGRATION, GENERAL LEGAL ASPECTS*

#### III. *INTEGRATION, TECHNOLOGICAL ASPECTS*

#### IV. *EUROPEAN COMMUNITIES*

##### A. *COMMON SUBJECTS*

1. *General*
2. *Institutional*
3. *Court of Justice*
4. *Sources of Community Law*
5. *Relationship between Community Law and National law*
6. *Adhesion*
7. *Association*

##### B. *EUROPEAN COAL AND STEEL COMMUNITY*

##### C. *EUROPEAN ECONOMIC COMMUNITY*

1. *General*
2. *Customs Union*
3. *Agriculture*
4. *Free movement of persons; establishment and services*
5. *Free movement of capital*
6. *Transport*
7. *Competition*
8. *Taxation*
9. *Harmonization of legislation*
10. *Economic and Monetary policy*
11. *Regional policy*
12. *Energy policy*
13. *Commercial policy*
14. *Social policy*
15. *European Investment Bank*
16. *Company law—Bankruptcy law*
17. *Recognition of Judgments*
18. *Industrial property*
19. *External relations*

##### D. *EURATOM*

##### V. *EFTA*

##### VI. *COUNCIL OF EUROPE*

- a. *General*
- b. *Human Rights*

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\* This classification of the subjects is also used for the list of books appeared which follows the survey of literature.

*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
E.E.R.	— European Economic Review
EuR.	— Europarecht
Gaz.Pal.	— Gazette du Palais
G.R.U.R.Int.	— Gewerblicher Rechtsschutz und Urheberrecht— Internationaler Teil
Harv.L.Rev.	— Harvard Law Review
I.C.L.Q.	— International and Comparative Law Quarterly
Int.Org.	— International Organisation
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.W.T.L.	— Journal of World Trade Law
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 Inter- national 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 Völkerrecht
Z.H.R.	— Zeitschrift für das gesamte Handelsrecht und Wirtschaftsrecht

### I. INTEGRATION, ECONOMIC AND POLITICAL

Paul Baroich, "Free trade and European economic development in the 19th century", 3 E.E.R. 1972, 211-247.

This article contains an estimation of the advantages of free trade between a developed economy (Great Britain) and a number of less developed economies (France, Germany and Italy) around 1860.

J. P. Brunet, "L'Europe élargie entre les blocs", (1972) R.M.C. No. 160, 767-774.

Daniel Colard, "La souveraineté nationale et l'Europe politique", (1972) *Les Problèmes de l'Europe* No. 57, 15-16, 97-102.

Ulrich Everling, "Die Europäische Gemeinschaft auf dem Wege zur Europäischen Union. Zu den Ergebnissen der Pariser Gipfelkonferenz", 27 E.A. 1972, 791-800.

After a short description of the course of events during the Paris summit and the first public reactions to it, the author argues the main result of the summit to be that for the first time a common goal for European integration has been decided upon, *i.e.* the European Union. Although there have been many complaints about the vagueness of this goal, many positive indications may be found in the final communiqué. According to this document, the European Union will have to be based on certain political values (democracy, human rights); the Union will be a monetary and economic union; the Union will have to administer an extended structural and social policy and it will have to find a better balance between internal development and orientation with the outside world. Altogether the final communiqué demands quite a lot of the organs of the Community just at the moment when three new members are being admitted. To perform all necessary tasks at once will be very difficult, as appears from recent decisions (or lack of them) by the Council in the fields of agriculture and transport.

Other articles on the Paris summit:

C. A. Ehrhardt, "Europa nach der Pariser Gipfelkonferenz", 23 *Aussenpolitik* 1972, 633-655.

Ernst Kobbert, "Auch auf dem Gipfel keine volle Fernsicht. Zur ersten Gipfelkonferenz der erweiterten Europäischen Gemeinschaften", 27 E.A. 1972, 721-724.

Avi Shlaim, "The Paris Summit", 28 *The World Today* 1972, 520-530.

W. B. Findorff, "China and the EEC", 8 *China Report* 1972, 29-37.

The writer argues that the changing attitude of China *vis-à-vis* the EEC is part of an overall re-evaluation of foreign policy undertaken after the Cultural Revolution. China is very interested in the process of integration. This is evident from frequent features appearing in the official Chinese press; many of these have been borrowed directly from publications of the Commission. Nevertheless the EEC is regarded mostly in the framework of the increasing contradictions between the capitalist states. Thus, for instance, the adhesion of the United Kingdom and the monetary union are exponents of the "struggle

against the hegemony of US imperialism". These developments, however, also create a balance against "social imperialism" (*i.e.* the USSR). Therefore China, which refuses to regard itself as a super-power, views the continuing integration of Europe as a positive factor in the struggle against world hegemony by both "imperialisms".

Also: W. B. Findorff, "China und die Europäische Gemeinschaft", 23 *Aussenpolitik* 1972, 656-662.

Erwin Häckel, "Die Kritik der Jungen Linken an der Europäischen Gemeinschaft", 27 *E.A.* 1972, 810-818.

The article is a synopsis of the criticism of the EC, as it has been voiced in Germany, in particular by the "Young Leftists" (Jusos). This criticism is aimed both at the fundamentally capitalist character of European integration and the concentration of capital as well as at the social inequality, which are deemed to be its consequences. Also the undemocratic EEC institutions and EEC social, regional and development policies are heavily criticized. Furthermore there is a short inquiry into the alternative policies the "Jusos" propose for a socialist Europe. The "Jusos" will be able to play a significant role only to the extent that they succeed in provoking the socialist parties or trade unions into adoption of some of their viewpoints.

Jean Laloy, "Does Europe Have a Future?", 51 *Foreign Affairs* 1972, 154-166.

Charles Melchoir de Molènes, "Les conceptions européennes de E. Heath", (1972) *Les Problèmes de l'Europe*, No. 58, 14-16, 169-173.

A review of the Godkin lectures read by Heath at Harvard in 1967. These lectures treat the relationship between England, the EEC and the Atlantic Community. According to Heath himself, they continue to be representative of his point of view in these matters.

John Newhouse, "Stuck Fast" 51 *Foreign Affairs* 1973, 353-366.

Edward L. Morse, "Why the Malaise?", 51 *Foreign Affairs* 1973, 367-379.

Benjamin S. Rosenthal, "America's Move", 51 *Foreign Affairs* 1973, 380-391.

Three articles on the European political situation. Newhouse argues that, though the political climate between the EEC partners is better than ever, only an external catalyst seems capable of inspiring further integration. It must be doubted that British accession can serve as such a catalyst. The USSR also will not want to provide Europe with inspiration for greater unity. Since the US has lost interest in the role of the proponent of federalism—which it probably cannot play any longer, even if it wanted to—Europe will have to make do without such an external catalyst. The US should however desist from policies which can harm integration, since in the final analysis it benefits from it.

Morse sharply criticizes the present policies of the European states. According to him, Europe has seldom had so good a chance to decide its own future. But he castigates the policies of European states as "transcendental" and "activity for activity's sake" without clear goals in the short or the long run. The Paris summit and the Fund for Monetary Co-operation serve as examples. This malaise can be attributed largely to the paralyzing influence of the internal problems on foreign policy in almost all EEC countries. Those internal problems, however, can only be overcome by a joint approach on European or world level. Thus Europe finds itself in a dilemma, from which it can be saved only by an external crisis or an American initiative.

Rosenthal restricts himself to military problems, *i.e.* M.B.F.R. and the European Security Conference. His criticism is aimed at the US, which, in his view, has yielded the initiative to an inordinate extent to its allies.

Rémy Savoie, "L'avenir de l'U.E.O.", (1972) *Les Problèmes de l'Europe*, No. 57, 115-119.

After the creation of the Davignon Committee and after the accession of the United Kingdom to the European Communities, the Western European Union (WEU) has lost two of its important functions: the implementation of political consultation between EEC members and its role as the link between Britain and the EEC.

The task that remains is defence. To what extent WEU will undertake new activities in this area depends on the developments within the so-called "Eurogroup" of NATO and on the outcome of the old battle between "Europeans" and "Atlanticists" in defence politics.

P. J. Verdoorn and C. A. van Bochove, "Measuring integration effects—a survey", 3 E.E.R. 1972, 337-350.

The writers present a survey of the methods used during the 'sixties to calculate the effects of economic integration on trade flows. They also give a short analytic account of further research in this area.

#### IV. EUROPEAN COMMUNITIES

##### A. COMMON SUBJECTS

###### 1. General

Alfred Frisch, "Le présent et l'avenir de l'Europe", (1972) *Les Problèmes de l'Europe*, No. 57, 7-14.

Alfred Frisch, "Les perspectives de la Communauté européenne", (1972) *Les Problèmes de l'Europe*, No. 58, 174-181.

Jean Marie Mouchet, "Télé-université européenne", (1972) *Les Problèmes de l'Europe*, No. 58, 7-14.

Heinrich Schneider, "Politische Willensbildung in der Europäischen Gemeinschaft", 27 E.A. 1972, 653-661.

Giuseppe Sperduti, "Le Comunità sopranazionali", 12 Riv.Dir.Eur. 1972, 3-26.

After a long historical introduction, Sperduti tries a new approach to the concept of supranationality. He treats the problem in the context of the relationship between international and municipal law. EEC law on the one hand is derived from international law, on the other hand one can regard it as having been transferred from municipal law. In many cases it becomes completely effective only after implementation by the national authorities and after they have enacted sanctions. The author does not hesitate to regard these characteristics as typical for a supranational community, which, in his definition, is an intermediate between the nation state and a federation.

###### 2. Institutional

H. Aszkenazy, "Chronique du Parlement européen", (1972) *Les Problèmes de l'Europe*, No. 58, 190-198.

Jochen Abr. Frowein, "Zur institutionellen Fortentwicklung der Europäischen Gemeinschaften", 27 E.A. 1972, 623-632.

Which improvements can contribute to a healthy development of EEC institutions? In the first place Frowein pleads for an increase of power for the President of the Commission; he is also of the opinion that the Commission should have more power to compel the Council to take certain decisions. Moreover he wants the competence of the European Parliament to be increased. There is a long review of the report of the Vedel Committee, of which

Frowein himself was a member. Finally, he asks for unity of the European institutions; one should not create a new body for every new task.

A. Haigh, "The Conference of European Ministers of Education", 18 *European Yearbook* 1970, 55-79.

This Conference has assembled on an *ad hoc* basis since 1959 in co-operation with various organizations like W.E.U., OEEC/OECD and Council of Europe. The Conference retains its autonomy, but has acquired a permanent character by instituting a commission of high civil servants which meets at more or less regular intervals. The tasks of the Conference are restricted to the exchange of information, the promotion of co-ordination and study; it may make recommendations in these matters. Finally the author reviews several problems which were the subjects of discussions during the last Conference at Brussels in 1971.

Keith Kyle, "The European Parliament", 28 *The World Today* 1972, 530-537.

Christoph Sasse, "Kommission und Rat—Konstitutionelle Rivalen oder funktionale Partner", 7 *EuR* 1972, 358-374.

The author gives his opinion on some current problems in the European Communities, among them the political and economic union. He also gives an historical perspective on the development of the Communities.

### 3. Court of Justice

Jean Hebert, Case note, case 7/71 (*Commission v. France*), 8 *Rev.trim.dr.europ.* 1972, 299-314.

Robert Kovar-Vlad Constantinesco, "Chronique de jurisprudence de la Cour de Justice des Communautés Européennes", 99 *Journ.dr.int.* 1972, 661-718.

Emile Reuter, "Le recours en carence de l'article 175 du Traité de la CEE dans la jurisprudence de la Cour de Justice des Communautés Européennes", 8 *Cah.dr.europ.* 1972, 159-174.

Reuter reviews the cases concerning Article 175 EEC (failure to act). It appears that an appeal based on this Article has never been instituted by a member State or an EEC institution. So far only private persons have instituted proceedings on the ground that the Commission had failed to act. Reuter also examines the rulings of the Court of Justice concerning the three stages of the Article 175 procedure. In the first stage the institution concerned is called upon to act, next it must state its position *vis-à-vis* this invitation and finally, if the institution persists in its inactivity for a certain time, the Court may be asked for an opinion.

### 5. Relationship between Community Law and National Law

J. Bigay, "Droit communautaire et droit pénal", 8 *Rev.trim.dr.europ.* 1972, 725-734.

This article examines two aspects of French criminal law. In the first place, the influence of EEC regulations and directives on French criminal law is traced. Since the imposition of penal sanctions is generally left to the national legislature and the national courts, problems may occur if an EEC regulation requiring such sanctions has entered into force, but the corresponding national penal laws have not yet been enacted. The author treats this problem with reference to the "Grad" decision of the Court of Justice. In the second place, the question is raised whether the EEC legal order can gain greater impact on criminal law. Referring to the A.E.T.R. case and to an application of Articles 100-101 EEC, Bigay concludes that the EEC can indeed play a dynamic role in this respect.

### 6. *Adhesion*

Carl A. Ehrhardt, "Die Dimensionen der EG-Erweiterung", 23 *Aussenpolitik* 1972, 573-584.

Roy A. Matthews, "Britain's move into Europe: The implications for Canada", 31 *Behind the Headlines* 1972, 1-14.

Sir Christopher Soames, "Whitehall into Europe", 50 *Public Administration* 1972, 271-279.

Kenneth Younger, "Britain in Europe: The Impact on Foreign Policy", 48 *International Affairs* 1972, 579-592.

A broad review of British foreign policy after accession. Great changes in British policy are not expected. The Communities can serve as a more solid base for British policy. In this area of policy there is scarcely any long term divergence of interests between the UK and its EEC partners, though France, of course, continues to be an uncertain factor.

### 7. *Association*

L'association de l'île Maurice à la CEE", (1972) R.M.C., No. 157, 645-649.

Carol Ann Cosgrove, "The EEC and its Yaoundé Associates: A Model for Development!", 4 *International Relations* (David Davies Inst.) 1972, 142-155.

The author is a vigorous proponent of the association policy of the Community as a model for development aid. She presents a survey of the African association agreements and she points out the resulting economic improvements. The African countries themselves have always asked for continuation of the agreements. This shows how important this kind of co-operation is to them.

The relationship, which has developed between the EEC and its associates, seems capable of bridging the difference between former colonies and their colonial rulers. Moreover, this kind of aid is probably more effective than aid on a global scale, because the association connects the reasonably homogeneous countries of the Community with African countries on a similar level of development. One of the advantages of the association is that it promotes co-operation between the associated countries among themselves. Finally, the association offers its members a rich package of aid and trade, while they may continue to profit from general preferences.

## C. EUROPEAN ECONOMIC COMMUNITY

### 2. *Customs Union*

Andrew Schmitz and Jurg Bieri, "EEC Tariffs and US Direct Investments", 3 *E.E.R.* 1972, 259-270.

This article presents the results of empirical research into the influence of the EEC Common External Tariff on US direct investments. Statistical data 1952-1966 are compared. The theory that the Common External Tariff creates increased direct investments is corroborated.

### 3. *Agriculture*

Claude Baillet, "Adhésion britannique et politique agricole commune", (1972) R.M.C., No. 157, 624-635.

The article first presents some statistical data on agriculture both of the "six" and of Great Britain. There then follows a short explanation of both systems of financing agriculture.

According to Baillet, because of the special problems of the new members

one of the consequences of accession will be that one will have to look for a new agricultural policy.

H. Vittas, "Effects of changes in EEC currency exchange rates on prices, production and trade of agricultural commodities in the Community", 19 *IMF Staff Papers* 1972, 447-467.

A very clear exposition of the functioning of the European agricultural market. Price formation, production and trade flows are explained through supply and demand curves. Next, the influence of both formal and de facto changes in exchange rates is shown.

#### 4. *Free movement of persons; establishment and services*

J. J. Goudsmit, "Enkele opmerkingen over de Richtlijn van de Raad van de Europese Gemeenschappen betreffende de coördinatie van procedures, voor het plaatsen van overheidsopdrachten voor de uitvoering van werken", 10 *Bouwrecht* 1973, 69-72.

N. Dijkhuis, "De richtlijn van de Raad van de Europese Gemeenschappen betreffende de coördinatie van procedures voor het plaatsen van overheidsopdrachten voor de uitvoering van werken", 10 *Bouwrecht* 1973, 72-75.

These articles are concerned with the policy of the Communities in the area of public contracts and engineering of public works. They draw attention to certain practical problems inherent in the Directive for the co-ordination of the procedures for public contracts of July 26, 1971 (J.O. L 185). Cf. also: Colin Turpin, "Public Contracts in the EEC", 9 *C.M.L.Rev.* 1972, 411-424.

Louis Pettiti, "Le droit d'établissement et la libéralisation de la prestation des services concernant la profession d'avocat" (1972) *R.M.C.*, No. 160, 800-811.

This article gives a survey of the problems which arose during the passing of a directive concerning the free establishment of barristers and solicitors. Of special interest is the treatment of the Benelux Convention on the same subject and of the proposal by the "Consultative Commission of the Bars of the Member States of the European Communities" (Commission consultative des barreaux des Pays des Communautés européennes).

#### 6. *Transport*

R. Rodière and A. Chemel, "Transports. Mise en place générale du droit communautaire des transports (années 1970 et 1971)", 8 *Rev.trim.dr.europ.* 1972, 766-775.

#### 7. *Competition*

Etienne Cerexhe, "L'interprétation de l'article 86 du Traité de Rome et les premières décisions de la Commission", 8 *Cah.dr.europ.* 1972, 272-298.

Peter Duesberg, "Unternehmenskonzentration und Kooperation im Lichte des europäischen Wettbewerbs", 22 *W.u.W.* 1972, 695-705.

Robert Saint-Esteben, "Une concentration internationale d'entreprises dans la CEE (l'affaire Continental Can)", 99 *Journ.dr.int.* 1972, 249-266.

Hennig Schwaiger, "Die Unternehmenskonzentration im Recht gegen Wettbewerbsbeschränkungen innerhalb der Europäischen Gemeinschaften", 18 *A.W.D.* 1972, 49-58.

The first application of the principle that corporate mergers may come under the prohibition of Article 86 EEC (decision of December 9, 1971, concerning Continental Can, J.O. 1972, L 7/25) has given rise to numerous articles; four have been selected here.

Saint-Esteben restricts himself purely to a commentary on the decision, but



Schwaiger squarely faces the problem of control of mergers in general. He tries to find out to what extent there exist national rules for the control of mergers in the member States of the EC. It turns out that the rules differ appreciably from each other, and that hardly anywhere is there any normative control of mergers. The author draws the conclusion that it is too early for the introduction of a legal control of mergers by the EC. Duesberg has undertaken a quantitative study of corporate concentration. There is a sharp increase in the degree of concentration during 1969 and 1970. Most of the mergers, however, occur within one member State, while the degree of concentration varies sharply from one country to the other. This compels Duesberg to the conclusion that the policy of the Commission, which aims at a synthesis between promotion of concentration on the one hand and control of mergers on the other, is the right one.

Cerexhe analyses three fundamental concepts of Article 86, viz. "undertaking", "dominant position" and "exploit in an improper manner" (abuse). Both the Commission and the Court in their decisions and judgments concerning Article 85 regard an "undertaking" as an economic organization and not purely as a legal entity. Several bodies corporate together may form one undertaking. The author wants to impute the responsibility for acts and practices prohibited by Community Law to the legal entity through which the undertaking has performed the acts and practices concerned. After a survey of the different opinions on the concept of "dominant position" Cerexhe arrives at the conclusion that it can be divided into an object element, the structure of the market and a subjective element, corporate behaviour. In the decisions concerning GEMA and Continental Can the Commission has interpreted "to exploit in an improper manner" as "wrongful behaviour" and as "to act in such a manner as to harm competition". The author has strong objections to the latter interpretation. He is of the opinion that the control of mergers cannot be instituted by judicial interpretation of Article 86, but only by an initiative of the (Community) legislature.

Berthold Goldman, "Les effets juridiques extra-territoriaux de la politique de la concurrence" (1972) *R.M.C.*, No. 157, 612-623.

#### 8. *Taxation*

B. M. Veenhof, "Harmonisation fiscale et coordination des politiques économiques dans les Communautés européennes" (1972) *La Fiscalité du Marché Commun*, No. 53/54, 75-89.

The article treats the fiscal aspects of a common market, which entails tax harmonization and the fiscal problems concerning the establishment of an economic and monetary union, which entails unification of taxes. Which taxes will be unified? Who will have the authority over and who will be responsible for fiscal policy?

#### 10. *Economic and monetary policy*

H. Aszkenazy, "Les bourses dans la Communauté élargie" (1972) *Les Problèmes de l'Europe*, No. 57, 103-107.

Which factors contribute to the prominent position of London as the main financial centre in Europe? Will it have to expect serious competition from other European cities after accession?

J. P. Laustau, "Babel ou la politique conjoncturelle des membres de la Communauté européenne" (1972) *Les Problèmes de l'Europe*, No. 57, 108-114.

The author is rather pessimistic about the attempts to construct one European economic policy.

Rudolf Morawitz, "Der Europäische Fonds für währungspolitische Zusammenarbeit", 27 E.A. 1972, 663-672.

André Vlerick, "Die europäische Währungsunion", 27 E.A. 1972, 757-766.

This is the text of a speech by the Belgian finance minister. The Belgian proposals for a European Monetary Union are expounded. The Belgian Government are known proponents of a Fund with large authority. Not only do they propose a Fund which may extend conditional drawing rights but which will also have a mandate to create a European currency.

### 13. *Commercial policy*

H. Glejser, "Empirical evidence on comparative cost theory from the European Common Market experience", 3 E.E.R. 1972, 247-258.

The price indices of consumer goods in the EEC member States are compared over 1958 and 1966. The calculations corroborate the comparative cost theory.

Peter Knirsch, "Vom Ost-West-Handel zur Wirtschaftskooperation", 28 E.A. 1973, 61-69.

This article is concerned with the co-operation between firms from eastern and western Europe. Statistical data on this co-operation are lacking, mainly because there is no clear definition. This co-operation contributes a share of between 5 per cent. and 10 per cent. to the east-west trade of the FRG. There are three forms of this co-operation: in research and development, in production and in sales. The incentives for co-operation for the western firms are: the large supply of labour, the low wages and the access to new markets. The eastern European countries are interested because they hope to improve their technological know-how without having to pay for it in scarce western currencies. The results of this co-operation are not yet visible to such an extent as to admit prediction of its future. For the time being, the bureaucratic procedures in eastern Europe are a considerable handicap for this kind of co-operation agreements between companies.

E. M. Truman, "The production and trade of manufactured products in the EEC and EFTA: a comparison", 3 E.E.R. 1972, 271-290.

Inquiry into the extent of trade creation and trade diversion in the EEC and EFTA during 1960-68. For both trade blocs trade creation turns out to be considerable, while trade diversion is minimal.

P. J. Verdoorn and A. N. R. Schwartz, "Two alternative estimates of the effects of EEC and EFTA on the pattern of trade" 3 E.E.R. 1972, 291-336.

This article presents a comparison between different econometric methods for calculating trade creation and trade diversion in the EEC and EFTA.

### 14. *Social policy*

Vincenzo Guizzi, "Il progetto di un' unica Comunità europea II", 12 Riv.Dir.Eur. 1972, 53-73.

The second part of an inquiry into the possibilities of an integral social policy, which might be instituted after the merger of the three Communities.

Werner Tegtmeier and Ulrich Weinstock, "Sozial- und Gesellschaftspolitik als Element einer Europäischen Union", 27 E.A., 801-809.

Since the social policy of the EEC has remained underdeveloped compared to other sectors, the authors plead for a new approach. The progress towards the economic and monetary union ought to be accompanied by a parallel European social policy. The memorandum presented by Chancellor Brandt to the Paris summit seems a good starting-point. The recent developments, involv-

ing frantic activity by the Ministers of the member States, the Commission, labour and management, inspire the authors with optimism.

#### 17. *Recognition of judgments*

F. C. Jeantet, "Un droit européen des conflits de compétence judiciaire et de l'exécution des décisions en matière civile et commerciale", 8 *Cah.dr.europ.* 1972, 375-422.

Jeantet gives an analysis of the "Convention of Jurisdiction and the Enforcement of Civil and Commercial Judgments" of September 27, 1968. This convention has been concluded by virtue of Article 220 EEC by the "six", and it entered into force on February 1, 1973. Article 3 (2) of the Treaty of Accession lays down that the three new member States will negotiate their adhesion to this convention. In the first place the author examines the relationship between the Convention and the Community legal order. He puts special emphasis on the Protocol of June 3, 1971, which accords to the Court of Justice the authority to interpret the Convention. To this end one has selected the procedure of Article 177 EEC, extended with a procedure of "interpretation for the benefit of the law". Secondly, Jeantet surveys the relationship between the Convention and the law of the member States. He concludes that, in spite of certain *lacunae*, the Convention is a big step forward for Community law. The Court especially may be able to play a large role through its preliminary rulings.

#### 19. *External relations*

Werner Feld, "Diplomatic Behavior in the European Community: Milieus and Motivations", 11 *Journ. of Comm. Mark. Studies* 1972, 18-37.

This article describes the problems which may arise when both the Community and its member States participate in international negotiations (*cf.* UNCTAD). The diplomats of the member States find themselves in the dilemma that they have to defend the national interest as well as to promote the interest of the EEC. The author also points to the bureaucratic competition in the field of foreign relations between the Committee of Permanent Representatives, the Davignon Committee and the Commission.

Jochen Jahn, "Die Europäische Wirtschaftsgemeinschaft und Berlin", 7 *EuR.* 1972, 232-250.

In the first place this article contains a survey of the constitutional and international legal status of Berlin. Because of Article 227 EEC and because of the declaration of the Federal Republic on Berlin, the author concludes that the EEC treaty applies to Berlin just as to the other territories of the Community. However the member States are willing to take the special situation of Berlin into account. The western allies do in fact retain the legal right to intervene with regard to certain issues, but they will not use that right as long as the civil and military security of the city is not in danger.

Andreas Khol, "Austria and the EEC: political aspects", 28 *The World Today* 1972, 538-546.

The political aspects of the free trade agreement, concluded between Austria and the EEC and entered into force on April 1, 1973, are explained. This solution was preferred to an association agreement, which Austria previously wanted, because of the transitory phase in which the EEC finds itself at the moment. Khol finally arrives at somewhat contradictory conclusions. On the one hand he hopes for continuing integration and a reintroduction of majority voting, which, in his opinion, could lead to a better co-ordinated policy *vis-à-vis* Eastern Europe. On the other hand he states that Austria could co-operate

more easily and eventually accede to a Community which would not be of a too political and supranational character.

G. le Tallec, "Quelques aspects des rapports entre la CEE et les organisations internationales", (1972) R.M.C., No. 157, 636-644.

This article expounds the problems arising out of EEC participation in international organizations. The main difficulty for the EEC is that a sharp distinction between the competence of the Community and of the member States is impossible; this may cause serious problems especially in organizations with decision-making powers. The solutions vary from one organization to another. In GATT the EEC acts as if it were a contracting power, which is not the case. The EEC Commission may participate in OECD activities according to a special Protocol. In the UN the status of the Community is only marginally superior to that of observer, mainly because some third states are of the opinion that participation in the UN should be restricted to states.

The EEC has such a status in Ecosoc but neither in the Second Committee nor in the Preparatory Committee for the law of the sea Conference. A completely unsatisfactory situation exists in UNCTAD. Though the EEC enjoys observer status there, as a consequence of internal dissension it has always had two representatives: the president of the Council for political questions and the representative of the Commission for other problems. The Community participates as a contracting party in the activities of the Wheat Convention with *one* delegation consisting of representatives of both the Community and the member States.

## VI. COUNCIL OF EUROPE

### b. Human Rights

E. M. Knops, "Les affaires de Vagabondage, Cour européenne des droits de l'homme, 18 juin 1971 et 10 mars 1972, aff. *De Wilde, Ooms et Versyp*", 8 Cah.dr. europ. 1972, 544-602.

An extensive case note on the Vagrancy cases. It contains very useful information on the Belgian legislation and case law, which were at the basis of the complaints at Strasbourg.

Ch. Vallée, "Une application de l'article 50 de la Convention européenne des droits de l'homme", 76 Rev.gen.dr.int.publ. 1972, 1105-1110.

Case note on the second Judgment in the *Ringeisen* case of June 22, 1972.

"Les droits de l'Homme dans l'Europe de demain", 5 *Human Rights Journal* 1973, No. 4.

The entire issue is devoted to the proceedings of a Colloquium at Strasbourg, October 20-21, 1972.