

SURVEY OF LITERATURE

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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

William P. Avery and James D. Cochrane, "Subregional Integration in Latin America: The Andean Common Market", 11 *Journ.Comm.Mark. Studies* 1972, 85-102.

The authors treat various aspects of the Andean Common Market: its purposes, the methods for integration (e.g. sectoral planning and regulation of foreign direct investment), trade liberalization between member States, the common external tariff and its institutions. Finally, the place of Venezuela in the Andean Market is discussed.

George Ball, "Parochialism in Europe; Creeping Gaullism in America", 11 *Atlantic Community Quarterly* 1973, 161-170.

Kurt Birrenbach, "Der europäisch-amerikanische Dialog", 28 *E.A.* 1973, 699-710.

Hans Bräker, "Osteuropa, die Europäische Gemeinschaft und das GATT. Zur gegenwärtigen Aussenwirtschaftspolitik der Länder des RGW", 28 *E.A.* 1973, 679-688.

What will be the attitude of the Comecon countries *vis-à-vis* the common trade policy of the EEC? On what conditions will these countries, after Poland and Rumania, be admitted to GATT? The author does not have ready answers to these questions. He also pays attention to direct co-operation between EEC and Comecon industries.

Karl D. Bredthauer, "Europa und das Treffen Breshnew-Nixon", 7 *Blätter für Deutsche und Internationale Politik* 1973, 684-689.

Ernst-Otto Czempel, "Entwicklungslinien der amerikanisch-europäischen Beziehungen", 28 *E.A.* 1975, 781-790.

William Diebold, "Le rôle de l'Europe dans les futures négociations économiques: un point de vue américain", 38 *Politique Etrangère* 1973, 285-307.

According to the writer, the results of the coming trade negotiations will be largely dependent upon the European (and Japanese) attitude. Europe should be aware that American economic nationalism is directly proportional to the European reaction to "reasonable" American proposals.

François Duchène, "The Strategic Consequences of the Enlarged European Community", 21 *Atlantic Community Quarterly* 1973, 209-218.

Abraham Kiapi, "Distributing the Gains from Integration in East-Africa", 7 *J.W.T.L.* 1973, 328-353.

Lawrence A. Manson, "The EEC Patent Union and Political Integration", 12 *Columbia Journal of Transnational Law* 1973, 342-358.

The author reviews the political and economic effects of a European Patent

Union as well as the costs such a Union entails. To the latter aspect, in his opinion, too little attention has been paid.

Ralph Möhler, "Die neue GATT-Runde als Herausforderung an die erweiterten Europäischen Gemeinschaften", 28 E.A. 1973, 633-643.

William E. Peterson, "Nationalismus und europäische Integration. Die nationalistische Bewegungen in Schottland, Wales, Irland und Belgien", 28 E.A. 1973, 651-656.

Mitchell A. Seligson, "Transactions and Community Formation: Fifteen Years of Growth and Stagnation in Central America", 11 Journ.Comm.Mark. Studies 1973, 173-190.

An inquiry into integration in the Central American Common Market (CACM) with the use of transactions analysis according to Puchala. After analysis of trade and news flows the author arrives at the conclusion that his research confirms earlier findings by Schmitter and Wionzeck. They had pointed out that great progress in economic integration in CACM was accompanied by total political stagnation and a relapse into national sovereignty (*cf.* the so-called "soccer war").

Rolf Steinhaus, "Verteidigung und europäische Einigung", 24 *Aussenpolitik* 1973, 299-307.

P. E. A. Uchebu, "The Caribbean Development Bank: Implications for Integration", 7 J.W.T.L. 1973, 568-587.

A description of the Caribbean Development Bank. Its contribution to economic integration is limited. Legal ties with CARIFTA are lacking. A possible accession by new members (Colombia, Venezuela) would entail considerable problems.

Günther von Well, "Die Europäische Politische Zusammenarbeit in der aussenpolitischen Sicht der Bundesrepublik Deutschland", 28 E.A. 1973, 581-590.

The present chairman of the Davignon Committee gives a German view of the political co-operation of the Nine. His ideas on the role of the presidency in the political co-operation are particularly interesting: even the semblance of a reactivation of the idea of a political secretariat should be avoided.

Peter Wolf, "International Organization and Attitude Change: A Re-examination of the Functionalist Approach", 27 Int.Org. 1973, 347-371.

Mitrany's classical functionalism puts great emphasis on (1) spill-over and (2) change in attitudes of participants in international organization. Wolf tries to place the latter problem in the light of recent theoretical literature on socialization within organizations. Furthermore he reviews the literature on socialization of participants in international organizations and the somewhat contradictory conclusions that can be drawn from it. Finally with help of the literature reviewed, he tries to formulate certain adjustments to this part of functionalist theory.

Charles Zorgbibe, "La Conférence sur la Sécurité et la Coopération en Europe", 77 R.C.D.I.P. 1973, 424-443.

In the framework of a treatment of the ECSC the relation between EEC and Comecon is discussed, too.

II. INTEGRATION, GENERAL LEGAL ASPECTS

Henryk de Fiumel, "Les problèmes de la responsabilité matérielle de l'état dans la coopération économique entre les pays membres du C.A.E.M.", 8 *Cah.dr.europ.* 1972, 623-636.

The economic co-operation between Comecon countries is organized by agreements on two levels: on the level of States by agreements or decisions with an international law character, on the industry level by agreements with a private law character. The interconnexions between the two levels are rather intricate, but in general the latter kind of agreements is executory of the former. If obligations of the private law agreements are not adhered to, the question of State responsibility remains to be answered. The author pleads for a multilateral convention between Comecon countries to solve this problem.

M. Rigaux, "Sur la route du droit pénal européen", 52 *Revue du droit pénal et de criminologie* 1973, 643-663.

An historical account of the development of a European criminal law in several international organizations such as the Council of Europe and the European Communities.

IV. EUROPEAN COMMUNITIES

A. COMMON SUBJECTS

1. General

Deringer-Sedemund, "Europäische Gemeinschaftsrecht. Die Entwicklung bis April 1973", 26 *N.J.W.* 1973, 940-945.

Wolfram Elsner, "Sozialdemokratisierung der EWG als neue Qualität der Integration", 9 *Blätter für Deutsche und internationale Politik* 1973, 926-946.

A sceptical view of the so-called European social union and its development as prescribed in the social programme of the Paris summit.

Fritz Frantzmeyer and Heinrich Machowski, "Willensbildung und Entscheidungsprozesse in der Europäischen Gemeinschaft und im Rat für Gegenseitige Wirtschaftshilfe. Ein Vergleich", 28 *E.A.* 1973, 47-60.

A comparative study of the decision-making process in the EEC and in Comecon.

Roger P. Hansen, "European Integration: Forward March, Parade Rest, or Dismissed?", 27 *Int.Org.* 1973, 225-254.

A review of two books by integration theorists Lindberg and Scheingold ("Europe's Would-Be Polity", New Jersey: Prentice Hall, 1970, and "Regional Integration, Theory and Research", Cambridge: Harvard Univ. Press, 1971) in the light of recent political developments in the EEC.

Melvyn B. Krauss, "The Anti-Economics of the European Economic Market. Can British Entry Help?", 7 *J.W.T.L.* 1973, 555-568.

"Anti-economics", according to the author, is the use of economic instruments for political goals. As such he attacks Mansholt's ideas and the monetary approach to economic and monetary union. Harmonization of taxes and the CAP are also "anti-economics". The economic costs of a political union will be too high for all member States, especially for the United Kingdom.

A. W. H. Mey, "1972: Keerpunt in de ontwikkeling van de Europese Gemeenschappen", N.J.B. 1973, 726-742.

Pierre Pescatore, "Le problème des libertés dans l'ordre juridique des Communautés Européennes", 9 *Ius Gentium* 1973, 1-9.

Harold Rasch, "Ziele und Methoden der europäischen Integration", 19 A.W.D. 1973, 289-292.

This is a review of the book by Von der Groeben Mestmäcker, of the same title. The book itself is a result of research by EEC Law specialists from Germany and other member States. Starting from the present situation they try to find new relationships between objectives and means for future integration.

D. Schumacher, "Ipsens Modell der Europäischen Gemeinschaften und seine Mittel zur Freiheitsgewährleistung", 19 A.W.D. 1973, 233-239.

The article gives an extensive review of Ipsen's book *Europäisches Gemeinschaftsrecht*. The author pays special attention to Ipsen's ideas concerning the "Constitution" (*Verfassung*) of the Community, the separation of powers between the EEC institutions and the protection of German civil rights by Community Law.

Andrew Shonfield, "Where will power lie in the Community?", 11 *Atlantic Community Quarterly* 1973, 218-222.

Theo Sommer, "Regionalism versus Multilateralism", 11 *Atlantic Community Quarterly* 1973, 228-235.

Sommer discerns three stages of development in the EEC: (1) Jean Monnet's Europe characterized by supranationalism and with the Commission as driving power; (2) De Gaulle's Europe determined by nationalism; (3) The Europe of Davignon based on a certain transnational co-operation. He tries to show that Europe No. 3 will not develop into a regional hegemonial power, but into a new kind of co-operation open to multilateral contacts with all interested parties.

2. Institutional

Rüdiger Bandilla, "Gedanken zum Schlusserklärung der Pariser Gipfelkonferenz", 8 *EuR*. 1973, 124-132.

The author is concerned mainly with the relationship between the summit and EC institutions. By ruling upon problems of Community Law, the summit, which is not mentioned in the Rome Treaty, threatens to impinge upon the competence of the Community institutions. In fact, the summit, by solving the problems the Council ought to solve and by giving directives for their solution to the Council, usurps a position in the Community higher than its own institutions. This does not need to be fatal, as long as Community procedures are kept intact as much as possible. Bandilla argues that this was the case at the Paris summit.

J.-L. Burban, "Relations entre Parlement Européen et Parlements nationaux" (1972) R.M.C. No. 160, 780-790.

This is a description of the relations of the EP with the national parliaments of the "Old Six". The EP restricts itself to sending documents. From the side of the national parliaments contact with the EP is kept by secretariats or informal groups. Only Belgium has a special parliamentary commission for the EEC. The author, however, does not consider the creation of special parliamen-

tary commissions as an appropriate method, because such a commission would have to concern itself with too many, diverse subjects. He still considers the proposals of the Furler report (Doc. EP 27083) the best and the most realistic.

N. Condorelli-Braun, "La Commission des 'Neuf'" (1973) R.M.C. No. 164, 134-141.

Yann de l'Ecotais, "Une amélioration du fonctionnement du Conseil des Ministres est-elle possible?" (1973) R.M.C. No. 161, 1-3.

Agreeing with the remarks by Sir Alec Douglas Home that the Council should concentrate on general political issues, the author suggests some ways to improve the functioning of the Council.

Claus-Dieter Ehlermann, "Ein Schritt auf dem Wege zur Demokratisierung der Europäische Gemeinschaften. Die Vorschläge der Kommission zur Stärkung des Europäischen Parlaments", 28 E.A. 1973, 821-830.

After a short review of the problem of democratic control in the Communities, some landmarks in the development of the EP are pointed out: the crisis of 1965, the Budgetary Treaty of 1970, the decision of EMU of 1971, the Vedel report and the Paris summit. Next the Commission proposals for the second stage of EMU and for the increase of the budgetary powers of the EP are treated. The latter are subjected to a more thorough analysis, in which the counter proposals by the EP are branded "unrealistic" and the Commission proposals are defended as the maximum feasible.

J. Feidt, "L'activité du Parlement Européen pendant l'année 1972" (1973) R.M.C. No. 162, 59-65.

Georges Gojat, "Le premier budget de la Communauté à Neuf" (1972) R.M.C. No. 160, 791-799.

The emphasis lies on the changes in the budgetary procedure as a consequence of accession.

W. A. Proctor, "The European Parliament", 54 *The Parliamentarian* 1973, 71-78.

T. P. J. N. van Rijn, "Le Comité des représentants permanents dans la Communauté élargie", 8 *Cah.dr.europ.* 1972, 637-661.

The author describes the position of the Committee of Permanent Representatives in the decision-making process of the Communities. Although the accession of the new members in itself does not give rise to any changes of this institution, it does seem the right point in time to reconsider the function of this Committee. Therefore, the author is suggesting several improvements to remedy the situation with regard to hidden delegation of powers (A-points procedure) and the deteriorating position of the Commission.

3. Court of Justice

B. Baardman, Case note, Case 6/72 (*Continental Can v. Commission*), 22 A.Ae. 1973, 306-317.

Pierre Dupuy, "Applicabilité directe et droit budgétaire (A propos de l'affaire Leonesio 93/71)" (1973) R.M.C. No. 161, 23-28.

Dietrich Ehle, "Die Gestaltung der europäischen Wirtschaftsordnung in der Rechtsprechung des Gerichtshofes", 26 N.J.W. 1973, 927-930.

The role of the Court of Justice in building the European economic order. According to the author, the case law of the Court on this subject can be

ordered in three categories: problems of the internal market, economic relations with third countries and the development of a system of basic principles for a common economic policy.

M. F. Gayet and D. Simon, Case note, Case 48/71 (*Commission v. Italy*), 9 *Cah.dr.europ.* 1973, 298-325.

L. Goffin and M. Mahieu, Case note, Case 5/71 (*Sugar industry Schöppenstedt v. Council*), 8 *Cah.dr.europ.* 1972, 674-691.

Klaus-Jörg Heynen, "Konzentrationskontrolle für die Europäische Wirtschaftsgemeinschaft", 26 *N.J.W.* 1973, 1526-1529.

Lazar Focsaneanu, "L'abus de position dominante après l'arrêt 'Continental Can'" (1973) *R.M.C.* No. 164, 145-159.

Two commentaries of the *Continental Can* case. Heynen does not give much news. Forcaneanu, however, is very thorough: he emphasizes the problems concerning "dominant position" and its "abuse" and severely criticizes the Court. He argues that the considerations of the Court on the applicability of Article 86 are superfluous as well as contrary to the text, context and purpose of the article.

P. J. G. Kapteyn, Case note, cons. Cases 21-24/72 (*International Fruit Company v. Produktschap voor Groenten en Fruit*), 21 *S.E.W.* 1973, 487-498.

Eberhard Millarg, Case note, cons. Cases 21-24/72 (*International Fruit Company v. Produktschap voor Groenten en Fruit*), 8 *EuR.* 1973, 144-155.

Stefan A. Riesenfeld, "The Doctrine of Self-executing Treaties and Community Law: A Pioneer Decision of the Court of Justice of the European Community", 67 *A.J.I.L.* 1973, 504-508.

Three notes on the important so-called GATT case. Especially Kapteyn is rather critical of the decision, particularly where the interpretation of Article 177 and direct *applicability* of GATT are concerned. Millarg is strongly opposed to the use of this kind of Community terminology in a case concerning the relationship between national and international law. Just as Riesenfeld, he rather argues in terms of self-executingness of GATT. He also draws a parallel with the *Leber-Pfennig* case. Both Millarg and Kapteyn are of the opinion that a statement by Advocate General Roehmer at an earlier stage of the case to the effect that Article 173 permitted the Court to review the observance of Community Law only has been superseded by this decision based on Article 177.

G. Lyon-Caen, "Jurisprudence sociale des Communautés européennes" (1973) *Droit Social*, No. 1, 58-63.

Case note, Case 1/72 (*Frilli v. Belgium*).

Gert Meier, "Die Europäische Rechtsprechung zu den allgemeinen Problemen der politischen und rechtlichen Integration", 26 *N.J.W.* 1973, 922-926.

A. W. H. Mey, "Hof van Justitie van de Europese Gemeenschappen (rechtspraak-overzicht 1669-1971)", 27 *Bestuurswetenschappen* 1973, 7-37.

Eberhard Millarg, Case note, Case 39/72 (*Commission v. Italy*), 8 *EuR.* 1973, 231-238.

Gregory S. Murray, Case note, Case 48/69 (*Dyestuffs cases*), 13 *Virginia J. of International Law* 1973, 375-383.

Sergio Neri, "Die Rechtsprechung des Gerichtshofes der Europäischen Gemeinschaften zur Anwendung des Agrarrechts der EWG (1962-1972)", 8 EuR. 1973, 70-80.

A very good general review of ten years of jurisprudence of the European Court on agricultural law. It shows the continuity in this jurisprudence as well as the role of the Court in the creation of new law.

M.-P. Piriou, "L'affaire des colorants", 9 Cah.dr.europ. 1973, 38-63.

Case note, Cases 48-57/69 (*Dyestuffs cases*).

David Ruzié, Case note, Cases 30 and 39/72 (*Commission v. Italy*), 9 Rev.dr.europ. 1973, 110-123.

H. G. Schermers, Case note, Case 17/72 (*Gesellschaft für Getreidehandel AG v. Einfuhr- und Vorratsstelle für Getreide und Futtermittel*), 22 A.Ae. 1973, 253-256.

Gerold Schmidt, Case note, cons. Cases 51-54/71 (*International Fruit Company v. Produktschap voor Groenten en Fruit*), 8 EuR. 1973, 54-59.

I. Verougstraete, Case note, Case 62/70 (*Bock v. Commission*), 8 Cah.dr.europ. 1972, 662-673.

5. Relationship between Community Law and national law

A. Bleckmann *et al.*, "Chronique de jurisprudence nationale 1971", 9 Cah.dr.europ. 1973, 64-97.

Michel Fromont, "Die französische Rechtsprechung zum Gemeinschaftsrecht Oktober 1970-Dezember 1971", 8 EuR. 1973, 59-69.

L. Plouvier, Case note, Court of Appeal of Milan, May 12, 1972 (so-called SAFA case), 8 Cah.dr.europ. 1972, 692-715.

C. H. F. Polak, "De Hoge Raad en het Europese Recht", 48 NJB 1973, 889-892.

D. de Ripaincel-Landy, "L'exécution des directives de la CEE en Belgique", 9 Cah.dr.europ. 1973, 184-203.

This article is one in a series devoted to the implementation of directives in the member States. After some remarks on directives in general, their implementation by the executive and by the legislature in Belgium is extensively discussed. The problem of direct effect is also treated.

6. Adhesion

A. M. de Clercq, "Juridische vraagtekens bij de Britse toetreding tot de Europese Gemeenschappen", 36 R.W. 1973, cols. 1313-1324.

A review of the problems concerning the relation between Community Law and British constitutional law and of the solution proposed in the White Papers of 1967 and 1971, by various authors and as adopted by the European Communities Act.

Gunther Fuhrmann, "Die Schutzklausel des Art. 135 der EWG-Beitrittsakte", 18 A.W.D. 1972, 273-275.

Article 135 of the Act of Accession is—except for the fourth paragraph—virtually identical to Article 226 EEC. By recalling the experiences with Article 226 during the transitional period, the author tries to assess the probable impact of this article of the Act of Accession.

W. G. C. M. Haack, "The Economic Effects of Britain's Entry into the Common Market", 11 *Journ.Comm.Mark. Studies* 1972, 136-151.

Brigitte Laloux, "La décision du Conseil des Communautés adaptant les actes relatifs au fait du non-dépôt par la Norvège de son instrument de ratification de l'adhésion (1973) R.M.C. No. 162, 51-54.

S. Z. Young, "Britain in the European Community: the view from Right and Left", 29 *The World Today* 1973, 300-306.

Dov S. Zakheim, "Britain and the EEC-Opinion Poll Data 1970-1972", 11 *Journ. Comm.Mark. Studies* 1973, 191-233.

7. Association

Nicholas Hutton, "Sources of Strain in the Eurafican Association", 4 *International Relations* 1973, 288-294.

The author looks at the problems involved in the renewal of the Yaounde Treaty and he considers the objections to participation, especially with regard to the invitation to the Commonwealth countries.

Mordechai E. Kreinin, "Some Economic Consequences of Reverse Preferences", 11 *Journ.Comm.Mark. Studies* 1973, 161-172.

Before the creation of the association only France benefited from preferences granted by its former colonies. Very often it also held a near monopoly position in their markets. Theoretically the consequences should be that French exporters to those countries raise their prices to the level of the world market price plus the tariff to be paid by other exporters. This implies a transfer of real resources from the African State or consumer to the French exporter. Empirical findings seem to corroborate this. Theoretically again, the Association with its reverse preferences for all EEC members should have contributed to the undermining of the French monopoly and to lower prices paid by Africans. In reality, however, the French monopoly has remained virtually unharmed.

H. B. Krohn, "L'élargissement de l'association avec les états africains et malgache" (1973) R.M.C. No. 167, 300-304.

Horst Schmidt-Ohlendorf, "Le régime fiscal et douanier applicable au marché financé par le Fonds Européen de Développement" (1973) R.M.C. No. 162, 44-50.

An exposition on the fiscal and customs policy followed in implementation of the Association treaties.

C. EUROPEAN ECONOMIC COMMUNITY

2. Customs Union

Claus-Dieter Ehlermann, "Die Bedeutung des Artikels 36 EWGV für die Freiheit des Warenverkehrs", 8 *EuR.* 1973, 1-17.

An assessment of Article 36 EEC. Unlike Articles 48 and 56 EEC, which contain similar safeguard clauses with respect to the free movement of persons and establishment respectively, Article 36 has scarcely been applied to date. By an extensive analysis of the Article the author tries to find out why.

W. Dona Viscardini, "Les mesures d'effet équivalent à des restrictions quantitatives" (1973) R.M.C. No. 165, 224-234.

This is one of the many treatments of Article 30 EEC, which on the basis

of a few Commission directives and of various judgments by the Court of Justice attempt to arrive at a definition of "measures having equivalent effect" to quantitative restrictions.

3. *Agriculture*

G. Bettanio, "La nouvelle organisation du marché des fruites et légumes" (1973) R.M.C. No. 162, 55-58.

J. D. Bourjac, "La libre circulation des produits agricoles et l'harmonisation des législations vétérinaires" (1973) R.M.C. No. 164, 163-175.

Free trade in cattle and cattle products has been realized to a large extent already in different sectors of the Common Market. Complete free trade is restricted, however, by differences in health legislation for cattle among the member States. Harmonization is necessary here. The author has investigated to what extent this harmonization has been completed and what remains to be done in this field.

Marcelle Brouir, "Le règlement du Conseil de la CEE de 1970 sur les pêcheries", 9 *Cah.dr.europ.* 1973, 20-37.

The author looks at the fisheries Regulation No. 2141/70 (O.J. No. L 236) from an international law perspective. The problem of the territorial competence of the Community (Art. 227 EEC) and the fisheries regime as laid down in the Act of Accession are also considered. (For an extensive treatment of the same problems, see H. Meijers, *EEG op Zee*, Deventer, 1973.)

F. Muller, "La section du F.E.O.G.A., son régime définitif" (1973) R.M.C. No. 161, 6-14.

This is an account of the system of guarantee prices for agriculture, its system of centralized financing and decentralized implementation by the member States. Legal and economic aspects of agricultural expenditure.

"Landbouw en de verruimde euromarkt", 16 *Les Annales du Marché Commun* 1973, No. 2, 16-19.

An account of the transitional regime for agriculture in the three new member States.

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

Friedhelm Marx, "Die Auswanderungsfreiheit des Arbeitnehmers nach Europäischem Gemeinschaftsrecht", 8 *EuR.* 1973, 133-143.

In connexion with recent measures by the French Government against French commuters to Germany the author asks himself the question whether Article 48 EEC guarantees a freedom of emigration and a right to leave one's country. Initially he arrives at the conclusion that Article 48.2 (prohibition of discrimination) does not include such rights, since that would imply a complete co-ordination of social and labour laws. Finally, however, he manages to distil such a right from the other clauses of Article 48. After some further agonizing on the question whether the Article carries direct effect, Marx comes to a positive conclusion here too.

Alfonso Mattera, "La libéralisation des marchés publics et semipublics" (1973) R.M.C. No. 165, 204-224.

This is a thorough review of the situation with respect to the liberalization of government contracts in the Community. The directives and draft directives

in this field are subjects of discussion. Furthermore, on the basis of interpretation of Article 90 EEC, attention is paid to the problem of liberalization of contracts of public companies. Liberalization in this sector is a necessary complement to the liberalization of all government contracts.

K. J. M. Mortelmans, "Betrekkingen in overheidsdienst en het EEG-Verdrag", 48 N.J.B. 1973, 1068-1070.

7. Competition

Eric Colmant, "14 juillet 1972, une date pour le droit de la concurrence: Neuf arrêts règlent trois grandes questions. Affaires des matières colorantes" (1973) R.M.C. No. 161, 15-22.

Jean Guyénot, "La décision 'Continental Can' de la Commission CEE et la naissance du droit antitrust européen", 91 *Zeitschrift für Schweizerisches Recht* 1972, 155-175.

Ulrich Immenga, "Die extra-territoriale Anwendung des EWG-Kartellrechts nach dem Farbstoff-Urteil des Europäischen Gerichtshofes", 91 *Zeitschrift für Schweizerisches Recht* 1972, 417-432.

The author is of the opinion that the decisions in the *Dyestuffs* cases have contributed little to the solution of the question to what extent EEC competition law is applicable to concerns which are registered outside EEC territory. The Court has accepted extraterritorial effect of EEC competition law only if subsidiaries within the EEC were guilty of concerted practices. It has not been made clear whether it applies in case of an agreement or a decision of an industrial association or of concerted practices without subsidiaries, because the Court has stopped short of accepting the so-called "effects doctrine" (EEC competition law made applicable to any concern guilty of concerted practices having their effects within the EEC).

Henry Mayras, "La théorie de l'effet dans le droit des ententes", 9 *Ius Gentium* 1973, 41-61.

This is an abstract of Mayras' conclusions in the *Dyestuffs* cases as Advocate General with the Court of Justice (*cf. Jur.* 1972, 619 *et seq.*).

Eugen Ulmer, "Die Bekämpfung des unlauteren Wettbewerbs im Gemeinsamen Markt" (1973) G.R.U.R.Int. 135-140.

Karl Mathias Meessen, "Der räumliche Anwendungsbereich des EWG-Kartellrechts und das allgemeine Völkerrecht", 8 *EuR.* 1973, 18-38.

This author also attacks the problem of extraterritoriality of EEC competition law in connexion with the *Dyestuffs* cases. He argues that Community Law has no answer to this problem, but that general international law knows some rules, which may be helpful in the interpretation of obscure clauses in the EEC Treaty like Article 85 (1). The question is whether general international law is binding on the Community and whether it should be applied by Community organs. The author answers this question in the affirmative and so did the Court. Nonetheless he is critical of the Court's decision in the *Dyestuffs* cases in so much as the Court used the strict territoriality doctrine. This made the decision sound artificial; it would have been better to use the doctrine of objective territoriality, which would have led the Court to the same result.

Philipp Möhring, "'Abgestimmtes Verhalten' im Kartellrecht", 26 N.J.W. 1973, 777-782.

11. *Regional policy*

Bela Balassa, "Regional Politics and the Environment in the European Common Market", 109 *Weltwirtschaftliches Archiv* 1973, 402-418.

An inquiry into the causes of the unequal distribution of income among regions of the EEC. The regional policy of the Community is subjected to a critical assessment and some changes in the policy are proposed. The author wants to make a differentiated income tax into the main instrument of this policy, complemented by support to weak industries and by investments in infrastructure.

12. *Energy policy*

Georges Brendez, "Les problèmes de l'approvisionnement en pétrole de la Communauté (1973) R.M.C. No. 165, 200-204.

A short description of the economic problems involved in supplying the Community with sufficient amounts of petroleum, written before the oil crisis.

13. *Commercial policy*

Claude Dache, "Bases juridiques des décisions d'ouverture des contingents tarifaires communautaires", 8 *Rev.trim.dr.europ.* 1972, 578-603.

Gerold Schmidt, "Neues gemeinschaftliches Aussenwirtschaftsrecht", 19 *A.W.D.* 1973, 361-368.

The author comments upon the decision of the Council of December 19, 1972, concerning certain transitional measures for the gradual unification of the import legislation of the member States *vis-à-vis* third countries. This decision forms an important extension of EEC law covering trade with third countries. The author, however, considers the decision rather unsatisfactory and half-hearted, because national legislation is not set aside in its entirety nor has fully-fledged Community Law been created.

14. *Social policy*

D. Baars, "samentelling van de Verzekeringstijdvakken en de Pensioenberekening in de Verordeningen-EEG", 28 *S.M.A.* 1973, 304-316.

M. Lisein-Norman, "Analyse comparative des prestations familiales dans l'Europe des Six—Réflexions sur la situation actuelle et l'orientation future" (1973) *Cahiers économiques de Bruxelles* No. 58, 219-259.

Anton Müller-Engstfeld, "Ein Europa der Fünfzehn. Der gewerkschaftliche Zusammenschluss nach der Erweiterung der Europäischen Gemeinschaft", 28 *E.A.* 1973, 201-208.

The founding of the European Federation of Trade Unions at Brussels, February 1973.

P. Rodière, "Le projet européen de règlement uniforme des conflits de lois en matière de relations de travail", 9 *Rev.trim.dr.europ.* 1973, 1-28.

Analysis of the draft directive presented by the Commission to the Council on March 23, 1972 (O.J. 1972, C 49/26).

A. de Tavernier, "La situation sociale dans la Communauté en 1972", 16 *Les Annales du Marché Commun* 1973, No. 2, 29-33.

Hans Wiebringhaus, "Jurisprudence du droit social européen", 12 *Riv.Dir.Eur.* 1972, 169-202.

16. *Company law—Bankruptcy law*

S. N. Frommel, "The EEC Treaty and company law", 1 *Anglo-American Law Review* 1972, 335-354.

Berthold Goldman, "La Convenzione di Bruxelles sul riconoscimento delle società e persone giuridiche I e II", 8 *Ius Gentium* 1972, 306-318, and 9 *Ius Gentium* 1973, 10-20.

Muir Hunter, "The Draft Bankruptcy Convention of the European Economic Communities", 21 *I.C.L.Q.* 1972, 682-698.

Joseph J. Norton, "A Cheshire Cat Affair: The European-type Company and its Meaning for the American Enterprise in the European Community", 6 *Cornell International Law Journal* 1973, 111-136.

The author starts expounding the history of the European Company. Next he looks at its consequences in the short and in the long run. In the short run he does not expect any benefits to American firms in Europe, since the idea of the European Company is meant to stimulate the expansion of medium-sized European companies. Moreover, the large "multinational" American companies do not want any "co-determination" by their employees. In the long run "European Companies" will become competitive with American "multinationals".

P. Krsjak, "L'état du problème de la société anonyme européenne" (1973) *La vie judiciaire* 1973, 1-6.

Y. Serra, "Nullité et inopposabilité au regard de la réception de la directive 68/151 du Conseil des Communautés européennes par la législation française des sociétés" (1973) *Recueil Dalloz-Sirey*, 97-100.

M. Vasseur, "Quelle société européenne?" (1972) *Recueil Dalloz-Sirey* 169-176.

18. *Industrial property*

W. Alexander, "Gewerbliches Schutzrecht und die Errichtung des Europäischen Gemeinsamen Marktes" (1972) *G.R.U.R.Int.* 272-281.

Translation of an article in 9 *C.M.L.Rev.* 1972, 35-52.

F. de Benedetti, "Trade Mark Rights in the European Economic Community: Evolution or Chaos?", 5 *International Review of Industrial Property and Copyright Law* 1973, 90-103.

An analysis of the *Sirena* and *DGG Metro* cases and a criticism of all those who draw far-reaching consequences from these decisions by the Court of Justice.

Martijn van Empel, "Vers un droit européen des brevets, une étape" (1972) *R.M.C.* No. 159, 721-727.

René Jaume, "Accords de Licences et Règles de Concurrence" (1972) *R.M.C.* No. 158, 674-690.

The author, until recently director in the directorate-general Competition of the Commission, explores which clauses most commonly used in licensing agreements are lawful under the EEC Treaty on the basis of the decisions of the Court of Justice and which are not.

Heribert Mast, "Die Europäische Patentorganisation im Werden" (1973) *G.R.U.R.Int.* 1-10.

In a very thorough survey the author assesses the situation with regard to the European Patent after the end of the actual negotiations. The results need only be confirmed by a diplomatic conference to be held at Munich.

Dietrich Reimer, "Der Erschöpfungsgrundsatz im Urheberrecht und gewerblicher Rechtsschutz unter Berücksichtigung der Rechtsprechung des Europäischen Gerichtshofes" (1972) G.R.U.R.Int. 221-234.

Hans Ullrich, "Patentrechtsschutz ausschliesslicher Lizenznehmer gegen Direktlieferungen innerhalb des Gemeinsamen Marktes" (1973) G.R.U.R.Int. 53-61.

19. *External relations*

Niels Jörgen Haagerup, "Skandinavien und die Europäische Gemeinschaft", 28 E.A. 1973, 291-299.

The author gives a short account of the different roads the Scandinavian countries have taken in their policies *vis-à-vis* the EEC since 1968. Iceland's fisheries interests will be influenced to an ever-increasing extent by its relations with EEC. If Sweden does not want complete isolation, it will have to make its policy of neutrality more flexible. Within the near future Norway will go back on its decision not to become a member. Notwithstanding the internal political and economic difficulties, Denmark is happy with its decision to accede to the Community.

Stuart S. Malawer, "Treaty-making Competence of the European Communities", 7 J.W.T.L. 1973, 169-187.

An analysis of the development of the treaty-making powers of the Communities during the period 1958-72. Special attention is paid to the *ERTA* case. In his conclusion the author argues that the Community has given a rather restrictive interpretation of the EEC Treaty and that the clauses on the treaty-making powers have not been extended.

Rudolf Morawitz, "Der innerdeutsche Handel und die EWG nach dem Grundvertrag", 28 E.A. 1973, 353-363.

Two problems are treated in connexion with the Basic Agreement between FRG and GDR: the trade relationship between the two Germanies and the relation between the other EEC member States and GDR.

J. Petit-Laurent, "Démonstration de l'unité et de la spécificité de la politique méditerranéenne: le couple Espagne-Israel" (1973) R.M.C. No. 165, 191-193.

Paul Pilisi, "Le Canada et la Communauté Economique Européenne élargie" (1973) R.M.C. No. 167, 305-308.

Didier Rigault, "Les pays nordiques et l'Europe communautaire" (1973) R.M.C. No. 165, 196-200.

Didier Rigault, "La Norvège et la C.E.E." (1973) R.M.C. No. 167, 294-300.

Horst Schmidt-Ohlendorf, "La Communauté Economique Européenne et l'intégration régionale des pays en voie de développement" (1973) R.M.C. No. 166, 269-278.

This article very thoroughly investigates the stimuli for regional integration among developing countries provided respectively by the association treaties, by Community development aid and by the European Development Fund.

M. Torelli, "L'élaboration des relations extérieures de la Communauté Economique Européenne" (1973) R.M.C. No. 167, 328-340.

The author again highlights the incongruity between the economic potential

of the EEC and its low profile in its dealings with the rest of the world. Will the increase in membership make a solution of this dilemma easier or—on the contrary—will it restrict the EEC to nothing more than a customs union without any political weight? To try to find an answer to this question, the author painstakingly analyses what factors played a role in the growth and deepening of the powers of the EEC in the field of foreign relations.

26. *Chronique de Politique Etrangère* 1973, 1–81.

The entire issue is devoted to the proceedings of the Conference on the external relations of the enlarged European Communities held at Brussels from November 29 to December 1, 1972, in Brussels.

“Les pays en voie de développement, des alliés pour la Communauté Européenne au Nixon Round” (1973) R.M.C. No. 165, 194–195.

20. *Environnement*

Jean Touscoz, “L’action des communautés européennes en matière d’environnement”, 9 *Rev.trim.dr.europ.* 1973, 29–45.

After a short definition of environment policy, the actions proposed by the Commission are compared to the results of the Conference of Ministers of October 31, 1972. It is clear that the Ministers in their proposals stopped short of what the Commission wanted. The author considers the legal basis in the Community Treaties to be insufficient for a full-fledged environment policy. Maybe Articles 235 and 236 EEC give a possible basis. It is questionable, however, whether all measures proposed by the Commission fit the conditions of Article 235. Moreover, application of both Articles is heavily influenced by political factors. Especially the French Government has made it clear that it does not care for an application of Article 236 and that it wants to restrict co-operation on the basis of Article 235 to the intergovernmental level.

VI. COUNCIL OF EUROPE

a. General

Charles Vallée, “A propos de la Convention européenne sur l’immunité des Etats”, 9 *Rev.trim.dr.europ.* 1973, 205–241.

b. Human Rights

Clovis C. Morisson, “Margin of Appreciation in European Human Rights Law”, 6 *Revue des Droits de l’Homme* 1973, 263–287.

On the basis of analysis of existing case law the author assesses the actual respect accorded the European Convention. He arrives at the conclusion that governments must be able to benefit from a certain margin of appreciation in certain difficult circumstances. The European Commission for Human Rights, however, should be extremely careful in according this margin to governments.

Elmar Rauch, “The Compatibility of the Detention of Terrorists Order (Northern Ireland) with the European Convention for the Protection of Human Rights”, 6 *N.Y.U.J.Intl. Law & Pol.* 1973, 1–7.

The detention of Terrorists Order is reviewed in the light of Articles 5, 6, 17 and 15 of the European Convention. The *Lawless* case serves as useful precedent here. The conclusion is that on the basis of existing case law on Article 15 the

Detention of Terrorists Order must be considered compatible with the European Convention. Rauch adds to this, however, that common law countries frequently have to fall back upon this kind of detention practices, because traditionally they refuse to regard "incitement" and "complicity" to a crime as crimes, as is quite usual in civil law countries. He pleads for a change in this tradition. For in that case a Detention of Terrorists Order would be superfluous, suspects of "incitement" etc. could profit from the guarantees of Articles 5 and 6, and Article 15 of the Convention could be interpreted somewhat more restrictively.