

SURVEY OF LITERATURE*

I. INTEGRATION, ECONOMIC AND POLITICAL

W. Brandt, "European Union is Germany's Hope", 12 *Atlantic Community Quarterly* 1974, No. 1, 76-81.

H. Burgelin, "Une politique de défense pour l'Europe", 17 *Problèmes de L'Europe* 1974, No. 64, 12-33.

J. E. Chabert, "La fondation européenne de la culture", (1974) R.M.C. No. 174, 189-194.

C. A. Ehrhardt, "Neue Impulse für Europa und NATO", 25 *Aussenpolitik* 1974, 270-279.

P. Goodhart, "La défense de l'Europe et la coopération franco-britannique", 39 *Politique Etrangère* 1974, 215-223.

A. Grosser, "Europe: Community of malaise", 4 *Foreign Policy* 1974, No. 15, 169-183.

Pierre Hassner, "Intégration et coopération ou inégalité et dépendance", 24 *Rev. fr. de Sc. polit.* 1974, 1249-1273.

In this article integration in Eastern- and Western-Europe and cooperation between the two areas is analyzed in the light of the new relationship between the superpowers and of the energy crisis. Hassner then looks at those problems in the framework of various theories on transnational cooperation on the one hand and on dependency on the other. This provides for different perspectives on the relationship between EEC and Comecon.

M. Hirsch, "Die Logik der Integration, Ueberlegungen zu den Aussenbeziehungen westeuropäischer Kleinstaaten", 29 *E.A.* 1974, 447-456.

Small powers can increase their room for political maneuvering by their willingness to integrate with larger units. Within those units they are able frequently to influence decisions, on which they would not even be heard, if they had not been a member. Moreover their dependence on one large (neighbouring) country will decrease. If they participate in more than one integrating unit, they may be able even to play these against each other. These theoretical propositions are illustrated by recent developments within EEC and NATO.

K. Huwe, "Die politischen Kräfte in der Bundesrepublik und die europäische Einigung", 17 *Problèmes de l'Europe* 1974, No. 63, 13-20.

W. Laqueur, "The idea of Europe runs out of gas", 12 *Atlantic Community Quarterly* 1974, 64-75.

A very pessimistic view of the developments within EEC at the time of the energy crisis and the Copenhagen summit.

* See for the classification of subjects and a list of abbreviations 12 *C.M.L.Rev.* 1975, 115-117.

L. Metzemaekers, "Europese defensie geen reële beleidsdoelstelling", 28 *Internationale Spectator* 1974, 582-587.

A look at the possibility of a European common defense from a Dutch point of view. Because of the lack of truly integrated institutions in Europe, such a common defense is not realistic.

Charles G. Nelson, "European integration: Trade Data and Measurement", 28 *Int. Org.* 1974, 399-433.

Nelson makes an attempt to improve the almost classical measure of integration by computing relative trade preferences among countries according to Savage and Deutsch (so-called RA statistic). In his opinion the null-model of the RA statistic does not achieve true import and export independence. This can be remedied by using percentages instead of absolute values of trade flows in the null-model. Thus, Nelson is able to disprove Deutsch's thesis that RA among EEC members has hardly increased ever since the early fifties and that, therefore, European integration is stagnating. On the other hand the relative increase of RA within the EEC is scarcely higher than within other regional groupings, such as EFTA. Then the discussion is reviewed between those, who regard relative preference in relation to a null-model ("relative preferences") as the best index of integration and others, who prefer relative preference in relation to total trade or gross national product ("relative saliences"). Nelson's conclusion is that "saliences" are a necessary precondition for integration and that "preferences" will follow afterwards. It is remarkable, that the EEC shows high "saliences" compared to other regional groups, but low "preferences". A number of possible interpretations for these phenomena are ventured.

X. Ryschenkow, "Probleme der wirtschaftlichen Integration in West- und Osteuropa", 29 *E.A.* 1974, 597-606.

Christopher Soames, "Europa in der Welt", 29 *E.A.* 1974, 421-428.

K. Sorsa, "Finnland zwischen EWG und RGW", 29 *E.A.* 1974, 461-473.

C. Tickell, "Neuner-Gemeinschaft und Sicherheitskonferenz", 25 *Aussenpolitik* 1974, 13-23.

Ingo Walter, "Die Einstellung der Vereinigten Staaten zum Ost-West-Handel und deren Implikationen für Westeuropa", 29 *Aussenwirtschaft* 1974, 79-96.

II. INTEGRATION, GENERAL LEGAL ASPECTS

O. Lando, "The EC draft convention on the law applicable to contractual and non-contractual obligations", 38 *Rabels Zeitschrift* 1974, 35-56.

A. E. van Overbeek & P. Volken, "Das internationale Deliktrecht im Vorentwurf der EWG", 38 *Rabels Zeitschrift* 1974, 56-84.

Both articles contain an analysis of the EC-draft convention mentioned in the title of Lando's article.

M. R. Mok, "Europees Economisch Strafrecht", (1974) *Delikt en Delinkwent* No. 6, 268-279.

This article treats the penal sanctions on infringement of European economic law.

III. INTEGRATION, TECHNOLOGICAL ASPECTS

A. Sacchetini, "La coopération européenne dans le domaine de la recherche scientifique et technique", 10 *Rev. trim. dr. europ.* 1974, 445-463.

An interesting overview of developments in the field of European scientific and technical cooperation from 1967 to the present. The author is of the opinion, that this cooperation will never grow into an international organization or into another kind of legal construction, but will remain a rather loose relationship.

IV. EUROPEAN COMMUNITIES

A. COMMON SUBJECTS

1. General

P. A. Blaisse, "De EEG in perspectief"

W. Drees sr., "De Europese integratie"

M. van der Goes van Naters, "De Europese Gemeenschap: een eigen leven"

J. Linthorst Homan, "Een vraagstuk van politieke structuurvorming"

28 *Internationale Spectator* 1974, 569-586.

Four Dutch grand old men of European unity give their opinion on the Communities, past and present.

M. de Cecco and I. Turner, "The European Community: Factors of Disintegration", 50 *International Affairs* 1974, 394-415.

M. Dobroczyński, "Subregionale Wirtschaftsintegration und europäische Zusammenarbeit", 29 *E.A.* 1974, 519-528.

A comparison of EEC and Comecon. In the field of external relations the two organizations show a very different approach. The EEC has institutionalized them, while Comecon has concluded only a few bilateral agreements. On the basis of these and other data the author studies the possibility of an eventual cooperation between both economic blocs.

Susan Koch, "The local impact of European Economic Community: The economic and social ties of Alsace with West Germany", 28 *Int. Org.* 1974, 153-178.

After 1960 the economic contacts between Alsace and West Germany have increased more rapidly than those between Alsace and France. Social ties with West Germany, however, increased at a very much slower rate than economic contacts, while social ties with the rest of France have increased more rapidly. Although the rapid growth of economic ties with West Germany cannot be explained exclusively by the existence of the EEC, yet the one-sided nature of these ties clearly reflects the fact that the EEC has not developed beyond economic integration.

W. Prewé, "Integration and export performance in the European Economic Community", 110 *Weltwirtschaftliches Archiv* 1974, 1-37.

D. Sidjanski & U. Ayberk, "Bilan des groupes et du processus de décision dans la Communauté des Six", 16 *Res Publica* 1974, 33-62.

D. Schumacher, "Ipsens Modell der Europäischen Gemeinschaften und seine Mittel zur

Freiheitsgewährleistung", 9 A.W.D. 1973, 233-239.

This is a very thorough review of Ipsen's "Europäisches Gemeinschaftsrecht". The author concentrates on constitutional problems such as fundamental rights, parliamentary control, "trias politica" etc.

2. Institutional

Stanley Henig, "New Institutions for European Integration", 12 Journ. Comm. Mark. Studies 1974, 129-137.

Taking into account the shortcomings of the present institutions, the author gives a number of ideas of how to improve the process of European integration.

Juliet Lodge, "The Role of EEC Summit Conferences", 12 Journ. Comm. Mark. Studies 1974, 336-345.

Two alternative views of the phenomenon of summit conferences. Both interpretations start from the idea that the summit has replaced the Commission in its function of motor of the integration process. In the first, negative version it is emphasized that the Commission has been pushed out of this role by an intergovernmental body which in fact is not a part of the Community. In the second version the summit conference is valued as a motor of integration, because it actually has fulfilled this role ever since the beginning, the first summit being the one during which the Rome Treaty was concluded. This treaty gave Commission and Council impulses for more than ten years of work. Afterwards new summit conferences became necessary to provide for new momentum at regular intervals. In this way the summit gives the Commission the backing it needs to proceed.

Giovanni Michele Palmieri, "Le Risoluzioni del Parlamento Europeo", 14 Riv. Dir. Eur. 1974, 133-155.

The author divides the resolutions of the European Assembly into two large categories, resolutions contributing to the creation of Community law and those which are not concerned with Community law. The first category contains decisions by which the Assembly regulates its own activities, the advices which are given pursuant to a prescribed or voluntary procedure of consultation by one of the other institutions, the advices parliament gives on its own initiative and the proposal for election by universal direct suffrage. Under the second category come resolutions decided upon by the Parliament in the exercise of its general function of political supervision (e.g. resolution on the annual report, motion of censure), as well as recommendations to other institutions of the EEC. All these sub-categories are clearly defined and analyzed. The article is taxonomically of some value.

Dieter Rogalla, "Partnerschaft durch Organbeschluss", 9 EuR. 1974, 325-344.

On the basis of the "Statute of European civil servants etc." (J.O. 1968, L 56/1) Rogalla discusses the rights and duties of civil servants of the Communities in law and in fact. He tries to find out to what extent the civil servants and other personnel can claim "Mitbestimmungsrecht", and to whom they are politically responsible.

A. Shlaim, "The Vedel Report and the reform of the European Parliament", 27 *Parliamentary Affairs* 1974, 159-170.

3. Court of Justice

G. Bebr, Case Note, Cases 166/73 and 146/73, *Rheinmühlen Düsseldorf v. Einfuhr und Vorratsstelle für Getreide und Futtermittel*, 9 EuR. 1974, 354-358.

E. Brandt, Case Note, Case 36/73, *N.V. Nederlandse Spoorwegen v. Ministerie van Verkeer en Waterstaat*, 9 EuR. 1974, 238-242.

Chandelle, Case Note, Case 6/72, *Continental Can*, 15 *Harvard International Law Review* 1974, 333-349.

V. Deutsch, Case Note, Case 127/73, *BRT v. SABAM*, 9 EuR, 1974, 345-354.

A. M. Donner, "Europäisches Gemeinschaftsrecht in der Rechtsprechung des Europäischen Gerichtshof: Errungenschaft, Weiterentwicklung", 137 *Z.H.R.* 1973, 381-387.

R. A. A. Duk, Case Note, Case 2/74, *Jean Reyners v. Belgium*, 22 *S.E.W.* 1974, 558-565.

W. van Gerven, "De grenzen van de rechterlijke functie en het gevaar van overschrijding, in het Europese recht", (1974) *Themis* 627-657.

In this article Van Gerven develops some ideas from earlier publications. On the basis of a number of decisions of the Court of Justice he traces the role of the Court in the political integration and in the economic policy of the Communities. As far as political integration is concerned the Court has been rightly prudent; it has not indulged in rash decisions, but it has not evaded difficult ones either. With respect to economic policy the Court usually is restricted to a marginal test of decisions. Here, too, the Court should beware of giving broad judgments on basic questions. According to the author, the Court generally follows these criteria.

L. Goffin, "Vingt ans de jurisprudence européenne", 26 *Rev. int. dr. comp.* 1974, 21-32.

B. Goldman, "Chronique de jurisprudence de la Cour de Justice des Communautés Européennes", 100 *Journ. dr. intern.* 1973, 924-941.

H. P. Ipsen, Case Note, Case 120/73, *Lorentz v. Federal Republic of Germany*, 9 EuR. 1974, 149-157.

R. Kovar, "Les accords liant les Communautés Européennes et l'ordre juridique communautaire: à propos d'une jurisprudence récente de la Cour de Justice", (1974) *R.M.C. No.* 176, 345-361.

An inquiry into the effects of international agreements concerning the EEC on the legal order of the Community. The decision of the Court in the relevant cases (Nos. 21-24/72 and 9/73) are concerned with the requirements which the said agreements (in the cases: GATT) had to fulfil in order to be considered source of law, as well as with their effect on the legal systems in the European Communities.

M. Lagrange, "L'action préjudicielle dans le droit interne des états membres et en droit communautaire", 10 *Rev. trim. dr. europ.* 1974, 268-297.

H. G. Schermers, "The law as it stands on preliminary rulings", *Legal Issues of European Integration* 1974/1, 93-112.

A. Trabucchi, "L'effet 'erga omnes' des décisions préjudicielles rendues par la Cour de Justice des Communautés Européennes", 10 *Rev. trim. dr. europ.* 1974, 56-87.

Three studies of the preliminary procedure, each with a different approach to the

problem. Schermers contribution is a straightforward and very good account of the situation as it was in early 1974 with regard to preliminary rulings; it is intended for teaching purposes. Lagrange's article goes deeper, but unfortunately it is not quite up to date. The general principles of Article 177, however, are presented very clearly, on the basis of a comparative survey of the preliminary procedures in the member States. Trabucchi, finally, sheds some light on a special aspect of the procedure of Article 177, viz. the question whether the decisions of the Court of Justice in these cases are generally applicable. In a tightly reasoned but not easily readable argument Trabucchi arrives at a positive conclusion.

N. Maresceau, "Enkele beschouwingen bij het arrest Variola van het Hof van Justitie van de Europese Gemeenschappen", 38 R.W. No. 14, col. 857-868.

M. R. Mok, Case Note, Cases 6 and 7/70, *ICI and Commercial Solvents v. Commission*, 22 S.E.W. 1974, 530-546.

K. J. M. Mortelmans, Case Note, Cases 178-180/73, *Belgium and Luxemburg v. Mertens et al.*, 22 S.E.W. 1974, 546-558.

G. Nicolaysen, Case Note, Case 134/73, *Holtz & Willemsen v. Council*, 9 EuR. 1974, 157-174.

P. Pescatore, "Rôle et chance du droit et des juges dans la construction de l'Europe", 26 Rev. int. dr. comp. 1974, 5-19.

L. Plouvier, "Le contentieux de pleine juridiction devant la Cour de Justice des Communautés Européennes", (1973) R.M.C. No. 161, 365-379.

M. Scheltema, Case Note, Case 36/73, *N.V. Nederlandse Spoorwegen v. Minister van Verkeer en Waterstaat*, 22 S.E.W. 1974, 638-647.

H. G. Schermers, Case Note, Case 2/74, *Jean Reyners v. Belgium*, 23 A.Ae. 1974, 533-535.

H. G. Schermers, Case Note, Case 153/73, *Holtz & Willemsen v. Council and Commission*, 24 A.Ae 1975, 42-46.

H. G. Schermers, "The law as it stands against treaty violations by States", *Legal Issues of European Integration* 1974/2, 111-139.

A very good survey of the problems concerning Articles 88 ECSC, 169 EEC and 141 Euratom on the basis of the case law of the Court of Justice. The author makes a connection between the procedure of these three articles and the possibility for individuals to challenge violations of the Community Treaties by States through the procedure of Article 177 as far as clauses which are directly applicable, are concerned.

5. Relationship between Community Law and National Law

J. Barmann, "Catégories et autonomie du droit communautaire", 26 Rev. dr. int. comp. 1974, 33-60.

L. Collins, "Article 177 of the EEC Treaty and English interlocutory proceedings", 23 I.C.L.Q. 1974, 840-851.

A comment on the decisions in the cases of *Löwenbrau München v. Grundhalle Lager International Ltd.* and *Bulmerv. Bollinger*. In both cases English judges refused a referral to the European Court of Justice. In the latter case the Court of Appeals gave some directives to the lower courts on how to use their competence to refer a case to the Luxemburg Court for a preliminary ruling.

Ingo Feustel, Case Note, Case 183 of the Italian Constitutional Court of 18 December 1973, 9 EuR. 1974, 255-272.

M. Kolinsky, "Parliamentary Scrutiny of European Legislation", 10 *Government and Opposition* 1975, 46-69.

An attempt to find out what measure of influence the national parliaments will be able to continue to exert on the EEC, if Community activities will be expanded further "at the expense" of the competence of the national parliaments.

R. Kovar, Case Note, Decision of the Court of Appeals of Paris of 7 July 1973, *Directeur général des douanes et des droits indirects v. Société des Cafés Jacques Vabre etc.*, 10 Cah. dr. europ. 1974, 394-413.

H. Kutscher, "Community law and the national judge", 89 *Law Quarterly Review* 1973, 487-504.

Hans Werner Rengeling, "Nationaler Verwaltungsvollzug von Gemeinschaftsrecht: Die Gemeinschaftskompetenzen", 9 EuR. 1974, 216-237.

To what extent can the Communities influence the application of Community law by the national authorities? It may be important for the Communities to do so, because of the risk that Community law will be applied differently in different member States which may cause distortions of competition. The author arrives at the conclusion that an arrangement appointing the national authority competent to apply a certain part of Community law cannot be made by the Community institutions. There are no provisions to that end included in the Treaties and the doctrine of "implied powers" also falls short. This doctrine, however, can serve as a basis for a Community regulation concerning the national administrative procedure to be followed for certain subjects regulated by the Community. On the basis of this doctrine, however, the author assumes that Community institutions may give general indications to the member States concerning the application of Community law. Such indications in individual cases would be too great an infringement on national sovereignty. But the right to ask for information from the part of member States has been allotted specifically to the Community institutions by the Treaties.

R. A. W. Rhodes, "The European Community and British public administration: the case of local government", 11 *Journ. Comm. Mark. Studies* 1973, 263-275.

T. P. J. N. van Rijn, "De Raad van State en artikel 177 van het EEG-Verdrag", 41 *N.J.B.* 1974, 516-518.

Christoph Sasse, "Bundesstaatliche Finanzverfassung und Geldleistungsvorschriften der Europäische Gemeinschaft", (1973) *Wirtschaftsrecht* 308-325.

A. M. V. Valenti, "Norme comunitarie e norme interne dello Stato alla luce della giurisprudenza costituzionale", 14 *Riv. Dir. Eur.* 1974, 107-132.

Giuseppe Panico, "La legittimità costituzionale della normativa comunitaria di effetto diretto: luci ed ombre della Sentenza C.C. 183/1973, 14 Riv. Dir. Eur. 1974, 201-233.

Two articles inspired by the important decision of the Italian Constitutional Court in the case of *Frontini v. Ministero delle Finanze*, 27 December 1973 (14 C.M.L.Rev. 1974, 372 *et seq.*), in which the Court finally recognized the supremacy of Community law over the Italian Constitution on the basis of Article 11 of that Constitution. The first article puts the decision in the context of earlier case law of the Constitutional Court, the Court of Justice of the Communities and other national courts, among which the Italian Court of Cassation. The second contribution analyzes the decision within the framework of the Italian legal order. One should not expect, according to the author, that this decision—though it has definitely solved the question of supremacy of Community law over Italian constitutional law—will put an immediate end to the abuses with regard to the implementation of Community decisions by the Italian authorities. Another note on this important case is: A. Tommasi di Vignano, "In margine alla sentenza della Corte Costituzionale del 27 dicembre 1973, No. 183", 14 Riv. Dir. Eur. 1974, 13-31.

6. *Adhesion*

R. Breitenstein, "Bleibt Grossbritannien in der Gemeinschaft? Europäische Grundsatzfragen jenseits kurzfristiger Enttäuschung", 29 E.A. 1974, 499-506.

"Britain without Europe", 45 *The Political Quarterly* 1974, 278-287.

P. Candusseau, "L'entrée du Royaume Uni dans la C.E.E. est-elle renégociable?", (1974) R.M.C. No. 174, 177-182.

K.R. Simmonds, "Neuverhandlungen—Grossbritannien vor der Entscheidung", 9 EuR. 1974, 297-304.

7. *Association*

Dharam P. Ghai, "The Association Agreement between the European Economic Community and the partner States of the East African Community", 12 Journ. Comm. Mark. Studies 1974, 78-103.

A description and an evaluation of the Association Agreement with the East-African states. The influence of the agreement on trade flows has not been spectacular, at least in the short run. The agreement has not been in force long enough to permit an evaluation of its other aspects. One has the impression, however, that the agreement does not entail serious restrictions for the East African states on the free conduct of their economic policies, internally as well as externally. By now, all this is mostly of historical interest.

John Pinder, "The Community and the developing countries: associates and outsiders", 12 Journ. Comm. Mark. Studies 1974, 53-77.

An interesting survey of the problems between the EEC, the associated states and the so-called Commonwealth "associables", but it has become outdated because of subsequent events (most notably the negotiation and signing of the Lomé Convention).

Daniel Vignes, "La poursuite par la Communauté élargie de la politique d'association avec des pays en voie de développement", 19 *Annuaire européen* 1973, 95-133.

C. EUROPEAN ECONOMIC COMMUNITY

2. Customs Union

J. H. J. Bourgeois, "De GATT-overeenkomst en het EEG-verdrag", 22 S.E.W. 1974, 408-425.

A discussion of the relationship between GATT and the EEC Treaty (GATT and intra-communitarian trade; GATT and trade with third countries), the nature of legal obligations under GATT and the effect of GATT within the Community legal order.

C. Jacquemart, "L'union douanière européenne en 1974", 10 Cah. dr. europ. 1974, 355-378.

There turns out to be still a considerable number of obstacles impeding the smooth functioning of the customs union. These problems are caused partly by the new transitional period for the new member States, by the monetary crisis and by the lack of uniformity of the customs regulations of the member States. Trade with third countries is also hampered by the large number of customs regimes (six) which are applicable to it. The author indicates various ways to surmount these problems, for instance: a continued harmonization of customs regulations and simplification of the regimes applicable to the trade with third countries.

D. Touret, "Le tarif douanier commun de la C.E.E. et les problèmes posés par son application", 10 Cah. dr. europ. 1974, 303-352

The article is divided into three parts, of which the first two are largely descriptive, and treat respectively the institutions which are concerned with customs matters and the common external tariff. The third part gives an analysis in depth of the difficulties which arise when it comes to practical application of the CET: the complexity of the nomenclature; the continuous changes in the tariff; problems concerning the fixing of the value of a good and identifying its origin; difficulties in computing the applicable duties. There are about as many different applications as there are customs officials.

Michel Waelbroeck, "Effect of GATT within the Legal Order of the EEC", 8 J.W.T.L. 1974, 614-623.

3. Agriculture

Pierre Baudin, "Les prix agricoles 1974-1975: accord ou sursis?", (1974) R.M.C. No. 176, 319-330.

Pierre Baudin, "La longue marche vers la révision des prix agricoles 1974-1975", (1974) R.M.C. No. 178, 409-421.

J. H. J. Bourgeois, "De GATT-overeenkomst en de EEG-landbouwregelingen", 22 S.E.W. 1974, 581-612.

After a short introduction on GATT and agriculture in general, the author pays special attention to the EEC Regulations on agriculture and their conformity with GATT. One by one he discusses the legal instruments used in the Common Agricultural Policy and arrives at the conclusion that, formally at least, they are not contrary to GATT. If one leaves this formal legal standpoint, however, it cannot be denied that the CAP is a serious threat to the spirit of free trade which has inspired GATT.

E. Millarg, "Europäischer Agrarmarkt, mitgliedstaatliche Währungspolitik und gemeinsame Konjunkturpolitik", 20 A.W.D. 1974, 303-308.

Giovanni M. Ubertazzi, "La causa di forza maggiore nel diritto comunitario della agricoltura", 13 *Il diritto negli scambi internazionali* 1974, 1-14.

In various Regulations on agriculture the notion of *force majeure* has not been defined very strictly and thus, a broader view of the concept can be taken than in most national legal systems. On the basis of a number of rulings of the Court of Justice concerning the security payments for export certificates and their forfeiture (Cases 36/70, 11/70, 25/70, 153/73, 158/73), the author describes the broad, but clearly delineated meaning the Court presently gives to *force majeure* in European agricultural law.

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

K. J. M. Mortelmans, "Oorzaken van de stagnatie op vestigingsgebied in de Europese Gemeenschappen", 22 *S.E.W.* 1974, 613-625.

A search for the causes of the stagnation of the implementation of the right of establishment in various sectors. According to the author, the stagnation is caused not so much by political factors as by bureaucratic perfectionism, objections by well-organized pressure groups, and dissension within certain professional groups (e.g. barristers).

A. Mattera Ricigliano, "La normativa CEE in tema di contratti di forniture della pubblica amministrazione e delle imprese pubbliche", 12 *Il diritto negli scambi internazionali* 1973, 343-384.

This is an exhaustive treatment of the EEC measures with regard to public contracts. The author discusses the following texts: Directive concerning supplies to public authorities (70/32/EEC, J.O. 1970, L 13), the Proposal for a Directive concerning the coordination of procedures for the awarding of supplies to public bodies (J.O. 1971, C 50) and the Directives concerning the awarding of public contracts (J.O. 1971, L 185). Finally the semi-public contracts are reviewed as to their conformity with Article 90 EEC Treaty.

M. Udina, "L'asilo territoriale nell'ambito delle Comunità Europee", 14 *Riv. Dir. Eur.* 1974, 5-12.

The author reminds us that the Regulations concerning social security of migrant labor (presently Nos. 1408/71 and 574/72) also apply to refugees in the sense of Article 1 of the Treaty of Geneva (1951). The practical application of this provision, however, may cause serious problems, since the procedure for recognizing a person as a refugee in the sense of the Treaty of Geneva is different for every member State. Consequently this procedure should be harmonized.

6. *Transport*

L. van Huffel, "Ebauche d'une politique portuaire de la C.E.E.", 9 *European Transport Law* 1974, 234-242.

A survey of the recent developments concerning the projected European seaport policy.

7. *Competition*

A. Deringer, "Auf dem Wege zu einer europäischen Fusionskontrolle. Bericht über ein Verordnungsvorschlag", 9 *EuR.* 1974, 99-107

R. St. Esteben, "La mise en oeuvre de l'article 85 après l'arrêt de la Cour de Justice des Communautés Européennes du 6 février 1973 (Affaire no. 48/72, *Brasserie de Haecht c. consorts Wilkin, Janssen*)", 9 *Rev. trim. dr. europ.* 1973, 270-292.

D. J. Gijlstra & D. F. Murphy, "EEC Competition Law after the *Brasserie de Haecht II* and *SABAM* cases", *Legal Issues of European Integration* 1974/2, 70-109.

J. Guyénot & Ch. d'Evegnée, "The Continental Can Case", 3 *Anglo-American Law Review* 1974, 244-250.

Joel W. Howell III, "Extraterritorial Application of Antitrust Legislation in the Common Market", 12 *Col. J. Transnat'l Law* 1973, 119-181.

R. T. Jones, "American antitrust and EEC competition law in comparative perspective", 90 *Law Quarterly Review* 1974, 191-210.

H. W. de Jong, "Europese Fusiecontrole", 17 *T.V.V.S.* 1974, 193-199.

The movement towards concentration in European industry has become so strong that supervision has become an inevitable necessity. Otherwise effective competition would be imperiled. The author gives a survey of the main provisions of the draft Regulation on the control of mergers and remarks that its significance will be limited due to the low limits set for obligatory notification.

M. R. Pfeifer, "Uniform pricing in concentrated markets: Is conscious parallelism prohibited by article 85 (1) of the Treaty of Rome?", 7 *Cornell International Law Journal* 1974, 113-130.

T. P. J. N. van Rijn, "De Fair Trading Act 1973", 22 *S.E.W.* 1974, 772-789.

Ernst Steindorff, "Zur Entwicklung des Europäischen Kartellrechts", 137 *Z.H.R.* 1973, 203-236.

A comment on some recent developments in European competition law. In the first place, Steindorff discusses the decision in the *Haecht II* case, which gives him the opportunity to elaborate on the doctrine of the legal effects of the statutory prohibition of Article 85 (nullity, compensation). Next he reviews the doctrine of the Court and the Commission with regard to concerted practices. Here he draws a parallel with contracts and he is greatly satisfied that Commission and Court do so, too.

P. Ulmer, "Die Continental Can Entscheidungen des E.G.H.", 11 *Die Aktiengesellschaft* 1973, 272-274.

H. W. Wertheimer, "De ontwerp-verordening inzake een Europese concentratiecontrole", 22 *S.E.W.* 1974, 332-369.

A survey of the history of the control of mergers in the EEC and of the draft Regulation on the subject, accompanied by some critical remarks. Wertheimer objects specifically against the imprecise distinction between repressive and preventive control of mergers. Also the relationship between the draft Regulation and Article 86 could have been better defined. A better coordination between national authorities and Community institutions is absolutely necessary to prevent tensions between the two from developing. The most important problem, according to the author, is the allocation of competences with regard to the waiver of Article 1, para. 3. According to

this clause the Commission may grant a waiver of the statutory prohibition on grounds related to regional or industrial policy. The Council, however, has not yet decided upon a Community policy in these areas.

8. *Taxation*

S. Bianchi, "Die Kapitalgesellschaften in der italienischen Steuerreform", 11 *Die Aktiengesellschaft* 1973, 370-375.

K. Ebentheuer, "Die Besteuerung von Montagelieferungen aus den EG-Mitgliedstaaten nach dem alten deutschen Umsatzsteuerrecht", *Intertax* 1974/1, 15-20.

M. Ehring, "Zur Abgrenzung des Beihilfeverbots vom Verbot der zollgleichen Abgaben und der inländischen Abgaben, welche die Einfuhr höher belasten als die inländische Erzeugung", 9 *EuR.* 1974, 108-149.

G. Grasmann, "Die Harmonisierung der Körperschaftsteuer in der erweiterten Europäischen Gemeinschaft und steuerliche Harmonisierungsmassnahmen, um den Unternehmen die Anpassungen an die Verhältnisse des erweiterten europäischen Marktes zu ermöglichen", 11 *Die Aktiengesellschaft* 1973, 258-272.

Pierre Guieu, "L'uniformisation des systèmes nationaux de T.V.A.", (1974) *R.M.C.* No. 178, 437-450.

The sixth draft Directive concerning the harmonisation of national legislation on the value-added tax (VAT) is of importance for the harmonisation of legislation in general, for the own resources of the EEC and for the Economic and Monetary Union (if it ever comes). The author gives an article by article commentary of the draft Directive.

H. J. Hermann, "Zur Steuerpolitik gegenüber multinationalen Unternehmen im Bereich der Europäischen Gemeinschaften", 20 *A.W.D.* 1974, 297-303.

A. Nooteboom, "Fusie van vennootschappen in de Europese Gemeenschappen, gezien vanuit het belastingrecht", 22 *S.E.W.* 1974, 707-738.

The views of a tax-lawyer on the draft Regulation concerning the control of mergers within the EEC.

9. *Harmonization of legislation*

C. Dalton, "Proposals for the unification of corporation law within the European Community: Effect on the British company", 7 *N.Y.U.J. of Internat'l Law & Pol.* 1974, 58-103.

J. E. Hurst, "Harmonisation of company law in the EEC", *Legal Issues of European Integration* 1974/1, 63-90.

This is a study of the draft Directive on company law from a British point of view. Special attention is paid to such aspects as the protection of shareholders and share capital.

R. Ledoux, "Peut-on harmonier les régimes des sûretés pour des vendeurs des marchandises dans le Marché Commun", 89 *J.T.* 1974, 345-348.

An inquiry into possibility of harmonizing the law relating to advertising.

Samuel Suckow, "The European Prospectus", 23 A.J.C.L. 1975, 50-68.

The EEC Council will decide this year on a Directive concerning the standard prospectus for issues by companies whose shares are traded on the stock exchange. This will be an important step towards a common capital market. The author ventilates some criticism of the draft Directive, most notably the complaint that no single authority can enforce the Directive in the whole Community. The responsibility of enforcement has been entrusted to national institutions which even need not be public authorities.

10. *Economic and Monetary Policy*

H. Aszkenazy, "Les Bourses du marché Commun en 1973-1974", 17 *Les Problèmes de l'Europe* 1974, No. 63, 30-35.

B. Belassa & S. Resnick, "Monetary integration and the consistency of policy objectives in the European Common Market", 110 *Weltwirtschaftliches Archiv* 1974, 564-579.

C. Gojat, "Les 'nouveau-tés budgétaires' en 1973", (1974) R.M.C. No. 171, 4-18.

Ch. Lutz, "Die europäische Währungsschlange", 29 *Aussenwirtschaft* 1974, 63-72.

Elke Thiel, "Chancen und Risiken einer Währungspolitik der Europäischen Gemeinschaft", 29 E.A. 1974, 825-832.

The author takes a pessimistic view of the probability of a common European currency. A common monetary policy is possible only if national governments adhere to an economic policy which gives first priority to the balance of payments. This happens not to be the case. A common monetary policy in present circumstances, thus, is no more than monetary co-operation between countries with a surplus, respectively a deficit on their balance of payments. The Community must abandon its common stabilisation policy and its common policy with regard to exchange rates. At this time, a common monetary policy cannot possibly be more than the coordination of corrective mechanisms. Such a policy may serve to prevent the EEC from disintegrating and to stabilize international monetary relations, but hardly to eliminate fundamental disequilibrium between the payments balances of the member States. A real monetary policy should be based on an economic policy, which aims a common structural development of the member States.

11. *Regional policy*

G. Agnelli, "The role of business in regional development in Europe", 17 *Problèmes de l'Europe* 1974, No. 64, 24-31.

According to Agnelli it is the task of industry to play a leading role, if the Community institutions fail, especially by investing in economically depressed areas (e.g. the *Mezzogiorno*). Because of their know-how and their financial resources the large firms should lead the way. It is important that investment should go where the labor is and not the other way round.

J. Hayward, "The prospects of British regional policy in the EEC context", 11 *Journ. Comm. Mark. Studies* 1973, 287-293.

R. Ruggiero, "L'expansion économique régionale vue sous l'angle européen", 32 *Annales de Droit* 1975, 29-37.

A good regional policy, according to Ruggiero, is one of the fundamental aspects of European solidarity and a decisive element of the Economic and Monetary Union. Therefore, the elimination of regional disequilibria is extremely important not only for the depressed regions themselves, but for the whole Community.

12. *Energy policy*

H. Elsenhans, "Aus der Oelkrise zu einer europäischen Entwicklungspolitik", *Leviathan* 1/74, 7-26.

F. Mellah, "L'attitude de l'Europe face à la crise pétrolière", 27 *Chronique de Politique Etrangère* 1974, 357-390.

An analysis of the reactions of the member States during the most important phases of the energy crisis and a study of the political positions of these countries. The differences turn out to be so great, that the author cannot but end up a pessimist about the possibility of a common energy policy.

13. *Commercial policy*

H. de Fiumel, "Aspects juridiques de la politique commerciale commune de la CEE à l'égard des pays socialistes", 10 *Cah. dr. europ.* 1974, 288-302.

C. Jacquemart, "Les règles d'origine dans les accords de libre échange conclus entre la CEE et les pays de l'AELE", (1974) *R.M.C.* No. 174, 182-189.

After having paid some attention to rules of origin as the foundation of free trade, the author gives a short description of how according to the free trade agreements between EEC and the EFTA-countries the origin of a good is determined. Attention is paid also to the provisions which have to prevent distortions of trade during the transitional period and to the administrative formalities which have to be fulfilled by importers, exporters and by the customs authorities.

T. Lagasse de Loch, "Evolution récente des monopoles nationaux à caractère commercial (art. 37 CEE)", (1974) *R.M.C.* no. 176, 332-344.

After a short introduction on the problems of adjustment of State monopolies of a commercial character according to Article 37 EEC, the author presents a complete survey of the situation as it was on January 1, 1974. Of the 16 State monopolies of a commercial character in existence only two have been "adjusted" in the sense of Article 37 before the end of the transitional period. Since then four others have followed suit. Two examples, the French State monopolies for explosives and for tobacco, the first "adjusted", the other not, show how the monopolies have reacted to their new economic situation.

Peter Scharpf, "Les relations entre la Communauté Economique Européenne et la République Démocratique Allemande", (1974) *R.M.C.* No. 178, 422-429.

Scharpf analyzes the problems created by the different interpretations of the Protocol on "intra-german" ("innerdeutsche") trade annexed to the Treaty of Rome. He wonders whether the GDR should be treated as a "third country" by the EEC-members (except the FRG) or as a country "*sui generis*". State practice seems to point to the second theory: nor the EEC nor individual member States have ever approached the GDR for trade talks. Now that the treaty between the two Germanies is a fact, there is no longer any reason to continue this policy; the eight member States except the FRG

should agree on a common approach to the GDR, based on the common commercial policy *via-à-vis* the state trading countries of Eastern Europe. See also: Peter Scharpf, Europäische Wirtschaftsgemeinschaft und Deutsche Demokratische Republik, Tübingen 1973.

14. Social policy

P. Hanau, "Die neuere Entwicklung der Gleichbehandlung ausländischer Arbeitnehmer in der Bundesrepublik Deutschland", 9 EuR. 1974, 197-215.

G. Lyon-Caen, "Négociation et convention collective au niveau européen", 9 Rev. trim. dr. europ. 1973, 583-629 and 10 Rev. trim. dr. europ. 1974, 1-30.

What are the possibilities to arrive at collective agreements at a European level? In the first part the author analyzes all positive evidence; in the second part all negative indications. In his opinion it is not very likely that in the present circumstances truly European collective agreements will be concluded. This does not mean, however, that it would be impossible to negotiate on a European level. That this should be done is even of great importance, because of the multinationals. To that end the existing paritary commissions should be strengthened, e.g. the tripartite committee for the labour market.

16. Company law—Bankruptcy law

Günther Jahr, "Vereinheitlichtes internationales Konkursrecht in der europäischen Wirtschaftsgemeinschaft", 35 *Rabels Zeitschrift* 1972, 620-652.

A critical comment on the draft treaty concerning bankruptcy within the EEC.

G. Langer, "Multinationale Unternehmen und die Europäische Gemeinschaft", 20 A.W.D. 1974, 295-297.

H. Lichtenberg, "Der Vorschlag der Kommission der Europäischen Gemeinschaften für die Schaffung einer Europäischen Kooperationsvereinigung", 138 Z.H.R. 1974, 117-140.

Ivar Norgaard, "La Communauté et les entreprises multinationales", (1973) R.M.C. No. 169, 393-395.

Y. Scholten, "Fusie van vennootschappen in de Europese Gemeenschappen gezien vanuit het vennootschapsrecht", 22 S.E.W. 1974, 661-707.

Mergers and their supervision by the EEC viewed through the eyes of a company lawyer.

R. R. Troeller, "Multinational Corporations in a Changing Europe", 7 J.W.T.L. 1973, 293-300.

What will be the position of the multinationals in Europe, if the Directives of the EEC Commission concerning the European Company, the harmonisation of taxes and the position of employees will come into force.

Jean Voulgaris, "De la compétence judiciaire internationale en matière de faillite dans le cadre de la C.E.E. Le principe de l'unité de la faillite et ses applications dans l'avant-projet de Convention C.E.E. sur la faillite (février 1970) et l'élargissement de la Communauté", 101 Journ. dr. intern. 1974, 522-561.

17. *Recognition of judgments*

H. Bauer, "Das EWG-Gerichtsstandsübereinkommen", 26 *Der Betrieb* 1973, 2333-2338.

E. Gloeggli, "L'accordo C.E.E. per il riconoscimento e l'esecuzione delle sentenze nei rapporti giuridici italo-tedeschi", 12 *Il diritto negli scambi internazionali* 1973, 385-403.

H. L. J. Roelvink, "Forumkeuze volgens het EEG Executieverdrag", 54 *Advocatenblad* 1974, 242-246.

I. Samtleben, "Internationale Gerichtsstandsvereinbarungen nach dem EWG-Uebereinkommen und nach der Gerichtsstandsnovelle", (1974) N.J.W. 1590-1596.

18. *Industrial property*

K. Bruchhausen, "The extent of protection of the European patent", 5 I.I.C. 1974, 253-272.

The same article appeared as: "Der Schutzbereich des europäischen Patents", in (1974) G.R.U.R. Int. 1-10.

"Die Münchner Diplomatische Konferenz über das europäische Patentrecht", (1974) G.R.U.R. Int. 47-110.

On September 10, 1973 the Conference on the European Patent took place in Munich. The final text of the Convention was signed and some decisions were taken concerning the European Patent Office. This whole issue of G.R.U.R. Int. is devoted to this Conference. It contains the report of the German delegation, the text of the Convention on the European patent and a bibliography on European Patent Law. A very valuable documentary issue.

Fausto Groppali, "La Convenzione sul Brevetto Europeo", 12 *Il diritto negli scambi internazionali* 1973, 403-409.

B. Johanneson, "Schutzbereich und Patentansprüche der Deutschen und der Europäischen Patents", (1974) G.R.U.R. Int. 301-308.

J. Pagenberg, "The concept of the 'inventive step' in the European Patent Convention", 5 I.I.C. 1974, 157-168.

François T. Panel, "Future Patent Policy of European Industries", 5 I.I.C. 1974, 123-139 ("Die künftige Patentpolitik der europäischen Industrie", (1974) G.R.U.R. Int. 111-118.

The European Patent, which can be expected to be operative by 1976, will be rather expensive as well as rather intricate compared to national patents. The success of the European Patent Office will depend largely on the way in which it fulfils its task. The European Commission and the Court of Justice will have to adopt a neutral position *vis-à-vis* the Patent Convention, especially during the initial transitional period.

W. Schlieder, "Die Auswirkungen des EWG-Vertrages auf die gewerblichen Schutzrechte", (1973) G.R.U.R. Int. 579-582.

A survey of the way in which the EEC Treaty exerts its influence in the field of industrial property rights. Some plans of the Commission with regard to industrial property rights are discussed.

M. Waelbroeck, "Droits de propriété industrielle et règles de concurrence dans la CEE", 63 *Revue de Droit Intellectuel* 1973, 157-174.

A critical assessment of the judgments of the Court of Justice in the DGG and Sirena cases and of the decisions of the Commission in the cases of Burroughs and of Davidson Rubber. A very useful bibliography is appended to the article.

19. *External relations*

C. Cheysson, "Politique européenne du développement", 27 *Chronique de Politique Etrangère* 1974, 155-156.

W. J. Feld, "Trade between the U.S. and the European Community: Differing Expectations in a Changing Power Relationship", 28 *Journal of International Affairs* 1974, 7-24.

A discussion of the trade problems in dispute between EEC and US: the CAP; the preferential agreements; the "link" between trade, monetary and military problems; and non-tariff distortions, e.g. the American Selling Price System for certain chemicals. If one only keeps one's sights firmly set on the great common interest behind the accumulation of everyday nuisances, a solution should be possible.

G. L. Goodwin, "A European Community Foreign Policy?", 12 *Journ. Comm. Mark. Studies* 1974, 7-27.

According to the author, external pressure is a necessary precondition for the emergence of a Community foreign policy. Of course, the attitude of the triangle Paris-Bonn-London will be decisive. The fundamental controversy over defense and the role of NATO is, without doubt, the greatest obstacle.

Vittorio Griffo, "La Communauté et l'Inde: vers une politique de coopération", (1974) R.M.C. No. 178, 430-436.

A historical survey of the relations EEC-India, followed by an analysis of the Treaty on trade cooperation of 17 December 1973. This agreement is the result, not so much of a conscious policy on the part of the EEC, but of continuous Indian pressure. The EEC as such has not yet developed a clear policy for its relations with India. The agreement, therefore, is the result of an offer by the EEC, based on the lowest common denominator of the offers of the individual member States. Consequently the agreement only covers trade relations in a narrow sense. Nevertheless it distinguishes itself favourably from the other cooperation agreements between EEC and developing countries, because it offers a general framework and does not get bogged down in specifics. This general framework can be filled out in a positive way only if the Mixed Commission instituted by the agreement will get some room for manoeuvre.

W. Hager, "The Mediterranean: A European Mare Nostrum?", 18 *Orbis* 1974, 231-251.

The Mediterranean policy of the Community is placed in its economic and strategic context. The author views the role of the EEC in the Mediterranean as one of a 'civilian power'.

Karl Kaiser, "Die Krise der europäisch-amerikanischen Beziehungen", 29 *E.A.* 1974, 387-399 ("Europe and America: A critical phase", 52 *Foreign Affairs* 1974, 725-742).

I. Login and I. Yegorov, "Britain and the Common Market", (1974) *International Affairs* (Moscow) 73-80.

J. J. M. Penders, "Europa-Amerika: een zaak van veiligheid", 28 *Internationale Spectator* 1974, 413-418.

Europe should recognize the interdependence of political, military and economic problems and consequently should grant the United States a say in European decisionmaking on these questions.

H. Simonet, "La grande négociation. Les rapports entre l'Europe et les Etats Unis", 27 *Chronique de politique étrangère* 1974, 305-323.

J. M. Visee, "L'union douanière élargie et les Etats Tiers", 10 *Cah. dr. europ.* 1974, 541-576.

After an introduction on the fundamentals of the customs union and its enlargement with three members, the relations of the enlarged union with a number of other groups of States are discussed: the EFTA members, the Mediterranean countries and the associated and "associable" States. Furthermore, attention is paid to the agreements which have not been mentioned in the Act of Accession (such as the non-preferential trade agreements with Uruguay, Jugoslavia, India and Brazil), as well as to the relations with a number of other countries, e.g. industrialized countries which are not EFTA-members and state-trading countries. The author's final conclusion is that the agreements of the EEC with third countries are valuable, because they give a greater security than the vague and general obligations of GATT.

W. Wallace, "British external relations and the European Community: The changing context of foreign policy-making", 12 *Journ. Comm. Mark. Studies* 1974, 28-52.

20. *Environment policy*

M. Carpentier, "Une programme communautaire en matière d'environnement", 19 *Annuaire Européen* 1973, 52-65.

C. Curti Gialdino, "La cooperazione europea per la protezione del Reno dell' inquinamento", 14 *Riv. Dir. Eur.* 1974, 31-61.

U. Jenisch, "Regional anti-pollution initiatives of the EEC, NATO and OECD and their respective member States for European waters", 51 *Rev. dr. int.* 1973, 171-188.

"Les problèmes de l'environnement dans la C.E.E.", (1974) R.M.C. No. 175.

The entire issue is devoted to the colloquium on environment problems in the EEC, held on November 29—December 1, 1973 in Paris. There are contributions by S. Mansholt (on environment and economic growth), by R. Toulemon and M. Sarascia-Mugnozza (on the EEC policy with regard to environmental problems) and by C. Colliard (overview and conclusions).

V. *EFTA*

R. Senti, "Diskriminierungseffekt der Ursprungsregelung EFTA-EWG", 29 *Aussenwirtschaft* 1974, 40-58.

Do the rules of origin applied by the so-called rest EFTA states to imports from the EEC increase discrimination *vis-à-vis* third countries compared with the rules of origin as applied by the original EFTA? From a comparison of both sets of rules the author draws the conclusion that the former is not more discriminatory than the latter. However, there is some increase in discrimination because of the larger area of application of the present rules of origin (which inevitably is the case in situations like this).

VI. COUNCIL OF EUROPE

a. General

C. Melchior de Molènes, "25ème Anniversaire de sa Fondation: L'originalité du Conseil de l'Europe", 52 Rev. dr. int. 1974, 148-166.

H. Winnik, "Le rôle futur du Conseil de l'Europe", 17 *Les Problèmes de l'Europe* 1974, No. 63, 30-35.

b. Human Rights

K. Boyle and H. Hannum, "Individual Applications under the European Convention on Human Rights and the Concept of Administrative practice: The Donnelly Case", 68 A.J.I.L. 1974, 440-454.

The article contains an analysis of the arguments of both parties and of the decision of the European Commission for Human Rights in the Case of *Donnelly and six other Ulstermen v. the United Kingdom*, concerning violations of Article 3 (torture and inhuman treatment). This decision on admissibility is a milestone in the case law of the Commission, because this is the first time an individual is permitted to use the concept of "administrative practice", to show that he is the "victim" thereof in the sense of Article 25 as well as to set aside the requirement of exhaustion of domestic remedies (Article 26).

G. L. Coolen, "Het militaire tuchtrecht en het Europese Verdrag voor de Rechten van de Mens", 50 N.J.B. 1974, 519-521.

S. Marcus Helmons, Case note, *Ringeisen* Case (22 June 1972), 10 Cah. dr. europ. 1974, 379-393.