

Fall 1961

## American Enterprise in the European Common Market, A Legal Profile, edited by Eric Stein and Thomas L. Nicholson

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### Recommended Citation

Grzybowski, Kazimierz (1961) "American Enterprise in the European Common Market, A Legal Profile, edited by Eric Stein and Thomas L. Nicholson," *Indiana Law Journal*: Vol. 37 : Iss. 1 , Article 5.

Available at: <https://www.repository.law.indiana.edu/ilj/vol37/iss1/5>

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# ESSAYS AND BOOK REVIEWS

AMERICAN ENTERPRISE IN THE EUROPEAN COMMON MARKET, A LEGAL PROFILE. Edited by Eric Stein and Thomas L. Nicholson. Ann Arbor: The University of Michigan Law School. 1960. 2 Volumes. Pp. xxix, 732 and xxiv, 510. \$25.00.

## THE COMMON MARKET AND THE UNITY OF EUROPEAN LAW

*American Enterprise in the European Common Market, A Legal Profile*, which appeared in the Michigan Legal Studies, is a work of singular importance. A collective effort of eleven experts drawn from the ranks of professors of law and of practical workers in the field of international economic cooperation, the two volume study is primarily directed to the American entrepreneur. Its purpose is to investigate the impact of the new conditions created by the Treaty of Rome of March 25, 1957<sup>1</sup> on American business activity in Europe. Under the terms of this treaty France, Germany, Italy, Belgium, Holland and Luxemburg (Benelux) agreed to establish the European Economic Community (EEC), more commonly known as the Common Market. The basic purpose of the EEC is to establish a customs union on the foundations of which may be created of the six member countries a new territorial unit for the free flow of goods, capital, and labor, with corresponding common economic and social policies both internally as well as internationally. The EEC encompasses 170 million people, a vast industrial establishment, the skill and scientific training of the most important countries in Western Europe, and a geographical area which in spite of its political decline still constitutes one of the great cultural and economic centers of the world.

The ambitious goals of the common market are to be achieved through a series of measures which are designed to assure a progressive integration of the national economies of the six member countries into a supernational complex. Within the intended area, all trade, investment and credit operations will proceed with the same facility and absence of restriction and protectionist policies as if they were taking place solely within one national unit. This new economic polity will have a common policy toward the outside world, embodied in a single system of customs

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1. 51 AM. J. INT'L L. 865 (1957).

duties. It will also have a common policy with regard to former colonial territories or less industrially developed countries which may seek association with the EEC.

To this end the Treaty of Rome has outlined a set of policies involving important aspects of the social and economic lives of the six member countries. These policy lines are drawn so as to keep relations uniform between the countries, to assure protection of their legitimate interests until full adjustment takes place, and to encourage a full prosperity and a policy of social progress. It is hoped that by these means the economies of the member countries will receive an important boost, in turn leading to a rise in the efficiency of European industry, promotion of welfare policies, and ultimately to a higher standard of living for the Western European populations.<sup>2</sup>

The new policies of the six countries, as promulgated by the EEC, represent a revolutionary break with the past. The traditional elements of nationality are cast away in favor of the general interests of Western Europe. From the present vantage point it is possible to see the outline of a new political and social entity which seems destined to become a third political and economic giant of the world. This restoration of Western Europe to the position of a first rate political and economic power should contribute greatly to the political stability of the world.

The purpose of the joint venture of eleven scholars is not only to examine the prospects of American business activity under the new situation, but also to explore the effect of the planned integration of Western Europe on the legal order of the member countries of the EEC. The United States, although one of the main promoters of closer ties between the European nations, is not a party to any of the arrangements provided for in the Treaty of Rome. The position of this country vis-à-vis Europe is determined by a series of factors, among which are included the community of political and defense interests, the conscious policy of the American government to promote economic prosperity of the European nations, the flow of American credits and investment to Europe, and the rapid expansion of international trade; the last factor having become a most important phenomenon in the shaping of international relations. However deep the involvement of this country in the

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2. Literature on the subject of economic associations in Europe is very rich, including a number of works on the Common Market. None of the studies, even those recently published, are conclusive, as the formation of the Common Market is a continuing process. However, for political and economic aspects of the Common Market, the writer found the following works informative: *BENOIT, EUROPE AT SIXES AND SEVENS, THE COMMON MARKET, THE FREE TRADE ASSOCIATION AND THE UNITED STATES* (1961); *Camps, Britain, the Six and American Policy*, 39 *FOREIGN AFFAIRS* 112 (1960).

economic life of Europe, the fact remains that its position with regard to the Common Market is still that of an outsider. It is clear that American businessmen planning to expand their activity in the European market will in the future face a serious handicap with regard to local competition in any of the six member countries of the EEC. Further attention also needs to be given to that segment of American law which influences the economic operations of American firms abroad.

In spite of its basic orientation toward American business, the two volume work is of far broader significance. Not only is it an important study in the field of international politics and economics, but it also comprises a serious study of that branch of international law which is concerned with the operation of international organizations. In addition, the work is of considerable importance for its contribution to the comparative study of legal institutions in the modern European systems of law. The frequent close relation of European legal institutions to those of the United States commends this book to the attention of students of comparative law on both sides of the Atlantic.

The study consists of twelve chapters, each in the form of an essay. In spite of the monographic character of the study, each chapter is planned to contribute to a whole which proceeds from general to particular, from theoretical to practical. The unity of the study was further enhanced by the use of uniform research methods. These methods featured wide use of questionnaires addressed to a great number of experts in the EEC countries and in the various international organizations dealing with aspects of inter-European cooperation both within and without the framework of the EEC. The reading of the manuscript in part or in toto by many of these consultants also contributed to the homogeneity and cohesion of the study. The examination of the EEC is conducted not only from several different geographical points of view, but also in terms of its place within the intricate system of various organizational ties which link European nations to each other in their promotion of mutual economic and political interests.

Volume I begins with an introduction by Professor Stein which defines the scope of the book and broadly suggests the results of the inquiry. Its function is to place the EEC within the framework of other similar organizations of the European states, and it outlines some of the principles which determine the nature and the operation of the EEC. The introduction also generally discusses the opportunities available to the American entrepreneur under the new regime in the area of the

Common Market.<sup>3</sup>

In the chapters which follow, the institutions of the Common Market are described;<sup>4</sup> the customs union of the EEC countries is analyzed;<sup>5</sup> exchange controls in France are examined;<sup>6</sup> legal protection of industrial property within the EEC area is reviewed;<sup>7</sup> and labor legislation and social security programs in the six member countries are analyzed by a British expert.<sup>8</sup> Volume I ends with an important chapter dealing with the new legal remedies available to enterprises established under the EEC regime.<sup>9</sup>

Volume II deals with four basic aspects which substantially determine the form and conditions of American business ventures in the EEC area: organizing for business;<sup>10</sup> the significance of international treaties in the establishment of companies;<sup>11</sup> protection of competition;<sup>12</sup> taxation patterns prevailing in the six member countries.<sup>13</sup>

Chapter twelve of Volume II returns the inquiry to a general plane with a discussion of the relations of the EEC with the overseas countries and their respective political ties. These political ties, not unlike those which affect British attitudes toward economic cooperation with the European continent, have been an obstacle in the establishment of closer relations within the European framework. Adopted solutions have been revolutionary in their meaning. Traditional historical affiliations between individual territories have been abandoned in favor of direct relations of the EEC countries as a whole with the territories concerned.<sup>14</sup>

"Common Market" as described in the book represents the first stage in a movement toward an integrated economy. While the advice tendered to the reader duly takes account of this element, the book also indicates what possible impact the future progress of integration of the core of Western Europe may have on business activity and business opportunities. It is thus a projection into the future, founded on the tendencies and trends of the policies of the member countries. The study quite properly opens with a chapter entitled "A Prophecy," as in

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3. Stein, *An American Lawyer Views European Integration: An Introduction*.
  4. Stein, *The New Institutions* (Ch. I).
  5. Ouin, *The Establishment of the Customs Union* (Ch. III).
  6. Jcanet, *Exchange Control Regulations in France* (Ch. IV).
  7. Ladas, *Industrial Property* (Ch. V).
  8. Kahn-Freund, *Labor Law and Social Security* (Ch. VI).
  9. Stein and Hay, *New Legal Remedies of Enterprises: A Survey* (Ch. VII).
  10. Conard, *Organizing for Business* (Ch. VIII).
  11. Nicholson, *The Significance of Treaties to the Establishment of Companies* (Ch. IX).
  12. Riesenfeld, *Protection of Competition* (Ch. X).
  13. Van Hoorn, Jr. and Wright, *Taxation* (Ch. XI).
  14. Hay, *The Association of the Overseas Countries and Territories* (Ch. XII).

the eyes of the authors not all that was provided in the Rome Treaty was law. The implementation of the treaty is to proceed in stages, by the actions of the common institutions and in agreement with the governments concerned, and a good deal was and still is left to future decisions.

Regardless of the nature of the Treaty of Rome, the prognosis of the authors as to the progress of integration has been more than justified by the facts. One of the most significant aspects of the developments in the Common Market area is that various measures which were to be adopted at agreed deadlines were introduced ahead of time. Gradual removal of internal tariffs, abolition of import quotas of currency and exchange regulations and other restrictions in the movement of goods, and the easing of capital and labor problems all progressed smoother and faster than initially anticipated.

The accelerated progress of the plans for the integration of the six countries was due in the first instance to the fact that the diagnosis of the social and economic ills of Europe and the prescribed therapy were fundamentally correct. It was fortunately realized that the cooperation of Western European countries must include more than just the promotion of international trade and economic cooperation. It has been demonstrated that European economic development and social recovery is dependent in equal measure upon social integration, and that a customs union alone would not have met the needs of the time. There is ample evidence that the approach adopted by the member countries, which matched increased opportunity for social welfare programs with a multitude of business opportunities, has provided the needed stimulus for the economic recovery of Europe. Since the Rome Treaty went into effect the indices of social and economic progress have equalled the rise of production as is clearly exemplified by the expansion of social services and the significant improvement in the standard of living of the European populations. Construction of new housing is a field of economic activity which is illustrative of the expansive mood of the European economy. In 1959 the EEC countries for the first time equalled the output of new homes in the United States. As a result, the countries of Western Europe now have for the first time since World War I a prospect of an adequate supply of new homes.

In this new alignment the legal systems of the European nations cannot escape the integrating influence of the Common Market. Unification and assimilation of the legal systems of the member countries of the EEC will take place on three levels. New law, governing the common affairs of the EEC, will be enacted through the Institutional channels of the Common Market, or by the individual national parlia-

ments acting on directives issued through the institutional channels from the Council of the EEC. Secondly, the Treaty of Rome provides as an initial step for the abolition of all legal restrictions contrary to the idea of the Market. Currency regulations, incompatible with the free circulation of goods, are an example. Thirdly, article 3 of the Treaty provides for "the removal of differences in national laws so far as it is necessary for the operation of the common market." The wording of article 3 suggests that it envisions a long range program to be realized as future events call for adjustment of national laws in order to give effect to the provisions of the Treaty.

Through the Common Market, the old idea of unity among the legal systems of the civilized world is approached from a new angle. After a long period of social and economic fragmentation of the modern world, the realization of such unity has become an objective of the conscious policy of many governments. This development has taken place under the pressures of two factors currently shaping modern international relations: (1) a growing interdependence of nations in all aspects of social and public life; (2) the new role of the state and of the public institution in modern society.

In order to place these developments in their proper perspectives it is necessary to recall that unification of the modern civil law of Europe was initiated in the beginning of the nineteenth century by the French and Austrian civil codes. They were enacted to govern a social order in which private rights provided an adequate legal framework for the determination of all significant relations resulting from economic activity. Commodity production and services were an extension of property relations. Private law with its institutions was the law which dealt with all aspects of the management of national economy, which was nothing more no less than the sum total of the enterprise of the individuals. The provisions of the civil law of that time were in a very real sense the public law of Europe. In this system of legal institutions the concordance of national legal systems was the rule, and variations from the general pattern were an exception. Savigny, the great German jurist, was convinced that a system of rules for the solution of conflicts of law was practical because of the fundamental identity of modern systems of law. Private international law according to him was grounded on a community of law among the independent states. What he meant was that the individual and his rights occupied a central place within the framework of the civil law of his time.

In this world of civil law, international economic cooperation matters such as international trade relations and foreign investment were

protected by the fact that contractual engagements and property rights were construed in an identical manner under all the legal systems. The will of the parties determined the law which governed a contract. The role of public authority was to preserve public order and assure prompt and impartial justice. As industrialization and modern forms of economic activity spread in other continents, civil codes and modern courts of justice were also adopted in the non-European countries as a counterpart of the technical know-how and capital investment supplied from abroad.

Changes in economic management produced by the Industrial Age were expressed primarily in the separation of ownership and control of the means of production. Personal ownership of industrial property was replaced by ownership of stocks and bonds, while physical control and management of property in bulk passed to a centralized group of industrial managers. With the management of property in bulk, business concerns frequently acquire the character of public institutions.<sup>15</sup> Growing organization of business activity and standardization of life produced the phenomenon of the masses, the latter being characterized by identity of interests and similarity of existence. Classes and social groups had to be taken account of no less than individuals. This in turn produced a veritable revolution in the content of legal rule. The traditional civil law had no provisions to meet the new needs of new branches of law such as labor law, economic law, administrative law and antitrust regulation.

In this new world of social and economic relations the state was forced to abandon the position of an independent arbiter, interested exclusively in the theorem that economic life should conform to the letter and the spirit of law. This position had been dictated by the philosophy of the age which was based on the conviction that there is no conflict between the individual interest and that of the whole in an orderly society. Under new conditions, the interests of the conflicting social groups inspired the formation of great social organizations, including trade unions, employers' associations and professional organizations. It became necessary to reformulate the principles of governmental action and the role of public authority. Depersonalization of economic activity and the substitution of great corporations for individual enterprise and family businesses relegated private law, with its system of private rights,

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15. Cf., BERLE AND MEANS, *THE MODERN CORPORATION AND PRIVATE PROPERTY* 7ff (1933); FRIEDMAN, *LAW IN CHANGING SOCIETY* 24-25 (1959); SAVATIER, *DU DROIT CIVIL AU DROIT PUBLIC* (1950); Bolgar, *The Magic of Property and Public Welfare*, 2 *INTER-AMERICAN LAW REVIEW* 288 (1960).

to an inferior place in terms of social function. The modern state, with a new array of public authorities and powers, assumed direct responsibility for the management and protection of economic and social interests.

The new administrative law of Europe had a singular effect of the unity of European law. On this side of the Atlantic a similar shaping of legal foundations from the intervention of public authority in social and economic affairs of the nation has contributed to an expansion of legislative activity on the national level and to a greater uniformity of legal rules. Matters which in the past were considered to be an exclusive province of state legislation became the concern of the Union. The federal government in meeting the challenge of the new times, has been able to perform a unifying function and has introduced national standards of conformity in many specific areas.

Such a federal agency did not exist in the west of Europe. There the emergence of the new branch of public law led to the disruption of the unity of European law, particularly with regard to regulation of business activity and restriction of the freedom of contract and of property rights. In this context, the creation of the new European Economic Community, with its common institutions, represents a new factor which will shape the policies of the six member countries and the new law of the Common Market very much in the same fashion as the federal government has shaped the law in this country.

In spite of the striking analogies between American and European experience, the nature of the change produced by the creation of the EEC cannot be reduced to its institutional arrangements. Common social and economic policies represent a new sense of responsibility for the future of Europe. Until recently the legal institutions of European law represented either the result of common tradition, or the reflection of a universalist world outlook. They grew from the institutions of the canon law of the church and those of the Roman law of modern usage. Universalist concepts were also furthered by legal scholarship, which sought for the best legal answers to social needs. In the field of positive law, both legal science and natural philosophy spread the ideas and institutions of the ancient Roman law as revived and studied by the learned jurists of the Middle Ages, jurists of the Renaissance, and finally by French encyclopedists and liberal jurists of the nineteenth century. Thus the Age of the Civil Codes and the reception of Roman law in Europe represents a culmination of a long process of intellectual development. This development finally led to the emancipation of the individual from the institutions of the Middle Ages, and to the issuance of the Age of National States.

The next stage in the process of unification of the European laws, as well as the legal systems of international community, belongs to the efforts of various scholars who promoted more perfect assimilation of national legal systems in the interest of harmonious relations between nations and a facilitation of international commerce. International conferences, international conventions, and in no lesser degree studies of learned jurists, have produced a good deal of uniformity in the provisions of the civil law; particularly concerning situations involving persons of different nationality with regard to their rights of inheritance, domestic relations, guardianship, legislation concerning bills and notes, execution of foreign judgments and other similar matters. In the beginning of our age great progress was achieved in the determination of international crimes and in the cooperation of their prosecution.

The Treaty of Rome goes far beyond the scope of traditional methods in producing a uniform law for Europe. Under the treaty a unified legal system for the members of the EEC is a part of the enforcement of common policies, and such enforcement occurs to a considerable extent through the action of community institutions. Legislative powers of the EEC are exercised by the Council, which consists of ministers delegated by the governments of the members countries. Legislative initiative, however, is centered in the Commission, which is the administrative and executive agency of the EEC. New legislation may be enacted in order to bring national laws of the member countries closer together, or to introduce new rules indispensable to the common goals of the community. Under article 100 of the Treaty, the Council of the Community, voting unanimously on a proposal of the Commission, "shall issue directives for the approximation of such legislative and administrative provisions of the member States as have a direct incidence on the establishment or functioning of the Common Market."<sup>16</sup> Such directives must then be incorporated in the national laws of member countries through the action of their legislative bodies. In addition, article 235 of the Treaty gives the Council genuine legislative powers to enact new rules, when no national legislation or administrative rules are involved:

If any action by the Community appears necessary to achieve, in the functioning of the Common Market, one of the aims of the Community in cases where this Treaty has not provided for the requisite powers of action, the Council, acting by means of

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16. AMERICAN ENTERPRISE IN THE EUROPEAN COMMON MARKET: A LEGAL PROFILE 237 (1960).

a unanimous vote on a proposal of the Commission. . . shall enact the appropriate provisions.<sup>17</sup>

These are no mean powers, as the provisions of the treaty are quite general in scope in defining the aims and the goals of the Common Market.

Another innovation of the Common Market is that its operating institutions maintain intimate relations with the governments of the member nations. The "Council" of member government ministers serves as the Community's central agency. The "Commission," though an administrative body consisting of international civil servants, formulates the Community's policies and legislative proposals in close collaboration with the competent government departments. As a rule, the Commission refers its problems to the teams of experts and mixed working groups of officials which are supplied by the government departments of member countries through the services of the Committee of Permanent Representatives of the member nations. Proposals for legislative action often originate at a national level, or from a complaint by one of the governments regarding an alleged violation of a common policy by a member country. Thus the Commission formulates its legislative proposals or its proposals for directives to be adopted by the Council only after extensive sounding of the governments involved, and with their full cooperation. In this manner two objectives are achieved. First, the work of the Commission proceeds in an atmosphere of realistic contacts with the governments of the member nations, with a minimum of friction, and with a good deal of opportunity for negotiation and mutual accommodation. Secondly, the Commission may dispense with its own teams of experts and technical advisors, who would tend to represent a theoretical and ideological point of view distinct from that of the governments concerned.<sup>18</sup>

Another important channel of common law-making is represented by the Court of Justice which was established to "ensure observance of law and justice in the interpretation of" the Rome Treaty. Professor Stein describes its jurisdiction as "defying categorization."<sup>19</sup> Indeed, its jurisdiction was designed in defiance of all the traditional classes of disputes constituting the exclusive domain of national judiciaries or the exclusive jurisdiction of international tribunals.

Community's Court of Justice is open to the six member nations, to non-member nations, to individuals and to enterprises. Its respon-

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17. *Ibid.*

18. *Id.* at 44.

19. *Id.* at 70.

sibilities make it a participant in deciding cases pending before the various national courts. It is also competent to hear and dispose of civil causes, and to act as an administrative tribunal very much in the same manner as the French Conseil d'Etat.

One of the most interesting jurisdictional features of the Court of Justice is that it is open to requests emanating from the national courts for an interpretation of a provision of the Treaty of Rome, or of an act of a community institution, the validity of which is preliminary for the decision in a case pending before such a court. In addition, whenever a similar situation arises in a court from which there is no appeal to a higher court, the national court must refer the disputed issue to the Community Court: "This . . . arrangement is designed to . . . assure the uniform interpretation of the Treaty and of the Community acts which is necessary for the development of a uniform 'quasi-federal' law."<sup>20</sup>

An even more important power is the jurisdiction of the Court to hear and determine suits of unconstitutionality of Community acts or of national acts which have violated a provision of the Treaty of Rome. In this manner international and municipal law aspects of judicial action are merged in order to provide a supernational judicial institution which meets the needs of the situation created by the Treaty of Rome. The fact that the Court is neither an international tribunal nor a municipal court might suggest that the usual jurisdictional restrictions of an international judiciary do not apply in its case. The position of the Court also differs from that of the national courts, particularly as regards its power to determine the validity of national legislation of member countries, as national courts in Europe have no power to refuse application of a legal regulation which is formally a law.

Participation of the Community institutions in the development of a unified legal system for the six member countries is determined by the scope of the Treaty of Rome. The program of gradual integration of the national economies of the member countries involves abolition of custom duties, currency controls and import quotas. Such mutual adjustment of protective measures has a broader meaning than its immediate purpose may signify. It affects to a large degree relations not immediately falling within the scope of the aims of the Treaty, although its general purpose is indeed a general liberalization of all types of relations between the members of the EEC. Thus the abolition of currency controls, where the Community registered its most resounding success,

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20. *Id.* at 480.

was effective not only as regards the expansion of foreign trade, but also in removing restrictions of private property rights. The obligation imposed by the Treaty to abolish custom duties on imports from member countries implied the right of the Community to examine the nature and effect of other measures which, though not formally connected with the imports of goods, have a protectionist policy in view. Abolition of such measures may again give meaning to the property rights rendered null by such financial, virtually confiscatory, regulations.<sup>21</sup>

Of even greater significance for the content of the legal rule in the EEC countries are the policies regarding social rights and private economic initiative. Two broad areas of legal regulation will be significantly involved in the process of approximation of national legislation. Legislation concerning protection of industrial property, patents, industrial designs and models will be subject to uniform legislation in the Common Market countries. One of the aims of the Common Market is to foster efficiency and competition between the national industries in various countries. In order to make this competition realistic it will be necessary to grant industrial property equal protection so that artificial advantages for industrial activities in certain areas may be eliminated, and the location of individual factories, industries and enterprises may be dictated by economic reasons alone.<sup>22</sup> For the same reasons social security programs and labor legislation must be brought up to a common level in order to avoid discrimination between national industries and economies at the expense of the worker's welfare. Nations with inferior social legislation would enjoy an unfair advantage in competition which would jeopardize the aims of the Common Market.

The establishment of the Common Market has affected trade conditions all over the world. Countries with highly developed foreign trade are forced to reappraise their position vis-à-vis Europe, and to examine the advantages or disadvantages of direct participation in the Common Market arrangements. In the eyes of some countries the obvious advantages of a great market and an expanding economy are offset by the fact that membership in the EEC means a partial surrender of national sovereignty. Some neutralist governments fear the connotation of a political involvement in the defense policies of Western Europe. In some cases membership in the Common Market would involve an unwanted weakening of traditional economic and political ties with other countries.

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21. *Id.* at 111-12.

22. *Id.* at 247 ff.

Britain, Austria, the Nordic States and Switzerland were in such a position. Britain was reluctant to join in view of her protectionist policies concerning agriculture, and because of the privileged position of the British Commonwealth in the British markets, where a considerable portion of Commonwealth agricultural and raw materials exports are disposed of. The British government also felt that membership in the EEC would mean a final committment to a single line in European policies, which is contra to British tradition. Britain's interest lay more in the concept of a free trade area, especially in the area of industrial goods, with as few additional ties as possible. Such thoughts most closely resemble the pattern of trade and international economic cooperation of the pre-1914 period.

Initial negotiations for British participation in the EEC having failed to counterbalance the influence of the Common Market (1958), the British government proceeded with combining the rest of free Europe (three Nordic States, Austria, Switzerland, and Portugal) into the European Free Trade Area established by the convention signed in Stockholm on November 20, 1959. Its basic feature was a customs union with no other obligations except promotion of free trade and operation was set to begin on May 3, 1961.<sup>23</sup> Even before the advantages of the Free Trade Area were seriously explored, the issue of joining the EEC was again raised in Britain and after extensive consultation with the members of the Commonwealth and a heated debate in the Commons, the MacMillan government applied for membership in the EEC.<sup>24</sup> The British example was followed by Norway, Denmark and Ireland. Earlier and at the other end of Europe, Greece and Turkey had also sought economic association but not a membership in the EEC.<sup>25</sup> Similarly, the three neutralist nations Sweden, Austria and Switzerland have applied for associate membership in the EEC.<sup>26</sup>

Another important outcome of the EEC Treaty is that it has become a successor to the imperial influences of its members. French territories in Africa and Dutch Antilles (Surinam) in South America have sought association with the Common Market. The attractiveness of such association to former colonial territories which have gained independence is that membership would not detract from the national principle. Furthermore, association with the Common Market does not carry the odium of continued economic penetration by a former colonial power.

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23. Papers by Command No. 906, London.

24. Cf., N.Y. Times, July 31, 1961, p. 16, col. 8.

25. N.Y. Times, July 10, 1961, p. 14, col. 6; Washington Post, September 28, 1961, p. A 3, col. 2.

26. Washington Post, October 26, 1961, p. A 27, col. 1.

The means for economical and social development of the former colonial territories come from the joint resources of the European powers, and are administered by community institutions. To this end the Common Market countries have established special funds, financed by inter-governmental loans or private sources, to advance the social and cultural development of the community. The terms of the association of the less developed countries both in Europe (Greece and Turkey) and of the former colonial territories include their right to continue protective measures to assist the development of their industrial establishment, not yet able to resist the rigors of unrestricted competition with Western European industry.<sup>27</sup>

Common Market arrangements still have a long way to travel. Although important progress has been made, the Common Market idea is still in its beginnings. Should it succeed, however, it will provide a new framework for the traditional penetration of the Western European institutions. It will make possible cultural and economic advancements for the new nations primarily on the basis of an inflow of private capital and private initiative, accompanied by a respect for private rights as the core of their laws. Social institutions, welfare programs, public education and public services are promoted with the assistance of funds derived from the EEC, thereby reducing the danger of revolutionary methods, emergence of totalitarian regimes, and the destructive influences of nationalization of private investment of foreign origin. Economic progress and social advance are made possible without the misery of forced industrialization at the expense of local consumption. Such improved measures were hardly feasible under the primitive conditions prevailing in the former colonial territories. Returning to the two volume study under review, it is easily seen that it will be only a few years before a supplement describing future developments will be needed.

American enterprise in the *European Common Market* is an important reference tool for the lawyer, economist and political scientist, as well as the teacher of international and comparative law and the student of international relations and international organizations. It deserves a place on the reference shelf of every library seriously concerned with social affairs in the broadest sense.

KAZIMIERZ GRZYBOWSKI†

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27. BENOIT, *EUROPE AT SIXES AND SEVENS, THE COMMON MARKET, THE FREE TRADE ASSOCIATION AND THE UNITED STATES* 57, 60-61 (1961).

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