

Foreword and Acknowledgments

The rapid expansion of international trade during the past fifteen years has confronted the American business counselor with a great variety of new problems. Solutions to these problems were not expounded to him in his pre-war legal education, nor are they to be found in the rich proliferation of advance sheets, digests, and loose-leaf services with which the modern American lawyer is blessed. When he turns to foreign counsel, he finds that a lack of common legal background makes meaningful professional communication difficult.

This book has been prepared with the primary purpose of helping those American lawyers who, because of their clients' expanding activities, confront for the first time the problems of trading with and trading in the European Common Market. It is designed to give them an over-all picture of the new legal framework of the Market itself and of the laws of business organization, labor relations, industrial property, competition, and taxation which prevail there. With this background American lawyers should be better able to select and use the services of the European experts on whom they must, of course, depend for definitive counsel.

Better books on the European Common Market will no doubt appear very soon in this country, including particularly analytical monographs, and we hope they will be better in part because of the exploratory work done in this one. Eventually, a commercial publisher, emboldened by this and future studies developing and correcting many of the things said in these pages, may furnish the American lawyer with a current service on European trade.

We hope, too, that this book—conceived within the framework of the international and comparative legal studies at the University of Michigan Law School—may have interesting progeny in the academic world. We would like to think that it may encourage more teachers of comparative law to venture from the traditional paths of civil law into the more rapidly evolving areas of commercial law; that it may help students of American commercial law to compare American institutions with their European correlatives; and

that it will direct the attention of constitutional and international lawyers to a new kind of emergent federalism and "supranational" organization which "breaches the integrity of national legal systems."

The purposes of the book explain its content. Since the American lawyer's job will be to conceive and plan, rather than to execute details, we have sought to explain the legal and administrative structure of the European Community and the broad outline of the national legal systems, rather than to tell in detail "how to. . . ." Since our principal audience is composed of American business counsellors, we have omitted many aspects of the Community of the greatest interest to Europeans—such as agricultural and transportation policy—in favor of topics like business organization. The hard choice of priorities has also forced us to omit or deal only incidentally with many topics of great interest both to Americans and Europeans—the role of state-owned enterprises, government purchasing regulations, and price controls, for example.

Even after these and other topics had been eliminated, the breadth of the subject matter obviously called for a cooperative effort by scholars and practitioners on both sides of the Atlantic. It is inherent in a cooperative undertaking of this type that the completion of the contributions cannot be exactly synchronized in point of time. While most of the chapters were completed in the fall of 1959, some carry the story into the early months of 1960.

I wish to record here our profound gratitude for the assistance and advice we have received from a multitude of sources.

The concept of the book emerged from discussions with my friend and colleague Alfred F. Conard, whose ideas had a determining influence on the selection of the topics and organization of the book.

Financial support came from the Ford Foundation and from the Cook Research Funds of the University of Michigan Law School. Dean E. Blythe Stason, Professor Allan F. Smith, Director of Graduate Studies, and Professor William J. Pierce, Editor of Michigan Legal Publications, deserve our particular thanks for their consistent support and wise advice.

The late Tullio Ascarelli, Professor of Comparative Law at the University of Rome, a brilliant scholar and successful practitioner, helped us greatly in developing the plan for the book. His sudden death just prior to his planned teaching assignment in Ann Arbor

cast a tragic shadow upon our effort. The suggestions of Professor Jean Limpens, Director of the Centre Interuniversitaire de Droit Comparé in Brussels, were also most useful in the planning stages.

Our expression of profound appreciation goes to Professor Paul Reuter of the Paris Law Faculty who did not spare time and effort in instructing us in the intricacies of the Community and offering extensive comments on parts of the manuscript.

It is more than the usual cliché to say that this book could not have been written without the help and encouragement of Mr. Michel Gaudet, Director of the Legal Services of the European Communities. Mr. Gaudet made detailed suggestions on parts of the manuscript, answered innumerable queries, and even visited with us in Ann Arbor. We also obtained valuable counsel from Mr. Theodor Vogelaar, Director of the Legal Services of the Euratom Commission, and—in the planning stages—from Dr. Robert Krawielicki, Director of the Legal Services of the High Authority of the Coal and Steel Community. Our thanks go also to Professor Bruyas, Dr. Minunni, and Baron de Vos van Steenwijk, who commented on parts of the manuscript, and to the numerous other officials of the European Communities who assisted us. Two distinguished members of the Commission of the European Economic Community, Dr. Hans von der Groeben and Mr. Jean Rey, visited the Law School, and our undertaking was discussed with them at some length during their visits.

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of Luxembourg, Professor Ascarelli and Dr. Bruna of Rome, Professor Bernini of Ferrara, Mr. Deelen and Mrs. van Vlis of Amsterdam, Professor Heenen of Brussels, Professor Houin of Paris, and Professor Serick of Heidelberg. The respective contributions of these experts are identified in more detail at the outset of Mr. Conard's chapter.

Dr. van Hoorn, co-author with Professor Wright of the chapter on taxation, wishes to acknowledge the assistance of the staff members of the International Bureau of Fiscal Documentation, Messrs. W. H. J. Charbon, J. P. C. Huiskamp, and D. A. van Waardenburg. Dr. van Hoorn's findings concerning tax laws in the Common Market countries other than the Netherlands were verified by the following national experts who are referred to in more detail in the chapter on taxation and to whom he extends his appreciation: Dr. Giancarlo Croxatto of Genoa; Dr. Albert J. Rädler, Dipl. Kfm., of Munich; Mr. Jean H. Rothstein, H.E.C., of Paris; and Mr. Paul Sibille of Brussels.

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In the early stages of the project Professor Conard and I had extensive interviews with officials of the American diplomatic missions in Brussels, Luxembourg, Paris, London, and elsewhere in Europe, with foreign diplomats and other governmental officials, with parliamentarians, and with officials of the Organization for European Economic Cooperation and the Council of Europe, with European attorneys, businessmen, labor leaders, and scholars in European universities, and with American attorneys and executives stationed in Europe. In this country we interviewed government officials, members of the Bar, and businessmen, too numerous to mention individually. We wish to thank all of them for their generous help and attention.

Mr. Thomas L. Nicholson joined us in Ann Arbor in the summer of 1959 after a year in Europe, and did most of the editorial work on the manuscript in addition to contributing his own chapter.

It goes without saying, of course, that the positions taken and views expressed in this volume are those solely of the respective authors.

E.S.

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