BOOK REVIEWS


Annals of International Studies is the annual publication of the Alumni Association of the Graduate Institute of International Studies in Geneva (L'Institut Universitaire de Hautes Etudes Internationales). Volume 5, edited by the Study Group on East-West Relations at the Institute, is divided into three parts: Political Section, Legal Questions, and Economic Questions. Ten of the eleven authors' whose articles appear in this volume focus their attention primarily on certain economic and legal problems within the Council of Mutual Economic Assistance (COMECON) and its member states which may affect economic relations between COMECON countries and the industrialized West. Indeed, in this reviewer’s opinion and apart from the constant diplomatic contacts between the United States and the Soviet Union in the political arena, the tangible results, if any, of the current phase of détente will be visible mainly in the improvement of the economic relations between the Socialist East and the industrialized West, accompanied, perhaps, by cautious efforts to overcome fears of certain economic interdependence, despite occasional voices originating in Washington and Moscow, praising the virtues of economic self-sufficiency.

Jacques Freymond, Director of the Institute and Chairman of the Study Group on East-West Relations, wrote the only article in the Political Section, entitled “L’Europe à la Recherche de la Sécurité” (European Search for Security). Freymond did not have to be a prophet to foresee that the Conference on Security and Cooperation in Europe would conclude with yet another set of more or less insipid principles (he calls them “des principes d’une banalité inattaquable”)\(^1\) for which the Soviet Union has long exhibited an incessant appetite. Nevertheless, he believes that the Conference was useful. Apart from the obvious value of the confrontation of ideas across the negotiating table, Freymond attaches great importance to the fact that the small European nations participated on an equal footing in negotiations on the security of their continent. In the past this had been almost the exclusive domain of the superpowers. It is in that connection that he favors an institutionalization of the Conference, \textit{i.e.}, its continuation in some form in the future, and proposes a study on the creation of a two level system of collective security in Europe. The regional level would

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\(^1\) Nine are from Western Europe, one is from Bulgaria, and one is from Poland.

include small and medium size European states and mediation and arbitration procedures for settlement of their disputes. Presumably the disputes affecting world peace would involve the existing machinery of the United Nations and the superpowers on the second level. This system, according to Freymond, not only would discharge the superpowers from their responsibility to protect the small European states, but also, and one suspects that this is the raison d'être of the idea, would reduce the temptation of the superpowers to intervene in the internal affairs of the European nations. As an extension of his idea, Freymond suggests to the European nations that their individual security rests on strong conventional armies equipped with conventional arms. Nuclear weapons have not been used since World War II and, presumably, there exists sufficient deterrent against their employment. Conventional armies, then, represent the real deterrent to a potential attacker since the attacker, in Freymond's view, is presumably going to use conventional arms only.

In regard to regional collective security, one should not forget that there is strong opposition by the Socialist countries to any binding dispute settlement machinery. Also, the author of this review cannot resist remembering the Treaties of Locarno; hopefully the current situation in Europe and elsewhere makes such a comparison inapposite.

The second part of the Annals begins with Rudolf Bystricky's theoretical study on the relatively new forms of economic and industrial cooperation between Socialist and Western corporations in the context of intergovernmental cooperation and in view of the basic principles of Socialist law. The study is entitled "La Coopération économique et industrielle entre l'Est et l'Ouest et les lois générales dites l'édification socialiste" (Economic and Industrial Cooperation between East and West and General Principles of the Socialist Law). Various forms of more or less long-term cooperation between enterprises from COMECON countries and Western companies going beyond the simple contract for sale etc. date back to the 1960's, and more recently they seem to be specifically promoted by legislation of some COMECON countries. While all of these forms of cooperation could be described as joint ventures in the broad sense of that term, they range from agreements on scientific and technical cooperation to production sharing agreements and establishment of mixed companies incorporated in the Socialist countries with Western participation not exceeding 50 percent of the capital. All of these agreements, especially those creating the mixed

3 The Pact of Locarno was signed October 16, 1925 by Germany, Belgium, Britain, France, Italy, Poland and Czechoslovakia. Its stated purpose was to establish a means, through a series of five treaties, for preserving their respective nations from war and for providing for peaceful settlement of disputes. Each party did not sign each treaty, but they were all viewed as a single plan. 54 L.N.T.S. 289 et seq. (1926).


5 Bystricky calls them agreements of economic cooperation, industrial cooperation being
companies," are subject to the approval of the Socialist government in question. The activities of the parties, as Mr. Bystricky specifically emphasizes, are subject to the detailed economic plan of the Socialist country in question, and consequently are subject to the administrative power of a rather inept bureaucracy. Since the foregoing indicates to a certain extent that the COMECON countries are not ready to allow their enterprises to become part of the economic and sociological framework of multinational corporations of the Western type, and since it is hard to imagine that the board of directors of a Western corporation would be enthusiastic about the Socialist type of administrative controls, at least two questions of considerable importance can be raised. The first relates to the purpose of the agreements on economic cooperation, and the second relates to their future. Mr. Bystricky believes that the purpose of the agreements, and one must assume such to be the purpose of the governments of COMECON countries in promoting the "East-West economic cooperation," is "to create common economic interest for a long time, to reduce financial transactions to a minimum, to increase mutual exchange [of goods, technology, etc.] to a maximum and to coordinate activities of [the parties, including possibly states which concluded "East-West" bilateral agreements]."

Reduction of financial transactions to a minimum is not only a current goal of the COMECON countries, but a real necessity, prompted by the lack of convertible currency. The effort to increase imports, principally the imports of technology (or obtain "know-how," machinery, etc. from the Western partner in the mixed company), is the other side of the same goal. But the rest of the definition is fascinating. Creation of the common long-term economic interest and coordination of activities of the Eastern and Western partners would either signify the willingness of the COMECON countries to destroy their own economic structure (administratively planned economy) in favor of the rules of the free market and to overcome fears of the economic dependence on the West (the fear which Mr. Bystricky very much emphasizes), or it would mean that the statement of this goal is devoid of any specific contents which would allow its implementation (as so many "Socialist goals" are) and that there is no current desire to achieve this goal. Mr. Bystricky's treatment of this problem is interesting and to a certain extent novel. His starting point is the discussion of the basic tenet of Marxist philosophy on the Socialist society—nationalization of the means of production. Referring to Lenin's idea that nationalization of the means of production is but the first step to rationalization of the economy and achievement of superior productivity

but a form of economic cooperation.

1 Socialist companies are established by an administrative act. The mixed company is created by an agreement between the Western and Socialist partners and incorporated after the approval of the agreement by the Socialist government in question.

2 ANNALS, supra note 4, at 32-33. [Ed. Note] Quoted material was translated from French by the reviewer.
and methods of distribution, Mr. Bystricky concluded that, due to the well-known ills of the Communist system in COMECON countries, the efficiency of the economy in general, and productivity and methods of distribution in particular, is inferior to that of the industrialized West. On the one hand he does not believe in the economic collapse of the COMECON countries; on the other he seems to be of the opinion that rationalization, intensification of the economy and all in all greater efficiency are not only indispensable conditions of any development of the Socialist economy, but also are inherent, objective features of the "true" Marxist economy as such. Since the COMECON countries cannot themselves provide the technology necessary to increase productivity etc., they had to turn to the West, as they in fact did; and in so doing they reversed their policies and proclaimed principles of the 1950's. The rapid development of technology—technological revolution as Mr. Bystricky puts it—will accelerate the process of penetration of Western technology, management methods, etc. into the COMECON countries. That in turn should contribute to "rationalization" of the Socialist society (neither are computers influenced by ideology nor can they be "sent to prison"). What is there in this scheme for the West? For now, raw materials and, one might add, cheap but skilled labor which supplies the profit motive. But Mr. Bystricky believes that the question is not well put. He believes that economic cooperation is also a geographic, political and economic necessity on the part of the West. One might think of the increasing need for optimal utilization of resources, of internationalization of economy and perhaps, in the future, of similar utilization of technology, management techniques, etc. That seems to be Mr. Bystricky's view on the "convergence" of the two economic and political systems.

As for the immediate future, however, Mr. Bystricky is not so optimistic. After extensive treatment of basic political principles and legal rules governing Socialist economic planning and administration of the economy, he concludes that the process of change will be rather slow. He cautions against overestimation of the effect of the new laws in some COMECON countries which seem to facilitate considerably East-West cooperation, and points out that even in Romania and Hungary, which seem to have gone further than other COMECON countries in promoting East-West economic cooperation, the regime of the enterprises engaged in foreign trade is extremely tight under the current economic plan. It should be added that Mr. Bystricky deals also with the question of whether the current property law in the COMECON countries creates any obstacle to the establishment and operation of the mixed companies. Although he concludes that the constitutional principle of exclusive state ownership of the means of production does not pose any major problem for the Western partner in the mixed company, his view, that some possible problems for

* Id. at 44.
the Western partner who supplies machinery, other equipment, etc. as capital contribution are easily avoidable through the leasing contract, is of practical significance.

Mr. Bystricky has been living in Geneva since 1969 and is a Professor of International Law of the Graduate Institute of International Studies. He is a former Czechoslovak Ambassador to the Court of St. James and former Professor of Public and Private International Law at Charles University in Prague. As a former participant in a number of economic negotiations, he is closely familiar with the thinking of policy-makers as well as economists in the COMECON countries, and this author believes some of his conclusions take into account the current thinking of economic reformers in these countries.

Professor Bystricky's study is followed by an article by Jean-Paul Maire on the problems of juridical classification of the agreement on economic and industrial cooperation and determination of the law applicable to such a contract in the absence of the choice of law of the parties. Maire basically suggests that these agreements are sui generis and do not fit any type of denominated contract in civil codes. The conflicts problem is intriguing; Maire, however, does not go beyond its analysis.

The legal part of the Annals continues with an article by Joseph Voyame and Ursula Nordmann-Zimmermann on the regime of industrial property in the European Socialist countries; the article is followed by a useful bibliography and a list of principal statutory materials. It is concluded with an article by Marie Edith Deschamps on arbitration in the COMECON countries, which is in turn followed by the text of the 1972 Arbitration Convention between the COMECON countries. Both articles provide the reader with useful information on the subjects discussed.

The first article in the economic part was written by a Polish Professor, Zbigniew Kamecki. His discussion of the subject, a survey of mutual economic cooperation among the COMECON countries, does not go beyond generalities.

Latchezar Petrov, Bulgarian doctoral candidate at the Institute, provides the reader with useful information on the structure and operations of COMECON's International Bank for Economic Cooperation. He concludes that the efforts to achieve multilateralization of payments within COMECON failed and that the member states, at least for now, maintain the bilateral clearing system with frozen balances.

Harriet Matejka, lecturer in international economics at the Institute, wrote an article entitled "Convertibility in East Europe." The starting point of her interesting study is the conclusion that the COMECON countries have reached the stage where they regard foreign trade as "a means of raising real income, or the material product, through international specialization and the import of new technology" as opposed to foreign trade

\* Id. at 178.
as a means for overcoming shortages. This change in the policy of the COMECON countries, coupled with what Matejka sees as current structural changes in Socialist economies (increasing freedom of enterprises under the economic plan), leads her to an examination of economic factors favoring multilateralization of trade, payments, and convertibility. She concludes that the COMECON countries will achieve convertibility, but not before the last decade of this century. Her belief that these countries will achieve convertibility of their individual currencies, rather than through the "transferable ruble," is controversial. The future, in this respect, will probably depend on the political situation in Eastern Europe and on the degree of economic integration within COMECON.

Norman Scott, Director of the Trade and Technology Division of the United Nations Economic Commission for Europe and Professor at the Institute, examines the effects of inflation on East-West exchanges. He provides the reader with some interesting statistics and some thoughts on possible changes in trade patterns due to inflation in the West. Since the monetary situation within the COMECON countries has been relatively stable due to arbitrary setting of artificial prices, Scott believes that the Soviet price policy for the planning period beginning in 1976 "could have a decisive influence on the pace and scope of [COMECON] integration." He also refers to some interesting directions concerning contractual policies of Socialist foreign trade enterprises brought about by soaring prices and monetary imbalance in the West: contracting for shorter periods, quoting stronger currencies (e.g., U.S. dollar, West German mark) in export contracts and arranging for settlement in weaker currencies (e.g., pound of sterling) in import contracts.

The Annals conclude with Oleg Betcher's interesting statistics on balance of payments between Western and Eastern Europe from 1960 to 1970 and some conclusions reached on the basis of the statistical materials. Betcher is an economic consultant to the United Nations Economic Commission for Europe.

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