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A Practical Brief and Bluleprint for Productive Investment and Trade Abroad

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BOOK REVIEW

A Practical Brief and Blueprint for Productive Investment and Trade Abroad: THE COMMON MARKET AND COMMON LAW. JOHN TEMPLE LANG. University of Chicago Press, 1966. 500 pp.

The Common Market and Common Law is a practical, compact and well-documented operating manual on certain legal aspects of productive investment and trade among sovereign nations, particularly those that are or hope to be members of the European Economic Community.¹ The author, John Temple Lang, is a former practicing lawyer and diplomat who now deals with matters of taxation and international trade as a member of the Irish Department of Finance.²

Mr. Lang begins his work with a review of the Rome Treaty,³ the Common Market institutions established under it, and relevant features of Irish law and economic conditions. He then turns to a discussion of his two principal themes: The problems and advantages of foreign productive investment in Ireland both before and after its prospective entry into the Common Market, and the potential effects upon foreign investors of legal changes required for Ireland's Market membership.

This is a pioneer of its type. It is a brief yet comprehensive practical study, within the scope of the two themes mentioned above, of such key problems as attracting foreign productive capital; Rome Treaty provisions pertinent to foreign investment; Treaty provisions with which Common Market countries must "harmonize" their domestic law; the effect of certain treaty requirements, such as those dealing with non-

1. The European Economic Community is popularly known as the "Common Market." The prefix "European" will probably be required, however, before too many years have passed. After years of frustration, search for national identity, unjustifiable aggression by stronger powers, and incompetent leadership, the nations of Latin America are making constructive efforts to form an economic union of their own. The recent conference at Punta del Este, Uruguay, dramatically symbolized the increasing will of these countries to resolve their differences and, with the aid but not domination of the United States, join together in a politico-economic group that may one day be called the "Latin-American Common Market."

2. The author studied at Trinity College, Dublin. Following practice of law in his native country, diplomatic service abroad, and a brief teaching experience at the University of Chicago Law School, he spent the next three years in writing this book under a grant from the American Bar Foundation.

3. The Rome Treaty, signed by the original Common Market nations in 1957, provides for the establishment of the European Economic Community.

discrimination among member countries, upon foreign investors seeking to do business within the Common Market, and the effect of these requirements upon the tax and other special benefits presently enjoyed by foreign investors in Ireland. Mr. Lang also deals with Treaty anti-trust requirements, probably as a warning to potential Market investors not presently subject to such restrictions, and as an inducement to United States investors to exchange the strict antitrust requirements of this country for the much more liberal ones of the Treaty.

Mr. Lang's aims in writing this book were three: *First*, to show foreign investors the present methods and advantages of doing business in Ireland; *second*, to exhort the Irish Government to make the legal changes needed to qualify their small, capital-hungry nation for Common Market membership, and tell them what changes are needed, and *third*, to discuss the incidents of Market membership, and their possible effect upon foreign investors in Common Market countries.

Several ideas strongly emerge while reading Mr. Lang's book. Chief among these are three: *First*, the need to weigh many pros and cons, including the solid advantages of dealing on one's home ground, before deciding to invest abroad; *second*, the potential complexity involved in complying with the Rome Treaty requirement that Common Market members harmonize their laws with Treaty provisions, and *finally*, and most important, the advanced concept behind the Market itself—surrender by European states of certain cherished sovereign powers to a central authority in their mutual enlightened self-interest.

The Common Market and Common Law is a useful and an ably executed book. It has, however, a number of weaknesses that derive primarily from its overambitiousness of substantive coverage and its somewhat excessive concentration upon Irish affairs. To start with, its title is catchy but misleading. It promises treatment of relations between the Common Market and common-law countries *as such*, while the book itself deals principally with problems of a particular nation—Ireland—vis à vis the Common Market, and has nothing to do with that nation's status as a common law country. Next, the non-Irish reader is unlikely to be interested in the numerous references to such matters as the Shannon Airport tax situation, Irish double-taxation treaties, or the handicaps imposed upon Ireland by her historic relationship with the United Kingdom. Disappointing to the United States reader in particular is the author's virtual absence of concern with United States law and condi-

tions, although that country shares the common law with Ireland and is much interested in the Common Market.⁴

One is also a trifle unhappy with Mr. Lang's dryness and lack of emphasis in an area-expansion and reshaping of international economic affairs—where some color and emphasis seem permissible even for lawyers. Repetitiousness, nondocumentation of the numerous thumbnail conclusions that are distributed throughout the book, and failure to supply unifying conclusions must also be included in the list of shortcomings.

All books have their weak points, however, and those mentioned above do not prevent Mr. Lang's contribution to learning on international trade and investment from being a valuable one.⁵ His book is carefully written, timely and thought-provoking. It is short, but is full of well-organized and accessible information. Its language is terse and readily understandable by the educated layman, even where it treats such technical matters as taxation. The excellent footnotes greatly expand the usefulness of the text, and the extensive bibliography of recent materials on the Common Market and related matters is alone worth the price of the book. Furthermore, the author's entry into his subject matter by using the problems and characteristics of a single country for illustration is an ingenious technique that could well be used by other authors in this field. Mr. Lang is obviously able, industrious and imaginative, and one hopes he will soon find time to write a more comprehensive work in this area.

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4. For example, the reviewer would have been most interested in the author's analysis of the position of an American investor under the combined onus of United States and Rome Treaty antitrust provisions. He was both amused and disappointed at the author's cavalier dismissal of the former as a mere "Draconian, quasi-criminal code." p. 380. However, a very recent discussion of international antitrust law appears, in symposium form, in the February, March and April, 1967, issues of *The Practical Lawyer*.

5. Recent reviews in the Irish Press, March 9, 1967, and *The Investors' Chronicle*, March 31, 1967, are virtually unqualified in their praise of *The Common Market and Common Law*.