France tones down cries of 'economic patriotism'

By Katrin Bennhold

PARIS: When Prime Minister Dominique de Villepin spoke of "economic patriotism" last summer and promised to draw up a list of industries that would be protected from foreign takeovers, he met with cheers from labor unions and concern from foreign investors.

Five months later, economic patriotism is still a popular national rallying cry, but its reality is more tame.

The government quietly published a decree on New Year's Eve, listing 11 French sectors that it can protect from foreign takeovers on grounds of national security. The list ranges from antiterrorist biotechnology research to casinos.

As the debate over France's social model versus the so-called Anglo-Saxon model of economic management continues, however, the differences in rhetoric sometimes appear to be more striking than realities, analysts say.

Except for Austria, Belgium and the Netherlands all of the EU's member states reserve some right to intervene in the area of defense. In countries like the United States, industries like the defense and oil sectors are also considered strategic and are closely but unofficially monitored when a foreign company seeks a takeover bid.

For that reason, France's decision to specify strategic sectors has not raised alarm bells among investors.

"The new French rule does not strike us as exceptional, compared to the rest of the European Union, and much less restrictive compared to the United States," said Jean-Paul Mingasson, an expert on competition issues for Unice, a Brussels-based business lobby representing 35 European employer federations and 20 million companies.

In Germany, the government can veto all foreign stakes of 25 percent or more in companies working in defense or cryptology. Spain protects defense interests and also its television and radio companies. In the United States, the president can veto any deal that is perceived to threaten national security, without defining the term.

In France, the list of protected industries is more specific and therefore less prone to discretionary application by the government, Mingasson said. It includes companies providing private security in sensitive installations; information technology security; research and production of chemical and biological agents that can be used in terrorist attacks and their vaccines; bugging devices; dual-use technologies for military and civilian purposes; and casinos, which the government fears could be used to launder money. For non-EU investors it adds encryption technology, secret defense contracts and weapons development research.

Contrary to initial fears that the government would extend protection to a broader array of civilian sectors, most companies that will be affected by the decree, like the defense-electronics maker Thales or Dassault Systèmes, are already sheltered. Telecommunications and biotechnology companies will be affected only if they are involved in activities in one of the protected sectors.

French fears of foreign takeovers and related concerns about jobs migrating abroad are nothing new. But they have gained as unemployment remains stuck near 10 percent. Protectionist slogans helped far-left and far-right parties topple the European constitution in a referendum last May in France. A few weeks later, rumors about a takeover of French dairy giant Danone by PepsiCo of the United States met with widespread outrage.

According to Winston Maxwell, a Paris-based partner of Hogan & Hartson, an American law firm, the French government is raising a political voice to meet public demands that French companies remain in French hands. But the government's actions have proved to be much less strident, he said.

"The announcements were made for temporary political reasons last summer," said Maxwell, many of whose clients are defense companies. "At the time, one could have feared that France was going to adopt a U.S.-style approach that was much more vague."

He said the decree was "good news" for investors from outside the EU, including American companies, which might have had more trouble taking over French companies in the absence of a clearly defined list of protected sectors.

At the French Ministry of Finance, officials did not deny that domestic communication about industrial policy was a touchy issue in a country with a tradition of militant labor unions and state intervention.

"There is a difference in what you can say to the French and to foreign investors and vice versa," one official said. "But we can't live in a bubble. We have to adapt to globalization."

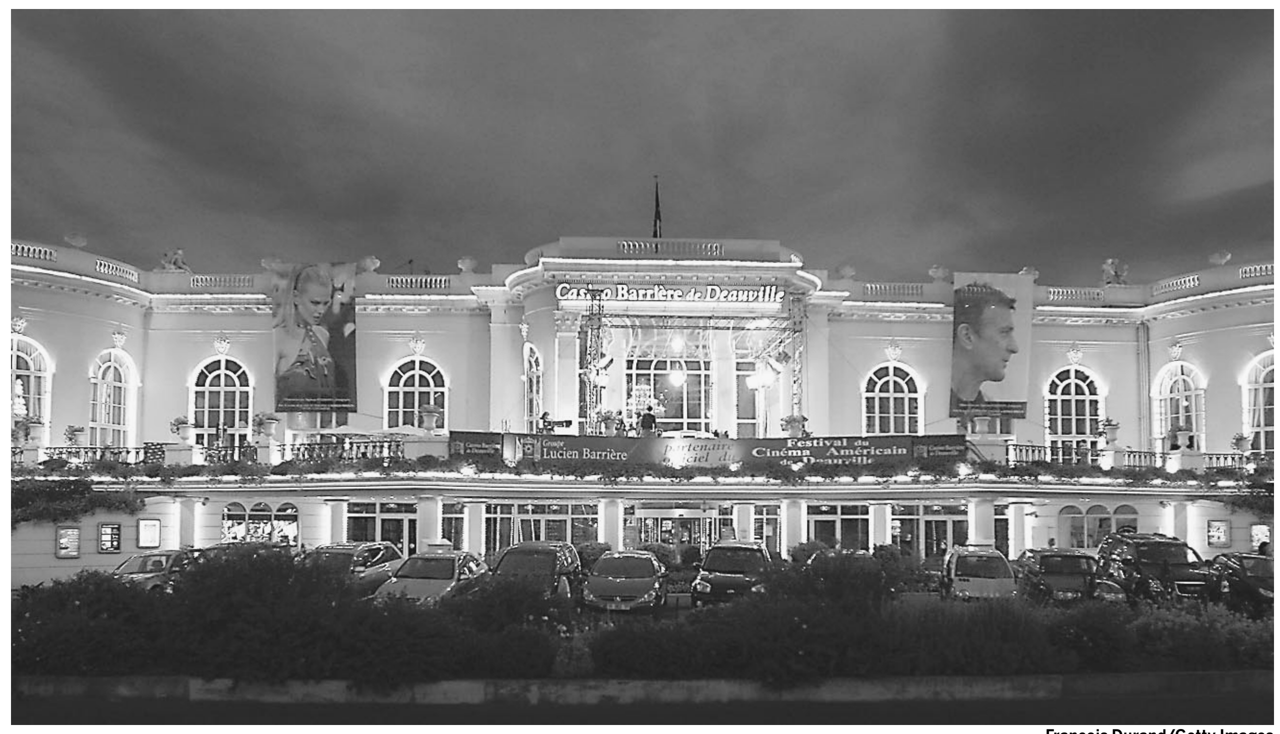
"You will have seen that yogurt does not feature on our list," he said in reference to Danone.

Despite a positive reception by companies, the decree still needs the green light from the European Commission.

While officials at the French finance ministry said they were confident of that approval, a commission representative reserved the right to take a close look.

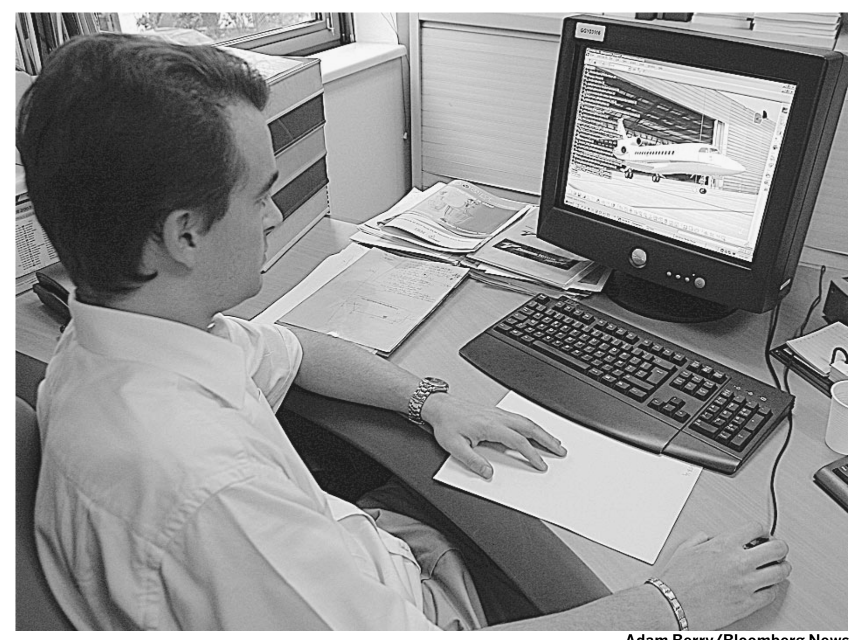
"We have not given the green light yet," the representative, Maria Assimakopoulou, said. "We are examining the decree and will give an opinion relatively soon."

International Herald Tribune



François Durand/Getty Images

The casino in the Normandy resort of Deauville, above, and a software specialist at Dassault Systèmes outside Paris.



Adam Berry/Bloomberg News

Norway shuns ties to weapons

Pension fund drops suspected companies

By Daniel Altman

The advisory council on ethics for Norway's government pension fund, one of Europe's largest, said Thursday it has sold its investment in seven companies based on their presumed involvement in producing nuclear weapons.

The seven companies are BAE Systems, Boeing, Finmeccanica, Honeywell International, Northrop Grumman, United Technologies and Safran. Only Northrup Grumman responded to a request for information by Norway's central bank, which administers the fund, but several companies were implicated in weapons production by their own press releases and publicity. The Ministry of Finance reported that the total investment being shifted was 3.3 billion kroner, or about $492 million. The fund as a whole, which stores revenue from the country's vast oil sales, was worth more than $200 billion in December.

The fund's ethics council also considered whether to exclude investments in Total, after allegations by nongovernmental organizations that the French oil company, one of Europe's largest, had "complicity" in human rights violations in Burma during the construction of a pipeline in the mid 1990s. The fund said Total probably had been aware of unethical events, but not enough to recommend termination of investment.

It was the second time this week that a government agency recommended a reallocation of investments on ethical grounds. On Tuesday, Ireland's National Pensions Reserve Fund, which is worth roughly €15 billion, or $17.8 billion, announced it would review its holdings.

"I do have a feeling we are trailblazers," said Gro Nystuen, chairwoman of the Norwegian council. She said the council's research, which carefully examines companies' public documents, could be used by other funds to make similar decisions. "And clearly," she added, "the fact that the fund is so big makes the signal effect of what we do so much stronger."

Since the council's creation in November 2004, it has recommended the exclusion of one producer of land mines, seven companies involved in making cluster bombs and similar arms and one business that it judged to be supporting Moroccan claims to Western Sahara, a disputed territory.

The council comprises a professor of philosophy, a product safety manager with training in ecology and toxicology, a law professor focused on energy and international economic law, an experienced corporate finance executive and Nystuen, who is a foreign service officer with expertise in humanitarian law.

Ethics are increasingly being considered in the investment decisions of pension funds and similar entities. Sweden's individual accounts system offers its citizens several ethical options among hundreds of retirement funds.

In theory, putting some companies off limits for investment might constrain returns. But Rob Bauer, a professor of finance at the University of Maastricht, said that was unlikely in this case. "If you exclude a very small industry, which I guess the nuclear industry is, then it really doesn't make too much difference," he said.

International Herald Tribune

Ivar Ekman contributed reporting for this article from Norway.

Verizon Wireless to offer phone that can download music

Biggest challenge is convincing consumers of its necessity

By Matt Richtel

The U.S. mobile operator Verizon Wireless announced Thursday that it would begin selling phones that let people download songs over the airwaves, a development that further expands the capability of mobile devices and sets up a potential collision with the makers of portable music players.

More immediately, Verizon's move creates competition for Sprint, which in October introduced a phone that allows consumers to download songs for $2.50. Verizon's service will charge $1.99 and includes software to let people download songs from their personal computers for 99 cents, the same price charged by Internet music stories like the one run by Apple Computer.

Music players like Apple's iPod have relatively big memories that allow consumers to store thousands of songs and that dwarf the storage capacity of phones. But Verizon's basic offering, permitting consumers to store 250 songs, is expandable and its makers assert that falling costs of memory will let them quickly ratchet up the gadget's capacities.

The biggest hurdle for Verizon and its peers around the world — providers of third-generation mobile services in many countries in Europe and Asia plan or currently offer music downloads — is not one of technology but perception. Verizon, to try to convince consumers that the phone is a worthy music device, and even a substitute for an iPod, plans an all-out marketing campaign in the coming months.

Technology

"On the one device that 200 million Americans won't leave home without you can have your music player," the company's chief executive, Denny Strigl, said at the Consumer Electronics Show in Las Vegas. "We're not after the narrow music-player market — what we have created is a whole new world of content distribution."

John Stratton, Verizon's chief marketing officer, said the new development puts the phone squarely in the category of a multimedia device that lets people download songs over phone and PC and also share them between the devices.

"This is a real marriage of the PC and the mobile device," Stratton said.

Verizon and its peers in developed countries are trying to figure out where their next generation of growth will come from, given that most potential customers already have basic mobile phone service.

The carriers "are scrambling for a story that makes sense to investors on how they'll grow revenue and earnings," said Ed Snyder, a telecommunications industry analyst with Charter Research.

Snyder said he did not doubt that technology makes it possible to turn a phone into a capable music device. In fact, he said it is less difficult and expensive than adding a camera to phones, as the major carriers have already done.

But he said that did not mean consumers would begin using such a device to download songs over the airwaves. Rather, he expects consumers to transfer their existing collection onto phones, or other portable music players, or to download songs for free over the Internet.

The result, he said, is that phone carries may put out cheap MP3 devices that become a threat to makers of portable music players, like Apple, but do not wind up developing a meaningful stream of revenue charging $1.99 for downloading songs over the air.

This development means "Apple gets hurt and the carriers don't get helped," Snyder said.

For its part, Sprint declined to say how many songs consumers have downloaded over the air using its service. The Sprint library has 300,000 songs available; Verizon said it would have one million songs available within a couple of weeks and that the number should grow soon.

The cost for consumers does not just include that of the phone and the individual songs. They must also pay for the network time they spend downloading data — a cost paid either on a piecemeal basis or through the purchase of monthly download plans.

Another challenge for makers of portable phones that the gadgets are becoming so complicated that the many ancillary uses soak up processing power and battery life from traditional telephone use.

Stratton conceded that the battery-life issue is a "good question" but he said the company was selling new phones that have ample power even when doubling as music players.

Initially, the company will sell three music-capable phones, the least expensive being $99 for consumers who sign up for a two-year service contract. The phones come with nominal memory and an expansion slot to add additional capacity, with a 1-gigabyte memory card costing $100 (and holding 250 songs).

Stratton said that some existing Verizon phones could be upgraded to make them music-download capable.

For $299, consumers can get an iPod with 30 gigabytes, holding tens of thousands of songs. Stratton said that memory for phones would grow quickly and that, aside from the memory difference, a phone should be able to compete head-to-head with portable music devices.

"When you leave your house in the morning what do you take with you? Your keys, wallet and phone," he said. "To the degree that we can deliver a great music experience, we take away the necessity to carry" a portable music player.

Roger Entner, an analyst with Ovum, a market research firm, said a key challenge for the companies would be creating a user-friendly program used to store songs, navigate the menu and play music. While other companies have sought to emulate Apple, none have done so successfully, he said.

Whether or not the phones appeal to consumers "comes down to usability," Entner said.

"We're in the early days of the mobile music world," Entner said. "With MP3 players, they played around with it for two to three years before Apple finally got it right."

The New York Times

INSIDE

SEC reaches an agreement on guidelines for financial penalties

By Floyd Norris

NEW YORK: The U.S. Securities and Exchange Commission, trying to put several years of angry battles behind it, has agreed on principles governing when it will impose financial penalties on companies and when it will refrain from doing so.

Regulation

The commission said in an announcement Wednesday that it would seek such penalties when a company profited from a violation and when punishment was needed to deter violations by other companies. But it said it would try to avoid hurting shareholders.

At the same time, the commission announced a $50 million penalty against McAfee. It said that the software company's fraudulent accounting had enabled it to make acquisitions using overpriced shares and that it was strong enough to survive the large payment. The commission said the $50 million would be distributed to injured shareholders.

But in a case involving a smaller software company, Applix, the commission said that the company had not benefited as much from an accounting fraud and that shareholders would be harmed by any penalty.

Both companies settled the cases, and former executives from both still face commission action. In the McAfee case, criminal charges have been filed.

"This is intended to be a strong and clear statement from a unanimous commission," Christopher Cox, the commission chairman, said in an interview. "Penalties on corporations are an important part of our enforcement program. They enable the commission to achieve deterrence, and we believe it is essential to our mission of investor protection."

Manuel Balce Ceneta/The Associated Press

Christopher Cox, SEC chairman, with Linda Thomsen, director of enforcement, explaining the commission's guidelines for financial penalties in Washington.

He added at a news conference, "We will be united in our understanding of what the principles are" when discussing future cases.

Under William Donaldson, Cox's predecessor, the other two Republican commissioners sometimes dissented in enforcement cases, arguing that large penalties merely hurt shareholders and were inappropriate. Their dissent led to the approval of penalties on 3-to-2 votes, with Donaldson, a Republican, prevailing only because he had the support of the two Democratic members.

The most vigorous dissident has been Paul Atkins, a Republican commissioner who clearly had hoped the commission would radically change course after Cox became chairman.

In an interview Wednesday, Atkins praised Cox but said the agreement did not indicate that he thought any of his previous dissents had been wrong.

"I think we have a new era of consensus building and different attitudes," he said. "It is less politicized, and we are getting to work."

Cox said in the interview that the unanimous agreement had followed about 40 hours of meetings, during which the commissioners and two senior staff members — Giovanni Prezioso, the outgoing general counsel, and Linda Thomsen, the director of enforcement — had extensively reviewed the legislative history of the laws that gave the SEC the right to impose financial penalties.

Told that many of the principles enunciated seemed difficult to dispute, Cox replied, "You should have been in our discussions." Because the principles are general, and some cases will include aspects that argue for financial penalties and others that argue against them, disagreements are still possible.

"We have reconciled the varying perspectives," Cox said, adding, "I don't believe any commissioner fundamentally changed his or her views."

The commission has historically been run by the chairman, to whom the senior staff reports, and commissioners have sometimes chafed at having little input beyond their votes. Cox appears to have made an effort to make the four other commissioners feel more involved, in hopes of reducing the level of public bickering and criticism.

In determining whether to seek monetary penalties against companies, as opposed to the executives who planned the frauds, the commission said two considerations would be most important: "the presence or absence of a direct benefit to the corporation as a result of the violation" and "the degree to which the penalty will recompense or further harm the injured shareholders."

But it added that deterrence was also important and that in crimes that were difficult to detect, severe penalties could be needed to deter similar violations.

It also said it would consider how widespread complicity in the fraud had been within the company.

"The imposition of a corporate penalty is most appropriate in egregious circumstances, where the culpability and fraudulent intent of the perpetrators are manifest," it said.

Finally, the commission said companies that aided its inquiries and quickly took remedial steps would be more likely to escape financial penalties.

In the McAfee case, the commission contended that the company, from 1998 to 2000, overstated its revenue and profit by hundreds of millions of dollars, largely through channel-stuffing, in which distributors were persuaded to order products they did not need or want.

The company, without admitting or denying the allegations, accepted a court injunction barring it from future violations of securities laws. Its former chief financial officer, Prabhat Goyal, and its former controller, Terry Davis, are awaiting trial on criminal charges.

Applix accepted a lesser punishment, a cease-and-desist order from the commission that required it to hire an independent consultant to oversee its financial policies. The commission said the company's board had acted quickly when it learned of improper accounting in 2002.

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