THE „A.K.U." PROSPECTUS

Overgenomen uit de rubriek: Accounting and Auditing Problems. Edited by Carman C. Blough, C.P.A.

John H. Myers of Northwestern University has sent us some very interesting comments regarding the audit certificates contained in the prospectus of a Netherlands corporation with respect to an offering of its shares in the United States. Mr. Myers' comments are as follows:

„The recent prospectus of Algemene Kunstzijde Unie N.V. („A.K.U.") offers an interesting assortment of auditors' certificates.

„A.K.U." is a Netherlands corporation some of whose shares are being offered (through depository arrangements) to investors in the United States. This offering brought it under the jurisdiction of the Securities and Exchange Commission and hence the prospectus was required. Audit certificates for the parent and for subsidiaries appear from auditors in four different countries. Arthur Young and Company certified for the United States subsidiary with a standard form certificate. Auditors in the other countries apparently have (for this occasion at least) attempted to follow our standard form but have had to depart from it.

„From England the auditors use our standard scope and opinion paragraphs but, in the scope paragraph, after having said „in accordance with generally accepted auditing standards" they add:

„We did not make any independent physical verification of the inventory quantities, nor did we communicate with debtors asking for confirmation of the open balances shown in the books. Neither of these procedures is mandatory or customary in present day practice of independent accountants in Great Britain. We did, however, satisfy ourselves as to the substantial accuracy of the inventories and accounts receivable by other procedures which we considered adequate".

They did not say they followed „generally accepted auditing standards e x c e p t..." as should have been done by a firm in this country. Instead they explain wherein their standards differ from ours.

„The certificate from the auditors in Düsseldorf, Germany, followed exactly the same wording in the scope paragraph (with necessary exceptions for name of client and country of operations) as did the British accountants.

The German accountants' opinion paragraph, however, ends with the following clause:

„. . . . in conformity with German law (referred to in Notes A and G to the summarized balance sheets and in Note 5 to the summaries of earnings) and with generally accepted accounting principles applied on a consistent basis during the period!

If German law and generally accepted accounting principles are the same, this raises several interesting questions. Are the principles acceptable because the legislature said its rules constituted acceptable principles? Or, are the German accountants so strong that their professional association was influential enough to get acceptable accounting principles incorporated into law? If this is so, what provisions are there to permit an evolution to better principles?

„The acountants in the Netherlands wrote our standard scope paragraph without any explanation of how their procedures differed from

ours. Therefore, in light of the previously cited explanations, we can presume their methods are comparable to ours as to confirmation of receivables and observation of inventories. However, their opinion paragraph ends with an unusual twist:

,. . . in conformity with generally acceptable accounting principles in the Netherlands applied on a consistent basis during the period'. (Note: acceptable instead of accepted).

„This raises two questions. Are there several sets of ‚acceptable" principles no one of which is yet ‚accepted'?

Do acceptable principles vary from country to country? There is a great deal of explanation in footnotes and in the statements about how the Netherlands principles differ from ours. One of the most important is that the income statements include depreciation based on replacement cost.

Another is that:

‚Inventories are stated at standard costs which have been determined on the basis of estimated current replacement or reproduction costs (including general and administrative expenses, and depreciation based on estimated replacement value.)'

With these major variations from current practice in the United States, the SEC permitted this prospectus to be issued. Is this tacit approval of these ‚acceptable accounting principles in the Netherlands'?

„This prospectus is of particular interest to us accountants in the United States for the two major points apparent in these audit certificates. The Securities and Exchange Commission has permitted filing when the auditors had neither confirmed receivables nor observed inventories of important subsidiaries. Apparently the Commission is satisfied that the audit by the Netherlands accountants did include these procedures.

Accounting principles substantially different from those to which we are accustomed have been permitted. The adequacy of the disclosure of the difference in principles was undoubtedly an important factor in permitting the prospectus to be issued on this basis.

Nevertheless the Commission has permitted a material variation from our generally accepted principles. Is this to be interpreted as a recognition that cost-basis statements are less than adequate and a new era of current-value recognition is upon us?"

Our Opinion

Mr. Myers' comments, and the questions he raises, seem to us to be very pertinent and we think point up weakness in the SEC's decision in this case. We believe it is clear that the Commission has permitted the company to follow accounting procedures (particularly accounting for fixed assets on a replacement cost basis) that would not be acceptable to it in a report filed by an American company. Similarly, it has permitted foreign accountants to omit procedures that, if omitted by American accountants, would almost surely subject them to severe criticism.

We do not know the basis upon which the Commission concluded that it should allow the registration to become effective.

However, we are inclined to believe that it may have been strongly influenced by the belief that every effort should be made to facilitate American investment abroad. Without in any way attempting to advocate either the pros or cons of the policy of facilitating such invest-

ments, we do question the propriety of accepting such deviations from American practice as Mr. Myers has outlined. In the first place, it seems to us that the practices as followed by the corporation and by its foreign accountants could easily be misleading since they clearly violate those „ground rules" which, it seems to us, American investors have the right to assume have been followed in preparing the financial statements and in auditing them. Furthermore, although it is fairly easy to bring action against an American auditor if events show that he has not done a proper job, it would be almost impossible for an investor, if he believed he had been injured by relying upon the report of foreign accountants, to secure redress. Accordingly, as a minimum, it seems to us that, in the case of foreign securities being offered for sale in the United States, the SEC should require the company to prepare its statements in accordance with accounting principles generally accepted in the United States, and that it should require the audits of those financial statements to be performed by United States accounting firms in accordance with auditing standards generally accepted here.

DE ACCOUNTANTSCONTRÔLE IN BELGIË WETTELIJK VERPLICHT GESTELD. DE COMMISSARIS-REVISOR

door Drs L. J. M. Roozen

In het Maart-nummer van dit tijdschrift leverden wij een critische beschouwing over de „Wet van 22 Juli 1953 houdende oprichting van een Instituut der Bedrijfsrevisoren (Institut des Reviseurs d'entreprises)", waarbij het accountantsberoep in Begië wettelijk is geregeld.

Wij lieten uitkomen, dat één der voornaamste doelstellingen van de wetgever is geweest, het beschikken over een corps van onafhankelijke deskundigen „als voorafgaande voorwaarde voor iedere hervorming van de Wet op de Handelsvennootschappen, in de betekenis van een doelmatiger bescherming van de spaarders" (aldus de Memorie van Toelichting bij een der ontwerpen).

Aan het slot van onze beschouwing maakten wij reeds melding van zulk een hervorming, nl. door de „Wet van 1 December 1953 houdende wijziging van de Samengeordende Wetten op de handelsvennootschappen". [1]) Het Februari-nummer van het tijdschrift „La vie au bureau" geeft nadere bijzonderheden over deze wetswijziging; daarop is de navolgende beschouwing geïnspireerd.

De Wet van 1 December 1953 regelt een materie van tweeërlei aard, nl:

a. De functie van de commissaris, welke vrij ingrijpend is gewijzigd.

b. De introductie van de openbaar accountant, vertrouwensman ten behoeve van het publiek.

De wetgever heeft echter tussen beide materies een sterk verband gelegd, doordat:

[1]) De inwerkingtreding van deze wet is uitgesteld, voornamelijk in afwachting van de toelating van een voldoende aantal leden bij het Instituut der Bedrijfsrevisoren.