Common Market Reports

EUROMARKET NEWS

Issue No. 381 Report No. 291, May 7, 1976

IN THIS ISSUE

Community: Difficult Road to Genuine Customs Union

The recent meeting of the heads of the nine national customs administrations with Commission officials in Brussels demonstrated once again that, in spite of the advances made so far, a great deal needs to be done to attain a genuine customs union in the Community.

Definite progress has been achieved in several areas toward facilitating trade and removing some competitive distortions among the various national customs laws. Harmonization of procedures, with the major goal of eliminating national differences in treatment, has resulted in the adoption of directives covering inward processing, bonded warehouses, free zones, and deferred payment of duties and levies (there is now a uniform 30-day, interest-free grace period in all member states). Last December, the Council adopted the directive harmonizing national rules on outward processing, which lays down common regulations in this area - one of growing significance in trade with third countries.

Despite this progress, though, controls and related formalities, often extensive and time-consuming, are still very much in existence at frontier crossings. Some of the red tape results from a wide disparity in border taxes, i.e., value-added tax and excise taxes. Until these are

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Customs Union *(contd.)*

harmonized (observers say this might take another four to six years), tax adjustments must be made at the frontiers. Complications in trade of agricultural commodities also result from constantly changing currency rates; so, in order to determine the export refund an exporter may be entitled to, long forms must be filled out. Brussels does not place demands on the member states to forego border controls imposed for reasons of public health. But the Commission - supported on this by the Economic and Social Committee, the European Parliament, and the national trade organizations - would like the states to mutually recognize health, veterinary and agricultural controls in the trade of farm products. A proposal to this effect has been before the Council for almost four years, without any progress being achieved.

The Brussels meeting confirmed that the harmonization efforts are mainly frustrated by long-standing traditions embedded in national legal systems. It often takes between three and four years from the time the Commission presents a proposal until the Council adopts it. Pending before the Council now are 11 proposals, among them drafts on processing under customs control and - important for an EEC aircraft industry policy - on duty-free entry of certain products for the manufacture, maintenance, and repair of aircraft. Last January, the Commission had submitted yet another proposal on the refund or remittance of import or export duties; it would eliminate distortion of treatment among EC-based importers of third-country products.

Complaints on East Bloc Transporters

One topic that has come up repeatedly in recent discussions by the Permanent Representatives and the Council working groups has been alleged dumping practices by East Bloc carriers engaged in East-West transport, and several Council officials believe that the issue eventually could lead to some form of Community action. Commission officials also have been looking into the matter, but most of the criticism has come from several national governments that have been under pressure from trucking and shipping associations at home.

Figures compiled by these governments indicate that the percentage of firms transporting goods to COMECON countries is small and dwindling. It is alleged that some East Bloc firms, all state-owned, often charge freight rates below cost, thus keeping West European trucking and shipping lines out of the growing East-West transport business. Community officials admit that this is difficult to prove, but there is evidence that several East Bloc shipping lines have been undercutting internationally agreed-on freight rates by up to 60%.

The German example is representative of the problems also encountered by other states, especially Holland and

Dumping *(contd.)*

Belgium: West German trucking firms handle only 3% of the freight volume of German-Soviet trade, 4% of the trade with Bulgaria, and 14% of that with Hungary. In trade with Poland and Czechoslovakia, the Germans transport 40% of the freight.

Community officials point out that in socialist countries, the government controls most economic functions, including international trade. Freight rates, like prices, are set by the government, and it is not possible for foreigners to obtain data on how these rates are calculated.

Two major factors probably will preclude Community action on the problem, observers believe: first, EEC-COMECON relations have not gone beyond preliminary contacts and, secondly, EEC transport policy is in such a rudimentary stage that the member states still have some leeway to act on their own. Community officials say that some restraint on the part of East Bloc transport firms would be called for. Although this would not solve the problem in the long run, it would help for the time being.

Britain: Agreement on Wage Restraint

Details of an agreement between the U.K. Government and the country's labor unions on a further period of voluntary wage restraint include labor union agreement to wage increases averaging less than 5% during the 12-month period beginning August 1, 1976. Tax cuts are to be implemented and price controls continued.

Discussions centered on the "structure" of the original pay policy (a wage rise limit was first proposed at 3% to follow the present £6-per-week limit) and on the need for government guarantees for employment and, above all, price controls.

The unofficial view was that a 3% limit would not be accepted, but that the unions would compromise on their initial demand for a 5% ceiling. Prime Minister James Callaghan - answering Opposition questions in the Commons - declared that there was "no doubt" that agreement would be reached. He made it clear, however, that failure to reach agreement would further jeopardize the pound and added that, in his view, the foreign exchange markets had "overdone" their "gloomy attitude" concerning the British economic situation.

Tory Attack on Fringe Benefit, 'New Powers' Proposals

The debate on the U.K. Finance Bill introduced in mid-April promises to be extremely bitter: the Conservative Opposition has announced that it will concentrate on, among other things, the proposals to eliminate the tax benefits accruing to directors and higher-paid employees in the form of fringe benefits such as company cars, loan waivers, and low-interest or no-interest company loans. In addition,

Proposals *(contd.)*

however, the Conservatives are critical of the new powers given under the Bill that would allow tax inspectors to enter premises, "if necessary by force," to search for evidence of tax evasion. The new investigatory powers are viewed as an incursion on civil liberties, and an amendment will be proposed to the effect that inspectors may enter only with the permission of a government minister: as introduced, the Bill provides that a magistrate can issue the appropriate search warrant.

France: Capital Gains Tax Criticism; New Growth Data

In an April 22 press conference devoted for the most part to domestic issues, French **President** Giscard d'Estaing has defended the capital gains tax plans unveiled earlier last month, saying that too many people in France are living off capital gains. The renewed commitment to the reform proposals came in the face of heavy attacks by political parties both on the right and the left, the business community, the labor unions, and others. It was predicted that this opposition would lead to numerous amendments of the draft bill in Parliament, even though the President warned that his administration would not stand for too many alterations.

Much of the criticism - particularly by left-wing factions - has centered on the charge that the revised tax would be far from equitable in that wealthy individuals and companies would again be spared. (Finance Minister Jean-Pierre Fourcade, in detailing the proposal before the finance committee of the National Assembly, said that only 200,000 to 300,000 persons - out of some 12 million subject to income tax - would be affected by the capital gains tax reform.) Business leaders objected mainly to the provision making stock shares subject to the tax: this would further reduce the attractiveness of the stock market, thus making it even harder for companies to raise investment funds via new issues. The heated debate in France over the controversial government plans have, in fact, been blamed for the decline of Bourse prices since mid-March. By contrast, the price of the Napoleon gold coin, which is entirely tax-exempt, has risen steeply in heavy trading, although the gold market generally has been stagnant.

In other developments, Giscard d'Estaing - at the press conference mentioned above - predicted that the French economy would set a growth record in the latter part of this year. This optimism reflected the latest revisions of earlier government projections according to which household consumption will expand by 4.1% this year instead of 2.3% as predicted last September. The estimate for the growth of the GNP was revised from 4.7 to 5%. Similar modifications were made for the expansion of exports (from 6 to 6.4%) and imports (11.5 to 12.4%). Other data, however, were far less favorable: total public and private invest-

Growth Data *(contd.)*

ment is estimated to rise by only 0.6% instead of 5.7% this year, and the cost of living is now predicted to go up by 8.5% instead of 7.5%.

Germany: Drug Bill Seen Ready for Passage

The German Bundestag's health committee has reported a heavily amended version of the government's original drug legislation bill back to the floor, and the full house was expected to pass the measure this month or in June *(Doing Business in Europe, Par. 30,810)*. Observers see no obstacle to passage, since the government coalition parties and the Opposition agreed on the bill's objectives as well as on all amendments written into the measure by the committee, except for the one that would provide compensation for injury or death arising from the use of a drug. Here, the disagreement lies in the recommended approach rather than the principle itself.

The bill's major objective is to achieve a maximum of controls to keep unsafe and ineffective drugs off the market. To this end, a drug manufacturer would be required to prove that his product has been sufficiently tested, that it has the claimed therapeutic properties, and that it does not cause harmful side effects. The drug could be sold only after Federal Health Office (FHO) authorization, a procedure that would replace the existing, less stringent registration requirement. Drugs on the market at the time the law takes effect would be considered to have this authorization, but the manufacturer still would have to submit the required data to the FHO within six months.

A major amendment proposed by the health committee would empower the government to exempt from the authorization requirement certain drugs not expected to be directly or indirectly harmful to man or animals. Also, the government could forego its own tests where manufacturing and control procedures had attained a level dispelling doubts about the quality, effectiveness, and safety of a particular drug. Another change made in the bill would ensure the continued use of thousands of homeopathic medicines. According to the rewritten bill, 24 commissions would be advising the FHO in order to assure a broad forum for discussions of diverging views. The original approach would have left the government in the position of unilaterally deciding what drug is harmful according to the accepted standards of medical science. Constitutional lawyers argued that the original version would have violated Article 5 of the Constitution, according to which the field of science must remain free of government interference.

The Social Democratic members of the committee won their point about the way to make drug manufacturers pay compensation for injury or death resulting from the use of

Drug Bill *(contd.)*

a particular drug. In contrast to the original bill, which provided for a national compensation fund supported by contributions from all drug makers, the committee version calls for the following: each drug manufacturer would be required to take out liability insurance to cover damage awards of up to DM 10 million, regardless of fault on the manufacturer's part. Since damage awards could exceed this amount, the committee accepted the suggestion of the national liability insurers' association that would offer additional coverage of DM 190 million through a reinsurance pool, and each drug firm would have to join. The premium for this additional coverage was estimated to be 0.3% of a firm's annual sales.

Netherlands: Drug Price Agreements with Manufacturers?

According to reports from The Hague, the Dutch government currently is considering a freeze of pharmaceutical prices. Also, it is investigating the possibility of concluding price agreements with producers prior to the introduction of new drugs on the Dutch market; this would also include importers of foreign-made drugs.

Previously, government intervention in this sector was announced in the case of Valium, made by Switzerland's Hoffmann-La Roche, to force the Dutch importer to lower the price of the tranquilizer. Evidently, the government is now prepared to extend this policy to other pharmaceuticals. A deputy minister in the Health Ministry was quoted as saying that physicians often seem to be unaware of the high prices of certain drugs they are prescribing. He said the doctors could be asked to prescribe non-brand drugs in cases in which these are considerably cheaper than brand-name products.

Industry spokesmen have indicated that talks with the government on future pricing policies are now being conducted. A change of present legislation probably would be required, they said, if The Hague intends to pattern future rules on the Swedish model of fixed prices in conjunction with an official registration of pharmaceuticals. Several manufacturers have indicated their opposition to the introduction of rules requiring doctors to make their prescriptions on the basis of prices. Lengthy and costly tests would be necessary, they said, to establish whether the low-priced drugs would in fact have the same therapeutic effects.

Switzerland: Limits Set on Importation of Bank Notes

The Swiss restrictions on the importation of foreign bank notes have raised questions at home and abroad on whether the action would be more of psychological rather than practical value. The prime objective of the measure was to

Bank Notes *(contd.)*

shield the Swiss franc against the effects of the "wholesale import" of Italian lire, which in the past weeks and months had assumed "staggering" proportions. According to reports referring to banking sources in Lugano and Zurich, **it was estimated that in the week before Easter alone some** 5 billion lire daily had secretly moved into Switzerland. Nevertheless, the Bern monetary authorities themselves had doubts whether their decree would prove effective against the "professional smuggling" of unwanted Italian bank notes, indicating that other channels were likely to be found in moving the money across the borders.

The government decree, which took effect on April 20, provides that the private importation of foreign bank notes - not only lire - is restricted to the equivalent of SF 20,000 per person every three months. Violations are punishable by fines of up to SF 100,000 and imprisonment of up to three months, aside from the confiscation of bank notes exceeding the legal limit. Not affected by the decree are commercial and financial transactions, which normally do not involve the transfer of bank notes anyway. In practice, travelers and other border crossers coming into Switzerland are being asked whether they have bank notes to declare. No written declarations are required, nor are there any searches, except for occasional spot checks. Persons who declare amounts exceeding the limit have the option of temporarily depositing the excess with Swiss customs or of returning to the country where they came from. There are no curbs on the amount of Swiss francs that may be brought into Switzerland.

In the meantime, the governors of the Community central banks, at their April 26 meeting in Luxembourg, recom**mended that the commercial banks in the EC stop the pur**chase and sale of so-called "super notes," i.e., Italian bank notes in the denominations of 50,000 and 100,000 lire. This recommendation was generally followed, with the German Bundesbank even asking the banks in that country to refrain from doing anything that could aid in the circumvention of Italy's currency regulations.

EURO COMPANY SCENE

Dow Chemical

A new £5-million agricultural chemicals plant is to be built by Dow Chemical Co., Ltd. at its facilities in King's Lynn, Norfolk. To be in operation by mid-1977, the plant represents the company's largest single manufacturing investment in Britain to date. It will produce "Dursban," an agricultural insecticide, mostly for export to markets in Africa and the Middle East. At King's Lynn, Dow already manufactures farm chemicals, latexes, and foam plastics.

Badger/ PETROGAL

Badger Ltd. has been awarded the contract for the design, engineering, procurement, and construction supervision of an expansion project at the Porto refinery of Portugal's new national petroleum company PETROGAL. It involves a plant, probably requiring an investment of $150 million, to extract and recover aromatics and solvents and to produce various chemicals. The facilities will have an annual capacity of 335,000 metric tons.

Blyth Eastman/ Suez

As part of the deal by which INA Corp. raises from 36 to 60% its stake in Blyth Eastman Dillon, the New York brokerage and investment company, France's Cie. Financière de Suez will also acquire a 20% holding in Blyth Eastman. INA, in turn, holds 7% of the share capital of the French private banking group. The transaction is expected to give the American broker firm better chances for expansion abroad, while the large French bank hopes for improved access to the U.S. financial markets. In Europe, Blyth Eastman maintains offices in London and Paris.

Plessey/ Edo

The U.K. telecommunications and electronics group Plessey is holding preliminary merger negotiations with U.S. electronics manufacturer Edo Corp., one of America's leading makers of sonar and aviation instruments. A merger would immediately broaden Plessey's technological base and would increase its penetration of North American markets.

Hogg Robinson/ W.R. Grace

Insurance brokers Hogg Robinson have announced an agreement in principle to take over the entire U.K. travel interests of U.S.-based W.R. Grace. The American parent of Grace Travel was reported to be reluctant to invest further in Britain.

DCM/ Louis Marx

The British toy group Dunbee-Combex-Marx (DCM) has completed an £8-million acquisition of the Louis Marx group, which has an extensive network of toy operations in the United States, Canada, and Hong Kong. DCM's $15-million acquisition compares with $56 million paid for the Marx group by Quaker Oats of Chicago in 1972: since that date, Marx profits have been eroded, and the group's losses amounted to $13 million last year.

Common Market Reports

EUROMARKET NEWS

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Community: Disclosure of Consolidated Accounts

The European Commission has presented to the Council of Ministers the seventh draft directive on company law coordination, a measure that would require companies to publish consolidated annual financial statements. Observers in Brussels consider the proposal to be the EC executive's most positive contribution to date on how to deal with multinational companies. The draft directive would require multinationals to draw up consolidated annual financial statements on their worldwide activities, plus an annual report. The same would apply to their subsidiaries or other entities in the Common Market effectively controlled by them. Commission attorneys point out that the proposed rules, largely patterned on those in force in Germany and, to a certain extent, in the U.K. *(Doing Business in Europe, Pars. 23,251-65 and 23,732,* respectively), would apply to a much broader range of intercorporate relationships: groups of affiliated companies in which control may be exercised either through stock ownership or other ties (for example, management contracts).

The objectives of the seventh proposal are identical to those of the fourth draft directive: to compel companies incorporated in the EEC to disclose comparable financial information for the benefit of shareholders, employees and third parties, mainly investors and credit-

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Disclosure *(contd.)*

ors *(Common Market Reports, Par. 1391)*. Enactment of the proposal would mean that a company that is incorporated in any member state and which controls a group would have to present a "true and fair view" of the group's assets, liabilities, financial standing, and results. It would not matter if a company belonging to the group is not incorporated in the EEC: its activities also would have to be reflected in the controlling company's statements.

Consolidation of group accounts alone would not satisfy the requirement on presenting comparable information. Therefore, the proposal also would make mandatory the use of identical methods in valuating individual items in the accounts. Some flexibility would be allowed, however, to avoid difficulties in unusual situations.

Commission attorneys refused to speculate on how long it might take until the Council approves the proposal, but they concede that four to five years would be a fair estimate. Adoption of the amended fourth draft directive would speed up deliberations: it is now in the second reading in the Council, and adoption is expected for early 1977. Adoption of the seventh draft directive would necessitate substantial legislation in all member states except Germany and the U.K.

First Big Step in Water Pollution Control

On May 4 the Council adopted the directive to control pollution caused by certain dangerous substances discharged into canals, rivers, and lakes. The measure is significant in two respects: 1) it will serve as a guideline for the Community and the member states in the negotiations on several draft conventions aimed at protecting international waterways and the marine environment against pollution, and 2) it marks the first major step toward controlling the discharge of substances. Two prior actions concern quality standards for drinking water, adopted in June 1975, and for recreational waters, adopted in December 1975 *(Common Market Reports, Par. 9766)*.

The directive establishes a list (the so-called black list) of certain substances considered particularly dangerous because of their toxicity, persistence, or bioaccumulation (for instance, mercury). Additional lists will be made up in the future, and it is here where Commission lawyers anticipate protracted discussions, possibly ranging over several years. They believe that real progress will be measured in how many substances the states will decide should be banned or severely restricted. The directive also contains a second list (the gray list) of substances that are also harmful to the aquatic environment but the effects of which can be confined to a given area and depend on the characteristics and location of the water into which the substances are discharged.

Pollution (Contd.)

The directive does not set any emission standards for the substances on either list. The Council has not yet established them, although talks have been going on for some time. On the basis of the states' diverging views, Commission officials believe that agreement here may take several years. It is also pointed out that the directive does not contain water quality objectives - pollution will be controlled after the fact, i.e., by taking samples from the water, with possible subsequent action against polluters, rather than controlling discharges at the source. This approach is the core of the compromise on which the British government insisted and which the other eight states reluctantly accepted last December. Still, any state that wants to use the quality objectives method must prove that it is complying with a number of conditions laid down in the directive.

In Brief...

The Commission does not intend to propose any action to counter dumping practices by state-owned East Bloc trucking and shipping lines until current investigations have progressed to the point where it is in a position to decide what form any Community action should take. The matter is being investigated by the Council (i.e., essentially by the member states that have complained) and a number of international organizations + + + Although the Council's July 24, 1973, directive on the coordination of national rules governing the establishment and pursuit of direct insurance businesses other than life insurance gave the member states ample time for follow-up legislation, the Netherlands and Italy have failed to adhere to the Feb. 1, 1976, deadline. Still, the Commission is not expected to sue those countries in the near future. Commission attorneys point to the EC executive's usual practice of adopting a wait-and-see attitude and obtaining information about the circumstances of noncompliance prior to taking action.

Italy: Mild Reactions to Cash Deposit Rule on Imports

Considering the severity of Rome's latest import restrictions, reactions to the measures by the domestic business community, Italy's foreign trade partners, and at European Community level have been relatively mild. There was a general consensus that drastic steps had to be taken to halt the renewed deterioration of the Italian payments balance and of the currency (the exchange rate at one point exceeded 900 lire to the U.S. dollar, for a devaluation of 30% since January).

Unlike in May 1974, when Rome had shocked its EC partners with the surprise introduction of similar import deposit rules, the Aldo Moro provisional government this time took care to seek Brussels' consent on the basis of the provisions of Treaty Article 108(3) - *Common Market Reports, Par. 3761.* In 1974, the Italians had invoked Article 109, under which "protective measures" to fight an emer-

Reactions *(contd.)*

gency situation do not require prior European Commission proval *(Common Market Reports, Par. 3771)*. Under Article 108, both the Commission and the Council of Ministers are empowered to amend or modify the Italian action. Such a step most probably would involve farm exports to Italy, since the cash deposit requirement is bound to have grave repercussions on the common agricultural policy (only wheat has been exempted from the rule). However, many Brussels observers doubted whether the EC authorities would take any major action of their own, since the Italian regulations are to remain in effect for only three months (until Aug. 5) and also because of the Italian elections next month.

On the basis of Italy's current import volume, it was estimated that 3,500-3,700 billion lire could be tied up in interest-free cash deposits with the Bank of Italy. These deposits amount to 50% of import value and are held for a period of three months. However, the deposits also affect purchases of foreign exchange, lira accounts maintained abroad, and tourism transactions. For instance, an Italian tourist going abroad is required to deposit the lira equivalent of 50% of the foreign currency he intends to take out of the country, a requirement that comes on top of the existing annual limit of 500,000 lire on such currency exports. For this reason, the Italian association of travel agencies has complained that the latest measure in effect amounts to a foreign travel ban on Italians.

Generally, however, Italian industry accepted the cash deposit rule with equanimity, one reason being that inventories had been built up systematically in anticipation of higher prices and further lira depreciation. Also, it was expected that many foreign exporters - in order to protect their Italian markets - would volunteer to pay the cash deposit. Nevertheless, the Confindustria employers' federation demanded that the government reexamine its measures with a view to exempting at least raw material imports from the cash deposit.

Exchange Control Moves to Contain Speculation

On the heels of the cash deposit rules, the Italian authorities on May 10 also issued two supplemental exchange control decrees designed to accelerate the inflow of foreign exchange and to discourage speculation against the lira at home and abroad.

Exporters are now required to pay into domestic accounts 30% of invoiced export value. In most cases, this means that the 30% portion will have to be borrowed from commercial banks. Loans taken out for this purpose must be repaid from the export revenue (rather than from possible black-market sources). The advance payment normally must be effected within 24 hours of customs issuance of the export certification, although this deadline can be extended to up to 10 days. As before, the export transaction must

trols
(Contd.)

be completed within 120 days to prevent exporters from postponing collection in hopes of speculative currency gains. The new regulations affect only exports valued at 5 million lire or more, unless the invoiced consignment is part of a larger export order.

With the second decree, the Bank of Italy restricted so-called "overnight" and "tomorrow-next" (48-hour) forward deals in foreign exchange. The aim is to move against short-term speculation against the lira on the part of foreign banks. Italian banks are no longer allowed to supply banks abroad with foreign currency in exchange for lire within a 48-hour period.

The combination of the exchange control restrictions plus the cash deposit rule had the immediate effect of rallying the lira on the foreign exchange markets. Financial observers believed that the country's payments balance eventually could benefit from the domestic liquidity squeeze, which would force numerous Italian companies to repatriate funds held abroad.

Britain: Profitability st Go Up, dustry Warns

After having come to terms with the labor unions over voluntary wage restraint, the U.K. government has been given a stern warning by the Confederation of British Industry that it must choose between jobs and price controls, since both cannot be had simultaneously. In contending that the government cannot insist on both profit margins and cost controls being maintained, the CBI called for an amendment of the Price Code to the effect that "a) a substantial rebuilding of profitability is allowed, b) full allowance is made for the effect of inflation on company finances, and c) the administrative burden of the Code on companies" is lightened. Thus, with the unions having settled their problems with the government, the employers appeared to be also moving in on the Chancellor of the Exchequer to challenge his present restrictions on the control of gross profit margins, turnover thresholds and productivity deductions, which are discouraging investments.

While a positive reaction to the government-union pay deal had yet to materialize on the international exchange markets (the pound continued to hover at a level of about $1.84), the U.K. manufacturing sector nevertheless was beginning to show tentative signs of optimism. In the five weeks to April 21, loan volume to the private sector rose by £80 million, which, although modest, represented a reversal of recent trends. At the same time, the government demonstrated in April that it was keeping its pledge to reduce central government borrowing: the £268 million reported for last month was £114 below the April 1975 figure.

Closing of Currency Rules Loophole

A new Bank of England ruling announced on May 12 is designed to close a loophole in present British currency regulations through which U.K. nonresidents may have been gaining access to what is known as the dollar premium pool: London-based stockbrokers now will no longer be permitted to sell options through the investment currency premium pool. Previously, dealers could buy options through the dollar premium market (i.e., at a premium of approximately 45%) and sell them subsequently under the "25% surrender rule." This rule meant that the premium would be paid in the second transaction in regard to 75% of the sum involved.

Stockbrokers realize, however, that the sale of options on portfolios already held in the United States could produce "one-way benefits." Thus, if an option written by a U.K. stockholder was not exercised, the stockholder could enjoy not only the option profit but also the benefit of bringing the capital back into Britain through the premium mechanism. The new ruling provides that options may be sold only at straight exchange rates but must be purchased with "premium currency": thus, the benefit has been eroded. In a wider sense, however, the ruling will have considerable impact on U.K. investor participation in option dealing on foreign exchanges. Several brokers announced that the Bank's action could bring such trading to a temporary standstill.

Germany: Uncertain Fate for Apprentice Hiring Bill

Rejection of the apprentice hiring bill by Germany's Opposition-controlled Bundesrat has cast uncertainty on the proposal's future. Since the proposed measure is as important to the general public as it is to the business community, most Bonn observers predict a compromise. Not only do the administration and the Opposition disagree about the approach, but even the government coalition parties cannot agree on the matter. Observers point out that in light of the Oct. 3 national elections, none of the parties can afford to assume or share the blame for failure on this piece of legislation.

In order to reduce the high rate of unemployment among school leavers (8.3%) and to assure the economy a continuing pool of skilled labor, the Bundestag-approved bill would provide for a sufficient number of openings for apprentices. If a yet-to-be-established federal agency determines that openings fail to exceed by 12.5% the number of school leavers, the government could impose a 0.25% payroll levy on all businesses and public employers with an annual payroll of more than DM 400,000. The revenue would finance grants to be given to employers who hire apprentices *(Doing Business in Europe, Par. 30,796)*.

A major argument of the Opposition against the proposal has been that it would create additional red tape and unnec-

Apprentices (contd.)

essary government intervention. The Opposition's alternative would be to allow businesses to set aside annual tax-free reserves - DM 2,000 for each apprentice already employed and DM 6,000 for each one newly hired - through an amendment to the Income Tax Law. Employers would have to restore these reserves to income once the apprentice has completed his training (usually three years) or if he quits during the training and is not replaced by another apprentice. This concept would keep red tape at a minimum, Opposition spokesmen say, because it would be applied by the local tax office.

The governing Social Democrats have rejected this plan, reasoning that it would not be attractive enough to make employers hire school leavers. Economics Minister Hans Friderichs, member of the Free Democrat minority partner in the government coalition, sees it differently. He favors annual government grants - DM 1,000 for each apprentice already employed and DM 5,000 for each one newly hired. The Opposition has indicated that it would go along with this idea.

Meanwhile, government attorneys are studying ways of rewriting the bill so that it would not require the consent of the Opposition-controlled upper house. They could do this by eliminating any state involvement in administration of the program. In this case, the Opposition is determined to have the Supreme Court test the constitutionality of the measure.

EURO COMPANY SCENE

First National of Chicago

The First National Bank of Chicago has announced the establishment in London of a new central clearing house designed to facilitate settlement procedures in the rapidly growing market of Eurodollar certificates of deposit. The new program aims to eliminate the daily physical delivery of CDs, which is inconvenient and, in the event of sudden default, can prove costly. Although physical delivery may be made in London, settlement has to be made in New York. Thus, because of the time lag, traders sometimes do not know until the following trading day whether settlement has actually been made. First National's system is to eliminate physical delivery and rely on instructions from the two participators in a deal. In addition, the bank also guarantees payments and arranges settlement. It plans to charge modest fees for its activities, varying between $13 and $20 per deal, but the turnover in this $30-billion market (annually) is extremely high.

Le Rocher/ Prudential

The formation of a Brussels-based European reinsurance corporation, known as Le Rocher, Cie. de Réassurance SA, has

Le Rocher *(contd.)*

been announced by the Prudential Insurance Co. of America. Le Rocher itself is a subsidiary of Prudential Reinsurance Co. and is capitalized at BF 100 million, of which BF 25 million is paid in and the remainder is contributed surplus. Robert A. Beck, Prudential president and board chairman of Prudential Reinsurance, said that the European marketplace represents about 60% of the non-U.S. world insurance volume: "thus, Europe was obviously our first choice for overseas operation." Le Rocher will have underwriting capacity in Europe as is available to Prudential Reinsurance in the United States.

General Electric

General Electric will expand its international remote computing network with the addition of a third "supercenter" to be located near Amsterdam, Holland. Representing an investment of approximately $17 million, the new center is scheduled to begin commercial operation in early 1977. It will be totally integrated with the two U.S. supercenters in Maryland and Ohio which currently provide a full range of data processing services on a worldwide basis via GE's Mark III service. The Amsterdam center will provide remote computing service not only to the European continent and the U.K., but also the United States, Canada, Australia, and Japan.

Debenhams/ I. Miller/ Genesco

The U.K. department store chain Debenhams is to expand its U.S. activities further with the acquisition for some $6 million of the American shoe retail group I. Miller, a subsidiary of Genesco, Inc. Miller has about 20 U.S. sales outlets and reported an annual turnover of $20 million. Debenhams already owns Rayne-Delman, another U.S. shoe retailer, with sales of about $7 million. The latest deal, still subject to Bank of England approval, would make the U.K. chain the owner of the largest retailer of high-priced women's shoes in the U.S., according to British reports.

Keiper

The European office of the State of Michigan Dept. of Commerce has now confirmed that Germany's Keiper group will invest $2 million in a manufacturing operation at Battle Creek, Mich. The new 50,000-square-foot plant will produce seat-reclining mechanisms and other accessories for the motor industry. Employment at the plant is to rise to over 300 within three years. Among the factors that reportedly influenced Keiper to set up production in Michigan was the state's recently introduced "single business tax" system, which allows 100% deduction of the cost of capital goods.

Common Market Reports

EUROMARKET NEWS

Issue No. 384 May 25, 1976

IN THIS ISSUE

Community: Commission Shifts Stand on Trademarks

The European Commission has taken a much more favorable stand on the continued existence of national trademarks than most observers had anticipated. After submitting written observations in Case No. 119/75 *(Terrapin v. Terranova)* to the European Court of Justice last February, the Commission stated at the May 5 hearing that "the interest of the trademark owner, combined with the right of the consumer not to be deceived, takes precedence over Community rules aimed at the free flow of goods."

The dispute between Terrapin (Overseas) Ltd., a British firm making prefabricated houses, and Terranova Industrie C.A. Kapferer & Co., a German building materials manufacturer, goes back to the early '60s, when the U.K. firm applied for registration of its "Terrapin" trademark with the German Patent Office, in Munich. The German company, which had registered its "Terra" and "Terranova" trademarks a half-century ago, objected to the British firm's application, arguing that the Terrapin trademark could be confused with its own Terranova trademark. A Munich district court believed that confusion was not possible, but the Appellate Court ruled otherwise and decided against the British firm. On the latter's appeal, the German Supreme Court agreed with the Appellate Court ruling but nevertheless stayed the proceedings and asked the Euro-

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Trademarks *(contd.)*

pean Court of Justice for a preliminary ruling on the interpretation of Treaty Articles 30 and 36.

The seven member state governments that submitted written observations (all except Luxembourg and Italy) essentially agreed that trademark owners should have an enforceable right to bar imports bearing a confusingly similar trademark. The Commission believed that the protection to which Terranova is entitled under German law *(Doing Business in Europe, Pars. 23,481 and 23,525)* is not in conflict with EEC rules. The Commission thus has reversed its earlier position, since it no longer insists on extension of the Court's *Hag* ruling *(Common Market Reports, Par. 8230)*, which banned the use of trademark rights as a means of barring imports of identically branded products of common origin that have been lawfully trademarked in another EEC state.

Advocate General Henri Mayras is expected to deliver his conclusions shortly.

Publication of Fifth Report on Competition

In its Fifth Competition Report just published, the Commission states that the year 1975 was not an easy one for its antitrust division: in order to weather the economic crisis, an increasing number of companies tried to shield themselves against unwanted competition by means of restrictive practices, while national governments attempted to keep faltering businesses alive through various types of state aid. In its report, the Commission makes the point that it is more important now than ever before to uphold the freedom of competition. The Commission concedes that competition policy can only indirectly contribute to solving economic difficulties, but it also emphasized that there can be no solutions without it. The main function of this policy is seen as creating a climate in which the needed structural changes can take place and guaranteeing buyers, especially the final consumers, the best prices

Since member state governments have been supporting troubled companies in order to avoid mass layoffs or closures, observers are not surprised that the Commission in 1975 was confronted with a far greater number of state aid actions than before. Although the Commission has shown understanding in most instances, it made it clear that a return to what in effect are protectionist policies cannot provide a real solution. The Commission believes that there is no way for businesses to avoid their structural adaptation to the major changes in internal demand and in the international division of labor.

In 1975 the Commission handed down a total of 37 decisions - 15 under Articles 85-86 of the EEC Treaty and 22 under Articles 65-66 of the Coal and Steel Treaty. As in previous years, a large number of cases were settled witho

Competition *(contd.)*

a formal decision. The most outstanding example of this was when two French firms, the largest safety glass producers on the Continent, agreed to terminate their joint interests in Germany and France.

The Commission in 1975 adopted a number of decisions on patent licensing agreements and thus has continued to clarify its stand, though further clarification may come from the European Court of Justice. It believes that the time has come to contemplate the preparation of a regulation that would exempt certain categories of patent licensing agreements from application of Treaty Article 85. In so exempting several distribution agreements in the past few years, the Commission has thus developed certain general principles that companies can rely on.

In Brief...

Altiero Spinelli, the Commissioner in charge of industrial policy, has suspended his activities in Brussels following his surprise announcement that he will run as an "independent candidate" for the Communist Party in the Italian national elections next month. It was not expected that the 69-year-old Spinelli would seek a renewal of his mandate, which expires at the end of this year along with that of the other Commissioners + + + A three-month "truce" has postponed until the end of July the possible outbreak of an intra-Community "chicken war" over proposed EEC rules on water content in poultry (not more than 8%) and enacted German legislation limiting the water content to what is technically feasible (around 2%). This cooling-off period allows the Commission and the German government as well as other member states additional time for new studies to support their respective viewpoints.

Netherlands: 'Skim-Off' of Asset Growth; Investments

The Dutch three-party coalition cabinet has approved draft legislation that would require enterprises in Holland that reported an increase in assets last year to contribute 10% of this increase to a national fund, which would be administered by the labor unions. For the year 1976, this mandatory contribution would be raised to 12%, and this rate could climb to a maximum 18% by 1979.

The controversial bill has been sent to the State Council prior to formal submission to Parliament. Although only few details have been revealed so far, it was reported that the part of the corporate asset increase to be "skimmed off" would come under the "collective ownership" of all employees in Holland. A portion of the contribution made by an enterprise would be specifically earmarked for the employees of that company, with the money to be held in the national fund for a number of years before its distribution. The remainder of the contribution would be used to build up the national fund's assets and would eventually finance supplemental pension benefits. The exact purpose

Asset Growth *(contd.)*

and method of distribution, however, would be defined in another law, to be drafted later on.

The bill, so far as its contents have been revealed, has come under attack by those who fear that it is too vague on the matter of guaranteeing a fair distribution of accumulated funds, since an estimated 60-70% of Dutch labor is not organized in unions. The harshest criticism has come from the employers, who complain about the "collectivist trend" that is being set by the draft legislation. The unions are not entirely satisfied, either, because their demands had been for a "skim-off" of up to 50%.

In related news, the FNV labor federation - which was formed late last year through the merger of the Socialist NVV and the Catholic NKV unions - has come out for a "framework law" governing investments of private enterprises. Basically, such a law would require businesses to consult the government prior to implementing any major investment projects. Specifically, the investor would have to file a report on the "socio-political impact" of the planned investment, and the government would be obliged to consider this factor in approving or rejecting the investment plans. FNV board member Ter Horst was quoted as saying that today's economic crisis proves that "a system of unrestricted entrepreneurial production can lead to unacceptable situations" and that investment controls are also needed to come to grips with the unemployment problem. The FNV spokesman asserted, however, the aim was not to curtail investments generally but to guide private initiative in such a way as to be of maximum benefit in terms of regional needs and employment.

Belgium: Conference on Employment; Language Laws

Prior to the May 24 start of a tripartite conference on employment involving the government, the employers, and the country's three major unions, Belgium was hit by a series of strikes in support of labor demands for a new "social action" program and to draw attention to serious threats to existing jobs. Most affected by the walkouts and demonstrations were the public transport and utility sectors and the radio and television networks. In the Namur and Charleroi industrial centers of the Walloon region, demonstrators protested against the possible loss of thousands of jobs at companies which are on the brink of bankruptcy or have already closed down.

In the preparatory sessions prior to the actual start of the employment conference, there were still wide differences of opinion on the scope of its agenda. The Socialist labor representatives wanted the discussions to be confined to what the government and the employers should do to maintain jobs and create new ones. Industry spokesmen demanded a review of Belgium's entire economic situation,

Conference *(contd.)*

with particular emphasis on the shrinking competitiveness of export industry in the face of rapidly rising wage costs and tax burdens. The growing militancy of the strike actions and the hardening of positions on both sides made it doubtful, some observers said, whether the conference would produce positive results.

The latest labor confrontations have been fueled by a revival of the traditional conflicts between the (Dutch-speaking) Flemish and the (French-speaking) Walloon factions in the wake of a State Council decision last April for the proportional application of the so-called "language laws." The Walloons are now pressing hard for proportional job representation in state and public service organizations, while the Flemish are seeking to protect their positions. The organizations most likely to be affected by a reapportionment of jobs would be the savings and pension fund system, the health insurance funds, the state railways, and the development aid service, it was reported. The telephone and telegraph system of Brussels has been mentioned as an extreme example: in order to bring about proportional representation there, some 2,000 Flemish employees would have to vacate their jobs in favor of Walloons.

Germany: Doubtful Future for VAT Bill

Lower house passage of the German government's bill raising value-added turnover tax rates from 11 to 13% (5.5 to 6.5% for food items) does not mean that the measure becomes law as of Jan. 1, 1977, or even at a later date *(Doing Business in Europe, Par. 30,825)*. Since the bill requires the approval of the Opposition-controlled upper house and Opposition leaders so far have not changed their negative attitude or even showed willingness to compromise, the fate of the measure is rather doubtful. Blockage by the upper house, which is to vote on the bill within a few weeks' time, could mean defeat at least during this legislative session. The new government that will emerge from the Oct. 3 national elections would have to introduce another VAT bill during the next session. If the present administration is returned to power, the new bill would not become law before mid-'77. If the Opposition Christian Democrats are voted into office, it is not certain whether they would sponsor similar legislation or seek other ways of trimming the Budget deficit (DM 37 billion in fiscal 1976 and a projected DM 22 billion in fiscal '77).

(Upper house approval of the excise tax bill is assured. The bill, passed by the lower house this month, would increase excise taxes on cigarettes and other tobacco products by 18% and on alcoholic beverages by 20%.)

The Budget debate in the Bundestag, during which the VAT bill was passed, once more revealed the diverging views

VAT Bill *(contd.)*

of the government coalition parties and the Opposition on how to reduce and eventually eliminate the Budget deficits in the coming years. The Opposition believes that there is already "too much government" and that the solution to the deficit problem lies in a reduction of expenditures rather than in raising taxes. Opposition leaders indicated that trimming the admittedly overstaffed civil service could bring substantial relief for the treasury, a suggestion also made by the Federal Accounting Office. It was pointed out that, since 1969, civil servants' pay has been raised to a level equal to or even higher than that for comparable jobs in private industry. Government leaders concede that this payroll is the major debit item in the budgets of federal, state, and local governments, but they so far have refused any major reduction in public employment.

Britain: Price Code Modification; Wage Restraint

May 18 saw two developments in the United Kingdom which may augur well for the country's immediate economic future: to the surprise of most businessmen and industrialists, the government announced that the Price Code is to be altered to stimulate investment and boost employment. Further, the leaders of the engineering union voted in favor of the government's recently announced policy of wage restraint, thereby virtually guaranteeing acceptance of the policy by the unions as a whole at the special Trades Union Conference session scheduled for next month.

An outline of the Price Code modification plans was given by Prime Minister James Callaghan at a Confederation of British Industry dinner - it was the CBI that had advocated relaxation of the Code in order to boost investment. Noting that a full consultative document would be issued in June, Callaghan said that there would be a number of changes to help offset the effects of inflation on the depreciation of assets and stock appreciation. The "productivity deduction" (which at present means that companies may not pass on more than 80% of increased wage overheads in the form of higher prices) was to be "reviewed," he said, and the Code would also be modified to prevent penalizing (as it has in many instances) firms that successfully expanded output and/or pruned costs. It was understood that the changes will also necessitate a new "categorization" of firms.

The Prime Minister reiterated that it was part of the government's economic strategy to stimulate recovery and profitability in private industry: although he acknowledged that there were "difficulties," he maintained that the long-term prospects were good. A key factor was, however, the introduction of means to "improve the use of plant and machinery."

The CBI reaction to the Prime Minister's speech was

Price Code *(contd.)*

one of welcome, particularly in regard to the government's promise to deal with "pay differentials," pay grievances of middle management, and productivity programs. Above all, however, business leaders welcomed the implication that the government was considering altering the basis of the Code from "output costing" to "input costing": this would mean, they believed, that firms could retain (and reinvest) the benefits achieved from efficiency improvement rather than be obliged simply to pass the benefits on in the form of lower prices.

Switzerland: New Bid for More Economic Powers

The Swiss government is making another attempt to obtain approval for a constitutional amendment that would enable the administration to take a stronger hand in economic and monetary policies. Its first attempt for a broader constitutional amendment failed when 11 of the 22 cantons rejected the proposal in a March 1975 referendum, although the electorate had favored the measure by a narrow 50,000-vote margin.

The new proposal is less far-reaching than its predecessor, but it still would authorize the federal government to pursue effective economic and monetary policies (the latter in conjunction with the central bank), especially in preventing and combating inflation. The present Constitution restricts the government to taking measures to prevent economic crises and, if necessary, to fight unemployment. The government believes that the most recent developments (especially the massive inflow of capital) are all the more reason for obtaining broader powers to guide the economy.

In contrast to the defeated amendment, the new proposal would authorize Bern to curtail freedom of trade and commerce only in exceptional situations. The cantons would have a stronger voice whenever the federal government uses its constitutional powers, and so would the business community. An important innovation would be the government's power to force businesses to set aside reserves *(Arbeitsbeschaffungsreserven)* to be used for new investments during an economic crisis. Legislation to this effect already exists, but formation of reserves is optional, and little use has been made of the law *(Doing Business in Europe, Par. 29,336)*.

The new proposal will be submitted to Parliament after the summer recess.

EURO COMPANY SCENE

Westinghouse/ ACEC

Westinghouse Electric Corp. is continuing its efforts to scale down its European engagements by negotiating with a

Westinghouse/ ACEC *(contd.)*

Belgian consortium a possible major reduction of its 67.8% equity in Ateliers de Constructions Electriques de Charleroi (ACEC) which it has held since 1970. ACEC manufactur heavy electrical equipment as well as household applianc The company has reported heavy losses for both 1973 and '74 (BF 351.3 million and BF 81.7 million, respectively). Other factors that reportedly lead Westinghouse to seek a cut in its ACEC participation include overcapacities of the power generator market in Europe as well as a reorganization of its operations generally. The Belgian consortium involved in the talks includes both private and state groups, and the most likely private bidder was identified as the Franco-Belgian Empain Schneider concern.

ITT/ Ericsson

In connection with the major expansion of the French telephone system, the Paris government has now made a decision in favor of the "Metaconta" system, developed by International Telephone & Telegraph Corp., and the "AXE" system of Sweden's L.M. Ericsson group. The three-year expansion and modernization program will require an investment of FF 104.4 billion and provides for the installation of 900,000 additional telephone lines plus related equipment (2.8 million new lines already had been planned for the 1975-76 period).

Johns-Manville

Johns-Manville Co. of Denver, Col., has received permission by the French authorities to build a plant for the production of glass fiber insulation materials at St. Av Lorraine. Because of citizens' protests and other legal problems, the company had to delay plans for a similar plant at Wertheim, Germany. According to its Glaswerk Schuler subsidiary in Wertheim, there is still hope that these problems can be settled in time to start construction next year, so that production would commence in 1979. Altogether, Johns-Manville plans three plants of about the same size in Europe.

Bank of America/ Kleinwort/ Paribas

Bank of America has announced that it will buy out its minority partners in the 55% BoA-owned Bank of America International: the U.K.'s Kleinwort, Benson and France's Banque de Paris et des Pays-Bas (Paribas). Consolidation was given as a reason for the move. BoA International henceforth will be active not only in the medium-term Eurodollar market but also in loan syndication and international investment management. The deal is reminiscent of one two years ago, when N.M. Rothschild sold its stake in Rothschild International to American Express. The value of the BoA transaction to Kleinwort and Paribas was given as some $8 million each.

Common Market Reports

EUROMARKET NEWS

Issue No. 385 *Report No. 293, June 4, 1976*

IN THIS ISSUE

Community: Commission Moves against Export Aids

The European Commission has abandoned its reserved attitude and reportedly is determined to move against France's and the U.K.'s special export finance systems that are distorting competition within the Common Market. Under the so-called cost-escalation-cover insurance, the exporter usually absorbs 10%, and the government the remainder, of price increases that occur between the signing of the contract and delivery of the products, usually capital goods. These unforeseen price increases - mostly resulting from higher raw material prices and unexpected, high wage settlements - may cut heavily into or even eliminate the profit an exporter anticipated at the time the contract was concluded.

Since the government's part in payment amounts to a form of state aid banned by Treaty Article 92 (*Common Market Reports, Par. 2922.13*), the Commission would like to see a phase-out of this type of export aid by July 1. According to a preliminary Commission proposal now in preparation, an exporter would be compensated only for annual cost increases between 10 and 20% until the end of this year. As of Jan. 1, 1977, the compensation would be less because an exporter would qualify only to the extent that costs increased between 13 and 20% (16 to 20% as of July 1, 1977). By the end of 1978, the French and British governments would be

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Export Aids *(contd.)*

required to stop aiding export firms in this manner. (The Italian government had previously agreed to refrain from using a similar system.)

France has continually refused to abandon its system, and the U.K. is not likely to give up its own system either, unless the French relent. Last February the Dutch government called on the Commission and the Council to eliminate cost escalation coverage. The U.S. government, moreover, which has been complaining about the systems all along, recently lodged another complaint with the GATT secretariat in Geneva, charging that the systems violate Article 16 of the General Agreement on Tariffs and Trade.

Commission attorneys say that the Commission has the duty to act in order to maintain freedom of competition by eliminating distortions. They point out that settlement is still far off in the institutional dispute involving the gentlemen's agreement over export credit terms negotiated (but not yet signed) between France, Germany, Italy, the U.K., Japan and the United States. Here, the Commission and the smaller EC states had not been consulted. The Commission, which has the sole negotiating power for the EEC in the area of export credit financing, does not object to the agreement so long as it does not exceed one year and provided Brussels receives the Council's formal authorization to negotiate a new agreement at the end of that period. France has raised objections here too, so the chances that the Commission would succeed with either plan in an amicable way are considered nil by most observers. Commission attorneys remain noncommittal on whether the EC executive is prepared to embark on a legal battle before the European Court of Justice.

Veterinary Drug Proposals Sent to Council

The Commission has submitted to the Council of Ministers two proposals that would gradually remove barriers to the free circulation of veterinary medicinal products, while providing every safeguard for human health. A genuine common market with unrestricted movement of veterinary pharmaceuticals is to be sought in another proposal in the coming years.

Largely patterned after the two 1975 Council directives on proprietary medicinal products (*Common Market Reports, Pars. 3504, 3508, 9643, 9751*), the two draft directives would require the member states to approximate their rules on manufacture, marketing, authorization, labeling, and permissible colorants and to adhere to the common principles of manufacturing controls and standards in testing veterinary drugs. The two major differences between drugs for humans and animals, as reflected in the proposals, are in the structure of the markets and the danger of residues in animal products, especially meats.

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(contd.)

In several member states as well as in some third countries, veterinary drugs are marketed only under their chemical name (and not as proprietary medicines) in order to keep packaging costs down. For the same reason, international trade is mostly in ready-made products. Thus, to cover most drugs sold internationally and to avoid distortions in competition, the scope of the drafts has been extended. To avoid harmful effects from food derived from animals treated with drugs (especially hormones) to stimulate an increase in weight, the proposal would insure that such veterinary drugs not be given marketing authorization by the member states. In order to allow marketing of products that are useful but that have proven hazardous, the authorization would have to require the manufacturer to print the necessary warnings on labels and accompanying information materials.

The Commission has set a target date of October 1977 for adoption of the two veterinary drug proposals, but Council attorneys doubt whether this target can be met.

In Brief...

Commission attorneys have finalized the draft directive on products liability, and the EC executive was to have sent it to the Council of Ministers by the end of May + + + The Commission has sent to the Council a modified draft regulation that would settle problems arising from conflicts of laws that could occur, for example, when an employee is transferred from one member state to another as a result of a merger. Article 3 was modified to the effect that it would exempt transport from the scope of the regulation + + + The Council has taken three decisions that are significant for seed producers in third countries. They pertain to the equivalence of field inspections of seed-producing crops and to quality standards for seed and seed potatoes (amending a 1973 measure).

Italy: Demands for Cash Deposit Exemptions

The monetary effect of the Italian cash deposit requirement so far has been weaker than the authorities had hoped: in the first week following introduction of the decree, the Bank of Italy received only 200 billion lire in interest-free deposits, which was 40% below expectations. Pro-rated on a monthly basis, this meant that the actual inflow would fall short by 450-500 billion lire of that anticipated. On the other hand, there was no question that the cash deposit rule had a favorable impact on the lira, which recovered slightly from its historic low (up 2% as of May 21), and on the rate of capital outflow.

The relatively low volume of cash deposits was explained by the importers' hope for modifications and special exemptions from the new regulations, although the authorities initially showed no inclination to bow to pressures on this point. Exemptions were demanded not only

Cash Deposits *(contd.)*

by private industry, but also by such state enterprises as the Enel electric utility corporation (for heating fuel imports) and the ENI holding (for crude oil imports). ENI and the private oil concerns even threatened to cut off, or at least reduce, imported supplies for their Italian refineries. The domestic textile industry was campaigning for exemptions on grounds that the raw materials that it imports are primarily processed for export. Italy's foreign trade partners also reacted in various ways to the import curbs: the Germans want Rome to make at least some allowances for milk and milk products, while France's farm exporters have even hinted at retributive actions.

The Foreign Trade Ministry and other government agencies in Rome have been given credit for not reacting too quickly to all these demands, although discussions with various industry representatives meanwhile have progressed to a point where modifications of both the cash deposit and the currency regulations are no longer ruled out. Unconfirmed reports said that agreement had been reached on the abolishment of the cash deposit rule as it affects repayments of foreign debts, dividend distributions and interest payments, and airline ticket sales.

Belgium: 1975 Slowdown of Foreign Investments

Direct foreign investment in Belgium slowed down considerably last year, according to official statistics - a trend that is in evidence in most other West European countries. In 1975, these investments in Belgium totaled BF 10.9 billion compared with BF 24.4 billion in 1974 and BF 12.4 billion in '73. This was the lowest total since the foreign investment boom began in 1959. The number of investment projects financed by foreign investments in 1975 amounted to 699 compared with 917 the year before. In terms of newly created jobs, the differences were even greater: 2,188 in 1975, 5,616 in '74, and 5,226 in '73.

In a comparison of source countries, the statistics show that investments originating in the United States have been declining considerably. They went down from BF 12.3 billion in 1974 to BF 2.7 billion in '75. The latter figure represents only 25% of all foreign investments in Belgium, whereas it was nearly 50% on the annual average for the entire 1959-75 period. By the same token, investments originating from Common Market states rose from an average 34% over the 1959-75 period to 53.5% last year (42% in 1974). Here, France led the EEC investors with BF 3.3 billion in 1975, followed by the United Kingdom with BF 1.3 billion, Italy, and the Netherlands.

Since 1959, foreign investment has created 1,099 new enterprises in Belgium and about 90,000 new jobs. However, the trend lately is for more capital-intensive engagements: whereas in 1974 it took an average BF 1.6 million for each

Investments (*contd.*)

newly created job, this figure rose to BF 3.22 million last year.

The statistics further reveal a shift in the Belgian regions that attract most of the foreign investments. Last year, for the first time, more projects were located in the French-speaking Walloon region (43.8%) of the country than in Flanders (40.2%). Brussels, the capital, attracted 16% of such investments. Since 1972, when they reached their peak at 63%, foreign investments in Flanders have steadily declined.

Netherlands: Inflation's Effects on Incomes Policy

The latest statistics on domestic price expansion have "unpleasantly surprised" the Dutch government: the consumer price index rose by 2.1% from March to April and by 4.6% within the first four months of this year - increases that should make it difficult to achieve the originally targeted 8% inflation rate this year. The news of the unprecedented price rise came at a time when the government, the employers, and the unions were gearing up for their discussions on incomes and social policy covering the remainder of this year and 1977.

The government planned to go into these talks with the aim of winning an agreement to keep wage cost increases this year on a level below 9%, which would involve the extension of the current half-year wage freeze from July 1 until the end of 1976 and, most probably, the temporary abolishment of all price compensation except for the lowest income groups. In practical terms, there would be a continued freeze on wages above 20,000 guilders annually and maximum automatic pay adjustments of 4% below that level.

Acceptance of this proposal is needed if the Joop den Uyl administration is to be successful with its "Operation One Percent," a new economic plan worked out by the five-party coalition government which provides for only a 1% rise in public and social expenditure in each of the next few years and would thus result in "savings" of 10 billion guilders until 1980. The Central Planning Bureau has calculated that, should this plan be implemented, it could be possible next year to keep inflation to 5.5% and wage cost rises to 7.5%.

The question in Holland is whether these targets and projections are in any way realistic (given the fact that public spending rose from 43 billion guilders in 1972 to 78 billion guilders this year) and whether the government retains the political strength to implement "Operation One Percent." The unions, for their part, have referred to the "failure" of the government's price policies and are demanding an automatic pay adjustment of 5% as of July 1, when the wage stop expires. In view of the "moderation"

Inflation *(contd.)*

the unions say they practiced in the past months, labor leaders insist that their demands are reasonable and justified. Observers do not rule out more serious confrontations, not to exclude political strikes, should the tripartite talks end in failure.

Germany: Approval for Water Pollution Control Bill

The lower house of Parliament has approved a heavily diluted version of the German government's original water pollution control bill. The changes affected both the time element and the substance of the measure. Under the lower-house version (upper-house approval is assured), as of January 1981, polluters would be required to pay a levy of DM 12 per unit, based on the degree of effluent noxiousness. This levy would gradually increase in the coming years, reaching DM 40 by 1986. The government's original bill called for a levy of DM 25 per unit of noxiousness as of 1976 and of DM 40 as of 1980 (*Doing Business in Europe, Par. 30,718*). The levy would be determined by effluent volume plus a combination of three factors - organic and inorganic deposits, oxygen requirements for breakdown of organic substances, and the specific degree of toxicity.

Environmentalists and spokesmen for the public water utilities immediately criticized the lawmakers for giving in to pressure from industry and local governments. Industry representatives testifying before the lower house's interior committee impressed the lawmakers with their arguments that the originally proposed levy would endanger jobs and that many small and medium-sized enterprises would be forced out of business if levy assessments were to start in 1977. Local government officials pointed out that immediate enactment would have resulted in financial difficulties for many communities because 60% of the smaller communities still lack sewage treatment facilities (thus, local governments rank second to industry in causing pollution).

The bill also reflects an earlier compromise in the distribution of water pollution control powers between the federal government and the states. That compromise cleared the way for passage of the Water Management Act last April. The bill would authorize the states to enact the administrative rules (for example, on assessment), and four years would be allotted to prepare for enforcement.

Federal government officials maintain that the moderate future law does not invalidate their basic contention that, in the long run, it will be cheaper for businesses to invest in antipollution devices or to avoid pollution altogether by switching to different production methods (in the case of the communities, to build sewage treatment facilities). Also, the new law will remove competitive disadvantages suffered by those businesses that already have invested in treatment facilities.

Britain: Bill Due on Devolution of Scotland, Wales

The U.K. government has announced that it will introduce a single "combined" Bill in the next session of Parliament to give "devolution" to Scotland and Wales. Michael Foot, the Leader of the Commons, made this official on May 25 when he outlined the proposals.

In effect, the Bill will provide that responsibility for all operations of the Scottish and Welsh Development Agencies and for all appointments to them be transferred to devolved administrations. However, to ensure that there would be "no unfair competition with other parts of the United Kingdom," the industrial investment operations of the agencies would be subject to "guidelines laid down by the government from time to time." Still, such operations would be "wholly" the responsibility of the devolved administrations.

Details also were given on the constitutional roles of the secretaries of state: first, if there were any doubt at the pre-assent stage about the vires of an Assembly Bill, the issue would be resolved via a reference to a judicial body (probably the Judicial Committee of the Privy Council): thus, the government would not have the power to reject Assembly Bills on vires grounds. Secondly, the secretary of state would have the responsibility of appointing the Scottish executive, but he would act on the advice of the Assembly. Thirdly, he would have no role in fixing the maximum size of the Scottish executive or the remuneration of its members. These matters, Foot said, would be left to the Assembly (as would comparable ones in Wales). What has not yet been resolved, on the other hand, is the matter of U.K. reserve powers other than Parliament's inherent power to legislate.

Foot's announcement did little to appease his devolution opponents in the House. Also, should the government be defeated on this issue by an alliance of Conservative and rebel Labour backbenchers, there would appear to be no alternative to immediate general elections, observers said.

EURO COMPANY SCENE

Burmah Oil/ R.J. Reynolds

After turning down an "inadequate" offer by the United States' R.J. Reynolds, Inc. last November, Britain's Burmah Oil Co. has now agreed in principle to the cash sale for $520 million of its North American oil and gas business operation to the U.S. industrial group. Burmah spokesmen said the price agreed upon was higher than that offered last fall, without saying by how much. The transaction still requires the approval of the board of directors of both parties. It specifically involves the acquisition of the Burmah Oil & Gas Co. (the former Signal Oil Co.) and the Burmah Oil Development, Inc., which are primarily en-

Burmah Oil/ R.J. Reynolds *(contd.)*

gaged in exploration in California and the Gulf of Mexico as well as in distribution and marketing. The sale of Burmah's U.S. interests was a condition in the company's agreement with the Bank of England under which it was given massive aid in late 1974. The deal with Reynolds was seen in the U.K. as a major step toward Burmah's financial recovery.

Burlington

Burlington AG, Basel, Swiss subsidiary of the United States' Burlington Industries, has announced the upcoming closure of its last production plant in Switzerland. It involves a yarn spinning facility with 170 employees in Arlesheim, which is to be shut down in steps by the spring of 1977. Burlington spokesmen explained that the world market situation and the high valuation of the Swiss franc had made it impossible to keep the export-intensive operation profitable. They said that the Burlington AG and the European administrative headquarters will be retained. Burlington still operates spinning and knitting plants in France, Britain, Sweden, and Finland.

Quaker Oats

According to Swiss reports, Quaker Oats of the United States is now entering the Swiss pet food market with the introduction of eight brand products. Distribution and marketing will be through R.C. Andreae Ltd., Arlesheim. Europe, Quaker Oats so far has been engaged in the pet food markets in Britain, France, the Benelux countries, and Scandinavia.

Smith-Kline/ Dauelsberg

Smith-Kline Corp. of Philadelphia has recently acquired majority control of Dauelsberg & Co. Penicillin-Gesellschaft, a German producer of pharmaceuticals and antibiotic preparations. No further information has been released so far by the German company based in Göttingen.

Lloyds Bank/ First of Northern California

Britain's Lloyds Bank International has announced the acquisition, via its U.S. subsidiary Lloyds Bank California, of the First State Bank of Northern California, San Leandro, which has four California branches. First State failed on May 22 as a result of an overextension of credit to the real estate sector. The U.K. bank submitted the best of three bids for the assets - some $55 million in deposits. It was stated that First State had experienced no material capital erosion and had no liquidity problem.

Common Market Reports

EUROMARKET NEWS

Issue No. 386 June 9, 1976

IN THIS ISSUE

Community: EC Court Rules against Dutch Import Decree

The European Court of Justice has again ruled in favor of free intra-Community trade when, in effect, it invalidated a Dutch decree to the extent that it imposed certain formalities on importers of pharmaceuticals (*Officier van Justitie, Rotterdam v. Adriaan de Peijper, Nieuwerkerk*, Case No. 104/75). The Court held that "a national rule or practice which tends to channel imports so that only certain enterprises can handle them while others are excluded constitutes a measure tantamount to a quantitative restriction within the meaning of Treaty Article 30" (*Common Market Reports, Pars. 321-322*).

Last October a Rotterdam district court had doubted whether a state attorney's office was correct in prosecuting a Dutch national for having failed to comply with import rules that require importers to produce certificates testifying to the specifications of a drug prior to its importation. The accused, Adriaan de Peijper, is director of the Dutch company Centrafarm, which had been importing from the U.K. tranquilizers produced by Hoffmann-La Roche, thereby undercutting the sole authorized Hoffmann-La Roche distributor in the Netherlands. Unable to obtain the certificates, to which only the authorized distributor had access, Peijper claimed that the rule requiring presentation of certificates was contrary to Article 30 and could not bene-

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Import Decree *(contd.)*

fit from exceptions provided in Article 36 of the EEC Treaty (*Common Market Reports, Pars. 352.03 and 352.07*). The European Court's ruling in effect cleared Peijper of any wrongdoing in this connection. His company may continue to import Hoffmann-La Roche drugs or any other brand, provided they are protected by trademarks.

The ruling is the third victory for Peijper and Centrafarm in their drive to overcome barriers to interstate trade, no matter what their nature. They won in October 1974, when the Court of Justice reiterated its position that free interstate trade must prevail over industrial property right considerations. Thus, Centrafarm could continue to import drugs into the Netherlands from the British subsidiary of Sterling Drug, Inc. and undercut the prices of Sterling Drug's Dutch subsidiary, Winthrop (Cases Nos. 15/74 and 16/74, *Common Market Reports, Pars. 8246 and 8247*).

Possible Accord on Daylight Savings Time

Council attorneys still hope for a complete EEC accord on a daylight savings time arrangement, now that all nine member state governments have agreed in principle on the introduction of daylight savings time on an experimental three-year (1977-79) basis. There is even agreement that the changeover should begin at 1 a.m. on the first Sunday in April 1977. However, the U.K. has rejected the suggestion of the other eight that daylight savings time should end in mid-October and insists that it end on Oct. 31. Concerned that the Council might not agree before this summer on more important measures such as the election of the European Parliament, Commission President François-Xavier Ortoli hopes that at least the daylight savings time accord can be reached. He has sent a personal message to U.K. Prime Minister James Callaghan, urging Britain to fall in line with the other eight.

Last February the Commission had submitted a proposal to the Council calling for a uniform summer time arrangement. It emphasized that the existing time differences present problems for transport, telecommunications, commerce, and other contacts among the member states. (Britain, France, Italy, and Ireland already practice daylight savings time.) Passenger transportation suffers most from the time discrepancies, the Commission said, and business telephone calls are also affected.

If it comes to a Community arrangement, Austria and Switzerland would be urged to join, since most of the Community's north-south vacation and commercial traffic passes through those countries. Austria has indicated its willingness, while Switzerland's position is still not clear. Regardless of whether a Community accord is reached, the three Benelux countries have decided to introduce daylight savings time starting next year on a permanent basis:

Time Accord *(contd.)*

clocks in those countries will be moved forward one hour on April 3 and set back again on Sept. 25.

In Brief...

In a few weeks' time the Commission is to send to the Council a proposal that would make unit pricing mandatory for all packaged products. Commission attorneys say that consumer protection was the primary reason for drafting the measure but that the free circulation of goods in intra-Community trade was also a factor. The Commission's latest initiative follows the Council's adoption in February of the directive aimed at approximating member state laws relating to the makeup by weight or volume of certain prepackaged products + + + The Council working group's discussions on the European Company (Societas Europaea, or S.E.) draft statute are being slowed by several technical and substantive problems. A major technical problem concerns taxation. Elimination of the tax provisions would not solve anything, because then the same problems would have to be tackled elsewhere (for example, in another proposal). Labor representation on the S.E.'s supervisory board still remains the foremost point of disagreement, however.

Germany: Vote Due Corporate Tax Reform

After three months of hearings and intense discussions, the lower house's tax committee has reported back to the floor the German government's 1973 corporate tax reform bill. The committee made some changes but did not touch the main issue - the proposed abolishment of double taxation of dividends. Under the bill, companies would be paying 56% corporate income tax on their retained profits and 36% on dividends distributed to shareholders. As under present law, a dividend-paying company would also have to withhold 25% *Kapitalertragsteuer* from dividend payments made to both resident and nonresident shareholders that would be considered as an advance payment on their income tax liability. Resident shareholders would be credited with the corporation tax when filing their individual income tax returns (*Doing Business in Europe, Pars. 23,395 and 30,666*).

The tax committee discussed extensively the implication of the bill for foreign-owned subsidiaries, which would have to bear a higher tax burden than they do at present. Like most German entities, a foreign-owned subsidiary would pay 56% corporate income tax on retained profits and 36% on dividend payments made to its parent company, but the latter would not be able to claim credit for the tax paid by the subsidiary. This is why the proposed system has been criticized as being highly discriminatory toward nonresident shareholders.

Committee members and government officials have been aware that the future system would require renegotiation of all double-taxation treaties. They have indicated that the

Corporate Tax *(contd.)*

current dividend withholding tax rate could be lowered in order to compensate nonresident shareholders for losing a credit for corporate income tax paid. Experts testifying before the committee had urged the lawmakers to write into the measure a lower withholding tax rate on dividend payments. There have been no hints on how far the government would be inclined to go here in order to bring down the tax burden to international levels, but apparently a 20% rate would be acceptable. Still, the renegotiation of the German-U.S. tax treaty would be especially intricate because Article VI limits the withholding tax on dividends distributed to American companies to 15% (instead of 25%). Only when such dividends are deemed to be reinvested may Germany impose a rate of up to 25% (*Doing Business in Europe, Par. 23,348*).

Adoption of the bill by both the lower and upper houses is expected before the summer recess, so that this third and last piece of the government's tax reform program could go into effect on Jan. 1, 1977. (The other reforms affected the net worth and property taxes and the Fiscal Code - *Doing Business in Europe, Pars. 30,643, 30,653, 30,699, and 30,862.*)

France: Paris Submits Tougher Merger Control Bill

Draft legislation providing for tighter controls on mergers, monopolies and illegal cartels has been approved by the French government and sent to Parliament. Submitted by Finance Minister Jean-Pierre Fourcade, the bill is not, however, nearly as far-reaching as legislation existing in other countries: it would subject to controls only mergers that result in market shares of at least 40% in the case of "horizontal concentrations" (involving enterprises on the same production levels) and of 25% in the case of "vertical" agreements. Even then, the law would provide for selective rather than automatic controls. The enterprises would have the option of informing the Economics and Finance Ministry of their merger plans in advance or decide not to do so. In the latter event, they would risk retroactive investigation and sanctions. Upon finding that a completed fusion violates competition and merger rules, the authorities could either demand modifications of such agreements or invalidate the entire transaction.

The bill also lists tougher sanctions, although fines would be limited to 10% of turnover or a maximum of FF 5 million. Penalties against individuals would be doubled to a maximum four months of imprisonment and fines of up to FF 400,000. In the future, consumer organizations also could become parties to suits filed against enterprises for illegal cartel practices or other violations of competition rules; so far, they are prevented from initiating such legal actions. Finally, the government's existing commission

Mergers *(contd.)*

on cartel agreements is to be renamed Commission on Competition and will be given extended powers of surveillance.

The proposed law has been described as a first concrete step in the direction of true cartel and merger controls in France. In the past years, particularly under the administration of the late Premier Georges Pompidou, the government was less concerned about such controls as it concentrated its efforts on bringing up domestic industry to the technological and competitive levels of those in the other major countries within and outside the Community. Lately, however, there has been somewhat of a shift in policy favoring small and medium-sized businesses in order to encourage more investment at those levels.

Britain: Commons Clash over Air, Ship Industry Bill

The state of confusion afflicting the U.K. Labour government's nationalization bill for the aircraft and shipbuilding sectors - highlighted by unprecedented scenes of anger in the Commons - has been brought on by a technical objection that the bill was "hybrid" in combining public and private elements. The government's intention to push forward with the bill, a key issue in its pre-election manifesto, is unimpaired, but the Opposition's determination to end the "pairing" system on voting (which effectively allows for cancellation of an absent member's vote) may have further repercussions on future controversial legislation, particularly since the government does not command a clear majority in the House.

Of more significant interest, however, is the damage that the parliamentary discord may have done to Britain's civil aerospace industry, which is now in a critical phase. Work is running out at British Aircraft Corp.'s plants at Weybridge, Bristol and Hurn as the BAC 1-11 and Concorde programs are being drastically curtailed. The Dept. of Industry has come to realize that the future of the industry is probably inextricably linked with the acquisition of a larger stake in the European Airbus and the HS-146 "feeder" airliner.

It remains to be seen whether or not the government can persuade its partners in these collaborations that the proposed nationalized aerospace board can offer sufficient guarantees on behalf of Britain. The crisis over the nationalization bill (originally touched off by the exclusion from state takeover plans of the U.S.-owned Marathon Shipbuilders) has clearly undermined confidence and lent substance to French complaints that Britain is only making "vague gestures" without offering any real financial commitment.

The upshot of the confusion could be that Boeing of the United States will emerge as a partner for the French,

Industry Bill *(contd.)*

which could have serious consequences for the U.K. industry both in terms of revenue and employment.

U.K. Proposal for Market in Traded Options

The U.K.'s Stock Exchange Council is currently deliberating a recommendation from the Committee of the British Exchange that it should introduce a market in traded options. Although U.K. investors are entitled to acquire options to buy or sell shares at a predetermined price within a specified period, there is not, however, any market for dealing in the options themselves (as in Chicago). Precise details of the report have not been divulged, although it is widely assumed that it favors trading of options in a limited number of highly marketable shares in major companies. This restriction would be understood to be motivated by the possibility that across-the-board option trading might result in market manipulation.

A decision was expected sometime this week, and there was a certain probability that, if it is in the affirmative, trading will be in conjunction with the Amsterdam stock exchange (which is also reviewing the situation). In the City, however, there were some misgivings about the proposal, particularly because of the high risks involved and because of the recent American Stock Exchange revelation that certain specialists have been "rigging" option prices.

Belgium: Employment Conference; Retail Index

Last month's tripartite conference on employment involving representatives of the Belgian government, the employers, and the three major unions did not result in any immediate major decisions but served essentially as a forum for all factions to present their views on a catalog of subjects ranging from employment to economic policy generally. The participants did agree, though, to set up working groups to study three specific areas: investments and exports, social policy, and state and regional planning. The three committees were to prepare concrete proposals and submit them by July 15. It was noted with relief that the conference took place in a relatively calm atmosphere, which was attributed to the fact that the rash of strikes involving the public transport and utility sectors and other areas was dying down.

In related developments, the government and the unions have reached agreement on the composition of a new retail price index that is to take effect on July 1. The index, which provides the basis for Belgium's system of automatic wage adjustments, in the future will reflect the prices of about 350 items instead of the present 149 and thus, reportedly, will be more representative of changes in the cost of living. Rents, which are frozen until the end of 1976, will be included for the first time; they are weighted at

Employment *(contd.)*

5%. Controversial is the exclusion from the index of home mortgages. It was reported that mortgage payments make up about 16% of the cost of living in a country where roughly every second family owns a home.

Switzerland: National Bank Tightens Ban on Interest

To counteract the pressures that continue to drive up the value of the Swiss franc vis-à-vis other currencies, the Swiss National Bank has slightly tightened the interest ban on bank deposits of nonresidents. Since Oct. 31, 1974, savings deposits of foreigners in excess of SF 50,000 have not drawn interest and those in excess of SF 100,000 have been subject to a "negative" interest rate of 10% per quarter. With effect from June 1, the SF 50,000 limit has now been lowered to SF 20,000. However, funds deposited in Switzerland between Oct. 31, 1974, and June 1, 1976, may continue to draw interest within the previous SF 50,000 limit.

The National Bank stated that the new regulations are in no way related to a ban on investments in Swiss securities, over which there has been much speculation. A Bank spokesman emphasized that there is no intention of imposing such a ban, pointing out that a previous experiment in this respect did not have positive results. Also denied were persisting rumors that the monetary authorities were planning a split market for the Swiss franc, i.e., a "capital franc" and a "commercial franc," a system previously exercised by France and Belgium for their respective currencies. In such a case, the National Bank would intervene only on behalf of the commercial franc.

During the first days of June, the situation on the Zurich foreign exchange market was described as "chaotic" by dealers of the major banks. Private customers received only SF 2.40 for the dollar, and the D-mark rate dropped to a new low of DM 0.91 to the Swiss franc (from a 1973 high of DM 1.26). Apparently contributing to the unprecedented strength of the franc were reports that the surplus of the Swiss balance of payments in 1976 would be even higher than previously estimated: some sources spoke in terms of SF 10-12 billion, which would compare to SF 8 billion last year. Several Swiss exporters announced that they suspended all shipments to Germany, since they were unwilling to absorb the losses caused by the unfavorable D-mark exchange rates. They said that they would attempt to base future deliveries on franc-denominated invoices.

EURO COMPANY SCENE

U.S. Investors in Britain

A study of American investment in the United Kingdom ("U.S. Industry in Britain," Wilton House Publications) has estimated that direct investment by U.S. affiliates in the U.K.

U.S. Investors in Britain *(contd.)*

increased by some 12.5% between 1950 and 1974. These affiliates now account for a total of some $8,000 million of investment in Britain, i.e., about 12% of the total production of all U.K. manufacturing enterprises. The study also notes that the rate of return on investment in Britain falls short of that in Germany, Belgium, and Luxembourg but is higher than in other member states of the European Community.

Stelux/ Bulova

The Stelux group of Biel, Switzerland - in which five Swiss watch producers are joined - has announced the purchase of 27% of the shares of the Bulova Watch Co., New York. The transaction was effected through Stelux' Hong Kong affiliate.

Bulova/ Varta/ SSIH

In related developments, an additional partner has now joined the Germany-based Electronic Watch Batterie GmbH, which was established last year by the U.S.-Swiss Bulova Watch Co. and Varta Batterie AG, the German battery producer. The newcomer to Electronic Watch is Switzerland's SSIH Société Suisse pour l'Industrie Horlogère ("Omega," "Tissot"). Under the new arrangement, Varta retains majority control of the subsidiary, while Bulova and SSIH hold the remaining equity.

American Air Filter

The formation of a new subsidiary headquartered in Düsseldorf, Germany, has been announced by American Air Filter Co., Inc., of Louisville, Ky. The new company, AAF-Lufttechnik GmbH, will distribute on the German market selected AAF products and systems for the control of air quality in commercial, industrial and institutional applications.

E.P. Remy

A production plant for packaging equipment for bottles and other containers will be constructed by France's E.P. Remy Co. on a six-acre site it has acquired in the Norfolk, Va., industrial park, according to a report by the American Chamber of Commerce in France.

Common Market Reports

EUROMARKET NEWS

Issue No. 387 *Report No. 294, June 18, 1976*

IN THIS ISSUE

Community: Moving Closer to Clean-Up of Rhine River

France, Germany, Luxembourg, the Netherlands, Switzerland, and the European Commission have agreed on the content of an international draft convention to reduce chemical pollution of the Rhine River. Although the convention would not put additional burdens on polluters along the Rhine beyond those set forth in a recent Council directive, it is nevertheless needed to enable non-EC countries to join the clean-up effort. The European Community took part in the negotiations in its own right, having already signed the Paris Convention for the prevention of marine pollution from land-based sources and taken part in discussions relating to the Barcelona Convention for the protection of the Mediterranean marine environment against pollution.

In line with the recent Council directive aimed at reducing pollution caused by certain dangerous substances discharged into the aquatic environment, the draft convention also contains two lists of such substances and compounds - the "black" and the "grey" lists. Once the Council of Ministers has established permissible limits for these substances and compounds (negotiations are under way), the signatories would incorporate these limits in the draft convention.

This issue is in two parts, consisting of 72 pages. This is Part I.

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Pollution *(contd.)*

The above-mentioned countries and the Community have also reached agreement on a convention for the desalinization of the Rhine. France, whose state-owned potassium mines in Alsace discharge some 11,000 tons of chloride into the river each day, has agreed to extract during the coming years 20 kilograms of chloride per second from the effluents and to store the chlorides underground. Extraction would be increased to 60 kilograms per second in the 1980s. The annual cost of approximately FF 116 million would be shared by France (30%), Germany (30%), the Netherlands (34%), and Switzerland (6%). This agreement is vital to the Dutch who obtain most of their drinking water from the Rhine.

The salt-carrying Rhine has also done great damage to crops. In one instance, some Dutch vegetable growers sued the French mines in an Amsterdam district court under the EEC Convention on the Jurisdiction of Courts and the Recognition and Enforcement of Judgments (*Common Market Reports, Pars. 9730 and 9813*). After that court declined jurisdiction, the Court of Appeals at The Hague asked the European Court of Justice for an interpretation of Article 5(3). The Court of Justice must decide whether "the place where the injury occurred" means the location where the damaging act was committed or where the actual damage was sustained (Case No. 21/76).

Both conventions are expected to be formally signed the coming weeks. However, it is doubtful that ratification will be completed by the end of the year, so that both measures probably will not take effect on Jan. 1, 1977, as had been originally planned.

Bonn's Okay Seen on Product Rules Package

Germany is holding out against adoption of one of 18 draft directives that would ease intra-Community trade by harmonizing national rules pertaining to a great number of products, among them certain measuring instruments, pressure vessels, automotive parts, and cosmetics. The disagreement concerns a draft proposal that would establish maximum levels of radio interference caused by electrical household appliances and which would leave the testing to the manufacturer. While the other eight states have agreed on that, Germany wants its testing agency to do additional testing and attach a seal to approved models, thus giving market authorization.

Council attorneys are confident that Bonn will give in because the Germans have been told that the entire package will not be adopted unless there is agreement on this one issue. Adoption was scheduled for June 28.

Britain: $5.3-Billion Loan to Halt Slide of Pound

"An impressive demonstration of international banking cooperation in support of sterling against unjustified market pressure." This was how U.K. Chancellor of the Exchequer Denis Healey characterized an unprecedented $5.3-billion

Loan *(contd.)*

loan to Britain by the world's leading industrial nations - the Group of Ten augmented by Switzerland and the Bank for International Settlements. The loan was made initially for a three-month period ending on Sept. 9 but will be available for a further three months. Any drawing of the loan that could not be repaid could be offset by a further loan from the International Monetary Fund.

To the U.K. government, the international banking community was clearly preferable to the IMF as the source of the loan, since the latter inevitably would have imposed stringent conditions in regard to government expenditure. The six-month period was seen as appropriate in that at least one of the reasons for sterling's decline has been short-term commercial transactions caused by importers and exporters "arranging" receipts and payments in order to secure optimal returns (see following story). It was predicted that this process would reverse itself in about three months, thus generating a positive cash flow in Britain's favor.

In the meantime, the loan arrangement did trigger a surge in sterling on the international exchanges, which was also aided by the U.K. mineworkers' vote to support the government's pay policy. In the longer term, however, many observers feared that the decision for the "bridging loan" could backfire. Any recourse to the IMF, if needed, could create severe problems for the government. Further, there were doubts concerning the huge foreign exchange reserves held in London by Mideast oil producers: if these were removed, for whatever reason, a further slide of the pound would be unavoidable.

Finally, there remained a question on international confidence in the U.K. government's anti-inflation policies. Although Healey hailed the standby credit as something of a triumph, the fact was not overlooked that no other nation in the industrial world now requires a loan of such magnitude. It was noted that all of Britain's major trade partners have less unemployment and have reduced inflation to single figures. In short, most commentators agreed that the loan arrangement assured the U.K. government of a breathing spell only - assuming that the expected censure motion of the Conservative Opposition could be defeated and the Callaghan administration's resignation forestalled.

'Hedging' by Subsidiaries to Minimize Sterling Loss

The rapid fall in sterling prior to the international loan arrangement for the U.K. caused grave problems for U.S.-based multinationals with British subsidiaries inasmuch as the latter earn their profits in sterling which, upon conversion into dollars on the parent's annual financial statement, results in a sharp depreciation of net income.

'Hedging' *(contd.)*

In the main, the multinationals have been employing a number of hedging devices to counter this drain, the principal one being to sell sterling forward for delivery in 90 days but with a contractual option to convert at a specific price. In this way, the exchange rate can be "fixed." Again, the U.K. subsidiary can convert its sterling into a hard currency such as the dollar, D-mark or Swiss franc. This is not easy due to Britain's stringent foreign exchange regulations, but it is possible through the process known as "leads and lags." Thus, for example, dividends to the parent are disbursed as quickly as possible (even if this entails borrowing), whereas the conversion of payments denominated in foreign currencies is delayed as long as possible. Finally, the U.K. subsidiary usually will make every effort to maximize borrowings in pounds, anticipating that sterling indebtedness is, in the long term, cheaper than indebtedness in a "healthy" currency.

France: Controversy on Capital Gains Tax Bill

At the end of one week's debate in the French National Assembly and a closed-door meeting between President Giscard d'Estaing and his Prime Minister Jacques Chirac, it appeared that the parliamentary controversy over the government's capital gains tax bill could bring on major trouble for Giscard's administration. To many observers, the intensity of the confrontation appeared incongruous, given the fact that the draft legislation as it came out of the committees bore little resemblance to its original version, having been riddled with numerous exemptions and reductions. Even the original draft had provided for capital gains taxation far more moderate than that of other countries: it merely was intended to set the stage for an overhaul of France's tax structure by way of redistributing some of the burdens now imposed by the indirect (value-added) and income taxes.

Even before the bill was presented to the floor, there was no question of the leftists' unequivocal opposition to the measure, mainly because they consider it far too weak. The main challenge, however, has come from the parliamentary majority: the Gaullist supporters of Giscard d'Estaing for a while refused to back the draft measure, which they termed "leftist" and a threat to economic freedom. While Prime Minister Chirac, the leader of the Gaullists, made an attempt to bridge the differences, it was no secret that he, too, was unhappy about the bill. In fact, at one point there was speculation that Chirac was ready to resign rather than use his political powers to push the measure through Parliament after all.

The importance attached to the bill by nearly all factions may be illustrated by the fact that it has been the subject of more than 600 proposed amendments, most of them coming from the Gaullists. In its original form, the mea-

Tax Bill *(contd.)*

sure would have concerned only 300,000 taxpayers and would have raised only an additional FF 1 billion in revenue. In the interim, though, as the result of intense bartering in the committees and between the majority parties, the draft was watered down further by government concessions on exemptions and periods of ownership (shares of stock, secondary homes), although details were not immediately available.

In the end, a split in the government's parliamentary majority was avoided when Finance Minister Jean-Pierre Fourcade consented to certain amendments introduced by the Gaullist UDR party. This compromise probably saved the bill from being sent back to the committees and, thereby, from almost certain extinction. A withdrawal of the proposal would have been interpreted as a stinging defeat for Giscard d'Estaing, who has described the capital gains tax bill as the most important part of his reform program.

Germany: Rescue Attempt on Apprentice Training Bill

Following last month's defeat of the apprentice training bill in the Opposition-controlled upper house, the German government coalition parties have introduced in the Bundestag an amended version of the original bill, which the lower house had approved earlier (*Doing Business in Europe, Par. 30,796*). Like the previously approved bill, the new measure would authorize the federal government to make all businesses and public employers with annual payrolls of more than DM 400,000 pay a levy of 0.25% of the payroll. The levy would be imposed whenever openings for apprentices fail to exceed by 12.5% the number of school leavers. A yet-to-be-established federal institute would administer the program and would grant premiums to those employers who train apprentices.

In contrast to the previously approved bill, however, the new proposal eliminates most of what the upper house found objectionable aside from the levy concept: the establishment of commissions made up of business, union and government representatives and charged with overseeing training curricula in vocational schools and on the job. Since education is the constitutional prerogative of the states, there was no way for the federal government to legislate in this area without the states' consent.

Still, even the amended bill does not entirely preclude state involvement, since the levy would be collected by the workmen's compensation funds, which are organized on an industry-by-industry basis and are controlled by the states. Government attorneys hope that the Opposition will relent and not embark on a legal battle before the Supreme Constitutional Court. Most constitutional experts agree that the levy concept and the creation of the federal institute clearly do not require upper house consent. Should the

Training Bill *(contd.)*

Bundesrat reject this part of the measure, its veto could be overruled by the lower house. Should it also object to the states' involvement, then the government could sue the opposing states on grounds of lack of loyalty to the federal system (*Bundestreue*) - a principle embodied in the Constitution and developed by the Supreme Court.

The lawmakers will have to be called back from their vacation in the second half of July if they are to overrule the Bundesrat's veto, since the government wants enactment by Sept. 1.

Switzerland: New Moves to Contain Speculation

Parallel to the international support action on behalf of the British pound, Switzerland's monetary authorities have decided on further restrictions to contain the continued speculation in the Swiss franc. As of June 8, the National Bank lowered its discount rate from 2.5 to 2% and the Lombard rate from 3.5 to 3%. Also as of that date, the Bank imposed additional curbs on Swiss franc forward deals by nonresidents. Furthermore, a gentlemen's agreement was concluded with the country's commercial banks, whereby the latter were to instruct their foreign branches and subsidiaries to refrain from currency transactions "of speculative character" involving the Swiss franc.

At the same time, the National Bank announced plans for additional intervention on the domestic currency market in an effort to straighten out the "rate distortions" prevailing there. In the event that these interventions prove ineffective, the Bank warned it would take more massive action in the form of a domestic exchange ban on Swiss franc transactions, similar to one temporarily imposed in 1971. Of all the measures at Bern's disposal, it was noted by financial observers, such a ban would be certain to have the greatest impact on speculation.

Finally, it was announced that Switzerland's Big Three commercial banks have extended a DM 750-million credit to Germany. For this purpose, the Swiss National Bank would buy D-marks on the foreign exchange market and provide these funds to the three banks in return for Swiss francs. This currency swap transaction between Switzerland and Germany - technically in the form of a "loan" - was designed to absorb excessive D-marks that have been brought into Switzerland.

Sweden: Riksdag Passes Law on Co-Determination

A co-determination law described by Prime Minister Olof Palme as the country's "most important reform of the '70s" has been adopted by the Swedish Riksdag with the votes of the governing Social Democrats and the Liberals. The legislation, which will take effect next Jan. 1, authorizes the unions to negotiate and conclude collective agreements

Riksdag *(contd.)*

not only in the area of wages and related benefits but also in that of co-determination in the management of enterprises.

Passed on June 1 after a preparatory period of several years, the new law differs from those of other countries (for instance, Germany) in that it is not of an institutional nature but instead provides for far-reaching powers and duties of negotiation. In effect, the law cancels the sole prerogative of the employers to hire and fire and to "direct and allocate work" as spelled out in Article 32 of the employer federation statutes. This prerogative is superseded by the principle that the employees may demand negotiations on all issues that are of concern to them within the enterprise. The role of the unions as representatives of the employees is explicitly affirmed. In regard to issues considered as having significant effects on employees, the employers even incur the responsibility of inviting the unions to negotiate. This "primary duty of negotiation" applies, for instance, to plans for production cutbacks or for the sale of the enterprise or parts thereof.

The unions' duty to keep the labor peace following the conclusion of an agreement will effectively prevail in a split form: even after agreement on wages has been reached, strikes may be employed as a legitimate means of pressing demands in the area of co-determination. Wildcat strikes, however, continue to be illegal and may draw sanctions in the form of fines.

A major point concerns the interpretation of signed co-determination agreements. Here, the unions' interpretation is deemed to apply until a labor court rules otherwise. Similarly, the unions retain the decisive vote in the interpretation of wage agreements, unless the employer appeals to a labor court within 10 days after an agreement's conclusion. Still, in regard to most co-determination questions, the unions have no veto powers, since it is the law's guiding principle that both sides achieve a compromise.

The consequences of the law will not be immediate and will be known only when the unions begin to take advantage of the new rules the next time collective bargaining sessions begin. Spokesmen for the SAF employers' federation fear that it will be "impossible to operate effectively if, prior to each decision, the opinion or agreement of the employees must be sought." It was charged that the new rules would produce "a sluggish, ineffective" economic system. By contrast, both the chairman of the LO labor federation Gunnar Nilsson and Labor Minister Ingemund Bengtsson rejected contentions that the new legislation will paralyze the freedom of activity of Swedish business. Nilsson said that the unions are not militant organizations bent on crippling the domestic economy.

Riksdag *(contd.)*

Palme himself told Parliament that the new law does not finalize matters: "Now begins the tedious effort of applying the new rules to the working life. Co-determination of the employees will grow step by step." The Prime Minister in the past has always referred to this kind of co-determination as the "third road" between private capitalism and state capitalism, i.e., communism.

Greece: Parliament OKs Law on Unions, Strikes

Although the newly passed Greek Law No. 330 essentially amounts merely to a codification of existing, but scattered rules on vocational bodies and unions, it does strengthen worker rights to the extent that it guarantees the free election of employee representations and the necessary procedures in this respect. The law provides for harsh penalties against those who attempt to obstruct "the democratic functioning of employee representations." Further, it lays down protective rules to forestall state and employer interference with legitimate union activities.

Section 9 of the law deals with the rules pertaining to the right to strike which, for the first time in Greek history, has been guaranteed under the new constitution passed in November 1974. Strikes are permissible if called by employee organizations and unions and if aimed at a furtherance of worker interests. Non-organized workers may also participate in such strikes, however. In any case, the employers must be informed beforehand of planned strike action in order to afford the opportunity for peaceful settlement. For enterprises in the public and semi-public sectors, Parliament set a notification period of at least 10 days (the original government version had provided for 15 days).

The most controversial part of the law concerns the illegality of wildcat strikes and, particularly, political strikes and is strongly opposed by a number of union leaders. They charge that this clause amounts to a severe restriction of the right to strike. Prior to passage of the law, these unions had called for a 48-hour national walkout to protest what they term the "anti-strike law." Specifically, the demands were for the legality of political strikes and the right of workers to occupy struck enterprises. Also, these unions opposed the notification period for the public sector and the protected status of strikebreakers.

Common Market

REPORTS

Issue No. 388 June 22, 1976

IN THIS ISSUE

Community: Commission Imposes Fine on La Roche

The European Commission has fined the Swiss-based drug maker Hoffmann-La Roche for allegedly having abused its market-dominating position, which is outlawed by Treaty Article 86 (*Common Market Reports, Par. 2101*). The Commission claims that Hoffmann-La Roche granted buyers of its vitamin tablets so-called loyalty rebates, which were not based on differences in costs based on the quantities supplied but rather on the customer's requirements. The Commission alleged that the rebates were not calculated separately for each group of vitamins but were aggregated over all purchases from Hoffmann-La Roche and thus benefited the company even with respect to those vitamins for which it does not hold a market-dominating position (Roche's 1974 vitamin sales accounted for $130 million out of $5-billion total sales). The Commission also maintained that the firm's exclusive and preferential supply contracts with a number of major bulk users enabled it to shut out its biggest competitors from supplying those customers.

Antitrust lawyers see here an abusive and discriminatory element in the firm's behavior. However, as did the counsel for Hoffmann-La Roche, they point out that the drug maker revised its contracts some time ago (after the Commission started its investigations). This fact may have

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La Roche *(contd.)*

influenced the amount of the fine, 300,000 units of account, which represents only a fraction of 1% of the group's total sales; the statutory maximum is 10% (*Common Market Reports, Par. 2541*). Last December the Consultative Committee on Cartels, composed of national antitrust officials, had recommended only a token fine or none at all.

The Swiss government and a number of antitrust experts believe that the source of the Commission's evidence on the manufacturer's alleged practices could be a major issue in the case. Commission officials said that a former executive of Hoffmann-La Roche forwarded the information on his own, which, if true, could have an important bearing on the outcome of a possible legal battle before the European Court of Justice. Antitrust chief Willy Schlieder, commenting on the Commission's decision, stressed that his officials did not rely solely on the former employee's evidence. Schlieder produced excerpts from a Roche intercompany memo that his investigators had discovered on their own. In this memo it was stated, among other things, that "according to the experience of various Hoffmann-La Roche companies, loyalty contracts provide a very efficient protection against competition" and "the advantages cannot induce a customer to change his supplier because he would lose the loyalty rebate."

An interesting sidelight in regard to the fine is that the Commission insists that it be paid in German marks (DM 1.09 million). In the "sugar cases," several firms took advantage of the falling lira and paid their fines in that currency, thereby allegedly saving several hundred thousand units of account.

Accord Near on Public Supply Contract Rules?

The nine member states have narrowed their differences over a European Commission proposal that would require national authorities to consider out-of-state bids for supply contracts on a nondiscriminatory basis. The only major disagreement remaining is on the size of contracts that would become subject to Community rules. The Commission had originally wanted all public tenders of over 100,000 units of account (pre-Smithsonian dollars) open to bidders from all member states. Under pressure from France and Britain, it has increased the threshold to 170,000 u.a. and is even prepared to go up to 200,000 u.a. A minor disagreement still remaining concerns the unit of account itself: several member states have suggested a more realistic method of valuation - that of the "basket" unit of account as provided in the Lomé Convention.

A major obstacle was removed during the discussions last year when the experts agreed to exempt telecommunications equipment from the scope of the measure. France, currently planning a $23-billion program to modernize and expand its national telephone network, did not welcome the

Contract Rules *(contd.)*

idea that foreign manufacturers (especially Germany's Siemens) could be in a position to submit favorable bids that, under Community rules, could not be rejected. Earlier, the problem of third-country products was also solved in a way that would not conflict with EEC rules on free circulation of goods. For example, if a Dutch trading company regularly importing goods from a third country, say Japan, submitted a bid on a typewriter contract advertised in the Official Journal by the city administration of Paris, it would have to be awarded the contract if the price and other conditions were more favorable than those offered by others, including French competitors. However, if the Dutch firm would make a special attempt to undercut all other bidders by importing especially low-priced products, the Commission would use the powers granted under Treaty Article 115 and could authorize France to bar import of the typewriters.

Adoption of the public supply directive would complement two 1971 Council directives that require national authorities to inform all Community contractors of contracts of more than $1 million via notice in the Official Journal and to award contracts on purely economic and nondiscriminatory grounds (*Common Market Reports, Par. 1349.71*).

In Brief...

Advocate General Henri Mayras has backed the position of the EC member states in declaring that national rules should continue to permit trademark owners to bar imports of goods bearing confusingly similar trademarks, even if this might run counter to EEC rules on free circulation of goods within the Common Market. In his recent conclusions submitted to the European Court of Justice in the Terrapin v. Terranova trademark case (No. 119/75), Mayras also said that the national courts alone should decide which trademarks could be considered confusingly similar. The Commission earlier had shifted its position in favor of national trademarks, though not to the extent advocated by Mayras

+ + + The discussions in the Council working group over what type of windshield safety glass - laminated or plate - should become mandatory for all cars sold in the Common Market could become redundant if a British manufacturer succeeds in his test to produce glass combining the safety and cost advantages of both types. France and Germany have been opposing a Commission proposal that would make laminated glass mandatory. Cost is the main factor: laminated glass costs three times as much as plate glass.

Netherlands: Details on 'Operation 1%,' Investment Aids

In order to contain persisting unemployment and bring down further the rate of inflation, the Dutch coalition government has announced details of its plans to make substantial cuts in public expenditure and to promote industrial investment. By means of the former measure, the administration expects to save about 8.8 billion guilders by 1980,

'Operation 1%' *(contd.)*

Parliament was told. The most massive reductions, approximately 5.8 billion guilders, will be in the social welfare sector and will primarily affect family allowances, disability benefits, and certain other welfare allowances enjoyed by civil servants. The remaining 3 billion guilders are to be trimmed from the budgets for defense, housing, transport, justice, agriculture, and development aid. Next year, for instance, it is planned to reduce previously projected general expenditure by almost 1 billion guilders and social welfare benefits by 1.5 billion guilders.

The proposal was outlined in a White Paper dealing with the so-called "Operation One Percent," i.e., the annual rate by which The Hague intends to reduce public sector growth in proportion to national income. Pointing out that, in relation to the world average, an unusually high number of people in Holland are inactive and thereby drawing on the country's generous social welfare resources, Prime Minister Joop den Uyl said that it was the aim to restrict the number of social security recipients rather than compromise on the benefits themselves. He said further that the government was determined to lower the number of unemployed from presently 222,000 to 150,000 by 1980 and to whittle down in stages the present inflation rate of 8%.

Another White Paper published on June 10 concerned government plans for the future structure of domestic industry and stimulation of industrial investment. It is proposed to set aside 15 billion guilders in investment aids over the next five years, beginning in April 1977. The state funds are to be made available in the form of investment credit subsidies as well as wage cost relief. However, these aids will be made subject to the provisions that the new investments be located outside the country's heavily industrialized areas and that environmental considerations be strictly applied.

Germany: Approval for White-Collar Crime Bill

The lower house of the German parliament has unanimously approved a government-sponsored proposal to attack the various forms of white-collar crime that cost the treasury, banks, businesses, and individuals an estimated DM 20 billion annually (*Doing Business in Europe, Par. 30,763*). Upper-house approval was expected this month, so that the bill could go into effect on July 1.

At present, state attorneys' offices often find it difficult to obtain convictions in court, not only because of a lack of statutes but also because of the devious methods employed by the accused. On the other hand, the due process clause in the Constitution must be fully observed in criminal proceedings. The proposed law would make it easier for the prosecution to obtain convictions, and government attorneys believe that the stiff penalties (up to

Crime Bill *(contd.)*

10 years in jail in cases of fraud to obtain subsidies) will also act as a deterrent.

The proposed law would cover six types of violations, four of which are most common and considered particularly damaging: 1) fraud to obtain subsidies from the government or the European Agricultural Guidance and Guarantee Fund, 2) credit fraud, 3) illegal acts that precede or cause insolvency and bankruptcy, and 4) failure to adhere to bookkeeping requirements.

As an example: an export firm ships to a third country butter benefiting from EEC price supports. Abroad, the butter is used as an ingredient for mayonnaise, which in turn is reimported into the Common Market. The firm eventually receives an export refund, but only because the conversion and reimportation were concealed in the application for the refund. Under the new Section 264 of the Criminal Code, the company's manager could go to jail for a maximum of 10 years if convicted of fraud.

Another example: if an individual in applying for a bank loan or credit makes false claims on his own behalf or for others with respect to his financial standing or that of another credit recipient, he could draw a jail term of up to three years or corresponding fines which may be graduated according to his financial situation. The same penalties apply to anyone who fails to inform the money-lending institute whenever his financial situation deteriorates substantially. A five-year sentence could be imposed on anyone who, shortly before going bankrupt, sells or conceals assets that normally would have been distributed among creditors. Lesser penalties would apply in such instances under current law, but under the amended Bankruptcy Act the person could be prosecuted even if he did not intend to harm his creditors financially.

Finally, anyone who is legally required to keep financial records but fails to do so or fails to store such records for the required period (usually 10 years) could be subject to a two-year sentence. A new feature would be that every annual financial statement would have to be signed and dated by the responsible individual.

Britain: Plans on Worker Participation; Export Agency

The industrial democracy issue that figured so prominently in the U.K. Labour government's pre-election manifesto and in subsequent ministerial pronouncements continues to generate debate and controversy: recent developments indicate, however, that there is little chance of a major bill being introduced before next year. Some of the delay can be attributed to uncertainty over the findings of the "Bullock Inquiry" into worker participation, which is not expected until the end of this year, and to a crowded parlia-

Participation *(contd.)*

mentary timetable in the 1976-77 session when, among other items, the devolution issue will be debated.

In what was in some quarters dismissed as a token gesture, the government has, however, announced that it will bring in draft legislation to introduce "a greater measure of worker participation" in the state-owned Post Office Corporation. Further, two draft amendments will be presented during the third reading of the Aircraft and Shipbuilding Industries Nationalization Bill. Advance information suggests, though, that these amendments and the "non-controversial measure" in regard to the POC will far from satisfy the demands of the labor unions. Furthermore, the proposed amendments will not call for anything like "European" supervisory management boards. Instead, the immediate prospect is for a very brief "enabling" bill to be introduced early in 1977. With this bill, the government would be content to establish "in principle" the need for a greater measure of worker participation in industry.

In other developments, the government has announced plans to establish a new organization designed to help U.K. industry sell abroad equipment developed for government departments and state-owned industries. A key market for such sales is the Mideast oil countries, to which Britain would hope to export "packages" of computer and telecommunication systems.

Switzerland: Voters Reject Land Planning, Loan Proposals

Politicians and commentators in Switzerland have registered with some shock the Swiss electorate's rejection of two proposals: the land planning law (*Raumplanungsgesetz*) and an SF 200-million loan to the International Development Association. Only the amendment on a new unemployment insurance system was approved with the expected wide margin: a future law will make such insurance mandatory for all Swiss employees, with contributions to be shared by the employers (*Doing Business in Europe, Par. 30,828*).

The land planning law - favored by the central government, the parliamentary majority, and most political parties - would have given Bern additional and more permanent powers to fight land speculation and the deterioration of the scenic environment, promote conservation by establishing agricultural and recreational zones, and help in the solution of infrastructural problems in cooperation with the cantonal and local governments. The law was to have succeeded an existing federal decree on land planning, which expires at the end of this year (*Doing Business in Europe, Par. 30,619*). The proposal was turned down in the June 13 referendum by a relatively narrow vote of 654,000 to 626,000. However, it was defeated in 19 out of 25 cantons, with most of the "no" votes coming from cantons heavily dependent on tourism and agriculture.

Land Planning *(contd.)*

It was surmised that the voters did not so much disagree with the aims of the proposed law but rather with the methods by which the different interests of property owners, the public as a whole, and the central, cantonal and local governments were to be reduced to a common denominator. As in previous referenda, the voters' fear of too much government authority at the expense of individual freedoms apparently was a key motive. Most controversial in the draft law were the provisions on expropriation and on a skim-off of land value increases, of which a portion would have had to be contributed to central government revenue.

Whereas the referendum vote on the land planning law was strictly a domestic issue, the same could not be said for the unwillingness of the Swiss voters to provide a loan of SF 200 million to the IDA, which some political leaders considered "highly embarrassing." It was feared in Bern that this decision could have repercussions in Third World countries and could set a precedent for other industrial nations to withhold development aid from international agencies such as the IDA.

Finland: Tax, Rate Boosts to Close Budget Gaps

In order to cover the 1976 Supplemental Budget and the expected major deficit in the '77 Regular Budget, the Finnish government is planning a number of tax and rate increases. (The Supplemental Budget provides for 135 million finnmarks to finance farm surplus sales and a public works program for the benefit of some 40,000 jobless persons.) As of July 1, a surtax is to be imposed on higher incomes, repayable in 1978. Not refunded would be a surtax on incomes above 200,000 finnmarks, which is to be paid in five installments beginning on Aug. 1. On Sept. 1, the government plans to introduce an electric power tax which would lead to higher utility costs for both industry and private households. Furthermore, telephone and telegram rates are to be raised by an average 26%, and rail fares and freight tariffs are to go up by 17 and 22%, respectively.

In order to compensate for the projected Budget deficit next year, the 11% turnover tax rate is to go up to 13% as of Jan. 1. (The political conflicts over this proposal nearly led to the fall of the five-party coalition administration last month.) The net worth tax would be raised to a level of up to 50% on assets exceeding 300,000 finnmarks. Finally, Helsinki has announced a revamping of taxes applying to insurance companies.

EURO COMPANY SCENE

Honeywell U.K.

Honeywell Information Systems, the U.K. offshoot of the U.S. electronics and computer systems group, has opened High

Honeywell *(contd.)*

Court proceedings against a British public agency, the Anglian Water Authority, alleging breach of statutory authority. In effect, the AWA decided to install a computer manufactured by Britain's International Computers Ltd. (ICL) in preference to a Honeywell computer, despite the fact that the Authority's technical evaluation team, its directors, and its finance and general purposes committee came out in favor of Honeywell. It is well known that the U.K. government applies a "procurement preference" for ICL installations in central government departments, but this does not - in the absence of a specific directive from the Secretary of State - apply to public authorities. Honeywell therefore contends that normal commercial practice should be followed. In addition to obtaining an injunction, which prevents the Authority from entering into a contract with ICL until the matter returns to court, Honeywell also has called for a full public inquiry into the AWA decision.

BTR/ SW Industries

Bank of England and Treasury approval has been received for the acquisition of SW Industries, Inc., of Providence, R.I., by Britain's BTR. The cash offer is for $42 per share, and the deal is to be financed via a $30-million Eurodollar loan. The takeover has the backing of the SW board and employees who together control 35% of the equity. At a meeting called for July 8, a two-thirds majority of the shareholders is required to finalize the deal.

RCA/ Oriel Foods

The U.K. subsidiary of RCA, Oriel Foods, a major food distribution company, is being offered for sale by the American parent for approximately £25 million.

Michelin

In a letter to shareholders of the Michelin holding company, it has been revealed that the French tire group plans two more production plants in the United States for the manufacture of heavy vehicle tires. No further details were given. Michelin already operates plants in South Carolina.

Gather/ Sun

A leading German supplier of automobile repair shops, Philipp Gather KG, will possibly be taken over by the Sun group of Chicago. The company's owner, Herbert Gather, confirmed that negotiations are being conducted but that they probably will not be concluded before the end of this month. Gather is the German distributor of automotive testing equipment manufactured by Sun.

Common Market Reports

EUROMARKET NEWS

Issue No. 389 *Report No. 295, July 1, 1976*

IN THIS ISSUE

Community: Court Rules on EMI Trademark Cases

The European Court of Justice has set the stage for EMI Records Ltd., the British recording and electronics company, to win its battle against subsidiaries of CBS, Inc., in three European national courts. It held that Community legal principles and the free movement of goods do not invalidate national trademark rights and thus do not prohibit a trademark owner from barring imports into the Community of identically branded products made in a third country. The same would hold true for manufacturing within the Community. The Court also held that a third-country exporter wanting to export identically branded products to the Common Market must obliterate the trademark from the products and may then apply for a different mark. The Court considered this to be a permissible consequence of the national trademark laws extending protection to trademark owners against third-country imports bearing similar or identical trademarks.

EMI Records Ltd. had brought suit in Britain, Denmark, and Germany against subsidiaries of CBS, Inc., the American company, in order to prevent the U.S. group from using its Columbia trademark within the Common Market. Both groups have been using that trademark for records sold in different parts of the world - EMI in most of Europe

This issue is in three parts, consisting of 192 pages. This is Part I.

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Trademark Cases *(contd.)*

(including all member states), Africa, and Asia, and CBS in North and South America and in several countries elsewhere. The disputes arose when CBS subsidiaries in Britain, Denmark, and Germany imported U.S.-made records bearing the Columbia trademark. The three courts essentially granted temporary relief to EMI but at the same time asked the Court of Justice for a preliminary ruling on whether enforcement of national trademark laws would infringe upon the Treaty of Rome's provisions on free circulation of goods and freedom of competition. In effect, the Court's ruling (Case Nos. 51, 86, and 96/75) gives EMI the possibility of seeking permanent legal redress to correct the infringement.

The judgment brings several clarifications that most member state governments, attorneys, and the business community as a whole had been seeking out of concern over a possible erosion of national trademark rights as a result of the Court's *Hag* judgment (*Common Market Reports, Par. 8230*). Counsel for CBS initially had wanted the principles developed by the Court in that case to be applied by analogy to this case also, but it later based its defense on antitrust grounds, contending that EMI had a dominating position (Treaty Article 86) and, at any rate, would be subject to Article 85. The Commission, which originally had supported EMI's position, later supported CBS after discovering that EMI and CBS had been parties to restrictive agreements concluded prior to the Treaty of Rome. Commission lawyers argued that EMI was not entitled to protection against identically branded products imported by CBS because EMI's trademark rights originated from previously existing market-sharing agreements that, although not illegal at the time, presently carried negative antitrust effects. Although the Court did not follow the Commission on this issue, it did not entirely reject the Commission's contention that trademark rights may be rendered ineffective by consequence of past restrictive agreements. In fact, the Court stressed that national trademark laws could be enforced against third-country imports of identically branded products only to the extent that the exercise of these rights did not manifest itself as the result of an agreement or concerted practice aimed at or having the effect of isolating or partitioning the Common Market.

The EMI rulings and the upcoming judgment in the Terrapin-Terranova dispute (Case No. 119/75) are expected to be reflected in the Commission's draft memorandum on a European trademark.

Renewed Effort to Save JET Project

The European Commission has once again urged the Council of Ministers to make a decision on the location of the Community's main research center for controlled thermonuclear fusion and plasma physics (called JET, for Joint European Torus). In January 1976, after examining all technical and

JET Project *(contd.)*

manpower aspects, the Commission recommended to the Council that Ispra, Italy, be selected as the place for carrying out the JET project - the cornerstone of the Community's fusion and plasma physics program for the 1976-81 period. The Commission's concern was borne out by the fact that the June 18 Council meeting was postponed indefinitely due to lack of agreement on the site question. In February, however, the Council did approve the Commission's five-year fusion program with an overall budget of 124 MUC (million units of account), but it restricted implementation of the program to 1976, with an appropriation of 20 MUC pending a final decision on the JET project.

The Community's program (the fourth since 1959) is largely directed at opening up new energy sources for the future, when fossil deposits are depleted and even fissionable materials may be scarce. The ultimate goal is an almost pollution-free power plant that would use easily obtainable and plentiful elements such as deuterium (the isotope of hydrogen) and lithium, in place of fuels such as oil or coal.

So far the Germans have been blocking agreement on the site for JET, primarily for budgetary as well as other reasons. Many experts have indicated to the Schmidt administration their preference for Garching, the Max-Planck institute for fusion research near Munich, as a more suitable and qualified location for the project.

In the Commission's favor is the fact that there is a need for cooperative ventures at the EEC level since the financial and manpower requirements of this project go beyond the means of each member state. The project requires a long-term effort, and since oil and coal are still available, there is presently not enough incentive for industry to do the research on its own. Finally, with 16 years of research having been completed, the Community's fusion and plasma physics program is one of the most established in the world.

In Brief...

The recently signed EEC-Canada cooperation agreement falls considerably short of what the Community had hoped for: an express Canadian commitment to nondiscriminatory access to the country's raw materials. The accord in its final form merely says that this topic should be taken up only in connection with multinational discussions (GATT, for example). Had Canada relented, the U.S. would have demanded similar treatment + + + The European Commission has once again delayed presentation of its products liability draft directive to the Council of Ministers in order to find a solution to remaining inconsistencies between its proposal and the producers' liability draft convention, prepared by the Council of Europe.

Belgium: State Aid as Alternative to Bankruptcy?

Under proposed legislation, financially troubled businesses in Belgium would be offered an alternative to either coming to an arrangement with creditors or declaring bankruptcy: under certain conditions they could qualify for state aid. Upon application from management, the shareholders, regional administrations, or the unions, the commercial court having jurisdiction over the company's domicile could appoint a special commissioner who would be in charge of putting the company back on sound financial footing. A recently established public holding company with large financial resources of its own (with a capital of BF 10 billion) would also have the wide cash-raising powers needed for administering financial help to ailing companies. Government aid would take the form of providing capital through the buying up of equity interests or by providing loans.

Not every faltering business would qualify for government assistance, however, and officials have pointed out that EEC Treaty rules on state aids restrict the national governments' latitude in this respect (*Common Market Reports, Pars. 2921-22*). A company would qualify only if it has at least 50 employees, is sufficiently "important" on either a national or regional level, and has the resiliency to recover within three years.

The bill has not received the unequivocal response that might have been expected. While industry executives have generally welcomed the idea of government aid combined with the possibility of the state's eventual withdrawal from equity engagement, the banks are opposing the bill on grounds that it would enable the government to make further inroads into what traditionally has been the function of private capital.

Germany: Lower House Approval for Energy Bill

The German government recently came considerably closer to its objective of cutting energy consumption when the lower house of Parliament unanimously approved a bill that would give it the power to issue energy-conserving regulations (*Doing Business in Europe, Par. 30,851*). Since there are no apparent differences of opinion on the subject between the two houses, approval by the upper house is certain.

The bill would authorize the government to issue insulation standards for all new buildings. Since a lot of energy is wasted in the operation of heating, air-conditioning and ventilation systems as well as warm-water facilities (the estimates range from 15 to 20%), the government would have the power to issue regulations, subject to upper-house consent, that would establish standards for the manufacture of these systems so as to avoid unnecessary energy losses. Moreover, the government would be authorized to establish standards for the maintenance and servicing of heating, air-conditioning, and ventilation units.

Energy Bill *(contd.)*

However, the scope of the future regulations would be limited in two ways: the government could demand only what is feasible under the present state of technology, and costs of meeting the regulations would have to be economically reasonable.

The government is confident that energy consumption in homes, offices, and plants can be cut by approximately 35% in the next decade. Compliance with future regulations could increase costs of investments up to 10%, but the government believes that the additional expenditure will ultimately pay off in lower utility bills. Still, overall energy consumption will continue to grow, and in order to meet increased energy needs in the 1980s and '90s, the government sees no alternative to the construction of nuclear power plants.

Parliament Okays Patent Conventions

Both houses of the German Parliament have unanimously approved bills ratifying the two European patent conventions, the Convention Establishing a European System for the Grants of Patents and the Convention on a European Patent for the Common Market (*Common Market Reports, Par. 5503*). The former convention has broader legal and economic implications because it eventually will apply to 16 European countries having a total population of over 300 million. (The treaties are in the process of being ratified by the nine EC states and Austria, Greece, Liechtenstein, Monaco, Norway, Sweden and Switzerland.) The European system convention will make it cheaper to obtain patents by filing one application in one language, to be subject to a single examination procedure. If no opposition is raised or the applicant succeeds in appeals procedures, he would obtain a patent that has the effect of a national patent in all countries that are party to the convention.

The Convention on a European Patent for the Common Market will create an almost completely unified patent law for the nine EEC member states. To this end it would establish standardized rules for the validity and use of the European patent in the member states. This convention is necessary not only to avoid dispersal of the effects of the European patent inside the Community but also to prevent distortion of competition and to preclude new barriers to free movement of goods within the EEC as a result of the territorial limits of national patent rights. In fact, the Common Market patent convention prohibits the partitioning of the Common Market into national markets.

For Germany the two conventions take on an additional dimension in that Munich has been chosen to be the seat of the European patent organization. The special bodies needed to implement the Common Market patent convention will be integrated into that office which will have worldwide significance in aiding progress in technology.

Italy: A Last Chance for Effective Government?

The results of the June 20-21 elections may offer Italy's Christian Democrats their last chance for effective government and to push for necessary reforms, according to most observers. Having surprisingly emerged as the country's still-strongest political force, the Christian Democrats are expected to form a coalition government with the remaining, though weakened, democratic parties. But observers do not rule out another minority government headed by the Christian Democrats.

No matter who runs the country in the coming years, observers agree that no government can afford not to tackle the necessary economic and administrative reforms. A major task will be to restore confidence in the lira by bringing the fiscal house in order. Experts at home and abroad believe that there is no way to achieve that goal except by cutting back government spending. Italy has been living beyond its means ever since its economic miracle in the '60s provided the foundation for thrifty spending and put the country in sixth place among the world's industrialized nations. Returning to sound economic and fiscal policies will be major conditions for additional credits from the EEC as well as individual member states.

Commission officials in Brussels make no secret that a genuine tax reform must come first in a broader administrative reform. The Italian caretaker government's announcement of a sweeping tax reform came too late to sway votes in the recent national elections, but observers believe it was a step in the right direction. The reform, to be outlined in a White Book, would revamp the entire system, shifting the emphasis to direct taxes (a move also favored by the European Commission for the benefit of EEC tax harmonization). The imposition and collection of value-added tax would be made more efficient by, among other things, reducing the number of the eight different tax rates presently applied. Stiffer penalties for tax evasion and speed-up trials for tax evaders would help curb widespread tax evasion practices. According to the government, internal revenue agents have established in 3,800 random audits from January through April that the Treasury was shortchanged in that period by some 42 billion lire. Moreover, during the same period the tax offices ascertained that taxpayers failed to declare income totaling approximately 400 billion lire.

Luxembourg: Amendments Proposed to Fair Trade Law

Proposed amendments to Luxembourg's 1936 Unfair Practices Law would not only afford more protection to businesses against unfair acts by competitors but they would also protect consumers against misleading or fraudulent business practices. Businesses would be prohibited from advertising and promoting individual low-priced items, thus creating

Trade Law *(contd.)*

the impression that a buyer could obtain other products at equally low prices. Also, it would be illegal for a business to promote special sales as such, knowing that its supplies were insufficient to meet the normal demands.

Further, a company could not take advantage of its double function as both manufacturer and wholesaler/retailer by creating the impression that prices charged to the consumer were manufacturer's or wholesale prices. The amendments would shift remedial action from criminal proceedings to speeded-up action in civil courts. To this end the chambers of commerce could go to court to obtain an injunction against any businesses engaging in unfair practices.

Yugoslavia: More Foreign Investors Being Sought

The Yugoslav government is in the process of revamping existing legislation in order to attract additional investors from abroad and to give management of joint ventures and state-owned companies a freer hand in running the business, especially in international trade and payments.

Yugoslavia's 1967 Investment Law allows foreign companies to hold 49% of a domestic company's stock; in exceptional cases the government may allow a higher equity interest. Statutory restrictions were eased by the 1971 amendment that repealed several provisions discouraging foreign investments (for example, the rule requiring the foreign equity holder to reinvest 20% of his profits in another domestic business). However, the 49% limit on foreign stock ownership in joint ventures, the still-remaining restrictions on profit transfers, and the lack of a firm commitment to compensate if and when foreign assets are expropriated have prevented the inflow of foreign investments that the government had hoped for in order to cut unemployment and eventually bring home those Yugoslavs working abroad (over two million, with nearly 700,000 in Germany alone).

The amendments now being drawn up would permit foreign investors to hold majority participations in a domestic company's stock and thus would allow a foreign investor to control management. Both had been demanded by West European and American business leaders who said that only amended investment rules could create the climate needed for transmitting the needed Western know-how and management techniques. (In 1974, the OECD had recommended corresponding changes in legislation.)

In line with a 1974 constitutional amendment that curtails central government intervention in business and shifts more responsibility to the states, the legislation would give management nearly a free hand in selling its products abroad and using the foreign exchange it obtains through exports. The overriding criterion would be that manage-

Investors *(contd.)*

ment's policies fit into the general economic policy proposed by the central government and approved by Parliament.

Yugoslavia was the first Communist state to allow partial ownership in domestic entities, and since 1967, 143 joint ventures with foreign partners have been established in addition to 430 cooperation agreements with foreign businesses. Total foreign investment now stands at nearly $1 billion, with Italian investors ranking first, followed by Germans and Americans.

EURO COMPANY SCENE

Westinghouse/ Sulzer

Westinghouse Electric Corp., Pittsburgh, Pa., and Swiss-based Sulzer Brothers Ltd. have reached agreement whereby Westinghouse is to produce under license and distribute Sulzer diesel engines in the U.S. The slow-speed and medium-speed engines, suitable for installation in commercial and naval vessels, are expected to consume 10 to 20% less fuel than the steam-driven turbine units widely used until now.

Phillips Petroleum

A high-density polyethylene plant is to be constructed in Norway on license from the United States' Phillips Petroleum Co., according to Saga Petrokjemi on behalf of the Norpolefin consortium, which is to own the facility. The 40,000-ton-per-year plant, valued at 300 million kroner, will be built and run by Saga and is to be ready by 1979.

British Caledonian

The recent erosion of the pound sterling has resulted in an unexpected bonus for British Caledonian Airways in the form of a $2-million contract to carry cheap-fare, advance-booking charter passengers for the British tour company Jetsave on North Atlantic routes. British Caledonian was called in after the United States' Trans World Airlines withdrew from the Jetsave contract because of escalating costs of low-price North Atlantic charters.

Morgan Guaranty

The United States' Morgan Guaranty Trust Co. formally denied on June 22 that it is currently negotiating or has agreed to sell its holding in its Italian affiliate Banca Morgan Vonwiller of Milan or that it has any intention of withdrawing its banking presence in Italy. In its statement Morgan disclosed that it had initiated discussions with the Bank of Italy and had made formal application in April 1976 for a more direct presence in Italy through the establishment of its own branches in Milan and Rome. The setting up of such branches would, Morgan claimed, demonstrate confidence in Italy's business future, strengthen Morgan's presence in Italy and improve its service.

Common Market Reports

EUROMARKET NEWS

Issue No. 390 July 7, 1976

IN THIS ISSUE

Community: Council Adopts 18 Products Directives

The Council of Ministers has made recent progress in terms of removing technical barriers through harmonization with its approval on June 30 of 18 draft directives covering a broad range of products, including measuring instruments, automotive equipment and cosmetics. Adoption became possible after German Chancellor Helmut Schmidt overruled officials who had wanted the Federal Republic's special testing agency to make additional tests on the products for which it has jurisdiction. Now, just as the other eight states had already agreed, a manufacturer's own testing procedures will suffice for intra-Community market authorization.

All of the 18 directives will have significance for future interstate as well as international trade, but perhaps those eight pertaining to harmonization of automotive rules and the one calling for approximation of national laws on cosmetics are most important. The automotive directives cover installation of signalling devices, fog lights, reflectors, side and rear lights, stoplights and headlights, illumination of rear license plates on cars, and passenger seats and permissible noise levels of tractors (*Common Market Reports, Par. 3371.01*).

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Products *(contd.)*

As with the other 17 directives, the main purpose of the cosmetics directive is to remove technical barriers to trade, but it also contains consumer protection aspects by prohibiting the sale of cosmetic products that might be harmful to human health (*Common Market Reports, Par. 9611*). The approved version goes substantially beyond the Commission's proposal in that it also contains a "positive" list, i.e., a list of substances that are considered safe. Originally it provided only a "negative" list - substances that are deemed harmful. New positive lists could be added whenever it seems necessary to ensure protection of public health.

Adoption of the 18 directives brings the number of measures approved in the field of technical harmonization so far to 80. An additional 22 proposals are pending before the Council, among them seven dealing with approximation of provisions on automotive parts such as safety belts, headrests and windshield safety glass.

Adoption of Aviation Plan Deemed Unlikely

Council officials are not speculating about how much of the Commission's action program for a common policy in the civil aircraft and aviation sector will be saved, but the prospects for Council adoption of all facets of the program are slim. Last October the Commission forwarded a communication to the Council outlining the situation in the European aircraft industry and presenting a program that takes into account air transport and the industrial, civil, and military sides of aviation.

The common policy was to include: bringing all large civil aircraft construction activities into one coherent program, making optimal use of resources; close cooperation among industry, airlines, and public authorities; a joint basic research program; a Community system of financing; and negotiations with third countries - not confined to cooperation but also including a commercial strategy for penetrating export markets. The Commission believed that the future of the Community's aircraft industry was dependent on the national governments' going beyond mere coordination of their aviation policies (as agreed to in March 1975) and placing their national policies under Community supervision. A continued policy on a national basis would result in the disappearance of any independent European aircraft industry, the Commission felt, with harmful consequences for the Community's economic future (the aircraft industry employs nearly 500,000 in the EEC) as well as its political future.

According to the Commission, only a joint strategy can solve the growing problems facing the European aircraft industry. These difficulties include a productivity gap in relation to the American aircraft industry, overcapacity, and securing real market prospects (and thus full employ-

Aviation *(contd.)*

ment) without substantial cutbacks in production capacity. The Commission believes that as far as the development of more economical and quieter civil aircraft with good marketing chances is concerned, there will be some degree of cooperation and complementary production among the European and American industries and their products. But it fears that the way this cooperation is achieved by some member states on their own could eventually make European manufacturers mere subcontractors of the American industry, which dominates 80% of the world market. The Commission has alleged that U.S. aircraft manufacturers, themselves in serious financial trouble, are seeking cooperation with European firms only in order to maintain their international leadership and to gain access to public funds, since all European firms receive substantial government grants running into the billions of dollars each year.

Three member states (the U.K., Germany, and the Netherlands) largely share the Commission's view and concur that cooperation within Europe can provide the solution to market and employment problems since this cooperation would largely benefit from the great efforts made in the past. Italy and France not only oppose a joint strategy, but their industries are negotiating cooperation agreements with the aircraft giants Boeing and Douglas aimed at developing medium-distance, medium-sized aircraft.

In Brief...

Counsel for the Swiss drug maker Hoffmann-La Roche is preparing an appeal against the Commission's recent decision imposing a $360,000 fine for alleged abuse of its market-dominating position. The complaint, to be filed shortly with the European Court of Justice, will be based essentially on three arguments: that the granting of loyalty rebates to customers is quite common in commerce and trade; that the appellant reformed its contracts as early as 1974; **and that the Commission obtained its information through a former employee. (The trial against that employee, Stanley Adams, opened in Basel's criminal court on June 28) + + +** The European Court of Justice has ruled in the *Terrapin v. Terranova* dispute that the Treaty of Rome does not prevent a national court from enforcing national trademark rules to bar the use of trademarks that might confuse the public (Case No. 119/75). This ruling clears the way for the German Supreme Court to reject Terrapin's appeal. (A description of the judgment will follow in the next issue.)

France: Individual Capital Gains Tax Passed

After three weeks of sometimes lively floor debate, the French National Assembly has approved a heavily amended version of the government's original tax proposal that would make individuals liable to capital gains tax. At present only companies are subject to that tax, and shareholders must declare gains from the sale of stock only if

Capital Gains *(contd.)*

they actively take part (or have done so in the past) in the company's management (*Doing Business in Europe, Pars. 22,810 and 30,871*).

Most of the 70 amendments (out of a total of 375 voted on) written into the measure by the lawmakers will benefit the "little man." But even with those concessions - mostly deductions and exemptions - the bill does not deviate from the overall objective of making the present tax system more equitable. The French tax system relies on indirect taxes, primarily the value-added tax, for two-thirds of its total revenue.

In contrast to the government's original proposal, which provided only for exemption of bonds, residences, and some personal property, the amended and approved version contains several exemptions and deductions. It provides for a general FF-6,000 exemption in addition to a FF-30,000 exemption for real estate capital gains and a FF-20,000 exemption on gains derived from the sale of personal assets.

There are further exemptions contingent on time. Gains derived from the sale of securities after a 10-year period of ownership will be exempt. Real estate sold after 30 years will not be taxed at all, no matter what the gain. (The original bill provided for a 40-year time period exemption.) Normally the taxpayer will be assessed on gains defined by the difference between the purchase price and the price at which the assets are sold. However, taxpayers will be allowed to deduct corresponding amounts to make up for inflation, but this deduction will be permitted only for medium-term and long-term capital gains and not for short-term gains, and only if inflation exceeds 12% annually.

The sale of gold and other precious metals will be subject to a flat 4% tax on the amount of sale. The sale of FF-20 "Napoleons," a favorite of gold hoarders, will also be subject to the 4% tax, although the government had wanted sale of these coins exempt.

Under its original proposal the government had counted on FF 1.1 billion in revenue during the first year, to add to the FF 700 million raised under the existing limited capital gains tax system. The great number of amendments would cut the expected revenue nearly in half.

Netherlands: Weaknesses Cited in New Government Plan

The Dutch government's bill providing for wage cost subsidies, grants to new investments in place of accelerated write-offs, and investment controls for employment, regional development, and environmental considerations is being viewed apprehensively both at home and at the European Commission. Officials of the EC executive of course do not object to the government's goal of bringing down unemploy-

Weaknesses *(contd.)*

ment by giving investment grants to new businesses, which would create an additional 200,000 jobs by 1980; nor do they find fault with the provision making grants available for regional development purposes because these would be compatible with the Treaty of Rome's provisions on state aid (*Common Market Reports, Pars. 2921-22*). The same holds true for grants to combat pollution so long as these grants are given in line with recent Community rules.

Some observers, however, have expressed concern over the proposed wage cost subsidy system, although they share the Dutch government's view that high wages and fringe benefits are the major reasons for sluggish investments. They believe that the proposed system would clearly be contrary to EEC rules because of their effect of distorting competition - as do the French and British government practices of paying part of businesses' cost escalation insurance premiums. The Commission is expected to express its view on the Dutch proposal after it has been officially informed.

Most Dutch businessmen are also dissatisfied with the proposal to the extent that it would give the government some grip over investments. They are aware, though, that the left-center coalition government, with strong ties to the unions, is merely meeting what the national union leadership has been demanding all along. In fact, union leaders have promised to impress on the rank and file the need for only modest wage demands in the year ahead in return for some form of state control over investments in the private sector. (Wage negotiations for major industries are under way right now.) Two other union demands, fulfilled earlier by the government, are additional co-determination rights for labor and a system of sharing excess profits (*Doing Business in Europe, Par. 30,854*).

Committee debate on the bill will start after the summer recess, and observers anticipate protracted discussions, not only because of the many aspects involved but also because several lawmakers want to know just what the criteria for investment grants are going to be. The government favors a commission made up of administration officials, business executives, and union leaders to establish these criteria. This commission is not expected to come up with the first results until late this year.

Germany: German-U.S. Antitrust Accord Signed

The just-signed German-U.S. agreement on cooperation concerning restrictive practices is the first of its kind in the world, and in the minds of antitrust experts it represents a concrete move toward controlling the activities of multinational companies. The two governments have thus assumed the obligation of mutual support in antitrust investigations and proceedings by their antitrust agencies. Both sides also committed themselves to inform each other

Antitrust *(contd.)*

about restraints on competition emanating from one state and producing negative effects on the markets of both countries.

Bonn and Washington further agreed to consult each other on how to proceed in antitrust clampdowns of similar cases that affect the interests of both nations. The same holds true for any initiative in terms of proposing new antitrust legislation or merely proposing amendments to existing rules. German and American officials will also keep each other posted on and exchange information about their antitrust experiences in international bodies such as the OECD. But both governments also agreed to see to it that business secrets are maintained whenever the U.S. Justice Dept.'s antitrust division informs the German Federal Cartel Office or grants assistance, and vice-versa.

The agreement goes back to the disappointing experiences of both governments during the oil shortages prompted by the outbreak of the Oct. 1973 Arab-Israeli war. Both the U.S. and Germany quickly discovered that the "arm" of national antitrust legislation stops at national frontiers and that there was no way of determining whether the multinational oil companies had exploited their market-dominating positions to the detriment of the consumer. Mutual exchange of information and cooperation are designed to overcome those national barriers.

Britain: U.S., U.K. at Odds During OECD Meeting

Anglo-American entente has been somewhat strained in recent weeks. This was evidenced on one hand by the resentment expressed by Britain at the recent Paris OECD meeting when U.S. Treasury officials cautioned that the U.K. must work at putting its budgetary house in order in the event that it requires further international borrowing at the end of this year (when its $5.3-billion standby credit is due for repayment). The situation was further complicated when Britain found itself unable to subscribe to the OECD consensus on economic growth for the remainder of this decade. The OECD view - which is essentially that of the United States also - is that the rate should be held down to 5 to 5 1/2%. This is clearly below the capacity of the western economies, but, says the OECD (and the United States), this level would result in containing the rate of inflation to between 7 and 8% for the next few years. Clearly, Britain - which is presently experiencing serious unemployment problems - would opt for a higher growth rate, even at the risk of higher inflation.

U.S.-U.K. relations were also strained on another front: the air traffic sector. The U.K. government has announced that, if the U.S. government will not make several important concessions, Britain will withdraw from the long-standing (1946) "Bermuda" bilateral agreement. In

OECD Meeting *(contd.)*

Britain's view, American air carriers are deriving over twice as much revenue from flying the routes covered by the treaty and, moreover, this "inequity" will probably become sharper as the British pound depreciates. Further, Britain balks at U.S. rights to take on passengers on London stopovers when U.K. carriers have no reciprocal rights within the United States. Britain also concurs readily in "pooling" arrangements (at times with U.S. carriers): in American eyes this cartelization has strong antitrust overtones.

Finally, Britain and America are at odds over fare structures. The United States feels that basic rates should be tied to costs plus a reasonable net profit, with discount fares geared to that structure. Britain, on the other hand, tends toward the fare structure of international carriers other than the United States: standard fares are relatively high and are used in effect to "underwrite" charters, package tours and advance booking discounts.

EEC Fishing Proposal Submitted

The British government has proposed a revision of the EEC's common fisheries policy. The three-point proposal submitted to the EC foreign ministers' meeting in Luxembourg on June 29 advocates: 1) an early declaration by member states to extend their fishing limits to 200 miles, 2) the establishment of a British coastal "band" of "between 12 and 50 miles" and reserved for British fishermen, and 3) that the Community should embark on negotiations with third countries about their fishing activities in member state waters (with reference to Iceland and the "cod war," recently resolved by an agreement between Britain and Iceland which expires at the end of this year).

Switzerland: Lower House Passes Broad Tax Package

The Swiss Parliament's lower house has approved and sent to the upper house three major tax bills that are important for companies and individuals alike. They are: an amendment to the income tax law with higher tax rates; the value-added tax bill to replace the current turnover tax; and a constitutional amendment that would give the Confederation the power to enact legislation to harmonize cantonal and local income taxes.

Individuals would be paying a maximum federal income tax of 14% on annual earnings above SF 180,000 (at present the maximum rate is 11.5%), but then the federal income tax has always been less important than cantonal income taxes. Companies would be paying 11.5% on net profits (current rate, 9.8%).

The value-added tax bill, the Swiss government's most far-reaching tax reform project, would replace the current turnover tax system, and, if approved in a popular referendum scheduled for next spring, it would provide the govern-

Tax Package *(contd.)*

ment with an additional SF 3.4 billion in annual revenue starting in 1978. Retail sales would be subject to a 7.5% VAT (currently 5.6%), and the rate on wholesale transactions would be 10% (8.4%).

In contrast to the present system, the VAT bill would also cover services, and it is estimated that because of the inclusion of the catering industries, transportation, and other services, the number of taxpayers would increase from the present 80,000 to 140,000.

A new Article 42 *quinquies* of the Constitution would authorize the Confederation to enact legislation establishing principles of cantonal and local income tax legislation. Although considered to be an attempt to harmonize disparities among cantonal income tax laws, the amendment would leave the cantons the freedom to establish tax rates and rules on exemptions. Experts believe, however, that the cantons' abiding by the principles on tax liability, taxable event, assessment rules, and penalties for tax evasion would also have an impact on cantonal rules governing assessment bases and tax rates - the two main factors responsible for the existing inequities. Consequently, the high tax rates of some cantons would have to be reduced, while the low tax rates of others (set to attract wealthy residents) would have to be increased. Enactment of the VAT bill would provide the federal government with the revenue needed to compensate those cantons that would lose revenue, the experts say, but this is perhaps a solution for the future. For now the amendment must also be approved by the upper house and, like the VAT bill, is subject to mandatory popular referendum, also scheduled for next year.

Sweden: Amendment to Reduce Taxes Proposed

The Swedish government has proposed a tax law amendment that would limit the state's share to 85% of an individual's taxable income. Present law provides for a tax rate of up to 100% and does not rule out that an individual may even have to pay more.

Public outcry over an admittedly harsh tax system and worldwide negative publicity over the emigration of film director Ingmar Bergmann and the protest of authoress Astrid Lindgren prompted the government's move. Government leaders maintain that the possibility of Bergmann's having to pay a 130% tax on his 1976 income was only a hypothetical one, but they also admit that Astrid Lindgren's contention that she might have had to pay a 102% tax on her 1975 income was not so far-fetched: it could have happened to her in 1977 with respect to income she earned in 1976. The proposed amendment would not only preclude the possibility of hypothetical cases of this kind but would also bring down tax rates to an acceptable level.

Common Market Reports

EUROMARKET NEWS

Issue No. 391 *Report No. 296, July 15, 1976*

IN THIS ISSUE

Community: Court Ruling Erases Doubts on Trademarks

The European Court of Justice has removed the uncertainty about the continued existence of national trademark rights that had arisen from its previous case law. In its *Terrapin v. Terranova* judgment, the Court in effect held that the Treaty of Rome does not prevent an enterprise established in a member state from going to court to stop importation of products manufactured in another state which bear a trademark confusingly similar to that of products made by the first business. But the judgment (Case No. 119/75) also reiterated the Court's stand on industrial property rights: national trademark rights could prevail only so long as neither firm engages in restrictive practices and so long as no legal or economic links exist between them and their trademark rights are of independent origin.

The judgment will end a 15-year-old dispute between Terrapin (Overseas) Ltd., a British firm making prefabricated houses, and Terranova Industrie C.A. Kapferer & Co., a German building materials manufacturer. The trouble arose when the British firm applied for registration of its "Terrapin" trademark with the German Patent Office. The German firm, which had registered its "Terra" and "Terranova" trademarks a half century ago, objected to the Brit-

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Trademarks *(contd.)*

ish firm's application on grounds that the public might confuse the "Terrapin" trademark with its "Terranova" trademark. A Munich district court held that there was no real danger of confusion, but an appellate court found otherwise and ruled against the British firm. On the latter's appeal, the German Supreme Court, though essentially in agreement with the appellate court, deferred judgment and asked the Court of Justice for a preliminary ruling on an interpretation of Treaty Articles 30 and 36. The German Supreme Court approached the Court of Justice with the deliberate intent of forcing the latter to clarify the confusion created by several previous rulings, especially its *Sirena* and *Hag* judgments (*Common Market Reports, Pars. 8101 and 8230*).

German trademark experts expect the country's Supreme Court to reject the British firm's appeal and to remand to the lower court the issue of compensation, which the German firm had demanded for infringement of its trademark rights.

Aside from eliminating widespread fear about a possible erosion of national trademark rights, the Court of Justice's decision is also significant in that it reveals the Court's line of thinking on yet another issue brought up during the proceedings in Luxembourg. Commission lawyers and counsel for Terrapin Ltd. had argued that the issue of whether two trademarks are confusingly similar should not be solved by applying national criteria alone but should also be based on criteria embodied in Community law. Although the Court of Justice recognized the problem, it declined to offer a solution because the German court did not request one. Still, the Court of Justice implied that Community criteria could be applied, especially if discrimination were to enter the picture, and national criteria on the similarity of trademarks are more severely applied against trademark owners from other member states than against domestic trademark owners. The Court of Justice said that a national judge should also consider protection of national trademark rights as part of this broader aspect.

Door Opened to Third-World Imports

The Commission wants the Council of Ministers to enlarge the scope of the Community's generalized tariff preference system for imports of finished and semi-finished products from developing countries as of 1977. The volume of trade in industrial and agricultural products accorded preferential treatment would rise by 42%, to roughly $8 billion (the volume under the current system is $5.5 billion). These figures do not include imports from the African, Caribbean, and Pacific countries that are linked to the Community through association and trading arrangements of the Lomé Convention (*Common Market Reports, Par. 4281*).

Specifically, industrial products would benefit more from preferential treatment than agricultural commodities.

Imports *(contd.)*

The Commission recommends an increase of 51%, or $6 billion in volume, for all industrial products, including textiles, steel, and petroleum products. Imports of agricultural commodities would go up by 21%, or $1.5 billion. This figure includes the additional concessions offered by the Community at the GATT negotiations last April with respect to tropical products. The Commission's plan even calls for preferential treatment of a small quantity of petroleum products from the oil-exporting countries (OPEC); the Commission believes that, although many OPEC states enjoy high per-capita wealth, they cannot really compete on an economic basis with any of the western industrialized nations.

The Council of Ministers is expected to accept the Commission's recommendations as it has done in the past four years. Also, the substantial increase in the volume of trade would essentially be filling the commitments assumed by the Community during the North-South Paris dialogue and the recent UNCTAD meeting in Nairobi, Kenya. Commission officials also believe that reluctance to live up to prior commitments or prolonged Council discussions would prompt the developing countries to press for action.

In Brief...

The Court of Justice's *Terrapin* ruling is expected to remove the last obstacle to publication of the Commission's memorandum on a European trademark. Publication has been delayed several times, not only because of cases pending before the Court of Justice but also because of disagreement between the Commission's internal market and antitrust divisions + + + The recent meeting of the Council working group discussing the amended draft directive on lawyers' freedom to provide services has been especially disappointing to Council and Commission attorneys: first, because it was the only one held during Luxembourg's presidency (although the opinion of the European Parliament had been available since February), and also because several national officials - assisted by bar association representatives - have indicated a desire for restriction of what is already established practice.

France: Merger Bill Marks Shift in Attitude

French experts see in the government's merger control bill now before the National Assembly a change of attitude on the issue of concentration of economic power. Though not approaching the antitrust standards established in the United States or Germany, the bill would give the Competition Commission the power to prohibit mergers between manufacturing companies that account for more than 40% of the market (25% in the case of other mergers, such as when a manufacturing firm wants to acquire a chain of stores).

Paris sources report that the government is having some doubts about its past practice during the '60s and

Merger Bill *(contd.)*

early '70s, during which time it sought to encourage mergers in numerous ways, especially by favorable tax treatment. It encouraged mergers between enterprises in order to make them more viable against competitors from other member states and the U.S. At one point, the measures took on features that could not be reconciled with the Treaty of Rome's provisions against state aids, and the French government relented rather than be taken to the Court of Justice by the European Commission (*Common Market Reports, Par. 9845*).

Now there is a feeling within the administration that the French economy has reached the stage where, in certain cases at least, the benefits derived from larger economic units are outweighed by the negative effects on the freedom of competition that are produced by mergers of enterprises. The stiffer treatment intended for mergers and restrictive agreements are also seen as counterweights to the more liberal attitude of the government on prices of industrial products and on profit margins of businesses. The proposal coincided with the government's announcement that it also intends to do more in the area of consumer protection.

Germany: Increase in Corporate Mergers

Economic recession was largely responsible for accelerating the concentration of economic power in Germany in 1975, according to the Federal Cartel Office's 1975 Activities Report. In the past year, the Office received 448 notifications of proposed or completed mergers, 130 (or 41%) more than in 1974. The Office stated that for the first time it resorted to the consent-decree practice - relying on a negotiated settlement with the enterprise concerned rather than using its merger control powers by issuing outright orders. Although the Berlin Court of Appeals has confirmed this practice, critics fear that the Cartel Office might feel induced to demand future behavior from a business that would go beyond statutory lines. The federal government, in its comments attached to the report, also foresees that risk, but it refrained from criticizing the Office's practice.

The Monopolies Commission, composed of five independent experts, is expected to be more outspoken on this issue when it submits its report in a few weeks' time. The government expressed concern over the fact that the number of large companies absorbing smaller businesses has increased from 127 in 1974 to 184 in '75. These mergers are exempt from the notification requirement so long as annual sales of the acquired business do not exceed DM 50 million (*Doing Business in Europe, Par. 23,510B*).

The Federal Cartel Office also answers critics who have charged that it is slipping into the role of a price control agency. In two decisions against Merck Corp. and

Mergers *(contd.)*

Hoffmann-La Roche, it ordered price cuts (*Doing Business in Europe, Par. 30,855*). A week after publication of its report, the Federal Cartel Office won a major victory when the Supreme Court held that it did indeed have price rollback powers even though the High Court invalidated the price reduction order on grounds that Merck Corp. did not have a commanding position on the particular market.

One area that is of special concern to the Cartel Office as well as to the government is a growing tendency of large commercial enterprises to exploit their power, especially during periods of recession, and to demand advantages from sellers that are outside normal commercial practices. An example: a store pressures a manufacturer into granting a low-interest loan or easier sales terms in return for a favorable display location in the store. The Office regrets that the manufacturers affected have not come forth with information on such practices. Although the federal government has drawn up a list of the 25 most widespread illegal practices and members of several, though not all, business associations have agreed to refrain from those practices, a high official in Bonn has threatened controlling legislation should the incidents continue.

Ireland: Losing Ground In Attracting Investments

The Irish Republic, long a country with many benefits to offer investors from abroad (*Doing Business in Europe, Pars. 25,405-411*), is gradually losing its international standing as an investment attraction due to soaring wage costs during the last four years, according to a report from the Irish Business Association. The report notes that per-unit production costs have risen so steeply that some Irish industries such as the textile industry have lost ground in the export market and have also been affected by inroads made in the domestic market by imported products.

The Association takes a rather dim view of the future because of the close links between the Irish and British markets. Britain still receives half of Ireland's exports. The Irish economy has not benefited from the decline of sterling because the Irish pound also dropped in value by the same percentage. The Association sees a real danger for the Irish economy if per-unit production costs should rise even faster than in Britain. Now that British unions have agreed to be content with modest wage increases for the coming year and the British government has been granting wage cost subsidies to industries located in the regional development areas and in Northern Ireland, production costs in the Irish Republic could exceed those in the U.K. for the first time. Should this happen, the Association predicts that several thousand jobs in labor-intensive industries may be in jeopardy.

Britain: Measures to Aid Corporate Profitability

The U.K. government's consultative document "Modifications to the Price Code" (Cmnd. 6540, HMSO London) was defended by Prices Secretary Shirley Williams as being an instrument intended to "sweep aside" disincentives to higher output and investment. Almost immediately, however, the proposals were attacked by the Confederation of British Industry and the Retail Consortium as being "totally inadequate" and so limited that no real improvement in corporate profitability would be possible.

The main features of the package are:

- The proportion of new investment which can be reflected in prices and profits would be increased from 20 to 35%.

- Provision is to be made for the impact of inflation on company inventories and assets.

- The method of calculating the "fixed cost element" in price increases is to be amended to permit companies to retain 50% of the benefits arising from "effective use of overhead."

- The "productivity deduction" - which presently bars companies from passing on in prices more than 80% of their increased labor costs - would be abolished.

- A change is to be made in the notification requirements so that fewer companies would have to file price increases with the Price Commission.

- No notification would be necessary in respect of price increases of less than 2% per year.

- The present disincentive to the creation of new equity capital (the raising of finance through a new share issue tends to cut into a company's permitted price and profit margins) will be removed inasmuch as interest payments and receipts would be left out of account in the application of the allowable cost and net margin rules.

The package will add about 1% to the retail prices index over the next year, which - in cash terms - represents a potential increase of around £900 million in corporate profits. Industry is especially critical that there is no provision for dealing with increased working capital requirements. Moreover, although companies will be allowed to retain half of any savings in the cost of fixed overheads arising from higher sales, there would be no way for them to retain any benefits generated by a more efficient use of labor.

Luxembourg: Unemployment Insurance Proposed

The Luxembourgian government has proposed legislation designed to introduce mandatory unemployment insurance into the Grand Duchy for the first time. Contributions to the new system would be shared by both employer and employee. Enactment of the proposal would mean that workers of the

Insurance *(contd.)*

ARBED steel company (the country's largest employer, which contributes two-thirds of Luxembourg's exports and two-fifths of the GNP) would no longer perform road repairs during periods of recession - a scheme worked out between the government and the company in 1974-75 to tide the workers over when steel exports slumped.

Unemployment has never played a role in Luxembourg, so it is not surprising that it is the only EEC member state without a mandatory unemployment insurance system. But although present unemployment still does not amount to more than 0.5%, the government believes that some unemployment will remain even if the economy continues on the road to recovery. Government economists point out that it is largely increased foreign demand for various types of steel that has been the prime factor in the upsurge. Still, the government's efforts to attract new industries other than steel have not produced any favorable results.

Spain: Surcharge Decreed on Income Tax

In a measure primarily intended to control inflation, the Spanish government has decreed a 10% surcharge on individual and corporate income taxes and the dividend tax. Since the surcharge is also imposed on the dividend tax withheld by domestic companies distributing dividends to individual and corporate nonresident recipients, observers see not only a dampening effect on future investments but also anticipate complications to the extent that the surcharge might go beyond the limits of national taxation set forth in tax treaties.

Still, there is a chance that the Spanish tax authorities might forego taxation on their own (in order to avoid straining relations with a number of foreign countries with investment potential) rather than face renegotiations with those countries.

EURO COMPANY SCENE

B.F. Goodrich Holland

The B.F. Goodrich Co., Akron, Ohio, has resumed negotiations with the Dutch government regarding the future of the company's general products and tire division in Holland. The Dutch operation, B.F. Goodrich Europe, which employs nearly 5,000, accumulated losses for 1974-75 of some 20 million guilders and anticipates a loss this year of "at least 16 million guilders." The parent company, which has met continued resistance from the Dutch government and the country's labor unions in its efforts to restructure and improve its business there, had earlier announced that if no satisfactory agreement was reached by July 19 (the date of the parent company's executive board meeting on the situation), it would either sell or close down its Dutch

B.F. Goodrich *(contd.)*

subsidiary within the next several months. Goodrich has since indicated, however, that July 19 is no longer a deadline for a decision and that it would now consider maintaining a minority stake in the company with the Dutch government and a third, unnamed, partner, each taking a one-third interest. The Goodrich chemical operations in Holland would not be affected by the ongoing negotiations.

Dresser

Dresser Europe SA, Brussels, has announced it will soon start manufacturing "Ashcroft" industrial pressure gauges and bi-metal thermometers, including a new line complying with DIN specifications, at a plant now nearing completion near Aachen, Germany. The new plant is expected to considerably strengthen the company's existing role as a leading supplier of high-precision instrumentation equipment in Europe, Africa, and the Middle East - markets previously serviced by production facilities in the U.S. Dresser Europe is a subsidiary of the U.S.' Dresser Industries Group, a leading supplier of high technology products and services to the worldwide energy and natural resources industries. The group had 1975 sales of over $2 billion.

Honeywell/ PRVA/ISKRA

Honeywell Europe SA, Brussels, and Yugoslavia's PRVA/ISKRA have signed a cooperation agreement under which Honeywell will grant to the Yugoslavian company (a manufacturer of fittings, special machines and tools) the right to produce and sell specific industrial control valves and actuators. Honeywell is to provide the fabrication know-how for these products and support the production start-up in Yugoslavia, while the contract implementation will be the responsibility of the German Honeywell factory at Doernigheim. The valves and actuators manufactured in Yugoslavia will be sold under the name of PRVA/ISKRA-Honeywell.

Chateau Margaux/ National Distillers

Chateau Margaux, one of France's most prestigious first-growth Bordeaux vineyards, is reported to be in the process of being acquired by the United States' National Distillers. Assuming that National Distillers and Ginester (the owners of Margaux) reach agreement, approval will still be required from France's Ministry of Agriculture which, understandably, may be unwilling to approve the sale of what is, along with Chateaux Lafite, Latour, Haut-Brion and Mouton-Rothschild, virtually a national monument.

Common Market Reports

EUROMARKET NEWS

Issue No. 392 July 20, 1976

IN THIS ISSUE

Community: Court Settles German Beer Duty Dispute

The European Court of Justice has added to its case law against discrimination in interstate trade by ruling that a tax system providing for graduated rates on domestically produced beer and based on each brewery's annual output is incompatible with Treaty Article 95(1) if the same rates are applied to the overall quantity of beer annually imported by a single importer. The Court saw the discriminatory element in the fact that, in Germany, imported beer carries a tax higher than that levied on the same quantity of domestically produced beer: foreign beer is subject to a tax calculated on the total quantity imported by a single importer in one year (it may include beer from several breweries), whereas domestically produced beer carries a tax calculated on the total annual output of each brewery.

The dispute between Bobie Getränkevertrieb and the Aachen customs office (Case No. 127/75) arose over an excise tax assessment imposed on certain quantities of beer imported from Belgium in 1968-69. The fiscal court in Düsseldorf asked the Court of Justice for an interpretation of Treaty Article 95, which prohibits member states from imposing higher taxes on imported products than on similar domestic products (*Common Market Reports, Pars. 3001-02*).

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Beer Taxes *(contd.)*

In order to help small and medium-sized German breweries compete with large and more efficient ones, beer brewed in Germany is taxed at graduated rates. The excise tax (*Biersteuer*) amounts to DM 12 per 100 liters of the first 200,000 liters of annual output, DM 14.40 up to 12 million liters, and a maximum DM 15 for quantities above 12 million. By contrast, imported beer is taxed at a flat rate of DM 14.40 per 100 liters. Plaintiff claimed that this system was discriminatory and in violation of Treaty Article 95. The European Court of Justice agreed.

The judgment follows the line of thinking developed by the Court in a case last February (*Rewe-Zentrale v. German Customs*, Case No. 45/75). The Court found an element of discrimination in the method of computation practiced as part of Germany's state trading monopoly for alcohol, i.e., lump-sum assessments for imported alcoholic beverages and graduated rates for domestic beverages.

Meanwhile, Germany has amended its law as a result of that judgment and in anticipation of the *Bobie* judgment. Now each importer of beer from another member state must identify the brewery where it was produced and declare its total production for the previous year. The assessment is then made by referring to tables showing the tax rate applicable to a German brewery producing the same quantity. Although the Court could not take the new system into consideration, the Commission believes that it is unsatisfactory, arguing that Article 95 does not require equal treatment of breweries, but merely of products. The Court indirectly rejected the Commission's argument.

Action to Ease Drought Impact on Farming

Although the full impact of Europe's worst drought in more than a century will not be known until harvest time is over, the Commission and several national governments have acted in order to cushion the expected damage. Experts estimate that the long period of dry weather could cut farm output by up to 25%. The Commission presented a program that provides for measures to mitigate farmers' losses and which also would cut milk production by 10% by 1980.

Specifically, the Commission authorized Germany and the Benelux countries to buy at intervention prices freshly slaughtered cattle until the end of this month (France had earlier received permission to do so). This measure is essentially designed to prevent a breakdown in the common beef market that was threatened by a large-scale slaughter of livestock because of lack of fodder. The Commission has furthermore recommended that the member states prohibit the burning of straw resulting from this year's grain harvest. It is also seeking Council approval for a 40% levy to be imposed on all exports of hay and green fodder to third countries.

Drought *(contd.)*

The plan to reduce milk production is not new, but the drought has speeded up its presentation and prompted additional measures. Overproduction of milk has led to a surplus of 1.4 million tons of milk powder. The decision to add milk powder to animal feed as well as the now-proposed levy on soybean and soybean oil imports have caused anxiety within the EEC and third-world countries and have strained relations with the United States because of the impact on U.S. soybean exports.

Meanwhile, several member state governments are considering measures of their own to relieve farmers facing drastic losses in income. Because the common agricultural policy leaves little leeway for the states to regulate agricultural markets through government intervention, any relief action would have to come in some other form.

In Brief...

The agreement of the nine member states over an enlarged European Parliament (410 seats as compared to the present 198 and direct elections of its members in the spring of 1978) is significant in two respects: it is expected to give new impetus to the European idea among voters in the Community and, more important, is expected to step up Parliament's drive for additional powers. At this point, it is doubtful, however, whether Parliament will succeed because, although it has wrenched some additional powers from the Council of Ministers in the Budget approval procedure, several member states - especially France - want it to remain the consultative body that it was conceived to be under the Treaty of Rome + + + The cornerstone for the future European Patent Office (EPO) in Munich has been laid. Although the DM 200-million project will not be completed until 1979, the EPO will nevertheless be able to start work in mid-'77 because of its immediate proximity to the German Patent Office. Meanwhile, Germany has become the first nation to deposit the instruments of ratification to the two European patent conventions.

Italy: Extension of Import Deposit Seen Likely

It is considered likely in Rome that the European Commission - after consultation with the eight other EC member states - would agree to grant an Italian request for extension of the 50% cash deposit requirement for imports. The cash deposit rule was to have expired on Aug. 5, three months after its introduction, but an extension (possibly by another three months) is considered necessary since the system was to have been followed by a program for export stimulation and import restraints. The problems over the formation of a new government following last month's elections have prevented the submission of such a plan or of any other major economic measure. Should it prove impossible to install a new administration by early August, the prolongation of the import deposit regulations probably

Import Deposit *(contd.)*

would be effected by way of a decree issued by the caretaker government.

According to a Foreign Trade Ministry report, the interest-free cash deposits held by the Bank of Italy totaled an estimated 2,000 billion lire at the end of June, which was appreciably higher than originally expected. The reason was that, at 4,000 billion lire, the import value for the months of May and June was about 33% higher than anticipated. The Ministry's figures tended to confirm unofficial reports that Italian importers generally are not cutting down on their business volume because of the obligatory cash deposit but instead prefer to add the deposit costs to their prices (for an average 2.5% markup). This trend is regarded as another argument in favor of an extension of the cash deposit requirement. On the other hand, an extension would also put a strain on bank liquidity, and there are those who warn of an inevitable credit squeeze on industry that could endanger the modest economic upswing now in evidence.

Meanwhile, still-incumbent Treasury Minister Emilio Colombo sees some positive aspects for Italy's economic prospects in the effectiveness of the import deposits and the recovery of the lira. He noted that, since the June 20 elections and through the first week of July, Italy's foreign exchange reserves had improved by $384 million, whereas the public finance deficit, at 5,000 billion lire through May, has remained within reasonable limits. Also, the volume of domestic credit expansion has remained below the 31,500-billion-lire level earlier accepted by the country's international creditors. Still, Italy's trade balance continues to be extremely negative, and so does the rate of inflation which has climbed from 11-12% in the November-February period to nearly 17% (end of May).

Denmark: Parliament Fails to Act on Tax Proposals

The Danish parliament has gone into the summer recess without dealing with government proposals to raise tax rates for certain consumer products in order to dampen domestic demand and thereby provide some relief from worsening balance-of-payments pressures. The Social Democratic minority government had wanted to cool off the current consumer boom by raising taxes on automobiles, gasoline, alcoholic beverages, tobacco, radio and television sets, and other items. This would have brought in more than 2 billion kroner annually in additional revenue and, at the same time, would have neutralized nearly 2% of purchasing power. Since much of the consumer demand has to be met by imports, it is now again contributing to a growing payments deficit: whereas the deficit amounted to 3 billion kroner for all of last year, it has already topped this figure in the first 1976 quarter and could reach 7-8 billion kroner by the end of the year.

Tax Proposals *(contd.)*

The Conservative Opposition has based its rejection of the tax increases on an agreement with the government last fall whereby the parliamentary parties would negotiate a 1977-78 incomes policy package during the summer months. Any decision on higher taxes, it was argued, would have to be part of this package and should not be made prematurely. Still, the Anker Joergensen administration has come under attack by National Bank authorities who complained of government indecisiveness and inactivity in dealing with the country's financial problems.

For the moment, it is not clear whether the tax proposals can still be implemented this fall; if so, this would probably be within the framework of a broader economic program, observers note. On the other hand, it was not ruled out that the conflicts over this issue will again lead to a political crisis and, possibly, new elections.

Germany: New Partnership for Liberal Professions

Members of the German liberal professions may soon avail themselves of a new form of association within which to do business. The lower house of Parliament has already approved the bill (*Partnerschaftsgesetz-Entwurf*), and the upper house is not expected to raise any objections. The new business form would enable physicians, attorneys, tax advisers, engineers, or architects to form a partnership with colleagues and to provide services under a joint name. Under present law, members of the liberal professions may associate only by listing at least two member names.

A partnership would be an advanced form of association as provided by the Civil Code. It would differ from that association, however, in that only members of the liberal professions - of the same or different professions - could join. Thus, a partnership could be formed not only by lawyers but could also include tax advisers. The sponsors of the legislation saw a definite need for this type of partnership, which permits greater specialization and cooperation than commercial partnerships (*Doing Business in Europe, Pars. 23,203-05*). The authors of the bill foresee that, for instance, a large medical office containing sophisticated instruments and equipment could well use the knowledge of an engineer.

Although not a legal entity, the new form of partnership would have most of its characteristics: it could buy and sell property under its name, and it could sue and be sued. But it could also go bankrupt, and the sponsors of the bill believed that the best way to avoid this would be to require the partnerships to take out liability insurance to cover awards resulting from malpractice suits. However, the lower house saw no necessity for this provision, and it was eliminated from the proposal.

Partnerships *(contd.)*

The partnership agreement could establish rules governing the relationship between the partners. But in contrast to commercial partnerships, a partnership agreement could not entrust just one or two partners with management. All partners would, as a matter of law, have the right to manage the partnership. The agreement could stipulate, however, that no partner is allowed to offer services outside the partnership.

Britain: White Paper Details '4.5%' Pay Policy

The British government's "4.5%" pay policy, which was given overwhelming approval last month at a specially convened assembly of the country's labor unions, has been officially set out in the White Paper (Cmnd. 6507) "The Attack on Inflation - the Second Year."

The prevailing pay increase limits are thus £2.50 per week for those earning up to £50 per week, 5% for those earning between £50 and £80, and a maximum of £4 per week at all higher levels of earnings. In exchange for ratification of these limits by the unions, the government will now implement the conditional tax reliefs outlined in the April Budget. The guidelines apply to increases becoming operative in the period of Aug. 1, 1976, to July 31, 1977, in regard to all full-time adult (over 18) employees, with prorated payments for part-time employees and juveniles. Payment is to be made as an individual earnings supplement which means that employers will be obliged to calculate total earnings on a weekly basis and add 5%, subject to the upper and lower limits noted above.

Despite the "4.5%" tag, it is now officially estimated that the overall increase in earnings to July 1977 may be between 7 and 7.5%. By contrast, the overall fall in living standards is projected at something in excess of 2%. In spite of widespread speculation that dividend controls would be eased if not removed entirely, the current 10% limit on increases will continue to apply.

Switzerland: More Powers to Fight Tax Evasion

The Swiss parliament's lower house has adopted legislation that would give the federal and cantonal governments additional powers in fighting tax evasion. The bill (*Gesetzentwurf über die wirksamere Bekämpfung der Steuerhinterziehung*), which still awaits approval by the upper house, provides for the establishment of special federal agencies that, upon request, would help cantonal authorities track down individuals who reside in one canton and derive income from sources in another but fail to fully report it.

A major innovation would be that whenever the taxpayer fails to provide assessment-relevant information, the tax authorities could demand that information from third parties - attorneys, tax consultants, doctors, trustees,

Tax Evasion *(contd.)*

banks, or any other persons who keep or administer a taxpayer's assets or have any relevant contractual relationship with him. For example, a doctor could be required to supply information if a taxpayer claims large medical expenses on his return.

Although the obligation to furnish assessment-relevant information would also apply to banks, attempts to abolish the system of banking secrecy failed in the lower house (cf. also *Doing Business in Europe, Par. 30,803*). Still, the house did approve by a narrow margin an amendment proposed by leftist members of Parliament that could circumvent banking secrecy in another way: by making tax evasion a criminal offense, the government would get access to all details needed to prosecute tax dodgers as well as additional information not directly related to the taxpayer's alleged incriminating activities. However, since influential lawmakers in the upper house have expressed strong opposition to the amendment, observers expect the conferees either to strike the amendment altogether or to propose a version that would restrict a bank's obligation to the furnishing of tax-relevant information only.

Still, the lower house nearly unanimously approved stiffer penalties for taxpayers committing tax fraud, i.e., evading taxes by forging documents. Each count of tax fraud would carry a fine of up to SF 30,000 or a corresponding jail term.

Portugal: New Law Curbs Worker Rights in Companies

In its last cabinet session on July 8, prior to the formation of a new government following last month's presidential elections, Portugal's sixth provisional government severely curtailed the co-determination rights previously granted to workers. The action was described as the result of a "conservative" interpretation of the country's new constitution, which guarantees workers the right "to form committees...that may intervene democratically in the life of an enterprise" and integrate it in the "revolutionary process." Following the military takeover in April 1974, the labor unions - headed by the Communist-dominated Intersindical - had used the worker committees to gain influence in and control over many public and private enterprises. The extent of these powers has led to a climate of insecurity and frustration on the part of domestic and foreign businesses in Portugal and has not been without effect on investments.

The new law effectively prohibits the worker committees from interfering with and obstructing normal business activities and management's freedom of action. It provides that committee activities be confined to "purely economic aspects." Following the cabinet decision, the Intersindical issued a strong protest against the new law, claiming

Worker Rights *(contd.)*

that it infringed on worker rights and would permit "capitalist recuperation." However, even within the labor movement, the influence of the Communists has been on the decline following losses in both the April general elections and the June presidential elections.

EURO COMPANY SCENE

Reckitt & Colman/ National Paragon

The bid for National Paragon Corp. of New York by RT French Co., U.S. subsidiary of Britain's Reckitt & Colman, reportedly has failed as a result of disagreements over the value of the offer. In April, London reports said that RT French was planning a $17.5-million tender offer at $12.75 per share. The offer was to have been for all shares, provided that at least 67% of the capital was tendered. The disagreements reportedly came up after publication of National Paragon's results for the 12-month period ending on March 31, 1976.

Röhm/ American Cyanamid/ CyRo

Germany's Röhm GmbH, leading European producer of acrylic glass ("Plexiglas"), has established through its wholly-owned U.S. subsidiary Rohacryl, Inc., a joint subsidiary with American Cyanamid Co. for the production and sale of monomers and polymers on acrylic glass basis. Each of the partners holds 50% of the new company, CyRo Industries, which operates from Wayne, N.J., where American Cyanamid's headquarters are located. CyRo is capitalized at $46 million.

Philadelphia National/ R. Henriques

The purchase by Philadelphia National Bank of a minority shareholding in Denmark's R. Henriques Bank marks the first such foreign participation in the Danish banking system. (Several foreign banks have, however, established their own branches in Denmark since 1974.) Henriques, founded in 1974, made a special share issue of 2 million kroner to Philadelphia National, thus raising its total share capital from 10 to 12 million kroner. The Copenhagen bank showed a balance sheet total of 153 million kroner at the end of June.

ISC Finance/ London-Scottish Finance

The ISC Finance Corp. of Kansas City, Mo., has acquired 20% of the equity of the London-Scottish Finance Corp. Subject to compliance with the requisite exchange control and listing requirements, ISC will subscribe to one million new London-Scottish shares at a total cost of £230,000.

Common Market Reports

EUROMARKET NEWS

Issue No. 393 Report No. 297, July 30, 1976

IN THIS ISSUE

Community: Start of Talks on Greek Membership

This week, European Commission and Greek government officials were to start negotiations that are expected to make Greece the tenth member state of the European Community. Community officials believe that negotiations could last from two to three years, but there is no doubt that, in the end, Greece will be granted full membership (at present it is only an associate member - *Common Market Reports, Pars. 5336, 5344, and 9752*). The European Commission originally had advocated a pre-membership status, but this was overruled by the Council of Ministers.

There are several problems for which the negotiators must seek solutions. The condition of the Greek economy requires certain concessions. Greek industry would suffer if it had to compete freely with all industrial products from other member states, even though, under the association agreement, customs duties for two-thirds of Greece's imports of EC industrial products had been removed by November 1974. A transitional period for the total removal of customs duties as well as other adjustments will lessen the impact of full membership. The Greek government proposed a five-year period of adjustment under conditions similar to those provided in the accession treaties with the U.K., Denmark, and Ireland. The Community will have to

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Greece *(contd.)*

bear a considerable share of the financial burden in order to put Greek industry in a position to make the necessary structural changes.

Another major problem will be the impact of Greece's increased exports of agricultural commodities to the EEC. These exports are vital inasmuch as 45% of the country's working population is engaged in farming (contributing 19% to the GNP). Greece's major farm exports traditionally have included citrus fruits, raisins, and wine, and it would be primarily Italy that would be affected most by the duty-free or reduced-duty imports of these products. Commission officials do not yet know what formula would persuade Italy to consent to Greece's membership (unanimous approval by the Council is required): it possibly could be financial compensation to Italian wine and citrus fruit growers, they believe.

Perhaps the most difficult aspect is the prospect that Greek membership might add to the political strife between Greece and Turkey. The Turks are associated with the Community by an agreement that also provides for full membership as a final objective (*Common Market Reports, Par. 5346*). Council officials point out that the Community could not grant to Greece now what it could not grant to Turkey if and when the time comes. But they see the danger of additional strife minimized by the Community's generous offer to Turkey that was to be discussed at this month's meeting of the EC-Turkey Association Council. This offer pertained to tariff concessions, financial aid, and social security benefits and free-movement rights for Turks working in EC member states.

EC May Declare 200-Mile Zone at U.N. Parley

The Community will announce a 200-mile zone of fishing rights at the next U.N. Conference on the Law of the Sea if other countries do likewise. Discussions on a draft convention will resume on Aug. 2 in New York. This position represents not only a victory for the European Commission, which has wanted the Community to take a stand on this issue (*Common Market Reports, Par. 9857*), but it is also considered an answer to those countries that have moved to unilaterally extend their fishing boundaries to 200 miles or threatened to do so. For example, Norway has said that it may be forced to declare a 200-mile zone after the end of this year if the U.N. Conference should fail to produce a general agreement on fishing limits by then. Such unilateral extension would not only affect neighboring Denmark and perhaps cause conflict situations (Denmark's and Norway's zones would overlap in some areas), but would also touch upon substantial interests of other member states (for example, German trawlers have been fishing in Norway's offshore waters).

Fishing Zone *(contd.)*

The common external position has not helped resolve differences among the member states as to what kind of a policy should be applied within the EC itself. The U.K. in particular insists on an exclusive national fishing limit of up to 50 miles, although the Commission has proposed a 12-mile limit.

At the New York conference, Community representatives are expected to propose the inclusion of an "EEC clause" in the draft convention that would assure the Community's jurisdiction as a negotiating partner in international or bilateral discussions. Without this clause, neither the Community nor its members could validly become parties to the future convention. Inclusion of this clause would not bar the presence of member state representatives, but it would commit them to act in a coordinated manner and in agreement with Commission officials representing the Community.

In Brief...

After many delays, the Commission has published its policy paper outlining the creation of a Community trademark, which would enable businesses to market their products under a single mark throughout the EEC. (A discussion of the memorandum addressed to the member state governments will follow in next week's issue) + + + The Court of Justice has made a decision concerning the rules of a member state requiring nationals from other member states to register with the authorities and also requiring residents who provide accommodations to report the names of guests to the authorities. The Court held that these rules do not conflict with Treaty Articles 48-66, which provide essentially for free movement of nationals throughout the Community. It stipulated, however, that 1) the period for registration and reporting must be reasonable and 2) any penalty for failure to register or report may not be disproportionate to the gravity of the offense and may not include deportation (*Watson and Belmann v. Public Prosecutor*, Case No. 118/75).

Netherlands: The Hague Sets Blanket Pay Increase

The Dutch government has unilaterally decreed that all employees are to receive an across-the-board pay raise of 30 guilders per month in the second half of this year. The announcement followed the failure of the labor unions and employers at the end of last month to come to a wage agreement and, subsequently, to accept a government offer providing for partial compensation for price raises. Aside from the blanket pay increase of 30 guilders, net incomes are to be improved by a reduction and realignment of social insurance contributions. Thus, an average wage earner with two children and an annual income of 26,000 guilders would gain an extra 41.50 guilders in take-home pay. For those with lower incomes, the benefit would be higher, and for those with higher incomes, it would be lower. On the aver-

Pay Increase *(contd.)*

age, the government said, the pay increase would come to 9.3% over the entire year. (Last December, the government already had set a 4.5% pay increase ceiling for the first six months of 1976.)

Even before it was announced, the action was denounced by some labor leaders as "unforgivable," and Wim Kok, head of the FNV, the country's largest union federation, warned of a serious disruption in the relationship between labor and the Socialist-led administration of Prime Minister Joop den Uyl. The Socialist unions had demanded a net increase of 55 guilders, and several thousand workers in the Amsterdam and Rotterdam ports had gone on a brief strike in protest of the "wage intervention." The Christian Labor Federation, on the other hand, called the decision "reasonable" (it had asked for 44 guilders). The employers, whose offer had been for 20 guilders per month, expressed their disappointment and predicted "serious problems" especially for the labor-intensive sectors of industry.

The government, meanwhile - through Social Affairs Minister Jaap Boersma - declared its readiness to engage in a new round of talks with labor and industry this fall should prices go up at an unexpected rate in the coming weeks. The Hague is still trying to prevent the cost of living from rising above 8.5% this year, after an inflati rate of 10.2% in 1975. However, most economic experts have doubts whether this target can be achieved in view of the unabated price expansion (about 6%) in the first six months of this year.

Italy: Unions Seen Ready to Join Social Pact

As the political negotiations over the formation of a new Italian government went into the second month, there were some indications that the country's labor unions would no longer oppose some kind of incomes policy if the government in turn would incorporate some of the union concepts in its economic planning. According to statements by various labor leaders and left-wing spokesmen, the unions would be prepared to enter into a "social pact" designed to help Rome in its task of solving Italy's monumental problems.

As part of such a pact, Rome reports said, the unions might agree to a two-year neutralization of pay increases exceeding certain ceilings. Another, or additional, possibility would be a two-year suspension of the automatic indexation system for higher wage levels. (Critics said that this would still assure the majority of wage earners of automatic adjustments, which thus would continue as a major source of domestic inflation.) Furthermore, the unions are said to be prepared to back measures curbing absenteeism and wildcat strikes and encouraging more job mobility.

In exchange, the unions would expect from a new government the presentation of exactly defined investment pro-

Social Pact *(contd.)*

grams and employment schemes for jobless young people, whose number has been rising steeply of late. The agriculture, construction and transport sectors are to be given investment priority. Further, the government would be asked to guarantee low prices for the most important food staples.

Italy's three major labor federations presently have their experts working on a joint agreement concerning the unions' main policy items for an economic program. At the same time, the Christian Democrats have been trying to prepare a package of anti-crisis measures that would stand a chance of acceptance with labor and the leftist Opposition. In view of rising public expenditure and disappointing revenue inflow from the self-assessed income tax so far this year, the Finance Minister probably will have no choice but to raise taxes on several fronts if Italy is to keep its Budget deficit within the limits internationally agreed upon. Subject to such increases could be income taxes, the capital gains tax on real property, and the value-added tax. Again being discussed is a possible introduction of a net worth tax.

Meanwhile, the Treasury Ministry in Rome has announced a three-month extension of the 50% cash deposit on imports after receiving the approval of the European Commission and the International Monetary Fund for this step. Originally, the import deposit requirement was to have expired on Aug. 5.

Britain: Tory, Union Attacks on Government

The U.K. government's parliamentary tactics concerning some of its most controversial bills and its announcement of major spending cuts beginning next year have come under heavy attack by the Opposition and the labor unions.

The Conservatives concentrated their criticism on the government's motion to "guillotine" five bills in regard to comprehensive education, National Health Service hospitals, dock work regulations, farm housing rents ("tied cottages") and, most important, the nationalization of the aircraft and shipbuilding industries. (The effect of the guillotine system is to set a timetable for the passage of the legislation, thereby limiting the Opposition's time to debate and press amendments to the bills.)

Most heated, however, was the attack on Chancellor of the Exchequer Denis Healey, who had announced the government's intention to cut public expenditure by £1 billion in 1977-78. During the parliamentary arguments over where the cuts should be made, a major rift became apparent in the cabinet itself. Two of its leading members, Anthony Wedgwood Benn and Peter Shore, supported by others of Labour's left, predicted grave consequences for the government's social contract with the trade unions if the "social wage"

Attacks *(contd.)*

were to be reduced. They contended that if the expenditure cuts were applied, there would be a reduction in National Health Service spending, food subsidies, municipal housing starts, and grants to local authorities as well as municipal housing rent increases, postponement of "key" nationalized industry programs, and a serious loss of revenue to the new National Enterprise Board.

Behind all these arguments there loomed the prospect of higher unemployment inasmuch as reduced public expenditure would result in a lesser number of new jobs. The unions advocated "immediate and effective" import controls, a systematic reduction in working hours, and more investment in the nationalized industries as a way of providing more jobs and more orders.

While Healey was in the process of rebutting union arguments, the Dept. of Employment announced that unemployment in June had risen to 1,242,200, or 5.4% of the working population - a postwar record. The announcement led to a hardening of the fronts: the unions have become even more insistent, and the Chancellor has warned that the economy was possibly on the brink of "collapse." It appeared easy to resolve the issue in sentences, Healey said, but not so easy to resolve it in real life.

Germany: Discriminatory Aims of U.S. Banking Bill?

In a strongly worded statement, the Association of German Banks has charged that the International Banking Bill 1976 now pending before the U.S. Congress is discriminatory against foreign banks in the United States, contains "elements of protectionist character," and violates the principle of reciprocity. Should the bill be enacted, the Association says, German and other foreign banks would have to face the following consequences:

- Apart from underwriting activities, they would have to cease investment banking at the end of 1985. The effect of this so-called "grandfathering" process would be to "dry up" the banks' securities business long before that year.
- They would no longer be allowed to establish affiliates in more than one state without serious restrictions.
- By having to adhere to the One Bank Holding Company Act, a bank domiciled abroad would be prohibited from establishing an affiliation in the U.S. and, at the same time, holding an interest in an American enterprise.
- Finally, foreign banks generally would have to participate in the Deposit Insurance System despite the fact that they are engaged in U.S. domestic banking business in exceptional cases only.

The Association said it was aware that these legal initiatives aim to get foreign banks "on a par" with U.S. domestic banks, but that this ignores the fact that "in

Banking Bill *(contd.)*

reality, foreign banks do not compete with domestic banks..., apart from very few exceptions." German banks, it said, have established U.S. affiliates (subsidiaries and branches) in order to assist multinational clients, engage in dollar transactions under order of the home office, participate in securities transactions and underwriting, and take part in the U.S. money markets. The Association pointed out that U.S. banks - because of the German universal bank system - are permitted to do "without hindrance" any commercial and investment banking business in Germany. The major U.S. banks, the statement said, today derive up to 50% of their earnings from their business abroad. By contrast, the more foreign banks established affiliations in the U.S., the more legal initiatives have been taken there to restrict the activities of such banks, the Association said.

The German bankers' organization concluded that the U.S. bill could cause a situation that would lead to "appropriate reactions" on the part of European banks.

Switzerland: National Bank to Be Given More Powers

In a second attempt, the Swiss government has approved a draft revision of the National Bank Law that would give the central bank broader powers and more effective tools in conducting its policies. Bern's first effort in early 1969 did not succeed when opposing factions persuaded Parliament to accept a gentleman's agreement between the National Bank and the commercial banks as a substitute for the reform legislation. Thus, the National Bank was forced to continue operating on the basis of emergency decrees and voluntary agreements (*Doing Business in Europe, Par. 30,802*) - a system that has proven inadequate and unsatisfactory on more than a few occasions and especially during the international monetary crisis of 1972.

A major revision of the present law would authorize the National Bank to adjust money volume to economic requirements by way of minimum reserves on bank deposits. The Bank was given this instrument by a federal emergency decree (*dringlicher Bundesbeschluss*) dated Dec. 19, 1975; the new law would extend this authorization on a permanent basis. The minimum reserves in a way would replace credit volume ceilings as the Bank's most effective policy instrument. Minimum reserves could also be imposed on deposits from abroad - in fact, the required ratios could be much higher than those on domestic deposits.

Further powers of the Bank would pertain to transactions in Special Drawing Rights (although Switzerland is not a member of the International Monetary Fund), controls on securities issues, and the warding off of unwanted capital from abroad. However, to prevent the Bank from gaining too much autonomy, the draft law explicitly requires the

Bank Law *(contd.)*

government's consent for measures of major significance to the Swiss economy.

The bill was expected to be submitted to Parliament by the end of this year. Should it be approved, it could still be defeated in a national referendum, provided at least 30,000 eligible voters sign a petition for such a referendum.

EURO COMPANY SCENE

General Dynamics/ Fokker-VFW/ SABCA/ Avions Fairey

The United States' General Dynamics Corp. has announced the signing of contracts relating to the 1975 agreement whereby Belgium, Norway, Denmark and the Netherlands had agreed to purchase 348 F-16 jet fighters in exchange for a 40% share in the production of the planes, at 1975 prices. In Holland, according to the $190-million contract awarded to Fokker-VFW BV, the Dutch subsidiary of the German-Dutch aerospace company is to assemble 174 F-16s for the Netherlands and Norway. In addition, it will produce fuselage and wing parts for 564 planes, with 170 sets to be used for Dutch assembly and 170 sets to go to Belgium's SABCA and Avions Fairey for final assembly of 116 F-16s for Belgium and Denmark. The remaining sets are to be delivered to General Dynamics for installation in U.S. Air Force planes. The Belgian contract is valued at $97.8 million.

Kongsberg/ Pratt & Whitney

In Norway, defense equipment specialist Kongsberg Vapenfabrikk has been awarded a 900-million-kroner order from United Technologies Corp.'s Pratt & Whitney Aircraft Group for production of fan-drive turbine modules for the F-16 jet engines. In addition to this order, valued at about 10% of the total F-16 engine program, the state-owned company this fall expects to sign contracts worth 500-800 million kroner for inertial navigation and weapon control systems, brakes, and parts for the ventilation and cooling systems. Orders to other domestic suppliers should bring the total value of the Norwegian F-16 program to 2 billion kroner.

B.F. Goodrich

The Netherlands government reportedly has proposed a plan whereby it would acquire a 49% stake in B.F. Goodrich's financially troubled Dutch subsidiary. The American parent company would retain a 49% interest in the operation and the remaining 2% equity would go to a foundation managed by one Goodrich and two government representatives. If Goodrich approves the plan - and it is believed that it will - discussions will be initiated with the country's trade unions over the dismissal of some 900 of the 4,800 now employed at Goodrich's general products and tire division in Holland.

Common Market Reports

EUROMARKET NEWS

Issue No. 394 August 3, 1976

IN THIS ISSUE

Community: 4 States Sued over Export Credit Accord

The European Commission has taken France, Germany, Italy and the U.K. to the European Court of Justice on charges that their export credit accord with Japan and the United States is in violation of the Treaty of Rome. Basing its suit on Treaty Article 169, the Commission contends that the four states violated their Treaty obligations when, following their tentative agreement last November in Rambouillet, all six countries met secretly in Paris and reached an accord on government-supported export credits to the exclusion of the Commission and the other five member states.

The Commission believes that these actions constituted particularly flagrant violations of the Treaty. Last November, only one week prior to the Rambouillet meeting, the European Court of Justice had issued an opinion leaving no doubt about the legal situation. In that opinion - the first given under Treaty Article 228(1), subparagraph 2 (*Common Market Reports, Pars. 5291-92*) - the Court ruled that the Community has the exclusive power to conclude international agreements on export credits and that any unilateral action by the member states would be contrary to

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Credit Accord *(contd.)*

the principles inherent in the common commercial policy set forth in Treaty Article 113 (*Common Market Reports, Par. 3882*). This opinion also meant that only the Commission could enter into negotiations on the Community's behalf. The Commission promptly asked the Council of Ministers for a formal mandate. It was only after all hope for a Council agreement failed in June that the Commission decided to bring action. Council and Commission attorneys say that it was essentially France's intransigence that blocked agreement within the Council.

Commission attorneys are, however, still hoping for an amicable solution because the procedure initiated by the Commission under Treaty Article 169 need not necessarily culminate in a judgment (*Common Market Reports, Pars. 4615-16*). The four member states still have an opportunity to remedy the situation within the period of time granted by the Commission, whereupon the suit could be withdrawn.

EEC Trademark Drive Resumed by Commission

The European Commission has resumed its drive for the creation of a Community trademark. Strategy and some details have been spelled out in a memorandum addressed to the nine member state governments and also sent to the national business associations.

Registration for a European trademark would be simple and relatively inexpensive. A manufacturer would apply for registration of his trademark either at the yet-to-be-established European Trademark Office (ETO) or the particular national patent office, which would forward the application to the ETO. The ETO would have administrative as well as quasi-judicial functions, but its appellate and revocation boards would be independent enough to assure due process. Specifically, the ETO would examine the application, research existing trademarks, and then publish the registration of the trademark if no opposition were raised.

In its memorandum, the Commission stresses the economic significance that the Community trademark would have in terms of promoting interstate sales for the trademark holder and guaranteeing to consumers that the products and services carrying this mark have the characteristics and the quality implied in it. Furthermore, the Community trademark would give the consumer a choice of a wider range of products from various parts of the Common Market. At the same time, the Community trademark would also protect consumers against the risk of being confused by products carrying identical or similar trademarks. Presently, it normally takes months, sometimes even years, for a national trademark holder to succeed in having a court bar imports of products carrying confusingly similar trademarks.

When a working party composed of Commission and national experts starts drafting a proposal in late 1976, it

Trademark *(contd.)*

will draw heavily from a 1964 preliminary draft convention that had been shelved when the member states, especially France, disagreed over basic issues involving industrial property rights (*Common Market Reports, Pars. 5871 and 5873*). These differences of opinion no longer exist, however, and substantial progress has been made on a European patent with the signing of the two European patent conventions (*Common Market Reports, Pars. 5503 and 5795*). The European Court of Justice also has removed doubts about the continued existence of national trademark rights with its *EMI* and *Terrapin* rulings.

In contrast to the 1964 proposal, the new one would be in the form of a regulation to be adopted by the Council with immediate effect in the member states rather than a convention requiring ratification by the national parliaments.

In Brief...

The Council has again postponed (until Oct. 18) two basic decisions that the Commission has urged it to make: financial appropriations for the EC's five-year thermonuclear fusion program and the location for the JET (Joint European Torus) thermonuclear fusion laboratory. The objective of the JET project is to assure the Common Market's long-term energy supplies. Although favored by the Commission, the Ispra (Italy) location is no longer considered first choice. Instead, Culham (England) and Garching (Germany) are now given the best chances, with the latter getting increasing support from the smaller states + + + The Commission wants to open debate in the EC institutions on an issue that has been the subject of lively discussions in several member states, especially Germany: the spreading of capital ownership among employees. In a working document, the Commission stresses the need for such a debate because the current economic situation requires discipline in terms of wage increases, and letting employees share in the profits and/or participate in capital increases could be a meaningful compensation for wage restraint.

Britain: Deflationary Package; Imports; OECD

The £1.9-billion deflationary package unveiled on July 23 by Chancellor of the Exchequer Denis Healey (a "difficult, dangerous and exhausting task") has been criticized not only by the U.K. business community and the trade unions but also by some left-wing members of the governing Labour Party. As indicated earlier, the program involves the cutting of £1 billion in previously projected expenditures in such areas as job subsidies, public housing, school lunches, etc. More controversial, though, was the 2% increase in social security contributions by employers which will burden industry with some £900 million in extra costs (beginning on April 1, 1977). Business spokesmen warned that - at a time of still-rising unemployment - this in-

Deflation *(contd.)*

crease may force some employers to reduce their work force and will lead to a curtailment of new recruitment in labor-intensive sectors. Other effects would be renewed pressures on consumer prices. In essence, these were also among the arguments advanced by the unions and Labour's left wing.

In his Commons statements, Healey further referred to government plans to "take a tougher stance" on imports by making more effective use of existing anti-dumping legislation. He stressed that key sectors of industry (for instance, clothing, textiles, and steel) were threatened by cheap imports. The government would also examine the need for any extension of its existing import restraints to provide "temporary protection to viable industries faced with unfair competition." According to Dept. of Trade spokesmen, numerous products were being investigated for this purpose, among them men's leather fashion footwear, PVC fabrics, dump trucks, alarm clocks, ophthalmic lenses and shotguns.

In related news, the Organization for Economic Cooperation and Development on July 28 released estimates that the growth of Britain's real output will remain sluggish for the rest of this year and will rise to a rate of 3.5% in 1977. This contrasted with the Chancellor's prediction of 4.5% over the next 18 months. The OECD based its conclusions on the assumption that worldwide expansion will be less pronounced than in the 1971-73 boom period, but it still believes that 6.5% is a fair average growth rate for the 22 industrial countries in its survey. Here, Britain again would lag behind: Healey's recent measures are designed to produce an annual growth rate of 5.5% over the medium term (i.e., until 1980-81).

France: Interest Rate Boost to Stem Franc's Slide

Following renewed pressures on the franc and a period of intervention on the exchange markets, the Bank of France on July 22 sharply raised the discount rate from 8 to 9.5% and the Lombard rate to 10.5% for private customers and to 12% for banks. The Bank's move did not come as a surprise to the market after the franc had slipped steadily throughout the month, losing about 4% against the U.S. dollar and the D-mark. Financial observers blamed the relatively high inflation rate (9.5% as of May) and the deficit in the foreign trade balance for this weakness. As late as July 15, Finance Minister Jean-Pierre Fourcade had declared that the floating of the franc was "under control" and that he did not believe that the franc would essentially deviate from the then-existing dollar and D-mark parities.

The discount rate action evidently marked a change of tactics on the part of the central bank: instead of continuing to intervene directly on the foreign exchange markets and thereby risking a further drain of currency re-

Rate Boost *(contd.)*

serves, it opted for higher interest levels in attempts to attract capital from abroad and to bolster the government's anti-inflation efforts. It was expected that the rate changes would soon be augmented by restrictive credit measures. In fact, the commercial banks immediately raised their base rate from 8.8 to 9.2%. This, however, was lower than anticipated, since the banks had applied for an increase of about 1% in reference to the higher money market rates. But the monetary authorities apparently feared the effect that an undue jump in financing costs would have on business investments.

Capital Gains Tax Breaks for Nonresidents

Having been adopted by both the National Assembly and the Senate, France's new capital gains tax law has been published in the Journal Officiel, the state gazette, on July 20. Reports said that a close study of the text showed that the legislation has no effect on capital gains realized by nonresidents from transactions involving shares quoted on the Bourse, convertible bonds, and commodity futures. By contrast, gains realized from all other transactions listed in the law remain taxable. This includes the sale of real estate and unquoted shares, for which the tax amounts to one-third of the capital gains. Unchanged remain the provisions of Article 160 of the Code des Impôts (Tax Code) whereby nonresidents holding at least 25% of a company's share capital are subject to a capital gains tax rate of 33.3% in the event of a sale, provided that the sale occurred within a 10-year period after acquisition. Thereafter, the rate is reduced to 15%.

Belgium: Discount Rate; Credit Curbs; Investments

In apparent reaction to the moves of its French counterpart the day before, the Belgian National Bank on July 23 decided on a number of credit restrictions. Aside from raising the discount rate from 7 to 8%, the Bank trimmed by 10% the rediscount facilities of the commercial banks and divided them into two segments: the official discount rate is applicable to the first half, while the second half is subject to a higher rate of 9.5%. The banks also were asked not to reduce their present portfolios of state papers.

In explanation, a National Bank spokesman said that the Belgian authorities were seeking to forestall another wave of speculation against the Belgian franc in the wake of the pronounced pressures on the French franc. Traditionally, the currencies of these two countries have been moving in similar patterns - a trend Belgium is now trying to resist. Last March, following the French franc's departure from the joint European currency snake, the Belgian franc had to weather considerable speculation as to a possible devaluation. At that time, on March 18, the Belgian discount rate had been raised from 6 to 7%.

Discount Rate *(contd.)*

In other news, the Economic Affairs Ministry reported that some 700 foreign companies established themselves in Belgium last year, investing BF 11 billion. Of these, about one-third were of Dutch origin. The total investment in 1975 - which compares with BF 24 billion in '74 - created only 220 new jobs, the Ministry report said. On the other hand, foreign business establishments tend to be relatively permanent: between 1965 and '75, only 43 of these firms closed down in Flanders and 54 in the Walloon region.

It also was reported that a government commission has worked out recommendations on how to promote more foreign investment in Belgium; the proposals are to be submitted to Parliament in September. Among other things, the government is said to be looking for ways to offer compensation for the inflationary impact of the wage indexation system on labor costs.

Germany: Cost Factor in Environmental Policy Plans

The German government's Environmental Report '76 clearly reflects Chancellor Helmut Schmidt's thinking on Bonn's environmental policy plans for the next five years. While the previous administration had not been too much concerned with the cost factor of a better environment, Schmidt wants his officials to give more consideration to the economic connotations of any new legislation being drafted and at the same time to weigh more thoroughly the cost-effect ra of any proposal. In this, the Chancellor continues in his previously stated demand for a balanced approach to economic and environmental necessities, a concept already reflected in the recent Water Pollution Levy Act (*Doing Business in Europe, Pars. 30,718 and 30,873*) and one that also will be the government's future guideline if the Social Democrats are returned to power in the Oct. 3 national elections. (However, Bonn observers agree that a Christian Democratic government would follow this policy in an even more pronounced way.)

The report does not indicate that regulations governing the licensing of new facilities, especially nuclear power plants, would be relaxed. The administration's decision not to propose legislation that would give environmentalists the right to go to court to stop or delay construction of a planned facility (a new factory, for example) is seen as a way of avoiding complicating a situation that already has been compounded by the judiciary. The courts have been increasingly siding with individuals and groups on environmental issues. If this trend continues, it could jeopardize implementation of the government's energy program, which calls for the construction of both conventional and nuclear-fueled power plants. Several leading Social Democrats and Interior Minister Karl Maihofer, a Free Democrat, had favored a statutory right for environmental groups to bring action in court.

Environment *(contd.)*

Still, the government can point to an impressive record of environmental legislation - the Clean Air and Noise Abatement Act, the Waste Disposal Act, the Anti-Lead in Gasoline Act, the Water Pollution Levy Act, plus numerous regulations (*Doing Business in Europe, Pars. 30,857, 30,870, 30,835, and 30,873*). Since 1971, a total of DM 66.7 billion has been spent in Germany on pollution control. Of this, industry's investments amounted to DM 38 billion, while local governments spent a total of DM 28.6 billion, mostly on the construction of sewage treatment facilities.

Switzerland: National Bank Reduces Ratio on Reserves

After the Swiss National Bank had decided in early July to drastically raise the minimum reserve requirement on non-resident deposits from 10 to 65% as of July 26, it announced on July 23 that this margin would be lowered to 37.5%. The original margin on the commercial banks' foreign liabilities was set in order to absorb about SF 1 billion, which represents one-third of the expanded money supply that has resulted from massive central bank interventions on behalf of the Swiss franc in June and early July. (In practical terms, the banks still will have to meet the 65% requirement, but the National Bank will refund the difference.)

In revising the margin downward, the Bank reacted to the calmer conditions on the foreign exchange markets (higher dollar parity) as well as to an unexpectedly steep increase in Swiss money exports. It was reported that loans floated in Switzerland by foreign institutions total SF 1.8 billion so far this year, compared with SF 2.3 billion for all of 1975.

Portugal: New Government; Foreign Investment

In presenting Portugal's new Socialist minority government, Prime Minister Mario Soares has announced that his administration will give the greatest priority to the country's economic recovery. Soares acknowledged that Portugal was beset by monumental problems and asked "the support of all Portuguese" to help solve them. Responsibility for the various areas of economic policy-making is split up among various cabinet members, but the key figures are Antonio de Sousa Gomes, the minister in charge of economic coordination and planning, and Henrique Medina Carreira, the finance minister. There has been criticism that both men lack the experience required in their new positions: Sousa Gomes was undersecretary for public investment in the previous provisional government and Medina Carreira, a lawyer by training, was undersecretary for the budget.

To many observers it will be interesting to see how the new administration will proceed in its treatment of foreign investment, which has slumped severely during the reign of successive provisional governments. The German-

Government *(contd.)*

Portuguese Chamber of Commerce has just published figures according to which new German investments in the processing industry dropped by 93% last year. Only DM 3.5 million was spent on participations and equity capital (out of total German investment of DM 57.1 million, which was 27% less than in '74). Thus, Germany lost the No. 1 rank among foreign investors in Portugal to the United States.

That this trend has been of a general nature was confirmed by statistics recently issued by the Bank of Portugal: last year, only 16% of the investment capital coming from abroad was used to establish new enterprises or participate in existing ones, 27% went into real estate, but nearly 58% was in the form of loans and capital increases. In 1973, for a comparison, 54% was spent on new enterprises and equity capital, 35% on real estate, and only 11% on loans and capital increases.

The publication earlier this year of the long-awaited official Investment Code has not removed all apprehensions about future policy in this area. The Code's application must be within the provisions of the country's new constitution, which explicitly refers to foreign investments as a means to ensure national progress "in keeping with the general plan and to defend the interests of the workers." The Code itself defines foreign investment in Portugal as an instrument to support the country's economic and social development.

Common Market Reports

EUROMARKET NEWS

Issue No. 395 *Report No. 298, August 11, 1976*

IN THIS ISSUE

Community: Brussels Acts on Consumer Protection

The largely negative results of a consumer survey sponsored by the European Commission have prompted the latter to call for legislative action and to show that it is doing something to correct the situation. According to the survey, nearly eight out of 10 consumers feel that advertising is often misleading as to the quality of products and services.

The Commission announced that a proposal now being prepared would contain rules against misleading advertising in all sectors of the economy. Also of great interest to consumers will be numerous other proposals in preparation such as those on product liability, labeling of foodstuffs, and door-to-door selling. The product liability draft directive is now definitely scheduled to go to the Council of Ministers in September. It was delayed because the Council of Europe, in Strasbourg, has also been working on a preliminary draft convention, and Commission attorneys had wanted to clarify apparent inconsistencies between the two proposals. Further, work is still going on to narrow the range of packaging sizes of certain goods in order to reduce the chances of customers being cheated. At the request of the European Parliament, the Commission has drafted a directive on correspondence courses, an area troubled

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Consumers *(contd.)*

by considerable fraud. The draft is now being discussed by national experts.

Concerning bank services, the broadest possible protection would be offered by a draft directive on consumer credit, which probably will be sent to the Council before the end of the year. The directive would outlaw false or misleading advertising and contract offers by requiring full disclosure of terms offered, especially the full cost of credit. The truth-in-lending rules would require banks and other credit institutions not only to state the interest rate, which may be low and therefore misleading, but also any additional charges such as that for the opening of a credit account or for insurance of goods purchased on credit.

Commission officials admit that adoption of some of the proposals may take longer than anticipated, but there is little doubt that the Commission's consumerism drive will be wound up successfully in the Council, which last year committed itself by adopting the Commission's preliminary program for a consumer protection and information policy (*Common Market Reports, Par. 9743*).

Plan Favors Voluntary Steel Curbs

Voluntary restrictions on investments and output should be preferable to import restrictions, minimum prices, and production quotas in coping with any crisis in the European steel industry, according to the Commission. This approa outlined in a paper addressed to the Council of Ministers, would be tantamount to a de-facto amendment of the 1951 Coal and Steel Treaty (*Common Market Reports, Par. 101.38*), but Commission officials and many experts believe that it would be a faster and sounder way of combating future recessions in the EEC steel industry. In a way, another advantage of this procedure would be seen in the fact that it relies more on the free play of market forces than on outright interventionism. According to Commissioner Henri Simonet, Articles 58, 61, and 74 of the Coal and Steel Treaty have proven too cumbersome, aside from the impact that import restrictions have on international trade.

The Commission's plan, which still must be discussed by the Consultative Committee, would rely more on the cooperation of individual steelmakers and their national associations. Since excess capacity was a major reason for the past crisis, the Commission would take a more active role in monitoring investments by setting production limits for individual companies, and it would count on voluntary pledges to observe these limits. Rather than decreeing minimum prices, the Commission would publish indicative prices to be voluntarily observed. Finally, the Commission hopes to come to an agreement with the main steel exporters to the Community (Japan, Spain, and Sweden) rather than be forced to impose import restrictions.

Steel Curbs *(contd.)*

Commission lawyers have stressed that the plan is designed to ward off the danger of restrictive practices in the EEC steel industry. Last February, the steel federations of Germany, Luxembourg, and the Netherlands formed a common organization with the express aim of cooperating in obtaining raw materials and energy supplies and exchanging information on production and employment. The goal is to avoid any overproduction and to prevent creation of excess capacity, and to this end the agreement did not require the Commission's approval. Still, it has caused apprehension in France, Britain and Italy. In these countries it was felt that the organization (whose 70-million-ton annual output is three times that of France's steel industry and more than half that of the EEC) represented an unwelcome assertion of German economic power.

In Brief...

The chances for realization of the Commission's plan calling for the establishment of a European Export Bank (EEB) are virtually nil for the near future because no funds have been set aside in the preliminary EC draft Budget for 1977. The main function of the EEB, which was to have a starting capital of 100 million units of account, was to help in the financing of export contracts of businesses established in at least two member states. The plan has met with resistance in Bonn and Paris and has been given only a lukewarm response in the business community. Only the EC's Economic and Social Committee has come out strongly in favor of the proposal + + + Council officials expect Spain's application for EC membership to be submitted shortly after the first national elections in 1977, scheduled for May or June. They believe that the Community could not reject the application of the government that will emerge from those elections, even if the Communist party should be barred from the elections, which is expected. It is argued that the Socialists would sufficiently represent the political will of the working class.

Germany: Limits Urged on Banks' Holdings

Among the many topics touched upon by the German Monopolies Commission in its first report was the increasing trend toward industrial concentration and the role of government-owned enterprises in this area. But its most debated recommendation was for the restriction to 5% of banks' future equity interests in companies. The government-appointed commission said that larger bank holdings in industry are apt to distort competition both among banks and the firms involved. It also pointed out the potential conflicts of interest posed by the banks' double role of shareholder and broker: in addition to the vote arising from their holdings, the banks also exercise the voting power of shares deposited with them by many thousands of shareholders. The Commission also recommended that whenever, in exceptional

Holdings *(contd.)*

situations, a bank acquires more than 5% of a company's stock, it should be deprived of the voting rights arising from shares above the 5% limit.

Although, for more practical reasons, the Commission does not suggest that the banks be forced to divest themselves of existing holdings, its suggestion for future limits on bank participation is expected to again liven up the debate within the governing Social Democratic party on the banks' role in the economy and society. Nationalization of the private banking sector has been a perennial topic among the party's leftwingers, especially the youth organization, but the party majority rejects this idea. The previous Brandt administration did call on the banks to voluntarily divest themselves of their large industrial holdings, but plans to force banks to do this through legislation died with Brandt's resignation as chancellor.

Many observers in Bonn believe that the Monopolies Commission's recommendation would give a boost to the advocates of legislation aimed at curbing banking power. If the present administration is returned to office in the Oct. 3 national elections, there is reason to assume that there will be some legislation on this matter. Its extent might be determined by the results of a special study commissioned by the Finance Ministry which is scrutinizing the banks' role in the economy.

The bankers' association has not yet commented on the recommendation except to say that it does not understand why the limit ought to be 5%. Still, no matter what the banks' defense will be, they can point out that the economy has done well under the present system, a position generally shared by experts with various party affiliations.

Britain: White Paper on Two-Tier Bank Controls

The U.K. government White Paper published on Aug. 3 - "The Licensing and Supervision of Deposit-taking Institutions" (HMSO London) - contains wide-ranging proposals designed primarily to avert the possibility of a recurrence of the secondary banking sector crisis of 1973-74. In effect, the proposals call for secondary banks, or "fringe" banking institutions, to be subject to the controls presently exercised by the Bank of England on a non-statutory basis in regard to the country's primary banking sector. In order for the BoE to wield such authority, however, it is felt that the Bank must assume statutory powers and take on full responsibility to Parliament for the entire British banking sector.

The structure envisaged hinges on a two-tier licensing procedure for all deposit-taking institutions. "Banks" would be statutorily recognized, i.e., an institution would have to meet stringent criteria pertaining to capital and

Bank Controls *(contd.)*

reserves, the range of services offered and, not least, its general standing. The lower-tier institutions would also have to meet exacting requirements, but they would not be entitled to term themselves "banks." Both tiers would be required to make regular reports to the BoE, and the latter would be empowered, subject to appeal to the Treasury, to suspend or rescind licenses. For its part, the BoE would be required to operate closely with the Treasury and to submit detailed annual reports to Parliament.

It was generally conceded that the White Paper demonstrated sound sense and that it was timely in the light of the European Commission's draft directive on banking, which stipulates that member countries should operate a bank licensing system. However, there were a number of immediate criticisms:

- first, that the Paper had come too late, especially since the secondary banking sector crisis had already decimated the number of such banks, with the result that only the healthy ones had survived;

- second, that the long tradition of self-regulation within the industry would be destroyed and that the BoE would emerge as yet another arm of an increasingly interventionist government; and

- third, that the proposal on depositor protection would work to the detriment of the major clearing banks. It was repeatedly pointed out that the introduction of a compulsory deposit protection fund to guarantee depositors a return of up to £10,000 in the event of a bank failure was unnecessary in the case of the leading financial institutions and, more important, would simply mean that the clearers were being forced to "underwrite" fringe institutions which could then raise their interest rates on deposits and attract customers away from the clearing banks. It is thought that this proposal will be modified to provide for a certain degree of depositor risk.

Ireland: No Settlement in Sight for Bank Strike

Domestic banks in the Republic of Ireland have now been closed for five weeks due to a strike by the 10,000-member Irish Bank Officials Association over the government's refusal to grant them a wage settlement above the National Wage Agreement. No resolution of the dispute was expected for the immediate future. The strike is having severe effects on the entire economy in the Republic. In most major industrial sectors the cash situation was described as "critical": wage payments have been deferred, checks drawn on Irish banks are being accepted on trust, contractors are unable to pay for supplies, and retail stores and pubs are becoming less willing to cash customers' checks.

Bank Strike *(contd.)*

Ireland's previous bank strike (which lasted no less than six months in 1970) produced thousands of bad debts and hundreds of bankruptcies. One side effect of this strike, however, is that it has generated a lot of business for the 40 or so branches of international banks in the Republic, since these are unaffected by the strike.

Belgium: Controversy over Index 'Tampering'

The Belgian labor unions have described as merely "cosmetic" the decision of the Economic Affairs Ministry to freeze until October the prices of fruits and vegetables and, specifically, potatoes as reflected in Belgium's cost-of-living index. This summer's drought has driven up the price of fresh fruits and vegetables, and these price increases in turn would have caused the consumer price index to rise by 2.37% in July, i.e., by more than 28% in annual terms. The Ministry's action meant that the index climbed by only 0.81%.

The government's intervention comes only two months after a modification of the index that was designed to have a calming effect on the inflation curve: instead of reflecting the prices of only 149 goods and services, it now is calculated on a "basket" of 358 and, in addition, weighs the individual items more accurately. With the 100-point base being calculated on the average prices in the 12-month period ending in June 1975, the first calculation of the new index for June 1976 resulted in 113.61 points, far more than had been hoped for.

The labor unions are less than happy with the "tampering" of the index, since it forms the basis for Belgium's system of automatic wage adjustments. In most industry branches, upward adjustments are due whenever the index climbs by another two points: thus, a general pay increase would have been mandatory had the government not neutralized the fruit and vegetable prices.

Italy: Government's Survival Hinges on Communists

The main part of the policy address given by Italy's new Prime Minister Giulio Andreotti before the Chamber of Deputies and the Senate on Aug. 4 dealt with the government's plans to fight inflation and unemployment, reduce the payments deficit and defend the lira, and stimulate exports and investments. Andreotti announced a reform of the state holding system to be prepared by a special study commission. He proposed higher taxes and public service rates in order to cut the state finance deficits. The tax burden on the middle and higher personal incomes is to be raised, the highest wages are to be frozen, and tax evasion is to be fought more "energetically."

Observers agreed that the future of these ambitious plans must be seen in the context of the changed parliamen-

Survival *(contd.)*

tary constellation in Rome: for the first time, the survival of the Christian Democratic minority government will depend on the good graces of the Communist party which, although not directly represented in the administration, has been given crucial positions on important committees. Under these circumstances, Italy's 39th postwar government is being viewed as the weakest yet.

Andreotti's third cabinet since 1972 was formed without three former key members, all of them ex-premiers: Mariano Rumor, Aldo Moro (Andreotti's direct predecessor) and Emilio Colombo, the latter having continuously served in all governments since 1948. The new 21-member cabinet for the first time includes a woman, Labor Minister Tina Anselmi. Also joining the administration as newcomer ministers are the following six individuals: Filippo Pandolfi (finance), Vito Lattanzio (defense), Attilio Ruffini (transport), Francesco Fabbri (merchant marine), Dario Antoniozzi (tourism), and Rinaldo Ossala (foreign trade). The Budget and Economic Planning Ministry and the Treasury are headed by Tomasso Morlino and Gaetano Stammati, respectively.

Portugal: Soares Submits Program, Calls for Discipline

In reaction to the Aug. 2 inaugural address of Portugal's Prime Minister Mario Soares, critics noted that the government had merely announced forthcoming economic plans to cover various time periods rather than immediate crisis measures. Soares said the plan for 1977 would be presented by mid-November, while additional four-year and 15-year programs would be set up next year. The Premier did indicate that severe austerity measures were needed to overcome high unemployment, inflation and payment deficits and that these would be applied in the areas of taxation, monetary policy, and imports, among others. He termed "irreversible" the process of nationalization, worker co-determination and agricultural reform that had been initiated by the six provisional governments since the overthrow of the dictatorship in 1974. But, at the same time, he promised an end to nationalizations and expropriations and said that compensation would be paid. Soares explicitly welcomed foreign investment so long as it did not "exploit" Portuguese labor, and he indicated that Portugal would apply for integration in the European Community.

A substantial part of Soares' speech was devoted to the need for "hard work" and "respect for the law." With this, the Prime Minister referred to problems of worker discipline and the numerous strike and protest actions that have led to chaos in many industries. The fact that workers have been granted the right to strike, Soares said, does not mean that the authorities would tolerate criminal acts such as the holding of owners and managers as hostages,

Program *(contd.)*

plant occupations, and acts of violence. The government would present a new strike law and also revoke the labor law that had enabled the Communists to take control of the newly formed labor federation. "We are all tired of the divisions that have separated the people...," Soares declared. "The government will try to end the psychosis of coups that has reduced productivity."

The program of Soares' Socialist minority administration - the country's first democratically constituted government in 50 years - passed Parliament after five days of debate.

EURO COMPANY SCENE

Fichtel & Sachs/ GKN

The European Commission has approved the sale of 74.9% of the stock of Germany's Fichtel & Sachs AG to Britain's Guest Keen & Nettlefolds Ltd. Although the German Federal Cartel Office vetoed the deal last May (the decision is on appeal before the Berlin Court of Appeals), cartel experts point out that the two decisions are not actually in conflict, since the Commission and the Cartel Office had to apply different criteria. Brussels based its approval on Article 66 of the Coal and Steel Treaty, saying that the main effect of the planned takeover would be "to strengthen vertical integration and increase self-sufficiency in steel products without giving the production undertakings concerned an artificially privileged position on the market." However, the merger would not so much affect the steel markets as that for mechanical engineering products and automotive equipment. Here, an investigation on the basis of Article 86 of the Rome Treaty also did not reveal a need to oppose the deal, the Commission said.

In the meantime, GKN has announced the purchase of 24.9% of Sachs - the maximum share permitted without prior official approval - and has reiterated its intention to take over as majority shareholder. A decision on its appeal is not expected before the end of the year.

American Standard/ Stelrad/ Ideal Standard

Negotiations reportedly are being concluded between American Standard Inc., New York, and Stelrad, central heating subsidiary of the U.K.'s Metal Box Co. Ltd., for the purchase by Stelrad of American Standard's Austrian offshoot, Ideal-Standard Gesellschaft. Ideal-Standard reported a 1975 turnover of $11 million.

Common Market Reports

EUROMARKET NEWS

Issue No. 396 *August 17, 1976*

IN THIS ISSUE

Community: EEC-Swiss Trade Pact, Antitrust Rift

A Dutch company's refusal to furnish the European Commission with relevant antitrust material has added new fuel to the debate involving the EEC-Swiss free trade agreement. Last month the European Commission demanded that the Centraal Stikstof Verkoopkantoor (CSV) B.V., a Dutch firm selling nitrogen fertilizer for a number of West European producers, furnish information about its business activities as well as its commercial relations with the producers. CSV refused on the grounds that the directors authorized to supply the information are also members of the management of the Zurich-based "Nitrex" cartel of European nitrogen fertilizer producers. It further maintained that compliance with the Commission request could make these directors liable to prosecution under Section 273 of the Swiss Criminal Code, which provides for jail terms for passing on business secrets. If CSV does not comply with the Commission's request within 80 days, it will have to pay $1,000 for each day of noncompliance (*Common Market Reports, Pars. 2501 and 2551*).

Although the EEC-Swiss free trade agreement was not mentioned specifically, the issue nevertheless has implications in connection with that agreement (*Common Market Reports, Par. 9524*). It was brought up for the first time when Stanley Adams, at that time an employee of Swiss drug

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Trade Pact *(contd.)*

maker Hoffmann-La Roche, supplied the Commission with information that played a role in the fining of that company (the fine is being appealed at the European Court of Justice - *Common Market Reports, Par. 9853*). Adams was convicted last month in the Basel criminal court. A member of the European Parliament recently asked the Council of Ministers about the steps it would consider taking against "abetting violations against the EEC-Swiss free trade agreement by Switzerland." The Council has yet to reply to the inquiry. A member of the German Parliament questioned his government on the same point, and Bonn's answer was that it would favor "negotiations between the authorities concerned."

The European Commission has always maintained that Article 23 of the agreement - which outlaws any restrictive practices that are apt to hamper EEC-Swiss trade - requires "positive action" by the Swiss government. This means that Bern may have to take steps against any Swiss company whose allegedly restrictive practices hamper EEC-Swiss trade. But the question is whether it also means that the Swiss government may even have to propose legislation that would remove all obstacles that prevent the full application of **international law (by transforming Treaty Articles 85-86** into Swiss law through the free trade agreement). Some Commission attorneys have advocated that those individuals who voluntarily offer the Commission information should be given immunity from prosecution, a suggestion quickly rejected by the Swiss government on grounds of separation of powers.

Officially, the Commission has taken a more cautious approach. It has called a meeting of the Mixed Committee which was set up under the agreement and is composed of an equal number of EC and Swiss officials. The aim of the talks is to come up with solutions that are acceptable to both sides and would not prompt countermeasures. Article 27 of the agreement allows the EEC to take measures if Switzerland fails to live up to its commitments. The most obvious step could be revocation of part or all of the tariff concessions for Swiss products.

Insisting on Harmonized Tariff Cuts

Relations between the United States and the EEC presently are being strained by a number of disagreements, most of which concern the farm sector. Washington is disturbed by the Community's practice of using skimmed-milk powder for animal feed and by the proposed tax on vegetable oils, both of which have a negative impact on American soybean exports to the Common Market. The Community, in turn, is being confronted by the U.S. threat to raise customs duties on French cognac imports.

However, these issues are overshadowed by the continuing deadlock over a subject that has much broader connota-

Tariffs *(contd.)*

tions: the approach to be used in cutting tariffs on products in international trade now being discussed at the current round of GATT negotiations in Geneva. EC negotiators maintain that their plan, calling for significant and harmonized reductions, would stimulate trade not only between the EC and the U.S. but also on a worldwide scale because the developing countries would be forced to reduce their tariffs on industrial products. Washington's formula for tariff cuts combines the elements of the EEC's harmonization formula with linear, or across-the-board, tariff reductions.

The EEC's harmonization formula means that high tariffs would be cut more than low tariffs. According to the Commission, U.S. customs provisions contain many "peaks," i.e., high tariffs for individual products, that would have to come down to the "rolling hills" of customs duties. The U.S. customs tariff contains many more peaks than the Community's common customs tariff. Agreeing to the EEC formula would require more U.S. concessions, in terms of both lost revenue and less protection for American industry, and thus Washington has opposed this approach. According to the EEC formula, each duty would be reduced four times by its own percentage over a not-yet-determined period of several years. Thus, a 50% tariff would be cut by 50% the first time, and a 10% tariff by 10%, so that after the first cut the tariffs would be 25% and 9%, respectively. This procedure would be carried out three more times.

Washington's negotiators do not challenge the Commission's figures that only 1.4% of the thousands of headings in the Community's common customs tariff provide for duties of 30% or more, while the corresponding figures for Japan and the U.S. are 3 and 5%, respectively. But they maintain that the EEC formula would ultimately reduce tariffs by an average of only 32% and thus would fall substantially short of the ambitious 50 to 60% target set in the Tokyo Round. Application of the EEC formula, according to the U.S., would have no significant impact on the trade of products that are subject to tariffs ranging from 5 to 15% and which make up by far the bulk of international trade.

France: Change of Rules on Foreign Investments

In a circular published in the Official Journal on Aug. 8 and taking effect on Aug. 10, the French Economics and Finance Ministry has announced some changes in the regulations concerning direct investments abroad and at home. In order to help small and medium-sized companies open up new foreign markets, the government no longer requires residents to obtain prior approval for direct foreign investments of up to FF 3 million; previously, this ceiling was FF 1 million. On the other hand, residents are now required to submit annual balance sheets and profit-and-loss

Investments *(contd.)*

statements of subsidiaries and branches abroad. The authorities also must be informed of capital increases and decreases, changes in ownership, etc. Shares of direct investments must be brought into France or deposited with a French bank abroad. Profit repatriations by nonresidents from direct investments, especially real property, must be officially authorized if the transfers exceed FF 1 million.

In Paris and elsewhere it was speculated that some of these measures were designed to help stabilize the franc after an estimated FF 10 billion had flown out of the country in the previous six to seven weeks. The fear of a continuing high level of inflation, presently at nearly 10%, was seen as the main cause for the capital flight. Another major factor was the poor condition of the French foreign trade balance. In the first half of '76, the seasonally adjusted trade deficit amounted to nearly FF 3 billion. Given the continued upturn of the world economy and international trade, the total shortfall this year could well reach FF 7 billion, it was predicted. The OECD has forecast a current-account deficit of $2.75 billion, and even this would not include the export losses caused by the effect of this summer's drought on French farm production (the government has placed these at FF 3-4 billion).

Although France's exporters in the first five months of the year were able to step up their shipments by 13%, imports rose much faster - by 23%. An analysis by the Foreign Trade Bank has revealed that there has been hardly any change in the country's unfavorable foreign trade structure: the trade balance continues to be marked by a strong dependance on capital equipment imports, primarily machinery. Typical for this situation is the status of trade with Germany. As compared to the same period in 1975, the French deficit in Franco-German trade in the first six months of this year more than doubled to FF 5.7 billion, of which machine tools and machinery alone accounted for FF 3.4 billion.

Denmark: Parties Discuss Controversial Crisis Plan

Political discussions have started in Denmark over an eight-point economic crisis program being proposed by the Social Democrat minority government of Prime Minister Anker Joergensen and to be submitted to the Folketing next month. Its main elements would be a limitation of pay increases over the next two years as well as higher indirect taxes that would drastically raise consumer prices for imports such as automobiles. The aim is the shrinkage of the payments deficit in order to preserve Denmark's international credit standing as well as an improvement of Danish industry's competitiveness abroad.

The government's draft provides for pay increases of up to 7% next year and of 6% in 1978 as compared with an

Crisis Plan *(contd.)*

estimated 12% this year (and an inflation rate of 9%). These proposed increases in all probability would correspond to the increments automatically due under the wage indexation system and thus would leave very little margin for collective bargaining. In fact, the government would prefer that those with medium and higher incomes, including self-employed individuals, not benefit from improvements beyond the indexed increases.

Another part of the incomes policy proposals concerns the controversial subject of employee profit-sharing, on which the Joergensen administration has yet to reveal details. A similar project involving the compulsory contribution of shares to a central worker fund foundered three years ago, and Joergensen's political opponents - in particular the Liberals headed by ex-Premier Poul Hartling - continue to resist this concept. Unofficial reports said that, under the new concept, a certain share of corporate profits is to remain with the company as employee capital. However, it is not clear how and by whom these funds would be administered. In any case, the profit-sharing proposal is regarded as the most volatile part of the draft program.

Beyond the incomes policy measures, the Joergensen plan calls for a boost of indirect taxes in the equivalent of 5 billion kroner, of which 1 billion kroner would possibly be returned in the form of lower direct taxes. This procedure would reduce private purchasing power by about 3-4%. The 1.5-billion-kroner Budget reduction, which Parliament had agreed to last year, will have an additional dampening effect in 1977 (cuts of 2.5 billion kroner are planned for '78).

Handicapped by its minority position in Parliament, the Social Democrat administration is staking its political future on the realization of this package. Last fall, in the so-called "September compromise," Joergensen had to solicit the support of Hartling's liberal Venstre party in pushing through a short-term economic stimulation program and the budgetary cuts. This time, Hartling has come out against the combining of the crisis plan with the compulsory profit-sharing concept, and he also is opposing the continuation of the wage indexation system.

Copenhagen Forced to Seek More Big Loans

Denmark's chronic balance-of-payments deficit, which ran to an estimated 6 billion kroner in the first half of this year, has led to a decision to seek international loans totaling DM 850 million in the near future. This would include a DM 450-million credit from a consortium led by Germany's Westdeutsche Landesbank, a bond obligation of DM 300 million, and a Eurobond issue of another DM 100 million. The consortial loan and the bond obligation will have a maturity of up to 10 years and an effective rate of 9.3%. The Euro issue will be floated as of Aug. 23 and will bear

Loans *(contd.)*

an 8% coupon (99.75% issue price). The loans will raise Denmark's international indebtedness to approximately 32 billion kroner.

The country's foreign trade balance closed the first six months of 1976 with a record deficit of 9.35 billion kroner, according to Finance Minister Knud Heinesen. To cover the entire deficit, Heinesen said, the government will have to take out another 2-3 billion kroner in international loans this year.

Britain: CBI Cautions Employers on Incomes Pact

The Confederation of British Industry has warned U.K. employers that they had best adhere to the pay limit regulations as set out in the government/employer/labor union counter-inflation agreement. In a document released on Aug. 9, the Confederation agrees that the policy, "despite its shortcomings," is necessary to reduce the rate of inflation. "Failure on the part of some employers to observe the limit could result in a rapid breakdown of the policy," it said. More significantly, however, the CBI cautioned in regard to forward commitments: "To anticipate any future developments after July 31, 1977, could result, for example, in an employer being prevented from honoring any such commitments - which could result in industrial unrest."

This latter warning implies that the CBI is in const contact with the government and is aware of government thinking as regards the continuation of the pay policy. It would appear, therefore, that there will be no return to free collective bargaining (as the unions hope) when the present 4.5% pay limit expires in July 1977. In other words, some form of incomes restraint will still be applied. Since the government is fully aware of the present policy's unpopularity and its shortcomings, however, it can be anticipated that a new and more complex structure will be announced, possibly before the end of this year. The principal new ingredients - to placate the unions as well as boost manufacturing output - will be "pay differentials" (as opposed to across-the-board limits) and "productivity agreements."

Necessary and desirable as these ingredients may appear, observers said, the main difficulty in structuring such a policy should be in monitoring, clarifying and enforcing it. This may require the establishment of (yet another) independent authority with such policing and enforcement powers. Even then, however, there will be a serious danger of artificial pay increases, coupled with arguments between different sectors over equitable differentials. The government thus faces a difficult decision: it must choose a structure that will find approval with employers and employees, which will be flexible but not lax, and which will be sufficiently operable to reassure inter-

Incomes Pact *(contd.)*

national opinion that the relative success of Phases One and Two of the incomes policy is not transient.

Ireland: Lengthy Voting Prevents End of Bank Strike

The members of the Irish Bank Officials Association started voting on Aug. 10 on a plan to end the strike which has closed Irish domestic banks for some six weeks. The pay proposals - wage increases of between £3 and £5 per week and productivity incentives - may be accepted. Even so, balloting will extend over three weeks, because so many members of the 10,000-strong union are on vacation. This means that the Republic's 900 commercial banks will be closed for at least another month.

Italy: Speculation on Major Dollar Bond Issue

During the 50-day "truce" given the new Italian government while Parliament is in summer recess, the Andreotti administration will lose no time in mapping out its economic strategies for the coming term. As indicated in the policy address of Prime Minister Giulio Andreotti, the efforts for additional foreign loans will be of utmost importance. The government said it would begin talks with Germany on the extension of the $2-billion, gold-backed Bundesbank credit that was to expire in early September (a $500-million installment had been repaid but was later renewed). Negotiations also are to be resumed with the International Monetary Fund over a $500-million standby facility which so far has not been approved because of policy differences between Rome and the IMF authorities.

Only a few details have been leaked, however, on plans for a major dollar bond issue in small denominations through which Rome allegedly hopes to attract foreign exchange "by the billions." According to unconfirmed reports, the proposed features of this "national solidarity credit" have been worked out by Foreign Trade Minister Rinaldo Ossola, an acknowledged expert in international finance and until recently the director-general of the Bank of Italy. The bonds could be acquired anonymously, principally by Italians who normally tend to "conceal" their dollars or other foreign exchange. With a maturity of 7-9 years and a possible yield of 4.5%, the bond issue would be offered so long as there was a market for it and would be repayable in lira on the basis of the dollar/lira exchange rate prevailing at that time.

It was "confidentially estimated," the reports said, that this issue could possibly raise up to $4 billion. The funds would enable the Bank of Italy to replenish its foreign exchange reserves, while at the same time reducing by a corresponding amount the Treasury's debt at the central bank. Another advantage could be a possible postponement of Rome's bid for further international loans.

EURO COMPANY SCENE

Kodak/ Polaroid

An English High Court decision on Aug. 6 banned Kodak, the U.K. subsidiary of Eastman Kodak of New York, from introducing its new "instant picture" line into Britain until a decision is reached in the Polaroid action against Kodak alleging patent infringement. Polaroid Corp., International Polaroid Corp. and Polaroid (U.K.) were granted the interim injunction on the basis of the damage that could be caused to either party prior to the final hearing. A Kodak spokesman, commenting on what he called the "balance of convenience doctrine," stressed that Kodak had not committed the alleged infringements (10 in all) and that the company would appeal the decision in the U.K.

Group of Three

The U.K. government has been urged to spend at least £100 million annually for the next decade in a bid to "rescue" the British electronics industry and to counterbalance the American, Japanese and West German domination of that sector. GEC, Philips and Thorn - which combined recently to form the "Group of Three" - are to join forces with the industry's labor unions to press for curbs on the import of television sets and radios and related components from Japan. In the view of the Group spokesman, Japan will have "effectively eradicated European competition in a decade." To survive, the Group argues, Britain must act now to generate its own component technology and de-emphasize dependence on overseas technology.

Cofaz/ Agrico Chemical

French fertilizer producer Cie. Française de l'Azote (Cofaz) and Agrico Chemical Co., Tulsa, Okla., have concluded a deal that is expected to significantly affect the restructuring of the French fertilizer industry. Under terms of the agreement, Cofaz is to set up a mining subsidiary in the U.S. to purchase part of Agrico's phosphate deposits, especially those located in Florida. Cofaz will hold 60% of the new company's equity and Agrico, 40%. In addition, Agrico will acquire a 40% interest in Cofaz itself - which is presently owned by the French chemical firm Pierrefitte-Auby (66.5%) and the CFP-Total Oil group (33.5%). The cooperative venture is expected to greatly benefit Cofaz - which until now has purchased its phosphate requirements from both Africa and the U.S. - due to the extremely competitive prices of American phosphate on the world market.

Common Market Reports

EUROMARKET NEWS

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IN THIS ISSUE

Community: Judgments Delayed by Appointment

The belated appointment of Justice Francesco Capotorti as Advocate General to succeed retiring AG Alberto Trabucchi is expected to delay the passing of judgments in at least four cases pending before the European Court of Justice. Because the July 20 agreement among the national governments on Trabucchi's successor did not come prior to the summer recess (July 15-Sept. 15), the European Court had entrusted Trabucchi with a number of cases for which hearings were scheduled for the second half of September. Although Trabucchi will not retire before Oct. 7, the Court now believes that he ought not to continue these cases and deliver opinions.

Commission attorneys have indicated that the belated appointment could delay the rendering of judgments for three to four months. Three cases involve the interpretation of the EEC Convention on Jurisdiction of Courts and Recognition and Enforcement of Judgments (*Common Market Reports, Pars. 6001-03*), and at least one of them is expected to have broad implications for international litigation based on violation of pollution control laws. It involves the suit of a Dutch vegetable grower and an environmental foundation against France's Alsatian potassium mines, a major polluter of the Rhine. The complainants are seeking

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Appointment *(contd.)*

compensation for damage to crops and costs incurred through investments in water treatment facilities (*Handelswerkerij G.J. Bier BV, Nieuwerkerk, and Stichting 'Reinwater', Amsterdam v. Mines des Potasse d'Alsace SA, Mulhouse* - Case No. 21/76).

The Court of Justice has been asked by The Hague Court of Appeals to give a preliminary ruling on the interpretation of Article 5(3) of the EEC Convention. The EC Court must answer whether "the place where the injury occurred" means where the damaging act was committed (here, in Alsace) or where the actual damage was sustained (in Holland) (*Common Market Reports, Par. 9813*).

The other two cases, referred to the Court of Justice by the German Supreme Court and an appellate tribunal, concern the interpretation of Articles 1(1) and 17(1) of the EEC Convention. The Court of Justice is asked to clarify whether the concept "civil and commercial matters" under Article 1(1) of the EEC Convention is governed by the law of the state where the judgment was rendered or where enforcement is sought (*Galeries Segoura SPRL, Brussels v. Firma R. Bonakdarin, Hamburg* - Case No. 25/76). Also, the Court must say whether a stipulation made by a lower court on the back of a contract signed by the two parties or a confirmation of an order by the buyer constitutes a written agreement within the meaning of Article 17(1) (*Estasis Salotti, Snc. Meda v. Rüma Polstereimaschinen GmbH, Cologne* Case No. 24/76).

Council Gets Two Proposals on Pesticides

The European Commission has sent to the Council of Ministers two draft directives dealing with pesticides. One proposal has interstate trade implications in that it would enable a national manufacturer to obtain marketing authorization for his pesticides for the entire Common Market. The second would compel member states to prohibit the sale of pesticides that are dangerous to human health and detrimental to the environment (*Common Market Reports, Par. 9866*).

Under the first proposal, a manufacturer in one member state wanting to sell his pesticides anywhere in the Common Market could either apply directly to the pertinent national authorities to obtain a license to sell (this is the present procedure) or he could obtain an EEC marketing authorization to sell in the entire Community. The EEC license would not replace current national systems, but a manufacturer might succeed in obtaining such an authorization if his products were safe and effective under the common standards that are set forth in the proposal. Once the EEC authorization had been given, the member states would no longer be free to reject imports or restrict sales in their territories. The Commission would annually publish a list of those pesticides that qualified for unrestricted intra-Community trade. In a sense the proposal supplements

Pesticides *(contd.)*

another measure that has been pending before the Council of Ministers since early 1975 and provides for the harmonization of national rules on packaging and labeling of insecticides.

With the second proposal the Commission is seeking to harmonize national rules that ban or restrict the marketing of certain pesticides and which have acted as obstacles to interstate trade. Several member states have already banned the use of mercury and derivates of hydrogen chlorides, while others consider their use merely undesirable.

Italy: Extension of Capital Amnesty Deadline

The Rome government has extended by three months the deadline within which Italians may bring back to the country illegally exported capital and escape prosecution. This means that the owners of foreign exchange or individuals who hold securities, real property and other assets abroad are given until Nov. 19 to file a voluntary statement with the Italian authorities. They may then take another three months - until Feb. 19, 1977 - within which to sell these assets and convert the proceeds into lire.

The tougher capital restrictions are based on a new law, dated April 30, 1976, which provides for jail terms of up to six years in cases of violations. For a more flexible application of the law, the government next month intends to submit to Parliament supplemental legislation that would permit Italian importers to pay their bills with funds held abroad (franco valuta) and at the same time avoid the 50% cash deposit. The administration also hopes for a way to establish the identity of anonymous Italian shareholders in foreign holdings and *Anstalten* (Luxembourg, Liechtenstein). It is not known how Rome intends to deal with the many Italians who invested "escape money" in real property located in Switzerland and who would have to sell these properties within the periods fixed by the Italian law. In doing so, they could come into conflict with Swiss law which - in order to prevent speculation - requires foreigners to hold real property for several years. It has been charged that the strict application of the Italian law would result in emergency sales, causing a "sellout" of Italian assets abroad.

It is not certain whether the Rome government really expects the extension of the amnesty deadline to have a serious effect. Foreign Trade Minister Rinaldo Ossola has complained of the poor results so far: until the extension was announced, the authorities were notified of only about 100 planned transactions to repatriate illegal capital exports.

In other developments, Treasury Minister Gaetano Stammati has projected a slight decline in the Budget deficit

Amnesty *(contd.)*

next year, from 11,515 billion lire in 1976 to 11,466 billion in '77. The Budget draft foresees revenues of 35,704 (26,556) billion lire and expenditures of 45,553 (36,874) billion lire. Although new taxes are not to be imposed, tax revenue is scheduled to rise by 5,520 billion lire to 32,130 billion lire, mainly through application of tougher fiscal controls.

Netherlands: Details of Pay Decree; Discount Rate

Details have now been published in the state gazette on the Dutch government's incomes policy decree applicable for the latter half of 1976. These measures had been announced last month following the inability of the country's employers and labor unions to come to terms over a new national wage agreement.

The basic action involves official consent to a pay increase of 30 guilders per month to adult employees, retroactive to July 1 and until the end of this year. Benefiting from this are all employees not receiving price compensation in accordance with the previous incomes policy decree, dated Dec. 2, 1975. Employees below the age of 23 receive a certain percentage of the 30-guilder payment within the framework of the pertinent collective bargaining agreements. The increase may not be counted toward the wage base for the purpose of calculating overtime pay, performance bonuses, etc. Workers also benefit from the lowering of health and disability insurance contributions, which, in effect, raises the standard 30-guilder increase to 41 guilders for a worker with an annual gross income of 24,500 guilders.

To ensure strict compliance, the decree provides for fines of up to 1,000 guilders and imprisonment of up to two years for employers who grant pay raises beyond the obligatory ceilings.

In other news, the Dutch central bank has followed the lead of its Belgian counterpart (see below) by raising the discount rate by 1% to 6.5% as of Aug. 16. The previous increase, by 0.5%, had come only two weeks earlier, on Aug. 2. The measure was seen in the context of the National Bank interventions on behalf of the weakened guilder.

Belgium: Central Bank Supports Franc; Budget Plans

The raising of the discount rate to 9% this month was described as "the lesser of two evils" by Cecil de Strycker, president of the Belgian National Bank, who said that speculations on an upcoming devaluation of the Belgian franc were completely misguided. De Strycker declared that even the latest discount rate increase was considered of a temporary nature only and that the Bank would continue to use all means at its disposal to resist further pressures on the Belgian currency. Other Belgian financial observers

Franc Support *(contd.)*

wondered about the reasons for the latest wave of speculation, considering the fact that Belgium lately has regained the equilibrium of its payments balance and has no problems with its foreign exchange reserves. Yet the persistent weakness of the Belgian franc (and other currencies) within the European joint currency snake has forced the central bank to raise the discount rate three times so far this year - on March 18, July 23 and Aug. 13, each time by 1%.

In other developments, the Belgian government has indicated that it wants to avoid tax increases in its 1977 Budget plans, aside from a surcharge on cigarettes which would raise total revenues from that source to about BF 1.5 billion annually. (These funds, incidentally, are used to finance the deficits of the health insurance system.) Otherwise, budgetary planning is to be geared to the recovery of the domestic economy, with the main emphasis on slowing inflation by not raising expenditure. Thus, spending is to rise by 12% in nominal terms, while total domestic output is expected to grow by 14%. In line with this concept is the recent cabinet decision not to offer pay compensation for the higher cost of living caused by this summer's drought (farm prices). Brussels reports also said that the government was considering giving investments a boost by rescinding the 5% value-added tax on newly planned investments.

Germany: Schmidt Calls Stop to Social Security Debate

With the national elections less than six weeks away, Chancellor Helmut Schmidt has silenced debate within the government about new ways to finance the deficit in Germany's old-age pension system. Earlier, Labor Minister Walter Arendt had suggested that the government-controlled pension funds be relieved from the obligation to set aside reserves to cover social security payments for at least three months. In his opinion, any deficit should be financed out of general tax revenue. He had also suggested that social security taxes be raised or lowered according to economic fluctuations. Under present rules, contribution rates (shared by both the employer and the employee) are established at the beginning of each year. Often the rates remain the same, but contributions go up when assessable wages and salaries subject to social security taxes are increased.

Realization of Minister Arendt's concept would not only mean a substantial revamping of the financing mechanism and the philosophy behind the present system, but it also would affect the semi-autonomous status of the pension funds. A not insignificant factor would be the additional work for employers, who might have to recompute withholdings and their own contributions several times each year. Thus, Arendt's suggestions promptly ran into strong opposition from the pension fund carriers and the Free Democrats, the minority partners in the coalition government.

Pensions *(contd.)*

The pension funds are finding themselves in a squeeze because the recent recession (unemployment) and higher expenditures prompted by several legislative measures, especially the 1972 pension reform act, have resulted in reduced revenue. This year's deficit is expected to be near DM 7 billion and next year's around DM 11 billion.

There is no question that Germany's pensioners will continue to receive their money each month because the federal government is required by law to provide any additional funds. The pension funds themselves have substantial reserves set aside for the very purpose of being able to cope with unforeseen situations. Most of these reserves, estimated at around DM 40 billion, are tied up in real estate and long-term bonds, however.

Many Bonn observers believe that the Chancellor's intervention may have only postponed the debate until after the national elections. Numerous experts argue that the best way to solve the problem would be to raise contributions, which presently stand at 18% for old-age pensions and an average of 11% for health insurance (*Doing Business in Europe, Pars. 23,453-54 and 30,868*).

Britain: Union to Push for 35-Hour Workweek

The leader of the U.K.'s most powerful labor union, the Transport and General Workers' Union, intends to present motion at the Trades Union Congress in September that a 35 hour workweek be initiated "as soon as...normal collective bargaining is resumed." There is no doubt, on the basis of union reaction, that the motion will be overwhelmingly endorsed. The TUC attitude is that a move toward a 35-hour week is the best method of preventing a wage explosion in the summer of 1977 (when the second phase of the incomes policy ends) and the only way of bringing unemployment figures below the one-million mark by the end of this decade. Because of its political implications, this argument should be difficult for the government to reject. However, the Confederation of British Industry has no such inhibitions: it has pointed out that the 35-hour workweek would boost unit labor costs more than "massive" wage increases. The CBI also rejects the union's argument that a cut in the workweek would result in more efficient use of labor and a reduction of overtime.

The problem may yet be shelved, though, if the government is able to come up with a "third-phase" policy which will successfully obviate the alleged "anomalies" of the first two phases, namely, the flat-rate wage increase limits, the absence of "differentials," and the lack of productivity incentives. As reported, such a policy will be exceedingly difficult to devise and nearly impossible to implement and administer. Whatever the outcome, however, there is certain to be a scramble for wage increases in

Workweek *(contd.)*

mid-1977. What is more, there is the prospect of a renewed clash between employers and employees, with the government anxious to placate both.

Denmark: Parliament OK for Anti-Crisis Program

By a narrow margin, the Danish Folketing on Aug. 19 passed the government's economic anti-crisis program, thus averting possible new elections. The agreement came after the Conservatives joined three small non-socialist parties in support of the package, having been strongly encouraged to do so by the employers' federation. Parliament had been recalled from vacation to approve the program, which provides for pay increase ceilings, surcharges on certain consumer goods (cars, gasoline, coffee and tea), and budgetary cuts totaling 5 billion kroner over the next two years. In order to gain the necessary votes in the Folketing, Prime Minister Anker Joergensen felt persuaded to drop his bid for an employee profit-sharing system that had been part of the original proposals. Also, the government decided not to raise the standard VAT rate of 15%.

As Parliament debated the package, several thousand Danish shipyard and postal workers went on strike in protest of the administration's plan to limit pay increases - including index adjustments - to 6% in each of the next two years and to drop the profit-sharing system. The Danish employers' association - although it has criticized the government plan as inadequate - nevertheless was in favor of its implementation, since new elections would have meant a delay in the efforts to deal quickly with the country's mounting economic and financial problems.

EURO COMPANY SCENE

Aérospatiale/ Dassault-Bréguet/ McDonnell Douglas

The French government has agreed in principle to a joint venture between state-owned Aérospatiale, Avions Marcel Dassault-Bréguet Aviation, also of France, and McDonnell Douglas Corp. of the United States for production of a medium-range jet airliner for the 1980s. The aircraft, the Mercure 200 (an improved version of Dassault-Bréguet's commercially unsuccessful Mercure 100), would have a flight range of up to 1,800 miles and could accommodate 174 passengers. The cost of the project was placed at FF 1.2 billion, as compared to FF 5 billion required to develop a new jetliner from scratch. The aircraft would be powered by two CFM 56 engines which were jointly developed by General Electric of the U.S. and France's state-owned SNECMA.

The arrangement would give a 40% stake to Aérospatiale, which would be in charge of production and assembly, 15% to McDonnell Douglas (marketing in the U.S.), and 5% to Dassault-Bréguet (overall development). The remaining 40% would go to other yet-to-be-named European partners.

Landis & Gyr/ Duncan

One of Switzerland's leading electrical equipment manufacturers, Landis & Gyr, has announced a $21-million cash offer for Duncan Electric, Lafayette, Ind. The American firm, a producer of electrical meters, reportedly is also engaged in merger negotiations with another U.S. company, Midland-Ross Corp. Duncan was expected to make a decision on the Swiss offer of $16.50 per share within the next few weeks.

TRW/ Ventek

TRW, Inc., the U.S. conglomerate, reportedly has purchased 40% of its British computer distributor Ventek, with the option to acquire the remaining 60% equity in the future. Canadian-owned Ventek, established in 1969, has annual sales of around £5.3 million, primarily in terminals and, more recently, with the TRW "Datapoint" small computer system.

Dentsply/ ADI

U.S. dental goods producer Dentsply has increased its takeover bid for the U.K.'s AD International from 116p to 126p per share, thereby raising the total value of the deal from £18 million to £19.5 million. The higher bid has been accepted by ADI's board of directors.

Château Margaux/ National Distillers

The French government has vetoed the bid of the United States' National Distillers Co. to take over one of France's most prestigious Bordeaux wine producers, Château Margaux, owned by the Ginestet family. The FF 82-million deal was ruled out by the Finance Ministry, although a long search for a domestic buyer has proven inconclusive. A previous bid by Remy Martin, the cognac producer, had been rejected as being too low by the Ginestets.

Common Market Reports

EUROMARKET NEWS

Issue No. 398 August 31, 1976

IN THIS ISSUE

Community: States Urged to Act on Youth Unemployment

High and persisting unemployment among school leavers and other young people has become a problem of growing magnitude throughout the European Community: in the spring of this year, the number of jobless individuals under the age of 25 exceeded 1.5 million, and in some countries - particularly the United Kingdom and Holland - a new wave of school leavers is now swelling the ranks of the unemployed. In the medium term, until 1980 or so, youth unemployment could become even more acute, owing to the expected growth of the labor supply and a fall in the number of retirees.

The European Commission has now prepared a draft recommendation for the improvement of "appropriate vocational preparation." It is to be sent to the member state governments after the European Parliament and the Economic and Social Committee have had a chance to comment. The Commission points out that youth unemployment is not caused solely by quantitative factors but also by a "growing divergence between the preparation and qualifications of young people entering the labor market and the kinds of jobs available to them." Very often, youths leave school at the legal minimum age - ranging from 14 to 16 years in the EEC - without having an adequate command of the basic skills and without proper counseling and guidance. Also,

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Unemployment *(contd.)*

many young people without any prior vocational training have taken up unskilled work and thus are more vulnerable to layoffs on short notice.

To help alleviate these problems, the member states would be asked to undertake appropriate programs. These would include vocational guidance and training generally as well as the reinforcement and application of basic educational skills (for instance, oral and written expression, elementary mathematics) and information on the basic principles of economic and social organization, social security and employment law, and the roles of management and labor. It would be further recommended that young people threatened by unemployment be given reasonable leave of absence to attend approved training courses and that they be extended financial support (allowances, reimbursement of costs and fees) while attending such courses. In addition, the member states would be requested to ensure that those who leave school after completing the compulsory years are not legally prevented from undergoing vocational training or taking up employment.

In Brief...

In anticipation of poor harvests as a result of the long drought period, the Commission has proposed the temporary abolishment (until Sept. 30) of import tariffs on certain fresh vegetables. Council approval is expected. Last month, the Community had lifted tariffs on potatoes for the same reason + + + Because of the complicated product origin rules applying to trade with the so-called APC countries in accordance with the Lomé Convention, the Commission has published detailed explanations of these rules in the Official Journal (No. C 185). Included are 22 sample cases and an alphabetical index. About 7% of the EEC's third-country imports are now coming from the 46 African, Caribbean and Pacific nations that signed the Convention.

Denmark: Pay Limits Hurt Worker Incomes, Unions Charge

The Danish trade unions are among the most outspoken critics of the government's economic austerity program which, as reported last week, passed Parliament on Aug. 19. In all, the Folketing had to vote on 17 separate measures. The most controversial - setting pay increase limits of 6% for each of the next two years - was approved by a majority of only four votes and subsequently was described as "legalized robbery" by a spokesman of the LO labor federation who predicted that it will cause effective income losses for the workers. The pay rise ceiling will leave employers and the unions in the position of having to negotiate over a 2% spread of possible increments, since a 4% increase is automatically ensured by the wage indexation system. Accordingly, it was the pay provision in the anti-crisis package that caused the angriest reactions among Danish workers and triggered numerous protest strikes.

Pay Limits *(contd.)*

The other measures affecting the average consumer, while not exactly popular, met with more understanding, since it was generally agreed that some action was called for to ease the enormous pressures on Denmark's balance of payments. Motorists will be faced with higher gasoline prices and road vehicle taxes, and the registration fee for commercial vehicles was raised by 40-80%. This action was designed to slow the current boom in car sales (all imports): in the first six months of this year, new-car registrations totaled a record 91,000 compared with the previous full-year record of 121,000. Importers of coffee and tea will have to pay an extra tax of 5 kroner per kilo and, as of October, there will be a 3-kroner surcharge per kilo of sugar except for the food processing industry. Tobacco and alcoholic beverages are affected by similar increases.

The whole package was calculated to add up to an estimated annual 1,100-1,500 kroner per capita, which explained the "hoarding" purchases by many housewives in anticipation of the higher prices.

The budgetary savings of 5 billion kroner over the next two fiscal years (beginning on April 1, 1977) will be effected in various ways. Reductions are scheduled, for instance, for certain family allowances and for the budget of the state railways. Also, it was agreed to postpone for the time being the project of a bridge linking the islands of Zealand and Fyn.

Meanwhile, Finance Minister Knud Heinesen - in Germany for the signing of a DM 100-million loan - said that with the passage of the economic program, Denmark now has a good chance of reestablishing the equilibrium of its payments balance by 1980. Heinesen saw no need at this time for a devaluation of the krone or the introduction of import controls.

Germany: VAT Increases Now Sought for Mid-'77

German Finance Minister Hans Apel has made it clear that an increase in the value-added turnover tax is "unavoidable" in forestalling major problems in the 1977 Budget. Apel announced that the higher rates - 13% instead of the present 11% for the standard rate and 6.5% instead of 5.5% for the reduced rate - will definitely be sought as of July 1, 1977. Originally, the government had proposed the rate change for Jan. 1, 1977, but was unable to get the legislation through the Opposition-controlled upper house, the Bundesrat (*Doing Business in Europe, Par. 30,825*). The increase would bring in DM 7 billion annually in additional revenue.

The government's draft Budget for 1977 provides for expenditures to rise by 5.6% to DM 173.2 billion, although the budget demands of the individual ministries presently exceed this proposed ceiling by DM 10 billion. Apel thus predicted "a battle" over his efforts to hold down federal

VAT Increases *(contd.)*

spending. He also warned that, unless the VAT boost came through, Bonn's finance policies could come into conflict with constitutional provisions according to which the federal government's debt position may not exceed its investment volume except during periods of recession. This means that new credit obligations in '77 may not top DM 22 billion, according to Apel.

The Finance Minister and his colleagues in the state governments will have to renegotiate the apportionment of VAT revenue, since the existing distribution scheme expires at the end of the year. Bonn wants the states to assume part of Germany's international obligations (development aid, etc.) and also seeks some compensation for financing, as of 1977, the family allowances paid to public service employees (DM 1.5 billion).

Britain: Government Acts to Combat Water Shortage

The U.K. government has acknowledged that the unprecedented long hot summer of 1976 has resulted in water shortages that must gradually be thought of "in crisis terms." A newly appointed minister "in charge of coordinating drought measures" categorically denied rumors that a state of emergency would be introduced, but he did concede that plans to reduce water consumption in the short term and boost supplies in the long term would "cause a lot of inconvenience and possibly some discomfort." The longer-term measures would involve legislation to establish a new body, the National Water Authority, to replace the present Water Council. In the short term, the government is to set up immediately a national emergency advisory committee which will comprise representatives from the water industry, the labor unions, the Confederation of British Industry, local authorities and consumer representatives. Further, the minister called for restraint in the domestic use of water and for the voluntary appointment of "water officers" in all but the smallest firms.

Inevitably, the agricultural sector has been worst hit, and Fred Peart, the minister of agriculture, fisheries and food, confirmed on Aug. 24 that the possibility of devaluing the "green pound" (the "currency" of European Community farm prices expressed in sterling) had been discussed, although no such immediate action was contemplated. However, the drought will have a direct impact on food prices and the cost-of-living index, and this will put further pressure on the government's inflation containment strategies.

The cutback in water supplies will also affect industrial output. At present, the only "official" cut is in South Wales, where industry has been told to halve water consumption. The British Steel Corp., which employs some 40,000 workers in the area, said that there would be no

Water Shortage *(contd.)*

need at present to reduce production or institute short-time work, but other plants - such as those of BP Chemicals, Parke-Davis, ICI Fibers and Monsanto - all reported that some production cutbacks would be unavoidable.

The situation is further complicated by the threat of layoffs and unemployment in drought-hit areas. This is of particular concern to labor union leaders: the agenda for next month's Trades Union Congress accords priority to the unemployment question. Following the Aug. 24 announcement that the "crude total" of unemployed was above the politically sensitive 1.5-million (6.4%) mark, this issue has eclipsed other Congress priorities such as the return to free collective bargaining after the end of the present Phase Two pay restraint policy and the need for import controls.

Netherlands: Investments Still Lagging; Discount Rate

The stimulative measures (wage cost subsidies, grants) recently enacted by the Dutch government so far have not shown the intended effect on the investment activity of Dutch industry, according to the latest report of the VNO industrial federation. On the contrary, this activity shows further signs of decline, and industrial production this year is expected to exceed only slightly the levels of the 1975 recession year. VNO chairman Van Veen complained that too little was being done to improve the business climate in the Netherlands, and he held out no hope for a noticeable economic upturn during the remainder of the year.

The government's policies have also come under attack by a management spokesman of Philips, the electrical concern and Holland's No. 1 employer. On the occasion of a press briefing on the company's quarterly results, a board member expressed "great worries" over the country's failure to emerge from the economic recession and blamed high domestic labor costs and the tax and social contributions burdens for persisting domestic inflation, unemployment and Holland's worsening position on the world markets. The Philips spokesman predicted more grave consequences for the Dutch investment climate if The Hague goes ahead with its legislative plans for certain private-sector investment controls, broadened co-determination, and excess profits distribution.

Meanwhile, the Dutch central bank has raised its discount rate for the third time in August. With the latest increase - by 0.5% to 7%, effective Aug. 20 - the rate has been moved up by a full 2% within the month.

France: Barre Succeeds Chirac as Prime Minister

Following the announcement on Aug. 25 of the resignation of Prime Minister Jacques Chirac, French President Valéry Giscard d'Estaing immediately named Raymond Barre as Chirac's successor. Barre, an economics professor by background, is

Prime Minister *(contd.)*

known as a fervent "European": under the De Gaulle administration, he was sent to Brussels in 1967 and served until 1972 as a European Commission vice president in charge of economic and financial policy. In the outgoing Chirac cabinet, he headed the foreign trade ministry and also was a member of the general council of the Banque de France.

In explaining the change in government on national television, Giscard described his new premier as the country's "foremost economic expert" who would now spearhead the battles of fighting inflation, stabilizing the franc and bringing up France to the level of the leading industrial countries. Also, the President said, Barre and his team would continue on the social reform course already plotted.

Political observers generally agreed that Giscard's choice of Barre was governed not only by the latter's acknowledged qualifications but also by his reputation for unswerving loyalty. In this sense, commentators said, Barre's appointment must also be seen as an attempt by Giscard to strengthen and extend his presidential powers in time for the next general elections in the spring of 1978. Upon his departure, Chirac declared that he chose to resign because he did not "have the means that I consider necessary today to effectively fulfill my functions as prime minister."

Switzerland: Accident Insurance for All Employees

The Swiss government will send to Parliament draft legislation providing for obligatory accident and disability insurance for all employees as well as voluntary coverage on the same terms for employers and self-employed individuals. The Federal Accident Insurance Law (*Bundesgesetz über die Unfallversicherung*) would replace and modify existing legislation that has not been appreciably changed since its introduction in 1911 and which covers only two-thirds of all employees in Switzerland.

Obligatory accident insurance previously had been proposed as part of a constitutional draft amendment concerning the reorganization of the Swiss health, accident and maternity insurance system. It could not be realized when the proposed amendment was defeated in a 1974 national referendum, although it probably would have been approved by itself.

As does the existing system, the new one would cover both occupational and non-occupational accidents and disability risks as well as occupational diseases. Also, the contributions for work-related accident and occupational disease coverage would continue to be paid by the employers, those for non-occupational accident coverage by the employees. Premium increases are not foreseen at this time. However, the government believes that a new special law is

Insurance *(contd.)*

necessary in order to revamp and expand the program in which public, semi-public and private insurance carriers participate.

Portugal: Registration of Foreign Investments

The new Foreign Investment Code contained in the Portuguese government Decree No. 239/76 provides in its Article 32 that foreign investments already existing in that country must be reported to the "Institute for Foreign Investments" within three months after the effective date of the Code (April 6). Since this institute is not yet in existence, and no details on the registration requirements have been made available, some foreign investors and chambers of commerce have asked the Bank of Portugal for a clarification. According to the Bank, the registration rules are to be published in the near future. In the interim, however, interested parties may write to the Bank's private capital department (Banco de Portugal, Divisao de Capitais, Rua do Comercio 148, Lisboa-2, Portugal) and inform it of their intention to register. The Bank will then contact these investors in due time. The purchase of real property in connection with the operation of any type of business is also subject to registration, provided that the funds used in the purchase originated abroad.

EURO COMPANY SCENE

British Airways/ Lockheed

The U.K.'s state airline, British Airways, has ordered from Lockheed Aircraft Corp. six "TriStar" (L 1011-500) jets, with an option to purchase six additional planes in the future. The contract, valued at around £250 million at projected 1979 prices, was awarded after British Airways selected the Lockheed jet over McDonnell Douglas' DC-10-30r to complement its fleet of Boeing 747 jumbo jets. The long-range TriStar is to be powered by Rolls-Royce's RB-211 "Dash 524" engine. The TriStar will have a range of 6,000 miles and will accommodate some 235 passengers.

Saint-Gobain/ Certain-Teed

Cie. de Saint-Gobain-Pont-à-Mousson, the French chemicals and engineering group, has announced plans to raise its stake in the United States' Certain-Teed Products from 40% at present to "in excess of 50%." The increased participation, probably to 51%, would most likely be effected through open-market share purchasing over a one-year period, according to reports. Saint-Gobain has owned shares in the American firm for several years and in 1974 increased its holding from 32 to 40%, thus making its participation one of the largest French investments in the U.S. Certain-Teed reported sales last year of $553 million, mainly in the area of construction materials; Saint-Gobain, one of France's largest privately owned enterprises, had a 1975

Saint-Gobain/ Certain-Teed *(contd.)*

turnover of FF 21.2 billion. At present market prices, the value of the proposed acquisition would be around $22 million.

United Parcel

A newly established subsidiary of the United Parcel Service Corp. this month has launched its parcel and delivery activities in Germany, thereby directly competing against the Bundespost, the federal post office. By mid-1977 UPS plans to offer its services all over Germany with a fleet of 350-400 vehicles. The American company is mainly competing for bulk shipments of parcels by businesses such as mail-order houses; it offers rates slightly below those of the Bundespost as well as faster service. It is no secret that, in concentrating on commercial bulk deliveries, UPS aims for the only lucrative part of the Bundespost's parcel service, which last year incurred a total deficit of DM 900 million. Without major customers like the mail-order houses, this deficit would have been far higher.

Becker/ Wülfing/ SCM-Glidden

Sweden's AB Wilh. Becker, Scandinavia's leading paint producer, has taken over the majority interest (reportedly more than 90%) in Lackwerke Wülfing of Germany from the United States' SCM-Glidden International Co., which in the future intends to concentrate its activities on the American market. In conjunction with the deal, Becker and Glidden signed an agreement for an exchange of know-how, thereby extending the long-standing cooperation between the two companies. No information was available on the purchase price or the turnover of Wülfing, which specializes in industrial paints and employs 400.

Gather/ Sun

The purchase of Germany's Philipp Gather KG, a leading supplier of equipment to European auto repair shops, by Sun Electric Corp. of Chicago has now been completed. Gather had a turnover of DM 13.4 million for the first six months of this year; Sun Electric, a major producer of electronic motor testing and precision measuring instruments, reported sales of $37.5 million for the same period. The transaction was not expected to result in any changes in Gather's present sales program or in its management personnel.

Common Market Reports

EUROMARKET NEWS

Issue No. 399 Report 300, September 10, 1976

IN THIS ISSUE

France: Gaullists Keep Key Positions in Government

Upon presentation of the new French cabinet on Aug. 27, it became apparent that the departure of Gaullist leader Jacques Chirac as prime minister had not led to a break between President Giscard d'Estaing and the Gaullists. Still, political observers regarded as a major victory for Giscard his ability to keep the Gaullist UDR party in the government, as a way of ensuring continuity for his administration. Under the new prime minister, Raymond Barre, the Gaullists occupy fewer cabinet posts than before, but they still retain important ministries. One of their most influential "barons," Olivier Guichard, was given the important justice ministry and, in addition, was made one of three "ministers of state."

Barre himself - he is not affiliated with any party - took over the economics and finance "super" ministry from Jean-Pierre Fourcade, who transferred to the public works ministry. Barre is one of the nonpartisan politicians and "technocrats" who now constitute the largest group in the cabinet. Giscard's own Independent Republicans hold 10 seats in the 36-member cabinet, which is composed of 18 ministers and their deputies. The appointment of Senator Pierre Brousse, mayor of the city of Béziers and a Radical

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Gaullists *(contd.)*

Socialist, was interpreted as a visible sign of the government's slight shift to left center.

In the coming weeks and months, domestic interest should focus on the economic and monetary course of the Barre team, which immediately went to work on an austerity program that was to be unveiled within a short time. (As though to lend emphasis to the need to make the fight against inflation the No. 1 priority, the National Statistical Office - on the day of the new government's formation - announced that consumer prices had risen by 1% in July, more than twice as fast as during the preceding month.)

Commentators have expressed the opinion that the success of a future austerity program will largely depend on whether France can follow the example of other industrial countries in Europe by ending the perennial confrontation between employers and labor. Only through a broad "social consensus" on price and incomes policy, it was noted, will it be possible to slow the cost-price spiral. So far, there has been no evidence, observers said, that the resignation of Chirac will, in itself, bring about a "constructive dialog" between industry and the unions.

Aside from the avowed goal of fighting for price and monetary stability and reduced unemployment, the Barre cabinet is committed to the continuation of Giscard's reform policies, of which improvements in pension benefits and family allowances, the company reform, and administrative decentralization for the country as a whole have been identified as the key targets for the coming months. But here, too, large questions remain, it was pointed out: even though Chirac, the Gaullist "brakeman" of Giscard's reform efforts, has been sidelined, the UDR does remain the largest government party in Parliament and as such still retains the power to weaken or block certain reform plans.

Franglais' Time Running Out, Chamber Warns

The American Chamber of Commerce in France, in its monthly publication, has reminded its members that the one-year transition period allowed by the law on the use of the French language expires in less than half a year, on Jan. 4, 1977. As of that date, "everyone is going to have to watch his Franglais," since the use of foreign words or terminology will then be prohibited in all official, legal and commercial documents, with certain exceptions (*Doing Business in Europe, Par. 30,877*). The term "franglais" describes the kind of modern-day French that has become heavily riddled with Anglo-Saxon words and terms, especially in business and technology.

The Chamber points out that the Official Journal, the state gazette, has been publishing a series of "lexicons" spelling out the officially sanctioned French equivalent for various foreign words in general use and covering such

Franglais *(contd.)*

sectors as data processing, nuclear energy, public works, health and medicine, and finance. For instance, the recommendation is for the use of the word "logiciel" instead of computer "software," while "software house" should be replaced by "société de services et de conseil en informatique." In the future, domestic and international companies advertising for a "sales manager," "marketing director," "financial controller," or "management consultant" also will have to find French designations for these positions.

Copies of the lexicons may be obtained by contacting the Journaux Officiels, 26 rue Desaix, Paris Cedex 15, the Chamber said.

Netherlands: Socialists Propose More Nationalization

Holland's socialist Labor Party - which is represented in the five-party, left-center government and of which Prime Minister Joop den Uyl is a leader - has submitted to its lower echelons the draft of a basic program designed to serve as a political platform for the parliamentary elections in May 1977. The "neo-socialist" paper is to replace the existing party program dating from 1959, and it reportedly advocates extensive nationalization of key industries and broader redistribution of incomes and assets.

The party document, according to unofficial reports, proposes the nationalization of a large number of important Dutch enterprises, including the entire "base industries" as well as banks, insurance companies and the pharmaceutical sector. Also reportedly advocated is the state takeover of all real property, although it remains open whether this would concern undeveloped property only. Whereas the 1959 platform proposed that the process of material redistribution be accomplished in step with economic expansion, the new draft program is said to favor the sharing of work and wealth among the rich and poor, since the growth factor can no longer be solely relied upon. The draft also sharply accentuates issues such as environmental protection and public ownership of raw materials, it was reported.

Although the document so far has no direct bearing on official policy, political observers immediately pointed out that the decisions of the Labor Party leadership generally are of "prime significance" for the present Socialist government in charting its economic and social policies.

Parties to Shun 'Politics' in Bribery Affair

During the Aug. 30 parliamentary debate on the findings of the official Donner Commission in the Dutch investigation of the Lockheed bribery scandal, both the government and the Opposition parties agreed that the involvement of Prince Bernhard in the affair should not be made the subject of political disputes in the campaign for the national elections next spring. The Commission's report did not actually confirm allegations that Prince Bernhard had accept-

'Politics' *(contd.)*

ed more than $1 million in bribes from Lockheed Aircraft Corp. for his part in the purchase of F104 Starfighters in the early 1960s. It did say, however, that the Prince had been open to "dishonorable requests and favors" from the U.S. company, had acted "in a completely unacceptable manner," and had done damage to the country's interests. In the meantime, the 65-year-old husband of Queen Juliana has resigned most of his official functions.

The report of the three-man Donner Commission has been received with intense shock and humiliation in Holland, and there were reports that Queen Juliana had offered her immediate abdication. In the parliamentary debate, however, all party spokesmen maintained that the scandal must not be made a threat to the Dutch monarchy and that there should be no judicial consequences in the form of criminal investigations.

Britain: Government May Face Clash with Unions

A review of Britain's economic problems at this time indicates that the government faces a hectic schedule when Parliament reconvenes in a few weeks. From the latest evidence, it can be assumed that the U.K. will be forced to claim the three-month extension provided in the $5.3-billion loan package put together earlier this year by the leading international banking nations; it is also probable that it will have to turn to the International Monetary Fund in order to have the loan repaid, thus subjecting itself to as-yet-unspecified conditions. Further, despite government claims that the rate of inflation is "being kept down and is decreasing," the impact of rising prices within the prescribed limits continues to trouble the average consumer and erode his income. The recent drought has made further food price increases a certainty, and the public is concerned about the rising cost of utilities (gas, rail and other surface travel, electricity, and mail charges) and is braced for another round of increases resulting from pay boosts in the steel industry and (probable) oil price rises.

It will be largely on the labor front, however, where the main battle is expected to be fought, on the assumption that the U.K.'s economic prospects are inextricably linked to the government/industry/labor confrontation. The unions have contended that they have done everything in their power to back official counter-inflation policies. They are now pressing the government for action on the twin issues of unemployment and a return to free collective bargaining when the present phase of the "pay freeze" expires. Accordingly, they could hardly welcome the recent announcement that public expenditure in the state-owned industries would be curbed by cutting some 100,000 jobs.

There are other signs of unrest, though less obvious. For instance, the government's plans for employee partici-

Union Clash *(contd.)*

pation - a key element in its election platform and initially welcomed - are now being criticized in practice. The unions have denounced as inadequate draft proposals for such participation in Ferranti, the electronics group, in which the National Enterprise Board has a 68.5% stake. Ferranti was "rescued" two years ago on the strict understanding that "industrial democracy within the firm would be developed on an agreed basis." The unions claim that they have been offered "very limited consultative arrangements" in lieu of what they consider to be participation, namely, "accountability" to the work force in regard to consultations prior to any policy decisions. In fact, the unions are insisting on accountability not only at national but also at divisional and plant levels.

Ireland: Dublin Threat Forces End of Bank Strike

The strike of the Irish banking employees has ended after eight weeks following the unexpected board decision of the Irish Bank Officials' Association to accept pay increases of £3-5 per week. The decision on Aug. 24 was regarded as a defeat for the strikers, whose earlier rejection of these terms had touched off the walkout in the first place. A vote by the IBOA's membership on the offer had brought inconclusive results, with only a slight majority favoring acceptance of the terms, which are in line with those applying under the Republic's interim pay agreement. Before the strike, the banks had offered increases of up to 20%, but these were rejected by the government as being out of step with its incomes policies.

The IBOA executive's change of mind apparently was heavily influenced by the government's threat to push plans for the introduction of a national postal checking system. The implementation of such a system would cause the loss of jobs for many of the IBOA's 10,000 members.

Despite the end of the strike, which had seriously disrupted the economy of the Irish Republic, it was by no means certain that the government would not go ahead with a reform of the country's banking system, which is firmly in the hands of the domestic "Big Four": Allied Irish, Bank of Ireland, Ulster (National Westminster) and Northern (Midland). In Dublin, it was also considered likely that two major agricultural organizations - one of them state-owned - would be granted banking licenses.

Switzerland: Bern Fears Defeat of VAT Proposal

The possibility that its proposals for the introduction of the value-added tax could be defeated in the national referendum next spring (*Doing Business in Europe, Par. 30,859*) is gradually becoming a distinct threat for the Swiss government, according to reports from Bern. In fact, the administration is now said to be working on an alternative plan in order to ensure itself of the SF 3.5 billion in ad-

VAT Proposal *(contd.)*

ditional annual revenue that is needed to cover the finance deficits. This plan would provide for the retail turnover tax rate to be raised from 5.6% at present to 7.5% and for the wholesale rate to rise from 8.4% to 11.25%, the reports said. At the same time, the federal government would be forced to reduce its subsidies to the social insurance system, which would mean higher employer-employee contributions toward the old-age pension insurance. What the issue boils down to, observers said, is that the Swiss electorate will have to make a choice between higher consumer prices and an increase in direct social welfare contributions.

The opposition to the changeover to VAT has gathered strength in recent months, not least because the new system would require businesses to keep detailed financial records. This apparently has given rise to fears that the fiscal authorities would be given a convenient instrument for tax assessment generally. On the other hand, Bern cannot even be sure of gaining approval for an increase in turnover tax rates - a proposal that also would have to be submitted to a national referendum.

Still-depressed consumer demand and the precarious status of the building industry has held budgeted revenue from taxes and duties below projected levels in the first six months of 1976. This applies in particular to the turnover tax which, despite a rate increase averaging 27% (*Doing Business in Europe, Par. 30,802*), produced only a 5.5% increase in revenue. Income from import duties fell off by 21% as compared to the same period in 1975. This was attributed both to lowered tariffs in trade with the European Community and to reduced import volume generally. Revenue from the federal income tax, stamp duties and the anticipatory tax reached the budgeted levels, and those from the tobacco tax and fuel duties even exceeded the projections slightly.

Spain: Madrid Raises 'Luxury' Taxes, Gasoline Prices

The Spanish government on Aug. 25 raised gasoline prices by 7% and several taxes on "luxury goods," most of them imported, by 10%. The action was seen as a part of the official efforts to stabilize the domestic economy and to contain inflation, now at an annual rate of 20%. Through the gasoline price increases, Madrid expects to achieve annual savings in the amount of $132 million, which corresponds approximately to this year's loss in revenue from tourism, traditionally a major source of foreign exchange. In previous years, Spain was forced to allocate about $3.5 billion - roughly half of the annual tourism revenues - for the financing of oil imports. So far in 1976, foreign tourists have spent 7% less than in "normal" years, and the government is now considering whether it should create additional revenue sources by legalizing gambling casinos in the major tourist centers. All in all, though, these mea-

Taxes *(contd.)*

sures would not go too far in narrowing the country's foreign trade deficit which, according to recent National Bank estimates, amounted to about $4.3 billion in the first half of this year.

To reduce its dependency on oil imports, Madrid is pushing exploration projects along its own coastlines. Foreign oil companies - particularly from Britain, the United States and France - are now engaged in prospecting operations, and a first success was reported in the early summer when the Shell group located what were described as high-grade oil deposits off the Cantabrian coast.

The economic package approved by the cabinet last month also provided for the establishment of a $180-million fund to finance low-interest credits for exports to developing countries that are considered potential markets for Spanish products. It was further announced that Luís Coronel de Palma, governor of the Bank of Spain for the past six years, would be replaced by José María López de Letona, a former industry minister.

Earlier last month, an agreement was signed in Madrid for Spain's $1-billion Euromarket loan, the highest granted on that market to any single borrower since 1974. The five-year loan was arranged through a consortium of 25 European and American banks headed by the Bank of America and Manufacturers Hanover Trust. Spain is given up to one year within which to draw on the funds.

EURO COMPANY SCENE

Pfizer/ Centrafarm

The U.S. pharmaceutical company Pfizer has filed suit in a Rotterdam court against Holland's Centrafarm BV, seeking to block Centrafarm's imports from the U.K. of the Pfizer-produced Vibramycin antibiotic, according to Dutch reports. Centrafarm, it is reportedly alleged, has been obtaining the drug from U.K. wholesale sources in five-unit and 50-unit packages and has resold it in eight-unit and 100-unit packages on the Dutch market at prices 20-30% below those charged for the same product by Pfizer's authorized Dutch importer. Pfizer sees an infringement of its industrial property rights in the alteration of the package sizes, the reports said.

Previously, Centrafarm and its director, Adriaan de Peijper, had emerged as "winners" from legal actions involving other pharmaceutical manufacturers as well as Dutch authorities. These cases went all the way to the European Court of Justice which, in its rulings, reiterated its position that free interstate trade must prevail over industrial property rights considerations and which invalidated official rules that would in effect constitute quantitative re-

Pfizer/ Centrafarm *(contd.)*

strictions on imports (Case Nos. 15/74 and 16/74, *Common Market Reports, Pars. 8246 and 8247*, and Case No. 104/75, *Common Market Reports, Par. 8353*).

FN-Herstal/ Pratt & Whitney

Belgium's largest weapons producer, Fabrique Nationale d'Armes, Herstal, has signed a BF 11-billion contract in Liège with the United States' Pratt & Whitney to build engines for the 348 American F-16 jet fighters ordered by four NATO countries in 1975. Together with the previously announced "reciprocal" contracts awarded by General Dynamics Corp. to the SABCA and Avions Fairey aircraft companies, the total value of Belgium's participation in the so-called "arms deal of the century" comes to about BF 28 billion. In addition, FN-Herstal is still hoping for a final U.S. Army order valued at $30 million for 14,000 MAG-58 machine guns. Legal delays in Washington have held up the contract award.

Rolls-Royce/ Boeing

The U.K.'s Rolls-Royce has proposed a new, less powerful version of its RB-211 engine to the United States' Boeing Aircraft Co. in an attempt to safeguard its position as a subcontractor for the next generation of jet aircraft now under review by Boeing.

Burmah/ General Dynamics

The U.K.'s Burmah Oil is understood to have reached agreement with the United States' General Dynamics Corp. on a restructuring of ownership and financing of seven giant liquified gas tankers (total cost around $800 million) commissioned by Burmah from General Dynamics in 1973. The U.S. corporation has confirmed that it would assume ownership of the tankers and, in addition, would provide some 20% of the construction costs, the remainder being guaranteed by the U.S. Federal Maritime Administration. Burmah would then lease the tankers from the U.S. Energy Transportation Corp.'s Cherokee Shipping subsidiary.

The fact that formal applications have been filed regarding FMA guarantees on five of the tankers was taken as confirmation that Burmah and General Dynamics have finalized their agreement. On the other hand, any approval of government loan guarantees is contingent upon the U.S. authorities' being convinced of the legal propriety of the deal. The principal point at issue is whether the vessels are actually owned by a U.S. corporation (a prerequisite of guarantee approval) and not by Burmah through nominee holding companies in the U.S. The official decision is of considerable financial import to the British company, particularly since it stands to benefit from possible U.S. State Dept. intervention designed to ensure that liquified natural gas shipping contracts on the Japan-Indonesia route will be carried out through U.S. flag carriers.

Common Market Reports

EUROMARKET NEWS

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IN THIS ISSUE

Community: EC Court Opens Fall Session This Week

The European Court of Justice opened its fall session this week by hearing the conclusions of two Advocate Generals in three cases, all involving an interpretation of the EEC Convention on Jurisdiction of Courts and Recognition and Enforcement of Judgments (*Common Market Reports, Pars. 6001-03*). Four additional cases also involving requests by national courts for interpretive clarifications of the convention have been on the docket since last March, and hearings on these are expected for late October or early November. The number of cases brought before the Court in the short period of time since it gained the power to interpret the convention (the protocol took effect on Sept. 1, 1975) demonstrates the latter's significance for the day-to-day activities of the national courts.

One of the three cases involves a Frankfurt appellate court request to the Court of Justice for a preliminary ruling on the phrase "the place where the obligation has been or is to be fulfilled" in Article 5(1) of the convention (*Industrie Tessili Italiane Como v. Dunlop AG* - Case No. 12/76). In another case the Court has been asked by the Düsseldorf Court of Appeals to clarify whether Arti-

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Fall Session *(contd.)*

cle 1(1) should be interpreted under the rules of the member state where the judgment was rendered or the state where enforcement is sought (*LTU Lufttransport-Unternehmen GmbH & Co. KG v. Eurocontrol* - Case No. 29/76). A Belgian court of appeals wants to know whether the defendant who is in breach of an exclusive agency agreement and is a resident in one state may be sued elsewhere within the meaning of Article 1(1) and (5) (*A. De Bloos SPRL v. Bouyer ACA* - Case No. 14/76).

There are several significant cases on the Court's docket that involve social security and free movement. Further, the Court will soon say whether Italy violated its obligations under a 1971 Council directive on awarding public works contracts (*Commission v. Italy* - Case No. 10/76). Two antitrust cases that are expected to have broad implications will be of particular interest to businesses and attorneys. They involve the appeals by United Brands Co. (UBC) and Hoffmann-La Roche against Commission decisions. Last December the Commission fined UBC $1.16 million for allegedly abusing its dominating position on the Community's banana market (*Common Market Reports, Par. 9800*). Counsel for UBC not only deny the existence of such a position but also take exception to the Commission's price rollback order. Hoffmann-La Roche is appealing a $360,000 fine imposed by the Commission last June when it ruled that the Swiss-based drug maker had abused its dominant position on the Community vitamin market (*Common Market Reports, Par. 9853*). Attorneys for La Roche are arguing that the granting of loyalty rebates to customers is not unusual, that contracts were reformed as early as 1974, and that the Commission received its information through a former employee. Since the appeal was lodged only a few weeks ago, a decision on the matter is not expected until next year.

In Brief...

The foreign ministers of the nine member states were to meet in Brussels on Sept. 20 to put their signatures to a document calling for direct elections to the European Parliament. Political rather than legal issues have prompted several postponements of this formal step, and some Community officials still doubt whether the ministers will sign. Another delay would seriously jeopardize the target date for the first elections (May/June '78) + + + Now pending before the Council of Ministers are some 260 Commission proposals on which the European Parliament has given its opinion. This information was given in the most recent semiannual status report submitted by Brussels to the EP.

France: 'Super Tax' to Pay for Farm Damage?

Either Sept. 22 or 29 has been indicated as the likely date on which the new French cabinet under Prime Minister Raymond Barre will unveil its economic austerity program. On Sept. 22, the government will take up the 1977 Draft Budget,

Farm Damage *(contd.)*

and a week later the final decision was to be made on the compensation payments to those French farmers who have suffered drought damage. The week beginning on Sept. 6 had been set aside by Barre for extensive talks with industry and union representatives. Barre had made it clear that he would not be rushed since, as he put it, "the house is not on fire." The round of consultations started off with a meeting with the Force Ouvrière union, which has been classified as being basically "cooperative," and with the Communist CGT, which has offered a five-point anti-inflation program of its own and has warned the government that "nothing will happen without or against the CGT" in deciding on solutions to the country's economic problems. The CGT is proposing "national action for the maintenance of purchasing power and against the super tax."

The reference to the "super tax" concerned the funds needed for drought compensation to be paid to the farm sector. In a television interview, Barre indicated that the government would finance these requirements not by way of a bond issue, but through a special levy on the 1975 income tax - a proposal that was greeted by vehement left-wing protests. Further controversy centered on the actual amount of funds required: whereas the government talked of FF 5-6 billion, the farm organizations have estimated the income losses attributed to drought damage at nearly FF 10 billion. Still, the farmers are also unhappy with the plans for a one-time surtax on incomes, fearing that this would rouse public opinion against them. Damage compensation is not the administration's only problem in this area; it also can expect a drop in the export of surplus farm products such as wheat and sugar, which in turn will affect the foreign trade balance.

Germany: New Proposal on Capital Ownership

The German business community can be reasonably sure that no matter who wins the Oct. 3 national elections, there will be new initiatives in the coming legislative session to spread capital ownership among employees. This expectation is based on a plan revealed by Economics Minister Hans Friderichs, a Free Democrat, that comes close to an earlier Opposition concept and which is gaining support from leading Social Democrats. Friderichs would like to encourage both business and the unions to make more use of the existing capital ownership (*Vermögensbildung*) system. He also favors expansion of the concept now in force by raising the ceiling of tax-supported savings from DM 624 to DM 939. Employees who save DM 624 annually and keep the money on deposit for six years are entitled to a government grant of 30% of the total. Any contribution made by the employer either voluntarily or under a union contract is tax-deductible. After a six-year period, the employee's capital -

Ownership *(contd.)*

made up of savings, the employer's contribution, and the government grant - may be paid out and is tax-free.

In 1975, some 15 million employees saved DM 9 billion in this way, and the government's overall grants amounted to DM 2.3 billion. It is estimated that Friderich's plan would cost the Treasury an additional DM 1.5 billion annually, and it was for this reason that the Schmidt administration had rejected the Opposition's earlier initiative. But now government leaders appear to have softened their stand because they believe that any major move in this field might induce union negotiators to keep wage demands within reasonable bounds in the coming years just as they have done in the past two years. Modest pay raises are seen as a major condition for additional, job-creating investments by businesses.

Friderichs also favors amendments to existing statutes in order to promote the issuance of stock to employees. At present, only 60 out of 2,000 German stock corporations have issued shares to nearly 1.6 million employees (the country's total work force is 24 million), and the employees' stake has remained modest. Siemens AG, the electrical company, has been an exception: half of its 200,000 employees hold 7.5% of the company's stock.

Belgium: Upturn Hinges on Cost Trend, OECD Says

The extent of foreign demand for Belgian export products will largely determine whether the still-moderate pace of the domestic economy will accelerate between now and the end of the year, according to the latest OECD survey on Belgium. In order to reduce the price expansion factor in maintaining its international competitiveness, Belgium last March had enacted an economic redeployment plan, seeking to contain the rise in production costs, especially wages, by restricting the wage index system and by limiting real wage increases obtained under the collective bargaining system. This legislation, in combination with the public spending cuts announced in April, "should produce more significant and durable effects than did the price freeze introduced during 1975," the OECD said. In fact, the Paris-based organization recommended that the government plan for more restrictive measures in certain economic sectors - for instance, the building industry - which show signs of "overheating."

According to the OECD, the recent recession has brought out a long-latent problem of the Belgian economy, namely, the structural and regional imbalances between labor supply and demand. As a result, Belgium now has a high unemployment rate (5.5% in early '76) in comparison with most OECD member countries.

The report also discussed the problems posed by the country's high public deficits: net borrowing by the pub-

Upturn *(contd.)*

lic sector has risen from 3% of GNP at the beginning of the decade to an estimated 6.5% this year, with the latter percentage even taking account of the spending curbs introduced in April. In nominal terms, Belgium's public debt now represents about 40% of GNP as compared, for example, to 8.4% in France, 11% in Germany, and 23% in the Netherlands. Debt servicing charges account for nearly 10% of current expenditure, which is twice as much as in 1970. "Since it seems hardly advisable to increase the public debt much further...in order to provide this financing," the report concluded, "there would probably not be any readily available course in the longer term but for the authorities to raise taxation at their discretion..."

Luxembourg: Second Year of Economic 'Slack'

In its latest report on the Luxembourg (and Belgian) economy, the OECD said that the Grand Duchy's production of steel - by far the country's most important export item - has been stabilizing at a low level in recent months and prices have firmed up. On the other hand, steel order books are still short, and it will take some time before the recovery taking place in neighboring countries will make itself felt in the domestic industry. Also benefiting from an upturn have been the chemical, plastics and synthetic-fiber sectors. The outlook is less encouraging for those sectors that depend on domestic demand; in fact, construction activity could even slump.

Official estimates put the rise of Luxembourg's GNP this year at 3% in terms of volume, which would mean a considerable economic "slack" for the second straight year, the OECD said. Private consumption and real incomes should hardly exceed the levels of 1975, and the existing "overmanning" in industry should preclude an improvement in the employment situation. Although consumer prices have been expanding more slowly this year, the 1976 increase was still projected at about 10% compared to 10.7% in '75.

The report pointed out that the Luxembourg authorities have been taking all counter-cyclical measures at their disposal (most of them of a fiscal nature) in order to cushion the effects of the recession on the Grand Duchy. A large amount of government funds was systematically spent on public works projects in order to prevent large-scale unemployment. However, with the expected upturn in the world economy, the OECD said, the government's economic policy will soon have to take on "a more neutral posture."

Britain: Nationalization of Insurers, Banks Proposed

Proposals for the nationalization of the U.K.'s "Big Four" clearing banks, seven major insurance companies and a "leading merchant bank" (yet to be named) were contained in a document released on Sept. 7 by the headquarters of the

Nationalization *(contd.)*

Labour Party and to be presented to the party's annual conference later this month. There was little doubt that the plan (Banking and Finance, Labour Party National Executive Committee) will be endorsed by a majority at the conference. It was questioned, on the other hand, whether the government will take any such action.

In essence, the proposals call for public ownership of Barclays, Lloyds, National Westminster and Midland as well as the nationalization of Commercial Union, Royal, Prudential, Guardian Royal Exchange, General Accident, Sun Alliance & London, and Legal & General, these seven companies being the U.K.'s major insurers. The document also proposes a "reform" of the Bank of England in that "in future, its enormous resources must be brought to bear in support of the government's industrial strategy as well as its overall economic policy." Further, it calls for the establishment of an "investment reserve fund," the function of which would be to boost industrial investment by deploying funds "invested" by the country's major companies.

First reactions from industrial leaders, bankers, insurance company managers, the Conservative Opposition and several middle-of-the-road Labour government ministers was that the proposals were totally without merit or, as the Opposition spokesman suggested, "a blueprint for bankruptcy." The Banking Information Service, which serves as a sort of joint spokesman for the clearing banks, contended that the proposals ("with their poor and inadequate research") were basically "no more than an attempt to get control over other people's money."

The release of the Labour Party document completely "upstaged" the annual Trades Union Congress, since the latter's agenda contained few, if any, surprises: as had been predicted, attention was focused on a return to free collective bargaining, a resolution calling on the government to stimulate industrial investment and thus boost employment, a warning that "union loyalty was not unlimited," and a reminder to the government that it was becoming "less than easy to restrain wage claims at a time of rising prices." The fact that these issues had been discussed and analyzed at length prior to the congress robbed them of much of their impact while at the same time reinforcing a widely held view that the labor unions' "decisions" were central to future government policy-making.

CBI Criticizes U.K. Stand on Company Reports

The Confederation of British Industry has responded to a recent U.K. Dept. of Trade "staff paper" covering the aims and the scope of company reports by sharply criticizing the present state of company legislation in Britain and denouncing the various proposals for company law reform as "fragmented, piecemeal and uncoordinated." The CBI's reaction - subsequently to be formalized in an official consul-

Reports *(contd.)*

tative document - is that the aims and scope of company reports are "only part of a possible area for company law reform."

In particular, the CBI attacks the DoT for stating that a company report contains information "which is of interest to the public at large" and for considering reports from directors to shareholders or from management to employees as "containing information of interest to special groups which would be provided separately and directly by the company to the people concerned." If it has understood the DoT concept correctly, says the CBI, it will offer active resistance: company reports cannot and should not be expected to report to the public at large. Furthermore, the DoT position that reports should "seek to satisfy as far as possible the information needs of users" is criticized on the basis that such "users" should be required to have a "reasonable right" to this information and that they should have to establish that their needs are "valid." In the CBI's view, it is, in fact, doubtful whether company law is the "right medium" for arranging what information should be given by a company to a trade union.

Italy: Renewal of $2 Billion German Loan

The negotiations between the German Bundesbank and Banca d'Italia over the renewal of Germany's $2-billion, gold-backed credit to Italy ended in an agreement just before the loan would have become due. The original loan had been granted two years ago to help the Italians overcome their balance of payments problems. Under the new agreement, the Bank of Italy has chosen to repay $500 million of the original loan rather than commit further gold reserves in compensation for the lower gold prices now prevailing on the free markets. Thus, Rome will keep $1.5 billion of the original loan and continue to leave 516 tons of gold as collateral. Should the Italians want to borrow the remaining $500 million, they would have to offer additional collateral. The new loan is for a period of two years but is extendable and contains an overdraft facility.

Sweden: Welfare State Not Challenged in Elections

While Sweden's political parties stepped up their campaign efforts on the eve of the Sept. 19 national elections, it seemed clear that none of the contestants was prepared to challenge the fundamental concept of the Swedish welfare state. According to the latest polls, the three non-socialist opposition parties - Center, Conservative and Liberal - do have a real chance of ending 44 years of uninterrupted Social Democrat rule. However, no one is suggesting that a possible change of government - which probably would put Thorbjörn Fälldin, the Center Party leader, into the prime minister's chair - would bring about a dramatic shift of direction for the "Swedish way."

Elections *(contd.)*

In the last weeks prior to the elections, the campaign topics have seesawed between the basic social issues and the economic problems. Prime Minister Olof Palme and his Social Democrats have repeatedly emphasized the accomplishments of the administration in holding down unemployment and inflation and improving real incomes and welfare benefits for all. Stung by the violent debates earlier this year over Sweden's harsh fiscal burden, the government again has promised some "provisional" tax relief, but only up to annual incomes of 50,000 kronor. Beyond this level, the average 64% tax rate would be retained. The Center and Liberal parties, on the other hand, demand an easing of the tax progression up to 65,000 kronor. The government plans to raise employer contributions by another 3%; the Opposition would prefer only half that rate. Finance Minister Gunnar Sträng has termed these proposals "irresponsible," pointing to the existing Budget deficit, which should amount to 11-12 billion kronor this year.

To the relief of the government, the discussions on the controversial "Meidner Plan" have taken a backseat in the closing stages of the campaign. This issue has been put into the hands of a state commission which is expected to study it and other employee capital ownership models until 1979. The Meidner Plan, presented by the LO trade union federation, proposes that all businesses with more than 50 employees contribute 20% of their pretax earnings annually to union-controlled funds in the form of shares. Even among Social Democrats, opinions on the merits of this concept are divided, and the Opposition has warned of a "gigantic concentration" of union powers at the expense of individual freedoms. An independent study has shown that, had the Meidner Plan been in effect in the years 1972-74, the unions would have accumulated 24% of the shares of the SCA concern (wood, pulp, textiles), 23% of SKF (ball bearings), 18% of Volvo (automobiles), and 13% each of Electrolux (household appliances) and Ericsson (communications).