Common Market Reports

EUROMARKET NEWS

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Community: Monetary Plan Delayed by Farm Issue

The inauguration of the European Community's new monetary system has been delayed by a dispute between Paris and Bonn over an important farm trade issue that the national ministers of agriculture will attempt to solve at their meeting in Brussels on Jan. 15. The European monetary system was to go into effect on Jan. 1, but the French government made its consent to the Commission's proposals on the introduction of the European currency unit (ECU) and the credit facility of the European Monetary Fund dependent on a binding agreement on the reintroduction of uniform farm prices in the Common Market.

All of the member states except the U.K. would belong to the monetary system, and third countries such as Austria and Switzerland could join as associate members. The EMS is expected to bring some measure of monetary stability to the member countries and thereby aid intra-Community trade as well as trade with third countries. Another major feature, seen by many observers as a way of narrowing the gaps between national economic policies, would be the potential of the system's European Monetary Fund to give credits, although with strings attached, to national governments.

When the nine heads of government met in Brussels on Dec. 5, they agreed in principle to French president Gis-

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Monetary Plan *(contd.)*

card d'Estaing's demand for the reintroduction of uniform farm prices throughout the EEC, but they set no deadline. During the subsequent meetings of the nine agricultural ministers, France insisted on the removal of the current fictional prices maintained by the compensatory amounts system within one year. Because of the implications for its farmers, Germany was reluctant to accede to the request.

The uniform price system for agricultural commodities, the cornerstone of the common agricultural policy, was derailed in 1969, when all member states were drawn into the whirlpool of monetary upheavals. At that time and in subsequent years, they were forced to revalue or devalue their currencies, which have been floating and thus subject to daily changes in value since abolishment of rigid exchange rates. In order to cushion the impact of constantly varying currencies, the Community agreed to the system of compensatory amounts. Member states with strong currencies grant subsidies to farm produce exporters and impose levies on imports of agricultural commodities. States with devalued currencies impose a levy on exports and subsidize imports. Without these compensatory amounts, farm prices would rise in weak-currency countries and decline in strong-currency countries.

Germany is not basically opposed to abolishment of the compensatory amounts system. Bonn wanted to wait and see how the European monetary system works and then support efforts to reinstate uniform farm prices in the EEC. Furthermore, the government did not want to hurt German farmers, who would stand to lose a great deal if the system were suddenly abolished.

Uniform Standards for Life Insurance

A common market in life insurance has come closer to reality with the Council of Ministers' basic agreement reached last Dec. 19 on a directive laying down uniform minimum standards for life insurance companies throughout the EEC. Formal adoption is expected within a few weeks. The member states will have two and a half years to bring national provisions in line with the rules laid down in the directive.

In a way the proposal is similar to the Council's 1973 directive that coordinated national provisions governing companies insuring risks other than those to life *(Common Market Reports, Pars. 1349.35, 9596)*. The new directive would coordinate national provisions governing the licensing of life insurance carriers, agencies, and branches. At the same time it would align national rules on financial guarantees and other conditions. The overall objectives of the measure are to remove restrictions that discriminate against foreign insurance companies and to provide policyholders throughout the Community with adequate and equal

Life Insurers *(contd.)*

protection. Once the member states have complied with the directive, a foreign life insurance company, branch, or agency will be granted access to the insurance markets in other states under the same conditions applicable to domestic carriers there.

Agreement on the proposal was delayed by the problem of how to treat existing companies offering services in life and nonlife matters. A compromise was found that will enable existing companies, branches, or agencies which combine nonlife with life insurance (called composites) to continue their operations by having separate managements for each sector; but the formation of new composite companies will be prohibited. The Council will review the composites' performance in ten years' time. Existing composites entering the life insurance field for the first time in another member state would have to abide by strict rules; for instance, they would have to establish a subsidiary with a minimum capital of 600,000 units of account.

Life insurance companies will be subject to strict financial requirements that will be new for British and Irish insurers, though they are largely common to Continental carriers. These requirements will primarily benefit policyholders. In addition to having technical reserves to cover commitments, each insurer will have to have an additional range of financial resources, called a solvency margin, which will be calculated on the basis of items on the company's balance sheet (for example, capital and free reserves) and estimates of future profits. The estimates will be arrived at by averaging the profits made over the past five years, the method applied under German rules.

In Brief...

The Community's crisis plan for the steel industry has been extended until the end of 1979, which means that the Commission retains the power to set minimum prices for certain types of steel and to control imports from third countries. The plan was expanded to the extent that the member-state governments will be authorized to aid steel mills along the lines of existing Treaty principles and new Commission regulations + + + The Council has formally adopted two directives that will, as of 1981, enable veterinarians licensed by one member state to establish themselves in another and to provide services there. In the first directive the member states commit themselves to recognize each other's veterinary diplomas, and the second obligates them to coordinate the rules controlling veterinary curricula and activities.

Britain: Price Agency Refrains from Probing Ford

The U.K. Price Commission has decided not to investigate the decision of Ford to raise the prices of its vehicles by an average of 4.92% as of Jan. 2, 1979, despite the fact that the company's recent wage settlement was in excess of

Price Agency *(contd.)*

the government's 5% guideline. (The Commission is generally empowered to freeze price increases.) However, it was conceded that "the increase could not have been blocked by any action of the Commission" because a company's basic profits are safeguarded by the terms of reference of the Commission, and the rise was justified by Ford's higher costs in the period prior to the settlement.

Ford meanwhile has pledged that no more than the government-permitted 5% of wage costs will be comprised in any future price increments, and the Commission has said that it "believes that Ford's undertaking constitutes a responsible approach to setting prices in 1979, and it expects others in similar situations to follow the Ford example." This statement appears to be an indicator of the policy that will be adopted toward forthcoming applications to advance prices, such as from the brewing industry. Observers believe that the Commission's powers may indirectly help to bring sanctions against companies that do not adhere to the approved 5% limit, now that the official sanctions policy is no longer in operation.

Large manufacturing enterprises with an annual turnover of more than £15 million must give 28 days' notice of any proposed price increase. The notice must include full particulars in case the Commission wants to carry out an inquiry. (In fact, in the first year of its operation, from August 1977 to July '78, the Commission looked into some 10% of such applications to see whether they were justified.) After the Secretary of State for Prices and Consumer Protection is informed, the Commission has three months to conduct its investigation. It must report by the end of that period, during which any proposed increases are automatically frozen. However, during these three months, a company may apply to raise prices in order to keep up its profit margins, and once such permission has been given, it cannot subsequently be withdrawn.

The Price Commission can recommend a price freeze for a further period of up to eight months, which means that there could be an effective block on increases for a year. So far, however, there has been no case in which these full powers were implemented. Current investigations include projected price rises by the British Oxygen Co. (which, like Ford, has approved wage increases above the 5% pay guideline); Dolland and Aitchison, the opticians; Thermos; Butlins, the holiday camp operators; and the Daily Telegraph. In its investigations, the Commission will examine the costs of manufacture and distribution and will hold discussions with relevant bodies such as trade associations before making a report. The Secretary of State himself may also refer certain sectors to the Commission, a recent example being the toy industry.

Germany: Bill to Help Mothers in Employment

The German government has proposed legislation that would significantly expand protection of mothers in employment. Under present rules an expectant mother is freed from her job six weeks prior to confinement and for eight weeks thereafter. She cannot be fired during her pregnancy or in the four months after giving birth *(Doing Business in Europe, Pars. 23,433C, 23,436)*. The proposal would entitle a working mother to four months' leave of absence following the eight-week postnatal period. During these four months she would receive not only maternity benefits but also DM 750 a month from the government, and she would not have to pay social security taxes on that amount. She could not be fired during the leave of absence.

With this recent proposal the government is acceding to demands of the unions and women's organizations for legislation that would enable working mothers to stay longer with newborn children without having to worry about their jobs. If the bill is enacted on July 1 as planned, the program is expected to cost the government around DM 450 million in 1979 and about DM 900 million annually thereafter.

Helping mothers in their double role as parent and employee was not the government's only consideration, according to observers. They believe that this latest proposal and the recently enacted measure granting increased cash benefits to families with children *(Doing Business in Europe, Par. 31,071)* is an attempt to reverse a trend that has been worrying population experts: since the German birthrate has been below the death rate for several years, the country's current population of 61 million would drop to around 50 million by the year 2000 if the present low birthrate were to continue for the next 20 years.

Italy: Parliament Clears National Health Reform

Just before Christmas and almost unnoticed by the broad public, the Italian parliament gave final approval to the law that will lead to the step-by-step establishment of a national health service, beginning this month. In the Dec. 22 vote, only the Liberals, the parties of the extreme right, and two other deputies came out against the legislation. The Republicans abstained.

In order for the reform to take effect, however, Rome still has to issue 66 implementing regulations, and the regional governments, 26 each. The law provides, among other things, for local health service "units" *(unità sanitaria locale)* which are to serve between 50,000 and 200,000 people, depending on the area. The antiquated system of health insurance funds is to be abolished within 18 months.

Noting that it took some 15 years to provide a statutory basis for the service, observers believe that implementation should be similarly difficult. The bureaucratic

Health Reform (contd.)

maze and political disputes at local level were seen by them as the greatest handicaps in setting up an efficient health service system. At least for the time being, these critics say, very little will change in the poorly managed, ill-equipped public hospitals and in the health insurance sector. Patients with financial resources will continue to turn to the private clinics or travel abroad for consultation and treatment.

Health Minister Tina Anselmi apparently does not share this pessimism. She said the legislation was setting the stage for the most important change in the public health sector since the establishment of the Italian state. For the first time, she said, Italians would be able to avail themselves of an encompassing social medicine service, ranging from preventive medicine to rehabilitation. She called on the local governments to help make it a success.

Metalworkers to Seek Cut in Workweek

At a meeting last month in Bari, some 1,400 delegates of the Italian metalworkers' federation agreed on the list of demands to be presented in the upcoming round of collective bargaining. This "platform" could well be a guide for numerous other industry sectors, where contracts must be renewed.

The union is pushing for the 40-hour workweek to be reduced to 38 hours in most industry branches by 1980. At steel plants in northern and central Italy, the workweek would be reduced to 36 hours for shift workers - a step already implemented in the south. In the latter regions, a "six times six" work schedule should be applied in all enterprises that operate plants in both northern and southern Italy: daily six-hour shifts, including Saturdays.

In addition, the union wants to extend the requirement for information on a company's production and investment plans to enterprises with 150 or more workers. So far, the requirement has applied only to companies with at least 500 workers.

Austria: Vienna, Ford Talk About Auto Plant

The Austrian government this month planned another round of talks with top representatives of Ford Motor Co. in an effort to locate a full-scale automobile production center in Austria. Chancellor Bruno Kreisky, Finance Minister Hannes Androsch, and other officials had met last month in Kreisky's offices, and the Chancellor afterward expressed "moderate optimism" that it would be possible to come to an agreement with the U.S. automaker. Ford officials said that a decision would not be made before April.

According to unconfirmed reports, Ford is definitely considering setting up a new European plant with a yearly output of 250,000 passenger cars. The investment costs for such a project - it would be the largest plant Ford ever

Auto Plant (contd.)

built outside the United States - have been estimated at $1.2 billion (16.8 billion schillings). The Austrian government and the city of Vienna reportedly would be prepared to contribute 4 billion schillings in subsidies and other financial incentives and have offered an airfield at Aspern as a possible site for the plant.

The reports said that the complex would employ 8,000 and that another 12,000 jobs would be created in domestic supplier industries. Thus, such companies as Semperit (tires), VMW (aluminum), and Brevillier and Urban (nuts and bolts) would stand to benefit from the Ford operations. The Austrians cite the schilling's strength and political and economic stability as the prime reasons why Ford should locate in their country. Another major factor they like to emphasize in the discussions is labor peace - knowing full well the persistent problems Ford is having with unions and workers in Britain.

This is not the first time that the government has sought to establish an automobile production center in the country. In 1977, the Kreisky administration had talked to Germany's Porsche, the sports car manufacturer, about an "Austro-Porsche" to be assembled in Austria. However, these plans never went beyond the discussion stage.

EURO COMPANY SCENE

Richardson-Merrell/ Vibert

Richardson-Merrell, Inc., the U.S. pharmaceutical group, has taken over the French cosmetics manufacturer Vibert SA for an undisclosed price. Based at Lyons, Vibert has annual sales of FF 50 million and is primarily known for hair lotions under the Petrole Hahn name. With the acquisition, Richardson broadens its position on the French market, where it already owns two pharmaceutical companies: Laboratoires Lachartre at Strasbourg and Merrell Toraude of Bourgoin-Jalleu, in southwest France.

Mobile Chemical

Mobile Chemical Europe, a division of the U.S. Mobile Oil group, has announced plans to build in Belgium a polypropylene film plant, with an output of 25,000 tons a year. The cost of the project was not disclosed. Construction was to start this month, and the plant is expected to be on stream by mid-1980.

Associated Biscuit/ Smith's Foods/ General Mills

Britain's Associated Biscuit Manufacturers has made an agreed bid of £16.4 million to purchase Smith's Foods, a U.K. producer of potato chips and snacks, from its present American owner, General Mills, Inc. The U.S. company had taken over Smith's in 1968.

Kraftwerk Union

Plans for a $120-million turbine generator plant at North Sarasota, Florida, have been announced by Kraftwerk Union

Kraftwerk Union *(contd.)*

(KWU), the power plant manufacturing subsidiary of Germany's Siemens AG. The project is to be realized through the Utility Power Co., which was set up last year and of which KWU owns 85% and Allis Chalmers the remainder.

Rolls-Royce/ Northern Engineering/ Combustion Engineering

Britain's state-owned Rolls-Royce and the Northern Engineering Industries Ltd., the machine construction group, have agreed on a joint venture with the United States' Combustion Engineering in the nuclear power plant sector. The three companies will set up a new company for this purpose, RNC (Nuclear) Ltd., which will manufacture pressure-water reactors under Combustion license and will also be responsible for worldwide marketing. According to London reports, there are considerations to have the British government participate in the joint venture, which would improve RNC's position particularly on the domestic market.

Garrett

Garrett Corp., a 100% subsidiary of the United States' Signal Companies group, has purchased plant facilities in Thaon-les-Vosges, near Epinal, France. The company plans to invest FF 40 million to convert the plant for the production of turbo chargers for diesel and regular automotive engines. Production is to begin this summer, but the full reconversion will not be completed before 1982. By the mid-'80s, the plant is to turn out 250,000 units annually, and eventually it will also produce aircraft components. The management of the new entity will be taken over by Garrett France SA, which is still to be established.

National Semiconductor/ St. Gobain

California-based National Semiconductor Corp. and France's Saint-Gobain-Pont-a-Mousson have reached a preliminary agreement to establish a joint venture in France for the manufacture of integrated circuits on the basis of metal oxide silicon (MOS) technology. It is planned to set up a new company, of which Saint Gobain would own 51% and National Semiconductor, 49%. Reports said that the project would require an investment of about $120 million over the next five years and that the French government would contribute a "substantial amount."

Barclays/ Singer/ Universal Kredit

Barclays Bank International of the U.K. has reached agreement in principle with the United States' Singer Co. to purchase the latter's German subsidiary, Universal Kredit Bank GmbH, Frankfurt. Universal is active in consumer credit, financing, and leasing and maintains seven branches in Germany. Its gross assets total DM 150 million.

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Community: Commission Gives Stand on Subcontracts

Publication in the Official Journal of the Commission's notice on the compatibility of subcontracts with EEC competition rules gives industry the clarification it has been hoping for (No. C 1; Jan. 3, 1979). Until now, contractors or subcontractors who were in doubt about a particular contractual relationship have had to seek this clarification by requesting a formal decision from the Commission. The notice, which does not affect the firms' right to apply for a negative clearance or to notify an agreement under Regulation 17 *(Common Market Reports, Pars. 2411, 2431)*, is a supplement to the Commission's 1968 notice on cooperation between enterprises that lists the types of agreements the EC executive considers compatible with the cartel ban of Treaty Article 85(1) *(Common Market Reports, Par. 2699)*.

In the Commission's view, Article 85(1) - which prohibits restrictive trade practices that affect interstate trade - does not apply to clauses in agreements between a contractor and subcontractor governing certain manufacturing operations or the production of components if the subcontractor agrees to the following: (a) to use the contractor's technology or equipment only to fulfill the contract; (b) not to make either the technology or equipment available to third parties; and (c) to supply the goods or ser-

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Subcontracts *(contd.)*

vices only to the contractor. This kind of restrictive clause will be tolerated only to the extent necessary for the subcontractor to manufacture the product, provide the services, or carry out the manufacturing operation specified in the contract. If the subcontractor has at his disposal or could under reasonable conditions gain access elsewhere to the technology and equipment needed to carry out the contract, restrictions forcing him to use only the contractor's patents, know-how, and equipment are not compatible with the cartel ban.

The Commission has no objections to clauses containing additional restrictions imposed by the contractor in connection with making his technology available to the subcontractor. It would not be wrong for the contractor to stipulate that the subcontractor refrain from later using his secret manufacturing processes or other know-how acquired in carrying out the contract, as long as these have not become public knowledge. It would not be objectionable to have a clause requiring a subcontractor to pass on to the contractor alone any technical improvement he has made during the term of the contract or to grant the contractor a nonexclusive license for any invention relating to improvements or new applications of the original invention.

'79 EC Finances Hinge on Uncertainties

Never before in its history has the Community entered th new year with so many uncertainties about its finances. The European Parliament's action last December to adopt the higher budget over the Council of Ministers' veto raised legal questions that perhaps only the European Court of Justice will be able to answer in order to reduce the chances of institutional disputes over constitutional issues in the future.

There are also uncertainties about the Community's sources of revenue. All member states were supposed to have complied with the Council's sixth VAT directive by Jan. 1, 1978, so that the Community could get a small portion of the member states' VAT revenue (1% of the assessment base) on top of the customs duties and agricultural levies it collects already *(Common Market Reports, Pars. 3165, 9947)*. Only Belgium and the U.K. managed to meet the deadline; Denmark and France succeeded in 1978 in winding up legislation amending national VAT statutes according to the directive. These four states will be assessed on the basis of the VAT directive and no longer will have to make the cash payments to the Communities that they used to make.

The five states that failed to comply with the EEC directive - Germany, Ireland, Italy, Luxembourg, and the Netherlands - are facing legal action before the Court of Justice. The Commission authorized its budget director, Christopher Tugendhat, to initiate abbreviated proceedings; the Court could rule on the Commission's action in Febru-

Finances *(contd.)*

ary. The EC executive considers the states' failure to enact the necessary legislation a clear violation of obligations they assumed under the treaties.

Government officials in Bonn say that the Commission was notified about Germany's delay last November. Observers say that the Schmidt administration did not propose the amendments early enough to allow for extensive deliberations by Parliament's lower house. The measure will likely be approved in the course of 1979, which means that the VAT directive and its budgetary mechanism could not be applied in Germany before January of next year.

Officials of Italy, Luxembourg, and Holland also say that legislation is pending. Still, Brussels sources say that although the Commission may not gain much from a favorable court judgment on the matter, it is counting on the decision's symbolic and educational impact.

In Brief...

After years of attempts to find an amicable solution, the Commission has brought suit against the U.K. on grounds that it failed to comply with Council Regulation No. 1463/70 (July 20, 1970), which requires introduction of tachographs in trucks (Case No. 128/78) + + + The European Patent Office, in Munich, received 3,600 patent applications from June 1, 1978, until the end of the year. About half of them involved chemicals and pharmaceuticals.

Germany: Steel Strike Ends with Costly Accord

The costliest labor dispute in German history came to an end on Jan. 10 when a narrow majority (54%) of 200,000 employees of the steel mills in the Rhine and Ruhr districts, Bremen, and Osnabrück ratified a new collective contract on which employers and union leaders had agreed three days earlier. The 44-day dispute had idled some 100,000 steelworkers either through strike or the employers' retaliatory lockout. The production and sales losses of the 12 plants affected were estimated at DM 1-1.5 billion. In the coming months the mills will not be able to reach their previous sales quotas because many of their customers, anticipating a long conflict, placed orders abroad, especially with French steelmakers. The agreement came just in time to avert even further damage: several German automakers, the main buyers of sheet metal, were preparing to cut production.

The settlement is expensive in terms of what it will add to the production costs of steelmakers along the Rhine and Ruhr and eventually also in other regions, where contract talks have just started or will do so shortly. Management economists place the added costs at over DM 400 million per year, or 7% more. The contract provides for a 4% wage increase over a 15-month period, retroactive to Nov. 1, 1978. Shift workers will be entitled to four extra days

Steel Strike *(contd.)*

off starting in 1979 and a total of six days off as of 1981. In addition, employees over 50 years of age will get two extra days off starting in '79 and three days off as of 1981. On top of this, all employees will get two more vacation days as of 1979 and another day as of 1980. By 1982 all employees in the steel industry will be entitled to six weeks' vacation regardless of age or service.

The employers' concession on the matter of more days off was the icebreaker toward a settlement because it allowed both sides to save face on the issue that caused the most difficulties: the union's demand for the gradual introduction of a 35-hour workweek. Management was strongly opposed to any formal commitment that could set a precedent for other industries. The agreement retains the 40-hour work clause contained in the previous contract, but in effect means that shift workers will work 39 hours per week this year and even less in 1981. The added vacation days mean that other employees too will be working fewer hours.

Italy: Fair-Rent Law Raises Queries on Evictions

As previously reported, the Italian parliament last year passed comprehensive fair rental legislation by which it sought to regulate landlord-tenant relationships. In doing so, the legislators attempted to end a generation and a half of ad hoc efforts to stabilize rents and protect tenants. (Italy has not had a national rent law since 1934.) One side effect of the law's passage, however, is that it supersedes and vacates all previous stays of orders terminating tenancies, thus creating the possibility of numerous evictions.

In the past years, while the rent statute *(equo canone)* was pending, Parliament had repeatedly stayed the enforcement of all eviction orders that had been handed down by local judiciaries. Consequently, few evictions have been carried out since 1973. It has been reliably reported that there are some 200,000 previously stayed eviction orders pending throughout the country and that the judicial offices are preparing enforcement of these judgments. If all pending evictions were to take place, it has been estimated, then some 900,000 people would have to leave their homes. It has been pointed out, however, that the marshals of the judicial executive authorities tend to move slowly, so that no more than 15% of the outstanding orders are likely to be enforced in the first quarter of 1979.

In the meantime, local authorities have been given some tentative guidelines on how to proceed by an informal group of Roman magistrates. According to these guidelines, most eviction orders should be deferred for another three years, provided that, in the interim, tenants are willing to pay *equo canone* rents. On the other hand, eviction orders should be enforced in cases where (a) the landlord

Fair-Rent Law *(contd.)*

would be caused "real hardship" (e.g., where he owns a single leased unit which he needs to use as his own home) or (b) there were provable, multiple defaults in the payment of rent.

It is apparently within the powers of the executive sections of the judicial departments to accept these guidelines and to administer eviction orders under these terms. Prominent Italian jurists are recommending nationwide adoption of the guidelines, and the Republican Party is planning to make them the basis of national draft legislation.

Britain: Conservative Plans to Curb Union Powers

In a television interview on Jan. 7, the leader of the U.K.'s Conservative opposition, Mrs. Margaret Thatcher, gave an indication of steps that would be taken to curb certain union powers if and when the Conservatives were to return to government. Legislation to be introduced by such a government would, for instance, provide for free secret postal ballots, funded by the government, for union elections or to vote on strike actions recommended by the unions.

It would be for the unions to request such ballots, which Mrs. Thatcher described as "cheap at the price." Although she said she was reluctant to go all the way in imposing this system, the Tory leader nevertheless added that compulsion might be necessary. "It would be possible to say," she said, "that you should only be able to get benefits such as social security benefits as a result of a strike if it is quite clear that a strike has been taken as a result of a secret ballot." She stressed, however, that her party had made no formal decision on this issue.

Mrs. Thatcher said that the legal immunities enjoyed by the unions at present would be reviewed. "Unions have been given enormous powers by Parliament. Parliament has placed them above the law. Anyone that does not use power responsibly must expect his position to be reconsidered by Parliament." She said that the rights (to strike) of workers in essential supply industries such as gas and electricity might be withdrawn, since in these sectors the unions had the power to hold the nation to ransom. "It may be you have to say there are certain services that are so vital that you are not allowed to withdraw your labor under the same terms and conditions as other unions."

Short-term social security benefits such as those received by strikers would be taxable, unlike at present, and any repayment of tax due to strikers should not be paid immediately but after the customary waiting period. Mrs. Thatcher said that compensation should be paid to anyone dismissed on account of a closed shop being in operation, and anyone expelled from a union should have a right of redress in the courts. Also, the terms of reference of the

Union Powers *(contd.)*

Advisory, Conciliation and Arbitration Service should be reviewed.

In reaction to Mrs. Thatcher's statements, the general secretary of the Trades Union Congress, Len Murray, said that the proposals would turn the clock back: "I don't know whether she is getting panicky or trying to cash in on a set of very difficult circumstances...I hope she will change her views when the time comes." David Basnett, general secretary of the General and Municipal Workers' Union, said that some of Mrs. Thatcher's ideas were technically impossible, while others were purely indefensible.

Austria: Kreisky Plans to Hold Early Elections

Is the Kreisky era coming to an end in Austria? Many domestic and foreign observers of Austria's political scene seem to think so, judging by a series of setbacks that have been hurting the image of Chancellor Bruno Kreisky and his governing Socialist Party (SPÖ). Dr. Kreisky himself has now confirmed that general elections probably will be held next May - five months before the statutory term of office expires. Such a step must be judged unusual, considering that Kreisky and the SPÖ have won the last three elections - the last two times, in 1971 and '75, with an absolute majority.

The decision for early elections must be seen against the uncertainties and personal disputes within the government party. The latest blow came in November when the Austrian voters refused to give the government the mandate to activate the Zwentendorf nuclear-power plant. In the summer, Vienna was caught by surprise over the uproar at home and abroad caused by the transit tax imposed on trucks; for several days in July, truckers blocked all of the country's important border crossing points. On the political front, the SPÖ suffered a stinging defeat in the Vienna municipal elections and did not do well in Styria either. Finally, it did not reflect positively on the administration when questions of propriety arose over Vice Chancellor and Finance Minister Hannes Androsch's co-ownership of two major auditing and accounting firms. It took much persuasion of SPÖ party officials to keep Androsch from quitting the cabinet after it appeared that Kreisky gave his deputy less than his full support on this issue.

All these troubles came on top of a spate of economic problems, mainly involving rising budget deficits and a high public borrowing requirement. On the other hand, the government can point to distinct successes. Despite the poor earnings situation of businesses, unemployment has been kept to a very low level (less than 2%), and inflation has been brought under control. Most Austrians today would not want to trade places with their bigger neighbors next door, and this is a factor that could well speak in the

Kreisky *(contd.)*

SPÖ's favor in the next elections. The 68-year-old Kreisky himself remains very popular, and it is generally agreed that without him his party most certainly would not have a chance to again win an absolute majority. In October 1975, its margin was 50.4% of the valid votes, which was good for 93 of the 183 parliamentary seats.

Kreisky last month told a press conference that he would not accept the chancellorship again if his party lost the absolute majority in the next elections and that he would not want to lead a coalition government.

Norway: Court Ruling Backs Bank Shareholders

The Oslo Municipal Court has ruled that the law under which Norway's commercial banks were "democratized" last year fails to provide private shareholders with adequate compensation. The law, which took effect on Jan. 1, 1978, accorded public representatives the majority of seats on the banks' representative councils (supervisory boards). The Court interpreted this as an expropriation of the private shareholders who, according to the Norwegian constitution, are thus entitled to full compensation.

Sixty-eight shareholders had filed suit, claiming that the law's compensation arrangement was inadequate. It is based on the average price of the bank shares in the three years (1975-77) preceding the law or on the price prevailing at the end of 1977, whichever was higher.

The Court held that the arrangement offers no compensation for share losses in the years back to 1973 when the nationalization of the banks first became a public issue. That year, the Social Democratic minority government of Trygve Bratteli had launched the "democratization" drive, which caused the bank shares to drop. Today, their prices are still 25% below 1973 levels. The Court said that compensation will have to be determined on the basis of share prices that probably would have developed if there had been no political debate over nationalization.

The plaintiff shareholders did not prevail with their demand that compensation be based on the banks' total assets. Nevertheless, they reportedly professed satisfaction over the prospect of more compensation than the law allows them at present.

Finance Minister Per Kleppe, who would have to set aside 2.4 billion kroner in compensation on the basis of the Oslo court's ruling, said that the government would appeal, so as to bring the case before the Norwegian supreme court. Observers commented that the Odvar Nordli administration - which succeeded the Bratteli government in 1976 - probably could have avoided the legal dispute had it followed the advice of an expert commission to offer compensation on a five-year basis.

Shareholders *(contd.)*

According to the law, the shareholders may wait until the end of 1980 before deciding whether or not to accept official compensation or keep their shares. The Norwegian banking association has recommended that they await first the supreme court judgment instead of accepting the present compensation terms.

The democratization law means that private shareholders may have only four representatives on the 15-member supervisory boards. Bank employees are represented by three members, while the majority of eight is appointed by Parliament or by local political bodies.

EURO COMPANY SCENE

Borg-Warner/ Fiat/ Van Doorne's Transmissie

According to Dutch reports, the United States' Borg-Warner Corp. and Italy's Fiat will each take a 24% equity valued at 14.4 million guilders in the share capital of Van Doorne's Transmissie, the Dutch company that pioneered the continuously variable transmission system known as Transmatic. As part of the transaction, Van Doorne's capital is to be doubled to 60 million guilders. The other shareholders are the Van Doorne family, with a 39.5% stake, and the Dutch government, with 12.5%. The reports said that with the strong new partners, the company will be in a better position to develop, manufacture, and market the Transmatic system worldwide.

Redland/ Braas/ Season-All

Britain's Redland Ltd. and its 56.4% German subsidiary, Braas & Co. GmbH, both construction materials producers, have formed a U.S. joint holding for the purpose of expanding into the American market. The holding, Redland-Braas Corp., has now made a bid for Indiana-based Season-All-Industries, Inc., a manufacturer of custom-made aluminum windows and doors, with three plants in Pennsylvania and one in Illinois. Season-All reported a turnover of $43 million for 1977 and pre-tax profits of $3.9 million. On the basis of a cash offer of $17 per share, the Redland bid is valued at $33.3 million. Earlier, Redland-Braas had acquired for $26 million the Automated Building Components, Inc. of Miami, a roof fastening manufacturer, with annual sales of about $50 million.

Manufacturers Hanover/ TKM

In order to expand its share of the U.K. retail installment credit market, Manufacturers Hanover Corp. plans to acquire three British companies active in the installment selling and leasing of automobiles. The three - TKM Credit Corp., TKM Leasing Ltd., and TKM Factors Ltd. - are to be purchased, for an undisclosed price, from Tozer Kemsley and Millbourn by Manufacturers Hanover's subsidiary, Ocean Acceptances (London) Ltd.

Common Market Reports

EUROMARKET NEWS

Issue No. 523 *Report No. 362, January 23, 1979*

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Community: Amended Group Accounts Draft Sent to Council

The European Commission has made several significant amendments to its original seventh draft directive on group accounts, and the measure is now before the Council of Ministers *(Common Market Reports, Par. 1407)*. The amended version largely reflects the views expressed by the European Parliament (EP) and the Economic and Social Committee (ESC). The Council's adoption last July of the fourth directive on company accounts, which seeks to coordinate national provisions on annual accounts of companies, also required a number of amendments because the adopted version differs in many respects from the Commission's original proposal *(Common Market Reports, Par. 1391)*.

The original seventh draft would have required each dependent group enterprise incorporated within the EEC and controlling other enterprises belonging to that group to draw up subgroup consolidated accounts (Article 6(2)(a)). The EP shared the criticism expressed by many corporate executives in most member states that compliance with this requirement would be costly and yet of limited interest. It suggested instead that subgroup accounts not be drawn up so long as the dominant (controlling) company publishes a profit-and-loss statement and an annual report for the group as a whole. On this point the Commission, supported

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Group Accounts *(contd.)*

by the EEC accountants' study group, met the EP only halfway: the amended version provides that whenever subgroup accounts are not drawn up, other requirements must be met. A new Section 6a would authorize the member states to exempt a dependent group enterprise from the obligation to establish subgroup consolidated accounts and a subgroup annual report if several conditions are met. Among other things, all shareholders of the dependent enterprise would have to agree to the exemption; the dominant company would have to expressly guarantee the commitments entered into by the dependent enterprise; and the exemption would have to be disclosed in the notes to the group consolidated accounts.

Both the EP and the ESC objected to the original content of Article 6(2)(b), which would have required each of several dependent enterprises established in any member state and dominated by one company incorporated outside the Community to draw up consolidated subgroup accounts and a subgroup annual report. They considered the proposed obligation too onerous, and so did many executives of U.S. parent companies. The EP and the ESC thought that consolidated accounts drawn up for the group as a whole should suffice, provided certain supplementary information is given on the group's activities within the Community. The Commission felt, however, that omission of consolidated subgroup accounts could be justified only for the same reasons that would authorize the member states to exempt dependent group enterprises from the obligation to establish subgroup accounts.

The Commission fully concurred with the EP's suggestion to require information which, for certain activities, distinguishes between those inside and those outside the Community. Thus, an enterprise required to draw up group accounts or subgroup accounts could break down the information with respect to the number of employees, the categories of activities and geographical markets, and research and development.

New Draft of Truck Weights Proposal

The Commission believes the time is ripe to bring some movement to the Community's stagnant transport policy. Thus, in a new draft directive sent to the Council in early January, it proposes maximum standards for the weight and other characteristics (except dimensions) of trucks and tractor-trailers. The Commission expects that the directive would bring about more competition among European truck manufacturers: vehicles meeting the weight standards and other Community requirements on automotive exhaust, safety, and noise control could be sold freely throughout the EEC as of 1983, the year proposed for member states' compliance with the measures.

This latest proposal reflects the Council's failure to

Truck Weights *(contd.)*

agree on a much broader measure submitted in 1971 which also would have provided for standards on truck dimensions *(Common Market Reports, Par. 1812.35)*. Although the original six states in 1972 agreed in principle on the entire measure, accession of the three newcomers (and with it the U.K.'s objections to the proposed dimensions and axle-weight limits) stalled progress in the Council. Only the part dealing with dimensions of trucks is still formally on the Council agenda and is discussed occasionally by the Permanent Representatives.

Rather than risking failure by again attempting harmonization of technical provisions for a broad range of vehicles, the Commission is confining itself to seeking alignment of rules on rigid motor vehicles, articulated vehicles, and road trains. Two-axle rigid and three-axle articulated vehicles are not included in the proposal. The proposed maximum gross vehicle weight would be 44 tons on six axles. The general maximum axle weight would be 10 tons, with 11 tons allowed on an articulated vehicle's or road train's single motor axle to provide better traction, braking, and stability.

Since concern for road damage by heavy trucks has risen in recent years as traffic density has increased, the proposal would empower the member states to bar heavier vehicles from certain routes and from environmentally sensitive areas such as old town centers. The states could also establish special route requirements for the transport of dangerous goods.

In Brief...

Enactment of the planned European monetary system (EMS) hinges on finding an answer to France's demand for a firm commitment to abolish the farm subsidies in intra-Community trade, which would mean less income for German farmers. Bonn's minister for agriculture, Josef Ertl, a Free Democrat and a staunch representative of the rights of German farmers in Brussels, has reportedly threatened to resign unless a satisfactory and lasting substitute for the present subsidies program is found. Many Bonn observers believe that Ertl's resignation could precipitate a crisis in the coalition government that Chancellor Helmut Schmidt would want to avoid + + + The Commission has launched work on its second consumer action program. The work started on its first program in 1973 will continue, but emphasis will lie in developing action against unfair prices. The Commission also wants consumer organizations to have a larger role in any decision-making process affecting consumers.

Germany: Repeal of Real Estate Sales Tax

The German government's plan to abolish the real estate acquisition tax has met with the expected opposition from the state capitals, and it has been reported that some modifications might be made in the present system rather than to-

Sales Tax *(contd.)*

tally abolish it. Still apprehensive about the way Bonn eliminated another important revenue source, the payroll tax, as part of the tax relief bill enacted on Jan. 1 *(Doing Business in Europe, Par. 31,071)*, state officials are concerned about possible loss of the acquisition tax at a time when the states are going heavily into debt to finance their budgets. Only the government of Baden-Württemberg, financially better off than the other states because of a well-balanced industrial structure, is not worried about losing the tax.

Last year the states collected around DM 1 billion from the real estate acquisition tax, which is levied whenever real estate changes hands. The tax base is determined by the price paid for the property. Since it is a state tax granted under a federal statute, the tax rates vary, ranging from 7% in Berlin, Hamburg, and the Rhineland-Palatinate to 3% in all other states. However, in the latter the counties levy another 4%, so the tax burden is about equal throughout the country. Still, there are so many exemptions that 85% of real estate buyers did not pay the tax at all in 1977.

State government officials have suggested lowering the tax rate to 2% and abolishing all exemptions. The federal government opposes this for reasons of equity: the home buyer would be harder hit than institutional investors, such as banks and insurance companies. Bonn will decide in the coming weeks how the present system might be changed. A report on the matter that the Bundestag requested from the government is due in late March. One of the considerations that will enter the report is a change brought about by the EEC's sixth VAT directive *(Common Market Reports, Par. 3165D)*; according to its Article 4, "the supply of building land" is subject to VAT. Although the government has decided to invoke Article 28(3)(b) in conjunction with Annex F, No. 16, which authorize the member states to continue their exemption practices, tax officials in Bonn are nevertheless pondering the implications. Subjecting real estate transactions to VAT could provide a way of compensating the states for losses in revenue resulting from abolishment of the acquisition tax.

Stricter Rules for Medical Instruments

The Opposition parties in Bonn have introduced legislation that would considerably tighten standards for controlling and testing technical medical instruments and equipment. Last year a report by the state government of North Rhine-Westphalia made headlines because it had been established that several patients were injured or had died in doctors' offices and hospitals because of faulty medical equipment. State authorities did not have the power to take the equipment off the market. Members of Parliament have asked the government why household appliances, for instance, are subject to much stricter controls than medical equipment.

Stricter Rules *(contd.)*

Government officials say they regret the absence of strict rules. Experts claim that this loophole has prompted foreign manufacturers of medical equipment to use the German market as a testing ground: once the products are on the market, they then have access to markets elsewhere, especially in the United States. Amendments to the existing law *(Gesetz über technische Arbeitsmittel)* reportedly got bogged down in committee because the coalition parties so far have not been able to agree whether free trade of untested medical equipment should be restricted. It has been suggested that the Opposition's move could bring committee debate to a successful conclusion for the sake of patients as well as the worldwide reputation of Germany's medical products industry.

France: Continued Removal of Price Controls

Following the abolition of price controls for industrial products in France since last June, Economics Minister René Monory intends to do the same for the trade and service sectors by the end of this year. As a first liberalization measure, Monory announced the lifting of controls for laundries and dry cleaners as well as for the book trade, where retailers may now determine their own prices rather than follow publishers' recommended prices. The government is, however, expecting assurance of price moderation from the various sectors before removing controls entirely.

The Barre administration is convinced that free competition, tougher controls, and the prosecution of illegal price agreements will have a calming effect on price development. (To show that it intends to enforce these rules, the government has imposed, for instance, fines on participants in prohibited price agreements in the bakery sector.) The liberalization of industrial producer prices last year has demonstrated, Monory said, that free competition tends to slow inflation at least as much as official price "reglementation." (Nevertheless, France's inflation rate has consistently remained just under 10% for the past four years, whereas Germany's is now below 3%.) Price controls will remain in effect for monopolies and for such licensed activities as the Paris taxicab system.

Britain: Accountants Have Queries on EC Proposal

The Institute of Chartered Accountants in England and Wales, together with the equivalent institutes of Scotland and Ireland, and the U.K. Association of Certified Accountants have submitted a detailed memorandum to the Dept. of Trade in connection with the EEC's proposed eighth company law directive, based on Article 54(3)(g) of the Treaty of Rome, which relates to the qualifications of auditors of limited-liability companies within the Community *(Common Market Reports, Pars. 1411 and 10,042)*.

The U.K. accountancy bodies agree that there should be

Accountants *(contd.)*

a minimum level of qualification. To this extent, they support the draft directive's general objective and believe it will provide a foundation for the eventual mutual recognition of qualifications and for greater freedom to practice as auditors in the EC member states. However, they are "concerned to avoid undue specialization in auditing at the professional educational stage, at the training stage, and in the practice of accountancy, as this would be against the interest of the public, because it would harm providing a wide range of services and advice." If there were separate licensing of an individual activity within the range of services expected of the profession, it might, if too narrowly applied, undermine its unity, with a resultant decrease in its strength and influence, and "the contribution which it makes to the commercial life of the world community."

The accountants also are worried by the "unduly prescriptive approach" of the proposed directive, which they believe could circumscribe the profession's ability to adapt to new situations and new requirements, and they feel certain provisions require further clarification. Also, they consider the scope of the directive to be too narrow and do not regard the fact that the fourth company law directive just deals with limited companies as justification for restricting the application of the eighth directive to auditors of such companies. They recommend that the projected directive encompass the auditors of all entities, whatever their legal form, which fall under Treaty Article 58 and which are subject to an audit of their annual accounts.

The accounting bodies regard it to be of "paramount importance" that the acceptance by the U.K. of the qualifications of another EEC country should be subject to the condition that that country accept the U.K. qualifications. They believe that it should be mandatory, rather than permissible, under the draft directive's Article 10 *(Common Market Reports, Par. 1411K)*, to accept qualifications that conform with the directive and to allow those who "satisfy the requirement of sufficient legal knowledge" to effect statutory audits. However, they point out that there is, at present, no system in the U.K. of examining this legal knowledge, nor for taking disciplinary action against auditors from other member states, since none of these accounting bodies has any authority over those who are not actual members, and the Dept. of Trade has no power in this matter. There is also at present no centralized list of authorized auditors, as prescribed by Article 12 *(Common Market Reports, Par. 1411M)*, and the U.K. accountants maintain that these questions must be resolved before the eighth company law directive can be implemented.

Belgium: CVP's Martens to Try for New Coalition

The 42-year-old chairman of the Flemish wing of Belgium's Christian Socialist Party (CVP), Wilfried Martens, on Jan. 9 agreed to make an attempt to form a new coalition government. Martens's appointment was welcomed by spokesmen of all political parties, who said that the CVP had to accept the blame for last October's government crisis and thus should assume responsibility for finding a solution. Martens so far has not held a cabinet post and has been a member of parliament for only four years. Political observers say it cannot be ruled out that Martens, in the event that he succeeds in assembling a new coalition, will propose that it again be headed by former prime minister Leo Tindemans. In the Dec. 17 parliamentary elections, Tindemans had reaffirmed his status as Belgium's most popular politician, with nearly 140,000 personal votes, even though it was known that he planned to be a candidate for the European Parliament.

Martens initially refrained from drawing up a specific coalition formula. The Flemish faction of his party would like to see an alliance with the Socialists, but it has disagreements with the Walloon wing, which represents Belgium's second-largest party group. The Flemish CVP and the Flemish Socialists would give priority to finding a rapid consensus on a socio-economic government program, while wanting to leave the planned state reform largely to Parliament (which will be a constituent assembly in this coming session). The Walloon parties, on the other hand, particularly the Socialists, are insisting on a binding and detailed government agreement concerning the state reform.

The situation is complicated by contrary opinions about the composition of a future government. The Walloon Socialists are adamant about including the Brussels-based Francophone Party, FDF, in a new coalition; otherwise, they say, the government would not be sufficiently represented in the Brussels region. The Flemish parties would accept the FDF only if the Flemish Volksunie became a coalition member, too. However, the Volksunie has yet to recover from the stinging defeat it suffered in the October elections, and it is not sure whether it should again join the government. Under these conditions, it should be fairly difficult for Martens, the new *formateur*, to forge a new administration soon.

Court Backs 'Conscientious Job Objector'

A Belgian labor court for the first time has acknowledged the existence of the right to be unemployed for reasons of "conscientious objections," thereby allowing an electrician to continue receiving unemployment compensation. The Belgian labor authorities had withheld these benefits for four weeks after the man had refused to accept a job with a company that performed work in the Tihange-Huy nuclear power plant. The electrician first turned down the job offer with the argument that he could not work at great heights,

Job Objector *(contd.)*

whereupon he was refused further unemployment compensation. During appeal proceedings before the labor court at Huy, near Liège, the worker cited humanitarian and environmental reasons for his refusal, saying that he had feared that the authorities would reject these arguments. The court, however, accepted them, ruling that they were protected by the Belgian constitution.

Switzerland: More Curbs on Property Sales to Foreigners

The Swiss government has published a draft revision of the 1976 decree governing the purchase of real property by aliens in tourism centers *(Doing Business in Europe, Par. 30,929)*. The new decree, which is to take effect on July 1, would represent a tightening of existing procedures. It would apply a stricter quota system to special permits issued to nonresidents (aliens without a residence permit) who want to buy vacation apartments in Switzerland.

The proposal, which still has to be discussed in Parliament, represents a compromise between the positions taken by opposing factions in Switzerland. On the one hand, there are those who are calling for a complete stop to any real property sales to foreigners. On the other, there are the cantonal governments in the tourism areas which would prefer a generous application of the aliens decree in the interest of the local construction industries and the labor market.

Observers have pointed out that, even if the discussed decree were to take effect next July, there should be no lack of vacation homes for nonresidents until well into 1980. They say that "several thousand" such homes are under construction or in the planning stage and that the steep prices in themselves are acting as a regulatory force. According to the Justice Ministry, Swiss authorities last year issued more than 5,000 permits for the purchase of real property by aliens; about half of them were for vacation apartments in tourism centers. The figures represent a record.

The new decree would extend by another 40 communities the existing geographical limits applying to such purchases. The individual cantonal governments would be given reduced quotas for special permits, based on the 1975-77 averages. Thus, Wallis Canton would have an annual quota of only 670; Graubünden, 314; Waadt, 263; Bern, 157; and Tessin, 208. There would be no change in the basic rule that at least 35% of the units of any new project must be reserved for Swiss nationals.

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EUROMARKET NEWS

Issue No. 524 *January 30, 1979*

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Community: Farm Subsidy Plan Could Launch EMS

The European Commission's plan for national subsidies to farmers may be the key to the introduction of the European monetary system (EMS). France and Germany have been deadlocked since the middle of December about putting into concrete terms a clause in the Dec. 5 declaration of the nine heads of government that made the introduction of the EMS dependent on the gradual removal of monetary compensatory amounts (MCAs) to farmers. The goal is to avoid creation of permanent MCAs and to progressively reduce present MCAs in order to reestablish price uniformity in the common agricultural policy *(Common Market Reports, Par. 10,095)*.

France wants the Community's current farm trade subsidies program to be curtailed so that, ultimately, uniform farm prices can prevail throughout the EEC. Paris is insisting that temporary MCAs that may be paid after the EMS goes into operation should not exceed current levels. The French government objects to the MCA system because it subsidizes German farm produce exports so that they can compete abroad, while at the same time raising French export prices in order to bring them closer to prices abroad. Paris believes this gives German farmers an unjustifiable edge in that it assures them continued high income while punishing French farmers for producing so efficiently and at relatively low prices.

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Subsidy Plan *(contd.)*

Concerned about losing the farm vote, the Schmidt administration has been reluctant to accede to France's request, although Bonn is not opposed to phasing out the MCAs eventually; a major issue has been the time element. The Commission's farm subsidy plan might enable Bonn to agree to the eventual abolishment of MCAs because it would effectively assure German farmers an income at current levels. Any future rise in the German mark's value after the EMS goes into operation (and a corresponding drop in farmers' income) would be compensated through subsidies from the federal government under national instead of Community rules. But since abolishment of MCAs might encourage French farmers to export more, prices in Germany would tend to go down, and it would fall on Bonn alone to bear the cost of keeping prices artificially high. However, Paris has been insisting that Bonn refrain from instituting measures along these lines.

Commission lawyers see some difficulties in the realization of the plan because Treaty Article 42 forbids national farm subsidies and allows for EEC aids only on narrow grounds *(Common Market Reports, Par. 421)*. They admit, though, that the common agricultural policy (CAP) has required occasional bending of Treaty rules. National subsidies could possibly be justified, they say, under CAP's social function, which guarantees farmers a fair standard of living (Treaty Article 39, *Common Market Reports, Par. 405*). National farm subsidies could encourage farmers to produce more than the market can take, observers point out, and this could delay the reform sought by some member states, especially the U.K., and contemplated by the Commission. They believe, however, that introduction of the European monetary system would be worth the delay.

Paris to Push Environmental Legislation

The French government has told the other eight member states that it wants to utilize the powers it derives from the presidency of the Council of Ministers during the first half of '79 to push discussions on several pieces of legislation with environmental connotations, among them the draft directives on control of sulfur dioxide and toxic substances.

Paris is counting on support from Bonn for both measures; past experience in Brussels has shown that, whenever France and Germany align forces, the chances for adoption of a piece of Community legislation are good. (The German government now has an even greater interest in pushing for further limitation of sulfur dioxide emissions since a weather inversion on Jan. 17 forced the authorities to issue for the first time a smog alarm in major parts of the heavily industrialized Rhine and Ruhr districts.) A draft directive submitted by the Commission to the Council in early 1976 would establish health protection standards for sulfur dioxide, and another measure concerns the use of

Environment *(contd.)*

fuels, with the aim of reducing sulfur dioxide emissions beyond the limits already established in a November 1975 directive *(Common Market Reports, Pars. 3315.28, 9806)*.

Brussels observers attach even greater significance to another proposal that would require manufacturers to test new chemicals for their effects on man and the environment before putting them on the market. Speedy deliberation of the proposal, which was submitted in 1976 to the Council by the Commission in the form of amendments to a 1967 measure, is necessary not only to prevent accidents similar to the Seveso, Italy, incident but also because the U.S. Toxic Substances Control Act (TOSCA) is bound to affect Common Market-based manufacturers that export to the United States. Adoption of the Community measure would enable the Commission to press for some reciprocal arrangements with the U.S. government.

Commission and U.S. officials have met four times so far to talk about the implications of TOSCA for Community products exported to the USA. A major purpose of these negotiations is to clarify, among other things, just what substances would be covered, where the tests would be made, and under what conditions tests of national laboratories would be mutually recognized.

n Brief...

The Commission has proposed to the Council a draft directive that would require companies whose stock and other securities are admitted to any EEC stock exchange to publish an interim report about their business activities covering the first half-year. As part of the Community's company law coordination drive, the measure (together with the pending prospectus and securities admission proposals) would help create a genuine European capital market + + + The Community's 1973 environmental action program calls for, among other things, an objective evaluation of the noise risks to human health that emanate from machines in factories, traffic, and other sources. The Council has just received a Commission report with the results of Brussels' work in determining the criteria to be applied in measuring the noise volume at various sources. This information is needed for any legislative follow-up by the Community.

France: Inheritance Tax Reform, No Net Worth Tax?

The results of a study completed recently by a government-appointed commission appear to have reduced the chances for the introduction in France of a direct net worth tax which has been demanded by the political left for a long time. Instead, the three-man expert group recommends a sweeping overhaul of the existing inheritance tax system which would take into account the wealth of heirs. The commission's report has been sent to Parliament, where it is to be debated before the government comes up with firm proposals.

Tax Reform *(contd.)*

The commission based its work on the premise that the disparities among assets are much greater than among incomes, so that it would be appropriate to place a heavier tax burden on large personal fortunes. Nevertheless, it warns of the introduction of a net worth tax, citing a long list of drawbacks. In basic terms, the experts believe that a high tax rate would be a serious economic disincentive, while a low rate would not help remove existing inequities, aside from its low revenue potential. Comparisons with other countries show, the commission says, that net worth tax rates are not "expropriative" anywhere. Also, generous exemptions and widespread evasion in France would keep revenues to below 0.2% of GNP.

Most of these disadvantages could be avoided with a reformed inheritance tax, which could be more easily administrated and would fall due only every 30 years or so. The commission estimates potentially taxable net assets in France at FF 5,000 billion. To offset inflationary effects, it is recommended that the exemption for each direct heir be drastically raised from FF 175,000 at present *(Doing Business in Europe, Par. 22,853)* to about FF 400,000. The present tax progression of 5% to 20% should be extended to 40%, with the maximum rate applying to assets of FF 2 million or more per heir (without the exemption).

A really innovative aspect of the study is the recommendation of a surcharge calculated on the net worth of an heir and beginning with an amount of FF 10,000. The surcharge would not be imposed unless there were a regular inheritance tax debt of at least FF 10,000. Also, it would not be levied if an heir's personal fortune did not exceed FF 1 million (or more, depending on the number of his children). The surcharge, it is proposed, would vary between zero and 50% of the regular inheritance tax due, with the 50% ceiling applying to assets of at least FF 10-12 million. At the very most, the total fiscal burden on an heir would reach about 60%. This would be the case when an inheritance exceeded FF 2 million (without exemptions) and when an heir's personal assets exceeded FF 10-20 million.

Commentators conceded that the proposed surcharge constitutes the "most original" aspect of the commission's recommendation, but they also warned that political practicability rather than originality will have to guide the government's eventual drafting of the legislation.

Tax Protocol Ratification Seen for '79

Although the French National Assembly did not ratify the French-U.S. tax protocol by the end of 1978, it is now definitely expected to do so within a few weeks, after President Giscard d'Estaing signed the document on Jan. 17. At the same time, it was predicted in Paris by David Rosenbloom, the U.S. negotiator, that the protocol would go to the White House within this month and that the Senate For-

Tax Protocol *(contd.)*

eign Relations Committee would probably approve it sometime in mid-'79. After that, final ratification could be expected by the Senate, Rosenbloom said.

Senate action by February 1980, at the latest, is essential for many Americans living in France because that date constitutes the French deadline for the filing of 1979 tax returns. In the event that the U.S. fails to ratify the protocol on time, these individuals would be temporarily exposed to double taxation because French ratification alone would repeal as of this month Article 164(1) of the French tax code, which in the past has protected U.S. residents in France from such double taxation *(Doing Business in Europe, Par. 30,921)*.

Rosenbloom, international tax counsel at the U.S. Treasury Dept., made his optimistic forecast of early-enough passage at a Paris meeting cosponsored by the American Chamber of Commerce in France and by the American Tax Institute. He said he saw no particular obstacle to U.S. ratification, describing the protocol as being "not terribly controversial."

Netherlands: Dutch Firms May Now Raise Foreign Loans

In a move that in effect supersedes a rule dating from 1945, the Dutch Central Bank this month changed its regulations governing long-term capital imports, thus enabling a large number of domestic companies to borrow abroad. In the past, only relatively few multinationals with foreign subsidiaries had access to the capital markets abroad. As announced in the state gazette on Jan. 18, the Bank will now accept applications by companies seeking permission to obtain foreign loans, either in guilders or other currencies. The funds will have to be spent in the Netherlands, however.

There are five other conditions attached to the permission to borrow abroad: (1) loans must have a maturity of at least 10 years; (2) repayment must be by at least five annual or 10 semiannual equal installments, regardless of whether or not there is provision for a repayment-free initial grace period; (3) early repayment is not permitted; (4) interest terms must be fixed for the duration of the loans and may not be readjusted to reflect prevailing market conditions; and (5) no bearer debt certificates shall be issued.

Amsterdam financial sources commented that the Bank's step can be explained with Holland's estimated 2-billion-guilder payments deficit in 1978 - the first shortfall in seven years. Also, the government must relieve pressure on the domestic capital market because of its own high public borrowing requirement (probably 3.5 billion guilders this year as compared with 3.2 billion in '78). The first state bond issue placed in the current fiscal year, with a matu-

Foreign Loans *(contd.)*

rity of 10 years and a coupon of 8.5%, raised 500 million guilders. The second issue, with volume and emission price still to be announced, bears an interest rate of 8.25% and also has a term of 10 years.

Germany: War Burdens Law Expires in March

Officials in Bonn's Finance Ministry are putting the finishing touches on a draft decree that would allow some 250 special tax offices throughout the country to formally close the files of some 2 million taxpayers. The reason for this is that a special tax statute, the Equalization of of Burdens Law *(Lastenausgleichsgesetz)*, will expire on March 31. That measure attempted to distribute among the entire population the effects of the damage suffered by many citizens during World War II, from bombing as well as from expulsion or flight from the eastern provinces and East Bloc countries *(Doing Business in Europe, Par. 23,365)*. About five million homes were destroyed or damaged in the war, and around 12 million Germans fled or were expelled.

Approximately one million individual and corporate taxpayers chose to pay off their tax debt ahead of time, which saved them interest and also entitled them to a deduction. The remaining one million, virtually all individual taxpayers, will make their last payment of capital levy on Feb. 10 and thus will end their tax liability under the law. For 27 years, taxpayers have made quarterly payments based on their assessed property brought safely through the war. Some DM 50 billion were redistributed this way. In the early years, refugees received cash benefits to meet their immediate needs, rehabilitation loans for new businesses, and some compensation for lost savings and property. Today the principal benefits are higher retirement incomes for those who chose to accept larger monthly pension benefits instead of a one-time lump-sum payment.

The benefits were financed by three levies imposed under the law, the most important being the capital levy *(Vermögensabgabe)*. This levy amounted to half of an individual's or company's net worth held on June 21, 1948, the date of the German currency reform. Enterprises established after that date were not subject to the levy. Another levy, imposed on profits from the redemption of mortgage loans *(Hypothekengewinnabgabe)*, was designed to take away some of the gain that accrued to a property owner at the time of the 1948 currency reform. The reform scaled down to one-tenth a borrower's mortgage obligation toward his creditor but left the value of his property untouched. The third levy *(Kreditgewinnabgabe)* was introduced to skim off the book profits made by companies in converting their Reichsmark balance sheets to DM readings.

Britain: Questions on Picketing in Labor Disputes

Extensive secondary picketing in the British industrial dispute between hauling firms and truck drivers has led to widespread blockading of ports and of factory gate pickets, causing shortages of foodstuffs and essential materials and forcing sizable layoffs in industry. This has focused attention on the somewhat imprecise nature of current U.K. law relating to picketing in general.

Section 15 of the Trade Union and Labor Relations Act 1974 *(Doing Business in Europe, Par. 23,931)* states that "it shall be lawful for one or more persons in contemplation of furtherance of a trade dispute to attend at or near a place where another person works or carries on business or any other place where a person happens to be, not being a place where he resides, for the purpose only of peacefully obtaining or communicating information or peacefully persuading any person to work or abstain from working." Home Secretary Merlyn Rees has made it clear that picketing is illegal if it obstructs police in the performance of duty or if it involves breach of peace. However, picketing in the U.K. has by no means always been peaceful.

It has generally been thought that Section 13 of the 1974 Act (which states that steps taken by a union in furtherance of a trade dispute are not actionable in tort) would afford protection in a civil action relating to secondary picketing. However, on Dec. 21, 1978, the Court of Appeals held that the National Union of Journalists had acted unlawfully in ordering journalists of a national Express Group newspaper to break their employment contracts in support of a strike of provincial journalists by "blacking" news provided by the Press Association. Lord Denning said that "this court has often said that some limits must be put on the wide immunity which is given or appears to be given by the statute, otherwise the freedom of ordinary individuals to carry out their business in peace would be intruded upon beyond reason." Further, the judge emphasized that "the act must be such as to hold a reasonable prospect or be reasonably capable of advancing the trade dispute."

Since the national journalists were not directly involved in the original strike, the NUJ could not invoke Section 13. Observers say that this principle undoubtedly will be extended to include some aspects of secondary picketing, which is illegal in the United States and which the director-general of the U.K. Engineering Employers Federation described as amounting to "no less than terrorizing innocent companies and their employees" and as a "new and sinister threat to British industry."

Some four months prior to the current troubles, the government had issued a draft code of practice for discussion by both sides of industry and senior police officers, but this has yet to be agreed on. The Transport and General Workers Union, to which the truck drivers belong, has

Picketing *(contd.)*

issued its own code of practice. It says that picketing should be confined to the drivers and vehicles of independent haulers serving firms in dispute with the union. In any event, pickets should not seek to interfere with vehicles carrying priority supplies.

The Confederation of British Industry, in the meantime, stated that, unless the pickets were withdrawn quickly, "the government will be totally failing in its duty if it continues to rely on a code which a union cannot enforce and which relies on the whims and fancies of local pickets and strike committees now guilty of all kinds of abuses."

Italy: Few Surprises in Three-Year Economic Plan

The three-year economic stabilization program presented ceremoniously this month by the Italian government to Parliament, the parties, and the labor unions has been termed essential to the country's continued partnership in the European Community, and it may well be a decisive factor when the political future of the Andreotti administration is again at stake. The so-called Pandolfi Plan - named after its principal sponsor, Treasury Minister Filippo Pandolfi - contains few surprises, however. Its main targets are a reduction of inflation from 14% to 7.4% by 1981, the creation of 550,000 to 600,000 additional jobs by that year, the safeguarding of Italy's economic integration in the EEC, and the stability of the lira within the proposed European monetary system.

The program projects an annual growth rate of 4.4% for this year and of 4% each for 1980 and '81. Thus, as of 1980, Rome plans for a markedly slowed expansion of real-term incomes, so as to make room for higher investments and durable economic growth. Massive public investments are to provide the initial stimulation, with much of the effort concentrated on the country's south, particularly when it comes to creating more employment. This does, however, depend on an effective freeze of real-term wages and a reduction of social welfare spending - areas which, many observers believe, are the weakest spots in the Pandolfi Plan, since they have to involve the cooperation of the political left and the unions.

In other news, the Bank of Italy on Jan. 18 significantly eased its credit restrictions in order to aid industrial output, which has been on the upturn lately. The Bank raised the rate of permissible credit expansion by one point to 14% for January and to 15% for March (compared to the 1978 March baseline), which is expected to raise the volume of available credits to industry by up to 2,000 billion lire over the next two months. The limit on loans granted outside the overall restrictions has been doubled to 100 million lire.

Common Market Reports

EUROMARKET NEWS

Issue No. 525 *Report No. 363, February 6, 1979*

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Community: Brussels Gives New Definition of State Aids

The Commission has further defined the conditions under which a member-state government may aid businesses that invest in a country's development regions. The number of jobs created will henceforth also be taken into consideration, along with the region's state of development.

Treaty Article 92(1) prohibits any state aid, either in the form of cash or tax relief, that favors certain businesses and thus distorts competition to the detriment of intra-Community trade. Under Article 92(3), however, aids to promote the economic development of areas with an unusually low standard of living or serious unemployment may be permitted. It is up to the Commission to see to it that any government assistance for those areas is offered only to companies whose activities will benefit the region *(Common Market Reports, Pars. 2921, 2932).*

In 1971 the Commission established a first set of principles to coordinate national aids, and they were revised in 1975 *(Common Market Reports, Par. 2922.31).* Taking into account the specific economic and social needs of each region, the principles allow the governments to offer assistance up to a variable degree of a project's overall investment cost, depending on the region's development. From now on, the number of jobs created by an investment

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State Aids *(contd.)*

will enter into the Commission's consideration when it reviews a member state's aids. For example, aid given to a business located in a region that is industrially somewhat advanced may normally amount to either 20% of the overall costs of investment or 3,500 European units of account for each new job created by the investment; the maximum is 25% (in Ireland, Northern Ireland, and the impoverished Mezzogiorno region of southern Italy, government aid may reach 75% of the costs). In introducing this employment-related criterion, the Commission hopes that more will be done to stimulate the advancement of backward regions.

In the revised principles, the Commission is reiterating its stand that it is incompatible with Treaty rules for a national government to use regional aids to keep ailing companies alive by giving grants to offset operational costs. At one time the Commission considered bringing the U.K., the worst offender on this score, before the Court of Justice. Now the Commission has given the offending states a grace period: the excessive aids may continue for the next three years but may not exceed present levels. During that time Commission lawyers will look for a way to stop them altogether.

Member States Get Poor Marks on Equal Pay

All member states received poor grades in the Commission's just-released report on their compliance with the directive on equal pay for men and women. Those with the lowest marks will most likely be taken to the European Court of Justice under Treaty Article 169.

The measure, adopted by the Council of Ministers in 1975, seeks to ensure observance of the equal pay principle, which appears in Treaty Article 119 but was never taken seriously. The states believed that the provision was not directly applicable and required implementation by each state. Eventually, however, the Court of Justice ruled in *Defrenne v. Sabena* that the principle has had direct effect since 1962 *(Common Market Reports, Par. 3942.15)*. The directive's one-year deadline for compliance thus had become redundant, but not its actual content. Compliance meant there would have to be a stop to all forms of discrimination on grounds of sex with regard to pay for equal work. It also meant that there could no longer be discrimination in national labor law and collective bargaining agreements. Member states were required to introduce the laws necessary to enable employees to seek recourse if they thought they had been discriminated against on the matter of pay.

The Commission believes that the days are gone when open discrimination was found in union contracts which expressly provided for higher pay for men, even when women performed the same tasks. However, it found considerable disguised discrimination, such as union contract clauses

Equal Pay *(contd.)*

establishing jobs that are to be filled by women only and that are intentionally low-paid. Discrimination is possible even if equal pay is guaranteed in a contract - for instance, when the "head of the household," traditionally a man, is paid more. Here the Commission believes the member states must establish a new, nondiscriminating criterion that provides for more pay to anyone with parental duties.

Although the Commission thinks that a lot can be done to help women attain equal pay, real improvement will come only when more women have the courage to go to court. Though one of the objects of the directive was to ease access to judicial redress, the Commission says that the situation has not improved. Luxembourg and Denmark have no laws at all on judicial recourse against pay discrimination. In Belgium, France, Holland, and Italy, few women ever go to court to challenge unequal pay. In the U.K., about 2,500 women have sued their employers since 1976.

In Brief...

The Court of Justice will hand down its judgment in the Hoffmann-La Roche case on Feb. 13. A major issue in the dispute between the Commission and the drug manufacturer is whether the fine imposed on La Roche for alleged abuse of its market-dominating position may be reduced because La Roche managers negligently erred about the illegality of granting rebates in a discriminatory manner (*Hoffmann-La Roche v. Commission*, Case No. 85/76, *Common Market Reports, Par. 9853*) + + + The Commission is reconsidering its draft directive on misleading advertising that it submitted to the Council in mid-1977. The proposal received criticism from many corners, most pronounced from the U.K. Both houses of the British parliament rejected the measure on grounds that it would require new legal instruments, such as a temporary injunction against an unfair advertiser. Since the British government cannot ignore Parliament's view, the chances that the proposal would be adopted in its present form are slim.

France: Social Insurance Reform Sought

At its annual meeting last month, the French industrial federation, Conseil national du patronat français (CNPF), demanded a sweeping reform of the nation's social insurance system in order to control costs and spread more equitably the burden among the beneficiaries, employers, and the government. According to CNPF figures, French social insurance expenditures in 1977 totaled almost one-third (29%) of GNP and exceeded by FF 45 billion the national budget's FF 415 billion. Within the 12-month period that ended on June 30, 1978, the volume of social insurance benefits rose by no less than 26%, the CNPF said.

"So far, there has been a lack of any political will to attempt a genuine reform of the huge social machinery," declared Yvon Chotard, head of the Patronat's social com-

Reform Sought *(contd.)*

mittee. "This is because the system...is being mainly financed by the employers." Thus it has not become a real public issue, he said. Last year, 97% of the *sécurité sociale* revenues alone (health and pension insurance and family allowances) came from contributions. Of these, the employers accounted for 79% and the employees for only 21%. Comparative statistics show that of all West European countries, France puts the highest social insurance burden on the employers *(Doing Business in Europe, Par. 22,829).*

As of Jan. 1, 1978, *sécurité sociale* coverage became obligatory for all Frenchmen, not only employees and self-employed individuals. This extension has further strained the system, so that the average contribution rate now stands at 31% of gross pay. This does not include contributions toward family allowances, workmen's compensation, supplemental pensions, and other corporate benefit plans.

Patronat spokesmen described the existing system as "anonymous, irresponsible, and inflationary." They said it impeded competitiveness and investment activity, discouraged additional hiring, and was counterproductive to a policy of improving real-term wages.

Calling on the government and legislators to tackle a reform as soon as possible, the CNPF submitted a detailed list of what it should entail. Among the needs mentioned were (1) setting ceilings for expenditures, (2) ranking benefits in order of their importance so as to establish financial priorities, (3) shifting a greater part of the contribution burden to the beneficiaries and the state, and (4) finding ways of controlling disproportionately rising health care costs. One way of doing this, the CNPF suggests, is to effect an organizational overhaul of the entire hospital system and apply rigorous curbs on the abusive use of medical services and drugs. Also, the central social insurance administration (Agence centrale des organismes de sécurité sociale) should be disbanded, and its functions should be taken over by regional funds under government supervision.

Italy: Stock Markets Still Waiting for Rome Action

Despite the modest rally of share prices at the Milan bourse late last month, there was no letup in the gloom prevailing at the Italian stock exchanges following the Jan. 17-18 strike of the country's stock brokers and the personnel of CONSOB, the regulatory agency. The walkout was called after the government named a movie theater impresario, Bruno Pazzi, to the CONSOB board. (Pazzi is reputed to be a personal friend of Prime Minister Giulio Andreotti.) The president of the Milan bourse, Urbano Aletti, handed in his resignation because of the appointment, saying that Pazzi was not qualified to fill the post.

The "Pazzi affair," however, was only the straw that

Stock Markets *(contd.)*

broke the camel's back, financial observers said. The frustration over the inadequacies of the domestic stock market has been building up for years among brokers, banks, the regulatory authorities, and stock exchange personnel. Several reform proposals by the government have been stalled by political arguments. In fact, Treasury Minister Filippo Pandolfi was to have submitted a new reform plan on Dec. 10 but had to hold off. Some reports said the proposal for more shareholders' protection may have conflicted with an initiative pending in the Senate. The public is also waiting for a study now being prepared by a government-appointed "Commission of the 23," which, however, is not expected to finish its work before next year.

First established in 1975, the CONSOB (Commissione Nazionale per le Società e la Borsa) is still waiting for the government and Parliament to broaden its powers and to continue the reform of the securities market that was started in a small way five years ago. Since then, the agency has appealed for tighter rules governing listings, stricter publication requirements for listed companies, and obligatory announcements of merger and takeover offers, among other things.

The status of the stock markets in Italy is such that on the country's leading bourse, Milan, only 141 companies are listed. However, an estimated 75% of the transactions in the shares of listed companies is said to take place outside the exchanges, and, as a result, officially quoted prices are often completely unrealistic, which does little to encourage investors' confidence. The shares of foreign companies cannot be listed at all, probably because they would represent such an attraction to Italian investors that there would be a huge capital outflow abroad.

Germany: Construction Sector Gets Winter Grants

Although roughly 120,000 German construction workers have been laid off because of the severe winter, work on hundreds of sites involving tens of thousands of workers goes on, thanks to a unique program financed by the construction industry and the federal government. Under the plan, companies that incur additional costs in continuing construction work during the winter period receive grants from a fund to which all construction companies contribute throughout the year.

Construction firms may receive grants from the fund ranging between 30% and 60% of the cost of special winterized equipment, tools, and materials, such as nonfreezing concrete. If they rent equipment, they may obtain similar grants to offset the cost. They are furthermore entitled to DM 1 to 3.60 for each hour an employee works at weather-protected construction sites. These amounts are paid out from Dec. 1 through March 15. Construction workers get an

Winter Grants *(contd.)*

additional DM 2 an hour to buy heavier clothing or, generally, for working outside during this cold-weather period.

During last year's relatively mild winter, hundreds of construction firms received some DM 650 million in grants. Government officials anticipate that the overall sum for 1978-79 may be substantially higher if the severe weather continues into February and March.

The 120,000 construction workers now laid off are still faring better than the 1.1 million jobless receiving unemployment compensation: benefits paid out because of bad weather *(Schlechtwettergeld)* are higher than unemployment benefits *(Doing Business in Europe, Par. 23,436)*. Bad-weather pay is financed by the government's unemployment insurance fund, to which employers and employees contribute equally *(Doing Business in Europe, Par. 23,456)*. In the winter of 1977-78 these benefits totaled around DM 750 million.

Britain: Arbitration Service Loses Appeal

The judgment of the Court of Appeals on Jan. 17 in *U.K. Association of Professional Engineers v. The Advisory Conciliation and Arbitration Service* (ACAS) is likely to have wide implications in the industrial relations field, particularly in the engineering industry, and impose limitations on the powers of the ACAS, which may prove unacceptable to trade unions and, indeed, the engineering employers in view of the established national procedure agreements.

In this case, the Association had invoked Section 11 of the Employment Protection Act 1975, which empowers an independent trade union to refer a recognition issue to ACAS, this being "recognition of the union by an employer for the purpose of collective bargaining." ACAS was appealing against the High Court's decision that it had failed to carry out its legal duty in not recommending recognition of the Association at APE-Allen Ltd., a Bedford manufacturer of diesel and steam turbine engines, although 84% of the professional engineers there were in favor of this. The appeal was turned down.

Section 1(2) of the 1975 Act laid down that the ACAS "shall be charged with the general duty of promoting the improvement of industrial relations and, in particular, of encouraging the extension of collective bargaining and the development and, where necessary, reform of collective bargaining machinery." Lord Denning, the presiding judge of the Appeals Court, interpreted this as meaning that ACAS should have given priority to its particular duty of encouraging the extension of collective bargaining, which the recognition of the Association would do, rather than to its general duty of facilitating industrial relations.

Lord Denning referred to the following passage in the

Appeal *(contd.)*

ACAS report: "We also cannot disregard the implications for industrial relations within the engineering industry of any recommendation that would be strongly opposed by the Engineering Employers' Federation and the Confederation of Shipbuilding and Engineering Unions, representing respectively the great majority of the employers and workpeople in the industry." He said that "the implications" were presumably strike action or blacking.

"Ought ACAS to be influenced by implications of this kind? My answer would be emphatically no. It would make ACAS the tool of the powerful trade unions. It would cease to be." Lord Denning accepted the argument by ACAS that a "recommendation in favor of U.K. APE would lead to further fragmentation of procedural arrangements." However, he said, while it was very disturbing in industry to have too many unions representing small groups of workers, this was not a sufficient ground to justify the decision of ACAS.

Switzerland: Ban Lifted on Securities Sales to Aliens

The Swiss government on Jan. 24 lifted the rule that had prevented the sale of Swiss securities to foreigners since February 1978. At the same time, the National Bank announced that the curbs on the importation of foreign bank notes had been removed and that the rule reserving at least 50% of franc-denominated domestic bonds to Swiss nationals also had been canceled.

The announcements, made after market hours, came as a complete surprise in Zurich, because even most insiders did not consider the monetary situation stable enough for such quick action by the authorities. The news was welcomed by the financial press (Neue Zürcher Zeitung: "A successful day"), and the head of the Swiss Bankers' Association, Alfred Sarasin, said that "We are very glad that this...prohibition, which had come under political pressure, has been rescinded." Sarasin said the restrictions had never served any useful purpose and merely obstructed "the regular (financial) market."

Financial observers expected that the removal of the curbs would, at least temporarily, help to rally the Zurich stock market. Indeed, on the day following the announcements, share prices rose on the average by 5%, for some blue chips even up to 10%. The interest was concentrated on such big names as Nestlé, Ciba-Geigy, Hoffmann-La Roche, the three major banks, and insurers. The euphoria did not extend to the bond market, where investors have to be content with average yields of 3% (minus 35% anticipatory tax withheld at source). Trade was somewhat livelier in franc-denominated foreign issues, which are not subject to that tax and which have slightly higher yields, at 3.5-4.5%.

The ban on the purchase of Swiss securities by nonresidents was imposed as of Feb. 27, 1978, to slow the inflow

Securities *(contd.)*

of foreign exchange caused by the decline of the U.S. dollar on the international currency markets *(Doing Business in Europe, Par. 31,009)*. In addition to that ban, the importation of foreign bank notes was again restricted to the equivalent of SF 20,000 per person and quarter, a limitation that the government had already applied in 1974 and '76.

Both the National Bank and the Finance Ministry in Bern insisted that the latest action in no way represented a change in the country's monetary policy, especially in regard to Switzerland's commitment - along with that of the U.S., Japanese and German governments - to support the dollar. This is why one regulation remains in force: nonresidents must still limit Swiss franc deposits in Switzerland to SF 100,000 or face "negative" interest charges of 10% per quarter. Also, only smaller deposits up to SF 20,000 may earn interest.

Norway/Sweden: Shareholders Kill Oslo Deal with Volvo

Shareholders' resistance has torpedoed the proposed Norwegian participation in Volvo, the Swedish automobile group: even before a scheduled extraordinary shareholders' meeting on Jan. 30, the Volvo supervisory board was informed that it would not get the two-thirds' majority required for the deal, so the meeting was canceled. In Oslo, Prime Minister Odvar Nordli said it would now not be necessary to go before Parliament to seek approval of the contract. This also meant the annulment of the Norwegian-Swedish cooperation agreements in the economic and energy sectors that had been signed in December by Nordli and his Swedish colleague, Ola Ullsten.

The Volvo pact was to have been the foundation of these agreements. For 750 million Swedish kronor, the Norwegian state and private investors (on a 50:50 basis) were to have purchased a 40% equity in a new holding, into which Volvo was to have incorporated most of its production. In addition, Oslo had pledged a 200-million-kronor contribution toward financing the relocation of Volvo facilities, which was to have resulted in new jobs and technologies for Norwegian industry.

The proposed deal had received a very critical reception in both countries. In Sweden, shareholder spokesmen were afraid that it was underpriced and that the Volvo shares could become a "dead investment" because the Norwegian money would be poured into the development of a new car model that would reach the markets no sooner than the 1980s. In Norway, the entire political opposition came out against the deal, arguing that there were better uses for the country's offshore oil revenues and that Volvo's future as a major automobile concern was by no means assured.

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Community: Move to Solve Impasse over Monetary System

The European Commission has moved to end the row between Bonn and Paris that has been blocking the planned European monetary system (EMS). The proposal, part of the Commission's measures on farm prices for 1979-80, calls for the gradual elimination of existing monetary compensatory amounts (MCAs) over a four-year period starting from the time the EMS is introduced. The MCA system subsidizes farm exports of member states with strong currencies like Germany and imposes levies on exports from weak-currency countries like France. New MCAs created after the start of the EMS would be automatically phased out within two years.

An important aspect, and perhaps the key to solving the dispute between France and Germany, is the Commission's suggestion that German farmers and the farmers in other strong-currency states be compensated by national government subsidies for income losses that would result from abolishment of the MCAs. These aids could not be granted forever, however, and the Council of Ministers would establish strict rules as to their volume and duration. This approach is necessary because Treaty Article 42 prohibits national governments from subsidizing their farmers *(Common Market Reports, Par. 421)*.

German government officials still see tough bargaining

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Impasse *(contd.)*

ahead over the timetable of phasing out existing and new MCAs. Furthermore, the British are expected to object to the abolishment of the MCAs, which would automatically drive up food prices in the U.K. by some 30%. The Commission's proposal to freeze prices of virtually all farm commodities meets one of the U.K.'s major demands for a reform of the common agricultural policy (CAP). It remains to be seen, however, whether this proposal plus higher subsidies for butter consumption, which the Commission has proposed, will convince the U.K. to agree to the abolishment of MCAs. Observers point out that higher food prices would affect everybody in Great Britain, while in Germany abolishment of MCAs would affect essentially only farmers.

In addition to a price freeze on farm commodities, the Commission also proposes to get tougher with farmers who have been producing milk without consideration for the market and thus have created the milk surplus, causing a major headache for CAP policy makers. The current levy (0.5% of the intervention price) would be doubled and would be based on what farmers sell to dairies above established quantities. Since the Commission expects milk production to rise by about 4% this year, the levy could reach 8% of the intervention price.

Auditors Look at Communities' Spending

The Court of Auditors' first annual report on the Communities' 1977 fiscal year criticizes the way the EC institutions are spending taxpayers' money. Observers in Brussels tend to concur that there would have been fewer grounds for complaint had the Court been in existence from the Communities' inception in 1958. (The members of its predecessor, the Audit Board, were engaged on a part-time basis only and thus did not bring much weight to bear.)

The need for an effective financial watchdog was demonstrated most recently by allegations that appeared in the British publication "The Economist" against Commission vice-president Wilhelm Haferkamp. The magazine criticized particularly the expense accounts that Haferkamp submitted for trips to South America and Switzerland. When asked for comment, Commission President Roy Jenkins said he found nothing inappropriate in the receipts submitted. Nevertheless, the European Parliament will take up the matter, and the Court of Auditors will take a closer look at general expense account practices when it prepares its report for fiscal 1978 later this year.

The Court was established in late 1977 through amendments to the Rome, Paris and Euratom treaties. The principal task of its nine members is to scrutinize Community revenue and expenditures. The Court may perform audits on the spot at the Community institutions or in the member states where revenue has been spent *(Common Market Reports, Pars. 5035, 5037).*

Auditors *(contd.)*

So far, lack of sufficient staff has prevented the Court from scrutinizing the Communities' accounts with the care and intensity that it plans to deploy in the future. According to the report, there were other handicaps as well, one of the biggest being the absence of uniform accounting practices by the various EC institutions. The auditors object especially to the fact that the Commission's summarized balance sheet does not adequately represent assets and liabilities; it also does not comply with the widely established principles for the preparation of consolidated financial statements.

The EC institutions are entitled to respond to the Court's observations, and the Commission has been doing just that. In numerous instances it promised to follow the auditors' suggestions; for example, it agreed to consider the suggestions on the presentation of a consolidated balance sheet. The EC executive points out, however, that it cannot make a unilateral decision on the standardization of accounting principles applied by other EC institutions.

The Commission objects to the fact that the auditors added further comments after the Commission replied to the report. Article 206b of the EEC Treaty and similar provisions in the other two treaties rule out any counter-reply on the auditors' part. The Court of Auditors does not see it this way, and Commission lawyers say that the Court of Justice will perhaps have to clarify the matter if the need arises.

Germany: EEC Takes Interest in BP-VEBA Deal

The German government is not unhappy about the European Commission's intention to look into British Petroleum's plan to acquire VEBA's equity interest, valued at DM 800 million, in Gelsenberg. Both BP and VEBA, Germany's largest energy group, had asked Bonn to overturn the Federal Cartel Office's veto against the planned acquisition. The purchase would also have included a 25% holding in Ruhrgas AG, Germany's largest importer and distributor of natural gas. The Cartel Office believed that this would have strengthened Ruhrgas's commanding position on the market and would have weakened competition in the natural gas sector *(Doing Business in Europe, Par. 31,060)*.

When the EC executive said it would step in, the German minister of economics, Otto Lambsdorff, no longer had to make his decision by the Feb. 5 deadline. Furthermore, he will have to take the Commission's findings into consideration when he decides on the matter. Lambsdorff should welcome this because the two companies and the German unions' support of the plan had put him in a tight spot. BP and VEBA executives had testified at a hearing that denial of the reprieve would mean layoffs for about 1,500 refinery workers in an area with high unemployment, and another

BP-VEBA *(contd.)*

1,000 jobs would be eliminated elsewhere. They were convinced, however, that the acquisition would secure some 25,000 jobs in the long run.

The economics minister may grant a reprieve if he believes that the probable restraints on competition resulting from the planned transaction would be offset by advantages to the country's economy or because the acquisition is in the public interest *(Doing Business in Europe, Par. 23,510C)*. Lambsdorff's predecessors were not liberal in granting such reprieves. This time the Monopolies Commission has come out against the acquisition: it would only go along with BP's acquiring at the most a 9% interest in Ruhrgas's stock.

Cities Urged to Pass on Tax Cuts

Industry spokesmen have appealed to local governments to pass on to businesses the tax cuts resulting from Germany's 1979 Tax Amendments Act and to avoid the temptation of compensating for the loss of payroll tax revenue by raising other local taxes. The new law abolishes the local payroll tax as of 1980 and also substantially increases the exemptions available to firms when computing the business profits and capital taxes *(Doing Business in Europe, Par. 31,071)* for the 1981 tax year.

Abolishment of the payroll tax, still a major source of revenue in several states, became a stumbling block during the legislative process. It was only after local governments were assured of other revenue sources that the Bundesrat, representing the states, consented to the measure. This compensation is to come from a higher cut of income tax revenue within the revenue-sharing system as well as from business taxes. (The states are currently trying to wrestle a larger share of VAT revenue from the federal government; success would enable them to channel additional money to local governments.)

Several cities are contemplating measures that would defeat the purpose of the tax reductions, which are to provide an added stimulus for the economy that is needed to lower unemployment. The cities would like to raise the municipal factors that are applied in computing the business profits and capital taxes *(Doing Business in Europe, Par. 23,385)*. This would mean that businesses freed from the burden of the payroll taxes would in the end be carrying an even larger tax burden than before.

France: Cadre Employees Protest High Tax Burden

Higher-ranked white-collar employees and executives in France took to the streets last month to protest what they allege is a triple burden of dwindling purchasing power, unfair taxation, and excessive social security contributions. In Paris and other cities, they staged demonstrations called by their union, the Confédération Génerale des

Tax Burden *(contd.)*

Cadres (CGC). There are some 3.85 million cadre employees in France, representing about 18% of the working population; 2.1 million of them are employed in the private sector.

Cadre spokesmen have referred to statistics according to which, in the 1972-77 period, the purchasing power of such employees grew by only 4%, whereas that of blue-collar workers went up by 17% on the average, that of lower-ranked white-collar workers by 15%, and that of skilled craftsmen by about 10%.

The government is being accused of covering its rapidly rising revenue needs mainly through the tax progression. Thus, in 1974 the top rate of 60% applied to annual incomes beginning at FF 206,000 and in 1978 to those of FF 260,000 and more. Actually, cadre representatives say, last year's ceiling should not have been applied before the FF 303,000 level if inflation was taken into account.

Similar arguments are being used in connection with the social insurance burden. Here, it is charged, the most recent increases have resulted in a contribution boost of FF 56 for an employee earning FF 4,500 a month, whereas another earning FF 12,000 now has to pay an additional FF 206. Furthermore, the abolition of the pay assessment ceiling has brought in the health insurance area a contribution increase of 27% for those earning up to FF 7,000 a month and even of 44% for monthly incomes of FF 12,000.

Apparently, the CGC is not convinced that the government will pay much attention to this assortment of complaints. Its secretary-general, Yvan Charpentié, said he expected that the country's cadre employees will continue to be the Barre administration's target group for its "insatiable (tax) appetite."

Britain: Strike Actions Put Pressure on Government

In a Feb. 5 emergency debate in the U.K. House of Commons on the government's handling of the industrial situation, which was approved by only eight votes, the Conservative initiators of the debate asked rhetorically: "Where has all the power gone?" They said the power should reside in Parliament, and the government could no longer rely on a "spurious special relationship" with the trade unions.

The widespread industrial unrest in Britain involving the public service employees has become of grave concern to the government and the Labour Party, not least because it is undoubtedly damaging Labour's forthcoming electoral prospects. Prime Minister James Callaghan said at a local government conference at Newcastle that, whereas strikes in the past had been a weapon of last resort, "nowadays strikes are used even before the current agreement has expired. That is wrong. Strikes are used even before nego-

Strikes
(contd.)

tiations begin for a new agreement. That is wrong. Strikes are used while negotiations are going on for a new agreement. That is wrong. That cannot be justified on any principle of trade unionism at all, and I ask the Trades Union Congress to give a lead in this matter."

In the meantime, senior government ministers were trying to work out some new form of "social contract" with union leaders, so as to reestablish this (traditional) special relationship between Labour and the unions. However, the suspension of pay differentials and relativities during an unprecedented fourth year of wage controls has led to increasing bitterness and hostility. The generally prevailing opinion in Britain is that the official guidelines for 5% pay increases annually seem increasingly unrealistic. In fact, the latest figures from the Dept. of Employment show that the average level of settlements is still just below 10%.

At the Newcastle conference, Callaghan agreed that there was a general consensus that there should be annual discussions between the government, unions, and employers in order to come to a "broad agreement" on the direction and movement of the economy. He also advocated "some authoritative institution" to which the unions, together with the employers and the government, could appeal on questions of wage differentials. "If not, will someone tell me a better way of ironing out anomalies and differentials of pay?"

It remains to be seen what effect such proposals will have, but a recent national opinion survey has shown that over 80% of those questioned believe that the unions were too powerful. Public opinion undoubtedly has been colored by the recent examples of schools being closed, cancer patients being sent home from hospitals, and even bodies being left unburied due to strikes.

The Labour government is dependent for its survival on the votes of the Scottish nationalist MPs, who will give their support until the referendum on devolution and the establishment of a Scottish parliament is held on March 1. Subsequently, the government may well be defeated on a no-confidence vote. Thus, it is of paramount importance for Labour to persuade the electorate that it can function in harmony and cooperation with the trade unions, since it alleges that the Conservatives are unable to do so. Nevertheless, the most recent MORI poll, published on Feb. 6, showed the Tories holding a 19% lead over Labour.

Italy:
Trying for
New Coalition;
OECD Survey

Giulio Andreotti, whose administration submitted its resignation on Jan. 31, has been commissioned to find a way out of Italy's latest political crisis by trying to form a new government. His previous Christian Democratic minority

Coalition *(contd.)*

cabinet was dissolved after the Communists withdrew their parliamentary support. Their price for rejoining a government majority would be direct cabinet representation - a demand so far regularly rejected by the Democrazia Cristiana (DC).

Andreotti has let it be known that he would favor a revival of the previous five-party majority in Parliament, made up of the DC, Communists, Socialists, Social Democrats, and Republicans. A working basis for such a majority, as the caretaker premier sees it, would be a broad agreement on the stalled three-year economic recovery program (Pandolfi Plan) and the fight against terrorism.

All parties claim publicly that they are not interested in a dissolution of Parliament and new elections, knowing that the uncertain outcome could jeopardize the relative success Rome has had in staving off economic collapse and in initiating some reforms. On the other hand, it has been speculated that the Communist PCI would prefer early elections for tactical reasons. Recent poll results indicate that the PCI might suffer only marginal losses (1-2%) in such elections, which would not really weaken its present status. In the fall, the losses could be much higher because the West European communist parties are expected to do poorly in the European Parliament elections this summer, which should have psychological consequences in their home countries.

The DC, for its part, probably could hope for some gains in the next Italian elections, given the results of the last regional and municipal elections. Nevertheless, its leaders are realistic enough to know that, regardless of the balloting's outcome, the political stalemate is bound to prevail. This is why Andreotti would rather keep on negotiating for a solution that would accommodate the Communists to some degree and yet be tolerable to his own party.

In other news, the latest OECD economic survey on Italy gives that country good marks on its achievements over the last 18 months or so in the areas of inflation and payments. In the near term, the OECD said, Italy's economic development will closely depend on the outcome of current wage negotiations and Rome's ability to deal with the "serious unemployment problem." (Organization for Economic Cooperation and Development, Economic Surveys, Italy, Feb. 2, 1979.)

Denmark: Ban on Bond Sales to Aliens

The Danish government on Feb. 6 imposed a temporary ban on the sale of kroner-denominated, short-term state bonds. The restriction applies to bonds issued since 1975, which covers virtually all papers except a small number issued in the '50s. According to preliminary figures, foreign buyers

Bond Sales *(contd.)*

snapped up some 800 million kroner in Danish state bonds last month alone, which is three times as much as the monthly average for the last 1978 quarter. They were attracted by yields of up to 15%.

The Danish National Bank is worried that the public bond outflow could disturb the domestic credit market and government money policy. In order to neutralize the liquidity effect of his deficit budget, Finance Minister Knud Heinesen plans to float new short-term and medium-term issues valued at some 25 billion kroner this year. His purpose could be defeated, however, if the bonds go abroad. Even though such purchases strengthen Denmark's currency reserves, they could turn into a liability in the event there is speculation over a kroner devaluation. Also, the Danish authorities are concerned about the growing disparity between the normal interest rates Denmark pays for its foreign loans and the high yields of its state bonds.

EURO COMPANY SCENE

Johnson & Higgins/ Willis Faber

One of the largest U.S. insurance brokers, Johnson & Higgins, is to form a link with British brokers Willis Faber Dumas in a new company, Johnson & Higgins Willis Faber (USA), Inc., in readiness for the projected New York insurance exchange, for which it will establish syndicates and provide underwriting management services. The chairman of the U.K. company, Ronald Taylor, said that over 50% of the firm's insurance premium revenues is already being derived from the U.S. market.

Whinney/ Turquands

A merger was announced last month between two of the principal firms of chartered accountants in Britain, Whinney Murray and Turquands Barton Mayhew, which will result in the third largest accounting partnership in the U.K., with some 2,500 employees and 183 partners, based at 28 offices. As of July 1 the U.S. associates of Whinney Murray, Ernst & Ernst will be merged with the new partnership under the name of Ernst & Whinney. The senior partners of the two British firms said that they had created in the U.K. an organization which they believed would be even stronger, while considerably strengthening their representation overseas.

Bank of Montreal

The Bank of Montreal plans to close its Amsterdam branch as of March 31. The branch had been opened in late 1974 but, according to Amsterdam reports, had not generated enough business to cover operational costs.

Common Market Reports

EUROMARKET NEWS

Issue No. 527 *Report No. 364, February 22, 1979*

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Community: Court Ruling on Freedom to Offer Services

The European Court of Justice has struck down another of the remaining barriers to the right of establishment and the freedom to provide services by reiterating its doctrine that Treaty Article 59 provides for the gradual abolition of any discrimination on grounds of nationality or residence against a person providing services. That doctrine was first established by the Court in its 1974 *Binsbergen* judgment, which involved a nonresident wanting to represent a resident in court (Case No. 33/74, *Common Market Reports, Par. 8282*). At issue this time was whether French employment agencies and their managers could freely operate in Belgium without a license and whether, in a specific case, there could be prosecution of agency managers for rendering services and of two Belgians for seeking these services (Case Nos. 110 and 111/78, judgment of Jan. 18, 1979).

Since French employment agencies charge only a 10% fee on contracts arranged with entertainers and artists, while Belgian agencies charge 25%, Belgian entertainment businesses have sought French artists to perform in Belgium. The Belgian proprietors of a café and of a restaurant were sued at the instigation of Belgium's union of artists under a law providing for jail terms of up to one year and fines from BF 100 to 5,000 for anyone using the services of an

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Services
(contd.)

unlicensed employment agency and for anyone operating a foreign agency who places persons in Belgium. The accused, supported by the European Commission, defended themselves by saying that the French agencies were duly licensed under French law and that both France and Belgium adhere to ILO Convention No. 96, which the national laws closely follow. The Belgian court suspended sentencing and requested a preliminary ruling from the Court of Justice.

One of the questions submitted by the Belgian court assumed that services covered by Treaty Article 59 were liberalized only to the extent that this was done through a Community measure pursuant to Article 63, which called for Council action to eliminate obstacles to the freedom to provide services. As it did in *Reyners* and *Binsbergen*, the Court replied - this time more forcefully - that the essential requirements of Article 59, which was to be implemented progressively during the transitional period by means of EEC directives referred to in Article 63, became directly and unconditionally applicable with the expiration of that period - that is, in 1962. The Court also held that a member state may not impose the license requirement on a nonresident operating an employment agency in another state or demand that he act through the medium of a domestic agency so long as he holds a license issued by his home state under comparable conditions to those required by the state where the service is rendered and so long as private employment agencies are under government supervision.

Drug Pricing in Four States Under Fire

The German drug manufacturers association has criticized the European Commission for not taking action against Treaty violations by four member states. In an expertise prepared by law professor Ernst Joachim Mestmäcker, it is alleged that Belgium, France, Italy, and the U.K. are obstructing free trade in pharmaceuticals in several ways, most notably by establishing maximum prices. (Mestmäcker, outgoing chairman of the German Monopolies Commission, has written extensively on topics of European law and has also represented both plaintiffs and defendants, including the European Commission, before the European Court of Justice.)

The report says that while German authorities are rather liberal about pharmaceuticals imports from other Common Market countries and, in line with EEC law, have dismantled most barriers to intra-EEC drug trade, several of the other states have thrown new obstacles into the path of German drug exports to their own markets *(Common Market Reports, Pars. 3502, 3504, 3506, 3508)*. Last year these states absorbed roughly a quarter of Germany's overall drug exports, estimated at nearly DM 4 billion. Complaints by the German government in Brussels, Paris, Rome, and London so far have had no success. Mestmäcker says that the European Commission should now become active and remedy the situation.

Drug Prices *(contd.)*

According to the expertise, Belgium's authorities have practically unlimited discretion in establishing maximum prices for drugs, and French authorities allow consideration of R&D costs and other expenses only to a limited degree when establishing maximum prices. It is further alleged that in Italy drug prices are kept at an artificially low level despite high inflation, and drug prices in the U.K. are indirectly controlled by the government practice of controlling company profits. The author claims that all of these practices violate Treaty Article 30, which bars all quantitative restrictions on imports as well as all measures having an equivalent effect *(Common Market Reports, Pars. 322.03, 322.09).*

In support of the allegations, Mestmäcker cites the European Court of Justice, which has ruled that maximum prices represent a measure having an effect equivalent to quotas (Case No. 45/75, and Case Nos. 65/75 and 88-90/75 - *Common Market Reports, Pars. 8343, 8355*). The Court has previously held that national rules or practices that restrict imports of pharmaceutical products are compatible with the EEC Treaty only to the extent that they are necessary for the effective protection of health. Mestmäcker concludes therefrom that Treaty Article 30 also bars maximum prices introduced as a means of controlling a government's economic policies.

In Brief...

The European Court of Justice's Feb. 7 judgment against the U.K. for failure to comply with an EEC regulation requiring tachographs in trucks and buses is confronting the British government with a situation that no other member-state administration has ever faced (Case No. 128/78). Brussels observers point out that the U.K. government failed to comply because of opposition from the truckers, whose recent strike demonstrated their power and intransigence. The other states are waiting to see what London will do; no other member state has ever chosen to defy a judgment by the Court + + + Although negotiations concerning Spain's accession to the Communities were officially opened on Feb. 5, it has been reported that substantive talks about issues such as dismantling tariffs, the right of establishment, and treatment of farm commodities (especially citrus fruit and wine) will not start before June.

Italy: Unions Take Tough Stance in Bargaining

While talks over the formation of a new Italian government continue without any visible progress, negotiations have started in two key industry sectors for the renewal of collective contracts covering a three-year period. Affected are 1.2 million workers in the metalworking and engineering sectors and about 800,000 construction workers. Their representatives have adopted a hard-line attitude from the very start by refusing to allow any overtime and by sched-

Bargaining *(contd.)*

uling various walkouts and demonstrations, including a four-hour general strike on Feb. 22. The outcome of the talks is so important because major companies are involved - in the engineering sector, for instance, Fiat and Olivetti.

The unions are seeking a 30,000-lire increase in monthly wages on top of the regular inflation adjustments as provided by the *scala mobile* indexation system. Further, they want the 40-hour workweek to be cut to between 38 and 36 hours at full pay. The "political" part of their demands concentrates on forcing the employers to provide more information and to give the unions expanded codetermination rights. As a result of the 1976 bargaining talks, companies with more than 500 employees had agreed to inform the unions about production programs and investment plans. Now the unions want the employment criterion to be lowered to 150, and they also demand information and data concerning technical innovations, public financing aids, foreign investments, and any notable changes in the labor force. A more limited information catalog is also sought from companies with more than 50 employees (so far 200).

The employers' side has rejected all of these demands as totally unacceptable. It has presented calculations according to which the sum of the wage boosts and work-time cuts sought would drive up labor costs by 31-33% per employee over the three-year duration of the contract. With the inclusion of the *scala mobile* increments, the increases would rise up to 60%, i.e., to 20% per year. The employers are just as adamant about their refusal to broaden the scope of voluntary information, fearing that this would damage corporate autonomy and management's freedom of action and decision.

The employers currently are in no mood for major concessions, having been angered by the most recent government decision to retroactively increase their contributions toward the deficit coverage of the unemployment insurance funds. These contributions were raised from 1% to 1.3% for industry as of Jan. 1, 1978, and from 3% to 4% for the construction sector. It was announced in Rome that the deficits had grown by 61% to 980 billion lire as of year-end 1978. The increases, which were loudly protested by the Confindustria industrial federation, put on the employers an additional burden of 15,000 lire per employee, for an annual total of more than 100 billion lire.

France: Acceleration of Nuclear Energy Program

Under the impact of some oil supply problems and the massive power failure last Dec. 19, President Giscard d'Estaing is now pushing for an acceleration of France's nuclear energy program, which is lagging by one or two years behind the original schedule. The government has decided to

Energy Program (contd.)

add two extra units to the existing four at the Gravelines A-plant. A second reactor also is to be installed at the Cattenom plant, next to one currently under construction. Gravelines, in the Nord region, and Cattenom, in the Lorraine, are both located in areas severely affected by the steel crisis. By expanding the A-plants there, Paris not only would create additional jobs but also would promote the establishment of new industries.

France's electric power output from nuclear sources totaled nearly 30 billion kwh last year, which accounted for 12.2% of the country's requirements. The government wants to step this up to 200 billion kwh by 1985, in order that one-fourth of the total French energy requirements would then be covered from nuclear sources. By the end of last year, France's existing A-installations accounted for 6,500 Mw and uncompleted facilities for 27,000 Mw. Construction licenses have been issued for projects involving an additional 10,000 Mw.

Contrary to expectations, the cabinet has decided against new gasoline price increases, which were to have been imposed on Feb. 15. Instead, it is planning to raise prices for diesel and heating fuels, although the extent of the increases was not yet announced. The cabinet did discuss the implications of the political upheaval in Iran, which so far has provided about 9% of France's oil supplies. While this is less than for other EEC countries, a recent poll of the oil majors by the AGEFI financial news agency nevertheless showed that the French oil supply situation has considerably worsened over the last 12-month period.

Germany: Guidelines Would Control Public Offers

Stockholders of German companies will be the main beneficiaries of new guidelines that seek to preclude unethical behavior in connection with takeover bids and public offers for the exchange of old against new shares. These guidelines, drafted by a government-appointed commission, are voluntary in nature, although the government expects that all persons involved will abide by them. (The EEC is planning similar rules.) Public offers to buy or exchange stock have been rare in Germany, in contrast to the U.K. and the U.S., yet the few offers that did take place nevertheless prompted the commission to prepare the guidelines.

One major rule would be that all individuals involved in the drafting of public offers for the purchase of shares or the exchange of existing shares against new shares would have to keep the matter confidential. If during the time prior to the offer's publication the stock of the selling company or the buying company increased in value on the stock exchanges because the pending move was leaked to the public, the management of the buying company would be

Public Offers *(contd.)*

required to announce its offer immediately and also inform the stock exchange at the company's seat of incorporation. Management could forego such announcement and communication only if this would jeopardize the offer or entail other major advantages for the parties involved or the investors. Insiders would have to refrain from any transactions from the moment the decision on the public offer had been made until its announcement.

A public offer should contain the criteria that went into establishing the price for the stock concerned, and it should also state whether it is limited to a certain number of shares. Any offer should be valid for at least 21 days and never more than 60 days (exception: a two-week extension would be permissible if better conditions were inserted in the offer). Once the offer has been made public, the potential buyer or another party collaborating with him (for example, a bank) may acquire shares on conditions better than those specified in the offer. However, if this is done, there must be compensation to those stockholders who sold or exchanged their shares according to the conditions laid down in the original offer.

Ireland: New System of Tax Incentives; 1979 Budget

The Irish government has been quick to launch a special promotion campaign to lure more foreign investors to the Republic, advertising as a key incentive the upcoming changeover from the tax holiday on export earnings to drastically reduced corporation taxes as of 1981. Ever since Ireland's accession to the EC in 1973, Dublin had been pressured by the European Community to rescind the tax relief on export earnings, which is embedded in legislation that runs until 1990 *(Doing Business in Europe, Par. 25,336)*. It was announced in Brussels last December that Industry Minister Desmond O'Malley and EC Commissioner Raymond Vouel, who is in charge of competition policy, had reached agreement on the timetable for phasing out the tax waiver system.

The Dublin government is now saying that the new arrangement would be even more favorable to foreign investors, who were beginning to be less attracted by the tax holiday system because of its expiration in 1990. As of Jan. 1, 1981, domestic and foreign manufacturers in the Republic - regardless of whether they are producing primarily for the domestic market or for exports - would be able to benefit from a reduction of the corporate tax rate from 45% at present to 10%. Together with various other incentives, this would practically amount to freedom from taxes.

The new system would run until the year 2000, and Irish officials said it would not interfere with the Community's tax harmonization concepts. Businesses that locate in Ireland before Jan. 1, 1981, or which have a contract

Tax Incentives *(contd.)*

with the Irish Development Agency may still benefit from the tax waiver on export earnings until 1990. Those that had exploited the tax waiver arrangements until 1990 would be taxed according to the new system after that year. In any case, all production enterprises in Ireland would be free to switch to the new arrangement as soon as it takes force.

IDA officials said the new corporation tax benefits would in no way encroach on the other existing investment incentives, such as capital subsidies, training aids, unrestricted profit transfers, etc.

In other news, Finance Minister George Colley on Feb. 7 presented what was described as a "neutral" 1979 Budget devoid of any major surprises. The reduction of income taxes was slighter than anticipated, totaling some £37.7 million. In other areas, the fiscal bite will be larger: higher excise taxes on spirits and cigarettes will raise an additional £37 million, and farmers will have to contribute £20 million more in revenues. The Budget is laid out to reduce the public borrowing requirement from 13% to 10.5% of GNP and to provide a public-sector pay increase of 7%. Colley also is removing the "anomaly" of capital allowances for new plants and machinery being based on gross costs, with no deduction for grants received from public funds.

Britain: Double Taxation Conventions with Canada

The U.K. government has presented to Parliament draft legislation setting out the double taxation conventions between Britain and Canada, which would supersede the previous regulations of December 1966.

The draft provides for income from immovable property to be taxed in that country where the property is in fact located. As regards capital gains: if these result from the disposal of immovable property, then they would normally be taxable in the country where the taxpayer resides. An exception is made in the case of gains arising from the sale of oil exploration or exploitation rights or of related assets. However, capital gains realized from the sale of immovable property, from shares in unlisted companies, or from an equity in a trust or partnership whose assets are mainly comprised of immovable property, may also be taxable in that country in which the property is situated.

Shipping and air transport profits, certain trading profits that do not arise from a permanent establishment overseas, and the earnings of temporary foreign visitors would generally be taxed only in the country where the taxpayer resides. This also applies to pensions that do not exceed $5,000 or $10,000 (Canadian dollars), although any excess would be liable to tax in the country of source.

Canada
(contd.)

As regards dividends: where a U.K. company paid a dividend to a Canadian individual, or to a Canadian company that controlled less than 10% of its voting shares, then the recipient would receive a tax credit equivalent to that payable to a U.K. individual, subject to a deduction of not more than 15% of the total dividend and tax credit. If income did continue to be taxable, then relief would be given by the country where the taxpayer resides. The provision concerning tax credits is backdated to dividends paid from April 1, 1973, but otherwise the double taxation order would be effective in the U.K. for the financial year or assessment year commencing in 1976.

EURO COMPANY SCENE

Marine Midland

The City of London's General Tax Commissioner this month has allowed an appeal by Marine Midland Bank against a tax assessment of £1.25 million. The latter was based on a domestic profit from an increase in the value of overseas investments (in terms of sterling) which the Inland Revenue would not permit to have set off against parallel domestic losses. These losses stemmed from the conversion into sterling of requisite borrowings of foreign currency. The decision is likely to have widespread repercussions in the U.K. banking sector, as very large amounts are involved, and an appeal by the Inland Revenue is predicted.

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Community: EC Court Cuts La Roche Fine, Rejects Appeal

The European Court of Justice has reduced the Commission's fine imposed on Hoffmann-La Roche by one-third, but otherwise it rejected the drug manufacturer's appeal. Each side has to pay its costs (Judgment of Feb. 13, Case No. 85/76).

In June 1976 the European Commission fined the Swiss-based drug maker Hoffmann-La Roche for having abused its market-dominating position, which is outlawed by Treaty Article 86 *(Common Market Reports, Par. 2101)*. The Commission charged that La Roche had granted to buyers of its vitamins loyalty rebates that were not based on the quantities purchased but rather on the fact that customers bought their supplies exclusively from La Roche. Another point in the Commission's decision was that the company's exclusive and preferential supply contracts with a number of bulk buyers enabled it to prevent any potential competitor from entering the market *(Common Market Reports, Par. 9853)*. Last September Advocate General Gerhard Reischl recommended that the 300,000-UA fine be dropped and that the court costs be split.

La Roche's appeal was based on four grounds:

- the Commission's decision was contrary to the fundamental principle that essential terms must be sufficiently defined in practice so that businesses know how to act, but

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La Roche *(contd.)*

"dominating position" and "abuse" thereof have not been so defined;
- most of the EC executive's evidence was provided illegally by a former La Roche employee;
- La Roche does not really have a dominating position; and
- the decision was handed down contrary to Article 15(2) of Regulation 17 because the alleged violations were committed neither intentionally nor negligently.

Although Reischl thought that the La Roche directors erred about the illegality of their actions and therefore should be exculpated from any guilt, the Court disagreed, saying that a company like that should never have any doubt about the illegality of its behavior. The Court believed that the concepts of "dominating position" and "abuse" are sufficiently known in the Community through Commission decisions and EC case law; both terms are embedded in the legislation and case law of many member states. The Court did not dwell on the way the Commission obtained its information because, during the proceedings leading to the Commission's decision, La Roche voluntarily supplied the relevant documents that a former employee had illegally taken from the corporate files at the company's headquarters in Basel, Switzerland.

The Court then concentrated on the two essentials of the case: does La Roche have a market-dominating position, and did it in fact abuse it? In the Court's view there was never any doubt that the company had such a position and that it could maintain it independently of its competitors and customers. According to the Court, La Roche was in a position in 1972 to meet the entire world's vitamin needs, even if it utilized only half of its production capacity. The Court arrived at the conclusion that La Roche's market share for each of the seven individual vitamins ranged generally from 60% to 100% and that the resulting market position was strengthened further by the lead it had in know-how and selling practices; no competitor could ever overcome the barriers erected by market share and other advantages. La Roche's market share is about 30% in only one instance, the Court found, and the Commission's failure to adduce additional evidence about a market-dominating position was the major reason why the Court reduced the fine.

The EC tribunal believed that La Roche's abuse of its dominating position could be demonstrated by the fact that its contracts with 22 bulk buyers left these practically no choice but to buy their supplies from the company. As to the loyalty rebates, the Court accepted the Commission's view that these rebates were not based on quantities purchased but dependent on whether a customer bought exclusively from La Roche.

One argument used by La Roche in its defense back-

La Roche *(contd.)*

fired. The drug maker pointed to a clause in each contract that allowed a customer to refer to more favorable terms offered by La Roche's competitors. If La Roche refused to sell at those better terms, the customer was relieved of its contractual obligations. According to the Court, this clause enabled La Roche to keep track of competitors' market behavior and to act accordingly.

In Brief...

The European Commission has decided to set up a commission to look into charges made by members of the European Parliament and a European consumer organization criticizing the pricing policies of European drug manufacturers. It was especially the Brussels-based Bureau Européen des Unions de Consomateurs (BEUC) that accused the drug makers of setting prices in different member states on the basis of what the market can take. The BEUC, which links consumer organizations of the Nine, charged that prices do not reflect research costs or exchange rate differences but rather an outgrowth of the drug manufacturers' exceptional market power + + + The EC executive has proposed a supplementary 1979 budget and thus has sided with the European Parliament (EP) in the latter's dispute with the Council of Ministers. Last December the EP insisted on adding roughly 500 million UA to the EEC's regional fund. Council members Britain, Denmark, and France maintained that the EP could not do that because the budget procedure was not closed as yet. In proposing a supplementary 1979 budget the Commission hopes to settle the dispute by enabling the two institutions to agree on a compromise figure.

Germany: Plan to Push Worker Capital Ownership

Germany's finance minister, Hans Matthöfer, has suggested that parties to collective bargaining set up funds of their own in order to spread capital ownership among employees. Businesses' fund contributions, to be negotiated at collective contract talks, would be based on a company's annual profit and could consist of either shares or money. Matthöfer also suggested that the funds be authorized to issue share certificates of their own which employees could buy. Such certificates could benefit from tax exemptions and government grants.

Most observers doubt whether Matthöfer's suggestions would be genuinely workable. They say that time is running short for Chancellor Helmut Schmidt's promise, made in his policy statement after winning the October 1976 national elections, to search for new ways of spreading capital ownership among employees during the current legislative session, which ends in October 1980. Union leaders have been reminding the administration about the matter. The Opposition has proposed expansion of the existing system by raising the ceiling of tax-supported savings from DM 624 to DM 936. The government balked at this proposal for fiscal

Capital *(contd.)*

reasons: it would cost the Treasury an estimated DM 1.5 billion annually.

According to the *Vermögensbildungsgesetz* (the so-called DM 624 Law), employees who save DM 624 annually and freeze this amount for six years (12 years in the case of life insurance) are entitled to a government grant of 30% of the total (40% when the saver has two or more children). Employers who contribute to the employee's savings either voluntarily or under a union contract may deduct the amount from their income tax liability. After a six-year period, the employee's capital (the savings, the employer's contribution, interest, and the government grant) may be paid out and is tax-free. In 1977 approximately 15.5 million employees, or roughly three-fourths of the total labor force, accumulated an estimated DM 12 billion in this way.

The employers do not think Matthöfer's suggestions have much of a chance of being put into practice. The business community has been opposed to even less ambitious plans conceived by leading Social Democrats and union leaders. One of the suggestions was to set up several nationwide funds to act as temporary clearing institutions that would accept employers' contributions and channel the cash to employees' accounts. Matthöfer's idea calls for the establishment of permanent funds. Strong opposition is also expected from the savings banks because the funds would be granted tax advantages that the banks and their savers do not have.

Belgium: Another Try to Form New Government

King Baudouin made yet another attempt on Feb. 14 to end Belgium's four-month-old government crisis by appointing Willy Claes, a Flemish Socialist, and Charles Ferdinand Nothomb, a Walloon Social Christian, to act as arbitrators in the stalemate between the country's two major language groups. Previous *informateurs* and *formateurs* had not been able to resolve the irreconcilable differences between the Flemish and the Walloons, particularly in the area of the proposed state reform.

With not the faintest sign of any consensus on the political horizon, there are many who propose that the caretaker administration of Paul Vanden Boeynants simply ask for a vote of confidence by the parliament that was newly elected on Dec. 17. Another possible solution would be the installation of a cabinet of independent experts. The previous government of Leo Tindemans resigned last Oct. 11 after the coalition of the Socialists, the Social Christians, and regionalists could not be held together any longer.

In the meantime, the two newly appointed arbitrators said they would try their best to break the deadlock. Both politicians are considered moderates and do not advocate any radical regionalization concepts. Claes, 40, the act-

Government *(contd.)*

ing economics minister, once before had tried his luck as an *informateur* for a three-week period immediately following the elections. Nothomb, 42, the head of the Walloon branch of the Social Christians (PSC), has no previous government experience.

Italy: 'Underground Economy' Runs in High Gear

The officially unexplained excess of spendable money circulating in Italy has been attributed by observers to the existence of a flourishing "underground economy," free from taxation, costly social security payments, and government or union regulations. For the fourth straight year, according to standard economic indicators, M-2 (money in circulation plus short-term bank deposits) has almost equaled the Gross Domestic Product: $230 billion for M-2 and $240 billion for GDP in 1978. Economists find this fact peculiar, particularly when comparing the phenomenon to other countries, where spendable income averages about 50% of GDP (35% in the U.K., 45% in the USA, and 60% in Germany).

Applying a similar pattern to Italy, it could be argued that the Italian GDP last year actually totaled $400-460 billion - a conclusion that has led to much speculation as to where and how so much sub-rosa commerce and industry exist. One commentator offered the hypothesis of a "black" work force of 6 million, essentially blue-collar, active in a hidden world of unreported business ventures. Since estimates of Italian unemployment run from 1.5-2 million (out of an estimated work force of 19 million), it would follow that a majority of the reputed 6 million are either "moonlighters" or people not normally considered part of the working population, such as housewives and students. Another source could be the 400,000 "immigrants" who, according to a recent report of the Center for Social Studies (CENSIS), are illegally living and working in Italy.

In any case, commentators say, the situation certainly gives some credibility to senatorial committee allegations made last November of $25 billion in unreported, tax-free sales transactions. Indeed, the senators who were investigating the problem of value-added tax evasion could be said to have underestimated the problem, commentators note.

One less dramatic, partial explanation for the unusual M-2/GDP ratio is that millions of Italians working abroad both send money home and come to Italy to spend it. Also, because of the recent stabilization of the domestic economy, much fugitive capital is being reexported.

Britain: Government, Unions Join in 'Concordat'

Though it happened to be a coincidence, it was on St. Valentine's Day, Feb. 14, that the U.K. Labour government and the unions joined in what was termed a new economic "concordat." Prime Minister James Callaghan said it "brought

Concordat *(contd.)*

the full authority of the General Council of the Trades Union Congress to bear, alongside the government, in working out a constructive approach to our economic and industrial future." The agreement, announced in the House of Commons, calls for seeking an inflation rate of no more than 5% within three years, joint consultations on picketing practices, annual joint assessments of economic prospects, and provisions to keep industrial actions from disrupting essential public services and supplies, among other things.

The Valentine's Day manifesto is primarily concerned with longer-term objectives, and observers commented that there is little that is immediately relevant to present inflationary wage settlements. Mrs. Margret Thatcher, the leader of the Conservative Party, described the agreement as "nothing but a boneless wonder," since there were to be no legal sanctions. The Confederation of British Industry commented that it was "too little, too late" and a "totally inadequate response" to current industrial needs.

The agreement calls for early legislation on industrial democracy providing for consultation at all levels in enterprises and, in due course, for representation at board level. It is proposed that each year, before Easter, there should be an assessment by the government and both sides of industry of the country's economic prospects in the ensuing 12 months, taking into account growth of output and productivity, price rises, and the level of wage settlements. The concordat states that "we must set ourselves to the task of aligning our inflation rate to that of our overseas competitors," and that means getting within three years to below 5% and "holding it there."

The unions are advised to "bear firmly in mind" that the closed shop need not be a rigid arrangement, and it is stressed that agreements can provide for conscientious objectors and certain categories, such as long-service employees, to be excluded from closed-shop provisions. As regards picketing, it is agreed that "save in exceptional circumstances, unions should confine picketing to premises of the parties in the dispute, or the premises of suppliers and customers of those parties." In general, strike action should be used only as a last resort. Regard must be paid to the effects of the action on other workers, the union movement generally, and the community at large. During the dispute, cover must be provided for the maintenance of essential plants and equipment.

Denmark: Extension of Price Freeze; Strike Warning

The Danish coalition government of Social Democrats and Liberals has agreed to seek an extension, until April 15, of the price freeze that was imposed last summer. Originally, the freeze was scheduled to expire at the end of February. The compromise decision was made to keep a lid

Price Freeze *(contd.)*

on prices while the country's employers and the union federation were bargaining for a new collective agreement.

A government mediator had to be called in earlier this month when the talks reached yet another stalemate over union demands for a six-month extension of the price freeze as part of a new pay settlement. These demands were unpalatable to the Liberal coalition partners, who did not want to make any price commitments until the full impact of any new pay settlement was known. Eventually, a cabinet compromise was reached on a six-week extension.

In the meantime, the unions have reacted with strike warnings to the government's insistence that the economic situation left virtually no room for any pay improvements. The Economic Secretariat recently issued a report showing that even if the current collective contract were extended unchanged, it would be impossible to meet the official target of limiting this year's payments deficit to 6.5 billion kroner. Because of wage indexation and noncollective increments, wages are expected to rise by 8% within the 12-month period ending next month. This alone would drive up the payments deficit to 8 billion kroner.

Austria: Job for Tax Reform Commission

The job of trying to clear much of what has been described as Austria's "tax jungle" is being tackled by a 130-member commission recently installed by the government. The experts are to present their reform proposals by the end of this year, so that any new legislation could take effect in 1980-81. According to Finance Minister Hannes Androsch, the commission is to focus its attention on eliminating numerous tax exemptions and privileges that are now costing Vienna some 90 billion schillings a year.

The reform would not only remove existing inequities but also create new fiscal revenues. For instance, Vienna would like to introduce a withholding tax on interest and dividend income. Unlike many other countries, Austria does not require anyone wanting to open a savings account to identify himself. This anonymity plus stringent bank secrecy rules have made such accounts a safe haven for all kinds of funds, including unreported income. The withholding tax would help to cure taxpayers' "forgetfulness" when reporting their income and net worth; at the same time, it would be a convenient source of revenue, considering the total savings volume of 400 billion schillings.

The government further would like to curb the widespread custom of companies purposely paying "13th- and 14th-month" salaries, which - along with overtime pay - benefit from reduced taxes. It has become standard practice for many firms to give their employees such "extra" salaries instead of straight increases, and this is costing the treasury about 18 billion schillings annually.

Tax Reform *(contd.)*

The business community itself would also stand to be affected by the proposed tax reform. The government is being pressured by the labor union federation to replace the tax rebates now granted for investments with a bonus system. This would undoubtedly cut into the earnings of profitable businesses. Finally, Androsch wants to raise the assessment base for real properties to bring it closer to the much higher actual market values.

Cynics have commented that the reform commission may start out with the best intentions but that its very size will make it an easy target for the various lobby groups that are interested in keeping things as they are or, at least, making them as painless as possible.

Switzerland: Voters Reject Anti-Nuclear Proposal

In a national referendum on Feb. 17-18, the Swiss voters narrowly defeated a constitutional initiative of environmentalists who favor stringent limitations on the construction and operation of nuclear power plants. Also turned down were proposals to lower the voting age from 20 to 18 years and to ban all advertising of tobacco and alcoholic beverages except in foreign publications with a low circulation in Switzerland.

The balloting on the nuclear power initiative resulted in 965,000 "no" votes and 920,000 "yes" votes. This outcome was greeted with considerable relief by the Bern government because a reversal would have severely obstructed national energy policy. The initiative's sponsors had proposed that only Parliament should grant permits for the production of nuclear energy and for the processing and deposit of nuclear fuels and waste, and then only after the people living in communities and cantons within a 30-kilometer radius of such installations had given their approval. In addition, the initiative had sought extensive precautionary measures and a 90-year liability of concession holders.

Acceptance of the measure would have meant obtaining subsequent parliamentary approval for the country's existing four A-power plants and, possibly, their shutdown. Also, it would have effectively prevented the construction of additional nuclear power plants.

Common Market Reports

EUROMARKET NEWS

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Community: Consumer Credit Proposal Sent to Council

After more than a year's delay, the European Commission has sent the consumer credit draft directive to the Council of Ministers. The measure would commit credit institutions to "truth in lending" and thus would provide borrowers with more protection and better information. Eventually, the proposed rules would afford individual borrowers equal standards of protection because the directive would compel all member states to either enact legislation along the lines set out in the measure or amend existing national rules accordingly. Several states have already enacted consumer credit rules or plan to do so; the United Kingdom and Denmark have the most advanced legislation in this area.

Covering all types of consumer credit except mortgages, the proposal stipulates that all credit agreements must be in writing, describe the product or service, and state the purchase price, the effective annual interest rate, the total cost for the borrower, the repayment schedule, and the amount of payment. A contract would also have to contain a clause allowing for early repayment, and it would have to describe the conditions under which the purchaser/borrower takes ownership of the product.

This issue is in two parts, consisting of 232 pages. This is Part I.

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Credit *(contd.)*

There would be a ban on fine-print clauses. The consumer would have a seven-day cooling-off period during which he could cancel any credit contract concluded anywhere except at the creditor's place of business.

Special provision would be made for bank overdrafts. Credit institutions would have to inform the borrower of the maximum credit available, the initial rate of interest and charges, and the conditions under which these might be altered. The borrower would have to be told immediately about any change in the interest rate. In case of a commercial link between the lender and the seller of the product or service, both would be liable for delivery of the item or rendering of service in line with the credit contract. Breach of contract would make them both jointly and severally liable for refunding any amount the consumer has paid.

The measure would commit the member states to curb unfair advertising of consumer credit plans. Ads promoting consumer credit would have to contain adequate information about the terms and total costs. Suppliers of credit would either have to obtain a license from the government or be subject to government supervision; both of these requirements could be waived if the member state established a body that would accept consumers' complaints about credit agreements.

Legal Action Sparks Excise Tax Debate

Harmonizing national excise tax rules has been an arduous task for the Community from the very start: the major accomplishment so far has been limited to the excise taxes levied on cigarettes. However, under the threat of Commission suits against four member states, there has been some momentum for progress in the Council of Ministers because France, now in the Council presidency, is one of the defendants.

Last August the Commission sued France, Italy, the U.K., and Denmark on grounds that all four failed to fulfill their obligations under Treaty Article 95 (Case Nos. 168/78, 169/78, 170/78, and 171/78). That provision bars a member state from imposing on products from other states a tax in excess of that levied on similar domestic products *(Common Market Reports, Par. 3001)*. In other words, discriminatory charges are prohibited. France and Italy were brought to court for levying a higher excise tax on grain-based spirits than on spirits produced from wine, thus hampering British whiskey exports to those countries. British law provides for a higher excise tax on imported wines than on domestic wines, thus discriminating against wine imports from France, Italy, and Germany. Alcohol is alcohol, the Commission says.

Commission lawyers are optimistic about winning, especially since the European Court of Justice in 1976 laid

Excise Tax *(contd.)*

down several standards that the member states must meet if their excise duties are to comply with Article 95 (Case Nos. 45/75 and 127/75, *Common Market Reports, Pars. 8343, 8367*). But even if the Court decides in favor of the Commission, this would not mean that all other forms of discriminatory treatment will be eliminated; this can be accomplished only through harmonizing the national excise tax rules, as provided in Treaty Article 99 *(Common Market Reports, Par. 3025)*.

A framework draft directive and special proposals aimed at harmonizing the excise tax rules applicable to beer, wine, and alcohol have been pending before the Council since 1969. Adoption of the beer and alcohol measures would remove the "rough edges" of the national excise tax structures in an attempt to eliminate distortion of competition and stimulate intra-EEC trade. Council lawyers believe that the chances for passage are good. Adoption of the wine measure, however, is complicated by the fact that Germany, Italy, and Luxembourg do not levy an excise tax on wine at all; passage would mean that those three countries would have to introduce an excise tax. A compromise is not in sight as yet.

In Brief...

Europeans may have to wait some time for the introduction of a Community driver's license because the British government wants additional road safety statistics from the Commission before it consents to the measure. Adoption of the Commission's 1972 proposal would mean that two years after Council action the license would be valid throughout the Common Market. London objected to the proposal last month, saying that British truckers have a better safety record because they have to submit to stricter driving tests + + + The Commission has filed suit against the U.K. in the European Court of Justice, charging that Britain's unilateral measures granting herring quotas to small boats in certain areas of the North and Irish seas where fishing is banned are discriminatory and thus in violation of the Treaty of Rome and other special Community legislation. The EC executive contends that the small-boat measures really are allowing only British boats to fish in those waters. The legal action is part of the broader dispute between Britain and the other member states about a common fisheries policy. In the absence of such policy, the member states are allowed to take unilateral measures only to the extent that these are nondiscriminatory.

In order to demonstrate their solidarity with the country's 1.3 million unemployed, the French political parties consider themselves under obligation to contribute their share to the many proposals on how to cope with France's most persistent economic problem. The most recent example has

Unemployment *(contd.)*

been the recommendation by President Giscard d'Estaing's own party, the UDF, to introduce a net worth levy for the specific purpose of combating unemployment and easing its impact. Masterminded by ex-finance minister Jean-Pierre Fourcade, the UDF plan calls for imposing the tax on assets of more than FF 2 million, which would result in revenues estimated at FF 1-1.5 billion. The party has now commissioned its parliamentary faction to study the most practical method of levying such a tax and, if indicated, to draft a bill.

The chances for the realization of this proposal are considered minimal. Economics Minister René Monory, himself a member of the UDF, has rejected the plan as being unrealistic, and Premier Raymond Barre has been on record from the start that he would oppose the introduction of a direct annual net worth tax for whatever purpose. Fourcade undoubtedly was well aware of the administration's position because his proposal left open the possibility of including the solidarity concept in an eventual modification of the existing inheritance tax system.

As reported in January, such an inheritance tax reform has been recommended in a study completed recently by a government-appointed commission. The experts' report meanwhile has been submitted to Parliament for discussion, after which the administration will make its own position known. The most innovative aspect of the study is the recommendation of a surcharge calculated on the net worth of heirs. Nevertheless, even if draft legislation to this effect is adopted, Economics Minister Monory doubts whether the tax revenues could be earmarked for the purposes advocated by the UDF. The government's solidarity with the unemployed, he said on Feb. 19, is already reflected in the budgeted expenditure this year of no less than FF 30 billion in employment-related funds.

In other news, Monory this month announced a reduction from 9.5% to 8.75% of the interest rate on long-range (15-year) credits made available to industry by the state banks. The action is designed to stimulate industrial investment and export activity, Monory said. Last fall the government had set aside FF 2.5 billion for the financin[g] of such investments. By the end of 1978, it had granted 275 credit applications with a total volume of FF 412 mi[l]lion.

Britain: Tax Liability for U.S. Oil Service Firms?

According to British press reports, U.S. oil serv[...] supply companies operating on Britain's Continen[...] even on a temporary basis are expected to becom[e] [...] U.K. taxation under an amendment of the pending [...] double taxation treaty. Still to be published[...] treaty has not yet been ratified by either co[...]

Tax Liability (contd.)

ering U.S. oil service companies was "part of a ... " negotiated by the British government, the rep ... was included in the treaty text after London h ... tain agreement on a ban of the controversial ... stems of the states of California, Oregon, and A... ree western states impose a tax on a proportion of ... vide income of foreign multinational companies opera... those states. The U.S. Senate had approved the trea... last June but not until removing a clause that would have exempted British companies from this unitary taxation.

The British reports said that the treaty amendment would cover U.S. oil service companies engaged in U.K. offshore operations for more than 30 days in any 12-month period. They would then become liable to U.K. taxation in the same way as U.S. companies with permanent activities in Britain. However, they would be able to set off their British tax payments against U.S. taxes, the reports said.

Germany: Panel Favors Ceilings on Banks' Holdings

The Bonn government's special commission entrusted with the task of making recommendations on how to curtail the commercial banks' influence on the economy was supposed to make its report public next May. However, many details have meanwhile been leaked to the public, and Finance Minister Hans Matthöfer himself recently gave a rough description of the panel's findings.

The commission - composed of four bankers, two law professors, and four civil servants - is split on several recommendations. Still, there is a consensus that the power of German banks should be curbed in several respects. There is also agreement that not the slightest move should be made toward nationalizing the banks or otherwise keeping a tighter rein on them - for example, by delegating government officials to the banks' supervisory boards. The experts also want to leave the universal banking system untouched so that banks could continue to remain active on the securities markets.

Unlike their counterparts in the United States and Britain, German banks exert great influence on the securities markets; they may buy and sell shares on the stock exchanges for their own account and that of their customers. Their stockholdings are considerable. A majority of the commission wants to restrict any bank's equity interest in a commercial enterprise to 25% plus one share. (Last year the Monopolies Commission suggested that banks have a maximum 5% stake, while the national banking association supports a maximum 50% holding.) One of the problems not solved within the commission concerns the deadline by which any bank would be required to part with stock above the 25%-plus-one ceiling. Another issue deals with the tax

Holdings *(contd.)*

treatment of the secret reserves that have accrued to the bank's equity holdings and which would have to be liquidated for taxation.

The commission has no major objection to the banks' practice of holding individual shareholders' stock for safekeeping and distribution of dividends. Bank representatives often exercise the depositors' voting rights, and although the 1965 Stock Corporation Act prohibits a bank from obtaining blanket authorizations from shareholders to cast proxy votes at annual meetings of shareholders, the commission recommends that a bank not only ask for individual authorization from each shareholder/depositor for any meeting *(Doing Business in Europe, Par. 23,216)* but also obtain specific authorization on matters such as planned mergers and amendments to articles of incorporation.

The commission suggests that interlocking directorships, i.e., bank officials serving as members on a company's supervisory board and vice versa, be made public: any company would be compelled to disclose in its annual report how many of its supervisory board members served on the boards of other enterprises, including banks.

Italy: La Malfa Tries to Assemble New Coalition

Ugo La Malfa, the 75-year-old leader of Italy's small Republican party, last month accepted the difficult task of trying to find a way out of the country's latest political crisis, even though his prospects for success were considered marginal. La Malfa, a deputy prime minister and several times a minister in previous governments, was asked to form a new coalition after similar attempts by outgoing Premier Giulio Andreotti had failed. Andreotti's Christian Democratic minority government was forced to resign after the Communists withdrew their parliamentary support.

La Malfa reportedly was seeking a revival of the previous five-party government majority, and late last month it appeared that the Communists were softening in their insistence on direct cabinet representation. However, political observers interpreted this merely as a ploy to embarrass the Christian Democrats, La Malfa being the first non-Christian Democrat since the war to be asked to form a new government. It was pointed out that the Communists, with their national party convention coming up this month, can probably not afford to retreat too far from their claim for a direct stake in government. Thus, early elections are still considered a strong possibility.

Austria: Severance Pay Law Extended to All Workers

Austria probably has become the only country in the world where all employees will soon have a legal right to severance compensation *(Abfertigung)* upon retirement or termination. This right has existed for the country's white-

Severance Pay (contd.)

collar workers since 1921, but Parliament has now unanimously passed a law that gradually extends severance benefits to both blue-collar and public-sector employees as well. The legislation took effect on Feb. 23.

Full severance pay rights for all will commence on Jan. 1, 1984. Partial benefits will be paid out beginning next July 1, when workers affected will be entitled to 10% of full benefits. This percentage will be raised in subsequent years - to 20% as of Jan. 1, 1980; 40% in '81; 60% in '82; and 80% in '83. The amount is determined by seniority. For instance, after three years of employment with one company, a worker is entitled to two months' wages plus two-twelfths of annual supplemental payments (vacation and Christmas bonuses). This rises to three months' wages after five years, to four after 10 years, etc., up to a full year's pay after 25 years, plus a correspondingly higher share of supplemental benefits.

Severance pay rights are forfeited when a worker himself terminates his employment contract, when he quits his job without any important reason, or when the company is justified in firing him without notice. Full rights apply when a worker reaches retirement age.

Austrian commentators said that there was never any real question that severance pay benefits eventually would have to be extended to all employees. However, they did take issue with the fact that this was being done at a time when many companies are in a poor earnings situation. It was too obvious, they complained, that the governing Socialists of Chancellor Bruno Kreisky had the May 6 national elections in mind when they rushed the legislation through.

At the same time, Parliament also approved legislation on equal pay for women, an "early-warning" system governing mass dismissals, and special compensation for unemployed elderly workers opting for early retirement.

Greece: Price, Profits Freeze; Foreign Investments

Following a 3.8% rise in consumer goods prices in the month of January alone, the Greek government on Feb. 23 imposed a general freeze on goods and services with retroactive effect on Dec. 31, 1978. It decreed that dividend distributions this year may not exceed those of 1978. In addition, businesses are to observe a 15% ceiling in granting pay increases, which would be in line with the recent arbitration court ruling on minimum wages. Any increases beyond this limit, it was announced, could not be reflected in companies' price calculations. (Last August, Athens already had imposed a temporary freeze on housing rents and on the prices of some products and services.)

Coordination Minister Constantine Mitsotakis said the government was still determined to meet its target of re-

Price Freeze *(contd.)*

ducing inflation to 10% this year (as compared with 12.5% in '78). The steep price index rise in January was partly explained with the unexpected increase of oil prices in the wake of the political upheaval in Iran but also with fast-growing public spending. It has been speculated that the government will soon come up with further deflationary measures, including a reduction of public investments and hiring, more stringent controls on price and profit margins for a number of products, and credit curbs.

In other news, the Coordination Ministry has released statistics showing that between 1953 and the end of last year, the volume of foreign investments in Greece reached $1.4 billion. This figure pertains specifically to investments made after the implementation of Law No. 2687 for the Protection of Foreign Investments *(Doing Business in Europe, Par. 24,153)*. Capital imports in the years 1977 and '78 under the provisions of this law totaled $46 million and $91.5 million, respectively, the Ministry said.

OTHER NEWS

Netherlands

The 300,000 workers in the Dutch building sector have won a 1979 collective agreement providing for increases of just under 1% in addition to the inflation adjustments. The employers also consented to lower the age limit for early retirement from 63 to 62 years, to extend annual leave from 22 to 23 days, and to pay slightly higher vacation bonuses.

Switzerland

The news that Swiss fiscal revenues last year exceeded budgetary forecasts by SF 300-400 million has led to apprehensions about whether the proposal for a value-added tax will again be defeated (in the referendum next May 20). The voters had rejected such a step once before, in June 1977. Swiss reports said the government now may propose a standard rate of 7% instead of 8%.

Sweden

The Liberal minority government in Stockholm has submitted a bill to Parliament calling for a combined 80% tax limit (state and local taxes) on annual incomes of up to SKr 171,000 and an absolute ceiling of 85% on incomes above that. Also proposed are tax cuts of 1-5% as of 1980 for earnings ranging between SKr 34,000 and 114,000.

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Community: Court Ruling Setback to Professions

The European Court of Justice has ruled that a veterinarian may not invoke Treaty Article 52 in seeking to practice his profession in another EC state so long as the deadline by which that state must align its rules with Council directives on the matter has not expired. Until that time, a vet holding a degree from another state can be barred from practicing so long as he does not meet the requirements of the state where he wants to practice (judgment of Feb. 7, 1979, Case No. 136/78). This latest ruling involving the mutual recognition of diplomas surprised many observers who were expecting a judgment that would further dismantle obstacles to the exercise of the liberal professions throughout the Community. In his conclusions the Advocate General had come out in favor of the right of establishment.

The case involved a man born in Austria who received much of his veterinary training in Parma, Italy, where he also earned his diploma; he later moved to France and became a French citizen. The French authorities wanted to close down his practice in Mulhouse, near Strasbourg, because a 1962 decree allows a foreign-trained veterinarian who is a naturalized citizen to practice only if his or her degree is recognized as equal to a French diploma; they did not believe the Italian training was equivalent. A French

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Professions *(contd.)*

appellate court set aside a lower court's order to close the vet's practice. It then requested the Court of Justice to rule on whether the vet's practice was not legalized under Treaty Articles 52 and 57, which provide for the abolishment of restrictions on the right of establishment and for the recognition of diplomas *(Common Market Reports, Pars. 1301, 1485)*.

Advocate General Jean-Pierre Warner objected to the French government's position that Treaty provisions did not apply because the vet was a French national. He said in his conclusions that the Treaty prohibits discrimination by a member state against its own nationals as much as against nationals from other states. He referred to the April 1977 *Thieffry* judgment; at that time the Court ruled that in the absence of an EEC directive on mutual recognition of diplomas, a person who wishes to exercise a profession in a member state other than his own must be allowed to do so even if his qualifications are regarded by the state of establishment as equivalent for academic purposes only. The Court said that to require a national to hold a degree from the country where he wishes to practice is a restriction that is incompatible with the freedom of establishment guaranteed by Treaty Article 52 (Case No. 71/76). Warner proposed that the Court now go even further and say that no member-state national should be barred from practicing unless his own qualifications are substantially lower than those of the state of establishment.

The Court rejected the Advocate General's suggestion. Since the directives providing for recognition of diplomas in veterinary medicine were adopted in December 1978, France has until 1981 to comply. On the basis of Articles 54 and 57, the Court concluded that the right of establishment is not completely guaranteed by the mere application of the rule of equal treatment of nationals because application of the nondiscrimination rule leaves intact all restrictions other than those resulting from nonpossession of the host state's nationality, in particular those resulting from the different qualifications laid down by the various member states.

In Brief...

A considerably diluted version of the Commission's 1973 merger control proposal now has the backing of all member states except Italy. Based on Treaty Article 86, the measure would require enterprises with combined annual sales exceeding one billion UA to notify the Commission of their merger plans. It would also empower the EC executive to bar completion of proposed and notified mergers if a company attains or increases a market-dominating position and thus hampers effective competition within the Common Market or a substantial part of it. Under the draft regulation, the Commission could exempt certain mergers, and it is here that Italy wants the national governments to have a strong-

In Brief (contd.)

er voice. Rome fears that the proposed merger controls would work to the disadvantage of those states whose industries have not yet reached the level of concentration necessary for international competition *(Common Market Reports, Pars. 9586, 9845)* + + + The Commission has no objections to BP's plan to buy a 25% stake in the Ruhrgas AG from Veba. The Commission's position to refrain from opening antitrust proceedings on the basis of Treaty Article 86 was announced after executives of BP's German subsidiary, Veba, Ruhrgas, and Ruhrkohle AG reiterated the changes made in their original declaration of intent and proposed contract. Also, the companies agreed to transmit to the EC executive the details of their planned cooperation in energy sales and research and development of coal "liquefication." In the meantime, the German Economics Minister has approved the BP-Veba deal, thus setting aside the earlier Federal Cartel Office veto. However, the Minister's consent has been made dependent on the fulfillment of several conditions.

Germany: Codetermination Law Is Held Constitutional

The 1976 Codetermination Law is constitutional, according to a judgment handed down on March 1 by Germany's highest court, the *Bundesverfassungsgericht*. This law, which applies to companies with more than 2,000 employees, entitles labor to numerically equal representation on supervisory boards of approximately 650 companies but gives shareholders' representatives the edge on important matters such as the appointment of the supervisory board chairman and thus also the composition of the managing board *(Doing Business in Europe, Par. 30,863)*.

Twenty-nine employers' associations, nine companies, and an organization promoting the interests of securities' owners brought suit challenging the law's constitutionality. Their major arguments were that the law conflicts with the constitutional guarantees protecting property ownership, the right to choose a trade (and, more broadly, freedom from restrictions on economic activities), and the freedom of association *(Doing Business in Europe, Par. 31,001)*. The complainants alleged specifically that labor's rights laid down in the law's Sections 7 and 31, which deal with the composition of the supervisory board and the election of the managing board, allowed more than what the Constitution permits in terms of restricting property ownership rights.

The Court rejected these arguments and declared that the Codetermination Law gives shareholders' representatives a slight edge in determining and controlling management policies, and thus Sections 7 and 31 stay within the lines drawn by the Constitution's property guarantee clause. The Court said that this is illustrated by the fact that the supervisory board chairman can be elected by the sharehold-

Codetermination *(contd.)*

ers' representatives alone if he does not get the backing from the labor representatives. Also, the fact that the chairman has a tie-breaking vote if the board is split on important issues such as investments or production curtailment was seen by the high court as further evidence of the measure's constitutionality. The Court saw no substance in the complainants' charge that the measure would encroach on the parties' freedom to bargain collectively, guaranteed by Article 9 of the Constitution. It had been argued that managing board members elected with the backing of labor representatives and taking part in wage contract talks would no longer act with the independence needed to promote management's interests.

Observers were hoping that the Court would (as it has done in other cases) give Parliament and the government some hints about how far the lawmakers may go in legislating the economy within constitutional bounds. The Court disappointed them by merely reiterating its case law doctrine that the Constitution provides for no particular economic system. It conceded that the law presupposes a lot of good will on all sides involved, having been conceived with the idea of assuming trust and collaboration between labor and shareholders' representatives. The Court did not rule out the need for amendments if the cooperative spirit does not prevail or the law otherwise turns out to have a negative impact, thus affecting the proper functioning of a company.

Government lawyers admit that the coalition parties were well advised at the time to change the administration's original bill twice to give the shareholders' side a slight edge over labor and to remove some of the cumbersome details in the supervisory board's decision-making process *(Doing Business in Europe, Pars. 30,695, 30,700, 30,863).*

France: Escalation of Steel Conflict; Ford Plant

Angry French steelworkers reacted with wildcat strikes, violence, and even vandalism to a temporary breakdown late last month of negotiations between the government and representatives of France's major labor federations over modifications of the reorganization program for the steel industry. Among other things, the plan calls for the dismissal in the course of two years of more than 20,000 employees of the state-controlled Usinor and Sacilor steel groups in the Nord and Lorraine regions. The government has proposed to ease the impact of the mass layoffs with early-retirement provisions, retraining programs, and financial compensation.

The five unions representing the affected steelworkers have been pressuring Paris for further concessions. The most far-reaching demands were made by the Communist CGT, which has even called for disbanding the program and for

Steel Conflict *(contd.)*

the introduction of the 35-hour week by way of a fifth shift. The government - represented by Industry Minister André Giraud and Labor Minister Robert Boulin - has rejected these demands as being unacceptable, arguing that the restructuring process is unavoidable if the country's steel sector is to regain its international competitiveness. It also insisted on the need for reducing national output of crude steel from 33 million tons annually at present to 27 million tons by the end of next year.

The outbreak of unauthorized strikes and violent demonstrations has led to fears that union leaders are losing control over the membership. The majority of the unions are, in fact, behind the steel reorganization plan, which they consider vital to the survival of the crisis-shaken industry despite what they say are its numerous shortcomings. In the meantime, following a new round of talks between Giraud and union leaders early in March, it appeared that the government was prepared to offer further job-creating measures in addition to previous concessions on a lower retirement age and delays in the timing of layoffs.

Government and local authorities are also concerned that the volatile situation in Lorraine may influence the Ford Motor Co. in its decision on whether or not to establish a new automobile assembly plant at a location between Longwy and Thionville, two major steel centers. The plant would employ some 8,000 workers. Ford is also considering a competitive offer from Austria, a country that has had hardly any strike problems in the past.

Italy: Going After VAT Evaders; Television Tax

Since the beginning of the year, the Italian authorities' mounting campaign against tax evasion of all sorts has been stepped up further in the area of value-added taxation. It has been decreed that all goods in transit must be accompanied by documents certifying payment of VAT, even though there are some initial exemptions for certain items, including building materials, newspapers and magazines and, most importantly, wholesale foodstuffs being delivered to market.

In any event, the new system represents a first effort to bring purchasers into the enforcement pattern as well, making it now as serious an offense to buy without paying VAT as it is to sell. Furthermore, roadside checks of vehicles are by no means limited to large trucks but may also extend to individuals who, for instance, haul a new television set on the backseat of their car.

That the new system may fall short of ensuring tax honesty across the land is indicated by the fact that many companies are reported to have set up special VAT "bookkeeping": goods checked in transit by the fiscal authorities are immediately entered into the books, whereas

VAT Evaders *(contd.)*

VAT certificates that accompanied uninspected shipments may find their way into the shredder. The problem encountered by the authorities in these cases is that no one has copies of the certificates but the sellers and, upon delivery, the buyers.

The need for greater enforcement efforts was highlighted late last year by a Senate committee estimate that value-added tax was not paid on 20,000 billion lire ($24 billion) worth of transactions in 1977, costing the government 3,000 billion lire ($3.6 billion) in revenue.

The problem of evasion also extends into other areas, as recently brought out in a General Accounting Court review of the state-owned RAI-TV corporation. The latter's main source of income is the annual TV tax, a subscription fee payable by owners of television sets. It was estimated that in 1977 about 13% of TV set owners failed to pay the tax. Since 78% of RAI's receipts ($445 million out of $568 million) come out of subscription fees, the issue obviously is important. Last year, when 1.3 million color TV sets were sold in Italy, half of them were operated on a "tax-free" basis. Furthermore, 50% of the owners of the other half reported them only as black-and-white sets, thus paying a lower fee.

Observers have pointed out that, for full enforcement, Italy would "almost have to be turned into a police state, with midnight searches and violated privacy rights." Also, a substantial number of viewers seem to feel that the fees are an unnecessary nuisance, since RAI probably could cover its costs with advertising revenues. The problem with that solution is that Parliament has placed a strict limit on such income in order to ensure that other media retain a share of advertising revenues.

OK for Budget; La Malfa Fails in Crisis Talks

The Italian Chamber of Deputies has given unanimous approval to the government's 1979 budget. A last-minute change added 20 billion lire in expenditures to finance the costs of combating an epidemic among small children in Naples and the Campania region. The final budget calls for total expenditures of 111,000 billion lire and revenues of 55,000 billion lire.

In the meantime, Republican leader Ugo La Malfa also was forced to abandon attempts to form a new Italian coalition government following the resignation of the Andreotti administration last Jan. 31.

Britain: Voters Reject Devolution for Scotland, Wales

The U.K. referenda on devolution in Scotland and Wales on March 1 produced an overwhelming vote in Wales against an assembly in Cardiff, while in Scotland the vote in favor of an Edinburgh assembly was much lower than envisaged and well below the required 40% of the total electorate. In

Devolution *(contd.)*

Wales devolution was favored by a total of 243,048, as compared with 956,330 opponents. These numbers represented 11.9% and 46.9%, respectively, of the electorate, while in Scotland the figures were 1,230,937 (32.85%) and 1,153,502 (30.85%). Therefore, the Scottish majority for devolution was a mere 77,435 out of an electorate of some 2.5 million.

These results appear to have been influenced by the government's current unpopularity on the industrial and wages fronts, since the Labour Party has been, throughout, the chief proponent of devolution, which the Conservatives have generally opposed. Labour is especially strong in Scotland, and evidently many of its regular supporters were unhappy about the possible consequences. The Scottish section of the Confederation of British Industry has consistently indicated its hostility to the proposals, and a recent survey showed that a similar view was shared by 84% of its members, with only 10% in favor. The chairman, Alan Devereux, said that a Scottish assembly would cost some £15 million per year, and that this money would be better spent in creating some 1,500-1,700 new jobs annually. There would be the additional cost and complexity of another layer of government, decision making would become more difficult, and there would be greater economic uncertainty, coupled with increased taxation.

The referendum decisions, especially in Scotland, have proved troublesome to the government, which relies on the support of the Scottish Nationalist members of Parliament for its majority in the House of Commons. The MPs have indicated that if the government does not try to obtain parliamentary approval for the Scotland bill despite the outcome of the referendum (which before March 1 was described by leading Labour spokesmen as "consultative" only), then they will probably oppose the government on a vote of confidence in which they would join the Conservatives, the Liberals and, probably, the Ulster Unionists. The Conservative leader, Mrs. Margaret Thatcher, said, "The final insult would be for this dying government to try and bend our constitution to keep themselves in power for a few more wretched weeks." Thus, the prospects of a spring election now appear much more likely, observers said.

Austria: Banking Law Lays Emphasis on Secrecy

The new Austrian banking law *(Kreditwesengesetz)*, which took effect on March 1, lays strong emphasis on the protection of bank secrets and places extremely strict obligations to that effect on banks, their shareholders, managers, and employees. These obligations can be waived in two instances only - in penal court cases and penal proceedings involving intentional financial fraud as well as in cases where bank clients explicitly agree to the revelation of privileged information. When seen in conjunction with the strict anonymity that has always been enjoyed by

Banking Law *(contd.)*

depositors and other investors, commentators said, Austria's bank secrecy rules are now more extensive than those of Switzerland.

EURO COMPANY SCENE

Quaker Oats/ Chiari e Forti

Quaker Oats Co., Chicago, plans to raise from 27% to 80% its equity holding in the Italian foods group Chiari e Forti SpA, Parma. Through Euromobiliare, a finance holding, Quaker has made a public offer to buy at least 1.5 million and at most 2.9 million shares of Chiari shares for 2,500 lire each. Before trading of Chiari stock was suspended by CONSOB, the national stock exchange commission, the shares were priced at between 2,250 and 2,260 lire. Within the first seven days of the offer, Quaker reportedly was very close to reaching its minimum target. Chiari, which went through a serious financial crisis in 1973-74, meanwhile recovered sufficiently to report net earnings of 544 million lire for the 1977-78 fiscal year (June 30).

Goodyear

Goodyear (U.K.) Ltd., the subsidiary of the U.S. tire company, announced last month the closure of its Glasgow, Scotland, tire plant within 90 days. The decision was made after the plant's 700 employees rejected a proposed rescue plan that would have included the reintroduction of a Friday night shift. The Glasgow operation contributed £3 million to Goodyear's £18-million British losses last year. Britain's Dunlop also announced layoffs of 3,100 in January, and the U.S. Firestone group is considering European cutbacks as well.

Wedgwood/ Interpace/ Franciscan

Wedgwood, the U.K. ceramics and porcelain manufacturer, has acquired from Interpace Corp. for $13 million cash the assets of Franciscan, a dinnerware and architectural tile producer based in Glendale, Calif. The United States is Wedgwood's largest single export market. With the acquisition of Franciscan, the British company will have its first manufacturing base there.

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EUROMARKET NEWS

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Community: Monetary System Finally in Effect

The European monetary system (EMS) went into effect on March 13 after France lifted its reservations about the plan. Enactment had been blocked since December by the French government's insistence on dismantling the monetary compensatory amounts (MCAs), a complicated system of levies and subsidies designed to offset the impact of exchange rate fluctuations in intra-EEC farm trade. The MCAs have favored farmers in strong-currency countries, especially Germany and the Netherlands, and hurt those in weak-currency countries like France, Italy, and the U.K. A March 6 compromise reached by the agriculture ministers of all member states except the U.K. provides for the gradual abolishment of existing MCAs, and any new ones introduced after March 13 will be phased out within two years.

Britain remains outside the EMS not only because it was not ready to join due to the commitment involved but also because of its opposition to the Community's agricultural policy. Accepting the European Commission's compromise formula would have meant substantial price increases for farm commodities imported into the U.K. London has been insisting that there should be no increases in common

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Monetary System *(contd.)*

farm prices until a reform to reduce surplus commodities has been launched.

The EMS was conceived primarily to bring monetary stability to the countries joining it. The system's heart is the European currency unit (ECU), in which all debts and credits will be expressed. However, the Council of Ministers still has to approve the use of the ECU for the agricultural sector; specifically, it has to adopt a crucial regulation concerning application of the ECU for fixing the EEC's common farm prices. Adoption is scheduled for March 26.

The Community's existing credit mechanisms eventually will be extended and consolidated into a single fund, which will have an available credit volume of $25 billion, to be made up of 20% of the participating countries' gold and dollar reserves.

France's decision to let the EMS take effect has not diminished doubts about the system. The Brussels compromise leaves open just how German farmers will be compensated for less income if the German mark is revalued against other currencies. Observers say there are political implications because Chancellor Helmut Schmidt must fear for his coalition government if he ignores the powerful farm lobby. (National elections are to be held in October 1980.) French farmers should benefit twice - from the revaluation of the mark and through higher farm prices, which will further increase production in surplus commodities such as milk and meat. Critics say that this is a high price for the realization of the EMS.

Draft Proposal on Patent Licensing

The Commission has just published its draft regulation on patent licensing agreements (Official Journal No. C 58, March 3, 1979) and has asked businesses and the national business associations for comment. The proposal is actually the EC executive's third draft on the subject: the first two drafts, although not published, underwent major changes after several national governments convinced the Commission that the measure was unrealistic and too narrowly conceived. *(Common Market Reports, Par. 10,118.)*

In its present form the regulation would relieve parties to patent licensing agreements from notifying the Commission about their intentions. Furthermore, they would not have to apply for an exemption for a restrictive licensing agreement if the latter meets the conditions set out in the regulation. This change would ease the Commission's work load considerably because the backlog of applications for exemptions has reached some 50,000. The result is a certain amount of legal uncertainty in the business community, although the EC executive's past exemption practices have given some indication about the kind of agree-

Patents *(contd.)*

ment that would be exempt from the ban on restrictive practices *(Common Market Reports, Pars. 9776, 9801, 9814, 10,083, 10,088, and 10,107)*. The regulation would not apply to patent pools, licensing agreements entered into in connection with joint ventures, and reciprocal licensing.

Certain kinds of restrictive clauses would still qualify an agreement for automatic exemption, among them the licensor's commitment to refrain from manufacturing or selling the product within the licensed territory or not to permit others to do so, and the licensee's obligation to refrain from manufacturing or selling the product outside the licensed territory. Also permissible would be field-of-use clauses, the obligation not to exploit the patent after expiration of the agreement, and the commitment to refrain from granting sublicenses or assigning the license to a third party. However, agreements with exclusive sale clauses and export bans would be exempt only if the licensor's or licensee's sales do not exceed 100 million units of account annually. Observers anticipate that large companies will object to the 100-million limit.

The core of the measure is Article 3, which describes 14 types of clauses, any of which will disqualify an agreement for exemption. Examples would be a clause that committed the licensee to refrain from challenging the patent's validity or one that required the licensee to pay royalties after the patent's expiration. Restrictions on the volume of products manufactured or marketed by the licensee as well as restrictions on either the licensor or licensee about prices, price components, rebates, or recommendations on such matters would remove any agreement from the block exemption. Although Article 3 has been considerably modified since the first draft, it is expected that businesses will take exception to some of the proposed provisions.

In Brief...

Air and sea travelers inside the Community will be able to buy in duty-free shops until the member states have achieved a greater measure of tax harmonization. The Commission's unanimous decision on the matter on March 7 put an end to disagreements within the EC executive. Commissioner Etienne Davignon, responsible for internal market affairs, had argued that duty-free shops are an anomaly in a common market; he wanted to allow them to remain open only to travelers heading for or coming from destinations outside the EEC. But Commissioner Richard Burke, entrusted with fiscal and transport matters, favored retention until the national tax rules, expecially those on excise taxes, are harmonized to the extent that buying in the shops would no longer be that attractive + + + Greece's contribution to the Community budget remains the only issue that Greek and Community officials must solve before the accession negotiations are wound up. A final meeting has been postponed

In Brief *(contd.)*

until the middle of April + + + The Council has adopted the directive coordinating the national conditions for the admission of securities to official stock exchanges. The member states have two years within which to bring their national rules in line with the directive.

Germany: Second Attack on White-Collar Crime

The German government is preparing to launch a second legislative attack on white-collar crime. The targets of this measure, a follow-up to a 1976 law, are frauds committed through the use of computers (including forgery of computerized data), in conjunction with public bids, and in placing investors' money as well as the fraudulent use of checks and credit cards. The 1976 law aims to combat fraud to obtain subsidies from the government or the EEC's Agricultural Guidance and Guarantee Fund, credit fraud, illegal acts that precede or cause insolvency or bankruptcy, and failure to adhere to bookkeeping requirements *(Doing Business in Europe, Par. 30,763)*. Government officials expect that the new bill will go to Parliament prior to the summer recess.

According to the preliminary bill, an individual could be jailed for up to five years if he commits fraud by using a computer, either by feeding it wrong information or by inserting codes without authorization. There have been instances in the past where a state's attorney could not obtain a conviction because of failure to satisfy a Criminal Code requirement that says the deception of a *person* must be involved in a fraud. According to the proposal, it would make no difference in the future whether the deception involved an individual or a computer.

A jail sentence of up to three years could be imposed on a person who responds to a public bid with an impossibly low offer and thus not only violates fair competition but also possibly wastes taxpayers' money if he wins the contract and cannot fulfill it satisfactorily. The same penalty could be imposed on a person convicted of obtaining investors' money in a fraudulent way; an example of this would be deception by an offer of a lucrative return on an investment in supposedly valuable farmland that turns out to be unsuitable for the purported purpose. Also, a person who fraudulently uses another's credit card or check card could be jailed for up to two years or draw a fine based on his income. An employer could be jailed for up to five years or be fined accordingly if it is proved that he shortchanged the government by intentionally not paying enough into the social security fund for his employees or otherwise failed to live up to his financial obligations, such as by not transmitting the amount withheld from employees' wages to the fund that accumulates employers' and employees' contributions to a plan designed to spread capital ownership among employees.

Italy: Anger over Subsidy Delays; EDP Tax Center

The Italian business community is reacting with frustration and cynicism to the lengthening delays in the implementation of a government subsidization program that Parliament had approved in September 1977 - i.e., 18 months ago. The program had set aside the equivalent of $2.4 billion for private industry in order to provide urgently needed funds for retooling or, particularly in the chemicals sector, the reconversion to new product lines. The legislation also allocated some $5 billion to public-sector industries, but in this case $3.6 billion of this amount has been paid out.

The delays in the case of private enterprises requiring this aid ostensibly have risen out of the inability of the governmental bureaucracy to agree on (1) directives on how the funds are to be spent (various ministries reportedly have disagreements here) and (2) the regulations governing application for these funds.

As concerns the latter, the Ministry of Industry submitted its first draft of the proposed regulatory text to the General Accounting Court in August 1978. The Court, a quasi-judicial body with wide regulatory powers over the bureaucracy, said the text was not clear and returned it to the Ministry to be redrafted. Recently, the Court also rejected the second draft as inadequate, which means that no one yet knows when the implementing regulations will be published in the Official Gazette.

A delay is also afflicting the proposed national tax data processing center, which was to have been turned over to the Ministry of Finance in August 1981. January 1983 now has been "authoritatively" described as a more realistic target date. A progress report was given last month by a special parliamentary committee, which said that the delay is being caused by the lack of trained personnel. Also, the committee said, nothing has been done about the establishment of regional offices, which would provide (as well as audit and check) input for the new center. Nevertheless, the data of some 32 million taxpayers have already been entered in a memory bank, with a view toward providing a computerized record for every Italian taxpayer, both corporate and individual.

Denmark: Intervention by Mediator; No Devaluation

A Danish state mediator twice this month has made use of his right to intervene in labor conflicts by forcing postponements of national lockout and strike actions. Following the breakdown of negotiations for a new central wage agreement, the DA employers' federation originally had scheduled a lockout of 250,000 workers for March 8, to be answered by a strike of 50,000 transport, dock and utility workers called by the LO labor federation for March 12.

The previous collective contract expired on March 1.

Intervention *(contd.)*

The employers in effect are insisting on real-term pay reductions by wanting to modify the existing wage indexation system and keep raises this year substantially below 8%. The unions argue that such conditions would preclude the need for any bargaining, as far as they are concerned, since their members are already getting increases of 8% this year because of indexation, wage drift, and other factors.

Observers said the stalemate was likely to be broken by the cabinet's proposing a settlement, which Parliament would be asked to pass into law. The delaying tactics by the mediator supposedly were designed to help the government come up with a political solution, even though such a solution was not immediately in sight in the discussions between the coalition partners, the Social Democrats and the Liberals.

In other developments, the Danish krone came briefly under pressure on the exchange markets after an economic spokesman of the Union of Unskilled Workers proposed a devaluation as an alternative to the raising of the value-added tax. The spokesman, Harald Hinrich, said the government's intention to reduce the Danish payments deficits could be accomplished only with below-average wage increases, curbs on purchasing power, a devaluation, or a combination of these three.

Hinrich's proposal was immediately and sharply rejected by both the labor and the employers' federations. LO boss Thomas Nielsen said a devaluation would aid inflation and negatively affect real-term wages, while at the same time raise capital profits without creating new jobs. He said that the subject of devaluation would not be made part of the collective bargaining talks. This position was endorsed by the industrialists, who said that a devaluation would raise the indebtedness of businesses. (Danish enterprises have a foreign debt totaling 40 billion kroner, about half of it in short-term obligations.)

The government itself has tried to stay out of these discussions; in the past it has repeatedly rejected devaluation speculation. If such a move is indeed forthcoming, financial observers say, then it would have to be by a relatively large margin. About a year ago the Council of Economic Advisors described an effective devaluation of 10% as a means of reducing payments deficits and creating new employment. To achieve an actual 10%, devaluation would have to be by about 20% because of certain compensatory factors.

Britain: Corporate Tax Rebates to U.S. Investors?

American corporate investors in the U.K. would stand to benefit from a provision on corporation tax contained in the draft Anglo-American double taxation treaty still awaiting ratification, according to British reports. Brit-

Tax Rebates *(contd.)*

ish companies are subject to advance corporation tax on their profits, but since a U.K. taxpayer is not taxed twice on dividends derived from domestic companies, he receives a rebate of the corresponding portion of income tax due on the dividends. This rebate so far has not been available to American shareholders, but the proposed treaty provides that direct U.S. investors who control more than 10% of the share capital of a British company will be eligible for a refund of 50% of the corporation tax already deducted.

The reports said that this concession by the U.K. tax authorities would, in addition, be retroactive over the past five years. It has been estimated that American investors thus would be entitled to recover payments of some £200 million and that they could claim annual rebates in the future of some £40-50 million. Among the principal beneficiaries are likely to be those U.S. oil companies that have interests in the North Sea offshore oil developments.

Ireland: Tax Breaks for Pay Moderation, Unions Insist

A special conference of the Irish Congress of Trade Unions decided on March 9 in Dublin by a narrow margin of 215 to 188 votes to embark on discussions with the government on questions of pay and economic policy. The decision followed a discussion of a policy document that stressed the need for full employment, a tax reform, and improved social welfare provisions. It was made clear that, in the absence of "further tax concessions," the ICTU would press for compensating pay increases. The ICTU represents some 40,000 workers organized in 18 unions.

A feature of the conference was the opposition to the concept of central bargaining by many of the public-sector unions, which have traditionally favored this approach but now feel they have fallen behind comparable employees in the private sector. A spokesman for the Irish Transport and General Workers Union said nobody could repudiate the central tenets of the document to do away with unemployment while providing better wages and working conditions. "Industrial anarchy" would follow if various groups "tried to do their own thing in their own way."

The Federated Union of Employers expressed the view that the union-government discussions could be the first step toward bringing about greater industrial stability and social harmony, and it stressed its desire to cooperate with the government and the ICTU.

There is little doubt, however, that the government will find it more difficult this year to obtain general acceptance of moderate wage increases without making substantial concessions to union demands. There is, in particular, contention over the proportion of the total tax revenue contributed by pay-as-you-earn (PAYE) employees - name-

Tax Breaks *(contd.)*

ly, some 86% - while farmers are alleged to contribute only 2%. In fact, the government recently waived a proposed new levy of 2% on the country's 600,000 farmers, most of whom are said to pay no taxes at all. The issue recently caused 50,000 workers to demonstrate against the PAYE system.

Belgium: Acting Premier Continues; Discount Rate

Three months after the resignation of the Tindemans administration, there was still no visible progress in Belgium in the efforts to assemble a new coalition government. Following the failure of several political leaders to end the crisis, caretaker Prime Minister Paul Vanden Boeynants was commissioned to make a new attempt, tried to return this mandate after a few days, but was asked by King Baudouin to continue. Vanden Boeynants has been concentrating on reviving the outgoing coalition of Social Christians, Socialists, and two regional parties, the Flemish Volksunie and the Brussels Front Democratique des Francophones.

In other developments, the Belgian National Bank on March 7 lowered the so-called Plafond B discount rate and the Lombard rate by half a point to 7%. Plafond B accounts for about 25% of all discount transactions and covers funds that could be used for speculative purposes. The Plafond A discount rate remained unchanged at 6%.

OTHER NEWS

Switzerland

The Swiss government at present has no intention of imposing a freeze on assets kept in Swiss banks by the exiled Shah Reza Pahlevi of Iran. Bern made the decision after studying a request to this effect by Tehran. Instead, the new Iran government would be informed of all legal avenues that might make it possible to recover the Shah's holdings. A survey of 25 leading Swiss banks, meanwhile, disclosed that Iranian deposits in Switzerland totaled about SF 2 billion.

Portugal

The Lisbon government and European Community officials are scheduled to resume formal negotiations early next month on Portugal's accession to the EC, but apparently it is still not known who will head the Portuguese team. The former president of the Portuguese Commission for European Integration, Dr. Vitor Constancio, resigned his post last month for "political and personal reasons," and no successor has been named. Also, Community officials are worried by reports that the commission itself is "in disarray." Brussels is concerned that the talks with Portugal might lag too far behind those with Spain.

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Community: Budget Dispute Could Reach EC Court

Although the European Commission is still counting on a compromise in the budget row between the Council of Ministers and the European Parliament (EP), it has nevertheless taken procedural steps to bring Britain, Denmark, and France before the European Court of Justice for failure to contribute to the Community's 1979 budget in the amounts required by the final budget volume approved by the EP. The Commission has given the three defaulting states one month to explain why they have failed to pay the full amount. If no settlement is forthcoming, the Commission would sue the three under Treaty Article 169 *(Common Market Reports, Pars. 4615, 4616).*

Last December the EP took advantage of a divided Council and adopted the 1979 budget of 13.5 billion units of account (480 million EUA above the figure earlier approved by the Council) after insisting on adding to the EEC Regional Fund. Although the Council has the power to override the EP on the issue of this addition, it failed to muster the necessary majority: Britain and Italy refused consent during the budget's second reading because the Council earlier had agreed to allocate additional funds for the Community's poorer regions. France, Germany, and Denmark opposed adding the 480 million EUA to the budget. With the Council deadlocked, EP president Emilio Colombo used his powers and had the budget published in the Official Journal.

Legal experts generally agree that the EP adopted the

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Budget
(contd.)

Community budget in a valid manner and that the Commission has no choice but to enforce it. The EC executive, in the role of referee between the Council and the EP, has been trying to defuse the constitutional issue of the EP's powers, especially because of the repercussions on the current campaign for the first direct European Parliament elections in June. The Commission has therefore proposed a supplementary 1979 budget that would enable both sides to save face by agreeing on a compromise figure.

Six member-state governments have accepted the EP's legal position by making their first full payment to the EC budget last month. However, Britain, France, and Denmark paid only according to the budget levels fixed by the Council, asserting that the budget was not adopted in a valid manner.

In addition to taking procedural legal steps against the three defaulting states, the Commission is also trying to establish a new procedure to avoid future budgetary hassles without sapping the powers of either the Council or the European Parliament.

Little Chance for EC Plan on Raw Materials

Brussels observers see little chance of success for the Commission's recent proposals calling for collaboration between the Community and the 56 African, Caribbean and Pacific countries in more efficiently exploiting raw materials and energy resources. EC Commissioner Claude Cheysson had hoped that the government representatives of the Nine would at least set the signals for such collaboration in the current negotiations for a second convention between the Community and the ACP countries (the so-called Lomé II). The current Lomé Convention, which will expire on March 1, 1980, grants free access of ACP products to the Common Market and provides for financial assistance of 2.5 billion EUA. An additional 400 million EUA has been provided to stabilize the ACP countries' export earnings in times of fluctuating world market prices *(Common Market Reports, Par. 4281)*.

Brussels' plan would have the Community contribute generously to the exploration costs that most ACP countries cannot afford. Investments by Common Market-based enterprises in ACP and other developing countries with large raw materials deposits have dropped considerably in recent years, even though the Community depends so heavily - sometimes exclusively - on certain raw materials imported from these countries. Therefore, the Commission believes that the Community could act as a catalyst for increased investments there by European companies. It proposes financial grants that could be utilized by the recipient countries to become partners or shareholders in new investments. The Community could cover risks that are excluded in bilateral

Raw Materials *(contd.)*

treaties between the member states and the developing nations: a new EEC fund would provide coverage, and the money would be derived from premiums paid by the investing companies.

The reason why observers are pessimistic about the Commission's proposals is the position of most member states that there is no need for the Community to become involved because each state can accomplish just as much on a bilateral basis. West Germany, for example, has concluded with some 25 developing countries bilateral treaties that protect investments there and provide for compensation where companies are expropriated. Tax legislation supports investments in developing countries, and a government bank insures noncommercial risks of exporting firms.

In Brief...

Commission and national experts are negotiating the terms of accession of Denmark, Ireland, and the U.K. to the 1968 draft convention on the mutual recognition of companies and legal persons. This draft convention, which was signed in February '68 by representatives of the original six member states but not ratified by all of them, would provide that businesses founded under the law of one member state would be recognized by the others if their registered office is in the Common Market *(Common Market Reports, Pars. 6251, 6255)* + + + The European Council meeting held in Paris on March 12-13 failed to produce any results in terms of possible legislation to be adopted by the Council of Ministers. Still, the Nine renewed their pledges given at the Bremen summit in 1978 to further reduce the Community's dependence on oil imports. They also agreed to step up their efforts to make more use of the Community's coal resources and to expand the use of nuclear energy and development of solar and geothermal energy.

France: Agreement on Unemployment Insurance Plan

After negotiating for 10 months and under the pressure of a deadline set by Parliament, the French employers' federation CNPF and representatives of the labor unions this month agreed on important modifications of the unemployment insurance system. Last January, when a framework law was enacted, Parliament had imposed a three-month deadline on the negotiators; upon its expiration, the government would have been empowered to draft new regulations.

Probably the most significant result of the agreement was the decision to abandon the existing provision, introduced as of 1975, guaranteeing for up to one year unemployment benefits amounting to 90% of previous pay to employees laid off for "economic reasons." There had been criticism that this arrangement, at one time described as "the most generous in the world," has led to widespread abuse, social inequities, and a "reluctant" attitude on the part of many

Insurance *(contd.)*

jobless individuals. On the other hand, the new system will provide higher benefits to unemployed people in the low income brackets, who are in the majority by far.

As of July 1, each individual newly registered as unemployed will be entitled to compensation of at least FF 1,600 per month. Workers laid off for economic reasons - i.e., in cases of the employer's insolvency or severe financial problems - will be guaranteed minimum benefits of 90% of the legal minimum wage for up to one year. However, apart from this basic guarantee, compensation in relation to last previous gross pay will range from 65% down to 50% rather than be fixed at a straight 90%. The new regulations will apply as of Oct. 1 to those currently receiving benefits and as of Dec. 1 to those who on Oct. 1 would have been entitled to another three months of benefits at 90%.

Unemployed workers who have reached the age of 60 will be able to opt for early retirement and will then receive 70% of previous pay until the age of 65. The same percentage will also be guaranteed to those who are legally permitted to retire at age 55 (in the steel industry, for instance). After expiration of the initial benefits and in case of continued unemployment, eligible individuals will be granted further support at the rate of FF 20 per day for a period ranging up to nine or 15 months, depending on the recipient's age. The total duration of compensation payments will in no case exceed a period of three years for people below the age of 50 and of five years for older individuals.

The government's contribution under the FF 27-billion plan is estimated to rise from FF 4.5 billion at present to FF 7 billion annually. The remaining costs of the new arrangement will be borne by the employers (60%) and the employees (40%).

Government Easily Survives Censure Motions

The vote for the installation of two parliamentary commissions to investigate the government's employment and information policies was seen as the only tangible result of the special National Assembly session in Paris on March 14-16. The session had been reluctantly convened by President Giscard d'Estaing after the Gaullists, Socialists, and Communists had insisted on a debate of the Barre administration's handling of the steel industry crisis. Marked by acrimonious debate and demonstrative walkouts by whole party factions, the three-day session culminated on March 16 with the voting on two censure motions filed by the Communists and Socialists which the government survived with comfortable majorities.

If anything, commentators said, the event has shown that the political position of the Barre administration is relatively secure, despite the serious problems posed by

Censure *(contd.)*

the steel crisis and unemployment generally. Although Gaullist leader Jacques Chirac misses no opportunity to attack the government, they said, he nevertheless is not prepared to help the leftist Opposition to bring down Barre. Also, the rift between Communists and Socialists, the erstwhile partners in a Left Alliance, appears to have widened further: during the emergency session voting, the Socialists refused to support one of the censure motions that had been sponsored by the Communists.

Just before the session, Barre and Economics Minister René Monory had made it unmistakably clear that the reorganization of the French steel sector will proceed as planned. (Labor Minister Robert Boulin a few days earlier had indicated that these plans might be scaled down.) Barre said that France could not afford to maintain bankrupt companies with taxpayers' subsidies, particularly not enterprises of a size prevalent in the steel sector. At the same time, the Usinor steel concern reconfirmed that it will shut down its Denain plant in the fall, which will involve dismissals of more than 5,000 workers.

Germany: Utilities Be Liable Damage

The German government has proposed regulations that would accord customers more protection in contractual relations with utility companies. The objective of the proposals is to force the utilities, virtually all of which are government-owned, to amend their sales conditions accordingly. The 1977 Sales Conditions Law, with emphasis on consumer protection, does not govern contracts with utility companies *(Doing Business in Europe, Pars. 30,876 and 30,908)*.

Customers would also benefit from a provision that would compel the utilities to send out detailed bills that the average person can understand. This might present difficulties because most of the utilities have already switched to computerized billing. Another provision would allow a utility company to demand an advance payment or some other kind of security if it has reason to believe that the customer might default. According to the proposed regulations, a gas or electric company could shut off the supply completely only if the customer does something to endanger lives or property, such as using electric power to operate unsafe equipment, or if a line is tapped to bypass the meter. If a utility wants to turn off gas or electricity temporarily for another reason, such as repair, it would have to notify its customers well in advance. Aspects of energy conservation are behind the draft provision that would clearly set out the conditions under which a customer could utilize a power source of its own that uses less energy to generate electricity.

Government officials stress the importance of proposed provisions that would make a utility liable for damage.

Utilities *(contd.)*

(At present, all utilities have provisions in their sales conditions that exclude them from liability for their actions.) For example, an individual could recover as much as DM 5,000 in damages if the food in his freezer spoils or his television set is damaged because of a blackout or fluctuations in power. Since it is virtually impossible for a customer to prove fault on the utility company's part, the burden of proof would be shifted to the utility. However, there would be limits on the extent of liability because not all risks can be covered, and unlimited liability would lead to drastic price increases.

Netherlands: Breakdown of Bargaining in Metals Sector

The insistence by the NVV industrial labor federation on a shorter workweek to help alleviate unemployment has led to a temporary breakdown of collective bargaining in the Dutch metalworking sector, which employs some 350,000. The NVV, one of Holland's most powerful unions, has threatened "massive measures" should the employers refuse "to come to their senses." In this particular case, the demand for worktime cuts is taking precedence over incomes improvements, an area in which the union apparently was prepared to make concessions. The outcome of the dispute in the metalworking industry is expected to set guidelines for the upcoming bargaining talks in other sectors.

NVV's chairman, Arie Groenevelt, said his union would not give up its target of a 35-hour workweek. "We are being pushed into forcible action to make the employers understand that we all share the responsibility for employment," Groenevelt said, warning of possible strikes. Labor-management talks were broken off when the employers refused to discuss the 35-hour week even before other issues were taken up. The employers merely consented to participate in a joint study on the possible effects of a shorter workweek, which would form a basis for renewed talks on this issue next year. This was turned down by the union.

At the start of collective bargaining two months ago, the NVV had demanded an extra 20 guilders a month for each worker on top of full inflation adjustments. This, it was argued, would barely maintain the purchasing power of an average employee now earning 30,000 guilders annually. Collective bargaining shifted to industry sector and company levels in January following the failure last November of central wage talks.

Britain: Wilson Unit Urges Aids for Small Firms

The U.K.'s Committee to Review the Functioning of Financial Institutions - set up two years ago under the chairmanship of Sir Harold Wilson, the ex-prime minister - has published an interim report, "The Financing of Small Firms." Noting that small businesses in Britain find themselves "at considerable

Small Firms *(contd.)*

disadvantage in financial markets," the committee makes various recommendations to combat present difficulties.

The report does not actually recommend any taxation reforms, but it proposes the creation of a "Small Firm Investment Company" (SFIC), which would resemble an investment trust but have additional tax advantages. The SFIC would invest only in unquoted companies, although it could retain shares in any company that went public. Capital gains tax would be payable only upon disposal, and the company would have borrowing powers. An injection of equity capital would be provided, and a small company's shares thus would become more marketable, since the Stock Exchange has agreed in principle to the SFIC's receiving a public quotation.

Small firms would be able to market their shares on a short-term basis, in redeemable form: "Outside investors could then be given some stake in the future prosperity of the company, in return for the risk they take in helping to finance it until the point is reached where the funds generated in the business can be utilized by the company to pay them off." At present, Section 54 of the Companies Act 1948 prevents a firm from owning its own shares.

The Wilson Committee further proposes the creation of a publicly underwritten loan guarantee system, with a limited element of public subsidy. Some of the risks attached should be retained by the leading banks. This would be a "relatively cost-effective way" of using available resources. An English Development Agency for small firms should be set up, similar to the U.S. Small Business Administration. Institutions that make loans to small firms should publicize what criteria they employ, and large companies should be encouraged - possibly through the medium of the Confederation of British Industry - to release senior executives on a temporary basis to give "general advice or assistance on particular projects."

It is not clear from the report, however, how all these recommendations are to be implemented, and it has been suggested that a cabinet minister be entrusted with special responsibility for small businesses. The financial institutions in the U.K. have been, traditionally, reluctant to invest in small firms: the report, in fact, refers to banks being "excessively cautious" in assessing lending risks. Observers believe that substantial tax concessions will be necessary if the Wilson Committee's proposals are to succeed.

EURO COMPANY SCENE

Renault/ Mack Trucks

The state-owned French automobile group Renault intends to take a 20% stake in Mack Trucks, Inc., the second-largest U.S. truck manufacturer, in a deal valued at $115 million.

Renault/
Mack Trucks
(contd.)

Within the framework of a financial and commercial agreement signed on March 19, it is planned that Mack will get the exclusive distribution rights for Renault's medium-sized, diesel-powered trucks (9-15 tons) on the U.S. and Canadian markets. The French company will obtain a 10% participation in Mack through a $50-million capital increase and another 10% through the purchase of $65 million of convertible bonds. The announcement came only a few weeks after Renault and American Motors had signed a distribution and cooperation pact.

MAN/
White Motor

In related news, Maschinenfabrik Augsburg-Nürnberg AG (MAN) of Germany has signed a letter of intent to buy a majority participation of slightly over 50% in White Motor Corp., Eastlake, Ohio, the fourth-largest truck producer in the U.S. MAN will purchase 9.6 million of newly issued White common shares at $8 each, which corresponds to a total price of $76.8 million. (Last October the two companies had entered into an agreement whereby MAN would take over 12.6% of White's outstanding shares for $13 each; however, the deal never went through.) The new arrangement will enable MAN to supply its diesel engines for White's line of heavy-duty trucks and to develop with its U.S. partner a new commercial vehicles program in the 9-to-15-ton range.

Volkswagen/
Litton/
Triumph-Adler

Volkswagenwerk AG has taken a first step toward a major diversification of the automobile concern by agreeing with Litton Industries, Inc. to purchase an initial 55% participation in Germany's Triumph-Adler group, the office machinery and computer manufacturer. Litton so far has held an 85.5-percent equity in Triumph's DM 46-million share capital, which will now be raised to DM 80.5 million. VW will acquire the newly issued shares nominally valued at DM 34.5 million plus DM 9.775 million worth of Litton's shares. After the transaction is completed, Volkswagen would hold 55%; the Diehl group, 25%; Litton, 19%; and small shareholders, 1%. However, VW has an option to eventually buy Litton's remaining 19% as well.

Agache-Willot/
Korvette's/
Arlen Realty

The French retail group Agache-Willot has agreed to take over the U.S. department store chain Korvette's from the Arlen Realty & Development Corp. for a total price of $48.7 million. Korvette's operates more than 50 discount stores, primarily on the East Coast, and last year reported a turnover of $600 million.

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Community: Court Action Possible on Equality Issue

The European Commission has taken procedural steps under Treaty Article 169 against seven member states that have failed to comply with the Council directives on equal pay and equal access to employment. As a first step the Commission sent letters to Belgium, Denmark, France, Germany, Luxembourg, the Netherlands, and the U.K. and gave the governments 60 days to explain why they have not complied with the Council's equal pay directive of Feb. 10, 1975 *(Common Market Reports, Par. 3942.15)*.

In each letter the Commission detailed the grounds for the planned judicial action. Although Denmark's Folketing passed a law to implement the equal pay measure, the Commission contends that this law falls short of the directive's Article 1 because it provides neither for equal pay for the "same work" nor for "work to which an equal value is attributed." Another charge is that the law does not measure up to the requirements of the directive's Article 6, which embodies the equal pay principle in collective bargaining agreements and individual employment contracts. The German government faces the same charge. According to the Commission, Belgium has failed to comply with the directive in that married male civil servants are given a household allowance while married female employees are not. France grants advantages to salaried employees in the parapublic sector and to employees considered to be "the head of the family"; Luxembourg has similar rules. The prac-

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Equality
(contd.)

tices of these three states violate Article 3, which bars this sort of discriminatory treatment. The Commission takes exception to Section 1(1) of the U.K.'s Equal Pay Act that bars an employee from demanding equal pay for an equally valued job if a job evaluation system is not practiced by the business where he works. Finally, a Dutch law that excludes public employees from its scope cannot be reconciled with Article 2, according to the Commission.

Germany is the only member state that has not enacted any specific legislation to follow up on the directive. Bonn defends this by saying that Article 3 of the Constitution guarantees equal treatment, whereas the Commission believes that legislation is necessary. Also, Bonn claims there is no large-scale pay discrimination, and where it does exist, women may go to court to fight it. The Commission says that the German government has failed to make sure that the principle is observed at the level of enterprises and that infringements are not tolerated.

Both Germany and the Netherlands could also find themselves before the Court of Justice for failing to conform to the Council's Feb. 9, 1976, directive on equal access to employment and vocational training *(Common Market Reports, Par. 3910.123)*. Bonn's coalition parties are still arguing over details of amendments to the Civil Code that were to go to Parliament long ago. Legislation on the matter is pending in the Dutch parliament.

Should the Commission consider the member states' replies unsatisfactory, it would send a reasoned opinion giving the states a deadline within which they would have to amend existing legislation or adopt new legislation. The Commission would then take the states to court if they failed to meet the second deadline.

<u>GATT Accord Soon Ready for Signing</u>

Commission vice-president Wilhelm Haferkamp is convinced that the six-year trade negotiations of the GATT Tokyo Round will be wound up shortly so that the accord could be signed toward the end of April, making way for legislative approval by the 70-plus participating nations. Ratification by the EEC Council of Ministers is expected in October. The accord could then go into effect on Jan. 1, 1980.

The compromise as it stands now could be reached only because the three major trading partners - the USA, Japan, and the European Community - have put free world trade ahead of protectionism and have agreed in principle to the necessity of weak industries' having to adapt to changes brought about by free trade. The major trading partners and those countries whose industries are manufacturing low-priced export products also agreed, however, to continue to adhere to orderly marketing strategies.

Commission officials have singled out six major areas

GATT Accord *(contd.)*

they consider to be the key elements of the accord. Customs duties on industrial products will be cut between 25-30% over the next eight years. This would mean that the Common Market's common customs tariffs on industrial products, now averaging 9.8%, would drop to 7.5%. Since the U.S. would agree to level its tariff structure, which imposes either high or low duties on many industrial products, the Community would have achieved one of its major objectives to harmonize customs tariffs on a worldwide basis. After 1988 only a few products would still be subject to tariffs in excess of 20%.

Another important accomplishment is the fact that the parties would agree to uniform rules applied in determining a product's value used as a base for customs assessment. This approach would ensure that the tariffs would be the same for identical or similar products with the same value. Important for Common Market chemicals exporters, it would also mean abolishment of the much criticized American selling price (ASP) system, applied in valuing imported chemicals.

The fact that the negotiating parties were able, for the first time, to draft rules to implement several loosely worded GATT articles is considered a great success. Called codes, these rules pertain to subsidies, technical standards used to bar imports, and government contracts. All parties would promise not to grant outright subsidies to stimulate exports of industrial products. This would bring more discipline to international trade, not only among highly industrialized countries but also among less industrialized nations whose export subsidies are provoking mounting criticism. Many countries have increasingly been using national technical standards in recent years as a means of keeping unwanted products away from their markets; the standards are often more effective than quotas and tariffs. The parties assumed the commitment not to introduce unnecessary or discriminatory standards.

The EEC, Japan, and the U.S. were not prepared to lower tariffs on agricultural products, but they did agree to refrain from raising current farm export subsidies. The parties will eventually bar discriminatory practices in awarding government contracts. For a start, the national governments would be required to announce public projects and invite bids from foreign contractors and suppliers of certain products.

Denmark: Another Statutory Pay Contract

The Danish government on March 21 submitted to Parliament an incomes policy package that dictates a two-year collective pay agreement for some 1.5 million workers, about two-thirds of the national labor force, in both the private and public sectors. It was the third time, after 1975 and '77,

Pay Contract *(contd.)*

that Copenhagen had to impose collective terms. The statutory action also sought to avert the outbreak of a major labor conflict on March 31, which both employers and the unions had threatened after their talks for a central contract had collapsed early last month. Nevertheless, the government's move was protested by thousands of public-sector employees, and there were interruptions in bus, ferry and telephone services. Striking printing workers and journalists prevented publication of Copenhagen's two leading newspapers on March 24.

The draft legislation, which reportedly was assured passage in the Folketing, provides basically for a two-year extension of existing collective contracts, retention of inflation adjustments, and more annual leave and special pay improvements for low-income workers. In addition, a supplemental bill imposes as of April 1 a ceiling on profit margins and on fees and incomes of the self-employed; this is also seen as a weapon against wage inflation in the non-collective realm. The new collective contract takes retroactive effect on March 1 for the LO labor federation's sector and on April 1 for all others.

According to the government, the statutory contract will protect the purchasing power of wages, which on the average are to rise by 8% in nominal terms this year. Finance Minister Knud Heinesen said it will enable Denmark's exporters to hold the level of their international competitiveness in the first half of this year and improve it slightly in the second half. The balance of payments deficit in 1979 should come to 8-8.5 billion kroner, Heinesen said. This would constitute a definite increase from the 6.5 billion-kroner "maximum" fixed in the coalition agreement of the Social Democrats and Liberals last summer.

Employer spokesmen expressed disappointment over the fact that the wage indexation system, which was introduced in Denmark after World War II, again has been made part of a central contract. In the last two years, the inflation adjustments due in the spring and fall did not have to be paid by the employers; instead, the state paid them into the general pension fund. The future payments are to be used to introduce two additional vacation days in 1980 and three in '81, which thus would establish a fifth week of annual leave. As of Sept. 1, the employers are again to assume payment of the "inflation portions," which amount to 0.60 kroner per hour whenever the cost-of-living index rises by 3%.

Germany: Move to Cut Farmers' Tax Privileges

German farmers will feel the tax pinch if a bill now in preparation ultimately becomes law. At the moment there is still disagreement among the government coalition parties about how and to what extent certain tax privileges should

Privileges *(contd.)*

be eliminated. Agriculture Minister Josef Ertl, a Free Democrat and himself a farmer, is not basically opposed to taking away some of the farmers' tax privileges, but he wants several changes in the draft before it goes to Parliament. Observers say that a change is needed for equity reasons: about 600,000 of Germany's 850,000 farmers pay no income tax. A tax court meanwhile has asked the Federal Constitutional Court for a ruling on the constitutionality of the present system. Many tax experts expect the country's highest court to rule that the system is indeed unconstitutional.

German farmers, who produce two-thirds of the nation's food, benefit in several ways from the present tax law, which can be traced back to postwar policies of slowing the exodus of farmers to the cities and reducing dependence on food imports. Only 50,000 farmers keep books and pay taxes similar to those levied on commercial businesses. The incomes of some 35,000 are estimated, and around 140,000 farmers are assessed and pay taxes on only a quarter of their real incomes (lump-sum assessment). Because of these privileges, total fiscal revenue from farm income in 1977 amounted to DM 350 million, which roughly equals what 100,000 employees paid in taxes that year.

According to the proposal made by Finance Minister Hans Matthöfer, additional revenue of DM 300 million annually would be produced by curbing some of the existing privileges. Section 13a of the Income Tax Law, which allows the tax office to assess farmers by estimating their incomes, would be couched in stricter terms so that between 50-60% of farm incomes would be subject to taxation instead of the present 25% maximum. The roughly 500,000 farmers with farms of up to 30 acres and incomes of up to DM 15,000 would be covered by the lump-sum assessment procedure, compared with the 140,000 who currently benefit from that clause.

Around 150,000 farmers with 30-50 acres and annual incomes of up to DM 24,000 would have to keep simple accounts (retaining receipts on income and expenses would suffice). However, the 200,000 farmers with more than 50 acres and incomes above DM 24,000 would have to keep regular accounts like any business, as would farmers with a lot of land but yearly incomes below DM 24,000 whenever the assessed value of their property excluding the home exceeds DM 40,000. This means that all farms with more than 75 acres would be covered.

To reduce tax liability, the proposal would increase a farmer's individual exemptions to DM 2,000 for single taxpayers and DM 4,000 for couples (at present DM 1,200 and DM 2,400, respectively). Also, a farmer whose farm is treated like a business for tax purposes would be entitled to an additional DM 2,000 exemption so long as his annual

Privileges *(contd.)*

income does not exceed DM 50,000; the exemption would gradually drop to zero on incomes between DM 50,000 and 60,000.

France: OECD Urges Selective Reflation

In the interest of preventing unemployment from climbing still higher, the Organization for Economic Cooperation and Development has recommended that the French government consider a policy of selective reflation, which would stimulate economic activity and growth. In its latest economic survey, the Paris-based OECD points out that, as in 1978, the French authorities again tend to be too optimistic as regards the domestic economy's growth potential: "Growth of activity in 1979 may be closer to 3% than 4%, which would again be lower than the growth of productive potential."

Under these circumstances and on the assumption of an improving prices trend, the OECD experts suggest that "demand management policy might be made slightly more expansionary." "It is important," the report notes, "that the official targets should at least be achieved, for too moderate a pace of growth would have a directly adverse effect not only on employment but also on enterprises' cash flow, with the danger that investment would be curbed and the current process of industrial conversion impeded. Tax revenue and equilibrium of the social security accounts would be affected, too; the outlays for unemployment compensation are quite significant and the loss of revenue in terms of contributions lost must also be taken into account."

Among the possible stimulative actions recommended by the OECD Secretariat were "a more dynamic fiscal policy," more public spending to encourage investments, and "some stimulus" for housing construction. It is pointed out that an economic growth rate of at least 4.5% would be required to make some dent in the current unemployment picture. Nevertheless, the OECD suggests a number of government actions to be taken for the benefit of the labor market, including the improvement of vocational training and retraining and selective investments and job creation in the areas most seriously affected by the industrial restructuring process. (Organization for Economic Cooperation and Development, OECD Economic Surveys, France, March 26, 1979.)

Britain: Survey Notes Resurgence of Inflation

The latest annual OECD survey of the United Kingdom adopts a somewhat pessimistic view of the British economy. It is especially concerned with the resurgence of inflation and the present level of wage settlements, which are assumed to average 14% this year - some 4% higher than current government forecasts. These settlements are predicted to contribute 2.25% to the 1979 inflation rate, which is estimated at 12.25% in the second half of the year, for a 12-month increase of 4%. The survey states that "adherence to the existing monetary target range, supported by a tight fiscal

Inflation *(contd.)*

policy, is essential to discourage a process of pay escalation, to reduce the impact of higher pay settlements on prices, and to avoid an undue weakness of sterling," which is assumed to maintain its January exchange rate. However, these means may prove insufficient, the OECD says, and further restrictive fiscal action may be required.

Greater emphasis must be placed on profits, which have been eroded by "self-defeating" pay settlements and which now stand at 5% of national income, the survey noted. It went on to state that "in this context, it is essential that the benefits of North Sea oil should not be used to finance a temporary growth in consumption but to stimulate a continuing and long-term growth in investment, which will facilitate better industrial performance and the switch of resources to the external sector." The public sector borrowing requirement is expected to exceed the projected figure of £8.5 billion, and the rise in real disposable incomes is likely to be halved, to 3%, in 1979. The economy as a whole is expected to grow by 2.25% compared with 3.25% in '78. A current-account surplus of some £900 million is envisaged.

The report concludes that exports, even in the more successful branches of manufacturing industry, have not sufficiently offset the effects of rising import penetration, and it foresees a continuing slowdown particularly in the engineering and textile sectors, with a resultant rise in unemployment overall. (Organization for Economic Cooperation and Development, OECD Economic Surveys, United Kingdom, March 21, 1979.)

Italy: Rome Seizure Stirs Housing Crisis Debate

The confiscation of 530 vacant apartments by city authorities in Rome has provoked critical reactions among Italian politicians and the public and may eventually lead to a reassessment of housing policies, in the interest of both property owners and tenants. The seizure was ordered last month by a local magistrate who alleged that large property companies had "hoarded" the flats in a speculative and illegal manner. The apartments reportedly have been put on the rental market at prices calculated under the new Fair Rent Law *(equo canone)* passed last year.

As elsewhere in Italy's urban centers, the housing shortage is an acute problem in Rome, a city whose population has grown from two million to three million within 15 years. It points up the completely inadequate pace of housing construction in Italy, where only 150,000 units (apartments) are built annually. The actual need is closer to 300,000, since more than 350,000 couples marry every year. Complicated building codes, the lack of real property, and a slow-moving bureaucracy are considered the main causes of this deficit. Publicly financed social housing

Seizure *(contd.)*

accounts for only 4-7% of the total. The share of housing available for rent has been declining steadily for years - from 37% in the 1950s and 30% in the '60s to 22% today. It is becoming increasingly difficult to find rental premises of any kind, except for short-term (nearly always furnished) rentals.

Notwithstanding the high hopes with which it had been launched, the Fair Rent Law so far has not brought any visible improvements. Landlords consider equo canone rents inadequate to make leasing worthwhile. Particularly in the major cities, the tendency has been to withdraw apartments from the housing rental market. In Rome, many "For Rent" signs bear the added proviso "For Office Use Only." Many landlords who would want to sell their property are frustrated by their inability to legally evict tenants. Under the Fair Rent Law, evictions are possible only if a landlord can prove that he needs the premises for himself or his immediate family.

The property owners affected by the seizure of the vacant apartments in Rome by that city's Communist-dominated government have announced that they will take legal action; they reportedly were seeking a court order to enjoin the authorities from actually leasing the properties. "As such," said one commentator, "the lawsuits will present a rare, direct confrontation of proponents of the two schools of thought surrounding real property - whether its ownership or its use is of more importance to society."

OTHER NEWS

Portugal

An ex-minister for commerce and tourism, Pedro Pires Miranda, last month was named to head Portugal's Commission for European Integration, which will resume the negotiations over Portuguese EEC membership this month. A director of the nationalized oil company Petrogal, Miranda succeeds Vitor Constancio as the commission chief. In other news, the Lisbon parliament on March 22 rejected the austerity budget of the Mota Pinta administration, which has been in office for only four months. It was not immediately clear whether the government would continue.

Finland

The general elections on March 18 resulted in a shift to the right, with the opposition Conservatives raising their mandates from 35 to 45 in the 200-seat Parliament, thus becoming the second-largest party. However, the other partners in a potential right-center coalition lost ground, so that no one would venture any predictions about the makeup of the next government. The acting four-party coalition led by the Social Democrats was to be dissolved on April 4.

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Community: Court Voids Antidumping Regulation

The European Court of Justice has voided Council Regulation No. 1778/77, which had formalized the antidumping procedures that the European Commission had set in motion against certain importers and manufacturers of Japanese ball bearings and tapered roller bearings (judgments of March 29, 1979; Case Nos. 113/77, 118-121/77). The Court found fault with the fact that the regulation did not measure up to the rules that the Council of Ministers itself had laid down in a 1968 regulation (No. 459/68) to cope with dumping practices.

European ball-bearing manufacturers had complained to the Commission in 1976 about alleged dumping practices of Japanese producers and their European importers. After the EC executive obtained solid evidence that the Japanese were indeed selling in the Common Market at prices lower than those charged on the domestic market, it imposed from Feb. 7 through May 7, 1977, a provisional 15% antidumping duty. Under Article 2 of Regulation No. 459/68, a duty may be imposed on products that are dumped in the Common Market and which cause, or threaten to cause, material injury to an established EEC industry *(Common Market Reports, Pars. 3821, 3821B)*.

During the three-month period, the Commission pres-

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Antidumping *(contd.)*

sured the Japanese to raise their export prices. After four major manufacturers said they would, the Council decreed in Regulation No. 1778/77 to introduce a definite 15% duty but to suspend it if the four Japanese manufacturers raised their prices.

Seven Japanese ball-bearing manufacturers and their European subsidiaries brought suits in October 1977 against the Council (some of the suits were also against the Commission) demanding annulment of Regulation No. 1778/77; they also asked for damages to compensate for the losses they suffered from application of the regulation. Rejecting the Council's arguments that the suits were inadmissible because plaintiffs could not demand annulment of a regulation under Treaty Article 173, the Court of Justice ruled that it would hear the suits because the plaintiffs were directly and individually affected by the regulation *(Common Market Reports, Par. 4636.03)*. The Court believed that this was further confirmed by the fact that the regulation expressly said the application of the duty was suspended because the four most important Japanese manufacturers had agreed to raise their prices.

The EC tribunal largely concurred with the plaintiffs that Regulation No. 459/68 bars the approach followed by the Community lawmakers - namely, to accept the manufacturers' commitments to raise prices and at the same time introduce a final antidumping duty. The Court said that the Council may not do this: Article 14(1) of Regulation No. 459/68 provides for closure of the antidumping proceedings once the exporters make a commitment and the Commission accepts it.

The Court rejected the Council's argument that Regulation No. 1778/77 was based not only on Regulation No. 459/68 but also on Treaty Article 113, which gives EEC institutions broad powers to chart the Community's commercial policy and to take protective measures against dumping practices. Once the Council has adopted a general regulation under Treaty Article 113, the Court believes that it may not deviate from the regulation's rules; if it does, it violates the rules governing the Community's lawmaking process and the principle of equal treatment. Since the commitments by the four manufacturers had to be followed by closure of the antidumping proceedings, the Council was also barred from declaring that the duty the manufacturers paid on the basis of the provisional duty must be kept, the Court concluded.

The Court held that the provisional duty has to be refunded but declined to award damages, since the plaintiffs failed to substantiate any further loss.

In Brief...

The Council's working group on environmental legislation currently is discussing three proposals: purity require-

In Brief
(contd.)

ments for underground water, sulfur dioxide emission controls, and water quality measuring techniques. Only the last-mentioned draft is given a chance of adoption at the next Council meeting devoted to environmental legislation in June; the measure would fill in a detail left out of the directive adopted in May 1976 *(Common Market Reports, Par. 3315.18)* + + + There is optimism in Council circles that the eighth draft VAT directive will be adopted during France's presidency. The measure expands on the VAT refund principle established in Article 17(4) of the sixth VAT directive, and adoption would align differing national rules governing refunds. An individual or business would be entitled to a refund of VAT paid on an item purchased in another member state *(Common Market Reports, Par. 3168).*

Belgium: Martens Heads New Coalition Government

A "minimal compromise" concerning the proposed state reform, which will leave the solution of nearly all controversial issues to Parliament, has finally resulted in the formation of a new Belgian government. It involves a coalition of five of the six previous government parties under the leadership of Wilfried Martens, previously the chairman of the Flemish Social Christians (CVP). Included in the coalition are the Flemish and Walloon wings of both the CVP and the Socialists as well as the Brussels-based Front Democratique des Francophones (FDF). Together, these parties represent 150 of the 212 mandates in Parliament. The Volksunie, with 11 seats, will join the Opposition. Martens' cabinet was installed this week, following Parliament's first session on April 3 after the December elections.

After about half a year with a provisional government (the Leo Tindemans cabinet resigned last October), the Belgian public is now most interested in the new government's economic policy plans. The coalition partners agreed to adopt more or less unchanged a program previously worked out by the caretaker administration of Paul Vanden Boeynants. It calls for the introduction of the 36-hour workweek by 1981, limiting pay increases to the inflation rate during the next three years, requiring companies with more than 100 employees to raise the number of jobs by at least 3%, and lowering employers' social insurance contributions by 15%. Further, it is proposed to float BF 80 billion in foreign loans to aid the modernization of Belgian industry. This policy was still subject to approval of the respective party executives and Parliament, however.

According to the compromise, the proposed state reform is now to be realized in three successive steps. First, there would be the formation of four regional and cultural executive bodies in the form of ministerial committees. (The Flemish would have one executive responsible for both regional and cultural affairs; the Francophone factions

Coalition *(contd.)*

would have three - one each for the Walloon and Brussels regions and another for cultural affairs.) As of Jan. 1, 1980, these executive bodies would adopt their final form and would hence be answerable to their regional assemblies. However, this is an issue still to be decided by the national parliament (in particular the question of how the Flemish minority is to be represented in the Brussels executive). The changes in the Belgian constitution allowing for this federal system of government would have to be completed by Dec. 31, 1982; otherwise, all interim solutions would be nullified.

Luxembourg: 'Steel Pact' Between Arbed, Government

The management of the Arbed steel group, the government, and the unions in Luxembourg last month agreed on the provisions of a "steel pact," which was seen as being of considerable importance to the domestic economy because of Arbed's status as the largest employer in the Grand Duchy. Like many of its competitors in Europe and elsewhere, the company has been hit hard by the steel crisis and last year again reported a loss. However, at LF 1.9 billion, this loss was not nearly as high as that of LF 4.5 billion in 1977.

Under the agreement, Arbed will receive state financial assistance totaling LF 3.2 billion over the next five years. Nearly half of these funds, LF 1.5 billion, will b[e] used to finance a 3% interest rate reduction on credits obtained by Arbed. The remainder will be spent on employment programs and social measures. Also, the steel group was given the green light to reduce its Luxembourg labor force by 1983 from 20,800 to 16,500, i.e., by 4,300. This is to be achieved mainly via natural attrition and early retirement of workers who have reached the age of 57.

Obligations incurred by Arbed under the pact include the maintenance of an employment level of at least 16,500 and the investment of at least LF 23.2 billion in the Grand Duchy within the next five years. The proposed investments, about twice as high as those at the beginning of the steel crisis in 1975, will go mainly into the modernization of production facilities. Also, the company management has agreed to create some 7,500 additional jobs, not necessarily in the steel sector or related areas. (It was reported that an Arbed-sponsored campaign in the USA to attract new industrial settlements to Luxembourg so far has resulted in contracts with three American firms and 650 new jobs.)

Germany: Court Rejects Fiscal Relief for Inflation

Germany's Federal Constitutional Court has upheld the constitutionality of the law that empowers the tax offices to fully assess taxpayers with income from interest even if inflation has outstripped the rate of interest. The country's highest court thus reaffirmed the principle behind a

Fiscal Relief (contd.)

Supreme Tax Court decision of several years ago *(Doing Business in Europe, Par. 30,739)*. However, the *Bundesverfassungsgericht* did make an important exception for a particular group of taxpayers: those who derive their income solely from savings deposits and interest might have a claim against the tax office under Section 163 AO (Fiscal Code) for some income tax relief.

Three taxpayers had filed complaints with the high court after the Supreme Tax Court and two lower courts upheld tax offices' assessments against them. The taxpayers alleged violation of the Constitution's equality clause and argued that the interest income could not really be taxed as a gain but should be considered as compensation for the purchasing power loss suffered due to inflation. They also charged that the Constitution's property guarantee clause was violated by the fact that, to a certain extent, the tax had to be paid from the principal.

The Constitutional Court rejected these arguments and largely followed those presented by the government, the central bank, the tax advisers' association, and business and union organizations. The justices said that Parliament was not obligated to enact legislation that would entitle taxpayers to account for inflation when computing their interest income. They added that the decline of the D-mark's purchasing power has been compensated by a continuous rise in incomes. It was stressed that the plaintiffs could have sought a higher return than bank interest by investing their money otherwise. In its 60-page decision the court also dwelled heavily on the negative consequences that the introduction of index clauses in taxation would have had not only for taxpayers and tax offices but also for other areas of law and for monetary stability.

Write-Off Rule Did Not Hurt Businesses

A 1976 amendment to the Income Tax Law that clarified the taxpayer's latitude in the valuation and deduction of low-cost assets as a current business expense has not caused the tax offices to change their practices, according to the German government. Many tax consultants, business executives, and some Opposition members of Parliament had feared that the law's amended Section 6(2) would bring more curbs than already existed. To quiet the critics, the Bundestag adopted a resolution calling on the government to report back within two years on the experience gained by application of the amendment *(Doing Business in Europe, Par. 30,934)*.

The amendment allows taxpayers to deduct as a current expense the cost of depreciable assets up to DM 800, less value-added tax paid at the time of purchase. The major condition is that an asset can be used and valued separately. An asset does not qualify for separate use if by its function it belongs to another asset and is used according-

Write-Off Rule *(contd.)*

ly in the taxpayer's business. The criteria of separate use and valuation are designed to prevent taxpayers from abusing the privilege by acquiring items in excess of DM 800, dismantling them, and then claiming deduction of the cost of the individual parts. The purpose of the amendment was to make sure that taxpayers using this privilege stay within the bounds staked out by the Supreme Tax Court, which had widened the taxpayer's latitude in several decisions. The government had feared that going beyond these bounds would shortchange the Treasury by anywhere from DM 1 billion to 5 billion annually.

Italy: Parliament Dissolved; New Elections Due

Early general elections in Italy probably will be held on June 9-10 - in conjunction with the European Parliament elections - after President Sandro Pertini dissolved Parliament on April 2. The decision followed the predicted Senate vote of no-confidence against Giulio Andreotti's fifth government, which had been installed only a few days earlier. Observers said the government's defeat in the Senate probably had actually been engineered by Andreotti's Christian Democrats to clear the way for a more workable base of political cooperation with the Communists, who withdrew their support last Jan. 31. The behind-the-scenes maneuvers are apparently being increasingly resented by the public: a recent poll showed that 54% of those questioned would rather support nonaffiliated lists than any of the political parties. There are also those who feel that the importance of the European Parliament elections will be diminished by holding the national elections at the same time.

'Commissariat' to Administer Ailing Firms

Just before its dissolution on March 29, the Italian parliament gave final approval to the decree law providing for the establishment of a "super commissariat" empowered to temporarily administrate financially stricken industrial groups. The National Assembly vote was 205 to 39, with 153 abstentions; the Senate had passed the legislation previously.

The decree law would avoid formal bankruptcy proceedings for ailing enterprises through the appointment of state administrators for a period of two to three years. This government intervention becomes possible when a company or group has accumulated debts amounting to five times the paid-in equity capital or more than 20 billion lire. Appointment of the commissioner(s) could be initiated by the Industry Ministry after an enterprise failed to pay wages for three months or after insolvency was certified.

A new aspect of the decree law in conjunction with previously prevailing Italian bankruptcy law concerns the formation of consortia by creditor banks: a majority of 75% of outstanding bank debts would suffice for the formation

Commissariat *(contd.)*

of such creditor consortia. If, within a 30-day grace period, a bank decided not to participate, it would not be able to exercise certain creditor rights for two years.

Jurisdiction of the commissioner(s) extends not only to the directly affected enterprises but also to other firms having certain relationships with these enterprises. Included could be, for instance, firms that directly or indirectly control the stricken enterprise, firms that are controlled by the enterprise, and firms that have granted credits and guarantees. The Italian securities commission (CONSOB) will be the agency in charge of determining the nature of such relationships. Through this extended jurisdiction it is intended to better enforce provisions of existing bankruptcy law seeking to prevent retroactive transfers of assets from the quasi-bankrupt enterprise to "healthy" companies.

The establishment of the commissariat initially is expected to assist mainly in the rescue of Italy's ailing chemical concerns. It probably will not apply, however, to the bailing out of Societá Italiana Resine (SIR), the country's third-largest chemicals group, which controls more than 100 companies and has accumulated 3,000 billion lire in debts despite massive public subsidies. There has been an accord between the government and SIR's creditor banks to leave the crisis management to the latter, under the leadership of Istituto Mobiliare Italiano (IMI).

Britain: Call for May 3 Elections; Interim Budget

After the March 28 defeat of the U.K. Labour government on a confidence vote in the House of Commons and with the prospect of a general election on May 3, Chancellor of the Exchequer Denis Healey introduced a "care and maintenance" Budget containing nothing that the next government could not alter. Healey's proposals mainly took the form of increases in personal income tax allowances, which since last year have been index-linked to the inflation rate. The Chancellor said the increases would not be implemented until Aug. 1 so that they could possibly be revised by the next government in a budget scheduled for late May or early June. Had he been able to introduce a normal budget, Healey said, he would have proposed an increase in income tax thresholds higher than now envisaged.

The Chancellor claimed that 1978 was a good year for the U.K. economy. Inflation was down, disposable incomes were higher, and there had been a decrease in unemployment. The situation would have been even better, however, if the government's pay guidelines had been observed. Healey estimated that wage inflation in '79 would be around 13%, a little less than in the last round of wage agreements, but "any increase above the government's guidelines is bound to raise prices and damage our competitiveness." The Chancel-

Budget *(contd.)*

lor emphasized that a rise in manufacturing output of less than 1% in the past was insufficient to satisfy additional consumer spending of some 5.5%, and so an increase in imports had been inevitable. However, the growth of the money supply had been well within the government's projected target of 6-12%.

The Conservatives' shadow chancellor, Sir Geoffrey Howe, promised that a Tory government would introduce substantial cuts in personal taxation to restore incentives as well as effect public spending cuts. He said a change of course was needed to shift the tax system's weight from "pay as you earn" (PAYE) to "pay as you spend." But observers believe that there would be little scope for tax reductions. The increased personal allowances alone will add nearly £1 billion to the public-sector borrowing requirement, which then may well total £10 billion, or £1.5 billion in excess of the government's objective. Accordingly, any lowering of direct taxes would have to be more than equally balanced by an increase in, for example, value-added tax and excise duties and by a radical reduction in public expenditure.

Ireland: Punt Detached from Sterling After 150 Years

Following a marked fall in the prices of Irish securities despite Central Bank support, the Irish pound (punt) on March 30 was severed from the U.K. pound sterling after being linked for more than 150 years. Since last December, when the Irish government opted for membership in the European monetary system (EMS) while the U.K. decided to remain outside for the time being, there had been speculation that the parity link could not be sustained.

The reason for the break was recent heavy demand for sterling because of high U.K. interest rates and the prospect of a Conservative government in Britain. The punt could not maintain its 1:1 exchange rate, since that would have taken it outside the maximum level of permitted fluctuation of 2.25% against the currencies of the seven other EMS member countries. As a result, the punt remains within the requisite limits, some 1-1.5% below the current value of the pound.

Last December, the Irish government had imposed various exchange controls on residents, including repatriation of funds from British bank accounts and a prohibition against investment in U.K. companies. At that time, there were some 50 million units of British currency (coins and bank notes) in circulation in the Republic. In addition, Irish and British bank notes have been freely interchangeable on both sides of the border. The U.K. Treasury has indicated that at present no exchange controls will be introduced relating to transactions with Ireland but that it will "continue to keep a close watch on developments."

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Community: Greece's Entry Scheduled for January 1981

Greece will join the Communities on Jan. 1, 1981. This date was fixed at the April 4 meeting of the foreign ministers of the Nine and Greece in Luxembourg, which was held to remove the last obstacles to full membership. The treaty of accession will be signed in Athens on May 28, thus giving the national parliaments ample time to ratify it.

Agreement on most issues that arose during the three-year-long negotiations had been reached by last December, and what remained to be settled were financial details and social matters. Since Greece will not immediately receive grants from the Regional Fund, the negotiators wanted to make sure that the financial advantages for Athens stay well ahead of its contributions to the Community's budget. Under the agreed formula, Greece's contributions in the first year will be 30% of what it will have to pay in 1987; in the following five years the contributions will rise gradually.

Substantial aid will go to specific sectors, such as olive and cotton farming, so that the net receipts Greece obtains from the EEC during each of the first five years of membership will rise from 50 million units of account in 1981 to 80 million UA in the fifth year. Greece's total net receipts during the five-year period are expected to be

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Greece *(contd.)*

near 1.5 billion UA, and it would remain a net beneficiary for some time after the end of the post-entry transition period.

A political issue was solved with a compromise: after a three-year transition period, Greeks working in the other nine member states would be on the same footing as other EEC nationals so far as social benefits go. This was not so much a Community-Greek problem as it was a German-Greek issue: of the 160,000 Greeks working in the EEC, about 130,000 are in Germany. The Bonn government has been reluctant to grant Greek nationals and their dependents free movement from the start, largely because of the financial consequences for the strained German social security system. This is why Greek nationals will not be entitled to free movement before 1988. The payment of children's allowances presented a particular problem: there will have to be a changeover from the current job-country principle to the residence-country principle. At present a Greek worker in Germany receives less money for his children still living in Greece than if they were living with him. Under the nondiscriminatory EEC principle based on residence, it would not matter where the children lived. Because of the additional cost, the German government at first insisted on a five-year transition period but finally agreed to three years (the Greek government had wanted the change to take effect as of 1981).

Commission Relents on Aid Control Plan

The European Commission has backed away, at least temporarily, from its plan to issue a directive that would require member-state governments to disclose the volume of their financial aid to state-owned industries. Treaty Article 90(3) empowers the Commission to issue directives or decisions to ensure application of EEC competition rules *(Common Market Reports, Pars. 2351, 2361)*. The Commission's antitrust division wants a better picture of the individual governments' role in aiding public enterprises that compete with other countries' government-owned companies, such as shipyards, or with private businesses, such as auto makers. It is not concerned about state-owned public service enterprises like railways, the postal service, or utilities.

Brussels observers tend to agree that the Commission will most likely never use its treaty-bestowed powers because a directive of this type could spark off a clash with Britain, France, and Italy, which would have unforeseen consequences. The governments of those three countries have made it clear that they find the plan unacceptable; they fear that the directive might be just a prelude to the Commission's further use of its powers under Article 90 and possibly a ban on any type of financial aid to state-owned industries. Their concern can be traced to the fact that all three are heavily engaged in various sectors of industry. An example is IRI (Istituto per la Ricostruzione In-

Aid Control *(contd.)*

dustriale), the huge Italian state holding company that is the Common Market's largest employer. Competing companies in other member states charge that IRI, because of its maze of subsidiaries, crossholdings, and interlocking directorships, is able to channel tax revenue into its vast conglomerate to an extent that is difficult to see and yet that considerably distorts competition. Critics say that the situation is less confusing in the case of Britain and France because in each instance the government's role is more confined to large industries like auto and aircraft manufacturing, although the extent of financial transfers is just as unknown as in Italy. Support for the Commission's plan has come so far from Belgium, Denmark, Germany, and Holland, where the role of government-owned or government-controlled industries is comparatively weak.

In Brief...

The Commission has failed to obtain Italy's basic consent to a heavily diluted version of its merger control proposal. This became clear at a recent meeting between high-ranking Commission officials and two members of the Italian government. The chances that the measure will ever be adopted, termed poor from the very beginning, have lessened even further. Although the Commission has backed away considerably from its original proposal, and so received the backing of the other eight member states, Rome is not prepared at this point to support the measure for Council passage + + + The Council has reached agreement on several legislative proposals that are of interest to consumers and manufacturers. One is a draft directive to harmonize member-state rules on the labeling, presentation, and advertising of foodstuffs intended for retail sale. Manufacturers would have to include on food labels certain information such as the food's composition and ingredients, additives, and an expiration date. The Council also agreed to adopt the directive on labeling of domestic appliances to indicate their energy consumption. This general measure does not specify what appliances would be covered; that would require a special act, and the Council agreed in a separate directive to apply the measure to electric ranges. Formal adoption of the directives is expected in a few weeks. The member states will have two years for implementation.

Germany: Disagreement over Approach to End Job Bias

The European Commission's proceedings against Germany for failure to comply with the Council of Ministers' directives on equal pay and equal access to employment have caused Bonn's government coalition parties to work harder to reconcile their differences over a preliminary bill designed to eliminate discrimination in access to and advancement in employment. The measure would shift the burden of proof to the employer; in other words, not the employee but the employer would have to adduce his reasons for hiring a man

Job Bias *(contd.)*

instead of a woman or for promoting one to a supervisory position instead of the other. Should the employer be unable to justify the discriminatory treatment, he would be liable for damages.

Although both the Social Democrats and the Free Democrats agree that legislation to comply with the directive on equal access to employment is needed, they differ on the approach proposed by Labor Minister Herbert Ehrenberg, a Social Democrat. Most Free Democrats have expressed objections to shifting the burden of proof to the employer: this, they argue, is contrary to the basic principle embedded in German law that the plaintiff must present the facts and suggest the legal consequences that should be attached to the facts. They say there is no reason why a departure from this principle should be made here. The majority of the Free Democrats in Parliament fear that the courts would be flooded with antidiscrimination suits and that this would be detrimental to the government's efforts to further reduce unemployment. They also believe that enactment of the bill would especially hurt small businesses, which have been doing a lot to reduce unemployment by creating new jobs.

The coalition parties disagree with the European Commission that legislative steps are necessary for compliance with the equal pay directive.

France: FF 5.8 Billion in Investment Incentives

The French industrial federation CNPF and business observers have reacted with some disappointment to the latest investment promotion program approved by the Barre cabinet on April 4. A CNPF spokesman described the proposals as being "completely inadequate," even though it was conceded that they were pointing in the right direction. The criticism extended mainly to the modest tax benefits to be derived by an inflation adjustment of corporate assets. Les Echos, the business magazine, commented that Premier Raymond Barre had "pulled only a small rabbit out of the hat..."

The total value of the investment promotion package, which is limited to two years, amounts to FF 5.8 billion. The benefits from the most important item - special tax write-offs granted for new investments - will not be realized until 1980. Over the next two years, industrial enterprises may deduct from their tax debt 10% of their annual investment growth (not new investments). Barre himself estimated the corporate taxes to be saved in 1980 at about FF 2 billion and in '81 at FF 1.7 billion. This, critics say, compares with productive investments of FF 200 billion annually by private industry in France.

Specifically, industrial enterprises that revalue their balance sheets before Dec. 31, 1979, may deduct from their corporate tax debt up to 10% of the resulting in-

Incentives *(contd.)*

crease in their investments. Also, the government raised from FF 2.5 to 4.5 billion the volume of low-interest loans available to companies that commit themselves to job-creating investments. If such investments take place in regional development areas, the companies involved will benefit in 1979 and '80 from tax write-offs equaling up to 50% of any subsidies received. Finally, firms with less than 2,000 employees and with active research and development projects may write off 50% of the cost of capital investment in the first year of the investment and will also be eligible for special "innovation" bonuses.

The Barre administration evidently views the latest measures merely as an extension of the FF 10-billion investment promotion package of last September and has specifically designed it to offset the effects of the most recent OPEC oil price increases. As such, the move follows the advice of the Organization for Economic Cooperation and Development (OECD), which in its survey on France recommended selective reflationary action to meet the government's economic growth targets this year.

Netherlands: Real Property; Interest Debts; and Proceeds

Finance Minister Frans Andriessen has submitted to the Dutch parliament draft legislation calling for an increase of the real estate transfer tax from 5% to 6% as of next year. The current rate *(Doing Business in Europe, Par. 26,863)* has been in effect since 1942. The tax is levied whenever real property changes hands, not only on sales.

In other tax news, the Finance Ministry has drafted a so-called repair law, through which it intends to close loopholes in existing rules concerning interest debts, which in Holland are fully tax-deductible. It has become common practice for wealthier taxpayers to take out a loan shortly before the end of a year and to pay the interest due several years ahead of schedule in order to reduce the tax liability. This procedure is particularly attractive to individuals headed for retirement. It is also recommended by promoters selling real estate abroad - for instance, in the United States. With a low down payment and a high mortgage loan, the interest of which is added to the principal, it has been possible to realize substantial tax savings in Holland. The new law would be retroactive to Nov. 25, 1978.

Further, the Finance Ministry has proposed an upward adjustment of the percentage of assumed proceeds from foreign securities, a move that should negatively affect capital investment companies registered in the Dutch Antilles or with strong activities there. It is planned to raise the rate of fictitious proceeds from 3.6% to 6% for fixed-interest bonds and to extend coverage to the shares of certain companies domiciled in the Antilles, which thus far

Proceeds *(contd.)*

have been spared Dutch taxation. (The 3.6% rate for industrial shares will remain in effect, however.)

Britain: Legislation to Expedite Arbitration

The U.K. government's Arbitration Bill, which received Royal Assent on April 4, implements various proposals put forward in last July's report by the Commercial Conduct Committee. It is intended to facilitate and expedite the process of arbitration in the U.K., while bringing the British system more in line with that on the Continent. Also, it is hoped that more international arbitration will be attracted to Britain.

Section 21 of the Arbitration Act 1950 *(Doing Business in Europe, Par. 24,031)* provides that a statement of case could be made for a decision of the High Court on a substantial and relevant point of law, and the Court could set aside or remit arbitration awards if there were errors on the face of the award. However, Clause 1 of the 1979 bill affords a new procedure for judicial review of such awards in that there would be a limited right of appeal to the High Court on any point of law where the Court believes that "having regard to all the circumstances, the determination of the question of law concerned could substantially affect the rights of one or more of the parties." In addition, the arbitrator may be required to state the reasons for his award if he has failed to do so at all or in sufficient detail. The right of appeal to the Court of Appeal is limited to cases where leave is given by either court and the question of law is of general public importance or one that should be considered for some other special reason.

Clause 2 of the Bill enables the High Court to determine preliminary points of law that arise in the case of proceedings. However, Clauses 3 and 4 provide that the parties to nonstatutory arbitration may, in certain cases and by agreement, exclude the right of appeal under Clause 1 or the Court's jurisdiction under Clause 2. Such exclusive agreements can be formed in the case of domestic arbitrations only after the actual proceedings have commenced. (The 1975 Act defines "domestic" as involving parties that are resident or incorporated in the U.K. or controlled from there.)

For most international arbitrations, a right to appeal can be excluded initially, before arbitration has commenced. However, if the arbitration award relates to maritime matters, contracts insurance, or commodity dealings, then the exclusive agreement will be operative only if it is made after arbitration has actually begun. There is the proviso that the Secretary of State has the power, by the comparatively simple process of an order in Parliament, to provide that the special provisions relating to these three

Arbitration *(contd.)*

categories of international arbitration will cease to have effect. Observers believe that in such instances it will be similarly possible before long to exclude referral to the courts.

Clause 5 of the Bill states that the High Court can authorize an arbitrator to proceed with the arbitration where one party fails to comply with an order he has made. Clause 8 confines the workings of the Act to England and Wales only.

Liechtenstein: Reform of Company, Tax Law Provisions

The Liechtenstein government recently completed the drafting of reform legislation seeking to tighten certain company and tax law provisions. The aim is to curb abuses, primarily on the part of foreign holding companies, which in the past often have given rise to criticism, both at home and abroad. The drafts have been forwarded to business associations and other interested parties, who have until May 22 to comment. The government will then prepare the final drafts and submit these to Parliament, probably in mid-June.

In the corporate law realm, the proposed reform legislation would lay down tougher criteria concerning the professional qualifications and the responsibilities of members of administrative boards *(Verwaltungsräte)*. Only attorneys, legal agents *(Rechtsagenten)*, trustees *(Treuhänder)*, and auditors would be qualified to be appointed as managing directors or deputy directors. As before, they would have to be residents of Liechtenstein. For certain types of businesses, the law would require the obligatory audit by a Vaduz control agency of balance sheets, profit and loss statements, and inventories. A change of rules is also proposed for the two business forms of the *Anstalt* (establishment) and *Stiftung* (foundation), so as to bar them from any commercial activity whatsoever.

Corporate law in the principality is to be made more transparent by provisions requiring establishments, trusts, and fiduciary companies to be entered in the public register *(Öffentlichkeitsregister)*; requiring certain types of companies to submit balance sheets; and requiring bookkeeping of companies that are not subject to the balance sheet rule. Also, the new law would change provisions pertaining to trusts and would enable the government, under certain conditions, to strike companies from the rolls. For instance, the authorities would be able to dissolve and liquidate a company when the latter's activities damage the national interest or reputation, or disturb the country's relations with other nations or international organizations. Finally, the reform legislation provides for the abolition of certain legal forms of businesses - for instance, *Gesamtverbände* and *verselbständigte Abteilungen*.

EURO COMPANY SCENE

Mostek

Mostek, Inc. of Dallas, Texas, has announced plans to operate a £40-million microprocessor facility at Cherry Orchard and Blanchardstown, near Dublin, Ireland. Within three years, activities are to expand from the testing of microprocessors to the assembly of integrated circuits and the manufacture of silicon wafers. By that time, the company plans to employ 1,100. Mostek's decision marks the end of a race for the project between the Irish Development Agency and the Scottish Development Agency, with the IDA apparently winning out on the strength of better incentives. It means a severe setback for the SDA and the British government, which had hoped to create a U.K. electronics industry near Glasgow, Scotland, similar to California's "Silicon Valley." There are now fears in Britain that the Mostek move may, in fact, lure more electronics manufacturers to southern Ireland.

NatWest/ National Bank of N. America/ CIT Financial

According to an agreement with CIT Financial Corp., New York, Britain's National Westminster Bank (NatWest) will purchase 100% of the stock of National Bank of America for $425 million. Originally, it was planned to acquire only 75.1%. New York reports said that CIT felt compelled to divest itself of all National Bank shares after the Federal Reserve Board refused CIT's request to cease being a one-bank holding company on the basis of a 75.1% sale.

Nationale Nederlanden/ Georgia Life

The No. 1 insurance group in Holland, Nationale Nederlanden, has made a tender offer of $360 million for Life Insurance Co. of Georgia (Atlanta), which has assets of $925 million and reported earnings of $24 million last year. The offer is for $60 per share of the 6 million common shares, on the condition that Nationale Nederlanden succeeds in gaining an equity of at least 51%. It was reported that Georgia's management alone accounts for 27% and has made an offer to this effect.

Zürich/ Empire Fire

Empire Fire & Marine Insurance Co. of Omaha, Neb., has announced that Switzerland's Zürich Versicherungs-Gesellschaft intends to purchase 32% of Empire's outstanding shares for $21 per share. The number of these shares totals 1.453 million, of which Zürich already holds 66,000. The transaction is still subject to approval by federal and state authorities.

Asuag/ Statek

Switzerland's Asuag group, one of that country's leading watchmakers, has purchased an 85% participation in Statek Corp. of Orange, Calif., a producer of electronic components (quartz-controlled leaf tuning forks, quartz crystal resonators).

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Community: Low-Proof Rule Considered Trade Obstacle

The European Court of Justice has ruled that a member state may not bar imports of alcoholic beverages duly produced and marketed in another state just because they lack the minimum alcoholic content that domestic beverages must have (judgment of Feb. 20, 1979, Case No. 120/78). In the Court's view such a requirement violates Treaty Article 30, which bars quotas and measures having an equivalent effect. The Court has thus added to the long list of measures that it considers incompatible with Article 30 *(Common Market Reports, Pars. 322.01, 322.09, 322.11, 322.27, et seq.)*.

Rewe, a large food store chain with headquarters in Cologne, wanted to import a shipment of *cassis de Dijon*, a black currant cordial with an alcohol content of 15-20%. Its application to the German government for an import license was turned down because the product did not have the minimum alcohol content of 32% that similar domestic products must have to be marketed in Germany. Rewe challenged the refusal in administrative court, contending that fixing a minimum alcohol content has the effect of keeping well-known foreign brands away from the German market. It argued that the requirement consequently constitutes a restriction on the free movement of goods between member

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Obstacle *(contd.)*

states and exceeds the states' residual legislative powers in commercial matters. The administrative court referred the matter to a lower tax court, where Rewe reiterated its arguments and added that the minimum alcohol content requirement amounted in effect to a quantitative restriction, barred by Article 30 and also contrary to Article 37. The latter provision compels the member states to adjust progressively any state monopoly of a commercial character to ensure that no discrimination exists after expiration of the transitional period *(Common Market Reports, Pars. 355-56).* The tax court, in doubt about the validity of Rewe's arguments, suspended proceedings and asked the Court of Justice whether the minimum alcohol content requirement was indeed incompatible with Article 30.

The Court's answer was an unequivocal yes. It conceded that in the absence of a common organization for this type of beverage, the member states retain the power to control its production and marketing. But it emphasized that barriers to intra-EEC trade that arise from different national legislation are permissible only if they are absolutely necessary - for instance, in enforcing revenue rules or in protecting consumers.

The Court rejected the German government's argument that the low proof of *cassis de Dijon* might constitute a danger to public health because beverages with a low alcohol content are more readily accessible and their consumption might lead to greater tolerance of stronger liquor. Bonn based its argument on Treaty Article 36, which empowers the member states to restrict imports to protect public health, among other things.

Emphasis on Nuclear Safety in R&D Program

Following extensive discussions with the member-state governments, the European Commission has proposed to the Council of Ministers a new four-year program for the Joint Research Center. Comprising the four research establishments located at Geel (Belgium), Ispra (Italy), Karlsruhe (Germany), and Petten (Holland), the JRC conducts the Community's research and development for the benefit of all member states. One of its major policies has been to prevent overlapping of Community and national R&D efforts. National institutes that also carry out R&D for the other states receive financial support from the Community.

Nuclear safety has always been given priority by the JRC, and the new program would intensify these efforts. Although the program was drawn up prior to the Harrisburg accident, it is certain that the circumstances that led to the severest threat of nuclear contamination in the United States will also be studied and the necessary conclusions drawn. In addition to focusing attention on the safety of nuclear power plants, the scientists will also delve deeper into the safety aspects of fast-breeder and light-water re-

Nuclear Safety *(contd.)*

actors. The program will emphasize four major experiments, which for the most part are designed to back up the work of the member states' licensing agencies. Research will also continue into the safety aspects of the plutonium fuel cycle, problems related to the permanent storage of radioactive waste, and the strengthening of safeguards and fissionable material management methods.

Since substantial efforts are being made by the member states to develop solar energy, the JRC would follow up with several projects of its own in this field. These would include the establishment of a large testing facility to assist industry in the introduction of this new technology. There would be studies on the year-round use of solar energy for industrial and domestic purposes and research into new processes for the conversion and storage of solar energy.

The program, for which approval seems assured, would run from 1980 through '83 and would cost 500 million ECU.

Italy: Separate Dates for European, National Vote

Contrary to previous predictions, the early parliamentary elections in Italy will not be held on the same date as the European Parliament elections (June 10) but a week earlier. The decision of the Christian Democratic caretaker government came after consultations with the State Council and a stormy debate among the political parties, which were weighing the consequences for themselves of separate or combined elections. The government's announcement was actually welcomed only by the Christian Democratic Party itself, which prefers the early date for the national elections and local administrative elections (June 3-4) because it expects a higher turnout in its favor. Such positive results might then give the party a boost for the subsequent election of Italy's 81 representatives to the European Parliament.

The decision for separate rounds of voting, taken mainly for legal reasons, was described as "cynical" by the Socialist PSI, which had hoped to use the European elections as a springboard for the national vote. The party announced it might call for European Court of Justice intervention in order to protect the voting rights of Italian citizens. The Communists expressed their dissatisfaction by pointing to the doubled election costs and the extra burden placed on the schools. (Because of the elections, the school year probably will end earlier than usual, in late May.) The Liberals and Social Democrats, too, had favored a combined round of balloting.

The difficulties of scheduling combined elections were posed by the Italian election law, which provides that balloting may be conducted on the first day (usually Sunday) for the whole day and on the second (usually Monday) until

National Vote *(contd.)*

only 2 p.m. The European election law sets aside one full day of balloting and then provides for the counting of votes "afterward." Originally, it had been considered in Rome to ask the eight other European participant countries to delay counting until 2 p.m. or at least withhold results until then, but this idea apparently had to be abandoned.

Germany: Dissatisfied Tourists Would Have Recourse

German tourists who make reservations for package tours after Oct. 1 stand a better chance of getting their money back if the trip falls considerably short of what was promised. Amendments to the Civil Code, recently approved by the Bundesrat following the Bundestag's earlier action, make German travel bureaus and tour promoters responsible whenever a tourist who has booked through them is bilked by the hotel or other accommodation either at home or abroad. Overbooked hotels, bad food, unsatisfactory sanitary facilities, noise, and lack of promised special services have been tourists' major complaints in recent years, but there were also charges that the refund was inadequate whenever a trip was canceled.

The Civil Code amendments bar a German travel bureau or tour promoter from merely acting as a go-between for the tourist and the accommodation; they now become a party to the contract. If the hotel, food, or service fails to meet the standards promised in the contract, the tourist could either ask the hotel to remedy the situation or demand a reduced price. He could also cancel the contract, demand a refund, and claim damages. If the tourist's claims are not satisfied, the German travel bureau or tour promoter could be drawn into the picture. The amendments also put curbs on the practice of some travel bureaus of demanding a steep fee when a tourist cancels before departure.

There has been much discussion in Germany about the need for this legislation. Although the tourist industry sought to head off amendments by adopting voluntary guidelines back in 1976, the government felt that these did not produce the expected results. On the other hand, Bonn thought that it could not ignore tourists' widespread complaints about misrepresentations concerning the conditions at vacation destinations. Of the 12 million Germans who vacationed abroad last year, 7 million booked package tours.

Approval for West Berlin Tax Benefits

Germany's upper house of Parliament has adopted tax legislation important for businesses in and dealing with West Berlin. In order to help the city's economy, businesses investing in fixed assets there will be entitled to increased grants from the government - 15% of costs instead of the previous 12%. Businesses investing in assets needed for processing as well as in service equipment, such as computers, may count on government grants totaling 25% of

Tax Benefits *(contd.)*

costs instead of 10%. Both of the new rules apply to the tax year 1979 *(Doing Business in Europe, Par. 23,405)*. To attract more residents to West Berlin, the special children's allowance granted on top of the regular allowance available to the head of the family will be increased from DM 22 to DM 49.50 per child. This increase will take effect on Jan. 1, 1980 *(Doing Business in Europe, Par. 23,414)*.

Belgium: Fuel Rationing Plan Proposed; Nuclear Agency

Belgium is the first country in western Europe to introduce a fuel rationing program, with the goal of reducing the country's energy consumption by 5% on an annual basis. In his inaugural statement to Parliament, the new prime minister, Wilfried Martens, had announced that his government was trying to lower consumption of heating fuels in private households by 20% this year and that of industry by 10%. It has been decreed that room temperatures in public buildings and offices may not exceed 20 degrees centigrade. For the time being, no restrictions have been announced on gasoline consumption, since supplies are more than adequate at the moment.

Commentators have questioned the effectiveness of the program because its implementation will depend on the active support of the oil companies and distributors. Martens said the authorities would soon begin negotiations with the suppliers, aimed at having these companies draw up supply quotas based on last year's sales. The government might find it difficult, it was pointed out, to monitor distribution so as to make sure that all fuel customers are treated equally. Also, it was noted, the program works to the disadvantage of those who already reduced their energy consumption last year and will now face further cutbacks.

In related developments, the government has proposed to set up a new agency that would be responsible for safety controls at nuclear power plants. The action was a direct result of the public debate about reactor safety in Belgium following the accident at the Harrisburg, Pa., plant.

Netherlands: Voluntary Energy Savings; Cigarette Ads

In Holland, too, the government has unveiled a program to reduce oil consumption by 5%, and the oil companies and distributors have agreed to cooperate within their contractual obligations. The drive is being backed up by a publicity campaign aimed, for instance, at motorists, who are being urged to observe the 100-kilometer-an-hour speed limit on freeways. As in Belgium, temperatures in public buildings are to be lowered.

In other developments, the Dutch cigarette industry has decided on a drastic curtailment of advertising in the interest of public health. All domestic manufacturers have

Cigarette Ads *(contd.)*

presented the government with a voluntary code to discontinue advertising within public transport and sports facilities. In addition, the industry has pledged not to direct ads at young people under 18.

Denmark: Foreign Buyers Lead Run on Mortgage Bonds

The Danish central bank authorities recently expressed worries about the virtual run on mortgage bonds by foreign buyers. These high-interest obligations, carrying coupons of 16-17%, have become a prime attraction in the last two months or so after the government on Feb. 6 issued a ban on the purchase by foreigners of regular state bond issues. By the end of last month, sales of Danish mortgage bonds totaled 9 billion kroner, creating an interest debt of about 1 billion. In March alone, sales reached 1.6 billion kroner, for a quarterly total of more than 3 billion. The push is coming mainly from buyers who are not taxable on interest income - pension funds and insurers, for instance.

With the additional recent floating of a 1-billion-kroner state bond issue, Denmark has accumulated currency reserves of approximately 22 billion kroner. On the other hand, however, the total outstanding foreign debt of 50 billion kroner (net) is now threatening to become such a burden that the government and the central bank are reportedly seriously considering a sale ban on mortgage bonds as well.

The authorities would be particularly disturbed by a sudden backflow of these bonds, which could be possible in the event of renewed disturbances on the foreign exchange markets. Although the new European monetary system provides certain safeguards in this respect, it is undoubtedly true that these very same safeguards have served to enhance the attractiveness of the Danish bonds. There are now those who advocate additional and even tougher restrictions, even if such curbs would not really be in the interest of a further liberalization of the European capital markets.

Observers in these markets have been asking the obvious question of how Denmark can afford such high interest levels at a time when the government could be raising medium-term foreign loans at far more favorable terms. Central bank authorities are answering this with the argument that Copenhagen's monetary policies must be seen against the background of the latent payments deficit, which - after a temporary slowdown - apparently is again heading for a level of 8.5-9 billion kroner.

Ireland: State Company to Prevent Oil Shortages?

Under the impact of a serious shortage of gasoline, diesel fuel, and oil products in Ireland, the Dublin government is considering steps to establish a state-owned oil company which would contract directly with the producer countries.

Oil Shortages *(contd.)*

The plans were revealed by Industry Minister Desmond O'Malley as part of the government's explanation of why it had taken control this month of the country's diesel oil stocks and distribution. Legislation dating from 1971 empowers Dublin to direct oil companies to deliver supplies to areas designated by the government. A Dublin dock strike in combination with the worldwide shortages following the Iranian conflict and OPEC price increases have had a particularly severe effect on Ireland, where storage facilites can hold only 90 days of supplies.

The government decision to take control was preceded by an April 11 meeting between O'Malley and oil company executives at which the latter reportedly refused to reveal the amount of oil supplies currently available in the Republic. The companies rejected accusations, however, that they were withholding supplies from the domestic market in order to drive up prices. The shortage has been affecting both industry and private consumers, with diesel and heating fuels particularly in short supply and in some areas almost unobtainable. With the most recent step, the government will be in a position to allocate available supplies to priority recipients, such as industry, agriculture, schools, and hospitals.

The oil companies indicated their willingness to fully cooperate with the government, even though the latter apparently is not prepared to grant their application for price increases. O'Malley said his Ministry had evidence that the country's only oil refinery was working at only 75% of its capacity and that, in some areas, oil supply stocks were higher than normal.

Liechtenstein: Details Cited in Company Law Reform Bill

Clarifying and corrective details have become available concerning last week's Euromarket News report on draft legislation by the Liechtenstein government proposing to tighten certain company law provisions.

It has been pointed out by members of the legal profession in the principality that only one member rather than all members of a company's administrative or management board *(Verwaltungsrat)* would have to be an attorney, legal agent, trustee, or auditor. The obligatory residency requirement also would apply to only one *Verwaltungsrat* member. The *Kontrollstelle* referred to in the draft legislation as being entrusted with the mandatory audit of the balance sheets, profit and loss statements, and inventories of certain businesses would not be an official control agency, as the bill's wording might suggest, but any independent auditor or auditing company. Also, the proposed change of rules barring any commercial activity applies to a *Stiftung* (foundation) but not necessarily to an *Anstalt* (establishment). For the latter, the draft law foresees

Company Law *(contd.)*

modifications concerning the rights and duties of the founder. Finally, the government's powers to order the dissolution of any company whose activities damage the national interest actually are derived from 1959 legislation and are merely redefined in the new draft proposal.

EURO COMPANY SCENE

Continental/ Uniroyal

Germany's Continental Gummi-Werke AG, Hannover, has signed an agreement in principle with Uniroyal, Inc., New York, to take over the latter's European tire operations. The price of the proposed transaction was not disclosed; unofficial estimates put it at $100 million. Pending the expected approval by both companies' supervisory boards and the cartel authorities in Berlin and Brussels, the deal would involve the transfer to Continental of four Uniroyal tire plants in Belgium, Britain, France, and Germany and a Luxembourg plant producing tire cord. It would boost Continental's annual turnover from DM 2 billion to DM 2.6 billion and double its share of the hotly competitive German tire market from 11% to 22%, solidifying the company's No. 2 position after Michelin (35%).

Levi Strauss

Levi Strauss of San Francisco has announced plans to establish three more jeans and sportswear production plants in Scotland, requiring an investment of £7 million. The expansion would create 2,000 additional jobs until 1984. The company is already operating three Scottish plants with a total work force of 1,100. Levi Strauss executives in Europe said the move reflects the company's sales success in the U.K. and Scotland's position as an efficient manufacturing base. The new plant facilities are to be leased from the Scottish Development Agency.

ITT France

According to press reports from Paris, International Telephone & Telegraph is currently engaged in attempts to sell off several of its subsidiaries in France, among them probably Claude (electric lighting), ITT-Oceanic (TV sets), and Sonolor (car radios). The reports said that Claude is most likely to be taken over by General Telephone & Electronics (GTE). The company was acquired by ITT in 1977 and became profitable only last year, on sales of FF 331 million. ITT's consolidation in France was explained with a shift in emphasis to more U.S.-based investments. However, the company apparently has no plans to get rid of its most important French subsidiary, CGCT, a manufacturer of telephone equipment, with annual sales of FF 1.6 billion.

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Community: Discussions on Reorganization of EC Court

The European Court of Justice has drafted a proposal for its own reorganization in order to improve efficiency and to cope with an ever-growing case load. The proposal is not as broad as the plan suggested in July 1978, when Court President Hans Kutscher asked for three additional justices and four more advocates general. The Council of Ministers thought that the Court could get by with a narrower reorganization, although it agreed that the bench would have to be enlarged before Greece, Portugal, and Spain joined.

A working group comprised of Community, Court of Justice and member-state officials has taken up the latest proposal, and Council attorneys expect that it will suggest two additional advocates general. This alone would be of some help because the AGs assist the Court in carrying out its judicial tasks *(Common Market Reports, Pars. 4607, 4608)*. There would also be additional chambers (at present two) to relieve the full Court from hearing cases. In this context two problems have come up concerning the procedure to be followed in assigning cases to individual chambers without violating fundamental principles of the judicial process. Since suits involving an individual member state as either plaintiff or defendant always carry strong polit-

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EC Court *(contd.)*

ical connotations, cases must be assigned in a way that ensures due process. The other problem is how to avoid assigning a case to a chamber that is allegedly favorably inclined toward a particular state.

The European Parliament is now considering an earlier proposal to establish a lower tribunal to hear disputes between Community employees and the various EC institutions such as the Commission, Council, Parliament, and European Investment Bank. This would leave the full Court free to hear other cases. The Council could not take up the measure before now because the EP has yet to give its opinion; the latter is divided about which employee organization should be entitled to delegate a lay judge to the Court's three-man panel (one professional judge, one representative of the employing Community institution, and one union representative).

EEC Withdraws Offer to Cancel Japan Quotas

The EEC's last-minute withdrawal from the Geneva GATT trade package of an offer to abolish import curbs on 33 Japanese export items has shocked the Japanese, but it did not come entirely unexpectedly. Many Brussels observers hesitate to dramatize the move; they consider it just another step in the long tug-of-war between the EEC and Japan to get the latter to whittle down its huge trade surplus with the Community. At present, a total of 64 Japanese products are affected by quotas imposed by the EEC and, in some cases, individual member states. For example, Italy's quota on Japanese car imports is 2,000 vehicles per year.

In a confidential report leaked to the public in late March, the European Commission was not optimistic about the chances of improving the lopsided trade picture. (Japan had a $6.4-billion surplus last year, compared with a $5.2-billion surplus in 1977.) The Commission believes that the EEC will have to consider selective retaliatory curbs on Japanese exports later this year unless Japan does considerably more to reduce this surplus. In its report, the Commission cites several reasons why there has been no progress, but a major factor undoubtedly is the low-wage situation in Japan, which allows manufacturers there to offer their products at much lower prices.

The Commission suggests that the Japanese take definitive action before the economic summit of the most-industrialized Western nations scheduled for next month in Tokyo. If no concrete results are forthcoming by then, the EEC could take retaliatory action - strong enough "to teach the Japanese a lesson" but not so strong as to start a trade war. The Commission is aware that putting up additional barriers in Europe might prompt the Japanese to increase their exports to the U.S., which could intensify protectionist measures there.

Observers point out that the Commission cannot take

Quotas *(contd.)*

retaliatory measures on its own; such action would have to be approved by the Council. At the moment it is uncertain whether the principal advocates of free trade among the member states - especially Germany and Denmark - would go along with such measures unless the EEC's trade deficit with Japan took a drastic turn for the worse.

In Brief...

The Council has adopted a regulation on duty-free imports of goods for educational, scientific and cultural purposes. The action is the Community's follow-up to the UNESCO conference held in Nairobi in November 1976. At that time the members of UNESCO agreed on a protocol broadening the range of products that could enter duty-free (such as books, scientific equipment, and musical instruments). At the Nairobi conference the Community succeeded in having a clause inserted into the protocol that made it a contracting party to the latter + + + The Commission takes exception to the Irish government's legislative plan to propose to Parliament a reduction of the corporate income tax rate to 10% (enactment is planned for 1981). A tax rate that low would interfere with the drive for ultimate harmonization of national tax rates; the Commission is striving for a rate ranging between 45% and 55%. Dublin's plan was prompted by the Commission's objections to the current system, which provides for a 45% rate on profits from domestic sales, while profits derived from sales abroad are exempt up to 1990.

Britain: Bill Provides for Two-Tier Banking System

The U.K. government's Banking Bill, which received Royal Assent last month, is the first comprehensive piece of banking legislation ever to be introduced in the U.K. and will supersede various previous measures. The Bill gives the Bank of England wide regulatory powers, particularly to establish a two-tier system of financial institutions: recognized banks and licensed deposit takers. The first tier will comprise the clearing banks, accepting houses, and most overseas banks with operations in the U.K., while other approved corporate finance and investment banking bodies will form the second tier. Only those in the first tier will be able to use the term "bank" in their title. The others must identify themselves as "licensed deposit takers," although they may state that they offer banking services, provided this is not publicly displayed. No other form of banking institution will be permitted, and not all of those operating at present will achieve a recognized status.

EEC-based banks operating in the U.K. will continue with the "bank" designation, followed by the words, "licensed deposit holder." A last-minute amendment to the Bill ensured that non-EEC foreign banks would be given the same treatment, although there was parliamentary criticism

Banking *(contd.)*

that some British financial institutions are now actually in a worse position than many overseas banks of comparable financial standing and reputation. Before the amendment, such banks would have been forced to remove the word "bank" from their title and substitute "licensed deposit holder." The overseas banks that will be incorporated in the higher tier are likely to be those which at present have authorized status under the Exchange Control Act. Applications for recognition will have to be made within six months of an "appointed day," yet to be stipulated.

The Bill provides for a deposit protection fund to which all recognized banks and licensed deposit holders will in time contribute a total of some £6 million. The National Girobank is at present exempt, but it must make an equivalent annual contribution to the Treasury.

An unusual feature of the Bill is that a finance house that is a wholly-owned subsidiary of a first-tier bank probably will not itself be able to use the title "bank." The Bill also protects bank overdrafts that were prejudicial under the Consumer Credit Acts.

The chairman of the National Westminster Bank (NatWest), Robin Leigh-Pemberton, said "the principle of licenses for deposit-taking institutions and of distinguishing those banks which have earned the status of recognized bank can only be beneficial. It will clear up much of the confusion in the mind of the general public as to which institutions can properly be regarded as banks and will make for greater confidence in the banking system."

France: Report Proposes Banking Reform; Guarantee Fund

A reform of the French banking system in order to strengthen competition and ease regional credit access has been proposed by a government-appointed study commission under the chairmanship of Jacques Mayoux, the ex-president of the Caisse Nationale de Crédit Agricole and current head of the state-controlled Sacilor-Sollac steel group. According to the commission's report, the country's existing banking structure strongly favors the big state banks, which are privileged in many ways. For instance, they alone can extend their credit business to foreign-currency loans and to exports while the small, regional banks cannot.

The report advocates a greater decentralization of the system, not only in geographical terms, by recommending the buildup of independently managed regional banks. This would also require the state's Big Three - Sociéte Generale, Credit Lyonnais, and Bank Nationale de Paris - to establish more independent units at provincial level. Other recommendations made by the Mayoux commission include the abolishment of credit growth ceilings, establishing fixed ratios between capital and lending volume, and removing the

Banking Reform *(contd.)*

inequities faced by the smaller and medium-sized companies in their borrowing operations.

The commission's findings are to be reflected in official reform proposals that probably will be drawn up later this year. (Late in 1978 the government already had drafted a new charter for Crédit Agricole, the farmers mutual bank, which, among other things, removed some of the bank's special fiscal privileges.)

In related developments, the French association of private banks has decided on the creation of a deposit guarantee fund protecting clients against losses that might result from possible bank failures or liquidity problems. The fund - the size of which is yet to be determined - would be sustained by annual contributions by the member banks. Georges Hervet, head of the private banks' coordination office, said the banks owe it to their image and reputation to provide this joint guarantee. He cited the recent cases of two small institutions, Lagace and Hispano-Française, of which at least one had to close its door because of fraudulent activities. The collapse caused a depositors' committee to recommend that clients of private banks withdraw their deposits and transfer them to the state banks.

Germany: Appellate Court Ruling Affects Lockout Issue

A ruling by the Frankfurt Labor Appellate Court that lockouts are illegal under the Hesse state constitution has caused some confusion in Germany, but labor experts consider it no more than a judicial episode. The management of a printing company that lost its case has vowed to appeal to the Supreme Labor Court. The matter was scheduled to come before the high court in any case, however, because the union that lost over the lockout issue in another appellate labor court has appealed.

Although Germany's constitution does not expressly grant employers the right to lock out employees, the Supreme Labor Court has developed in its case law the doctrine that allows them to do this as a last resort to advance their interests, inasmuch as the case law allows workers to strike for higher pay and improved working conditions *(Doing Business in Europe, Par. 23,421)*. The lower labor courts so far have ruled according to this case-law doctrine. Of the 11 state constitutions, only that of Hesse outlaws lockouts, but its Article 25(5) has never been invoked because of the Supreme Court's case law.

Most labor law experts agree that the entire issue should be settled along the lines of the federal constitution's Article 31, which says that federal law takes precedence over state law. Their argument, supported by most constitutional lawyers, is that not only federal constitutional law, but any federal law, including case law devel-

Lockouts *(contd.)*

oped by one of the five federal supreme courts, takes priority over state constitutional provisions. Further, they point out that the Hesse state constitution of 1946 also provides for capital punishment, but that since 1949 no one has been executed in that state because the federal constitution bars capital punishment.

There are others, particularly from within the unions, who count on a change of doctrine by the Federal Constitutional Court in the event the Supreme Labor Court adheres to its case law. The latter's judgment is not expected before the middle of 1980.

Netherlands: Unions Drop Demand for 35-Hour Week

The stalemate that has been holding up collective bargaining talks in Holland for weeks finally seems to have been broken with the reluctant agreement of the unions to drop for the time being their demands for a shorter workweek. The surprise decision, which is likely to influence negotiations in other sectors, was made by the unions joined in the FNV federation; they represent more than half a million employees in the metalworking industry. It was also accepted by the negotiators in the wage talks covering some 95,000 workers in banking and insurance. The breakthrough should clear the way for a collective pay accord in both sectors, even though the metalworkers want the new contract to run only until April 1980, while the employers insist on a two-year deal.

Observers believe that the unions felt compelled to relent on their demand for the gradual introduction of the 35-hour week because of too persuasive counter-arguments offered by the other side. They said the labor leaders eventually had to concede that a shorter workweek would not help to reduce unemployment, which in Holland has mainly structural causes. (Despite a jobless rate of 5%-plus, there are thousands of vacancies that cannot be filled.) The "threat" of the 35-hour week undoubtedly has encouraged Dutch industry to emphasize rationalization investments aimed at higher productivity and fewer jobs. Nevertheless, labor representatives made it clear that the issue has merely been postponed for the metalworking and banking/insurance sectors and could still be a factor in the other industries.

The negotiations are now shifting to areas where no insurmountable problems are expected (longer annual leave, early retirement provisions, etc.).

Italy: Bank of Italy Probe Raises Legal Doubts

The current judicial investigation in Rome of the Bank of Italy is being cited by legal experts as an example of the enormous discretionary jurisdiction of the Italian courts. These broad powers do not rest upon a lack of statutory di-

Bank Probe *(contd.)*

rection but are the result of a multiplicity of laws enacted at various times but seldom modified or repealed. "It is the unfortunate habit of each session of Parliament," noted one observer, "to legislate without too much reference to the statutory record of its predecessors." The result is, it has been pointed out, that many laws overlap and even contradict each other, placing the judiciary in a position to "interpret" the state of law as it sees fit.

The magistrate handling the Bank of Italy matter, Antonio Alibrandi, is not a member of the General Accounting Court, the body that has primary responsibility for supervision and investigation of government agencies and state-run enterprises. He is simply an investigating magistrate, one of many at the Palace of Justice, empowered, in a general way, to rout out wrongdoing. In the Bank's case, he is acting in response to a prosecutor's request to investigate suspected corruption. The probe centers on the propriety of a number of allegedly "soft" loans made to a large chemicals conglomerate, Societá Italiana Resine (SIR), over a period of years by, through, or with the approval of the Bank of Italy.

Judge Alibrandi's first public investigative act was to call in the No. 3 man at the Bank, Deputy Director Mario Sarcinelli, for extensive questioning. Thereafter, to the amazement and anger of the Italian banking community, Sarcinelli was held for 12 days without formal charges having been brought against him. The jailing was on "suspicion of corruption" - a situation that does not call for detention unless the court finds (which it apparently did) that the investigation would be endangered if the suspect were left free "to circulate." The governor of the Bank of Italy, Paolo Baffi, 67, as highly respected a bureaucrat as can be found in Italy, was told that only his age kept him from similar detention. (In the meantime, the government has "symbolically" reinstated Sarcinelli after he had been suspended from his post and was provisionally released from jail - see story below.)

The investigation and the way in which it is being conducted has become a major political issue reaching across party lines. Legal observers are suggesting that the magistrate has somewhat exceeded his powers in investigating the Bank at all (such investigation presumably being within the jurisdiction of the Accounting Court) and certainly his authority in ordering Sarcinelli's imprisonment.

Rome Government Shows Support for Sarcinelli

Apparently in order to prevent the collective resignation of the top leaders of the Italian central bank, the Andreotti caretaker cabinet on April 20 formally reinstated Mario Sarcinelli, the institution's third-ranking officer. Bank governor Paolo Baffi and other leading officials had

Sarcinelli *(contd.)*

threatened to step down following Sarcinelli's arrest, detention, and suspension. Although retroactive to April 6, the reinstatement amounted to no more than a "gesture of solidarity" which could not stay the judicial proceedings and did not allow Sarcinelli to return to his post. The investigating magistrate is accusing the Banca d'Italia leadership of not having informed the judiciary of known irregularities in credit transactions involving the SIR group and subsidiaries. The government officially supports the Bank in saying that Baffi and Sarcinelli had acted correctly and that, in any case, such allegations should be made the subject of internal disciplinary proceedings rather than a public inquiry.

In related developments, the government has now officially agreed to the formation of bank consortia for the financial rescue of SIR-Rumianca and Liquichimica (Liquigas), the two ailing chemicals groups. As previously indicated, this means that the two groups will not be made subject to new legislation providing for the appointment of state commissioners to administrate near-bankrupt industrial companies for up to three years.

EURO COMPANY SCENE

Ford

Disappointment has been the reaction in some European countries to the unexpected announcement by the Ford Motor Co. that it has decided against building a new European automobile assembly plant and will instead expand existing capacities. There had been intensive official efforts in Austria, France, and Portugal to persuade Ford to establish such a new plant (which would have required investment of a reported $500 million and given employment to up to 8,000) in the respective countries. In Austria, which has no major automobile production of its own, the government had been prepared to offer very generous incentives. In Paris it had been hoped that a Ford plant in Lorraine would help to ease the structural problems of that area's industry. (In the meantime, however, the indigenous automakers, Renault and Peugeot-Citroën, have proposed to create 6,200 new jobs there by 1983 - an announcement that was seen to be in direct "retaliation" to Ford's possible Lorraine plans.)

In the countries with existing Ford plants - Germany, Britain, Holland, France, Belgium, and Spain - there is now speculation about where the company will concentrate its expansion efforts. Germany (Saarlouis) and Spain (Valencia) are given the best chances. The project that has now been scrapped was for an assembly plant with a daily capacity of 1,000 units which probably would have produced the successor of Ford's "Escort" model.

Common Market Reports

EUROMARKET NEWS

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Community: Talks with Lisbon, Peking, Belgrade

Portugal, China, and Yugoslavia are very much on the minds of Community officials these days. The discussions between Community and Portuguese officials that started on Feb. 28 about the terms of Portugal's joining the Communities concern customs and foreign relations in particular. The European Commission has sent a memorandum to the Council of Ministers on possible safeguards for Portuguese industries. The EC executive explains therein that it would be reasonable to grant Portugal the right under the current free trade agreement (and also temporarily in the future accession treaty) to reintroduce protective duties, to freeze for a certain period the dismantling of tariffs, and to impose quotas (on automobiles, for example) in order to shield certain fledgling industries against competition from other member states. Portugal had asked in January for concessions, including better access of its farm produce to the Common Market.

The mixed EC-Chinese committee set up under the five-year trade agreement signed on April 3, 1978 *(Common Market Reports, Par. 9982, 10,038)* was to meet in Peking on May 3, but the conference was put off until late June. The group is to oversee the smooth operation of the agreement and may make recommendations to expand the list of Chinese products

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Talks *(contd.)*

that could freely enter the Community or would benefit from increased quotas. Since no agreement had been reached on what products to recommend, the meeting was postponed to avoid offending Peking's leadership, which has shown a keen interest in expanding trade with the EEC.

Community officials point out that the difficulty of expanding trade lies in the fact that textiles (cotton in particular) are virtually the only products that the Chinese can offer in quantities and at competitive prices. The EC has little room to maneuver because its own textile industries are suffering from high production costs and low-priced imports from Taiwan, Korea, Hong Kong, and other countries. Peking also wants preferential customs treatment for a number of other products as well as an expansion of the list of products that may enter the Common Market without restrictions. The problem here is that some member states have already liberalized their trade with China and others have not.

The negotiations between the Community and Yugoslavia for a new trade and cooperation agreement will be resumed late this month or in early June now that Belgrade's minister for EC relations, Stojan Andov, has wound up his tour of major European capitals and also has had talks with members of the Commission. Member-state and Commission officials told Andov that the Community's improved offer, made after Belgrade rejected an earlier proposal, still contains some margin for negotiations, such as more concessions for Yugoslavia *(Common Market Reports, Par. 9994)*. The difficulties stem from the fact that nearly 90% of Yugoslavia's imports from the EEC consist of industrial products, while 40% of her exports are made up of farm products, including meat, wine, and corn, of which the EEC has plenty. Community officials say that few concessions can be expected here, but they point to the financial aid that the EC is ready to give Belgrade (a total of 200 million EUA) to finance industrial projects.

Most States Oppose Farm Price Freeze

Setting prices for agricultural commodities each year has always been a drawn-out affair for the Council in the past. This year, however, the task is much more difficult because the problem is not to reconcile mere differences over the extent of price increases but to work out a compromise between the states wanting modest increases and the U.K., which is demanding a price freeze. The Commission has proposed freezing farm prices for 1979-80. No major member state other than Britain is prepared to support such a drastic move at this point. Denmark and the Netherlands could possibly be convinced to do so, but France is completely opposed to it. Brussels observers nevertheless are expecting a small increase to be approved by the Council next month.

The British government's argument that the Community's

Farm Prices *(contd.)*

common agricultural policy cannot go on forever as it has in the past due to mounting costs is gaining increased recognition, observers say. The costs of price supports and other measures to finance CAP have gone up by 400% since 1971 (from $3.2 billion annually to $12 billion). CAP takes up three-fourths of the Community's annual budget, and as a result there is not much revenue left for other, more important tasks, such as support for investments in the EEC's underdeveloped regions.

In the meantime, most experts, including officials of Germany's agriculture ministry, agree there is a way out. They recommend the gradual removal of price supports so as to achieve world market price levels as well as compensation for farmers through direct income subsidies. These experts believe that there should be strings attached to the subsidies - for instance, by denying aid to farmers with incomes above a certain level. The question that remains is whether the Council has the political will to make a start in this direction at all, the experts say.

In Brief....

The members of the U.N.'s Economic Commission for Europe have agreed in Geneva on an across-frontier air pollution control convention. (The ECE comprises all East and West European countries; the United States has observer status.) The draft, the first of its kind, would provide for control measures and for research and development of air pollution control; it would establish a system of exchanging information and provide measures to monitor and evaluate air pollution. The draft is unique in another way: by agreeing to it, the Soviet Union and the other East Bloc countries have recognized de facto the Community as an entity and have set a precedent for future EEC-Comecon negotiations. Although the EC is not expressly a party to the draft convention, the agreed text allows regional organizations for economic integration to assume rights and obligations of its members. This accommodates the EEC, which increasingly has been exercising supranational powers in environmental matters. The Scandinavians - being especially affected by air pollution from West and East European countries, depending on weather conditions - have been insisting on a convention and are largely credited with persuading the Kremlin to accept the draft + + + The European Commission has reintroduced customs duties for a number of products imported from the developing countries because these imports have reached the ceilings previously established. The main products are silk and synthetic fabrics, gloves, and sacks, primarily from Far East countries.

France: New Rules on Loans, Banks' Reserve Ratios

The French National Credit Council, meeting under the chairmanship of the Economics Minister for the first time since 1970, on April 24 approved a number of government measures pertaining mainly to consumer (installment) loans

Loans
(contd.)

and reserve requirements for commercial banks. The action was a further step in the administration's drive to improve the competitive climate in the banking sector.

Under the new rules, the ceilings are being removed on the duration of installment loans, which for automobiles has been 24 months and for other consumer goods 21 months. Also abolished was the rule limiting such loans to 80% of the purchased value, i.e., requiring a 20% down payment. The fixed basic interest rate for installment credits of 17.3% will no longer be mandatory, but banks must inform the borrower of the effective interest rate as well as the total credit costs. Supplemental charges such as commissions and processing fees are no longer allowed.

The interest rates normally quoted for consumer loans in France lately have been varying up to 23%, but stiff supplemental charges often drive up the actual burden to 30-40% in annual interest. Nevertheless, 38% of new automobiles, nearly 40% of television sets, and 25% of household appliances are purchased on the installment plan. Of the FF 35 billion in total consumer credits granted last year, FF 18.7 billion was for installment purchases and the remainder for personal loans.

The second package of measures passed by the Credit Council concerned the ratio of the commercial banks' own resources to their lending volume, which in comparison wi[th] other countries tends to be very low. In the case of the nationalized banks it amounts to only 1% and in that of the private banks to 3%. The new rules provide for the raising of this ratio to 5% until mid-1982, and the banks may float debentures to partially finance this increase. The attempt by Economics Minister René Monory to achieve this target much sooner met with the firm opposition of the banking community; also, the nationalized banks would be unable to beef up their capital base within a shorter time.

New regulations, similar to those prevailing in West Germany, also were issued in regard to risk distribution. Thus, a single large loan may not exceed 75% of a bank's own resources if that loan corresponds to 5% of total outstanding credits or more than 50% of the recipient's total bank debts. The combined total of all large credits (each in excess of 25% of a bank's own capital) may not be higher than ten times that capital.

<u>500,000 Youth Jobs Proposed by Employers</u>

The French employers, through the CNPF industrial federation, have again pledged a special effort to provide jobs for young people leaving the schools this year. They have offered to open up 500,000 of such jobs if the government assumes certain costs, mainly by funding 50% of the social insurance contributions for one year. Last year the CNPF (or Patronat) spearheaded a similar program, which created an estimated 210,000 jobs. The federation's 1979 drive is

Youth Jobs
(contd.)

viewed as an absolute necessity given the fact that unemployment in France climbed by another 2.2% in March, to 1.313 million (seasonally adjusted). Although the number of vacancies rose slightly, by 1.1%, it was still 8% below the level of 12 months ago. Next month, the schools and universities will release another 600,000 young people into the labor market.

The Patronat's plan, presented to the government on April 23, concentrates heavily on improved training opportunities for young people up to the age of 27. Recommended, for instance, are special apprenticeship arrangements with shorter periods of training, which alone would create 110,000 jobs. Similarly, emphasis is to be given to the training and retraining of women, so as to qualify them for jobs traditionally reserved for men. The costs of the total program have been estimated at FF 3.5 billion.

The CNPF combined the presentation of the plan with another plea to the government not to raise further the fiscal and social insurance burden on employers and to provide more stimulation for the economy. The official growth target for this year of less than 4% was described as inadequate.

In other developments, the results of the latest survey (March) conducted by INSEE, the national statistical institute, have shown that French industry appears to have shed its reluctance to commit itself to new investments. According to the poll, the value of such investments should rise by some 16% this year, which would mean an expansion of 6-7% in terms of volume. Affected by this upsurge would be virtually all capital goods sectors as well as certain semifinished products (chemicals, paper and board, oil) and consumer goods sectors (automobiles, textiles). Last year, the value of French investments rose by only 8%, which corresponded to a decline of 1% in terms of volume.

Germany:
Bonn Considers Raw Materials Stockpiles

The German government will soon make a formal decision about establishing national stockpiles of strategic raw materials to help industry weather possible crises on the world markets. A beginning would be made with five raw materials - asbestos, chromium, cobalt, manganate, and vanadium. It has not been decided as yet whether a government enterprise would be set up or whether a private consortium would be entrusted with buying and stockpiling. In the latter case, the government would reimburse storage and credit costs but would retain the right to intervene, i.e., to declare a state emergency and dissolve the stockpiles.

The money to finance stockpiles would be coming from the government-owned Kreditanstalt für Wiederaufbau, a bank that originally played a big role in financing industrial rebuilding after World War II and is now an important

Stockpiles *(contd.)*

source of long-term financing. An earlier plan to use some of the Bundesbank's foreign exchange reserves to buy the raw materials at world market prices was abandoned for legal reasons: it would be outside the strict range of duties assigned to the central bank under the law. Instead, the Bundesbank would make available to the Kreditanstalt a credit line of some DM 700 million that the government enterprise or the private consortium could draw on. That is the amount needed to build up an eight-month supply of these five raw materials. The national stockpiles, together with its own reserves, could permit industry to go on producing for roughly a year without any new supplies from abroad.

It was largely the uncertain political future of several supplier countries on the South African subcontinent that brought the government planners into the picture. The five raw materials, important to many branches of industry but especially to the steel mills and machine manufacturers, come primarily from that area. Furthermore, there are no substitutes for chromium and cobalt as yet. Since Bonn adheres to the United Nations' trade embargo on Rhodesia, a major exporter of some of the most important raw materials, 65% of Germany's chromium imports come from the Republic of South Africa. That country is also Germany's main supplier of 12 nonferrous metals.

Germany imports about 30 different raw materials from countries with an unstable political climate. It has no domestic resources of its own for aluminum, nickel, copper, wolfram, and phosphate and imports 93% of its iron ore, 87% of the lead used by industry, and 68% of zinc. Industry in the past has pleaded for tax relief to offset part of the cost of buying and stockpiling raw materials, but the government felt that it could not accept the idea for several reasons, one of which is that not even all of the individual enterprises taken together could guarantee stockpiles of the size envisaged under Bonn's plan. Competition aspects also played a role, and the government said it could not afford to grant more tax relief because of budgetary reasons.

Britain: Scotland Seeks to Lure More U.S. Companies

The announcement last month by Mostek, Inc. of Dallas, Texas, that it would establish a major microchip plant in Ireland was followed shortly afterward by an interesting statement by the head of the Scottish Development Agency, Lewis Robertson. He emphasized that Scotland had much more personnel available with the requisite skills than Ireland and a much greater concentration of technological studies at its universities. (It is perhaps significant that the Irish government has now agreed to establish an advanced electronics laboratory for such studies.) Lewis said it was essential that more American firms specializing in mi-

U.S. Companies *(contd.)*

croelectronics be encouraged to come to Scotland, which could then be "in the forefront of industrial nations" by taking advantage of the next phase of an industrial revolution.

The SDA has completed an extensive survey of possible areas of growth, and it is hoped that some 15 new companies will be attracted to Scotland in the next two years and that employment in the electronics industry will increase by about 25% to 42,500 by 1985. With that goal in mind, 10 U.S. cities are being visited this year by representatives of both sides of Scottish industry, under the auspices of the SDA. At present, there are over 100 electronics firms in Scotland, and many of these are American-controlled.

Observers said it appears that the Irish Industrial Development Agency, in the competition for the Mostek plant, benefited from greater flexibility, comparative independence from government interference, and the ability to offer more generous financial incentives, such as 50% development grants and 100% training grants. (The total amount of aid has not been specified.) The Scottish agency would have put up altogether £12 million by way of risk capital and other inducements. But the U.K. Dept. of Industry declined to make available the customary 20% development grant for the project's first phase because the latter will not involve actual manufacture. At any rate, the observers said, it is clear from Robertson's statement that the Scottish and Irish industrial development agencies will be in strong competition with each other in the future when it comes to attracting new American investment.

At the recent Hannover Fair, the Scottish Council provided a few statistics on existing foreign investment in Scotland. According to these figures, U.S. companies already occupy the No. 1 rank, employing some 92,000 people. By contrast, European firms account for a total employment of only 14,000. However, since 1973, the number of these European firms has risen from 29 to 73, with Holland in the lead (18), followed by Switzerland (13), Sweden (10), and Germany (9). The foreign firms serve mainly the domestic market: of their estimated manufacturing output of £325 million in '78, only 17.5% was for export. (Still, this is more than one-fourth of all Scottish exports.) With a total investment so far of £128 million, Scotland's "foreigners" are concentrating their activities on food processing, chemicals, and mechanical and electrical engineering.

Conservatives Win Power in Britain

In Britain's general election the Conservative Party under the leadership of Margaret Thatcher won a 43-seat majority in the House of Commons. Ministers appointed in Mrs. Thatcher's new Government are described as moderate.

Italy: Tax Treatment of Dividends; New IMF Loan?

The popularity of high-dividend, low-growth stocks in Italy has been considerably diminished by a change in the tax treatment of dividend income beginning with the current tax year, according to Italian bank reports. Generally, there is a 10% tax due on dividends at the time of receipt, and shareholders are permitted to apply the amounts withheld as a credit against their income tax. Until the end of 1978, however, earners of dividend income could choose between two alternative means of taxation. Either a flat 30% coupon tax *(cedolare secca)*, in lieu of the above-mentioned 10% tax, could be paid upon receipt of the dividends, thus taking care of all tax obligations on that income, or the share earnings could be included in taxable income at the time of income tax filing. As of the end of last year, the cedolare secca tax has been abolished, and all dividends must be included in taxable income. Moreover, a new "cross-referencing" of the still-existing 10% dividend tax with taxpayers' income tax records means that there can be hardly any "hiding" of dividend income.

The change obviously will hurt those with high incomes who in the past preferred the anonymity of paying the flat 30% tax rather than exposing their dividend income to the even steeper income tax progression. This alternative had been particularly attractive to highly compensated executives who, as corporate insiders, could vote for a heavy yield in dividend income, while keeping their salaries at relatively low level. There are those who claim that the change in the law was the result of a case in which a member of the Agnelli family (Fiat) found himself attacked for alleged income tax evasion because he reportedly paid the equivalent of only $7,000 in 1976 income taxes. The executive was able to demonstrate that it had been perfectly legitimate for him to take advantage of the cedolare secca provisions.

In other news, it was reported from Rome that Treasury Minister Filippo Pandolfi has informed the International Monetary Fund of the government's interest in another major standby credit facility following next month's elections. Treasury Ministry sources were quoted as saying that such a loan would be for at least $1 billion, mainly to demonstrate Italy's international credit worthiness rather than to overcome any balance of payments problems. This argument is being reinforced by the fact that the payments balance is now in solid surplus, that the convertible currency reserves have reached a record $14.5 billion, and that Rome has cleared all its previous IMF debts.

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Community: Direct Election for Parliament Draws Closer

Some 175 million European voters in the Community's nine member states are eligible to go to the polls on June 7-10 to elect their 410 representatives to the European Parliament. This first directly elected Parliament will then replace the current EP consisting of 198 members nominated by the states' legislatures *(Common Market Reports, Par. 4301, 4302, 4305)*. The four largest member states (France, Germany, Italy, and the U.K.) will each have 81 seats in the new assembly; the Netherlands will have 25; Belgium, 24; Denmark, 16; Ireland, 15; and Luxembourg, 6 *(Common Market Reports, Par. 4308)*.

The prospect of a directly elected Parliament already has had a profound impact on the political scene in Europe. Public interest in the development of the Community is on the rise again, and many political leaders believe in the potential of the future Parliament, although the chances of broadening its powers through formal agreement are considered to be nil at present. Observers are convinced that the future EP will become a much more active forum to debate any issue of interest to the Common Market and its citizens and that the direct contact between the members of Parliament and their constituents will help advance the Common Market toward an economic union. However, there are also many detractors in several states, especially France, where the Gaullists, partners in the current government,

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Election *(contd.)*

fear that the EP might grow into a "monster" and acquire real powers.

The formal powers of the current and future Parliament are limited under the treaties (EEC, Coal and Steel, and Euratom). The EP has the right to be consulted on major pieces of Community legislation, it exerts powers over the Community budget, and it can dismiss the Commission by a vote of censure. Nevertheless, since the Common Market's establishment, the EP has obtained increased powers. This has been done partly through agreements within the framework of the existing treaties and partly through amendments and new treaties. Still, the EP's role in the Community today depends as much on informal agreements as on formal accords. New procedures and responsibilities have added to Parliament's influence in shaping events.

So far as Community legislation is concerned, the EP is confined to giving nonbinding opinions on proposals submitted to the Council of Ministers; in practice, a close working relationship with the EC executive ensures that Parliament exercises some influence before decisions are made. EP opinions and committee reports also carry political weight with the Council when a proposal is being debated by a working group and later on in the Council's decision-making process. Observers generally agree that there is still considerable room for strengthening the democrat[illegible] element of the Community. This was the idea behind the decision by the heads of government at their 1974 Paris summit to extend the "competence of the European Assembly...in particular in the Communities' legislative process." Community officials believe that the future EP will push the national governments to make good on this promise.

The EP wields increasing power over the Community finances - historically the foundation of parliamentary power anywhere. At present the EP and the Council jointly exercise control in that area. Parliament has the final say about certain types of nonobligatory expenditures, and it can reject the entire budget. In practice the EP and the Council have agreed to achieve a consensus on the budget, as is the case with legislative proposals that involve money. Budgetary control is expected to be one of the areas in which the directly elected Parliament is likely to become more active. The new Court of Auditors will assist Parliament in scrutinizing the Community's accounts more effectively and thus better control the European Commission.

In Brief...

The European Parliament has given its opinion on the proposal that would provide for the establishment of a special tribunal to hear cases brought by Community employees against the EC institutions that employ them. The European Court of Justice would act only as a court of appeals in

In Brief
(contd.)

such disputes. The EP suggested a number of amendments to the proposal so as to strengthen the tribunal's independence and impartiality. The Parliament objected to the plan's implicit limitation of Community employees' rights to appeal to the Court under Treaty Article 173 against regulations of Community institutions. As it stands now, any individual or entity may challenge the legality of a Community act that is of direct and individual concern to him or it + + + The EP has basically approved five Commission proposals by giving positive opinions on measures calling for approximation of national rules on lawn mowers, cranes, tractors, simple pressure vessels, and measuring instruments. Removal of obstacles to inter-member-state trade is only one objective, environmental considerations are another. For example, lawn mowers of a certain size could not be marketed unless noise levels stayed below the maximum decibels allowed.

Germany: Four Minor Excise Taxes to Be Repealed

Both the Bonn government and the political Opposition have called for the repeal of several minor excise taxes as part of their plans to simplify the German tax system, which both sides promised before the last election. A recent hearing in which 40 representatives of industry, trade, union, consumers and taxpayers associations took part confirmed that the Schmidt administration is on the right track by considering legislation that would repeal the excise duties on acetic acid, matches and wicks, playing cards, and salt. Opposition members of Parliament have already introduced a bill of their own calling for the abolishment of the excise taxes on sugar and light bulbs as well as the other four items. While the Opposition's bill would mean DM 300 million less revenue annually, the government's plan would cost only DM 50 million per year.

The Schmidt administration justifies repeal of the four excise duties, which it will propose to Parliament soon, by the fact that they are minor in terms of revenue (they contribute only 0.018% of the budget) and costly in terms of collection. Manufacturers of the products involved would welcome the change, since they would no longer have to file the required special forms, keep separate accounts, and maintain internal controls. Furthermore, revenue officials would no longer have to check for compliance.

Finance Minister Hans Matthöfer made it clear at the hearing that he also favors the repeal of other excise taxes but that this cannot be done immediately for budgetary reasons. He said he would go along with the repeal of the excise tax on tea, which yields roughly DM 40 million a year; however, for reasons of equity, he would then also have to propose a repeal of the excise tax on coffee, which brings in about DM 1.3 billion annually - a sum the government cannot afford to lose.

Excise Taxes *(contd.)*

Bonn's plan to repeal excise duties ties in with the European Commission's concept of harmonizing the national excise tax structures to an extent that there would be only five such taxes left - on gasoline and other oil products, tobacco, pure alcohol, beer, and wine *(Common Market Reports, Par. 9977)*. At present Germany imposes 13 excise taxes, but none on wine. Matthöfer assured his listeners that the government would never consent to the Commission proposal now pending before the Council of Ministers that calls for the harmonization - and for Germany and Luxembourg, the introduction - of wine taxes.

Industry spokesmen and others have been criticizing Bonn for what they consider less than a half-hearted attempt to cut red tape from the tax system. They regard the government's concept as no more than pruning the edges of the tax-rule jungle: the largest part - made up of the vast body of statutes, regulations, and administrative guidelines concerning income, business, value-added and fuel taxes - will remain untouched. Government officials have said that a real simplification may take at least a decade; they point out that part of the complexity of today's tax laws can be traced back to the lawmakers' efforts to bring more equity to the system. No equity without bureaucracy, they say, on the principle that a tax statute cannot be simple if its objective is to give fair treatment to as many individual situations as possible.

Belgium: Discount Rate Increase; Fuel Rationing Plan

The Belgian central bank on May 3 took definitive steps to support the Belgian franc, which had been in a relatively weak position for several weeks. The National Bank moved up the discount rate by one full point, to 7%, and at the same time disbanded the previous practice of providing two separate "plafonds" - A and B - for refinancing transactions. Plafond B entailed a higher interest rate (7%) to refinance credits that exceeded the "normal business volume"; as such, it was designed to discourage speculation. As of May 3, the two funds have been joined, with only the 7% discount rate being applied. Until this change was made, three-fourths of all refinancing credits had been granted under Plafond A, for which a 6% rate applied.

Prior to the discount rate increase, the Banque Nationale de Belgique had been forced to intervene steadily on behalf of the franc since the inauguration of the European monetary system (EMS) last March. Until the end of April, the weekly commitments ranged from BF 1 billion to 1.3 billion, and the total was reported at BF 5.8 billion in European currency units. Despite these efforts, the franc had remained near the intervention limits provided for within the EMS, and so the bank finally had to take more forceful action.

Rationing *(contd.)*

In other developments, the Belgian government has begun to enforce the first part of its new energy conservation program. The most drastic (and controversial) provision is the rationing of heating fuel deliveries as of May 1. From that date until April 30, 1980, private households are allowed to purchase only 80% of the supplies they received last year. Deliveries of heavy heating fuels for industrial purposes are being restricted to 90%. Dealers are being limited to 85% of their 1978 deliveries of light heating fuels and to 90% of heavy fuels. The 5% margin is to guarantee adequate supplies for high-priority customers, such as hospitals, key industries, and power plants. The fuel rationing is supplemented by a prohibition of outdoor display lighting at night (between 9 p.m. and 9 a.m.) and the strict enforcement of speed limits (90 kilometers per hour on primary roads, 120 kmh on freeways). The government also has allocated BF 35 million for a campaign aimed at educating the public on the prudent use of energy.

In the meantime, the Economic Affairs Ministry has published a White Paper, "Elements of a New Energy Policy," which had been drafted for the most part under the previous Leo Tindemans administration. In this document, the Ministry advocates the parallel construction and expansion of both conventional and nuclear power plants. Providing that the annual growth of energy consumption can be held to 2.9%, Belgium's energy requirements are covered until 1985. During that year, a new 600-Mw conventional plant is scheduled to go on stream, to be followed by one to three proposed nuclear plants in the five years thereafter, depending on actual needs. Because of the long construction periods required, a decision on the additional A-plant(s) must be made as soon as possible. Belgium currently covers some 25% of its energy requirements from three nuclear plants producing a total of 1,650 Mw; four additional reactors (3,800 Mw) are under construction.

Netherlands: Central Bank Chief Gives Budget Warning

In presenting the 1978 annual report of the Dutch central bank, the latter's president, Dr. Jelle Zijlstra, has admonished the government to enact immediate emergency measures to turn around the state's precarious financial position. Zijlstra's warning came as the Van Agt administration was about to overstep the limit it had set for itself on financing budgetary deficits - 6% of the national income. For the first time in this decade, the Finance Ministry has made use of an agreement dating from 1975 under which it may borrow extra funds from the central bank to cover temporary cash shortages. Under the facility, involving the placement of treasury notes, the Ministry is authorized to draw a total of about 1 billion guilders within a 12-month period, with the average amount borrowed not to exceed 335 million guilders at any given time.

Budget
(contd.)

In his statement accompanying the submission of the annual report, Zijlstra was unusually outspoken about the current plight of the Dutch economy and the government's problems in coping with it. He criticized, for instance, a "lack of order" in The Hague's budget planning, which is threatening to drive up the deficits to unmanageable proportions. At the same time, Zijlstra complained, private consumption is growing by leaps and bounds, thanks to unrestrained wage increases and the generous availability of personal credit.

Zijlstra indirectly addressed himself also to the country's unions, saying that the rapid rise in wage costs during the last few years had undoubtedly contributed to unemployment, the erosion of corporate profits, and a weakened competitiveness. Under these circumstances, it would be disastrous to insist on immediate reductions in the workweek without corresponding reductions in pay. It would also be unrealistic to expect the state to make up resulting pay differences, because the public funds are just not available.

The central bank president referred to figures showing that real-term incomes in Holland rose by 3% on the average last year (the minimum wage by 4.5%), causing private consumption to climb by 4.5% to nearly 60% of the gross social product. At the same time, productivity expanded by only 2.5%. As a result, growing import pressures have had a definite impact on the balance of payments, which went from a surplus of 7.5 billion guilders in 1976 to a deficit of 2.5 billion last year. Thus, Zijlstra termed it "incomprehensible," for instance, that Holland has slipped into this deficit situation despite its very large natural gas exports. As an immediate stopgap measure, the central bank chief called on the government to accelerate the collection of taxes and to implement drastic overall savings.

Britain: Business Hopes Attached to Tory Victory

A reduction in direct taxes as part of the forthcoming Budget as well as some monetary reforms were considered likely by business observers following the election of a Conservative government in Britain, under the leadership of Prime Minister Margaret Thatcher. Otherwise, no dramatic legislative proposals were expected in the Queen's Speech scheduled for May 15, notably not with respect to the Tories' campaign pledges on trade union law reforms and industrial policy. On the other hand, it was clear that the new government would soon have to face some of the most urgent problems inherited from the outgoing Labour administration, among them the pending pay claims by such groups as the electric utility workers, teachers, and hospital doctors.

The City had reacted positively to the confirmation of the Tory election victory, with the Financial Times Index of the leading industrial shares adding on another 5.1

Tory Victory *(contd.)*

points for a record 558.6. Generally, however, the markets had been anticipating a change of government, as evidenced by the FT Index's climbing by more than 100 points during the previous 10 weeks. Business expectations in particular were focused on a more favorable investment climate, which would include the removal of dividend and price controls and the gradual easing of capital export curbs.

The May 3 elections resulted in 339 parliamentary mandates for the Conservatives, who previously had held 276. The Labour Party, now in opposition, wound up with 268 seats (319); the Liberals with 11 (13); the Scottish Nationalists with 2 (11); and the Welsh Nationalists with 2 (3). In percentage terms, the Tories gained 43.9% of the vote and Labour, 36.9%.

National Oil Corp. Moving into Profits

The annual report of the British National Oil Corp., published on April 23, disclosed a pretax profit last year of £2.275 million, the first since the BNOC was established in 1976. (In 1977 there was a pretax loss of £1.881 million.) However, deferred tax liabilities, interest payments, and the cost of providing advice and services to the government resulted finally in a net loss of £3.042 million. The report stresses that the 1978 results reflect the burden of the corporation's start-up costs, notably the acquisition premium of £115 million paid in 1976 for Burmah Oil's stake in the Thistle Field, and "the initial interest and financing cost caused by the absence of any equity." These factors will continue to reduce profits until 1982. Total sales of oil in 1978 amounted to £431.83 million compared with just £27.837 million in 1977, and operating profits more than doubled to £10.9 million as against £4.77 million in 1977.

Lord Kearton, BNOC chairman, said that the company should be making an "appreciable" profit in 1979 and that its operations should be "highly profitable" by 1982, at which time it would be one of the world's major crude oil wholesalers. "However, our profit target depends on a lot of factors - for instance, how the Ninian Field develops. We are in an area where you can never predict the future with any certainty." Lord Kearton found unconvincing the complaints of excessive taxation voiced by oil companies. He said that yields from such fields as the Forties were so enormous "that it would be astonishing if the multinational companies did not try to avoid tax on them," and he indicated that while British Petroleum's profit in this field in 1978 was £1 billion, the company had paid only £180 million in petroleum revenue tax. He said that the revenue so far derived from oil developments in the North Sea was much smaller than originally anticipated, about £500 million up to March 1979, half of which was made up of royalties and the remainder of corporation and petroleum revenue taxes. Lord Kearton said that whatever political party won the

National Oil *(contd.)*

general election would probably want to review the tax position of the oil companies.

Italy: Legal Conflicts Hurt Economy, Carli Claims

The "chaotic and confusing" legislative situation in Italy has reached the point where the economy is beginning to suffer actual damage, according to Guido Carli, president of the Confindustria industrial federation and ex-governor of the Bank of Italy. In his keynote address to the delegates of the Confindustria's annual meeting in Rome, Carli attacked the "poor Italian legislative work" which often produces a mass of conflicting rules, which in turn have to be blamed for much of the structural crisis of the domestic economy. A "responsible" legislative environment also would have prevented a number of judiciary investigations and proceedings, said Carli in obvious reference to the current probe involving officials of the Bank of Italy. He said judges and prosecutors are being forced to move in a "legal jungle" in which they tend to get lost and thus, unwillingly, make mistakes that "endanger the very institutions that deserve the most respect."

To keep the business community from being constantly confronted with this legislative maze, Carli proposed the drafting of a "statute of economic policy" which would in effect constitute a code clearly identifying institutional rights but also drawing up the limits of institutional intervention in economic matters. This code would stand alongside the already existing workers' code and a proposed code for employers and industry.

A major portion of Carli's speech was devoted to criticism of the country's labor unions, which he said were again departing from a policy of "correct confrontation" and dialogue with the employers by supporting unrealistic worker demands in key industries. Carli said the demands for steep pay increases and work-time reductions could not be reconciled with the conditions now prevailing both at enterprise level and in the economy generally. So long as these pressures persisted, industry would refuse to negotiate with the unions over codetermination rights involving corporate investment plans. (The current contract negotiations for the years 1979-81 involve some 10 million workers in the engineering, chemicals and construction sectors.)

Common Market Reports

EUROMARKET NEWS

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Community: Council OKs Conduct Code in Shipping

The Council of Ministers has approved a draft regulation providing for accession by the member states and the Community to the draft Convention on the Code of Conduct for Maritime Conferences. After ratification by the nine national legislatures, the code will have been approved by 33 countries, which account for more than 25% of the world liner tonnage required to bring it into force. The nine member states' commercial fleets handle roughly 21% of the world's cargo shipping.

The Council's decision is timely, observers say, because shipping policy is a major topic at the current 5th United Nations Conference on Trade and Development (UNCTAD V) being held in Manila, in the Philippines. Since 1974, when the proposed code of conduct was approved in principle by the U.N. conference in Geneva, the developing countries have been pressing for ratification. In the meantime, 24 of these countries, accounting for 6% of world cargo shipping, have acceded to the convention, which is intended to guarantee developing countries a bigger share of that shipping.

The code of conduct would apportion cargo carried on major shipping routes according to a fixed formula. It would assign 40% each to the importing and exporting coun-

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Conduct Code *(contd.)*

tries (in fact, the industrialized and developing nations) and would leave the remaining 20% for third countries or cross-trading countries, i.e., mainly the state trading countries. However, if EEC shipowners were to apply the criteria as now proposed, they would violate Treaty Article 85. Therefore, the Commission had been pressing the Council to make some modifications in the code at least for internal Community purposes so that there would be no discrimination against shipowners in the Common Market. This could have been done either by renegotiations aimed at amending the draft convention or by formal stipulation in the Community act. Since the chances for renegotiating the draft have been poor, the Council chose the second approach. Hence, the Community regulation on the accession to the draft convention stipulates that important parts of the code such as those on cargo sharing and rate fixing will not apply to liner conferences involving EC-based shipping lines.

In order to prevent member states from invoking the code of conduct to gain business at each other's expense, the regulation provides that in trade between a member state and a developing country the former's 40% share would be open to competition from other Common Market-based shipping lines on a commercial basis. Shipping lines from OECD countries outside the Community such as Sweden, Norway, an Greece could take part in these arrangements so long as they offered reciprocal opportunities.

Community officials assume that the Council's positive action will also favorably influence the decisions of Sweden, Norway, Finland, Greece, Spain, Portugal, and Canada. While the United States, whose shipping lines handle about 8% of the world's tonnage, is not expected to accede to the convention for antitrust reasons, Japan, which accounts for 7%, is expected to do so.

Changes Due in Products Liability?

The Commission is pondering changes in the products liability draft directive now that the European Parliament has given its opinion on the measure. The proposal would harmonize national rules on products liability and would hold manufacturers liable for damage caused by a defective product, regardless of fault *(Common Market Reports, Par. 9891)*. Although basically in favor of the draft, the EP nevertheless called for numerous amendments. However, Commission officials who appeared before the two EP committees considering the draft did not support all of the proposed changes. Theoretically the Commission could ignore the suggestions and submit its original proposal to the Council, but several Community officials believe that this approach would be an affront to a newly elected Parliament. They expect the Commission to reflect in a revised draft at least some of the changes demanded by the EP where it feels that the latter has a good point. Informed sources in

Liability *(contd.)*

Brussels say that the Commission will submit this amended proposal to the Council toward the end of the year.

One of the most important changes urged by the EP concerns the exclusion of development risks. Article 1(2) of the draft directive would hold a manufacturer liable for damages caused by a defect that had not been apparent because the product was considered free of defect according to the state of science and technology at the time it was put on the market. If on the basis of later scientific or technological developments it turned out that the product originally considered safe was actually defective, then the manufacturer would be liable. Putting the development risks on the manufacturer's shoulders would hamper innovation, according to the EP, especially in sectors where R&D play an important role. The EP also contends that in a time of structural unemployment, innovation is very important for European industry, which must concentrate mainly on manufacturing products that are technologically advanced.

The EP is further demanding an express provision on contributory negligence. The proposal does not touch on the extent to which the consumer's contributory fault may reduce or even cancel the manufacturer's liability; the Commission believes that such a provision would be superfluous because this principle is embedded in the laws of all member states. The EP disagreed, saying that even if national provisions on the matter were identical, it remains doubtful that they would be uniformly interpreted in each state. Without the provision, the directive would fail to achieve the equal competitive conditions that the Commission pursues with the measure, according to Parliament. By the same token, if the member states would keep the power to retain or enact rules on contractual liability for fault and on damages in the case of several liability, equal competitive conditions would also be impaired.

To keep down the costs of strict liability, the EP suggests that a manufacturer should not be liable if he took adequate steps to inform the public about a defect as soon as he discovered it and also took other steps that might reasonably help eliminate the injurious effects. Furthermore, it suggests that craftsmen and other producers of nonindustrial items also be exempt from strict liability.

Germany: Financial Aid to Help Start New Businesses

The German government's program to help individuals establish new businesses through low-interest loans will get off the ground by July 1 now that the European Commission has found nothing objectionable about it. The plan is yet another follow-up to last year's July summit in Bonn to stimulate economic growth, and the government believes that

Financial Aid *(contd.)*

many more enterprising individuals would feel inclined to start a new business if they got some financial help at much more favorable terms than those offered by the commercial banks. The government hopes not only to counteract the current decline in the number of small businesses and professions (from 1960 to 1977 it dropped from 2.1 million to 1.9 million) but also to stimulate the innovative spirit of young businessmen.

Under the plan, an individual under 50 could obtain from the government a maximum loan of DM 100,000 for a 20-year period without furnishing the collateral that banks usually demand. During the first ten years, the loan recipient would not have to make any repayments on the principal. He would have to pay interest starting with the third up to the 10th year at rates negotiated when he received the loan. After the 10th year the interest charged would be identical to the rates demanded by commercial banks. Another condition would be that the borrower must have funds of his own: the ratio between his own and borrowed funds would be 2:3. Thus, an applicant could get the full DM 100,000 only if he had at least DM 66,666 himself.

Draft Law to Broaden Legal Aid

A bill now before the German parliament seeks to make free legal aid available to anyone earning less than DM 850 a month. The government would pay both the attorney's fee and court costs of the litigant. If the individual were married and had two children, he would be entitled to free legal aid so long as his monthly income did not exceed DM 1,850. The proposed income ceilings would not be rigid, however, because the courts would have to take into consideration the individual's financial liabilities, such as alimony and child support payments. An individual earning more than DM 1,850 could pay the court costs in installments over a maximum period of 48 months.

There would be one major condition for receiving free legal aid: the individual must have a reasonable chance of winning. This condition would prevent the courts, already burdened with a heavy case load, from being flooded with actions.

The measure would also harmonize the somewhat differing legal aid systems of the 11 German states. The total volume of legal aid provided by these states in 1978 amounted to roughly DM 78 million; since administration of justice is for the most part a state matter, the proposed measure would burden them with an estimated DM 38 million more each year. Because legal aid would be available also to those pursuing their actions all the way to the federal supreme courts, the federal government is expected to incur around DM 300,000 in court costs and attorney's fees each year.

Italy: Clandestine Loans; VAT Rule Changes

Under the Italian caretaker government's anti-inflation policy of controlling the expansion of commercial credit, banks are being discouraged from adding to existing loan programs. Also, they often find it more attractive to safely earn 12% on treasury notes than lend money at the legal limit of 15% interest. Thus, last year - for the first time since World War II - Italian banks invested more in bonds than they made available to their customers.

The result has been a distinct growth in clandestine credit. Small finance companies abound, some of them rumored to be secretly controlled by major banks. Enormous rates of interest reportedly are being charged by way of initially rebated principal, high carrying charges, and stiff penalties for not meeting (by mutual agreement) the due dates.

Small and medium-sized firms have been the main victims of the credit squeeze and its unsanctioned consequences. In an effort to assist them in obtaining badly needed funds, the Confederation of Italian Industry (Confindustria) has established some 90 regional consortia to put up bank guarantees, thus making loans more attractive. In 1977, the Confederation's guarantees totaled the equivalent of $528 million, rising to $720 million last year. Another solution to the problem has been voluntary loans by employees, at interest rates about 2% higher than savings bank returns. These loans are "safe" because they come from retained wages, and unpaid wages are guaranteed by the state. Both the Labor and Finance Ministries are now reportedly investigating these practices.

In other news, medical and hospital bills as of last month are no longer subject to value-added tax in Italy. Also, there have been some changes regarding businesses claiming VAT payments as an income tax credit (as opposed to a business deduction): only 50% of VAT paid on new vehicle purchases can now be credited and none of the VAT paid on business travel expenses (including hotel and meals) or business entertainment. The new-car rule may have commercial significance, since VAT on leased vehicles has always been limited to a 50% credit status. The change thus puts leasing companies on an equal footing with new car dealers.

Belgium: Foreign Loans to Finance Budget Deficit

On the opening day of the parliamentary budget debate on May 10, Belgian Finance Minister Gaston Geens confirmed that the new coalition government will soon turn to the foreign capital markets in order to finance the 1979 deficit, which has been estimated at some BF 100 billion (compared with BF 76 billion in '78). Geens emphasized that the country's external debt is extremely low: at BF 14.8 billion, it corresponds to merely 1% of the total public indebtedness. To go to the domestic markets would, on the

Foreign Loans
(contd.)

other hand, put too much of a strain on those markets as well as on interest rate levels. Only recently, the Belgian National Bank moved up the discount rate by one full point to 7%.

The Finance Minister told Parliament that the government probably will soon float short-term foreign loans, which later this year would be consolidated by long-term borrowing, either by way of the Euromarket or as a dollar loan in the United States. Early this month, the government announced plans for a bond issue in the amount of BF 60-65 billion with a maturity of eight years and an annual interest rate of 9%. (Financial observers said that with the most recent increase of the discount rate, the issue probably will have to be offered at a slightly lower price than par value.) Last October it was revealed that Belgium had raised a BF 8-billion credit through the Bank for International Settlements, which was the first foreign loan arranged in about 10 years.

Britain: Tories Outline Policies in Queen's Speech

In the Queen's Speech on May 15 and at the start of a 17-month parliamentary session, the newly elected U.K. Conservative government indicated that it would speedily implement much of the content of the Tories' election manifesto. In economic matters, priority would be given to controlling inflation through the pursuit of firm monetary and fiscal policies. By reducing the burden of direct taxation and restricting the claims of the public sector on the nation's resources, the government would start to restore incentives, encourage efficiency, and create a climate where commerce and industry could flourish.

The government said it would endeavor to stimulate the development of small businesses, on which the creation of new jobs so heavily depends, by reducing the administrative burden placed upon them - presumably by the promised amendment of the Employment Protection Act. It will reduce the expense of nationalized state ownership and increase competition by providing offers of sales, including opportunities for employees to participate where appropriate. (Observers said it seemed likely that the government would dispose of some of its holdings in British Petroleum.) The activities of the National Enterprise Board will be restricted, and state interference in industry generally will be reduced. The Budget will be produced on June 12.

As regards industrial relations, it was stated that the government intended to achieve "a fair balance between the rights and duties of the trade union movement." It would encourage responsible pay bargaining and the wider participation of the greater majority of members in the affairs of their union. There is to be "adequate and genuine consultation" with both sides of industry over legislation

Queen's Speech *(contd.)*

to amend the law on picketing and the closed shop. Prime Minister Margaret Thatcher has promised to introduce the requisite Bill before Christmas. It is noteworthy that no mention was made in the Queen's Speech of possibly the most contentious area in the manifesto - the reduction of benefits for strikers' families. Employment Secretary James Prior has emphasized that the government is not seeking confrontation with the trade unions but is approaching them "in a conciliatory and constructive frame of mind."

Two new Acts relating to company law are to be introduced in order to ensure conformity with EEC requirements. One will be concerned with the formation of companies, subscription and maintenance of capital, and the payment of dividends, while the other is concerned with company accounts.

Austria: Kreisky Triumph in General Elections

The outcome of the parliamentary elections in Austria on May 6 has been described as a personal triumph for Chancellor Bruno Kreisky, 68, whose Socialist Party (SPÖ) extended its absolute majority from 50.42% to 51.17% and raised the number of its mandates from 93 to 95. It was the fourth consecutive victory in general elections since 1970 and installs the Socialists for another four-year term. The big losers were the opposition People's Party (ÖVP), which slipped from 42.9% to 41.8% of the vote and lost three of its previous 80 mandates.

The SPÖ's victory had been expected but not in such a resounding fashion, particularly after the Kreisky government had been hurt by political infighting and charges of corruption. It was generally agreed that it was Kreisky's personal prestige and charisma as well as the government's ability in maintaining economic stability and full employment in Austria that brought on the party's success. Apparently, the administration's defeat in the referendum over the operation of the Zwentendorf nuclear power plant and, earlier, in the Vienna municipal elections did not emerge as major criteria in the May 6 balloting.

Switzerland: National Bank Plans to Expand Money Market

The Swiss National Bank is proposing to build up the domestic money market as of this summer by introducing federal short-term certificates. These plans were outlined in Lucerne on May 2 by Prof. Leo Schürmann, vice-president of the Bank, who said the certificates would not be subject to the kind of controls now being applied to the bond market.

Although Schürmann gave no date for the introduction of the new certificates, financial observers predicted that this would come soon after July 1, when the modified National Bank Law *(Nationalbankgesetz)* takes effect. The Law authorizes the Bank for the first time to go beyond its

National Bank *(contd.)*

discount and Lombard policy jurisdiction by conducting open-market operations with short-term certificates. This will enable the Bank to better regulate the domestic money volume, which in the past has been influenced almost exclusively by the Bank's foreign exchange transactions. Although Switzerland is one of the world's leading financial centers, it has not had a full-fledged money market by international standards (Euromoney markets).

Schürmann said that following the introduction of federal and National Bank certificates, the list of borrowers eventually could be extended to public authorities (cantonal and municipal governments) and to major banks and insurers and other first-class borrowers. In any case, the National Bank intends to keep control of the market by maintaining a register in which it would record each ownership change of certificates in the secondary market. Certificates would have a minimum unit value of SF 500,000 and initially would mature from one to 12 months; they could be discounted or used as loan collateral.

It was pointed out that, at least for the time being, the expanded Swiss money market will offer hardly any attractions to nonresidents, since the latter are effectively prevented from investing amounts above SF 100,000 per deposit because of heavy interest penalties applied at that limit.

EURO COMPANY SCENE

Monsanto

In the face of rapidly rising raw materials costs and overcapacities in Europe, the U.S. chemicals group Monsanto Co. has announced that it will probably have to shut down its European nylon production facilities. The employees were informed of the news on May 9, and the company said it had started formal talks with authorities and labor unions in the respective countries "with a view to an early withdrawal from the nylon business." In that sector, Monsanto employs 2,300 people in Europe - 1,500 in the U.K. and the remainder in Germany and Luxembourg. The company says it has lost at least $63 million in its European nylon (polamide) fibers production since 1975, and several management studies have failed to come up with any solution other than a pullout.