Common Market Reports

EUROMARKET NEWS

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Community: More Work on Products Liability Text

The European Commission's amended products liability draft directive is heading for a long debate in the Council's working group. As it stands now, the measure would make a manufacturer liable for damages resulting from a defective product, regardless of fault, up to a maximum of 25 million UA. The manufacturer's liability would extend over a ten-year period starting from the day the unsafe product was put on the market. Observers believe the measure might be watered down considerably by the time the Council of Ministers votes on it *(Common Market Reports, Par. 9891)*.

The Commission's original proposal met with strong opposition from industry in all Member States from the very day it was presented in October 1976, and except in two instances the EC executive has not made many changes in its amended version to satisfy the critics. The amended proposal would expressly reduce a manufacturer's strict liability whenever there was contributory negligence on the part of the injured party. A manufacturer's overall liability for all personal injuries caused by identical products having the same defect could be further limited by the Council, but until then the maximum liability would be 25 million UA.

Most of the proposed amendments follow the suggestions made by the European Parliament and the Economic and Social

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Liability *(contd.)*

Committee. Many of them concern details, but a major change is the exclusion of farm and handicraft products from the directive's scope of application. A majority of the 13 Commissioners rejected another suggestion by the EP: to exempt a manufacturer from strict liability if the defect would not have been discovered in light of scientific and technological development at the time the product went on sale. After extensive debate in Parliament and the ESC about inclusion of such cases, the EP eventually found a compromise by recommending that such cases be excluded and that, instead, the burden of proof be put expressly on the manufacturer. Although Commissioner Etienne Davignon, responsible for EC industrial policy, supported the EP in pressing for the amendment, the recommendation was rejected because, in the last analysis, it would shift the burden of proof back to the consumer.

Another recommendation that was rejected would have regulated one aspect of products liability that the Commission intentionally did not want to touch in its proposal at all: to relieve a manufacturer from strict liability if he had taken adequate and timely steps to inform the public about the defect and had done everything possible to reasonably eliminate the injurious effects of the defect. In the Commission's view, the suggested article was not acceptable because it left many questions unanswered. One of these questions was whether a manufacturer would be obliged to warn consumers and recall defective products from the market.

Pork Conflict May Still Go to EC Court

Although Germany's temporary ban on all pork imports from the Netherlands on grounds of insufficient veterinary controls by Dutch health authorities was lifted on Oct. 10, the Dutch government and the European Commission may nevertheless go ahead with their suits to establish the illegality of Germany's act. The ban was lifted after Holland agreed to entrust 10 laboratories with the inspections until it has built up a full-fledged system. Despite the compromise reached after the nine-day ban, both The Hague and the Commission are reportedly interested in a legal clarification by the European Court of Justice as to whether Germany's ban was illegal. Bonn, in turn, would like to have established whether its ban was justified and which of the various inspection methods conformed to Community rules.

Shortly after the ban was imposed, the Dutch government moved to sue Bonn under Treaty Article 170, and the Commission initiated proceedings under Treaty Article 169. Although both actions involved pre-court preliminaries, several months may pass before the Dutch government will be actually able to file suit at the European Court. (It first has to bring the matter before the Commission.) In the second case, the Commission gave the German government two weeks to respond before suit is filed.

Germany justified its import ban by saying that the

Conflict *(contd.)*

Dutch spot checks (about 10 out of 100) are not thorough enough to determine whether there are trichinae in pork. In contrast, German veterinarians check each carcass. Because of these systematic controls and other preventive measures, there are at most five cases of trichinae in pork out of the 34 million carcasses that are annually subjected to German veterinary inspection.

Until last year there was no problem because the Dutch meat exporters paid the fees charged by German customs for meat inspections carried out by German veterinarians. However, the Court of Justice ruled in 1977 that unilateral national inspections are permissible only on grounds of protecting public health, as provided under Treaty Article 36, and that no fee may be charged (Case No. 46/76 - *Common Market Reports, Par. 8390*). As a result, the German government lately has been paying the inspection costs and has not demanded reimbursement from the Dutch exporters. At the same time, it has tried to come to an amicable agreement under which the Dutch would accept the German method of veterinary inspections, which would make health controls at the Dutch-German border superfluous. When these talks broke down late last month, despite the Commission's mediation efforts, Bonn closed its borders to Dutch pork imports.

In Brief...

The European Court has ruled that the U.K.'s fishery controls introduced on April 1, 1977, were illegal (Judgment of Oct. 4, 1979; Case No. 141/78). The suit had been brought by the French government and represented only the second time that one Member State sued another. France had complained that the U.K.'s order concerning the maximum by-catches authorized for fishing vessels was in violation of Community rules because, among other things, London failed to inform the other States and the Commission beforehand about a restriction that later led to the arrest and fining of a French trawler owner + + + The European Parliament has again called on the Commission to submit a draft directive that would harmonize legislation to protect individuals against the unauthorized use of computerized data. In the EP's view, the laws could be patterned after rules applicable in Denmark, France, Germany, and Luxembourg. Parliament has also asked the Commission to provide for a Community agency, similar to the national ombudsmen, to oversee enforcement and to act on complaints.

Germany: Businesses Missing Out on Tax Cuts

The German business community which was counting on some tax relief from measures in the 1979 Tax Amendment Act is beginning to wonder whether it will indeed benefit from the changes. If a failure to act is any indication, many local governments are apparently reluctant to pass on the tax relief to businesses. The 1979 measure provides for the abolishment of the local payroll tax as of 1980 *(Doing Business*

Tax Cuts *(contd.)*

in Europe, Pars. 31,058, 31,071). Some 800 cities and towns in the states of Hesse, Lower Saxony, North Rhine-Westphalia, Rhineland-Palatinate, and Schleswig-Holstein are levying this tax; it is no longer imposed in the states of Bavaria, Baden-Württemberg, and the Saarland. (Berlin planned abolishment as of 1980 on its own.)

As a way of compensating those 800 local governments, and also for reasons of equity, all of the country's 8,000 local communities would get a higher share of income tax revenue starting in 1980 (15% instead of the current 14%) and would be entitled to keep more of the business tax revenue that flows into local treasuries. In return, all local governments are expected to reciprocate by lowering the municipal coefficient that is applied in assessing the business tax *(Doing Business in Europe, Par. 23,385).* Many city councils have lowered the assessment factor for 1980; this is especially true in North Rhine-Westphalia and Lower Saxony, where the state governments issued guidelines to ensure that the objectives pursued by the 1979 Tax Amendment Act materialize and thus benefit the business community. The decisions of city councils in the big cities along the Rhine and Ruhr rivers to pass on the relief was eased by a special DM 1.5-billion grant approved by the state legislation of North Rhine-Westphalia.

Business executives are alarmed by the fact that the Bavarian state government plans to divert part of the money the local governments will be receiving via the amended revenue-sharing act; it wants to abolish several minor local taxes, such as the duty on beverages and the entertainment tax. This plan would be contrary to the intentions of the federal lawmakers in Bonn.

There have been calls for special legislation that would compel all local governments to pass on the tax and revenue benefits to businesses. So far the federal government has remained cool to such demands because issues of constitutional law would be involved. Government leaders say that there is still time for local governments to propose to city councils that the municipal coefficient applied in assessing the business tax be lowered. Finance Minister Hans Matthöfer believes business leaders should speak up and apply pressure on those local governments that so far have not acted on the matter.

Luxembourg: Tax Relief for Companies, Individuals

In presenting its budget message for 1980 to Parliament, Luxembourg's two-party coalition government under Premier Pierre Werner has proposed to abolish the payroll tax in five successive annual steps, at 20% each. Further fiscal relief to businesses is to be offered by doubling to LF 1.5 million the tax-free allowance on capital assets. The state export credit agency is to receive a further financial infu-

Tax Relief *(contd.)*

sion in order to lend stronger support to the country's export industries. The local communities, for which the abolishment of the payroll tax would create revenue problems, are to receive equalization funds from the state treasury. For next year alone, this would require an estimated LF 96 million.

Aside from tax relief for businesses, the government's draft budget also makes provision for easing the tax burden of individuals and for improving social welfare benefits. As such, it seeks to fulfill pre-election promises made by the two coalition partners - Werner's Christian-Socialists and the Liberals under ex-premier Gaston Thorn. The income tax progression would be cut back by a straight 2%, and there would also be substantial increases of various tax-free allowances. The family bonus for a second child is to be raised from LF 500 to 600 per month. In the social welfare realm, paid maternity leave is to be extended to self-employed women and to farmers' wives. (It is further considered to include housewives in this system, but there are still many uncertainties on the practicalities of such a step.) The government proposes to establish as of Jan. 1 a LF 10-million alimony guarantee fund, which would make alimony payments to unmarried or divorced mothers in cases where the fathers did not meet their financial obligations. The state would then seek to recover these expenditures directly from these fathers.

As in previous years, the government believes that Luxembourg's financial situation is basically sound. However, it does see a need to put a stop to the further expansion of the public debt, which under the previous Thorn administration had grown to LF 23.3 billion (year-end 1978). The principal factor in this development has been the state contributions to the pension funds, which rose from LF 5.7 billion in 1975 to LF 12 billion last year. For this reason, the government is almost certain to seek a reform of the social insurance system within the current legislative session.

The 1980 budget plan shows only a minor deficit of LF 180 million, on projected expenditures of LF 45.54 billion and revenues of LF 45.36 billion. It is predicated on growth rates of at least 3% for the gross national product and of about 4% for the gross social product - a difference explained by the growing stature of the Luxembourg financial market. As of last report, the number of banking establishments in the Grand Duchy rose from 97 to 108 within the first half of 1979, with the banking community contributing 70% of the small country's corporate tax revenue.

<u>Belgium: Details of Austerity Plan; Discount Rate</u>

The Belgian government has now made the anticipated adjustments to the 1980 draft budget in order to cut about BF 20 billion off the public borrowing requirement of BF 230-240 billion as first projected in the initial draft budget last

Austerity *(contd.)*

July. Announced by Premier Wilfried Martens on Sept. 30, the austerity measures will result in relatively modest savings and apparently are also to serve the double purpose of steadying the Belgian franc on the international exchange markets. The program includes gasoline price increases, the introduction of freeway tolls, higher public transport fares, and some cost-saving measures in the health and social welfare sectors.

The Belgian motorists were the first to feel the sting as the government raised the controlled gasoline price by BF 1 per liter as of Oct. 1. Additional, previously decided price and rate increases took effect on the same day (bread, some postal tariffs). As reported earlier, freeway tolls are to be imposed as of Jan. 1, 1980, on both domestic and foreign users; however, the toll amounts have yet to be publicized. Some BF 3.8 billion are to be saved by raising patients' contributions to their health costs and by limiting the amounts by which the costs of prescription drugs and hospitalization are reimbursable. The government is hoping for additional savings by tightening surveillance of individuals receiving unemployment benefits; the idea is to crack down on moonlighting and on "those unwilling to work." Also announced was the commissioning of a study to investigate ways of reducing the costs of the social security system.

The Belgian National Bank on Oct. 3 raised its "plafond A" discount rate from 9% to 10% and the "plafond B" rate from 11% to 12%. The Lombard rate also was boosted by one point to 12%.

In other developments, Martens announced that he would make an official statement to both houses of Parliament on Oct. 17 in which he would discuss current political problems, budgetary issues, the regional reform efforts, and the social policies of his coalition administration. Prior to that date, two key partners in the coalition - the Socialists and the Francophones - were to decide in separate party conferences whether or not to continue the alliance with Martens' Social Christians. Some observers did not rule out the possibility of another political crisis only half a year after the incumbent government was formed.

Italy: Discount Rate Boosted by 1.5 Points

Intensifying pressures on the lira and a sharp rise in the domestic inflation rate have been given as the major reasons for the relatively steep boost of the Italian discount rate from 10.5% to 12% on Oct. 8. The Italian central bank thus followed the example of most other industrial countries (France being a notable exception) which raised their discount rates in the last weeks and months. In Italy's case, the move was hastened by the proclivity of the country's importers to repay their dollar liabilities at an increasingly

Discount Rate *(contd.)*

faster rate because they expected the U.S. dollar to stabilize in the near future. The Banca d'Italia thus was forced to commit considerable foreign exchange reserves in the defense of the lira.

In that connection, it was reported that Italy's official net gold and currency reserves stood at $36.2 billion at the end of August, an increase of $1.2 billion in that month and of $11 billion since the beginning of 1979. While a major part of the increase was due to the rise in the value of gold, there was also a bona fide expansion of convertible currency holdings from exports and tourism.

Britain: Engineering Unions Win Workweek Cut

The settlement reached on Oct. 4 between the Engineering Employers Federation and the Confederation of Shipbuilding and Engineering Unions after 10 weeks of strikes and estimated lost sales of £2 billion was one of the most significant in the U.K. in recent years. The employers, who in the past have shown a tough attitude in such negotiations, yielded to demands for a workweek cut from 40 to 39 hours, although this will not take effect until Nov. 1, 1981. The unions had demanded an immediate 39-hour week, with a gradual reduction to 35 hours by 1982. The agreement will cover a four-year period. In addition to minimum wage increases, two extra days of leave will be awarded in the first year and one extra day in each of the remaining three years, for an annual total of five weeks by 1983.

Although a few groups of manual workers, such as underground miners, have won a workweek of 37.5 hours, they have been until now very much the exception - not only in Britain but also in other EC countries, except Belgium. The lengthy strike in Germany's steel industry that ended last January resulted in the phased introduction of six weeks of annual leave, but there was no concession over the 40-hour workweek.

The U.K. engineering employers were clearly influenced by the German agreement, but they feel that their settlement leaves them in a slightly more favorable position. Employer negotiators, denied that they had backed down, saying that the reduction of hours reflected "changes in employment conditions which could be expected in the 1980s." It remained to be seen, however, whether the 6,500 Federation members will take such a sanguine view of the result of the negotiations.

In any event, the settlement was almost certain to have implications abroad. Herman Rebhan, secretary-general of the International Metalworkers Federation, referred to "one of the most important trade union victories since the war." In Britain, pressure was expected to grow in forthcoming wage negotiations for similar treatment of other workers. It was considered likely that the deal will be taken as a

Workweek *(contd.)*

pacesetter, not only among engineering companies that are not members of the Federation (such as Ford, which fiercely resisted this move last year).

Sweden: Fälldin Heads Nonsocialist Government

Three weeks after the Sept. 16 elections, Sweden's three nonsocialist parties agreed on forming a coalition government under the leadership of Thorbjörn Fälldin, the chairman of the Center party. The three parties - the Conservatives, the Center, and the Liberals - had won 175 parliamentary mandates in the elections, edging the Social Democrats and the Communists by just one seat. With this slimmest possible majority, the coalition is facing a difficult task, not least because of deep-reaching policy differences among the partners.

The new cabinet consists essentially of the same men that made up the cabinet in the first Fälldin administration of 1976-78, which eventually broke up because of Fälldin's strict antinuclear position. The nuclear energy issue is now just as vital as ever, but the three parties have agreed to await the outcome of a national referendum next March, when the voters will decide whether Sweden's existing six reactors will be joined by four to six more or whether the existing plants should be successively shut down over a period of 10 years. Fälldin's Center favors the disbandment of nuclear operations; the Conservatives and Liberals advocate their continuation. Should the voters go along with the latter position, then it will be a question of how stringent safety regulations and precautionary measures will have to be in order to allow the safe operation of the A-plants.

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Community: Promoting the Use of EEC Coal

The efforts of the European Commission and the Community's two major coal-producing Member States, Germany and the U.K., to improve the competitiveness of coal mines and to promote the use of coal as a substitute for oil are slowly materializing. At a meeting in Luxembourg on Oct. 9, the Council of Ministers reached a basic consensus on the long-disputed issue of continuing aid to the Community's iron and steel industry using coke and coal. Council and Commission officials are confident that the Council's final decision on the matter, expected for December, will not only provide for financial support in 1980 and '81, as the Commission has proposed, but will also raise the volume of aid.

There has also been progress on several other proposals in this sector, among them a measure to set aside some 70 million UA each year to promote the use of coal in power plants. This measure has been before the Council since mid-1977 without any visible progress having been made. Major coal-importing Member States such as Italy and Denmark had been insisting that Community aid be made available not only to promote Common Market coal but also coal imported from third countries. The compromise now shaping up would provide financial support for both, although Community coal would be favored. The Community would stimulate the use of

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Coal
(contd.)

coal in steel mills by granting subsidies of some 170 million UA annually. This would be in addition to the extensive programs carried out by the individual Member States.

The progress made so far is attributed to a growing feeling of uneasiness, not only in the European Parliament but also among businesses throughout the Common Market, about the Council's lack of action to promote increased use of Community coal. Recent Commission statistics, along with the latest crude-oil price increases, reportedly persuaded the Council to act. According to the Commission, power plants in the Community burned 14% more oil in the first half of 1978 than in the same period of 1977 and 15% more in January-June 1979 than in the same period of '78. By contrast, coal consumption by utility companies rose by only 5.5% and 12.6%, respectively. Of the 155 million tons of coal used in 1978 to generate electricity in the EEC, the U.K. accounted for about 82 million tons and Germany for some 37 million tons. The utilities in the other seven states burned the remaining 36 million tons, which accounted for 74% of the Community's total coal imports (45 million tons in '78).

No progress has been made on the measures concerning Community loans for investments leading to the wider use of coal. The same applies to Community financial support for intra-EEC trade of coal used in power plants. The latter designed to offset transportation costs for Community coal in the seven Member States with no coal deposits.

Court Defines EEC's Powers in Rubber Pact

The European Court of Justice has ruled that the EEC's powers in the commercial policy field as laid down in Treaty Article 113 extend to the proposed international natural rubber agreement negotiated as part of the U.N. Conference for Trade and Development (Opinion No. 1/78, given on Oct. 11, 1979). A major objective of the accord would be to offset price fluctuations of natural rubber on world markets by, among other things, establishing buffer stocks that would be financed by the world's exporting and importing countries.

Responding to a Commission request made under Treaty Article 228 (1), the Court held that the question of whether the EEC has the exclusive power to conclude the agreement depends on the methods applied in financing the buffer stocks. According to the Court, the EEC's powers would be exclusive if the contributions came from the Community budget. However, if the Member States paid the costs directly, they could become parties to the accord along with the Community. The Court concluded by saying that so long as the question of the Community's exclusive powers has not been solved by the Community institutions, the Member States may take part in the negotiations.

Observers agree that the Court's opinion in this case

Rubber Pact *(contd.)*

undoubtedly reflects a perennial tug-of-war between the Community and the Member States over who has what power whenever it comes to negotiating and signing an international accord. These quarrels have ended with compromises that generally satisfy both sides. In the last three years the Court has taken a middle-of-the-road approach in numerous judgments and several opinions rendered under Treaty Article 228, which had lain dormant for 18 years.

In its latest ruling, the Court also settled an argument between the Commission and the Member States as to when the EC executive may request an opinion from the Community tribunal. (Under Treaty Article 228, either the Council of Ministers, the Commission, or a Member State may ask the Court whether a planned agreement with a third country or an international organization is compatible with the Treaty - *Common Market Reports, Par. 5291.*) In the Council's view, the Commission's request represented an incorrect application of Treaty Article 228. This article, it argued, could never be invoked to resolve questions of general significance implied in the interpretation of Treaty Article 113 and the legality of the "mixed accords" practice, whereby both the Community (usually represented by the Commission) and the Member States take part. The Court disagreed, saying that the procedure of Treaty Article 228 allows the submission of all questions that could affect the compatibility of a planned accord with the provision of the Treaty.

In Brief...

The Economic and Social Committee has unanimously approved the Commission's proposal on the protection of workers against harmful exposure to chemical, physical and biological agents. It believes that the proposed draft would speed up the coordination of national regulations and raise standards on current requirements of occupational medicine, hygiene, and safety + + + The Court of Justice has again been asked to decide whether discriminatory pay and pensions for men and women in the U.K. are compatible with the Treaty of Rome. Britain's Court of Appeals has asked for a preliminary ruling in a case brought by two women formerly employed by a bank. It was the second time this year that the Court of Appeals asked for a ruling on the equal pay and pension issue + + + Although the proposed GATT agreement does not include a safeguard clause as demanded by the developing countries, the Commission will nevertheless recommend to the Council the formal conclusion of the proposed agreement, which reflects six years of negotiations. In the meantime, the negotiators will attempt to reconcile their differences.

France: No Joint Union Stand on Worktime Cuts

Walkouts scheduled this month for France's public-service sector are kicking off what many observers think may be a rough labor relations season in France. The CGT and CFDT unions have issued strike calls for the postal, rail and utility workers to press demands for pay raises, a shorter

Worktime
(contd.)

workweek, and additional jobs. Nevertheless, it is predicted that the upcoming collective talks in both the public and private sectors will not be accompanied by militant confrontations. Most of the credit for this can be taken by Premier Raymond Barre, who during the past few weeks has individually received the top leaders of all unions as well as the representatives of the employers' organizations. Without making specific promises, Barre conveyed the message that the government was sympathetic to the problems of each side and that it intends to do its part in finding acceptable solutions.

As in other West European countries, the No. 1 theme between labor and employers in France this year pertains to worktime reductions. For its part, the CNPF employers' federation, also known as the Patronat, has indicated its willingness to accept modest cuts. It has proposed that annual worktime could be brought down from 1,920 to 1,856 hours, i.e., to 232 eight-hour days. The maximum number of permissible overtime hours should be lowered from 384 to 250 hours annually. Furthermore, the employers are offering five additional paid vacation days for those workers who actually work 1,856 hours per year. This package would be tied to certain conditions (more flexible schedules, less absenteeism). The Patronat has made it clear, however, that it will not go for general (weekly) worktime reductions a[illegible] the general introduction of a fifth week of annual leave.

The employers' recommendations are not being matched by a joint counter proposal by the unions. The Communist-led CGT continues to insist on the immediate introduction of a 38-hour workweek (35 hours for hard manual labor). The traditionally moderate Force Ouvrière is not necessarily looking for any worktime cuts and instead wants a fifth week of leave. The Socialist CFDT, finally, takes an in-between stance by welcoming a minimum worktime level on an annual basis, providing the number of work hours is generally set at 1,800 and that certain other conditions are met.

Under these circumstances, little chance is seen for a "global" solution that would approximate the various conflicting demands. Instead, it is predicted, the two sides probably will have to be satisfied with very general guidelines, which would have to be individually adapted to the specific situations at company or industry sector level.

Italy:
Fiat Reacts to
Labor Terror;
Tax Revenues

The management of Turin-based Fiat, the automobile manufacturer and Italy's largest private employer, has imposed a temporary hiring ban in response to strikes that paralyzed production for three hours per shift. The strikes were in protest of the summary dismissal of 61 workers accused of assaulting Fiat executives and foremen and committing other damaging acts. The unions are demanding that Fiat submit

Fiat *(contd.)*

evidence in support of its allegations, and the company has said that it would do so when the cases come before the labor courts.

Fiat management spokesmen said the dismissals have been decided on as a first step in a drive to restore safety and order in the company's plants. They referred to a wave of terrorism against numerous Fiat executives. During the past four years, they reported, four directors were killed by terrorists and 19 others wounded. In addition, Fiat plants and installations were the target of 18 separate cases of arson, not to mention many other acts of vandalism. Early this month, the head of the planning department for Fiat's automotive division, Carlo Ghiglieno, was fatally shot by left-wing terrorists, while another executive was kidnapped.

Fearing that the trouble at Fiat could escalate to nationwide labor conflicts this fall, Prime Minister Francesco Cossiga has offered to act as a mediator. Fiat chairman Giovanni Agnelli and the leaders of Italy's three major labor federations meanwhile have met to see what could be done to defuse the situation, but they reported no immediate progress. The unions are finding themselves in a somewhat awkward position, since they officially condemn any kind of terrorism and violence but have seldom acted to prevent it. For the time being, they are concentrating on getting Fiat to lift the recruitment ban. Last year 10,000 workers were hired by the company, which employs some 300,000 in its automobile division.

The crisis was further intensified by protest rallies at state-owned Alfa-Romeo, where four workers were dismissed for being absent from their jobs 75% of the time during the past few months. At Olivetti, the unions scheduled a one-day strike for Oct. 17 after management announced a restructuring plan which would reduce the company's work force from 60,000 to 55,500.

In other news, the Finance Ministry has reported that the government's fiscal revenues rose by 9.6% to 20,645 billion lire in the first half of this year as compared with the January-June period 1978. Of the total, direct taxes accounted for 9,220 billion lire and indirect taxes for 11,425 billion. Revenue from personal income taxes increased from 4,259 to 5,638 billion lire and value-added tax revenue from 4,635 to 4,765 billion.

Germany: Restoring the Legal Security of Home Buyers

The German government has proposed amendments to the Law on the Recording of Documents in order to restore the legal security of home and condominium buyers that has been jeopardized by several recent judgments of the Supreme Civil Court. According to the amendments proposed, a contract for the sale of a developed piece of real estate would not have to

Home Buyers *(contd.)*

include the blueprints and a description of the building in order for the notarization to be valid; this would relieve the notary from having to check each blueprint to verify whether it pertains to the house that is being sold. The amendments would remove the basis for thousands of suits either filed or planned by home buyers to ascertain the validity of their real estate contracts.

At issue in the three cases before the Supreme Civil Court was whether a contract for the sale of a home is valid if the blueprints and a brief description of the building are missing at the time the contract is notarized. The Supreme Court ruled that the mere reference to the blueprints and description is not enough; they must be part of the contract. Previous case law said there was no need for the notary to see and authenticate the blueprints and description.

As a result of the Supreme Court judgments, approximately 100,000 buyers whose contracts had been notarized but not yet recorded suddenly are unsure whether the contracts were valid; some DM 27 billion in contract volume is at stake. In a number of cases the sellers tried to exploit the situation: since the contract was invalid, they demanded a higher price for the home. In other cases some real estate developers tried to sell houses or condominiums to new buyers at a much higher price.

An amended law would not affect the validity of the three Supreme Court judgments because of the separation of powers principle. However, critics of the bill base their objections on that principle. The government has answered by saying that occasionally both the executive and legislative branches of government are compelled to undo the negative consequences of the judiciary branch's acts. Government officials say that the judiciary should welcome the proposal because it would spare the already congested courts an even heavier case load.

Switzerland: New Aliens Law; Bank Secrecy; Annual Leave

The Swiss upper house has passed the draft of a new aliens law *(Ausländergesetz)* designed to modernize and partly replace existing regulations, which are based on various statutes, administrative decrees, and bilateral agreements with other countries *(Doing Business in Europe, Par. 31,061)*. The draft still requires the approval of the lower house to become effective, and there is also the possibility that opponent groups will succeed in making it the subject of a national referendum.

The law would give the federal government the means to establish a more equitable balance between Switzerland's domestic and foreign populations. In the past, especially during economic boom periods, the question of how many aliens should be admitted into the country often brought on political tensions and was dealt with by several referenda.

Aliens Law *(contd.)*

At present, Switzerland's total population of about 6.2 million includes 883,000 foreigners with temporary or permanent residence permits. In addition, there are 185,000 foreign seasonal workers and border crossers.

A second purpose of the law would be to improve the legal security of aliens and to regulate such aspects as their rights to have their families join them, change their jobs and homes, become politically active, and enjoy improved social welfare protection.

In other developments, the Swiss Social Democratic Party and the country's labor unions have cosponsored two referendum proposals dealing with bank secrecy and minimum annual leave. They have collected a sufficient number of signatures to force a national referendum on these issues in the latter part of 1982 or in 1983. The first initiative, directed "against the abuse of banking secrecy and banking power," proposes to loosen the system of banking secrecy so as to help combat domestic tax evasion and currency offenses and to facilitate international cooperation in this area. It also would require that banks publish consolidated annual accounts and that certain deposits be insured. The second initiative seeks an amendment of the federal constitution that would guarantee a minimum of four weeks' paid annual leave to employees between the ages of 20 and 40 and five weeks' leave to those below 20 and above 40.

EURO COMPANY SCENE

Renault/ AMC

Renault, the state-owned French automobile company, and American Motors Corp. (AMC) have agreed on a closer cooperation arrangement and a financial participation by Renault. The agreement far exceeds the previous cooperation pact, which was merely confined to the reciprocal marketing of certain products. As of 1982, AMC will assemble in its Kenosha, Wis., plant a completely new, fuel-saving sedan for which Renault will supply the engine, axles, and other major mechanical parts. The French company will take a $150-million equity in AMC and will contribute another $50 million in the form of working capital. Eventually, Renault is to have a 22.5% stake in American Motors, which would make it the largest single shareholder.

Singer

Some 3,000 jobs will be lost at Clydebank, Scotland, as a result of the decision of Singer Co., the U.S. sewing machine group, to shut down its manufacturing plant there by June 1980. At the same time, the company has allocated $130 million to the reorganization of its other European and North American activities. The Clydebank plant, near Glasgow, at one time in the mid-'50s provided jobs for 14,000, but in recent years it has accumulated huge losses for Sing-

Singer *(contd.)*

er because of inadequate productivity, slumping sales, and intense competition. An injection of another £10 million last year and the elimination of 2,800 of 4,800 jobs over a four-year period failed to stop the decline and led to the decision to discontinue operations. U.K. reports said that the company was looking for a buyer for the plant and that the Scottish Development Authority was also trying to be of help. Singer still maintains plants in Germany, France, and Italy, but is considering closing one of these as well.

AEG/ ModComp

AEG-Telefunken, the German electrical engineering group, plans to acquire a 25% participation in Modular Computer Systems (ModComp) of Ft. Lauderdale, Fla., and a 75% interest in ModComp's German subsidiary. The price has been given at $30 million. At the same time, AEG will conclude a number of cooperation and licensing agreements with the U.S. firm, which makes computer systems for industrial process control and scientific applications and last year reported sales of about $70 million.

Estel/ Capital Metals

The Dutch-German steel company Estel is currently negotiating for a "significant" majority participation in California-based Capital Metals, which this year expects consolidated sales of $95 million.

Tappan/ Electrolux

The board of Tappan, one of the leading U.S. manufacturers of household equipment, has accepted a $56-million bid by National Union Electric, a subsidiary of Sweden's Electrolux group. Tappan reportedly is the world's foremost producer of microwave ovens and has about a 10% share of the U.S. market for kitchen ranges. The company is forecast to report a turnover of approximately $285 million this year.

Westinghouse/ Ercole Marelli

According to Rome reports, Westinghouse Electric Corp. may be planning to boost appreciably its present 5.9% interest in Ercole Marelli, the Italian electrical engineering company. If so, the move would have to be seen against the background of Marelli's involvement in the future construction of nuclear power plants in Italy which are to utilize Westinghouse's pressure-water reactor (PWR) process. Westinghouse and Ercole Marelli recently had signed a cooperation agreement which was expected to strengthen the U.S. company's nuclear technology market in Europe.

Common Market Reports

EUROMARKET NEWS

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Community: Approval of Tax Evasion, VAT Measures

The Council of Ministers has reached agreement on three draft directives dealing with taxation. Two of them will commit national tax authorities to render mutual assistance for the imposition and recovery of value-added tax. Both of these proposals represent significant progress in combating fraud and tax evasion within the Community. The third measure is a follow-up to the sixth VAT directive.

Formal adoption of the three measures is expected within a few weeks. The Member States would have until Jan. 1, 1981, to bring their rules in line with the directives.

Since Jan. 1, 1979, the Member States' tax authorities have been required to render mutual assistance in the field of direct taxation (taxes on income and capital) by exchanging and forwarding relevant information *(Common Market Reports, Pars. 3211.21, 9832)*. One of the latest draft directives would extend this assistance to ensure that VAT is assessed and collected. The other draft directive will extend the scope of a 1976 Council directive that commits the Member States to give mutual assistance in uncovering fraud in connection with agricultural levies, customs duties, and export refunds from the European Agricultural Guidance and Guarantee Fund. Once the directive is adopted, the recovery of VAT would be included in the mutual assistance exchange.

This issue is in two parts, consisting of 136 pages. This is Part I.

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Taxes *(contd.)*

The Council also reached agreement on the eighth VAT draft directive concerning the refund of VAT; this was necessary to fill in an important detail left out of the sixth VAT directive. Article 17(3) of the sixth directive accords equal treatment to all taxable persons in the Community for the deduction and refund of VAT invoiced to them, regardless of the Member State where they incur expenditures that are subject to VAT. The conditions for granting VAT refunds differ substantially from State to State, and Article 17(4) called for their alignment *(Common Market Reports, Par. 3165S).* Without uniform Community rules there would be a danger of deflection of trade, which in turn could give rise to distortion of competition to the detriment of countries that apply less generous rules. For example, a Member State that accepts refund claims without imposing any restrictive conditions might become a haven for the applicant concerned. On the other hand, a Member State whose rigid rules bar a VAT refund could in effect doubly tax a nonresident business unable to deduct a claim for a VAT refund, and the heavier tax would be passed on to the consumer in the prices of goods or services sold.

The latest measure, which is of particular significance to international carriers and exhibitors at international fairs, requires that claims for refunds must be presented within six months (for Italy, nine months during a one-year transitional period). Refunds of less than 25 UA would not be covered *(Common Market Reports, Pars. 3168, 10,018).*

Paris Openly Defies Adverse EC Court Ruling

France's open defiance of a Court of Justice decision may provoke a new crisis in the Community. On Sept. 22 the Court ruled that France had violated Articles 12 and 30 of the Treaty of Rome by continuing to apply after Jan. 1, 1978, its national rules to block imports of British lamb and mutton (Case No. 232/78). The French government replied that it would comply with the judgment after the Council of Ministers has adopted the Commission's proposal to establish a common market organization for lamb and mutton *(Common Market Reports, Par. 10,036).* Denouncing France's action, the Commission and the other eight Member States have rejected the link between lifting the import curbs and the creation of a lamb and mutton market.

Observers say that what makes the French government's position so dangerous is that it might set for the future a precedent that would serve to undermine the authority of the Court, which has remained unscathed throughout all the political crises that the Community has had since it was created in 1958. So far it has been an unwritten doctrine that a Member State must comply with a Court judgment; over the years there has never been any question of noncompliance, although in some cases a particular Member State may have been slow in complying.

Court Ruling *(contd.)*

Since the U.K.'s accession, France has sought to protect its higher-priced lamb and mutton market from cheap British imports. In recent years, French lamb and mutton prices have been more than twice as high as those in Britain, and, although the gap narrowed gradually during the first half of 1979, British prices were still not more than 70% of those in France. Paris is now pressuring its Common Market partners to agree to high-level agricultural price support, with intervention buying and payments to French farmers to compensate them for any decline in market prices.

In Brief...

Among the 80 Commission proposals now before the European Parliament is the fifth company law coordination draft directive dealing with the management structure and composition of managing and supervisory boards *(Common Market Reports, Par. 1401)*. The new Parliament was scheduled to vote on an opinion and report in late September, but the measure was referred back to the legal committee because the conclusions drawn in both the opinion and report submitted by a member of the previous legal committee were not shared by the majority of the new committee. As it stands now the measure will not come to the floor of the EP until next spring + + + The Commission is preparing a draft directive that would harmonize the national rules governing soft drinks. This approach would preclude the establishment of a common market organization as exists for wine.

Germany: Bonn Weighs Social Security Rule Changes

The German government is giving thought to a plan that would substantially change the rules governing employers' contributions to social security. Under present law the assessment for contributions is based on wages and salaries, and contributions to the health, old-age pension and unemployment insurance systems are shared by both the employer and the employee *(Doing Business in Europe, Pars. 23,453, 23,454, 23,456)*. If the plan under consideration were to materialize, the employee's contribution would continue to be based on pay but the criteria applied in determining the employer's share could be based on either annual sales, capital investment, or the company's portion of the country's GNP.

Since one of the reasons for the social security system's strained financial situation is the declining working population, the government has commissioned an independent economist to evaluate how automation and the corresponding reduction of labor have affected the financing of social security and what effects can be expected in the future. His report and recommendations will be available by the end of this year. A commission composed of leading Social Democrats is also looking into the situation and is expected to submit recommendations to the party's national convention in late December.

Social Security *(contd.)*

Government officials concede that a major reason for changing the financial foundation of the system would be that the present system is weak and has shown signs of potential collapse in the last few years. Although the recent economic upturn gave the system a boost, things could take a turn for the worse when the rules on old-age benefits are amended in the early 1980s. The Federal Constitutional Court has ordered the legislative and executive branches of government to remove inequities in the current system by 1984 to make it conform to the Constitution's clause on equal treatment of men and women.

Daylight Savings Time Next Year

The business community in Germany has welcomed the government's announcement to switch the country to daylight savings time in April 1980. Bonn has been under pressure for some time to take this step, especially since France and the Benelux countries have had DST for years.

The fact that Germany retained standard time when her EEC partners switched to DST each spring caused considerable inconvenience to businesses and travelers. The previous refusal to adopt DST was mainly for the political reason that Bonn did not want to do anything to further widen the split between the two Germanys. When the East German government recently decided to go on DST next year, Bonn no longer had a reason to reject the changeover.

Since the government already has the statutory power to decree DST, all it has to do is to prepare a regulation stipulating the period during which DST will apply each year. Denmark has also decided to adopt daylight savings time next spring, so that the entire Community will have DST as of 1980.

Britain: No Need Seen for Sweeping Legal Reform

"Lawyers should continue to operate as an independent profession in a free society, and the two branches of barristers and solicitors should continue to perform their separate and complementary functions." This is one of the main conclusions reached in the report (HMSO London, Cmnd. 7648) presented earlier this month by the U.K.'s Royal Commission of Legal Services after three years' deliberations and at a cost of some £1.25 million. The study also favors the retention of contingency fees (paid only when a civil case is won) but advocates broader powers for U.K. lawyers to advertise their services and fees.

There has been frequent criticism in Britain of the expense and duplication of legal services as the result of the barrister-solicitor system and of the fact that solicitors do not have the right to represent their clients in the higher courts. Actually, seven of the Commission's 15 members thought a solicitor should have such a right in the Crown Court when the accused pleads guilty, but the majority

Legal Reform
(contd.)

opposes any such extension. The Commission also believes that barristers employed by a company should continue to be without the right to represent their employers in court, although it is now recommended that they be allowed to instruct counsel in noncontentious matters and also undertake conveyancing (property transfer) for their companies, provided they first receive special training.

In reference to conveyancing, however, the Commission proposes that the Solicitors Act (which now makes it an offense for a legally unqualified person to prepare, for a fee, documents for the transfer of land) should be extended to make it an offense even to prepare a contract for the sale of land if any charge is made. This obviously would hit cut-rate conveyancing firms operating at present. The Commission points out that land law is still complex and can give rise to problems whose solution "requires considerable skill and experience."

Elsewhere in the study, it is suggested that legal aid should be extended to cases before industrial tribunals where representation by lay experts should be encouraged and procedures simplified.

While the proposals have been welcomed by spokesmen of the solicitors' and barristers' professional organizations, a number of more liberal lawyers as well as academics and the press have expressed concern that the Commission's basic conclusions are too conservative and will not lead to the extensive reforms that had been hoped for. They point out that the solicitors' monopoly of conveyancing is even extended in the proposals, that no fusion of the two branches of the legal profession is envisaged, and that the concept of a Minister of Justice has been completely rejected. In brief, the critics argue that the report gives little indication of the future shape and role of the law in Britain.

The Commission's chairman, Sir Henry Benson, an ex-president of the Institute of Chartered Accountants, commented that the report puts forward 369 changes and improvements. "When you get down to the meat of the important recommendations," he said, "if they are all implemented, the effect on the legal service will be dramatic."

Belgium: Government Coalition to Continue

In a policy address to both houses of Parliament on Oct. 17, Belgium's Premier Wilfried Martens reiterated his government's intention to continue on its present political course, with emphasis on a new social contract with the industrial partners, the financial recuperation of the state finances, and the improvement of Belgian industry's international competitiveness. The statement apparently marked the end of a threat of a political crisis because two coalition partners in the government - the Socialists and the Francophones -

Coalition *(contd.)*

earlier had voted in separate party meetings to continue their alliance with Martens' Social Christians. The parliamentary debate on Martens' address was not connected to a vote of confidence.

The premier announced that the government would set aside BF 5 billion in the coming budget year to finance or subsidize the creation of new jobs. An annual bonus of BF 250,000 would be given to enterprises that establish a 38-hour workweek by the end of 1980 and at the same time hire new employees. The bonus would be paid quarterly (BF 62,500). In reference to incomes policy, Martens made it clear that not only wage increases are being restricted to the rise in the cost-of-living index but also dividends, fees, and certain self-employment incomes. These additional curbs had been demanded by the unions as a condition for agreeing to exercise wage moderation within the framework of a new social contract. The restrictions on pay increases had been insisted on by the government in order to hold down labor costs and thus improve the competitiveness of domestic industry.

Rescue Plan for National Health System

The Belgian government has agreed on a rescue plan for the country's deficit-ridden social insurance system. The program involves considerable state subsidies and guarantees, "technical" savings, and higher contribution rates. It [illegible] the result of long and difficult negotiations involving [illegible] government, the social insurance funds, and employer and labor representatives.

The financial infusions will mainly benefit the health insurance system but will do little more than ensure that system's viability until the end of 1980. While such measures as the raised contributions and certain savings may have some long-term effects, there is no question that the state eventually will again be called upon to step in with subsidies and bond issues. The deficit of the national health insurance system (INAMI) has been given at about BF 23.8 billion for this year, not including uncollectible receivables from the hospitals in the amount of BF 38 billion. Thus, the total shortfall comes to approximately BF 62 billion. Next year's deficit is projected at BF 27 billion, including debt servicing.

To finance the health insurance deficits (and also to raise minimum pensions), the government plans to float a bond issue of nearly BF 24 billion, contribute BF 17 billion in budget funds, and save BF 19 billion via spending cutbacks. A revenue increase of BF 4.5 billion is to be achieved by eliminating or restricting the tax-free allowances for deductible insurance contributions and by slightly boosting patients' contributions to their personal health costs. The health insurance system will, in addition, receive a share of BF 3.5 billion from tobacco tax receipts.

Italy:
Rome Blamed for Crisis in Drug Industry

Spokesmen for Italy's pharmaceutical industry have bitterly attacked what they say is the government's continuing failure to adjust administered drug prices to inflated cost levels. The executive board of the national drug manufacturers' association (Farmindustria) even took the unprecedented step of resigning collectively in order to draw attention to the alarming financial plight of the drug sector. The association chairman, Albert Aleotti, was authorized to file formal legal complaints against government officials accused of being responsible for the situation. The European Commission also has been informed.

In a Farmindustria statement, it was pointed out that, according to 1977 legislation codifying the method of determining drug price changes, the upward adjustment of existing retail prices should have been completed by Dec. 1, 1978, at the latest. However, almost one year later there still has been no action on the part of the appropriate authorities. As a result, a fast-growing number of pharmaceutical producers are operating in red figures. Last year, no less than 42 manufacturing firms went out of business, and this year 27 companies with a total employment of 2,000 are on the verge of collapse (nine of them already being in receivership). Another 18 firms have been forced to apply for unemployment insurance funds in order to meet their payrolls. Only 18.7% of all association member firms are currently operating in black figures, the Farmindustria statement alleged.

The retail price increases granted by the government, but still not implemented, would average 21.3%. However, the drug manufacturers argue that this percentage would now be too small anyway to cover the cost increases since 1977. Since that year, wholesale prices for base products rose by 24.7%, consumer prices by 27%, blue-collar wages in the drug industry by 40.5%, and salaries by 30.2%. Not included in these figures are wage improvements and other benefits negotiated as part of last summer's collective agreements.

Aside from being accused of unjustifiably delaying the drug price increases, Rome also has been criticized for being very slow in issuing permits allowing the introduction of new pharmaceuticals on the domestic market.

(In late news, Rome reports said that the government's interministerial price commission had finally approved the implementation of the 21.3% drug price increase as of November.)

In other developments, the cabinet has once again voted to postpone the effective date for the legal eviction of tenants under the terms of the country's new housing laws. The date has now been set at Jan. 31, 1980, which allows the implementation of an estimated 50,000 evictions to be held off for up to another four months following that date. The

Drug Prices *(contd.)*

Cossiga administration restricted this extension to the country's large urban centers of more than 350,000 inhabitants (Rome, Milan, Turin, Naples, Genoa, Florence, Bari, and Palermo). At the same time, it set aside 400 billion lire to enable the city governments involved to purchase housing for those made homeless by the evictions. In addition, the cabinet approved the acceleration of previously budgeted financing for housing construction. These funds total 2,000 billion lire and consist in equal parts of low-interest advances to the communities and of mortgage credits to individuals.

Denmark: Social Dems. in Minority Government

The Social Democrats emerged as the winners of Denmark's early national elections on Oct. 23 and again became the governing party, though only on a minority basis. The previous two-party government had broken apart last Sept. 28, when the Social Democrats and their coalition partner, the liberal Venstre party, could not agree on essential elements of an anti-inflation program for 1980 and beyond.

Under the leadership of Anker Jörgensen, the acting prime minister, the Social Democrats gained four more mandates and now have 69 in the 179-seat Folketing. The party thus will still require the parliamentary support of other factions. The bloc of the four nonsocialist parties suffered some overall losses and wound up with 41.8% of the vote. The major loser was the anti-tax Progress Party of maverick lawyer Mogens Glistrup, which slipped from 26 to 20 mandates. The largest single gain within the nonsocialist bloc was scored by the Conservatives, who added seven seats for a total of 22. The pro-Moscow Communists lost their parliamentary representation, and the pro-Peking Communist Labor party also did not clear the minimum-vote hurdle.

Most observers agree that the relatively good showing of the Social Democrats in the elections must be credited to the personal popularity of Jörgensen, the old and new prime minister. Jörgensen's reputation apparently was hardly affected by the charges of the Liberals and the other nonsocialist parties that his economic policies are being dictated by the labor unions. On the contrary, Jörgensen is now in a position to deal more confidently with the unions and to apply his strengthened political clout in pushing through the austerity measures necessary to lead the country out of its economic doldrums.

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Community: Many Problems With Insurance Proposal

The Council of Ministers' working group dealing with the right of establishment and freedom to provide services is currently discussing several measures of interest to businesses, among them the draft directive that would coordinate national provisions governing indemnity insurance companies. That measure would allow a carrier established in one Member State to provide insurance coverage in another *(Common Market Reports, Par. 9803)*. The problems facing the working group are for the most part similar to those that arose during the discussions leading up to the first liability insurance directive: controls, coverage of contracts, reserves, and relations with third countries *(Common Market Reports, Pars. 1349.35, 9596)*. The impact of the first directive is, however, limited: a non-national liability insurance company must set up a subsidiary or a branch in the State where it wants to offer services, and it has to meet other requirements, such as minimum reserves.

Because the pending measure would provide the freedom to offer insurance coverage across national frontiers, Community officials attach a great deal of importance to it. British insurance carriers are expected to step up their efforts on the Continent after adoption of the measure. French and German indemnity insurance companies would also

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Insurance *(contd.)*

benefit from the proposed law coordination and the removal of legal and administrative obstacles that have been hampering their freedom to provide services in other States.

A major problem confronting the experts is the question of which law should govern an insurance contract. Under the proposal, the insurer and the insured would be practically free to choose the law that would govern their contract. The Commission and most Member State experts believe the contract should be controlled by the law of the State where the risk lies. Denmark opposes this approach for reasons of consumer protection: a Danish national who signs an insurance contract with a French company to insure his property in France would not enjoy the protection extended to him under Danish law as a buyer of insurance services. A solution to the problem is envisaged in a Commission proposal that would harmonize indemnity insurance contract rules. Several national experts and the Commission believe it would be worthwhile to incorporate essential elements of that draft in the measure under consideration.

U.K. Budget Dispute Still Deadlocked

There is no solution in sight yet for the deadlocked budget dispute between the U.K. and the other eight Member States, even though the Commission has outlined several ways of reducing Britain's disproportionately large contribution to the EC budget and London has made suggestions of its own. The U.K. is determined to reduce its projected net contributions of £1.2 billion for 1980, and it regards the Nov. 29-30 meeting of the European Council in Dublin as the deadline. Fears that Britain might provoke another major crisis at that meeting dissipated after Prime Minister Margaret Thatcher announced that her government would not take unilateral steps if a solution was not immediately found.

While the Commission's options outlined in a confidential document remain secret, London has presented to the Commission a document outlining its own preferences. Britain wants a limit on its net contributions so that these are in "broad balance." Another suggestion would increase the U.K.'s per-capita receipts from the EC budget by bringing them up to the average level of those going to other Member States. The third alternative calls for the removal of EEC restrictions on the refund mechanism applicable to deficit Member States, even though this would have to be accompanied by higher spending of Community funds in the U.K.

So far there appears to be little or no willingness by any other Member State government to cut Britain's projected 1980 contribution to the extent demanded by London. Only the Commission has remained sympathetic to the U.K.'s pleas. Some observers point out, however, that Britain has to blame itself for the fact that it has become the EC's largest net contributor. Britain's trade with third countries has always been stronger than with countries on the Continent, and

Budget *(contd.)*

all of the revenue derived from customs duties and levies imposed on third-country imports flows into the EC budget. The U.K.'s net contributions would go down if its trade pattern were more Community-oriented.

Meanwhile, the European Parliament has joined the dispute by overwhelmingly approving a motion that would ensure its involvement in the discussions about how to reduce Britain's contributions. Adoption of the motion means that the Commission will have to explain to the EP the options open to the heads of government prior to the Dublin meeting. The motion also calls for the Council of Ministers to report back to the EP about any progress achieved at the meeting.

In Brief...

In an effort to avoid a major Community crisis, France on Oct. 24 relaxed its ban on lamb and mutton imports from the U.K. and thus complied with the Court of Justice's Sept. 22 judgment. However, France reportedly has not abolished all restrictions, and French importers still remain under the strict control of a government-run intervention agency. Thus the U.K. government and the Commission will wait until they have a better picture for a final assessment of France's action + + + The Community will become a party to the draft convention on cross-frontier pollution that would commit the parties to promoting joint research and development, taking measures to monitor and evaluate air pollution, and exchanging relevant information. The convention will be signed on Nov. 16 in Geneva. Negotiated under the auspices of the United Nations Economic Commission for Europe, it also represents somewhat of a triumph for the Community in that it accords the latter de-facto recognition from the East Bloc countries + + + A uniform Community driver's license will not become a reality for many years, but the chances that the Member States would mutually recognize the driving permits of each other's residents are considered good. This would mean that a national moving to another State or staying there for an extended period of time would not have to obtain a new license.

Denmark: Jörgensen Introduces His New Team

Only three days after the Oct. 23 parliamentary elections in Denmark, Premier Anker Jörgensen presented his Social Democratic minority cabinet, which is basically made up of politicians who already served in the previous coalition administration with the Liberals. The Foreign Ministry is being headed by deputy party chairman Kjeld Olesen, a fervent supporter of the European Economic Community who in last summer's direct elections to the European Parliament received the most votes of any Danish candidate. Not represented in the new cabinet is Knud Heinesen, the previous finance minister. Heinesen has been advocating a drastic devaluation of the krone as part of a proposed economic austerity program, and he reportedly did not want to join the

New Team *(contd.)*

cabinet again because he feels Jörgensen is not tough enough to get such a program past the unions. A new cabinet post was created for an energy minister, in anticipation of th nuclear power referendum planned for 1981.

The Jörgensen government can count on 69 of the 179 Folketing members for its parliamentary support, plus one representative each from the Faroe Islands and Greenland. The administration thus will be dependent on changing majorities and on regular support from members of the opposition. A first test of this cooperation was to come on Nov. 6, when the Prime Minister was scheduled to present his economic policy address at the opening session of Parliament.

France: Government Setback in Budget Vote

Renewed political confrontations between the Barre administration and its Gaullist coalition partners have resulted in a parliamentary defeat for the French government in the current budget debate. In the National Assembly vote on Oct. 23 over the revenue portion of the 1980 draft budget, the 161 representatives of the Gaullist RPR abstained from voting, thus leaving the government in the minority. The RPR faction, under the leadership of Jacques Chirac, justified the abstention with the argument that the administration had rejected its bid for a reduction of budget expenditures by FF 2 billion. The FF 200 million in cuts proposed by the government were described as "laughable." When urged to say where the additional cuts should be made, a Gaullist spokesman indicated that this was the government's problem and not that of a party.

Observers said that the preliminary budget vote presented a welcome opportunity for the RPR to once more vent its dissatisfaction with Premier Barre's economic policie The party shared the opinion of the Socialist and Communist opposition that the new budget is merely a "crisis budget" not designed to stimulate growth and investment and to lower unemployment. It said that more effective investment management and more direct industrial aid were needed to make France keep pace with the international competition. The oil price increases, it was claimed, are not the sole reason for the country's disappointing economic performance, but that the chief blame must be put on monetary instability and the government's passive attitude toward it.

It was the first time in the 21-year history of the Fifth Republic that a government, despite having a parliamentary majority, failed to get the Assembly's support for its budget. The incident was not, however, expected to bring on an immediate threat to the coalition because both sides still had about one month's time to resolve the conflict. Failing that, the government could resort to a vote of confidence when the whole budget comes up for a second reading on Nov. 17, and in such an event the RPR would defi-

Budget Vote *(contd.)*

nitely not be expected to join the opposition or abstain, observers say.

Doctors Resist Plan to Cut Health Costs

The French government's proposals to contain the rising cost of the national health system by reducing subsidies and curbing doctors' incomes have been protested by the country's physicians, most of whom joined a 24-hour strike on Oct. 23. The strike had been called by the Confederation of Medical Unions (CSMF) and was supported by other professional organizations.

Last summer the government had decided to raise contributions by the insured as a way of helping reduce the rapidly mounting deficit of the state-controlled health insurance funds, which is expected to reach FF 24 billion by 1980. Nevertheless, the current budget plan foresees a 13% rise in health spending to FF 28.9 billion next year. Most recently, President Giscard d'Estaing said that the time had come to begin cutting health spending rather than putting an even heavier burden on the patients.

About 97% of France's physicians are contractually bound to the state health insurance system. These contracts guarantee patients the free choice of their physician and provide for the reimbursement of medical and drug costs under fee and rate schedules set by the insurance funds. The government's proposal is to introduce overall cost ceilings and to permit increases only in line with general economic growth.

The medical associations and unions interpret this to mean that medical fees and drug costs will be lumped together and that the issuance of too many prescriptions for expensive drugs and treatments will automatically reduce a doctor's fee income. This plan, the physicians say, is in violation of current contract terms assuring them of complete freedom in prescribing treatments and drugs. Also, it is argued, the government's proposals are strictly based on economic considerations and ignore the medical aspects. They might, for instance, inhibit the use of the latest medical technology solely because of cost considerations.

Germany: Bonn, States at Odds over Pollution Law

The dispute between the German federal government and several states over water pollution controls has taken a turn for the worse: Bavaria, Baden-Württemberg, and Schleswig-Holstein want to postpone compliance with the law. The three states are expected to introduce a bill in the upper house of Parliament this month that would delay application of the 1976 Water Pollution Control Act until Jan. 1, 1984. Under that act polluters will be required to pay as of Jan. 1, 1981, a levy based on several factors, among them volume and the degree of an effluent's noxiousness *(Doing Business in Europe, Pars. 23,547I, 30,718, 30,873)*.

Pollution *(contd.)*

The three state governments believe that the 1976 act and the implementing regulations are too complicated and would involve a lot of red tape. They also maintain that some scientific work is still needed, especially in backing up the criteria that are to govern the levy assessment, in order to make practical application easier. The federal government disagrees, saying that these arguments are just a pretext to cover up the fact that many communities in these states have failed to build sewage plants; as a result, they would have to pay high levies.

Government leaders point out that the original bill was considerably watered down precisely because local governments put pressure on the lawmakers in Bonn, although strong opposition also came from industry. (The original bill would have imposed a DM-25 levy per unit as of 1977.) They also point to other states, such as heavily industrialized North Rhine-Westphalia, which foresee no difficulties in complying with the act as of 1981. Most communities in those states accepted the logic of the lawmakers' premise that it would be cheaper in the long run to build sewage treatment facilities rather than pay the levy.

Administration officials in Bonn give the legislative initiative of the three states little chance of success. Even if a majority of the Bundesrat backed the proposal, it still would face the Bundestag, and leaders of the coalition parties are prepared to block the measure. If a state did not apply the act as provided for, the federal government could sue it for failing to comply with the clause in the Constitution that gives federal law precedence over state law.

Britain: Abolition of Remaining Exchange Curbs

In a surprise move, the new Conservative government as of Oct. 24 lifted all remaining U.K. exchange controls (except in the case of Rhodesia) and thus expedited the progressive dismantling of such curbs that it had promised earlier. The Chancellor of the Exchequer, Sir Geoffrey Howe, said the controls - which had existed for the past 42 years in one form or another - had outlived their usefulness. From now on, there would be "full freedom to buy, keep and use foreign currency for travel, gifts and loans to nonresidents, buying property overseas, and investment in all foreign currency securities." Portfolio investments are wholly freed, and foreign currency securities need no longer be deposited with an authorized depositary. Foreign currency accounts may now be held at home or abroad.

The government stated that it had dropped the controls "not with a view to influencing the exchange rate, but to remove some of the restrictions which unjustifiably remain on investment decisions in this country." The Chancellor conceded that this was likely to lead to some capital out-

Exchange Curbs *(contd.)*

flows but was just as likely to be matched by capital inflows, without producing any substantial impact on the exchange markets. Moreover, the savings to the taxpayers in the form of personnel reductions at the Bank of England and elsewhere were estimated at some Ŀ14.5 million per year.

The financial secretary of the Treasury, Nigel Lawson, agreed that the decision might, in a modest way, help Britain to renegotiate its EEC budget contributions because it had now carried out Community requirements for freeing capital movements. On the other hand, the action was in no way concerned with Britain's possible entry into the European monetary system. Lawson also made it clear that there would be no amnesty from prosecution for those who had evaded the controls in the past.

The Labour opposition - particularly Denis Healey, the ex-Chancellor - condemned the decision as "one more reckless, precipitate and doctrinaire action which the government will regret no sooner than those who will lose their jobs or go bankrupt as a result." The General Council of the Trades Union Congress expressed fears that the lifting of controls would encourage greater overseas investment when resources were critically required in the U.K. There also has been criticism that the new situation will give greater powers of decision-making to the multinational companies and less to the government, but others have pointed out that this should be weighed against the value of further "invisible" earnings from overseas investment when there will be no more revenues from North Sea oil.

EURO COMPANY SCENE

Triumph-Adler/ Pertec

Germany's Triumph-Adler office machinery and computer group has made an agreed offer to take over the Pertec Computer Corp. (PCC) of Los Angeles for $16.50 per share. This would value the transaction at nearly $120 million. The merger with a Triumph subsidiary would be completed in January 1980, provided the German company succeeds in acquiring the majority of outstanding Pertec shares. Pertec is expecting sales of about $180 million in the current business year (which ends on March 31, 1980) and net earnings of $9-10 million. The offer by Triumph-Adler, a Volkswagen subsidiary, apparently has won out over a previous bid by North American Philips Corp.

Sandoz/ McCormick

Sandoz AG, the Swiss chemical concern, has purchased on the free market 465,000 nonvoting shares of McCormick & Co., the U.S. foods group, and has expressed interest in a possible takeover. The completed transaction accounts for only 4.8% of the total nonvoting stock; there are 9.6 million voting shares outstanding. McCormick has rejected Sandoz's ad-

Sandoz/ McCormick *(contd.)*

vances, but financial observers say that the Swiss may still have a chance if a concrete offer on their part well exceeds the current over-the-counter price (about $22 per share at the end of October). McCormick reported sales in 1978 of about $400 million and net earnings of $16.7 million, or $1.48 per share. Sandoz's food interests showed a turnover of some SF 500 million last year, which represented about 12% of the SF 4.3 billion in total turnover.

Emser

A Swiss chemical company, Emser Werke, plans to establish in the United States a subsidiary for the production of technical plastics and adhesives, which would require an initial investment of about $12 million. South Carolina was given as a possible location of the plant, which is scheduled to take up operations in 1981-82 and supply both U.S. and overseas markets.

Hilti

The Liechtenstein-based Hilti group has started up a $21-million plant for the production of industrial fastener equipment at Tulsa, Okla.

Deutsche Babcock/ Ford, Bacon & Davis

Germany's Deutsche Babcock AG, a leading engineering and plant construction group, has purchased the shares of a New York engineering company, Ford, Bacon & Davis. The deal was transacted through Babcock's U.S. holding, Deutsche Babcock Technologies, Inc., Dover, Del. The price was not revealed. Ford, Bacon is expected to report a turnover of $160 million this year.

System Industries/ CII

California-based System Industries reportedly has called off "unilaterally" earlier plans to sell its magnetic disk interests to CII Honeywell Bull, the French computer group.

Nabisco/ Sprengel/ Imhoff

Nabisco, Inc., the U.S. foods group, has divested itself of its German subsidiary, B. Sprengel GmbH & Co., a chocolate manufacturer with a tradition going back to 1851. The buyer was Hans Imhoff, a Cologne industrialist who has other large interests in the chocolate sector. Nabisco took over 49% of Sprengel in 1967 and the remainder in subsequent years, reportedly with the aim to make it a base for an ambitious expansion drive in Germany and Europe. In the current business year, Sprengel anticipates a turnover of about DM 150 million. The sale of the company caused Nabisco to suffer an after-tax profits loss of $9 million in the third quarter.

Common Market Reports

EUROMARKET NEWS

Issue No. 565 *Report No. 383, November 15, 1979*

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Community: Possibility of CAP Bankruptcy Not Ruled Out

The Commission fears that the Community's common agricultural policy with its farm price support system will be bankrupt by 1981 unless something is done to cut expenditures in the farm sector, which account for 70% of the Community's annual budget. In a report submitted to the Council of Ministers, the EC executive sees no other alternative but to cut back on the costly CAP. Until now the pattern has been to give more funds each year to support the system. Now, however, most Member States are opposed to increasing the Community's revenue by raising the ceiling that limits their financial commitments to 1% of VAT revenue. German Chancellor Helmut Schmidt and French President Valery Giscard d'Estaing recently reiterated their earlier agreement that the Community's own resources should not be expanded *(Common Market Reports, Par. 5012.11).*

Commissioner Finn-Olav Gundelach has told the farm ministers of the Nine that time will be running out next spring when they will meet to talk about farm prices for the 1980-81 harvest year; they will have to agree on measures to cut surpluses because the money available under the Agricultural Guidance and Guarantee Fund will not be enough to support guaranteed prices and cover the cost of storing surpluses.

This issue is in two parts, consisting of 136 pages. This is Part I.

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CAP *(contd.)*

Gundelach believes that the surpluses - especially of milk, butter, sugar, and beef - are continuing to grow because the current practice is no longer in keeping with the basic objectives pursued with CAP and common market regulations covering individual commodities. According to Treaty Article 39, one of the major objectives of the common agricultural policy is to prevent major price fluctuations and to assure farmers a rising income. However, over the years the priority has gradually shifted to farmers' earnings alone.

The report does not contain any concrete solutions to the problem, but Gundelach outlined some measures he thinks would help - an increase in the milk levy payable by farmers, a reduction of the price support quotas for sugar, and a cut in the intervention price for beef. Similar ideas are also under consideration in several Member State capitals, especially in Bonn, The Hague, and Paris. Community observers doubt that any concrete suggestions or open indications of agreement with the Commission's line of thinking will be forthcoming from those Member States where national elections are scheduled for 1980.

Lomé II Pact to Deepen EEC-ACP Ties

At the end of last month, the signing was completed of Lomé II, the new cooperation agreement between the EEC, its Member States, and 57 African, Caribbean and Pacific countries. The agreement is meant to extend and deepen existing relations between the world's largest and richest trade bloc and some of the world's poorest nations. Once the various parliaments have ratified it, Lomé II will replace the current treaty, which expires on March 1, 1980, and will remain in effect until March 1, 1985 *(Common Market Reports, Pars. 4281, 10,146, 10,173)*.

Lomé II confirms free access to the Common Market for 99.5% of the ACP countries' products, half of which are exported to the EEC. Important for these countries is that they do not have to make a similar concession for EEC products. The EEC made new concessions on a number of farm products that are especially important for a few of the ACP countries.

Stabex, the export earnings stabilization system introduced under Lomé I and the first of its kind in the world, will get additional funds to partially compensate the ACP countries for losses in export earnings caused by sudden drops in the prices of raw materials on the world market. Lomé II extends from 34 to 44 the number of products and materials that qualify for Stabex support. The Lomé I system concentrated on agricultural raw materials such as cocoa, coffee, tea, cotton, and coconut oil; the new convention introduces a similar system for minerals such as copper, phosphates, manganese, bauxite, aluminum, tin, and iron ore. By reducing the impact of price fluctuations, the additional funds will help preserve the ACP countries' mining potential.

Lomé II *(contd.)*

Lomé II does not fully measure up to the expectations of either side. The EEC and its Member States had to concede on the issues of human rights (the preamble merely refers to the U.N. resolution) and investment protection. In fact, the signing of the convention at one point was delayed because several ACP countries questioned a compromise on investment protection reached in mid-October. The ACP countries agreed not to discriminate against individual EEC Member States, but other forms of investment protection will have to be negotiated between the ACP country and the Member State. The Commission and the Member States had hoped for a comprehensive clause.

The ACP countries' main concession was a financial one: they settled for 5.6 billion UA in aid instead of the 10 billion UA they had demanded originally.

In Brief...

The Commission has not yet decided which Member State it will take to the Court of Justice for failure to comply with the Council directives on equal pay for men and women and equal treatment in hiring, vocational training, promotion, and working conditions. Only Ireland and Italy have complied with both measures, and the Commission is still evaluating the replies it received from the governments of Belgium, Denmark, France, Germany, Luxembourg, the Netherlands, and the U.K. after sending these countries formal notices under Treaty Article 169 + + + Commission and Comecon officials will renew their efforts late this month in Moscow to come to a trade agreement between the two economic blocs. One major hindrance has been the refusal of the Soviet-dominated Comecon to recognize the Community as a legal entity and the Commission as its negotiating arm. On the EC side, the Commission is challenging the Comecon secretariat's authority to negotiate on behalf of its members. The EEC would like to conclude agreements with Comecon as well as its ten member countries + + + By sending the French government a notice under Treaty Article 169, the Commission has taken the required preliminary step prior to bringing France before the Court of Justice for not fully abolishing restrictions on lamb and mutton imports in compliance with the Court's Sept. 27 judgment.

Denmark: Freeze on Wages, Prices Until Dec. 31

The Danish parliament on Nov. 6 gave its approval to a temporary freeze on prices and incomes designed to discourage wage and price rises in anticipation of the proposed introduction of a long-term economic austerity program next year. To be in effect until Dec. 31, the freeze not only covers employment incomes and prices but also dividends and other types of capital income, fees, and rents. Furthermore, insurance companies and pension funds may not, for the time being, grant loans secured by real property because these funds are commonly used to finance consumer purchases - ex-

Freeze *(contd.)*

penditures that the government says add to the inflationary pressures.

Along with the temporary program, the Social Democratic minority government also has decreed an unlimited ban on the conversion of older rental housing to condominium property. This regulation affects housing built before 1967 and is aimed at the often-huge profits made by landlords who sell their properties on the free market.

According to Prime Minister Anker Jörgensen, the wage and price freeze and the related measures should help the government gain some time for the upcoming negotiations with the business community and the labor unions over the details of a comprehensive austerity plan. Jörgensen said he would push for a consensus on the elements of such a plan before the year is out. Most probably, the government will seek to impose continued price and incomes controls, which would have to be made palatable to the unions by introducing legislation on some type of obligatory profit sharing for employees, though initially in a "moderate" form.

Germany: First Payments Deficit Due Since Mid-'60s

Recent government statistics indicate that West Germany will wind up this year with a deficit in its balance of payments for the first time in 15 years The main reasons for the expected gap, which could total DM 2-5 billion, are the doubling of crude oil prices over the past 12 months, more imports, and increased spending by German tourists abroad.

Foreign trade figures for the first nine months of '79 show a surplus of DM 18.4 billion, down from DM 28.5 billion for the same period in 1978. German industry exported more cars, machinery, chemicals, and other products so far this year than in '78. The 1979 nine-month total was DM 204 billion, a rise of 11%. However, imports went up by 18.4% to DM 188 billion. A major factor here were oil imports: they rose by only 5% in volume, but the OPEC price increases drove up the German oil bill by an additional DM 10 billion in the first nine months of the year.

There are a number of reasons why there will be a payments deficit despite the trade surplus - the money sent home by alien workers to their families, licensing fees paid by German companies to licensors abroad, return from capital investments in Germany, Bonn's contributions to the European Communities, government payments to international organizations such as the United Nations, aid to developing countries, and the money spent abroad by vacationing Germans. Bankers confirm government figures that German tourists never spent so much money abroad as they did in the first nine months of 1979, namely, DM 27 billion.

Most experts expect an even higher deficit for 1980, but they are nevertheless optimistic that the balance of

Deficit
(contd.)

payments will eventually recover. Government officials are not particularly worried about the deficit, but Bundesbank officials are. The central bank's current foreign exchange reserves are worth some DM 95 billion, which would seem to be enough to make up for major deficits in the years to come. However, it has been the bank's policy to keep reserves high as a buffer against international economic upheavals. A major concern of Bundesbank officials is that these reserves roughly equal the country's short-term obligations toward creditors abroad. If these creditors decided suddenly to cancel their financial engagement in Germany, there would not be much left of the exchange reserve cushion.

In related developments, the Bundesbank as of Nov. 1 raised its discount rate from 5% to 6% and the Lombard rate from 6% to 7%. At the same time, the rediscount quotas were expanded by DM 4 billion. The raising of the rates was explained with the need to adjust them to the higher market rates and was not expected to affect the stability of the dollar.

France:
Industrialists
Urging Foreign
[illegible]stments

Foreign investments by French companies are woefully inadequate, and much more has to be done by both private enterprises and the government to build them up in order to assure France an adequate place on the world markets of the future. This was the general consensus among participants of a recent Paris investment conference sponsored by the CNPF industrial federation ("Patronat"). The experts agreed that French industry could not afford to fall far behind its international competitors in seeking new opportunities abroad if the domestic economy is not to suffer eventually.

One of the conference's principal speakers, Georges Pebereau, director-general of Cie. Générale Electricité, the electrical engineering concern, said that French enterprises still tended to show a "certain distrust" of direct engagements abroad and that many of them need to be convinced that such expansion can significantly strengthen their position. In this connection, Pebereau criticized the government's alleged policy of favoring only those foreign investments that have a short-term effect on French exports. Any efforts in this direction usually come when the state is interested in either consolidating its foreign trade balance or achieving a surplus, Pebereau said.

It was pointed out at the conference that French direct investment abroad nearly doubled from 1973 to '77, rising from FF 5.48 billion to 10.51 billion within that five-year period. However, this was described as a relatively modest showing compared with other leading industrial nations. The OECD countries have been accounting for two-thirds of the French investments, with the Netherlands, Belgium-Luxembourg, West Germany, and the United Kingdom - in that order - being

Investments *(contd.)*

the preferred target countries within the EEC. The energy sector has been absorbing about one-third of foreign investment spending; in fact, in the year 1975 it accounted for as much as 43%.

Britain: Proposals on Debt Liability of Parent Firms

The U.K.'s Consultative Committee of Accountancy Bodies has produced a discussion paper, "External Liabilities of Groups of Companies," which recommends that the possibility of making a parent company responsible, in certain circumstances, for the debts of its subsidiaries should be "actively explored." A common practice at present is for business stationery to show the name of the group of which the company is a member, which could create the impression that the group resources are available to meet the debts of the company. However, in fact, there is rarely a legal obligation to do so.

The committee suggests that one possibility would be for a parent company to be regarded as guaranteeing the debts of its group companies unless it publicly declared otherwise via an appropriate entry in the companies' registries. Consequently, the benefit of the guarantee would be available to creditors during both normal business conditions and formal insolvency.

The paper notes that the proposed EEC directive on group accounts *(Common Market Reports, Par. 1407)* advocates that the controlling body of a group be liable for the debts and liabilities of dependent group companies. U.K. law, on the other hand - apart from the requirement to produce consolidated accounts - generally has preserved the concept of the separate legal entity of a company, even though it is a member of a group. This is a distinction not always applicable outside Britain, as in the concept of a "domination contract" under German law. The committee is concerned that a holding company may be prepared to satisfy the creditors of a loss-making subsidiary only so long as the latter carries on business but does not enter into liquidation. Thus, the position of an outside creditor could be worse than if the company were independent and were forced into early retrenchment or liquidation.

It is therefore suggested that a parent company be regarded as guaranteeing the debts of its subsidiaries unless, within three months of a company joining a group, the parent company made a declaration that it would not provide such a guarantee. This would be duly registered, and all invoices and business stationery would indicate whether such a guarantee had been made. While it may not be practicable to impose this concept on foreign parent companies, at least a U.K. parent company should be responsible for its U.K. subsidiaries.

The document also draws attention to a difficulty aris-

Debt Liability *(contd.)*

ing in connection with Section 332 of the Companies Act 1948, which imposes an unlimited personal liability on persons responsible for carrying on the business of a company with intent to defraud. In practice, apart from the difficulty of proving "intent to defraud," proceedings under Section 332 are not usually considered where the directors themselves have insufficient resources. However, if the company concerned is part of a group, management control is normally exercised by its parent company through the practice of appointing the subsidiary's board of directors. Therefore, it is recommended that Section 332 be strengthened by making the parent company also liable for those who are carrying on business with intent to defraud.

Switzerland: Tax Pressures Cause Decline in Holdings

The number of holdings set up as stock corporations in Switzerland is showing a "marked decline," according to the latest annual report of the Association of Swiss Holding and Finance Companies. The rising tax burden and the curbs on foreign capital transactions are chiefly to blame for this trend, according to the association. The report says that during 1978 the number of stock corporation holdings dropped from 16,014 to 14,109, with a total nominal capital of SF 17.9 billion. This count does not include 460 holdings operating in the form of limited-liability companies.

The association complains that Switzerland's toughening fiscal stance increasingly diminishes the country's attractiveness as a holding center, whereas the opposite is true for certain other countries. It points specifically to the 35% anticipatory tax (*Verrechnungssteuer*), which particularly affects foreign holdings whose shareholders reside in countries with which Switzerland has not concluded a double-taxation treaty *(Doing Business in Europe, Par. 30,802).* The association therefore urges that the Swiss authorities reconsider their current policies in connection with the proposed tax harmonization reform.

Aside from these reform plans, the association report also deals with such current topics as international taxation (e.g., the inheritance tax treaty with Germany), the proposed revision of the Swiss stock corporation law and, in this connection, the proposed reporting obligations concerning hidden reserves. In reference to the latter item, the association believes that an obligation to report on the formation and dissolution of hidden reserves would defeat the very purpose of such reserves. Under the prevailing setup, it says, companies are in a better position to finance themselves, and this should be seen as a pillar of strength and independence for the Swiss economy. The deployment of hidden reserves currently enables a company to weather "difficult situations" without having to fear a negative impact on its reputation because of undue reporting requirements.

Holdings *(contd.)*

The association believes that the introduction of the concepts of authorized and qualified capital would constitute a sensible broadening of Swiss stock corporation law. These two types of financing, which actually are already being used, would thus be given a statutory base. The association also says it should be possible for management to be given the authorization to call up qualified capital previously authorized by the shareholders' meeting.

Discount Rate Boost; Negative Interest Cut

Because of "changed conditions on the Swiss money market and the interest rate increases abroad," the Swiss National Bank as of Nov. 5 raised its discount rate from 1% to 2% and the Lombard rate from 2% to 3%. The move evidently was aimed at bolstering the Swiss franc against the Deutschmark after the raising of the German bank rates (see page 5). It was the first time since February 1978 that Switzerland changed its official bank rates. Financial observers said it was not unlikely that the rates would be slightly lifted again in the near future to adjust to the situation on the Euromoney markets.

At the same time, the National Bank as of Nov. 1 reduced from 10% to 2.5% per quarter the "negative" interest rate imposed on bank deposits in excess of SF 100,000 held by nonresidents in Switzerland. This punitive interest rate thus has effectively ceased to be a deterrent factor for foreign investors, who currently can get much higher yields from D-mark and dollar investments than from Swiss-franc deposits, anyway. Also, deposits up to SF 100,000 per account are now earning some interest in Switzerland, and there exist no official controls on whether a nonresident maintains several accounts up to SF 100,000 each.

The negative-interest rule and other currency restrictions had been imposed a few years ago to fight the massive inflow of foreign exchange into Switzerland *(Doing Business in Europe, Par. 31,009)*. The curbs have had only limited success, however, and most of them have been gradually removed as calmer conditions returned to the international currency markets.

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Community: Green Paper on Transport Policy

The European Commission has presented a green paper on its ideas for a Community policy on a transport infrastructure (roads, rails, and waterways). It hopes that the ensuing debate will help launch a Community policy and eventually give the EEC a significant role in the development of a transport infrastructure. This role would be of a complementary nature and thus would not be a substitute for national action. The program that the Commission hopes to present during the second half of 1980 would concentrate on identifying bottlenecks in intra-Community transport and defining a primary network of Community interest.

Aware of expected criticism, the Commission makes the point that not much legislation would be necessary to enact the program, which would be drawn up in close cooperation with the Committee for Transport Infrastructure, a body set up by the Council of Ministers in February 1978. The Commission believes that the work done by the committee so far indicates that the Member States are willing to give the Community more powers in matters of infrastructure.

The EC executive believes that it may not need to make any proposals on Community aid to transport projects if the Council adopts the sole pending measure in this area. It is a draft regulation that would provide financial assistance to infrastructure projects of Community interest. Adoption

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Transport *(contd.)*

has been pending since 1976 because the Council could not agree on a course of action and the criteria to be applied in singling out national projects. The Commission is optimistic that adoption will be forthcoming once it has presented to the Council before the end of this year a set of criteria that it has worked out with the infrastructure committee. Its optimism has been further boosted by the European Parliament vote on Nov. 7 to set aside 50 million UA in EEC aid for infrastructure projects.

In the Commission's view, the common transport policy, with its emphasis on the activities of transport operators *(Common Market Reports, Par. 1812)*, will fall short of attaining the Treaty objectives and playing its part in the economy as a whole unless it also includes the transport infrastructure. According to Transport Commissioner Richard Burke, traffic between Member States has developed faster than national traffic; bottlenecks at border crossings are one result of this. There are also natural bottlenecks, such as the Alps between Italy and France and between Italy and Germany. If traffic in persons and goods increases in the upcoming decades in the dimensions forecast by many experts, new bottlenecks will be unavoidable.

The Commission also points to the growing interdependence of the national transport networks and links that forbid considering a Member State as an isolated planning entity. Here an infrastructure developed and expanded with the Community needs in mind would better respond to this interdependence, according to Burke. He also sees a need for the Community to give financial help to those Member States that are having difficulties paying for national projects that would be beneficial to the EEC as well.

Doubts on Plan for New EEC Business Aid

The proposal by the Commission that it be empowered to grant aid to national businesses and industries to enable them to adapt to demand changes is not likely to be adopted in its proposed form, according to latest reports. The Permanent Representatives are now trying to preserve some of the essentials of the proposal without establishing a new financial instrument that the Commission had hoped to obtain in order to augment national efforts. Although all Member State governments see positive aspects in the proposal, Germany and the U.K. oppose the creation of a new financial instrument. The Commission had planned to use 25 million UA for the project in 1980 and wanted the funds to rise to 35 million UA by 1982. Bonn and London would go along with the idea of making Community grants available only if the money came from the Regional Development Fund.

The Commission proposed the idea to the Council of Ministers in October 1978 in a draft regulation. The regulation would provide Community aid for industrial restructuring and conversion operations. The EC executive thought that the

Business Aid *(contd.)*

Community should help with premiums and interest rebates on top of national aid, especially where specific industrial sectors or individual businesses encountered difficulties in financing the necessary investments. Community assistance was to have two objectives - (1) to aid restructuring programs calling for investments in rationalization, research, modernization of equipment and production, and improvement of management sales techniques, and (2) to aid conversion programs in order to secure jobs.

Originally Bonn stood practically alone with its opposition to the proposal, but the new British government soon joined it as a supporter of the "free market" philosophy. This philosophy holds that private enterprise should strive to do as much as it can on its own, without government assistance, and only in really exceptional situations should the government, or in this case the Community, step in. The backers of the proposal received unexpected support from the EEC's Economic and Social Committee when it recently called for a comprehensive program of industrial restructuring and development. The ESC stated in its opinion that there is a need for a program to stimulate structural reform, industrial development, and new technologies. Such a program, the ESC believes, would also develop new energy resources, improve industry's competitive standing, and provide additional jobs.

In Brief...

The Permanent Representatives are pondering ways to simplify the rules of origin in Community trade with EFTA countries. Although it was EFTA that took the initiative because it wants to strengthen relations with the EC, both the Council and the Commission have welcomed the move. Not only would simplification of the rules of origin be beneficial to the Community as a whole, but Denmark, Germany, the Netherlands, and the U.K. in particular would profit because they export to EFTA countries many components for semifinished and finished products, which are then exported to the EEC. A major problem is the fact that EFTA, unlike the EC, is not a customs union but a free trade area *(Common Market Reports, Par. 110.04)* + + + The Commission will soon propose harmonization of national tax rules applicable to border-crossing workers, the 200,000 people who live in one Member State and work in another. They pay taxes in the state where they work but are often at a disadvantage because they either are treated as nonresidents or are subjected to additional red tape. The proposal is expected to suggest taxing a worker in the state of residence rather than employment because it would then be possible to make allowance for his personal situation + + + The Commission is expected to propose shortly an increase in the milk levy from the current 0.5% to 1.5%. This penalty, designed to cut milk production and storage costs of milk powder and butter, would apply to a larger number of farmers than at present. A farmer with only a few cows does not have to pay the levy.

Germany: Compromise Settles VAT Reform Dispute

Both houses of the German Parliament have approved a compromise on value-added tax reform that was worked out by the conferees after two previous attempts failed. The law will take effect on Jan. 1, 1980. Many businesses and individuals followed the advice of their national organizations and local chambers of commerce and have familiarized themselves with the approved version that, with minor changes, will become law. Nevertheless, federal and state revenue officials are discussing possible ways of going easy on enforcement in the early months of next year.

The dispute between the government and the Opposition-controlled upper house was not based on substantive issues but rather on a clause that labeled East Germany and the territories taken by Poland after World War II as "foreign" areas. The Opposition, seeing in this a violation of constitutional law as interpreted by the country's highest court, charged that the government was trying to finalize something that under the law and the treaties with East Germany and Poland is still to remain unsettled - namely, the issue of a unified Germany and its eventual borders. The Opposition wanted the measure to apply within the territory of the former Reich. Under the compromise, East German territory is called neither foreign nor domestic.

The new VAT measure represents Germany's belated compliance with EEC law and also contains amendments enacted purely for national reasons. Major changes concern exemptions and the assessment of small businesses. After Jan. 1, a taxpayer with annual sales of under DM 60,000 may no longer elect to be taxed under the former cumulative turnover tax system and to pay 4% sales tax. Instead he will have to pay 13% (or 6.5% if he renders services that qualify for the reduced rate). To mitigate the impact, a DM 20,000 exemption will be available plus a mechanism that gears tax liability to rising sales so long as turnover remains under the DM 60,000 threshold. A business receiving a down payment or a full payment on a contract to be performed in the future will be immediately liable to pay VAT and will have to make a corresponding advance payment when it files its monthly return. Down payments or payments of less than DM 10,000 will not be subject to immediate VAT liability. A business that paid less than DM 6,000 value-added tax in the previous tax year will no longer have to report and pay VAT on a monthly basis but may do so on a quarterly basis *(Doing Business in Europe, Par. 31,104)*.

Netherlands: New Law Gives Broader Powers to Central Bank

A long political and legislative process, which began in 1970 with the submission of a parliamentary bill, finally came to a conclusion this year when Holland's new banking law took effect, along with a number of implementing and supplemental regulations *(Doing Business in Europe, Par. 30,878)*. The law expands the scope of official supervisory

Central Bank *(contd.)*

powers over the country's banking system and broadens monetary control powers. It brings the postal savings banks and cooperative savings banks into the jurisdiction of the central bank. Credit policy measures may also be directed at "near banks," i.e., industrial and other nonbank businesses that accept deposits and are engaged in money market activities.

The new law, in fact, strengthens the central bank's role to the point where the bank now assumes functions that in other countries are often divided among two or three agencies (in West Germany, for instance, by the central bank, the federal banking supervisory office, and the federal cartel office). It establishes criteria for the licensing of banks, minimum equity capital, reporting requirements (publication of annual statements), the qualification of management, takeovers and mergers, etc. Instead of merely issuing "recommendations," the central bank may now set down binding rules, and in cases where an individual commercial bank fails to comply, the central bank may step in as a "secret receiver." This means that the management of the bank involved would no longer be allowed to make important decisions without the central bank's specific approval.

An essential feature of the new law introduces deposit guarantees, which protect not only private bank deposits but also those at postal savings and other savings banks. (Bearer claims are not covered, however.) Insured are deposits of up to 25,000 guilders per account - an amount that is linked to an index and adjustable at three-year intervals. The central bank functions as the "implementing body" of the system. In the event of a bank's failure, it would satisfy the depositors up to the guaranteed amounts and would then recover these funds from the other credit institutions according to a certain formula.

Belgium: State Plans Borrowings of $2 Billion

The expiration of numerous short-term loans taken out earlier this year in monetary support of the franc is now forcing the Belgian state to launch another massive borrowing campaign. Within the next few weeks, it was reported, Belgium will float a $1-billion foreign bond issue and a domestic one of about the same size. The foreign issue is to be managed by the country's three leading banks - Societé Génerale de Banque, Banque Bruxelles Lambert, Kredietbank - plus Paribas-Belgique, the offshoot of the French bank. The denominations are not yet announced, but the issue is likely to have a maturity of eight years and a rate of at least 0.25% over the Eurodollar interbank rates (Libor), Brussels reports said. The borrowing is specifically aimed at refinancing the short-term and medium-term loans taken out last spring. According to the Finance Ministry, these totaled 1.76 billion Deutschmarks, 535 million Swiss francs, and $40 million.

Borrowings *(contd.)*

On the domestic markets, the principal borrowers will be the road funds, the telecommunications administration (RTT), the national health insurance system, and other public institutions. There have been delays of previously planned issues because of the uncertain development of interest rates and the slow acceptance of certain municipal bonds.

Meanwhile, the pace of the Belgian public debt is accelerating further, by BF 210 billion in the first nine months of the year. The total indebtedness has been put at BF 1,635 billion by the Finance Ministry, of which only BF 54.2 billion, however, is in foreign currencies. The main cause of these shortfalls lies with the enormous borrowing requirement of the deficit-ridden public sectors, which originally had been projected at BF 335 billion until mid-year but actually turned out to be BF 85 billion higher.

There are now fears among the Belgian banking and business communities that the financing problems and the worldwide rise of interest rates will not be without effect on the rates at home. For economic reasons, the National Bank has been very slow in following this trend: the discount rate remains at 10% since early October, and only the rates for treasury certificates have been lifted regularly, though in very small steps (to 14.25% for three-month papers in mid-November).

Italy: More Capital Infusions for State Holdings

A grim picture of the desperate financial plight of Italy's state holdings has been painted in the latest government report on the subject. Submitted by Siro Lombardini, minister of state in charge of participations, the survey indicates that large parts of the huge groups are virtually out of control and will survive only with the help of continuous capital infusions. Low efficiency, misguided investment decisions, and cumbersome management structures are being blamed for the situation. In the last few years, the financial problems worsened because of voluntary or forced takeovers of ailing private companies and the mounting interest burden on outstanding credits. The report said that each of the 700,000 employees of the three largest state holdings - IRI, ENI, and EFIM - is now producing an annual loss of 1.1 million lire (about $1,390).

Against this background, the Rome government voted last month to pump another 3,000 billion lire into these three groups in order to keep them on their feet through 1981. Financial experts believe, however, that much more will be required, and the holdings themselves have announced financing needs of some 10,000 billion lire for the next two years alone.

The bulk of the latest cabinet-approved aid would benefit the state-controlled steel production, which has been joined under Finsider, an IRI subholding. Finsider's defi-

State Holdings (contd.)

cit for this year and 1978 is estimated at 1,400 billion lire, and its liabilities amount to 96% of its investment assets. The interest burden accounts for 15% of turnover. Other IRI trouble sectors are shipbuilding, mechanical engineering, maritime transport, and food production. For instance, every car turned out by Alfa Sud (Finmecchanica) results in a loss of 1 million lire. IRI's 1978 balance sheet showed a consolidated loss of 1,067 billion. The deficits of the other, smaller holdings ENI (energy) and EFIM (conglomerate) are in proportion.

Originally, during the postwar years, the state holdings' assigned legal task was to become active in areas in which the capital requirements and risks were too large for private enterprises alone. Today, their existence is almost exclusively devoted to maintaining and enlarging employment virtually at any price. Thus, the number of people employed in the large holdings rose by 41% from 1968 to '78. However, during the same period, the number of hours actually worked rose by only 13.5%. Last year, performance per employee and workday averaged 5 hours and 20 minutes, and productivity was far below the European average.

Britain: Moving Against U.S. Antitrust Enforcements

The U.K. government has introduced the Protection of Interests Trading Bill, which aims at providing greater protection for British firms and individuals in international trade but has the specific purpose of countering the increasing tendency of the United States to attempt to enforce its antitrust laws extraterritorially. In presenting the bill, Secretary of Trade John Nott said it would provide Britain with some defense against U.S. practices "which are not only widely regarded as unacceptable internationally but are having a most damaging effect on the commercial activities of British companies."

Other countries, such as Canada and Australia, have already introduced domestic legislation to prevent the enforcement of U.S. antitrust judgments. The British government, however, intends to go further. A British company or citizen, or a person carrying on business in the U.K., would be able to recover any sums paid under foreign judgments for multiple damages in excess of the original compensation awarded by the overseas court. This would be effected through the seizure of the assets and goods in the U.K. of the U.S. or foreign company concerned.

It is the U.S. courts' power to award multiple damages amounting to three times the actual loss that the British government has found especially objectionable and which the bill is mainly intended to counter.

Among pending cases is that of Rio Alson, a Rio Tinto Zinc subsidiary and a uranium producer, which is facing a

Antitrust *(contd.)*

very large triple-damages claim by Westinghouse. There also has been concern over the application of U.S. antitrust legislation to international shipping.

The Protection Act would repeal the Shipping Contracts and Commercial Documents Act 1964. Clause 1 of the new act provides means for the Secretary of State to counter measures taken by foreign countries to control international trade if these are harmful to U.K. trading interests. Under Clause 2, he may prohibit the supply of any commercial documents or information from British firms to a foreign court or tribunal if this would infringe on the jurisdiction of the U.K. "or is otherwise prejudicial to the sovereignty of the U.K." Unlimited fines may be imposed if there is failure to comply with the requirements of these sections. Clause 5 provides that judgments for multiple damages in civil proceedings in overseas courts will not be enforceable in Britain and neither will those based on "certain competition laws." Clause 6 would permit the recovery of punitive damages.

It remains to be seen, U.K. commentators noted, how effective these measures will be in discouraging U.S. companies from bringing such damage suits.

EURO COMPANY SCENE

Mannesmann/ Harnischfeger

Mannesmann Machinery Corp., a subsidiary of Germany's Mannesmann AG, has withdrawn its $245-million takeover bid for Harnischfeger Corp. of Milwaukee. The German steel and engineering group said it had decided not to wage a legal battle against the Federal Trade Commission, which had opposed the takeover on antitrust grounds. The FTC said the transaction would have had monopoly implications for seven separate markets for industrial and mining equipment. Last July Mannesmann had offered $27.50 per share for all of Harnischfeger's 8.9 million shares.

Schering/ Cooper

Schering AG, the German pharmaceutical manufacturer based in Berlin, has acquired for $90 million the internal medicine division of the United States' Cooper Laboratories, Inc. The unit will be run as a Schering subsidiary under the name of Berlex Laboratories, Inc.

Common Market Reports

EUROMARKET NEWS

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Community: Council Debates Work-Sharing Resolution

The Council of Ministers has taken up the European Commission's proposal on guidelines for the Community and the Member States to take action on the unemployment situation. (At present there are 6.5 million jobless in the EC.) Among the suggestions under consideration are a better distribution of work through restrictions on overtime and shiftwork and a shorter workweek. The proposal, presented in the form of a draft resolution, would not be binding on the Member States and also would not commit the Community to legislation - two reasons why the plan was not as coolly received as observers had predicted. In 1977 the Commission was still considering a draft directive that would have compelled the Member States to ban overtime and thus make employers hire more people. There is no mention of this now. In fact, the Commission says that a ban on systematic overtime and curbs on shiftwork are matters for the national legislatures or the collective bargaining parties to decide.

Some critics are asking why the Community should get involved at all, and with a nonbinding resolution at that. The Commission believes there must be some coherence among the national measures to ensure a better economic balance among the Member States. This coherence might be attained through guidelines that could be followed by the states in

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Work Sharing *(contd.)*

drafting national legislation or by the unions and industry in collective bargaining.

Representatives of the national unions and employer organizations and the nine economics ministers agreed a year ago that the best way to fight unemployment would be to increase investments to provide additional jobs. On the matter of work sharing, the union representatives called for a 10% reduction in working hours over a four-year period by reducing the workweek, granting more vacation, and allowing earlier retirement. The employers' representatives were against any hasty move to cut working hours, certainly not before an analysis was made on the impact that any measure would have on production and costs. They believed that a shorter workweek could be counterproductive since expected higher costs would discourage the hiring of more people. The economics ministers agreed that a reduction in working hours tailored to the competitive and financial standing of industry, along with the possibilities open to individual branches of industry, could possibly improve the unemployment situation. They emphasized, however, that any move in that direction is a matter for the unions and individual industries to resolve.

Heavy Editing of Group Accounts Draft

The Council's working group that began consideration of the seventh company law coordination draft directive on group accounts last spring has not progressed very far, according to reports. Its members have not been able to agree on the text of the introductory key provisions containing definitions, such as what constitutes a dominant undertaking (Art. 2), a group (Art. 3), and an affiliated group (Art. 5) *(Common Markets Reports, Par. 1407).*

In order to make headway, the German experts have suggested dropping the concepts of dominant influence and group. They say that companies that would have to present consolidated accounts and the conditions for the presentation of such accounts could be dealt with in the seventh draft directive without being defined since such definitions will be part of the Commission's proposal on the coordination of national law governing groups of companies. Most Member State experts welcomed Germany's move, but the Commission was not enthusiastic, Brussels sources report, because it felt the change would endanger the progress the working party has made so far on the matter of consolidated accounts.

Still, the Commission experts have submitted to the working group revised versions of several of the key provisions that reflect the new approach suggested by the German experts and contain compromise formulas that define a company as a dominant undertaking. Article 3 of the draft directive was dropped entirely; that provision contained the unified management concept, which would have been the key criterion in ascertaining whether a dominating company and

Group Accounts *(contd.)*

one or more dependent entities constitute a group. It was primarily the French experts who opposed the unified management criterion as being unnecessary; they believe the effective control concept better describes a company's dominance over another entity. Other reasons for deleting the criterion were that its incorporation would disrupt the French legal system and that the objective of the measure does not warrant its inclusion.

A completely revised Article 2 as submitted by the Commission would take up the group concept abandoned by the deletion of Article 3 but would be based on the parent-subsidiary relationship rather than the unified management criterion. This relationship would also replace the concepts of dominant and dependent undertakings that were the heart of the original Article 2.

The Commission's text also contains heavily revised versions of Articles 6 and 6A. Paragraph 2 of the latter would have authorized a Member State to exempt a group undertaking registered in the EEC and dominating other group undertakings from the requirement of drawing up sub-group consolidated financial statements under several conditions (among them, when all shareholders of the dependent enterprise consent to such an exemption). According to the revised text, the location of the parent company's registered office would not matter. A Member State would be required to demand that subsidiary group undertakings established in its territory and controlling other subsidiary group companies draw up sub-group consolidated financial statements. However, it could grant an exemption when, for example, the shareholders owning 90% or more of those undertakings agree.

In Brief...

Representatives of the Community, the nine Member States, and more than 40 other countries, including major uranium suppliers such as the United States, Canada, and Australia, have successfully concluded discussions on a first international draft convention on the physical protection of nuclear materials. Negotiated under the auspices of the U.N.'s International Atomic Energy Agency and designed to protect nuclear installations and materials against theft and acts of terrorism, the draft will be ready for signing as of Jan. 1 + + + The Commission will soon ask the Council for a mandate to negotiate with Sweden, Norway, Finland, and Iceland a convention on the exchange of information and mutual administrative assistance in matters of direct taxes and value-added tax. The governments of the four Scandinavian countries want to benefit from the system, which has been in effect in the EEC since last Jan. 1. It commits the Member States' tax authorities to exchange relevant information and render mutual assistance in direct tax matters *(Common Market Reports, Pars. 3211.21, 10,176)*. As of Jan. 1, 1981, the system will include matters involving the assessment and recovery of value-added tax.

Italy: Major Unions Work Out Strike Code

In anticipation of possible statutory controls and in the face of widespread dissatisfaction by the rank and file, Italy's three major unions joined in the labor federation have worked out a voluntary strike code. Details have yet to be announced, but it was reliably reported that the code would introduce the concept of cooling-off periods between the scheduling of strikes and their actual implementation. Varying according to industry sector, these cooling-off periods would serve to discourage spontaneous strike actions and promote possible agreement with the employers. The code would also establish binding norms on strike announcements, strike duration, participation, etc.

The unions' voluntary action is not generally welcomed and may even come too late. It is opposed not only by employers who would prefer statutory strike controls but also by unions not organized in the labor federation. These unions would like to see statutory controls that put all employees and labor organizations on equal terms. This is, more or less, the approach laid down in bills so far submitted to Parliament by the Liberal, Social Democratic and Republican parties.

Many observers interpret the labor federation's decision for a voluntary strike code as evidence of internal instability. The unions joined in the federation - CGIL, CISL, and UIL - had become a truly national force at the end of the 1960s, when large increases in membership made them powerful protagonists in collective discussions with private industry and the government. In the most recent years, however, there have been large-scale defections by disillusioned members, especially among the younger generation. Strike discipline often has been poor: many strikes would have been completely ineffectual had it not been for forcible obedience measures and militant pickets. Many workers are voicing doubts about the quality of the labor leadership, arguing that a decade of strikes has failed to bring them closer to the intended targets: it has not reduced unemployment, has not improved the situation of the impoverished southern regions, and has not really strengthened the status of the individual employee. In fact, it is argued, the excessive number of strikes has worked in the opposite direction by blunting this weapon.

Germany: Amendments of Waste Disposal Act Due

The German government has prepared amendments to the 1972 Waste Disposal Act that would largely fulfill demands by the advisory council on environmental matters and the Bundestag that the law be changed. The proposal would tie in with EEC waste control objectives. It also would reflect the recognized need to conserve and recycle raw materials and to save energy - aspects that did not play a significant role in 1972, when the act took effect. The draft amendments are expected to be submitted to Parliament after Christmas.

Waste Disposal *(contd.)*

The proposal would abolish the licensing requirement for the collection and transport of excavated soil and waste from construction. This requirement accounts for about 60% of all licenses issued under the Waste Disposal Act and prevents the issuing agencies from concentrating on the safe disposal of dangerous waste. Businesses and individuals would benefit from the change because they would no longer have to hire a licensed business to pick up waste but could dispose of it themselves. However, anyone who disposes of soil or construction waste outside officially designated sites could be fined *(Doing Business in Europe, Par. 23,546I)*.

The government is also seeking to broaden its existing statutory power to restrict or even forbid the production of certain packaging should disposal costs exceed those of other packaging *(Doing Business in Europe, Par. 23,546F)*. One particular target is the use of one-way bottles and cans: Bonn wants the authorization to issue regulations that would require manufacturers offering products in one-way containers to sell the product in reusable containers as well. Retailers do not favor returnable bottles because of the work involved, but the public has shown its willingness to cooperate. The bottle industry has committed itself to the use of recycled glass in bottle production. (Four hundred thousand tons were recycled in 1978, an increase of 20% over '77.)

The amendments would also obligate the cities and counties, which are in charge of waste disposal, to separate individual types of waste, either by doing it themselves or contracting others to do it. The object is to get the cities and counties to stop dumping waste and instead to recover raw materials. Consideration should also be given to using waste as fuel to produce energy.

Pollution Tax; Deduction of Contributions

Bonn has asked the German state governments, the national business association, and other interested organizations for comments on a preliminary bill that would bring numerous changes to several tax statutes. Important for businesses would be an amendment to extend for an additional five-year period the rules that permit a taxpayer to claim increased depreciation on investments made for pollution control. (The current rules are scheduled to expire at the end of 1980 - *Doing Business in Europe, Par. 23,549.)* A condition for claiming the increased cost write-off is that the particular asset must be used at least 90% of the time for pollution control purposes. Under the new proposal, this figure would drop to 75%.

The proposed amendments would also relax the current restriction on the deductibility of contributions. Section 10b of the Income Tax Law limits deductions of contributions

Pollution Tax *(contd.)*

for recognized purposes other than scientific or political purposes to 5% of the taxpayer's income. Under the proposal, an individual taxpayer or business could deduct contributions totaling as much as 10% of income. This change should, for instance, give the arts more financial support from individuals and businesses.

France: Paris Urged to Ratify Rhine Pollution Pact

French parliamentarians have been urged to tolerate no further delays in the ratification of the 1976 Convention Against Chemical Pollution of the Rhine River. Letters to this effect have been addressed to the French deputies by Dutch, German and Luxembourg members of the European Parliament representing various political parties. The French MPs are asked to insist on ratification when the National Assembly in Paris discusses this topic at its Dec. 5-6 session.

In their letters, the European parliamentarians reminded their French colleagues that the convention, signed on Dec. 3, 1976, has been ratified by all other signatories (Germany, Luxembourg, the Netherlands, and Switzerland). They said that the problem of the Rhine's pollution, especially from chlorides, can be solved only with France's cooperation. The salt pollution is primarily caused by the effluents of the government-owned Alsatian potassium mines, which account for 40% of the Rhine's salt content.

The convention calls for the mines' tailings to be pumped into underground caves rather than the Rhine, but there are fears in Paris - particularly by the Gaullists - that this may cause permanent pollution of the groundwater. The European parliamentarians referred to expert opinions that such pollution would be minimal and in no proportion to the need to clean up the Rhine, the source of drinking water for some 20 million people. A Dutch assembly woman, Johanna Maiy-Weggen, pointed out that Holland draws some 65% of its drinking water from the Rhine. Last year, she said, the river brought 12 million tons of salt into the Netherlands, and this year's inflow will be even worse.

The parliamentarians indicated in their letters that the other signatory countries already have been very cooperative by partially exempting France from the "polluter pays" principle. Sizeable financial contributions have been made, but the French parliament still has refused to act.

Britain: CBI Details Plan for Strike Insurance Fund

Delegates at this month's annual conference of the Confederation of British Industry were given details of a proposed insurance fund to protect employers against the cost of strikes. The proposal was considered particularly appropriate in view of the loss to the U.K. economy of about 23.7 million workdays through strikes in the first nine months of this year, compared with 9.3 million in the whole of 1978.

Strike Fund *(contd.)*

Sir Alex Jarratt, head of the CBI's steering group and head of Reed International, told the delegates that "the costs of strikes are, on average, one hundred times greater to companies than to unions." This view was endorsed by a recent study of the British Institute of Management, which shows that in 1976 strike pay amounted to only 1-3% of trade union income and that strike benefits paid by the unions remained comparatively small.

"The objectives of a mutual funding scheme," said Sir Alex, "are to reduce individual vulnerability to strike action by spreading and sharing the risk and the cost and so increasing the will and the capability of any threatened company to resist unreasonable demands." The arrangement would be available on a voluntary basis to all CBI members and would cover temporary closure brought about by a company's internal labor dispute or the "knock-on" effect of a strike affecting an independent supplier, a separately insured unit, or another company within a group.

Compensation would cover costs incurred through loss of production, such as standing charges during closure, but not loss of profit. It would be expeditious to meet cash flow problems. There would have to be a minimum and maximum period of coverage as well as risk ratings on which to calculate premiums. These ratings would reflect a company's size, location, strike record, union presence, and dependence on suppliers and customers. "We have to guard against the majority unfairly financing a relatively few, strike-prone companies - whether through excessive vulnerability or plain bad management," Sir Alex said.

The strike insurance system is about to be "test-marketed" in a number of companies varying in size and in industrial relations risk and stability. To be workable, Sir Alex indicated, it would have to attract a wide measure of support.

EURO COMPANY SCENE

Firestone

Firestone Tire & Rubber Co., the second-largest U.S. tire producer after Goodyear, plans a partial shutdown of excess production capacities and the dissolution of marketing activities as part of a further realignment in Europe. According to U.K. reports, the company will close its plant at Brentford, West London, where 1,500 are employed, and will concentrate the British production at its Wrexham, North Wales, plant. Also reportedly to be discontinued is a Swedish facility. The reports said that the European consolidation will result in an estimated after-tax loss of $67 million. Last year an unprofitable plant at Pratteln, Switzerland, was shut down. At this time, Firestone still maintains two tire production plants each in Britain, France,

Firestone *(contd.)*

and Sweden, one each in Italy and Portugal, and four in Spain. This count does not include European distribution companies and manufacturing facilities for other industrial products.

Massey-Ferguson

The Canadian farm machinery manufacturer Massey-Ferguson early next year will close its combine harvester plant at Kilmarnock, Scotland, at a loss of some 1,500 jobs. About 250 jobs are also to be eliminated at the company's tractor plant at Coventry, where 1,000 people already were laid off last year. Massey has had financial problems for some time and has sought to consolidate its European activities. Combine harvester production in Europe is now to be centralized at Marquette, northern France.

New U.S. Firms in Ireland

Ireland's Industrial Development Authority (IDA) has concluded negotiations with nine U.S. companies that will create a total of more than £13 million in new investment in the Republic and could eventually employ more than 1,600 people. The announcement was made during the official U.S. visit earlier this month of Prime Minister Jack Lynch. Four of the nine companies were identified as Applied Magnetics Corp., which will produce digital magnetic tape heads at Coolock; National Medical Care, medical equipment at Clondalkin; Glastron, Inc., laboratory glassware in Dublin; and Bourne, Inc., electronics equipment in Cork. The IDA has estimated that over half of the £1.6 billion in existing foreign investment in Ireland has come from the United States.

Dow Chemical

Dow Chemical Co. of Midland, Mich., is planning the construction of a phenol production plant in Western Europe to come on stream in 1983. Terneuzen in Holland and Stade in Germany, the locations of existing Dow facilities, are considered among the possible sites for the new plant. No details were given on the size of the investment, but Dow indicated that plant capacity would be laid out according to world market requirements. The company already operates a phenol plant at Oyster Creek, Texas, with an annual output of 400 million lbs.

Volkswagen/ Chrysler Argentina

The supervisory board of Germany's Volkswagen AG has agreed to VW's takeover of Chrysler Fevre Argentina SA, according to German sources. Volkswagen is to acquire 49% of the share capital so far in the hands of Chrysler USA. The remaining 51% are to be purchased by way of an offer to the present shareholders, made up of Chrysler dealers and suppliers in Argentina. The entire transaction is being valued at about $50 million, the reports said. Chrysler Fevre employs some 4,400 in two plants which turn out approximately 33,000 vehicles annually (both passenger cars and trucks).

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Community: Move to Reduce Milk, Sugar, Beef Surpluses

The European Commission has proposed several measures designed to curb surplus production of milk, sugar, and beef. If approved by the Council of Ministers, the measures would save some 1.2 billion UA in 1980, or roughly 10% of the Community's overall expenditures for its common agricultural policy, which accounts for 70% of the EC budget.

In the dairy sector the Commission proposes an increase in the co-responsibility levy from the current 0.5% to 1.5% as of April 1, 1980. Small farmers, now exempt, would also have to pay the levy. There would be an additional 3% levy for dairies that raise their production in 1980 by more than 1% over 1979 levels. It is estimated the 4.5% levy would generate some 530 million UA in revenue, which would be used to cover the cost of future production rises. The overall target is to cut the butter surplus from 600,000 to 250,000 tons.

The Commission wants to lower annual sugar production by 1.3 million tons via a 7% average reduction of both the producer A quota (now receiving full price support) and the B quota (now subject to a producer levy of 30%). Also, it wants to raise the producer levy to 40%. Coping with the surplus situation is complicated by the fact that under the Lomé Convention sugar exports from the African, Caribbean and Pacific countries are given free access to the EEC. In

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Surpluses *(contd.)*

the beef sector the Commission is proposing a change in the system of intervention buying to make it more selective.

Terming the proposals a "rescue operation for CAP," Commissioner Finn-Olav Gundelach conceded that the proposed cost savings will not be enough to lessen the threat of Community bankruptcy in 1981 due to excessive farm policy spending. CAP is still functioning, the commissioner said, and it has been a strong unifying element in forging the Common Market, but its ever-growing weaknesses make this the time to correct the mistakes. The burden on taxpayers must be eased and farmers must be made to bear more of the cost, Gundelach emphasized. In his opinion the only way to cope with excess production and the resulting huge costs of storing surpluses would be to cut support prices, but not a single Member State would go along with that.

Most Brussels observers are skeptical about whether the Council will adopt the proposals in their present form. France is expected to resist the proposal that would also make small farmers pay the milk tax, even though the Commission wants to compensate them with structural aids. Observers think German objections might be directed against the proposed changes in the dairy and beef systems, which have been lucrative for German farmers. Although the U.K. has been a stern critic of CAP ever since it joined the Common Market, London will not be pleased by the proposed amendments to the sugar production rules.

Decision Due on Controls of State Aids

The Commission is expected to decide this month whether it will go ahead with its plan to issue a directive that would compel Member State governments to disclose any type of aid to state-owned enterprises. Treaty Article 90(3) empowers the Commission to issue directives or adopt decisions to ensure application of EEC competition rules *(Common Market Reports, Pars. 2351, 2361)*. As a first step the Commission would publish an amended draft and formally ask the national governments for comments, although it is by no means certain that the Commission will formally adopt the measure and put it in the Official Journal.

The objective of the plan is to establish whether state-owned enterprises are receiving help and in what form - outright grants, low-interest or interest-free loans, or tax privileges. Knowing this would enable the Commission to ascertain whether these enterprises engage in restrictive practices to the detriment of private companies.

For many years Commission lawyers have been pondering the propriety of the plan and its possible political consequences. Three Member States - Britain, France, and Italy - have opposed it from the very beginning. The resistance grew even stronger last year when the Commission presented its first draft to the national governments. The only change since then is that Britain, under its new Conserva-

State Aids *(contd.)*

tive government, is no longer opposed to the plan. Support has come notably from Germany and the smaller Member States. There has always been some awareness that state-owned enterprises do get some kind of help from their governments, but since none of the nine Member State economies has fully recovered from the recession caused by the 1973-74 oil crisis, subsidies have grown, and so has the concern that private companies may be getting hurt.

Commission lawyers cite the example of Italy's IRI (Istituto per la Ricostruzione Industriale) which controls some 600 subsidiaries, among them Alfa Romeo, three major banks, more than half of Italy's steel mills, and dozens of other industrial companies. With roughly 600,000 employees, IRI has the largest payroll of any Common Market employer. It has been receiving government subsidies averaging about $1 billion annually, but this may be only the tip of the iceberg, critics charge. Business leaders believe that the reported (and unreported) subsidies have enabled IRI's companies to operate below production cost to the detriment of private competitors.

Many Brussels observers still doubt that the Commission will adopt the directive in the face of heavy opposition from Italy and resistance from France. The Commission neither needs the Council's consent for a decree on the proposed disclosure requirement nor does it need its approval if it wanted to decree a ban on state aid to enterprises. However, the EC executive knows that it would be unwise to legislate something that does not have the national governments' tacit approval.

In Brief...

The Council has reached agreement on the Community's generalized preference system applicable to nonassociated developing countries during 1980. The system, by which the EEC allows duty-free imports from those countries without reciprocal concessions, continues generally the pattern followed since it was started in 1971. New is that China will be able to benefit from it as of 1980 and that it will be considered in an upcoming major revision that will set the sights for the next decade + + + The Community will be able to become a party to the accord reached in GATT's multilateral negotiations in Geneva over the last six years, now that the Council has removed the last obstacle. The accord comprises numerous individual agreements in which the parties would commit themselves to apply or implement various GATT articles. In addition, the parties would agree to reduce technical obstacles to trade and to simplify import licensing procedures. The Council action means that Commission representatives will sign the accord on behalf of the Community, while Member State representatives will sign the protocol on coal and steel products and the agreements on technical obstacles and trade in civil aircraft.

Germany: Compromise Seen in Antitrust Rule Changes

A compromise is shaping up in the German Bundestag's economics committee on amendments to the Law Against Restraints on Competition (GWB). Proposed by the government, the amendments would tighten controls over mergers by raising the obstacles for large companies wanting to acquire small and medium-sized businesses. Market-dominating enterprises would be held more accountable for any abusive practices. Another change would remove the now-exempt utilities, virtually all publicly owned, from the statutory preserve and subject them to the rules of free competition *(Doing Business in Europe, Par. 31,039)*.

Although the committee members concur on the need to further curb the merger drive of large companies and undesirable practices by market-dominating enterprises and other large businesses, there is disagreement about important statutory details. The Federal Cartel Office and the courts often have difficulty deciding whether a company has a market-dominating or commanding position - a criterion that must be established before the authorities can approve or reject a planned merger or label market behavior as abusive. Therefore, the coalition parties want to add a supporting criterion: a company that has merged or plans to merge with another business could be considered to have obtained a market-dominating position through the "potential" acquired by the merger. The Opposition, backed by many antitrust experts, would see in this a departure from the law and its underlying philosophy that could have incalculable consequences for the merger control drive in the future. It also objects to the provision that would assume a commanding position has been attained if the parties to a merger had a total turnover of at least DM 10 billion the previous year. However, the Opposition is prepared to yield on this and the "potential" criterion if the government agrees to much tighter curbs on discriminatory practices than originally proposed.

Both the government and the Opposition want to move against the widespread practice by chain and department stores of demanding substantial fees from manufacturers and suppliers for buying their products in the first place and further fees for favorable display of the products. Section 26 GWB bars certain but not all discriminatory practices; a company's right to discriminate against its suppliers to a certain degree is also an element of the freedom of competition so long as the disadvantages for the suppliers are not so grave that the latter's existence would be endangered. Because this sort of discrimination is more a matter of unfair than of restrictive behavior, the government believes that the proposed amendments to the Law Against Unfair Trade would be a better statutory place to curb the unfair practices *(Doing Business in Europe, Par. 31,040)*. Since the debate on this piece of legislation has bogged

Antitrust *(contd.)*

down in the Bundestag's legal committee and no one is sure about its outcome, the Opposition is demanding a prohibition clause in the Law Against Restraints on Competition. Both sides are determined to pass this legislation prior to the start of the campaign for next year's national elections. The economics committee is expected to make its decision in January.

Belgium: Most Banks Controlled From Abroad

The balance sheet total of the 84 banks operating in Belgium in 1978 rose by 14.9% to BF 2,843 billion that year, according to the latest annual survey of the Belgian Banking Commission. The rise of franc-denominated transactions by 9% to BF 1,647 billion was slower than that of the foreign exchange business, which grew by 22% to BF 1,206 billion. The report also included figures demonstrating the increasing international involvement of the country's banking system over the past 10 years. In 1969, it said, 53 of the banking institutions operating in Belgium were under domestic majority control and 25 under foreign control. At the end of last year, this ratio was nearly reversed: in 52 institutions majority control was held by foreign shareholders and in 32, by domestic shareholders.

The foreign banks in Belgium, which account for about one-third of the balance sheet total, tend to concentrate their activities on foreign exchange business, of which they controlled more than one half in '78. Their Belgian-franc deposit and loan transactions with residents amounted to only 16.2% and 19.6%, respectively, of the total volume. Of the foreign bank subsidiaries and branches in Belgium, the United States accounted for 12, Japan for six, and Britain and France for five each, the Commission report said.

The survey dealt in some length with the fact that a substantial portion of Belgian savings deposits was channeled abroad last year. A large percentage was either directly invested in state bonds or transferred abroad in reaction to the strong speculative pressures on the franc. Of the total growth in financial assets, Belgium's financial institutions could attract only 57% in 1978, compared with 70% the year before, the report noted.

Only recently there were complaints by the banking community that more and more Belgians were taking their money to neighboring Holland, where they could earn higher interest and escape Belgium's 20% withholding tax on interest income. It was pointed out that this attitude made it difficult for the Belgian banks to refinance themselves because their Dutch counterparts usually offered them these funds again at rates that far exceed the Belgian deposit rates. The Belgian banks' growth potential was further inhibited by the shrinkage of the savings quota to 15.1% of the gross social product (16.2% in '77).

Britain: White Paper Details Public Spending Plans

"Public expenditure is at the heart of Britain's present economic difficulties," according to a White Paper just published by the U.K. government. The document, "The Government's Expenditure Plans 1980-81" (Cmnd. 7746), says that over the past year public spending has been increased on assumptions about economic growth that have not been achieved, resulting in a growing burden of taxation and borrowing and new inflationary pressures. With immediate prospects for higher output being poor both in Britain and the rest of the world, the government's economic strategy must be to "stabilize" public spending for the time being: "Unless this is done, there can be no possibility of lower taxes, lower borrowing, or lower interest rates."

It is proposed to freeze the volume of public spending in 1980-81 at about the current level of £69.75 billion in terms of 1979 prices. This represents a reduction of £3.5 billion in the expenditures projected by the previous Labour government for the same period. However, spending in real terms on defense, law and order, and social security benefits would increase, while there would be savings in the sectors of housing and education. Reductions of £200 million and £450 million, respectively, are foreseen for roads and transport and for lending to nationalized industries. Overseas aid is to be maintained at roughly the existing level. Spending in the sectors of industry, trade, employment and energy would rise by 4.3% next year, while the announced changes in regional aid will produce savings for the Dept. of Industry.

In deciding these spending plans for '80-81, the government has in mind three central objectives:

(1) to bring down the rate of inflation by containing and reducing progressively the growth of the money supply, which in turn means the firm control of government borrowing, as a main determinant of monetary growth;

(2) to restore incentives by holding down and, if possible, reducing taxes particularly on income; and

(3) to plan for spending "which is not only compatible with the necessary objectives for taxation and borrowing but is also based on a realistic assessment of the prospects for economic growth."

Italy: Many Questions on Government Effectiveness

The political immobility in Rome, too many unresolved economic problems, and the deepening frustration on the part of both industry and labor are raising concerned questions in Italy about the effectiveness of the incumbent minority government. Since the installation of the Cossiga administration last August, the fears of many observers have been confirmed that the political standoff is preventing even a minimum of legislative progress that would be needed to support the "caretaking" role of the government. As the year is

Government *(contd.)*

drawing to a close, Parliament has yet to act on finance legislation required for the state budget and has not decisively acted on the health and pension reform legislation. Other vital measures still pending concern public tariff increases, housing and rental policy, and other issues.

Commentators agree that the only thing that keeps Prime Minister Francesco Cossiga's administration at the helm, for the time being, is the realization that its removal would probably lead to early elections once again - a prospect welcomed by no one. In fact, given this situation, it is now thought not unlikely that the present government could survive beyond the Christian Democratic Party congress next month until the regional elections in the early summer.

The country's three major labor syndicates, meanwhile, have voiced their anger over the inactivity and legislative stalemate in Rome. On Nov. 21, they staged a four-hour warning strike to protest the government's delays in holding policy talks with union leaders; some 13 million workers reportedly participated in the walkouts. The unions are demanding tax relief and higher wage settlements as compensation for accelerating inflation (now at about 18%) and the impact of higher public tariffs. The rank and file, moreover, is worried over the proposed mass dismissals by some industrial groups, both state-controlled and private, and the most recent events at Fiat.

On the other side of the spectrum, the government is coming under attack by business and industry, whose spokesmen are openly complaining about a "management deficit" in Rome. Guido Carli, chairman of the Confindustria industrial federation, last month called for "rigorous measures" to slow inflation and recommended that the government adopt a very restrictive course. Carli also urged that Rome find ways of reducing tensions between industry and labor which, he said, have already resulted in certain "anomalies" in Italy's economic system. Without any progress in this area, Carli warned, the vicious circle of inflation, devaluation, and recession would continue.

EURO COMPANY SCENE

Firestone Switzerland

A Swiss arbitration court has ordered Firestone Switzerland AG, which last year closed its tire production plant at Pratteln, to pay SF 2.6 million in damages to the two labor unions representing the former workers at the plant. The court recognized the two unions as plaintiffs in the case but not a worker commission and 505 former employees who had brought suit against Firestone for more than SF 13 million in back pay. (The workers indicated they would now turn to the civil courts to enforce their back pay claims.) The arbitration court justified its damage award with the argument

Firestone Switzerland *(contd.)*

that the Firestone management had failed to give the unions adequate notice of the intended plant closure in violation of a collective agreement that provided for consultation and some codetermination in such cases. The court warned the unions, however, that the ruling did not set a precedent for the codetermination issue as a whole, which still was a matter for the political forces to decide.

Nestlé/ Beech Nut

Switzerland's Nestlé AG foods group has taken over Beech Nut Corp. of Ft. Washington, Pa., which in 1978 reported a turnover of $65 million as the third-largest U.S. producer of baby foods. Beech Nut employs about 1,000 in two plants in Pennsylvania and California. The price of the transaction was not immediately disclosed.

Heinz/ Nadler

H.J. Heinz & Co., Pittsburgh, Pa., has acquired for $45 million the share capital of one of Germany's leading producers of fine foods, Nadler-Werke GmbH. With about 1,300 employees, two dozen plants, and a number of subsidiaries, Nadler expects to have sales of DM 180 million this year. Since 1961, the company has been the German distributor of Heinz products.

EM Industries/ Merck

EM Industries of Savannah, Ga., in which the U.S. activities of Germany's E. Merck pharmaceutical group are concentrated, has now started up a plant producing special pigments. [illegible] investment required some $20 million. There are considerations to use Savannah as a production base for other Merck specialties as well. The U.S. turnover of Merck should reach about $44 million this year.

Cavenham/ Weingarten

The U.K.'s Cavenham Holdings has announced that it is making a tender offer of about $26.5 million for the shares of Weingarten, Inc., a Houston-based retail chain with some 100 supermarkets in the southeastern United States and annual sales of about $550 million. The offer is for $12 a share and has already been accepted by the company's directors, who own 52% of the Weingarten stock. Cavenham's other U.S. activities include the Grand Union supermarket chain, into which Colonial Stores have been incorporated.

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Community: Considerations to Amend Patent Licensing Draft

European Commission lawyers are pondering amendments to the draft regulation on patent licensing agreements in light of the criticism the measure has received. The proposal would relieve parties to licensing agreements from notifying the Commission about their intentions; they could also forego applying for an exemption from the ban of Treaty Article 85(1) for restrictive licensing agreements if these meet the conditions set forth in the regulation *(Common Market Reports, Par. 10,118)*. The measure would considerably ease the Commission's work load, especially since the backlog of applications for exemptions has reached 50,000. The Commission feels the draft regulation would increase legal security in the business community, although it has already given some indication of the kind of agreement that would qualify for exemption from the ban on restrictive practices *(Common Market Reports, Pars. 9776, 9801, 9814, 10,083, 10,088, 10,107)*.

There has been considerable criticism from the business community and several national governments since the Commission presented its first draft on the matter in 1977. Subsequently the draft underwent several major changes before the Commission published it in the Official Journal last March and formally asked all interested parties, especially

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Patents
(contd.)

the national business associations, for comments. Since then the Commission has received some 60 written comments, and last October representatives and experts of the national business organizations and bar associations criticized the draft at a Commission hearing in Brussels.

It has been said that the draft regulation as it now stands would unduly restrict the parties' freedom to negotiate contracts. Also, the measure would be counterproductive, since many companies - especially small and medium-sized businesses - would refrain from granting licenses because the proposed rules would not sufficiently protect the licensor's rights. Critics further say that the measure would not create the legal security that the Commission is hoping to generate and that the EC executive could not really expect to ease its work load.

Much of the criticism centers on the draft's Article 1(2), which would grant an exemption from the ban of Treaty Article 85(1) for licensing agreements containing sales restrictions (exclusive sale and export ban) only if the licensor's sales or those of the licensee (whose market is to be protected by an export ban) do not exceed 100 million UA. The critics say that this criterion would discriminate against large businesses, while the other criteria set forth in Article 1(2) would be detrimental to small businesses. Most critics believe the Commission does not have the le[illegible] power to establish the sales volume criterion.

EEC-Comecon
Pact Talks
Are Resumed

The negotiations between the EEC and Comecon about a cooperation agreement recommenced on Nov. 27 when EC Commissioner Wilhelm Haferkamp presented new proposals to Comecon officials in Moscow. In these proposals the Commission is offering some concessions that give more recognition to Comecon's role as a trading organization *(Common Market Reports, Par. 111.06)*.

Commission and Comecon officials have met many times in the last six years to prepare the ground for trade links, but no progress was made because of seemingly irreconcilable differences over institutional issues. The Commission, backed by experts on international law, has maintained all along that the two blocs differ basically in their institutional setup: the Comecon secretariat does not have the treaty-making powers that the Community has under Treaty Article 113 and which the Commission exercises by negotiating agreements *(Common Market Reports, Par. 3815)*. This has been the reason for the EEC's refusal to establish trade links with Comecon as a whole and for the Community's insistence on individual agreements with each Comecon member. The Commission was merely willing to discuss working relationships on minor matters, such as exchanging statistics.

Comecon, on the other hand, has been seeking a broad

Comecon Pact *(contd.)*

relationship that would be reflected in an agreement on principles and in guidelines for trade and other economic ties. It wants the officials of the Commission and the Comecon secretariat and representatives of the nine Member States and the ten Comecon members to sign the agreement. This implies that Comecon is not willing to recognize the Commission's power to sign the agreement on behalf of the Member States.

Commission officials say that the EC executive will not yield on the fundamental point that the Comecon members have not ceded substantial sovereign rights and therefore the secretariat does not have corresponding negotiating powers. All the Commission is willing to offer is an agreement that trade relations be mentioned in the preamble to a document on cooperation. Agreements on trade matters would be negotiated by the Commission only with individual Comecon countries.

The Comecon partners (Soviet Union, Poland, Czechoslovakia, East Germany, Hungary, Romania, Bulgaria, Cuba, Mongolia, and Vietnam) are expected to decide on Jan. 15 whether they will accept the compromise formula. If so, experts from both sides would get together in February and March to write the details into a draft agreement before Commission and Comecon officials meet again in Brussels in April.

In Brief...

The meeting of the nine heads of government in Dublin on Nov. 29-30 was significant to the extent that it did not end on a hostile note over the issue of the U.K.'s contribution to the EC budget, as many observers had feared it would. Largely because of its disproportionately high imports from third countries, the U.K. will probably have to make a net contribution of close to Ł1 billion in 1980, and the figure will rise to Ł1.4 billion by 1985 unless something is done about it. Britain thinks the payment it must make is excessive and inequitable. The other eight Member States have offered to cut Britain's contributions by some 40% next year, but the U.K. thinks that this is still insufficient. The Nine agreed that a compromise has to be found in the coming months + + + The case load of the European Court of Justice suddenly increased last month when 572 Community employees, most of whom work at the Ispra (Italy) research center, sued the Council, charging that the loss in pay they have experienced due to certain pay rules and the decline of the Italian lira violates express and implied Community rules. The cases (Nos. 158/79 to 729/79) will probably be joined.

France: Minimum Wage; Unions' Pay, Strike Tactics

With a 1.2% rise in consumer prices in October (for 11.3% in annual terms), the threshold was again passed at which the French government has to make an upward adjustment of the legal minimum wage (SMIC). As of Dec. 1, the latter was raised by 4.1% to FF 12.93 per hour, which corresponds to

Minimum Wage *(contd.)*

FF 2,242 per month on the basis of a 40-hour week. The raise boosted the paychecks of some 700,000-800,000 workers. Last September, SMIC had already gone up by 2.2%. Of the latest increase of 4.1%, the inflation adjustment accounted for 3.1%, while purchasing power benefited from the additional percentage point.

At the same time, the Barre cabinet voted to raise the minimum old-age pension from FF 37.88 to FF 40 per day (plus 5.6%), while the pay of civil servants went up by 1.5%. The minimum pension now stands at FF 1,216 for single persons and at twice that for married couples; about 2 million persons benefited from the increase. The minimum pension for single persons thus has nearly tripled since 1974, gaining an average 9% in purchasing power per year.

(Earlier, in November, the government introduced financial measures to counteract a national trend toward a lower birth rate. Principal beneficiaries would be large families with at least three children. Major provisions would be a FF 10,000 lump sum payment for the birth of a third child and any additional children, an extension from four to six months in paid maternity leave, social security credits for such mothers during maternity leave, housing assistance, and public transport fare reductions.)

Given the fact that the percentage rate of the SMIC increases is always viewed as an approximate guide for general wage negotiations in France, observers did not rule out an acceleration of wage costs next year. However, some of the unions - notably the moderate Force Ouvrière (FO), but also the Socialist CFDT - are evidently exercising some voluntary restraint by focusing their wage demands on the very lowest income groups. This is clearly in line with government policy. A major exception in that respect is made by the Communist-led CGT, which is pushing for a minimum wage of no less than FF 2,700 per month.

Although the "hot autumn" threatened earlier in the year by labor spokesmen failed to materialize, the unions often have been concentrating strike action on individual enterprises. At the Usinor steel plant at Denain, northern France, 5,000 steel workers were laid off on Nov. 30 following a sit-in by 500 workers that had been organized by the CGT. The action was in protest of recent government notices seeking to transfer about 1,600 Usinor employees to jobs outside the steel sector. Official plans are for the elimination of 21,000 in the steel industry by way of transfers, early retirement, or voluntary departures.

Elsewhere on the strike front, temporary disruptions of rail services appeared to have come to an end, but the go-slow campaign of the nation's air traffic controllers continued into its sixth week (as of the first week in December). Most affected were flights through French air space

Minimum Wage *(contd.)*

that originated in Germany, Italy, the Netherlands, and Switzerland. At the end of November, the strike costs to domestic airlines were reported at $40 million.

Germany: Tighter Rules in Traffic Noise Bill

With Bonn's government coalition parties now having settled their disagreement over a proposal on traffic noise abatement, the German Bundestag's transport committee has written several important changes into the measure. Since the Opposition is also backing the changes, Parliament is expected to accept them in the final reading of the measure.

According to the committee version, maximum traffic noise levels would be 3 decibels lower than what the government had proposed for three area categories *(Doing Business in Europe, Par. 31,006)*. Thus, traffic noise on new roads (and eventually on existing roads) in residential areas could not exceed 62 decibels during the day and 52 decibels at night. In commercial-residential areas, the limits would be 67 and 57 decibels, respectively. In commercial-industrial areas they would be 72 and 62 decibels, respectively. If the maximum levels are exceeded, the government would be required to take protective measures - for instance, by having walls erected - unless such steps would be technically unfeasible or the costs would be disproportionate to the objective pursued. A homeowner would then have a claim against the government for reimbursement of a major part of costs incurred by taking protective measures of his own, such as installing soundproof windows.

Despite the added financial burden that will be felt by all levels of government, especially the communities, the transport committee believes that now is the time to improve noise protection. (Polls show that seven out of ten people are affected by traffic noise.) However, to keep the costs as low as possible, the committee made a number of changes. Only residents of neighborhoods where road traffic exceeds the specified noise levels would have a claim against the government; people working there would not. (Under the original proposal an employer would have had a claim.) The noise abatement program would cover 20 years (the government had proposed 15 years). Homeowners would have to pay 25% of the costs of protective measures, and the government would pay the rest (the first version would have had the government pay the entire cost).

Although the federal government will go along with the proposed changes, it was precisely the financial consequences that made it propose higher noise levels in the first place. Even under the government's proposal, the communities were expected to invest some DM 300 million each year. The changes will add DM 50 million more to that figure. The states are expected to invest some DM 70 million each year along state roads, and Bonn will pay out some

Noise Bill *(contd.)*

DM 270 million to alleviate traffic noise from federal highways and expressways, DM 150 million more than was estimated under the original proposal.

Britain: Companies Bill Details Duties of Directors

The U.K. government has presented significant new clauses to the proposed Companies Bill concerning directors' duties to employees and possible conflicts of interest, which provide that directors should, in the performance of their functions, have regard for the interests of their employees in general as well as the interests of shareholders - obligations that would be enforceable by the company. This concept is very much in line with the views of Secretary for Employment James Prior whereby employees should be more directly concerned with their companies' operations (although Prior has made it clear that the government does not propose to act directly on the recommendations of the Bullock Committee on Industrial Democracy). An encouraging factor is seen in the increasing number of companies that have formulated share ownership plans for their employees.

Most of the new clauses are concerned with situations where a conflict of interest may arise between a director's statutory duties to the company and his personal interests. (The recent report of the Board of Trade inspectors on the Peachey Property Corp. drew particular attention to such conflicts and serious abuses.) Although Section 190 of t[he] Companies Act 1948 prohibits loans to directors, except in the case of companies whose business is money lending, this has not always been effective in practice. Under the new act, it would be a criminal offense for public companies to make loans to their directors, subject to certain limited exceptions, and also for directors to "willfully" authorize loans to themselves or fellow directors. Public companies would be criminally liable if they afforded quasi loans, such as credit card facilities, to directors. The latter could not authorize loans to their immediate families and associated persons.

Money-lending companies would still be able to lend in the ordinary course of business and on ordinary commercial terms, but with a limit of £50,000 per director. A similar limit would apply to company house purchase plans. The leading banks would be granted an exemption and would be able to lend without any limit, on usual commercial terms. However, they would be obliged to keep a register of all such lending and make details available to shareholders prior to and at the annual general meeting. Other companies would have to disclose loans in their annual accounts.

Not permitted, moreover, would be the practice of directors arranging for themselves long-service employment in order to claim large compensation amounts in case of dismissal - for example, after a takeover. In the future, any ar-

Companies Bill *(contd.)*

rangement for employment in excess of five years would have to be ratified by the shareholders at a general meeting, as would any transfer of property valued at £50,000 or more between a director and his company.

The various clauses will still have to be considered in detail before enactment of the bill, but observers said it was very probable that they will be approved.

Denmark: Price, Wage Curbs Proposed; Devaluation

Price and wage controls, corporation and wealth tax increases, and an employee profit-sharing program are the essential features of an 18-point economic austerity program submitted by the Danish government on Dec. 3 for next year and beyond. Earlier, on Nov. 30, the Danish krone was devalued by 5% within the European monetary system as part of an overall effort to slow inflation (currently at 13%) and to reduce Denmark's large payments deficit, which has been officially estimated at 14-15 billion kroner for 1979.

The combination of the proposed economic measures and the devaluation were expected to reduce nominal wage increases next year from the current 11% to 6.5%, which would amount to a real-term reduction of 5% on the basis of the current price expansion rate. While the wage indexation system as such will not be abolished, it would be partially suspended in 1980, and only wage raises agreed on before Nov. 15, 1979, would be permitted. Taken out of the wage-regulating price index would be price increases for oil, coal, and electric power.

The freeze on wages, prices, dividends, fees, and rents would be enforced at least until March 1981. Employers would be prevented from passing on in their prices any non-collective pay increases, and any other price boosts would be permissible only as a result of higher raw material prices. The corporation tax rate would rise from 37% to 40%; there would be higher taxation of pension funds, wealth, and property; and depreciation allowances would be reduced.

A very controversial element of the stability package is the proposal to create union-controlled investment funds into which the stock corporations would pay 10% of their after-tax profits. One fund would be partially financed by the National Pension System,and the second would exclusively accept compulsory profit-sharing contributions. Initially, these funds would be able to purchase about 15% of the corporate sector's share capital, but this would be bound to rise - a prospect violently opposed by the business community. There were charges that the Socialist minority government of Prime Minister Anker Jörgensen was trying to "sneak in" the profit-sharing plan under the cloak of the economic austerity program.

The Nov. 30 devaluation of the krone by 5% came only

Austerity Plan *(contd.)*

two months after one of 3% against the other EMS currencies (5% against the D-mark), which made it the shortest interval between devaluations ever. According to an estimate by Economics Minister Ivar Nörgaard, the latest devaluation should lower the payments deficit by about 1 billion kroner on an annual basis because the parity change will strengthen the competitiveness of Danish industry by that margin. The government concedes that the overall effect is relatively small but points out that it has the advantage of an immediate benefit in contrast to the other cost-dampening measures.

Switzerland: National Bank Drops Negative Interest Charge

As of Dec. 1, large Swiss-franc deposits maintained in Switzerland by nonresidents are no longer subject to "negative interest" charges. The National Bank had already made a move in this direction on Nov. 2, when the negative interest rate on deposits above SF 100,000 was dropped to a symbolic 2.5% per quarter from the previous 10%. Originally, when first introduced in November 1974, the rate had been set at 3% but was lifted to 10% in February 1975 in order to ward off the massive inflow of speculative funds from abroad *(Doing Business in Europe, Par. 31,009).*

For all practical purposes, the "suspension" (not outright abolition) of the punitive interest charge ends the last curbs on foreign exchange imports, even though ther[illegible] a continued policy of not paying interest on large deposi[illegible]. In fact, the National Bank authorities made it very clear that their decision left the door open for a reimposition of the negative-interest requirement should monetary circumstances warrant such a step in the future. This was interpreted as a warning to speculators not to try to take advantage of the liberalized situation.

For the time being, however, it seems that the Swiss government is more concerned about maintaining the strength of the franc against the D-mark and the dollar, thereby holding down inflationary pressures. Switzerland is heavily dependent on imports from Germany, its most important trade partner, and it must pay its oil imports on a U.S. dollar basis. Financial observers speculated that Bern was possibly willing to make some concessions to the country's oil suppliers, which are naturally interested in a "hard franc" in exchange for their products. The recent rise in Switzerland's key rates, though modest by the standards of other countries, should also enhance the country's attractiveness for foreigners. On the Euromarket, short-term Swiss francs are already being offered at 5%.

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Community: New Hopes for Fisheries Policy

European Commission officials have new hopes for a common fisheries policy, which has been blocked for more than two years by Britain's refusal to relinquish traditional rights. Although the U.K. has not eased its rigid position on some aspects of management and conservation of fisheries resources, it took a flexible line at the Council of Ministers' Dec. 3 meeting on several individual measures that would be part of a common policy. Such a policy became necessary following the Council decision in November 1976 that all Member States extend their fishing limits to 200 miles (as of 1977) in answer to a move by several third countries to extend their limits. The Commission was asked to come up with proposals to implement that policy decision.

On Dec. 3 Britain's new Conservative government backed a Commission proposal that would establish a common recording and reporting system on total allowable catches (TACs) for individual stocks or groups of fish stock. The system is scheduled to go into effect on Jan. 1, together with another proposal on control measures. Agreement on the recording and reporting system is significant because at the moment all Member States except the U.K. voluntarily observe rules contained in Commission proposals allocating fish quotas among them, and they report most catches to the Commis-

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Fisheries *(contd.)*

sion. However, the system is not strictly observed: minor landings or transfers of fish from Member State vessels to third-country vessels are not always reported, and laxity in reporting sometimes results in inaccurate figures. Commission officials say implementation of the new system, which would be directly applicable in all Member States, would result in greater accuracy.

Until a full-fledged common fisheries policy is set up (optimists say that could be during the first half of 1980), all Member States have agreed to abide by the TACs proposed by the Commission in 1976 and last revised in November and those TACs negotiated by the Commission with third countries. The TACs within the Community's 200-mile fishing zone were prepared by the Commission relying on experts who have drawn up a list of individual fish stocks deserving protection and who have also charted the fishing grounds and recommended catch quotas for each Member State.

There has also been some progress in the EEC's fisheries relations with third countries. The Council agreed to the pact negotiated by the Commission with Canada for this year, and it empowered the EC executive to negotiate a new agreement for 1980 (the talks started in Ottawa on Dec. 10). The Commission will also be able to start talks with the Yugoslav government to ensure that Italian trawlers may continue fishing within Yugoslavia's fishing zone in the Adriatic Sea. After the Commission successfully concluded an agreement with the Republic of Guinea-Bissau that opens fishing grounds off the west coast of Africa for Common Market-based trawlers, it received a mandate from the Council to open similar negotiations with the Seychelles and Mauritius.

New Plan for Shipbuilding Aids Seen

Commission officials have met with representatives of the Member States' shipbuilding industries in recent weeks to obtain up-to-date figures on the costs of building and scrapping ships. The figures are needed to back up the "scrap and build" program under consideration by the Commission to help Community shipyards through the crisis that is affecting shipbuilders throughout the world. The primary objective of the EC program would be to protect jobs and shipyards by generating new orders. Shipyard owners would receive subsidies from the Community toward the cost of building one new ship for every two they scrap.

Last month the Council failed to agree in principle on the concept, which the Commission had developed in a special paper. Nevertheless, it asked the Commission to come up with a detailed proposal because it still feels bound by its September 1978 resolution calling on the EC executive to see "whether and to what extent certain measures might be likely to improve demand for new ships from Community shipyards." However, a new Community measure on the matter would not

Shipbuilding *(contd.)*

eliminate existing national aid measures, which must conform to EC rules in order to avoid competitive distortions. For example, the Member States may subsidize as much as 30% of a vessel's contract price, but any aid must also help individual shipyards to adjust to reduced demand. Not permissible are grants to merely offset operational costs.

Commission officials anticipate lively discussions in the Council once the detailed proposal is presented. No decision has been made on the intended approach - an EEC framework that would allow each Member State to administer and finance its own system or a Community-wide special fund, with all Member States contributing and competing for orders and thus also for subsidies. Britain has already expressed misgivings about the possibility that it might end up paying in considerably more than it would get in return. Italy supports the Community-type approach.

In Brief...

The Council has agreed on a draft directive that would require the Member States to ground excessively noisy aircraft after Dec. 31, 1986. This deadline may be extended to Dec. 31, 1988. Several Member States already have legislation to that effect + + + Portuguese and Commission officials have initialed a supplementary protocol to the 1972 EEC-Portugal trade agreement that would postpone tariff cuts for several industrial products, among them motor vehicles, that Lisbon was scheduled to enact on Jan. 1, 1980. At the same time the protocol would ease the import into the EEC of several Portuguese industrial products and numerous agricultural commodities. The initiative for the negotiations came from Lisbon: Portugal is having difficulties in developing new industries, and manufacturers there will not find it easy to adapt to the challenge of future EC membership.

Germany: Social Security Ceilings Rise on Jan. 1

Employees' and employers' social security contributions in Germany will go up on Jan. 1 since the assessment ceilings for old-age, unemployment and health insurance will rise, just as they have each year, to reflect higher employee incomes. An employee earning, for example, DM 3,500 a month will have to make social security contributions totaling DM 540, and the employer will have to match that amount.

All employees, regardless of their income, are covered by the mandatory old-age pension system. At the present time up to DM 4,000 of monthly earnings (or DM 48,000 of annual income) is subject to contributions. On Jan. 1 the assessment ceiling will go up to DM 4,200 monthly, or to DM 50,400 of annual earnings. With the rate being 18%, the maximum monthly payment to the old-age pension fund will rise from the present DM 720 to 756, which is shared equally by the employer and the employee. Thus, the higher assessment ceiling will mean at the most DM 18 more each from both

Social Security *(contd.)*

the employer and the employee *(Doing Business in Europe, Par. 23,453)*.

Since the ceiling applied in assessing unemployment insurance contributions is identical to that applicable to pension fund contributions, the monthly payments for unemployment insurance will also rise on Jan. 1. With a contribution rate of 3%, the maximum payment will be DM 126 instead of the present DM 120, and here too the employer and employee each pays half *(Doing Business in Europe, Par. 23,456)*.

The assessment ceiling governing contributions to the health insurance system will also go up on Jan. 1, from the present DM 3,000 a month to DM 3,150. Although the contribution rates are not uniform because the 20-odd funds are legally and economically independent, self-governing bodies under government control, they nevertheless average around 11%, shared equally by the employer and the employee *(Doing Business in Europe, Par. 23,454)*. It is estimated that the higher assessment ceiling will raise the contributions by DM 16 each month.

Several health insurance funds have indicated they may have to raise contribution rates in 1980 by half a percentage point in order to pay for higher medical expenses. Although 1978 legislation has helped to contain soaring health costs to some extent, more money is needed. It will be several months before a recent agreement among the government, the health funds, hospitals, and medical associations produces the desired results. The agreement compels doctors to prescribe lower-priced drugs instead of more expensive medicines if the same effect can be achieved by the cheaper products.

France: Barre Uses Confidence Vote to Clear Bill

In another climax to the continuous political infighting among the partners of the French government majority, the Barre administration on Dec. 6 won two more Opposition-sponsored parliamentary votes of confidence, which were tied to legislation for the financing of the country's deficit-ridden social security system. The National Assembly thus passed the government's proposal to have certain groups of pensioners contribute toward the system. Only two weeks earlier did the Barre administration survive censure motions over the revenue portion of the 1980 budget.

In hinging these two legislative items to separate votes of confidence, Premier Raymond Barre made use of a constitutional device that provides for the automatic passage of a bill if an attached censure motion fails to get the necessary majority. This approach has enabled Barre twice to bypass the Gaullists, ostensibly his main coalition partners, who have opposed both bills but not to the extent of actually bringing down the government over them. In the

Barre
(contd.)

Dec. 6 balloting, only 200 deputies voted for the Socialists' censure motion and 198 deputies voted for the Communists' version. The required majority would have been 246.

Political observers commented that the relatively minor social security bill over which the government and the Gaullist RPR are in dispute indicates how brittle the alliance has become. (The Gaullists argue that the pensioners' contribution to the social security system will result in only FF 1 billion in extra revenue annually, whereas the deficit of the *securité sociale* actually has reached FF 20 billion and thus requires more forceful action.) The Barre government's latest strategy of tying legislative balloting to votes of confidence tends to discredit Parliament and is not in the national interest, according to some critics. The Gaullists, for their part, apparently are out to clearly demonstrate their dissatisfaction with Barre's economic policies so as to maneuver themselves into a better political position in time for the 1981 presidential elections.

Government Rescinds Rhine Cleanup Bill

The French government has promised to submit the 1976 Convention Against Chemical Pollution of the Rhine River to the National Assembly for ratification as soon as acceptable "new technical solutions" are found for the disposal of the waste salt from the state-owned Alsatian potassium mines. The pledge was made after the Dutch government took the unprecedented step of recalling its ambassador in Paris in reaction to the French administration's withdrawal of the ratification bill early this month. Observers said the bill was shelved because the Barre government could not risk a parliamentary defeat at a time when other major legislation was at stake.

The tailings from the Alsatian mines account for 40% of the high salt content of the Rhine, from which the Netherlands draws 65% of its drinking water. To contain this pollution by chlorides and other chemicals, five countries bordering on the Rhine - France, Germany, Holland, Luxembourg and Switzerland - signed the "salt treaty" in December 1976. The convention calls for the waste salt to be deposited in the ground rather than the Rhine and it has been ratified by all signatories except France. It was intended to reduce by 1 million tons the salt effluents from the potassium mines until Jan. 1, 1980, but there was heavy political opposition both in the Alsace and in Paris for fear of heavy groundwater pollution and other environmental damage.

In recalling its ambassador from Paris, the Dutch government said it was "deeply surprised and disappointed" by the French decision, and the other signatories also expressed their disappointment. The Netherlands already had contributed FF 43 million toward the construction of underground caverns for the waste salt. The French government said all contributions by the signatories would be repaid.

Rhine Bill *(contd.)*

It was reported in Paris that the possible new solutions of the Rhine pollution problem could involve depositing waste salt in the ground only partially, shipping another part to the North Sea, and depositing the remainder above ground. However, this probably would cost more money than the present method. Gaullist proposals to convert the waste salt into usable salt have been termed unfeasible economically because the French salt market already suffers from overcapacities of some 1 million tons a year.

Belgium: Strikes Against Economic, Health Plans

A 24-hour general strike paralyzed much of Brussels and Belgium's French-speaking regions on Dec. 7. It affected public transport, certain industries, banks and department stores, newspapers and other sectors. The walkout had been called by the Socialist labor federation in protest of the government's most recent economic austerity and health proposals and of the employers' opposition against the introduction of a shorter workweek. At the same time, Belgium's largest medical association scheduled a national strike for Dec. 21 as a demonstration against Brussels' reform plans for the social health sector.

The Dec. 7 strike had been preceded last month by the breakdown of "concerted action" talks between the industrial partners and the government when the latter's proposals were rejected by both the employers and the Socialist labor federation. The strike call was issued after the Martens administration went ahead and submitted to Parliament its austerity budget and social insurance bills in an unchanged form. The employers, too, have been critical of some government recommendations: they charge that a workweek cut would impair their competitiveness, and they oppose the intention to continue adjusting wages to the cost-of-living index despite the steep rise in oil prices.

As previously reported, the government proposes that the 38-hour workweek be introduced by the end of 1980 and that employers be paid a compensatory bonus of BF 500,000 over a period of two years for every new employee hired. Wage increases would be limited to the inflation rate, and dividends and professional fees would remain frozen at present levels. Individual tax-free allowances and minimum pensions would be raised, but there would be a special levy on excess profits. In order to cut the huge deficit of the health and disability insurance system (probably BF 24 billion this year, 26 billion in 1980), it is planned to raise patients' contributions toward the cost of drugs and some medical and hospital services. Medical fees and the profit margins of pharmaceutical companies are to be controlled, and pensioners would contribute toward their health insurance costs.

The heaviest opposition of the medical profession to

Strikes *(contd.)*

the government's health reform plans is directed against the proposal to reduce the cost reimbursements to patients who consult medical specialists without having been specifically referred to them by their personal physician.

Ireland: Haughey Elected Premier After Lynch Resigns

Following the voluntary resignation of Premier Jack Lynch, the Republic of Ireland's ruling Fianna Fail party elected Charles Haughey as his successor, and Parliament confirmed this choice on Dec. 11. Haughey, 54, told a news conference that his "priority will be the peaceful reunification of the Irish people." It was expected that the new prime minister would adopt a much tougher stand on the Northern Ireland issue than Lynch, who had shown a relatively conciliatory attitude toward Britain in efforts to gain a political settlement of the Ulster conflict.

Haughey, health minister in the outgoing Lynch cabinet, had been dismissed from the government in 1970 for alleged involvement in running guns to the Irish Republican Army (IRA). He was subsequently acquitted by a court and eventually returned to politics in 1975, when Lynch made him the Opposition spokesman for health and social welfare. In 1977 Haughey joined the Lynch cabinet as the health minister after the Fianna Fail won the parliamentary elections. A self-made millionaire, he is considered a very controversial figure even in his own party, and it was reported that only two of the 14 cabinet members voted for him in the secret balloting making him the new party leader. The overall vote by the Fianna Fail's 82 parliamentary deputies was only 44-38 in his favor.

Lynch, 62, had been the Fianna Fail leader since 1966 and held the premiership for nine of the past 13 years - from 1966 to '73 and then again since 1977. He has been credited with (and sometimes blamed for) containing anti-British sentiment in Ireland over the Ulster issue. In the last few months his position weakened because of losses suffered by his party in local elections and the European Parliament elections. Last month the party also was stunned by an unexpected defeat in parliamentary after-elections in Lynch's hometown. The cause of the recent political setbacks is seen primarily in the Premier's alleged inability to deal effectively with Ireland's economic problems.

Britain: Lords Reverse Themselves in Tax Ruling

Last month's judgment of the House of Lords in *Vestey v. Commissioners of Inland Revenue* has been considered "remarkable" by U.K. observers in that the Lords unanimously agreed to reverse that court's 1948 decision in *Congreve v. C.I.R.* relating to taxation of beneficiaries under a discretionary trust operated abroad. In fact, the court urged Parliament to reconsider the existing statutory situation.

Reversal *(contd.)*

Lord Wilberforce, with the endorsement of the other judges, said that taxes were imposed by Parliament on subjects and that a citizen cannot be taxed unless he is designated in clear terms by a taxing act as a taxpayer and the amount of his liability is clearly defined. "A proposition that whether a subject is to be taxed or not or that, if he is, the amount of his liability is to be decided (even though within a limit) by an administrative body, represents a radical departure from constitutional principle. It may be that the Revenue could persuade Parliament to enact such a proposition in such terms that the courts would have to give effect to it. But unless it has done so, the courts - acting on constitutional principles - not only should not but cannot validate it."

In this particular case, the Inland Revenue - under Section 412 of the Income Tax Act 1952, as amended - had sought to assess for income tax and surtax not the original transferor of the assets or persons participating in tax avoidance but the actual and potential beneficiaries. It had done this, the court said, by exercising purely arbitrary discretion. While the Revenue had done its best to devise a system that was workable and reasonably fair, the court said, this system had no legal foundation and thus was bound to fail.

The court alluded to the practical consequence of the Revenue's contention that it had discretionary powers that enabled it to assess such individuals practically at will: it could employ whatever method it liked, without any possibility of appeal, and liability might depend on when the Revenue chose to make its assessment. This would not square with the principle of income tax being an annual tax; a taxpayer was entitled to know what tax was claimed against him. The House of Lords concluded that the decision in the earlier case produced a result, as regards discretionary trusts, which was inequitable, and thus it disallowed the Revenue's assessments.

Since 1966 the House of Lords has been free to depart from its previous judgments, although such instances are very rare. Indeed, Lord Wilberforce had grave doubts on whether the court should do so now, since the decision was one of interpretation of a taxing act. The previous interpretation had been acceptable, he said, and "this House ought not to sanction attempts to obtain reversals of decisions deliberately reached, however attractive to their (the Lords') successors another view may appear to be." However, this particular situation had involved results that were "arbitrary, potentially unjust, and fundamentally unconstitutional."

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Community: EC Court Adds to Basic Rights Debate

The European Court of Justice has held that the restriction on the use of property imposed by Council Reg. No. 1162/76, which forbids planting grape seedlings for a limited period, is in the general interest of the Community and does not affect the substance of property rights recognized and guaranteed in the EC's legal order (Judgment of Dec. 13, 1979; Case No. 44/79). The Court also held that the restriction in no way affects either access to the winegrower's profession or the free exercise of that profession on vineyard property. Thus the Court found nothing that would affect the validity of Reg. 1162/76, which had been alleged to violate fundamental rights in the Community. (On Dec. 11 the Council extended until 1985 the three-year ban on planting grape seedlings.)

The Court's preliminary ruling, requested by a German lower administrative court, has introduced new elements to the debate on the protection of basic rights by the Community. This debate will once again be carried to Germany's Federal Constitutional Court. (The lower administrative court had earlier announced it would bring the issue before the country's highest court if the Court of Justice confirmed the validity of the planting ban.) The lower court, which had doubts about the ban's constitutionality, wanted

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Basic Rights *(contd.)*

to know from the European Court whether Article 2(3) of Reg. 1162 also applies to requests for permission to plant made by wine growers before the regulation took effect *(Common Market Reports, Par. 525.202).*

It has been the prevailing opinion in most Member States that only the Court of Justice may decide on the validity of Community legislation and thus ensure uniform application of Community law; national courts, even the supreme courts, may not. In 1974 Germany's Federal Constitutional Court held that so long as there is no Community catalog of fundamental rights similar to those guaranteed by the German constitution, it was entitled to rule on the validity of Community legal acts even if the Court of Justice had already declared them lawful *(Common Market Reports, Par. 9689).*

Last July the same German high court retreated from the much-criticized position of its 1974 decision by saying it would refuse to consider requests from German courts on the constitutionality of secondary Community law (Case No. 2 BvL 6/77). However, the German high court also said it would accept requests brought by any German court that doubts the constitutionality of the Act ratifying the Treaty of Rome. Commission lawyers say this could be the approach for the German administrative court: to phrase its question so as to force the Federal Constitutional Court to take a clear-cut position, which could also have repercussions for the Council.

Although the Court of Justice has ruled that the respect for fundamental rights constitutes an integral part of the general principles of law and that the Community, too, must protect these rights, there is still the question of how far the Council and the Commission may go in guaranteeing these fundamental rights. In other words, it is asked how far the Community lawmakers may go in legislating economic policies without infringing on basic rights.

Parliament Rejects 1980 Draft Budget

The European Parliament took a course of confrontation with the Council of Ministers on Dec. 13 when it rejected by a vote of 288 to 64 the Community's $23.7-billion draft budget for 1980. Although the Parliament merely exercised the powers it has been granted under Treaty Article 203, the fact that it actually used them has produced a major institutional clash within the EEC *(Common Market Reports, Par. 5021).* The EP's action brings to a head a number of issues that are not easy to resolve and most likely cannot be resolved until the next Community summit at the end of March. Two issues are most important - the financial burden posed by the common agricultural policy and the alleged inequities in the states' contributions to the EC.

Throwing out the draft budget means that the European Commission will have to submit to the Council a new proposal,

Budget *(contd.)*

which then goes back to Parliament. Commission officials estimate it might be three months before the new draft budget is adopted, so the EC will have to resort to the emergency appropriation procedure laid down in Treaty Article 204. This means that each month the individual Community institutions may not spend more than one-twelfth of the allocations provided for in the 1979 budget *(Common Market Reports, Par. 5025)*.

Parliament and the Council disagreed on two main issues. While the EP insisted on cutting expenditures for CAP as of next February, the Council refused to commit itself to a deadline, although it was prepared to make cuts. On the other hand, the EP wanted an additional 600 million UA spent on the Member States' backward regions and on energy policy matters, but the Council was not prepared to allocate more than 200 million UA.

For many observers the EP's action did not come as a surprise because it was almost inevitable that a directly elected European Parliament would sooner or later seek to exercise more power in running the EC than its predecessors had done. Many candidates had campaigned on the promise to do more for their constituent consumers and taxpayers. CAP was a favorite topic for many candidates, and the draft budget offered an opportunity to act. Earlier this year, after the Council transferred funds from the social, transport and energy sectors to the farm price support sector, Parliament insisted on restoring the cuts. When the Council rejected the amendments and mediation efforts failed, the EP's budgetary committee recommended rejection of the entire budget.

France: Big Turnout in Labor Court Elections

Nearly one million French employers and about 13 million employees were eligible to participate in nationwide labor court elections held on Dec. 12 on the basis of candidate lists established by the employer associations and labor unions. Unlike the last previous election, when only 250,000 ballots were cast, this year's event saw a surprisingly strong turnout of 7.4 million blue-collar and white-collar workers who voted for the labor representatives on the new industrial courts. They represented 63% of those eligible to vote.

In France, the labor courts *(conseils de prud'hommes)* handling individual disputes between employers and workers are composed of lay judges, half of whom are elected by the employers and the other half by the employees *(Doing Business in Europe, Par. 23,059)*. The new lay judges are appointed for terms of six years. The industrial court system was reorganized under legislation that took effect last January, extending the courts' conciliatory jurisdiction to virtually all industrial sectors.

The Dec. 12 elections brought some other unexpected re-

Elections *(contd.)*

sults. The smaller "free" labor unions, which are said to be financially supported by the employers, suffered a serious defeat. To a lesser degree, this was also true of the Confédération Générale du Travail (CGT), which maintains close ties with the Communist Party. In previous elections - for instance, for the works councils - the CGT had always come up with more than 50% of the vote; this time it had to be content with 42.4% on the average.

The best results, in relative terms, were recorded by the "moderate" labor unions, above all the Force Ouvrière (FO), which won 17.4% of the vote as opposed to a maximum of 9% in the years from 1967 to '77. The Socialist CFDT also expanded its share from 18-21% in the above-mentioned 10-year period to 23.1%. Under the leadership of Edmond Maire, the CFDT had separated itself from the bloc of left-wing parties after the 1978 general elections and most recently has come out against any kind of "political" strike.

The country's five representative labor federations (including the CFTC with 6.9% of the vote and the CGC union of executive employees with 5.2%) received a total of 95% of all votes cast. However, the results of these industrial court elections say very little about the strength of the individual unions in terms of membership, since only 22% of the country's workers are organized.

Italy: Businesses Hurt by Soaring Interest Rates

Small and medium-sized businesses in particular have been shocked by the Italian banking association's decision to boost the prime rate from 16.5% to 19.5% as of Dec. 11. This means that for other than "first addresses" the borrowing rates go up to 22-23% and in the southern regions, the Mezzogiorno, even to 25%. Financial commentators have expressed fears that this drastic increase will bring new investment activity to a virtual standstill and will put a severe strain on the country's smaller businesses, which are the true movers of the economy.

The prime rate adjustment was in reaction to the Dec. 5 increase of the Bank of Italy's discount rate by an unprecedented 3 points to 15% - a historic high, which far exceeded the worst expectations of the business and banking community. The central bank authorities justified this massive boost with the need to contain the rapid acceleration of price expansion, which was expected to result in an annual inflation rate of nearly 20% this month. Many products and services, in fact, have become 25-30% more expensive over the course of the expiring year. Another factor has been the suspension of oil deliveries by Saudi Arabia to the ENI state energy concern following allegations of kickback payments to Italian politicians.

The country's banking system was facing very serious short-term liquidity problems before the end of the year.

Rates
(contd.)

Strictly enforced credit limits were, in fact, preventing businesses from obtaining loans to be able to pay the traditional "13th-month" salaries. As a way out of this dilemma, many employers reportedly made these payments via bank transfers, which were unlikely to be processed by the banks until January. This, in turn, had an impact on Christmas retail sales, which in many areas did not meet expectations.

With the latest prime rate increase, the banking system heeded the urgent recommendation of the government and the central bank to make a contribution to the fight against inflation and in defense of the internal and external stability of the lira. The absence of a coherent economic policy by the "transitional" Cossiga administration, it was argued, requires the rigorous application of monetary instruments, despite an acknowledged negative impact on production and employment.

Germany:
High Pay
Claims Pose
Threat in 1980

The German economy is not expected to repeat this year's satisfactory performance in 1980 unless wage settlements in all sectors are considerably lower than those now demanded by the metalworkers' and public service unions. While the powerful metalworkers' union seeks a 10.5% pay increase (12% for lower-paid workers), the public service union will ask for 9.5% more pay and a 30-day vacation for each employee. Both unions play a key role in collective bargaining, not only because their combined membership totals 2.9 million but also because the metalworkers' settlements often set the pace for other private-sector contracts. A settlement reached for the 900,000 public employees would mean automatic pay increases for 2.5 million civil servants working for the federal, state and local governments.

Although observers expect the demands to be whittled down during the negotiations, they doubt that the final figure in the contracts will be 6%, the figure that Otmar Emminger, the outgoing Bundesbank president, believes would be in the country's interest. Emminger said Germany would not be able to hold inflation down to 4-5% and achieve the 2.5-3% growth target next year if higher settlements are reached. The government's council of economic advisers said several months ago that the economy's performance in 1980 would not be impaired so long as the average settlement stays under 6.9%, an assessment shared by independent economic research institutes.

Chancellor Helmut Schmidt also expressed concern over the claims put in by the two unions. Like most other economists, Schmidt fears that high settlements on top of increased crude-oil prices will cut deeply into business earnings. Higher profits and continued productivity gains are essential for keeping German industry strong in terms of new investments and international competitiveness, he believes.

Pay Claims *(contd.)*

Independent economists say that a pay increase substantially over 6% for the 3.4 million public employees and civil servants would mean a setback for the government's drive to cut borrowing and might reduce the tax cuts planned for 1981.

Greece: 1980 Budget; Stiffer Curbs on Imports

The Greek government has presented Parliament with the 1980 draft budget, which in its regular portion projects a surplus of 6 billion drachmas and a reserve of 25.5 billion. Anticipated revenues total 365.5 billion drachmas, which is 50.5 billion more than this year's. Expenditures in the extraordinary budget (public investments) have been limited to 58 billion drachmas, which compares to 61 billion for 1979. The financing of this budget will be for the most part through domestic bond issues.

At about the same time, Athens considerably toughened and extended its controls on imports, many of which have been termed of a "speculative" nature and described as a threat to the balance of payments. Central bank authorities pointed out that imports in September were 36% higher than a year ago and in October, 49.6% higher. They said that the new measures - which are to remain in effect until June 30, 1980 - were also necessary to maintain international confidence in the Greek economy.

On Nov. 28 the government had issued a total import ban, which was replaced a few days later by a number of new regulations pertaining to cash deposits, profit margins, and higher taxes. Previously required cash deposits payable by importers were raised by 75%, mostly for consumer goods. The obligatory deposits now range from 100% to 145% of CIF value. Products previously not affected by cash deposits are now subject to a rate of 75% of CIF. Exempt from this rule are 98 products in the areas of foodstuffs, industrial machinery, raw materials, and drugs. Cash deposits are blocked for six months (previously two to four months) and earn no interest during that time.

Furthermore, the government imposed a 25% "luxury tax" on 120 different products - for instance, certain textiles, footwear, chocolate, cheese, bananas, and bread products. Wholesalers' and importers' profit margins on imported goods may not exceed 33% (in exceptional cases, 43%) of unaltered CIF prices. Retail margins may be up to 100% of CIF. For existing inventories, the 33% wholesale margin must be based on the true purchase prices; otherwise Dec. 31, 1978, is deemed the price basis date.

The new rules were protested by spokesmen for the Greek trade organizations as being "hasty and contradictory." Having been issued without consultation with the business community, they probably would not be successful, particularly with respect to "police controls" of profit margins. Government authorities rejected these complaints as

Imports *(contd.)*

being exaggerated, but Coordination Minister Kostas Mitsotakis hinted that some of the curbs could possibly be lifted before June 30, 1980.

Portugal: Absolute Majority for Non-Marxists

The Alianza Democratica (AD), an alliance of three non-marxist parties, moves into the new Portuguese parliament with an absolute majority of 128 mandates as the result of the Dec. 2 national elections. The final tally came on the basis of absentee ballots opened after the counting of the regular votes was completed. Without the absentee ballots, the AD had 125 seats, or exactly half.

The Alliance is headed by Francisco Sa Carneiro, 45, a liberal Social Democrat, who is certain to become the next prime minister of a coalition government composed of non-marxist Social Democrats, Christian Democrats, and monarchists. Observers interpreted the election results as not so much a decided shift to the right but as an expression of the wish for political and economic stability after years of revolutionary turmoil. This mood appeared to be reconfirmed on Dec. 16 when, in communal and regional elections, the AD also picked up about half of the votes (48%). The big loser was the Socialist party of ex-premier Mario Soares, which fell back from 33% to 27% of the vote. (In the national elections, the Socialists did remain the single largest party, with 74 seats and also 27% of the vote.)

Spain: Parliament Approves New Labor Law

With the votes of the ruling government union UCD and the Socialists, the Spanish parliament has adopted a controversial new labor law, which is seen as the centerpiece of Madrid's social policy program. In essence, the "workers statute" updates laws dating from the Franco era, adapting them to a market economy and taking into account the existence of free trade unions. Its passage had been violently opposed by the Communists, but their own proposals were resoundingly defeated.

The statute shows great similarity to labor legislation elsewhere in western Europe and also has been drafted with a view to Spain's eventual membership in the EEC. The composition and election of the works councils as provided by the law hardly differs, for instance, from the German rules. In medium-sized and large enterprises, several candidate lists may be established; whenever there is only one list, the candidates have to announce their union affiliation. Works council members may not be dismissed for at least one year after their membership has ceased.

The law further provides for a standard 43-hour workweek, and it also regulates overtime remuneration. Contracts of a fixed duration (say, six months) are permitted so as to allow businesses to hire workers on a temporary or

Labor Law
(contd.)

seasonal basis without fear of not being able to dismiss them. The statute does, in fact, make it easier for employers to implement layoffs for general economic or internal technical reasons - for instance, in the case of technological conversions within the company. Negligence can also be a reason for dismissal. In the event that a labor court declares a dismissal to be unjustified, the employer is not required to reinstate the individual, but he has to pay severance compensation, which is generally higher than that customary in other European countries.

During the Franco era, workers did not have the rights to freely organize themselves in unions and to strike. On the other hand, it was also nearly impossible to dismiss contractually employed workers. As a result, many people were not given employment contracts and did not receive unemployment compensation upon dismissal. Also, it was always possible to fire people at any time for political reasons.

EURO COMPANY SCENE

Peat Marwick/
Türklitz

In a much-noted decision, Germany's Federal Supreme Court has rejected an appeal by Peat, Marwick, Mitchell & Co., the international accounting group, against a decision by a Frankfurt appellate court awarding DM 5 million in damages against the firm for giving "incorrect advice" to one of its clients (Case No. VII ZR 307/78 BGH). The payment to be made by Peat Marwick will probably be in the area of DM 6.5 million, it was reported, because of legal costs and accrued interest.

The damage claim had been filed by A. Türklitz Grundstücks KG, Berlin, in connection with the February 1975 purchase of a financially troubled electrical retail company, Bieberhaus, Frankfurt, for DM 4.5 million. Türklitz then made further capital infusions totaling about DM 30 million until Bieberhaus's subsequent liquidation. In its damage suit, the plaintiffs said that Peat Marwick had given an explicit purchase recommendation after wrongly estimating the Bieberhaus figures. In the meantime, four more Türklitz actions totaling DM 33 million are still pending against Peat Marwick before a Frankfurt court. Türklitz is partly owned by Britain's United Drapery Stores (UDS).

Wang

Wang Laboratories, Inc., of Lowell, Mass., the computer technology company, plans to set up a £37-million plant in Limerick, which would be one of the most advanced electronics projects in Ireland and is to employ 1,600 people by 1987. The company said it needs to establish a production base outside the United States in view of the large European demand for its products.

Common Market Reports

EUROMARKET NEWS

Issue No. 572 *January 3, 1980*

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Community: EMS, Lomé II, New Parliament Made Headlines

Although the new European Monetary System got off to a late start last March, it has so far largely fulfilled its intended role by bringing more stability to the member countries' currencies by lessening the chances of currency speculation. This was demonstrated especially in September, when the finance ministers and central bank governors of the eight member countries (the U.K. is not part of the EMS) adjusted exchange rates to reduce speculation against the D-mark. At a time when oil price boosts and the U.S. dollar's depreciation brought major changes to international markets, the eight currencies of the EMS remained virtually stable in relation to one another. Nine and a half months is, however, too short a time to judge whether the EMS has progressed toward the other goals of reducing inflation and bringing the member countries' economic and monetary policies closer together.

The Community also is taking pride in its part in launching Lomé II. The new five-year pact, which on March 1 will replace Lomé I, raises Community aid to the 57 African, Caribbean and Pacific countries to 5.6 billion UA ($7.4 billion), an increase of 62%. Most of this aid will be used to offset part of the losses that ACP countries might incur in export earnings due to dropping prices of raw materials.

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Community *(contd.)*

Also under Lomé II, the list of raw materials is broadened to include, among other things, copper and tin.

The Community and the Member States successfully wound up the multilateral trade negotiations with 90 other countries that are parties to GATT. Last February, Community and Portuguese officials started discussing the terms of Portugal's joining the Communities, the EC-Spain talks moved to main issues, and the foreign ministers of the Nine and Greece set Jan. 1, 1981, as the date of Greece's entry.

Looking at the legislative side, the Council's adoption of the life insurance directive laying down uniform minimum standards for life insurance companies represents a major step toward realization of a common life insurance market. The Council also adopted a directive to harmonize Member State laws to guarantee employees' back pay if the employer goes bankrupt. Several pieces of environmental legislation were approved by the Council, among them the directive to control new chemicals and the directive to reduce pollution of rivers and lakes by banning the discharge of particularly dangerous substances such as mercury and cadmium.

The Court of Justice broke no new ground in 1979, but it remained active in striking down barriers to intra-Community trade that several States had erected to protect domestic industries or farmers. It removed another of the remaining barriers to the right of establishment and freedom to provide services by reiterating its doctrine developed in *Binsbergen* that Treaty Article 59 became unconditionally applicable in 1962 and thus bars any discrimination on grounds of nationality or residence. The Court held that a Member State could not subject a nonresident to domestic licensing requirements when he holds a valid license from another state whose requirements are comparable to the domestic ones (Case Nos. 110 & 111/78). In *Hugin* the innovating aspect added by the Court to existing case law on competition is that even a small company may be market-dominating and thus be subject to Commission scrutiny under Treaty Article 86 (Case No. 22/78). Most important, in its Opinion No. 1/78, given last October, the Court clarified several issues surrounding Treaty Article 113, especially as to when the EEC has exclusive powers to conclude an agreement; it also settled the issue under Treaty Article 228 as to when the Commission may request an opinion from the Court.

The new European Parliament, directly elected in June by voters in all Member States, already has demonstrated that it is prepared to show more muscle in budget disputes with the Council than its predecessor did, even though its powers are limited. Its call to contain the cost of the common agricultural policy has received a favorable echo from many constituencies and has given support to the Commission's drive to do exactly that.

Belgium: Economic Woes Raise Questions on Priorities

Economists, businesses, and investors in Belgium are having little to be cheerful about these days - the slumping stock indexes seem to reflect the general gloom about rising interest levels, renewed price pressures, and unabated unemployment. However, most disconcerting to many is the accelerating speed with which the country is sliding deeper and deeper into debt as the result of the uncontained public deficits. The recent news of further massive foreign and domestic borrowing - in the neighborhood of $2 billion - was received with trepidation in many quarters. Central Bank president Cecil de Strijker even addressed a letter to Premier Wilfried Martens, warning him of possible consequences and urging the government to drastically curb expenditures. From 1975 to '79, De Strijker pointed out, Belgium's public debt rose from 5.8% to 9.6% of GNP. Per capita, this debt is now nearly twice as high as the European average. Nevertheless, the 1980 budget again projects a hefty spending rise of 8%.

Martens' five-party coalition, which took over last April from a half-year caretaker administration, is judged to have far too little political maneuvering room to steer a tough and decisive economic course. Its broad composition was necessary to solve what is purportedly the country's main challenge - the creation of a federal system of government, with partial autonomy for Flanders, Wallonia and Brussels. There are, however, many factions who criticize the politicians' preoccupation with the state reform project. They say that it is far more important to come to grips with the public deficit problem, high unemployment (7%), and the country's vulnerable industrial structure. They are worried about the fact that Belgian wages today are the highest in the EEC and that the government was the first in Europe to favor the general introduction of the 38-hour workweek during the course of this year.

Britain: Conservatives Moving Fast on Policies

The U.K. Conservative government under Prime Minister Margaret Thatcher, in power since May 1979, has rapidly moved to put its electoral promises into effect and to impose its economic and political philosophy on both sides of industry. While the unions' reactions could be anticipated, there are even among employers signs of dissatisfaction with some of the stringent measures emanating from the Conservative commitment to monetarism as the principal method of regulating inflation and controlling the economy.

The most recent example of this commitment has been the increase of the minimum lending rate to 17%, which means in effect that businesses will have to pay at least 20% interest on loans. This is certain to result in bankruptcies and, consequently, higher unemployment, while another real hardship to individuals is caused by a mortgage rate of 15%.

Britain
(contd.)

A recent survey by the Confederation of British Industry shows that manufacturing companies are not very hopeful about the prospects for industrial activity in the next few months. The strike record last year was the worst since 1926, and there has been no significant increase in productivity. Trade Secretary James Prior warned that unemployment is likely to get worse, but not as a result of government action, and he stressed the importance of creating new jobs. However, industry feels that so far little has been done to provide any real incentives for investment.

The increase in the rate of VAT to 15% has eroded most of the benefits from the tax cuts in the Budget and has fueled inflation to its current rate of 17.2% (end of October 1979), although government forecasts are for a somewhat lower rate of 14% for 1980. The Treasury concedes that, in difficult world conditions and with a recent history of rising inflation, the U.K. economy is likely to experience some decline this year. "The priority in economic policy is to counteract inflation by adherence to a declining path of monetary growth combined with the necessary fiscal restraint."

It is anticipated that this policy will bear fruit in 1980, but "during the period of adjustment to a lower rate of inflation, some adverse effects on international competitiveness, profitability, and personal real incomes are almost inevitable." The decisions of the coal miners and the Ford workers to accept pay raises of 20% have been officially hailed as victories for common sense, but there are many who believe that these increases are far more than Britain can afford.

Denmark:
Government
Retreats on
Crisis Package

Only half a month ago, it seemed as though Denmark would start the new year with yet another political crisis and new elections as a result of irreconcilable disputes over the country's economic course in 1980 and '81. However, the Anker Jörgensen government chose to retreat from some of its more radical proposals, thus clearing the way for a tenuous consensus among the political parties. The major concession involved the dropping, for the time being, of a proposed obligatory employee profit-sharing plan and union-controlled investment funds. In order to placate the unions, which had insisted on profit sharing in exchange for incomes concessions, the government has agreed to allow higher pay increases in 1980 than originally planned.

As it now stands, the revised economic plan includes broad price and incomes restraints and higher wealth, property and corporation taxes. Employment incomes are expected to rise by some 10% instead of 14% and more this year. Also, the government was forced to weaken some of its fiscal proposals. Observers say that the impact of the package

Denmark *(contd.)*

should reduce Denmark's payments deficit to only 11-12 billion kroner annually, which would not be too far below the estimated 14-15 billion accumulated in '79.

France: Outlook Marked by Cautious Optimism

In looking back to the year 1979, many Frenchmen may have misgivings over the fact that, once again, no dramatic economic progress was achieved as the Barre government continued on its generally restrictive course. There is recognition that Raymond Barre, the architect of French economic policy, has fallen short of his aim, announced in 1976, to return the country to economic health within three years. However, given the oil price crunch and other imponderables, France is probably in a better position now than in '76 or even in 1973-74, when the first world energy crisis erupted. The CNPF industrial federation, not normally one to exude excessive optimism, recently acknowleged that the economy is in good enough shape to weather the winter season. Its December survey said that inventories are being built up again, output is on the rise, and production capacities are shrinking to more normal levels.

INSEE, the national statistical institute, also expects investment activity to pick up, at least in the early part of the year. Investment spending in 1980 should rise by 15% in value and 4.5% in volume, even though many businesses are still hesitating for fear of overextending themselves financially or creating overcapacities. In regard to other sectors, however, INSEE sounded a cautious note: the oil price increases would have a retarding impact on private consumption, exports, and employment, particularly in the latter half of the year.

Premier Barre himself, as has been his style, said his government was unswervingly committed to the same goals as ever - currency stability, inflation reduction, and the preservation of purchasing power. The official inflation target again has been put at less than 10%, and Barre would like to see an economic growth rate of at least 2.5%, if not 3%. The premier said he was encouraged by the most recent stabilization reported for the labor market, which reflected a relatively sound status of the economy. Nevertheless, he conceded that much remains to be done to bring down unemployment from its present level of 1.4 million.

Germany: Doing Better Than Most Neighbors

The economic upturn in Germany that became quite visible during the second half of 1978 gained momentum through the first half of 1979 but slowed down thereafter. While the government's programs for economic stimulation produced the desired results, the doubling oil prices, the revolution in Iran, and the protracted nuclear energy debate at home were the primary causes of the slowdown. Still, the overall im-

Germany *(contd.)*

provement was better than that of the previous year and was supported by internal expansionary forces, notably increased investments (roughly 20% more than in 1978). Unemployment was considerably lower than what experts had predicted - 750,000 instead of 900,000. With an anticipated 3% increase in the GNP, relatively low unemployment, and low inflation, Germany did better than virtually all of its neighbors and other industrialized countries.

The generally positive picture could be partly attributed to moderate wage settlements, which left businesses with higher profits and dividend distributions. A much higher percentage of profits was plowed back into investments. Except for the costly steel strike that ended in January, there was hardly any strike activity during the year. Some credit for the economy's sound standing must go to Chancellor Helmut Schmidt, who rebuffed attacks against the free-enterprise system by leftwingers in his own party. The good rapport Schmidt has with both industry and union leaders has also considerably contributed to the fact that the business community has retained confidence in the economy.

The prospect of better profit margins combined with a good labor-management climate has also attracted more investors from abroad in spite of high production costs. On the other hand, the increased value of the D-mark, high labor costs at home, and nearly saturated domestic markets have accelerated the German investment drive abroad, especially in the United States.

The economy's generally favorable picture also has some negative aspects, however. Largely due to costlier crude oil and the increase in the value-added tax in mid-1979, prices rose gradually and the cost of living increased by almost 4% over the previous year. For the first time in 15 years Germany wound up with a deficit in its balance of payments. Most experts do not take an overly serious view of the deficit and are predicting a positive balance two or three years from now.

Ireland: 'Economic Miracle' Has Come to a Halt

The Irish "economic miracle" is thought by many observers to be over, and, following the unexpected rejection by the trade unions of the pay terms of the national understanding last May, there have been increasing problems for the government and employers. The number of 1.35 million working days lost through strike action during the first nine months of 1979 was the worst figure since 1937, although a large percentage was due to the postal dispute, which was extremely damaging to trade and tourism. Ireland's national per-capita income is still the lowest in the EEC, and inadequate internal communications and a lack of skilled labor have had an impact on the inflow of overseas investment.

Ireland *(contd.)*

Consumer prices rose by an estimated 13.5% last year - a figure unlikely to show much improvement this year - while employment was boosted by 16,000 new jobs in 1979. This count will probably be halved in 1980. A deficit of about Ŀ650 million in the balance of trade is anticipated, and the 8% borrowing target as a percentage of GNP is almost certain to be exceeded by at least 2%. A marked increase in unofficial labor disputes is perhaps indicative of the economic troubles ahead.

Italy: Making the Best of a Difficult Situation

The Italian political and economic tradition of making the best of a difficult situation was staunchly upheld in 1979, and more of the same was predicted for the coming year. Nevertheless, the situation at times seemed to be more than difficult: virtually every day, Italians were confronted with news of government crises, political scandals, soaring inflation, unabated unemployment, strikes, and acts of terrorism. Still, despite all predictions of imminent doom, the country continued to function within its means, even recording an estimated 4.3% growth rate in '79 and accumulating record net currency reserves of $38.5 billion. Production performance also was better than many had forecast: the 10.1% rise in the October index, for instance, was the steepest in 12 months and brought the average increase in the first ten months of '79 to 6.2%.

To many experts, the key tests for the Italian economy and the policy planners this year will be posed by inflation (now near 20% in annual terms), the huge public-sector deficits, and shrinking export competitiveness because of soaring labor costs. Any progress in these and other areas will depend on whether the incumbent minority government can manage to raise its effectiveness against all political odds. The Cossiga administration took office last year under the "transitional" label, and what little support it had is now slowly being whittled away by its parliamentary opponents and the trade unions. Aside from these domestic factors, Rome's position is further burdened by external influences over which it has no control - the country's strong dependence on oil imports (accounting for some three-fourths of energy requirements) and intensifying competition in world trade.

At the turn of the year, it looked as though the trade unions were girding for a major assault on the government, which most of them would like to see replaced by one that would include the Communists in some form or other. To top off a rash of labor unrest affecting nearly all sectors in December, the major union federations scheduled a 24-hour general strike for early January. The experience of the last few months has shown, however, that the rank and file are becoming increasingly wary of participating in "ideological" strike actions.

Luxembourg: Still Growing as Euromarket Finance Center

The major political event in Luxembourg last year was the June 10 parliamentary elections, which put the government into the hands of a Christian-Liberal coalition under the leadership of Premier Pierre Werner. The Grand Duchy's economy again turned in a fairly steady performance, with a probable growth rate of 2.5% and with inflation (5.2% as of October) and unemployment still being kept under control. The outlook for 1980, however, is less bright because of slower economic activity and higher price pressures in the rest of Europe. Not affected by this should be Luxembourg's growing stature as an international financial center, which now accounts for about 10% of worldwide Euromarket business. In the first half of '79, the number of banks established in the Grand Duchy rose from 97 to 108, with a balance sheet total of LF 2,948 billion.

Netherlands: No Major Economic Changes Seen

In both political and economic terms, Holland's prospects for 1980 were shrouded in clouds last month. A bitter row among the political factions over the country's participation in NATO's European missile modernization at one point threatened to turn against the government itself, even though the latter eventually prevailed. On the economic scene, the breakdown of national employer-union negotiations over a central wage agreement for 1980 cast a chill on management-labor relations in the new year. However, such pacts have occasionally failed to materialize in previous years, and the standard procedure then is to shift collective pay talks to the level of large companies and individual sectors.

Otherwise, the government's Central Planning Bureau was not too pessimistic about economic development in the Netherlands this year, although it could not, of course, predict the impact of any negative factors emanating from abroad. A distinct liability was seen in the government's struggle with widening budget deficits, and spokesmen of the banking community have warned that the massive state borrowing on the capital markets threatens to crowd out the private sector. (Last Nov. 29, the central bank raised its rates for the second time that month, putting the discount rate at 9.5% and the Lombard rate at 10.5%, both of which were the highest ever.) Originally, the Finance Minister had projected the 1980 budget deficit at 16.2 billion guilders, or 6% of the national income, but the shortfall may actually be smaller because of higher revenues resulting from the linking of Dutch gas prices to foreign oil prices. In the area of price development, Holland apparently stayed below a 5% inflation rate last year, but The Hague will have to be alert to any new pressures in the future.

Common Market Reports

EUROMARKET NEWS

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Community: Italy Takes Over Council Presidency

A change in the presidency of the Council of Ministers normally merits no special attention, but Italy's takeover of the president's chair on Jan. 1 has caused some uneasiness among observers in Brussels. The reason for their doubts is speculation that the government of Prime Minister Francesco Cossiga could fall any day. Italian officials attached to Rome's mission to the Communities do not share the uneasiness, nor do officials in the Council's secretariat. A tentative working schedule shows that there will be as many Council meetings as under the presidency of other Member States. Council officials are hoping there will be enough substantive issues or proposals on the agenda to warrant a gathering of ministers of the nine Member States.

Among the issues awaiting solutions, three are urgent and must be settled during the first three months of 1980. The first is London's demand for a drastic cut in its financial contribution to the Communities. Secondly, another budget for 1980 must be drawn up because the European Parliament rejected the first draft budget last month. The Council cannot pick up the pieces left by Parliament but must leave the redrafting to the Commission. This means that the new proposal must once again go through the elaborate procedure set forth in Treaty Article 203 *(Common Mar-*

This issue is in two parts, consisting of 184 pages. This is Part I.

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Presidency *(contd.)*

ket Reports, Par. 5021). The third urgent matter is directly related to the budget issue - Parliament's demand for genuine efforts to cut the costs of the common agricultural policy, which consumes roughly 70% of the EC's annual budget.

The Council's working groups will continue discussing various proposals, including further harmonization of national customs rules and aligning Member State laws governing the right of establishment and the freedom to provide services. Some 20 draft directives that would align national standards and thus remove obstacles to intra-EEC trade also have been taken up. It remains to be seen whether Italy will push debate of all those proposals as well as consumer and environmental legislation. To encourage or stall discussions on certain proposals is for the most part what the powers available to the Council presidency amount to. When Italy's foreign minister addresses the European Parliament on Jan. 14 in Strasbourg, the public will have a better picture of what his government plans to concentrate on during its term in the presidency.

Standards for Sulfur Dioxide Emissions

The Council of Ministers reached a consensus on Dec. 17 on the main aspects of the draft directive on health protection standards for sulfur dioxide and suspended particles in urban areas. The Permanent Representatives will have to find solutions for the remaining issues to clear the way in the coming months for formal adoption by the Council.

Once the measure is approved, the Member States would have until April 1983 to comply with the new air quality standards. However, compliance could be delayed until April 1993 if a Member State could not meet the standards. In its original proposal the Commission had proposed a common reference method for analyzing air pollutants, but the working group discussions soon bogged down when it became clear that those Member States which already used different methods of analysis (sampling or gravimetric methods) were reluctant to switch. A possible compromise would provide for a test period of five or six years during which Germany and several smaller states could continue to apply the gravimetric method while other states would use their sampling method. The data obtained from the two methods are only partially comparable *(Common Market Reports, Par. 9820)*, and thus a uniform test is needed.

Setting air quality standards cannot in itself reduce pollution. The proposed standards can be attained and maintained only by direct action at the source of emission, the experts say. Some progress in reducing sulfur dioxide emissions was made in late 1975 when the Council adopted a directive limiting the sulfur content of light oils, essentially light domestic heating oil and diesel fuel. Another proposal, still pending, would lower the sulfur content and

Emissions *(contd.)*

control the use of heavy oils used as fuel by industry and power plants *(Common Market Reports, Par. 9806)*. The Commission has been studying the problems of sulfur dioxide emissions from coal fuel so that it can make appropriate proposals in the future. These proposals would complete the overall strategy of combating sulfur dioxide pollution at the fuel source; the use of other fuels such as wood is only minimal and therefore does not warrant any action.

In Brief...

Commission officials and government representatives from Indonesia, Malaysia, the Philippines, Singapore, and Thailand have wound up their negotiations on a five-year nonpreferential cooperation agreement designed to promote closer trade and economic relations. The agreement will also contribute to the development of the ASEAN region (Association of the South-East Asian Nations) + + + The Commission has submitted to the Council a draft directive that would limit the exposure of workers to lead and its compounds. The proposal, part of the EC's job safety and health program, would affect around one million workers. In addition to passing legislation on the proposed exposure limits, the Member States would have to monitor lead in the air and see to it that workers are kept under medical supervision *(Common Market Reports, Par. 10,182)*.

Germany: Tax Cuts Favored by All Parties

The German government coalition parties and the Opposition have revealed their tax cut plans: as of 1981, individual taxpayers would pay some DM 12.8 billion and DM 16.6 billion less, respectively, and the coalition parties' concept calls for an additional DM 4.6 billion in income tax relief and other benefits as of 1982. Both plans were conceived not only to remove some of the present injustices of the tax rate structure but also to woo constituents. National elections will be held in October, and voters in three states (including heavily populated North Rhine-Westphalia) will elect new state legislatures this spring.

Under the coalition parties' plan, single taxpayers would pay a flat 22% tax on annual income up to DM 18,000 (married taxpayers, DM 36,000). Annual income between DM 18,000 (DM 36,000) and DM 60,000 (DM 120,000) would continue to be subject to progressively rising tax rates, but the rates would not rise as sharply as they do now. By contrast, the Opposition wants the flat rate, now 22%, lowered to 21%. Both sides favor increased individual exemptions and also want the first DM 600 of any Christmas bonus to be tax-exempt (the present limit is DM 400), and they want this change to be applied to bonuses granted in 1980. It is estimated that these features of the coalition parties' plan would cost the government about DM 4 billion, and the Opposition's version about DM 6 billion.

Both plans call for the introduction of an annual children's allowance of DM 800 per child, which could be claimed

Tax Cuts *(contd.)*

by each taxpayer-parent. This provision would be more equitable for all taxpaying parents, it is claimed, and thus would be different from the former general children's exemption, which favored taxpayers in higher income brackets and was therefore abolished in 1975 in favor of cash payments *(Doing Business in Europe, Par. 23,311)*. Important for the current dispute between the federal government and several Opposition-controlled statehouses would be the suggestion to repeal an amendment in the 1979 Tax Amendment Act that as of Jan. 1, 1980, entitles taxpayers to deduct up to DM 1,200 per child for the cost of child care, such as in a kindergarten. This amendment has become a bone of contention since the Opposition-controlled state administrations, for the sake of minimizing red tape, will not insist that taxpayers present individual receipts. Although it says that this would be against the law, the federal government apparently not only sees the Opposition's point but also agrees that the amendment was poorly conceived in the first place *(Doing Business in Europe, Par. 31,071)*.

Another coalition idea would have a mother receive DM 300 a month during the first six months after giving birth; this amount would be paid on top of maternity benefits *(Doing Business in Europe, Pars. 31,079, 31,108)*. In contrast, the Opposition favors raising the cash benefits to parents from DM 50 to 70 for the first child and from DM 100 to 120 for the second child.

The coalition's plan has only one proposal that would affect businesses. Existing law requires businesses to establish two separate balance sheets, one for commercial and the other for tax purposes; under the plan, the commercial balance sheet and the net-worth-tax balance sheet could bear the same figures. It is estimated that businesses would pay around DM 500 million less each year in net-worth taxes.

France: Approval for Stopgap Budget Legislation

In what was seen as another embarrassing interlude in the government's extended budget battle, the French National Assembly and Senate on Dec. 27-28 approved stopgap legislation authorizing the state to collect fiscal revenues in 1980 on the basis of last year's budget rather than the new budget. Parliament had been recalled from its Christmas recess by President Giscard d'Estaing after a ruling by the Constitutional Council that the 1980 Finance Bill, approved by Parliament on Dec. 17, was unconstitutional: the budget had been passed as a single package rather than in separate revenue and expenditure sections.

In the emergency session on Dec. 27-28, Parliament originally was to have voted on both the stopgap law and on the 1980 budget itself. However, after consultation among the floor leaders it was decided to vote only on the stopgap bill and defer the budget balloting to January.

Budget *(contd.)*

The Barre government, in the meantime, sought to minimize the situation as merely a correctable procedural error and not as a basic political problem. However, Premier Raymond Barre held talks with the leaders of the government majority, and this was followed by an announcement of the upcoming appointment of a commission that would be charged with probing budgets for possible savings. To be headed by the budget minister, the commission is to take up its work by 1981, at the latest, but perhaps even this year.

The government's voluntary agreement to set up such a body was regarded by some observers as a quiet concession to the Gaullists, partners in the government majority, who have been demanding cuts of at least FF 2 billion in the new budget. The Gaullists' persistence on this point has caused Barre in previous parliamentary votes on the budget and other issues to introduce a confidence motion. To avoid bringing down the government, the Gaullists thus were forced to support Barre despite their opposition to the issues at hand.

Paris Removes Controls on Retail Prices

Undeterred by the persistingly high inflation rate and some negative experiences in the industrial prices sector, the French government has moved to lift price controls for the retail trade as of Jan. 1. The price liberalization campaign had been lauched 18 months ago with industrial producer prices *(Doing Business in Europe, Par. 31,049)* and is to be wound up later this year with the third and final stage involving the services sector.

The latest step removes gross margin controls that the French retailers had to contend with for more than 30 years, in some form or other. Only perishable products continue to be covered by the administrative price controls - for instance, fruit and vegetables, meat and meat products, eggs, and milk products. Economic Minister René Monory last month had retail groups enter into "loyalty" agreements aimed at softening the impact of price freedom on the price picture generally. Larger store groups, for example, have pledged not to raise food prices in the next three months and to offer temporary price reductions on some goods (household appliances).

Nevertheless, consumer organizations have warned that the removal of the system of "relative trade margin stabilization" will have a shattering effect on household budgets. They recalled the situation at the beginning of 1979, when the government launched a trial balloon by freeing bread prices from all controls: within a few weeks, these prices soared by up to 33%, finally forcing Paris to intervene. Also, a recent survey by a consumer research institute showed that 40% of all retail stores are not abiding by the legal requirements on price labeling and display.

Other critics have pointed to the inflationary effect

Controls *(contd.)*

that resulted from the liberalization in 1978 of most industrial producer prices: these had climbed by an average 12.4% in the 12-month period ending in October '79, compared with an 11.3% rise in the retail price index. At present, consumer prices are rising at the annual rate of 10-11%, and the OECD has forecast an average increase of 11.5% for 1980.

So far as the government is concerned, much of this price pressure must be blamed on external factors (oil price increases) and thus should not discourage the consequent continuation of the liberalization campaign. The latter is seen as an integral part of the official effort to strengthen competition and to improve consumer protection.

Britain: Qualifications of Company Secretaries

The U.K.'s New Companies Act, likely to take effect early this year, would contain a clause requiring all secretaries of public companies to have "a professional qualification," which at present is not mandatory. A company secretary would have to have adequate knowledge and experience and also be a member of either the Institute of Chartered Secretaries and Administrators or of any of the Institutes of Chartered Accountants for England, Wales, Scotland, or Ireland, or be a qualified barrister, solicitor, or advocate. Such a change has been advocated for many years by the official accountancy and secretarial bodies.

The Secretary of the Institute of Chartered Secretari[illegible] Barry Barker, stressed that in the 1977 Stock Exchange Yearbook over half the secretaries of the companies listed did not reveal a professional qualification. He said in the future the public would have some guarantee of technical and professional ability, and the clause would also "deter boards from removing secretaries with whom they disagree, as they will not now be able to find anyone more amenable."

Barker noted that boards of directors would no longer be able to plead ignorance as an excuse for their actions, and the change also should help with the problem of insider share dealings because the first person to approach would be the company secretary. (The government has met sustained opposition from Labour members of Parliament because the new Act would not outlaw such practices, although the inherent difficulties of doing so are admitted.) The accountancy profession also should see an improvement in career prospects for its junior members, Barker said.

The Conservative MP who introduced the clause, Graham Page, stressed that company secretaries had been made responsible by statute for almost everything in the administration of companies. Failure to perform their duties correctly could result in criminal charges. Page said he hoped that the clause would obviate the complications that could arise when "unqualified people" were employed as company secretaries.

Secretaries *(contd.)*

It has been pointed out, however, that there exist about 600,000 registered companies in England and Wales, the vast majority of which are private and unquoted and many of which are being criticized for their unsatisfactory and inadequate procedures.

Italy: Drastic Boosts in Fuel, Power Rates

In the face of the worsening economic situation as a result of energy problems, the Italian cabinet met in the last days of 1979 to decide on a number of emergency measures, which probably will be followed up by other actions. As of Dec. 30, the officially controlled price of gasoline was raised by 55 lire per liter to 635 lire for regular gasoline and 655 lire for premium. This puts the price now at about $2.98 per gallon (regular). Diesel oil and heating fuel prices were raised by 48 lire to 290 lire per liter.

Electric power rates are being boosted in two stages by an average total of 15%. Also increased were telephone charges - by 44% for calls from homes and by 100% for local calls from coin telephones (now 100 lire instead of 50 lire).

To ease the mounting pressures, at least for the country's pensioners, the government has agreed to move up legal minimum pensions by 20,000 to 102,350 lire per month and to grant higher cost-of-living adjustments as well.

At about the same time, the Bank of Italy released provisional figures showing a deficit of 415 billion lire in the November balance of payments, compared with a 386-billion surplus in November '78. This would bring down the overall payments surplus to 1,854 billion lire for the first 11 months of 1979, from a 5,840-billion surplus in the same 1978 period. The Bank also reported that its net external position had dropped by 289 billion lire in November, apparently because of monetary intervention on behalf of the lira prior to the discount rate increase that month.

EURO COMPANY SCENE

Marsh & McLennan/ Bowring

British press reports last month said that the London insurance community was "stunned" by the announcement that Marsh & McLennan, New York, the world's largest insurance broker, is considering making an outright takeover bid for Britain's C.T. Bowring & Co., one of the major insurance brokers in the U.K. Talks between the two groups over a possible formal association have been held for about half a year but the Bowring management felt that none of the proposals made so far would have been acceptable to its shareholders. It was estimated that Marsh could make an offer of more than $440 million, which would be a record for such a transaction in this industry.

Titech/ Belgium

California-based Titech International and the Belgian government have agreed to set up a $24-million joint venture in Belgium for the production of high-technology titanium castings. The new company, Titech Europe SA, will be located in the Charleroi region and is to be operational by 1981.

Siemens/ FMC

Germany's Siemens group has achieved agreement in principle with FMC Corp., Chicago, to purchase the latter's semiconductor products division, located at Broomfield, Colo. The price of the deal was not disclosed.

Ago/ Life Investors

The Dutch insurance company Ago Holding is purchasing 1 million shares in Life Investors, an insurance company based in Cedar Rapids, Iowa, for $35 million. Ago also has the option of purchasing an additional 2 million common shares and 2 million preferred shares.

KHD/ AMC

Klöckner-Humboldt-Deutz AG (KHD), the German engineering and commercial vehicles group, plans to start production of air-cooled diesel engines in the United States this year. For this purpose it has purchased from American Motors Corp. an assembly plant located in Richmond, Ind. KHD said the plant will require an initial capital investment of more than $50 million, including the purchase price. By the mid-'80s the U.S. plant is to turn out up to 40,000 engines annually.

V&D/ Cole National

The Dutch retail group Vroom en Dreesmann (V&D) plans to purchase a 14.5% stake in Cole National Corp., of Cleveland, Ohio, also a retail group. On the basis of the current share price, the transaction would be valued at $5.5 million. Cole operates more than 1,500 stores throughout the USA and reported net sales of $145.6 million for the 1978-79 business year.

Tube Investments/ GE

Britain's Tube Investments has sold back to the United States' General Electric Co. its 51% share in an industrial electrical venture (motor control gear, switchgear) in which GE is the other partner. The price was given as $20 million. The joint venture was formed 15 years ago, but Tube said it no longer fit in with the company's main activities in steel pipe, metals, domestic appliances, and cycles.

Common Market Reports

EUROMARKET NEWS

Issue No. 574 *January 15, 1980*

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Community: Major Change in Lower-Court Proposal

The Council of Ministers working group discussing the proposal calling for the establishment of a lower tribunal to handle disputes between Community institutions and their employees has considerably edited the European Commission's original draft. The Commission had proposed that the tribunal consist of three judges. The Court of Justice would select one of these three as the tribunal's president, who would have to have legal training. The other two members, who would not necessarily have to have such training, would also be chosen by the Court from lists presented by the institutions and the staff committees representing Community employees.

The working group's version would have the Council rather than the Court appoint the tribunal president and the two other judges. The reason for this change is that the tribunal is to be set up under a regulation, and under Treaty Article 189 only the Council and the Commission may adopt regulations. Furthermore, the proposal would also amend the Staff Regulation of Officials and Conditions of Employment of Other Servants of the Communities; only the Council has the power to amend this regulation.

There is basic agreement on the procedural aspects of

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Court *(contd.)*

the tribunal (among them that any Community employee could plead his own case and that the tribunal's decision could be appealed to the EC Court on questions of law). Differences exist, however, over the way in which the two lay judges are to be chosen. Italy and the Benelux countries believe that the tribunal should resemble the Court of Justice as closely as possible since the tribunal's sole task would be to relieve the Court of Justice of some of its work load. The four states argue that it would be detrimental to the tribunal's impartiality and public image if the lay judges would have to rule on actions brought by colleagues. (The European Parliament also expressed misgivings on that point in its opinion on the measure.) Therefore, they urge that the judges have full legal training that would enable them to sit on the bench of any national court in their home state.

A majority of the Member States, among them France, Germany, and the U.K., believe the tribunal should not only relieve the EC Court of some of the work load but it should also provide Community employees with an improved procedure to settle disputes with the employing institutions. They argue that justice could be better served if an employee could have his case tried by two courts rather than by just one. Both the Commission and the Court of Justice support this line of thinking. There is optimism in Brussels that if the working group is unable to find a compromise, the Permanent Representatives will.

Panel Suggests Procedural Improvements

The recommendations made by a three-man panel to adjust the setup and procedures of the Community institutions are now being studied by the Commission, the Council's secretariat, and the national governments. In December 1978 the European Council entrusted three well-known, independent experts with the task of recommending adjustments in the procedures of the various EC bodies, especially with a view toward further enlargement of the Community. The panel members are Holland's Barend Biesheuvel, the U.K.'s Edmund Dell, and France's Robert Marjolin, referred to as the "three wise men."

Actually, the major causes of the present shortcomings in the functioning of the Communities are attributed not so much to mechanisms and procedures as to economic difficulties and differing interests and views among the Member States. In their 120-page report released last October the three experts concentrate on suggesting practical steps to improve the efficiency of the Community institutions.

Of particular interest are their recommendations made with respect to the European Council, the Council of Ministers, and the Commission. According to the report, the creation of the European Council, not provided for in the Treaty of Rome, was in itself a pragmatic response to the Community's institutional difficulties. The Council is

Improvements *(contd.)*

considered to have become an effective source of political guidance. Still, the authors see considerable room for improvement in its relations with the Treaty-based institutions. They suggest that the European Council, in collaboration with the Commission, adopt before 1981 a master plan of priorities indicating the Community's main tasks and the direction it should take.

The work results of the Council of Ministers and its subordinate bodies (the secretariat, working groups, and the Permanent Representatives) do not match the efforts deployed, according to the experts' report. It has become impossible to handle the work load, the experts say, and there is also a lack of coordination among the subordinate bodies. To solve these problems there would have to be a clear definition and more efficient execution of the responsibility of the Council's presidency. The experts believe the Council should concentrate on political issues; it could reduce substantially its work load by delegating more legislative powers to the Commission. Working groups are frequently left to their own devices, and progress on particular proposals is often hampered by the fact that an individual delegation has not received instructions from its government.

The panel sees a decline in the Commission's role and authority in recent years. It urges that the Commission's various functions - as initiator of legislative proposals, watchdog for the enforcement of the Treaty and secondary Community legislation, and manager of Community policies - be made more effective and better adapted to current circumstances. The preparation and handling of proposals harmonizing national rules need more careful planning, according to the experts. The proposals, which seek to establish common standards for individual products, represent the biggest share of the Council's work load. Two-thirds of the proposals presented by the Commission before 1976 were in the field of harmonization, and 30 drafts have been under discussion for six years or more. The Commission's greatest single contribution to relieving the work load carried by the EC institutions would be to reduce the overall flow of proposals.

In Brief...

The Austrian government wants the EC to help pay for the expansion of the north-south expressways that cross Austrian territory and connect West Germany with Italy. Vienna has sent a memorandum to this effect to the Commission. Although the tax on foreign trucks introduced in 1978 was designed to help offset the cost of road maintenance and expansion, Austria believes that Greece's future EC membership will require additional efforts to improve third-country transport links between the Community's major Member States + + Taking the first step toward regulating the use of fluorocarbons in the Community, the Council has reached agree-

In Brief *(contd.)*

ment on a decision that would commit the Member States to pass the necessary measures by Dec. 31, 1981. National industries would be required to reduce the use of chlorofluorocarbons as propellant in aerosol cans by at least 30% compared with 1976 levels.

France: Paris Reacts to Latest Oil Price Boosts

The French government on Jan. 3 announced a series of measures intended as economic adjustments to the latest round of OPEC oil price increases. Aside from boosting the administered prices of virtually all types of fuel, Paris allocated new credit facilities to businesses for the purpose of stimulating investments, exports, and hiring. About 6,000 Frenchmen in the lowest income groups are to receive a one-time allowance to ease the inflationary impact of the oil price increases. Additional investment funds are to be set aside for the nuclear program of the state energy agency, Electricité de France (EDF).

Paris will make available a total of FF 7.5 billion in new credit facilities or eased credit terms to businesses planning job-creating investments (FF 3 billion), additional export efforts (also 3 billion), and energy-saving measures (1.5 billion). The business community has generally welcomed these allocations, pointing out that the low-interest credit facilities offered over the last few years have now been exhausted. The interest rates of the new facilities are to be kept about 2 points below the regular commercial rates.

Instead of adjusting consumer fuel prices gradually, as was done in the past, the government this time decided to pass on the latest international increases immediately and in full. The retail price of regular and premium gasoline and of diesel and heating fuel went up by 19 centimes per liter. (Thus, within a year's time, gasoline prices were raised by 22% and 23.4%, respectively, and diesel and heating fuel prices by 37% and 47%, respectively.) Electric power rates and household gas prices went up by 10-12%. These energy price boosts were expected to add 0.8% to the average cost of living this month, for a total inflation jump in January of 1.6-1.7%.

To give relief to people in the lowest income categories, the government will pay eligible families a one-time bonus of FF 150 per child. Elderly welfare recipients will also receive a FF 150 bonus, while family allowances will be raised generally. The bonuses are to be paid out in the second half of February, just about at the time when the cost-of-living index figure for January is to be published.

The government said that, on the basis of the latest price levels, France's import bill for oil and gas should total some FF 100 billion this year, which would be FF 30 billion more than last year and twice as much as in 1978. This means that the country's export industry will have to

Price Boosts *(contd.)*

work the equivalent of three months merely to pay for the oil imports.

Italy: Conduct Code for Strikes in Public Sector

To protest the latest "lonely decisions" of the Rome government in the areas of energy price and public tariff increases, Italy's three major labor syndicates scheduled a one-day general strike for Jan. 15. (Originally, the strike was to have been staged on Jan. 23.) All employees were urged to remain off their jobs that day in reaction to the government's refusal to consult the unions about the price increases. Commentators said the Cossiga administration had intentionally sidestepped such talks (which are not statutorily required, anyway) so as to avoid having to make any concessions to the unions.

In related developments, the major syndicates achieved a consensus early this month on the issue of self-discipline *(autoregolazione)* in connection with public-sector strikes. Such a consensus apparently became unavoidable following increasingly angry reactions by the general public to spontaneous and often unauthorized walkouts that frequently paralyze wide areas of the public sector.

Under the intra-union agreement, local unions planning strike actions would first have to report these plans to the respective regional labor organizations, even when "political circumstances" would call for immediate strike action. The regional organizations would be obligated to strive for a settlement of the dispute, and only if such settlement were not possible would they give approval for strike action. The new procedure would also tend to give the general public more adequate notice of upcoming disruptions due to strikes.

The agreement ends a four-year tug-of-war over this issue among the country's large labor syndicates, but it does not cover the small "autonomous" unions, which exert considerable influence in certain public sectors (for instance, health and transport). Much will depend on the cooperation of these unions, commentators said, if the consensus is to be uniformly applied.

Germany: No Support for Insurance Ombudsman Plan

The federal regulatory agency for the German insurance industry *(Bundesaufsichtsamt für Versicherungswesen)* has spoken out against the establishment of an ombudsman for that sector. The national insurers' association had asked the agency for its opinion of the association's plan to set up such an office. Some observers believe the agency is against an ombudsman because the role he might play could possibly encroach on its own activities.

The Bundesaufsichtsamt checks on the formation and financial standing of any new insurance company and reviews

Insurance
(contd.)

the annual financial statements of each insurer. Moreover, it must approve model contracts, the conditions of insurance contracts, and any increase in premiums. The agency also accepts complaints from insurance customers and third parties and approaches a particular insurer on their behalf if it considers a complaint worth pursuing.

In the 29 years of its existence the agency has achieved a record that the insurance industry considers remarkable but that consumer organizations term poor. Last year roughly 13,000 individuals turned to the agency for various reasons; 10,000 of them were insured persons and the remainder were third parties who had failed to receive compensation or were dissatisfied with settlements offered. The agency found one-third of the 13,000 complaints to be justified. The most frequent complaint concerned disputes over coverage and the amount of the loss. Other grounds were agents' promises that the insurance companies allegedly failed to fulfill.

The consumer organizations say that the 13,000 complaints were only the tip of an iceberg, since about 50 million people in Germany are insured in one way or another. The organizations believe that many thousands more do not have the courage to complain or do not think they have a chance of success against an insurance company. This is what prompted the national insurers' association to suggest establishing the institution of an ombudsman. The association will now look for other ways to offer relief to dissatisfied customers.

Switzerland: Bern Reimposes Turnover Tax on Gold Deals

To the total surprise of the Swiss financial community, the Finance Ministry this month has made transactions in gold and gold coins subject to turnover tax, ending 16 years of tax freedom for such dealings. The tax on retail transactions amounts to 5.6%. Still, this is less than half of the 13% value-added tax imposed on these transactions in neighboring Germany, where gold coins constituting legal tender (for instance, Krugerrands) were also made subject to VAT as of Jan. 1.

The Swiss tax does not affect domestic bank-to-bank transactions, so that bulk trading by way of the Swiss gold pool (some 60% of the effective world gold trade) is not touched. Thus, South African or Soviet sales on the Zurich gold market continue to remain tax-free.

The Finance Ministry in Bern has yet to issue implementing regulations on the abolition of the turnover tax freedom for gold. However, Swiss turnover tax law allows nonresidents to reclaim the tax upon leaving the country if they present both the purchase receipt and the purchased gold for inspection to the customs authorities at the border. (Of course, in importing the gold into their own country, they could be required to pay tax again - in Germany,

Tax on Gold *(contd.)*

for instance.) Foreigners who leave purchased gold on deposit in Switzerland cannot claim a tax refund.

A spokesman for the Finance Ministry acknowledged that the federal government had no special motive for its move other than to have the treasury profit from the "interesting" gold trade. Since the measure was coordinated with the National Bank, observers assumed that the idea was also to calm private gold speculation in Switzerland.

(In related developments, it was rumored that Luxembourg will also reintroduce value-added tax on gold transactions, which had been lifted as of Jan. 1, 1978. The Luxembourg rate would be 10%.)

Spain: No Official Interference in Labor Talks

For the first time ever, Spanish employers and labor unions have negotiated a collective framework agreement without any official involvement on the part of the government. The contract covers regional and industrial sectors and was signed on Jan. 5 between the country's leading employer organization, the Federation of Employers' Associations (CEOE), and the second-largest labor organization, the Socialist-allied General Workers Union (UGT). Not party to the agreement is the Communist-dominated Confederation of Worker Commissions (CCOO), Spain's largest union, which has been very critical of the results of the negotiations.

The two-year framework agreement provides for wage increases this year between 13% and 16%, which compares with a 16% inflation rate in 1979. Pay raises could be lower in enterprises that are financially troubled or have incurred high losses in the past two years. However, these companies would have to open their books to employee representatives for verification of their status. Regularly recurring overtime is not permitted under the contract or would have to be justified by special circumstances. The number of workhours is to be reduced by 26 in 1980; further cuts are planned for the next years. Companies with more than 250 employees will have to have a union representative *(delegado sindical)* on their payroll - a novelty on the Spanish labor scene. The representatives must be given the same information about a company's activities as the works council. Every three months the works council must be informed about both the situation of the company and the respective industry sector as well as of the production program.

Portugal: Sa Carneiro's Government Takes Office

The new Portuguese government under Francisco Sa Carneiro, a liberal Social Democrat, was sworn in on Jan. 3 by President Antonio Ramalho Eanes. The cabinet is composed of nine members of the nonmarxist Social Democrats, five of the Christian Democrat Center, and one independent. For the first time since the 1974 revolution, no military officer

Government *(contd.)*

is among the cabinet ministers, and it was emphasized that the civilian character of the new team in Lisbon reflected "democratic normalcy." The Sa Carneiro administration is the sixth cabinet since the 1976 constitution took effect and the 12th since the April 1974 revolution.

The government alliance has an absolute majority in Parliament, holding 128 of 250 mandates. However, its tenure will tentatively run only until the fall, when under the constitution a new Parliament will have to be elected for a five-year term. The Sa Carneiro administration took office as the result of early elections held last Dec. 2.

EURO COMPANY SCENE

Ernst & Whinney/ Berger Block

According to British reports, Ernst & Whinney, one of the Big Eight international accounting firms, is merging its Belgian partnership with Berger Block Kirschen Schellekens, Belgium's largest domestic accounting firm. The reports said that Berger Block's clients include three of the country's 10 largest industrial companies and about 50 banks and insurance companies.

National City of Minneapolis

The United States' National City Bank of Minneapolis will be the first U.S. bank to open a branch in Budapest. An agreement to this effect was signed with the Hungarian National Bank. The Budapest branch is to become active in U.S. trade with the Comecon countries, except the Soviet Union.

Kleinwort Benson

The largest of the London merchant banks, Kleinwort Benson, plans in the future to pursue its U.S. investment fund activities independently and is now awaiting approval from the Securities & Exchange Commission to launch Kleinwort Benson International Investment, its own fund management company. At the same time, the U.K. bank is selling its 40% stake in Kleinwort Benson McCowan, the New York investment fund management firm, into which it had bought three years ago. The London bank referred to communications problems with the New York joint venture because of certain U.S. securities laws.

Schering/ Chemcut

Schering AG, the German pharmaceutical group, has made an offer to purchase all outstanding shares of Chemcut Corp., State College, Pa., for $56 per share. The transaction would be valued at about $11.6 million. With a turnover of about $16 million last year, Chemcut manufactures equipment for the production of printed circuits and employs 360.

Common Market Reports

EUROMARKET NEWS

Issue No. 575 Report No. 388, January 23, 1980

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Community: Adoption of Prospectus Directive

Having reached agreement last December on the sixth company law coordination directive, the Council of Ministers has released word of its formal adoption. The measure deals with the contents, checking, and distribution of prospectuses to be published when securities issued by companies are admitted to official stock exchanges. The purpose of the directive is to establish in all Member States minimum requirements for information to be provided prior to an official stock exchange listing in order to keep shareholders and creditors informed and to protect their interests. The information necessary for each prospectus will enable investors and their advisers to obtain an accurate picture of a company's net worth, financial situation, results and prospects, and the rights attached to securities *(Common Market Reports, Par. 1405)*.

Like the directive coordinating the conditions for admission of securities to official stock exchange listings, which the Council adopted in March 1979 *(Common Market Reports, Par. 1406)*, the prospectus directive is also expected to contribute to the development of a European capital market. The measure will considerably facilitate the admission of securities from the various Member States to stock exchanges throughout the EEC. At the present time, capital movement is hampered by the fact that the information available to potential investors is incomplete and differs from state to state. The directive would change this: the pro-

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Prospectuses *(contd.)*

spectus would have to be published either in at least one leading daily newspaper in the Member State where admission is sought or in a brochure that would be available to the public free of charge at the stock exchange of the issuer's domicile and at the bank retained by the issuer in the Member State where admission is sought. Improvement in the volume and detail of information is expected to make investing more attractive. It could also increase the number of securities offered and traded by nonresidents in a particular Member State. Three annexes to the directive describe in detail what information the prospectuses for shares, debentures, and stock certificates would have to contain.

The measure covers all securities except those issued by open-end investment funds and the national, state and local governments. Publication of a prospectus may be waived in several instances - for instance, when securities are issued in connection with a merger or takeover bid and provided that within the previous 12 months a document with information equivalent to that required by the directive was published in the same state. Publication may also be waived when shares are offered as a result of a conversion of debentures or an exchange of such debentures. The Member States have until July 1, 1983, to bring their national rules in line with the directive.

U.K. Inclined to Accept Offer in Budget Row

The British government has taken a new initiative to end the deadlock in the EC budget dispute with the other Member States. Following the visit by the U.K.'s deputy foreign minister, Sir Ian Gilmour, to the other eight state capitals, London is now reportedly prepared to accept an offer. The world crisis provoked by the Soviet invasion of Afghanistan and the impasse involving the American hostages in Iran are given as the primary reasons for London's changed position.

Third-country imports and exports play a much bigger role in U.K. trade than in that of the other Member States. The disproportionately high revenue from duties paid on these imports that flows directly into the EC budget, along with the relatively low EEC transfer to Britain under the common agricultural policy and the Regional Development Fund, are responsible for the fact that the U.K. contributes more to the Community treasury than any other Member State. London wanted to have its burden reduced by £1 billion. At the European Council meeting in Dublin last November, the government leaders of the other states suggested a reduction of £350 million. Prime Minister Margaret Thatcher rejected the offer, but her hardline attitude backfired in that it stiffened the position of the other eight governments.

In related matters, the European Commission has not yet decided how to proceed with the 1980 draft budget. Presentation of a new draft became necessary after the European Parliament rejected the proposal last December. Commission

Budget *(contd.)*

lawyers are still considering a shortcut to avoid the elaborate procedure that any new proposal has to go through. Also, the deliberations on the draft budget cannot ignore the farm price increases for the 1980-81 harvest year. Although the Council of Ministers was supposed to set the new prices before Aug. 1, 1979 (for beef before Oct. 1), it could not do so because the Commission had not yet presented its price proposals. On the other hand, the Commission must submit the 1981 draft budget before Sept. 1. A draft budget that does not take the farm price increases into account would not be realistic. The situation is further complicated by Parliament's demand that the 1981 draft budget reflect the first major effort toward controlling the cost of CAP.

Germany: Reluctance to Pass on Tax Savings

Businesses in Germany will not benefit from the full tax reduction they should receive as a result of the 1979 Tax Amendments Act, which took effect on Jan. 1 *(Doing Business in Europe, Pars. 31,058, 31,071)*. A tax research institute's survey of the draft budgets of many large and medium-sized communities indicates that businesses will pay only DM 3 billion less in business taxes instead of receiving the DM 4.7-billion reduction that the federal government had promised.

It was the latter amount that the federal or state governments were to have made available to local governments this year to compensate them for abolishing the payroll tax as of Jan. 1, 1980, and to enable them to lower the percentages applied in assessing the profits and capital taxes payable by businesses. (These taxes are assessed at the basic rates of 5% and 0.2%, respectively. The business tax is calculated by multiplying the results by the "municipal coefficient," which varies between 300% and 500%, depending on the fiscal needs of the city or town - *Doing Business in Europe, Pars. 23,385, 23,386.)* To this end, the federal government agreed to forego one-third of the business tax revenue it would have received under previous law, and it also left local governments with 15% of income tax revenue instead of the 14% that the old law granted them.

Bonn so far has played down the issue of the local governments' failure to pass on the benefits to businesses. However, the institute's report confirms a widespread feeling among German executives that many local governments intend to keep the money. According to the report, the local governments in the states of Bavaria, Baden-Württemberg, and the Saarland, which have not applied the payroll tax for years, will receive some DM 2.5 billion from Bonn and their respective state governments. It was expected that local governments in these states would lower the percent-

Tax Savings
(contd.)

ages applied in the assessment of the profits and capital taxes. The roughly 800 cities and towns in the states of Hesse, Lower Saxony, North Rhine-Westphalia, Rhineland-Palatinate, and Schleswig-Holstein that used to collect the payroll tax and will now have to manage without it may try to make up part of the loss by raising other tax percentages.

Industry associations and the chambers of commerce in Bavaria, Baden-Württemberg, and the Saarland believe that the local governments could lower the percentages by 60 points. Although the city of Munich refused to lower the coefficient, three other major Bavarian cities cut the percentage, but not to the extent expected: Nuremberg reduced it to 387 from 410, Augsburg to 410 (430), and Würzburg to 360 (375). No decision has yet been made in Stuttgart, but the city council favors a cut of 30 points from 410. There is a general nationwide trend for city councils to be more willing to ease the tax load on businesses, but the city treasurers usually favor only modest tax relief or none at all.

The treasurers of the cities along the Rhine and Ruhr rivers that relied far more on payroll tax revenue than other German communities apparently will live up to the expectations of the government and the business community. In the draft budgets so far presented, the treasurers followed the state administration's recommendations in raising the percentages applied in assessing the business profits and capital taxes.

Britain: Employment Bill for 'Fairer Balance'

The U.K. government last month published its Employment Bill, which is intended to establish a fairer balance in industrial relations, in line with the Conservatives' election promises. Secretary for Employment James Prior said that the legislation would not provide any "miracle cure" for the chronic ailments plaguing the nation's economic performance, but it would "help management to get on with the job of managing and give trade unions the chance to restore the public's confidence and their members' faith in them."

Clause 1 of the bill provides for the subsidy of balloting held by an independent trade union for calling or ending a strike or other industrial action, changes in union rules, and elections to the union executive. Clause 5 removes from the employer in unfair-dismissal cases the onus of showing that he acted reasonably in dismissing an employee. Thus, the burden of proving unfair dismissal would be shifted to the employee. This is particularly significant in view of the enormous number of claims, often considered groundless, with which the courts are confronted.

Employment *(contd.)*

Clause 6 states that a closed-shop agreement will only be effective if not less than 80% of those entitled to vote in the balloting to approve such an agreement did indeed vote in favor of it. This means that it would be much more difficult to establish a closed shop. The clause also would make compensation available for a person dismissed because of objecting - on grounds of conscience or other deep personal convictions - to being a member of any trade union or of a particular union.

The bill further lays down a new definition of lawful picketing "at or near a place of work." If someone does not work at any one place, such as a truck driver, then his place of work is defined as "the premises of his employer from which he works or from which his work is administered." This is to prevent, in Prior's words, "a repetition of those picketing excesses which so distressed the nation last winter."

The bill has met with a hostile welcome from trade union leaders and only a cautious welcome from the majority of organizations representing employers. David Basnett, general secretary of the General & Municipal Workers Union, said that it would open up a whole new area of litigation when what was needed in industrial relations was "common sense and compromise." Len Murray, the TUC's general secretary, said the bill's provisions were "irrelevant and grossly unfair" and predicted that union members would ask the opposition Labour Party for "an absolute assurance of repeal." He said the unions would try to regain, if necessary by "perfectly proper strikes," the rights that the bill would take away. The Confederation of British Industry stated the legislation would be an important step in tackling some "abuses which we have seen in recent years."

However, fears have been expressed that industrial relations in the U.K. could be severely disrupted if the legislation is passed, and many observers feel that the bill does little to attack the fundamental British problem of inadequate productivity, as in the steel industry, which is now in the throes of a crippling strike.

Netherlands: Two-Month Wage Freeze to Gain Time

In order to gain some time to reconsider the future course of its economic and social policies, the Dutch government has decreed a total wage freeze as of Jan. 10, covering even pay agreements most recently concluded. While the business community has generally supported this move, the unions have complained that they were denied the opportunity to demonstrate their "responsible attitude." The Socialist opposition leader, ex-premier Joop den Uyl, demanded an emergency debate as soon as Parliament would reconvene, on Jan. 22.

The decision for the pay freeze came after employer-union negotiations over a central wage accord for 1980 had

Wage Freeze *(contd.)*

broken down for the third time and after the Central Planning Bureau's latest economic forecast contained a very pessimistic message for Dutch industry. The CPB predicted a drastic decline of one-third in corporate profits this year as a result of rising energy and wage costs. Most affected would be energy-intensive export industries, which account for more than 40% of Holland's export volume. Rather than grow by 4% in 1980, as was earlier forecast, this volume is now expected to stagnate. The payments balance may now wind up with a minus of 2.5 billion guilders instead of a 1-billion plus, and average unemployment is seen to rise by 15,000 to 225,000.

The government's draft budget of last September had still been predicated on an economic growth rate of 2.5% and an inflation rate of 5.5-6% in 1980. The Hague now fears an additional budget deficit of 7 billion guilders, of which 4 billion would be covered by expenditure cuts, while 3 billion would have to come from private-sector savings - if necessary by way of statutory incomes curbs. The last time such a pay dictate was used was in 1976, under the Socialist-Christian coalition of Den Uyl.

The latest breakdown of collective bargaining came when the union negotiators continued to insist on pay raises of 1-2% beyond the semiannual automatic inflation adjustments. The unions also demand worktime reductions. The employers are pressing for government measures to improve their earnings, and they reject any real-term wage increases at this time. The two sides merely agree in their opposition to any state intervention in the collective bargaining process.

Italy: Slow Start for Health Service

With the beginning of this year, Italy's new health service was formally launched on the basis of Law. No. 833 dated Dec. 23, 1978. However, the project is at present receiving very little political and administrative support, so that practical progress will be minimal in the foreseeable future. Observers say the reasons for the slow start are to be found particularly at the very top, and they point out that Health Minister Renato Altissimo happens to belong to a party, the Liberals, which had voted against the reform law in '78. Implementing legislation is still pending in Parliament and in most regions, and only in the northern parts of the country have the administrators prepared the ground for the reform.

One of the objectives of the new law is to clear the jungle of competing health insurance funds. About 2.7 million people who so far did not belong to such a fund are now required to report the name of a personal physician of their choice to SAUB *(Servizio amministrativo unitario di base)*, the central administrative agency. However, the remainder of the new health service has yet to be put into

Health Service *(contd.)*

operation, so that patients often turn to their former insurance funds, many of which are already being dissolved.

The base organization of the health service would be formed by the *unità sanitaria locale* (USL), the local health offices, each of which is to serve an area with 50,000 to 250,000 people. Eventually, there are to be about 650 USLs nationwide. The standard procedure would be for a patient to consult first his general practitioner, who would then refer him to a specialist as well as the USL. The next step could then be a diagnostic medical center, a public hospital, or a private clinic under contract to the health service.

The state health service pays physicians about 16,000 lire annually per patient. This provides a very poor financial incentive for them, which, critics say, could lead to superficial treatment and, in many cases, to premature and even unnecessary hospitalization. This would, in turn, have the effect of building up the private health "industry" because the state - especially the regions - would be unable to accommodate such a large number of patients.

France: Budget Passed; Stalemate on Worktime Cuts

By once again relying on the device of parliamentary confidence motions, the French government finally succeeded this month in winning final approval for its 1980 budget of FF 525 billion. In the last week of December, Parliament had been forced to pass stopgap legislation after the Constitutional Council had invalidated the previous budget approval for technical reasons. Prior to that, Premier Raymond Barre also had deliberately used a series of confidence motions to obtain adoption of legislation despite the opposition of the Gaullists, who are nominal partners in the government majority.

In other developments, the talks between the French employers federation and the unions over worktime reductions have collapsed after 16 months. Both sides accused each other of an "all or nothing" attitude. The employers have offered a cut in annual rather than weekly worktime in accordance with industry's fluctuating order and employment situation. They want to keep overtime to a minimum and have offered additional vacation days to those employees who have a normal working record. Beyond that, they are not willing to make any concessions, pointing to the economic uncertainties facing France this year.

The unions went into the negotiations without a uniform concept. The Communist-led CGT demanded as a first step toward the 35-hour workweek an immediate reduction from 40 to 38 or at least 39 hours, and it has been supported on this by the moderate Force Ouvrière (FO) and the Christian CFTC. The Socialist CFDT and the CGC union of *cadre* employ-

Worktime Cuts *(contd.)*

ees, on the other hand, see no pressing need for the 39-hour week and would rather add a fifth week of annual leave.

The Barre administration, through Labor Minister Jean Matteoli, now plans to hold discussions with the individual unions, hoping that it can still come up with a consensus on a flexible system of worktime reductions, which is already being practiced by some companies although not legally sanctioned.

Belgium: State Reform Compromise Averts Crisis

A last-minute compromise proposal on the Belgian state reform by Prime Minister Wilfried Martens has averted what many thought would be the end for Martens' nine-month-old coalition government. Unanimously approved by the cabinet on Jan. 9, the compromise constitutes a departure from ambitious and complicated ad hoc reform plans, but it does provide for an immediate "mini-reform" that placates the Francophone parties in the government.

Under the agreement, the economic near-autonomy of the three major Belgian regions - Flanders, Wallonia, and Brussels - is to be implemented this year. (This autonomy was constitutionally guaranteed 10 years ago.) The rest of the state reform project is to be put into the hands of a parliamentary commission, which is given three years to solve all remaining problems by the end of the current legislative term on Dec. 31, 1982. Should it prove impossible to implement the total reform and pass the necessary constitutional amendments by that time, then the mini-reform will be inactivated and things will revert to the current state of affairs.

Under the latest plans, Parliament is to approve the economic regionalization by the end of February. At that point, the executive bodies of the three regions will be joined by parliamentary councils (state legislatures, in effect), which would be composed of the deputies and senators representing each region in the national parliament. These regional councils would be empowered to issue "ordinances," which would not, however, have the same weight as national laws and which could be overturned by the national parliament.

The economic jurisdiction of the three regional governments would not be completely identical. Brussels, the capital, would assume a somewhat different status: its regional government would not have jurisdiction, for instance, over agriculture and forestry. This meets the demands of the Flemish factions, who have also insisted that the transitional phase of the state reform be accomplished without any constitutional amendments.

Common Market Reports

EUROMARKET NEWS

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Community: France Charged Again Over Lamb Rules

Once again the European Commission has taken France before the European Court of Justice, this time charging that the French government is flouting the Treaty of Rome by not abiding by an earlier Community Court ruling and by introducing a levy system of its own on lamb and mutton imports. The legal action was preceded by months of efforts by Commissioner Finn Olav Gundelach, who tried in vain to reach an amicable settlement with Paris.

In September 1979 the Court held that France had violated Treaty Articles 12 and 30 by continuing to apply after Jan. 1, 1978, its national rules to block imports of British lamb and mutton imports (Case No. 232/78). The French government delayed compliance, hoping for adoption of a Commission proposal to establish a common market organization for lamb and mutton that would suit its own situation *(Common Market Reports, Par. 10,036)*. French lamb and mutton prices have always been above those in the U.K., and although the gap has narrowed in recent years, the prices charged in France in 1979 were still some 60% higher than those in Britain. What the French government wanted from its EC partners was a high-level price support arrangement, with intervention buying and payments to French farmers whenever prices dropped below certain levels.

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Lamb Rules *(contd.)*

The outcome of the proposal for a common lamb and mutton market is uncertain: the other eight Member States have refused to be pressured into giving in on the measure in return for France's compliance with the Court judgment. So far it has been an unwritten principle that any Member State must comply with a Court judgment. This principle was violated only once before - by Italy, which eventually complied with a Court decision during a second action that the Commission had brought on grounds of noncompliance.

Following the Court's September judgment, France replaced its ban with nondiscriminatory quantitative restrictions, which provide for a levy of FF 8 per kilogram on lamb and mutton imports from any Member State. Commissioner Gundelach tried to convince Paris that the nondiscriminatory system is equally illegal because discrimination is not the issue: Treaty Articles 12 and 30 forbid new customs devices and quantitative restrictions in trade between Member States *(Common Market Reports, Pars. 221, 321)*.

Community: Hopes for New EEC-Yugoslavia Trade Pact

Talks between Commission and Yugoslav officials resumed last week after the Permanent Representatives gave the Commission an improved mandate to remove the long-standing obstacles to a new EEC-Yugoslav trade agreement. Yugoslav President Josip Tito's illness and the anxiety created by the Soviet invasion of Afghanistan and the latter's impact on European security prompted the foreign ministers of the Nine to relax their rigid stand on the matter. The talks were postponed last July because Belgrade's negotiators considered insufficient the trade concessions offered by the Commission along the lines of an earlier mandate. Powerful economic interests of several Member States caused previous EEC offers to fall short of Yugoslav expectations.

The initial three-year nonpreferential agreement expired in April 1973. It was succeeded by a five-year agreement, which remained in force until September 1978 *(Common Market Reports, Par. 3865.55)*. That agreement was tacitly extended until a new pact takes effect. Under the terms of the agreement, both sides accorded each other most-favored-nation treatment. Since Yugoslavia has been incurring substantial deficits in trade with the EEC (around $2.5 billion in 1978), both sides soon realized the need for a new agreement with additional concessions for Yugoslav exports. The EEC also offered cooperation in a number of other fields, such as tourism, transport, fishing policy, and social security matters. A separate protocol was to give Yugoslavia access to the financial resources of the European Investment Bank up to a maximum of 200 million units of account *(Common Market Reports, Par. 9994)*. The topics of future cooperation were received favorably by Belgrade, but it rejected the concessions

Yugoslavia *(contd.)*

for industrial and agricultural products offered by the Community.

For more than a year the Commission tried to talk the Member State governments into offering more trade concessions by granting an increased number of Yugoslav industrial products duty-free access to the Common Market. Most of the States insisted on retaining the present system, which puts quantitative restrictions on duty-free access of some 60 products, among them shoes and other leather goods, nonferrous metal products, textiles, and several chemicals.

Yugoslavia's farm exports dropped sharply after mid-1974, when the Commission imposed a ban on beef imports in order to prevent surpluses from getting out of hand. Although this ban was later relaxed to allow baby beef into the EEC, Yugoslav farm exports never reached the pre-1974 level. While virtually all Member States favored the restrictions on imports of industrial products, France and Germany oppose a further easing of the beef import ban. This would involve guaranteeing access to the Italian market for an annual 300,000 tons of Yugoslav baby beef, a Commission-recommended figure that would have satisfied the Yugoslavs. (France and Germany are the main suppliers of the Italian beef market.)

Belgrade, in turn, has been holding out against a definite fishing agreement with the EEC because it prefers the present arrangement, which extends fishing rights to Italian trawlers in the Adriatic Sea in exchange for cash payments from the Community. The Yugoslavs fear that a long-term agreement would not be as favorable as the temporary arrangement.

In Brief...

The EEC is prepared to grant Zimbabwe-Rhodesia duty-free access for most of its exports, among them tobacco, coal, and steel. Duty-free tobacco imports into the EEC would benefit Rhodesia most because some 20% of the country's black work force is involved in tobacco growing, and tobacco exports also represent a major source of foreign exchange. The arrangement would last for one year, and after obtaining full independence Rhodesia could apply for accession to the Lomé II Convention + + + The Commission is pondering a Community tax on crude-oil imports from third countries. Like the third-country import customs duties and levies that flow directly into the EC treasury, the revenue from an oil tax would also accrue to the Community and would be spent to promote investments in new coal-fueled and nuclear power stations as well as the development of other energy sources. Members of the European Parliament's energy committee have come out strongly against such a tax and so has the German economics minister, Otto Lambsdorff.

Britain: White Paper on Changes in Engineering

The U.K.'s Committee of Inquiry into the Engineering Profession, established in 1977 by the previous Labour government, has now produced a White Paper entitled "Engineering - Our Future" (Cmnd. 7794, HMSO London). Observers regard it as the most significant contribution to the future of U.K. engineering in many years. It proposes far-reaching changes, including the establishment of a powerful statutory Engineering Authority (at an annual cost of some £10 million) and a register of qualified engineers. There would also be considerable changes in the education and training of engineers.

Secretary for Industry Sir Keith Joseph said that the government intends to treat the report with "intense seriousness" and with as much urgency as possible "within the requirements of due consultation." He estimated that the government would be in a position by fall to make legislative proposals.

The report highlights the decline in British manufacturing competitiveness and states that this must be given overriding priority in national policies, "with emphasis on developing market-oriented engineering excellence" in U.K.-made products. It would be for the new Engineering Authority to monitor the proposed changes and act as a liaison between various engineering bodies.

New academic qualifications for engineers are proposed that would constitute three different levels:

- registered engineer diplomate, involving a master of engineering degree "for those showing potential for leading the development of advanced technology";

- registered engineer, based on a bachelor of engineering degree; and

- registered associate engineer, for those who will work principally in support roles.

The White Paper proposes a system of statutory registration of these qualifications to be carried out by the new authority. Existing engineers would be included in the register "in a manner to be agreed." The Committee also says that the government should require companies to publish information about "their technical efforts," as in the United States.

The document has been given a mixed reception by professional bodies and unions, while generally being viewed with approval by employers. The Institution of Mechanical Engineers stated that it afforded no prescription for curing the basic ills of manufacturing industry, whereas the Engineers and Managers Association welcomed the recommendations. The Confederation of British Industry said the paper offered an opportunity for "critical appraisal" of the education, training, and development of engineers and ex-

Engineering *(contd.)*

pressed the "need for a close relationship between engineering degree courses and in-company training." However, the CBI had reservations about registration, since employers generally have not favored more widespread licensing of engineers.

Belgium: OECD Survey; Dismissal of Cabinet Members

Against the background of a potential government crisis and another postwar unemployment record (320,000 in early January, or 7.9% of the working population), the Organization for Economic Cooperation and Development has issued a generally pessimistic forecast for the Belgian economy in 1980. The latest annual OECD survey predicts reduced growth, higher inflation, and an expanding trade deficit. In fact, in an addendum to the report, it was emphasized that the direct effects of the oil price increases on the Belgian economy after November 1979 had not yet been quantified in the forecasts. Without counting these effects, the OECD experts concurred with Belgian experts in anticipating a 2.5% rise in the GNP by volume and a 6-6.5% increase in consumer prices this year.

Although the relatively lively activity in production investments carried over from 1979 may well continue for a few more months, the survey said, Belgian investment volume over the whole of this year should not exceed 1% (1979 = 3.5%). Public investments are expected to shrink from 7.8% to 3.5% and private investments, from 4% to 2%. This should be accompanied by a clear slowdown of the production expansion rate, from 7.4% in 1979 to about 3.5%. The OECD believes that the job-creating measures enacted since 1977 have lost their impetus by now, which should leave unemployment at the high average level of 7.7% this year. The Paris-based organization is equally pessimistic about Belgium's export performance, expecting its growth to decline from 6% to about 4%. However, the foreign trade deficit should still remain in the area of $2.5 billion because imports are likewise forecast to shrink severely, from 6.25% to 3%.

In other news, continuing controversy over the state reform project has led to a rift within Wilfried Martens' three-party coalition government, causing the ejection of two ministers and a state secretary from the cabinet on Jan. 16. The dissidents - members of the Brussels-based Francophone FDF - had refused to support the state reform compromise achieved earlier by the majority of the government parties. Their departure, observers said, was unlikely to threaten the continuation in government of the remaining two coalition partners, the Social Christians and Socialists, who jointly hold comfortable parliamentary majorities. Others disagreed, pointing out that the Belgian constitution requires an equal number of Flemish and French-speaking ministers in the government.

Netherlands: Unions React to Two-Month Wage Freeze

The largest Dutch labor federation, FNV, has scheduled protest actions for February against the government's two-month wage freeze, which took effect on Jan. 10. According to FNV chairman Wim Kok, there will be brief strikes as well as discussions about this issue during workhours. The federation, with a membership of 1.1 million, is also sending letters to parliamentarians in which the wage freeze is described as "premature and unfair."

The second-largest labor organization in Holland, CNV, which has some 260,000 members and is generally regarded as being more moderate, plans no particular protest actions. Its leader, Van der Meulen, said his union also did not support the government's move. On the other hand, however, he did not see any advantage in work disruptions, which would not serve any useful purpose, particularly in regard to the unemployment problem.

In the meantime, there have been meetings by employer, union and government representatives for the purpose of interpreting the rules applying to the temporary pay freeze. Whereas it was previously indicated that there would be absolutely no exceptions made, it subsequently was announced that registered pay agreements signed before the decree's effective date would be honored and that other, nonregistered agreements would also be allowed, provided that employers had already started paying the negotiated increments.

Germany: Smoking on Job Aired Before High Court

Employers must seek a reasonable compromise between the interests of smokers and nonsmokers on the job, according to a settlement reached between a company and an employee before the German Supreme Labor Court. The high court itself had proposed the settlement, which also states that employers must at least make certain that nonsmokers are not annoyed by smoke in rooms where they take their break. Since in the case at issue the employees took their morning and afternoon coffee breaks at their desks, the settlement also requires management to take care that the entire floor is thoroughly aired for five minutes during each break, and someone must be delegated to ensure that no one smokes during the coffee breaks. The settlement saved the high court from having to hand down a judgment in what was generally considered a test case. A decision would have had to touch on whether management should be committed to ban smoking during working hours. An affirmative answer could have had immediate legal and financial consequences for employers throughout the country, and this is what motivated the court to arrange a settlement.

The plaintiff was a draftsman, who on doctor's orders had given up smoking 25 years ago. The fact that he had all the symptoms of a heavy smoker - coughing, chronic bronchial infection, eye irritation, pressure in the heart

Smoking
(contd.)

region - was the fault of his smoking colleagues, the plaintiff charged. In the suit against his employer he demanded a separate room where he could spend his coffee breaks away from smokers. He was successful in the lower court, but the appellate court set the decision aside. In the employee's appeal to the highest labor court in the country, his attorney succeeded in convincing the justices to improve their original settlement offer in the draftsman's favor. As a result, the office will have to be ventilated before and after working hours, and the working places must be arranged so that nonsmokers do not have to work directly next to smokers. Furthermore, smokers must show some consideration of their nonsmoking fellow employees. Other employees may now invoke the settlement in disputes with management over smoking.

In a first analysis of the settlement, observers believe that the Supreme Labor Court would have to come out strongly in favor of nonsmoking employees if it had been compelled to reach a judgment. Such a judgment would have been binding for all employers. While current law requires management to see to it that nonsmokers are not annoyed by smokers during coffee breaks, there is nothing in the law that bans smoking on the job *(Doing Business in Europe, Par. 23,433A)*.

France:
Foreign
Participations
in Banks

At the end of last year, 40 out of 260 domestic banks had one or more foreign shareholders with equities of at least 3% and up to 50%, according to a report by the French Banking Association (AFB) this month. The combined participations represented less than 5% of the nominal capital of the private banks and about 8% of the total assets of these banks, the report noted.

The 8% total was made up as follows: United States, 1%; European Community, 5%; and other countries, 2%. Of the banks with foreign participations, 13 had one or more U.S. shareholders; 23 had one or more EC shareholders; and 15 had one or more from other countries. Over the last few years, the relative proportion of American participations had declined, whereas that from EC Member States had shown a rise.

The association said that with the growing internationalization of finance, France is assuming a special role because its legislation does not discriminate against foreign banks directly or indirectly operating in that country. This situation appears to reflect the hopes of the government to have Paris turn eventually into a major international finance place, comparable to that of, say, London.

EURO COMPANY SCENE

Ford

Ford-Werke AG, the German subsidiary of the U.S. automobile concern, has announced plans for its fifth German plant to be built in West Berlin with a total investment of DM 130 million. The production of plastic components for passenger cars (dashboards, door panels, mouldings) is to begin in the fall of 1981. The plant, located on a site to be leased from the City of Berlin, will employ some 700 people initially, a number expected to grow as the project expands. The finished parts are to be transported via the East German autobahn to Ford's plants in West Germany. A major incentive for Ford was a reduction by 4.5-6% of its turnover tax burden in Berlin and another 4.2% reduction for Ford-Werke in West Germany, as the buyer of the Berlin-produced components. It is the first time since the end of World War II that a multinational company of Ford's size has undertaken a new industrial engagement in Berlin.

ITT/ Ashe/ Rimmel/ Schering-Plough

According to U.K. press reports, International Telephone & Telegraph (ITT) is looking for a buyer of its British drug subsidiary, Ashe Chemicals, which it had acquired in 1972 for £8.9 million. Ashe produces slimming aids and breath capsules, and its pre-tax profits are estimated at more than £1.5 million. The sale of Ashe would be in keeping with ITT's policy of divesting itself of most of its European consumer products and food interests. Earlier this month, ITT had also sold its Rimmel International cosmetics subsidiary to Schering-Plough of the United States.

Grace/ Gill & Duffus/ Zaan

W.R. Grace & Co., New York, is negotiating with Gill & Duffus Group Ltd. of London over the sale of a Dutch subsidiary, Cacaofabriek de Zaan BV, a cocoa and chocolate producer. No agreement has as yet been reached on the price, it was reported.

Citibank

The Swiss National Bank announced on Jan. 9 that it had dropped its investigation of allegedly irregular foreign exchange transactions involving the Zurich branch of the United States' Citibank. The National Bank said the year-long probe could not establish conclusively that the U.S. bank had intentionally circumvented Swiss regulations, even though some of the activities were "hardly compatible" with these regulations. The investigation started in late 1978 after a former Citibank employee had alleged that in currency trading between various international branches, artificial exchange rates had been used to increase profits.

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Community: Commission Probes New Fiber Cartel

Lawyers in the European Commission's antitrust division are examining the amended agreement among Europe's 11 leading chemical fiber manufacturers for possible violation of the competition rules set forth in the Treaty of Rome. Brussels observers believe that the new agreement has reduced the chances of proceedings against the manufacturers because the most objectionable clauses - those on market allocation and price discipline - have been removed. These clauses, which essentially would have guaranteed Italian manufacturers increased sales in the EEC, were written into a 1977 agreement with the backing of Commissioner Etienne Davignon, but were opposed by Commissioner Raymond Vouel, in charge of competition matters.

Vouel's earlier attempts to initiate legal proceedings against the 11 manufacturers under Regulation No. 17 were blocked within the Commission because of the financial losses in the fiber industry due to excess capacities and reduced demand. Last December Vouel vowed to take the manufacturers before the Court of Justice unless they removed by Jan. 25, 1980, the clauses he found objectionable.

The new agreement still aims to reduce production capacity - especially that of the two main Italian manufacturers, Montefibre and Snia Viscosa - but the objective would be achieved through bilateral contracts committing the non-

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Fiber Cartel *(contd.)*

Italian parties to the agreement to buy Italian-made fibers as well.

Even before it was notified in July 1978, Commission lawyers doubted that the previous agreement, with its envisaged production quota and market sharing arrangements, could be reconciled with Treaty Article 85(1), which prohibits restrictive agreements *(Common Market Reports, Par. 2005)*. At that time they saw no way of granting an exemption from the ban under Treaty Article 85(3) because the consumer was not likely to benefit from the agreement, although several national governments exerted pressure to have Article 85(3) interpreted in a way that would allow an exemption from the cartel ban. The only alternative available at the time would have been to adopt a draft regulation empowering the Commission to exempt crisis cartels from Article 85(1) for up to three years after once more obtaining the Council's permission to do so. The draft was shelved, not only because several commissioners were opposed to the idea for political reasons, but also on legal grounds: Commission lawyers concluded that Articles 85(3) and 87 would have to be bent in order to provide a fairly solid statutory basis for the regulation.

Paris Objects to Plan for Lower Court

The plan to give the European Court of Justice some relief by establishing a lower court to handle disputes between Community employees and the various EC institutions is in doubt because the French government favors an enlargement of the bench instead. The chance to improve the Court's expediency by adding another advocate-general to the existing four has also lessened because of British objections.

The discussions on the two proposals were moving along slowly in the Council's working group, but Council officials nevertheless expected an early decision at least on the measure concerning the additional advocate-general. Although the Council turned down Court president Hans Kutscher's suggestion that there should be more judges and advocates-general to handle the increased workload, it eventually agreed to consider a proposal providing for an additional AG. The need for a fifth advocate-general has become even more pressing since amendments to the rules of procedure went into effect last October, allowing the Court to establish a third chamber to try cases. Even though the amendments have eased the justices' workload, the AG's problem is the same: no hearing may be held, whether by the full Court or any of the three chambers, without the presence of an advocate-general, nor may a judgment be rendered unless the AG has delivered his opinion. In fact, the AGs now have less time to prepare their opinions, because of the third chamber.

The British government is not convinced there is a real need for an additional AG at this time. It believes

Court *(contd.)*

the four clerks who started work in December have not been at their jobs long enough to show how they can help lessen the workload. London is still counting on the establishment of a lower court to hear staff cases.

The establishment of a lower court is in jeopardy if the French government adheres to its long-term plan calling for a general increase in the number of justices (from 9 to 17) and advocates-general (from 4 to 9) by the time Spain and Portugal have acceded to the Communities. Paris would go along with an additional AG to start on July 1 and an additional justice and yet another AG as of Jan. 1, 1981, when Greece is scheduled to join the EC.

Although France has not said so expressly, its government is reportedly concerned about the balance within the Court of Justice: if Greece, Spain, and Portugal each were to have one justice on the bench, the present balance would be shifted in favor of the small states, which would then have eight out of 12 justices. Under France's plan, each of the four large states (France, Germany, Italy, and the U.K.) would have two justices and so would Spain. However, Greece and Portugal, along with the other small states, would have only one each.

Court officials would regret the failure of the lower tribunal plan. Last year the Court's workload increased by 40% over the previous year, and 1,163 of the 1,322 cases on the court's docket involved disputes between EC employees and their employing institutions.

In Brief...

According to the Commission's annual farm report, milk production in the EEC is running 20% ahead of consumption, and milk market intervention cost the taxpayer an estimated 4.4 billion units of account in 1979. Almost half of the money was spent on subsidizing exports of butter and other dairy products at reduced prices to countries outside the Common Market. A further 35% was spent to buy up farm surpluses at guaranteed minimum prices in order to protect farm incomes; the cost of storing milk powder and surplus butter amounted to 16%. The report confirms that roughly 70% of the EC budget goes into the farm sector + + + Britain will be able to comply with the Court of Justice's February 1979 tachograph judgment now that the country's truck drivers voted to refrain from action against installation of the devices to record speed, mileage, and lunch and rest stops (Case No. 128/78). Such tachographs are mandatory for commercial trucks and buses in the EC as of January 1978, but Britain was granted an extended deadline to comply.

Germany: Severe Oil Crisis Would Mean Rationing

The Schmidt administration is preparing the legal groundwork for emergency steps that would have to be taken if Germany's crude-oil imports were sharply reduced. The administrative measures contemplated include a ban on weekend

Rationing *(contd.)*

driving and rationing of fuel and other products made from crude oil. The steps that Bonn would invoke in the event of a worldwide oil crisis would be in addition to the plans of the EEC and the Paris-based International Energy Agency (IEA). The government's experts say that in an emergency the country's crude-oil reserves would last for 116 days. (The EEC and IEA arrangements require minimum reserves for 90 days.) If crude-oil imports (115 million tons in 1979) should drop by one-third, Germany could go on for nearly a year without having to invoke the emergency measures. Even then, however, the government would seek to impose energy conservation measures rather than tap the mandatory reserves, which would be used only to avert damage to the economy.

Bonn is considering three bundles of measures that would be geared to the severity of the situation. (The 1975 Energy Supply Securement Law provides the legal foundation for the first two.) If crude-oil imports dropped between 1 and 15%, the government would first appeal to the public to conserve energy. If that did not work, there would be autobahn speed limits and a ban on weekend driving. (A ban on Sunday driving was imposed several times following the first oil price shock in 1973.) Industry and trucking firms would not be affected by these measures.

A 16-30% reduction in crude-oil imports would mean rationing of gasoline, diesel fuel, and light heating oil, but industry's needs would be given priority over the wishes of homeowners and motorists. Allocations to individual enterprises would be cut accordingly if there was not enough to go around.

Cuts in crude-oil imports of over 30% would be, in the government's opinion, tantamount to a warlike situation that would call for corresponding measures. Bonn would have to strictly ration all products made from crude oil. For motorists this could mean a ban on all unnecessary driving. There are still discussions within the government about how this should be legislated. Some government lawyers believe rationing could be invoked under a 1976 regulation, but others say a new law would be needed.

France: Fund Set Up to Guarantee Bank Deposits

The French Banking Association has voluntarily set up a deposit guarantee fund, which could be drawn upon in the event a member bank would be financially unable to meet its obligations to its depositors. The fund does not involve a legal guarantee; it is administered under a "solidarity agreement" concluded by the banks and is based on a complex contribution system. The guarantee is limited to FF 200,000 per depositor, and the association points out that this amount is larger than in many other countries. Examples

Guarantee *(contd.)*

given were the United States ($40,000), Britain (£10,000), and the Netherlands (25,000 guilders).

The banks' own initiative supplements the banking reform efforts launched by the government last year, which include measures offering improved safeguards for bank credits and a better distribution of credit risks. In April 1979 Paris had required the commercial banks and other financial institutions to raise the ratio of their own capital resources to lending volume to 5% as of mid-1982. (The average ratios until then were 1% for the nationalized banks and 3% for private banks, which was very low by international standards.) In addition, the government also imposed limits on large loans in relation to a bank's capital resources.

Belgium: New Cabinet Appointments Resolve Crisis

A week-long Belgian government crisis was resolved on Jan. 23 with the appointment of two new ministers and one deputy minister to the cabinet of Premier Wilfried Martens. The newcomers, two Socialists and a Social Christian, replaced three members of the Brussels-based Francophone FDF who had refused to support a state reform consensus achieved earlier by the majority of government parties. The new cabinet members are also French-speaking and thus restore the linguistic parity required under the constitution.

The most noteworthy new appointment, according to political observers, was that of Cecile Goor, a woman senator, who was named minister for the Brussels region and thus became the head of the Brussels executive. This choice was welcomed by her party, the Walloon Social Christians, which had considered itself for a long time to be underrepresented in the capital. Commentators said that the minor reshuffling of the cabinet should actually leave the Martens administration in a stronger position than before and should give it a good chance to remain in power until the next elections two years hence.

The cabinet changes were accompanied by a compromise proposal on the state reform presented by Martens and accepted by the remaining coalition partners. It extends until Dec. 31, 1984 (i.e., by another two years) the transitional period during which the regions of Wallonia, Flanders, and Brussels will set up their own parliaments (regional councils). Also, the financing of the regional governments out of the national budget is to be discontinued eventually and gradually replaced by regional revenue sources.

In other news, the Belgian central bank has reported that it was forced to commit BF 113 billion (about $4.04 billion) to the support of the franc on the international exchange markets last year.

Britain: Lords Uphold Secondary Boycott Action

The U.K. House of Lords, in *Express Newspapers Ltd. v. McShane and Another*, has reserved an earlier decision of the Court of Appeal by upholding the rights of trade union officials to take secondary "blacking" (boycott) action against an employer who was not party to the original dispute. The Lords concurred with the subjective criterion put forward by Lord Diplock that if the officials honestly believed that their action would help one of the parties to a trade dispute to achieve their objectives, then they were afforded protection from an action in tort, under Section 13 of the Trade Union and Labour Relations Act 1974.

The scope of trade union immunity thus has been clarified, and Lord Denning's test in the Appeal Court has been replaced, in which he stated that for an action to be done in furtherance of a trade dispute, and therefore to be immune from Section 13, it must have a reasonable prospect of helping one side or the other in a practical way. The House of Lords said that the courts should only intervene in exceptional cases if the secondary action had been taken out of spite or by some embittered trade union official who held an unreasonable belief that "blacking" could further the dispute.

The case involved a dispute between the National Union of Journalists and the Newspaper Society concerning the pay of journalists on provincial newspapers. The NUJ called a strike of its members working on those papers as well as its members employed by the Press Association. This was to stop the latter from supplying copy to the provincial papers, although the NUJ had no dispute with the Association. Subsequently, the NUJ ordered all of its members, including those on the Daily Express, to boycott all copy from the Press Association. Again, the union had no dispute with either party, since the Daily Express was a national rather than provincial newspaper. NUJ president Denis McShane was sued personally and as a representative of the national executive committee.

The House of Lords said that the action taken by the NUJ was "reasonably capable" of furthering the original trade dispute. However, the subjective test laid down in this case is likely to have wide implications, observers said, and will make it much more difficult for employers to take preventive action in the courts.

Italy: Fibers Deal to Aid Recovery of Montedison

The Italian government has earmarked 160 billion lire for the state-owned hydrocarbons group ENI to take over, through its synthetic fibers subsidiary Anic, the remaining 50% of Montedison's troubled synthetic fibers plant at Ottana, Sardinia, which Anic does not yet own. Montedison, which controls its 50% share in the plant through its synthetic fibers subsidiary Montefibre, hopes then to proceed with its own financial reorganization and make a major step

Montedison *(contd.)*

back to profitability. Meanwhile, a government commission set up to help organize the recovery of the Italian chemical industry has, in the aftermath of the abandonment of attempts to set up an EEC synthetic fibers cartel, arranged an agreement on production quotas between the four Italian synthetic fiber groups - Anic, Montefibre, Snia Viscosa (also partly controlled by Montedison), and SIR. The four companies have been plagued by overcapacities following a major investment program in the early '70s. The Ottana plant, the most modern in Europe when it was built, is utilized at only 35-40% of capacity today.

Montedison had previously threatened to close Montefibre entirely, which would bring about large-scale unemployment and social disruption in particularly depressed areas of southern Italy. The company claims it loses 13 billion lire a month on Montefibre, and the Ottana plant alone loses 40 billion a year. Montedison reported a loss of 256 billion lire in 1978, but it says it would pay a dividend this year were it not for its synthetic fiber problems. Now the government has struck a deal with Montedison. In return for being relieved of Ottana and on condition that Montefibre's bank creditors set up a consortium to take over a 100 billion-lire, 50% shareholding in Montefibre, Montedison will also provide 100 billion lire for its own 50% shareholding as well as put aside a 50 billion-lire reserve fund to guarantee any eventual losses on the part of the subscribers to the funding operation. Montefibre will thus be able to reconstruct its capital base to 200 billion lire, after the latter had been entirely written down as a result of the company's enormous losses.

Montedison hopes to undertake a major capital increase of between 100 and 300 billion lire this year, for which prospects are much improved by the new agreement. The capital increase hinges partly on the conclusion of negotiations with an as yet unnamed potential shareholder in the USA. Mario Schimberni, deputy chairman of Montedison, recently had talks with American industrialists and bankers on a possible dollar loan as well as U.S. participation in the company. Last year the Saudi Arabian Interedec group bought a 10% shareholding. Showing promising prospects for the future, Montedison increased its group sales by 32% to 8,000 billion lire last year, while sales of the parent company went up by 37% to 4,000 billion.

Sweden: Budget Seeks to Stimulate Exports

Sweden's center-right coalition government under Thorbjörn Fälldin has taken two new steps since the New Year to halt the vigorous expansion of public spending and to return the foreign trade account to surplus. The budget for the 1980-81 fiscal year which the government submitted on Jan. 10 is, according to Budget Minister Ingemar Mundebo, aimed at "limiting public and private consumption and creating room

Budget *(contd.)*

for expansion in the export industry." On Jan. 18, the central bank (Riksbank) raised the discount rate by 1% to 10%, citing the need to "adjust Swedish interest rates to the international level and restrict the outflow of currency."

Despite the slowdown imposed on the rate of increase of public expenditure, the government has had to propose a record deficit of 55.4 billion kronor ($13.6 billion) for the new budget, compared with 49 billion in 1979/80. (The Swedish fiscal year begins on July 1.) Only four years ago the budget deficit was only 10 billion kronor. Total public expenditure in 1980/81 will be 203.7 billion kronor, an increase over the year before of approximately 30 billion. Mundebo explained that he had cut 2% off each ministry's plans for extra expenditure, postponed some allocations to local authorities, and reduced subsidies on food and housing. The Industry Ministry, in fact, found its budget slashed almost in half, from 9.9 billion to 5.9 billion kronor, reflecting the phasing out of some of the subsidies that kept ailing industries such as shipbuilding alive in the past years of stagnation.

To reduce the load placed on Sweden's domestic credit markets by its deficit financing, the government has borrowed funds abroad, to the extent that Sweden's foreign debt now exceeds 60 billion kronor. The new budget calls for a further 10-15 billion kronor of foreign borrowing. At the same time, the trade surplus of 5.5 billion kronor in 1978 has turned into a deficit of 3 billion in 1979, and a 4.5 billion-kronor deficit is generally feared for 1980. The new budget predicts a payments deficit for fiscal year 1980/81 of 12.2 billion kronor.

The payments balance deterioration has been compounded by up to 12 billion kronor of currency outflow last year, mainly because of the higher level of interest rates abroad. The latest Riksbank discount rate increase (the fourth since July) is intended to reverse this outflow and "to provide an incentive to the private sector to contribute to the covering of the balance of payments deficit by increasing its borrowing abroad."

The government is limited in its ability to cut back spending by the fact that over 70% of total budget expenditure consists of transfer payments to the general public, local authorities and industry, which automatically increase year by year in pace with inflation (currently running at between 8 and 9%).

Common Market Reports

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Community: Breakthrough on Fisheries Policy Item

After a three-year standstill in its efforts to launch a comprehensive common fisheries policy, the Council of Ministers achieved a major breakthrough in the field of conservation and management of resources on Jan. 29, when it reached a consensus on a regulation that would lay down the total allowable catch in Community waters for 1980. It also agreed in principle on the introduction of a catch reporting and control system, and it consented to fisheries agreements negotiated by the Commission with Norway, Spain, and Guinea-Bissau.

The EEC has been trying since 1976 to launch a common fisheries policy and to include in the common market organization for fisheries products a system for the conservation and management of resources *(Common Market Reports, Pars. 745, 761)*. The U.K., the Community's No. 1 fishing country, held out against an agreement because it did not want to sacrifice its rights and interests. Since Britain still insists on exclusive rights for its trawlers within a 12-mile zone and preferential rights within a 50-mile zone, an agreement has yet to be reached on issues such as national quotas for individual types of fish, stock conservation, access, and structural measures for small trawlers and small fish processors. Nevertheless, the breakthrough

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Breakthrough *(contd.)*

has made Council and Commission officials optimistic about a full-fledged common fisheries policy.

Under the tentative agreement, the Member States agree to report to the Commission by the fifteenth of each month the total volume of catches made in the previous month. (This rule applies retroactively from Jan. 1.) As of July 1, trawler captains will have to keep a special log to record all catches landed as well as the transfer of fish to other vessels at sea. Detailed rules for applying the recording system will be adopted by the Council on the basis of a Commission proposal that will be submitted soon. A management committee, similar to those established for each of the major farm product market organizations, would help the Commission draft the rules. The recording system will give the Commission an accurate picture of what is being caught and will enable it to verify whether the total allowable catch is being exceeded. However, in the absence of national quotas, the Commission will not be in a position to impose sanctions against a Member State that has exceeded its quota.

Policy Review on Removal of Trade Barriers

In a report to the European Parliament on the removal of barriers to trade, the European Commission says it must review its activities in this area, especially with regard to guidelines, priorities, and procedures. Since the EP must give its opinion on each draft directive aimed at removing barriers to intra-EEC trade, the Commission hopes its report will bring about better understanding of its proposals. The EC executive also expects to start up discussions with the EP about the fundamental aspects and problems inherent in the removal of trade barriers.

The Commission believes it cannot go on as it has in the past, when it devoted practically all of its efforts in this sector to the removal of barriers based on the various national laws, regulations, and administrative provisions. To do a complete job here would require several thousand directives, according to the Commission. Over the past 15 years the Council of Ministers has adopted roughly 120 directives, mainly concerning automobiles, measuring instruments, textiles, drugs, cosmetics, and toxic substances. Another 50-odd measures are pending.

The EC executive does not have the manpower to proceed against each barrier; more and more Commission officials are occupied with enforcement of adopted directives and their adaption to technical progress. (Nearly 250 infringement actions are pending against Member States.) Although the Commission remains deeply committed to establishing a genuine common market for the benefit of both consumers and businesses, it will have to identify the priorities, and in making this decision it will have to be led by those areas of industry where action is most urgent.

Trade Barriers *(contd.)*

The Commission believes that efforts should be made to prevent the Member States from erecting new barriers. Here the Commission is counting on indirect help from the Court of Justice. Last year the Court held that any new product legally manufactured and sold in a Member State must be, as a rule, admitted to the market of any other State. Even if national rules do not discriminate between domestic and imported products, they may be invoked only if they are necessary to meet mandatory requirements and are in the general interest, with that interest taking priority over the free-movement-of-goods principle (judgment of Feb. 20, 1979; Case No. 120/78).

Some experts believe the Court's broad interpretation of Treaty Article 30 would give the Commission added ground to take to Court those states that have violated Treaty rules by allowing their industries to establish their own standards, thus creating obstacles to intra-EEC trade. However, the Commission does not see it that way. It reportedly is of the opinion that the States' national standards usually are not deliberately designed to shut out competition but are to serve worthy aims such as rationalization, quality improvement, protection of workers and consumers, and energy conservation. The Commission proposes that national officials responsible for standardization coordinate their activities. Coordination could anticipate and possibly eliminate difficulties encountered by manufacturers exporting to a particular Member State. The Commission sees two ways of eliminating these problems - harmonization of national standards through Council directives, or reciprocal recognition of inspections carried out in other Member States.

In Brief...

The Community and Turkey have agreed to revive the 1964 Association Agreement that had been stalled by the Turkish government for several years because Ankara could not meet its commitments due to domestic economic difficulties. EEC and Turkish officials will negotiate amendments to the agreement, so that the Turkish economy can better withstand competition. The ultimate goal of the treaty would be to prepare the ground for Turkey's eventual membership in the Community *(Common Market Reports, Par. 5346)* + + + In addition to its grain embargo imposed against the Soviet Union out of solidarity with the United States, the EEC has also stopped selling subsidized butter to the USSR and the other East Bloc countries. The satellite countries were included in the ban to prevent the Kremlin from circumventing it. The grain embargo may not really amount to much since the Soviet Union did not buy a great deal due to the EEC's farm prices being more than twice as high as world market prices. However, the butter sales embargo may be felt more: last year the EEC sold some 140,000 tons of subsidized butter to the Soviet Union.

Germany: DM 13-Billion Coal Processing Plan Announced

Following up on its policy to reduce the country's dependence on crude-oil imports, the German federal government has announced its program for the liquefaction and gasification of domestic coal. The plan calls for investments of DM 13 billion to be made in the next 13 years. In 1980-81, DM 70 million would be spent on preliminary studies for large plants that would eventually be built to turn domestic coal into oil, gas, and gasoline. Fourteen large coal processing plants would be constructed in the Ruhr and Saar districts, the country's main coal mining areas. The plants should be in full operation by the mid-1990s, by which time their output would be expected to cut crude-oil imports by some 3%.

Private firms have so far received about DM 650 million to develop the necessary modern know-how in small pilot plants. Several of such plants are already in operation, and at least two more are planned. The know-how that Germany acquired during WW II, when roughly 80% of the armed forces' fuel needs were met by liquefaction, has been helpful but is still not enough. Efforts are continuing to find ways to reduce the cost of investments as well as the operating costs of coal-processing plants. For example, it has been estimated that the Ruhrkohle Corp.'s planned coal-processing plant, which would convert 6 million tons of coal into 2 million tons of oil and gasoline annually, would cost almost DM 3.6 billion; a crude-oil refinery with the same capacity costs around DM 240 million. Based on current prices, it is estimated that a liter of gasoline processed from coal would cost DM 0.30 more at the gas station than gasoline from crude-oil.

The liquefaction program cannot be realized without more coal. Ninety million tons of coal are being mined in Germany annually, and the government estimates that an additional 22 million tons would be needed for processing each year by the 1990s. The additional requirements can be met by expanding the capacity of domestic mines. Imported coal, especially from the United States, is cheaper than domestic coal, but so far the government has resisted pressure to raise imports above the current annual 1.1-million-ton quota.

Italy: Finance Law Delay Causes Budget Problem

The prolonged political dispute in Italy over the government's draft of a new finance law is preventing the Cossiga administration from completing its 1980 budget, which is long overdue. In effect, the government finds itself in the situation of having to manage the state finances without a definitive legal foundation.

The finance bill submitted by Finance Minister Franco Reviglio last Sept. 30 should have been passed by Parliament by the end of 1979. It is based on the budget reform

Budget *(contd.)*

law of 1978, which obligates the government to handle current expenditure in line with short-term economic policy requirements. The finance bill thus aims for greater flexibility and transparency of the state's spending policy in order to improve financial efficiency and to make it possible to "plug any holes when and wherever needed," as one commentator termed it.

These aims, according to many critics, are being defeated by the sheer volume and complexity of the proposed measures and regulations, which are detailed in 88 separate articles. The Senate budget committee has been meeting this month to deal not only with hundreds of proposed amendments but also with the changed economic conditions since the bill's inception. Whereas industry has performed better than forecast, the inflation rate has accelerated by an unexpected degree, with obvious consequences on wages and tax revenues. This is of particular significance with regard to those parts of the bill which deal with anti-inflation measures and the proposed 40,000-billion-lire limit on public spending in 1980.

At the first meeting of the Senate committee, it was reported that Italy's budget revenues last year totaled 51,915 billion lire, which was slightly better than had been calculated last October. About half of the total originated from direct taxes, 31.1% from indirect taxes, and 13.8% from special levies on production and consumption as well as from custom duties. These results have caused the government to add another 1,700 billion lire to its earlier 1980 revenue projections of 60,321 billion lire.

Britain: Lords' Ruling in Search & Seizure Case

In *Commissioners of Inland Revenue v. Rossminster Ltd. and Others*, the U.K.'s House of Lords has overruled a Court of Appeal decision that the seizure of various documents in an Inland Revenue raid on the Rossminster Financial Group was void because the warrants used were not sufficiently particular. The Lords said that the tax officials had been authorized to search for and seize anything that they had reasonable cause to believe might be required as evidence of tax frauds. It was impractical, they said, to be more specific at that stage of the investigations because of the complexity of the official inquiries.

Although Parliament had given the Inland Revenue wide powers to enter people's homes, it also imposed substantial safeguards, the Lords pointed out. First, no action could be taken without the personal approval of two senior members of the Inland Revenue Board. Secondly, no warrant to enter could be issued except by a circuit judge. (It would be quite wrong to think, the Lords said, that the judge would simply act as a "rubber stamp" on the Revenue's application.) Thirdly, the judge must be satisfied that

Ruling *(contd.)*

there was sufficient material to justify such an entry. The House of Lords held that the entry and manner of search had been lawful and that, in any case, the correct method of challenge would be through a civil action for damages in the courts after any possible criminal proceedings.

U.K. Study on Closed-Shop Agreements

In view of the proposals in the recently published Employment Bill, a survey conducted by members of the London School of Economics (and financed by the U.K. government) about the extent of "closed shop" agreements in British industry is considered of particular interest. The survey shows that at least 5.2 million employees, or nearly 25% of the country's total workforce, are members of a closed shop - an increase of some 35% over a span of 15 years.

The highest proportion of closed shops is reported in mining (87%); the national utilities (80%); paper, printing, and publishing (66%); building and engineering (57%); transport and communications (56%); and metal manufacture (50%). By comparison, at the other end of the scale, those industries which have the lowest proportion of closed-shop arrangements are the distribution trades (15%); instrument engineering (10%); insurance, banking, and business finance (5%); and, least of all, professional and scientific services (3%).

France: More Emphasis on Energy from Coal

As part of efforts to reduce dependency on oil, the French government envisages an increase in industrial coal consumption from the present level of 3 million tons annually to 20 million tons in 1990. The increase will necessarily be entirely covered by imports, which are scheduled to rise to 40 million tons within 10-15 years from the 26-million-ton level of 1978. At present France imports 8.7 million tons from West Germany, 8.3 million tons from South Africa, 4.4 million tons from Poland, and 2.3 million tons from the USA. The country's own coal resources are nearly depleted and operate unprofitably. Extraction costs are about double the price of coal on the world market. Charbonnages de France (CdF), the state-owned coal mining group, has reduced its output to 20 million tons from its 1958 production level of 59 million tons. It plans a further reduction to 15 million tons by 1990-95.

CdF is using its limited financial means to purchase minority stakes in coal mines in several countries, aiming to cover the majority of France's coal import needs directly in this way. The company already owns participations in Australian and U.S. coalfields of 25% and 15%, respectively. Negotiations are nearly complete for a joint purchase of 10% of the British Columbian mine "Quintette" by CdF and Cogema, another French state-sector firm. Further plans include buying into a Wyoming coalfield, 50% of which is

Coal *(contd.)*

already controlled by Cie. Française des Pétroles through Frontier Coal Co., as well as prospecting in Columbia. To finance its planned purchase, CdF is raising FF 1 billion with the issue of a 15-year bond at an interest rate of 12.6%.

The French energy plans set a target date of 1985 for energy import dependency to be brought down to under 50% from its present level of 60%. About 90% of France's oil is imported, making it a prime target for substitution. Oil constituted only 57% of the country's total energy consumption in 1979, compared with 67% in 1973. The principal means by which the government intends to accelerate the solution of the domestic energy problems remains a rapid expansion of nuclear power electricity generating capacity, by 5,000-6,000 MW per year. Nuclear power is intended to supply 50% of France's electricity needs by 1985, compared with 16% at present. A first step towards a partial substitution of oil by coal was recently made when the government ordered an FF 2.5-billion, 600-MW coal-fueled power plant to be constructed at Gardennes for commissioning in 1985.

Denmark: Postponement [o]f Nuclear [P]ower Projects

At the personal initiative of Prime Minister Anker Jörgensen, the Danish Social Democratic government has decided to "postpone indefinitely" further consideration of nuclear power plant construction in Denmark. Only last year Jörgensen had warned that it would be almost impossible to secure the country's energy supplies without nuclear power. At that time, however, the Social Democrats were still governing in coalition with the Liberals, with whom they had agreed to undertake a major reexamination of the nuclear power issue this year preparatory to a national referendum to be held in 1981. Now the government is considering ways of securing national energy supplies by placing more emphasis on coal and stepping up the energy-saving program, which would include better insulation of homes and obligatory limits on electricity consumption of household appliances.

Although the government cited concern over still-unsolved problems of nuclear waste disposal and reactor safety as reasons for its decision, it appears that a principal cause was the increasing strength of antinuclear sentiment particularly within the left wing of the Social Democratic Party. The Harrisburg, Pa., incident last year led to considerable escalation of the Danish campaign in opposition to nuclear power.

Copenhagen's decision means a virtual abandonment of any prospect of nuclear power development in Denmark this century. It drew sharp criticism from the Liberal and

Postponement *(contd.)*

Conservative parties, which denounced it as being "irresponsible." However, Jörgensen appears to have a solid parliamentary majority behind him on the issue and can count on the support of the Social Liberals, the Christian Party, the antitax Progress Party, and two smaller left-wing parties represented in the Folketing.

Concern over the abandonment of nuclear power has also been lessened by reports concerning planned cooperation between Denmark and Norway in the exploitation of North Sea natural gas resources. Energy Minister Poul Nielsen has predicted that oil and gas from the Danish sector of the North Sea will supply 30% of national energy needs in the late 1980s and has described natural gas as the alternative to nuclear power. Norwegian Prime Minister Odvar Nordli paid a private visit to Denmark recently and is reported to have discussed plans for linking up the Norwegian North Sea gas pipeline system with the Danish system to allow Norwegian natural gas to be transported to Denmark, Sweden, and even West Germany.

Sweden: Gearing Up for A-Power Referendum

Voters in Sweden's national referendum on nuclear power, to be held on March 23, will now be faced with three choices. This results from the decision of the Social Democrats, backed by the Liberal Party, to add a proposal for nationalization of the energy industry to the "yes" to nuclear power which they had previously agreed with the Moderates (Conservatives). The latter have refused to accept this, and as a result the "yes" vote will be split between two alternatives. However, both will propose a qualified approval for continued operation for the next 25 years of the existing six nuclear plants, commissioning of four additional plants already completed, and completion of two others under construction.

The "no" vote, promoted by a coalition of forces including Prime Minister Fälldin's Center Party and the Communists, as well as 48 antinuclear organizations, will recommend dismantling of the six operating plants within the next ten years and mothballing of the six not yet commissioned.

A government-appointed commission has estimated that the closure of Sweden's nuclear reactors would cost 70-75 billion kronor. Sweden has no oil or coal, although it has Europe's largest uranium deposits. The six reactors already operating now supply 25% of the country's electricity needs.

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Community: Modest Farm Price Boosts Proposed

The European Commission has submitted its farm price proposals for the 1980-81 harvest year. Should the Council of Ministers adopt the proposals in their present form, expenditures in the farm sector in 1980 would be slightly below those of last year and substantially lower than originally anticipated. (The 1980 draft budget was approved by the Council but rejected last December by the European Parliament.) Officials say that this would avert for a year or so the possible danger of Community "bankruptcy."

The Commission is proposing price increases of 2-3.5% for most agricultural commodities, but prices for milk, sugar, and beef would go up by only 1.5% in order to discourage even larger surpluses. (The milk price support system and storage costs of milk powder and butter have been the greatest drain on EEC finances.) The butter price would be frozen for another 12-month period.

Not all farmers would benefit equally from the planned price boosts: the Commission is also proposing a 0.5% reduction in the monetary compensatory amounts (MCAs), which are paid to farmers in Member States with strong currencies to help their products remain competitive abroad. All in all, the proposed price increases would raise Community farm spending on price supports and other measures by some

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Farm Prices *(contd.)*

400 million units of account, which would be offset by savings of around 175 million UA due to reduced MCA payments and cuts in butter subsidies. The impact on the consumer would be slight: food bills would rise by only 0.8% as a result of the EEC measure.

The Commission's price proposals tie in with the measures it proposed last November to curb surplus production of milk, sugar, and beef in order to cut the EEC's overall spending for its common agricultural policy by roughly 10%. These measures include an increase in the coresponsibility levy payable by farmers from the current 0.5% to 1.5% as of April 1. Still the Commission has made some changes in its November proposals: farmers in less-favored areas would be exempt from paying the levy if their annual milk production remains under 60,000 liters; farmers who in the 12 months following April 1, 1980, sell more than 99% of their 1979 sales would be charged a supplementary levy on the excess.

Farm Commissioner Finn Olav Gundelach expects resistance in the Council, but he says there is really no other way of controlling farm policy expenditures except by letting farmers bear some of the costs incurred by supporting prices and buying up surplus commodities. Although the Commission was the first to point out that the EEC would reach the limits of financing the budget by 1981 unless something serious was done soon, Gundelach nevertheless believes that the current ceiling on its resources (all customs duties plus 1% of VAT revenue) is too rigid and will have to be changed some time in the future.

Sanctions Against Soviets Could Backfire

Commissioner Guido Brunner is opposed to any more Community sanctions against the Soviet Union beyond those already taken out of solidarity with the United States as a result of the invasion of Afghanistan. Brunner, who was also against the EEC's grain embargo and the ban on butter sales, fears further sanctions could backfire. Because the EEC's dependence on imports of certain raw materials and energy from the Soviet Union is extremely high, Brunner points out, a retaliatory reduction of these imports could have serious consequences for some industries in the Common Market once the modest stockpiles of certain metals are depleted.

The EEC, the world's second-largest industrial region after the USA, must import about 75% of its raw materials and 50% of its energy supplies. Roughly 23% of its raw material needs for industry are covered by the USSR, where, for instance, 75% of the world's vanadium resources are located. Western Europe's critical dependence on certain imports from the USSR was demonstrated last November, when the Kremlin suddenly stopped deliveries of titanium, which is essential not only for the electronics and armaments in-

Sanctions *(contd.)*

dustries but also for a number of other high-technology industries. France was most affected by the cutoff, which came before the invasion of Afghanistan and NATO's decision to modernize its missile arsenal. The Kremlin explained the export stop by saying that its own armaments industry needed all 35,000 tons produced annually by the USSR, which had been exporting 10,000 tons a year. German industry is also concerned about Moscow's decision, and attempts are under way to find new sources of supply. Britain is the only West European country that is self-sufficient with respect to titanium.

Experts of the U.N.'s Economic Commission for Europe (ECE) say the EEC's volume of natural gas imports from Russia has reached almost risky proportions. French imports of Soviet gas last year accounted for nearly 10% of the country's overall natural gas imports, and in the coming years that share is to be raised to 14%. West Germany meets 17% of its natural gas needs with imports from the Soviet Union.

Commission officials point out that not all of the Member States have taken the precautions that Germany has taken to cope with sudden cutoffs of raw materials: Bonn's stockpiles of copper, aluminum, molybdenum, tungsten, titanium, nickel, and platinum would last between 22 and 100 days. There are 120-day supplies of chromium, cobalt, manganese, vanadium, asbestos, and crude oil. Both the government and industry are now in the process of buying additional quantities, so that industry could go on for a year in case of a total embargo of these raw materials.

In Brief...

The Council has reached agreement on a series of measures in the nuclear energy field. The Netherlands, long opposed to any joint action in view of heavy domestic resistance to A-power, has agreed to the effort. The measures include a plan for the treatment and storage of radioactive waste. The program also calls for coordination of national efforts and provides for financial assistance from the Community. In addition, the EEC will embark on a common strategy on the reprocessing of nuclear fuels + + + The Commission has proposed a draft directive that would harmonize national income tax rules applicable to individuals who live in one Member State and commute daily to work in another State. In contrast to present practice, whereby the employer withholds income tax from pay, the proposal would have the employee pay income tax in his home state. A Member State that collects the tax would share part of the revenue with the State where the employee works + + + Commission and Bucharest officials have finalized a draft agreement to provide for the establishment of a mixed EC-Romanian commission to discuss trade and other issues of mutual interest. The draft will be signed after a settlement is reached on another agreement concerning trade.

Germany: Discussion of Fair-Practice Amendments

The German Bundestag's economics committee has taken up the proposed amendments to the Law Against Unfair Competition. It will decide in the coming weeks whether to recommend to the lower house a stiffening of the proposed amendments and adoption of additional changes supported by the upper house and consumer organizations. The government's bill calls for several substantive and procedural changes in the law that would not only better protect businesses against competitors' unfair practices but would also allow consumers to pursue their interests in court, either in a suit of their own or one brought on their behalf by a registered consumer organization *(Doing Business in Europe, Par. 31,040)*.

Among the amendments proposed is a clause that would enable a buyer to cancel a contract if he was lured into signing by false advertising. The buyer's right to cancel a contract would be restricted, however: the seller would have to have intentionally or negligently engaged in false advertising, in violation of criminal statutes. For the first time a buyer would have a statutory claim for damages against a seller if he was prompted to buy as a result of advertising that violated good morals or was misleading or false.

Consumer organizations have recommended (and the upper house has demanded) that the buyer's right to cancel a contract should be extended to situations where the seller has taken advantage of the customer's particular situation. The government's bill as it stands now would not give the buyer this right. The national consumer organization says a customer should have the right to cancel a contract if, for example, his purchase of a very expensive gravestone was influenced by a salesman's persistence and his own bereavement.

The national consumer organization wants the lawmakers to enact a provision similar to the one proposed in the amendments to the Law Against Restraints on Competition *(Doing Business in Europe, Par. 31,039)*: a business that has profited from unlawful advertising that may not have caused an individual buyer much damage but may have caused substantial damage to all affected buyers taken together could be forced to turn over part of the profits to the government.

Italy: VAT Crackdown on Restaurant, Hotel Trade

Finance Minister Franco Reviglio has started to curb the rampant tax evasion in Italy's tourist-oriented hotel and restaurant trade. According to statistics just published, evasion of value-added tax in that sector reached 68% in 1977 (the last year on record), and only 9,000 billion lire in VAT was actually paid altogether. The figures result from a comparison of individual business accounts de-

VAT Crackdown *(contd.)*

clared in tax returns with the complete national accounts for the sector. Tax returns filed by hotel and restaurant owners suggested that the average total income for each business after deduction of costs of supplies and personnel was only 8.3 million and 12.4 million lire, respectively.

Reviglio, vowing at least to stop the evasion of indirect taxes, has decreed that from March 1 all restaurants will have to issue to each of their customers a bill valid for tax assessment purposes. To prevent cheating, the new bills will be printed in blocks and numbered sequentially. The police may stop patrons in the vicinity of a restaurant and ask to see the bill. The Finance Ministry hopes that this will provide a means of thoroughly verifying the restaurants' tax returns. The country's restaurant proprietors have launched a campaign against the new measures, claiming that these mean an enormous additional work burden. The owners planned to shut down the nation's restaurants for two days, on Feb. 15 and March 1.

Tax evasion in Italy is said to reach its extreme in the hotel and restaurant sector. The national average of VAT evasion is 50%, according to Reviglio's figures. With a 30% rate of evasion, industry is less of a problem, but the professions, including particularly doctors and lawyers, are reported to evade nearly 60% of VAT actually due. To judge by their tax returns, doctors claim that their total income after deduction of costs is as low as 6.8 million lire per annum; lawyers do a little better with 15.5 million lire. Reviglio is now preparing a package of measures to stop tax evasion among the professions and will present it later this year. His past successes include a system of registering goods for the purposes of taxation as they pass through the industrial process. This measure already brought in an extra 500 billion lire last year in previously withheld tax payments.

Italy: Compensation for Land Expropriation

In what was described as a spectacular decision with wide-ranging practical and political consequences, the Italian constitutional court ruled last month that the current compensation system pertaining to the expropriation of private land was unconstitutional and thus unlawful. In effect since 1977, the system has calculated such compensation on assumed agricultural proceeds rather than actual market value - a method that the court declared to be in violation of the constitution's private-property principle.

In commenting on its ruling, the court stated that the inherent character of real property changes whenever such property is being zoned for construction. At that point, the court said, a property's economic value is no longer related to agricultural proceeds. The constitutionally guaranteed right to private property demands that expropria-

Compensation *(contd.)*

tory compensation be based on actual economic value and not on a fictitious value with no relation to proposed usage.

The invalidated compensation system was devised a few years ago by a Republican government minister, Pietro Bucalossi, who had been urged to curb certain abusive practices in the real estate sector, such as price speculation involving land marked for expropriation. Bucalossi tried to solve the problem by legally separating property rights from building rights. The argument was that the added value accruing to a piece of property merely through rezoning should not simply benefit the property owner, who had not contributed anything to the rise in value, but rather the general public in whose interest the rezoning was effected. This interpretation, advanced particularly by the political Left, was based on the concept that land is a limited, unreproducable commodity and that private individuals should have rights of usage, provided the state retains the right to reappropriate the property at any time on the original terms. Under this concept, market value would not be an accurate yardstick for compensation, and thus an assumed agricultural value was used for expropriation purposes.

Commentators said the ruling will force the government to act quickly in drafting new legislation to prevent the recurrence of a situation as it existed before 1977. Also, there are fears that public construction activity could be slowed, with serious consequences on employment. Experts of the Ministry of Public Contracts have estimated that, in the event that all planned public construction projects are realized, the communities alone would face additional compensation payments of 2,000 billion lire for the 1978-82 period. Social housing construction in particular may suffer as a result of the ruling.

Ireland: Dublin Worried by Economic Difficulties

The new Irish prime minister, Charles Haughey, in his first TV address since his appointment last December, has emphasized the serious difficulties facing the Irish economy and the problems caused by increasing industrial unrest. The figures show, Haughey said, that the Irish people have been living above their means and that current government income from taxation and all other sources in 1979 fell Ł520 million short of meeting the state's running costs. To cover this deficit and the government's capital program, over Ł1 billion had to be borrowed last year, which was equal to one-seventh of the national output. The Republic's foreign trade deficit in '79 added up to about Ł760 million and caused a drain on reserves.

Haughey said government expenditure would have to be brought within manageable proportions, but it was essential that there be a universal commitment to industrial peace

Difficulties *(contd.)*

this year. "Strikes, go-slows, work-to-rule stoppages in key industries and essential services were too often a feature of life in 1979," the Prime Minister said, adding that it was time to end "this humiliating, destructive industrial strife" and instead turn to "discussion, negotiation, and peaceful settlements."

The commission established in May 1978 to examine the state of industrial relations is expected to submit its report in about half a year, Haughey said. Meanwhile, the government is looking at what might be done immediately, and as a first step it would improve services available to employers and unions in order to help achieve settlements no matter how difficult the issues at stake.

In related developments, the government has also published a White Paper on the economy but then stated immediately that the expectations and assumptions detailed in the document will have to be reassessed over the coming months in view of the deteriorating economic situation. Significantly, the White Paper does not contain future targets for job creation, inflation, and economic growth, although a government spokesman predicted that the latter would average less than 4% until 1983. The spokesman stated that stabilization measures on a greater scale than those envisaged in the Paper are being taken with respect to public borrowing and spending.

Belgium: Foreign Debt to Rise, Warns Central Bank

The Belgian central bank warns in its recently published annual report that Belgium will once again have to borrow abroad in order to cover its growing foreign payments deficit. Since the last surplus was recorded in 1975, the current-account deficit has risen to BF 28 billion in 1978 and BF 85 billion in '79. The central bank expects it to remain just as large this year.

Belgium's creditworthiness remains unchallenged, backed up by large reserves of gold and foreign currency. Nevertheless, the central bank regards the situation as "extremely worrisome" and predicts that the extent of foreign borrowing will continue to impose a great burden on the Belgian economy, with the increasing level of interest rates causing added costs of BF 15 billion a year. Since 1976 Belgium has had to raise BF 140 billion to cover deficits on current account and BF 100 billion to cover private capital outflows.

The persistent weakness of the Belgian franc is viewed as one result of this situation. Last year the central bank intervened to the tune of BF 113 billion to support the currency, and since the beginning of this year it has been spending at the rate of several billion per week. The causes of the current-account deficits are seen in the

Foreign Debt *(contd.)*

soaring oil bill, a worsening of the country's terms of trade, and the burgeoning deficit of public expenditure. The oil-import-related shortfall this year would be BF 200 billion, assuming there are no further oil price rises. Last year it was BF 150 billion; the year before it was BF 110 billion. The worsening of the terms of trade is mainly a result, says the central bank, of the competitive weakness of manufacturing industry, on the one side, and the strength of domestic demand in the last few years, on the other side.

The Belgian economy does, however, have its strong sides. At 5.13%, its inflation rate is the lowest in Europe apart from Holland. The central bank report praises the "solidity" and increasing productivity of Belgium's industry, draws attention to the speed with which industrial restructuring moves ahead, and indicates that there are already signs that Belgium is beginning to recover its lost share of the world market. One possible threat to this regeneration is seen in the record level of interest rates, itself mainly a result of the central bank's determination to defend the franc's parity within the European monetary system. Commercial bank lending rates are currently at around 15%. The central bank is concerned that "international interest rate competition" may force rates higher, and it even calls for closer international cooperation to prevent such a "counterproductive and dangerous" development.

Portugal: 6% Revaluation of Escudo - First Since '74

In view of the improvement of the country's payments balance and as part of the new government's fight against inflation, Portugal on Feb. 9 announced a 6% revaluation of the escudo. Finance Minister Anibal Cavaco Silva said the move would be accompanied by public-sector spending cuts, wage controls, and measures against price speculation. The escudo's revaluation is the first after a long series of devaluations under successive governments since the 1974 revolution. However, the Portuguese currency will continue to be subject to a sliding scale of monthly devaluations of 0.75%, which is about half the previous rate.

As part of its drive to reduce public spending, the center-right government has vowed to cut costs in the civil service and among state companies. Government ministries and nationalized enterprises have been ordered to draw up cost-cutting plans within 30 days, in time for consideration in the 1980 budget, which is due to be submitted to Parliament before the end of March. Lisbon intends to bring down the inflation rate this year to about 20%, from 24% in 1979.

Common Market Reports

EUROMARKET NEWS

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Community: New Budget Proposal Submitted

The European Commission has reopened the budget approval procedure by submitting to the European Parliament and the Council of Ministers a reduced draft budget for 1980. The total appropriations would amount to 16.4 billion European units of account, as compared with 17.9 billion EUA in the preliminary draft presented last June.

The latest procedure became necessary after Parliament rejected the Council-approved proposal last December. Parliament and the Council disagreed on several issues. While the EP insisted on reducing farm expenditure starting in February, the Council refused to be pinned down by a deadline, although it was prepared to make some genuine cuts. The EP wanted an additional 600 million EUA spent on the Member States' underdeveloped regions, and it also wanted money allocated for energy policy matters. The Council, however, was not prepared to set aside more than 200 million EUA for regional development, and it balked completely on the energy funds. Further, Parliament wanted provision to be made for the Commission's borrowing and lending authority, and it also wanted the billions that will go to the 57 African, Caribbean and Pacific countries under the Lomé II Convention to be allocated in the Community's budget rather than the European Development Fund.

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Budget
(contd.)

In submitting the new 1980 draft budget, the Commission reflected Parliament's wishes on most of the issues. In the farming sector, the proposal reflects the financial consequences of the measures proposed by the Commission last November and again early this month. There would be net savings of 820 million EUA over the first draft budget rejected by Parliament. The largest part of these savings would come from the milk sector, notably by raising the coresponsibility levy for milk producers and cutting back on certain aids. Should the Commission's farm price and coordinating proposals be adopted, Community agricultural expenditures would go down from 66.9% of the total in 1979 to 63% in 1980.

Since the Community remains committed to reducing the economic performance disparities among the Member States, the Commission has retained in full its proposal for 1.2 billion EUA for the Regional Development Fund. A high level of appropriations would also be retained for the adaptation and reorganization of European industry, especially the steel mills.

Although the Commission sympathizes with Parliament on the cuts made by the Council in the area of noncompulsory expenditures, a sector in which the EP has a stronger say, it nevertheless has retreated from its original proposal: in the areas of energy and transport, the Commission would have preferred to have recommended a bigger volume of credits. However, for lack of a legal base, the EC executive thought it could not insist on the proposed credits for the energy measures and prospecting for hydrocarbons. So far the Council has declined to provide this base, reasoning that it is possible, by virtue of Treaty Article 203, to implement any and every item of the budget; the Commission does not share this view. The EC executive did not propose any allocation with respect to expenditures in the transport sector because a broad proposal is pending before the Council; after its adoption the Commission would come forward with the necessary financing proposals.

Striving for Common Stand on Export Credits

The Community still has not reached a consensus for the upcoming negotiations within the OECD to review the conditions of credits granted for exports. Export credits granted by OECD members are governed by a gentlemen's agreement, which is due to expire on May 1. The talks are scheduled for April, in Paris. Major OECD members are striving for an extension and for a tightening of some of the provisions to be applied to exports to the Soviet Union and Czechoslovakia. This is considered necessary because the rules in some respects are no longer realistic. Also, the U.S. government has expressed hopes for a review in light of the Soviet invasion of Afghanistan. Against this background the Commission has proposed to the Council that the EC take part in the negotiations with a common stand.

Export Credits *(contd.)*

At the present time there are minimum interest rates for export credits to three categories of countries - underdeveloped, intermediate, and industrialized. The credit periods are 2-5 years, 5-8.5 years, and 8.5-10 years. A minimum interest rate of 7.25% for credits running between 2-5 years must be charged regardless of the importing country's stage of economic development. If credits have terms of more than five years, the interest rates may not be less than 7.5% for underdeveloped, 7.75% for intermediate, and 8% for industrialized countries.

Under the Commission's proposal, both the Soviet Union and Czechoslovakia, now in the intermediate category, would be considered industrialized countries. This change would be in line with the World Bank's assessment. Most Member States agree that the Soviet Union, second only to the U.S. in terms of industrial volume, should be treated as a rich country and thus be subject to tougher credit conditions. Until recently the U.K. and Italy granted Moscow credits at conditions that were more favorable than those provided for in the OECD agreement, but both London and Rome could reasonably argue that the terms had been set long before the agreement went into effect on April 1, 1978. Similarly, the French government has maintained all along that it need not follow the restrictions because the export credit line had been granted to the Soviet Union before the agreement took effect, even though it needed to be periodically renewed.

The Council failed to reach a common approach at its meeting on the matter early this month. It merely declared that "the Member States intend . . . to apply the existing OECD consensus without any derogations." Council attorneys point out that despite the weak wording of the statement, there is a definite commitment on the Member States' part to refrain from granting the Soviet Union more favorable conditions than those stipulated in the OECD agreement, including those in an amended future agreement. In the current negotiations for a new cooperation treaty, France wants the other partners to approve an arrangement under which it could extend to the Soviets a credit line at the minimum conditions set forth in the expiring OECD agreement.

In Brief....

Commissioner Richard Burke has been visiting the Member State capitals hoping to bring about a compromise on the issue of harmonizing national excise tax rules on alcohol and alcoholic beverages. Most of the opposition comes from Germany, which is resisting the introduction of a domestic excise tax on wine. The Commission is expected to revive the discussions after the European Court of Justice hands down its judgments on Feb. 27 in seven cases involving excise taxes on alcoholic beverages + + + Despite the French

In Brief
(contd.)

government's refusal to submit the 1976 Convention against Chemical Pollution of the Rhine River to the National Assembly for ratification, Holland, Germany, Luxembourg, and Switzerland are still counting on a satisfactory solution when Paris presents new proposals in March or April. Holland, the nation most affected by the polluted Rhine, is hoping to reach an agreement with Belgium under which the Belgian government would make available drinking water reserves located in the Wallonian region, especially the upper Meuse river basin.

Denmark:
Discount Rate
Sets Postwar
Record

The Danish central bank has further tightened the credit brakes by raising its discount rate from 11% to 13% as of Feb. 17. This represents the highest level since World War II and comes in reaction to the continuing weak position of the Danish krone within the European monetary system. It was predicted that commercial lending rates would now reach a level of 17% or more. The central bank authorities evidently are hoping that Danish commercial borrowers will increasingly turn to the foreign capital market for credit. Last September the discount rate had been lifted from 9% to 11%.

In the meantime, the government is working hard on the preparation of a package of fiscal measures to be introduced in April. Reports from Copenhagen said the package probably would include higher indirect taxes and drastic cutbacks in public spending. For the first time, it was reported, Copenhagen may propose slashing social welfare expenditure, which is by far the largest single budget item. In related developments, it was announced that the share of direct and indirect taxes in Denmark's gross national product reached a historic high of 45% last year. The previous "record" of 44.5% was set in 1974.

Germany:
Higher
Penalties
for Polluters

A nearly unanimous German Bundestag has approved government-sponsored legislation that would provide for higher penalties for breaches of environmental rules and attach penalties to certain acts that at present are not punishable. The penal provisions scattered throughout numerous statutes enacted to protect the environment would be included in a separate chapter of the Criminal Code. The object is to increase the public's awareness of how important it is to protect the environment. The environment would be accorded the same protection extended by the Criminal Code to health, life, and property, and violators of environmental provisions would be treated accordingly. Approval of the bill by the upper house of Parliament is expected within weeks *(Doing Business in Europe, Par. 31,067)*.

There would be higher penalties, ranging from three months to five years imprisonment, for individuals pollu-

Polluters *(contd.)*

ting the water or the air or dumping waste at unauthorized places if these acts endanger other people's health or life, threaten to damage property of substantial value, or create a hazard to public water supplies. The maximum prison sentence that can be meted out under current law for committing these violations intentionally is three years; negligently committed acts that may now be penalized with a maximum one-year jail sentence would be subject to two years imprisonment. A two-year prison term or fine could be imposed on an individual who operates a facility in a protected groundwater area and in the process unlawfully stores, fills, or transfers substances potentially hazardous to water supplies in the area. A new Section 326 of the Criminal Code would provide for stiffer penalties whenever waste is disposed of in a manner that affects human health or is potentially hazardous to animals or plants.

After enactment of the measure the government would be in a position to step up its drive to control pollution. The task of the state's attorney would also be made easier: for a successful prosecution he would have only to prove to the court that the act committed endangered or actually caused damage to humans, animals, plants, or property.

France: Private Shareholders for State Banks

The new FF 100-million capital increase just announced by Société Générale, one of the three leading French state-owned commercial banks, will be mainly taken up by private shareholders, according to Paris reports. (Société Générale at this time is capitalized at FF 1.008 billion.) The two other banks, Crédit Lyonnais and Banque Nationale de Paris, are expected to follow this initiative in the near future.

The final decision on the capital increase is to be taken at a shareholders' meeting on March 25. At present the state owns 91.8% of the bank, with the remainder in the hands of bank employees and the Caisse des Dépots. The government has the first option to take up the entire new subscription of shares, expected to be in the proportion of 1:20. However, it was indicated that this right will be partially or completely waived in favor of private purchasers. The percentage of Société Générale in private hands could rise to 16%, if all of the 503,000 new shares, nominally valued at FF 100 each, go to the private sector.

The three big state-owned banks together represent two-thirds of total bank credit volume in France. However, as their turnover has increased, they have become undercapitalized and now have a ratio of capital assets and reserves to total lending of only 1%, compared with the 3% prevalent in France's private commercial banking sector. Last April the government issued a directive requiring all

State Banks *(contd.)*

banks to reach a 5% capital ratio by June 30, 1983. The Economics Ministry plans to bring the state-owned banks' capital ratio up to 4% as soon as possible, but attempts to finance the necessary capital increases from the deficit-ridden budget would meet tremendous parliamentary opposition. This has led to the decision to mobilize private sector resources.

In other news, the total volume of new bonds, stocks, and shares on the French capital market last year reached FF 80.9 billion, up 12.2% from 1978, or 1.5% after accounting for inflation, according to figures compiled by Crédit Lyonnais. The bond market did best, with a 14.3% increase to FF 62.8 billion, including a 15.3% increase in private corporate sector issues. This was despite considerable obstacles placed in the way of new issues during the year by the effects of the continuous rise in oil prices. Yields on Category I bonds rose as a result from 9.7% at the start of the year to 12.2% at the end.

Netherlands: Enforcement of Economic Boycotts

The Dutch parliament's First Chamber (upper house) has passed framework legislation enabling the government to force domestic companies and their foreign offshoots to abide by economic boycott measures imposed against other countries. The new law supersedes statutes dating back to 1935 and provides the legal basis for Holland's participation in international sanctions ordered or recommended by the United Nations or the European Community. In the case of violations by Dutch companies, the corporate managers responsible for the breach could be prosecuted. (The extent of penalties is not specified in the framework law.) Also, companies affected by a boycott could not claim compensation for any business losses suffered as a result.

The bill had been presented three years ago by the previous Den Uyl government and was passed by the Second Chamber (lower house) in October 1977. Final adoption was delayed by the strong opposition of the Liberals in the new center-right coalition, who feel that the law damages the interests of Holland's multinational companies. The Liberals voted against the law both in 1977 and this month, but they could not prevent final passage, with the upper house voting 42 to 29 in favor.

Austria: Price Control Bill to Cover Import Goods

The Austrian Trade Ministry is preparing draft legislation to replace and extend the provisions of the existing 1976 price control laws. The new *Preisgesetz* would be implemented in mid-1980. Among other things, it would put import prices under the purview of the Price Commission, which is headed by the Trade Minister. The Commission would be empowered to set "economically justifiable prices" under certain circumstances. This would be possible in

Price Controls *(contd.)*

cases where goods were sold in Austria at prices considerably above those prevailing in the producer country, or where goods were sold by a third country in the area of one of Austria's principal trading partners at prices well below those in Austria.

The Price Commission would additionally have the right to examine the cost and accounting records of companies under price investigation. Present law requires that the firm involved agree to the examination, but the new legislation would not. Commentators have referred to the proposed provision as a "Lex Hoffmann-La Roche," in reference to the fact that the Austrian subsidiary of the Swiss drug producer had resisted such an examination. The company is now being investigated by the Trade Ministry with respect to its price policy concerning Valium and Librium tranquilizers.

The Ministry's proposed bill further provides for a stiffer surveillance of "locally customary prices" *(ortsübliche Preise)*, with the aim of penalizing business for price excesses. In investigating such cases, the authorities would be empowered to compare not only the prices of identical competitors' products but also those of goods and services "essentially of the same nature." This is to prevent businesses from making minor product modifications in order to sidestep official price comparisons.

The proposed reform legislation, which will require a two-thirds majority for parliamentary passage, is strongly opposed by the national Chambers of Commerce Association, which argues that various import price controls enacted abroad have proven ineffective. The opposite view is being taken by the trades unions, which are also represented in the Price Commission and which have been campaigning for years for extending price controls to imported goods. Union sources said that import prices for vehicle parts, photographic equipment, cosmetics, and household appliances should come under particular scrutiny.

EURO COMPANY SCENE

American Express/ French banks

Three major French banks - Banque Nationale de Paris, Crédit Lyonnais, and Crédit Agricole - have signed an agreement with American Express for the issuance of French franc-denominated travelers checks through a jointly owned French company. The French banks will hold the majority ownership in the new enterprise, which is scheduled to issue checks beginning this summer.

A. Andersen/ Phillips/ Laing

According to London reports, Arthur Andersen, the international accounting group, is expanding its U.K. activities in the area of corporate bankruptcies and insolvencies by

A. Andersen *(contd.)*

joining in associations with Bernard Phillips (Leeds) and Douglas Laing & Jackson (Glasgow). The reports said that "full integration" is being aimed for.

Deloitte/ London & County

A record £900,000 settlement has been announced in the U.K. High Court in a £8.5-million claim arising from the collapse of the London & County Securities bank. The settlement was agreed to by Deloitte Haskins & Sells, into which Harmood Banner, L & C's accountant, had been previously merged. U.K. reports said that the settlement of this professional negligence claim was by far the biggest ever involving a British auditing firm.

Morgan Guaranty Switzerland

Morgan Guaranty Trust Co., New York, has established a bank in Geneva, J.P. Morgan (Suisse) SA, a wholly owned subsidiary. The Geneva bank serves primarily individual clients. A branch office of Morgan Guaranty, performing commercial banking services, is located in Zurich.

Borg-Warner

A slowdown in orders is forcing the closure of a British automatic transmission plant at Letchworth Garden City, Hertfordshire, by Borg-Warner Corp. Up to 700 jobs will be lost. Transmission production will be concentrated at another plant at Kenfig Hill, South Wales, which employs 1,450. Strikes and disputes in the U.K. engineering sector and at BL (British Leyland) were blamed for the fact that Borg-Warner could not reach its U.K. production targets last year.

GM Austria

In addition to a major automotive engine plant, General Motors also plans to build another facility for the production of gear boxes at Aspern, near Vienna. The engine plant would turn out 300,000 units annually as of 1982, and the second plant would produce some 350,000 transmissions as of 1983. The decision for the expanded project would bring the total investment up to 9 billion schillings ($723 million), double the figure originally announced. Combined employment at the two plants would be 2,500.

Ford/ Renault

In Portugal, Ford Motor Co. reportedly has resumed negotiations with the government over a $650-million automotive investment project. At the same time, France's state-owned Renault has signed an agreement with Lisbon to build two Portuguese plants for the production of engines, transmissions, and axles. The total investment would come to $600 million.