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Community: Preferences System Soon to Be Extended

The Council of Ministers has arrived at a common policy on the Community's generalized preferences system (GPS) for 1981; its final decision on the system will be made later this month after the European Parliament has given its opinion. The Community introduced the GPS in 1971 as a way of helping the developing countries increase their exports by letting certain quantities of manufactured and semimanufactured goods as well as certain textiles and processed agricultural products into the Common Market on a duty-free basis without demanding reciprocal concessions for EC products *(Common Market Reports, Pars. 3861.11-12)*.

There would only be minor changes in the 1981 GPS because the Council rejected all but one of the major changes proposed by the Commission last July *(Common Market Reports, Par. 10,250)*. New would be that the Community's global ceilings and quotas for so-called sensitive products such as textiles and footwear would be broken down into individual restrictions for each exporting developing country. This approach allows a better differentiation between highly competitive countries and less developed countries, which would fare better. Once a competitive country has reached the ceiling or quota applicable to its products, it could no longer export to the Community in that

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year at the expense of countries that are not in a position to export enough to reach the ceiling or quota. (A ceiling is fixed each year and may go up; a quota remains the same.) Another new element would be that Red China and Romania, which have been covered by special arrangements, in the future would be included as beneficiary countries for all products.

There would be no change in the number of sensitive products covered by the GPS. The Council has come out against lowering the number from 124 to 94. Several chemicals and steels were to be taken off the sensitive products list, but the Council rejected this because the chemicals industry in the Community is in a slump and the steel mills are going through their worst crisis since the end of World War II.

The management committee procedure to administer the system was also rejected. This procedure is followed in implementing the common agricultural policy, and the Commission wanted a management committee to decide here too what should be done when a developing country's exports to a particular Member State exceed the ceiling or quota. Under the Commission's proposal, the management committee, made up of national officials and chaired by a Commission official, was to decide after consulting the parties concerned - the governments of the exporting country, the importing Member State, and trade and industry associations. With the committee approach having been rejected, the Commission will have to reimpose the duty at a Member State's request when the ceiling or quota for a sensitive product has been reached.

Plan to Ease VAT Assessment in Intra-EEC Trade

Commission attorneys are preparing a legislative program designed to make more flexible the assessment of value-added import tax in intra-Community trade. The newly constituted Commission will take the program to the Council of Ministers early next year. If the reaction is positive, adoption of individual measures to be proposed by the EC executive would bring about what businesses have been demanding for years - namely, less red tape and hence less work for importers and exporters and shorter waiting times for trucks at border crossings between the Member States.

Businesses established in a Member State that imports products from another State or a third country are liable to pay import turnover tax. Although the Sixth Council VAT Directive provides for the eventual repeal of that tax *(Common Market Reports, Par. 3165)*, the Commission is not considering any move in that direction because no Member State government is prepared at the moment to forego this substantial source of revenue. What the EC executive wants is to ease assessment and collection of import turnover tax. Under the plan, an importing business would be exempt from paying the tax at the time of importation but would have to acknowledge its tax liability in its monthly preliminary advance return and make a corresponding payment.

The Sixth VAT Directive allows for this procedure, and several Member States have enacted legislation granting deferred assessment to certain groups of enterprises *(Common Market Reports, Par. 3165Y)*.

Commission attorneys point out that importers required to pay import turnover tax right away are at a competitive disadvantage vis-à-vis businesses entitled to deferred assessment. If all importers were treated alike with regard to the assessment of VAT, these distortions of competition would be eliminated. Commission attorneys take seriously the criticism from Member State capitals that a general deferred assessment benefiting all importers would greatly increase the possibilities of tax evasion. They stress, however, that after Jan. 1, 1981, national tax authorities will be required to render administrative assistance also in value-added tax matters in order to combat tax evasion *(Common Market Reports, Pars. 10,051, 3211.21)*.

The planned relaxation of VAT assessment procedures applying to imports would mean less paperwork for importers and exporters. Although customs duties have been abolished in intra-Community trade for quite some time, importers still have to fill out a number of customs forms for VAT assessments. Legislation projected in the program would do away with these forms. Instead, the usual commercial papers - such as invoices, bills of lading, and insurance policies - would suffice for customs to assess the tax; they would also suffice for customs checking of goods in transit or destined for export.

Another item in the program concerns taxation of bus companies carrying passengers between Member States. Bus operators have been complaining to members of the European Parliament about the red tape that confronts them on each trip: they must file a VAT return on their way home at the border customs office. For example, a Dutch bus operator leaving Germany is assessed DM 0.06 VAT per person/kilometer traveled and has to pay the tax on the spot - a procedure that can cause delay. For years bus operators have been demanding implementation of the principle set forth in the Sixth VAT Directive that says businesses transporting passengers across Member State lines should be liable to VAT in their home state *(Common Market Reports, Par. 3165J)*.

In Brief...

The Council has formally adopted the directive on the protection of workers from harmful exposure to chemical, physical and biological agents. The directive commits the Member States to introducing within four years measures to monitor the health of workers exposed to asbestos and lead; within three years the States must have laws ensuring that workers or their representatives are given appropriate information on the dangers of asbestos, arsenic, mercury, and lead. Since the adopted measure also serves as a basis for future special legislation, the Commission has proposed two special draft directives concerning lead and asbestos to reduce the level of exposure and thus the risk of diseases by improving working conditions and spreading knowledge of the subject *(Common Market Reports, Pars. 10,182, 10,266)* + + Several big Dutch utilities providing major cities and the surrounding areas with drinking water taken from the Rhine River have brought suit in the administrative court at Strasbourg. The defendant is the French regional authority that is expected to extend the license allowing government-owned potassium mines around Mulhouse, Alsatia, to continue the discharge of mining remnants containing salt into the Rhine. The license is due to expire on Dec. 31. Plaintiffs charge that the mines account for about one-third of the Rhine's pollution and force them to go to considerable expense to make the water drinkable. What caused the utilities to bring action is the French National Assembly's refusal to ratify the 1976 draft Convention on the Protection of the Rhine Against Chemical Pollution. The pact, ratified by Germany, Luxembourg, the Netherlands, and Switzerland, would obligate the French mines to deposit potassium remnants in deep underground caves; ratification by France has been blocked by a strong environmental group which fears for the quality of Alsatia's drinking water supplies.

Germany: Partial Consensus on Codetermination Issue

Bonn's governing coalition parties have reached a compromise on the issue of labor's codetermination rights in the steel industry, although one major problem is still not solved. Under the compromise, a steel company would remain covered by 1951 and 1956 codetermination legislation, and labor would be entitled to half of the seats on the company's supervisory board for six years after steel production drops below 50% of the enterprise's overall activities. After the six years, the company would then be subject to the less extensive 1976 Codetermination Law, which (1) restricts labor's say in management affairs, (2) applies only to companies with more than 2,000 employees, and (3), and most important, limits the union's role in the election of employee representatives *(Doing Business in Europe, Pars. 23,222A, 23,222C, 23,441)*.

The one major problem not yet solved concerns the election of union representatives to the supervisory board. Under the 1951 act, the five labor representatives on an 11-member supervisory board must consist of at least two employees, while the other three, who may be outsiders, are appointed by the unions. The employee representatives are elected by the works council, but the unions may veto the choice of candidates. With the Free Democrats having extracted from the Social Democrats the concession that under the future amendments (a proposal is expected early next year) all labor representatives must be chosen by the works council, this means that the unions would lose the veto right. This is one of the major reasons why the union leadership finds the compromise so disappointing. Some observers believe the Social Democrats will have difficulty convincing the union leaders that this sacrifice will have to be made for the sake of keeping the Free Democrats in the coalition.

Meanwhile, the supervisory board of Mannesmann AG, a holding company, has approved the managing board's plan to lease the subsidiary Hüttenwerke AG to another subsidiary, Mannesmann Röhren-Werke. This was possible only because the 21st member of that board, the so-called neutral man and a Social Democrat, sided with the ten shareholders' representatives. It was this plan that brought about the current discussion, accompanied by sporadic strikes during the summer. Although the plan reportedly was conceived for purely economic reasons (savings of DM 50 million in annual production costs and elimination of some 350 jobs), the legal consequences would have been that the Mannesmann holding would no longer be subject to the 1951 statute and 1956 amendment but would be covered by the 1976 Codetermination Law because steelmaking would then account for less than 50% of its industrial activities.

Belgium: Economic Program; Foreign Borrowing; Steel Loan

Following consultations with employers, unions, and other organizations during a week-long national conference last month, the Belgian government has once more modified its economic revitalization program but left the essentials intact. Among others, these basic elements call for considerable public spending cuts and a freeze on wage rises beyond the automatic inflation adjustments. The "social partners" had until Dec. 2 to respond to the proposals.

The most far-reaching of the projected measures is the blocking of any wage increases during the next two years for those earning more than BF 35,000 a month. Below that level, increases would be limited to one percentage point above the official inflation index. Similar curbs would apply to the professions, while civil servants earning more than BF 40,000 a month would have to pay a "solidarity levy" of between 0.9% and 2.7%. To lower the deficits of Belgium's social insurance system, monthly assessment ceilings would be raised from the present BF 35,000 to BF 65,000 next year, and to BF 81,000 in 1982. This would have the effect of making more people contribute to the system. Also foreseen are substantial cuts in expenditure connected with unemployment benefits. In the future, jobless individuals would risk losing their benefits if they declined to accept offers of employment within a 25-kilometer (15.6-mile) radius of their homes.

The government is also seeking yet another syndicated Euromarket loan to cover its budget deficits and consolidate short-term debts. At $1.5 billion, this will be the largest borrowing so far raised by Belgium and follows a $1-billion loan in December 1979 and another of $1.2 billion floated last April. Of the latest issue, the first $1 billion will have a maturity of nine years and be tied to the London interbank offered rate (Libor). The remaining portion of $500 million will run for seven years and be tied to the prime rate of the U.S. commercial banks.

In other news, the government has agreed to support with a 100% state guarantee the raising of a BF 1.5-billion loan by the National Industrial Credit Corp. on behalf of several steel companies. According to a framework agreement signed last spring, the steel companies' private shareholders originally were to have shared the guarantee with the government; however, it proved too difficult to interest foreign banks in raising the loan because there was no collateral for the second 50%. Also carried on this month are negotiations for the raising of BF 3.3 billion in additional credits. All these funds are part of the BF 44-billion financing program for the restructuring and modernization of Belgium's ailing steel industry.

Denmark: Farmers' Bankruptcies; North Sea Oil

Danish farmers' organizations have begun negotiations with the government on a new, extensive package of support measures for thousands of nearly-bankrupt farmers. Their demand is for DKr 7 billion in low-interest credits to enable highly indebted young farmers to stay in business. A radical farmers' protest group, Agricultural Reform 1980, is organizing demonstrations all over the country in an attempt to revitalize and expand the movement, which succeeded last March in persuading the government to grant DKr 700 million in credit guarantees, covered additionally by a 5% subsidy on interest rates. Because of Denmark's high indebtedness, the government is, however, unwilling to give farmers the same tax benefits as are enjoyed by farmers in other EEC countries.

The total farm debt in Denmark has risen to DKr 55 billion, from DKr 30 billion in 1973, while farm incomes have fallen by 40% in the last three years. The market value of agricultural land has declined since the government limited purchase of such land to qualified farmers in an attempt to stop growing speculation. As a result of the continuing high interest rate levels on farm loans (usually over 20%), the farmers' organizations expect some 2,000 bankruptcies next year, after 500 this year, if nothing is done. The crux of the problem also lies in the large number of young farmers who invested heavily in farm and livestock production mechanization in the 1970s, only to see their incomes fall in the following years.

In other developments, Energy Minister Poul Nielson is attempting to persuade the oil companies to speed up production on the Danish continental shelf and to part with a portion of their concession. The Danish Underground Consortium (DUC) - owned 30% by A.P. Möller, 40% by Shell, and 15% each by Chevron and Texaco - has a concession agreement signed 18 years ago. The agreement is generally thought to give the companies very generous terms, charging royalties of only 8.5% and the standard rate of corporate profits taxation.

Nielson is calling on the oil companies to return to the government by 1985 all areas of the Danish continental shelf not fully explored by then. He also wants the companies to speed up their rate of extraction by 1982 and is threatening legislation to achieve this. The companies are prepared to give back some parts of the concession, but not as much as the government wants. The DUC has threatened an investment stop if Copenhagen attempts to force it by law to return unused parts of the concession. The companies have already invested DKr 6.6 billion and have firm plans for another DKr 6.5 billion. The Danish sector of the North Sea is known to have proven reserves of at least 90 million metric tons of oil and 100 billion cubic meters of natural gas.

Italy: Trying to Catch Up on Energy Planning

Although Italian Minister of Industry Antonio Bisaglia has recently worked out a new energy plan, which he will shortly present at a cabinet meeting, the government in Rome is now far behind in coping with the impact of the continuous rise in the price of imported oil. According to recent figures, Italy's energy import bill has risen from 7,800 billion lire in 1978 to 10,000 billion last year and an expected 15,000 billion in 1980. With the greatest dependency on energy imports of any EEC country, Italy has to import 83% of all primary energy resources. The industrialists' organization Confindustria recently reported that France's accelerated program for the commercial exploitation of nuclear power has given that country a 1,400 billion-lire cost advantage in energy prices over Italy. Italy so far has only 600 megawatts of installed nuclear generating capacity, most of it quite old and limited to research purposes.

Public resistance continues to block any advance in setting up new nuclear power plants. Last month a court of second instance upheld a ban imposed on the construction of a new 2,000-MW nuclear power plant at Montalto di Castro, about 60 miles north of Rome, where the local authorities blocked the project through legal action last March, claiming that the region was earthquake prone. The government is now investigating whether the small island of Pianosa, near Elba, could be used as a nuclear reactor site. However, if the Radical Party succeeds in collecting the 500,000 signatures needed for a national referendum on nuclear power, as it has pledged to do, then all hopes for further construction of reactors may have to be abandoned.

The national electricity utility Enel is also engaged in shifting power generation to non-oil sources of energy. Enel plans to build five new coal-fueled plants by 1990, which will probably be located at Palermo, Trieste, Gioia Tauro, Carana, and Taranto, and to convert to coal the existing oil-fueled plants at Brindisi and Milazzo. At present Italy has six operational coal-fueled power plants. The Industry Ministry's new energy plan calls for imports of coal to be boosted from the present level of 8 million metric tons a year to 50 million tons by 1990.

Norway: Seeking Firmer Ties With the EEC

Following Prime Minister Odvar Nordli's recent talks with the European Commission, Norway is to establish a closer relationship with the Common Market. A special arrangement will provide for an annual meeting at which a Norwegian cabinet minister is to participate in discussions with Commission officials. Norway has proposed that the first of these meetings be held in Oslo next spring or summer.

It was Wilhelm Haferkamp, the EC commissioner in charge of external relations, who proposed the arrangement, which has never been attempted before. The meetings at ministerial level will be coordinated with one of the two meetings of a committee that is watching over the implementation of the EEC-Norway free trade agreement. This agreement was concluded after Norway's decision, as a result of a 1972 referendum *(Common Market Reports, Par. 7001.01)*, not to become a member of the European Communities.

Switzerland: Voters Back Federal Savings Measures

In a referendum on Nov. 29-30, the Swiss voters approved a number of measures offering some relief for the federal finances. They supported the withdrawal of state subsidies for bread and grain as well as the proposal that the federal government no longer share with the cantonal governments (or share only to a limited extent) the revenues from stamp duties and the alcohol monopoly. This means that the cantons will have to make up these revenue losses through expenditure cuts or higher taxes, while federal spending will shrink up to SF 370 million annually. The Finance Ministry in Bern welcomed the voters' decision but warned that the big step of rehabilitating the federal finances on the revenue side as well was still to come.

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Community: One More Attempt to Slow Japanese Exports

The Council of Ministers has agreed on the need for a wide-ranging dialogue between the Community and Japan over rectifying the trade imbalance. The Commission, which had asked for the mandate, will be conducting the talks in the coming months. This dialogue is seen as a last attempt to come to an amicable arrangement with Tokyo to slow Japanese exports, especially of cars and TV sets, to the Community. Should the talks end on an unsatisfactory note (the Commission must report back to the Council by the end of February 1981), protectionist measures to counteract the Japanese export drive cannot be ruled out. It is not yet clear, though, whether such steps would be taken by the Community as a whole or by individual Member States.

Commission officials regret that the Japanese government did not come forward with a substantial commitment prior to the Nov. 25 meeting of the nine foreign ministers or the European Council's Dec. 1-2 meeting to do whatever is necessary to slow Japanese exports. The situation was not helped by the fact that executives from seven European automakers returned from a trip to Japan in November without hope that Japanese car manufacturers would reduce exports on their own.

After Tokyo failed to give a definite signal about what it

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would do to heed the Europeans' pleas not only to hold down exports but also to widen the gates to the Japanese market for Community products, the nine foreign ministers issued a statement. Therein the Council defines the range of topics of the coming dialogue and also attaches conditions combined with admonishments addressed to the Japanese government. Tokyo is warned not to attempt to deal with its balance of payments deficit, due to higher oil prices, by stepping up exports. The Council wants early and tangible results in the moderation of Japanese exports, and this toward the Community as a whole and not merely to certain markets: slowing exports to individual Member States will not do. (Last October Tokyo announced that it would make efforts to hold down exports of cars and TV sets to Germany.)

Since the trade imbalance between the EEC and Japan is also due to low and stagnating exports, the Council wants a clear commitment from Tokyo to substantially increase imports of Community products by easing their access to Japan's markets. Also, the Japanese authorities are urged to ease conditions and improve opportunities for European investors and banking, and they are asked to refrain from taking measures or enacting policies that would treat major trading partners more favorably.

The foreign ministers realize that the magnitude of the Community's trade deficit with Japan ($7 billion in 1979; a $9.5-billion deficit is expected for 1980) cannot be corrected with export restraints and increased imports alone. The Council's statement calls for further progress in getting European industries to develop positive strategies to meet the Japanese challenge. Adaptation of the European industries and a greater involvement on the Japanese market, cooperation between EEC and Japanese companies, joint ventures, and the transfer of know-how are the prescribed medicine. Observers say this is an indirect admission that the Community has been relatively unsuccessful in revitalizing existing industries and in introducing new industries based on advanced technology.

EC Court to Decide on Two Conflicting Principles

In delivering his conclusions on two important cases before the European Court of Justice, Advocate-General Jean-Pierre Warner has taken a middle-of-the-road position between the conflicting Community principles of free movement of goods and protection of copyrights. Warner said that the EEC Treaty forbids demanding a royalty payment from a business importing records from another Member State unless the laws of the exporting State restrict the copyright owner's rights there; in that case the laws of the importing State may be invoked to counteract these restrictions (Case Nos. 55 & 57/80).

The German Supreme Civil Court has asked the Court of Justice for a preliminary ruling. The respondent in both cases before the German court is GEMA (Gesellschaft für musikalische Aufführungs- und mechanische Vervielfältigungsrechte), a copyright protection society. Musik-Vertrieb GmbH, an importer and distributor of records, is the appellant in one case, and K-tel International GmbH, also an importer of records, is the appellant in the other. Both had imported records into Germany from other Member States; royalties had been paid but were lower than those payable in Germany. At issue in both cases is whether GEMA may demand additional royalty payments when the records are imported into Germany. GEMA won before the German district and appellate courts, but Musik-Vertrieb and K-tel appealed to the Supreme Court, which suspended proceedings and asked the Court of Justice for clarification.

GEMA bases its demand for royalty payments on German and Community law. In 1971 the Commission had held that GEMA, which has a dominating position in a substantial part of the Common Market, had abused that position in several ways. Among other things, GEMA had demanded that German importers pay a full royalty of 8% on records imported from other Member States even though a royalty already had been paid, either to GEMA or to another copyright protection society. But that decision did not prevent GEMA from requiring importers to pay the difference between the lower royalties applicable in the country of origin and the usually higher royalties in Germany *(Common Market Reports, Pars. 2111.37, 9438)*. The Court of Justice must now clarify whether and to what extent the additional royalties are compatible with the principle of free movement of goods provided for in Article 9 et seq. of the EEC Treaty.

AG Warner believed GEMA is not entitled to base its demand for additional royalties on the Commission decision because that decision was issued on the basis of antitrust aspects (Treaty Article 86); the Commission did not mention free movement of goods (Article 30). The latter article calls for the elimination of all quantitative restrictions and measures having an equivalent effect *(Common Market Reports, Pars. 321-322)*. Although the Court of Justice may take the Commission's decision into consideration, it is not bound to do so. It must decide, however, whether Section 97(1) of the German Copyright Law, the basis for GEMA's practice, is a measure having an effect equivalent to a quota.

In Brief...

The Council has formally adopted the first directive for the introduction of a Community driver's license. After Jan. 1, 1983, a Member State national taking up residence in another State will be entitled to have his or her driver's license exchanged for a pink Community driver's license without having to take a test there. The new license will still be a national one, produced in all Member States on the basis of a standard Community model. By Jan. 1, 1986, all nationals must have turned in their national license to obtain a Community license + + + The Council has given the Commission a mandate to open negotiations with steel exporting countries to extend and adjust existing bilateral agreements for 1981. Agreements existing with the Community's 15 major steel supplying countries (among them all EFTA countries, four East bloc states, and Spain, South Africa, and Australia) commit exporters to maintain price discipline and traditional patterns of trade. The Commission is seeking a 15% reduction in steel imports, which would account for the 15% decline in demand expected for the first half of 1981. The EC executive is also going to propose a reduction in the steel quotas for the first quarter of 1981 that would be lower than those imposed for the last quarter of 1980 under the crisis measures enacted last Oct. 31 under Article 58 of the Coal and Steel Treaty.

Germany: Cartel Unit Violated Due Process, Court Rules

The West Berlin Appellate Court has invalidated the German Federal Cartel Office's decision prohibiting Bayer AG's French subsidiary from acquiring a rubber factory owned by Firestone France Corp., a subsidiary of Firestone Tire & Rubber Co., Akron, Ohio. The court held that the Cartel Office failed to grant due process to the parties involved. Neither Firestone France nor Firestone U.S. was given an opportunity to air their arguments before the FCO issued the decision together with an order for direct enforcement; the Firestone parent company was not even served with the decision. When a German law firm representing Firestone France refused to accept the papers served by FCO officials on a Friday afternoon, the Cartel Office decided to publish its decision in the following day's issue of the Federal Register. Section 53 of the Law Against Restraints on Competition obligates the Cartel Office to give the parties an opportunity to express their views and, if one party so desires, to grant a hearing.

Bayer France and Firestone France had notified the Cartel Office of their plan, as required by the German Cartel Law; Bayer AG also notified the FCO, although it was not required to do so *(Doing Business in Europe, Par. 23,510B)*. Under the effects doctrine of the law, it does not matter where the merger takes place so long as its effects can be expected on the German market.

In September 1980 the Cartel Office issued an order barring Bayer France from buying the French plant. It was the first time the Cartel Office had prohibited a merger that was to take place outside West Germany. The FCO's belief that the planned merger would strengthen the dominant position that Bayer AG and its 50%-owned Bunawerke Hüls have on the synthetic rubber market in Germany was the major reason for the veto. Another reason was that Bayer AG would have enhanced its dominating position by being able to buy patents and licenses from the Firestone parent company. Further, potential competitors would have been deprived of the opportunity of entering the German market.

Antitrust lawyers are hoping the Cartel Office will appeal the Appellate Court's ruling to the Supreme Civil Court in order to obtain a final word on the extent of the FCO's powers beyond the national frontiers. Cartel Office lawyers say they will decide about appealing after they have had an opportunity to study the full judgment, which is not expected until early 1981. (The court's decision announced on Nov. 28 was brief.)

Bayer AG executives believe that what the Cartel Office did was not in line with the law, but antitrust lawyers point out that the courts have backed the Cartel Office so far in its merger control practice whenever a German company and a foreign company were involved. Many experts believe the Supreme Court would also support the FCO in situations exclusively involving companies abroad if the effects doctrine applies.

France: SMIC Rise Points Up Unchecked Inflation

The French industrial minimum wage (SMIC) has been boosted retroactively from Dec. 1 by 3.5% to FF 14.79 per hour. Covering 600,000 workers, SMIC has gone up by 14.4% in the last 12 months, while inflation has risen by 13.5%. Other industrial workers have gained average wage increases of 15% this year. The SMIC increment has been pointed to as another sign of the failure of the government's anti-inflation policy. The decline in the inflation rate promised by Paris for the second half of the year has not materialized as inflation continued to surge along at an average monthly rate of 1%. An overall 14% rise in the consumer price index for this year is now forecast.

Prime Minister Raymond Barre has responded to these developments by joining Economics Minister René Monory in blaming the complex system of indexing for the intractability of France's consumer price inflation. Calling for an end to "tyranny by indexation," Barre has urged employers to set their wage standards according to criteria of profitability and competitiveness, rather than any general economic indicator. At present the indexation system applies to wages, rents, and even professional fees. The employers' organizations have expressed fears that an abandonment of this system might result in a threat to social peace, and indeed the CGE trade union of white-collar workers has taken the SMIC rise as a justification for a pay rise for its own members. The SMIC has tended to function in the past as a wage regulator. Since 1976 its real-term purchasing power has risen by 12.7%, while that of other industrial workers' wages has gone up by 14.2%. This reverses the 1970-75 situation, when SMIC purchasing power gained 47.7% but that of other industrial workers' wages only 34.1%.

The worsening economic situation has contributed to the split apparent between Barre and President Giscard d'Estaing. The President recently announced that "from now on" the fight against inflation will have top priority, but he seems to differ with Barre over how the battle should be conducted. While Barre has called for a pause in economic growth and public spending, Giscard, who is standing for re-election next spring, predicts 2.2% economic growth next year and a 2% reduction in inflation. The EEC Commission expects economic growth in France to reach only 1.2% this year. Barre blames the failure of his policy on the rapid rise in wages and the speed with which industry has lifted its domestic prices. In the future, Barre says, the inflation rate should be the upper limit for wage rises.

Switzerland: Government Approves New Banking Rules

The Swiss government this month approved new banking provisions which will take effect on Jan. 1 and under which the minimum capital ratio requirements of Swiss commercial banks will be based on assets and consolidated balance sheets rather than liabilities. The banks have been informally submitting such consolidated accounts to the federal banking commission for the past two years; they still will not have to publish them under the new rules. Minimum capital ratios in the future may include subordinated loans (up to 10%) in addition to base capital and reserves. (In anticipation of this concession, several banks have already floated subordinated bond issues.) Hidden reserves may continue to be used as part of the base capital, provided they are identified accordingly in addendums to the balance sheet in the audited accounts.

The most controversial of the new regulations, observers agree, is that dealing with the minimum capital ratios required to be maintained for non-bank assets, e.g., industrial participations. Here, the banking commission had advocated graduated ratios ranging from 50% to 100%, but this was vehemently opposed by the Swiss bankers' association, which argued that its members could be prevented from acquiring shares in attempting to rescue financially troubled enterprises. The association proposed a 30% ratio in such cases. The banking commission did not go along with this recommendation, but it agreed on what it described as a compromise formula. Under this formula, a ratio of 50% will apply when non-bank assets are lower than 10% of a bank's capital base, while a 100% ratio will come into force in cases where such assets exceed 10%. The government will allow a two-year transition period should individual banks be unable to meet the requirements immediately.

The government says the new rules should lower minimum capital ratio requirements by about one percentage point on the average, even though requirements could be higher in some instances. Other commentators pointed out that the aspect of consolidated balance sheets being used as a criterion should make it less attractive for the Swiss banks to shift business to the Euromarkets. Foreign banks, moreover, should be less inclined to establish branches and subsidiaries in Switzerland.

Norway: Criticism of Expanded Codetermination Concept

The Norwegian industrial federation and the employers' federation have rejected a recent proposal for expanded employee codetermination advanced by a joint committee of the governing Labor party and the LO trade union federation. Jan Didriksen, managing director of the industries federation, said that the proposal was aimed at achieving "a combined socialistic, state capitalistic and corporate system where there would be no basis for the existence of private firms."

Present Norwegian codetermination legislation gives workers the legal right to minority representation in the decision-making organs of a company with 50 employees or more. The Labor Party-LO committee, under the chairmanship of Industry Minister Lars Skytöen, has basically recommended that this law be repealed in favor of legislation lowering the limit to 25 workers: "In companies where there have been over 25 persons employed in the last three fiscal years and which do not have a works committee, the employees shall have one-third of the representatives on the company (managing) board, and if a majority of employees demands it, then up to one-half of the board members and deputies can be chosen by and among the employees." The proposal also says that if the employees have equal representation on the board, the owners appoint the chairman, whose ballot is decisive in the event of voting ties.

The committee's codetermination proposals even extend to companies with 25 employees or less, where a majority of employees could demand that up to one-third, or at least two, of the board members and deputies be elected by and among the employees.

Didriksen warned that if the committee's recommendations were implemented, this would drastically alter the decision-making process in thousands of small Norwegian companies, in many of which the owner function and managing function are closely and inseparably connected. Didriksen said he found it unacceptable that "each and every interference in private firms should be called 'democratization'."

Spain: Budget Expenditures to Rise by 23.6%

The Spanish parliament has approved the government's 1981 budget, which has a volume of 2,820 billion pesetas. Higher public investments are to bring down the unemployment rate from its current level of 11.5%; accordingly, the investment volume is to be expanded by about one-third, to 671.7 billion pesetas. The overall budget provides for a 23.6% increase in spending and a deficit of 435 billion pesetas. Madrid hopes to bring down the inflation rate to 13.5% in 1981 (currently about 15%). Its wage rise guideline of 12.5% has to be viewed in this context.

EURO COMPANY SCENE

Dow Chemical, the U.S. chemical company, intends to invest within the next two to four years an additional total of about DM 300 million in its German production complex at Buetzfleth/Stade. Since 1972 Dow has invested more than DM 1 billion at that location, and it employs more than 1,100 workers there.

Honeywell and Philips Medical Electronics BV will be the name of a new Dutch company, to be based at Eindhoven, into which Holland's Philips and the United States' Honeywell are to merge their medical electronics activities. Initially, the joint venture will be equally owned by the two partners. After a transition period of several years, Philips plans to withdraw completely. In joining the project, Philips - one of the world's four largest companies in the medical systems field - will transfer some 250 workers to Medical Electronics and also cut some jobs in its own medical systems division.

The European Commission has imposed a fine of 200,000 units of account on Johnson & Johnson, the U.S. pharmaceutical company, for restricting its U.K. subsidiary's exports to Germany. Acting under the provisions of Treaty Article 85, the Commission said that an investigation had shown that J&J's West German and Swiss subsidiaries had asked the U.K. subsidiary to stop exports of its "Gravindex" pregnancy testing kits to Germany, where the retail price at that time was 2.5 times higher than in Britain.

General Motors is one of five foreign automobile manufacturers with which the Greek authorities have concluded agreements for the construction of assembly plants in that country. According to the Economic Coordination Ministry, the investment total will come to nearly $40 million. GM is to build in central Greece a plant for the assembly of Opel models (4,500 units in the first year, 6,000 in the second). The other manufacturers are Italy's Alfa Romeo and Japan's Mazda, Datsun, and Carion.

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Community: No Legal Action to Be Taken in Budget Dispute

The Commission is not going to take to the European Court of Justice any of the Member States that are refusing to pay for the additional 1980 supplementary budget funds approved by the European Parliament last November. Political rather than legal considerations are reportedly the reason there will be no suits. There is growing sentiment within the Commission that nothing would be gained from a favorable judgment because a State could not be forced to pay.

The dispute arose on Dec. 23 when EP President Simone Veil declared both the 1980 supplementary budget and the 1981 budget to be approved. (There is no doubt that the 1981 budget was adopted legally.) Veil was able to declare the supplementary budget as adopted only because the Council of Ministers lacked the majority needed under Treaty Article 203(5) to reject the additional 266 million EUA that the EP had tacked on to it. Ireland, Italy, and the U.K. would have been the main beneficiaries of the additional money, which was to be spent on regional and social policy measures.

Some attorneys at the Council (and even some at the Commission) say the EP president acted unlawfully when she signed the 1980 measure. The attorneys believe the EP violated the budget

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rule that a supplementary budget may be adopted only to cope with "unavoidable, exceptional, or unforeseen situations." An example of this was the 100 million EUA the Council voted into the 1980 supplementary budget to help Italian earthquake victims. The EP resorted to the approach of adding funds to the 1980 supplementary budget to avoid an open conflict, since disputes over the 1981 budget had been ironed out after both sides showed a more conciliatory attitude in the budget talks. Belgium, France, and Germany served notice that they would not pay their share of the supplementary budget in the belief that the EP acted illegally in adopting the measure. Britain, Denmark, Ireland, Italy, and eventually also the Netherlands, saw nothing illegal in the EP's action, and most Commission attorneys support this view.

France has remained adamant about its position, but Bonn has softened its stand. Thus it appeared the Commission would probably sue France, but then the idea was dropped, even though an interpretation of Treaty Article 203 would be welcomed *(Common Market Reports, Pars. 5021, 5022)*. France could not be forced to pay, and noncompliance would have dealt the Court of Justice yet another blow. Last year France refused to abide by two Court decisions handed down in the British-French "lamb and mutton war."

The EC executive now wants to see a modification of the budget adoption rules, especially an improvement in the conciliation procedure between the Council and the EP. Introduced in 1975, the conciliation procedure was supposed to help the two sides deal with any disagreement about "acts having substantial financial implications." France and Germany say the procedure was no help last November-December, when the budget dispute flared up. A temporary political solution might be found prior to a formal amendment to the joint declaration establishing the conciliation procedure. The declaration accompanied the 1975 Treaty Amending Certain Budgetary Provisions. An amendment could help avoid the quarrels between the Council and the EP, which have become more pronounced as members of the directly elected EP assert Parliament's power of the purse, the only real power it has.

Tightened Criteria Against Protectionism Paid Off

Member States' applications for protectionist measures against imports from third countries have declined since the Commission tightened its criteria for such requests in April 1980. In light of the slump all State economies are experiencing, there had been considerable doubt as to whether stricter rules would have any effect.

Treaty Article 115 empowers the Commission to authorize a State to take protective measures against third-country products in emergencies; the EC executive establishes the conditions and the details of the measures *(Common Market Reports, Pars. 3888, 3889).* The fact that Article 115 is still being applied is largely due to the very incomplete character of the common commercial policy. Prior to last April 1 the Commission had not been too strict about granting authorizations, but under pressure from the German government it tightened its guidelines.

Under the new rules, a Member State government must substantiate its request with concrete data showing the danger of economic difficulties for a particular branch of industry. This requirement of proof has not only slowed the number of incoming requests but also has made the Commission's job easier when the decision is made.

As in previous years, most of the requests concerned textile imports. Here the number of requests filed by all States except Ireland dropped from 224 in 1979 to 157 in 1980. Observers are not surprised by this since the Common Market's textile industry has been going through a long period of adaptation. This process has involved cutting excess capacity and lowering costs, primarily by laying off hundreds of thousands of workers, in order to cope with low-priced imports from Korea, Taiwan, Hong Kong, and India. How the individual national industries have adapted is reflected in a State-by-State breakdown. Ireland, which filed more requests in 1980 than in the previous year, leads with 117 applications (34 in '79); the Commission authorized only 57. Italy also invoked Article 115 more often in 1980 than in '79: 44 (36). The other States requested fewer protective measures in 1980. France applied 125 times (146 in '79). The U.K. sent 31 requests (69). Denmark approached the Commission four times (5). The Benelux countries turned in 34 applications (55). Germany filed only one request (6).

In Brief...

The EC Member States have lifted their sanctions against Iran that were adopted last May 22 out of solidarity with the United States in the hostage crisis. The sanctions included a limited trade embargo, a freeze on capital transfers, and a ban on export credits. EC statistics show that these sanctions did not amount to much because they did not cover trade contracts concluded before Nov. 4, 1979, the day the Americans were taken hostage, and also because food and drugs were excluded. Several governments reportedly were liberal in granting exemptions from the limited trade restrictions. Despite the sanctions, exports of industrial products to Iran increased in 1980 by an estimated $5 billion. Agricultural and pharmaceutical exports rose by an estimated $1 billion + + + Energy-intensive industries might receive Community aid to help with investments in new energy-efficient plants and equipment under a program being considered by the Commission and the Member State governments. Roughly $7 billion is spent annually in the Common Market on new energy-conserving facilities. Continually rising oil prices are expected to double such investments over the next five to ten years. The steel, chemical and cement industries have been spending the most to cut their energy bills. No details about the volume and the form of aid have been worked out, but Brussels sources say the ideas being considered include rebates on financing interest charges and special grants.

Britain: Gloomy Economic Forecasts in OECD Survey

The latest OECD Survey of the U.K. economy predicts a continuing decline in manufacturing investments and output, a marked reversal in the current payments surplus, lessened international competitiveness, and an increasing squeeze on company profits. The only encouraging factor is the probable fall in the rate of inflation to single digits by the first half of 1982. Even then, however, with a projected annual increase of 9%, the U.K. is unlikely to be in a particularly favorable position vis-à-vis other OECD countries. Indeed, the Survey clearly indicates that the current recession will continue to be more harmful to Britain than any other major industrial country. Unemployment, which rose by 2.25% in 1980, is forecast to increase by a further 3.5% this year, resulting in a total of nearly 3 million jobless by mid-1981. A further rise to about 3.2 million, or 12% of the working population, is predicted for the first half of 1982, with young people under the age of 24 particularly affected.

For the first time, the OECD has provided an 18-month forecast, rather than the customary 12-month one. It hopes that this will activate more policy discussion. There has been increasing criticism of the government's economic policy, notably from the Select Committee on the Treasury and the Civil Service, which is comprised of members of Parliament of all political parties, "who have expressed fears that the short-term effects of the government's monetarist policies may prejudice its long-term strategy." Sylvia Ostry, who heads the OECD Economics and Statistics Department, has said that the U.K. needs to consider employing some different instruments in order to hasten economic recovery. She noted that in the past the OECD had recommended the use of an incomes policy to curb inflation - a view totally opposed to the announced intentions of the present Conservative government.

Britain's GDP, after an anticipated fall of 2.25% last year, is expected to decline by a further 2% in 1981, and no growth at all is predicted for the first half of 1982. It is envisaged that manufacturing investment will fall at an annual rate of 13% over the next 18 months, while industrial output at the end of this period should be at its lowest level in 15 years. There is a strong probability of a further substantial fall in company profits, particularly for exporters.

The Survey highlights the fact that relative unit labor costs of British industry have risen by 40% between June 1978 and June 1980, due to an excessive growth in labor costs and a significant rise in the value of sterling. In the same two-year period, the relative cost of U.K. manufactured exports has increased by 20%, thus making such goods increasingly uncompetitive - a trend likely to continue. An annual decline of 2% is predicted in export goods and services, and the prevailing payments surplus is probably to be replaced by a current-account deficit of $6 billion by the first half of 1982.

The Chancellor of the Exchequer is expected to give due consideration to the conclusions of the Survey when preparing his budget speech, to be delivered earlier than usual this year, on March 10.

Germany: Unemployment Benefits Loopholes May Be Closed

A commission of German government experts and representatives of the national employer and labor organizations has started to take a critical look at the various forms of unemployment insurance benefits paid out by the Federal Labor Office in order to find out how people collect benefits to which they are not entitled. After the commission pinpoints the large-scale abuses, it is supposed to suggest remedies.

Benefits paid out by the local labor exchange offices to jobless persons (currently 1.1 million) comprise the largest part of the FLO's costs. Employee and employer contributions pay most of the bill *(Doing Business in Europe, Par. 23,456)*. Higher unemployment cannot be ruled out, and the FLO is expected to run up an even greater deficit in the future because of declining revenue and increased expenditures. Last year the federal government helped close the gap with DM 4 billion, but the strained fiscal situation might prevent more such help in the coming years. Before proposing higher contribution rates, the government wants to plug all the holes so the Labor Office can stay in the black. Government and FLO officials say this will be possible only with the employers' help.

There are a number of ways unemployed persons can collect more than they have coming to them. Government officials suspect that 100,000-150,000 of the 1.1 million out of work would not qualify for benefits if the letter of the law were strictly applied. One way of exploiting the system is to work several months, quit or do something to be fired, and then draw benefits for the rest of the year. Since a person who has worked not more than six months in any one year gets back all of the income tax withheld by the employer, he or she might wind up with slightly more income than someone who worked the entire year. This kind of abuse could be stopped by taxing unemployment benefits, which are now tax-exempt.

Some unemployed persons repeatedly refuse to take jobs offered through the local labor exchange office. Government officials want company personnel managers to whom an applicant is sent to take the time to find out whether the job seeker is really looking for work or prefers remaining on the dole.

Economics Minister Otto Lambsdorff was criticized by the business community and the unions when he implicated them as he described yet another method of cheating: an employee who has been with a company for many years and by law may not be fired is persuaded by both management and the works council to quit at 59 and draw unemployment benefits for a year before being pensioned. Although the normal retirement age for men is 65 (for women 63), men may retire at 60 and women at 58 if they are in poor health or are handicapped *(Doing Business in Europe, Par. 23,451)*. Lambsdorff estimates there may be 50,000-100,000 instances each year where the system is exploited in a way that may be in line with the letter but not the spirit of the law. The minister believes an amendment could stop these practices. However, government officials say it is far too early to talk about legislation. They want to wait for the commission's suggestions.

Belgium: Two-Year Pay Freeze Opposed; Food Advertising

Although a government bill to extend the current temporary wage freeze for two years has been all but passed by both houses of the Belgian parliament, labor opposition to the freeze is growing. Following warning strikes by shopworkers lasting several hours in a number of Brussels department stores, the Socialist trade union federation called a major weekend demonstration in Brussels. These protests were seen, however, as having a limited impact for the present because they are not supported by the Christian trade unions. Meanwhile, 12,500 workers employed in the steel industry in Charleroi also staged a strike, not against the government's wage freeze but against a merger of steel companies in the area, which is expected to result in the loss of up to 4,000 jobs. Belgium suffers from a post-war record level of unemployment, which reached 9.3% in January.

Ironically, the protests were accompanied by strike actions of the nation's judges and state prosecutors, whose work stoppage brought to a halt most court business. The new law on incomes moderation ends the special treatment of judges and state prosecutors which had permitted them to draw their full salary after retirement. Now they will receive the normal pension paid to a public servant of their rank.

In other news, a royal decree has established new regulations on the advertising of foodstuffs. As of Jan. 1, it is illegal for manufacturers or distributors to make assertions concerning a food product's alleged beneficial effects on health unless these effects can definitely be demonstrated. Words such as "hygiene" and "medicinal" and phrases such as "recommended by doctors" have been completely prohibited, while others, such as "biological," "organic," "natural," and "low calorie," may be used only under very limited conditions. New rules on labeling will require product information on maximum shelf time, recommended storage conditions, net contents, and additives. The new regulations apply to all food products except fresh fruit, vegetables, meat, and dairy products.

Italy: Record Tax Revenues Reported for 1980

Total tax revenues in Italy rose by an average 38% to a record 70,800 billion lire last year, according to provisional figures released by Finance Minister Francesco Reviglio. For income taxes overall, an increase of 45% was recorded. Personal income tax, specifically, showed an increase of 48.1% to 16,122 billion lire for the January-October 1980 period (compared with the same period in '79), for which exact figures are available. This corresponded to more than 30% of all fiscal revenues, which during that ten-month span went up from 39,066 billion to 52,373 billion lire. The revenue gains from income taxes were even higher than those from value-added taxes (42%), despite the fact that VAT benefited from galloping inflation (21%) and expanded economic activity.

The share of direct taxes was boosted by 1.5 points to 52%, and the average tax rate on incomes went up from 19.4% to 21.2%. Employment incomes, in nominal terms, expanded by 23-24% last year, but at the same time employees had to pay 28-29% more in taxes. To enforce new regulations about goods in transit having to be accompanied by VAT documentation and obligatory receipts in the hotel and restaurant sector, the financial police carried out 429,000 checks.

Denmark: Unions Accept Wage Moderation; Cabinet Shift

To the great relief of the government, which has based its entire economic strategy on achieving a substantial reduction in consumer purchasing power, Denmark's trade unions appear to be ready to accept wage settlements well below 10%, the present rate of inflation. Some 200,000 shop and office workers have settled for increases of 7-8% as of March 1, which implies the unions' acceptance of a 3% reduction in real-term wages. The unions also appear to have given up their demands for a reduction in the workweek from 40 to 35 hours. However, they have totally rejected employer demands for the abandonment of the inflation indexing of wages, which already has been modified to exclude energy prices and increases in indirect taxes.

The moderation in wage demands is seen to be in response to the 9% level of unemployment. The new series of settlements also represents a departure from the 50-year-old tradition of unified collective agreements concluded between the central trade union federation and employers' organizations. This year, for the first time, the two-year renewal of wage contracts has been concluded under a new system of bargaining between employers and individual unions.

In other news, Prime Minister Anker Jörgensen has carried out a minor cabinet reshuffle, following the appointment of former agriculture minister Poul Dalsager as EEC Commissioner for agriculture in Brussels, in replacement of the late Finn Gundelach. The new Danish agriculture minister is Björn Westh, previously the Social Democratic spokesman on agricultural affairs. However, fisheries affairs have been split off into a separate ministry, apparently in order to provide a ministerial portfolio for Karl Hjortnaes, who has been removed from his former position as tax minister. Hjortnaes' replacement, Mogens Lykketoft, is not a member of Parliament but a former trade union official known as a strong opponent of Hjortnaes' policies. Lykketoft has previously spoken out in favor of income tax reductions and measures to encourage savings and investment.

Portugal: Parliament Passes Economic Program

After several days of heated debate, the four-year economic program of Portuguese Prime Minister Francisco Pinto Balsemao survived a parliamentary vote of confidence initiated by the Communist and Socialist opposition. The governing Democratic Alliance coalition of Social Democrats, Christian Democrats, and Monarchists received 133 votes, while 97 votes were cast against the government. The program seeks to hold down inflation to 16% this year and to average EEC levels by 1984, when Portugal hopes to become a Common Market member. There are to be improvements in the social security system, but a firm policy of price and incomes restraints will remain in force. The plan emphasizes the government's commitment to a substantial reprivatization of the economy.

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Community: Court Upholds Free Trade Principle

A copyright protection society that looks after composers' rights with respect to tape cassettes and records produced and marketed in another Member State may not invoke national rules allowing the society to demand payment of the difference between the lower royalties paid abroad and higher domestic royalties. With this ruling the European Court of Justice once again has given precedence to the principle of free trade between Member States over the principle protecting industrial property rights (judgment of Jan. 20, 1981, Case Nos. 55 & 57/80).

Two German companies had imported tape cassettes and records from various countries, including several Member States. The German copyright protection society (GEMA) asked for additional royalty payments to cover the difference between the lower royalties paid in Britain and the higher royalties that composers usually get in Germany. GEMA won in the lower and appellate courts, but the companies appealed to the German Supreme Court, which submitted several preliminary questions to the EC Court.

GEMA based its demand primarily on Section 97 of the German Copyright Law, which offers the copyright owner a number of remedies against infringements on his right. For the Court of Jus-

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tice the problem boiled down to whether Treaty Articles 30 and 36 had to be interpreted in a way that would bar application of Section 97 and thus collection of the royalty differential. While Article 30 prohibits all measures having an effect similar to quantitative restrictions, Article 36 allows restrictions on several grounds, one of which is to protect industrial or commercial property rights.

The scope of Article 36 played a significant role in the arguments presented to the Court. According to the French government, copyrights carry personal and commercial elements and therefore do not come under the scope of Article 36 and the case law established by the Court of Justice. The Court stated, however, that Article 36 also encompasses copyrights. Consequently (and in line with a number of Court decisions, such as *Terrapin Overseas Limited, Common Market Reports, Par. 8362)*, the owner of industrial or commercial property rights protected by provisions of Member State law may not invoke these provisions to prevent importation of a product that he himself (or someone else, with his permission) has put on the market in another Member State.

The Court also stressed that allowing GEMA to collect the differential would put it in a position to neutralize the situation arising out of the differing national royalty rates and to deprive importers of the economic advantage these differences allow. In the *Centrafarm and De Peijper* judgment, the Court held that differences in Member States' legislation that are apt to distort competition between the States do not justify a Member State's allowing a private organization to exploit the situation in a manner that cannot be reconciled with the free intra-EEC trade principle *(Common Market Reports, Par. 8246)*.

Little Chance Seen for Lower EC Court

The chances of establishing a lower court to handle disputes between Community employees and the various EC institutions are scant because France and the other nine Member States remain deadlocked over the need for such a court. France suggests instead setting up an appeals and conciliation body. (Bodies to mediate in employment matters exist in many international organizations, including the OECD, NATO, and UNESCO.) The Commission and the Court of Justice are not against the idea, but the other Member States are still skeptical about the plan.

The composition of the body suggested by France would be similar to that envisaged in the Commission's proposal for a lower tribunal. The body would be composed of three individuals - two representing the employees' union and the EC institution and one independent person. Matters could be brought before the appeals and conciliation body either automatically or on the initiative of either party. The Court of Justice would continue to exercise jurisdiction in staff cases but, in effect, would have to deal only with cases that are really important. France has been against a separate lower court to hear cases brought by civil servants or other employees against Community institutions ever since the Commission submitted its proposal in 1978. It has favored enlargement of the bench instead. The other Member State governments believe that adding one or more judges and advocate-generals to the Court of Justice would not lighten the workload.

It was the Court of Justice that in 1974 suggested the establishment of a labor court to relieve its docket from the ever-increasing number of staff cases. The Court itself came forward with a number of principles it thought should be reflected in the composition and the proceedings of the lower tribunal. The Commission's draft regulation followed these principles and added a few more of its own. France's objections to the proposed lower court at first were more political in nature, but later its experts set forth legal arguments. The French government says that Article 24 of the Treaty Establishing a Single Council and a Single Commission does not suffice as a legal basis for the Commission's draft regulation *(Common Market Reports, Par. 5140)*. France's major argument is that Treaty Article 179 gives the Court of Justice sole jurisdiction in disputes between the Community and its employees. Entrusting another court with powers currently conferred on the Court of Justice would require an amendment of that article *(Common Market Reports, Par. 4665)*.

Meanwhile, the Commission has come up with a new proposal along the French government's line of thinking; the EC Court is backing the new plan because what matters most is that it be relieved from a major portion of its workload. The legal framework would be simple because realization of the plan would merely involve amendments of the 1962 Staff Employment Regulations. Articles 90 and 91 of the regulations provide for an appeal to the immediate superior prior to bringing action in the Court of Justice.

In Brief...

While both the Council president and the Commission continue to look for a political solution to the budget dispute precipitated by the European Parliament's action of declaring adopted the 1980 supplementary budget and the 1981 budget, the EC executive has taken preliminary procedural steps against France and Germany before suing the two countries. An all-out confrontation has been avoided so far because Paris and Bonn have made payments for 1981, indicating that, in principle, they have accepted approval of the 1981 budget. As for the 1980 supplementary budget, the two countries have so far refused to make payments on their contributions, which the EP in effect substantially raised in a unilateral act + + + The Economic and Social Committee has strongly urged that the Community accede to the European Convention on Human Rights. All Member States have ratified the convention, drawn up by the Council of Europe, and the ESC believes that accession would be the swiftest way of safeguarding basic human rights affected by Community acts. Since the convention would afford only limited protection (it is concerned only with civil and political liberties, not economic and social rights), the ESC also urges a uniform Community code containing common criteria for safeguarding the rights of individuals whose interests might be affected by Community legislation.

Germany: New Apprentice Hiring and Training Bill Proposed

The German federal government has proposed a new apprentice hiring and training bill to replace the 1976 statute that was declared unconstitutional last December by the Federal Constitutional Court. The measure was unlawful because it had been enacted without the consent of the upper house of Parliament. In contrast to the voided measure, the new bill would no longer empower the government to impose a levy on businesses whenever the number of openings for apprentices fails to stay substantially above that of school leavers. (The levy was never imposed under the 1976 law because employers offered far more openings than the law decreed for the imposition of the levy.)

Except for the levy concept, the bill is practically a carbon copy of the invalidated law. The new measure would restore the legal foundation for several government bodies and activities that was shaken by the high court's ruling. The bill would expand the government's influence in apprentice training and consequently reduce the influence of the guilds. The already high standards to which businesses that train apprentices must conform would be raised even further, as would the educational standards of the persons who actually conduct the training.

The new Federal Apprentice and Vocational Training Institute would continue to help in the preparation of curricula for particular trades and compile statistics. The Institute would also help in the preparation of the government's report on trends and developments in the employment of apprentices. Employers would have a voice in two committees established within the Institute. It is hoped that these committees will bring some uniformity to the scope and variety of rules on training apprentices, especially on curricula, enacted by the federal government and the states as a consequence of the legislative division provided by the Constitution.

Belgium: Central Bank Warning; Spreading Strikes

Against the background of a major strike wave sweeping the country, the Belgian central bank has expressed grave concern over the course of the nation's economy. In its annual report, the Banque de Belgique calls for a tough government stand to bring the accelerating expansion of the public debt to a stop before a major economic crisis occurs. It backs these warnings with new figures showing that at the end of 1980 the total public debt had reached BF 2,700 billion, considerably more than the previously published figure of BF 1,957 billion. The current-account deficit of the Belgo-Luxembourg Union had worsened to BF 170 billion - from BF 31 billion in 1978 and BF 100 billion in '79. Public-sector borrowing accelerated in the last two years to reach 11.8% of GNP (4.9% in the 1970-73 period) as a result of the rapidly expanding burden of debt service. BF 460 billion in foreign debts outstanding at the end of 1980 costs about BF 55 billion a year (1.5% of GNP) in debt service. As a result of the demands imposed by government borrowing, interest rates on the domestic capital market stand at 13-14%, while inflation is only 7.5%.

The wave of union protests against the government's recently passed legislation on wage moderation reached a climax on Feb. 5 with a 24-hour strike which closed down much of Belgian industry and stopped all transport services. Both the Socialist and Christian unions hoped to force the employers and government to make concessions before the new law went into effect on Feb. 15.

Italy: Credit Squeeze Threatens Cabinet Unity

Treasury Minister Nino Andreatta's latest credit restrictions have met with considerable shock and opposition among Italian business circles, the trade unions, and not least the Christian Democrats' coalition partners. Andreatta's speedy implementation of the measures through the constitutionally independent central bank was especially troublesome for Giorgio La Malfa, the Republican budget minister, whose work on a new three-year plan for the Italian economy was, in effect, preempted as a result. The affair brings to a head disagreements between Andreatta and La Malfa over the latter's insistence that the lira should be devalued and the economy stimulated by increased government spending. Not even the coalition party secretaries received advance warning of the credit measures as would normally have been the custom.

Credit ceilings have not only been tightened but also extended to loans below 130 million lire, which previously had been excepted and currently represent 40% of lending volume. Small businesses are expected to be particularly hard hit as a result, and many observers believe that the prevailing slight economic slump could now turn into a full recession. Andreatta aims to cut imports by squeezing demand, thereby providing the basis for a recovery of the lira.

Ireland: Critical Reactions to Budget Proposals

Both the business community and economists in Ireland have reacted with criticism to proposals contained in the annual budget presented by Finance Minister Gene Fitzgerald on Jan. 28. It is believed that the proposed measures would do little to alleviate the difficulties besetting Irish industry and narrow the government's budget deficit and borrowing requirement. The announced increases in indirect taxation are likely to add some 2-3% to the consumer price index.

Businesses can see only an aggravation of their liquidity problems by the proposed earlier payment of corporation tax. Companies are required to pay this tax in two stages: the first installment is due nine months from the end of a company's financial year, while the official due date for the second installment comes after 15 months *(Doing Business in Europe, Par. 25,338)* but can vary from nine to 21 months. Taking into account an extra two-month grace period for interest payments on overdue tax, the full tax debt in some cases thus may not be paid until 23 months from the end of the accounting period in which the relevant profits had been earned. In his budget presentation, Fitzgerald said that the payment date for the second installment would be brought forward by three months, "but not so as to make the due date fall earlier than nine months from the accounting period." Fitzgerald emphasized, however, that this was "an increase neither in the rate of tax nor in the amount of tax...," though it would increase Exchequer revenue in the closing months of 1981 by an estimated £66 million.

Fitzgerald noted that the Finance Act 1980 had provided for a 10% rate of corporation tax for manufacturing industry generally from Jan. 1, 1981, replacing export sales relief, which had been the major industrial incentive. This would assist the Irish Development Agency "in the increasingly competitive task of inducing mobile international investment to locate manufacturing projects" in Ireland. Corporation tax accounted for 5% of fiscal revenue last year and that paid by manufacturing industry for only about 1%.

The budget proposes steep rises in excise duty on alcohol and cigarettes. Gasoline and diesel fuel will cost an extra 15p a gallon. There is to be a probable increase of at least 25% in postal and telephone charges. A 60% tax band would apply to taxable income above £9,500 for single persons, or £19,000 for married couples.

The Confederation of Irish Industry was very disappointed that the budget would result in substantial cost increases for industry during a period of recession and declining competitiveness. The earlier payment of corporation tax would force companies to incur additional interest charges of £3-5 million, while the employers' share of extra social welfare contributions would amount to £33 million over the next 12 months. The increased cost of gasoline and diesel fuel, likely to total £20 million, as well as the additional postal and telecommunication charges would impose a severe burden on industry. All these increases, coupled with the existing high level of tax on industrial oil, would make economic recovery much more difficult this year.

Switzerland: Discount, Lombard Rates Up by Half Point

The Swiss National Bank on Feb. 3 boosted its discount rate to 3.5% and the Lombard rate to 4.5%, which amounted to an increase of half a point each. The action was aimed at reducing domestic price pressures and also followed the trend of higher interest rate levels recently prevailing on the Swiss money and capital markets. (The commercial banks have been increasingly taking advantage of the rate differentials by improving their liquidity via rediscount and Lombard facilities.) Furthermore, the central bank authorities hope to counteract a weakening of the Swiss franc, which has been promoted by capital outflows, particularly to the United States.

Sweden: Budget Stabilization Move; Pay Agreement

The day after the successful negotiation of a "moderate" wage agreement for 900,000 Swedish blue-collar workers in the private sector, Swedish Prime Minister Thorbjörn Fälldin presented a stabilization package of budget cuts totaling over SKr 5 billion. Fälldin said the measures would inject new "go" into the economy through improved export credit facilities and eased restrictions on hiring and firing. He also promised, without giving details, new efforts to raise industrial investment. Distributed between fiscal years 1981-82 and 1982-83, the proposed budget cuts include reductions of SKr 1.7 billion in allocations to local authorities and of SKr 0.5 billion in food subsidies. There would be a SKr 2.9-billion increase in revenues from a rise in the domestic heating oil tax and the abolition of tax allowances for commuting costs. Fälldin further announced that the government plans to reduce the average rate of taxation for the main group of income earners to 50%. This would be done in three steps over the 1982-84 period. The revenue loss of SKr 5-7 billion would be offset by budget cuts and reductions in tax allowances on depreciation.

The tariff agreement reached between representatives of the employers and the LO trade union federation for the blue-collar workers allows wage increases of 3.6% this year and 3.5% in 1982. However, when an average wage drift of 3% per year and a wage overhang from 1980 of 3.1% are accounted for, real-term incomes are expected to rise by 10% this year and 8% in 1982. In addition, an inflation compensation clause in the agreement will permit additional rises if the cost of living moves above 8.9%

this year and 6.5% next year. The government's budget plan assumed that inflation would reach 10% this year but wage costs would rise by only 6.5%.

EURO COMPANY SCENE

General Motors has recently invested a further £105 million in Vauxhall Motors, its U.K. subsidiary, according to James McDonald, GM's new president. This renewed financial commitment, said McDonald in London, showed that General Motors was not backing out of Vauxhall, despite GM's worldwide loss situation and the recent decision to cut the British workforce by 5,700, or 20%.

The Dutch plants of the Ford Motor Co., which have been operating at a loss for years, are threatened by closure. A company spokesman said in Amsterdam that talks are being held with the works council and unions to possibly save part of the facilities. A complete Ford shutdown in Holland would mean the loss of 1,750 jobs.

Meanwhile, De Lorean Motor Cars Ltd. has started up its assembly operations at Belfast, Northern Ireland. Headed by John De Lorean, the former GM vice president, the company in its first year plans to turn out 11,500 sports cars, mainly for the U.S. market. The venture has been supported by more than £63 million in U.K. government funds, and De Lorean is currently trying to claim £8 million in additional aid.

According to London reports, an agreement has been signed between Renault's commercial vehicles subsidiary in Britain and the United States' Mack Trucks for the U.K. distribution of some Mack truck models by Renault, the state-owned French automobile group.

Canada's Alcan Aluminium is seeking to boost from 78% to 100% its equity in the British subsidiary, Alcan Aluminium (U.K.) Ltd., by offering £12.2 million for the outstanding 10.2 million shares held by minority shareholders. It is argued that the U.K. company's precarious financial status and the need to maintain a current investment program necessitate full control by the parent group.

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EUROMARKET NEWS

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Community: Debate Wound Up on Seventh Draft Directive

The Council of Ministers' working group discussing the seventh draft directive on consolidated accounts has wound up its deliberations without finding solutions to major issues that blocked further progress. The group's chairman has therefore asked the Permanent Representatives to seek solutions to the ten major problems that evolved in talks about Articles 6-10, the core of the proposal. These articles were changed considerably and hardly resemble the Commission's amended draft *(Common Market Reports, Par. 1407)*.

All but one of the Member States agree that a company having the legal power to control another company should be subject to consolidated accounting. It would not matter how control is exercised - by majority of stock, the right to appoint and recall more than half of the members of the managing and supervisory boards, or exercise of a dominant influence provided in an agreement or the articles of incorporation. There is considerable disagreement among the Member States over a company's obligation to prepare consolidated financial statements whenever it owns 20% or more of another entity's stock but nevertheless exerts control over the two boards because the stock is widely

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held by a large number of individual and corporate stockholders. Four Member States see no necessity to compel such a company to maintain consolidated accounting in the first place; they believe that the States should be free to exempt such companies from the proposed consolidated accounting requirement.

Disagreement also exists over the legal form of enterprises that would be subject to consolidated accounting. Article 6(4) would require consolidated accounts if at least the parent company or one of its subsidiaries operates under one of the legal forms described in the Fourth Council Directive *(Common Market Reports, Par. 1391)*. Germany believes that the proposed range of legal forms is too narrow and would make it easy to escape application of the measure. An individual or a partnership controlling companies would not be obliged to prepare consolidated annual financial statements. So far Bonn has failed to muster any support for its concept of extended coverage.

Another issue concerns the proposed authorization of the Member States to exempt a parent company from the consolidated accounting requirement whenever two of three criteria are not exceeded by the enterprises reflected in the financial statements, i. e., a balance sheet total of 4 million EUA, sales of 8 million EUA, or a workforce of 250. These criteria proposed in Article 6(6) are identical to those established in Article 27 of the Fourth Council Directive *(Common Market Reports, Par. 1392B)*. Council attorneys are almost certain that the criteria in the final seventh draft directive will be different because even the backers of the proposal are prepared to compromise. It is conceivable that an exemption would be permissible even if the balance sheet, sales and workforce criteria are exceeded whenever the parent enterprise is operating as a sole proprietorship held by an individual.

Article 6a(2) would empower Member States to grant exemptions from the consolidated accounting requirement whenever the financial statements of the controlling enterprise and its subsidiaries are reflected elsewhere in consolidated accounts of a company established in a Member State or outside the Community. However, the accounts would have to be established and audited along the lines of the proposed EEC standards.

Automotive Exhaust Limits Would Be Lowered

The Commission is preparing amendments to existing Community automotive exhaust control legislation. The new measure would incorporate the stricter standards to which the Member States agreed at the February 1980 meeting of the United Nations' Economic Commission for Europe (ECE) in Geneva. The ECE, comprised of representatives of the EEC Member States and other West European countries, has been a forum for coordinating legislative efforts in a number of fields, including standards for motor vehicle exhausts. The EEC Member States have taken a common position to incorporate ECE standards in Council directives. In 1970 the Member States committed themselves to lower automotive exhaust emissions, especially of carbon monoxide, hydrocarbons, and nitrogen oxide *(Common Market Reports, Par. 3371.06)*. The amendments that the EC executive is drafting are to take effect on Oct. 1, 1982; this is part of the commitment assumed by the Member States at the ECE meeting.

Meanwhile, the German government wants to see even stricter limits for automotive emissions than those agreed on in Geneva. Bonn believes that a modest lowering of emission standards for automobiles with internal combustion engines would not substantially reduce air pollution. What Germany wants is an agreement on the proposal it presented to the ECE forum in 1977, which was rejected. Many Commission officials are sympathetic to Germany's idea because they see the necessity for stricter air pollution control standards. In 1978, for example, motor vehicles in Germany accounted for 60% of carbon monoxide emissions, 50% of hydrocarbon pollution, and 36% of nitrogen oxide pollution.

The German government says there are no technical obstacles to building engines that would meet the tightened emission standards it is suggesting. Nor can there be any objections from the economic viewpoint. (According to a recent survey, more than 70% of drivers in Germany would be willing to pay up to DM 1,000 more for cars with lower emissions.) Introduction of stricter standards need not necessarily lead to higher fuel consumption, according to experts.

In Brief...

Three Commission regulations on monitoring imports of Japanese cars, certain machine tools, and color TV sets went into effect on March 1. They also cover imports since Jan. 1. Member States must report to the Commission within the first 20 days of each month the volume of these products imported in the preceding month (Official Journal No. L 54, Feb. 28, 1981, pp. 61-63) + + + The Commission has vowed to use its statutory powers to enforce the steel industry aids code adopted by the Council a year ago. In a report to the Council, the EC executive criticizes the Member States for trying to delay compliance with the requirement to notify the Commission's competition division about any aid plan. In a second report the Commission is pondering the idea of relaxing application of the Coal and Steel Treaty's competition rules in order to promote more mergers and also more cooperation among steel mills. The goal is to stimulate restructuring of the ailing steel industry. A major step in this direction was taken last October, when the Council empowered the Commission to impose production quotas, which has been done in the meantime, and to fine steel makers for noncompliance. The mandatory steel production curbs expire on June 30.

Britain: Company Residence Defined for Tax Purposes

The U.K.'s Board of Inland Revenue has issued a consultative document proposing a general statutory definition of company residence for tax purposes, since none exists at present. The British courts have tended to equate residence with the place of central management and control, and in determining this considerable weight has been given to the place where formal meetings of directors are held. However, the value of this test has become questionable, because of today's instant communications, rapid transport, and changes in the ways in which companies decide and implement policies. The criteria established in judicial decisions have not only become artificial with the passage of time and technical innovation but have enabled companies to arrange a residence for fiscal purposes that may bear little relation to their operational seat. Moreover, there is a degree of uncertainty about the law, which is undesirable for both companies and the tax authorities.

The document recommends that companies be taxed in the U.K. as residents on the basis of new statutory rules, which would bring U.K. tax law in line with the laws of various other countries. Article 4 of the OECD Model Double Taxation Convention of 1977 refers to "the place of effective management," and there has been confusion over the relationship between this view and the U.K. current test of "central management and control." Article 58 of the EEC Treaty specifies "central administration" and "principal place of business" *(Common Market Reports, Par. 1491)*, and it is likely that the new tests will be directed toward these concepts rather than ascertaining the place where the highest policy decisions are taken.

Under the new regulations, a trading company would be treated as resident in the U.K. for tax purposes if, for example, its practical day-to-day management is carried on there, if its principal administrative functions or acts of management are performed there, or if its principal place of business is located there. The place where formal meetings of directors are held would no longer have its present significance; instead, the place where the executive directors actually carry out their administrative functions would be of more importance.

The Inland Revenue appreciates that companies operating in the financial and other service sectors are in a special situation, and so some modification of the rules might be needed to deal with them. In addition, the proposed rules would not be appropriate for non-trading companies, to which the existing law would probably continue to apply.

Ireland: Encouraging Rate of Industrial Investment

The Irish Industrial Development Authority last year approved 1,850 industrial projects, which involved total fixed-asset investments of £580 million. The actual number of newly created jobs last year was 17,000, which roughly corresponded to the job decline in traditional industries. However, the IDA forecasts a final total of 35,600 jobs as a result of this new investment. Approximately half of this will come from U.S., Japanese and European companies.

A growth rate of 8% in manufacturing output is hoped for in 1981, and the IDA has a budget of £170 million (Irish) to provide assistance for new ventures. As last year, the target is again to create a further 30,000 job opportunities. At the end of January, there were some 125,000 unemployed. This was about 10.8% of the national workforce, a 40% rise over the previous 12 months. Ireland has the fastest population growth rate in Europe, with half of its people under age 25, and so there is continual pressure for additional jobs.

The U.S. Dept. of Commerce's annual survey of overseas investment has shown that, over a five-year period up to 1979, the average annual rate of return on U.S. investment in manufacturing industry in Ireland was 29.4%, compared with 12.1% in the U.K., 15.5% for EEC countries overall, and 13.7% for all countries. The survey also shows that the 600 U.S. companies located in Ireland reinvested three-quarters of their profits, which were largely free of tax, and that investment by American firms grew at a faster rate (32%) in Ireland than anywhere else.

The IDA dismisses complaints that its tax incentives contravene EEC law by amounting to an indirect subsidy to exports and therefore constituting a protective trade measure. The agency describes the fiscal provisions as simpler, more certain, and more straightforward than other incentives in the EEC. As of Jan. 1, 1981, Ireland imposes a maximum tax rate of 10% on profits derived from manufacturing industry, and this is often minimized by depreciation allowances.

France: Good Start for Worker Participation

Feb. 24 was the effective date for some one million French employees to acquire shares in their respective companies under the new worker participation law. The latter allows public (i.e., quoted) companies to voluntarily distribute shares to their employees up to 3% of equity capital. To effect the distribution, normally made in connection with a capital increase, companies must have reported a profit in at least two of their five previous fiscal years. Also, distributions are limited, for the time being, to a maximum FF 5,000 per employee. High-salaried employees may accept no more than three times as many shares as their colleagues with lower earnings. Finally, any shares received may not be disposed of for at least 3-5 years.

The worker participation law passed by Parliament last October was a heavily diluted version of the Barre government's original bill, which sought an obligatory rather than voluntary participation concept for large companies quoted on the stock exchange. Because of this downgrading to a voluntary system, most critics did not believe that the law would have much impact. However, according to a recent survey conducted by Les Echos, a leading business newspaper, at least two-thirds of France's quoted companies are implementing, or are planning to implement, the Act's provisions. Their motives apparently are not so much based on a concern for their employees' welfare as on political considerations (uncertainties as to the outcome of the national elections in May) as well as certain financial advantages. The greater share of distributions (65%) is being financed by interest-bearing state loans, which means that this arrangement is less expensive for companies than other forms of remuneration.

Major French Companies Try Out Inflation Accounting

In order to win broader acceptance of inflation accounting in France, the French accounting profession, as represented by the Ordre des Experts Comptables, is reportedly planning to help 20 principal companies in preparing supplementary inflation-adjusted figures for their annual reports. The reports said that price-adjusted data would be prepared for both statements of income and balance sheets to augment "historical" financial data. The French accountants' campaign for inflation accounting parallels efforts in other European countries, notably Britain. (See also *Doing Business in Europe, Par. 40,053.)*

Netherlands: Rising Foreign Investment; Election Plans

Dutch investors are taking a growing share of investment opportunities abroad, while foreign investment in their own country has been stagnating. Between 1971 and '79, direct foreign investment in the Netherlands rose only from 1.5 to 1.7 billion guilders, while Dutch investors spent 4 billion guilders abroad in 1979, compared with 1.6 billion in '71. According to Bank Pierson, Heldring & Pierson, U.S. investment in the Netherlands fell from 675 to 370 million guilders during the 1971-79 period; at the same time, interest in the United States increased among Dutch investors, who were particularly attracted by real estate opportunities, which accounted for half of total Dutch investment there. Recent years have seen a series of Dutch-American industrial takeovers, culminating in the spectacular purchase by Shell of Belridge Co. for $3.65 billion in 1979.

In other news, parliamentary elections in the Netherlands are set for May 26, and both principal political parties have recently held congresses. The governing Christian Democrats have re-elected Prime Minister Andries van Agt as their leader, with a program calling for a decision on the stationing of NATO intermediate-range missiles to be delayed until December this year and for an end to the construction of nuclear power plants. The Social Democrats elected former prime minister Joop den Uyl as their chief candidate, abandoning attempts to vote for an anti-NATO platform after Den Uyl threatened to resign his candidacy. However, the party remains opposed to NATO's December 1979 decision on the stationing of the missiles in Europe and has also gone on record with a demand for the shutdown of all nuclear power plants in the Netherlands.

Although the Social Democrats are hoping to become the largest single party once again (the gaining of an outright majority is considered unlikely), their plan to form a coalition with the left-liberal "Democrats 66" may give way after the election to the option of a coalition with the Christian Democrats, which many observers regard as more realistic.

Italy: More Confidence Votes; Quake Loan Problems

For the third time in six weeks, Italy's dispute-ridden four-party government coalition has been left with no alternative but the use of votes of confidence to keep its reluctant parliamentary supporters in line. This time, at the end of February, a violent disagreement had broken out between Socialists and Social Democrats, on the one hand, and Republicans, on the other, over trade union demands on the price indexation of pensions. Suggestions that the frequency with which pensions are adjusted for inflation should be shortened from six to three months, at a cost of 700 billion lire per year, were blocked by Republican opposition to any strengthening of the indexation system so long as inflation remains undiminished.

In the end, Prime Minister Arnaldo Forlani worked out a compromise based on adjustments in four-month intervals and costing 500 billion lire per year. The government began to submit each section of the measure, which was put forward as an amendment to the 1981 Finance Bill, in the form of a vote of confidence. After four such votes, Christian Democrat and Communist leaders in the Chamber of Deputies agreed to terminate the tedious and quite extraordinary procedure in exchange for an increase in minimum pensions to 188,500 lire per month. This brought the cost of the measure back up to 700 billion lire.

Meanwhile, the Rome government has suffered a severe setback in its attempt to raise an international credit to finance earthquake relief work in southern Italy. The $2-billion loan, which the government earlier (and perhaps prematurely) announced would be provided by a consortium headed by Bankers Trust, seems unlikely to materialize in full. International bankers were disappointed by the narrowness of the margin and the appointment of Bankers Trust as the exclusive lead manager. It seemed unlikely that more than $1 billion could be raised unless the terms of the loans were revised.

Germany: New Tax for Real Estate Owners Considered

The German government is considering legislation that would introduce a recurrent tax payable annually by individuals and companies that own land or buildings they do not plan to use but keep for speculative purposes. The tax would largely remove the incentive to "hoard" real estate, especially in congested areas. Most important, the tax might help local governments acquire additional real estate needed for development in order to cope with the shortage of housing. Expropriation of property is permissible only on limited grounds, such as for construction of roads and highways, but never for developing real estate, no matter how tight the housing situation is.

Property prices in the big cities and surrounding areas as well as in heavily industrialized regions have been rising steadily for years, but in the last two years they have skyrocketed. Since 1979 the cost of a square meter of land in the cities along the Rhine and Ruhr rivers has risen by 80%. These steep price increases are largely dictated by the scarcity of undeveloped real estate, but also because land is a lucrative investment.

The tax that the government is considering would be levied not only on land but also on abandoned buildings. It is not unusual for landlords to intentionally let houses or apartment buildings deteriorate beyond repair when it is more profitable to tear them down. New buildings financed without government help are not subject to rent control. This situation has sparked squatting in major cities like West Berlin and Hamburg as well as street violence following the eviction of squatters. Imposing stiff fines on landlords for letting houses fall into ruin has helped in some instances, but it it hoped that a recurrent annual tax may be more effective.

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Community: Postponement of Clampdown on Steel Aids

The Council of Ministers' agreement to postpone until July 1, 1983, application of the rules requiring the Commission's approval of any government aid to steel enterprises has been welcomed with relief in all Member States except Germany. Although all of the States could theoretically benefit from the postponement, it is generally believed in Brussels that Italy will get the most out of it. The Italian government is currently considering a massive financial infusion into the huge state-owned steel holding Finsider (see story on page 5).

The Council's agreement means a setback for the Commission, which was just about to act on its often-repeated vow to stamp out illegal state aids in general and aids to steel mills in particular. In February 1980, using its powers granted by Article 95 of the Coal and Steel Treaty, the Commission established Community rules for specific aids to the steel industry. The rules are supposed to ensure that any aid helps the particular steel mill to adjust to declining demand but does not cause unwarranted distortions of competition. No aid may be given for the mere survival of inefficient steel enterprises. At the same time, the Commission informed the States that it

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intended to use its powers under Article 67 of the Coal and Steel Treaty and Articles 92 and 93 of the EEC Treaty *(Common Market Reports, Pars. 2921, 2931)* to see to it that nonspecific aids would also be subject to the same appraisal criteria and scrutiny procedures laid down in the code on specific aids.

Last month the EC executive once again renewed its vow to get tough with those governments that are violating state-aid rules by helping obsolete steel mills survive amid competition from within the EEC as well as third countries, especially Japan and Brazil. Belgium and Italy were singled out as States whose aids to steel have not been entirely used for restructuring, as required by the Commission's code.

German steel mill executives expressed disappointment over the Council's agreement to postpone application of the rules. For the first time, steel manufacturers have asked Bonn to impose a levy on steel imports from those Member States that heavily subsidize their steel industry and thus distort competition. However, Germany could not lawfully introduce such a levy without the consent of the other Member States. The German manufacturers believe that continued unrestricted imports would jeopardize jobs in the domestic steel mills in favor of jobs in outmoded, government-supported mills elsewhere in the Community.

Meanwhile, the Council has called on the Common Market's steel industry to come to a voluntary production quota arrangement before April 1. This arrangement would succeed the mandatory production quota system that was agreed on last October and has been applied since. There are no plans at the moment to extend the mandatory system, which expires on June 30, 1981.

Council Approves Alignment of National Export Rules

The Council of Ministers has adopted the directive on the harmonization of national rules that govern customs procedures for the export of goods. The major purposes of the measure are to ensure uniform application of common rules on goods, including agricultural commodities, exported to countries outside the EEC and to eliminate distortions in the treatment of businesses based in the Common Market. To comply with the directive, the Member States will have to repeal national rules that, despite all the past harmonization efforts, still contain provisions tailored to national interests in the export sector. According to the Commission, these provisions and the customs practices based on them cannot be squared with the idea and requirements of a customs union, the cornerstone of the Common Market. The most glaring discrepancies are said to be found in the formalities required for exporting goods to third countries.

Compliance with the directive and common rules will guarantee that national customs authorities levy export duties uniformly, especially on farm products. Customs will also have to be strict in applying other Community provisions set forth in the directive. Uniform treatment of exporting businesses in the entire Community will prevent deflection of trade and remove the inducement for a business to relocate to a Member State whose customs rules give the most favorable treatment. Although the Commission never came up with any figures about the extent of deflection or artificial transfer of businesses, there was no doubt in the Council's working group that it did occur.

Like the 1979 directive on the importation of goods from third countries *(Common Market Reports, Par. 313.40)*, the export directive eliminates unnecessary red tape. The measure contains a set of simplified procedures enabling national customs to introduce modern techniques, especially the use of electronic data processing. The Member States will be able to apply special procedures to cope with all situations that might confront customs officials.

The directive lays down general rules that will govern the presentation of an export declaration. (A 1977 Council regulation introduced the common forms EX and EXC that exporters are required to use - *Common Market Reports, Par. 313.347.)* The Member States are authorized to enact legislation that would exempt a declarer from submitting a written declaration if goods are of low value or are exported for noncommercial purposes. More important for businesses is that national customs could allow them to fill in certain items on the declaration form after presentation. Information normally required on a declaration form could be submitted separately in another way that national customs considers sufficient. Businesses could be authorized to export goods without presentation of an export declaration form if the essential information is presented on other commercial documents necessary for product identification.

In Brief...

The Council has asked the Commission to give more thought to ways of helping Member States that are facing crude-oil supply difficulties. For instance, in times of market tension, stocks of oil could be transferred from one State to another. At present, observers give the so-called "oil bank" concept the biggest chance for realization. Under this plan, each Member State would pledge a certain quantity of oil to a central fund. Oil would not be moved at this point, but a State in supply difficulties would be able to obtain certain quantities if its stocks fell below the 90-day EEC minimum + + + Simone Rozes has been appointed advocate-general at the European Court of Justice to replace AG Henri Mayras. Mrs. Rozes, the first woman member of the Community tribunal, served 30 years with the French Justice Ministry and the judiciary. Before her Community appointment, she was president of the *tribunal de grande instance*, the district court for the Paris metropolitan area, which has been the judicial pacesetter in decisions on many controversial issues + + + Commission and Member State experts are still working on their seventh version of the draft directive on containers for liquids destined for human consumption. The planned measure would commit Member States to ban one-way bottles and other containers for environmental reasons. Since there is continued heavy opposition to the plan, it is uncertain when the draft will be completed.

Germany: Amendments to Old-Age Pension Law

The Labor Ministry has drawn up broad amendments to Germany's social security old-age pension law. Important for businesses would be the requirement to withhold 5.9% from company pensions paid to former employees and send the money to the government. The money would be used by the health insurance funds that are paying the doctors' and hospital bills of the retired. (Around 4 million pensioners receive company pensions in addition to social security.) There would be a DM 170 monthly exemption on each company pension. The withholding requirement would take effect on Jan. 1, 1983.

Business executives criticize the plan on two counts - additional costs for personnel offices and a negative impact on management's relations with former employees. Government officials counter this criticism by saying that, because of the DM 170 exemption, the plan would involve no extra work for employers in several hundred thousand cases. Moreover, since most large companies use computers to write checks, including those for pensioners, the government believes it would not be all that costly to add one more computation, even if an adjustment would have to be made at least every third year to reflect cost-of-living increases.

The pension law amendments, which are scheduled for enactment on Jan. 1, 1982, pursue essentially two objectives. They would reinstate the rule, repealed in 1979 for budgetary reasons, that annual raises in retirement checks should be based on the gross income developments of the working people whose contributions pay for social security pensions. Secondly, the amendments would introduce a new rule that would subject old-age pensions to a deduction of 11.8% to help pay for soaring medical costs. However, pensioners would not be receiving 11.8% less: each recipient would be entitled to that much more, and the amount would be deducted. This would make pensioners more aware of their health insurance costs, without actually having to pay.

Britain: IR Review on International Tax Avoidance

The U.K. Inland Revenue recently issued a consultative document reviewing the present need for Section 482 of the Income and Corporation Taxes Act 1970 and also considering possible new legislation to counter U.K. tax avoidance through tax haven subsidiaries.

Section 482 ICTA for some 30 years has been the principal provision for countering international tax avoidance in the corporate sector, and until two years ago it was reinforced by exchange controls, which imposed constraints on international transfers. Now that these controls have been abolished, the provisions requiring Treasury consent for company migrations, transfers of trade abroad, and certain transactions relating to overseas companies in a U.K. group may no longer be appropriate. However, the document says that it would not be practicable to repeal the section without any replacement, and this would include a recasting of the terms on which a company is regarded as resident for U.K. tax purposes. There would also be a new charge on certain income of tax haven companies under U.K. control, since "the government is particularly concerned to counter avoidance of U.K. tax by the accumulation of profits and investment income of U.K. groups in tax haven subsidiaries."

The document notes that a number of countries (including the U.K.'s main trading competitors, e.g., Germany, France, and the U.S.) have introduced legislation concerned with tax avoidance by way of income accumulations in such subsidiaries. The basic approach adopted by these countries is to impose a charge to tax on certain types of unremitted income of overseas companies, which are controlled by their residents. The resident shareholder is made liable to tax on his proportionate share of the income of the controlled foreign company, subject to relief for overseas taxes imposed on that income.

It is proposed that corporate shareholders resident in the U.K. be treated as liable for a pro-rata share of a U.K. tax charge on the income and gains of overseas companies controlled by U.K. residents. The charge would apply only to corporate shareholders with a direct or indirect interest of 10% or more in the overseas company, and the charge would be computed as if the overseas company were a U.K. resident company within the charge to corporation tax. However, the charge would arise only if the controlled company did not distribute to the shareholders, by way of a dividend, a substantial proportion of its profits, and if it was resident in a country with a "privileged tax system." Also, in order to maintain the free movement of capital, the new system would be designed to provide "full and effective safeguards for genuine trading and commercial activity."

Italy: Government Aid to State-Sector Steel Industry

The Italian minister for industry participations, Gianni de Michelis, a Socialist, has announced a series of government spending decisions designed to rescue the country's state-sector steel companies from near-bankruptcy. Finsider, the steel holding company, is to receive 5,568 billion lire in new capital, of which 4,000 billion would be contributed by the IRI state holding from the proceeds of a state-guaranteed, interest-rate-subsidized bond issue. The remaining 1,568 billion lire would come from the government's industrial restructuring fund and would be used to restock the capital of the Finsider subsidiary Italsider, which is, in fact, bankrupt.

The rescue move is being bitterly opposed by Giorgio La Malfa, the Republican budget minister, and Nino Andreatta, the Christian Democrat treasury minister, because it is not made dependent on rationalization measures in the steel industry. The industry blames its difficulties on excess capacities caused by shrinking domestic demand, the EEC's steel quota system, and extremely high interest rates on short-term liabilities. Earlier, Prime Minister Arnaldo Forlani himself had to step in to arrange an immediate transfer of 35 billion lire to Italsider to permit the company to meet its February payroll. Some 40,000 workers at Italsider's Genoa plant had gone on strike after being told they would receive only 70% of their normal wages. The unions have opposed any government plans for large-scale layoffs in the steel industry.

Greece: Further Price Liberalization Moves; Drug Prices

The Greek trade ministry last month, for the third time, removed a group of products (47 in all) from the list of goods covered by the government's price control system. The pertinent law, No. 926/79, requires official approval of any price increases in excess of 10% a year. The list is now reduced to 54 product categories that either are deemed daily-use items or have a direct impact on price development - for instance, foodstuffs, TV sets, paper products, shoes and leather, and automobile tires.

Earlier, however, government officials warned that the remaining controls are likely to stay in force for a while, at least until the mechanisms of supply and demand are functioning better. Nevertheless, Athens plans to return as soon as possible to the previous "market organization" system, which would allow the government to intervene whenever the balance of supply and demand seems unduly disturbed. The basis of this system would be the possible designation of products deemed "essential" and "in short supply," for which Athens could set fixed prices or price ceilings or margins. Business spokesmen have welcomed these new price policy intentions, but they are also pressing for the early removal of the remaining controls.

Also last month, the government raised wholesale prices for drugs by 8-15% (domestically produced) and 7-14% (imported). The increases for imports varied according to the country of origin, in accordance with the drachma's parity vis-à-vis the respective foreign currency. For instance, the prices of drugs from Germany, France, Belgium, and Holland went up by 9% (from the level of the previous increase in January 1980), whereas those of U.S. and Swiss pharmaceuticals, among others, were accorded higher increases.

France: Guaranteed Minimum Wage Raised by 2.8%

As of March 2, the guaranteed hourly minimum wage (SMIC) in France has been raised by 2.8% to FF 15.20. This means that about 600,000 workers in industry and agriculture are now receiving at least FF 2,635 per month. During the past 12 months, the French minimum wage was increased by a total of 13.7%. Last year, consumer prices in France rose by 13.6% in annual terms, and inflationary pressures continued in January 1981 with a rise of 1.2% for the month, compared with 0.9% for December 1980.

Netherlands/Belgium: Base Rates Follow Market Trend

The Dutch central bank raised its discount rate from 8% to 9% and its Lombard rate from 9% to 10% as of March 3, referring to international interest rate developments. Following the tightening of the German Lombard facilities, the Dutch money market rates had gone up by 1.5 points in the last week of February. The last previous base rate change dated from Oct. 21, 1980, when the discount rate was dropped from 8.5% to 8%.

In Belgium, the National Bank on March 4 lifted its Lombard rate by one point to 13% but, contrary to expectations, left the discount rate untouched at 12%. Financial observers said the Bank apparently wanted to avoid a sharp upward push of interest levels in view of the high capital needs of the state and communal treasuries.

EURO COMPANY SCENE

Dallas-based Enserch Corp. announced on March 3 that its offer for Davy Corp., the U.K.'s largest engineering contractor group, had automatically lapsed following a decision on the same day by the British Trade Dept. to refer the proposed merger to the Monopolies and Merger Commission *(Doing Business in Europe, Par. 40,148)*. Last December Enserch had announced it was planning a share and debenture offer for Davy, which valued the British firm at about $330 million. Davy subsequently contested the bid. Under the new circumstances, the Enserch board will have to make a decision on whether or not to proceed with the merger proposal.

Los Angeles-based Occidental Petroleum Corp. (Oxy) and the Italian state energy group Ente Nazionale Idrocarburi (ENI) have signed a letter of intent to form a joint venture for the operation of petrochemical plants in Italy and coal properties in the U.S. To be initially capitalized at $1.1 billion, the new company would acquire various Italian chemical plants from ENI for $500 million, while Oxy would transfer ownership of four coal mines. Each partner would contribute $375 million to the venture, and a further $250 million would be raised in the form of long-term loans. A definitive agreement is to be concluded within six months.

Precimed SA, Le Locle/Switzerland, a subsidiary of Zurich-based Kontron Holding AG, has been taken over by Intermedics, Inc., Freeport/Texas. The U.S. company, a leading producer of heart pacemakers, intends to build up Precimed as its European manufacturing, development and sales center. Precimed also produces heart pacemakers and has annual sales of SF 7 million.

United Nuclear Corp., a U.S. uranium extraction company, may make a bid for the U.K.'s NCC Energy, formerly National Carbonising, an energy exploration and investment firm. According to London reports, UNC intends to diversify out of uranium extraction activities and lately has also been involved in talks with the United States' Western Airlines.

Visa International, the credit card organization, headquartered in San Francisco, has started talks with German banks on the possible introduction of the card in that country - the only major western market where Visa is not yet represented. In France, Visa traveler's checks are now also available in French francs. Both of these developments, among others, are seen as part of Visa's efforts to create a semiautonomous European market for itself, which can stand up against strong competition.

Meanwhile, a cooperation agreement in principle has been signed between Mastercard International and the European banks joined in Euro Travellers Cheque International (ETCI) and Eurocard. The partners are to establish a joint venture in traveler's checks and plastic payments cards. Within this year a new worldwide traveler's check will be issued, based on the British Thomas Cook check system, which has been purchased by the European banks.

According to Madrid reports, the United States' Citibank has been prevented by the Bank of Spain from acquiring an interest in Central de Inversion y Creditor (CIC), Spain's second-largest finance group. The veto apparently was the result of pressures by the big Spanish banks. Last month Citibank and CIC had agreed in principle that the U.S. bank would purchase nine of 52 CIC finance companies, which would have led to a substantial enlargement of Citibank's branch operations in Spain.

Common Market Reports

EUROMARKET NEWS

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Community: Court Bars Sex Bias in Company Pension Funds

The European Court of Justice has once again condemned sex discrimination in employment by its recent ruling that an employer's contributions to a company pension fund that are added to gross wages constitute "pay" within the meaning of Treaty Article 119(2). The EC Court added that the national courts must protect individuals against infringements on rights vested in them by Treaty Article 119, which established the principle that men and women should receive equal pay for equal work. The equal pay and equal treatment directives reiterated this principle *(Common Market Reports, Pars. 3941, 3942.15)*. In this context, the term "pay" includes wages or salary and any other consideration an employee receives directly or indirectly. This latest ruling (judgment of March 11, 1981, Case No. 69/80) extends case law established by the Court in the Defrenne (Case No. 43/75; *Common Market Reports, Par. 8346)* and Macarthys (Case No. 129/79) rulings.

Two female ex-employees of Lloyds Bank Ltd. sought relief in court from their former employer for alleged contravention of the equality principle. Lloyds operates two pension funds for its employees, one for men and one for women. The conditions for

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qualifying for benefits are the same for men and women: the employee must have completed five years' service and have attained the age of 26. Male and female employees who quit before five years or the age of 26 either are entitled to the transfer of the accrued rights to another retirement fund, or Lloyds pays the "contribution equivalent premium" to the government on the employee's behalf.

All Lloyds employees except women under 25 must contribute 5% of their salary to the pension fund. Men under 25 are paid 5% more than women of the same age doing the same work. A male employee under 25 who quits gets the contributions back, with interest, whereas a woman of the same age who quits gets no refund. Thus, a man under 25 who leaves Lloyds before completing five years' service receives indirect advantages not extended to a woman of the same age and seniority.

The former employees won in lower court, but Lloyds appealed to the Court of Appeals, which suspended proceedings and submitted several questions to the Court of Justice. The main question was: Are contributions by an employer to a company pension fund or an employee's rights and benefits under such a fund to be considered "pay" within the meaning of Article 119? The EC Court answered with an unequivocal Yes.

Another important aspect to the judgment is the Court's rejection of Lloyds's request to limit the retroactive effect of the judgment, as the Court did in *Defrenne v. SABENA* (Case No. 43/75, *Common Market Reports, Pars. 3942.81, 8346).* Since 13,000 of the 21,500 women employed by Lloyds are under the age of 25, the clearing institution maintained that claims for retroactive adjustment of pay scales could run into millions of pounds. The Court found that the conditions it had established in *Defrenne* for retroactive limitation were not met here.

Alignment of Banks' Accounting Rules Proposed

The Commission has forwarded to the Council of Ministers a draft directive on annual accounts of banks and other financial institutions. The proposal would be an essential complement to the Fourth Council Directive that established standards for the content and publication of annual financial statements and for the submission of annual reports of certain companies *(Common Market Reports, Pars. 1391, 1391A).* Coordination would be attained by adapting the standards set forth in the Fourth Council Directive to the activities of banks and other financial institutions (so-called credit institutions). The proposed and already enacted rules jointly would constitute the body of provisions that would govern the drawing up, publishing, and auditing of annual accounts and the submission of annual reports.

Adoption of the draft directive would require credit institutions in all Member States to publish both a balance sheet and a detailed profit-and-loss statement at the same time. In contrast to companies, which were subject to accounting requirements even before adoption of the Fourth Directive, credit institutions in the various Member States operate under considerably differing rules.

At present there are also considerable differences in the layout of credit institutions' annual accounts. British and Irish rules allow credit institutions to restrict to a few headings the information furnished in the balance sheet and to disclose most of the details in the annual reports. In all other Member States, particularly Germany and Belgium, the number of balance sheet headings is rather high. There are even greater discrepancies with respect to the information required in the profit-and-loss statement: the U.K., Ireland, and the Netherlands are rather liberal, while the other States, especially France and Germany, require disclosure of a great deal of information.

Alignment of the different rules and practices would produce the needed measure of comparability of financial statements and annual reports. This would eliminate distortion of competition among credit institutions established in different States and enable the institutions' creditors, borrowers, and shareholders to evaluate financial statements and annual reports. Coordination has also become urgent because more and more credit institutions are operating across national frontiers under the eased conditions set forth in the 1977 First Coordination Directive on credit institutions *(Common Market Reports, Par. 1486.19)*.

The most controversial issue in the discussions among officials of the Commission and the Member States, bankers, and representatives of the accounting professions was the treatment of secret reserves. German, Dutch, Irish and British bankers were opposed to any limitations on the discretion that allows credit institutions to create such reserves to conceal temporary problems, such as a large bad debt, in order to avoid a run on the bank. The proposed extent of alignment would allow the Member States to continue to tolerate present practices.

In Brief...

On March 10, Denmark became the ninth Member State to sign the Convention on the Law Applicable to Contractual Obligations. The U. K. is the only Common Market member not to have signed. As a result of the convention, uniform rules applicable to contracts involving conflicts of law automatically will become part of the contracting states' law. This will help parties who have failed to specify in their contract which national law should govern in case of a dispute *(Common Market Reports, Par. 6301)* + + + The Commission has proposed to the Council two draft directives that are designed to facilitate free movement of pharmacists. One proposal would introduce some coordination of national rules governing the activities of pharmacists and their training requirements. The second would commit the Member States to recognizing diplomas from schools of pharmacy in other EC States. The Council has already enacted directives on physicians, dentists, nurses, veterinarians, and midwives *(Common Market Reports, Pars. 1486.23, 1486.25, 1486.27, 1486.38)*.

Italy: Quake Relief Loan Scaled Down to $1 Billion

The $2-billion Euromarket loan originally sought by the Italian government to finance the earthquake relief program of the Cassa per il Mezzogiorno has been scaled down to $1 billion after potential creditor banks balked at what they considered insufficient margins. Reconstruction efforts in the quake-damaged southern regions should not suffer, however, because the second tranche, now dropped, would not have been needed immediately, anyway. Rome reports said that the loan in its present form is being underwritten by a consortium of 23 banks, and the treasury gave the spreads as 3/8ths over Libor for the first half of the eight-year term and 1/2 over Libor for the second.

Government authorities offered no explanation for their choice of a single bank, Bankers Trust International, as the lead manager for such a large loan. This decision was said to have irritated other banks and apparently led to their refusal to grant very favorable terms for the second $1-billion tranche.

In other financial news, it was announced in Rome that the lira has been devalued by 6% with the promise of austerity measures to come.

Belgium/Luxembourg: Ten-Year Extension of Economic Union

Belgium and Luxembourg have extended their economic and currency union by another ten years *(Doing Business in Europe, Par. 26,112)*. The Belgo-Luxembourg Economic Union (BLEU) came into being on March 6, 1922, for an initial 50-year period and in 1972 was extended by ten years. In conjunction with the latest extension, which begins on March 6, 1982, Luxembourg will be accorded more monetary autonomy through the establishment of a new monetary institution. The latter can represent the Grand Duchy in pertinent international bodies such as the European Monetary System, the World Bank, and the Bank for International Settlements. Also, Luxembourg in the future will have broader powers to print its own bank notes. In the past, the issuance of currency was restricted to coins and notes in denominations not above LF 100. The proportion of bank notes issued by both countries will be determined by the population count, with Luxembourg being limited, however, to 10% of total currency circulation. All essential central bank functions remain with Belgium, as in the past.

For the next phase of the cooperative agreement, all joint revenues from excise taxes on cigarettes, alcoholic beverages, and gasoline will accrue to the Belgian treasury. Furthermore, Luxembourg will pay certain compensation to Belgium for tax revenues from products bought by Belgians at the Luxembourg border town of Martelange.

In other news, Luxembourg stock exchange authorities as of March 17 have established a daily gold fixing session at the bourse. The fixings are conducted under the patronage of five banks, with Cedel functioning as the clearing system and the Caisse d'Epargne de l'Etat, the Luxembourg state bank, as the deposit bank.

Germany: Validity of Handicapped Employment Law Challenged

Germany's Federal Constitutional Court is pondering the constitutionality of the 1974 Law on the Employment of Severely Disabled Persons (Case Nos. 1 BVL 56-58/78). This law requires all private and public employers with a workforce of more than 16 persons to reserve at least 6% of the jobs for severely handicapped persons or pay a monthly levy of DM 100 for each handicapped person not hired *(Doing Business in Europe, Par. 23,432)*. The Aachen administrative court had considerable doubts about the measure's constitutionality and therefore asked the country's highest court to rule on the validity of the law. These doubts emerged during litigation between the government and three medium-size companies located in the Aachen area. The companies fought the assessment for 1975 on several grounds, among them that the 6% requirement was far too high because in that year there were not enough severely handicapped persons to fill the jobs available to them. In the administrative court's view, Parliament had an obligation to lower both the 6% requirement and the levy if it turned out that employers had to offer more jobs than there were handicapped persons to fill them.

The administrative court also had misgivings of its own about the validity of the law. The court questioned the way the revenue derived from the levy is spent. Only 30% of the annual revenue is spent to further the employment of the handicapped. The remainder is spent to finance facilities for housing, vocational training centers, and rehabilitation programs, such as helping handicapped persons open their own businesses. In the court's view, these burdens should rest on society as a whole and should be financed exclusively from general tax revenue and not from a levy paid by employers. The Aachen court believed two clauses of the Constitution were violated - the equality clause, since the law burdens employers in a discriminatory manner, and the clause that restricts the imposition of levies.

At a recent hearing of oral arguments before the *Bundesverfassungsgericht*, government lawyers defended the 6% requirement and the way the levy is spent. Counsel for the three companies and the national employers' association shared the doubts of the administrative court about the law. The justices were reminded that they must apply the same criteria that were defined in their December 1980 judgment, when they declared the 1976 Apprentice Hiring Law to be unconstitutional. In that case, the justices stated that a levy may be imposed only on a clearly defined group and only for purposes specifically related to that group.

Thousands of employers have refused to pay the levy over the past three years. (As a result the revenue dropped from DM 379 million in 1976 to DM 216 million in 1980.) They are waiting to see whether the high court will merely rule on the three cases involving the assessments in 1975 or whether it will make the ruling applicable to all other similar cases pending before the collecting agencies and other administrative courts and involving assessments for the years 1976 through 1980.

Britain: Budget Reaffirms Tough Economic Policies

The U.K. Conservative government on March 10 submitted a 1981-82 Budget heavily emphasizing increased taxation on wage earners and consumers and lower public-sector borrowing. In the face of an economic recession, the Thatcher administration thus reaffirmed its controversial monetarist stance in seeking to bring down inflation and in rebalancing the public and private sectors. "To change course now," said Chancellor of the Exchequer Sir Geoffrey Howe in Parliament, "would be fatal to the whole counter-inflation strategy." However, the minimum lending rate was reduced from 14% to 12%, and it was announced that the official MLR is to be phased out "in due course," after which interest rates would be determined by market forces.

The main impact of the Budget for most Britons comes in the form of higher duties on tobacco, alcohol, automobiles, and gasoline, in the total amount of £2.42 billion in 1981-82. Motorists now have to pay approximately 20p more per gallon for gasoline. The higher duties on tobacco put an extra 14p on 20 cigarettes, and those on alcoholic beverages add 4p to a pint of beer and 60p to a bottle of whiskey.

Contrary to earlier expectations by the business community, these heavier burdens on individual taxpayers were not accompanied by substantial relief measures for businesses. Industry generally was merely awarded minor tax adjustments (for instance, corporation tax thresholds were raised from £70,000 to £80,000 for the 40% rate), and small businesses will benefit from certain tax breaks, loan guarantees (up to £50 million annually) and other incentives. In the area of energy costs, industry will be aided by more flexible electricity pricing as well as a gas price freeze until the end of the year.

On the other hand, the government is slapping on oil companies a "supplementary petroleum duty" of 20% of oil and gas revenues in excess of 1 million tons annually per oil field. Banks will have to pay a one-time levy of 2.5% on non-interest bearing deposits over £10 million, as averaged over the last three months of 1980.

With economic conditions being what they are, the government is unable to cut public expenditures from current levels in real terms, but in nominal terms they are to rise from an estimated £93.7 billion in the past budget year to £104.2 billion in 1981-82. However, substantial reductions are foreseen for the years 1982-83 and 1983-84. The public-sector borrowing requirement, which at £13.5 billion exceeded budget targets by about £5 billion last year, is to be brought back to £10.5 billion.

Accounting Treatment of U.K. Oil Revenue Tax

The Accounting Standards Committee, comprised of the various accountancy bodies in the U.K. and Eire, has published a new exposure draft on the accounting treatment of petroleum revenue tax (PRT).

The document notes that PRT was introduced so as to increase the U.K. government's share of profits from the development of the North Sea oil fields and it is a tax based on revenues from production, which is levied on companies in addition to corporation tax *(Doing Business in Europe, Par. 23,871)*. PRT has several unusual and complex characteristics, which differentiate it from other fiscal measures, and oil corporations use widely different methods of accounting to deal with its special provisions. The draft's intention is to achieve greater comparability between the published results of companies in this field and to provide more information in financial statements for those assessing PRT's impact on profits.

In calculating their PRT liability, corporations receive an allowance by which the first half million metric tons of oil produced each year is tax-free, for the first ten years of production. This is to provide encouragement for the development of smaller fields. There is also a safeguard provision to ensure that no PRT is payable in any year in which the profits from a field fall below a minimum rate of return on the cumulative capital expenditure to date. The new draft would prevent a company from anticipating the benefits from these allowances, where their availability is subject to such uncertainty as to future profitability that they cannot be assessed with any reasonable probability.

"Uplift allowance" is a special allowance, at the rate of 35%, on capital expenditure, in addition to the standard 100% capital allowance given for corporation tax purposes. Interest costs are not allowed as an expense in calculating the amount of PRT payable, and uplift allowance has been granted as a means of affording relief for the assumed costs of financing and developing an oil field. The document lays down that the benefits derived from this allowance should not be taken immediately in the year in which it is obtained but should be spread over the actual life of the oil field, in accordance with oil production or some other rational basis. In concludes that, in the future, companies would be obliged to disclose the amount of the PRT charge for the year, amounts which have been set aside for future PRT, and the ways in which uplift and other allowances have been accounted for.

Portugal: Drought Worsens Economic Prospects

The catastrophic drought that has afflicted Portugal for several months is likely to result in a severe worsening of the country's payments situation and the abandonment of hopes for a fall in the inflation rate. Last year saw inflation drop from 24% to 16.6%, and it had been planned to hold it down to 16% this year. However, Portugal is now forced to import foodstuffs in large quantities at a time when world market prices are rising. The domestic wheat harvest is expected to shrink to 250,000 metric tons this year, from 380,000 tons in 1980, which should result in a corresponding rise in imports. The rice crop has been virtually destroyed. Also, the United States has indicated that it is no longer willing to grant Portugal the less-developed nation status which permits cheap grain imports.

Up to 40% of Portugal's traditional agricultural exports has been destroyed by frost, which has particularly affected the citrus crop. The current-account payments deficit totaled some $1 billion last year and will reach at least $1.2 billion this year, since 45% of the 1980 trade deficit was already attributed to food and fuel imports. Energy imports are also certain to increase, after the fall of the country's water reservoirs to less than half their normal capacity. Hydroelectric power usually supplies 60% of national electrical needs, but today 25% of these requirements is being met by imports from France. The government is now studying proposals to supplement existing hydroelectric and coal resources with nuclear power. There have been suggestions to build three 1,000-MW reactors. Portugal has proven reserves of 20,000 metric tons of easily accessible uranium ore and probable additional reserves of 80,000 tons deeper underground.

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EUROMARKET NEWS

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Community: One More EC Court Judge, Advocate-General

The Council of Ministers has agreed to increase the number of judges at the European Court of Justice from the current 10 to 11 and the number of advocate-generals from four to five. The decision, not yet in legal form, involves amendments to EEC Treaty Articles 165 and 166, which the Council is empowered to make without involving the Member States' legislatures *(Common Market Reports, Pars. 4605, 4607)*. Part of the agreement is that the eleventh judge will be of French nationality, and thus France will have two judges on the bench. The eleventh judge's term will expire on Oct. 6, 1985; thereafter, his successors will be chosen by lot from candidates nominated by France, Germany, Italy, and the U.K. By Council agreement, the fifth advocate-general will be Dutch, but his successor will be chosen by lot from nominees suggested by the smaller States.

In related matters, the Council has approved an amendment to the Court's Rules of Procedure, making Greek the eighth language at the EC tribunal. This amendment is provided for in the Accession Treaty with Greece *(Common Market Reports, Pars. 4779, 7646)*.

This issue is in two parts. This is Part I.

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No decision has been made on the Court's request for an amendment of Article 26(1) of the Rules of Procedure to avoid split votes when there is an even number of judges. Usually the judges try to reach a unanimous agreement, although this is not necessary. In the past, when the number of judges was uneven and for some reason one judge was absent, making the number even, the most junior judge did not take part in the deliberations *(Common Market Reports, Par. 4776)*. Now that Greece has joined, the Court finds the old arrangement unsatisfactory because it means the new Greek judge, Alexander Chloros, would always be excluded if all other judges were present. The Court suggested that when the number of judges present is even, the name of the judge who would not take part should be decided by lot. Council attorneys believe an amendment is not necessary because, with the eleventh judge, the number is once more uneven, so the Court could continue with the system it has been using.

Strong Opposition to Commission's Farm Price Proposals

It seems certain that the Commission's farm price proposals are not going to be adopted as they stand. The same holds true for some of the accompanying measures designed to improve the market organizations for several commodities. The Commission's proposals called for price increases of 4-12% for the 1981-82 marketing year. Prices for grain, milk and milk products, and beef would go up by 6-9%. Price support and intervention buying of these commodities comprise roughly 65% of the Community's farm policy costs. In making its proposals, the Commission took into consideration the fact that the Community is likely to reach the limits of its financial resources in 1982.

So far the ten Member States' farm ministers have not agreed on the price for any commodity. They all say that the Commission's price proposals, averaging around 7.8%, are far too low. France is pushing for a 12% boost, and even Germany believes the proposed figures are not high enough. All States agree that farmers' incomes in the Community in 1980 dropped by 10% in real terms, so that increasing prices by 10% would at least guarantee that these incomes do not fall further.

There is also united opposition in the national capitals to the Commission's idea of a "super milk levy," which would penalize farmers who excessively contribute to the milk surplus. Producers already pay a so-called co-responsibility levy for excess milk. The EC executive thinks it is time that farmers pay a larger share of the costs the Community incurs in having to buy up and store surplus commodities. Since a start must be made toward overhauling the common agricultural policy, the Commission is surprised at the resistance to its plan for a super levy.

Community officials say a decision on the farm price proposals will not be made before the May 10 French national elections. A compromise by France on farm price issues before that date would further antagonize French farmers, whose support President Valéry Giscard d'Estaing needs for a second term.

In Brief...

The Council has agreed to speed up current negotiations over Spain's accession to the three Communities (EEC, Coal and Steel, and Euratom - *Common Market Reports, Par. 9965)*. The negotiators have been concentrating on economic and commercial policies, transport, and free movement of persons, businesses, and capital. The Council has also acceded to Spain's request for immediate access to the financial resources of the European Investment Bank. With these gestures, the ten Member States want to express their solidarity with the young Spanish democracy, which survived an attempted military coup on Feb. 23 + + + The European Parliament is going to hold all sessions in Strasbourg for the remainder of the year. The decision, which contains considerable political dynamite, could have a bearing on where the Community institutions will be permanently located. So far the Council has refused to debate the issue thoroughly for political reasons.

Italy: 6% Lira Devaluation; Discount Raised to 19%

To counter the rapid deterioration of the country's export competitiveness, the Italian government as of March 23 decided on a 6% devaluation of the lira within the European Monetary System. At the same time, the discount rate was raised from 16.5% to 19%, and the commercial banks' minimum reserve requirement was increased from 15.75% to 20%. In announcing these measures, the Forlani administration reaffirmed its intention to boost the competitiveness of Italian industry by way of investment incentives and to cut public budget deficits by 5,000 billion lire.

The devaluation came as a surprise to the international foreign exchange markets. Even though the lira lately had been one of the weakest currencies in the EMS, few experts had expected Rome to act at this time. The move could now lead to devaluation pressures on other European currencies, particularly the Belgian franc and the Danish krone. The Banca d'Italia had resisted the devaluation on the premise that the ills of the domestic economy can be corrected only by attacking inflation at its source, namely, by reducing the high public indebtedness. However, the Bank's market interventions on behalf of the lira were threatening to become too costly for the national currency reserves, so that devaluation appeared unavoidable.

Observers termed the devaluation a "forward escape." They said the benefits should be of short duration because of Italy's high inflation rate. They predicted a considerable increase in illegal capital exports, to Switzerland and other hard-currency countries. Financial commentators forecast a dramatic rise in Italian interest rates, up to 28-30% for private borrowers.

Germany: Motor Fuel, Liquor Prices Going Up on April 1

Gasoline and diesel fuel prices in Germany went up by DM 0.08 and DM 0.034 per liter, respectively, effective as of April 1. The price increases are the result of legislation providing substantial rises in federal excise taxes on gasoline, diesel, and alcohol. Parliament's lower house overruled the upper house's earlier veto of the measure with a far larger majority than required under the Constitution. Motorists have been paying DM 1.25-DM 1.32 per liter for regular and DM 1.33-DM 1.40 for super. Prices at gas stations along the federal highways have been even higher.

The price of hard liquor went up by DM 0.70-DM 1.00 per bottle, depending on alcohol content. Many alcohol-based cosmetic products, such as shaving lotion, will also cost more, although not as much as had been proposed because the lawmakers gave in to opposition from the cosmetics industry.

Most of the revenue from the measure (DM 2.4 billion this year and DM 3.2 billion each year thereafter) will be spent outside the country. The government needs the money to live up to its April 1980 commitment to help lessen Britain's burden in contributing to the Community's 1980 and 1981 budgets. Chancellor Helmut Schmidt reminded Prime Minister Margaret Thatcher at the March 23-24 summit of the ten government heads in Maastricht that the promise was made on the condition that a common fisheries policy would be established by the end of 1980. The CFP did not materialize, largely because of Britain's resistance. Nobody believes that Bonn will retract its promise, but Council attorneys say that Germany still has some leverage in the Council to delay advance payments so as to force the British government to compromise.

Belgium: Modest Success in Trimming 1981 Budget Deficit

Despite extremely long and intense negotiations, culminating in a final 40-hour session ending on March 23, the Belgian coalition government has managed to shave only BF 33 billion in savings off the initially projected budget deficit of BF 200 billion. The savings are to touch on virtually all areas of public spending, but primarily the sectors of education, road and hospital construction, defense, and general administration. The Economics Ministry was instructed to press for a 10% cut in management salaries in all enterprises receiving state aid to overcome financial difficulties. Belgium's deficit-ridden national airline, Sabena, would receive subsidies not to exceed those paid in 1980. Agreement on all these cuts came only after extended haggling by the individual cabinet ministers, even when relatively minor savings were involved.

Political considerations forced a postponement of both a major restructuring of spending policy and new tax increases. The cabinet merely decided to impose value-added tax on gold transactions (at a 6% rate, which would raise BF 375 billion in 1981) and on poster advertising. Also allowed would be advertising on radio and television (BF 1 billion), which so far has been barred. The tax splitting for jointly assessed married couples is to be limited to BF 750,000, which would result in additional revenues of BF 1.5 billion. The remaining funds needed to plug the deficit would be raised on the capital markets. The Martens administration is proposing to offer a "crisis bond issue" to savers and investors, which would be free of all Belgian taxes, i.e., the capital gains tax and an additional withholding tax at source. This would be expected to bring at least BF 100 billion for the state rather than the BF 50-60 billion normally raised from state bonds.

Britain: Business Disappointed by Budget Proposals

The U.K. government's 1981-82 Budget has aroused almost unprecedented hostility across the broad spectrum of Britain's political parties, the business and financial communities, and the trade unions. There was a substantial rebellion even by Conservative members of Parliament at the end of the Budget debate, when nine Tory MPs voted against the 20p-per-gallon rise in gasoline prices, with a further 25 abstaining. The Thatcher administration's built-in majority, which normally exceeds 40, was whittled down to 14, and one Conservative MP defiantly joined the emergent Social Democratic Party in the House of Commons during the debate.

Both sides of industry have found little to welcome in the proposals. Sir Terence Beckett, director-general of the Confederation of British Industry, described the Budget as "disappointing." Not enough had been done to help business, and further cuts were needed in the minimum lending rate. The Budget's deflationary effects would offset the benefits of lower interest charges for most of industry. Sir Terence also was critical of the indirect tax increases and the windfall profits tax on banks. Len Murray, general-secretary of the Trades Union Congress, said that the Chancellor of the Exchequer had given the nation a "high-price, high-unemployment, no-hope Budget." The "few crumbs of comfort" the Chancellor had given to industry were "totally inadequate," and he had ignored the "grim reality" of plummeting output and the escalating number of jobless. The TUC Economic Committee predicted that the Budget would cost people an extra £5 per week on the average, and pay claims would reflect the shortfall, with a predicted rise of between 4% and 5%. The committee stated that "working people cannot be expected to submit weakly or meekly to a drastic cut in their living standards both through attacks on their wages by tax increases and declining services."

The £400-million windfall tax on banks has been widely attacked by those affected, which are likely to number about 50, including branches or subsidiaries of foreign banks. Sir Jeremy Morse, chairman of Lloyds Bank, said the tax was damaging not only to shareholders but also to industrial borrowers because "it will deplete our resources just when industry needs most our support." He said that British banks would be less competitive internationally, and their ability to earn profits overseas would be weakened. The supplementary tax on North Sea oil has aroused opposition from companies drilling there, and Shell U.K. said it would now face a cash flow deficit on its British operations.

Netherlands: Currency Law; Zijlstra to Retire

A new Dutch law on foreign exchange transactions will take effect on May 1. Replacing regulations dating from 1945, the legislation streamlines these rules but does not essentially modify them. Remaining subject to official approval are loans to nonresidents in excess of 10 million guilders as well as foreign guilder-denominated loans in the Netherlands. Non-banks still need a permit before raising foreign loans above 500,000 guilders annually. Furthermore, the central bank has the right to obtain information about any foreign exchange transactions.

In other news, Dutch central bank president Dr. Jelle Zijlstra, 62, as of Jan. 1, 1982, will retire from that position as well as that of board chairman of the Bank for International Settlements (BIS). He will be succeeded as head of the Nederlandse Bank by former finance minister Dr. Wim Duisenberg, 45, who had been named to the Bank's board of directors last May. Duisenberg at present also serves as a board member of Rabobank, a cooperative bank, and is a lecturer at Amsterdam University.

Denmark: Settlement in North Sea Oil Dispute

Following more than a year of dispute, the Danish government and the Danish Underground Consortium (DUC) led by the A.P. Moeller group have come to a settlement on the future of oil and gas exploitation in the Danish sector of the North Sea. The consortium has agreed to give up its 50-year exclusive right of access to oil and gas reserves in the Danish continental shelf and to relinquish 99% of the area concerned by 1986. However, it will keep a section of 12,000 square kilometers in the southwest corner of the concession area that is already producing oil. Other, so far unexploited oil finds also will be retained by the consortium until the year 2012. A.P. Moeller will submit an exploitation plan to the Energy Ministry and update it every three years.

The Danish state is now preparing to take a substantially greater role in oil development, and its first major project will be the construction of an oil pipeline to the coast. The DUC (which also includes Shell, Texaco, and Standard Oil of California) has accepted a 40% government purchase right on the oil it produces. A condition is that once the pipeline is completed, the consortium will be entitled to repurchase part of the state's share, varying from 80% initially to 10% in 1990. Other government measures will include new tax rules for oil companies with Danish North Sea concessions, which will be presented to Parliament in the fall. The new licensing system, to be applied to new companies wishing to explore the returned areas of the Danish sector, would be modeled on the British and Norwegian block system.

Norway: OECD Warns of Inflation Threat

In the newly issued OECD annual survey of Norway's economy, the Oslo government is urged to reintroduce the kind of incomes policy that was successfully used to restrain prices in the 1970s. Inflation is seen as the most immediate threat to an economy that is otherwise benefiting from the exploitation of the country's large reserves of offshore oil and gas. While overall inflation barely reached 5% in 1978 and '79, it rose to 14% last year, following the lifting of a 15-month prices and incomes freeze at the end of 1979. According to the OECD, Norway's future will be affected by the difficulties involved in the successful use of the oil and gas wealth to promote economic development. In recent years a weakening of traditional industry and its competitiveness has appeared to be one result of the energy sector's rapid growth.

In 1980, Norway's GDP grew by 3.6% as a whole, but the main contribution to this came from the oil and gas sector. The rest of the economy showed disturbing signs of stagnation and expanded by only 1.7%. Traditional industrial exports have lost market shares, productivity is no longer rising as fast as before, and the non-oil trade deficit increased by NKr 4 billion in 1980 to NKr 20 billion. At the same time, domestic demand rose by 5% and helped to keep unemployment as low as 1%. This year, however, the OECD expects domestic demand to grow by only 2.5% and exports to fall by 3% as a result of a shift in the terms of trade. Overall GDP growth is predicted to fall to 0.5%, and consumer price inflation should rise from 10.9% last year to 12%. As a result, there may be a worsening of the current-account payments balance, which moved into a NKr 5-billion surplus last year following the NKr 5.2-billion deficit of 1979.

EURO COMPANY SCENE

The United States' Westinghouse Electric and France's Framatome, the nuclear reactor group, have signed a licensing agreement for the technology transfer of Westinghouse's pressurized water reactor design. Under the contract, which was negotiated last November, Framatome will pay annual fees over the 1982-92 period for the use of the PWR technology and will continue to pay royalties until 1988 for any PWRs it sells until Nov. 29, 1982.

A Norwegian consortium led by Elkem, the metals mining and manufacturing group, reportedly will purchase from Union Carbide five ferro-alloy plants - three in the U.S. and two in Norway. The consortium also is negotiating for two Union Carbide plants in Canada. The total deal would be valued at $260 million. The reports said that the seven plants produce annual sales of $466 million and employ nearly 5,000.

Du Pont (U.K.) Ltd. is building at its existing plant near Londonderry, Northern Ireland, new facilities for the production of Hypalon synthetic rubber, at a cost of $89 million.

According to reports in the London financial press, the accounting firm of Deloitte Haskins & Sells (U.K.) has agreed to pay £445,000 to Britain's Newman Industries. This settlement pertains to a valuation made by DHS when Newman in 1975 acquired assets and liabilities of another firm, Thomas Poole & Gladstone China, the reports said. The High Court held in February 1980 that two Thomas Poole top executives had conspired to procure excessive payment for the transaction. When it appeared that Newman was unlikely to recover damages and costs from the two officers, the company turned to Deloitte. The reports said that the latter has agreed to the full settlement, though without accepting liability. In fact, DHS is willing to be reappointed as Newman's auditors, since Newman has no criticism of DHS's conduct, the reports said.

The London merchant bank S.G. Warburg & Co. Ltd. and the United States' Aetna Life & Casualty Co. are planning a joint venture for the investment management of U.S. pension funds and international portfolios. The new company probably will be based in London. Aetna reportedly manages pension fund portfolios of more than $3 billion, and Warburg also manages investments for large U.K. pension funds.

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Community: No Fantasy Names in Wine Labeling

A recent ruling of the European Court of Justice may turn out to be the weapon that consumer organizations have been looking for to fight unfair business practices by wine growers and merchants throughout the Common Market. In effect, the Court said that Community law bars wine growers and sellers from using fantasy names on their bottles and in ads and other promotional material (judgment of February 25, 1981, Case No. 56/80).

The German Supreme Civil Court had asked the Court of Justice to interpret several provisions of Council Regulation No. 355/79, which lays down general rules on the description and presentation of wines *(Common Market Reports, Pars. 523H, 523T, 524T)*. The German high court had asked two major questions: Must the terms "confusing" and "misleading information," as distinct from the words "false impression," be interpreted as covering only situations in which buyers may confuse a brand name with another brand name or description? Or are confusing descriptions or false or misleading information to be understood as covering descriptions or information which lead the buyer to believe that what is being presented is the name, or part of the

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name, of a wine-growing town or area that in fact does not exist?

The Court of Justice answered that Community law is violated when wine labeling contains false or misleading information, particularly with respect to a geographical region, that would give buyers the impression that the wine comes from an area known also for other brand names. It is also illegal to use a description making a buyer associate the name, or part of the name, with a wine-producing town or wine-growing area that in fact does not exist.

The case had been brought by an organization that fights against unfair competition in the German wine industry. The defendant, a large wine producer, allegedly misled buyers with the names of two of its popular wines, Klosterdoktor and Schlossdoktor. The words "doktor," "schloss," and "kloster" were part of the names of other famous wines. The wine producer, enjoined from selling under the attacked names, appealed to the Supreme Court. The Court of Justice's ruling means that the organization will prevail.

Limited Results of Equal Treatment Directive

The Commission's report to the Council on the effect of the equal treatment directive, adopted in 1976, indicates progress has been made on all levels in equal treatment in the employment of men and women. However, the principle behind the measure is by no means fully observed in any Member State, the Commission says. The EC executive had made a survey in all of the States to find out just what had been done to transpose Council Directive 76/207/EEC into national law *(Common Market Reports, Par. 3910.123)*. The areas explored included access to employment, vocational training, promotion, and working conditions.

Although all of the States except Luxembourg have passed laws to conform to the directive, truly equal treatment has been avoided largely by use of a provision that allows for certain exclusions. Originally the exclusion clause was intended to make allowances for obviously sex-related employment such as the job of wet nurse or soprano singer, but the States have made far wider use of the provision. Denmark, for example, allows only females to sell women's underwear, although this exclusion expires after five years. In France, only men may be hired to perform tasks that require climbing telephone poles. All of the States have restrictions against women in the military, but only Italy has an absolute ban; in the other States women may sign on to perform certain tasks. Denmark, Ireland, and the U.K. bar women from taking up employment that involves a foreign post; Belgium limits this restriction to non-EEC countries. In the U.K., a male may work as a midwife but he may not train to be one except under special circumstances. (The Commission has instituted proceedings against Britain to put an end to this restriction.) France allows only women to work as midwives, but legislation is being prepared to amend the law.

All in all, 26 different types of work are closed to women, and in 20 instances certain conditions of employment are specified. In not one instance, however, does a particular exclusion apply in all of the States. The Commission is reviewing the occupational activities excluded by various States, and, if the situation does not change, guidelines will be issued to clarify it.

The Member States have been urged to apply the directive fully. If a State does not comply, the Commission will institute infringement proceedings under Treaty Article 169 *(Common Market Reports, Par. 4615)*.

In Brief...

It seems unlikely that consumers in the Common Market will be quickly informed about the hazards of dangerous products because a majority of the European Parliament's consumer affairs committee sees no need for this kind of information. The Commission had proposed a system for the rapid exchange of information among the States and the Commission on dangers arising from the use of consumer products sold in the Community. Observers anticipate that a coalition of Christian Democrats, liberals, and conservatives in the full house would also reject the measure if it reached the floor *(Common Market Reports, Par. 10,203)* + + + The Council has given the Permanent Representatives two months to break the deadlock on several major issues holding up adoption of the 1975 draft directive to establish freedom for companies to render nonlife (indemnity) insurance services across national frontiers. At issue is whether an insurance carrier established in State A and wanting to render services in State B needs the latter's authorization, as well as problems surrounding supervision and tax matters. Besides the legal issues, there is considerable fear in several Member States that Britain's big insurance companies would offer carriers in these States tough competition *(Common Market Reports, Par. 9803)*.

Germany: Works Council Elections Held This Month

New works councils in German enterprises are being elected in April because the statutory three-year term of the current works councils expires at the end of this month *(Doing Business in Europe, Par. 23,442)*. It is the fourth time that elections have been held since enactment of the 1972 Works Council Act. Many business executives are apprehensive about the outcome this time because of increasing radicalization among the unions' rank and file. In previous works council elections, radical elements running for office were usually defeated, although in 1978 some radicals, along with some independents, received an overwhelming number of votes in large companies.

The 1972 Act gave works councils broad rights, which the Supreme Labor Court's case law has widened even more in a number of instances. The works council must give its consent in social matters, such as establishing working hours and coffee breaks, and in hiring, firing, and transfers. Any termination of employment on management's part without consulting the works council is void. The works council may object to termination if management, in selecting the employee to be discharged, did not sufficiently consider certain aspects, such as the person's personal situation *(Doing Business in Europe, Pars. 23,443, 23,444)*. On the operational level, management must inform the works council in advance about planned investments and structural changes involving production cuts or shutdowns and relocation of all or part of the enterprise. In these instances, the works council's objections can be overruled *(Doing Business in Europe, Par. 23,445)*.

Last December the Supreme Labor Court clarified an important issue involving works councils' rights: management is free to decide whether to introduce short time when the enterprise is affected by strikes at the plants of customers or suppliers. However, the works council must consent to the details of implementing the decision *(Doing Business in Europe, Par. 40,155)*.

Belgium: Martens Offers to Resign; Bank Rates Raised

Belgium's Prime Minister Wilfried Martens offered his government's resignation on March 31 after the Christian Democrat-Socialist coalition could not agree on a course of action to relieve devaluation pressures on the franc and to deal with accelerating economic problems. The continuing uncertainties over an austerity program caused the National Bank on March 31 to lift its discount to the record level of 16%, the Lombard rate to 18%, and the Special Lombard rate to 20%. Only the week before the bank rates had been subjected to smaller increases. Also, on April 1, the Economics Ministry froze for a period of one month all private-sector retail prices.

Prior to offering his resignation, Martens had appealed to the coalition partners to impose a total wage freeze and to modify the inflation indexation of wages and salaries. The Socialist cabinet members opposed this proposal, arguing instead for a franc devaluation, possibly at a rate of 15%. This in turn was rejected by Martens' Christian Democrats, who wanted to avoid a devaluation at all costs.

Belgium's worsening economic situation recently prompted the National Bank and the principal commercial banks to demand of the government more drastic action than that taken last month.

At that time, the cabinet decided on BF 33 billion in budget savings, reducing by that amount the previously projected deficit of BF 200 billion. Mainly because of the resistance put up by the cabinet representatives of the two Socialist parties, the administration was unable to agree on major tax increases and further expenditure cuts, however.

Netherlands: Higher Taxes, Contributions; Squatting Law

Little more than two months before Dutch voters go to the polls, Premier Andries Van Agt's center-right cabinet has proposed a package of tax increases and spending cuts. The measures are unlikely to boost the government's standing among voters, and they were accepted only with marked reluctance by Van Agt's Liberal coalition partners. From May 1, the tax on gasoline is to rise by 6 cents and on diesel by 5 cents. As of July 1, workers' contributions to the old-age pension fund (AOW) are to increase by 0.5% to 10.85% and to the unemployment insurance fund (WW) by 1% to 1.775%. The government hopes to generate 4 billion guilders annually in extra revenue by this and other means and 2.5 billion guilders in the current year (2% of total budgeted spending). Another 1.5 billion guilders would be saved through ceilings on civil servants' salary increases. In an attempt to stimulate economic activity, the cabinet has also boosted spending on job creation projects by 250 million guilders to 800 million guilders. The funds are to benefit the construction of 14,000 new homes as well as ailing industry. Altogether 13,000 new jobs should become available.

Reactions have been generally hostile. Trade unions and left-wing opposition parties have attacked the proposals as putting too heavy a burden on the lower paid, while the employers' association has accused the government of shifting the bulk of economic problems onto industry. Before the tax increases, the current year's budget deficit was expected to rise to 25 billion guilders (8% of GNP). The measures are expected by many to have a deflationary impact, reducing consumer spending power by between 3% and 5% at a time when the level of industrial production is stagnating and unemployment shows signs of rising further above its present 8.1% level. Expanding inflation (0.7% from mid-January to mid-February) and high interest rates pose additional problems for the Dutch economy.

In other news, Parliament has passed a new government bill to deal with the country's growing squatter problem. Occupation of vacant housing has resulted from rising homelessness and has led to violent confrontations with the police. Now squatting is to be effectively outlawed, while house owners will be prevented from leaving accommodations unoccupied for lengthy periods of time. Local authorities will be required to keep a register of vacant housing and will be empowered to purchase such housing after six months and make it available to the homeless. House owners who omit to register vacant housing within six months will be liable to four weeks' imprisonment or a 25,000-guilder fine, while squatting becomes a criminal offense, with violators subject to a 500-guilder fine.

Italy: Tough Wage Stand by Private, Public Employers

For the first time since the 1950s, Italian private and public industry organizations have made a common stand in response to the growing radicalism of shop floor workers' demands. The front was established at a recent conference organized by Confindustria, the private-sector employers' association, where the social partners were to have come together to discuss the framework for this year's tariff negotiations. However, the trade unions refused to attend, and the government put in only a proforma appearance, leaving the employers to work out their own strategy.

The representatives of Confindustria and its public-sector counterpart, Intersind, concluded that present Italian wage and salary structures are damaging industrial competitiveness and announced that future productivity increases should go exclusively to boosting rates of investment rather than raising wages. The employers said they were not prepared to discuss future wage agreements with the unions unless all previous arrangements were brought up for revision. Intersind's decision to join Confindustria in this tough stand was seen as evidence of the public-sector companies' readiness to give up the "good employer" image with which they have been credited among unions in the past.

These developments partly reflect the growing disarray among the trade unions. At their recent Montecatini conference, the country's three major labor federations found that, to a considerable extent, they had already lost control of their rank and file. They are now attempting to re-establish leadership by espousing a set of radical demands, including the full indexation of early-retirement payments agreed with the employers in the "mini-social pact" of 1977. However, this seems unlikely to stem the growth of so-called autonomous trade unions, which emphasize high wage demands rather than political alignments and have recruited in some cases up to 1 million members. These autonomous unions are in the forefront of present wildcat strike activity among public transport workers and in the hospitals.

Meanwhile, the government has announced a new "realistic" three-year economic plan, aimed at providing 150,000 new jobs. Budget Minister Giorgio La Malfa says that the plan will set aside funds for the support of ailing firms and the encouragement of new enterprises in some 20 industrial sectors, from energy through transport, including all export industries. Plan estimates predict a 5% economic growth rate by 1983 (albeit only 0-0.5% in the current year), 8% growth for public investment, and a reduction in the budget deficit from 4.5% to 2% of GNP.

Luxembourg: Five New Eurobanks Established in 1980

According to the latest report issued by the Banking Control Commission, the number of banks domiciled in Luxembourg rose by five to a total of 112 last year. The newcomers were Switzerland's Banque du Gothard (Banca del Gottardo), Sweden's Gotabanken, Germany's Hessische Landesbank International as well as two international joint ventures, Deutsch-Skandinavische Bank and United Overseas Bank. In the year before, 12 new banks had settled in the Grand Duchy. The balance sheet total of all banks registered in Luxembourg rose from LF 3,253 billion to 3,917 billion last year. The country's banking sector now employs about 7,600 people, of which 1,900 are working at the Eurobanks proper.

Austria: New Levy on 'Anonymous' Interest Income

In order to have the Austrian government collect "a sort of premium on the world's best banking secret next to that of the Bahamas," Finance Minister Herbert Salcher has proposed the early introduction of a new levy to be imposed at source on interest income from anonymously held bank deposits, including savings accounts and bank-deposited securities. Salcher suggested that the levy would probably amount to between 10% and 20% of nominal interest income from such deposits. The "anonymity levy" *(Anonymitätsabgabe)* would seek to counter evasion of tax on capital assets above the tax-free limits. At present, income up to 7,000 schillings per year from savings accounts and up to 100,000 schillings from fixed-interest securities is tax-free.

The new levy would replace the special levy on credit institutions *(Bankstellensteuer)* that has been imposed since Jan. 1.

According to Salcher, no changes are anticipated in the tax deductibility of premiums for life, health, accident and automobile liability insurance. Such premiums continue to be allowed as deductions up to 10,000 schillings annually per adult and 5,000 schillings for each child. In recent fiscal policy discussions, some factions of the governing Socialist Party (SPÖ) had urged that all taxpayers, regardless of income, should benefit from premium subsidies of the same amount.

Norway/Sweden: Framework Pacts on Energy, Industry

After negotiations that began in 1977, the governments of Norway and Sweden on March 25 signed four framework agreements covering expanded economic and industrial cooperation between the two countries. The deals still require ratification by the respective parliaments. Among other things, the agreements provide that Norway will deliver to Sweden 2 million metric tons of oil in 1983 and 2.5 million tons annually thereafter, for a period of 20 years. This corresponds to about 7% of Sweden's current annual oil consumption. Sweden, in turn, will deliver 2 billion KWh of electric power annually (3% of Norway's current consumption). At the same time, the two countries plan to set up a joint industrial fund of SKr 250 million, to which Sweden will contribute 80%. The fund would aim to ease the establishment of Swedish companies in Norway. (In exchange for its oil and gas exports, Oslo has lately made it a policy to involve its foreign trade partners to some degree in Norway's industrial development and diversification.)

EURO COMPANY SCENE

Switzerland's Sandoz AG, the drug company, has acquired for $94 million the pharmaceutical division of Culbro Corp., according to an announcement by the latter in New York. The division operates three production plants in Britain, Canada, and Puerto Rico and specializes in nonprescription drugs, of which the "Ex-Lax" laxitive is the best known.

Oregon-based Medford Corp. plans to set up a £25.5-million (Irish) plant for the manufacture of fiberboard at Clonmel, Tipperary County, Ireland. The Irish Industrial Development Authority said it expects to aid the investment with grants of £8-9 million. Eventually the plant is to employ 450, about half in timber harvesting. The medium-density fiberboard to be produced by 1983 will be primarily used in furniture manufacturing.

Zale Corp. of Dallas, Texas, has purchased a majority stake in Germany's Keller-Christ group, a leading maker of diamond jewelry with more than 60 branches throughout Germany. Keller-Christ recently experienced severe financial problems, culminating in the temporary closure of its shops when its major creditor, Hessische Landesbank, suspended DM 45 million in loans. The extent of Zale's participation was not immediately announced. Zale, reportedly the world's largest retail jeweler, operates some 1,350 stores and had sales of about $700 million last year.

CPC Europe (Group) Ltd., Brussels, intends to expand its position on the European market by adding new production capacities. CPC's Maizena GmbH plans to build a new corn starch plant along the Rhine River, at a yet undetermined site, as well as a large trial plant for the processing of wheat near Krefeld, Germany, where the company already operates other facilities. The two projects, to be completed within two or two and one-half years, will require investments of about $60 million.

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Community: Farm Prices to Rise by 9.5%

Prices for agricultural commodities in the EEC will be going up on the average by 8.9-9.5% for the 1981-82 harvest year. However, the impact for farmers and consumers will differ quite a bit in the individual Member States. The ten farm ministers made the decision in the early hours of April 2, only 28 hours after the marketing year for milk and meat went into effect. The Commission was compelled to upgrade its price proposals twice after it became clear that the ministers would not settle for the proposed 7.6% and after the European Parliament called for a 12% farm price increase. Except for the 2.5% levy payable by farmers who heavily contribute to the milk surplus, there is little in the Council decision that would make any progress toward reforming the common agricultural policy.

Guaranteed prices for milk and milk products went up by 9% as of April 1. Those for beef rose by 7.5% as of April 6 and will go up by an additional 2.5% on Dec. 7. The guaranteed prices for pork are scheduled to rise by 11% and for lamb and mutton by 7.5%. Prices for soft wheat, corn, and barley will

This issue is in two parts. This is Part I.

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increase by 6%, for hard wheat by 5.6%, and for rye by 3.3%. Vegetable and fruit prices will rise by about 10%.

The farm price agreement also includes changes in the monetary compensatory amounts (MCAs). Because of monetary fluctuations since 1969, the MCAs were introduced to compensate various Member States for the effect of fluctuating currency values on EEC prices. Member States with strong currencies grant subsidies for the export of farm produce and impose levies on imports of agricultural commodities. (The European Monetary System has greatly reduced but not eliminated MCAs.) The MCAs have been abolished for the Benelux countries and were reduced for some other States. That is why the farm price increases will have a varying effect on farm incomes, depending on the State farmers live in. German farmers will have to be content with 4.8% more. Farmers in Italy will get the highest return - 16%, which is still under the country's inflation rate of 21%. French farmers will fare best: their income will rise by an estimated 12% (the inflation rate is 13.3%). This large increase was a key to the early settlement. It was self-understood, though never openly discussed, that French President Valéry Giscard d'Estaing needs the farm vote in the upcoming presidential election.

No Accord Yet on Steel Aid Subsidies

The Council agreed on March 27 that state subsidies should be given only to those steel mills that agree to modernize production facilities and cut capacity. However, the ten economics ministers failed to agree on a deadline for phasing out subsidies. Germany, France, and the U.K. wanted a timetable for eliminating the aids in order to make further progress in restructuring the Common Market's steel mills. Belgium, Italy, and Luxembourg were against such a timetable. Italy fears that a code linking all state subsidies to cuts in capacity would jeopardize its $6-billion financing project for the state-owned Finsider steel mill. This in turn could open much of the Italian market to other EC steel makers.

Germany originally wanted the Council to tighten up the language of the latter's March 3 decision making June 30, 1983, the cutoff date for the introduction of new state aid programs. According to that decision, a Member State government must submit to the Commission for approval any plan for new state subsidies by Dec. 31, 1981. After that date, new aid programs could be submitted only under very limited circumstances. Germany wanted to make sure that the limited possibility of presenting aid programs after the end of 1981 will remain really limited.

Impatient with the slow progress the Community is making in phasing out state subsidies, the German government is considering asking the Commission for permission to impose a levy on steel imports from other Member States. It argues that thousands of jobs are in jeopardy because the efficient German market is flooded with subsidized steel, notably from Italian producers.

Meanwhile, the Community's major steelmakers continue their talks on a voluntary pact to replace the mandatory production control system that expires on June 30.

In Brief...

The Commission has brought Belgium and Luxembourg before the Court of Justice for allegedly discriminating against women in government employment. Married women government employees in the two countries do not receive the household allowance that their male counterparts receive. The EC executive based its suits on Treaty Article 119, which establishes the principle of equal pay for men and women. Application of this principle is provided for in the Council's Equal Pay Directive and was further defined by the Court of Justice in the *Defrenne* judgment *(Common Market Reports, Pars. 3941, 3942.15, 3942.21)* + + + Poland will receive 400,000 tons of food and 200,000 tons of animal feed from the EEC at reduced prices as part of the Community's food aid program for the Polish government. The sales will total $300 million (a discount of 10% below world market prices) and will cost Community taxpayers around $46 million. Since the beginning of 1981, the EEC has sold Poland food worth $370 million at current world market prices but at a discount of 15%.

Germany: Uniform Federal Real Estate Transfer Tax Proposed

The upper house of the German Parliament has reintroduced a bill that would repeal the widely differing state real estate transfer tax provisions and replace them with a uniform federal statute. The bill is virtually identical to the measure proposed by the Bundesrat in December 1979. That measure never reached the committee stage in the previous legislative session that ended with the national elections last October. Other legislative priorities were one reason, but the lawmakers also wanted more time to think about the implications of the proposal before getting down to work on the details.

There would be a uniform 2% tax rate instead of the present tax burden of 7%, and there would be far fewer exemptions. Since the former *Reichsgesetz* became state law in 1949, when the Federal Republic was founded, the state legislatures have amended the law in several different ways. There are numerous exemptions, which vary from state to state, and as a result roughly 80% of all taxable events are exempt. The rates vary, too - 7% in Berlin, Hamburg, and the Rhineland-Palatinate and 3% in all other states. However, in the latter the counties levy another 4%, so that the tax burden is roughly the same throughout the country.

To compensate for the loss of revenue that would result if the rate were lowered to 2%, the large number of exemptions would be drastically reduced. There would be a total of eight taxable events, and thereby the total revenue from the tax would roughly stay the same (estimated at slightly under DM 2 billion in 1980). Exempt would be the purchase of real estate costing less than DM 5,000. Also exempt would be the transfer of real estate that is inherited or donated and thus subject to inheritance or gift tax.

Britain: Accountants to Advertise; Banks' Accounting Scored

Local newspaper advertising of accounting services will be permitted in the U.K. as of Oct. 1, 1981, following a major policy shift agreed on by the Association of Certified Accountants and the Institute of Chartered Accountants. Advertisements will, however, have to adhere to strict professional rules, and their content and style will have to be "appropriate to the profession." Also, such advertisements must include a statement to the effect that, prior to the acceptance of an assignment, both sides will discuss the basis of the fee to be charged. Among the services that may be advertised are general accounting work, bookkeeping, individual and/or corporate tax work, trust work, and advisory services related to all these areas. The freedom to advertise applies only to accountants in public practice.

The Monopolies Commission had called on the accounting profession more than a decade ago to liberalize its advertising restrictions, and the government - through Minister of Consumer Affairs Sally Oppenheim - has now welcomed the accountants' decision on a policy change.

In other news, a British banking sector research company, IBCA Banking Analysis, has published a report criticizing accounting standards in the U.K. banking industry. It urges the Bank of England to take a lead role in reforming the banks' financial reporting, which in some respects appears "rock-solid set in the late 19th century." IBCA charges that the London Stock Exchange, purportedly the principal in any self-regulation effort, is unwilling to seek improvements in financial reporting "for fairly obvious reasons" of self-interest. IBCA does not except the large accounting firms from its criticism, saying that some of them tolerate significant variations in reporting methods and accounting treatment.

Italy: Doubts Over Phase II of Economic Austerity Course

Increasing uncertainty over the shape of the Italian government's promised austerity package has been generated following a television appearance by Prime Minister Arnaldo Forlani in which he ruled out changes to the existing system of wage indexation. The austerity measures are supposed to represent a second phase of economic policy following the tightening of credit and the lira devaluation of March 23. However, further progress hinges both on the results of discussions between Forlani and top trade union leaders and on the outcome of increasingly bitter quarrels within the cabinet. Plans to modify the wage indexation system were dropped following massive union protests, including warning stoppages throughout industry and public services, and the threat of a general strike.

The most outspoken proponent of changes in the indexation system, Treasury Minister Nino Andreatta, recently made public the support he had received in a letter from Alain Whittome, International Monetary Fund director for Europe. According to Whittome, the Italian economy presents "a very disturbing picture, requiring urgent action," especially with regard to the rapid worsening of the balance of payments. Andreatta has received little support from his government colleagues, however, who have criticized his handling of the economic situation. A further result of the debacle over wage indexation has been the Communist party's decision to abandon its earlier "benevolent" attitude toward the government and to campaign actively for Forlani's resignation.

Meanwhile, observers said that other options for budget savings have little chance of agreement within the four-party coalition cabinet, let alone passage in Parliament. Provisional plans to impose a pay freeze on public servants have come up against strike action, and alternative proposals for a 2% cut in public spending spread evenly throughout all departments lost credibility when the government promised that social services would not be affected. The minister for state industry participations has warned that a cut in funds for public industry would result in immediate liquidity problems, and the employers have strongly rejected any attempt to increase their social insurance contributions.

Belgium: Ex-Finance Minister Eyskens Heads Government

Belgium's King Baudouin has appointed the previous government's finance minister, Mark Eyskens, to head a new center-left coalition. Eyskens rapidly reached agreement with the four Social Christian and Socialist parties on a new emergency economic program and on a cabinet team that will be the same as that of outgoing premier Wilfried Martens, who is leaving the government. The finance ministry portfolio is to be taken over by former National Bank governor Robert Vandeputte.

Eyskens, a former economics professor, is the son of Gaston Eyskens, who was prime minister three times, and comes from the same Flemish Social Christian party as Wilfried Martens. The government formation process was unusual on this occasion in that the King called in for consultation business and trade union leaders as well as parliamentary party leaders. The stabilization of the government situation after what was seen as Belgium's worst crisis since World War II was expected to lead to some easing of pressures against the Belgian franc.

France: Giscard Proposes Job Creation Program

In his first detailed policy proposals of the current election campaign, French President Valéry Giscard d'Estaing has announced a seven-point plan to create one million jobs for young people in five years. Admitting that the rise in unemployment from 450,000 persons at the beginning of his term in 1974 to 1.6 million at present is the "greatest failure" of his presidency, Giscard explained that his employment program differs from proposals put forward by other candidates in that it involves no reflation of the economy.

A substantial part of the plan makes provision for early retirement of workers near pension age as well as improved financial incentives for immigrant workers who wish to return to their homelands. These measures would be designed to free workplaces for the large number of young people among the unemployed. More funds would be provided for training young people, and companies that give jobs to unemployed persons would be offered special premiums. Small and medium-sized firms would be encouraged to increase their workforces by benefiting from lower rates of social contributions, and other means would be used to encourage temporary and part-time employment. Efforts would also be made to end misuse of the unemployment insurance system.

The French national elections will be held on May 10.

Austria: Socialists' Economic Policy Draft for 1980s

Following detailed discussions with the trade unions, Austria's governing Socialist Party (SPÖ) has drawn up an economic program to see the country through the 1980s. The draft is to be ratified by a party conference in May. Apart from a direct tax reduction at the beginning of 1982, which the trade unions are demanding, the document is likely to be the main topic of future economic debate. A principal feature is the emphasis laid upon structural improvements, particularly in balancing the regional economies and achieving a sound commercial and production "mix." A second aim, a reduction in working hours, is to be pursued initially through worktime cuts for shift and night workers and those engaged in heavy work. The draft also suggests a one-week increase in annual vacations, to a total of five weeks.

The second principal feature of the draft lies in the demand for further development of the workers' codetermination system "on all levels," combined with greater government powers to channel investment funds. It is suggested that a reform in basic company law may be necessary to permit workers' codetermination on a parity basis in large enterprises and at supervisory board level generally.

A substantial reduction in investment tax allowances and accelerated depreciation allowances would leave the government with extra funds to use for supporting specific investment projects and paying investment premiums. The program also suggests that the central bank play a more subordinate role in government economic policy in the future.

Switzerland: Defeat for Immigration Initiative

Hardly ever has a popular initiative in Switzerland been rejected by such a high margin as the immigration initiative turned down by more than 80% of those voting in an April 5 national referendum. The so-called *Mitenand* (togetherness) proposal was defeated in all 26 cantons and half-cantons. It had been launched in 1977 by 56,000 signatories, mainly representing the political left and the Catholic workers' movement.

Among other things, the proponents called for the abolition by 1986 of legislation governing foreign "seasonal" workers, who are allowed to work in Switzerland for up to nine months annually. These workers, at present about 110,000, are neither permitted to bring their families into the country nor may they change employers or take up permanent lodgings under their own name. Traditionally, they work primarily in the hotel, restaurant and construction sectors. The initiative's supporters say that present law conflicts with Switzerland's humanitarian principles and they urge that these foreigners be given renewable year-long work permits and be allowed to bring their families. However, this position was supported by only 16.2% "yes" votes among the 39.5% of the eligible voters who went to the polls.

The opponents of the proposal argued that acceptance would have led to uncontrollable immigration into Switzerland. They also referred to current parliamentary discussions on draft legislation that would seek to ease conditions for resident foreigners and foreign seasonal workers. For instance, there are considerations to allow foreigners who have done 32 months of seasonal work to apply for a permanent resident permit within a four-year period. There are, of course, those who say that the large margin of rejection of the *Mitenand* initiative indicates that most Swiss are unwilling to have more liberal alien laws and that the government should "not be too generous" with its reform plans. (See also *Doing Business in Europe, Par. 29,465.)*

EURO COMPANY SCENE

R.J. Reynolds Industries, the leading U.S. cigarette producer and No. 3 in the world, is conducting "exploratory talks" with Britain's Rothmans International, which reportedly could lead to a takeover by the American group. Both companies had held similar talks several years ago, without any action being taken. A takeover would considerably strengthen Reynolds' market position worldwide and could enable the company to challenge Philip Morris, Inc., which internationally ranks second in the cigarette sector.

To facilitate foreign investments in Turkey, that country's authorities have given permission to two U.S. banks, Citibank and American Express, to establish branch operations in Istanbul. Citibank opened its branch last month, and American Express will follow suit in June or July.

International Business Machines last month brought suit in the European Court of Justice challenging the legality of a European Commission statement of objections to some of IBM's business practices. Last December the Commission had started proceedings against IBM over alleged violations of EC competition rules. The company was given until the end of this month to respond to the charges. It is now seeking annulment of the Commission's proceedings.

Intel Corp., of Santa Clara, Calif., and France's defense group Matra-Harris have agreed to establish a joint venture for the production of microprocessors. Matra will hold 51% of the equity and Intel the remainder. Production will be located near Nantes, at an existing Matra plant. The project will give Matra access to Intel's advanced electronic technology, while the U.S. company hopes to gain access to the French market for its direct exports.

Olivetti Peripheral Equipment, a member of Italy's Olivetti group, and the United States' Irwin International have signed an agreement giving Olivetti exclusive European production and marketing rights for certain Irwin electronic equipment. Production under license is to begin in Italy early next year.

Friedrich Grohe Armaturenfabrik, Europe's leading manufacturer of sanitary fittings and 51% owned by ITT, is currently building a new production plant in Germany's Sauerland region, at a cost of some DM 70 million.

Common Market Reports

EUROMARKET NEWS

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Community: No Discrimination in Lower Pay for Part-Time Work

The European Court of Justice has ruled that a lower hourly wage for part-time work does not amount to discrimination prohibited by Treaty Article 119. The lower wage would be discriminatory, however, if the employer wants to pay part-time employees less because most or all of them are women (judgment of March 31, 1981, Case No. 96/80, *Jenkins*). This latest judgment will have a much broader impact on employers and employees than the *Defrenne, Wendy Smith,* and *Worringham* rulings did *(Common Market Reports, Par. 8346)*.

A British woman had been working less than 30 hours a week for several years. A man doing the same job, but for 40 hours weekly, received roughly 10% more per hour than the woman did. The employer company said it paid the man more to discourage absenteeism and to make sure machinery was used on a full-time basis. The female employee brought suit in the lower labor court.

The primary question for the British court as well as the European Court of Justice was whether the difference in the rates of pay was based on something other than sex. The lower

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court rejected the case, having found that there was a material difference due to the fact that the man worked full-time and the woman part-time. The woman appealed, and the appellate court said it could not decide without a further interpretation of Treaty Article 119 and Article 1 of the Council's Equal Pay Directive *(Common Market Reports, Par. 3942.15)*.

The Court of Justice held that Treaty Article 119 bars differences in pay that are based exclusively on sex. Lower compensation per hour for employees working less than a full week does not in itself amount to discrimination prohibited by Article 119 so long as no distinction is made between men and women, the Court said. If there is no discrimination in this respect, the Court concluded, an employer does not violate Article 119 if the difference in pay between part-time and full-time workers is attributed to factors that are objectively justified and are in no way related to any discrimination based on sex.

Commission Seeks Extension of Multifiber Arrangement

The Commission has requested from the Council of Ministers a mandate to negotiate with the GATT partners a five-year extension of the Multifiber Arrangement (MFA). The present MFA expires on Dec. 31; the renewal talks are scheduled for next month in Geneva.

In effect since Jan. 1, 1974, and renewed in 1977, the MFA is an international treaty establishing rules limiting textile and clothing exports from the developing countries to industrialized nations, including those of the EEC. The contracting parties may negotiate bilateral agreements of their own and thereby substitute safeguard clauses contained in the MFA. On the basis of the renewed MFA, the Community has concluded bilateral agreements with 26 countries, among them Hong Kong, South Korea, India, and Brazil, the four principal supplier nations of textiles and clothing.

The Commission says that the 6% annual growth rate for low-cost imports provided for in the renewed 1977 MFA is too high because the prevailing growth rate in demand in the Community is only 1% per annum. Allowing low-cost imports to increase by 6% would imperil the adaptation and restructuring process that the Community's textile industry is still undergoing. (Over 700,000 jobs were eliminated in 1974-79.) A 1% annual increase over a five-year period would enable the EEC's textile industry to make more progress in its efforts to restructure.

In recent years there has been a considerable rise in fraud in the import of textiles, especially by misrepresenting the country of origin. The Commission would like to put additional teeth in the MFA so that goods whose origin has been misrepresented would be deducted from the quota of the true country of origin.

In Brief...

The Commission's proposal to ban growth-stimulating hormone injections into animals is facing opposition from Belgium, Ireland, and the U.K. These States say that even World Health Organization rules allow the use of five hormones and that farmers in the United States and other countries use them in cattle raising. A general ban on the Community's part would hamper international trade and thus violate GATT rules, according to the three States. The Commission's proposal goes back to a Council request made last October after consumers in Italy, France, and Belgium boycotted the purchase of meat, especially veal, because of hormone residues + + + The decision of Japan's government-owned TOA domestic airline to cut its order for nine Airbus aircraft from the French-German consortium has added to the strained relations between Japan and the EEC. TOA ordered nine planes worth a total of $315 million in 1979 and now plans to cancel the order for three planes and postpone taking delivery of three others. TOA's decision comes at a time when the Community is urging the Japanese government to slow exports to the Common Market and open its allegedly closed market to EEC products. Japan's trade surplus with the EEC amounted to $10.7 billion in 1980.

Britain: Companies' Purchase of Their Own Shares

The U.K. government has announced that the proposed Companies Act would enable companies to purchase their own shares, subject to certain provisos. Mentioned briefly in the March Budget, the new rules would bring British companies more into line with their U.S. and European counterparts.

Both public and private companies, if so authorized by their articles of association, would be able to issue redeemable shares, whereas so far they have been able to issue only redeemable preference shares. Similarly, they could purchase their own ordinary shares. However, redemptions or purchases would have to be out of distributable profits or the proceeds of a new issue. Should these prove insufficient, private companies would have the right to redeem or purchase their own shares out of capital. All such shares subsequently would have to be cancelled, and, although they would reduce a company's issued capital by the nominal value of the shares acquired, they would not reduce the authorized capital.

Purchases of listed shares on the Stock Exchange (or of shares dealt, for instance, on the Unlisted Securities Market) would have to be approved at a general meeting specifying the maximum number of shares to be acquired as well as maximum and minimum prices. Purchase terms of other shares would have to be authorized by a shareholders' special resolution. The directors would be required to make a statutory declaration about the financial position and prospects of the company, accompanied by an auditor's report. Companies would have to register particulars of shares purchased, and relevant contracts would have to be retained for inspection over a ten-year period. Those that redeemed or purchased shares out of profits would have to create a capital redemption reserve.

In a notable change of mind, the government now proposes to include in the Companies Act legislation countering secret share purchases by groups of people acting in concert, with each individual acquiring less than 5% - the minimum figure that must be notified at present - in order to amass a much larger holding. There has been increasing concern about overseas investors accumulating significant shares in U.K. companies. (See also *Doing Business in Europe, Par. 23,717.)*

Germany: Codetermination Rights in Steel, Coal Sectors

The lower house of the German parliament has passed legislation that will guarantee labor's codetermination rights in companies in the iron, steel, and coal industries for six years after sales of iron, steel, and coal amount to less than half of a company's overall turnover. Labor will also retain its rights when a company's workforce drops below the 1,000-employee criterion established in the 1951 act that for the first time granted labor codetermination rights. Any objections the upper house might have to the amendments could be disregarded because its approval is not required *(Doing Business in Europe, Par. 40,181).*

Existing legislation grants labor equal representation on the supervisory boards of iron, steel, and coal mining companies. All members of the supervisory board jointly appoint the chairman, who has the tie-breaking vote when conflicts arise. One member of the managing board must devote his time exclusively to social and employment matters; he must have the support of at least two labor representatives on the supervisory board in order to be elected *(Doing Business in Europe, Pars. 23,222A, 23,222C, 23,441).*

What sparked the legislation was the plan of Mannesmann AG, a holding company, to lease a subsidiary to another subsidiary. The idea was to cut costs, a demand that even union leaders recognized. Once the subsidiary was leased, the Mannesmann holding would no longer be subject to the 1951 and 1956 codetermination legislation. It was this prospect that caused the unions to object: their influence on the supervisory board would be reduced considerably because the company would then come under the scope of the less strict 1976 Codetermination Law. For many union leaders the plan was an assault on a 30-year-old concept, although some 60 companies have lawfully removed themselves from the scope of the law because they no longer met the conditions.

Preparation of the bill was preceded by tough negotiations between the two government coalition parties. The Social Democrats not only wanted an extension for an unlimited period but also sought to retain the unions' rights to nominate the supervisory board candidates and be able to veto the works council's nominees. The Free Democrats insisted on a limited extension and more democracy in the way the unions' candidates are chosen. In the Bundestag-approved version, the Free Democrats largely prevailed.

Germany/France: Joint $6-Billion Plan to Aid Economy

The German and French governments on April 8 announced plans for jointly raising the equivalent of 5 billion ECU ($6 billion) on the international capital markets over the next 18 months. The funds are to be used to aid the respective economies by boosting investments in German and French high-technology industries, with the possible participation of U.S. companies. Emphasis is to be on making available subsidized loans, particularly to small and medium-sized businesses in both countries, enabling them to invest in technology concerned with conserving energy and raw materials and improving productivity. The funds are to be raised in separate but simultaneous bond issues via France's state-controlled Crédit National and Germany's Kreditanstalt für Wiederaufbau, the reconstruction loan institution.

Italy: Unions Debate Wage Indexation Concessions

Following Prime Minister Arnaldo Forlani's statement that his government would make no attempt to legislate a reform of the *scala mobile*, the national wage indexation system, Italy's trade unions have tentatively moved toward a negotiating basis for a voluntary and temporary modification of the system.

Following secret meetings between the leaders of the three main labor federations, an 18-point plan was revealed by the Christian Democrat trade union, CISL. It foresees a temporary abandonment of quarterly wage adjustments in favor of an annual wage increment based on expected inflation rates, with negotiations at the end of the year to make up any difference from actual inflation. In return, the unions are demanding a wide-ranging program to halt the economic recession, including a 12-month freeze on all public tariffs, rents, and top salaries, a six-month freeze on industrial prices, a property tax on second homes, and no tax increases for incomes below 30 million lire per year.

The unions regard their plan as an "historic" offer, in view of the fact that the *scala mobile* has become one of the most "sacred cows" of the Italian political system over the years. However, the three labor federations have been unable to maintain a united front in their preparations to negotiate the issue. Following the CISL's leaking of the plan to the press, Communist labor leader Luciano Lama condemned this unilateral action and warned that attempts to force workers to become the exclusive victims of current austerity measures would be resisted.

Prospects for the success of the plan are as yet unclear, not only because of the strife among the unions over its publication. Support given to the proposal by sources close to the Bank of Italy and the Confindustria employers' federation has been highly conditional. The argument is that, while the unions' plan does form a suitable basis on which to start to negotiate a reform of wage indexation, price freezes of the order demanded are unacceptable.

Belgium: Economic Emergency Program Reaffirmed

In his first government policy statement, Belgium's newly appointed Premier Mark Eyskens on April 7 presented economic plans largely based on the emergency program devised by his predecessor, Wilfried Martens. The disputed issue of Belgium's wage indexation system, which led to the fall of the Martens administration, has been passed on for consideration to a commission comprising representatives of the government, the trade unions, and the employers. According to reports, the Christian Democrat and Socialist parties of the coalition have not agreed on further action to be taken in case the commission is unable to achieve a compromise satisfactory to all partners.

Eyskens, in his statement to Parliament, reaffirmed five points of the government's program: to reestablish a climate of confidence, fight unemployment, return the balance of payments to equilibrium, increase industrial competitiveness, and strengthen government stability. Although details have not yet been worked out, Eyskens announced that employers are to be relieved of a portion of their wage costs related to social insurance contributions, at a cost to the treasury of BF 60 billion, according to some estimates. In addition, the government wants to reduce direct taxes. These cuts would probably be offset by an increase in value-added tax, however. The cabinet also wants to save BF 100 billion in public spending over the next three years in order to narrow the budget deficit currently running at BF 200 billion per year.

Additional measures to save BF 33 billion, agreed just prior to the Martens government's demise, still remain to be specified. Other actions soon to be implemented involve price controls of certain commodities, including a one-month freeze on the prices of oil products, and the imposition of VAT on gold sales. Special efforts will be made to reduce operating costs in enterprises that depend on state subsidies.

Denmark: Curbs Eased on Foreign Exchange Deals

As of May 1, foreign exchange rates may be freely negotiated in Denmark; so far the National Bank has fixed obligatory rates on a daily basis. However, the Bank will continue to issue a daily schedule of foreign currency rates, on which most transactions will still be based. The new arrangement will principally benefit large single deals, for which hour-to-hour fluctuations on the international foreign exchange markets are a significant factor.

The liberalization does not mean complete freedom for currency transactions between Denmark and other countries. Although payments pertaining to imports and exports can be effected without restrictions, all other dispositions remain subject to certain limits and controls. So long as Denmark has to cope with a high foreign debt and chronic payments deficits, Copenhagen cannot afford to lift all curbs in this sector.

Spain: Liberalization of Foreign Investment Rules

Foreign investments in Spain *(Doing Business in Europe, Par. 28,151)* in the future will require approval by the Ministerial Council only when they exceed 500 million pesetas, and those under 25 million pesetas will no longer require any approval. These and other measures liberalizing conditions for foreign investors are included in two recently published government decrees, which take effect this month. Investments of 25-50 million pesetas will be subject to approval by the General Directorate for Foreign Transactions (DGTE), and those of 50-250 million pesetas will require additionally the permission of the Investment Council. For investments of between 250 million and 500 million pesetas, the final decision will rest with the Ministry of Economy and Trade, following a positive recommendation by the Investment Council. Only proposed investments exceeding 500 million pesetas will still have to be sanctioned by the Council of Ministers, i.e., the cabinet.

The regulations cover newly established companies, the acquisition of shareholdings in existing companies, capital increases, and real estate purchases. Certain sectors of the economy, such as the armaments industry and mining, will continue to be subject to special rules. The new decrees are also expected to improve considerably the efficiency with which investment applications are processed. The responsible authorities will have 60 days within which either to reply to an application or submit it to a higher authority in the case of any investment of more than 25 million pesetas. The Investment Council will have to make its decisions known within 45 days. On the other hand, applicants must implement any approved investment within six months, unless other arrangements are specified in the certificate of approval. The nationality of the investor will have no bearing on approval, and investments by foreigners living in Spain and using domestic currency for investment purposes will not be treated as "foreign."

Norway: Economic Program; Gas Pipeline Proposal

In a speech to the Norwegian parliament, Planning Minister Per Kleppe has said that his government intends to pursue medium-term economic policies markedly different from those of other industrialized countries. Sustained by its North Sea oil revenues, Oslo plans repayment by 1985 of all outstanding public debts (now totaling NKr 45.6 billion), a considerable slowdown in the growth of state expenditure, a rise in the cost of consumer credits, improved savings incentives, and tax incentives and state grants for investments aimed at raising productivity. These measures are to be accompanied by others designed to increase labor mobility and upgrade vocational training.

Kleppe described as a main target of Norwegian economic policy an annual growth rate of at least 2.5% (including the oil sector) in order to safeguard full employment. Oslo would not emulate the anti-inflation policies of other countries that seek a drastic lowering of real-term incomes; such a policy would seriously affect employment in Norway. The principal elements in the government's fiscal program as of 1982 are (1) a lowering of the investment tax from 13% to 10% as of July 1, (2) the introduction of untaxed "consolidation funds," which could absorb up to 10% of profits, and (3) a transition to the degressive write-off method.

The government further has recommended that Parliament approve a proposal by the state-controlled oil group Statoil to build a pipeline that, as of 1986, would transport natural gas from the Anglo-Norwegian Statfjord Field to the European mainland. The project would be financed by a consortium of eight international oil companies and their subsidiaries under the leadership of Statoil, which would finance 60% of the investment. The government has rejected a British proposal to have the gas piped to Scotland instead.