

OCTOBER 1969 NO. 128

europaean community



CONTENTS

- 3** **Competition Policy: More Than “Anti” Trust**, *Emanuel M. J. A. Sassen*
- 6** **Common Wine Policy: Time Needed**
- 9** **1-Year Delay in TVA Deadline**
- 10** **Deadlock on Common Commercial Policy**
- 11** **The Six to the Summit** *Robert Mauthner*
- 12** **Trans-Europ-Express: European Railroads’ Superstar**, *Thierry Vigoureux*
- 14** **A Legal Tower of Babel?** *Andreas M. Donner*
- 16** **New East African Pact**
- 17** **Summit of the Six Set for November**
- 18** **Commission’s Quinine Ruling Appealed**
- 19** **Brandt Sees Improved Enlargement Prospects**
- 20** **Publications Available**

COVER: Wine cellar in Alsace, France. Courtesy of the French Government Tourist Office.

EUROPEAN COMMUNITY is published monthly in English, French, Italian, German, and Dutch by the offices of the European Community Information Service. Subscriptions can be obtained from the European Community Information Service.

Washington, D.C.: 808 Farragut Building, 20006

New York, N.Y.: 155 East 44th Street, 10017

London: 23 Chesham Street, SW1

Paris: 61, rue des Belles-Feuilles

Rome: Via Poli 29

Bonn: Zitelmannstrasse 11

The Hague: Alexander Gogelweg 22

Brussels: 244, rue de la Loi

Luxembourg: Centre européen Kirchberg

Geneva: 72, rue de Lausanne

MANAGING EDITOR: Kathleen A. Lynch

The views expressed by contributors do not necessarily reflect the policies of the European Community. The contents of *European Community* may be quoted or reproduced without further permission. Due acknowledgment and credit to the author of any signed article is requested.

A copy of this material is filed with the Department of Justice where, under the Foreign Agents Registration Act of 1938 as amended, the required registration statement of the European Community Information Office, 808 Farragut Building, Washington, D. C. 20006, as an agent of the Commission of the European Communities, Brussels, is available for public inspection. The European Community Information Office is the publisher of this material. Registration does not indicate approval of the contents of this material by the United States Government.





Competition Policy: More Than "Anti" Trust



by EMANUEL M. J. A. SASSEN

WHAT THE UNITED STATES CALLS "antitrust policy," the European Community calls "competition policy." "Antitrust policy" derived its name from the context of economic policy in the United States shortly before the turn of the century. We in Europe use "competition policy" instead to designate our situation today.

Europe's Situation

Last July 1, the last tariff barriers between the members of the European Economic Community (EEC) were removed. Tariffs and quotas, the traditional instruments of mercantilism, trade wars, and the quest for national self-sufficiency, have disappeared. Labor and capital can (if we discount the special cir-

cumstances now existing in France) move freely within the EEC without hindrance. National markets which had been self-contained for decades are now more and more exposed to competition, both because new competitors have emerged in the Community and because competitors from outside the Community are seeking to profit from the opportunities offered by the large European market. An additional factor has been the tremendous acceleration of technical progress.

Competition policy should take account of modern technical developments and their impact on the Common Market's economy. It must be more than a mere "anti-policy," whether directed against restrictive agreements or monopolies. True, the bans on restrictive agreements and abuses of dominant market positions provided by the Common Market's competition rules are important and permanent components of competition policy, and care must be taken to see that the actions of companies or governments do not undo the Commission's aims and achievements in freeing trade from artificial barriers and distortions due to restraints on competition. Each of us, consumers and entrepreneurs alike, expects the Common Market to bring improvements in his living standards. This expectation, in addition to the political desire for European unification, was a prime motive force in concluding the European Treaties. But our hopes will not be fulfilled unless firms in the Common Market really compete with each other as tariff, tax,

Mr. Sassen is a member of the European Communities Commission with special responsibility for competition policy. This article is a condensation of his address at a luncheon of the Federal Bar Association in Washington, D. C., on September 10, 1969. During his visit to the United States, Mr. Sassen headed a three-man delegation for informal talks with the U.S. officials on antitrust and competition policies in the United States and the Community. The other two members of the delegation were Ernst Albrecht of the Commission's directorate general for competition, and Josephus Loeff, executive assistant to Mr. Sassen.

and legal barriers to the formation of a truly domestic market are gradually eliminated. Only this competition can ensure optimum use of the factors of production, maintenance and strengthening of the European firms' competitiveness on the world market, and—beyond the purely economic objectives—the safeguarding of freedom in a way that is consistent with our social objectives.

Commission Actions

The Commission will enforce the bans on competitive restraints whenever the need arises. It made this clear most recently this July by imposing fines in two cases for infringement of the Common Market's competition rules. (See *European Community No. 126, page 18.*) One decision related to the international quinine agreement; the other involved pricefixing on aniline dyestuffs from the Community and two non-member countries.

What I have said serves to establish the scope of European competition policy. The instruments—the ban on restrictive agreements and prohibition of abuse—correspond to those provided by American antitrust law. The mere pursuit of a “prohibition policy” would, however, not enable us to cope correctly with the actual situation of companies in the Common Market. The process of integration and the progress of technology require companies to make far-reaching adjustments and changes almost every day. Companies may as a result be confronted with major problems. Even the reorganization of entire industries may be needed.

The second important task of those in charge of European competition policy is to help firms to adapt, but not by forcing management into certain courses of action, or by arranging co-operation between enterprises, or helping to finance adaptation investment. Other means of helping firms to adapt must be used.

The Community's Proper Role

Let us first consider the policy on restrictive agreements. An important way in which a firm can adapt to new market conditions is by co-operating with other firms. Co-operation may, to mention only a few examples, take the form of specialization agreements, joint purchase or sales arrangements, joint research and development, and license or exclusive dealing agreements.

The competition rules of the European Treaties apply to all these forms of co-operation. In simplified terms, the rules forbid all restraints on competition that impair trade between member countries, while allowing exemptions for co-operative ventures that must be deemed beneficial from an overall economic point of view. The opportunities for adaptation made available to firms through co-operation depend on the way these rules are interpreted and applied. Here is a field where competition policy can provide support and where it must also provide assistance whenever required and justified. Briefly, these are the main factors involved:

- It is of paramount importance to base European competition policy on an approach to competition that is consistent with economic realities. For instance, it would be inconsistent with current conditions in the European economy to start out with the idea that every reduction in the number of independent

companies necessarily entailed less competition. Through the prism of pure logic, this theory looks convincing, but it does not check out with the current structure of many Community markets. Agriculture is an obvious example, but we can also cite retail trade or markets where numerous small firms vie with a few giants. Although small firms, operating independently, may be too small to matter to the big companies, co-operation may enable them to challenge their powerful rivals. Here is an actual example.

The marine paint market is shared by the big international groups and many small manufacturers. The big groups operate sales agencies in all major ports so that the purchaser can buy the same product everywhere, a selling point of great importance for paint repair work, for instance. This advantage is not available to small manufacturers, which restricts their ability to compete. Now, a number of small companies from several countries got the idea of offsetting the disadvantage by developing paints jointly, laying down quality standards, and selling under the same trade mark. This project, which transforms small firms of merely local importance into serious competitors for the international groups, was authorized by the Commission since we expect it to stimulate competition.

- As you can see from this example, we are guided in the assessment of the various forms of co-operation by the effect the agreements have on actual market trends. The market effects of an agreement may vary fundamentally according to the market context. This is why we feel that mere knowledge of the terms of an agreement is not a sufficient basis for a decision on the application of the European competition rules. Market analysis is essential to European competition policy.

- A predominantly economic approach such as this one cannot fail to influence the definition of “restraint on competition” and consequently the scope of European law on restrictive agreements. If the effect of an agreement on the market is what matters, it stands to reason that the rules of competition should apply only to agreements that appreciably influence market conditions. Accordingly, the Commission concentrates on the really important cases. This approach is also in the interest of companies in the Common Market, especially the myriad of small firms; but it also benefits the entire economy, since concentration of the Community's work on a smaller number of cases facilitates development of case law.

- This brings me to a problem I believe we must solve. My contacts with business have left me with the conviction that companies should know as soon as possible exactly what European competition law permits and what it prohibits. We are trying to clarify our policy in two ways. While the first few years after the European competition law came into force were devoted mainly to laying the foundations by passing implementing provisions, we are now trying each year to increase the number of decisions on different kinds of restrictive agreements. We choose particular cases so that a decision on them clarifies the situation for the greatest possible number of similar cases. As an example of this working method, I mention the latest Commission decision on exclusive dealing agreements which has made it possible to use a simplified procedure to settle eleven hundred other agreements of which the Commis-

sion had been notified. The decision also clarified how such exclusive agreements for sales in non-member countries are to be legally assessed in the future.

Our second way of clarifying competition policy is based on the possibility, provided by the EEC Treaty, of granting block exemptions from the ban on restrictive agreements. The Commission has already granted a block exemption for certain exclusive dealing agreements, and we shall try to do the same for other forms of cooperation. For example, block exemptions are now being considered for research and development agreements, for agreements on the uniform use of standards or types, for specialization agreements, for joint purchase or sales agreements and for certain licensing agreements. We are also considering whether the conclusion of such agreements could be facilitated, for instance by withdrawing the notification requirement. A study is also being made to find out if general criteria can be established to determine whether a restraint is "appreciable," so as to enable regulations to be adopted excluding cases of negligible restraint from the application of the competition rules.

This work is running into great difficulties. In connection with restrictive agreements, no experience is yet available on the effects of such general measures. It is proving extremely difficult to formulate general rules exempting certain forms of co-operation and to make them comprehensive enough so that exemption is a meaningful proposition, yet not so comprehensive as to include agreements which do not justify exemption.

This is a new area of the law on restrictive agreements. We have moved into it because traditional policy cannot adequately handle today's situation in the Common Market. The pressure of technological and other developments is forcing European business to seek out new methods of research, production, and marketing and compelling European competition policy to break new ground.

Policy on Industrial Consolidation

Our policy on industrial consolidation is determined by our concept of the future structure of European business. It also depends, of course, on the legal opportunities provided for the Commission under the European Treaties.

The structures of European markets must satisfy two conditions: there must be enough independent companies to ensure effective competition; at the same time, these units must be large enough to solve research, production, and marketing problems rationally. Each company must decide for itself whether to rely on internal growth or mergers to reach the best size for its own operations. In any event, my own impression is that since the beginning of European integration a steadily increasing number of companies have been choosing the merger method of growth. Every day the press reports new mergers or merger negotiations. Most of these companies seem to be responding to the growing pressures of competition on the European and the world market. Most of them are not trying to restrict competition but rather to improve their competitiveness and adapt to the new scale of the market. In such cases, a reduction of the number of independent firms can intensify competition. To borrow a quotation from your Supreme

Court, which aptly describes our policy, "It is competition, not competitors, which the Act protects." *

Right now mergers among companies of the different member countries are few and far between. Most mergers occur between companies of the same nationality, or between companies in a member country and firms outside the Community. The Commission is working hard to eliminate obstacles—particularly in the area of tax and company law—that block cross-frontier mergers within the Community. Unfortunately, some recent cases show that some member countries' governments prefer to organize industries in a national context and therefore use pressure to prevent multinational arrangements. This trend is a matter of concern. Mergers between firms from different member countries speed up integration of the markets; furthermore, the Common Market, not national frontiers, should be the reference point for the development of new market structures. If a company wants to merge with another firm to improve its productivity, it should be able to choose the partner whose range of production or marketing system makes the best match. The economic success of the Economic Community depends upon the optimum allocation of the factors of production.

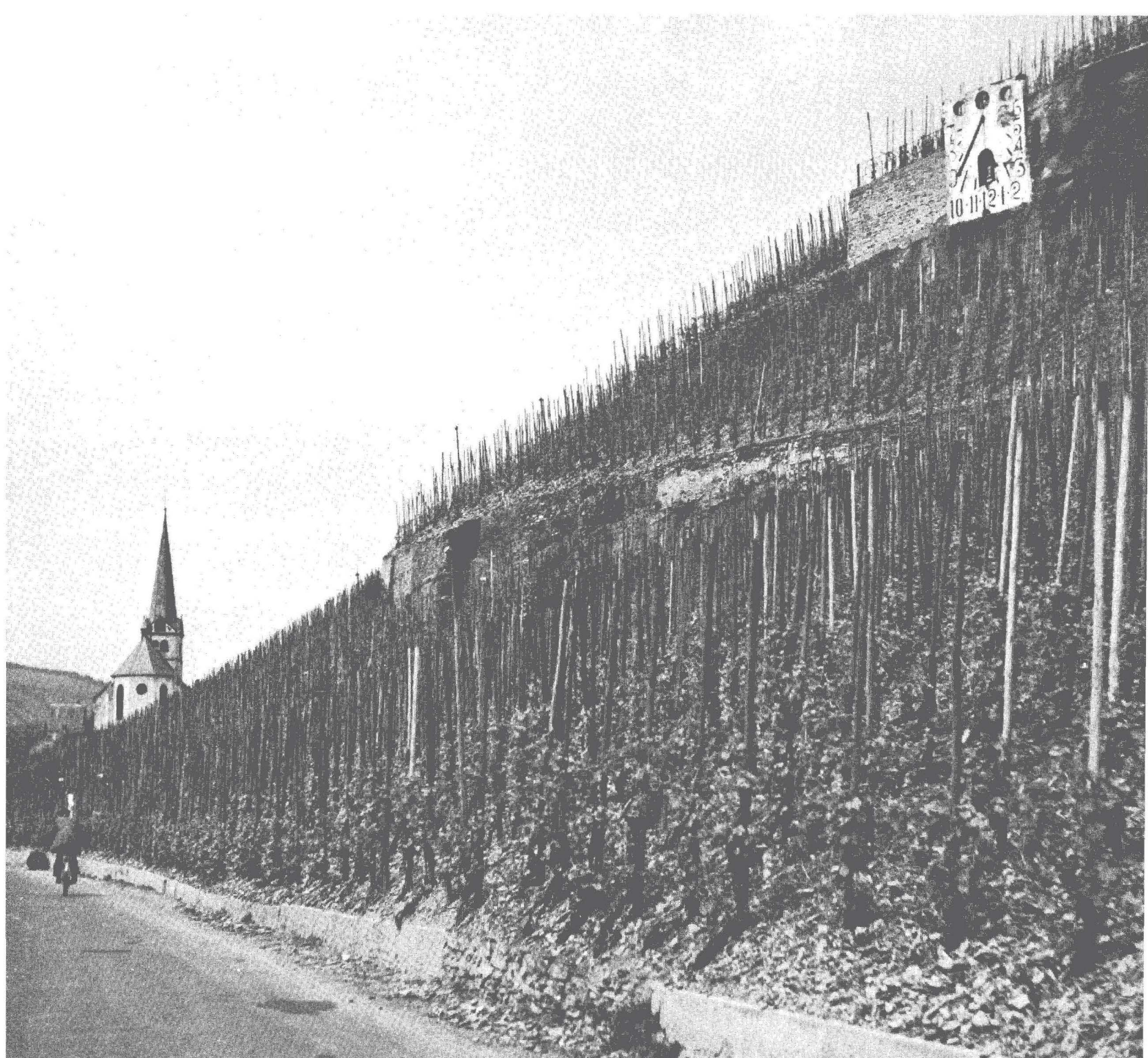
So far I have spoken of desirable mergers, but in a few industries additional mergers between certain firms would jeopardize workable competition. The European Treaties both outline a system for ensuring that competition is not distorted and bind the Community to act if it is. We construe Article 86 of the EEC Treaty, which prohibits "the abuse of a dominant position," to mean that a combination which eliminates effective competition constitutes a case of abuse and is consequently prohibited.

In the present situation of increasing exposure of national markets to competition, including competition from foreign firms, there are only a few markets in which there is a threat to workable competition. Thus, so far, there has not been any occasion to apply Article 86 to a case of amalgamation.

The Commission is in a stronger position with regard to combination in the coal and steel industry, since the ECSC Treaty allows amalgamations only if they are authorized by the Commission. Since these industries are passing through a period of structural reform, we have in the past endorsed most co-operation and combination plans; but we also realize that coal, and particularly steel, will in the future increasingly pose the problem of maintaining effective competition between a small number of competitors.

We are trying to make Europe's economy strong and efficient. The European Economic Community has provided us with a great opportunity to achieve this objective. As integration spreads to an ever larger number of markets, it releases stimuli which can have a creative effect if the free play of market forces is safeguarded. This is why the European Treaties give a position of key importance to the task of ensuring free and undistorted competition. Those in charge of the Community's competition policy bear the great responsibility for accomplishing this task.

* From the Court's ruling in the Brown Shoe case (370 U.S. 294, 344).



The "Wehlener Sonnenuhr" vineyard. The village of Wehlen has the reputation for producing some of Germany's finest Moselle wines. Courtesy German Information Center, New York.

Common Wine Policy

SEVEN CROPS OF WINE GRAPES have been picked, pressed, bottled, and left to mature since the Council of Ministers passed the outline regulation for organizing the European Community's wine market. Many vintages from these harvests have gone to market, but the Community's common wine policy has failed to become operative. Two previous deadlines have been missed; the Commission has proposed a third.

In an attempt to reactivate the wine policy the Commission, on September 26, submitted to the Council of Ministers a new timetable for specific action to meet the requirements of the Council's outline decision of April 1962. The Common

Market's transition period ends on December 31, 1969. Thus, the Six have two months left to complete arrangements for eliminating all quotas and charges equivalent to tariffs on wine traded between them, for deciding upon common prices, and for agreeing upon a common policy for wines imported from non-member countries. Although the 1962 regulation specified the general means of accomplishing these objectives, agreement on the exact methods to be used has proven elusive. Tradition, practice, and law have combined to preserve regional distinctions, cultivated and prized since the days of the Roman Empire.

The Importance of the Community's Vineyards

The Community's vineyards, owned by 3.5 million individuals, cover 7,089,586 acres, or almost a third of the world's total wine growing area. Although their share of world production has dropped from the 78 per cent 1960-66 average, they still produce more than 48 per cent of the world's wine and account for more than 6 per cent of the Community's farm production. With the discovery of new ways of controlling blight and with more and more young vines reaching fruit-bearing age, the Community's yield per acre has improved, even as the land under cultivation has decreased.

Since 1957/58, the vineyard area has declined in Italy and France, remained the same in Luxembourg, and increased (by 19,768 acres) in Germany. Because much of the work must be done by hand, the manpower shortage has contributed to the French and Italian reductions. At the same time, an even greater cutback has occurred in the number of holdings. In France, for example, the number of crop declarations fell from 1,365,000 in 1958/59 to 1,237,000 in 1965/66, for a reduction in vineyard area of 74,133 acres.

Affluence Boosts Quality Wines

Each person in the Community drinks an average of 18.23 gallons of wine a year. Per capita consumption has remained virtually constant for a decade, while overall consumption has grown at about the same rate as the population.

Like production, consumption is irregularly distributed among the member countries. France, Italy, and Luxembourg, the major producers, are also the largest consumers. In these countries, per capita consumption is fairly stable, while in Belgium, Germany, and the Netherlands, it has shown a tendency to increase. In countries where wine is an everyday drink, consumers are increasingly turning to "quality wines," while in countries where consumption is still occasional and quality wines are preferred by knowledgeable consumers, a market for ordinary table wines is beginning to develop.

Time Needed

Since 1961, the Community has consumed an average of 19.3 million gallons more wine a year than it has produced. The deficit is mainly quantitative, but it is also qualitative to the extent that in some member countries there is insufficient production of wines with a high alcohol content.

The Community as a Wine Importer

Wine yields have increased faster than consumption, so that eventually production will meet demand, unless there is a sudden surge in consumption or a disastrously rainy growing season. So far, however, the Community has been an importer

of wines, and will remain so in the near future, with imports averaging about 29.9 million gallons a year. Recently, the United States has begun to promote its wines in this large market.

Nevertheless, the Community imports most of its wines under preferential arrangements, such as the association convention with Greece, or by autonomous arrangements, such as with Algeria, Morocco, and Tunisia. Algeria, Morocco, and Tunisia, as French Overseas Territories, benefited from the Common Market Treaty until their independence in 1962. The Community now has commercial agreements with Morocco and Tunisia, but not with Algeria. For this reason, the Commission's 1968/69 wine forecast points out that there may be a decrease in wines imported from Algeria.

According to the Commission's answer in June 1969 to a written question from Hendrikus Vredeling, Dutch Socialist member of the European Parliament, France still maintains reduced-tariff quotas for Algerian wines, while Italy treats Algeria like a non-member country. Belgium, Luxembourg, and the Netherlands extend limited preferences to Algeria in the sense that they apply the customs system that was in effect between Community members as of January 1, 1965, (which is higher than the current one). Germany, which buys from Algeria less than 5 per cent of its wine imports from outside the Community, received permission on September 24, 1969, to apply lower duties than the common customs tariff to Algerian wines until the end of this year.

Scorecard on April 1962 Regulation

Council Regulation 24 of April 4, 1962, tried to anticipate future demand for quality wines and reconcile the vastly different national traditions of regulating wine markets. The Community's viticultural potential, both in quantity and quality, had to be assessed and evaluated annually in terms of its needs. A policy to improve quality had to be initiated. For these reasons, Regulation 24 stipulated that:

- each member country should compile a vineyard register by June 30, 1963. This deadline was postponed, first to December 31, 1964, then to December 31, 1968. France, the most strictly regulated wine growing country, already had such a register, and Germany and Luxembourg completed theirs by 1967. Italy's wine register is still in the preparatory stage; and, since no date has been indicated for its completion, the Commission has decided to take the matter to the European Court of Justice.
- crops and stocks should be estimated and declared each year. The member countries have notified the Commission of the estimated wine resources annually since 1963/64.
- the Commission should forecast resources and requirements at the beginning of each year. The Commission has made such forecasts on the basis of data supplied by the member countries since 1964/65.
- a Community regulation for quality wines produced in specific areas should be adopted by December 31, 1962. The Commission submitted a proposal for this regulation to the Council of Ministers in April 1964, two years late because



Cobwebs and mould gather as Burgundy's Côte d'Or vintages slowly mature. Courtesy French Embassy Press and Information Division, New York.

of its heavy workload from organizing the economically more important grain and meat markets. After discussion in the Council and other Community institutions, this proposal was amended in 1967 and sent back to the Council.

In June 1967, the Commission submitted to the Council a proposed regulation for the organization of the market in table wines, the largest and most sensitive part of the wine market. This proposal is still before the Council.

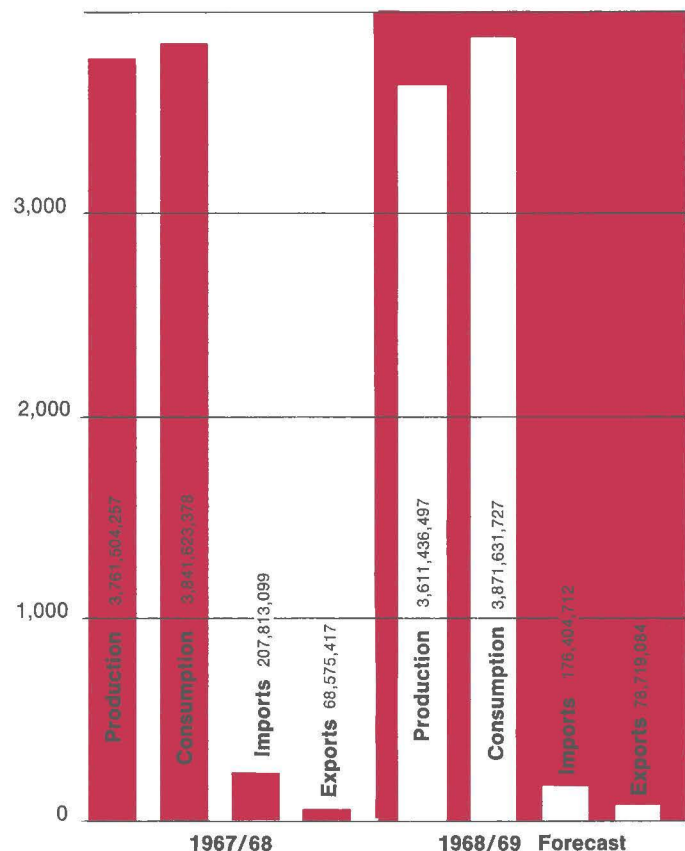
On the positive side, in April 1968, the Council passed a 1966 Commission proposal to regulate marketing of material for the vegetative propagation of grape vines. This regulation, by protecting the quality of vines, provides a means of improving the quality of wine produced in the Community. By January 1, 1970, a Community catalogue of acceptable varieties is to be established.

The New Wine Proposal

The Commission's proposal of September 26 contains a schedule of measures to supplement the common organization of the wine market, so that by November 1, 1969, there will be free trade in these products throughout the Community. Approval by the Council would commit the Six to agree, by September 1, 1970, on oenological definitions and practices, supervision of planting, prices, intervention, and international trade. It would also commit them to adopting definitions and requirements of alcohol content, blending of wines, enrich-

COMMUNITY WINE MARKET

in millions of U.S. gallons



Source: Bilan Prévisionnel de la Campagne Viticole 1968/69

ment, and specification of the areas where sugaring is or is not allowed. It also asked the Council to ban, beginning on November 1, 1969, aids to planting and to require that:

- licenses be issued beginning on September 1, 1970, for every vine planting or replanting for wine production (except for quality wines produced in specified areas)
- only recommended and authorized vine varieties be planted in the Community beginning on September 1, 1971.
- if justified by the foreseeable trend in the production-consumption ratio, the Council adopt requirements to be proposed by the Commission that must be met for renewal of planting licenses. The requirements may include restrictions on the issue of licenses for wines that yield anything but "quality wines produced in specified areas."

Intervention measures, starting on November 1, 1969, would consist of aid to private stocking and if aid to stocking should prove inadequate, to distillation.

Also starting on November 1, 1969, arrangements for importing wine into Community customs territory are to include the removal of quantitative restrictions, the application of the common customs tariff, charging of a common price (possibly with a countervailing charge), and a safeguards clause. Separate arrangements will be made for wines imported from associated countries.

1-Year Delay In TVA Deadline

COMMISSION PROPOSES EXTENSION SINCE BELGIUM AND ITALY CANNOT MEET JANUARY 1, 1970 LIMIT

THE EUROPEAN COMMUNITIES COMMISSION, responding to Belgian and Italian requests for extensions, has agreed to postpone for one year the introduction of the Community's common turnover tax system—the tax on value added (TVA).

The Italian and Belgian requests were made, respectively, on July 14 and September 12. The Commission, on October 1, proposed to the Council of Ministers that by January 1, 1971, not only should the old cumulative turnover tax systems of the six member countries be abolished and replaced by a common TVA system, but that a timetable should also be set for harmonizing the rates themselves.

Italy requested a two-year extension so that the introduction of the common turnover tax system would conform to its schedule of general tax reform. Italy told the Commission that relevant proposals had been tabled but not yet examined by the Italian Parliament. (They provided for enactment of the necessary laws by October 31, 1970.) On September 29, Italian Minister of Finance Giacinto Bosco went to Brussels to explain his Government's case for an extension to the Commission.

Belgium asked for a one-year extension of the deadline, mainly for economic reasons. In view of the current state of the national budget and general business conditions, the threat of price increases, such as those that accompanied the Netherlands' changeover to the common turnover tax system, was considered serious.

Luxembourg, in view of its close ties with the Belgian economy, considered asking the Commission for an extension. However, after debate in the Luxembourg Parliament, the Government decided on September 25 to keep to the original schedule.

The Netherlands put the system into effect on January 1, 1969, and Germany, on January 1, 1968. On January 1, 1968, France, which had a TVA system, extended its field of application to conform to the Community system.

Original Deadline Gave "Ample Time"

In April 1967, the Council of Ministers passed directives by which the Community members agreed to introduce TVA by January 1, 1970. In announcing its proposal for a one-year extension, the Commission pointed out that the original deadline had allowed ample time for the member countries to complete the necessary legislative arrangements and to time the changeover to the new system to coincide with their business cycles.

Under the common system, turnover taxes are levied on the value added to goods during each stage of production and distribution. Countries that had cumulative turnover tax systems, in which taxes accrue on the full value of goods at each change of ownership, had to replace them with the tax on the value added (TVA). The others had to align their systems with the Community's. Later directives provided for the extension of TVA to agriculture, to services not covered by the first directives, and to the retail stage of distribution. (See *European Community No. 111, page 12.*) Proposals for harmonization of the actual rates were also to be made.

TVA and Competition

Because differences in its members' overall tax systems could

distort competition in trade between them, the Common Market Treaty allows them to make border adjustments for the domestic taxes paid on goods traded between them by means of tax rebates on exports and levies on imports.

Average rates were used to calculate the amount of adjustment for turnover taxes until TVA made exact adjustments possible. The TVA system produces exact tax records because the tax paid at one stage of production or distribution is credited at the next, eventually to be passed on to the consumer. (See *European Community No. 125, page 6.*)

Equalization of the turnover tax burden on Community competitors located in different member countries was one of the main goals of TVA, but as a result of the Belgian and Italian requests, it cannot be accomplished by January 1, 1970. Both countries will have to continue to use average rates to figure out export rebates and import levies. While this system theoretically equalizes the tax burden, it inevitably results in disparities in tax treatment.

The Commission's Proposal

To minimize these disadvantages, the Commission's proposal for a one-year extension of the deadline forbids any increases in the average rates applied on October 1, 1969, and requires reduction of those rates by fixed amounts beginning on January 1, 1970.

Since the delay in introducing TVA could compromise other elements of the Community's tax harmonization program, the Commission said it had reached the conclusion that a timetable for enacting certain tax reform measures must be passed now, so that import levies and export rebates can be eliminated in intra-Community trade. The TVA's field of application would be extended to include retail trade by January 1, 1971. The Commission would submit to the Council any proposals necessary to ensure the removal by January 1, 1974, of all import levies and export rebates on trade between the Community members.

Italian Finance Minister Giacinto Bosco. In September, he went to Brussels to explain why his Government needed time to complete arrangements for introducing the Community's common turnover tax system. Courtesy Italian Information Center, New York.



Deadlock on Commercial Policy

FOREIGN MINISTERS OF THE SIX, at the meeting of the European Communities Council of Ministers on September 15, failed to make any progress towards completing the common commercial policy.

The common trade policy should become operative on January 1, 1970, according to Article 113 of the Common Market Treaty. The Commission would then conduct all trade talks with non-member countries. The current deadlock arises from the reluctance of the Six—particularly Germany and France—to relinquish their authority to negotiate bilateral trade pacts. Such agreements, especially with the East European countries, often have a pronounced political character.

A full common trade policy would cover imports and exports of industrial and farm goods. Many aspects of this policy are already in force: a common policy for agricultural products and for industrial imports from all non-member countries except state-trading nations. Still to be defined are common policies for industrial imports from and exports to state-trading nations and the replacement of existing bilateral trade agreements with non-member countries by Community agreements. In view of the difficulties in completing this program by next January 1, Dutch Foreign Minister Joseph Luns, who presided over the meeting, suggested that for the next three years bilateral trade agreements might be authorized in exceptional circumstances, provided that:

- the Council of Ministers approved the opening of bilateral talks between a member state and a non-member country
- other Community members were kept informed during the talks

- the Council approved the agreement before it was signed. The ministers were to resume this discussion at the October 17-18 Council meeting in Luxembourg.

Yugoslavia: New Proposals

The ministers postponed discussion of trade relations with Yugoslavia after France said it would soon put forward new proposals. Earlier talks between Yugoslavia and the Commission broke down because the foreign ministers of the Six had not authorized the Commission to offer concessions on Community imports of Yugoslavian beef and veal. Agricultural products account for nearly half of Yugoslavia's exports to the Community.

Relations with Turkey were also discussed, in view of the switch at the end of 1969 from the preparatory to the transition stage in Turkey's association with the Community.

Trade Pact with Japan Proposed

During the meeting, Commission President Jean Rey suggested that negotiations should begin soon for a trade agreement between the Community and Japan. This proposal followed his discussion in Brussels the previous week with visiting Japanese Foreign Minister Kiichi Aichi.

Mr. Aichi told Mr. Rey that Japan hoped to increase its trade with the Community countries from the current level of 5 per cent of Japan's foreign trade. He added that Japan had bilateral trade problems that it wanted to solve with each of the Six. The Commission member responsible for foreign trade, Jean-François Deniau, will go to Japan this fall to discuss trade liberalization and other questions, such as attitudes towards the developing countries and world agricultural problems.



Japanese Foreign Minister Kiichi Aichi meets with Commission President Jean Rey (right) and Commissioner Jean-François Deniau (left). He told them Japan was anxious to expand trade with the Community.

ARTICLE 113

1. After the expiry of the transitional period, the common commercial policy shall be based on uniform principles, particularly in regard to tariff amendments, the conclusion of tariff or trade agreements, the alignment of measures of liberalisation, export policy and protective commercial measures including measures to be taken in cases of dumping or subsidies.

2. The Commission shall submit proposals to the Council for the putting into effect of this common commercial policy.

3. Where agreements with third countries require to be negotiated, the Commission shall make recommendations to the Council, which will authorize the Commission to open the necessary negotiations.

The Commission shall conduct these negotiations in consultation with a special Committee appointed by the Council to assist the Commission in this task and within the framework of such directives as the Council may issue to it.

4. The Council shall, when exercising the powers conferred upon it by this Article, act by means of a qualified majority vote.

The Six to the Summit

by **ROBERT MAUTHNER**

THE SIX COMMUNITY heads of government will meet in The Hague on November 17-18 to make basic political decisions on crucial problems ranging from the Community's enlargement to its general future development and financing the common farm policy. Failure to reach agreement, as Dutch Foreign Minister Joseph M. A. H. Luns has warned, could have serious repercussions.

Many "grave crises" have confronted the Community before, but each time the Six have managed to salvage the situation, drawing upon their reserves of "European spirit" and burying profound national differences for the sake of preserving the Common Market. Nevertheless, each crisis has taken its toll, leaving a residue of disillusionment among dedicated Europeans. That the Community survived and kept moving does not mean that it is still in as good shape as it was in its early years.

French Shun "Package Deal"

Since the second French "veto" of British membership, in November 1967, the Community has plodded along. The logjam in its activities had resulted mainly from French President Charles de Gaulle's opposition to negotiations with Britain, and so the election of a new French President naturally raised hopes that the main obstacle to further progress had been removed. Subsequent events have shown this reasoning simplistic.

The new French leaders have emphasized that the "political veto" of Britain's application has been removed. In October, at a Council of Ministers meeting in Luxembourg, French Foreign Minister Maurice Schumann formally concurred with the Commission's latest opinion that negotiations with Britain should be started "as soon as possible" and admitted that the Community's enlargement would not necessarily weaken it. However, he insisted on two prerequisites for the opening of negotiations:

- The Six must agree on a new farm financing regulation to replace the one that expires at the end of the year.
- After moving next January into the final stage of the Common Market, as provided in the Rome Treaty, the Six should reach a common position on the further development and strengthening of the Community.

Mr. Schumann made it clear that the French Government considered the adoption of a new farm financing regulation as a completely separate issue from any agreement which the Six might reach on the enlargement of the Community.

Compromises Will Have to be Accepted

Mr. Schumann's statement could be considered the French opening position for the summit, to be modified during nego-

tiations. However, no one who has watched the Community for the past decade can doubt that on farm financing, at least, the French will fight tenaciously.

Unfortunately, the present state of disarray in the Community's farm policy makes any meaningful decision on agricultural financing extremely difficult. With the French and German agricultural markets temporarily isolated following their respective parity changes, the whole farm price structure has been put into question.

The future cost of price support and the structural reforms, necessary to wipe out mounting farm surpluses, is entirely unknown. The French appear to be demanding an open-ended commitment from their partners to continue financing the agricultural policy, whatever it costs. With both Germany and Italy already strongly opposed to continuing their current level of contributions to the common agricultural fund, France cannot seriously believe that a demand of such magnitude will be satisfied without substantial concessions on its part. The political pressures are now so great that only one path can lead to a successful summit: a package deal on British membership, farm financing, and the future internal development of the Community.

Farm Costs Nullify Previous Stands

The Commission has proposed that the Community finance itself and its farm policy from its own "independent resources," in other words, from levies on farm imports into the Community and from the common customs tariff. This, and the companion proposal to increase the European Parliament's control over the Community's budget are the same issues that precipitated the French boycott of the Community for seven months in 1965.

Because of the soaring costs of the common agricultural policy, the income from "independent resources" would no longer cover common farm fund expenditures. The fund would, therefore, continue to depend partially on direct budgetary contributions from national treasuries. Thus, the Commission's financial control would be more limited than stipulated in the 1965 plan, perhaps making it politically more acceptable to France.

What is virtually certain is that no final decision on detailed proposals will be made at The Hague summit. Possibly, in return for a broad commitment on farm financing and the priorities for the Community's future growth, the French will agree on opening negotiations with Britain—keeping the precise date of the start of negotiations in reserve for more concrete assurances from the Five on farm financing.

The situation is more hopeful than it was during the De Gaulle presidency. It can now be presumed that President Pompidou's Government is not prepared to break up the Common Market, and it knows that it cannot hope to obtain its basic demands on agriculture unless it makes concessions on the enlargement of the Community. If France's first gesture is acceptance of the principle of negotiations with Britain, even without a firm date, it will at least improve the climate for putting the Community on the rails again.

Trans-Europ-Express: European Railroads' Superstar

by THIERRY VIGOUREUX

Mr. Vigoureux, a French journalist, tells the story of the train that was the setting for Alain Robbe-Grillet's film thriller "Trans-Europ-Express."

"TELL ME WHICH TRAIN YOU TAKE and I'll tell you who you are." All European railroad marketing is based on this concept, and travelers are polled regularly so that rail service can be adapted to the needs of the clientele. On the same route, businessmen take a morning or an evening train before or after working hours and use the trip to dine or review a file; families with children prefer a day train so that the children can occupy themselves looking at the scenery, and skiers travel at night to be on the slopes early next morning.

The factors of "railroad sociology" suggest a profile of the "Trans-Europ-Express traveler." He arrives at the station at the last minute in a whirlwind, carrying an attaché case and armed with a ticket purchased through his company's travel agent. His seat and restaurant setting have been reserved. Sometimes his secretary accompanies him, never his wife. If he makes the same trip often, he inevitably runs into some acquaintance with whom he laments over the state of the economy. He reads his mail and prepares his appointments unless, of course, he's absorbed in a detective novel.

For him and because of him, 28 TEE trains plow back and

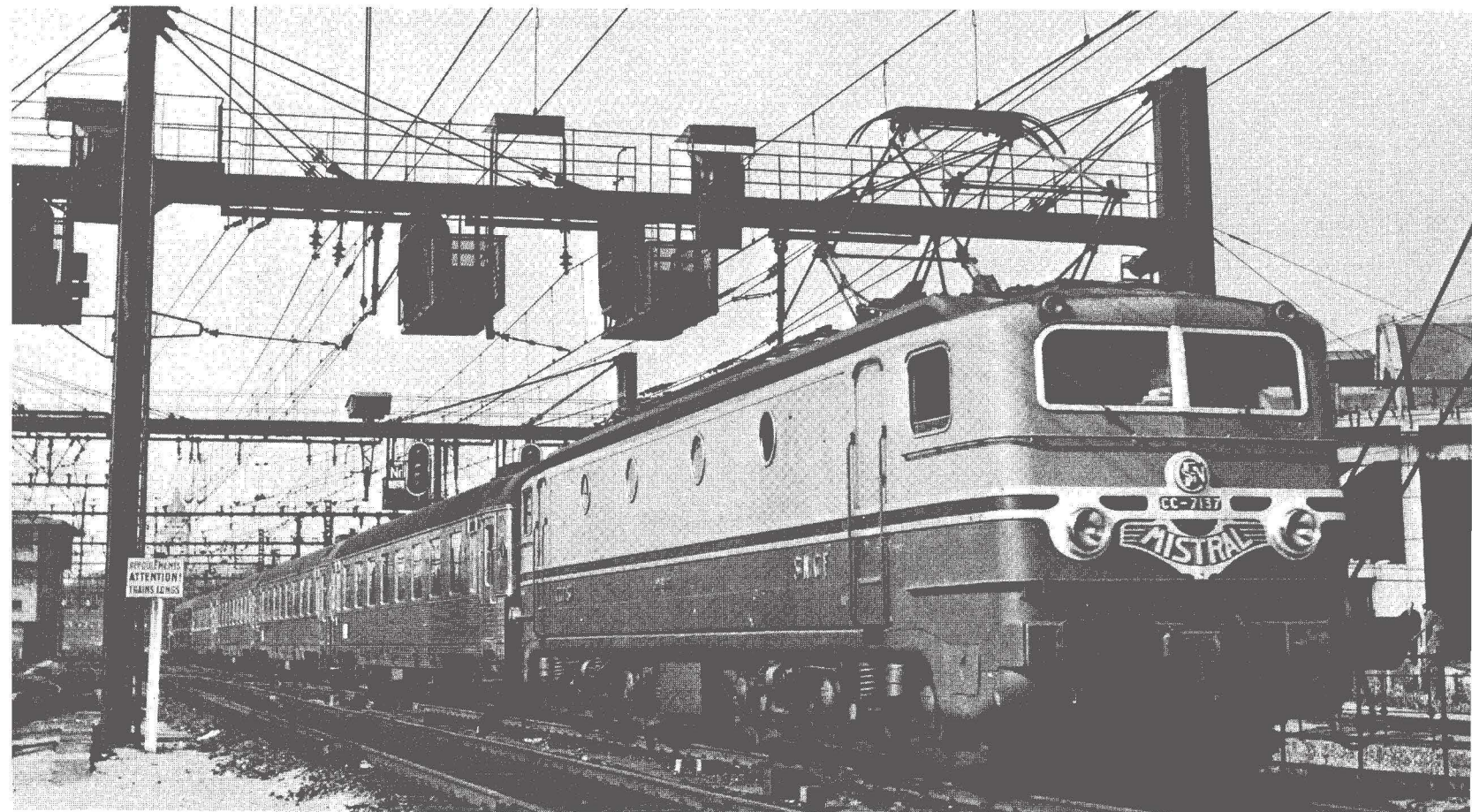
forth across Europe each day. This sub-system within Europe's national railroad networks was formed despite difficulties which were eventually overcome by cooperation on technology, administration, and rates.

The TEE Administration

Upon a proposal made in 1954 by the President of the Dutch railroad M. den Hollander, the Swiss, German, Dutch, Italian, Belgian, French, and Luxembourg railroads formed a group for the joint operation of a number of very fast and comfortable trains to improve rail service between their principal large cities. A dozen diesel trains bearing the TEE emblem began runs in June 1957.

The Trans-Europ-Express is neither a separate company with its own employees nor an autonomous administration with its own legal personality but rather a seven-member consortium for study and management. The national railroads belonging to the group own their respective rolling stock and issue passenger tickets. However, prices, seat reservations, and various auxiliary services are prescribed in common rules jointly accepted and uniformly applied in all seven countries. The TEE price schedule corresponds to the price that each country crossed by the train charges for a first class ticket, plus a uniform supplement. Seats must be reserved, and the supplement

The "Mistral," the fastest TEE train, makes the 664-mile run from Paris to Nice in seven hours, averaging 95 m.p.h. The fastest U.S. "Metroliner," by contrast, averages 75 m.p.h. on its 227-mile run between Washington and New York. Courtesy French Embassy Press and Information Division, New York.



includes the reservation fee. This reservation is guaranteed in each country by a central TEE agency connected with the TEE centers in other countries by telex.

The TEE Modernizes

The TEE's rolling stock originally consisted of several first class coaches and some other cars equipped with one or more diesel engines for traction. There was no single hauling locomotive and because power was self-contained, the trains could not be broken up, shortened or lengthened according to passenger traffic demands. Performance was also limited because the diesels could carry only light loads at high speeds; nonetheless, in the beginning, this equipment answered customer demand adequately.

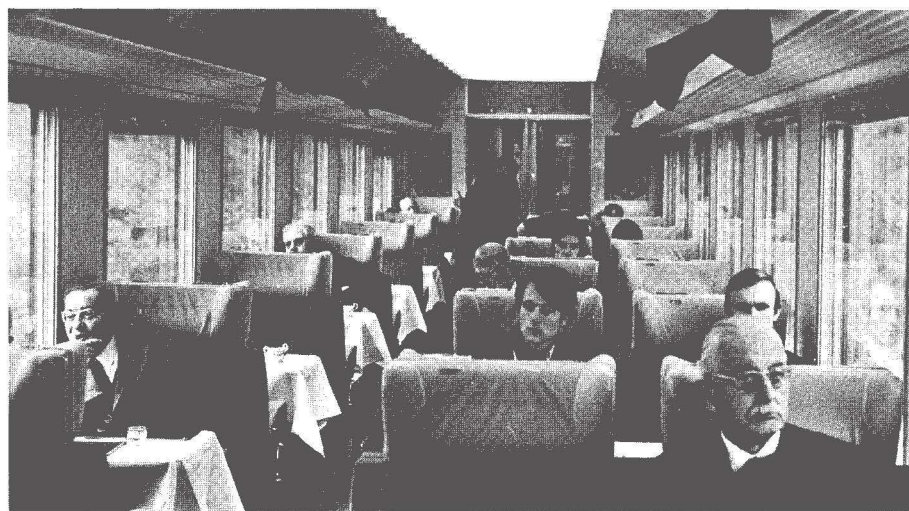
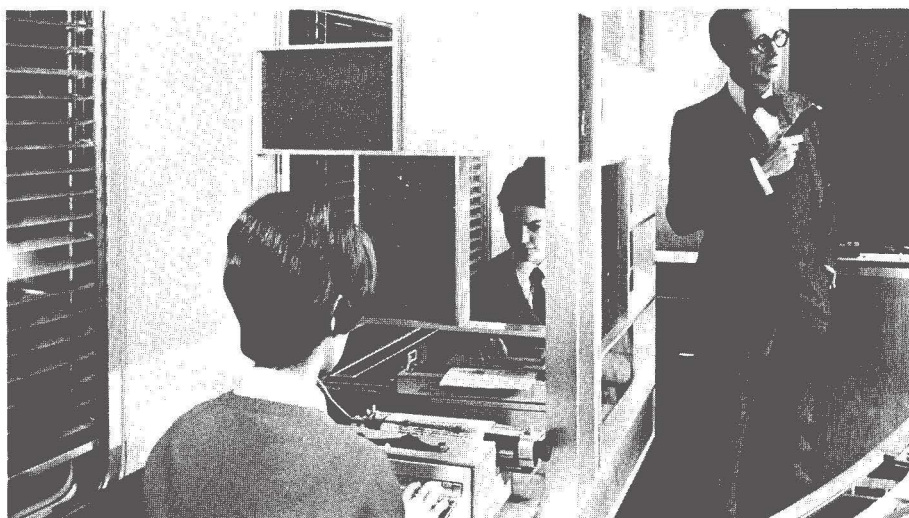
Since then, electrification has led to greater use of electric trains. Unlike diesels, electric trains do not have to carry their own fuel. Electricity from overhead wires feeds the traction engines. But the advent of electric trains raised an important technical difficulty: the European track network and different parts of national track systems use different electrical currents (mainly voltages of 1,500; 3,000; 15,000, and 25,000 volts). The type of current (alternating or direct) also varies, not to mention differences in the timing of the alternating current. Switzerland took up the problem and put at the disposal of the TEE new "polycurrent" electric trains that could run equally well from four types of current and on every group members' tracks. These trains were put into service in 1961 between Basel, Zurich, and Milan (on the "Gottardo" and "Ticino" trains) and between Paris and Milan on the "Cisalpin."

The TEE between Paris and Brussels, now making four round-trips a day, has always been one of the TEE's busiest routes. After this line was completely electrified in July 1963, the TEE replaced its diesels with up-to-date electric trains and enlarged passenger capacity.

The TEE rail network adapted to the problem of differing electrical currents by technological innovation and then ran into another obstacle: in one of the seven member countries the width between rails differed from the standard track gauge in service in the other six.

Spain uses a track gauge for its railroads that is wider than its neighbor's. Thus, rail passengers traveling from France had to change trains at the border—resulting in a considerable loss of time. For example, the "Catalan" from Geneva went only as far as Port Bou where a connection awaited for Barcelona. In September 1968, it was decided to bring the Geneva-Barcelona run into the TEE system by 1969. This direct connection was made possible by the use of a Spanish train called the "Talgo," equipped with variable gauge axles. The gauge is changed along a special track in the Port Bou yard as the train coasts through at 10 miles per hour. The new "Catalan" puts Geneva 9 hours and 50 minutes away from Barcelona.

Trains of the future are expected further to increase the TEE's comfort and speed. As it is, growth in traffic on TEE trains has caught the interest of railroads in neighboring countries and should encourage them to emulate the TEE's success. So far, European cooperation, pursued with exemplary patience by railroad experts, has gotten excellent results.



Travelers aboard the "Mistral" can spend their time: dictating to a member of the train's secretarial staff (top), relaxing at the hairdresser's (center), or dining at their seats (bottom). A bar, a newsstand, and a gift shop are also on the train. Courtesy French Embassy Press and Information Division, New York.

A Legal Tower of Babel?



by ANDREAS M. DONNER

Mr. Donner, a member of the Communities' Court of Justice, illustrates some of the problems of translating legal concepts into four official languages. By permission of Northwestern University Press, Evanston, Illinois, this article has been reprinted from Mr. Donner's book, The Role of the Lawyer in the European Communities. No part of this article may be reprinted without the permission of Northwestern University Press.

EVERY COUNTRY HAS ITS OWN LEGAL JARGON. The words and formulas in different national systems may well be practically identical, but they nevertheless have their special cryptic meaning and implications in every state.

To give a simple example, speaking in English and addressing an audience of Anglo-Saxon lawyers, one meets a special difficulty in discussing the legal aspects of European integration. You may speak about a common market, having its common institutions and common tariffs, but you should never, never use the expression "common law" to indicate the law applying to this common market. In French, there is nothing against the expression "la règle commune," but if you translate it by "the common law," you are sure to raise utter confusion and to provoke your audience into all sorts of mental associations that you never have thought of.

A Scotsman told me that Scottish lawyers are sometimes disagreeably surprised by the rulings handed down by the supreme judiciary of the United Kingdom, the House of Lords, in appeals from Scottish judges. As the House of Lords, sitting in appeal, is in the majority composed of English lawyers, it tends to understand the wording of a Scottish law in a Common Law way and to neglect the possibility that some expression or formula might have quite another meaning in Scottish law than it has in English law.

This difficulty between English and Scottish lawyers is magnified sixfold when six lawyers, each coming from a different legal system, try, first, to establish a uniform and common interpretation and application of the Community texts and, second, to put the resulting conclusion in terms that will be clearly understood throughout the Common Market.

Consulting the Paris Treaty establishing the European Coal and Steel Community, the lawyer discovers what might be called a real monument to the diversity between the legal systems of the six member countries. In enabling the Court of Justice to review the legality of Community acts, that Treaty (Article 33) provides that the Court shall be competent to give judgment on appeals by a member state or by a private party concerned, either on grounds of lack of jurisdiction, errors of substantial form, infringement of the Treaty or, as it was called in the French text, "détournement de pouvoir." But how was this French notion to be translated in the texts in the three other languages? The notion is typically French and concerns cases where administrative powers are used correctly, but for reasons that are foreign to the objectives which caused those powers to be conferred.

Classic Example

The classic French example was the closing of a match factory for violation of a minor safety rule, an act which was really motivated by the consideration that this closed factory could be expropriated for greatly reduced damages. A more amusing case occurred when a village mayor exercised his power to dismiss the village constable in order to punish him for amorous difficulties with the mayor's servant girl.

It is not enough to explain the fact that this ground for annulment is unknown in other countries by saying that such things don't happen there or that their system is too formalistic to admit such a sophisticated ground for review. Elsewhere,

GERICHTSHOF
 DER
 EUROPÄISCHEN GEMEINSCHAFTEN
 COUR DE JUSTICE
 DES
 COMMUNAUTÉS EUROPÉENNES
 CORTE DI GIUSTIZIA
 DELLE
 COMUNITÀ EUROPEE
 HOF VAN JUSTITIE
 VAN DE
 EUROPESE GEMEENSCHAPPEN

Plaque at the entrance to the Court of Justice, in Luxembourg, in the Community's four official languages: Dutch, German, French, and Italian.

systems of judicial control have a different history, and the idea underlying the French notion of "détournement de pouvoir" has, in other countries, been realized in a different context and under a different name.

Thus, if you consult the German text of the Paris Treaty, you will find that "détournement de pouvoir" has been translated as "Ermessensmissbrauch," which means abuse of administrative discretionary powers. According to the German system, when the law allows the administration a margin of discretion in deciding if and how it should use its powers, such a margin must in principle be respected by the reviewing judge. But, should the authorities overstep the limits of reasonable discretion and abuse the margin of liberty they are allowed, then such abuse may furnish a ground for annulling their decision. Thus, in German law the facts which to a Frenchman

would qualify as a "détournement de pouvoir" are subsumed under the general notion of "Ermessensmissbrauch," a notion which is much larger than the French one and comprehends all sorts of situations that never could be qualified as "détournement de pouvoir."

The Italian text of the treaty reads "détournement de pouvoir" as "sviamento de potere," which, taken literally, is quite a faithful translation but unhappily does not render the same sense to Italian lawyers, because in their usage the words have been given a much broader meaning than the French words have in French law. "Sviamento de potere" means something like "abuse of power," for in practice it is a coverall for various sort of administrative peccadilloes, for example even logical contradictions in or insufficiency of the reasons of a decision, deficiencies that no German or French lawyer would connect with the corresponding expressions in their texts of the Treaty.

Dutch Version

The Dutch version does not simplify matters either. Dutch law and certainly the Flemish versions of Belgian law have expressions that cover practically the same notion that the words "détournement de pouvoir" have come to contain, but neither of these expressions has been used. The Treaty text maintains, as it were, a complete neutrality between the three other versions by using an expression, "misbruik van bevoegdheid," which is sometimes found in branches of the law other than administrative law and which carries implications which only partially tally with those of the corresponding ones in the other three languages.

It should be well understood that this is not simply a case of bad translation or imperfect communication among the drafting lawyers. That is proved by the fact that the authors of the later Treaties—those establishing the Common Market and Euratom [*the European Atomic Energy Community*—who must have been conscious of the since-discovered incongruity, nevertheless adopted exactly the same terms when they defined the judicial powers of review under the new Treaties. They were obliged to do so for want of similar notions and concepts in the law of the member countries. Had they tried to repair matters, they would have risked adding to the confusion, for the incongruities lie in the law itself, which obtains, it is true, similar results under different systems but on the basis of different reasonings and distinctions corresponding to different historical influences.

ARTICLE 173

The Court of Justice shall review the lawfulness of acts other than recommendations or opinions of the Council and the Commission. For this purpose, it shall be competent to give judgment on appeals by a member state, the Council or the Commission on grounds of incompetence, of errors of substantial form, of infringement of this Treaty or of any legal provision relating to its application, or of abuse of power. . . .

New East African Pact Signed

THE EUROPEAN COMMON MARKET signed a new association agreement at Arusha, Tanzania, on September 24 with three East African members of the British Commonwealth: Kenya, Uganda, and Tanzania.

The agreement, designed to benefit the East African countries, reflects their growing needs for economic and trade assistance. The new pact deals mainly with reciprocal rights and obligations in trade but also contains provisions to assure the right of establishment of businesses from and in any of the signatory states, the freedom to supply services, and unrestricted capital movements. The agreement takes account of the need for a coherent Community policy towards all developing countries, not just the associated countries, leaving them free to participate in a system of generalized tariff preferences and to join regional customs unions or free trade areas.

Synchronized With Yaoundé Pact

The agreement will link the European Community and the East African countries for five years, until January 31, 1975. It follows the main lines of the first Arusha Agreement which was signed on July 26, 1968, but which did not come into force because ratification was not completed before the association was to expire.

Both Arusha Agreements were negotiated to coincide with the Yaoundé Conventions which link 18 other—mostly French-speaking—African states with the Common Market. The first Yaoundé Convention expired May 31, 1969, and the second Yaoundé Convention, signed on July 29, will expire January 31, 1975. The adjustments made in the new Arusha convention correspond with changed economic conditions in the three African states and changes in the terms adopted by the second Yaoundé agreement.

Community Obligations

Generally, intra-Community arrangements (free trade without customs duties or charges with equivalent effect) will apply to exports from the East African countries to the Community. However, for coffee, cloves, and canned pineapple, only specified amounts will be allowed into the Community duty-free in any given year (56,000 tons of coffee, 120 tons of cloves, 860 tons of pineapple). Anything over these amounts will entitle the Community to take steps to prevent disturbances of its traditional trade patterns.

For agricultural products similar to, and competing with, European products and for processed agricultural products, the Community will consider the interests of the East African countries in the context of the Community's common agricultural policy. It will decide case by case, consulting with the Association Council and regardless of the general treatment accorded non-member countries, what treatment it will give the products the East African states would like to export.

East African Concessions

The East African countries agreed to remove all customs duties and quantitative restrictions not needed to protect their economic development or to contribute to their budgets. As a result, the European Common Market will receive tariff concessions on some 60 products at rates ranging from 2 per cent

to 9 per cent. The East African countries will be able to change these concessions if others are made to keep the general balance of the agreement.

The association will have its own institutions: an Association Council empowered to carry out and supervise the execution of the provisions contained in the agreement, and a joint parliamentary committee.

Coffee bean picking at a group farm in Nanziga-Busoga, Uganda. The Community will open duty free quotas for coffee, cloves, and canned pineapples from its three new associates. Courtesy Embassy of Uganda.



COMMUNITY NEWS

SUMMIT OF THE SIX SET FOR NOVEMBER IN THE HAGUE

Heads of government of Belgium, France, Germany, Italy, Luxembourg, and the Netherlands will attend a summit conference on November 17-18 in The Hague.

Council President in office Joseph M. A. H. Luns made this announcement at a press conference in Brussels September 15 after a luncheon attended by the European Community members' foreign ministers. He said the member countries' heads of government would discuss the enlargement and strengthening of the Community and the implementation of some Common Market Treaty provisions that have not yet been fulfilled.

U. S., EUROPE SEEK NEW JOINT RESEARCH AREAS

The United States is seeking new opportunities for cooperating with the European Community on scientific research, according to Lee A. DuBridg, White House Science Advisor.

Mr. DuBridg and a U. S. scientific delegation visited the European Community's headquarters in Brussels on October 2. They met with Commission President Jean Rey, Commission Vice President Fritz Hellwig, Commissioner Wilhelm Haferkamp, and scientists employed by the Community. Areas of common interest pinpointed by these talks included: air and water pollution, oceanography, meteorology, the use of computers, and the creation of a common bureau of standards.

In the past, Mr. Rey said, cooperation between the United States and the European Atomic Energy Community (Euratom) had substantially aided Europe's nuclear development. As a future project, Mr. Haferkamp suggested that the United States and the Community exchange knowledge on isotopic separation plant construction. These plants reprocess spent nuclear fuels.

SLAUGHTER PREMIUM TO CUT DAIRY SURPLUS

The European Communities Council of Ministers on September 16 approved a plan to encourage farmers to reduce milk production.

Under the new system, small farmers will receive a \$200 premium for each cow, up to ten, slaughtered and not replaced. Farmers with more than ten cows will receive another \$200 per cow, if they discontinue sending the



"Is it my fault you can't manage your butter mountain?" Cartoon by Bruns, "Nord Rheinische Zeitung," Düsseldorf. Courtesy Europäische Gemeinschaft, Bonn.

milk to dairies. In the first, experimental stage, this plan will cost \$100 million—half of which will come from the common farm fund and half from national governments.

The slaughter subsidy was one of the Mansholt Plan's proposals. It will be paid until 250,000 cows have been slaughtered and the same amount in premiums has been paid for non-delivery of milk. Ministers will then discuss whether it should be continued. Some estimates point to a reduction in the Community's butter production by 30,000 tons a year while the plan is in operation, but the

Commission believes that butter stocks will still rise at a rate of 70,000 tons a year.

No agreement was reached on a proposal that there should be a temporary cut of up to 50 per cent in the consumer price of stocked and dehydrated butter.

The Six will try at their next meeting in Luxembourg on October 27-29 to fix beef and dairy prices for the 1969-70 farm season. These prices should have gone into effect at the beginning of last April. The ministers will also consider price levels for all products for the 1970-71 farm year.

STANDARD INSURANCE POLICY PROPOSED FOR MEDIUM- AND LONG-TERM CREDITS TO PUBLIC PURCHASERS

Export credit has clinched or lost many a sale for suppliers, especially in dealing with governments and other public buyers.

Public procurements, by the developing nations and Eastern European countries, are the most numerous and largest transactions involving guarantees of payment. For these reasons, the Commission of the European Communities has proposed to harmonize common market export credit terms in this area first.

The proposal, dated July 28, contains a standard insurance policy for medium- and long-term supplier credits on export sales to public buyers and a list of exceptions that differences in the member countries' banking laws, for example, may require. The proposal was prepared with the assistance of the Technical Committee on Credit Insurance, which consists of chairmen and directors of national credit insurance companies, and the Group for Coordination of Policy on Credit

Insurance, Guarantees, and Financial Credits. For practical reasons connected with the variety of exporting techniques in use and for legal consistency, the common policy would seek "approximation" of legislation in the various member countries. The proposal would remove certain disparities in competition and make co-operation in export transactions easier between companies in the member countries.

Harmonization of export credit insurance methods is necessary for a common commercial policy. Thus, the Commission will have to make additional proposals for individual policies, open policies for specific amounts, for floating policies, short-term supplier credit, and for short-, medium-, and long-term purchaser credit. In purchaser credits, the guarantee is granted to the purchaser who pays the supplier for the full amount of the purchase and assumes the liability himself.

COMMISSION'S QUININE RULING APPEALED

The two largest of the six companies fined in July for violating the European Community's competition rules in their quinine dealings have appealed the Commission's ruling.

On September 18, the European Community's Court of Justice in Luxembourg, registered the brief filed by A.C.F. Chemiefarma N.V., formerly Nederlandsche Combinatie voor de Chemische Industrie N.V. (Nedchem). The Dutch company based its appeal on the grounds of the Commission's lack of jurisdiction, substantial violation of basic rules of procedure, infringement of the Common Market Treaty, and misuse of power (*détournement de pouvoir*) as provided in Article 173 of the Common Market Treaty (*see page 15*).

On September 26, the Court registered the brief filed by Boehringer Mannheim GmbH. The German company founded its appeal on the Commission's violation of rules of procedure, inadequate evaluation of the facts involved in the case, and misinterpretation of the law.

The Commission had fined Nedchem \$210,000 and Boehringer \$190,000. In the July ruling, the Commission said that it was at the instigation of these two companies in 1960 that the other parties to the quinine agreement had agreed to coordinate purchases and sales of quinine on all markets. (*See European Community No. 126, page 18*).

COMMON MARKET IN FLAX AND HEMP PROPOSED

The European Communities Commission on September 29 approved a proposal for a regulation to establish a common market organization for flax and hemp.

Flax, the raw material for linen, is grown in France, Belgium, and the Netherlands, but it is a declining industry. About 700 reteries, with government production assistance, still operate in those countries today, compared with 3,000 ten years ago. The Commission has suggested that the Community assume responsibility for this support, paying a fixed sum per acre and perhaps giving financial aid for storage. Separate proposals will be made for linseed similar to regulations for other oilseeds.

The Commission has also made proposals along the same lines for hemp, used mainly by the rope and burlap industries and cultivated in the Community by Italy and France.

The annual cost of bringing flax, hemp, and linseed into the common market organi-

zation for agriculture would be about \$15 million a year, according to the Commission's estimates.

ECONOMIC BOOM EXPECTED TO CONTINUE

Industry in the European Community expected boom conditions to continue, according to comments made by management to questionnaires circulated by the Commission last June, just before the devaluation of the French franc.

The Commission's second report on business surveys this year, released in Brussels on September 28, recognized that the devaluation would probably cause some revisions in these forecasts, which were based on business in the first half of the year.

Increases in both export and domestic demand were reported in Belgium, France, Germany, Italy, and Luxembourg. (Dutch management does not yet participate in these surveys for fear of divulging business secrets.)

Intra-Community trade was expanding. Order-books, well filled four months ago, had lengthened further. More companies were approaching maximum capacity, and most of them expected demand to remain brisk in the coming months.

ITALY ACCUSED OF FAILING TO APPLY COMMON TARIFF ON LEAD AND ZINC

Italy is ignoring the European Community's common customs tariff for lead and zinc imports, according to a petition lodged by the Commission August 13 with the Court of Justice in Luxembourg.

During the first six months of 1968 Italy charged customs duties exceeding 15 per cent of the rate applied on January 1, 1957, to zinc and lead imports from other Common Market members. Furthermore, after July 1, 1968, when the Community's customs union was completed, Italy neither eliminated its remaining duties on zinc and lead imports from its partners nor began to apply the common customs tariff to zinc and lead imports from outside the Community. This situation continues, the Commission said, even though it had asked the Italian Government to comply with the Community rules.

Between July 1966 and December 1967, the Commission said, Italy had been authorized to apply safeguard measures in the form of increased tariffs on unwrought lead and unwrought zinc. However, the authorization was not renewed when it expired.

GREEN LIGHT GIVEN STEEL STOCK ACQUISITION

The European Communities Commission has approved the acquisition of stock in the S.A. Métallurgique d'Espérance-Longdoz by S.A. Cockerill-Ougrée-Providence, the Société Générale de Belgique, the Société de Bruxelles pour la Finance et l'Industrie, and the Compagnie Financière et Industrielle.

These Belgian, French, and Luxembourg steel producers account for 15 per cent of the Community's crude steel and sheet production. The Commission plans to keep the market activities of these companies under review, to make sure that the acquisition does not result in a reduction of competition.

NOVEMBER 15 DEADLINE FOR THESIS CONTEST

November 15, 1969, is the deadline for entering the sixth annual thesis contest sponsored by the Commission of the European Communities. A prize of BF 100,000 (about \$2,000) will be awarded to the most original contributions to the knowledge of problems relating to European integration in each of the following areas: law, economics, political science, sociology, social psychology, and history.

Further details may be obtained from the European Community Information Service, Washington, D.C.

ITALIAN DEVELOPMENT BANK GETS 2 EIB LOANS

The European Investment Bank signed two loans on September 16 with the Cassa per il Mezzogiorno, the Italian development bank. Both loans, which are guaranteed by the Italian Government, will be re-lent to the companies making the investments:

- Italsider S.p.A. will receive \$25 million toward the cost of building a new cold-strip steel mill in Taranto at a total cost of \$76.8 million. The new plant will enable the company to meet growing demand for cold-rolled flat products due to the development of mechanical industries in the South.

The 15-year loan bears interest at the annual rate of 7.5 per cent.

- Nalco Italiana S.p.A. will receive \$800,000 toward the \$1.7 million cost of enlarging a plant that manufactures products for treating water and chemicals in Cisterna.

The 10-year loan bears interest at the annual rate of 7 per cent.

EDF TO FINANCE 13 MORE AFRICAN GROWTH PROJECTS

The total commitments of the European Development Fund since 1964 were raised to \$668,121,000 by 13 decisions of the European Communities Commission on July 18. These decisions involve a total amount of \$25,224,000.

Niger: \$397,000 to build silos for storing millet in Zinder

Niger: \$3,233,000 to put an asphalt surface on the road between Niamey and Zinder

Togo: \$3,302,000 to modernize the asphalt road between Tsévie and Atakpamé

Congo (Kinshasa): \$11,120,000 to modernize two tea factories, plant new tea and cocoa plantations, and build a cocoa processing factory

Burundi: \$328,000 to encourage tea farming
Central African Republic: \$1,090,000 to equip the river port Nola with four tug boats and four shallow-draft barges

Malagasy Republic: \$385,000 to finance the operations of a tea research station in preparation for eventual cultivation of tea in the Hauts-Plateaux region

French Guyana: \$2,540,000 to build a port on the Mahury River

Senegal: \$1,732,000 to encourage rice cultivation

Senegal: \$770,000 to complete two previous EDF-financed projects to introduce cotton farming

Mauritania: \$243,000 to do feasibility studies for dams needed for the irrigation of millet and sorghum farms

Cameroon: \$26,000 to pay the salary of one mathematics teacher for the 1969 academic year and other expenses connected with running the International Center for Statistical Training in Yaoundé, a school built with EDF assistance

Ivory Coast: \$58,000 to pay the salaries of two teachers for the 1969 academic year and other expenses connected with running the Statistical School of Abidjan.

WORLD ACCORD ON FATS AND OILS NEEDED TO STABILIZE MARKETS

A system of stabilization levies, to bridge the gap between market and target prices, would be the best way of running an international agreement in oils and fats, according to the European Communities Commission.

In "Guidelines for an International Agreement in the Oils and Fats Sector," published July 16 in Brussels, the Commission suggested that negotiations for such an agreement take place within the United Nations

Conference on Trade and Development in cooperation with the Food and Agriculture Organization and the General Agreement on Tariffs and Trade.

Rich Countries Vie with Poor

A number of changes in the market for fats and oils have alarmed the Commission, because of their effects on developing countries' export earnings.

Industrial countries have increased domestic production of certain oilseeds, thus decreasing their needs for imported oils and, in some cases, also becoming exporters. As examples, the Commission mentioned the increase in American soya production, from 700 million bushels in 1965 to more than 1 billion bushels in 1968, and increases in sunflower oil production in the Soviet Union, and in rapeseed production in Canada and Europe. Consumption of fats and oils has expanded regularly, but as a result of the growth of production in the industrialized world, the developing countries' share of the market has fallen, and prices have dropped.

In the Commission's opinion, a world agreement would make it possible to stabilize prices and increase the developing countries' incomes. The agreement should make provision for stabilization levies which would be imposed on the industrial countries' imports of fats and oils. The agreement should not rely on the relatively ineffectual instruments of export quotas or price agreements. The proceeds of these levies, the Commission suggested, could be used to build up buffer stocks of coconut and palm oil and to finance food aid.

BRANDT SEES IMPROVED ENLARGEMENT PROSPECTS

Willy Brandt, speaking as German Foreign Minister on September 16 in Bonn, said that the Council of Ministers meeting in Brussels on the fifteenth had opened up prospects of progress towards the admission of Britain and other applicants to the Community. "At the same time I would not like to raise false hopes. Europe is still far from being in open waters," he told a press conference. "But after Brussels it can be said that a narrow channel has become visible along which, with skillful steering, we can reach more open waters."

DOCUMENTATION CENTER

Omitted from the list of Community documentation centers and depositories published in *European Community* No. 127, page 18, was the Ecole des Hautes Etudes Commerciales, in Montreal, Canada.

PLUTONIUM RECYCLE FUEL TO BE FABRICATED INSIDE COMMUNITY

Three nuclear suppliers located in the European Community will fill an order for plutonium fuel elements placed on October 2 by "ENEL," the Italian National Electric Company.

Alkem of Germany and Belgo-Nucléaire of Belgium will jointly manufacture rods for four fuel elements to be used in the Italian nuclear power plant at Garigliano, near Naples. The elements will be assembled by the Italian company Fabricazioni Nucleari.

Reactors fueled with natural or enriched uranium produce plutonium as a by-product of the chain reaction. The recovered plutonium, purified of waste products, is put back into a reactor, together with other fissile or fertile materials, to contribute to the chain reaction.

Under contract to the European Atomic Energy Community (Euratom), ENEL made a four-year feasibility study for this project. The contract covered economic evaluation and study of the technical problems connected with the industrial use of plutonium in light-water reactors used for electricity production.

The four fuel elements just ordered contain natural uranium, and 20 kilograms of plutonium recovered from the Latine nuclear power plant north of the Garigliano station. The reactor is scheduled to be loaded with this fuel in spring 1970, thus completing the fueling process started earlier with plutonium recycle elements from suppliers outside the Community.

Nearly 10 per cent of the reactor's power will then come from plutonium recycle elements. The Garigliano plant will be the first power plant in the world to acquire experience in plutonium recycling on this scale.

DENMARK GIVES TOP PRIORITY TO MEMBERSHIP

Danish Economic Affairs Minister Nyboe Andersen said during a visit to Paris last month that Denmark's admission to the community was a "top priority" for his country.

Pending a decision, he said, Denmark was going ahead with political discussions this winter for setting up a Nordic economic union. After conferring with French Foreign Minister Maurice Schumann, Mr. Andersen told reporters: "Denmark seeks full membership in the Common Market without any condition. We do not demand any transition period, but we do want to join together with Britain and other Nordic countries."

LAFTA APPROVES ANDEAN COMMON MARKET TREATY

The Latin American Free Trade Association on July 19 approved the agreement signed on May 26, by Bolivia, Chile, Colombia, Ecuador, and Peru for the formation of an Andean common market.

In addition to approval by LAFTA, ratifications by three signatories are necessary for the agreement to come into force. (See *European Community No. 126*, page 20.) As of September 1, only Colombia had completed ratification procedure.

PUBLICATIONS AVAILABLE

A NEW INITIATIVE FOR THE APPROXIMATION OF LEGISLATION IN THE PHARMACEUTICALS SECTOR. *Information Memo P-49*, Commission of the European Communities, Brussels, September 1969, 4 pages free
A short history of Community actions in pharmaceuticals and a summary of the Commission's future program.

L'INDUSTRIE ELECTRONIQUE DES PAYS DE LA COMMUNAUTE ET LES INVESTISSEMENTS AMERICAINS. *Série Industrie No. 1*, Commission of the European Communities, Brussels, 1969, 168 pages \$3.60
Available in French and German. Part I compares the electronic industries of the Community and the United States. Private and public markets and foreign trade are discussed. Part II is a study of American investment in the Community's electronic industry. Electronic components and com-

puters are examined separately. Includes annexes on research and development and American participation in European electronics corporations.

ADDRESS BY PRESIDENT REY TO THE GENERAL ASSEMBLY OF THE ASSOCIATION OF EUROPEAN JOURNALISTS. Commission of the European Communities, Bordeaux, September 12, 1969, 20 pages free
Discusses current problems in European economic and political integration.

HARMONIZATION OF VETERINARY LAW. Commission of the European Communities, Brussels, 1968, 61 pages \$25
Review of Council directives and pending Commission proposals in veterinary law as of April 1968. Discusses health control in intra-Community trade in cattle and pigs and fresh meat as well as proposed health requirements for imports of the same products.

EUROPEAN INVESTMENT BANK: THE FIRST TEN YEARS OF ACTIVITY (1958-1967). European Investment Bank, Luxembourg, 1969, 28 pages free
Reprint of Chapter I of the 1967 annual report of the Bank.

EUROPEAN INVESTMENT BANK: 1958-1968. European Investment Bank, Luxembourg, 1969, 91 pages free
A broad outline of the Bank's activities with color illustrations and photographs.

THE COMMUNITIES' WORK PROGRAM (MARCH 20, 1969). *Supplement to Bulletin No. 4-1969 of the European Communities*, Commission of the European Communities, Brussels, April 1969, 26 pages \$30
Reprints the Commission's program for the next three years and essential tasks for 1969.

EURATOM'S FUTURE ACTIVITIES. *Supplement to Bulletin No. 6-1969 of the European Communities*, Commission of the European Communities, Brussels, June 1969, 93 pages \$30

A reprint of the Commission's document concerning future activities of Euratom which was presented to the Council of Ministers in April 1969. Contains a proposal for a multiannual research and training program, principles and criteria underlying a nuclear industrial policy, and proposals for new non-nuclear projects that could be carried out at the Joint Research Center.

LE REGIME JURIDIQUE DES ORGANISATIONS PROFESSIONNELLES DANS LES PAYS MEMBRES DE LA CECA. High Authority of the European Coal and Steel Community, Luxembourg, 1968, 666 pages \$10.00
Jurisprudence governing professional labor organizations in each Community member state as well as in the Community as a whole.

AGRICULTURE 1980. European Community Information Service, London, 1969, 12 pages free
A leaflet describing the Commission's ten-year farm reform plan.

LES ECHANGES COMMERCIAUX ENTRE LA CEE ET LES ETATS AFRICAINS ET MALGACHE ASSOCIES: 1958-1966/67. *Série Aide au Développement No. 2*, Commission of the European Communities, Brussels, 1969, 260 pages \$5.00

Analysis and statistics of the foreign trade of African states and Madagascar which are associated with the Community. Includes totals and product breakdowns of their trade with the world, the Community, other developing countries and each member of the Community.



Information Service
 Washington Office: Farragut Building, Washington, D. C. 20006

BULK RATE
 U. S. POSTAGE
 PAID
 WASHINGTON, D. C.
 PERMIT NO. 41445

Return Requested