

# Eurofocus

A NEWSHEET FOR JOURNALISTS • REPRODUCTION AUTHORIZED

BRUSSELS. 21 January 1980

Week of 14 to 19 January

INSTITUTIONS: The limits to property rights

Madame Liselotte Hauer is German. She wanted to plant some vines on her land but the German Authorities refused her permission. Madame Hauer decided to take the matter to court in Germany on the grounds that the ban constituted an interference in both her right to freely hold property as well as her right to freely follow a profession of her choice (ie. as winegrower). The German court referred the matter to the European Court in Luxembourg. Last December the Court gave its verdict, deciding that the ban was legal under EEC law so long as it was in the wider interest of the Common Market; in other words there is already too much wine-producing land in the Member States.

Furthermore, the Court said that there was no infringement of her right to carry on a profession, for this right would only exist where land was already earmarked for wine growing. This decision is very important and will have far reaching consequence for the law of the Common Market.

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Less well-known than the bigger EEC institutions - the European Court nevertheless wields enormous power by interpreting and developing Common Market law. This week our feature article takes a look at its work.....

This newsheet is published in six languages (English, French, German, Dutch, Italian and Danish) by the Directorate-General for Information of the

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Its contents do not necessarily reflect the official views of the Community institutions

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ENERGY: The world in the post-petroleum era

Is it too early to start planning for a world without oil? Although such a doomsday may not be immediately imminent, many European officials are beginning to lay plans for alarmingly scarce and costly petroleum supplies.

In the aftermath of recent decisions by oil producers that will add an estimated 25 thousand million dollars to Europe's oil import bills this year, officials are embarking on a plan that could cut energy consumption by as much as one-third without jeopardising the public's standard of living.

These moves undertaken in Brussels recently are aimed at putting into action the recommendations made in July 1979 by a panel of top European experts on the best ways to cut energy use. This group believed that just with existing technology, Europe's energy appetite could be reduced by 30 percent without endangering economic growth.

The proposals, made by French energy consultant and President of the group of experts Jean Saint-Geours, were taken so seriously by European Community officials in Brussels that they have set in motion a programme to explore and apply as many as possible. Feeling that any such reduction must be acceptable to public opinion and industrial investors, the European Commission has begun to gear up for major public information campaigns to promote savings and for an industrial and trade fair with the theme "the world in a post-petroleum era." Moving on to more concrete policies, the Commission officials also want to consult with authorities from the nine member governments about how national tax and pricing decisions could stimulate energy savings. In addition, they also want to set up a modern computerised data bank on information about energy so that decisions and plans could be made better and more rapidly.

But even if the recommendations that significant energy cutbacks can be made in the next 20 or 30 years, as the recent expert report suggests are true, there are bound to be further economic and social dislocations. To smooth the way for such adjustments, the European Commission in Brussels is also beginning studies on the sectors that will be the hardest hit by such reductions. Some serious studies and plans have also been proposed to examine the impact on investment and employment patterns as well.

ENERGY: Some cars are thirstier than others

In the United States strict standards of fuel consumption for cars have already been adopted. Happily European cars have always been smaller

and therefore less thirsty than their American counterparts and car manufacturers in the EEC have promised to reduce the consumption capacity of new models by a further 10% up until 1985. Nevertheless, Mr. Guido Brunner, the Commission member responsible for Energy, has recently further proposed the use of an EEC method of measuring fuel consumption in motor vehicles and the relative power of engines.

### SECTORS IN CRISIS

#### 6000 jobs saved in the textile industry

Synthetic fibre manufacturers have been in a crisis situation ever since the economic slump of 1974. Rather rashly, producers in Europe have continued to invest large sums in the industry despite the economic downturn of the last few years. Overcapacity has been the result and the position has been further aggravated by the serious competition of foreign textile imports from outside the EEC, most notably from Asia. This dangerous and delicate situation has caused a merciless price-war and many businesses are threatened with closure. If widespread shutdowns do take place then not only will jobs be lost but the common market countries would eventually be heavily dependent on foreign textile imports.

This is the reason why the European Council of Ministers meeting recently in Brussels, (in this case the Ministers for Research and Development) have decided to make available financial aid of £ 9 million for a total of 16 projects of reconstruction and retraining in the synthetic fibres industry. These projects are in regions particularly hard hit by the slump in the textile sector. Two of them are in Belgium, one in France and 13 in very badly affected regions in Italy. Hopefully something of the order of 6000 jobs will be saved and the funds will be a shot in the arm to an area of common market industry sorely troubled by the economic crisis.

#### European shipyards are victims of their own overcapacity

The situation is getting worse in the shipyards of Europe, according to the latest six-monthly EEC survey on the state of the industry. The report says that financial reserves in the industry are almost exhausted. In fact the shipyards could find themselves in a worse-off situation than was first forecast. Since 1976 the sum total of new orders has amounted to only 50% to 60% of total capacity. Between 1975 and 1978, 50,000 jobs have disappeared, and no new ones will be created if order-books remain as empty as they are now. The crisis is, of course, a direct result of the slump in world ship tonnage. The tanker fleet has increased by 50% of its 1973 size although oil

transport requirements have gone up by only 9% over the same period. The energy crisis with all its consequences for industrial development in general hits world shipping very hard indeed. So long as it continues there will be no obvious end to the shipbuilding crisis.

COMPETITION LAW: Famous HiFi Company fined by European Commission

The name "Pioneer" is well known to stereo enthusiasts as the Japanese manufacturer of high quality stereo and HiFi equipment: amplifiers, tuners and record and tape decks. They are also market leaders in the field of "in-car entertainment" by selling some of the new generation of car stereo units and speakers. They have now been fined a total of £ 4.3 million spread among their various European subsidiary companies as a result of "isolating national markets". As is further explained in this week's Feature Article on the European Court of Justice (see page 6), some of the more important EEC laws are those which attempt to prevent multinational companies from upsetting "free competition" in the common market. The point of these laws is to stop companies from arranging their business artificially, across national frontiers, in an attempt to sell the same goods at higher prices in some countries than in others. As is well known to HiFi enthusiasts, equipment prices vary widely from shop to shop. Not only that but they also vary pretty widely among the nine countries of the common market. Britain is generally reckoned to be the cheapest country to buy stereo equipment, with Germany next; while France and Belgium are among the most expensive; expensive that is for exactly the same equipment (Of course, Hong-Kong and Japan are cheaper still until you add the cost of an air ticket and the custom's duty to be paid on arrival).

The Commission found that "Pioneer" were attempting to protect the high prices charged on the French market from the cheaper prices to be paid for their equipment elsewhere. Commission investigators revealed that "Pioneer Electronic Europe N.V." the main European Distributor based in the Netherlands, had organised a meeting with its sole distributors in France, Britain and Germany to isolate each national market (and the prices that could be therefore charged). As a result of this meeting the German sole distributor refused to supply a German retail outlet because the latter refused to give assurances that the products would not be exported (ie. perhaps to France thereby lowering the price of Pioneer goods there). At the same time the U.K. sole distributor agreed with the French Distributor that it would take measures to see that the shops it supplied would not be able to reexport the units to France.

As the Commission recently reported to the press: "These practices hinder trade between Member States and jeopardise that unity of the Common Market which is one of the fundamental objectives of the Treaty of Rome. There are still firms that steadfastly refuse to accept the Community (ie. EEC) as a single market for they take measures to preserve artificial price differentials

for a given product as between different Member States to the detriment of the consumer". As these companies are almost always multinationals operating in many European countries only an international organisation such as the EEC can effectively control them.

FROM DAY TO DAY

SOCIAL AFFAIRS: Towards better conditions for "au-pair" girls

Working conditions for "au-pair" girls are often highly unsatisfactory and are open to every sort of abuse. An agreement on the placing of "au-pair" girls and their general working conditions was agreed by the Council of Europe in Strasbourg as long ago as 1969. Now attempts are being made for the nine EEC countries to ratify this "au-pair" charter. However, Germany, Britain and the three Benelux countries have yet to do so and the European Commission is now encouraging them to add their names.

CONSUMERS: Real cows' milk is best!

The milk that one drinks today is rarely the liquid that comes straight from the cow. More often than not it has been "sterilised" or "pasteurised", or in some way altered. Usually this is to remove a percentage of the fat content which otherwise makes milk rich and creamy. But it is not only taste that is lost by this process; there are also, it appears, problems for the EEC.

Replying to a recent question in the European Parliament, the Common Market Commission admitted that 118,000 tonnes of extra butter were being made with the fat drawn off milk. This amounts to 38% of the total EEC butter stocks which are already enormous. In other words, if the taste for natural milk could be encouraged the butter mountain would start to get smaller.

EMERGENCY AID: Help for Cambodia

At the moment aid to Cambodia amounts to some £ 20 million. A further £ 16 million has come in bilateral aid from the member states of the EEC directly. In total the European aid represents 40% of the estimated cost of a six month emergency programme. In the country the aid is distributed by various international organisations. The problem of supplying the Cambodian refugees in Thailand is not nearly as difficult as getting through to those starving in Cambodia itself.

OPINION: Faster or slower pace towards European Unity?

The Italians are the keenest to press ahead with European unification, or so it appears from a recently published opinion poll, where 66% of Italians want to speed up the process. The least enthusiastic are the Danish whose opinions are divided between continuing to go forward and keeping things just as they are. We are going to have a closer look at the results of this poll in our next issue.

NINE MEN IN RED -  
THE EUROPEAN COURT

Miss Gaby Defrenne, an air hostess with Sabena, the Belgian national airline, has every reason to be grateful to the European Court of Justice. She believed that she had the right to be paid the same as male stewards on the airline for doing the same work. She eventually took her case to the Belgian Courts, maintaining that this was an example of sex discrimination and was against the law of the common market. The Belgian Appeal Court asked the European Court of Justice for a ruling as to what was the position under EEC law. The Court replied that, indeed, fundamental human rights were part of the legal foundations of the common market and the elimination of discrimination based on sex formed part of such rights. She won her case on this point.

The nine judges who determine cases at the futuristic steel and glass court building in Luxembourg are impressive in their dark red robes and their judgments are final in matters of EEC law. But what is EEC law and how does it differ from the law of the nine Member States of the common market? Divorce, criminal law, car accident cases, tax problems and the simple purchase and sale of houses and land usually have nothing to do with the EEC or EEC law. They are matters for national law and national courts. On the other hand EEC law usually covers wider principles that are connected with the work of the common market such as free trade in goods, the rights of workers to work in another country, the control of multinational companies, assistance to underdeveloped areas and so on. However, at certain times the two systems can overlap and there can be principles of EEC law involved in a case started in a national court, such as happened with the Defrenne case.

The Court really has to deal with two separate types of cases. The first, where it will judge a major principle of EEC law, often referred to it by a Member State or by the European Commission or sometimes by companies or individuals. Second, it receives a great number of applications from national courts to decide, on their behalf, any point of common market law that might have been raised by the parties to the case the national court is hearing. Here, the procedure is that when the point has been decided by the European Court it is referred back to the national court and they then give their judgment.

A good example of this second procedure in practice, was in a case that took place recently when a Dutch woman who was a member of the scientology movement was refused entry to come and work for the group in Britain under certain provisions of the British immigration laws. Her lawyers argued that under EEC laws she could work anywhere in the common market. The European Court decided that whilst the free movement of persons was one of the basic principles of EEC law, each country should retain the right to refuse those people it felt were undesirable for reasons of "public policy". This applied in the scientology case because the British government made it clear that it took an unfavourable view of certain of the activities of the scientology movement.

An important area of EEC law is that of preventing multinational companies getting together to fix prices or of making use of monopoly situations throughout the common market, to the ultimate disadvantage of the consumer. The Commission usually investigates any allegations that a company or group of companies has been involved in these activities and can impose fines for breaches of the law. The company then has the right to defend its activities before the Court. A recent case concerned Distillers, the giant U.K. based whisky company. They were charging different prices for the same whisky in different EEC countries. Under the threat of heavy fines they were persuaded to stop this practice.

The Court usually gets a lot of publicity when it is dealing with a case against a country for breaking EEC law. On 25th September 1979 the Court ruled that France must lift its ban on British lamb imports. The French government refused to comply immediately with this judgment, which was described by the media as "unprecedented". This was not quite true for a few years ago Italy ignored the Court for a long time when ordered to lift a ban on the export of works of art, and it took a lot of legal wrangling before they eventually complied. The same thing happened with the British over "tachographs" in lorries ("the spy-in-the-cab").

In the long term there is no final sanction against a country that breaks the rules - except (and this has always worked up to now) that it is in the interests of all member countries to make the common market work smoothly.

The Court began work in 1953 and up until the end of 1978 it had given nearly 1400 judgments. The nine judges are selected by the member governments to serve for terms of six years. They elect a President from amongst their number for a term of three years. At the moment the President is a German judge. Although it is not a legal requirement, it has become customary for there to be one judge from each member country; therefore nine in all. They are assisted by four Advocates-General and a Registrar.

The European Court may not be so well-known an institution as its bigger brothers: the Commission, the Council of Ministers and the European Parliament, but it remains a powerful guiding force in judging disputes, guarding EEC law and in generally helping to keep the common market on the rails.