



# TOGETHER IN EUROPE



## EC NEWSLETTER FOR CENTRAL AND EASTERN EUROPE

### RELATIONS WITH THE COMMUNITY

#### **STRUCTURED DIALOGUE WITH CEEC APPROVED IN PRINCIPLE**

The EU General Affairs Council approved "in principle" during its meeting in Luxembourg on 4 October the modalities for structural dialogue with the associated countries of CEEC. This is judged as a key step in the process which would lead to the adoption of a strategy to integrate the associated countries into the European Union. The discussion was based on the strategy proposal transmitted to the Council by the Commission this summer, and on the German Presidency's "non-paper". The "Non-Paper" concentrated on that part of the Commission's Strategy proposal which deals with the Creation of a Structured Dialogue and proposes concrete meetings as well as modalities for their preparation.

Several preparatory meetings held during September in the Council's working group "Central Europe" revealed that while there is a strong common will to accelerate the integration of CEEC into the EU, the individual Member Countries continue to raise various questions and demand that further analytical work by the Commission is performed.

We have suggested in the last issue that the discussions in the Council on 4-5 October would be more or less an exchange of views and that more decisive discussions should be expected only at the next meeting of the General Affairs Council on October 31. Nevertheless, the last Council reconfirmed the need for a pre-accession strategy and it has also become clear that the Commission will present a "White Paper" by the end of the French Presidency, in June 1995. In words of Sir Leon Brittan, the EU's experience has shown that closer economic ties required much more than a simple lifting of customs duties. Thus the goal of the "White Paper" will be to highlight the provisions which shape the EU's Internal Market and which will need to be gradually adopted by the associated countries seeking accession.

An article on "EU Competition Policy and Central and East European Countries" published in this issue tries to outline the process of adoption in the field of competition policy and state aids.

The discussion in the Council suggested that the preparation of CEEC on accession is firstly a matter for the authorities of these countries. Some member countries made it clear that in this

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context the adoption of EU common policies to requirements of the acceding countries shall not be considered. Sir Leon Brittan put this in his statement following the Council Meeting in somewhat milder form and said that the provisions of the Internal Market highlighted by the White Paper for gradual adoption by the associated countries would allow each of the associated countries to establish a timetable and priorities adapted to their situation in order to be ready for accession when it comes. The EU, for its part, will thus be able to monitor the process.

The Commission has already managed to supply the Council with at least seven analytical papers on different topics involved in the proposal to set up a pre-accession strategy. During the Council Meeting individual ministers restated their earlier calls for further analytical papers, which were not yet supplied by the Commission. The key one is the repeatedly requested study on the impact of the accession of associated countries on the EU's common agricultural policy.

The analytical papers already supplied to the Council include details of aligning the European Agreements concluded with Bulgaria and Romania with Europe Agreements concluded with the four central European countries; analysis of the multiannual programming for Phare; analysis of the impact of an eventual decision to abandon the 15% limit in Phare for financing of investments in associated countries; the analysis of inter-regional economic cooperation, as well as analysis of macroeconomic assistance etc. The Commission is believed to be also working on the analysis of the necessary adaption of Europe Agreements to the Uruguay Round results, as well as an analysis of the necessary adaption of the Europe Agreements to the situation of the current enlargement. These two adoptions could in fact mean

a difficult discussion on compensation. Hungarian Foreign Minister Kovac said to us that this will not mean a renegotiation of the trade part of the Europe Agreement, but that compensatory improvements in market access will be necessary. It is believed in Brussels that the German Presidency seeks compensation in the form of accelerated liberalisation of *trade in textiles*, and in full liberalisation of *trade in steel*, occurring not on 1 January 1996, but one year earlier. The Commission is requested to make an additional effort in presenting the study on the cumulation of origin which was requested in the conclusions of the Copenhagen Summit.

During the last Council, French minister Mr. Alain Juppé called for a separate discussion on the problem of security and requested an additional White Paper on WEU.

In this context the agreement "in principle" on the structured dialogue shall be seen as an important step forward together with the intensity and the political will in which the respective bodies examine the individual above mentioned documents. The process offers assurances that it will result in important decisions at the Essen Summit in early December.

The Council Meeting on 31 October shall therefore be more substantial. This suggestion is also supported by the seriousness in which the meeting with the foreign ministers of the six associated countries is being prepared. The Hungarian Foreign Affairs Minister emphasised to us that the joint meeting with the EU Council will be the first one in which the associated countries could influence the discussion within the Council. It will be the first time that the ministers will meet one day before the Council's meeting, and not afterwards, as has been the case in the past. ■

### **ITALIAN ANTONIO MARTINO THINKS THAT NEGOTIATIONS FOR A EUROPEAN AGREEMENT WITH SLOVENIA MIGHT BEGIN SOON**

*Italian Foreign Minister Antonio Martino noted in a speech before an Italian parliamentary committee that, since there has been progress in the Slovenian attitude, the negotiation of a "European agreement" with this former republic of Yugoslavia might soon be initiated. Martino, after a series of talks with Slovenian leaders, was satisfied with the decisions taken about changes in the Constitution that would be swiftly approved in order to allow the purchase of land and dwellings in Slovenia by foreigners, and was also able to signal progress on the Italian claim that former Italian owners should get some of their assets in Slovenia back. But bilateral negotiations between Italy and Slovenia which could last four or five months are still needed, even if the General Affairs Council of 31 October could already approve the mandate authorizing the European Commission to negotiate a "European agreement".* ■

## EU'S COMPETITION POLICY AND CENTRAL AND EASTERN EUROPE

*The process of accession of associated countries of central and eastern Europe will much depend on the speed in which the associated countries could be fully integrated into the internal market. This foresees their adoption of the "acquis communautaire". However, before accession, the associated countries could be able to benefit from a "wide European market" in a similar way as the EFTA countries have been included in the EU internal market and where obstacles to trade such as anti-dumping and anti-subsidy duties do not apply.*

This at least which seems to be the aim of the European Commission, and it has already made a significant effort in finalising its proposal to the European Council which will be held in Essen in early December.

The Commission's document on *"Preparing the associated countries for accession"* points out that it will be inevitable that on accession, each associated country adopts the "acquis communautaire" which exists at that time. However, concerning the stage of pre-negotiation for accession during which, for example anti-dumping and safe-guard measures have special importance, the Commission's document states that **"the strengthening of competition, state aids and other relevant parts of the acquis communautaire which are related to the internal market will help to eliminate the need for anti-dumping and safeguard action"**.

The final document which will be presented to the EU Heads of State and Government at Essen would indicate that **the European Union maintains its commercial policy instruments until the associated countries have been integrated into the internal market.** This in fact means until such time as they apply the EU rules of competition policy and the rules on state aid, and at the same time a proper procedure is established which guarantees that the rules are enforced.

The principal competition rules are contained in the Europe Agreements. These provisions are basically the provision of the Rome Treaty and it is stated that "any practice contrary to this Article (ie Competition Article) shall be assessed on the basis of criteria arising from the application of the rules of Articles 85, 86, and 92 of the EC Treaty". Paragraph 3 of the same Article requests that the Association Council adopts, **within three years of the entry into force of the Agreements, the necessary implementing rules.** Until such rules are adopted, each party may deal on their respective territories with practices incompatible to Articles 85, 86, and 92 of the EC Treaty, according to their respective legislation. The paragraphs which follow then stipulate derogations (for example during the first 5 years the associated countries are treated as EU less developed areas as concerns the granting of public aid). But paragraph 6, and its indent 2 states that in the absence of such implementing rules, the injured party may take (after consultation within the Association Council) appropriate measures.

In the case of the four associated countries from central Europe the transition period of three years during which the **enforcement rules are to be adopted** will expire soon. The framework of Joint Committees set up under the provisions of the Interim Agreements has been used for drafting such rules.

### What has been already done :

It seems that in the case of competition rules applied to undertakings the biggest progress has been achieved so far with Poland.

DG IV of the European Commission, which is responsible for competition policy, and the Polish Anti-monopoly office already prepared, in 1993, the first draft of the rules, and this draft was submitted to the Joint Committee and approved already in January 1994. Following the entry into force of the full Europe Agreement in February this year, the rules are now being incorporated and reconfirmed in the text of the Europe Agreement.

Similar progress has been made this year with Hungary, Bulgaria and Slovakia. Drafts of the rules have been submitted to the joint bodies set up under Interim Agreements and the texts are now at the stage of the approval. A similar process also started recently with the Czech Republic. It is believed in Brussels that by the end of this year the texts of implementing rules will be approved with all six associated countries of central and eastern Europe.

### Importance of implementing rules :

The importance of the implementing rules is that on the one hand the association agreements apply Community competition rules on practices incompatible to the EU legislation, on the other hand the associated countries have their own competition laws. Each party for the time being applies their own laws, but the proper application of principles of the EU competition rules shall be

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assured through cooperation procedure which is dealt with by the implementing rules.

In principle the implementing rules deal with three situations:

- European Commission and the associated country's Anti-monopoly office have jurisdiction in the same case.

- a case in which only one authority is competent (ie either the European Commission, or associated country's respective competition authority), but measures taken by such authority **affect substantially the interest** of the party whose anti-monopoly office is not competent in this case.

- none of the Authorities of both Parties is competent in the particular case.

The process of the adoption of the implementing rules indicated that in case 1 (ie competition bodies of both Parties are competent for a particular case), the solution has been found mainly along the example given by the already existing agreement on competition policy between the European Union and the United States.

Thus the parties will proceed with the notification of cases to the respective authorities, will exchange information, and will hold consultations. DG IV of the European Commission indicated the possibility of a recourse to the "principles of negative and positive comity". This in principle will mean that for example the EC Commission may request the associated country to **exercise restraint in the application of its law, or even to take positive action**, if certain practices incompatible to the EU competition rules seriously affect EU interest. This procedure will thus guarantee that conflicts among the parties over the implementation of competition rules would be brought to the Association Council only as a last resort.

In the case 2 (only one Authority is competent), similar principles are being used and it is clear that this case offers a much bigger scope for the **positive comity** in the situation of violation of interest of the Party whose authority is not competent in the case.

Specialists of the European Commission say that case 3 (no Authority of the two Parties is competent) is rather difficult to imagine, but nevertheless the rules still provide for the possibility to discuss such cases in the Association Council **"without prejudice to the rights of EU Member States"**.

The rules concerning undertakings allow that the principles of **EU block exemptions** shall be taken over by the associated countries. There will also be rules assuring confidentiality and full cooperation in the cases of merger control.

In order to discuss one of the latest developments in the "EU block exemption" we discuss in a separate article the case of **car distribution**.

#### State Aids :

In this area the cooperation between the EU institutions and the competent bodies of the associated countries has progressed significantly less than in the case of the competition rules applied to undertakings. On the one hand, the associated countries have not been keen on taking an initiative in this field, on the other hand, the provisions of the Europe Agreement give lenient treatment to the state aids carried out by the associated countries, provide for longer transition periods and many exemptions.

It is also felt in the EU that in their current economic situation and under the economic policy aiming at the transition from the state-economy to free market

economy, the associated countries of central and eastern Europe do not have the budgetary means to pay large subsidies, and also do not have the inclination to do so.

However, there is a pressure from the EU industry and agriculture sector to speed up the implementation of the rules on state aid. It is being said that while the associated countries currently do not have sufficient budgetary means to provide huge subsidies, **they have already developed and continue to expand a network of various support mechanisms such as tax reliefs, non-pursual of debt owed to the state etc, which will be classified as state aids in the EU.**

The policy which will be submitted for approval by the European Council will include the requirement that the EU and the associated countries speed up their cooperative effort in this field so that number of steps aiming at transparency of aid and at implementing state aid controls compatible to the EU rules in the medium term.

The policy is that the Commission and the relevant bodies of the Associated Countries speed up work in drawing up of **an inventory of state aids**. The Commission backed by PHARE technical assistance will provide the necessary expertise and financial aid.

Once this inventory of state aid is available, the Commission's experience with the problems of state aids and their control in the countries which have been accessing the Community could be used to define the individual types of aid and to draw the limits which could be considered as suitable for the very concrete situation of the associated countries of central and eastern Europe.

There is likely to be a request that each associated country empowers a **single authority to**

**monitor and control all state aids.** The concrete task for this authority will be to assess each aid scheme considered in the associated country according to the obligations which result from the Europe Agreement, and also to determine if the state aid scheme considered is potentially compatible to Article 92 of the EC Treaty which gives the rules on state aid. Consequently, before this evaluation has been made by this appropriate single authority, no final authorisation of the state aid scheme can be given.

The European Commission seems to realise that the area of state controls is not only very sensitive politically, but that in particular, this is an area where awareness of the problem needs to be strengthened and above all, a change of mentality will firstly have to come.

#### **Spirit of cooperation :**

Both the associated countries of central and eastern Europe and the European Union share the will to prepare well the forthcoming accession process and to

avoid disturbing measures. It is clear that the use of anti-dumping and safe-guard measures creates political problems and slows down the benefits from the growing markets integration.

The European Commission proposes that in order to increase awareness of the problem, for example of state aids, the EU sets up a proper competition policy training programme in each associated country and that this programme is funded by PHARE and supported by competition authorities in EU Member States.

The Commission's paper states that "for cases in sensitive sectors the associated countries should be offered the option to undertake a joint analysis with the Commission". The proposal already put by the Commission to the EU Council of Foreign Ministers demands that the Council approves a policy which will allow that "the Commission would accept not to use countervailing duties against vetted cases, to the extent that the policy conclusion of the joint analysis are fully implemented. Furthermore, in

appropriate cases, without impeding any anti-dumping proceedings which have already started, the Commission could consider agreeing not to use anti-dumping measures in new, future cases where the agreed action has been fully implemented".

These proposals are still being considered by the Council, which will again discuss them during its next meeting on October 31. It is expected that during the joint meeting with the foreign ministers of the associated countries, which will be held on the same day, the principles of the new policy will also be discussed. There is a strong probability that the European Council held under the German Presidency in early December would approve the policy which, in the field of competition and state aids, could allow by the late 1990s the forgoing by the EU of the use of commercial dependence instruments against the associated country, which would offer similar and compatible guarantees against unfair competition which exist inside the Single Market. ■

### **EU ENVIRONMENT COUNCIL**

At the recent Council on the Environment (6-7 October) in Luxembourg, a joint group of experts was charged with examining the draft "Conclusions" concerning a "structured dialogue" to be set up in the field of the environment between the EU and Bulgaria, Hungary, Poland, Romania, Slovakia and the Czech Republic. This was simultaneous to the General Affairs Council's approval of the general principle of structured dialogue with these countries.

It was the first meeting of "structured dialogue" launched after the Copenhagen and Corfu summits. The ministers of the countries that have concluded their accession to the Union and representatives of the EIB and EBRD also took part. This meeting allowed for discussion with a view to promoting the coherent implementation of European association agreements in the environmental field. Conclusions reached were unanimous.

The President of the Council, Klaus Töpfer, said it was particularly appropriate that environment ministers should have priority in establishing the bases of structured dialogue as they are often called upon to examine cross-border issues. Work will be continued systematically, he said, and results will be submitted to the European Council of Essen. The aim, said Mr Töpfer, is to ensure sustainable development in Europe, preserve the natural heritage, and prevent accidents on industrial sites. The question of cooperation in global issues such as the climate was also discussed, as well as transport infrastructures. The associate countries all expressed concern about the need for financial cooperation in the management of environmental projects. Commissioner Paleokrassas pointed out that, under the Phare programme, Ecu337m had been devoted to environmental projects, that is, 12% of the overall resources budget for 1990/94.

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Regarding the approximation of environmental standards, Mr Töpfer confirmed that the question of derogations had been raised by associate countries, but he felt that the impact of such standards should be examined before this kind of approach is taken into consideration. According to the Czech Minister, Frantisek Benda, the question is not always to realign the rules of these countries at higher levels given that legislation is often similar in East European countries and sometimes even stricter.

Nevertheless, it seems that Mr. Benda, the Czech Minister for Environment, had to return to Prague with a strong feeling of support from the 12 member countries of the European Union and the four acceding EFTA countries. His problem was that only a few days before the joint Council Meeting, the Czech Government refused to consider the draft environment policy submitted by Mr. Benda. This draft environment policy was more or less based on the EU rules and experience, and many of these points were unanimously accepted by the associated countries during the joint meeting with the EU. The Czech Premier Minister Mr. Vaclav Klaus justified in September the refusal to consider the specific

environment policy by stating that the free market economy system now in force in the Czech Republic, and the process of privatization and existence of private owners, are the best guarantees for the proper environment protection, and not some rules and legislation imposed by the bureaucrats.

The "Conclusions" adopted at the joint meeting amounted to a total of 15 points.

The ministers who attended the meeting, recognised the need to adopt the advanced environmental standards and to harmonize the environmental legislation of the associated countries with that in force in the EU. One of the conclusions indicated the readiness of the associated countries to apply progressively and enforce the EU rules on car pollution (exhaust gas and noise pollution). There was also an agreement to investigate the possibilities of reduction of long distance truck traffic and to promote the reorientation of long-distance transport towards ways which are less harmful for the environment (combined transport, railways etc.) There was also an agreement to cooperate in the development of strategy which would allow the stabilization of CO<sub>2</sub> emissions. ■

### **EC SUPPORT FOR ENVIRONMENTAL PROTECTION IN ESTONIA, LATVIA AND SLOVENIA**

*In appreciation of the increased awareness of the importance of environmental protection in Estonia, Latvia and Slovenia, the EC will substantially increase its assistance for environmental protection in these countries. It has decided to allocate Ecu2.5m for Estonia to be used for projects pertaining to the introduction of environmental sustainability into forestry, fish and peat exploitation.*

*Ecu2.5m has been allocated to Latvia for projects concerning the reduction of pollution levels entering the Baltic Sea.*

*Ecu 2m has been allocated to Slovenia for energy programmes covering funding for projects concerning inter alia, preparatory studies related to energy saving strategy and clean coal studies.*

*In addition, Ecu3m has been allocated to Estonia, Ecu3m to Latvia and Ecu4m to Lithuania for vocational training and educational reform programmes.* ■

### **NO PROGRESS YET ON OUTWARD PROCESSING OF TEXTILES**

In recent issues we placed considerable attention on the Commission proposal made to Council in early July to implement a conclusion made during the Copenhagen Summit to "exempt from customs duties, from the beginning of 1994, products concerned by outward processing operations (cf No 54, pp.5-6 where

data is also given indicating the importance of these flows for EU commercial relations with the associated countries).

The Council failed to adopt this proposal in July and the Commission adopted a somewhat modified proposal for the following Council meeting. However, the EU General Affairs Council of

October 5-6 could only conclude that it is not yet able to find the necessary qualified majority vote to approve the proposal from the Commission. However, it is felt that the forthcoming Council meeting on October 31, will finally give its approval and the decision could thus be presented to the foreign ministers of the associated

countries during a meeting held on the same date.

During the Council meeting at the beginning of October four member countries fully supported the proposal from the Commission and requested its rapid approval.

Readers will recall that in July the Council was to approve the proposal from the Commission on measures which will harmonise terms under which the member states may allow their clothes producers to send unfinished garments abroad for further processing, and then allow the finished products to return to the EU without restrictions. This was not adopted and the Commission, in order to speed the adoption, modified the proposal so that it related only to the tariff conces-

sions. Consequently the modified proposal extended the tariff exemptions to products not covered by quotas and this was to be applied retroactively from January 1 1994. This also meant an effective and preferential separation of the associated countries from the other countries involved.

However, just before the meeting some 6 member countries, while supporting the conclusions of the Copenhagen Summit to improve the access for finished textiles originating in the associated countries, were not in a full agreement on the proposal that the associated countries be treated separately. These six countries were Spain, Portugal, Greece, Ireland, France and Belgium. But it is believed that some changed their position during the meeting. The German Presidency

undertook the task to formulate a new global proposal so that the approval could come during the Council meeting of October 31, or during Council scheduled for November 28-29 at the latest.

Following the Council's meeting it was believed that Belgium was ready to cast favorable vote and state its precise position (see No 54) in the minutes of the meeting. The Belgian vote would allow the necessary qualified majority vote in favor to be reached. However, Belgium preferred not to make its declaration official until the Court of Justice has made its opinion on the question of responsibilities raised in the context of the ratification of the Uruguay Round. Thus everything is now set for approval by the end of October. ■

## EU POLICY TOWARDS CROATIA

*The European Union is considering a cautious improvement in relations with Croatia, and this policy is likely to culminate by signing of a Cooperation and Trade Agreement sometime in 1995.*

*Mr. Hans Van den Broek, the Commissioner responsible for Foreign Political Relations, told the European Parliament's Committee of Foreign Affairs and Security, that the time has come to explore the possibility of intensifying relations with Croatia. The Commission announced that it was going to propose to the EU Council of Ministers that exploratory talks with Croatia should be held, in view of not only including Croatia in the EU's Phare assistance programme and in the Tempus Programme, but also in view of negotiating a Trade and Cooperation Agreement similar to that which now exists between the EU and Slovenia.*

*The Commissioner, however, made it clear, that these developments are conditional on the human rights situation in Croatia and by favorable developments in respect of freedom of the press and information in general.*

*Together in Europe recalls that the Trade and Cooperation Agreement will be a non-preferential agreement based on MFN-treatment and GATT provisions, but which will improve the access of Croatian products (judged semi-sensitive and sensitive) on the EU market. It is likely to contain a Financial Protocol which would help to finance development of infrastructure in Croatia, and in particular projects in favour of improved transit of goods. The provisions of the Cooperation Agreement would also fundamentally improve the security for foreign investors in Croatia.*

*The European Union is the principal trade partner for Croatia. Croatia's trade data indicate that during the first eight months of 1994, the country's exports were worth \$2.4 billion, of which exports to the EU amounted to \$1.2 billion (and exports to Germany were worth over \$0.5 billion). While Croatia's imports so far this year declined, imports from the EU expanded. In particular imports from Germany expanded by 15.5% during January-August. This permitted Germany to overtake Italy as the most important source of imports. Imports from Italy were worth \$553 million during the first 8 months of this year.* ■

## DEVELOPMENTS WITHIN THE EC

### **A MAJORITY OF FINNS VOTES IN FAVOUR OF JOINING THE EUROPEAN UNION**

*A forthright, if not massive, majority of Finnish people approved, at the 16 October referendum, the country's accession to the European Union. Finns (74% of them went to the polls) were asked to say "yes" or "no" to accession along the terms negotiated by their government and the present Union members; 57% of them answered "yes", and 43% "no". A vote in the Finnish Parliament will still be necessary to confirm this response, since the referendum is only consultative, but president Athisaari said that the referendum's result engaged both government and Parliament politically as well as morally (the vote in the Finnish Parliament will take place at a date yet to be decided). Many observers, of course, immediately drew from the Finnish "vote" positive conclusions for the referenda to be held in Sweden on November 13 and in Norway on November 28, but president Delors, asked about the outlook in those two countries, said that he preferred to be "more cautious".*

Norwegian and Swedish leaders themselves, though, were more optimistic after Finland's referendum. After this, said Swedish Prime Minister Ingar Carlsson, I would be very surprised if my own country could go on being on the sidelines of Europe. And in Norway polls showed that 46% of the people would say "yes" to accession to the European Union if the Finnish and Swedish response is positive. Many of those who welcomed the outcome of the Finnish referendum also stressed that, because of this enormously important political decision, Finland would gain influence and a bigger role at the heart of Europe.

President Athisaari, speaking on television, said that he was convinced of that, and noted that accession does not mean a jump in the dark, but joining a decision-making process which will be decisive for the future of the whole Continent. The positive impact on security, stability

and prosperity were stressed by many leaders, such as Danish Prime Minister Poul Nyrup Rasmussen, who said the Finnish vote was a "very important political signal for Northern Europe and for the whole of Europe".

European Commission President Jacques Delors, paying tribute to the Finnish people for having been able to forge their own identity at very adverse times, assured them that this identity would not be lost in the larger Union to which they would belong in the future. All of you are both Finnish and European, he said, stressing that Europe does respect diversity and the nation-State.

And, while stating his respect for each single vote, President Delors said that he thought that the Finns who had voted "no" had done it not only for fear of losing their identity, but also because their personal uncertainty about

their professional future. To this group of people, he said that an isolated Finland would be even less able to maintain in the future special protection regimes or advantages for its own people. I realize that some groups, such as farmers, are worried, and "indeed a farmer that I met there showed me that he was not at all convinced by the compensations that were agreed upon during the accession negotiations", noted Mr Delors.

Klaus Hänsch, the President of the European Parliament, was very pleased to see that a majority of Finns had seized the opportunity to "pass through that open door", and said that he expected their full contribution to the decisions that will be taken in 1996 concerning the strengthening and the democratization of the Union; "I believe that the qualities embodied by Finland - its unswerving commitment to democracy and to human rights, its openness and its internationalism - will make a very positive contribution to the European Union", he declared.

Pauline Green, the leader of the Socialist Group in the European Parliament, also expects much from the new Members in terms of openness, democratization, social dialogue, and the leader of the Liberal Group, Gijs de Vries, stressed the security aspect, noting that, with Finland's accession, the European Union will have a 1,300 kilometer border with Russia, and that this will make a real common foreign and security policy more necessary than ever. ■



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**THE EUROPEAN PARLIAMENT'S VOTE ON THE NEW COMMISSION MIGHT BE DELAYED, AND THE DELORS COMMISSION MAY HAVE TO STAY IN CHARGE UNTIL THE END OF JANUARY 1995**

The delay in the designation of the two Italian Members of the European Commission, as well as the need to wait for the designation of the Commissioners from the expected four new Member States (though Norway, even if its referendum is only in over a month, has already announced that, in case of a "yes" vote, its European Commissioner would be Thorvald Stoltenberg) might induce a postponement of European Parliament's vote on the inauguration of the new European Commission chaired by Jacques Santer. This might mean that the present Commission chaired by Jacques Delors will have to manage "current affairs" until the end of January 1995, instead of stepping down on January 6, as originally foreseen.

Belgian Christian Democrat Fernand Herman, who was asked by the European Parliament's institutional committee to make suggestions on the new procedure for the investiture of the next Commission, thinks it would be perfectly possible for the Delors Commission to be in charge for a longer, but only slightly longer, period. This would give Parliament's committees the time to organize the hearings that they have insisted upon with the designated Commissioners. Mr Herman would prefer these hearings to take place in public (with the possibility of some exceptions), and to concentrate on the political priorities of the candidates, rather than on personal questions. Parliament would embark on this exercise for the first time, and Mr Herman stressed the need to hold a limited number of hearings, without formal votes on the single candidates. This vote, he said, will take place in the plenary, on the Commission as a whole, given the collective nature of the European Commission.

In the meantime, speculations on the distribution of portfolios in the new Commission go on, particularly as far as foreign relations are concerned. Thus, one rumour is that this portfolio would be yet

again broken up, this time into four portfolios, with Hans van den Broek in charge of relations with Central and Eastern Europe and the former Soviet Union, Sir Leon Brittan responsible for relations with the United States and Japan, as well as for relations with the G7 and for GATT issues, Edith Cresson getting perhaps the jobs for the Mediterranean, and another Commissioner getting Development aid and Lomé (but present Vice-President Manuel Marin, who is in charge of Lomé, apparently seems to prefer keeping Latin America together with the Mediterranean). Industry should remain with Martin Bangemann, while the economic and monetary portfolio might also be split, with maybe the French Mr de Silguy, who was years ago in Mr Ortoli's cabinet at the European Commission, in charge of monetary affairs (also coveted though, by a likely Italian Commissioner, Professor Monti, of the Bocconi University in Milan). Meanwhile, Karel Van Miert, the Belgian Commissioner who will stay on in the next Commission and who now has competition policy as his major responsibility, said in an interview: "My portfolio, personnel and administration is available: this is my contribution". At the same time, Mr Van Miert, who "dearly" hopes that the 1996 Conference will decide that the Commission's members should be elected, either within the European Parliament or in national Parliaments, finds that Mr Santer has a difficult job, since he has to distribute probably 21 Commissioners posts held until now by 17 people, and since there are "several heavyweights", among the new as well as the old Commission's Members.

Anyway, Jacques Santer still has the intention of coming to an agreement in principle on the distribution of portfolios at the meeting that he has convened with his future colleagues in a castle in Luxembourg, on 29 and 30 October, despite the remaining uncertainty about the Swedish and Norwegian referenda. ■

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**EU INTENDS TO CHANGE RULES ON CAR DISTRIBUTION**

In early October the European Commission acting on the initiative of Commissioner K. Van Miert, responsible for competition, approved a preliminary draft regulation over the selective distribution of motor vehicles in the Community. When this regulation will be finally approved, probably towards the end of the first half of 1995, it will extend (but also change) for ten years the "block exemption by category" which will expire at the end of June 1995. Mr. Van Miert stressed that the arguments of the parties directly concerned (manufacturers, distributors and consumers) had already been assessed at length by himself and by the services

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(see page 9)

and that the current project respects in a balanced manner all the interests justified. Therefore, even following advisory procedures, he believes that the text will remain as it is.

The "block exemption" means that for a specific category of products it is possible not to fully apply the EC rules of competition as provided for in the EEC Treaty. In the case of selective distribution the exemption concerns the ban on concerted agreements, exemption based on Article 85 paragraph 3 of the EEC Treaty.

This "block exemption" on selective motor vehicle distribution is probably the one which is more known by the non-specialised public.

In the article on "EU's Competition Policy and Associated Countries of central and eastern Europe" we pointed in the part dealing with competition implementing rules applicable to undertakings, that it is proposed that these rules also provide that the principles of EC block exemption shall be taken over by the associated countries. We hope that the following description of the draft of changed regulations on car distribution will allow readers in the associated countries to appreciate how the take over of the EC block exemptions could change their daily lives.

**Experience so far:** Following ten years of implementing Regulation 123/85, the Commission has carried out a detailed review and has analyzed developments in the industry.

The motor vehicle industry is the leading industry in the Union. sales have expanded markedly. Competition between makes is very strong. Technical improvements and improvements in safety

have been considerable. While motor manufacturing is relatively concentrated, the manufacture of components, distribution and motor vehicle repair - all also a major source of activity and employment - are based on a network of SMEs throughout the territory of the Union. The single market exists, and the consumer must be able to benefit from it by making use of the wider choice now available. Direct sales by the manufacturers are developing as well as repairs by independent repairers.

The Commission has since 1985 taken action in a large number of cases involving abuse of the block exemption and consisting in particular in refusals to grant warranties, issue certificates of conformity or supply vehicles, so as to prevent dealers from supplying vehicles outside their contract territories.

The Commission has regularly analyzed price differentials between various types of cars within the Union. The last survey, carried out in May 1994 revealed continuing large price differences which cannot by any means be entirely attributed to currency fluctuations (22.5% of European models show price differences of more than 20% between Member States).

Several dozen formal complaints are currently being examined by the Commission, together with a large number of oral complaints. The practices complained of include refusals to sell, refusals to grant guarantees, the penalization of consumers purchasing outside their Member State, a ban on equipment suppliers selling their products within the dealer's network, and the unilateral imposition of unattainable sales targets on dealers.

**The main changes to the current Regulation:**

1) Strengthening the commercial independence of dealers. So as to give dealers (most of whom are SMEs) greater independence vis-à-vis manufacturers, the Commission proposes the following:

- allowing the dealer to sell competing products (multidealership) provided that this is done on separate promises, under separate management and that there can be no possible confusion between the makes. The manufacturer can terminate the contract if the dealer wishes to distribute other makes, provided that the termination is based on objective criteria. An arbitration procedure is provided for, to settle disagreements. Allowing multidealerships should give dealers greater independence vis-à-vis manufacturers;

- the joint setting by the manufacturer and the dealer of sales targets based on previous sales and forecasts of future sales. Previously, the sales targets were decided by the manufacturers. Provision is made for arbitration in the event of disagreement;

- the extension of the minimum duration of agreements between manufacturers and dealers from four to five years and the extension of the period of notice for termination from one to two years, so as to ensure better protection of dealers' investments;

- a ban on the inclusion of anti-competitive clauses (black-listed clauses) in the contract on pain of forfeiting exemption (contract covering products or services not provided for in the block exemption Regulation, purchasing restrictions, remunera-

tion calculated by reference to the place of destination, etc.);

- the dealer may engage in any type of selling (including leasing) of new vehicles but neither the dealer, nor the manufacturer can supply dealers outside the network.

2) Improved market access for component manufacturers and for independent repairers:

- The Regulation will in future provide better protection for the right of dealers to obtain supplies from independent suppliers of spare parts that match the quality of the contract products, and for the right of such suppliers to place their trade mark or logo on the products.

- The draft Regulation provides that the manufacturer may supply the relevant information to qualified independent repairers to allow them to carry out repairs.

3) Increasing consumers' choice in accordance with the principles of the single market:

- A number of the previously mentioned changes made with respect to dealers and component manufacturers will also result in greater choice for consumers.

- Certain typical practices designed to prevent parallel imports, such as differences in

the manufacturers' remuneration of dealers depending on the place of destination of the vehicle, will in future be prohibited.

- The dealer may advertise (though he may not make direct mail contacts) outside his allotted territory.

- In its regular review of the Regulation, the Commission will gather the opinions of the interested parties including that of consumer organisations. The new draft proposes a definition of sale that also covers transactions which, though not termed sale, in fact constitute operations equivalent to sale. ■

## **BLACK SEA REGIONAL ENERGY CENTER TO BE SET UP**

The European Commission and representatives of ten countries of the Black Sea reached an agreement on the establishment of a **Black Sea Regional Energy Centre**. This centre will be located in Bulgaria, at least for an initial period of three years. Its principal task is to stimulate cooperation in the energy field.

This work is being carried under the framework of the EU's "Synergy Programme". The participating Black Sea countries are: Armenia, Azerbaijan, Bulgaria, Georgia, Greece, Moldova, Romania, Russia, Turkey, Ukraine.

European Survey reported earlier on the joint EU and Black Sea region countries conference on "New Energy Realities in The Black Sea region" held in Greece at the end of May. That conference was the first time the EU and the members of the Black Sea Economic Cooperation Organization met at ministerial level. The Central Asian States (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan participated as observers).

The proceedings of the Conference were prepared by the Energy Directorate of the European Commission. The aim is to strengthen energy policy coordination and opportunities in investment, environment protection, security of supply and the implementation of the European Energy Charter. ■

## **EU ALLOCATES ECU55 MILLION FOR TRANSBORDER PROJECT IN POLAND**

*The EU and the Polish Administration have signed a financial memorandum linked to the TRANSBORDER 94 Project which concerns cross-border cooperation between Poland and Germany.*

*Individual projects include in particular the modernization of six border crossings. Also technical assistance and training will be provided.*

*Also, work on up-grading road and rail links between Berlin and Moscow is to be coordinated by the EC and Germany, Poland, Belarus and Russia. As well as the Polish-German links, priority projects include a railway between Warsaw and the Polish/Belarus border and the crossing between Poland and Belarus.* ■

### STEEL SECTOR RESTRUCTURING PLAN IN DIFFICULTY

There is a real danger that if the EU steel industry will not implement additional cuts in the production capacities, the next "Industry" Council to be held on 8 November would have to consider the restructuring plan for steel industry as "definitely dead". This will mean that the plan's accompanying measures are removed. These accompanying measures were the social chapter of the plan, financing mechanism, and what directly concerns the central and east European countries, the external chapter.

In practical terms this would mean that tariff quotas imposed on several types of steel imported from the Czech Republic and Slovakia should be abolished. In fact only those restrictions which result from anti-dumping actions could be maintained, but not those resulting from the use of safe-guard clause.

It appears that the Council is ready to consider that total reductions in the capacities amounting to at least 19 million tons are sufficient to put the restructuring plan into force, but so far the offers made by the industry stay well below 19 million tons. As we go to press it is still believed that Italy will enter at the last moment with sufficient offers for the closing of capacities. Part of the delay in Italian offers was caused by the conclusion of the legislative procedures linked to the granting of state aid to the national steel industry.

### EU BUDGET NEGOTIATIONS

The European Parliament is shaping its strategy on difficult negotiations with the Council on the 1995 EU budget. The aim

of this strategy is to put strong pressure on the Council so that it respects the inter-institutional agreement on raising own-resources from 1.2% to 1.21% of GDP. The second part of the strategy is to find solution for further resources. The Parliament is likely to vote for a budget based on a ceiling of 1.21% of GDP, which includes "frozen payments" of ECU596 million, and which could be released only when the decision on raising own resources is ratified. This, however, will directly concern Italy which continues to block a rise in own-resources, because of the demand to repay ECU 600 million "unduly perceived" under the milk quotas.

The European Parliament's Foreign Affairs Committee adopted two 1995 budget related reports for which the vote on first reading will take place on 27 October. One of the reports concerns financing of the EU's Common Foreign and Security Policy in which the Parliament will insist that it controls expenditures related to CFSP.

The second report deals with a PHARE-type assistance programme for the Mediterranean. This also relates to ex-Yugoslavia and in particular the inclusion of Croatia under Phare (see article on the probable start of negotiations with Croatia on a Trade and Cooperation Agreement). The report is not in favor of extending PHARE grants to Croatia, because of that country's attitude to human rights, but proposes specific PHARE grants to bodies which in Croatia fight for inter-ethnic dialogue, freedom of press and other human rights.

### US SEEKS COMPENSATION FOR EU ENLARGEMENT

The United States demands compensations amounting to "hundreds of million dollars" in the form of new tariff concessions from the EU because of the enlargement taking place on 1 January. The new Member States will then have to align their customs duties to the EU's external tariff, which in particular for Finland and Sweden means raising a number of customs duties (cars, semiconductors etc). This will be an increase which under the GATT rules needs to be compensated. US says that if the agreement on compensation is not reached sufficiently early, the US will take retaliatory action.

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