BACKGROUND INFORMATION

european community

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BACKGROUND NOTE

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EUROPEAN COMMUNITY PROPOSES RULES ON FOREIGN INVESTMENT

In an attempt to stimulate European investment in developing countries, and to calm investment fears of expropriation or other risks, the Commission of the European Communities recently asked the Council of Ministers to establish Community-wide rules on negotiating and guaranteeing private foreign investments in the Third World.

International mechanisms to protect foreign investors in developing countries have been suggested before -- at the North/South talks in Paris last year, for example -- but no solution on a world scale has yet been found.

The Commission has proposed a solution that would at least encourage investment from the nine member nations of the European Community, the world's largest trading bloc and the world's second largest investor in the Third World.

The Commission proposal would allow the Community to negotiate agreements with developing countries on how foreign investment should be treated in general. It would also permit the Commission to be a party to protection agreements and guarantees on specific investment projects, and would provide a Community guarantee to cover war risks, expropriation and other unilateral changes involving large multinational investments.

Claude Cheysson, commissioner in charge of development, emphasized the increasing importance of Third World investment late last month as he introduced the Commission proposal. "The time in which development policies occupied only marginal importance has ended," said Cheysson at a Brussels press conference. He described the developing countries as "from now on, full-fledged participants in world economic activity."

As the Commission proposal points out, Third World investment by European firms is mutually imperative -- to maintain markets for European industry and trade and provide the Community with secure supplies of raw materials, and to assure the technological and scientific development of the Third World.

Yet, in recent years, investment has declined. "The uncertainty and insecurity currently hanging over European investments in many developing countries impedes their efforts to develop their economies and improve their purchasing power," the Commission proposal said. Opportunities to export capital goods from the Community have been reduced, a trend that is damaging to the economies of both the developing and the industrialized countries.

The Commission cited the mining sector as one particularly disturbing sector in which European investment has declined and with it, the availability of mineral supplies for the Community's manufacturing and transforming industries. In 1961, exploration in the Third World countries represented 57 per cent of European companies' expenditure on exploration in the world; but from 1973-75 this proportion had fallen to 13.5 per cent. For five essential minerals (cobalt, tin, phosphates, tungsten and copper), experts estimate that from half to almost all free world supplies will have to be provided by the developing countries in 1985.

The Community already has cooperation agreements with many developing countries, and the Commission has suggested that clauses relating to investment protection could be negotiated when these agreements are to be renewed. Talks on Lome Convention II -- the EC trade and aid agreement with 53 Atlantic, Caribbean and Pacific nations -- will begin this year. Cheysson said the Commission plans to explore possibilities for improving commercial and industrial cooperation so that the Lome partners "can better evaluate their projects." In addition, he said the Commission will propose that a human rights clause be included in the new Lome Convention.

In commercial terms the Commission has in mind an anti-protectionist policy that would anticipate development "in the framework of a concerted approach," Cheysson said. "This policy makes sense only if through a voluntary policy you can accommodate increased imports." Community dependence on the outside world, he added, "is such that a protectionist policy would be suicidal."

Consultations with the developing countries in international and bilateral negotiations, the development commissioner said, should allow the Community "to underline the industrial sectors and the methods of industrialization truly profitable for the Third World."

"It will not be tolerable," he said, "for the Community to aid financial or commercial industries that are founded only on totally abnormal working conditions -- independently of the level of wages." He said the Community has no interest in favoring "parachute" industries that exploit cheap labor and poor conditions and export all production from certain developing countries.

"There is no question of plans to prevent this or that investment or to ban this or that production," Cheysson said, "but to concentrate aid on those activities of mutual interest that are the most profitable for development."

In its proposal, the Commission advocates establishing rules on good conduct between host countries and investors -- in such areas as transparency and stability of investment conditions, nondiscriminatory treatment of investment, possibility of transfer of income and capital, fair and equitable treatment of the investor's property, behavior of investors and procedures for settlement of disputes.

On specific projects, the Commission proposes that the Community be a party to agreements together with the host country and the investor. This would ensure that Community authorities could intervene if a dispute arose from a unilateral modification of the investment agreement. Specific projects, the proposal suggested, should conform to the priorities fixed by the Community, (for example the mining sector), should be undertaken by firms from at least two member states, and should involve large capitalization, such as $ 50 million or more.