

FRANCE ENACTS STATUTE TO COUNTER ANTITRUST EXTRATERRITORIALITY

France has prohibited both the seeking and the giving of business information for the use of foreign public authorities. The object of the law is to safeguard French sovereignty and protect French firms from extraterritorial application of foreign competition laws.

The Act of July 16, 1980 prohibits, subject to international treaties or agreements, the communication of documents or information of an economic, commercial, industrial, financial or technical nature, to foreign authorities, where such communication may be prejudicial to sovereignty, security, the essential economic interests of France, or law and order. The Act also prohibits the search for or communication of information to be used as evidence in foreign legal or administrative proceedings. Imprisonment and fines are provided, including for those who seek such information for use as evidence abroad.

In 1977 the United States Federal Trade Commission served a investigatory subpoena on Compagnie de Saint-Gobain in Paris by registered mail and the French Government protested. The company refused to comply and the F.T.C. obtained an enforcement order from a U.S. court. On November 17, 1980 the U.S. Court of Appeals for the District of Columbia ruled that the service by registered mail was improper.

Canada, the U.K., Australia and New Zealand have all proposed or enacted blocking statutes in the recent past (See the Record, September, 1980).

E.E.C. COMMISSION CLAMPS DOWN ON COMMUNITY TRADE RESTRICTIONS

Two recent decisions of the Commission of the European Communities mark the introduction of a much tougher attitude towards restrictions imposed by companies on the free movement of their products within the Community.

In November, 1979 a large Japanese-owned firm, Pioneer Electronic Europe, and some of its distributors were fined the equivalent of about \$U.S.10 millions for preventing the export of consumer electronic equipment from Germany and the U.K. to France.

On November 11, 1980 the Commission fined a U.S. drug firm, Johnson and Johnson and some of its European subsidiaries about \$U.S.300,000 for preventing chemists in the U.K. from exporting one of its products to Germany where the price was

much higher. The fine was the heaviest ever imposed in relation to the value of sales of the product, which Business Week of December 22 estimated at \$U.S.1.4 million. The Commission has emphasized its concern about drug trade restrictions in particular and its determination to deal effectively with them. The Bulletin of the European Communities, Vol 13 No. 11, 1980 stated:

"In view of the determined, vigorous and persistent manner in which the firms had enforced the export ban, the Commission considered justified the imposition of a fine, which, in relation to sales of the relevant product, is the heaviest it has yet imposed. By this, its first decision imposing a fine for an export ban in the pharmaceutical industry, the Commission has shown its determination to punish severely this particularly serious form of market sharing and to ensure that pharmaceutical products, like others, can be freely traded throughout the common market."