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INFORMATION MEMO

German appeal concerning the distilling wine quota :

The Court of Justice has annulled a decision of the Commission as having been taken on insufficient grounds.

The Government of the Federal Republic of Germany asked for a tariff quota for 1962 of 450 000 hl. of wines for distilling. This request was based on the need for suitably-priced supplies from non-member countries in order to manufacture cheap brandies of ordinary quality. However, the entry into force of the common external tariff caused an abrupt and considerable increase in the duty on wine from non-member countries. The Federal Government claims that this can mean a 60% increase in the price of distilling wines, with the gravest consequences for German brandy production.

By a decision of May 11, 1962 the Commission granted the German request up to a maximum amount of 100 000 hl. but refused it for the remainder. The Commission held that German producers could obtain adequate supplies of the right quality within the Community on the same terms as other Community users, and did not consider that a quota above 100 000 hl. could be granted without serious risk of disturbance.

On July 26, 1962 the Federal Republic of Germany lodged an appeal against this decision in so far as it refused a proportion of the quota requested. In a judgement of July 4, 1962 the Court cancelled the contested decision.

In the grounds of its judgement the Court first examines the Federal Republic's contention that Articles 25 and 29 have been infringed. In studying these subjects of complaint the Court considers that it is important to remember that Article 25 concerning tariff quotas makes exceptions to the basic rules of Articles 2, 3 and 9 of the Treaty for the purpose of remedying the drawbacks which can result as regards a Member State's supplies from the alignment of national duties on those of the common external tariff. Under the terms of Article 25 the Commission is empowered to appraise the market situation for the products in question and the supply difficulties encountered by the applicant Member State. The Commission must also satisfy itself that the proviso in Article 25(3) is being met. If it concludes that Article 25(3) applies, since no grave disturbances can result on the market for the products in question from granting the tariff quota, it can still appraise the advisability and the volume of a quota on the basis of the principles of Articles 2, 3 and 9 and of the guidance afforded by Article 29. The Commission's power of appraisal is not to be exercised automatically but is sovereign within the limits laid down by the Treaty. The Court considered that these rules did not appear to have been disregarded by the Commission in the case in point.

On the other hand the Court cancelled the contested decision because the reasons in support required by Article 190 were lacking.

The Court points out that when Article 190 of the EEC Treaty requires the Commission to give reasons in support of its decisions, the Commission must do so not as a mere formality but to enable the parties to uphold their rights, the Court to exercise its control and the Member States - or any of their nationals concerned - to see how the Commission has applied the Treaty. To attain these aims it is sufficient that the decision should explain, even briefly, but in clear and pertinent fashion, the main points of law and of fact on which it is based and which are necessary for an understanding of the reasoning which guided the Commission. General considerations which can be applied indiscriminately to other cases or which simply quote the Treaty are inadequate. The Commission may not refer to "information obtained" but must indicate the facts on which the decision is based. When it considers that the granting of a quota may lead to grave disturbances it must state which products are involved, describe the danger and establish the causal link between the granting of the quota and the grave disturbances.

Since the grounds both for refusing the quota requested and for granting the one allowed did not satisfy these criteria, the Court cancelled those parts of the decision which were referred to it.