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INFORMATION MEMO

The Commission refers the question of Italian law No. 639 of July 5, 1964 to the Court of Justice

Italian law No. 639 supersedes law No. 103 of March 10, 1955 concerning drawbacks on exports of engineering products. The new law, like the first, provides for a standard drawback of customs and other duties and of indirect internal taxes with the exception of the turnover tax. The list of products concerned contains 473 items.

For goods exported to EEC Member States the amount of these drawbacks will be progressively reduced :

- (i) by 60% from January 1, 1964 to June 30, 1964
- (ii) by 65% to December 31, 1964;
- (iii) by 75% to December 31, 1965;
- (iv) by 80% from January 1, 1966

Already in respect of law No. 103 the Commission had initiated the procedure laid down in Article 169 of the EEC Treaty. On December 16, 1963 it sent the Italian government a reasoned opinion alleging infringement of Article 96 of the EEC Treaty, which stipulates that where products are exported to any Member State any drawback of internal charges may not exceed the internal charges imposed on them, whether directly or indirectly. In the Italian law, however, when drawbacks are granted, taxes (registration fees, stamp duty, mortgage duty and taxes on motor vehicles, on advertising and on permits and licences granted by State authorities) are included which are not imposed on the products as such and cannot, in view of the limits laid down by Article 96, give rise to drawback. The Commission has therefore brought proceedings against the Italian Republic before the Court of Justice, with a view to having the drawbacks under law No. 639 declared incompatible with Article 96 of the EEC Treaty.

Furthermore, as there is a disparity between the legislative provisions of the Member States (since only Italian law allows the above drawbacks) and as this disparity disturbs the conditions of competition in the Common Market and causes distortion, Article 101, under which the Commission and the Council can take action after consultation with the Member States, is applicable. Consultations began on July 24, 1964 (under Article 102) and will be continued (under Article 101), since the new law does not make any substantial change in the previous situation.