THE EUROPEAN COMMUNITY

PRESS RELEASE

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INFORMATION MEMORANDUM

COMMON MARKET RETAINS DECEMBER 31, 1966 DEADLINE FOR NOTIFICATION OF "OLD" AGREEMENTS

WASHINGTON, D.C., November 30, 1966 -- The Commission of the European Economic Community will not ask the Council of Ministers to extend the December 31, 1966, deadline for the notification of "old" agreements under the Common Market's anti-trust regulations.

"Old" agreements are defined as those existing before March 13, 1962, when Regulation 17 became effective. (Regulation 17 required notification of these agreements only if parties to the agreement planned to apply for retroactive exemption under Article 85 (3) and immunity from fines for acts in restraint of competition proscribed by Article 85 (1) of the Rome Treaty instituting the EEC.) Otherwise, notification of "old" agreements was not, and will not be necessary.

Types of "old" agreements for which notification is either advisable or unnecessary are outlined below, without prejudice to the interpretation of the Court of Justice of the European Communities.

AGREEMENTS FOR WHICH NOTIFICATION IS ADVISABLE

If the agreement is a "national" agreement (affecting only one member state or markets outside the Community) it usually does not fall within the scope of Article 85 (1). If the agreement directly affects Community imports or exports, it has been subject to the obligation of notification. In general, for national agreements which do not directly concern imports or exports, notification may be envisaged only for three types of agreement. Each type of agreement cited so seriously distorts competition that the contracting parties would anticipate action brought by third parties and, depending on the circumstances, fines, if the agreement had not been notified.

1- COLLECTIVE OBLIGATIONS to buy exclusively from certain manufacturers or dealers or to deliver exclusively to certain buyers within one member state. Such obligations may lead to serious cases of market-sharing, depending on groups of customers;

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2- AGGREGATED REBATES without the inclusion of purchasers from other member states. Because of this non-inclusion, buyers have an incentive to buy mainly from manufacturers in their own member state.

3- HORIZONTAL AGREEMENTS ON RESALE PRICES OF IMPORTED PRODUCTS -- between importers to eliminate price competition between them or between importers and producers to regulate imports.

AGREEMENTS FOR WHICH NOTIFICATION IS GENERALLY CONSIDERED UNNECESSARY

1- RESALE PRICE MAINTENANCE: If the effects of imposing prices or resale conditions are limited to one member state (as is the case for most national price-fixing agreements), the agreement usually does not come under the prohibition of Article 85 (1). If the agreement regulates imports or exports, especially by import or export prohibitions, it has been subject to notification requirements. In other cases of imposing prices or resale conditions, it is unlikely that there would be any reason for notification.

2- BILATERAL LICENSING CONTRACTS: These agreements generally do not come under Article 85 when the restrictions have no effects outside one member state. Similarly, when restrictions are imposed under national industrial property laws and do not, therefore, contravene the Rome Treaty objectives, notification is usually unnecessary. (The Commission communication on patent license agreements, published in the Official Gazette No. 139 of December 24, 1962, page 2922 gives some examples.) If license agreements contain restrictions which do not bear any relation to the exercise of industrial property rights and are likely to to adversely affect trade between member states, they have been subject to notification.