

"For this purpose, the enclosed bill has been designed to provide, beginning January 1, 1964, for reimbursement of custom duties and expenses and of internal indirect impositions different from the general transaction tax, which have burdened, directly or indirectly, on the manufacture of metal-mechanical industry products."

It is significant to note that the Court of Justice of the European Economic Community questioned the refunds granted under Italian Law No. 639 as being contrary to the provisions of the Treaty of Rome. As a result of the court's investigation, the Italian Government has progressively reduced from \$26.13 per net ton to \$5.23 per net ton the refund on exportation of products of its metal-mechanical industry to Common Market countries. However, it continued to maintain the rate of \$26.13 per net ton on exports to the United States and other countries not members of the Common Market.

Law No. 570 of July 31, 1954, as implemented by a decree of the President of the Republic of Italy and by Law No. 1162 of November 15, 1964, provides for the refund of transaction taxes (more commonly referred to as IGE taxes) on the exportation of Italian products generally. The Italian transaction tax is a pyramiding tax in that the product is subject to the tax based on its invoice price at each transfer of title. A highly integrated producer of a given product suffers less incidence of transaction tax in the manufacture of his product than a manufacturer with less vertical integration in his manufacturing facilities. However, the rate of refund for the exported product is a fixed per cent of the invoice value which is available to all exporters regardless of the amount of tax incurred. In other words, a large producer is granted a refund on exports regardless of whether or not it paid any transaction taxes.

ENFORCEMENT OF COUNTERVAILING DUTY LAW

While this case involves only fabricated structural steel units used in the erection of electrical transmission towers, great importance is attached to the decision yet to be made on other taxes refunded under Italian Law No. 570. American commerce generally will be affected by this decision. It offers some help to one of the foreign trade problems facing the American business community which the President recently recognized publicly by saying that:

"American commerce is at a disadvantage because of the tax systems of some of our trading partners. Some nations give across-the-board rebates on exports which leave their ports and impose special border tax charges on our goods entering their country."

One of the most pressing problems faced by the United States today is the constant deficit in our balance of payments. The domestic tower fabricators feel that no country has the right to obtain dollars from the United States by subsidizing exports through tax rebates while using the same taxes to discourage imports into its territory. Because the Countervailing Duty Law affords an important means of dealing with this unfair trade practice which is disruptive of international trade, the domestic tower fabricators urge that this case be brought to a successful conclusion as soon as possible.

STATEMENT OF JUDICIAL INTERPRETATION OF U.S. COUNTERVAILING DUTY LAW
AND THE SUBSIDIES GRANTED BY TAX REBATES IN FOREIGN COUNTRIES BY
DAVID T. SEARLS OF THE LAW FIRM OF VINSON, ELKINS, WEEMS & SEARLS,
HOUSTON, TEX.

JUDICIAL INTERPRETATION AS TO WHAT IS A BOUNTY UNDER COUNTERVAILING DUTY LAW

In the most wide-sweeping and explicit language used by a court in defining the broad scope of the Countervailing Duty Statute in applying to all types of bounties or grants, the Court of Customs Appeals stated in *Nicholas & Co. v. U.S.*, 7 Ct. Cust. App. 97, affirmed 249 U.S. 34, 1916:

"The plain, explicit, and unequivocal purpose of this section is that whenever a foreign power or dependency or any political subdivision of a government shall give any aid or any advantage to exporters of goods imported into this country therefrom, whereby they may be sold for less in compe-