prices for national products are frozen, are impelled to give preference to the latter products.

2. In sectors covered by a common organization of the market, and *a fortiori* when that organization is based on a common price system, Member States can no longer take action, through national provisions adopted unilaterally, affecting the machinery of price formation as established under the common organization. However, the provisions of a Community agricultural regulation which comprise a price system applicable at the production and wholesale stages of the products covered by the rules of the market concerned leave Member States free — without prejudice to other provisions of the Treaty — to take unilateral measures relating to price formation at the retail and consumption stages, on condition that they do not jeopardize the aims or functioning of the common organization of the market in question, in particular its price system.
3. National rules which
   — impose on all producers and importers the obligation to give at least two months' notice of any price increases which they intend to apply on the national market, and which
   — empower the authorities in the Member State concerned to delay beyond reasonable limits — and in practice necessarily do so delay — the passing on of increases in the prices of imported products,

constitute a measure having an effect equivalent to a quantitative restriction on imports, which is prohibited by Article 30 of the EEC Treaty, to the extent to which they make the marketing of products imported from another Member State either impossible or more difficult than that of national products or have the effect of favouring the marketing of national products to the detriment of imported products. Such national rules are, moreover, incompatible with the common organization of the market, which has been established for cereals by Regulation No 120/67 of the Council, in so far as they apply to the prices of products covered by that regulation at the production and wholesale stages. Furthermore, they are incompatible with that organization if, in the opinion of the national court, by applying at subsequent stages of the distribution process, they jeopardize the objectives and functioning of that common organization.

In Joined Cases 16 to 20/79,

REFERENCE to the Court under Article 177 of the EEC Treaty by the Hof van Cassatie [Court of Cassation], Belgium, for a preliminary ruling in the action pending before that court between

OPENBAAR MINISTERIE [Public Prosecutor's Office]

and

JOSEPH DANIS (Case 16/79)

EDWARD DEPRE (Case 17/79)

GERARD INGELBRECHT (Case 18/79)

WALTHER VAN DE RYSE (Case 19/79)

ROBRECHT HUYS (Case 20/79)

on the interpretation of the Community provisions relating to the free movement of goods with a view to a decision on the compatibility with those provisions of a national system for notification of price increases of products,

THE COURT

composed of: H. Kutscher, President, A. O'Keeffe and A. Touffait (Presidents of Chambers), J. Mertens de Wilmars, P. Pescatore, Lord Mackenzie Stuart and G. Bosco, Judges,

Advocate General: H. Mayras
Registrar: A. Van Houtte

gives the following

JUDGMENT

Facts and Issues

I — Facts and procedure

1. The Belgian ministerial order of 22 December 1971 (Belgisch Staatsblad [Belgian Official Gazette], 28 December 1971), as amended and supplemented by ministerial orders of 1 March 1973 and 21 December 1975, provides, in *Article 1 (1)* thereof, that:

"Producers and importers shall notify the Minister for Economic Affairs . . . of any price increases which they intend to apply on the Belgian market to any products, raw materials, foodstuffs and merchandise and to any services at the latest two months before such increases take effect."

Article 3, first indent, adds that the notification of price increases must be made by registered letter and sets out the information which the letter must contain.

Article 4 (1) and (2) provides further that:

"(1) The date of notification of an increase from which the period of two months referred to in Article 1 of this order begins to run shall be the date on which the registered letter referred to in Article 3 is received.

That period shall, however, be suspended if the notification does not contain all the information listed in Article 3 and the undertaking or trade association making the notification is informed of this by the Prices Department within eight days of receipt as above-mentioned.

In that case the missing information must be supplied in accordance with the rules laid down for notifying an increase; the period of two months referred to in Article 1 shall run only from the date on which that information is received . . .

. . .

(2) The Department may, however, request additional information . . . without thereby postponing the date on which the notifications takes effect as determined in accordance with the preceding paragraph."

Lastly, *Article 5* provides that:

"The Minister for Economic Affairs, after consulting the Price Control Commission, may inform the undertaking making the notification, before the expiry of the period laid down in Article 1 of this order, that the increase notified cannot be applied totally or partially for a maximum period of six months. At the expiry of the period fixed, the undertaking may apply the increase as notified or a lesser increase."

By virtue of the ministerial order of 20 April 1972 (Belgisch Staatsblad of 25 April 1972) only undertakings with an annual turnover above a certain amount are obliged to notify price increases.

Finally, the ministerial order of 1 March 1973 (Article 1) which came into effect on the same date (Belgisch Staatsblad of 6 March 1973) altered "as a transitional measure" the period laid down by Article 1 (1) of the ministerial order of 22 December 1971 for notifying price increases, declaring that that period is to be determined as follows:

"— four months for any price increase notified after the entry into force of this order;

— three months for any price increase notified from 1 July 1973;

— two months for any price increase notified from 1 August 1973."

Article 2 of the same order adds that:

"For any notification of an increase submitted prior to the entry into force of this order, in respect of which the period of two months provided for in Article 1 (1) of the ministerial order of 22 December 1971 referred to above has not expired, the period shall be extended to four months as from the date of notification."

In pursuance of Article 12 of that order, infringements of the system referred to above are investigated, confirmed, prosecuted and punished in accordance with the provisions of Chapters II and III of the Decree-Law of 22 January 1945 on the repression of infringements of the rules relating to the procurement of supplies for the country, as amended and supplemented by the Law of 30 July 1971 on the regulation of the economy

and prices (Belgisch Staatsblad of 31 August 1971).

2. The defendants in the main proceedings, Joseph Danis, Edward Depré, Gerard Ingelbrecht, Walther Van de Ryse and Robrecht Huys, producers of or traders in animal feeding-stuffs, proceeded between 1 September 1972 and 4 April 1973 to increase their sale prices on successive occasions without notifying the Minister for Economic Affairs in accordance with the ministerial order of 22 December 1971, as subsequently amended.

They were prosecuted before the Belgian court for an infringement of Articles 1 and 12 of that order and were acquitted by judgments of 30 October 1975 of the Correctionele Rechtbank [Criminal Court], Bruges. According to that court, it was necessary for the five defendants to increase their sale prices "immediately" so as to avoid financial loss by reason of unforeseeable and considerable increases in the prices of the raw materials.

The Openbaar Ministerie appealed against those judgments to the Hof van Beroep [Court of Appeal], Ghent, which did not confirm the view taken by the Bruges court of first instance. Taking the view *inter alia* that the Belgian rules in dispute did not infringe Article 30 of the EEC Treaty since they were applicable in an identical manner to both imported products and national products, the Hof van Beroep, Ghent, convicted the five defendants in judgments of 22 June 1978.

The persons concerned appealed against those judgements to the Hof van Cassatie of Belgium, which, by judgments of 9 January 1979, decided to stay the proceedings and, in accordance with Article 177 of the EEC Treaty, refer the following question in each case to the Court of Justice for a preliminary ruling:

"Must Article 30 of the Treaty be interpreted to mean that the prohibition on measures having an effect equivalent to quantitative restrictions on imports also covers the rules contained in the Ministerial Order of 22 December 1971 which imposes on all producers and importers the obligation to give at least two month's notice of any price increases which they intend to apply on the Belgian market to any products, raw materials, foodstuffs and merchandise and to any services in so far as such rules:

(a) do not differentiate between imported and domestic products;

(b) attribute to the Minister the power to prevent, or at least to delay beyond acceptable limits, the passing on of the immediate effects of increases in the prices of imported products;

(c) particularly with regard to undertakings such as that managed by the appellant, engaged in the manufacture of animal fodder, necessarily cause such delay as a result of the prescribed administrative procedure?"

3. The judgments containing the reference were received at the Court Registry on 2 February 1979.

In accordance with Article 20 of the Protocol on the Statute of the Court of Justice of the EEC written observations were lodged by the defendants in the main proceedings, represented by L. Simont and G. Horsmans, of the Brussels Bar, by the Belgian Government, represented by W. Collins, Director at the Ministry for Foreign Affairs, acting as Agent, by the Government of the United Kingdom, represented by A. D. Preston of the Treasury Solicitor's Office, acting as Agent, and by the Commission of the European Communities, represented by its legal adviser, R. Wägenbaur, acting as Agent, assisted by A. Haagsma, a member of the Commission's Legal Department.

On hearing the report of the Judge-Rapporteur and the views of the Advocate General the Court decided to open the oral procedure without any preparatory inquiry. However, it asked one of the defendants in the main proceedings to produce the text of a directive issued by the Vereniging van Fabrikanten van Samengestelde Veevoeders [Compound Animal Feeding-stuffs Manufacturers' Association]. It also put to the Belgian Government a question regarding the frequency of prohibitions on price rises notified during the period from 1971 to 1975 and asked the Commission of the European Communities to state the trend of sale prices of compound feeding-stuffs for cattle in the Community during the same period.

II — Written observations submitted in pursuance of Article 20 of the Protocol on the Statute of the Court of Justice

The *defendants in the main proceedings* first of all explain in great detail the system for the notification of price increases as required by Belgian law.

The practical consequence of the system is that the price of the product to which the notification relates remains in any case frozen until the end of the waiting period. The factors requiring the producer or importer to decide upon a price increase can be passed on by the actual application of a price increase only after the waiting period.

There is thus a price freeze which, during that period, prevents the passing on of the immediate pressure of the price increases of imported products. This leads to a reduction in the profit margin or even to a loss for the undertaking concerned, which is obliged to reduce or cease the importation of the products in question.

They say that so as to understand better the effect and consequences of the compulsory notification of price increases, it is helpful to consider the structure of prices charged by the Belgian undertakings which produce feeding-stuffs for cattle.

The sale price of compound feeding-stuffs for cattle consists as to 80% of raw materials, which are for the most part imported, and as to 20% of value added (the net profit plus financial charges before taxation amount to 3.4%, the rest of the value added being made up of costs of production, depreciation and so on).

The increasing production costs have been maintained at a constant percentage owing to the fact that productivity in the sector concerned has never ceased to rise.

It follows that the size of the profit margin depends directly and exclusively on the price of the raw materials.

Since August 1972 the prices of raw materials for compound feeding-stuffs for cattle have fluctuated severely, above all in the direction of sudden price rises.

As the Belgian manufacturers are only a small group, they have no opportunity to exert any effect on price trends or to protect themselves against increases by long-term contracts. Nor are they in a position to bridge the gap during the waiting period by building up stocks for at least two months: the rotation of stocks is usually more rapid and the building up of bigger stocks would require considerable investments which are beyond the means of the parties concerned.

It is therefore necessary to examine, in the light of the Court's case-law,

whether the obligation to notify price increases which is required by Belgian law is contrary to Article 30 of the EEC Treaty which forbids quantitative restrictions on imports and all measures having an equivalent effect.

As the rules are applicable without distinction to national products and to imported products they cannot be considered in general as incompatible with Community law unless they produce in specific cases an effect equivalent to a quantitative restriction. According to the case-law of the Court this would be the case for example if a maximum price were fixed at such a low level that importers who wished to import could only do so at a loss.

The requirement to notify price increases involves, at least during the waiting period, a price freeze, as the price charged at the time of the notification must be considered during that period as a maximum price which cannot be increased.

In the event of a sudden increase in the price of imported raw materials the Belgian producer-importer is obliged to work at a loss since he cannot immediately pass the increase on in the sale price of his products. He must therefore turn to similar Belgian raw materials or stop trading or else go bankrupt. In any event the importation of raw materials from abroad is gravely affected. If the person concerned wishes to continue importing the only practicable solution is to build up at any cost stocks capable of sufficing for the entire period during which a price increase which has been notified cannot take effect. However, on the one hand few undertakings have the opportunity to act in that way and on the other such a solution would not mean that the measure which made it necessary was no longer a measure hindering imports.

Moreover, a Belgian producer manufacturing the same products from national raw materials does not meet such obstacles. In view of the fact that increases in the prices of Belgian raw materials must also be notified in advance and that such a step is very quickly known in trade circles he may in his turn notify a price increase immediately which would thus be applied simultaneously with that of prices of raw materials.

It follows from the foregoing that the sale of products manufactured from foreign raw materials is made impossible or at least more difficult than the sale of the same products manufactured from national raw materials.

A second discrimination flows from the fact that the system of price formation on the Belgian market differs from that on foreign markets.

The price of raw materials from abroad might become higher by reason of an increase in specific import costs (transport, insurance, port charges and so on) without the price of Belgian raw materials going up at the same time. In that case too, the system of the notification of price rises would make it impossible to pass the increase on in the price of the product for at least two months.

From this point of view therefore the Belgian rules ought to come within the definition of Article 2 (3) (d) of Commission Directive No 70/50 which mentions, amongst the measures having an effect equivalent to quantitative restrictions on exports those which "preclude any increase in the price of the imported product corresponding to the

supplementary costs and charges inherent in importation". The position is the same as regards an increase in the costs of production in the producing Member State. The impossiblity of passing those price factors on at the proper time in a sector such as that in feeding-stuffs for cattle where the profit margins are already very small would lead in this case too to the necessity of selling at a loss.

The defendants conclude by saying that even apart from any concept of discrimination between national and imported goods or products the Belgian requirement to notify in advance increases in price is contrary to Article 30 of the EEC Treaty to the extent to which it leads to a direct restriction on imports.

However, in this case, the delay in passing the increase in prices on does not arise (or can at least easily be avoided) for national raw materials and can normally only arise for increases concerning costs connected with imports.

This double discrimination is calculated to restrict imports and to make the sale of imported products more difficult than those of national products, if not impossible.

The *Belgian Government* remarks that, according to the case-law of the Court, a national price system applicable without distinction to national and imported products is not in general a measure having an effect equivalent to a quantitative restriction on imports unless it contains specific features which may hinder intra-Community trade.

The system for notifying price increases which is laid down in Belgium, on the one hand, makes no distinction according to the origin of products and, on the other hand, contains no specific feature in the sense indicated above.

The attitude adopted by the Minister for Economic Affairs following a notification takes account of the costs of all the constituents of a product, including the costs of imported raw materials and thus of any possible increases in them. Further, the same waiting period applies to national products and to imported products.

Nor is it possible to maintain that the duty to make the notification delays the passing on of the price increase to such an extent that it may on those grounds be considered as a measure having equivalent effect, since the system provides that a person who is required to make the notification shall himself determine the date of application of the increase.

The system in question is therefore in all respects compatible with Community law.

The *Government of the United Kingdom* states that in its observations it wishes to deal with a problem which it considers very important, namely the extent to which Member States should be able to take unilateral action to combat inflation provided that such action does not conflict with their obligations under the Treaty.

In the British Government's view the struggle against inflation requires the adoption of a variety of measures which may include a requirement for price increases to be notified in advance.

Such requirements not only benefit the Member States concerned but also promote the fundamental objectives of the Community, in particular those set out in Article 2 of the Treaty ("a harmonious development of economic

activities, a continuous and balanced expansion, an increase in stability, an accelerated raising of the standard of living and closer relations between the States belonging to it").

It has been established clearly in previous cases that national systems of price control, even where they impinge on sectors of economic activity, such as agriculture, which are subject to a Community price system, are contrary to Community law only if they jeopardize the objectives and functioning of the common organizations of the market, and in particular their system of prices.

A similar principle should be applied when the question at issue is the compatibility of a national system of price controls with Article 30 of the Treaty. There should not be a presumption that price controls constitute an obstacle to imports between Member States. Furthermore the applicability of Article 30 in such cases must be subject to the fundamental objectives of the Treaty, in particular to the objectives set out in Article 2.

After these general considerations the British Government deals with points (a) and (b) of the question submitted for a preliminary ruling (it does not reply to point (c)).

As regards point (a) it takes the view that the rules in question cannot be regarded as incompatible with Community law in so far as they do not differentiate between imported and domestic products. On the contrary, the general rule in this respect would require that no discrimination should be made, differences in treatment being justifiable only where the circumstances relating to imported and domestic products are different in a material respect.

Moreover, in this case the products in question are not imported but include imported raw materials.

A very high proportion of manufactured products produced in all Member States contain some imported products or raw materials. Apart from cases in which special treatment may be necessary to avoid distortion of intra-Community trade, to prohibit automatically the application of such national legislation to domestic products containing imported products or raw materials or containing domestic products which in turn incorporate imported products or materials would seriously jeopardize the work of Member States in combating inflation.

In any event the requirement of the Belgian regulations has similar consequences for domestically made products and for imported products and it is not evident that such measures need cause greater difficulties to the vendors of imported products or to manufacturers who make direct or indirect use of such products than to vendors or manufacturers generally.

With reference to point (b) of the question the British Government notes that the power to delay the passing on of increased costs is a part of measures to combat inflation and to be of value must, within reasonable limits, relate also to increases in costs arising by reason of increases in the price of imported

products. The fact that such a power may involve an element of discretion is no objection provided that the discretion is not exercised in such a way as to constitute discrimination against imported products.

The *Commission of the European Communities*, after analysing the Belgian system of compulsory notification of price increases, emphasizes that the effects of this system, by virtue of which it is lawful, for the national authorities to delay price increases for a fairly considerable period, even where they are justified, may, in the case of imported products, be more keenly felt inasmuch as the importer is not always in a position to foresee increases which originate in the exporting countries. By thus making imports more difficult and more onerous the rules in question in fact represent a measure having an effect equivalent to a quantitative restriction on imports within the meaning of Article 30 of the EEC Treaty.

Nevertheless, consideration should be given to the question whether such a system might not be justified having regard to the Treaty. Such consideration must naturally take into account very strict criteria in view of the fact that what is in question is a derogation from the fundamental principle of the free movement of goods.

First of all it may be noted that the system in question, which is traditional in Belgium, is part of a series of measures of an economic nature the purpose of which is to guarantee price stability. It is true that it involves constraints and effects which are to the disadvantage of the traders concerned but which are intrinsic to the system and do not go beyond what might appear necessary in the interests of its proper operation.

Furthermore notification of price increases is required both on importation and in national production. Nothing in the Belgian rules justifies the presumption that they might constitute discrimination with regard to imported products.

It should therefore be concluded that, as these are rules applicable without discrimination to imported products from other Member States and to national products, a system of notifying price increases does not constitute a measure having an effect equivalent to a quantitative restriction, in so far as such as system favours the general interest and is necessary in order that imperative requirements may be fulfilled.

III — Oral procedure

Oral submissions were presented during the hearing on 12 July 1979 by the defendants in the main proceedings, represented by Mr Horsmans and Mr Verbiest, of the Brussels Bar, and the Commission of the European Communities, represented by its Legal Adviser, R. Wägenbaur, acting as Agent, assisted by A. Haagsma, of the Commission's Legal Department.

The Advocate General delivered his opinion at the sitting on 20 September 1979.

Decision

1 In a judgment of 9 January 1979, which was received at the Court Registry on 2 February 1979, the Hof van Cassatie of Belgium referred a question to the Court, in Case 16/79, for a preliminary ruling under Article 177 of the EEC Treaty concerning the interpretation of Article 30 of the EEC Treaty. Since the same court made identical references to the Court by judgments of the same date in Cases 17/79, 18/79, 19/79 and 20/79, those cases are joined for the purposes of judgment. The questions arose in the course of criminal proceedings brought before the Belgian courts by the Openbaar Ministerie against the defendants in the main proceedings, who are producers of or traders in animal feeding-stuffs and who are accused of increasing their prices on a number of occasions between 1 September 1972 and 4 April 1973 without first notifying the Minister for Economic Affairs in accordance with the conditions laid down by the Belgian Ministerial Order of 22 December 1971 (Belgisch Staatsblad of 28 December 1971).

2 The Ministerial Order of 22 December 1971 provides in Article 1 (1) that "Producers and importers shall notify the Minister for Economic Affairs . . . of any price increases which they intend to apply on the Belgian market to any products, raw materials, foodstuffs and merchandise and to any services at the latest two months before such increases take effect". By virtue of Article 4 of the same order the period of two months is suspended if the appropriate authorities find that the notification of increase does not contain all the required information. In that case the waiting period commences from the date on which the additional information is received. Finally, Article 5 provides that the Minister for Economic Affairs may inform the undertaking making the notification, before the expiry of the waiting period, "that the increase notified cannot be applied totally or partially for a maximum period of six months . . .".

3 The accused in the main proceedings have claimed, *inter alia,* that the duty of notification laid down by the ministerial order in question amounts to a measure having an effect equivalent to a quantitative restriction, and therefore prohibited under Article 30 of the EEC Treaty, because of the period imposed with regard to notification and the power given to the relevant authorities to delay partially or wholly the application of the price increase.

4 In order to enable it to reach a decision on this point the Hof van Cassatie of Belgium has referred the following question to the Court of Justice, in each case, for a preliminary ruling:

"Must Article 30 of the Treaty be interpreted to mean that the prohibition on measures having an effect equivalent to quantitative restrictions on imports also covers the rules contained in the Ministerial Order of 22 December 1971 which imposes on all producers and importers the obligation to give at least two months' notice of any price increases which they intend to apply on the Belgian market to any products, raw materials, foodstuffs and merchandise and to any services in so far as such rules:

(a) do not differentiate between imported and domestic products;

(b) attribute to the Minister the power to prevent, or at least to delay beyond acceptable limits, the passing on of the immediate effects of increases in the prices of imported products:

(c) particularly with regard to undertakings such as that managed by the appellant, engaged in the manufacture of animal fodder, necessarily cause such delay as a result of the prescribed administrative procedure?"

5 Article 30 of the Treaty prohibits all measures having an effect equivalent to a quantitative restriction in trade between Member States. The prohibition comes into effect when the measures in question are capable of hindering trade between Member States either directly or indirectly, actually or potentially.

6 From the information supplied by the national court it appears that the object of the question is to discover whether the prohibition of measures having an effect equivalent to a quantitative restriction includes national rules which, without distinguishing between imported and domestic products, necessarily delay, beyond reasonable limits, the passing on of increases in the prices of imported products, especially in the case of producers of animal feeding-stuffs, by reason of the administrative procedures involved therein. National rules of this kind, even if they are confined to requiring the producer or importer to "notify" proposed price increases before they are applied, have the effect of a price freeze, since the prices quoted by the producer prior to his notification are, in fact, "frozen" for at least the duration of the waiting period.

7 Whilst rules imposing a price freeze which are applicable equally to national products and to imported products do not amount in themselves to a measure having an effect equivalent to a quantitative restriction, they may in fact produce such an effect when prices are at such a level that the marketing of imported products becomes either impossible or more difficult than the marketing of national products. That is especially the case where national rules, while preventing the increased prices of imported products from being passed on in sale prices, freeze prices at a level so low that — taking into account the general situation of imported products in relation to that of national products — traders wishing to import the products in question into the Member State concerned can do so only at a loss, or, having regard to the level at which prices for national products are frozen, are impelled to give preference to the latter products.

8 The above considerations are sufficient to provide a basis for the interpretation requested by the national court with regard to Article 30 of the Treaty, but in order to ensure that court is given all the necessary criteria for interpretation, it should be stated that where the compatibility of national price control measures relating to products subject to a common organization of the agricultural markets is in question, the assessment must take into account the particular features of that organization. As the Court has confirmed in its case-law — judgment of 23 January 1975 (*Galli*, Case 31/74 [1975] ECR 47), judgments of 26 February 1976 (*Tasca*, Case 65/75, and *SADAM*, Joined Cases 88 to 90/75 [1976] ECR 291 and 323), judgment of 29 June 1978 (*Dechmann*, Case 154/77 [1978] ECR 1573) and judgment of 12 July 1979 (*Grosoli*, Case 223/78 [1979] ECR) — in sectors covered by a common organization of the market, and *a fortiori* when that organization is based on a common price system, Member States can no longer take action, through national provisions adopted unilaterally, affecting the machinery of price formation as established under the common organization. It was stated in those judgments that provisions of a Community agricultural regulation which comprise a price system applicable at the production and wholesale stages of the products covered by the rules of the market concerned leave Member States free — without prejudice to other provisions of the Treaty — to take unilateral measures relating to price formation at the retail and consumption stages, on condition that they do not jeopardize the aims or functioning of the common organization of the market in question, in particular its price system.

9 In the present case it appears from the file that the product in relation to which a question concerning the interpretation of Community law has been raised by the national court is cattle feed having, according to the information supplied by the accused in the main proceedings in the course of the present proceedings, a high cereal content. Having regard to its composition, that product is therefore an animal feeding-stuff within the meaning of Article 1 (d) of Regulation No 120/67 of the Council of 13 June 1967 on the common organization of the market in cereals (Official Journal, English Special Edition 1967 p. 33) and therefore falls within the provisions of that common organization. As the Court has already declared (judgment of 23 January 1975 in *Galli*, Case 31/74 [1975] ECR 47), the common organization of the market in cereals established under Regulation No 120/67 is designed to achieve a single market in cereals within the Community, subject to common administration, and for that purpose it provides for a system of rules and a framework of organization wherein a central place is held by a "price system" applicable at the production and wholesale stages. A national system of price control which applies to products subject to such a common organization of the market and includes a price freeze at both production and wholesale stages encroaches on an area covered by that organization and is thereby incompatible with that organization if, in the opinion of the national court, by applying to prices at subsequent stages of the distribution process, it jeopardizes the objectives and functioning of that organization.

10 On all those grounds it must be ruled that a national system of price control, such as that referred to by the national court, constitutes a measure having an effect equivalent to a quantitative restriction on imports, which is prohibited by Article 30 of the EEC Treaty, to the extent to which it makes the marketing of products imported from another Member State either impossible or more difficult than that of national products or has the effect of favouring the marketing of national products to the detriment of imported products. Such national rules are, moreover, incompatible with the common organization of the market, which has been established for cereals by Regulation No 120/67 of the Council of 13 June 1967, in so far as they apply to the prices of products covered by that regulation at the production and wholesale stages. Furthermore, they are incompatible with that organization if, in the opinion of the national court, by applying at subsequent stages of the distribution process, they jeopardize the objectives and functioning of that common organization.

Costs

11 The costs incurred by the Belgian Government, the Government of the United Kingdom and the Commission of the European Communities, which have submitted observations to the Court, are not recoverable. Since these proceedings are, in so far as the parties to the main proceedings are concerned, in the nature of a step in the proceedings pending before the national court, costs are a matter for that court.

On those grounds,

THE COURT,

in answer to the question referred to it by the Hof van Cassatie of Belgium by judgments dated 9 January 1979, hereby rules that:

A national system of price control, such as that referred to by the national court, constitutes a measure having an effect equivalent to a quantitative restriction on imports, which is prohibited by Article 30 of the EEC Treaty, to the extent to which it makes the marketing of products imported from another Member State either impossible or more difficult than that of national products or has the effect of favouring the marketing of national products to the detriment of imported products. Such national rules are, moreover, incompatible with the common organization of the market, which has been established for cereals by Regulation No 120/67 of the Council of 13 June 1967, in so far as they apply to the prices of products covered by that regulation at the production and wholesale stages. Furthermore, they are incompatible with that organization if, in the opinion of the national court, by

applying at subsequent stages of the distribution process, they jeopardize the objectives and functioning of that common organization.

Kutscher O'Keeffe Touffait

Mertens de Wilmars Pescatore Mackenzie Stuart Bosco

Delivered in open court in Luxembourg on 6 November 1979.

A. Van Houtte
Registrar

H. Kutscher
President

OPINION OF MR ADVOCATE GENERAL MAYRAS DELIVERED ON 20 SEPTEMBER 1979 [1]

Mr President,
Members of the Court,

I — The five cases which gave rise to the present references to the Court for a preliminary ruling relate to criminal proceedings initiated by the Belgian Openbaar Ministerie [Public Prosecutor's Office] against certain manufacturers of compound feeding-stuffs, all established in West Flanders, who are accused of having infringed Articles 1 and 12 of the Ministerial Order of 22 December 1971 requiring notification of price increases, by having on three occasions introduced price increases in the course of 1973 without first informing the Minister for Economic Affairs. In each of those cases, which have been referred to you by five judgments delivered by the Hof van Cassatie of Belgium, delivered on the same day and registered at the Court of Justice on 2 February 1979, the question which has been referred to this Court is formulated in identical terms.

Unlike the *Grosoli* case on which the Court delivered its judgment on 12 July last, and which concerned price controls in relation to beef and veal at the retail stage, and the *Buijs* case (5/79) on which the Court will shortly deliver its judgment and which concerns the freezing of prices of milk feed for calves at the production and wholesale stages, these cases concern a compulsory system of notification of price increases.

1 — Translated from the French.