OPINION OF ADVOCATE GENERAL ELMER
delivered on 4 July 1996 *

Introduction

1. The Finanzgericht des Landes Brandenburg (Finance Court of Land Brandenburg) has referred to the Court for a preliminary ruling a number of questions in relation to Commission Regulation (EEC) No 1932/93 of 16 July 1993 establishing protective measures as regards the import of sour cherries. [1]

The relevant Community rules

2. The common organization of the market in fruit and vegetables is based on Regulation (EEC) No 1035/72 of the Council of 18 May 1972 on the common organization of the market in fruit and vegetables [2] (hereinafter 'the basic regulation'). Title IV the basic regulation contains rules on the organization of trade with third countries. Thus it is provided that, in order to obviate disturbances caused by supplies from third countries at abnormal prices, reference prices valid for the whole Community are to be fixed each year. If the entry price of products imported from a third country is below the reference price, a countervailing charge may be levied in addition to the customs duties.

Article 29 of the basic regulation deals with protective measures in the event of serious disturbances of the market. It reads as follows:

'1. Appropriate measures may be applied in trade with third countries if:

— by reason of imports or exports, the Community market in one or more of the products referred to in Article 1 experiences or is threatened with serious disturbances which may endanger the objectives set out in Article 39 of the Treaty.

— ...

* Original language: Danish.

1 — OJ 1993 L 174, p. 35.

2 — OJ, English Special Edition 1972 (II), p. 437, as amended by Regulation No 2454/72 of 21 November 1972 (OJ, English Special Edition 1972 (November), p. 60).

Such measures may be applied only until, depending on the case, either the disturbance or threatened disturbance disappears or the quantities withdrawn or bought in have decreased substantially.

2. If the situation mentioned in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the measures shall be communicated to the Member States and shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within twenty-four hours following receipt of the request.

3. The measures decided upon by the Commission may be referred to the Council by any Member State within three working days following the date on which they were communicated. The Council shall meet without delay. It may amend or repeal the measure in question in accordance with the voting procedure laid down in Article 43(2) of the Treaty.'

Under Article 32 of the basic regulation a Management Committee for Fruit and Vegetables is established, consisting of representatives of Member States and presided over by a representative of the Commission.

3. Regulation (EEC) No 2707/72 of the Council of 19 December 1972 [3] lays down the conditions for applying protective measures for fruit and vegetables (hereinafter 'the protective measures regulation'). Article 1 lays down the criteria of which account is to be taken in order to determine whether the market situation is threatened (actual or probable volume of imports or exports, the availability of products on the Community market, the prices of domestic products recorded on the Community market or the probable trend of those prices).

The first indent of Article 3(1) of the protective measures regulation lays down the measures which may be taken if the situation described in the first indent of Article 29(1) of the basic regulation exists. They involve the suspension of imports or exports or the levying of export taxes.

4. Commission Regulation (EEC) No 1234/93 of 19 May 1993 [4] (hereinafter 'the reference price regulation') lays down reference prices for cherries for the 1993 marketing year.

5. By Regulation (EEC) No 1796/93 of 30 June 1993 on the application of the system of

3 — OJ, English Special Edition 1972 (28-30 December), p. 3.
4 — OJ 1993 L 124, p. 32.

import licences for cherries from third countries [5] the Commission, having ascertained that imports of cherries were rising, introduced a system of import licences.

6. By Regulation (EEC) No 1931/93 of 16 July 1993 [6] the Commission decided to discontinue the application of reference prices to sour cherries.

7. On the same day, 16 July 1993, by the said Regulation No 1932/93, the Commission, with reference to Article 29 of the basic regulation, introduced a system of minimum import prices and countervailing charges for products below that price.

Thus Article 1 of Regulation No 1932/93 provides that:

'1. The minimum price to be complied with for imports into the Community of sour cherries falling within CN codes 0809 20 20 and 0809 20 60 shall be ECU 47.63/100 kg net.

2. If the import price is lower than the minimum price referred to in paragraph 1, a countervailing charge equal to the difference between the two prices shall be levied.'

Regulation No 1932/93 came into force on 18 July 1993, the day after publication (on 17 July 1993) in the *Official Journal of the European Communities*. The German version (and only that version) used, in the title, the recitals and the operative part of the regulation itself, the word 'Süßkirschen' (sweet cherries) instead of the correct word 'Sauerkirschen' (sour cherries). However, the German version referred to the correct CN code 0809 20 60, which covers sour cherries. A corrigendum to the German version of Regulation No 1932/93 to the effect that the minimum price system applied only to sour cherries was printed in the German edition of OJ 1993 L 176 of 20 July 1993.

The facts of the case

8. Konservenfabrik Lubella Friedrich Büker GmbH&Co. KG (hereinafter 'Lubella') manufactures preserves. On 19 and 20 July 1993 Lubella, represented by a forwarding agent, caused three lorry loads consisting of a total of 42 868 kg of fresh sour cherries from Poland (included in CN Code 0809 20 60) to be cleared for free circulation in the Community at the Forst Motorway

5 — OJ 1993 L 163, p. 28.
6 — OJ 1993 L 174, p. 34.

Customs Office. By decisions of 19 and 20 July 1993 Community customs duty of DM 1 798.19 and import turnover tax of DM 1 476.22 were demanded. The total value for customs purposes amounted to DM 14 655.60.

By a decision of 18 October 1993 the Cottbus Principal Customs Office demanded a total of DM 33 412.28 duty by way of post-clearance collection, which it justified by a reference to Regulation No 1932/93, according to which a minimum price of DM 112.13 per 100 kg was applicable upon importation of goods falling within CN code 0809 20 60 (sour cherries).

9. After lodging an unsuccessful administrative objection to that post-clearance collection, Lubella brought an action before the Finanzgericht des Landes Brandenburg alleging defects of both form and substance in Regulation No 1932/93.

The questions referred to the Court

10. By order of 21 February 1995 the national court stayed the proceedings and referred the following questions to the Court of Justice for a preliminary ruling:

'(1) Has Commission Regulation (EEC) No 1932/93 of 16 July 1993 as rectified by the corrigendum published in Official Journal of the European Communities L 176 of 20 July 1993 at page 29 come into being with legal effect?

(2) If so, are the provisions of Regulation (EEC) No 1932/93 also applicable to imports of sour cherries effected up to and including 20 July 1993?

(3) If the answer to Question 2 is in the affirmative:

(a) Were the preconditions present in 1993 for a measure for the organization of the market for sour cherries in 1993?

(b) Is the minimum price system a permissible, appropriate measure for eliminating the disturbance to the market?

(c) Is the minimum price system compatible with the Interim Agreements of 25 February 1992 between the European Community and the

Republic of Poland, the Republic of Hungary and the Czech and Slovak Federal Republic?'

First question

11. In the first and third questions the national court has raised the question of the validity of Regulation No 1932/93 partly with reference to the circumstances affecting the adoption of the regulation (Question 1) and partly with reference to the content of the regulation (Question 3). I think it is appropriate to deal with these two questions consecutively before dealing with Question 2.

12. As stated, by its first question the national court is asking the Court of Justice to consider whether Regulation No 1932/93 was validly adopted from the legal point of view, since the opinion of the Management Committee was not sought, since the Member States were not allowed a period to approach the Council and since the content is imprecise. It seems to me that the question of the alleged imprecision of the content of the regulation is bound up with Question 3, which also deals with the validity of the regulation, so I shall deal with that problem in my answer to that question.

13. The Commission and the Spanish Government, which alone have submitted written observations, see no reason to think that Regulation No 1932/93 was not adopted in a legally valid manner. Thus the Commission has stated that the procedure for applying protective measures is laid down in Article 29(2) and (3) of the basic regulation and that that procedure does not envisage an approach to the Management Committee. Furthermore Regulation No 1932/93 does not allow the Member States a period for approaching the Council. Nor may any such obligation be inferred from Article 29 of the basic regulation or the Council Decision of 13 July 1987 laying down the procedures for the exercise of implementing powers conferred on the Commission (87/373/EEC). [7]

14. I must stress that the contested minimum price regulation was issued on the basis of Article 29 of the basic regulation, paragraphs 2 and 3 of which contain provisions on the procedure for applying protective measures. The procedure the Commission is to follow is described in Article 29(2) and contains no requirement to submit any proposal to the Management Committee. Under Article 33 of the basic regulation a draft of the measures is to be submitted to the Management Committee only when in the relevant provisions 'reference is made to the procedure laid down in this article'. In Article 29(2) of the basic regulation no reference is made to Article 33. The Commission was therefore not required to seek an opinion from the Management Committee before issuing Regulation No 1932/93.

7 — OJ 1987 L 197, p. 33.

15. Article 3 of Council Decision 87/373 laying down the procedures for the exercise of the implementing powers conferred on the Commission is worded as follows:

'The following procedure may be applied where the Council confers on the Commission the power to decide on safeguard measures:

— the Commission shall notify the Council and the Member States of any decision regarding safeguard measures.

It may be stipulated that before adopting this decision the Commission shall consult the Member States in accordance with procedures to be determined in each case.

— Any Member State may refer the Commission's decision to the Council within a time-limit to be determined in the act in question.

...'

In accordance with that provision Article 29(3) of the basic regulation, for which Regulation No 1932/93 constitutes implementing provisions, introduces a rule to the effect that 'The measures decided upon by the Commission may be referred to the Council by any Member State within three working days following the date on which they were communicated'. That period applies to all protective measures adopted in pursuance of Article 29 and there is therefore no reason to repeat that period in any provisions which, like Regulation 1932/93 for example, specifically implement the protective measures. The Member States could therefore, within three working days following the communication of the protective measures adopted by the Commission regarding importation of sour cherries, have referred the measures to the Council.

16. My view is therefore that the circumstances surrounding the adoption of Regulation No 1932/93 do not affect its validity. Before I make my proposal for the answer to be given to Question 1, I should like to deal with Question 3 which likewise concerns the validity of the regulation.

Third question

17. By its third question the national court is asking the Court of Justice to consider the validity of Regulation No 1932/93 in the light of a number of arguments advanced by

Lubella in the main proceedings. I shall now deal separately with each of the questions raised by Lubella.

The error in the German version of Regulation No 1932/93

18. The national court doubts the validity of Regulation No 1932/93 on the ground that its content was imprecise since the (German) text of the regulation (as it appeared before rectification) refers only to sweet cherries, whereas the CN code mentioned undeniably covers only sour cherries.

19. The Commission has stated that the validity of Regulation No 1932/93 is not affected by the error in the German version since the content of the regulation is clearly apparent. Thus in all the language versions except the German the regulation refers to sour cherries. The German version contained an error which was rectified immediately on 20 July 1993.

20. As the national court emphasizes, there is an inconsistency in the German version of Regulation 1932/93 between the wording, which refers to sweet cherries, and the CN code cited, which covers sour cherries. That was only the case, however, for the original German version, since all the other language versions correctly concern sour cherries and the error in the German version was rectified in the *Official Journal of the European Communities* of 20 July 1993.

21. In its judgment in Case 55/87 *Moksel* v *BALM* [8] the Court stated that:

'... the necessity for uniform application and accordingly for uniform interpretation makes it impossible to consider one version of the text in isolation but requires that it be interpreted on the basis of both the real intention of its author and the aim he seeks to achieve, in the light in particular of the versions in all ... languages'.

The Court further declared in its judgment in Case C-30/93 *AC-ATEL Electronics Vertriebs GmbH* [9] that:

'The Court has consistently held that, in interpreting a provision of Community law, it is necessary to consider not only its word-

8 — [1988] ECR 3845, at paragraph 15.
9 — [1994] ECR I-2305, at paragraph 21.

ing but also its context and the aims pursued by the legislation of which it forms part'.

22. It is thus only in the cases in which an unclear text cannot be interpreted on the basis of those methods laid down in the Court's consistent case-law that the validity of the Community provision in question may possibly be affected.

23. A comparison of the German version of Regulation 1932/93 with the other language versions of the regulation makes it instantly clear that there is an error in the German version as regards the reference to sweet cherries and that the correct reference should have been to sour cherries, corresponding to the CN Code, which was correctly given in the German version also.

24. It is further stated that on the market for cherries there had always been problems in relation only to imports of sour cherries, whereas imports of sweet cherries have never given rise to problems. Regulation No 1931/93, which was issued simultaneously with Regulation No 1932/93, dealt also with problems concerning imports of sour cherries. From the context and aims pursued by the series of rules of which Regulation No 1932/93 forms a part there thus could not have been any doubt that it concerned exclusively sour cherries. The uncertainty in the original German version of the regulation to which the national court calls attention could thus be removed by a simple interpretation and there is therefore no reason for assuming the regulation to be void on that ground.

Introduction of a minimum price system

25. Lubella has claimed that the condition that there should be a disturbance of the market or a threat thereof was not met since the importation of sour cherries from third countries into the Community was falling and there was no reason to expect any abnormally large drop in prices for Community cherries. In addition Lubella has stated that the introduction of a minimum price system was not permissible under the protective measures regulation, because it was an inappropriate means of eliminating a disturbance of the market in that it could not help to stabilize market prices.

26. The Spanish Government has stated that in cases like this the Commission has a wide discretion and that it is clear from the introductory recitals in the preamble to Regulation No 1932/93 in conjunction with the recitals to Regulation No 1931/93 that the

Commission had satisfied itself that the criteria for the introduction of protective measures mentioned in Article 1 of the protective measures regulation were met.

27. The Commission's view is that at the time when the protective measures were adopted there was a risk of a serious disturbance of the market for sour cherries because the volume of imports of sour cherries had risen steeply in 1990 and 1991 and had remained at that high level since then. That had caused a serious drop in prices in 1992 and it was to avoid the same thing happening in 1993 that protective measures had to be adopted. Although Article 3 of the protective measures regulation expressly mentions only the possibility of suspending imports it was possible in accordance with the principle of proportionality for a minimum price system to be introduced. The system allowed the market price to be stabilized and was put into effect only after it became clear that the first protective scheme, involving the issue of import licences, was insufficient.

28. By way of introduction I should emphasize that according to Article 1 of the protective measures regulation the criteria to be taken into account for the application of protective measures in the organization of the market in fruit and vegetables are the actual or probable volume of imports or exports, the availability of products on the Community market and the prices of domestic products recorded on the Community market or the probable trend of those prices.

29. In its judgment in Joined Cases C-267/88 to C-285/88 *Wuidart and Others* [10] the Court stated that:

'... the Community legislature has a broad discretion which corresponds to the political responsibilities imposed upon it by Articles 40 and 43 of the Treaty ... Where the Community legislature is obliged, in connection with the adoption of rules, to assess their future effects, which cannot be accurately foreseen, its assessment is open to criticism only if it appears manifestly incorrect in the light of the information available to it at the time of the adoption of the rules in question.'

Moreover the Court declared in its judgment in Joined Cases C-296/93 and C-307/93 *France and Ireland* v *Commission* [11] that:

'...Where the evaluation of a complex economic situation is involved, the Commission and the Management Committee enjoy a wide measure of discretion. In reviewing the legality of the exercise of such discretion, the Court must confine itself to examining whether it discloses manifest error or constitutes misuse of power or a clear disregard of the limits of its discretion on the part of that institution.'

10 — [1990] ECR I-435.
11 — [1996] ECR I-795.

In those circumstances it is necessary to enquire whether the Commission's evaluation of the situation on the market for sour cherries was manifestly incorrect and whether the measure selected by the Commission was manifestly inappropriate in relation to the purpose pursued.

30. The Commission has provided information to the effect that imports of sour cherries from third countries into the Community and prices for such cherries in the period 1990 to 1993 were as follows: [12]

	Imports	Price
1990	24 934 t	ECU 0.77
1991	54 425 t	ECU 0.86
1992	53 521 t	ECU 0.59
1993	31 989 t	ECU 0.72

The Commission has further explained that the explosive trend in the volume of imports of sour cherries from 1990 to 1991 (they more than doubled) was due to the very poor sour cherry crop in the Community in 1991, which caused a great shortage of sour cherries and a relatively high price as compared with earlier years. In 1992 the sour cherry crop in the Community returned to normal, but despite the good crop the import of sour cherries from third countries (Poland) remained at the same high level as in 1991. The result was, as the figures set out above show, that the price fell by just under 32% in 1992.

In those circumstances the Commission's view was that the prices for domestic sour cherries, which was already lower than normal in 1992, must be expected to fall further or to remain at the same level unless protective measures to counteract the disturbance of the market were brought into force. Similarly a continuing decline in prices of sour cherries from Poland was to be expected, as was later confirmed by the fact that the average price for the whole of 1993, when protective measures were introduced in the middle of the year, was lower despite these measures than in previous representative years, for example 1990 (ECU 0.72 in 1993 as against ECU 0.77 in 1990).

31. It may be seen therefore from the Commission's explanations that it did take into account the criteria which must, according to the protective measures regulation, be applied as regards the laying down of protective measures in the organization of the market for fruit and vegetables. Regard being had to the information at the Commission's disposal on the situation of the market for sour cherries in 1993, my view is that the Commission had good grounds for thinking that the market was exposed to serious risks of disturbances and it was therefore right to adopt the necessary measures to counteract them.

12 — Source: Eurostat — Comext.

32. According to Article 29(1) of the basic regulation, appropriate measures may be applied in trade with third countries if the Community market experiences or is threatened with serious disturbances. Under Article 29(2) the Commission is required in such a case to decide upon the necessary measures.

33. Article 3(1) of the protective measures regulation provides that measures may be taken in the form of suspension of imports or exports or the levying of export taxes when the aforesaid situation exists.

The same article mentions as a protective measure against imports from third countries the possibility of suspending such imports. However it may be seen from the fifth recital in the preamble to the protective measures regulation that 'the measures referred to above should be in keeping with circumstances so that they have none but the desired effect'.

These directly conflicting forms of words in the protective measures regulation must I think be interpreted as meaning that the complete suspension of imports from third countries mentioned in Article 3(1) of that regulation must be regarded as the most far-reaching measure the Commission can adopt but that, as the whole is greater than the part, it must also be able to adopt other less far-reaching measures with a view to restricting imports which may threaten the Community organization of the market in this sector. Cases may occur of such serious market disturbances that a complete cessation of trade is the necessary and proportionate reaction. The Commission must evaluate the specific situation and, in accordance with the principle of proportionality, bring into force only the least extreme measures which, according to the circumstances, are appropriate for counteracting the relevant disturbance of the market.

The introduction of a minimum price system is a less radical restriction than a complete suspension of imports of goods from a third country, so that basically there is nothing to prevent the Commission from selecting such a measure to counteract disturbances of the market. The minimum price system must however be appropriate to the specific case and necessary to protect the market in question.

34. It may be seen from the Commission's statement that in 1993 it was necessary to reduce the considerable volume of imports of sour cherries from Poland in order to protect Community production. However, in

the Commission's view a complete suspension of imports from Poland was unnecessary as that might have led to a scarcity of supplies for the processing industry.

The Commission first tried to regulate the market by introducing the import licensing system, but, as the Commission's regular information and the situation on the market showed that that was insufficient to counteract the market disturbances, it introduced the minimum price system.

It may further be seen from the information provided that the volume of imports of sour cherries from Poland diminished only after the implementation of the minimum price system in 1993 so that prices for domestic cherries were stabilized. The measures adopted by the Commission therefore fulfilled their purpose of protecting the market from disturbances.

35. The introduction of a minimum price system must therefore be regarded as having been an appropriate measure, the purpose of which was to offset the lower price of sour cherries from Poland which had been the cause of the disturbance of the market, and the system did in fact have the desired effect.

36. My view is that in those circumstances it must be concluded that no facts have emerged to suggest that the Commission made an incorrect decision or exceeded the bounds of its discretion.

The principle of the protection of legitimate expectation

37. Lubella's view is that the minimum price system was introduced in disregard of the principle of the protection of legitimate expectation, since at the time the scheme was introduced the season was far advanced and since the year before the Commission had not adopted protective measures in spite of a large volume of imports of sour cherries. Even a keen observer of the market could not therefore have expected the introduction of the scheme.

38. The Commission and the Spanish Government on the other hand have stated that the introduction of the minimum price system cannot be viewed as a disregard of the principle of the protection of legitimate expectation since every economically circumspect and prudent undertaking must expect the rules to be adapted to the market situation.

39. In its judgment in Joined Cases C-296 and C-307/93 *France and Ireland* v *Commis-*

sion, previously cited, the Court had occasion to pronounce upon the principle of the protection of legitimate expectation in relation to traders in the agriculture sector. The Court thus declared: [13]

'... whilst the protection of legitimate expectation is one of the fundamental principles of the Community, traders cannot have a legitimate expectation that an existing situation which is capable of being altered by the Community institutions in the exercise of their discretionary powers will be maintained; this is particularly true in an area such as the common organization of markets which involves constant adjustments to meet changes in the economic situation ... Traders cannot therefore claim to have a vested right to maintain an advantage which establishment of a common market organization has given them and which they have at a given time enjoyed ...'.

40. In this case it follows from Article 29 of the basic regulation that appropriate measures may be applied in trade with third countries if by reason of imports or exports the Community market experiences or is threatened with serious disturbances. If such a situation arises the Commission decides upon the necessary measures, which are communicated to the Member States and are immediately applicable. The Commission's task is thus precisely to keep careful watch over the market for sour cherries for example and use its own discretion to adapt organizations of the market to the economic situation. The Commission's powers must in addition be deemed to be known to those operating in the sector in question, so that every economically circumspect and prudent undertaking must constantly expect that the rules will be adapted to the market situation.

41. In those circumstances Lubella's argument that the principle of the protection of legitimate expectation was disregarded when Regulation No 1932/93 was issued cannot in my view be upheld.

Statement of reasons

42. Lubella claims that Regulation No 1932/93 does not contain a sufficient statement of the reasons on which it is based since not all the essential features leading to the decision are disclosed.

43. The Commission and the Spanish Government think, however, that the reasons for the system must be regarded as sufficiently explained as it emerges clearly from the recitals in the preamble to Regulation No 1932/93 in conjunction with the recitals to Regulation No 1931/93 of the same date why it was necessary to adopt the contested protective measures.

13 — At paragraph 59.

44. According to Article 190 of the Treaty Community enactments are to state the reasons on which they are based. In its judgment in Case C-350/88 *Delacre and Others* v *Commission* [14] the Court declared, with regard to the requirements for such a statement that:

'... the Court has consistently held that the statement of grounds required by Article 190 of the EEC Treaty must disclose in a clear and unequivocal fashion the reasoning followed by the Community authority which adopted the measure in question in such a way as to make the persons concerned aware of the reasons for the measure and thus enable them to defend their rights and the Court to exercise its supervisory jurisdiction ...

It is not necessary, however, for details of all relevant factual and legal aspects to be given. The Court has consistently held that the question whether the statement of the grounds for a decision meets the requirements of Article 190 of the Treaty must be assessed not only with regard to its wording but also to its context and to all the legal rules governing the matter in question ... Moreover the degree of precision of the statement of the reasons for a decision must be weighed against practical realities and the time and technical facilities available for making the decision ...'

14 — [1990] ECR I-395.

45. The first recital in the preamble to Regulation No 1932/93 refers to the protective measures regulation containing the conditions for applying protective measures for fruit and vegetables. The second recital in the preamble to Regulation No 1932/93 refers to Regulation No 1931/93 of the same date, according to which reference prices for sour cherries were no longer to be applied in 1993. It is further stated that that might lead to the marketing of Community production being influenced by competition from third countries offering prices substantially lower than the prices at which Community products could be marketed. The third recital introduces a system of minimum import prices and countervailing charges as the most appropriate system for counteracting the disturbance on the Community market.

From the recitals in the preamble to Regulation No 1931/93 it may be seen that the situation of the market in sour cherries was characterized by excess supply so that the application of the reference price might lead to market distortion.

46. I take the view that those recitals in the preamble to Regulations No 1931/93 and 1932/93 constitute a sufficient statement of reasons for the decision to introduce protective measures on the market for sour cherries since they contain sufficient information on the legal basis and the factual circumstances on which the provisions are founded.

The interim agreements

47. Finally Lubella has claimed that the introduction of the minimum price system is inconsistent with Articles 14 and 15 of the interim agreements on trade and trade-related matters between the European Economic Community and the European Coal and Steel Community of the one part and each of the Republic of Poland, the Republic of Hungary and the Czech and Slovak Federal Republic of the other part [15] (hereinafter 'the interim agreements'), since after the introduction of the system consultations were not held with the Contracting States.

48. The Commission has stated that the provisions of the interim agreement with the Republic of Poland, which is the relevant agreement in this case, were complied with.

49. According to Article 14 of the interim agreements the Community is to abolish quantitative restrictions on imports of agricultural products originating in the three countries in question, together, as far as certain agricultural products including sour cherries are concerned, with a reduction of levies within the limit of Community quotas, or reduction in customs duty, and upon the conditions provided in Annexes VIIIa and VIIIb to the agreement.

Article 15 of the agreements provides:

'Notwithstanding other provisions of this Agreement and in particular Article 24, if, given the particular sensitivity of the agricultural markets, imports of products originating in one Party, which are the subject of concessions granted in Article 14, cause serious disturbance to the markets in the other Party, both Parties shall enter into consultations immediately to find an appropriate solution. Pending such solution, the Party concerned may take the measures it deems necessary.'

50. The Commission has stated that on 19 July 1993, that is, the day after the minimum price system took effect, it notified the representative of the Republic of Poland of the protective measure introduced and forwarded the official text of the regulation. On the same day, the representative of the Republic of Poland responded by a verbal note requesting the initiation of consultations regarding the system introduced. The Commission immediately agreed to this request and the consultations led to the adoption of a fresh minimum price for sour cherries.

15 — The agreements were approved by Council Decisions 92/228/EEC, 92/229/EEC and 92/230/EEC of 25 February 1992, OJ 1992 L 114, p. 1, L 115, p. 1, and L 116, p. 1 respectively and came into force at the time of subsequent notification to the Contracting States.

51. It may thus be seen from Article 15 of the interim agreements that in the event of serious disturbance of the market the party concerned may adopt the measures it deems necessary and it may further be seen from the information given that the Commission complied with the obligation to initiate consultations immediately with a view to finding a solution to the problem. In those circumstances my view is that the introduction of the minimum price scheme cannot be regarded as inconsistent with Article 15 of the interim agreement with the Republic of Poland.

52. To sum up, I must accordingly conclude that none of the problems alleged affects, in my view, the validity of Regulation No 1932/93.

53. The first and third questions must accordingly be answered to the effect that consideration of the questions referred to the Court in the light of the order for reference and the information received during the proceedings has disclosed no factor of such a kind as to affect the validity of Regulation No 1932/93.

The second question

54. According to the order for reference this case concerns imports of sour cherries which took place on 19 and 20 July 1993. The national court doubts whether the regulation, which was not rectified until 20 July 1993, applies to such imports.

55. The Commission and the Spanish Government have expressed the view that Regulation No 1932/93 cannot be interpreted solely in the light of the German version and that it therefore applied also to imports which took place on 19 and 20 July 1993. This is not a case of retroactive effect.

56. According to Article 191 of the Treaty Community enactments enter into force on the date specified in them or, in the absence thereof, on the 20th day following their publication in the *Official Journal of the European Communities*. Regulation No 1932/93 was published on 17 July 1993 and took effect on the day specified therein, namely 18 July 1993, the day following publication. The fact that there was an error in the German version involving the mention of sweet cherries instead of sour cherries does not affect the date of entry into force, since, as previously mentioned — in point 23 — it was possible, by means of a simple interpretation in the light of the other language versions and the context and aims of the legislation of which it formed part, to determine the content of the regulation even before the corrigendum of 20 July 1993.

57. It is therefore impossible to claim that retroactive effect was conferred on the

relevant provisions of Community law as a result of the rectification of the incorrect German version since, as previously mentioned, not only could Regulation No 1932/93 in its original version be interpreted on the basis of any one of the various language versions, but it was necessary to interpret it in the light of all the language versions together with the context and the aims pursued by the legislation of which it formed part.

58. The second question must accordingly be answered to the effect that the provisions of Regulation No 1932/93 apply also to imports of sour cherries which took place on 19 and 20 July 1993.

Conclusion

59. I shall accordingly recommend the Court to answer the questions referred to it to the effect that:

(1) Consideration, in the light of the order for reference and the information forthcoming during the proceedings, has disclosed no factor of such a kind as to affect the validity of Commission Regulation (EEC) No 1932/93 of 16 July 1993 establishing protective measures as regards import of sour cherries.

(2) The provisions of the said regulation apply also to imports of sour cherries effected on 19 and 20 July 1993.