THE COURT

in answer to the questions referred to it by the Finanzgericht, Munich, by an order of that court of 12 July 1967 hereby rules:

1. **Neither Article 95 nor Article 30 of the Treaty establishing the European Economic Community prohibits Member States from imposing internal taxation on products imported from other Member States when there are no similar domestic products or other domestic products capable of being protected;**

2. **The second paragraph of Article 95 of the Treaty is capable of producing direct effects and creating individual rights which national courts must protect;**

3. (a) **Similarly between products within the meaning of the first paragraph of Article 95 exists when the products in question are normally to be considered as coming within the same fiscal, customs or statistical classification, as the case may be;**

   (b) **The second paragraph of Article 95 is complementary to the first. It prohibits the imposition of any internal taxation which imposes a higher charge on an imported than on a domestic product which competes with the imported product, although it is not similar to it within the meaning of the first paragraph of Article 95. The prohibition also applies in the absence of direct competition where the internal taxation subjects the imported product to a specific fiscal charge in such a way as to protect certain activities distinct from those used in the manufacture of the imported product;**

and declares:

The decision on costs in these proceedings is a matter for the Finanzgericht, Munich.

Lecourt Donner Strauß

Trabucchi Monaco Mertens de Wilmars Pescatore

Delivered in open court in Luxembourg on 4 April 1968.

A. Van Houtte — Registrar

R. Lecourt — President

OPINION OF MR ADVOCATE-GENERAL GAND

(See Case 28/67, p. 159)