In Case 131/73

Reference to the Court under Article 177 of the EEC Treaty by the Tribunale (Sezione Penale) of Trent, Italy for a preliminary ruling in the criminal proceedings before that Court against

GIULIO AND ADRIANO GROSOLI,

on the interpretation of Article 3 of Regulation No 92/68 of the Council of 23 January 1968 on the Community tariff quota of 22 000 metric tons of frozen beef and veal, coming under Common Customs Tariff No ex 02.01 A II and of Article 2 of Regulation No 110/69 of the Council of 16 January 1969 on the opening, apportionment and method of administration of the Community tariff quota for frozen beef and veal coming under Common Customs Tariff No 02.01 A II (a),

THE COURT

composed of: R. Lecourt, President, M. Sørensen, President of Chamber, P. Pescatore (Rapporteur), R. Monaco, J. Mertens de Wilmars, H. Kutscher and C. Ó Dálaigh, Judges,

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

gives the following

JUDGMENT

Issues of fact and of law

I — Facts and procedure

The facts and procedure may be summarized as follows:

In connexion with the fifth tariff conference held under the auspices of the General Agreement on Tariffs and Trade (GATT), the Community, by the Geneva Protocol of 16 July 1962, contracted the obligation to open annually on imports from third countries a Community tariff quota of 22 000 metric tons of frozen beef and veal bound under GATT at 20 % duty.

The Council took note of this commitment in Article 4 (1) of

Regulation No 16/64 of 5 February 1964 on the progressive establishment of a common organization of the market in beef and veal (OJ p. 562).

By Regulation No 92/68 of 23 January 1968 on the Community tariff quota of 22 000 metric tons of frozen beef and veal coming under Common Customs Tariff No ex 02.01 A II (a) (OJ L 23, p. 2), the Council dealt with the apportionment of this quota between Member States for the year 1968. In the words of Article 3 of the Regulation, 'the quota-parts shall be managed by each Member State in accordance with its own administrative provisions.'

By Regulation No 110/69 of 16 January 1969 on the opening, apportionment and method of administration of the Community tariff quota for frozen beef and veal coming under Common Customs Tariff No ex 02.01 A II (a) 2 (OJ L 18, p. 1), the Council divided the Community tariff quota of 22 000 metric tons bound under GATT at 20 % duty between the Member States for the year 1969. Under Article 2 of the Regulation, 'Member States shall as regards their own quota-part, determine the conditions of eligibility for access to the tariff quota concerned and shall manage their quota in accordance with their own administrative provisions, especially those dealing with tariff quotas.'

The quotas allocated to Italy were 15 000 metric tons for the year 1968, 12 000 for 1969. Their distribution was the subject of circulars from the Ministry of External Trade dated respectively 16 May 1968 and 23 April 1969; these circulars specifically provided that the quaota of beef and veal imports from third countries, bound at 20 % duty and exempt from levy, must be used exclusively for direct consumption.

On the basis of these Ministerial circulars, the Grosoli Company, a limited liability company, with its registered office at Cadoneghe, in the province of Padua, whose joint owners are the brothers Giulio and Adriano Grosoli, was given authority to import, for the year 1968, 1 892 000 kg of frozen beef and veal and, for the year 1969, 2 100 000 kg out of the Community tariff quota allocated to Italy. The company sold the meat to its usual customers and declared the quantities sold and the identity of the purchasers at the provincial Office of Industry, Trade and Crafts.

On 12 November 1970, the Revenue enforcement authorities carried out a check at Trent in order to establish the actual destination of the frozen beef and veal acquired as part of the GATT quota by traders in the province.

This check revealed that, during the years 1968 and 1969, of the deliveries carried out by the Grosoli company, a total of 20 754 kg had, in breach of the Ministry's circulars, been used by 25 purchasers not for direct consumption, but for conversion into smoked or salt meat or into sausages.

In consequence, Messrs Giulio and Adriano Grosoli were brought before the Trent criminal court to answer the following charges:

1. Breach of Article 110 of the Italian Penal Code and Article 102 of Customs Law No 1424 of 25 September 1940 in that, acting in concert, the first-named as responsible partner of the limited liability company, Grosoli and Co., the second-named as manager, they put 20 754 kg of frozen beef and veal to uses other than direct consumption and thereby avoided payment of the agricultural levies, amounting to 5 721 245 lire, applicable to imports from third countries;

2. Breach of Article 110 of the Penal Code, of Article 4 of Law No 570 of 31 July 1954 and of Article 3 of Law No 418 of 20 March 1968 in that, acting in concert and in the aforementioned capacities, they avoided payment of turnover compensation tax amounting to 188 000 lire on the quantity of meat referred to under (1) above.

Sitting on 13 April 1973, the Tribunale of Trent, acting under Article 177 of the EEC Treaty, decided to stay proceedings and to refer the following questions to the Court of Justice:

1. Under Article 3 of Regulation No 92/68 of 23 January 1968 and Article 2 of Regulation No 110/69 of 16 January 1969, taken together, could Member States adopt provisions prescribing a use for the consignments allocated to them?

2. If the answer is in the affirmative, in the event that importers to whom consignments had been allocated failed to comply with the requirement as to use, could Member States impose pecuniary penalties on them based on the amount of the levy?

The application of the Tribunale of Trent (Sezione Penale) was registered at the Court of Justice on 30 April 1973.

In accordance with Article 20 of the Protocol on the Statute of the Court of Justice of the EEC, the Commission of the European Communities and the defendants in the main action submitted their written observations on 31 July 1973; the Government of the Italian Republic did so on 10 August.

After hearing the report of the Judge Rapporteur and the Opinion of the Advocate-General, the Court decided to open the oral procedure without a preparatory inquiry.

The oral observations of the defendants in the main action, the Government of the Italian Republic and the Commission, and their replies to questions put to them by the Court, were made at the hearing on 6 November 1973.

The Advocate-General delivered his Opinion at the hearing on 22 November 1973.

In proceedings before the Court, the defendants in the main action were represented by Piero Castellini, of the Padua Bar, Giovanni Maria Ubertazzi and Fausto Capelli, both of the Milan Bar, the Italian Government by Mr Ambassador Adolfo Maresca, acting as agent, assisted by Giorgio Zagari, Deputy State Advocate-General, and the Commission by its Legal Adviser, Peter Kalbe, acting as agent, assisted by Giuliano Marenco, a member of its Legal Department.

II — Observations presented before the Court

The written and oral observations presented before the Court can be summarized as follows:

A — On the first question

Messrs Giulio and Adriano Grosoli, defendants in the main action, take the view that Regulations No 92/68 and No 110/69 in no way give the Italian Government authority to prescribe the use to which frozen beef and veal imported under the GATT quota must be put.

1. The establishment of a common agricultural policy and, particularly, of a common market organization has, in the sector concerned, resulted in the transfer of all legislative powers from the Member States to the Community; this is why policy options in the economic field are open only to the institutions of the Community. This conclusion is based on Article 40 of the EEC Treaty and the body of secondary agricultural law. It is also reflected in Regulations No 92/68 and No 110/69. These Regulations, which are concerned with allocation of the Community tariff quota of frozen beef and veal, took into account, on one hand, the requirements of each Member State and, on the other, the stocks built up in some of these States; as it happened, they declared in favour of allotting shares. These were decisions of expediency reflecting a choice of economic policy; the use to which the goods were to be put was of the same order. The silence of the Regulations on this point goes to show

that, particularly because of the comparatively small part of the overall import requirements represented by the quota and of the build-up of reserves in certain Member States as a result of intervention measures, the Council intended not to prescribe the use to which frozen meat imported under the GATT quota would be put.

2. Member States cannot, by using the powers of administration conferred on them, affect this intention on the part of the Council: those powers are derived not from the autonomous and residual jurisdiction of the States but from jurisdiction expressly delegated by the Community and which, on this account, is to be strictly interpreted. In the present case, the concept of administration comprehends nothing more than a set of technical rules whose object is to facilitate access to the quota for all potential users and to ensure that the whole of the quota is taken up; the concept in no sense involves power to prescribe a use to which the goods must be put.

3. Study of the preambles to Regulations No 92/68 and 110/69 indicates that the Council was activated by concern not only to meet the requirements of each Member State but also to avoid disturbance of the common market. To have granted Member States power to prescribe the use to which imported meat must be put would have been to disregard this second objective: Member States could have disturbed the common market if they were in a position, by reserving the quota for stock-piling perhaps, to impose conditions on free access to the quota allocated to them.

4. The nature of the quota in itself militates against allowing the States to prescribe a use for the goods. As the product concerned is imported under GATT conditions, it must, in fiscal terms, be subject to the same treatment as the domestic product; to lay down a compulsory use for it would be the same as subjecting it, albeit indirectly, to special treatment. As the EEC is itself bound by the GATT agreements, it cannot force or empower Member States to prescribe a use for frozen beef and veal which forms part of the GATT quota.

5. From the answer it gave on 26 May 1971 to written Parliamentary Question No 15/71 (OJ C 59, p. 6), is clear that the Commission interprets Article 2 (2) of Regulation No 2557/70 of the Council of 15 December 1970 on the opening, apportionment and method of administration of the Community tariff quota for frozen beef and veal coming under CCT No ex 02.01 A II (a) (OJ L 275, p. 9) as requiring the Member States to guarantee freedom of access to the share of the quota assigned to them for anyone (established in their territory) who presents or has presented for Customs clearance frozen beef or veal intended for consumption on their territory. The same interpretation must be placed on Regulation No 92/68 and Regulation No 110/69. It is clearly confirmed by Article 3 of Regulation No 186/73 of the Council of 23 January 1973 on the opening, apportionment and method of administration of a Community tariff quota for frozen beef and veal falling within subheading 02.01 A II (a) 2 of the Common Customs Tariff (1973), (OJ L 25, p. 21), which provides that 'the Member States shall take all appropriate steps to guarantee to importers established in their countries free access to the quota-part allotted to them.'

6. The outcome of these considerations is that the Community could not and did not intend to impose any condition on access to quotas of frozen meat assigned to Member States. Article 3 of Regulation No 92/68 and Article 2 of Regulation No 110/69 must, therefore, be interpreted to mean that the Community has granted the Member States power to allocate their share of the frozen beef and veal quota under

GATT among persons who have made appropriate application, to the exclusion of any possibility whatever that this power includes authority to prescribe the use to which the meat must be put. The answer to the first question is therefore in the negative.

The *Government of the Italian Republic* argues that, under Article 3 of Regulation No 92/68, the quotas (allocated to each Member State) shall be managed by each Member State in accordance with its own administrative provisions and that Article 2 of Regulation No 110/69 provides that the Member States shall, as regards their own quota, dertermine the conditions of eligibility to take advantage of it and shall manage their quota in accordance with their own administrative provisions, especially those dealing with tariff quotas. These provisions, which are in substance identical, endow Member States with power not only to manage their quota but also to determine on what conditions advantage can be taken of it. The power to determine these conditions implies the right of Member States to prescribe the final use to which the product must be put; in fact, this use is one of the conditions of eligibility to take advantage of the quota. The institutions of the Community were fully conscious of what they were doing when, as a decision of economic policy, they conferred a power of management in this sense on the Member States; they were perfectly well aware of the way in which each nation managed its quota.

In deciding on the use to which the product in question should be put, the Italian Republic took the economic and social situation of the country into account, at the same time complying both with the principle of the common organization of the market and with the international obligations of the Community. In this connection, it must be borne in mind that the quota allocated to Italy was, for the year 1968, 15 000 metric tons, of which 3 000 were earmarked for the processing industry and 12 000 for direct consumption; for the year 1969, Italy's quota was fixed by the Council at exactly 12 000 metric tons i.e. at the amount to be used for consumption, while, again by decision of the Council, Regulation No 805/68 of 27 June 1968 on the common organization of the market in beef and veal (OJ L 148, p. 24) introduced a special arrangement for frozen meat intended for processing which consisted of partial or total suspension of the levy.

Incidentally, reservation of frozen meat for consumption had no effect on the price of fresh meat, as frozen meat imports represented only 1 % of fresh meat consumption.

Thus, control over the use to which Italy's quota of frozen beef and veal is put is wholly lawful and consistent with provisions of the Regulations: the answer to the first question must therefore be in the affirmative.

The *Commission of the European Communities* recalls that the Community tariff quotas represent exceptions from the Common Customs Tariff duties: they are the subject of special Customs arrangements provided for under the Common Customs Tariff. In the present case, the binding under GATT at 20 % duty means, in practice, that meat imported under the quota is exempt from the levy imposed by the common organization of the market in the beef and veal sector.

1. In these circumstances, the Member States have no power to add a condition concerning the use to which the goods may be put. The effect of decisions of this Court, particularly the judgment of 18 February 1970 in Case 40/69 *(Hauptzollamt Hamburg-Oberelbe v Firma Paul G. Bollman,* reference for a preliminary ruling from the Bundesfinanzhof, Rec. 1970, p. 80) is that, in the absence of provision to the contrary, the Member States may not, in order to ensure implementation of Community law, adopt measures designed to modify their effect; still less may they be

recognized as having the power to do so for purposes of their own which are foreign to those being pursued by Community law.

2. The Regulations of the Council to which the question of interpretation refers contains no provision opposed to this principle.

By providing that the quotas shall be managed by each Member State in accordance with its own administrative provisions, Article 3 of Regulation No 92/68 does no more than recognize the obvious necessity to provide for the 'management' of a quota or of a share of the quota; it is, of course, important to allow for administrative action which, given the multiplicity of Customs posts, enables imports to be subjected to centralized accounting so as to ensure that the quota is not exceeded. The 'management' of a quota refers to this centralized accounting and does not include the possibility of prescribing a use for the goods imported.

Article 2 of Regulation No 110/69 provides not only that each Member State shall manage its quota in accordance with its own administrative provisions but also that it shall determine the conditions of eligibility to take advantage of the tariff quota concerned. In fact, determination of the conditions of eligibility is merely the preliminary requirement for management: whether the Member State concerned has opted for the principle of 'first come, first served,' or that of 'prior allotment,' 'management' of the quota assumes that the conditions of eligibility to take a share have been determined in advance. Thus, the more detailed provision in Article 2 of Regulation No 110/69 merely amplifies Article 3 of Regulation No 92/68; and, as is borne out by a comparison of the preambles of the two Regulations, it contains nothing new. The different form of words merely reflects development of the Community's legislative technique in the handling of tariff quotas, which, without any change of scope in the powers conferred on Member States, is particularly well illustrated in Regulation No 2557/70 of the Council of 15 December 1970 (OJ L 275, p. 9), Regulation No 2731/71 of 20 December 1971 (OJ L 282, p. 19) and Regulation No 186/73 of 23 January 1973 (OJ L 25, p. 21), on the opening, apportionment and method of administration of a Community tariff quota for frozen beef and veal falling within subheading 02.01 A II (a) 2 of the Common Customs Tariff for the years 1971, 1972 and 1973 respectively. The upshot of these Regulations is that the Member States are under an obligation to do two things: to ensure that the Regulations are implemented, and to treat all importers alike, without subjecting them to conditions.

3. Further evidence that 'management' does not confer authority to prescribe the use for the product covered by the quota is contained in Article 5 of the Council Decision of 13 October 1964 on the additional tariff quota of frozen beef and veal referred to in Article 4 of Regulation 14/64 (OJ p. 2584). Article 1 of this decision makes eligibility for the additional quota expressly conditional on its use for processing; although, clearly, the Member States have therefore no power to use the goods for a different purpose, Article 5 of the decision is, in essence, the same as Article 3 of Regulation No 92/68 since it provides that 'the quotas shall be managed by each Member State in accordance with its own administrative provisions'.

4. The reference to the administrative provisions of the Member States in Article 3 of Regulation No 92/68 and Article 2 of Regulation No 110/69 cannot be interpreted to mean that the extent of the powers conferred on the Member States varies according to the law of each nation concerned. It follows from the Judgment of the Court of 11 February 1971 in Case 39/70 *(Norddeutsches Vieh- und Fleischkontor GmbH v Hauptzollamt Hamburg-*

St. Annen, reference for a preliminary ruling made by the Finanzgericht Hamburg, Rec. 1971, p. 58) that the uniform application of Community provisions allows no recourse to national rules except to the extent necessary to carry out the Regulations. An express reference to internal provisions must therefore be regarded as purely declaratory; it cannot affect the necessarily uniform interpretation of Community law.

5. An interpretation which widens the powers of the Member States in relation to the handling of Community quotas would be incompatible with the principle of non-discrimination between Comunity operators, particularly between operators of different Member States. This principle, embodied in Article 3 and the second paragraph of Article 40 (3) of the Treaty, assumes special importance in the context of Community quotas: in this field, the fact that the quota is limited gives special emphasis to the need for it to be allocated on a uniform basis throughout the Community, and every effort must be made to avoid increasing, as a result of wider interpretations, the danger, inherent in a system of national control over Community quotas, of discrimination between operators of different Member States.

6. The rules of the common organization of the market in beef and veal, as laid down in Regulation No 14/64 and later, with effect from 29 July 1968, in Regulation No 805/68, provide the essential guidelines for interpretation of the provisions involved in the present case.

The Community tariff quota of frozen beef and veal was opened, on the basis of Article 111 of the Treaty, as an act of Commercial policy; it represents an exception to the common import arrangements set up under the common market organization for beef and veal coming from third countries. The exception cannot go beyond what is needed to discharge the Community's international obligations. To do so would have required action under Article 43 of the Treaty, which requires, among other things, consultation with the European Parliament.

The common organizations of agricultural markets are based on the principle that, apart from the exceptions expressly provided for, no State intervention may interfere with the free establishment of the price on the market. To lay down that frozen meat imported under the Community quota must be used only for direct consumption would, contrary to this principle, have the effect, if not the object, of influencing the market prices of meat for consumption, thus endangering the basic purpose of the market organization, which is so to arrange things that the market price is as close as possible to the guide price in order to ensure a fair return for the producers of the Community. As such a departure from the intervention system, or creation of conditions which make it possible, requires action under Article 43 of the Treaty, there can be no question of wider interpretation of the provisions submitted for consideration by the Court.

7. The opening of an annual Community quota of 22 000 metric tons of frozen beef and veal at 20 % duty represents an obligation for which the Community contracted under GATT. Adoption by the Community or by a Member State of provisions prescribing the use to which it must be put would not in itself constitute a failure to fulfil obligations under GATT; on the other hand, it would be a breach of those obligations if the annual quota could not be fully taken up because a compulsory use had been imposed.

8. Under the common market organization in beef and veal, the Community itself had to resolve the problem of frozen meat intended for processing, but the Community did not feel able to make use of the GATT

quota. Article 4 of Regulation No 14/64, referring to the possibility of fixing a frozen meat quota, specified that this was additional to the GATT quota; under the more detailed organization of the market set out in Regulation No 805/68, special arrangements laid down in Article 14 for frozen meat intended for processing exist side by side with the annual opening of the GATT quota under Article 16 of the Regulation. The Community did not feel that it ought to prescribe a specific use for meat imported under the GATT quota; nor, therefore, could it, in the same breath, leave the Member States free to do so.

9. Furthermore, to earmark the GATT quota for direct consumption could have had a despressing effect on fresh meat prices. The Community rules constitute a self-contained system whose integrity must be a basic consideration in any interpretation: this integrity would disappear if the Member States were recognized as having authority to pursue an objective diametrically opposed to that of the common market organization.

10. Finally, as we are concerned with an agricultural product subject to a common market organization, it must be accepted that the Member States have no power whatever to make eligibility for a share of the GATT quota conditional on its being used for a particular purpose.

B — On the second question

Messrs Giulio and Adriano Grosoli point out that they are charged with having contravened Article 102 of the Customs Law No 1424 and that, for having used goods brought through customs on special terms for a purpose other than that for which those terms were granted, they are liable to a fine of up to ten times the amount of the Customs duty (in this case, levies) unpaid. Such a sentence would have the effect of cancelling out the profit from having imported frozen beef and veal free of levy; under Article 4 (3) of Regulation No 14/64, no levy can be imposed on imports if effected under the quota of 22 000 metric tons bound under GATT at 20 % duty, and imports exempt from levy are indeed the subject of Regulation No 92/68 and Regulation 110/69. The Member States are entitled to determine the conditions of eligibility for access to a share of the tariff quota; on the other hand, they are prohibited from introducing, in whatever guise, a levy precluded by Community law.

The *Government of the Italian Republic* takes the view that, since the Member States have power to make access to the tariff quota subject to certain conditions, among them a direction as to its use, to introduce penalties for importers who do not comply with these conditions is wholly consistent with Community Regulations. Nor can there be criticism of the fact that, in this case, the pecuniary penalties are based on the levies which have remained unpaid. Moreover, the advantage of the tariff quota lies in exemption from the levy and it is therefore logical that the penalty for defaulting on a condition of egilibility to enjoy this advantage should be determined in accordance with the long-established rules governing breach of Customs laws. The second question must therefore also be answered in the affirmative.

On the assumption that the first question is answered in the affirmative, the *Commission* believes the second question to be pointless.

Grounds of judgment

1 By order of 13 April 1973, received at the Registry on 30 April 1973, the Tribunale Penale of Trent referred to the Court, under Article 177 of the EEC Treaty, two questions of interpretation concerning Regulation No

92/68 of the Council of 23 January 1968 on the Community tariff quota of 22000 metric tons of frozen beef and veal, bound at 20% under the General Agreement on Tariffs and Trade (GATT) (OJ L 23, p. 2) and Regulation No 110/69 of the Council of 16 January 1969 on the same subject (OJ L 18, p. 1).

2 In Regulation No 92/68, the Council carried out the apportionment of the quota between the Member States for the year 1968, allocating a quota share of 15000 metric tons to Italy.

Under the terms of Article 3 of the Regulation, each Member State was to manage its own share of the quota 'in accordance with its own administrative provisions'.

In Regulation No 110/69 the Council divided the quota between the Member States for the year 1969, allocating a share of 12000 metric tons to Italy.

Article 2 of this Regulation provided that 'the Member States shall, as regards their own share of the quota, determine the conditions of eligibility for access to the tariff quota concerned and shall manage their quota in accordance with their own administrative provisions, especially those dealing with tariff quotas'.

3 The first question asks whether, under the provisions of Article 3 of Regulation No 92/68 and Article 2 of Regulation No 110/69, taken together, the Member States can, in regard to the consignments allotted to them in the share-out of the two quotas, adopt provisions designed to control their use.

The file shows that, in administrative circulars, the Italian authorities reserved their share of the quotas for direct consumption to the exclusion of other uses and demanded an undertaking from consignees that they would comply with this prescription.

Having obtained a share of the quota distributed under these conditions, the defendants in the main action are the subject of criminal charges because they did not comply with the use thus indicated in that they delivered a certain quantity of frozen meat to the processing industry.

4 The quota involved was negotiated by the Community on the basis of the powers conferred on it by the Treaty in matters of tariff and commercial policy.

In the preamble of the two Regulations on apportionment of the quota, it was expressly described as a 'Community' quota.

Accordingly the quota-parts allocated to the Member States are of the same character.

Under Article 3 of Regulation No 92/68, the Member States are entrusted with management of their quota-part so that they may share it out in accordance with their own administrative provisions.

The wording of this Article was repeated in Article 2 of Regulation No 110/69 but it is amplified to the extent that the Member States shall determine 'the conditions of eligibility' to take advantage of the quota.

5 As certain conditions need to be laid down in regard to allocation, as an integral part of the methods by which quotas are managed, the variation in wording cannot be read as an intention substantially to modify the rules applicable in 1968 for management of the 1969 quota.

Moreover, it is clear from the preamble of Regulation No 110/69 that the Council had no desire to make the system of management any different from that laid down in the Regulation applicable to the quota for 1968.

The question of interpretation referred to the Court is, accordingly, concerned with the scope of the management powers delegated to the Member States in the present case, and, in the context of these powers, what conditions are consistent with the relevant provisions adopted by the Council regarding the quotas concerned.

6 Under the Community system of tariff quotas, the institutions of the Community — Council and Commission — have power to determine the economic use to which these quotas are to be put and, consequently, to decide the way in which they are to be administered.

The conditions relating to use are determined both by the international commitments undertaken by the Community and by the general or localized

objectives of economic policy sought by the institutions in exercising their powers.

As the present case involves an agricultural product, these conditions must be determined more specifically bearing in mind the common organization of the sector of the agricultural market concerned.

7 Against this background only the Institutions have the right to prescribe a use for the quota.

In so doing they can keep the quota open to all who wish to make use of it, themselves prescribe the use to which it is to be put, or, again, give the Member States a free hand to use it in accordance with their own interests.

The authority enjoyed by the Member States under this third possibility would require a declaration of intent on the part of the Community Institutions, and the failure to prescribe a use for a quota must therefore be interpreted as freedom for all concerned to have access to it.

8 Any provision by a Member States allocating a Community quota on conditions it had decided for itself would run the risk of compromising the objectives of the Community's economic policy as well as equality of treatment for all within its jurisdiction.

In these circumstances, the provisions of Regulation No 92/68 and of Regulation No 110/69 on the delegation to Member States of the way in which quotas should be administered must be taken to mean that, in the absence of any direction by the Council on the use to be made of them, reference in these Regulations to the 'administrative' provisions of the Member States cannot be interpreted as extending beyond the technical and procedural rules designed to ensure compliance with the general terms of the quota and the principle of equal treatment for those entitled to take advantage of it.

9 As soon, however, as a Member State introduces conditions regarding use in pursuit of objectives of economic policy which are not the subject of provisions adopted by the Community, these administrative powers are exceeded.

From the foregoing it follows that, in entrusting the Member States with the management of shares of a Community tariff quota, Article 3 of Regulation

No 92/68 and Article 2 of Regulation No 110/69 did not empower Member States to adopt provisions designed to govern the use to which their allotted share is put.

10 As the second questions was conditional on the first being answered in the affirmative, there is no need to answer it.

Costs

11 The costs incurred by the Government of the Italian Republic and the Commission of the European Communities, which have submitted observations to the Court, are not recoverable and, as these proceedings are a step in criminal proceedings before the Tribunale Penale of Trent, the decision on costs is a matter for that Court.

On those grounds,

Upon reading the pleadings;
Upon hearing the report of the Judge-Rapporteur;
Upon hearing the oral observations of the defendants in the main action, the Government of the Italian Republic and the Commission of the European Communities;
Upon hearing the opinion of the Advocate-General;
Having regard to the Treaty establishing the European Economic Community, especially Article 177;
Having regard to Regulation No 92/68 of 23 January 1968 on the Community tariff quota of 22 000 metric tons of frozen beef and veal, coming under Common Customs Tariff No ex 02.01 A II and Regulation No 110/69 of the Council of 16 January 1969 on the opening, apportionment and method of administration of a Community tariff quota for frozen beef and veal falling within subheading 02.01 A II (a) 2 of the Common Customs Tariff;
Having regard to the Protocol on the Statute of the Court of Justice of the European Economic Community, especially Article 20;
Having regard to the Rules of Procedure of the Court of Justice of the European Communities;

THE COURT

in answer to the questions referred to it by the Tribunale of Trent by order of that court dated 13 April 1973, hereby rules:

Article 3 of Regulation No 92/68 and Article 2 of Regulation No 110/69 on the Community tariff quota of 22000 metric tons of frozen beef and veal, bound at 20% duty under GATT, must be interpreted to mean that, in entrusting the Member States with the management of shares of a Community tariff quota, they do not empower them to adopt provisions designed to govern the use to which their allotted share is put.

Lecourt	Sørensen		Monaco
Mertens de Wilmars	Pescatore	Kutscher	Ó Dálaigh

Delivered in open court in Luxembourg on 12 December 1973.

A. Van Houtte	R. Lecourt
Registrar	President

OPINION OF MR ADVOCATE-GENERAL MAYRAS DELIVERED ON 22 NOVEMBER 1973 [1]

Mr President,

Members of the Court,

As the Council declared in its preamble to Regulation No 14/64 of 5 February 1964 on the progressive establishment of a common organization of the market in beef and veal, the difficulties of supply within the Community in respect of meat intended for processing 'can be eliminated by means of tariff quotas on imports of frozen meat from third countries'.

The technique of tariff quotas is frequently used in the common market. Its purpose is to allow a given quantity of goods (quota volume) to be imported for a given period of time at a lower than normal rate of duty (quota tariff).

This technique consists of a tariff scale fixed for a period of time and for a limited quantity.

1 — Translated from the French.