4. The concept of a 'charge having equivalent effect', as employed in Article 14 (1) and 18 (1) of Regulation No 20 which prohibit the levying of such charges on imports of pigmeat from Member States and third countries, is equivalent to the same expression employed in Article 9 *et seq.* of the Treaty and in other regulations on the organization of agricultural markets.

5. The provisions of Articles 14 (1) and 18 (1) of Regulation No 20 came into effect on 30 July 1962 as regards live swine and pig carcasses, and on 2 September 1963 as regards the other products referred to in that regulation.

The provisions of Articles 17 (2) and 19 (1) of Regulation No 121/67/EEC came into effect on 1 July 1967.

In Case 43/71

Reference to the Court under Article 177 of the EEC Treaty by the President of the Tribunale di Torino for a preliminary ruling in the action pending before that court between

POLITI S.A.S., Robecco sul Naviglio,

and

MINISTRY FOR FINANCE OF THE ITALIAN REPUBLIC,

on the interpretation, in particular:

— of the first indent of Article 14 (1) and Article 18 (1) of Regulation No 20 of the Council of 4 April 1962 on the gradual establishment of the common organization of the market in pigmeat (OJ of 20.4.1962, p. 945 *et seq.*);

— of the first indent of Article 17 (2) and the first indent of Article 19 (1) of Regulation No 121/67/EEC of the Council of 13 June 1967 on the common organization of the market in pigmeat (OJ of 19.6.1967, p. 2283 *et seq.*),

THE COURT

composed of: R. Lecourt, President, J. Mertens de Wilmars and H. Kutscher (Rapporteur), Presidents of Chambers, A. M. Donner, A. Trabucchi, R. Monaco and P. Pescatore, Judges

Advocate-General: A. Dutheillet de Lamothe
Registrar: A. Van Houtte

gives the following

JUDGMENT

Issues of fact and of law

I — Provisions applicable during the periods in question

The provisions applicable during the period in question were the following:

1. *Regulation No 20* which, according to Article 1 (1) was applicable to the following products:

Common Customs Tariff heading No	Description of goods
01.03 A II	Live swine, of domestic species, other than pure-bred breeding animals, of whatever age
02.01 A IIII a	Meat of domestic swine
ex 02.0- B III	Offals of domestic swine
ex 02.05	Unrendered pig fat free of lean meat, fresh, chilled, frozen, salted, in brine, dried or smoked
02.06 B	Meat and edible meat offals of swine, salted, in brine, dried or smoked
15.01 A III	Lard and other rendered pig fat, apart from that intended for industrial uses other than the manufacture of food-stuffs
ex 16.01	Sausages and the like, of meat, meat offal or animal blood, containing meat or offals of swine
ex 16.02 A II	Other prepared or preserved meat or meat offal, containing liver of swine
ex 16.02 B II	Other prepared or preserved meat or meat offal, not specified, containing meat or offals of swine

Article 14 (1) of that regulation prohibits 'the charging of any customs duty or charge having equivalent effect' on imports from Member States, as being 'incompatible with the intra-Community levy system'. Similarly, Article 18 (1) of the regulation provides that 'The application of the levy system to imports from third countries shall entail the abolition of all customs duties or charges having equivalent effect, on imports from third countries'.

2. *Regulation No 121/67/EEC* of the Council has replaced Regulation No 20. It lays down a prohibition in Article 19 (1) (as regards the internal trade of the Community) and in Article 17 (2) (as regards trade with third countries), on the 'levying of any customs duty or charge having equivalent effect'. Under Article 32, 'The system established by this regulation shall apply from 1 July 1967 . . .'; by virtue of the same article, 'Regulation No 20 and the provisions adopted in implementation thereof shall be repealed with effect from 1 July 1967'.

II — Facts and procedure

The facts and procedure may be summarized as follows:

1. The Politi undertaking imported:

— chilled pigmeat from Sweden on 8 July 1966;

— frozen pigmeat and ham from Belgium on 11 August 1966;

— fresh and chilled meat and edible offals of domestic swine from France on 16 September 1969;

— chilled pigmeat from Ireland on 29 October 1969.

For each of these importations it was required to pay:

— a duty for administrative services amounting to 0.5% of the value of

the products imported (this being a duty introduced by Italian Law No 330 of 15 June 1950);

— a statistical levy at the rate of Lit. 10 per quintal of the imported produces (cf. in particular, Article 42 of both the Decrees of the President of the Italian Republic Nos 1339 of 21 December 1961 and 723 of 26 June 1965)

The Politi undertaking considered that these charges should not have been imposed and brought interlocutory proceedings before the President of the Tribunale di Torino against the Ministry for Finance of the Italian Republic for the purpose of obtaining a refund of the sums paid. The undertaking maintains that the provisions of national law in question were not applicable to imports of pigmeat into Italy because they were incompatible with Regulations Nos 20 and 121/67.

2. By order of 17 July 1971, the President of the Tribunale di Torino decided to refer the following questions to the Court:

'1. Do the duty for administrative services and the statistical levy, which were introduced by Law No 330 of 15 June 1950 and the Decrees of the President of the Republic Nos 723 of 26 June 1965 and 1339 of 21 December 1961 respectively constitute charges having an effect equivalent to customs duties within the meaning of Regulation No 20?

2. (a) Are the provisions of the first indent to Article 14 (1) of Regulation No 20 directly applicable within the Italian domestic legal system?

(b) If so, do they create individual rights which national courts must protect?

(c) In particular, did these rights come into existence on 21 April 1962, the date on which Regulation No 20 came into force, or on 1 July 1962, 'the date of the introduction of the levy system', according to Article 23 of that regulation, or on the dates of the entry into force of the various Council regulations which fixed for the first time the amount of the Community levies; that it, on 1 July 1962 for the products listed in Article 1 (1) (a) of Regulation No 20, pursuant to Regulation No 51; on 30 July 1962 for the products listed in Article 1 (1) (b) of Regulation No 20 and referred to in Regulation No 50; on 2 September 1963 for the products listed in Article 1 (1) (b) of Regulation No 20 and referred to in Regulation No 87/63; on 2 September 1963 for the products listed in Article 1 (1) (c) of Regulation No 20, pursuant to Regulation No 89/63?

3. (a) Are the provisions of Article 18 (1) of Regulation No 20 directly applicable within the Italian legal system?

(b) If so, do they create individual rights which national courts must protect?

(c) In particular, did these rights come into existence on 21 April 1962, the date on which Regulation No 20 came into force, or on 1 July 1962, 'the date of the introduction of the levy system', according to Article 23 of that regulation, or on the dates of the entry into force of the various Council regulations which fixed for the first time the amount of the levies applicable to imports from third countries; that is, on 1 January 1963 for live swine and carcasses, pursuant to Regulation No 155; on 2 September 1963 for the products listed in Article 1 (1) (b) other than pig carcasses, pursuant to Regulation No 86/63 and on 2 September 1963 for the products listed in Article 1 (1) (c) of Regulation No 20 pursuant to Regulation No 88/63?

4. (a) Are the provisions of the first indent to Article 19 (1) of Regulation No 121/67 directly applicable within the Italian legal system?
   (b) If so, do they create individual rights which national courts must protect?
   (c) In particular, did these rights come into existence on 1 July 1967 by virtue of the combined provisions of Articles 19 and 32 of Regulation No 121/67?
5. (a) Are the provisions of the first indent to Article 17 (2) of Regulation No 121/67 directly applicable within the Italian legal system?
   (b) If so, do they create individual rights which national courts must protect?
   (c) In particular, did these rights come into existence on 1 July 1967, either by virtue of Article 32 of Regulation No 121/67 or, at all events, because that date marked the entry into force of Regulation No 205/67 which, pursuant to Regulation No 121/67, fixed for the first time the amount of the levies applicable to imports from third countries.
6. Have the individual rights, which correspond to the obligation on the Member States not to impose customs duties or charges having equivalent effect on imports of products covered by the common organization of the market in pigmeat been in continuous existence as from the dates applicable in accordance with Questions (2) and (3)?'

It appears from the order making the reference that before the national court the Politi undertaking put forward the following principal considerations:

The case-law of the Court shows that the charges in dispute constitute charges having an effect equivalent to customs duties, within the meaning of Articles 9, 12, 13 and 16 of the Treaty. As regards the pigmeat sector, Regulations Nos 20 and 121/67 prohibit the levying of any such charges on imports from both Member States and third countries. The applicant undertaking refers to the judgments of the Court of 4 April 1968 (*Kunstmühle Tivoli* v *Hauptzollamt Würzburg*, Case 20/67, [1968] ECR 199), 1 July 1969 (*Commission* v *Italian Republic*, Case 24/68, [1969] ECR 193 *et seq.*), 18 November 1970 (same parties, Case 8/70, p. 961 *et seq.*) and 17 December 1970 (S.p.A. *SACE* v *Ministry for Finance of the Italian Republic*, Case 33/70, Rec. 1970, p. 1214 *et seq.*).

The undertaking states that, in accordance with Article 189 of the Treaty and the established case-law of both the Court of Justice and the Italian courts, the provisions of the regulations referred to above confer rights on importers in relation to the Member State concerned.

3. The order making the reference was received at the Court Registry on 23 July 1971. In accordance with Article 20 of the Protocol on the Statute of the Court of Justice of the EEC, Politi and the Commission of the European Communities submitted written observations.

Upon hearing the report of the Judge-Rapporteur and the views of the Advocate-General, the Court decided that it was unnecessary to hold any preparatory inquiry.

At the hearing on 17 November 1971 Politi, the Government of the Italian Republic and the Commission submitted their oral observations.

The Advocate-General delivered his reasoned opinion at the hearing on 30 November 1971.

Politi was represented by Professor Mario Ubertazzi and Fausto Capelli, of the Milan Bar, the Italian Government by Adolfo Maresca, Minister Plenipotentiary, and Giorgio Zagari, Deputy State Advocate-General and the Commission by its Legal Adviser, Cesare Maestripieri.

III — Summary of the observations submitted under Article 20 of the Protocol on the Statute of the Court of Justice of the EEC

These observations may be summarized as follows:

1. The admissibility of the reference

Politi maintains that there can be no doubt as to the admissibility of the reference. Article 177 does not make the reference of a case to the Court conditional upon the holding of a discussion between the parties before the national court. That court can therefore request a preliminary ruling without having previously heard the opposite party and during summary proceedings, such as the 'interlocutory' procedure provided for by Article 633 *et seq.* of the Italian Code of Civil Procedure.

The *Italian Government* considers that, for the following two reasons in particular, the file must be returned to the national court without any reply being given to the questions referred:

First, Politi simply requested the President of the Tribunale di Torino to make an interim order, that is, to take a decision in summary proceedings solely on the basis of the applicant's allegations and without the holding of any preliminary discussion between the parties. In this case, under Article 643 of the Italian Code of Civil Procedure, the case is not pending at law until the moment when the decision *(decreto)* of the court to grant the request for an interim order is notified to the opposite party. Moreover, this decision becomes void once the opposite party has exercised his right to oppose it. All these factors show that the conditions for the application of the second paragraph of Article 177 of the Treaty are not satisfied in this instance.

Secondly, on the day when the order making the reference was issued, the Italian Republic published Law No 447 which repealed the earlier provisions governing the statistical levy and the duty for administrative services. This completely changed the legal context of the present case, so that the national court should be given the opportunity to reconsider the problems to be resolved and decide whether it is necessary to press for an answer to the questions referred to the Court.

The *Commission* considers that whatever the effect of the new Italian Law on the pertinence of the questions referred, the Court of Justice must give a ruling on them and the national court must decide on the manner in which that ruling should be applied. As regards the arguments adduced by the Italian Government regarding the nature of the proceedings in the main action, it is sufficient to note that the matter was brought before the Court of Justice by a court or tribunal within the meaning of Article 177.

2. The substance

Politi again puts forward the claims which it made in the order making the reference. It adds, in particular, that the regulations referred to by the national court satisfy all the conditions required by the Court to enable a provision of Community law to confer rights on those within its sphere of application. Those regulations are drafted clearly and precisely, are not subject to any condition or dependent upon the subsequent intervention of the Member States or the institutions of the Community and are not covered by the discretionary power of the Member States.

As regards the dates on which the individual rights in question came into existence, close examination of the rules concerning the agricultural sector in question shows them to be:

— 30 July 1962 for the products listed in Article 1 (1) (a) of Regulation No 20 and for pig carcasses: cf. Regulations Nos 50, 51, 52 and 53 of the Council (OJ of 1.7.1962, p. 1573 *et seq.*);

— 2 September 1963 for the (other) products listed in Article 1 (1) (b) and (c) of Regulation No 20: cf. Regulations Nos 86/63/EEC, 87/63/EEC, 88/63/EEC and 89/63/EEC of the Council (OJ of 9.8.1963, p. 2182 *et seq.*).

The prohibition of the application of charges having an effect equivalent to customs duties was finally confirmed with the entry into force of Regulation No 121/67 (1 July 1967): cf. Regulation No 205/67/EEC of the Commission (OJ of 30.6.1967, p. 2843), which fixed the amount of the levies as from 1 July 1967.

As regards Law No 477 referred to by the Italian Government, this abolished the administrative duty and statistical levy only with effect from 1 July 1968 and the date of its entry into force (2 August 1971) respectively. This delay represents an attempt by the national legislature to make important modifications to the scope of the Community provisions whose interpretation is requested. As the law was enacted after the abovementioned provisions, the Italian court might be led to think that it repealed them, since certain judgments of the Italian Constitutional Court have solved the problem of the relationship between Community law and national law by reference to the criterion of the chronological order in which laws are enacted. In the circumstances, it is advisable for the Court to reaffirm the pre-eminence of Community law, even over subsequent national provisions.

The *Italian Government* merely points out that, in its opinion, it is not possible to define the concept of a 'charge having equivalent effect' in the same way at every stage of the gradual establishment of the agricultural market in question, since it is necessary on each occasion to take account of the historical context in which a particular provision referring to this concept was adopted.

The *Commission* first recalls the development of the common organization of the market in pigmeat. It then sets out its attitude to the questions referred by the national court.

The first question

In spite of the tenor of this question, which is concerned rather with the application of the Treaty to the present case, it must be regarded as requesting the Court to lay down in a general manner the criteria for distinguishing a charge having an effect equivalent to a customs duty. These criteria are clear from previous decisions of the Court. In addition to the judgments already cited by the Italian court, the Commission refers to the judgment of 1 July 1969 (*Sociaal Fonds voor de Diamantarbeiders* v *SA Ch. Brachfeld & Sons and Chougol Diamond Co.*, Joined Cases 2 and 3/69, [1969] ECR 211 *et seq.*).

Questions 2 (a) and (b), 3 (a) and (b), 4 (a) and (b), 5 (a) and (b)

The arguments put forward by the Commission are in the main the same as those put forward by Politi.

Questions 2 (c) and 3 (c)

The *dies a quo* could not be the date of the entry into force of Regulation No 20, since Article 23 of that regulation distinguishes this date from that of the implementation of the levy system. This distinction was necessary in order to allow the institutions to draw up, in the intervening period, the implementing regulations relating to that system.

Although the questions under consideration indicate three possible solutions it must be observed that there are, in fact, only two: the 'date of the introduction of the levy system' had necessarily to coincide, and did in fact coincide, with that of the entry into force of the various regulations 'which fixed for the first time the amount of the Community levies'. These dates were as follows:

— 30 July 1962 for the products referred to in Article 1 (1) (a) of Regulation No 20, that is, live swine, and

for the pig carcasses referred to in Article 1 (1) (b) (cf. Regulations Nos 50 to 53);

— 2 September 1963 for the other products listed in the abovementioned subparagraph (b), as well as for the prepared or preserved meats referred to in Article 1 (1) (c) (cf. Regulations Nos 86 to 89/63).

Thus, as from these dates the States were no longer entitled to levy charges having an effect equivalent to customs duties on the products in question. This conclusion is prompted by:

— the wording of Articles 14 (1) and 18 (1) of Regulation No 20, which emphasize that the removal of obstacles to intra-Community trade with third countries and the establishment of a system of levies were to take place at the same time. This simultaneous effect is also referred to in Article 14 (2) and (3);

— the third, fourth and fifth and the ninth, tenth and eleventh recitals of Regulation No 20, which make it clear that the protective measures applied until then by the States were to be replaced by a uniform system of levies;

— the fact that, as the Council realized that the levies could not be applied to every category of pigmeat at the date originally set (30 July 1962: cf. Regulation No 49 of the Council, OJ of 1.7.1962, p. 1571), it finally fixed the date at 2 September 1963 in respect of certain products (cf. Regulation No 54/63/EEC of the Council, OJ 27.6.1963, p. 1785).

Questions 4 (c), 5 (c) and 6

As regards imports effected under the system established by Regulation No 121/67, the prohibitions set out in Article 17 and 19 of that regulation came into force on 1 July 1967, as is clear from Article 32 (2) of the regulation and from the fact that Regulation No 205/67 which fixed the amount of the levies also came into force on that date.

These prohibitions merely confirmed those which had applied under the system established by Regulation No 20 and which remained in force until the date of the implementation of the system of levies provided for by Regulation No 121/67 (cf. the third paragraph of Article 32 of that regulation).

Conclusions

To sum up, the Commission suggests that the following replies be given to the questions referred:

'1. Any pecuniary charge, however small and whatever its designation and mode of application, which is imposed unilaterally on domestic or foreign goods by reason of the fact that they cross a frontier, and which is not a customs duty in the strict sense, constitutes a charge having equivalent effect within the meaning of Regulation No 20, even if it is not imposed for the benefit of the State, is not discriminatory or protective in effect or if the product on which the charge is imposed is not in competition with any domestic product.

2. The first indent of Article 14 (1) and Article 18 (1) of Regulation No 20 and the first indent of Article 19 (1) and the first indent of Article 17 (2) of Regulation No 121/67 are directly applicable within the Italian legal system and create individual rights which national courts must protect.

3. As regards imports effected before 1 July 1967, the abovementioned rights came into existence on the entry into force of the system of levies on the products in question provided for in Regulation No 20, that is:

— on 30 July 1962 for the products referred to in Article 1 (1) (a) of Regulation No 20 and for pig carcasses;

— on 2 September 1963 for the other products listed in Article 1 (1) (b) and (c) of Regulation No 20.

4. As regards imports effected after 1 July 1967, those rights came into existence on the entry into force of the system of levies on the products in question provided for in Regulation No 121/67, that is, on 1 July 1967.'

Grounds of judgment

1 By order of 17 July 1971, received at the Court Registry on 23 July 1971, the President of the Tribunale di Torino submitted several questions to the Court of Justice concerning, in particular, the interpretation of Regulations Nos 20 of 4 April 1962 and 121/67/EEC of 13 June 1967 of the Council on the common organization of the market in pigmeat.

These questions have been referred in connexion with the imposition by the Italian authorities, pursuant to Italian Law No 330 of 15 June 1950 and the Decrees of the President of the Italian Republic Nos 723 of 26 June 1965 and 1339 of 21 December 1961, of a duty for administrative services and a statistical levy on imports from other Member States and from third countries.

I — The jurisdiction of the Court

2 (1) The Italian Government considers that, since Italian Law No 447, which was published on the same date as the order making the reference, has abolished the charges in dispute, the file should be returned to the national court without any reply being given to the questions referred, so that it may have the opportunity to consider whether it is still necessary to maintain the reference to the Court.

3 However, Article 177 of the Treaty does not entitle the Court to assess the immediacy of the relevance of questions referred with regard to the proceedings pending before the national court, even where the domestic law with which the case is concerned has been modified.
In any event, the repeal of national provisions which are acknowledged to have been incompatible with Community law leaves open the question of the legal consequences of such incompatibility during the period preceding the repeal.

4 (2) The Italian Government further maintains that the conditions required for the application of the second paragraph of Article 177 are not fulfilled, as the decision (*decreto*) which the President of the Tribunale di Torino is called upon to give is to be made at the conclusion of a special procedure on the basis of the plaintiff's allegations alone, without any prior discussion between the parties.

5 It is sufficient to note that the President of the Tribunale di Torino is performing a judicial function within the meaning of Article 177 and that he considered an interpretation of Community law to be necessary to enable him to reach a decision, there being therefore no need for the Court to consider the stage of the proceedings at which the questions were referred.

II — The substance

The first question

6 The first question requests the Court to rule whether the duty for administrative services and the statistical levy introduced by Italian legislation constitute charges having an effect equivalent to customs duties within the meaning of Regulation No 20.

7 It is clear from the judgments of the Court of 1 July 1969 in Case 24/68 [1969] ECR 193) and 18 November 1970 in Case 8/70 (Rec. 1970, p. 961) that such duties and levies constitute charges having an effect equivalent to customs duties within the meaning of Articles 9, 12 and 13 of the EEC Treaty and certain regulations concerning the common organization of the agricultural market, in particular Article 19 (1) of Regulation No 121/67/EEC of the Council.

The concept of a 'charge having equivalent effect' as employed in Articles 14 (1) and 18 (1) of Regulation No 20 which prohibit the levying of such charges on imports of pigmeat from Member States and third countries is equivalent to the same expression employed in Article 9 *et seq.* of the Treaty and in other regulations on the organization of agricultural markets.

Questions 2 (a) and (b), 3 (a) and (b), 4 (a) and (b), 5 (a) and (b)

8 The Court is next asked whether the provisions of Articles 14 (1) and 18 (1) of Regulation No 20, as well as the first indent of Article 17 (2) and the first indent of Article 19 (1) of Regulation No 121/67 are immediately applicable within the national legal system and, as such, create individual rights which national courts must protect.

9 Under the terms of the second paragraph of Article 189 regulations 'shall have general application' and 'shall be ... directly applicable in all Member States'.

Therefore, by reason of their nature and their function in the system of the sources of Community law, regulations have direct effect and are as such, capable of creating individual rights which national courts must protect.

The effect of a regulation, as provided for in Article 189, is therefore to prevent the implementation of any legislative measure, even if it is enacted subsequently, which is incompatible with its provisions.

This applies to the provisions in question.

Questions 2 (c), 3 (c), 4 (c), 5 (c) and 6

10 Finally, the Court is asked to give the dates on which these individual rights came into existence, pursuant to Articles 14 (1) and 18 (1) of Regulation No 20, and Articles 17 (1) and 19 (1) of Regulation No 121/67.

The Court is also requested to state whether these rights have remained in existence since their creation under Regulation No 20.

It is, therefore, necessary to ascertain the dates on which those provisions came into effect and whether they have remained effective since that time.

11 (1) Under the terms of Article 14 of the basic Regulation No 20: 'In trade between Member States, both import and export', the charges in dispute 'shall be incompatible with the intra-Community levy system' and under the terms of Article 18 of the same regulation, 'The application of the levy system to imports from third countries shall entail the abolition' of the said charges on imports from those countries.

This implies that the prohibition on the imposition of those charges by the Member States and, therefore, the right of individuals to require its observance, only came into existence on the date on which the abovementioned levy systems took effect.

12 That date, which was originally fixed at 1 July 1962 by Article 23 of Regulation No 20, was postponed until 30 July 1962 by Article 1 (1) (b) of Regulation No 49.

As regards pig carcasses, the amount of the intra-Community levies was fixed for the first time by Regulation No 50, Article 2 of which states that that regulation came into force on 30 July 1962.

Article 2 of Regulation No 51 and Article 3 of Regulations Nos 52 and 53 provide that those provisions—which fixed for the first time the amount of the levies applying to pig carcasses imported from third countries (Regulation No 51) and to live swine imported from other Member States (Regula-

tion No 52) and from third countries (Regulation No 53)—were to come into force 'on the date of introduction of the system of levies instituted in respect of pig carcasses by Regulation No 20 of the Council'.

13 Thus, Regulations Nos 51 to 53 referred to the entry into force of Regulation No 50 which was adopted on the same day and published in the same issue of the Official Journal.

Accordingly, as regards live swine and pig carcasses, the provisions in question came into effect on 30 July 1962.

14 As regards the products other than live swine and pig carcasses listed in Article 1 (1) of Regulation No 20, after postponing on several occasions 'the date of the introduction of the levy system instituted' by that regulation, the Council finally fixed that date in Article 1 of Regulation No 54/63/EEC at '2 September 1962 at the latest'.

Regulations Nos 86/63/EEC to 89/63/EEC divided these products into two groups and fixed for the first time the amounts of both the intra-Community levies (Regulations Nos 87/63 and 89/63) and the third country levies (Regulations Nos 86/63 and 88/63) to be imposed on imports.

15 The annexes to these regulations show that the levies were to be imposed on imports effected during periods beginning for each group on 2 September 1963.

Thus, as regards products other than live swine and pig carcasses, the provisions in question came into effect on 2 September 1963.

16 (2) Apart from certain exceptions the third paragraph of Article 32 of the basic Regulation No 121/67/EEC repealed Regulation No 20 with effect from 1 July 1967.

• The second paragraph of the same article provides that 'The system established by this regulation shall apply from' that date, with the exception of certain measures which are not relevant to this case.

It follows that the prohibition on the charges in dispute, which is repeated in Articles 17 and 19 of the new regulation and, therefore, the individual rights arising therefrom, came into existence on 1 July 1967.

Therefore, as regards the system established by Regulation No 121/67, the provisions in question came into effect on 1 July 1967.

[17] (3) It follows from the above considerations that, under the system established in Regulation No 20, the prohibition on the imposition by the Member State of the charges in question was concomitant with the obligation to impose the levies provided for in that regulation.

It follows also that this obligation came into effect on 30 July 1962 or 2 September 1963, according to the products involved.

Moreover, as from those dates the levies in question were applied without interruption until 1 July 1967, the date on which Regulation No 121/67 came into force.

That regulation is still in force.

[18] The reply to the question referred by the national court must therefore be that the effects in question came into existence on 30 July 1962 or 2 September 1963, according to the products involved.

III — Costs

[19] 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, in so far as the parties to the main action are concerned, in the nature of a step in the action pending before the national court, the decision as to 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 observations of the Government of the Italian Republic, the Commission of the European Communities and the Politi undertaking;
Upon hearing the opinion of the Advocate-General;
Having regard to the Treaty establishing the European Economic Community, especially Articles 9, 12, 13, 177 and 189;
Having regard to Regulation No 20 of the Council on the gradual establishment of a common organization of the market in pigmeat, especially Articles 14 and 18;
Having regard to Regulation No 121/67/EEC of the Council on the common organization of the market in the same sector, especially Articles 17 and 19;

Having regard to the Protocol on the Statute of the Court of Justice of the European Communities, 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 President of the Tribunale di Torino by order of that court dated 17 July 1971, hereby rules:

On the first question:

1. **The concept of a 'charge having equivalent effect' as employed in Articles 14 (1) and 18 (1) of Regulation No 20 is equivalent to the same expression employed in Article 9 *et seq.* of the Treaty and in other regulations on the organization of agricultural markets.**

On Questions 2 (a) and (b), 3 (a) and (b), 4 (a) and (b), 5 (a) and (b):

2. **Regulations have direct effect and are, as such, capable of creating individual rights which national courts must protect.**

   This applies to Articles 14 (1) and 18 (1) of Regulation No 20, and to the first indent of Article 17 (2) and the first indent of Article 19 (1) of Regulation No 121/67.

On Questions 2 (c), 3 (c), 4 (c), 5 (c) and 6:

3. **The provisions of Articles 14 (1) and 18 (1) of Regulation No 20 came into effect on 30 July 1962 as regards live swine and pig carcasses and on 2 September 1963 as regards the other products referred to in that regulation.**

4. **The provisions of Articles 17 (1) and 19 (1) of Regulation No 121/67/EEC came into effect on 1 July 1967.**

5. **The effects in question came into existence on 30 July 1962 or 2 September 1963, according to the products involved.**

Lecourt Mertens de Wilmars Kutscher

Donner Trabucchi Monaco Pescatore

Delivered in open court in Luxembourg on 14 December 1971.

A. Van Houtte
Registrar

R. Lecourt
President

OPINION OF MR ADVOCATE-GENERAL DUTHEILLET DE LAMOTHE DELIVERED ON 30 NOVEMBER 1971[1]

Mr President,
Members of the Court,

The facts which gave rise to the present case are quite straightforward.

In 1966 the Politi company imported into Italy chilled pork from Sweden and frozen pigmeat and ham from Belgium.

In 1969 it imported two consignments, one of meat and meat offal of swine from France and the other of chilled pigmeat from Ireland.

When these various imports were effected the Italian tax authorities required the company to pay two charges, known respectively as a 'statistical levy', and a 'duty for administrative services'.

The Politi company considered that the imposition of these charges was prohibited, first, as regards the imports effected in 1966, by the provisions of Articles 14 and 18 of Regulation No 20/62 on the gradual establishment of a common organization of the market in pigmeat and, secondly, as regards the imports effected in 1969, by the provisions of Articles 17 (2) and 19 of Regulation No 121/67, which replaced Regulation No 20.

As you are aware, the provisions of the regulations under discussion prohibit the levying by Member States of any charge having an effect equivalent to a customs duty after the entry into force of the system of levies.

In the original scheme provided for by Regulation No 20 this system of levies applied, although on different terms and at different rates, both to imports from the Member States of the Community and to imports from third countries.

Since the entry into force of Regulation No 121/67, levies apply only to products imported from third countries.

In order to enforce the rights which it considered it held under these regulations, the applicant company brought interlocutory proceedings as provided for in Article 633 of the Italian Code of Civil Procedure against the Italian State. These are summary proceedings by which a creditor asks a court to recognize the existence of a debt and to order the debtor to pay it.

The President of the Tribunale Civile di Torino considered that these proceedings raised a certain number of preliminary questions concerning the interpretation of provisions of the Community regulations referred to and, under Article 177 of the Treaty, he referred the questions which are before you today.

Before beginning my consideration of these questions, I should like to make two preliminary observations concerning certain points which have been raised in the course of the proceedings and in particular during the recent hearing.

1. In his oral arguments the representative of the Government of the Italian Republic questioned the applicability of Article 177 of the Treaty in this instance.

1 — Translated from the French.