3. For the purposes of determining the date on which, within the meaning of Article 15 (1) (a) of Regulation No 1373/70, the import obligation under the licence is deemed to have been fulfilled, acceptance by the customs authorities, within the meaning of Article 15 (5) (a), of the document by which the declarant states his intention to put the goods in free circulation does not require that the customs procedure should be finally concluded in favour of the declarant.

Before Article 15 (1) of Regulation No 1373/70 can apply, it is essential that the goods which, pursuant to the provisions of Article 8 (2) (a), have been attributed on the licence, should have, in fact, been put into free circulation.

In Case 186/73

Reference to the Court under Article 177 of the EEC Treaty by the Verwaltungsgericht (Administrative Court) of Frankfurt-on-Main, for a preliminary ruling in the action pending before that Court between

NORDDEUTSCHES VIEH- UND FLEISCHKONTOR GMBH of Hamburg

and

EINFUHR- UND VORRATSSTELLE FÜR SCHLACHTVIEH, FLEISCH UND FLEISCHERZEUGNISSE, of Frankfurt-on-Main,

on the interpretation of Article 15 (5) (a) of EEC Regulation No 1373/70 of the Commission of 10 July 1974 on common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products subject to a single price system (OJ L 158/1 of 20 July 1970),

THE COURT

composed of: R. Lecourt, President, A. M. Donner and M. Sørensen (Rapporteur), Presidents of Chambers, R. Monaco, J. Mertens de Wilmars, P. Pescatore, H. Kutscher, C. Ó Dálaigh and A. J. Mackenzie Stuart, Judges,

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

gives the following

JUDGMENT

Facts

The judgment making the reference and the written observations submitted under Article 20 of the EEC Statute of the Court may be summarized as follows:

I — Facts and procedure

1. On 21 April 1971, the defendant in the main action issued the plaintiff in the main action with an import licence expiring on 21 July 1971. The licence authorized and obliged the applicant to import 400 000 kg of beef and veal within the stated time-limit. A bank offered itself as security for a sum of 146 400 DM to guarantee importation.

On 14 July 1971, after conclusion of an earlier transaction involving 362 762 kg which were attributed under licence, the firm submitted to the competent customs office a consignment of 53 051 kg which came from Uruguay. This office, which was also the authority responsible for the medical inspection of meat of foreign origin, refused to allow the meat to be imported, apparently because it had been submitted without the requisite lead seals.

As a consequence, the import licence could not be used in time, and the Einfuhr- und Vorratsstelle declared the security forfeit to the extent of 6 309·11 DM.

2. The applicant, pointing out that, as the goods had been submitted to the customs authorities before expiry of the time-limit contained in the licence, it had fulfilled its obligation to import under the terms of Regulation No 1373/70, brought an action against the Einfuhr- und Vorratsstelle before the Verwaltungsgericht (Administrative Court) of Frankfurt-on-Main.

Regulation No 1373/70 provides that:

(i) Copy No 1 of the licence shall be submitted to the office responsible for completing import customs formalities (Article 8 (2) (a));

(ii) the obligation to import is considered to have been fulfilled and the right to import pursuant to the licence shall be considered to have been exercised on the day when the customs formalities referred to in the aforementioned provision are completed (Article 15 (1) (a));

(iii) for the purposes of this Regulation, 'the day on which the customs formalities are completed' means the day on which the customs authorities accept the document by which the declarant states his intention to put the products in question in free circulation or, where the products may be put in free circulation without such statement of intention, the day on which the products were put in free circulation (Article 15 (5) (a)).

3. The Verwaltungsgericht stayed proceedings and referred to the Court of Justice under Article 177 of the EEC Treaty for a preliminary ruling on the following question:

'Does the *receipt* of the declarant's customs application by the customs authorities amount to 'acceptance', within the meaning of Article 15 (5) (a) of Regulation No 1373/70, by the customs authorities of the document by which the declarant states his intention to put the goods in free circulation, or is 'acceptance' within the meaning of this provision to be interpreted to mean that the customs *procedure* underlying that

acceptance has been finally concluded in favour of the declarant?'

In its judgment making the reference, the Verwaltungsgericht expressed the view that interpretation of the provisions cited is 'of decisive importance for reaching a decision in this action, since if mere receipt of a customs application is to be treated as acceptance within the meaning of the provision, the import must be regarded as having been made in due time and therefore the security can be released whereas, in the alternative, the security must be paid unless, upon further examination, the plaintiff company can show *force majeure*'. The Verwaltungsgericht added that it was not concerned with the question whether the customs office's decision to reject the application was in order.

4. The Order of the Verwaltungsgericht of 20 November 1973 was registered at the Court on 5 December 1973.

Written observations were submitted under Article 20 of the EEC Statute of the Court on behalf of the plaintiff in the main action by P. Wendt of the Hamburg Bar and on behalf of the Commission by its legal adviser, P. Gilsdorf.

After hearing the report of the Judge-Rapporteur and the opinion of the Advocate-General, the Court decided to open the oral procedure without any preparatory enquiry.

II — Written observations submitted before the Court

A — *Observations by the Firm of Norddeutsches Vieh- und Fleischkontor*

1. The company points out that the refusal of the application for customs clearance was based exclusively on the rules relating to veterinary inspection. Compared with those of other Member States, these rules imposed the most stringent conditions on importation of fresh meat from third countries. The company emphasizes that it cannot, at present, be said that all importers in the Community can put fresh meat into free circulation on the same conditions in every Member State.

2. The company explains that the Verwaltungsgericht wants to know whether, within the meaning of Article 15 (5) (a), the word 'acceptance' must be taken to mean a physical action (eine Tathandlung) or some sort of legal act in the sense of a binding approval of the customs application by the customs office putting the product into free circulation.

(a) The company emphasizes that there is no such thing as a legal act in the sense of 'approval of the application which commits the administration . . .' in either German customs legislation or practice. The whole process of customs clearance prior to free circulation of the product consists of an application from the declarant and an administrative act by the customs office designed to put the goods into free circulation. It goes without saying that, because the expression 'clearance for free circulation' is so common, the Regulation would not have failed to make an express reference to it, and that, therefore, 'acceptance' within the meaning of Article 15 (5) (a) in no way refers to this administrative act.

Nor does it embrace 'tacit approval' of the application as the outcome of a particular series of acts on the part of the customs office prior to release of the goods for removal. This is because, firstly, the customs office does not lose its right to refuse the application until it releases the product; secondly, because this formula courts all the risks of uncertainty, especially as regards reaching a decision one way or the other within the time laid down.

From the practical point of view, therefore, 'acceptance' must be taken to

mean receipt of the application for clearance by the customs office. The German practice is to enter the date of receipt on the application; the same practice is followed in other Member States.

(b) In the company's view, the wording of Article 15 (5) (a) supports this interpretation. The company bases this view on the second of the two alternative versions of the provision, viz. that the products can be put into free circulation without such a statement of intent, because in that event the completion of customs formalities has clearly been associated with a straightforward matter of fact. The company also relies on the English version of the provision, where there is reference to a 'document by which the declarant states his intention to . . .'. A 'document', i.e., a paper ('Urkunde') can only be 'accepted' in a physical sense.

(c) The company then goes into the relationship between Article 15 (5) (a) and the other provisions of the Regulation. It recalls that the Regulation standardized the rules for applying the import licence system and recapitulates its main features. In this context, and according to the fourth recital of the preamble, the purpose of the Regulation was that 'the two concepts of importation and exportation should be interpreted in a uniform manner'.

In the company's view, the fact that the licence authorizes and obliges the titular holder, and not third parties, especially the customs office, to import is a decisive factor in the interpretation of Article 15 (1) and Article 15 (5) (a). The inevitable conclusion to be drawn from this is that fulfilment of the obligation to import is wholly dependent on action by the titular holder and that the requirements for the fulfilment of the obligation to import are necessarily conditioned by what the licensee is, in fact and in law, able to do. 'Acceptance' within the meaning of Article 15 (5) (a) can therefore mean nothing else than the handing over ('Zugang') of the customs application.

The company points out that Article 15 (5) (a) contains a legal definition of 'the day on which the customs formalities are completed' within the meaning of Article 15 (1) and that the purpose of this provision is therefore to remove any doubt about the meaning to be given to Article 15 (1).

The company rejects the contention that Article 15 (5) (a) does no more than identify the moment when importation is effected, if it is effected at all. The statement in the fourth recital of the preamble to the Regulation that 'the two concepts of importation and exportation should be interpreted in a uniform manner' demonstrates that neither Article 15 (1) nor Article 15 (5) (a) merely laid down dates. The Commission looked at the two terms from the viewpoint of the *carrying out* of the obligation to import or export and, because of this, it sought to establish what further condition required to be satisfied during the currency of the licence in order that the obligation to import could be regarded as having been carried out. The need for a uniform interpretation of the expressions 'importation' and 'exportation' arises only in connexion with the system of lodging security, so, for this particular purpose, the answer to the question how and when the import obligation is fulfilled is a decisive factor.

Nor, in the company's view, does Article 15 (3) (a) conflict with the interpretation for which it contends. If the obligation to import is carried out by actual receipt of the application for clearance by the customs office, the office must, in accordance with Article 8 (2), make the attribution and endorsement on Copy No 1, even though, in the event, the product is not put into free circulation.

(d) The company maintains that its interpretation is confirmed beyond further doubt by the object of the Regulation, which is to ensure maximum

simplicity and therewith legal certainty. 'Acceptance' must, therefore, be taken to mean an action of such simplicity that it can be recognized at any time.

The company also draws attention to the delay, lasting up to five years, which could ensue if fulfilment of the import obligation were related to the conclusion of customs procedure, including all administrative and legal processes set in motion against the customs office.

(e) The company maintains that its interpretation would ensure uniform application of Community law in all Member States, which would not be the situation if 'acceptance' were made synonymous with approval of the application.

(f) The company regards it as impossible to base any other interpretation on the aim and object of the licenses. Nor, in its view, does Article 4 (1) of the Regulation offer any support to the contention that the answer to the question of interpretation involved in this case cannot be dissociated from the need to ensure that the authorities are as closely informed as possible about prejected transactions. The company maintains, *inter alia,* that if this objective had been the decisive factor it would have been reasonable to regard the obligation to import as fulfilled only on completion of the customs procedure whereby the goods are actually put into free circulation, i.e., only after transmission of the administrative order of the customs office releasing the product, rather than, *prima facie,* relying on other criteria, such as those in Article 15 (1) and 15 (5) (a).

For all these reasons, the company submits that 'acceptance' within the meaning of Article 15 (5) (a) must be interpreted to mean physical receipt by the customs office.

3.(a) The company maintains that, even if the statement of intention within the meaning of Article 15 (5) (a) were required to be made in due form, physical receipt of a customs application in due form would suffice.

It takes the view that, if this interpretation is upheld, the Court should, in its decision, also lay down the conditions to be satisfied before the customs application is considered to be in order.

In the company's opinion, it is inconceivable that the question whether the application had been duly made should, as far as carrying out the obligation to import is concerned, be answered in terms of national law.

The company also refers to the Judgment of the Court of 6 June 1972 (Schlüter/Hauptzollamt Hamburg (Rec. 1972, p. 307)) from which it believes the conclusion can be drawn that the customs application is in due form so long as it is lodged in writing and contains the necessary information to make the customs office aware that it concerns an application for customs clearance of the product covered by the licence. There are no other requirements under Community law. The company states that, as Community law does not make provision for any quantitative restrictions to prevent risk to life or health, it is not possible on the basis of Community law to make the right and the obligation to import which are the legal outcome of an import licence subject to compliance with such quantitative restrictions. Nor, consequently, can the fulfilment of the obligation to import be affected by the fact that a national quantitative restriction, which is not prohibited under Article 36 of the EEC Treaty, makes the importation impossible.

(b) If the Court has to interpret Article 15 (5) (a) as meaning that the product may not be challenged by the customs office, the company asks the Court to declare that careful consideration must be given to the question whether in this case the obligation to import has been extinguished by *force majeure.*

In the company's view, there must be a presumption of *force majeure* in

circumstances where, as in the present case, the product meets the conditions laid down for the licence and the other conditions required under Community law.

B — Observations of the Commission

1. The Commission maintains that, in interpreting the provisions of Regulation No 1373/70, account must be taken, first, of the basic rules laid down in Regulations on the organization of the market — the present Regulation cannot change the basic concepts of importation and exportation — and, second, of the general principles of the law on customs procedure.

2. The Commission bases its case on the contention that neither of the two alternatives advanced by the Verwaltungsgericht accord with the objects of Article 15 (5) (a) any more than they do with the general principles of the law on customs procedure. The Commission takes the view that, in principle, it would be better to choose the first alternative but without the consequences which the Verwaltungsgericht regards as arising from it. The concept of 'acceptance' within the meaning of Article 15 (5) (a) must be given its formal meaning i.e., that 'receipt' of the customs application determines when the obligation arising from the licence is fulfilled. This does not mean, however, that the obligation imposed by the licence has been fulfilled regardless of the fact that the procedure has not been 'concluded' and that consequently, the goods have not actually been imported.

The Commission states that paragraphs 1 and 2 of Article 15 rely on a fiction to determine the time of importation or of exportation to be taken into account for the purposes of the rules relating to licences but this is done without affecting all the other conditions provided for imports and exports. These provisions are based on the principle that exportation or importation has actually taken place.

Several considerations argue in favour of this interpretation.

Firstly, it seems clear, that, in the absence of any corresponding basis in fact, mere completion of customs formalities is insufficient to fulfil the obligation to import. This basis, i.e., the goods being imported, must be there; it is in any case the rule that they must be 'submitted' to the customs administration. Just as it implicitly assumes that the goods have in fact been submitted, Article 15 rests on a similar assumption that the goods have in fact been imported. Like that of submission, the concept of giving authority for collection (or release) is inherent in all legislative measures governing customs procedures. It is inconceivable that a body of rules relating to imports would not incorporate the principle of release or some other concept on similar lines. This seemed so obvious to those who drafted Regulation No 1373/70 that the text of the Regulation contains no further reference to it.

If this fundamental requirement were abandoned, the outcome would be intolerable. It would mean that, to fulfil the obligation to import imposed by the licence, it would be enough for the importer to submit customs clearance goods which were rotten through and through and manifestly in contravention of the rules on hygiene.

The Commission also recalls that the object of import licences is to enable a record to be kept of actual imports but not of the movement of goods held up at customs barriers.

It emphasizes that the outcome of the solution contended for by the applicant would be that every importer could avoid losing his deposit by producing for clearance at the customs office goods which he knew in advance could not in fact be imported. It is obvious that the rules relating to the giving of security could thus be by-passed.

In a reference to Article 15 (2) and 15 (5) (a), the Commission recalls that, under these provisions, proof that importation

has taken place is furnished by production of Copy No 1 of the licence on which, pursuant to Article 8, are attributed the quantities imported, thus providing further confirmation that importation has taken place.

3. Despite the arguments advanced by the Verwaltungsgericht and by the company, the Commission maintains that its interpretation would ensure that the various national rules laying down the way in which goods are cleared through customs would not, for nationals operating in the market, produce different answers according to which Member State was importing.

In a reference to the seventh recital of the preamble to the Regulation and to Article 15 (2) (b), the Commission emphasizes that, as the purpose of the system of lodging security is, like that of the licence system, in essence the same for both imports and exports, Article 15 must, as regards the requirements to be met on importation, be interpreted by analogy with those expressly provided for exports.

4. To ascertain whether its contention fits in with the general pattern of the system of customs procedure, the Commission tries to identify the principles which are used to establish the date to be used as a point of reference for other constituent elements of customs control. It goes into the question which dates are, under Community legislation, to be used in establishing customs dues, the levy, the export refund and value for customs purposes. It draws special attention to a proposal for a Council Directive on the harmonization of procedures for the release of goods for free circulation (OJ C 14 of 15 February 1974).

The Commission also goes into the Judgment of the Court of 15 December 1971 (Schleswig-Holsteinische Hauptgenossenschaft/Hauptzollamt Itzehoe, 35/71) Rec. 1971, p. 1083.

It maintains that the effect of these references is to demonstrate that, to use acceptance of the document by which the declarant states his intention as the formal test is quite a common practice in the law of customs procedure in the Community, even though this law is only in an early state of development.

The Commission maintains that, in the field of import licences and of levies, a standard formula is the only solution which meets the needs of the system. If the date to be taken into account were established on the basis of different criteria, the outcome could be, for example, that the levy would be fixed for an 'importation date' on which, because of the provisions of the licence system, it was no longer possible for any importation to take place.

The Commission rejects the suggestion that the conclusions it has drawn could, as regards the forfeiture of security, have, for the importer, consequences which in practice were intolerable or unfair. It refers particularly to the fact that, in Regulation No 1373/70, the Community draftsmen based themselves in favour of the declarant, on the principle that he would normally discharge his obligation by completing the customs formalities (and submitting the goods), the last stage continuing up to the conclusion of customs clearance operations under the responsible customs authorities. According to the Commission it must, in this connection, also be borne in mind that, in case of *force majeure,* there is power to excuse the importer from the obligation to import or to extend the validity of the licence. Article 18 of the Regulation also makes it possible to deal with any obvious injustice which is revealed only in the course of customs procedure.

5. Finally, the Commission goes into the concept of 'receipt' of the customs declaration. It maintains that this does not mean mere physical receipt of the declaration by the customs official. Use of the term 'acceptance' of the document is intended to indicate a process which extends beyond mere physical receipt. Acceptance of the document by which

the declarant states his intention implies that the customs authorities acknowledge the application to be in order, i.e., indicate by an act of acceptance that, as far as they are concerned, the conditions laid down for the actual lodging of the application have been satisfied. In practice, this acceptance is indicated by adding the acceptance date (by means of a stamp). This is clearly set out in Articles 7 and 8 of the proposal for a Council Directive, mentioned above, which also indicates that acceptance takes place in the form prescribed in each Member State (Article 8 (1)). Again, in no country do the existing provisions of the law governing customs procedure treat mere 'physical' receipt as sufficient. In any case, all the formalities prescribed for lodging the declaration must have been completed: the application must be correctly filled in; it must be lodged with a competent customs office; it must be accompanied by all the requisite documents for importation. Moreover, once the application has been lodged, there is nothing to prevent consideration being given to the question whether there are prohibitions or restrictions against importation of the goods listed on the declaration and, if there are, to prevent the application being refused on that ground alone.

After the conclusion of the written procedure, the oral observations of the Norddeutsches Vieh- und Fleischkontor, represented by Maître P. Wendt, and of the Commission, represented by its legal adviser, Peter Gilsdorf, were made at the hearing on 4 April 1974.

In the course of the hearing, the company emphasized that refusal of the customs application was based on the German rules governing veterinary examination and that these were more stringent and technical than in any other Member State of the Community. In the view of the German importers, these rules conflict with Community law. Unless due regard is paid to the peculiarities of German veterinary law, the case will not be viewed in the correct light. The company also emphasizes that the meat submitted for importation was first class from the hygienic point of view and could certainly have been imported into every other Member State. In fact, the meat was sold in Belgium.

The company also recalls that paragraphs 10 and 16 of the German law on veterinary examination declare that veterinary objections raised after goods have been put into free circulation may make it necessary to re-export or to destroy the meat. In that case, even according to the Commission, the obligation to import would have been fulfilled. The company is at a loss to understand why the security is forfeit when the objections are raised at the time of importation.

The company rejects the Commission's argument that an importer could endeavour to avoid forfeit of the security by producing for clearance goods which he knew in advance could not in fact be imported. Among supporting arguments on this point, the company states that the security is so much less than the levy that no importer would have the slightest interest in doing anything of the sort. Finally, the company denies that the customs office is, as stated above, the competent authority to conduct a medical inspection of meat of foreign origin.

The *Commission* is slightly amending the reply which it proposed that the Court should give to the question. It no longer believes it to be necessary or desirable that the Court should in its judgment, give a ruling on what, in positive terms, is meant by acceptance of the application. It now submits that the Court should reply as follows:

'Acceptance by the customs authorities, within the meaning of Article 15 (5) (a) of Regulation No 1373/70, of the document by which the declarant states his intention to put the goods in free circulation does not require that the customs procedure should have been finally concluded in the declarant's

favour. The effect of this interpretation is, however, confined to defining the date on which the import obligation imposed by the licence is deemed to have been fulfilled within the meaning of Article 15 (1) (a) of the said Regulation; for this provision to apply, the goods covered by the licence must have in fact been put in free circulation.'

The Advocate-General delivered his opinion at the hearing on 7 May 1974.

Law

1 By order of 20 November 1973, received at the Court on 5 December, the Verwaltungsgericht of Frankfurt-on-Main referred to the Court under Article 177 of the EEC Treaty for a preliminary ruling on the interpretation of the word 'accept' as it appears in Article 15 (5) (a) of Regulation No 1373/70 of the EEC Commission of 10 July 1970 (OJ L 158, p. 1) on common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products subject to a single price system.

2 The question arises out of a dispute between an importer of frozen beef and veal and the German authorities over release of the security given to guarantee the importation authorized by an import licence valid for a given period.

Before the validity of the certificate expired, the importer submitted a quantity of meat coming from abroad for medical inspection but importation could not be effected because of failure to satisfy the requirements of German legislation governing veterinary examination of meat of foreign origin.

3 Article 15 (2) of Regulation No 1373/70 provides that release of the security shall be subject to production of proof 'as regards imports, of completion of the customs formalities referred to in (a) of the second subparagraph of Article 8 (2)'.

As regards the period of validity of the licences, Article 15 (1) provides that 'the obligation to import shall be considered to have been fulfilled and the right to import pursuant to the licence or certificate shall be considered to have been exercised on the day when the customs formalities ... are completed'.

Article 15 (5) provides that 'the day on which the customs authorities accept the document by which the declarant states his intention to put the goods in question in free circulation' shall be considered to be the day when the customs formalities are completed.

4 The system of lodging security is designed to ensure that imports or exports for which licences are applied for are effected so that both the Community and the Member States may be certain of knowing exactly what transactions are intended.

Accordingly, the deciding factor in determining whether the security may be released is derived from a Community concept whose significance and scope must be independent of national customs procedures which have not yet been harmonized.

It follows from this that, as the order by which the customs authorities conclude the clearance procedure and authorize release of the goods for free circulation may be subject to considerations which vary from one Member State to the other, such as, for example, those arising from different patterns of legislation governing medical inspection of meat, this cannot be treated as the sole deciding factor.

5 The aim of the provisions of Article 15 (1) and 15 (5) is to define the date from which the titular holder of an import licence shall be deemed to have fulfilled his obligation to make use of the licence during the period of its validity and thus to have satisfied the essential condition for release of the security.

The guarantee which the system of lodging security seeks to achieve does not require the customs procedure to have been concluded in favour of the declarant but enables the obligation to be considered as having been fulfilled at an earlier date, such as the date on which the customs authorities received the document by which the declarant states his intention to put the products in question into free circulation, subject, however, to the condition that the goods are actually put into free circulation, even though this may be at a later date.

Article 15 (3) in fact provides that the proof on which release of the security depends shall be furnished by production of Copy No 1 of the licence on which the quantity of goods acutally imported has been attributed.

6 It should be borne in mind, however, that the public interest, which requires as accurate a forecast as possible of import trends in each Member State and justifies the deposit of security against the grant of authorization to import, must be reconciled with the necessity of not hampering trade between States by too rigid obligations, a necessity which also derives from the public interest.

Where, as a result of *force majeure,* importation cannot be effected during the period of validity of the licence, the Member States can, under Article 18 of Regulation No 1373/70, either cancel the obligation to import and release the security, or extend the period of validity of the licence.

The concept of *force majeure* embodied in the Regulation must take account of the special nature of the relationships, in public law, between the economic operators and the national administration, as well as of the objectives of the rules which apply.

7 It is apparent from these objectives, as well as from the actual provisions of the Regulations in question, that the concept of *fore majeure* is not confined to that of absolute impossibility but must be extended to include abnormal circumstances, outside the control of the importer, and which have arisen in spite of the fact that the titular holder of the licence has taken all the precautions which could reasonably be expected of a prudent and diligent trader.

Costs

8 The costs incurred by the Commission, which submitted observations to the Court, are not recoverable.

9 As these proceedings are, in so far as the parties to the main action are concerned, a step in the action pending before the national court, the decision on costs is a matter for that court.

On those grounds,

THE COURT

in answer to the question referred to it by the Verwaltungsgericht of Frankfurt-on-Main by order of that court dated 20 November 1973 hereby rules:

1. For the purposes of determining the date on which the obligation to import pursuant to the licence is deemed to have been fulfilled, within the meaning of Article 15 (1) (a) of Regulation No 1373/70, acceptance by the customs authorities, within the meaning of Article 15 (5) (a), of the document by which the declarant states his intention to put the goods into free circulation does not require that the customs procedure should be finally concluded in favour of the declarant.

2. Before Article 15 (1) can apply, it is essential that the goods which, pursuant to the provisions of the second subparagraph of Article 8 (2), have been attributed on the licence, shall have, in fact, been put into free circulation.

Lecourt Donner Sørensen Monaco Mertens de Wilmars
Pescatore Kutscher Ó Dálaigh Mackenzie Stuart

Given in open court at Luxembourg on 15 May 1974.

A. Van Houtte
Registrar

R. Lecourt
President

OPINION OF MR ADVOCATE-GENERAL MAYRAS DELIVERED ON 30 APRIL 1974 [1]

Mr President,
Members of the Court,

Introduction

Importation into the Community of agricultural products covered by common organizations of the markets is, as you know, subject under the basic regulations to issue of import licences granted for a fixed period of time and constituting both obligation and authority to import a given quantity of the product concerned.

The obligation to import the goods during the period of validity of the licence is underwritten by the lodging of security.

1 — Translated from the French.