difference between the minimum price and the lowest world-market price the Commission exceeded its powers, since a rule of that kind, which was not necessary in order to prevent disturbances on the Community market, inflicts an economic penalty on a trader who has imported the products at a price which is below the minimum price but may be very close to it, whereas the aim of the countervailing charge is only to enforce the minimum price so as to ensure Community preference.

REPORT FOR THE HEARING
delivered in Case 291/86 *

I — Facts and procedure

1. The plaintiff in the main proceedings imports dried grapes from non-member countries, in particular from Turkey, the United States and Australia. On 20 February and 9 April 1984 it imported from Turkey a total of 3 000 14-kg cartons of sultanas. The purchase prices which it declared for each consignment, USD 880 and 950 per tonne, were incorrect. The purchase price later ascertained by the defendant, which is not disputed, was USD 650 per tonne for 2 650 cartons and USD 620 per tonne for 350 cartons. Following that discovery the defendant re-determined the import prices and levied countervailing charges of DM 20 164.70. After unsuccessfully objecting to the levying of charges, the plaintiff appealed to the Finanzgericht Düsseldorf, submitting that the provisions on the basis of which the charges were levied were unlawful on the ground that they were not sufficiently specific or went beyond the powers in question, that insufficient reasons were given for the calculation of the minimum price used for the levying of the charge and that the calculation was wrong. In addition, by granting national aid not authorized under Community law to producers of dried grapes Greece had removed any justification for protective measures under Community law; the measures were also contrary to the provisions of the GATT. The defendant, on the other hand, considers that the countervailing charges were correctly levied on the basis of Regulation No 2742/82, which in its view is valid and binding on the German customs authorities.

2. As is clear from the order for reference, the national court has doubts about the validity of the legal basis for the levying of the countervailing charge. In particular, it has doubts about the existence of an enabling provision, the lawful use of the Commission's discretion, the sufficiency of the reasons on which the measures adopted by the Commission are stated to be based and the justification for countervailing charges when Greece has granted unauthorized national aid.

* Language of the Case: German.

3. Taking the view that a decision of the Court of Justice was necessary, the Finanzgericht Düsseldorf, by order of 13 October 1986 which was lodged at the Court on 24 November 1986, stayed the proceedings pending a preliminary ruling by the Court of Justice on the following questions:

'1. Does Article 14 of Regulation (EEC) No 516/77, in conjunction with Articles 1 and 2 of Regulation (EEC) No 521/77, contain a sufficiently specific enabling provision establishing the essential criteria for protective measures such as those adopted by the Commission in Regulation No 2742/82?

2. Alternatively: is the term 'by reason of imports'in Article 14 of Regulation No 516/77 and Article 1 of Regulation No 521/77 to be interpreted as meaning that imports from non-member countries must have been the essential cause of the disturbances at the date on which Regulation No 2186/83 was adopted and at the date on which the plaintiff carried out the imports in question?

3. Alternatively: must Article 2 (2) of Regulation No 521/77, in conjunction with Articles 13 and 14 of Regulation No 516/77 and Article 155 of the EEC Treaty, be interpreted as meaning that the Commission was not entitled to impose a countervailing charge in the event of import prices falling below the minimum import prices laid down?

4. Alternatively: must Article 2 (2) of Regulation No 521/77, in conjunction with Articles 13 and 14 of Regulation No 516/77, be interpreted as meaning that the Commission is not entitled to establish a flat rate for countervailing charges so that they exceed the difference between the minimum price laid down and the import price?

5. Alternatively: is the minimum price laid down in Article 2 (2) of Regulation No 2742/82 unlawful since it was not calculated according to objective criteria and no reasons are given for it?'

A — *The Community regulations concerned*

4. Council Regulation (EEC) No 516/77 of 14 March 1977 (Official Journal 1977, L 73, p. 1) governs the common organization of the markets in products processed from fruit and vegetables. As amended by Annex I of the Act of Accession of the Hellenic Republic, that regulation applies *inter alia* to 'dried grapes' classified under heading 08.04 B of the Common Customs Tariff.

5. Article 14 of that regulation makes provision for the application of appropriate measures in trade with non-member countries if, by reason of imports, the market in one or more of the products subject to the regulation is threatened with serious disturbances which might endanger the objectives set out in Article 39 of the Treaty. In general the Council, acting on a proposal from the Commission, is to adopt rules for the application of that provision.

6. Pursuant to that provision the Council adopted Regulation No 521/77 (Official Journal 1977, L 73, p. 28) laying down detailed rules for applying protective measures in the market concerned. In order to assess whether the market in one or more products is experiencing or threatened with serious disturbances, Article 1 of that regulation states that particular account is to be taken of:

'(a) the volume of imports or exports effected or foreseen;

(b) the quantities of products available on the Community market;

(c) the prices for Community products on the Community market or the foreseeable trend of these prices and in particular any excessive upward or downward trend thereof in relation to prices in the years immediately preceding;

(d) where the abovementioned situation arises as a result of imports, the prices obtaining on the Community market, at a comparable stage, for products from third countries, and in particular any excessive downward trend in these prices'.

7. Article 2 of the same regulation provides that:

'1. Should the situation referred to in Article 14 (1) of Regulation (EEC) No 516/77 arise, the measures which may be taken under paragraphs 2 and 3 of that Article shall be:

...

(c) for all products:

— the introduction of arrangements under which, if the price for an imported product falls below a certain minimum, a condition may be imposed whereby that product may be imported only at a price which is at least equal to such minimum,

— the total or partial suspension of exports.

2. The measures referred to in paragraph 1 may be taken only to such extent and for such length of time as is strictly necessary. ...'

8. On 13 October 1982 the Commission adopted, on the basis of Article 14 (2) of Regulation No 516/77, Regulation No 2742/82 on protective measures applicable to imports of dried grapes. Article 2 of that regulation provides that:

'1. On import into the Community of dried grapes, other than currants, falling within subheading 08.04 B I and B II of the Common Customs Tariff, a minimum price of ECU 106.7 per 100 kilograms net shall be respected.

2. If the minimum price is not respected a countervailing charge of ECU 16.0 per 100 kilograms net shall be applied.

3. After having converted the minimum price and the countervailing charge into national currency, by applying the representation rate, the resulting amount shall be multiplied by the following coefficient:

for DM: 0.906,

for HFL: 0.936,

for UKL: 0.883,

for BFR/LFR: 1.046,

for FF: 1.068,

for LIT: 1.025,

for DKR, IRL and DR: 1.00.'

By virtue of successive amendments that regulation remained in force until 31 August 1985.

9. On 31 March 1984 the Council introduced a new system by Regulation No 988/84 (Official Journal 1984, L 103, p. 11), which amended Regulation No 516/77 and inserted a new Article 4a. Article 4a of Regulation No 516/77 is worded as follows:

'1. A minimum import price for each marketing year is hereby introduced for the products listed in Annex Ia(a).

2. Minimum import prices shall be determined having regard to:

— the free-at-frontier prices on import into the Community,

— the prices obtaining in international trade,

— the situation on the internal Community market,

— the trend of trade with third countries.

3. Where the minimum import price is not observed, a countervailing charge in addition to customs duty shall be imposed, based on the prices of the main supply countries outside the Community.

4. . . .

5. The Council, acting by a qualified majority on a proposal from the Commission:

— may decide to amend the list of products for which the minimum prices have been introduced,

— shall adopt general rules implementing this Article, which may, in particular, provide for a system of advance fixing of the minimum import price.

6. Minimum import prices and the amount of the countervailing charge shall be fixed in accordance with the procedure provided for in Article 20.

7. Detailed rules implementing this Article shall be adopted in accordance with the procedure provided for in Article 20.'

Annex Ia (a) mentioned in Article 4a (1) covers dried grapes classified under subheading 08.04 B of the Common Customs Tariff.

10. The general rules on the system of minimum import prices for dried grapes were laid down by the Council in Regulation No 2089/85 of 23 July 1985 (Official Journal 1985, L 197, p. 10). Article 1 provides that a minimum price is to be fixed for both currants and other dried grapes. Article 2 determines the countervailing charges by reference to a scale of import prices and in paragraph (2) provides that:

'The maximum countervailing charge to be fixed shall not exceed the difference between the minimum price and an amount determined on the basis of the most favourable prices applied on the world market for significant quantities by the most representative non-member countries.'

11. On 23 July 1985 the Commission laid down detailed rules for the application of the system, in Regulation No 2237/85; finally, the minimum import price and the countervailing charge were fixed for the 1985/86 marketing year by Regulation No 2238/85.

B — *Procedure*

12. In accordance with Article 20 of the Protocol on the Statute of the Court of Justice of the EEC written observations were submitted on 17 February 1987 by the Council of the European Communities, represented by Arthur Brautigam, Principal Administrator at the Legal Department of the General Secretariat of the Council, acting as Agent, on 19 February 1987 by the plaintiff in the main proceedings, represented by Messrs Ehle, Feldmann and Schiller, acting as Agents, on 20 February 1987 by the Commission of the European Communities, represented by its Legal Adviser Dierk Booss, acting as Agent, and on 10 March 1987 by the Government of the Hellenic Republic, represented by K. Stavropoulos, F. Spathopoulos and M. Tsotsakis, Legal Advisers at the Ministry of Foreign Affairs, the Ministry of Economic Affairs and the Ministry of Agriculture respectively, acting as Agents.

13. Upon hearing the report of the Judge-Rapporteur and the views of the Advocate General the Court decided to open the oral procedure without any preparatory inquiry.

14. By decision of 8 July 1987 the Court assigned the case to the Sixth Chamber.

II — Written observations submitted to the Court

The first question

15. The plaintiff in the main proceedings begins by making some preliminary observations about legal protection against protective measures in the agricultural sector, in particular the market in products processed from fruit and vegetables. In its view, such measures should be introduced only with clear authority from the Council, should take a concrete legal form and should fix objectively verifiable and exhaustive criteria. Such measures are subject to particularly strict requirements regarding the statement of reasons, particularly since Regulations Nos 516/77 and 521/77 do not make provision for the involvement of traders and producers before their introduction. The absence of such involvement should be counterbalanced by far-reaching judicial review in order to satisfy the principle of a right of hearing before a court laid down in German constitutional law and recognized by the Court of Justice.

16. As regards the question whether Regulations Nos 516/77 and 521/77 constitute a sufficient legal basis for the measures introduced by Commission Regulation No 2742/82, the plaintiff in the main proceedings submits that Article 14 (1) of Regulation No 516/77 contains the usual general authority to take protective measures whilst taking account of the objectives of Article 39 and Article 110 of the EEC Treaty. Regulation No 521/77, however, which refers to Article 39 alone, determined the detailed rules of application in a very general way, thus infringing higher-ranking provisions and principles, namely the Council's obligation to adopt rules in accordance with Regulation No 516/77 in conjunction with Articles 4, 43, 145 and 155 of the Treaty and also infringing the principle of the supremacy of law, inasmuch as enabling provisions must be specific and deal with all essential points.

17. In particular, the abovementioned provisions of the Treaty and the division of powers under the Treaty require the Council to adopt protective measures itself. No provision is made in the Treaty or in secondary legislation for the delegation of that obligation to the Commission. Moreover, the Council, in authorizing the Commission to introduce protective measures, must itself regulate all the basic conditions of application in order that traders should know when to expect protective measures and what sort of measures to expect when they import products processed from fruit and vegetables. The Council cannot leave it to the Commission to enact such rules, as it has done in this case.

18. The plaintiff in the main proceedings accordingly concludes that Regulation No 521/77 is contrary to those principles and must therefore be regarded as void.

19. The same applies to Commission Regulation No 2742/82, which is based on Article 14 (2) of Regulation No 516/77 and not on the second sentence of Article 14 (1) in conjunction with Regulation No 521/77. Even if the indirect basis of authorization of Regulation No 2742/82 is Regulation No 521/77, there is still no effective authorization, since the latter regulation is void.

20. Finally, the plaintiff in the main proceedings argues that Article 3 of Regulation No 521/77 requires application in accordance with obligations under international agreements, such as the GATT. The provisions of that agreement lay down narrow limits for protective measures, which are equally valid for dried grapes.

21. The Council considers that the case in question is a typical case of the application of the fourth indent of Article 155 of the Treaty, under which the Council may confer on the Commission the power to implement the rules laid down by the Council. It also considers that the conferment of the power in question is fully in accordance with the institutional balance of the Community. Finally, it considers that the power conferred on the Commission is in any event defined by sufficiently precise criteria and limits to enable it to be applied to the specific case and therefore to enable its exercise to be reviewed by the Court. Referring to the criteria laid down in decisions of the Court the Council submits that in matters of agricultural policy the authorization contained in Article 155 of the Treaty is not restricted to non-legislative powers alone but also covers wide powers

of assessment and action and that the Commission enjoys a considerable margin of discretion in the matter, subject, of course, to review by the Court as regards manifest error or misuse of powers.

22. In the present case, more particularly, the Council considers that the authorization in question, for the specific implementation of the safeguard clause in the event of serious disturbance of the market in products processed from fruit and vegetables, fully satisfies the criteria laid down in the case-law of the Court. The essential elements of the safeguard clause in Article 14 of Regulation No 516/77 were adopted on the basis of Article 43 of the Treaty. Those elements are supplemented by the implementing rules laid down in Regulation No 521/77, in accordance with the decision in *Köster*, which sets forth in particular the criteria and limits regarding the exercise of the Commission's implementing power. On the legal basis so defined the Commission is empowered to adopt legislative measures involving the fixing, with general effect, of minimum prices to be observed upon the importation of the products concerned. The fact that in this respect the Commission has some discretion, in particular in determining whether there is a serious disturbance and in deciding the scope of the measures to be taken in consequence, does not mean that it has an arbitrary or unlimited discretion. On the contrary, that discretion is limited first of all by the rules enacted by the Council, in particular the rule that the measures must be strictly proportional to the threat of disturbance found to exist and must remain in force only for the duration of the serious disturbance. Secondly, the exercise of the discretion is subject to review *a posteriori* by the Council, which may, at the request of a Member State, amend or annul a protective measure taken by the Commission, and, finally, the Commission must observe the general principles of Community law such as the principle of non-discrimination and of proportionality.

23. The Council therefore submits that the first question should be answered in the affirmative; in short it considers that the authorization in question fully complies with the requirements laid down in the case-law of the Court.

24. The Commission bases its argument on the Court's judgment of 17 December 1970 in Case 25/70 *(Einfuhr- und Vorratsstelle für Getreide und Futtermittel* v *Köster, Berodt & Co.* [1970] ECR 1161), according to which the legislative system of the Treaty is complied with when the basic elements of the matter to be dealt with are adopted in accordance with the procedure laid down in Article 43. This was done in this case by Article 14 of Regulation No 516/77. In supplementing the basic elements contained therein, Regulation No 521/77 determined the criteria for establishing the existence of a disturbance of the market and listed a series of measures to be taken 'only to such extent and for such length of time as is strictly necessary'. Commission Regulation No 2742/82 complied with those criteria and the limits to the authority thus conferred upon it. Finally, the provisions of the GATT are not relevant in this case.

25. The Greek Government also considers that Regulation No 521/77 contains sufficiently specific authorization by determining the essential criteria allowing the Commission to adopt protective measures. In the present case, those criteria, supported by figures, are as follows:

(a) the volume of imports or exports effected or foreseen was causing or threatening to cause serious disturbances which might endanger the objectives set out in Article 39 of the EEC Treaty;

(b) the stocks of sultanas in the Community were large;

(c) the prices in non-member countries were continuing to fall; whilst

(d) world production was increasing; and

(e) the risk of disturbance was directly related to the increase in the volume of dried grapes supplied by non-member countries.

26. Finally, from the legal point of view, the Greek Government considers that the Commission is empowered to take protective measures not expressly provided for in Article 2 (1) of Regulation No 521/77 provided that, as is required by the case-law of the Court, they are no more restrictive than the measures provided for by that article.

The second question

27. The main argument of the plaintiff in the main proceedings is that the phrase 'by reason of imports' in Article 14 (1) of Regulation No 516/77 and Article 1 of Regulation No 521/77 must be interpreted as meaning that protective measures may be adopted only if imports are the essential cause of a disturbance of the Community market in dried grapes, to the exclusion of other causes. That interpretation follows from the aim of protective measures, from the legal relationship with other protective rules and from the practice followed — at least in the past — by the Commission. However, not every low-price import constitutes *per se* an essential cause of a disturbance necessitating the adoption of protective measures. Moreover, the principle of the free movement of goods also applies to trade with non-member countries, so that protective measures which are to derogate from that principle must be interpreted strictly.

28. According to the plaintiff in the main proceedings, the question of fact whether the disturbance of the market was essentially due to imports or not is in any event one for the national court. Alternatively, however, it makes a detailed analysis to show that the disturbance of the market is caused not by imports from non-member countries but by other causes.

29. In particular, the causes are internal to the Community; they are namely the absence of similar, marketable qualities, the existence of considerable Community and national aid, which acts as an incentive to increase production, a artificially high price level, the lack of competitiveness of Community products and the fact that sale prices are published too late in each marketing year.

30. More particularly, the imports do not concern a similar commodity: the imported sultanas are non-sulphited, have a colour

and quality superior to those of sultanas produced in the Community and do not directly compete with Community-produced sultanas. Moreover, the Community product and the imported commodity are not interchangeable. Even accepting some degree of competition by substitution, in certain restricted areas, Community products have not been marketable owing to their poor quality. This is shown by the difficulties in disposing of Community products and the existence of stocks.

31. Moreover, the statement in the first recital of the preamble to Regulation No 2742/82 to the effect that the prices of dried grapes originating in non-member countries were 'significantly undercutting the prices ruling in the Community' and the statement in the third recital to the effect that 'the aim of the protective measures should be to exclude that imported dried grapes are marketed at abnormal low prices' are incorrect. In this regard the plaintiff in the main proceedings provides figures for the prices of the Greek product and the prices of Turkish and Australian products in the various marketing years which show that the latter prices are higher than the sale price of the Greek product because of its poorer quality; it was for that reason that the Commission extended the sale period in 1982.

32. Moreover, irrespective of those factors, the introduction of protective measures constitutes an abuse of law: the Community system of aid has created an unbridgeable price advantage for Community products. That aid is therefore the actual cause of the falls in price because it compels suppliers in non-member countries to lower their prices; in addition, dried raisins attract additional unauthorized national aid in Greece. Production aid has produced an unusual and artificial incentive to produce whilst marketing is hindered by storage aid.

33. Another cause not attributable to imports was the fact that prices in 1981 and 1982 were published too late, which also had an effect in later years. The result was that imports from non-member countries had already reached considerable volumes whilst the Community product arrived on the market when business was already over.

34. The level of Community prices was therefore artificially high, largely exceeding the real costs of production. Greek producers were given 'hand-outs'. Besides going far beyond the aim of guaranteeing 'a fair standard of living' for producers, this is also contrary to the other aims laid down in Article 39 (1) and Article 110 of the Treaty, those of stabilizing markets, assuring the availability of supplies, ensuring that supplies reach consumers at reasonable prices and implementing a fundamentally liberal trade policy.

35. The conclusion of the plaintiff in the main proceedings is therefore that the protective measures introduced by the Commission for dried grapes constitute an abusive, and therefore unlawful, application of Article 14 of Regulation No 516/77 and of Articles 1 and 2 of Regulation No 521/77.

36. The Commission states that it is rare for a lasting disturbance of the market to have a single cause and to be capable of being eliminated by a single measure. Consequently, imports from non-member countries or exports to such countries do not need to have been the single or even essential cause of the disturbance for the purposes of Article 14 of Regulation No 516/77. It is sufficient for such imports or exports to have been one of possibly many causes of the disturbance. The measures needed to be taken with regard to imports or exports may then be adopted under Article 14 of Regulation No 516/77 and Article 1 of Regulation No 521/77, bearing in mind that those provisions — and this is the reason why the phrase 'by reason of imports or exports' was used in those provisions — were clearly not conceived and are inappropriate for internal Community measures for achieving the objectives laid down in Article 39.

37. As regards the question whether a serious disturbance of the market in dried grapes did exist at the time of the events in question, the Commission considers that there was a real disturbance, basing its view on the following facts: large stocks existed in 1981 which could not be disposed of on the market and were likely to continue to exist in the following years; there was an increase in the volume of imports from non-member countries at prices below intra-Community prices; import prices were tending to fall even further. That disturbance was eliminated by the measures adopted under Regulation No 2742/82, which is demonstrated by the elimination of stocks. However, it was necessary to maintain the system of minimum prices because otherwise the market would have continued to be threatened by serious disturbances.

38. The Commission considers that the existence of a disturbance on the market is not affected by the grant of national aid; in any event, the grant of aid was not the cause of the difference in the prices on the Turkish market and Community prices.

39. The Greek Government considers that in the present case imports must be regarded as one of the main causes of the disturbances on the Community market. In this regard it quotes figures showing the increasing volume of imports from non-member countries.

The third question

40. The plaintiff in the main proceedings maintains that the combined provisions of Article 2 (1) of Regulation No 521/77 and of Articles 13 and 14 of Regulation No 516/77 do not authorize the Commission, either directly or indirectly, to introduce a countervailing charge where the minimum prices are exceeded. Article 2 of Regulation No 521/77 determines exhaustively the measures which the Commission could take. Even the Commission was probably aware of the unlawfulness of its action because it avoided giving any indication of the specific legal basis of the countervailing charge, which constitutes a failure to state reasons, contrary to Article 190 of the Treaty. The plaintiff does not consider the Court's judgment in Case 345/82 (*Wünsche* [1984] ECR 1995), applicable in this case. In any event, the countervailing charge is not 'a less restrictive means' than the minimum price system; on the contrary, in its effects it goes further than the system of minimum prices since it does not contain any provision regarding the observance of certain prices but imposes a charge. It is a

protective measure complementary to and supplementary to the system of minimum prices.

41. The plaintiff in the main proceedings also observes that the levying of a countervailing charge involves not only the exercise of fiscal sovereignty but, as in this case, involves a sanction without legal basis. The charge is also contrary to Article 13 (2) of Regulation No 516/77 since it is a charge having equivalent effect to a customs duty, prohibited by that provision.

42. The Commission contends that the levying of a countervailing charge where the minimum price is not observed does not go beyond the principles laid down in Article 14 of Regulation No 516/77. It is also consistent with the principle of proportionality expressed in Article 2 (2) of Regulation No 521/77. The fact that Article 2 of that regulation does not provide for the levying of a countervailing charge does not mean that the Commission exceeded the powers conferred on it by the Council. On the contrary, as the Court of Justice stated in the *Wünsche* case with regard to Regulation No 521/77, the Commission could have considered that the countervailing charge was a less radical measure than the discontinuance of the issue of certificates or the suspension of imports, provided for in Article 2.

43. The Greek Government, referring to the same case-law and the fact that the countervailing charge was less restrictive than the suspension of imports, submits that the introduction of that charge was lawful, proportionate and *intra vires* the Commission.

The fourth question

44. The plaintiff in the main proceedings takes the view that the fixing of the flat-rate countervailing charge in Article 2 (2) of Regulation No 2742/82 is contrary to the principle of proportionality since the charge is not based on objective criteria, is levied without taking into account the actual difference between the minimum price and the import price and also affects imported dried grapes that are neither similar to the dried grapes produced in the Community nor in direct competition with them.

45. The Commission states that since the countervailing charge is designed to prevent as far as possible products from non-member countries from being imported at prices lower than those in the Community, or at any rate to prevent such imports, if they take place, from destabilizing the market, it must have both a dissuasive effect and a countervailing effect. To have a dissuasive effect, a countervailing charge, like a penalty duty, must be for a fixed amount.

46. To achieve the countervailing effect it was also necessary not to vary the charge according to the import price. For that reason the amount of the charge was fixed at a flat rate and was calculated so as to cover the difference between the low world market prices in the principal supplier countries and the minimum price. Subsequent fluctuations in world-market prices were taken into account from time to time by re-determining the amount of the charge. The flat rate also reflected market realities. Finally, the Commission states that the system is in accordance with the

principle of proportionality, is less radical than a suspension of imports and was implicitly approved by the Court in the *Wünsche* case.

47. The Greek Government takes the same view. The fixing of a flat-rate charge is within the powers of the Commission, is necessary to achieve the aims of imposing a countervailing charge and, finally, is effective.

The fifth question

48. The plaintiff in the main proceedings considers that, contrary to Article 190 of the Treaty, no sufficient reasons were stated for the fixing of the level of the minimum price in Article 2 (2) of Regulation No 2742/82. Since protective measures are urgent measures and constitute a considerable interference in an undertaking's business, there must be very strict requirements regarding the stating of reasons, enabling the conditions, determination and scope of the measures to be assessed. To provide sufficient legal protection, it was all the more necessary to set out the determining factual considerations since the minimum price is a significant element of intervention in the functioning of the market and is also the basis for the levying of the countervailing charge.

49. Furthermore, the minimum prices were not fixed according to objective criteria, which constitutes a misuse of power. The plaintiff again asserts in this context that the level of the minimum prices was too high and that no account was taken of aid when they were calculated.

50. In conclusion, the plaintiff submits that Article 2 of Regulation No 2742/82 is void for breach of the obligation to state reasons and for misuse of power.

51. The Commission first sets out the factors which it took into consideration in fixing the minimum price: the price is equal to the difference between the internal minimum price, plus processing costs equivalent to approximately 25%, and the production aid. The fixing of that amount was also within the Commission's discretion.

C. Kakouris
Judge-Rapporteur