JUDGMENT OF THE COURT (Second Chamber)
11 July 1989 *

In Case 170/88

REFERENCE to the Court under Article 177 of the EEC Treaty by the Audiencia Territorial (High Court), Valencia, for a preliminary ruling in the proceedings pending before that court between

Ford España SA, a company incorporated under Spanish law, whose registered office is at Almusafes, Valencia (Spain),

and

Estado español (Customs Administration),

on the interpretation of Article 35 of the Act concerning the conditions of accession of the Kingdom of Spain and the Portuguese Republic and the adjustments to the Treaties (Official Journal 1985, L 302, p. 23) and Articles 9, 13 and 16 of the EEC Treaty,

THE COURT (Second Chamber)

composed of: T. F. O'Higgins, President of Chamber, G. F. Mancini and F. A. Schockweiler, Judges,

(the grounds of the judgment are not reproduced)

* Language of the case: Spanish.

in answer to the question referred to it by the Audiencia Territorial, Valencia, by order of 15 June 1988, hereby rules:

(1) **Articles 9 and 13 of the EEC Treaty in conjunction with Article 35 of the Act concerning the conditions of accession of the Kingdom of Spain and the Portuguese Republic and the adjustments to the Treaties must be interpreted as precluding the levying of a duty calculated as a proportion of the declared value of the imported goods which is imposed where the operations relating to the customs clearance of the goods in question are carried out on premises or at places not open to the public.**

(2) **A national court which is called upon to apply, within the limits of its jurisdiction, provisions of Community Law is under a duty to give full effect to those provisions, if necessary refusing of its own motion to apply any conflicting provision of national legislation, and it is not necessary for the court to request or await the prior setting aside of such provisions.**