JUDGMENT OF THE COURT (SECOND CHAMBER)
OF 30 NOVEMBER 1978 [1]

Welding & Co.
v Hauptzollamt Hamburg-Waltershof
(preliminary ruling requested by the Finanzgericht Hamburg)

"Malto-dextrine"

Case 87/78

1. *Agriculture — Common organization of the markets — Sugar — Levy — Basis of calculation — Sucrose content of certain products — Determination — Flat-rate methods — Lawfulness — Conditions*
   (Regulation No 1009/67 of the Council, Art. 14 (5) and Council Regulation No 3330/74, Art. 15 (5); Regulation No 837/68 of the Commission, Art. 7 (2))

2. *Measures adopted by an institution — Regulation — Duty to provide a statement of reasons — Limit*
   (EEC Treaty, Art. 190)

1. The use of flat-rate methods to ascertain the sucrose content to be taken as a basis for the calculation of the levy applicable to certain products covered by the common organization of the markets in sugar is valid subject to the two conditions that the sucrose content including other sugars expressed as sucrose remains the principal factor in the calculation of the levy and that such methods are neither inappropriate nor give rise to instance of demonstrable unfairness.
2. The extent of the duty to provide a statement of reasons prescribed in Article 190 of the Treaty depends on the nature of the measure in question. In the case of a regulation the preamble thereto may be confined to indicating the general situation which led to its adoption and the general objectives which it is intended to achieve. Consequently it is not possible to require that it should set out the various facts, which are often very numerous and complex, on the basis of which the regulation was adopted, or *a fortiori* that it should provide a more or less complete evaluation of those facts.

In Case 87/78

REFERENCE to the Court under Article 177 of the EEC Treaty by the IVth Senate of the Finanzgericht (Finance Court) Hamburg for a preliminary ruling in the action pending before that court between

1 — Language of the Case: German.

FIRMA WELDING & CO., Hamburg

and

HAUPTZOLLAMT (Principal Customs Office) HAMBURG-WALTERSHOF

on the validity and interpretation of the second subparagraph of Article 7 (2) of Regulation (EEC) No 837/68 of the Commission of 28 June 1968 (Official Journal, English Special Edition 1968 (I), p. 221), as amended by Regulation (EEC) No 878/69 of the Commission of 12 May 1969 (Official Journal, English Special Edition 1969 (I), p. 216), on detailed rules for the application of levies on sugar.

THE COURT (Second Chamber)

composed of: Lord Mackenzie Stuart, President of Chamber, M. Sørensen and A. Touffait, Judges,

Advocate General: F. Capotorti
Registrar: A. Van Houtte

gives the following

JUDGMENT

Facts and Issues

The facts of the case, the course of the procedure and the observations submitted pursuant to Article 20 of the Protocol on the Statute of the Court of Justice of the European Communities may be summarized as follows:

I — Facts and procedure

On 12 October 1976 the Welding undertaking of Hamburg, the plaintiff in the main action, obtained customs clearance from the Zollamt (Customs Office) Hamburg for certain quantities of "maltrin 10" and "maltrin 20". The customs services classified these goods as "other sugars" falling under tariff heading 17.02 D ("other sugars and syrups") of the Common Customs Tariff and, after taking a sample, issued provisional decisions assessing the levy and the monetary compensation. After the goods had been examined by experts and the initial decision amended, the customs services, by successive decisions of 4

February, 10 March and 27 October 1977 found that the sucrose content of maltrin 10 was 94.7 % and of maltrin 20 was 95.6 % respectively and fixed the levy accordingly. The action of the customs services was claimed to be based on the second subparagraph of Article 7 (2) of Regulation No 837/68.

The wording of paragraph 2, as amended by Regulation No 878/69 is as follows:

"The sucrose content, including other sugars expressed as sucrose, referred to in paragraph 1 shall be determined according to the Lane and Eynon method (copper reduction method) from the solution inverted according to Clerget-Herzfeld. The total sugar content determined according to this method shall be converted into sucrose by multiplying by the coefficient 0.95.

By way of derogation from the preceding subparagraph, the sucrose content, including other sugars expressed as sucrose, of products containing less than 85 % sucrose and invert sugar expressed as sucrose shall be determined by ascertaining the dry matter content. The dry matter content shall be determined according to the specific gravity of the solution diluted in a proportion of 1 to 1 by weight and, for solid products, by drying. The dry matter content shall be expressed as sucrose by multiplying by the coefficient 1."

After submitting an objection the Welding undertaking instituted proceedings before the Finanzgericht Hamburg on 1 November 1977. It claimed that the fixing of the import levies on the basis of a sucrose content of 94.7 % and 95.6 % gives an absurd result. If the findings of the Zolltechnische Prüfungs- und Lehranstalt (Testing and Training Institute for Customs Technology) are adopted for a dextrose content of 11.6 % or 18.2 % the imported product in its entirety would in practice be subject to the levy and to the monetary compensatory amount applicable to sugar although more than 80 % of the content of the goods consists of dextrin, a degraded starch, which as it is not sugar falls under tariff heading 35.05 ("Dextrin and dextrin glues; soluble or roasted starches; starch glues"). If the maltose having a scrose content of more than 85 % contained in the maltrin 10 and maltrin 20 were imported separately from a dextrin as pure as possible it would be subject to the levy and monetary compensation only in respect of the sucrose actually found or expressed whilst the dextrin would be exempt from such levies. The Lane and Eynon method laid down in the first subparagraph of Article 7 (2) of Regulation (EEC) No 837/68 for determining the sucrose content is not suitable for goods containing less than 30 % dextrose equivalent. For such goods there exist other methods of analysis which produce accurate results.

The Welding undertaking consequently claimed that the Finanzgericht should fix the levy and the monetary compensatory amount on the basis of the actual sucrose content including other sugars expressed as sucrose, in accordance with the first subparagraph of Article 7 (2) of Regulation (EEC) No 837/68.

The Welding undertaking maintains that the second subparagraph of Article 7 (2) of Regulation No 837/68 has been incorrectly applied since the fact that it merely constitutes a specific provision in implementation of the first subparagraph whereby the calculation of the levy is based on the total sugar content expressed as sucrose should not have been overlooked; the "dry matter content" mentioned in the second sentence can only be understood as the "sucrose content of the dry matter" or the absurd situation will arise whereby a heavier charge is imposed on products which have a lower sucrose content — less than 85 % — that on products with a higher content — more than 85 %.

Furthermore the Welding undertaking called in question the right of the Commission to base its calculation on the dry matter since Regulation (EEC) No 3330/74 of the Council of 19 December 1974 (Official Journal L 359 of 31 December 1974, p. 1) on the common organization of the market in sugar adopted the sucrose content as the sole criterion to be taken into consideration with regard to the levy on white sugar.

Finally the Welding undertaking considered that the coefficient 0.95 used in the calculation in the first subparagraph must be applied in the second subparagraph to avoid a further case of imposing heavier taxation on a product which has a lower sugar content.

For all these reasons the Welding undertaking claimed that the sucrose content of its imported maltrin should be calculated on the basis of the criteria laid down in the first, not the second subparagraph of Article 7 (2) of Regulation No 837/68.

The Hauptzollamt relied upon what it considers the clear meaning of the second subparagraph of Article 7 (2) of Regulation No 837/68 as amended by Regulation No 878/69 and contended that the application should be dismissed.

The Finanzgericht Hamburg stayed the proceedings by an order of 15 March 1978. The "doubts" of the Finanzgericht concerning this case may be summarized as follows from the statement of reasons for the said order:

1. According to Article 15 (5) of Regulation No 3330/74 of the Council (the former Article 14 (5) of Regulation No 1009/67) there is a common organization of the market in sugar entailing the charging of a levy which must be calculated as a flat rate on the basis of the actual content, or the content expressed as sucrose and of the levy on white sugar. The first subparagraph of Article 7 (2) of Regulation No 837/68 lays down the method for determining the sucrose content, including other sugars expressed as sucrose. By way of derogation from that subparagraph the second subparagraph of paragraph 2 makes provision for determining the sucrose content of products containing less than 85 % sucrose by ascertaining the dry matter content and for fixing the method of calculating that content which is to be expressed as sucrose by multiplying by the coefficient 1.

2. Although the powers conferred by the Council on the Commission must in principle be given a wide interpretation (judgment of the Court of 30 October 1975 in Case 23/75 [1975] 2 ECR 1279) it may be wondered whether Article 15 (5) of Regulation No 3330/74, an enabling provision establishing the power of the Commission, permits, in connexion with a product to which the relevant common organization of the market applies, calculation of the levy otherwise than on the basis of the sucrose content and the levy on white sugar; the second subparagraph of Article 7 (2) of Regulation No 837/68 renders subject to the levy applicable to sugar constituents of a product other than those mentioned in the rule for the treatment, for example, of dextrin falling under tariff heading 35.05.

3. This may constitute inequality and thus amount to discrimination within the meaning of the second subparagraph of Article 40 (3) of the EEC Treaty since lighter charges are imposed on separate imports of dextrin and maltose than on imports of a mixture of the two products.

4. The validity of the second subparagraph of Article 7 (2) must also be questioned because no reasons are given for the derogation which it constitutes from the first subparagraph (judgment of 4 July 1963 in Case 24/62 [1963] ECR 63).

5. If this provision is invalid it is important to establish which, of the Commission or the national authorities, can prescribe the methods for fixing the sucrose content of a product constituting the subject-matter of a dispute.

On the basis of these grounds the Finanzgericht Hamburg referred the following preliminary questions to the Court of Justice:

"1. Is the second subparagraph of Article 7 (2) of Regulation (EEC) No 837/68 of the Commission of 28 June 1968 as amended by Regulation (EEC) No 878/69 of the Commission of 12 May 1969 invalid because, by way of derogation from the first subparagraph of Article 7 (2) of Regulation (EEC) No 837/68, the sucrose content, including other sugars expressed as sucrose, of products containing less than 85 % sucrose and invert sugar expressed as sucrose is to be determined without regard to the actual sucrose content including other sugars expressed as sucrose by ascertaining the dry matter content?

2. If Question 1 is answered in the affirmative: In calculating the levy and monetary compensation in cases under the second subparagraph of Article 7 (2) of Regulation (EEC) No 837/68 are the national authorities entitled to adopt as a basis the actual sucrose content, including other sugars expressed as sucrose, determined by methods of analysis other than those laid down by the first subparagraph of Article 7 (2) or is it for the Community legislature to specify the method of analysis for the cases covered by the second subparagraph of Article 7 (2)?"

The order of the Finanzgericht Hamburg was received at the Court Registry on 29 March 1978.

The Commission of the European Communities represented by Mr Bourgeois, acting as Agent, assisted by Mr Sack, and the Welding undertaking, the plaintiff in the main action, represented by Mr Von Rosen, submitted observations pursuant to Article 20 of the Protocol on the Statute of the Court of Justice.

The Court, having heard the report of the Judge-Rapporteur and the views of the Advocate General, decided by an order of 12 July 1978 to assign the case to the Second Chamber.

II — Summary of the written observations submitted pursuant to Article 20 of the Protocol on the Statute of the Court of Justice

The *Commission of the European Communities* recalls first the facts of the original dispute. It then proceeds to the legal consideration of the problems raised in the questions submitted.

It makes the initial remark that the contested provision has been applied without difficulty for almost ten years and states that the rules of which it forms part were only enacted after scrupulous consideration and consultation with an expert whose opinion it produces.

With regard to the first preliminary question the Commission then endeavours to justify the method of calculating the levy and to counter the other reasons for the invalidity of the disputed provision mentioned in the order.

It recalls first of all the factual basis of the problem. Maltrose is a sugar which falls under tariff heading 17.02 D of the Common Customs Tariff; dextrin, a starch degradation product, is included under tariff heading 35.05 but, according to Note 2 to Chapter 35, dextrin is to be considered as a starch degradation product with a reducing sugar content (sugars which reduce cupric salts in an

alkaline solution from a higher level of oxidation to a lower — glucose, fructose, maltose, galactose, lactose, etc. and which can thus be identified) expressed as dextrose (chemically pure glucose) on the dry substance not exceeding 10 %. The malto-dextrins having a higher reducing sugar content fall under heading 17.02.

Since the imported goods, "maltrin 10" and "maltrin 20" have a maltose, reducing sugar content of 11.6 % and 18.2 % respectively the dextrose equivalent thus exceeds the limit of 10 % fixed in Note 2 to Chapter 35 of the Common Customs Tariff. This means that the goods as a whole are to be classified in heading 17.02 D of the Common Customs Tariff and must accordingly be treated as sugar.

The levy on sugar is calculated in accordance with the method described in Article 15 (5) of Regulation No 3330/74 and in Article 7 of Regulation No 837/68. That method consists in calculating first the sucrose content of a product, including other sugars expressed as sucrose, and multiplying that content by the basic amount of the levy (Article 7 (1) of Regulation No 837/68). However current techniques of analysis do not permit the sucrose content to be calculated in accordance with the uniform method for all sugar. That is why the Commission, when it adopted Regulation No 837/68, found it necessary to prescribe different methods depending on the composition of the product for determining the total sugar content. Following lengthy discussions with scientists it became clear that for most products the so-called Lane and Eynon method, which consists of inverting the sugar in a solution, must be regarded as the most reliable. It is prescribed in the first subparagraph of Article 7 (2) of Regulation No 837/68 as the method used generally to determine the total sugar content. Nevertheless, like other known methods of analysis, it is not effective with certain compounds, which moreover rarely occur in international trade, in particular simple sugars such as glucose, fructose, hexose, pentose, etc. Since for such products there is no more accurate alternative method the second subparagraph of Article 7 (2) adopts the dry matter content as the basis.

This objective method has not given rise to difficulties in its application. In the present case the compound of imported malto-dextrin should have led to the straightforward application of the second subparagraph of Article 7 (2) of Regulation No 837/68 as amended. The fact that imports of maltose and of dextrin separately and not as a mixture are not taxed so heavily does not follow from the provision in dispute but from the definition of dextrin given in the Common Customs Tariff itself; such cases are inevitable since any classification of necessity entails drawing dividing lines.

It remains to be considered whether any discrimination results from applying different coefficients to the sucrose content. The coefficient 0.95 applicable under the first subparagraph of Article 7 (2) is justified because of the inversion of sugar which increases the initial sucrose content by some 5 % and occurs in the application of the Lane and Eynon method recommended where the said first subparagraph applies; the coefficient returns the content to its initial value. The method recommended in the second subparagraph does not entail any overestimate of the content and thus need not be counterbalanced; in that case it is accordingly proper to apply the coefficient 1.

The Commission then considers the other grounds of invalidity mentioned in the order of the Finanzgericht.

The requirement to provide a statement of reasons does not necessarily extend to the details of every rule in an important regulation (judgment of 13 March 1968 in Case 5/67 [1968] ECR 83 and

judgment of 20 June 1973 in Case 80/72 [1973] 1 ECR 635, at p. 651. To require a more detailed statement of reasons would result in prolixity and in fact lead to scientific commentaries or dissertations. It is accordingly unobjectionable that the relevant recital to Regulation No 837/68 merely stated "To avoid distortions of competition, it is necessary to specify in respect of these products the method by which sucrose content ... is to be determined".

Furthermore the second subparagraph of Article 7 (2) as amended does not constitute a derogation from Article 15 (5) of basic Regulation No 3330/74. Indeed the wording of the latter provision (and above all the words "on the basis of the sucrose content") establishes that the Council did not envisage a precise fixing of the sucrose content including other sugars expressed as sucrose, but permits other criteria to be adopted inasmuch as the sucrose content remains the essential factor in calculating the levy. Furthermore the dry matter corresponds in practice almost exactly to the total sugar content.

With regard to the second preliminary question, the Commission is of the opinion that there is accordingly no further need to consider it.

The Commission finally suggests that the reply to the questions asked by the Finanzgericht Hamburg should be as follows:

"Consideration of the questions submitted has disclosed no factors of such a kind as to affect the validity of the second subparagraph of Article 7 (2) of Regulation (EEC) No 837/68 of the Commission of 28 June 1968."

The *plaintiff in the main action* has delivered a copy of the statement which it has addressed to the Finanzgericht in the main action together with technical information on the Somogyi method of calculating sugar contents in maltose and cereal derivatives.

It adds that Article 7 (2) of Regulation (EEC) No 837/68 merely constitutes an explanation and, in appropriate cases, a basis for calculating the levy in accordance with paragraph 1. The second subparagraph of paragraph 2 only lays down another method of calculating the sucrose content, including others sugars expressed as sucrose, differing from the method laid down in the first subparagraph. The concept of "dry matter content" referred to in the first sentence of the second subparagraph must, on a logical interpretation, be read as meaning "the dry matter content in sucrose including other sugars expressed as sucrose". The meaning of this (which furthermore is in accordance with that regulation and with Regulation (EEC) No 3330/74) is that only the sucrose content found in the dry matter, including the content of others sugars expressed as sucrose, should be subject to the levies applicable to sugar.

III — Oral procedure

At the hearing on 21 September 1978 the Welding untertaking and the Commission of the European Communities presented their oral observations and replied to questions asked by the Court.

The representative of the *Welding* undertaking provided additional technical explanations on the basis of those contained in its written statement, claimed that in large measure the dry matter does not consist of sugar and urged the inadequacy of the method of checking and analysis required by the Commission which has been referred for consideration to an expert at a time when the goods in question were not yet convered by an organization of the market in sugar. The Commission and its expert had been concerned to save the customs authorities additional, complicated work which is the reason of the adoption of a flat-rate method which should now have been replaced by a

more modern and accurate means. The representative of the Welding undertaking tried with the aid of examples to prove the inadequacy of the rules in force which he claimed were both inequitable and liable to create distortions on the market through the interpretations of different customs authorities.

The *Commission* maintained the point of view which it had put forward in its written statement. It endeavoured to counter the arguments which the plaintiff in the main action developed on the basis of the chemical composition of the product. The Commission however insisted that the details of such composition are of little relevance to the legal outcome of the problem which, it stated, must be resolved through the application of the Common Customs Tariff to a product treated as similar to sugar.

The Advocate General delivered his opinion at the hearing on 26 October 1978.

Decision

1 By an order of 15 March 1978 which was received at the Court on 29 March 1978 the Finanzgericht Hamburg referred to the Court, pursuant to Article 177 of the EEC Treaty, for a preliminary ruling a question on the validity of the second subparagraph of Article 7 (2) of Regulation No (EEC) 837/68 of the Commission of 28 June 1968 on detailed rules for the application of levies on sugar (Official Journal, English Special Edition 1968 (I), p. 221) as amended by Regulation (EEC) No 878/69 of the Commission of 12 May 1969 (Official Journal, English Special Edition 1969 (I), p. 216).

2 That reference was made in the course of a dispute between the Hauptzollamt Hamburg and the Welding undertaking concerning the method of calculating the dry matter content expressed as sucrose contained in maltrin 10 and maltrin 20 which determines the amount of the levy payable in respect of customs clearance on the importation of these products.

3 The defendant, in calculating the amount of the levy, employed the method prescribed by the second subparagraph of Article 7 (2) of Regulation No 837/68 as amended by Regulation No 878/69 whereby the sucrose content, including other sugars expressed as sucrose, of products containing less than 85% sucrose and invert sugar expressed as sucrose, is determined by ascertaining the dry matter content; this latter content is determined according to the specific gravity of the solution diluted in a proportion of one to one by weight and, for solid products, by drying and when expressed as sucrose by multiplying by the coefficient 1.

4 The national court has doubts regarding the validity of the method of determining the criteria adopted for calculating the levy which entails extending the levy applicable to sugar to the constituents of a product other than those mentioned in the enabling provision in Article 14 (5) of Regulation No 1009/67/EEC of the Council of 18 December 1967 on the common organization of the market in sugar (Official Journal, English Special Edition 1967, p. 304) as amended by Article 15, (5) of Regulation No 3330/74 of the Council of 19 December 1974 (Official Journal L 359, p. 1) which provides that the levy shall be calculated, where appropriate, at a standard rate on the basis of the sucrose content (including other sugars expressed as sucrose) of the product concerned.

The national court deduced from this that since, according to Article 155 of the Treaty, the Commission can exercise only the powers conferred upon it by the Council for the implementation of the rules laid down by the latter, the Commission may have exceeded its powers by substituting its method of calculating the levy for that clearly established by the Council.

The national court further remarks that the application of a levy on sugar to goods composed chiefly of a product which is not subject to that levy could be considered as a violation of the principle of equality and as constituting discrimination within the meaning of the second subparagraph of Article 40 (3) of the EEC Treaty.

Finally that court entertains doubts as to the validity of the second subparagraph of Article 7 (2) of Regulation No 837/68 since no reasons are given for the derogation from the rules in the first subparagraph.

These are the circumstances which led it to submit the following question:

"Is the second subparagraph of Article 7 (2) of Regulation (EEC) No 837/68 of the Commission of 28 June 1968 as amended by Regulation (EEC) No 878/69 of the Commission of 12 May 1969 invalid because, by way of derogation from the first subparagraph of Article 7 (2) of Regulation (EEC) No 837/68 the sucrose content, including other sugars expressed as sucrose, of products containing less than 85% sucrose and invert sugar expressed as sucrose is to be determined with regard to the actual sucrose content including other sugars expressed as sucrose by ascertaining the dry matter content?"

5 According to the provisions in force since products such as "maltrin 10" and "maltrin 20" have a maltose, reducing sugar, content exceeding 10% they fall, according to the second sentence of Note 2 to Chapter 35 of the Common Customs Tariff, in heading 17.02 and not in heading 35.05 which covers products having a reducing sugar content not exceeding 10%.

This means that "maltrin 10" and "maltrin 20" must be treated as sugar and the appropriate levy to be applied must be calculated in accordance with the principle at present laid down in Article 15 (5) of Regulation (EEC) No 3330/74 of the Council and the methods determined earlier by Article 7 of Regulation (EEC) No 837/68 of the Commission which constitutes a provision in implementation of the said paragraph 5.

6 Since Article 15 (5) of Regulation (EEC) No 3330/74 provides that "the levy on the products listed in Article 1 (1) (d) shall be calculated, where appropriate, as a flat rate on the basis of the sucrose content (including other sugars expressed as sucrose) of the product concerned and the levy on white sugar" the use of the words "on the basis of" shows that the Council has ruled out the need, in all cases, for the actual sucrose content of the various products to correspond exactly to the amount of the levy applicable to them.

Article 15 thus permits the adoption of other criteria for the products listed in Article 1 (1) (d) than those prescribed for the other sugars.

The application of such criteria, which is unavoidable in a flate-rate method, may prove necessary with regard to certain products in so far as it is impossible for technical or practical reasons precisely to determine the composition of such products.

The use of such methods of calculation is valid subject to two conditions: first, that the sucrose content including other sugars expressed as sucrose remains the principal factor in the calculation of the levy and secondly that such methods are either inappropriate nor give rise to instances of demonstrable unfairness.

In fact the use of any flat-rate method presupposes by its very nature a degree of approximation.

It is sufficient that the existence of such a degree of approximation does not give rise to discrimination capable of disturbing the market of the products in question.

7 In the present case the second subparagraph of Article 7 (2) of Regulation No 837/68 provides that the calculation of the levy on products containing less than 85% sucrose shall be based on the ascertainment of the sucrose content, including other sugars expressed as sucrose.

Since the dry matter content corresponds almost exactly to the total sugar content this provision remains within the framework established by the basic regulation.

The first condition is accordingly fulfilled.

Furthermore no proof sufficient in law has been provided that the flat-rate method has given rise to serious discrimination and that significant disturbances of the malto-dextrin market have been caused.

It has not even been alleged that the operation for many years of the method in dispute has given rise to any difficulty whatever.

Thus the second condition is also fulfilled.

These considerations show that the adoption of the method in question for the calculation of the levy applicable to the relevant products does not entail any infringement of the restrictions on the powers delegated by the Council.

8 With regard to the complaint of infringement of the second subparagraph of Article 40 (3) of the Treaty, on the ground that traders who import the constituents of the product separately, that is to say dextrin and maltose, pay lower duties than traders who import the said constituents ready mixed, it must be observed on the one hand that such alleged unfavourable treatment of importers of malto-dextrose in relation to those who import maltose or dextrin separately does not constitute a discrimination at the expense of specified persons or of a group or category and that anyone may freely choose to import the two substances separately and on the other that the result complained of does not originate from the second subparagraph of Article 7 (2) of Regulation (EEC) No 837/68 but from the definition of dextrin according to the Common Customs Tariff.

It follows that the prohibition of discrimination laid down in the second subparagraph of Article 40 (3) for the Treaty has not been infringed.

9 The national court lastly expresses doubts on the validity of the second subparagraph of Article 7 (2) of Regulation (EEC) No 837/68 since no reasons are stated for the derogation which this provision entails from the rules contained in the foregoing subparagraph.

10 The extent of the duty to provide a statement of reasons prescribed in Article 190 of the Treaty, depends on the nature of the measure in question.

These requirements are met since the reasons stated provide an explanation of the essential features of the measures enacted by the institutions.

11 The present case concerns the implementation of an existing regulation on detailed rules for the application of levies on sugar.

The Commission has met the requirements of Article 190 by stating as its reasons for the content of the second subparagraph of Article 7 (2) of Regulation (EEC) No 837/68 of the Commission the considerations that "the sucrose content used to calculate the levy can be fixed at a level which would correspond in general to the natural content of such products in the Community" (fifth recital) and that "to avoid distortions of competition, it is necessary to specify in respect of those products the method by which sucrose content, including other sugars expressed as sucrose, is to be determined".

Specific reasons cannot be required for all the details which may be found in such a measure since they form part of the systematic framework of the enactment of the detailed rules for the application of the levies on sugar, a fact which cannot be contested in the present case since the objective of the said measure was to close a gap giving rise to uncertainty regarding the method of calculating the levy on certain products to which the basic provision applied and since the statement of all the reasons for choosing specific methods would have required a detailed scientific treatise.

It is a question in the present case of a regulation, that is to say, a measure intended to have general application, the preamble to which may be confined to indicating the general situation which led to its adoption, on the one hand, and the general objectives which it is intended to achieve on the other.

Consequently it is not possible to require that it should set out the various facts, which are often very numerous and complex, on the basis of which the regulation was adopted, or *a fortiori* that it should provide a more or less complete evaluation of those facts.

Accordingly the validity of Regulation (EEC) No 837/68 cannot be called in question on the ground of failure to specify the reasons on which it is based.

12 Furthermore it does not appear from the file that the Court of Justice should of its own motion find any other ground of invalidity and consideration of the file has disclosed no factor of such a kind as to affect the validity of Article 7 (2) of Regulation (EEC) No 837/68 of the Commission of 28 June 1968 on detailed rules for the application of levies on sugar as amended by Regulation (EEC) No 878/69 of the Commission of 12 May 1969.

13 Since the reply to the first question submitted by the Finanzgericht Hamburg is in the negative there is no occasion to reply to the second question.

Costs

14 The costs incurred by the Commission of the European Communities which has submitted observations to the Court are not recoverable.

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 Finanzgericht Hamburg, the decision on costs is a matter for that court.

On those grounds,

THE COURT (Second Chamber)

in answer to the questions referred to it by the Finanzgericht Hamburg by an order of 15 March 1978 hereby rules:

Consideration of the second subparagraph of Article 7 (2) of Regulation (EEC) No 837/68 of the Commission of 28 June 1968 on detailed rules for the application of levies on sugar (Official Journal, English Special Edition 1968 (I), p. 221), as amended by Regulation (EEC) No 878/69 of the Commission of 12 May 1969 (Official Journal, English Special Edition 1969 (I), p. 216) has disclosed no factors of such a kind as to affect the validity of that provision.

Mackenzie Stuart Sørensen Touffait

Delivered in open court in Luxembourg on 30 November 1978.

A. Van Houtte
Registrar

A. J. Mackenzie Stuart
President of the Second Chamber