account of the specific nature of the organization of the market in question.

2. Council Regulation No 2453/76 on the transfer to the Italian intervention agency of frozen beef and veal held by the intervention agencies in other Member States, in conjunction with the regulations implementing it, must be interpreted as meaning that the Italian Government is authorized to fix by national measures retail prices for such meat on condition that the retailers' margin of profit is not so small as to hinder the marketing of the products in question.

3. Outside the scope of Regulation No 2453/76 the unilateral fixing by a Member State of maximum prices for frozen beef and veal at the retail stage is incompatible with the common organization of the market in beef and veal only to the extent to which it endangers the objectives or the operation of that organization.

In Case 223/78

REFERENCE to the Court under Article 177 of the EEC Treaty by the Pretore, Padua, for a preliminary ruling in the criminal proceedings pending before that court against

ADRIANO GROSOLI

on the interpretation of the Community provisions relating to free movement of goods and the common organization of the market in beef and veal with a view to a decision on the compatibility of those provisions with a national system of maximum retail prices,

THE COURT

composed of: J. Mertens de Wilmars, President of the First Chamber, Acting as President, Lord Mackenzie Stuart (President of the Second Chamber), P. Pescatore, M. Sørensen, A. O'Keeffe, G. Bosco and A. Touffait, Judges,

Advocate General: F. Capotorti
Registrar: J. A. Pompe, Deputy Registrar

gives the following

JUDGMENT

Facts and Issues

The facts, the procedure and the observations submitted under Article 20 of the Protocol on the Statute of the Court of Justice of the EEC may be summarized as follows:

I — Facts and procedure

1. In order to stabilize consumer prices in Italy the Council by Regulation No 2453/76 of 5 October 1976 on the transfer to the Italian intervention agency of frozen beef and veal held by the intervention agencies of other Member States (Official Journal L 279, p. 3) made available to the Italian intervention agency 40 000 tonnes of edible frozen meat for the purpose of its sale on the national market before 1 April 1977. This time-limit was ultimately extended by Council Regulation No 1440/78 of 20 June 1978 amending Regulation No 2453/76 (Official Journal L 173, p. 6) until 31 December 1978.

The arrangements for applying Regulation No 2453/76, referred to in Article 1 thereof, were adopted by Commission Regulation No 2697/76 of 5 November 1976 (Official Journal L 304, p. 19) as last amended by Regulation No 2632/77 of 29 November 1977 (Official Journal L 306, p. 20). Under those provisions meat was to be transferred to the Italian intervention agency by instalments and the prices at which the intervention agency was to sell the products to traders were to be fixed in advance at a standard rate by *ad hoc* provisions.

By Regulation No 2793/76 of 18 November 1976 (Official Journal L 319, p. 24), as last amended by Regulation No 1754/78 of 26 July 1978 (Official Journal L 203, p. 23) the Commission specified the detailed arrangements for the disposal on the Italian market of frozen meat transferred to the intervention agency and constituting the first consignment of the said transfer: the meat was to be sold only to retailers and the sale prices to them were set out in units of account in the annex to the regulation.

The sale of the other consignments of beef the subjectmatter of the transfer was governed by other and subsequent regulations of the Commission.

2. On 26 July 1977 the Comitato Interministeriale dei Prezzi [Interdepartmental Committee on Prices], hereinafter referred to as "the Price Committee", which is the Italian institution having power to fix the prices of goods and services, decided by Order (Provvedemento) No 35/1977 (Gazzetta Ufficiale della Repubblica Italiana No 207 of 29 September 1977) that as from 29 July, 1977 the maximum consumer prices of frozen meat from adult bovine animals should over all the national territory be those set out in paragraphs 1 and 2 of the operative part of the order. Although Regulation No 2453/76 is cited in the preamble, the order of the

Price Committee is interpreted to the effect that the maximum consumer prices apply not only to the 40 000 tonnes of meat made available by the Community but to all frozen meat marketed in Italy.

3. In the course of a health inspection at the premises of a butcher it was found that the prices he charged for certain parts of frozen meat were higher than the prices laid down by the above-mentioned order of the Price Committee. The butcher stated that he had bought the parts wholesale from S.p.A. Grosoli at prices which were already themselves higher or in certain cases very close to those laid down by the Price Committee for retail sale.

On the basis of the report which was sent to him the Pretore, Padua, charged Mr Grosoli, the legal representative of S.p.A. Grosoli, with selling frozen meat at prices higher than the maximum prices authorized by the order of the Price Committee.

4. By order dated 15 July 1978 the Pretore requested the Court to give a ruling under Article 177 of the EEC Treaty:

"As to the compatibility with the Community rules of a binding system of prices laid down by the authorities and limited to the retail sector alone, taking into account the fact that in such a case the question of the constitutionality of the legislative measures on prices adopted by the Italian State is said to be justified in relation to Article 3 of the Constitution of the Italian Republic."

5. The Pretore recalls that the Court, in its judgment of 26 February 1976 in Case 65/75 relating to criminal proceedings against Riccardo Tasca ([1976] ECR 291), held that in every case it is for the national court to decide whether the maximum prices which it is called upon to consider produce such effects as to make them incompatible with the Community provisions on sugar. This criterion cannot however, in the Pretore's opinion, be accepted in criminal proceedings, since by formally permitting a binding system of prices laid down by the authorities to continue to exist it ultimately leaves doubt as to its actual application since it thus gives rise to serious inequality between producers or traders who decide to abide by that system — possibly selling the product at a loss — and those who consider that they are not subject to it and consequently charge prices higher than those laid down by the authorities.

More generally, the national measure adopted by the Price Committee which stipulate prices solely for the stage of retail sale to the consumer infringe, in the view of the Pretore, Article 3 of the Italian Constitution: a measure which, by binding only retailers to a maximum price, compels them and not other traders engaged in the commercial sector in question to sell at a loss, thereby causing disturbances in the domestic economy and ultimately disturbances to national public order and, in the Pretore's view, infringes the principle of equality.

6. The order making the reference was lodged at the Court Registry on 5 October 1978.

Pursuant to Article 20 of the Statute of the Court of Justice of the European Communities written observations were lodged by Mr Grosoli, represented by P. Castellini of Padua, by the Italian Government, represented by its Ambassador, A. Maresca, acting as Agent,

assisted by I. M. Braguglia, Avvocato dello Stato, and by the Commission of the European Communities, represented by G. Campogrande, a member of its Legal Department, acting as Agent.

Upon hearing the report of the Judge-Rapporteur and the views of the Advocate General the Court decided to open the oral procedure without preparatory inquiries. Nevertheless the Court requested the parties to the preliminary procedure to answer certain questions.

II — Observations lodged by the parties under Article 20 of the Statute of the Court

A — Observations of Mr Grosoli

Mr Grosoli first of all summarizes the judgment of the Court of 23 January 1975 in Case 31/74 relating to criminal proceedings brought against Filippo Galli ([1975] 1 ECR 47) and the judgments of 26 February 1976 in Case 65/75 relating to criminal proceedings brought against Riccardo Tasca ([1976] 1 ECR 291) and in Joined Cases 88 to 90/75 *Società SADAM and Others* v *Comitato Interministeriale dei Prezzi and Others* ([1976] 1 ECR 323).

In his view the answer to the question posed for a preliminary ruling in the present case must be that in sectors covered by a common organization of the market, when that organization is based on a common system of prices, the Member States cannot unilaterally intervene in the process of price formation. The only means compatible with Community law allowing action in such a sphere against the rise in prices is therefore, in his opinion, for the Member States to cause measures to be taken by the competent Community authority. In this connexion Mr Grosoli refers to paragraph 32 of the judgment in Case 31/74 *Galli*, but he adds that the principle must be extended to all stages of production and marketing and not be limited to certain stages as a perusal of paragraph 34 of the aforementioned judgment may seem to suggest.

In Mr Grosoli's view the Italian measure in question breaches both the fundamental principles of the Treaty and those contained in the regulations establishing a system of prices for beef and veal inasmuch as it faces traders in this sector with the alternative of either selling at a loss or not selling and therefore not buying.

In his view the measure in question infringes the second paragraph of Article 5 and Article 30 of the Treaty since the fixing of a price lower than that fixed by the Community institutions is both a quantitative restriction on import and a measure having equivalent effect.

He alleges that in any event it compromises in a wide sense the fundamental objectives of the Treaty. Whatever the particular case the incompatible nature of unilateral intervention by States is apparent both from the general principles as defined in the second paragraph of Article 5 and in Articles 39 and 40 of the Treaty and from the regulations on the common organizations of the market.

Mr Grosoli then considers the regulations which have implemented the price system in relation to beef and veal and in particular Regulation No 805/68 of the Council of 27 June 1968 on the common

organization of the market in beef and veal (Official Journal, English Special Edition 1968 (I), p. 187) and Council Regulation No 425/77 of 14 February 1977 amending Regulation No 805/68 and adapting Regulation No 827/68, and Regulation No 950/68 on the Common Customs Tariff (Official Journal, English Special Edition 1968 (I), p. 275). This examination leads him to conclude that any intervention by a Member State at the production or marketing stage of products subject to a price system can have no effect other than disturbing the machinery set up by the Community: if the objective of the intervention is to correct any one of the marketing stages it has repercussions on the whole organization and is therefore likely to endanger its objectives or functioning.

Further Mr Grosoli claims that the fixing of retail prices has no effect upon the production or wholesale stages because increases usually occur at the initial and not the final stage, which is why producers and wholesalers who cannot subsequently pass on increases find themselves forced, in order not to incur losses, not to produce or not to buy any more with the ultimate result in general that the Community market is distorted and therefore its objectives compromised.

Mr Grosoli is therefore of the opinion that the question put by the Pretore, Padua, should be answered as follows:

"A price system established unilaterally by a Member State constitutes in every case and from every point of view, even at the retail stage, an infringement of the Community rules on the common organization of the markets and of prices of the kind applicable to beef and veal, which, as has been said, are based on a price and trade system."

In Grosoli's view the same conclusion must be drawn even if the general principles must be accepted as including those laid down by the Court in paragraph 11 of the judgment in Case 65/75, namely that it is for the national court to decide whether the maximum prices which it is called upon to consider are incompatible with Community provisions. Mr Grosoli supports this view by stating that such principles presuppose that there is a mandatory rule in a sector which is no longer within the responsibility of the Member States. The Italian courts are given powers which the constitution and Italian laws do not provide for. There is a prospect of an endless succession of contradictory judgments resulting in inequality among traders even though they have charged the same prices for the same goods. In the absence of any agreement with the Community authorities any unilateral intervention by States at the production or marketing stage of products subject to the common organization and to a system of prices conflicts with the principles of equality and free competition governing the Common Market.

Consideration of Regulation No 805/68 and in particular Articles 7, 21 and 22 thereof as amended by Regulation No 425/77 confirms in Mr Grosoli's view the unlawful nature of unilateral intervention measures taken by Member States. If this were not so those regulations would not provide for the prohibition of quantitative restrictions or

measures having equivalent effect or require the Member States to notify the Commission where they take measures aimed at restricting or prohibiting import or export of meat in general in case of events likely to endanger the objectives of Article 39 of the Treaty nor would they require intervention agencies to sell the products in such conditions as to avoid any disturbance of the market and to ensure equal access to goods and equal treatment of purchasers.

Accordingly the contested order of the Price Committee infringes, in Grosoli's view, the aforementioned principles and in particular Article 7 of Regulation No 805/68 and must therefore be considered unlawful.

B — Observations of the Italian Government

After referring to the case-law of the Court and the observations which it made in Cases 65/75 *Tasca* and 88 to 90/75 *SADAM*, the Italian Government observes that this case-law does not affect the principle that the existence of a common organization of the market does not necessarily mean that Member States have lost all power to regulate agricultural prices at a particular marketing stage, subject to the national court's being able to review in each case whether or not there is a conflict.

In the view of the Italian Government the courts have a difficult task but it is not impossible as the Pretore, Padua, claims.

It states that according to Italian case-law the lawfulness of a mandatory price depends in the first place on its "remunerative nature", which means that prices which do not take account of the costs and profit margins of traders are unlawful. Following the establishment of the common agricultural policy the Italian courts must also, in the view of the Italian Government, consider the "remunerative nature" of the price in the light of Community law. Recourse should not be had on the ground of the difficulties mentioned to solutions different from those adopted so far in relation to the question of the division of powers in agriculture between the Community and the Member States.

The Italian Government does not understand the basis of the misgivings of the Pretore, Padua, who fears that the application of the procedure mentioned by the Court in Case 65/75 *Tasca* might give rise to inequality between traders who decide to observe the national price rules and those who decide to ignore them. What is important in the view of the Italian Government is that the legal system should allow parties to have access to the necessary courts to review the lawfulness of the price rules both from the Community point of view and from that of municipal law.

The Italian Government observes that the Pretore is referring to municipal laws and to Article 3 of the Italian Constitution in suggesting that there may be a breach of the principle of equality because the price fixing affects only the consumer stage. In these circumstances, in the view of the Italian Government, this aspect does not fall within the ambit of the question put to the Court. In any event the Italian Government refers in

this connexion to paragraph 10 of the judgment in Case 65/75 *Tasca*.

Finally the Italian Government points out that according to the procedural documents in the main action there are the following additional questions at issue: Does the officially fixed price also apply to wholesale transactions and does such price also apply to the sale of frozen beef and veal not included in the consignment made available to the Italian intervention agency by Regulation No 2453/76?

The Italian Government considers that it is for the national court to resolve these questions in the context of the main action.

C — Observations of the Commission

After summarizing the case-law of the Court and explaining the structure of the common organization in beef and veal the Commission observes that national measures determining maximum consumer prices for frozen beef and veal may interfere both directly and indirectly with the functioning of the common organization in question and with the system of intra-Community trade.

The Commission analyses the conditions under which such interference occurs in order to show *a contrario* whether and in what circumstances national measures such as those in the present case may be regarded as compatible with Community law. It recalls that such measures must be compatible both with the common organization of the markets and with the system of intra-Community trade.

The Commission first of all considers the possibility of interference regarding the objectives and the functioning of the system of the disposal of intervention products for domestic consumption.

In this respect it observes that if the national measure is confined to fixing the maximum consumer prices of intervention products only, the sale of which has already been decided upon and in respect of which the prices to be charged by the national agencies have been laid down, and if the level of maximum consumer prices leaves at all subsequent marketing stages until sale to the domestic consumer a sufficient profit margin to the traders, the national measure does not hinder execution of the Community measures for disposal. The Commission adds that otherwise traders would be forced to work at a loss in respect of that part of the products already bought or they would refrain from buying from intervention. The measures of disposal would therefore not produce the desired effect.

If these two conditions are fulfilled, the national measure may be regarded as compatible with the organization of markets even if it may appear to conflict with the system of prices or the system of trade with non-member countries. In the Commission's view the conflict has its origin not in the national measure but in the Community measure for the determination of prices.

If the national measure extends to all frozen beef or veal marketed in the national territory or in a part of it, it is, in the Commission's view, incompatible with the system of disposal of intervention products because the result will be either to distort the formation of tender prices in the context of Community operations of disposal already decided upon, but the prices of which have not yet been fixed, or to force the Commission to forego disposal or to fix in advance prices lower than those which it would have been able to obtain in a normal market situation.

The Commission then considers the possibility of interference as regards the Community price system. It observes in this context that generally speaking every national measure freezing consumer prices is incompatible with the objectives and good functioning of the common organization of the markets if the direct or indirect result is to make it more difficult to bring market prices into line with the guide price. The Commission maintains that national measures freezing the prices of frozen beef and veal act as a partial brake on the increase in the market prices of fresh refrigerated beef and veal in view of the fact that the tendency of the latter to rise in price causes consumers to turn in preference to frozen beef and veal. The Commission adds that if the prices of fresh or refrigerated meat are less than the guide price, which is the normal situation on the Community markets, these measures, by making it more difficult to bring the market prices into line with the guide price, must be regarded as hindering the objectives of the common organization.

As regards the intervention system the Commission observes that the result of freezing consumer prices of frozen meat is to prevent the market prices of fresh meat, where at the beginning they are close to or less than the intervention prices, from rising above the intervention level, so that producers will have more recourse to intervention than if the market conditions had not been adversely affected.

The Commission moreover stresses that in view of the interdependence of guide prices, market prices and the levels of levies and refunds, in certain circumstances the national measure ultimately also influences indirectly the determination of the latter. It follows not only that trade with non-member countries is subjected to artificial conditions but also that the natural levels of one of the Community's own resources and in part of an expense to the Community budget, namely levies and refunds, are affected simply by the unilateral decision of a Member State.

As regards the system of intra-Community trade the Commission observes that the consumer price fixed for frozen meat might be at a level such that having regard to the general situation of imported products in relation to that of national products imports would be prevented unless traders were to work at a loss.

As for exports, the consumer prices laid down by the State might in the Commission's view appear so unattractive to national traders that they would be led to seek more profitable outlets in other Member States.

These two phenomena might, in the Commission's view, occur both in respect of frozen meat and fresh and refrigerated meat and live animals.

Although the Pretore might have contented himself with finding that the Price Committee measure extends without distinction to all frozen meat marketed in the national territory, the Commission has put before the Court the most important facts relating to the concrete situation of the markets when the measure was adopted and after it entered into force. Those facts are as follows: the Community measures for sale of consumer products in the process of implementation; the levels of guide prices and market prices; the figures

relating to the Italian imports and exports of adult cattle.

III — Oral procedure

At the hearing on 29 May 1979 Mr Grosoli, represented by F. Capelli and G. M. Ubertazzi (in substitution for Mr Castellini), the Italian Government, represented by I. M. Braguglia, Avvocato dello Stato, and the Commission represented by G. Campogrande, a member of its Legal Department, acting as Agent, made oral observations.

The Advocate General delivered his opinion at the hearing on 27 June 1979.

Decision

1 By order dated 15 July 1978, received at the Court on 5 October 1978, the Pretore, Padua, requested the Court under Article 177 of the EEC Treaty "to give a ruling as to the compatibility with the Community rules of a binding system of prices laid down by the authorities and limited to the retail sector alone, taking into account the fact that in such a case the question of the constitutionality of the legislative measures on prices adopted by the Italian State is said to be justified in relation to Article 3 of the Constitution of the Italian Republic".

2 This question concerns on the one hand Order No 35/1977 adopted by the Italian Comitato Interministeriale dei Prezzi [Interdepartmental Committee on Prices], hereinafter referred to as "the Price Committee", on 26 July 1977 in relation to the maximum consumer prices for frozen beef and veal (Gazzetta Ufficiale della Repubblica Italiana No 207 of 29 September 1977) and on the other hand the Community rules on the common organization of the market in beef and veal. The question arose in criminal proceedings against the legal representative of a commercial meat undertaking for infringing the aforesaid order.

3 Within the framework of proceedings brought under Article 177 of the Treaty, it is not for the Court to give a ruling on the compatibility of rules of internal law with the provisions of Community law. On the other hand, the Court has jurisdiction to supply the national court with all the criteria for interpretation coming within Community law so as to enable that court to determine whether such rules are compatible with Community rules.

4 The third reference in the preamble to Order No 35/1977 of the Price Committee refers to Council Regulation (EEC) No 2453/76 of 5 October 1976 on the transfer to the Italian intervention agency of frozen beef and veal held by the intervention agencies of other Member States (Official Journal L 279, p. 3). According to the second recital to that regulation the reason for the transfer measure was the economic situation in Italy at the time, in particular the very high rate of inflation and the transfer was intended to help to stabilize consumer prices. The sale of the meat transferred to the Italian intervention agency was made at flat rate prices fixed in advance by the Commission and only retailers or their authorized agents were allowed to make applications to purchase (Articles 3 and 8 of Commission Regulation No 2793/76 of 18 November 1976 on the detailed arrangements for implementing Regulation No 2453/76 (Official Journal L 319, p. 24)).

5 Although the consumer price of this meat was not laid down by the Community rules, the latter must nevertheless, in view of their anti-inflationary objective, be interpreted as authorizing the Italian Government to fix the prices by means of national provisions, provided that the profit margin allowed to retailers should not be so low as to hinder the disposal of the products in question.

6 Assuming that Price Committee Order No 35/1977 must be interpreted as applicable not only to the meat transferred to Italy under Regulation No 2453/76 but to all frozen meat at the retail stage, the question put by the Pretore, Padua, raises the more general problem of the powers of Member States in relation to prices applicable to agricultural products covered by a common organization of the market.

7 As the Court has held in a consistent series of judgments — that of January 1975 (Case 31/74 *Galli* [1975] 1 ECR 47) and those of 26 February 1976 (Case 65/75 *Tasca* and Joined Cases 88 to 90/75 *SADAM* [1976] 1 ECR 291 and 323) as well as in the judgment of 29 June 1978 (Case 154/77 *Dechmann* [1978] ECR 1573), in sectors covered by a common organization of the market, and *a fortiori* when this organization is based on a common price system, Member States can no longer take action, through national provisions adopted unilaterally, affecting the machinery of price formation as established under the common organization. It was held in the same

judgments that provisions of a Community agricultural regulation which comprise a price system applicable at the production and wholesale stages leave Member States free — without prejudice to other provisions of the Treaty — to take the appropriate measures relating to price formation at the retail and consumption stages, on condition that they do not jeopardize the aims or functioning of the common organization of the market in question.

8 The Court stated in the same judgments that in every case it is for the national court to decide whether the maximum prices which it is called upon to consider produce such effects as to make them incompatible with the Community provisions in the matter. In this respect it is necessary to take account of the specific nature of the organization of the market in question.

9 As regards the characteristics of the common organization in beef and veal it should be remembered that it includes a price system and a system of trade. The price system is based on a guide price fixed annually by the Council for adult cattle. Intervention measures are provided in the event of the market prices' falling a certain extent below the guide price. The fresh or chilled meat purchased as a result of intervention measures is frozen and stored by the intervention agencies. The sale of the meat so stored must be decided at the Community level and must be made at prices established by tender or fixed at a flat rate in advance by the Commission. The system of trade with non-member countries involves in particular levies and refunds. The basic levy is determined each month separately for adult cattle and for frozen meat. Flat-rate coefficients applicable to the levies on adult cattle are used to calculate the levy on fresh or chilled meat. As a result of various international agreements certain derogations have been made from the system.

10 It is apparent from the observations and figures given during the proceedings before the Court that frozen meat on the one hand and fresh or chilled meat on the other do not fully compete with one another on the Community

markets. Consumer preference may to a certain extent prevent a rigid automatic connexion between the prices of the two classes of meat. The differences in prices of the different cuts, with or without bone, may be another source of uncertainty. These are details of the common organization of the markets in beef and veal which the national court is free to take into account, along with other factors in the organization, to decide whether a national measure jeopardizes its objectives or functioning.

11 In the order for reference the Pretore, Padua, expresses misgivings in following the judgment of the Court in so far as it leaves the national court the task of deciding in every case whether the maximum prices laid down by the national authorities produce such effects as to make them incompatible with the Community provisions. In the Pretore's view this criterion is not acceptable in criminal proceedings since by formally permitting the maintenance of the price system it leaves its application in doubt and thus creates inequality between traders who decide to comply and those who consider they are not subject to it.

12 This objection however cannot be regarded as decisive. The task of the national court in the division of jurisdiction between the Court of Justice of the European Communities and the national courts in not basically different from the assessment of the economic factors which the national court has often to undertake in applying its municipal law. Further there can be no inequality between traders as alleged since the national legal system offers individuals the necessary recourse to ensure uniformity in the application of the legal rules.

13 It follows from the foregoing that the question should be answered to the effect that outside the scope of Regulation No 2453/76 the unilateral fixing by a Member State of maximum prices for frozen beef and veal at the retail

stage is incompatible with the common organization of the market in beef and veal only to the extent to which it endangers the objectives or the operation of that organization.

Costs

14 The costs incurred by the Government of the Italian Republic and by the Commission of the European Communities, which have submitted observations to the Court, are not recoverable and as these proceedings are, in so far as the party charged in the main prosecution is concerned, in the nature of a step in the proceedings 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 submitted to it by the Pretore, Padua, by order of 15 July 1978, hereby rules:

(1) Council Regulation No 2453/76 of 5 October 1976 on the transfer to the Italian intervention agency of frozen beef and veal held by the intervention agencies in other Member States, in conjunction with the regulations implementing it, must be interpreted as meaning that the Italian Government is authorized to fix by national measures retail prices for such meat on condition that the retailers' margin of profit is not so small as to hinder the marketing of the products in question.

(2) Outside the scope of that regulation the unilateral fixing by a Member State of maximum prices for frozen beef and veal at the retail stage is incompatible with the common organization of the market in beef and veal only to the extent to which it endangers the objectives or the operation of that organization.

Mertens de Wilmars Mackenzie Stuart Pescatore

Sørensen O'Keeffe Bosco Touffait

Delivered in open court in Luxembourg on 12 July 1979.

A. Van Houtte
Registrar

J. Mertens de Wilmars
President of the First Chamber
Acting as President

OPINION OF MR ADVOCATE-GENERAL CAPOTORTI DELIVERED ON 27 JUNE 1979 [1]

Mr President,
Members of the Court,

1. Once again the Court is called upon to give a preliminary ruling on the powers of the Member States to fix the prices of agricultural products. This case is concerned with establishing whether, where there is a common organization of the market (in this case that in beef and veal), a Member State retains the power to intervene with its own measures to control prices; if the answer is in the affirmative the extent of such power remains to be determined.

The facts giving rise to this case may be summarized as follows.

Council Regulation No 2453/76 of 5 October 1976 provided for the transfer to the Italian intervention agency of 40 000 tonnes of frozen beef and veal held by the intervention agencies of the other Member States, to be placed on the Italian market before 1 April 1977 (which date was subsequently postponed until 31 December 1978). The Com-

1 — Translated from the Italian.