even as a pure formality, import or export licences or any other similar procedure.

4. In trade with third countries the application of quantitative restrictions and of measures having equivalent effect forms part of the common commercial policy both under Article 113 of the Treaty and the provisions on the common agricultural policy, in particular, Article 40 (3) which provides for the establishment of 'common machinery for stabilizing imports or exports'.
   The prohibition based on Article 1 of Regulation No 2513/69 is not absolute.
5. The application of a body of rules laid down by legislation and based on a general prohibition on imports without a licence, in conjunction with a system of general exemptions, is thus in the present state of the law compatible with the general scheme of Regulation No 2513/69.
   The 'all licences granted' system is not incompatible with the general scheme of this regulation if the licence is delivered automatically to every applicant free of charge and without delay.

In Joined Cases 51 to 54/71

Reference to the Court under [Article 267 TFEU] by the College van Beroep voor het Bedrijfsleven for a preliminary ruling in the action pending before that court between

INTERNATIONAL FRUIT COMPANY NV, Rotterdam, (Case 51/71)
KOOY ROTTERDAM NV, Rotterdam, (Case 52/71)
VELLEMAN EN TAS NV, Rotterdam, (Case 53/71)
JAN VAN DEN BRINK'S IM- EN EXPORTHANDEL NV, Rotterdam, (Case 54/71)

and

PRODUKTSCHAP VOOR GROENTEN EN FRUIT, The Hague,

on the interpretation of the provisions of the EEC Treaty and of the implementing provisions issued thereunder which confer powers and impose obligations on the Member States together with the concepts of 'quantitative restrictions' and 'measures having equivalent effect' referred to by the Treaty and certain regulations of the Council.

THE COURT

composed of: R. Lecourt, President, J. Mertens de Wilmars and H. Kutscher, Presidents of Chambers, A. M. Donner, A. Trabucchi, R. Monaco (Rapporteur) and P. Pescatore, Judges,

Advocate-General: K. Roemer
Registrar: A. Van Houtte

gives the following

JUDGMENT

Issues of fact and of law

I — Facts and procedure

The facts and procedure may be summarized as follows:

1. In implementation of the principles laid down in Regulation No 23 of 4 April 1962 (OJ, English Special Edition, 1959-1962, p. 97), on 9 December 1969 the Council issued Regulation No 2513/69 (OJ 1969, L 318) 'on the coordination and standardization of the treatment accorded by each Member State to imports of fruit and vegetables from third countries'. The first sentence of Article 1 (1) of this regulation prohibits, otherwise than in the case of contrary Community provisions and derogations decided by the Council,

— the levying of any charge having an effect equivalent to a customs duty,

— the application of any quantitative restriction or measure having equivalent effect,

in respect of imports from third countries of certain agricultural products, including dessert apples.

Under Article 3 those provisions shall be applicable from 1 March 1970. Article 2 of the same regulation further provides a safeguard clause whereby appropriate measures may be taken to meet a disturbance or a threat of disturbance of the market in the Community. Safeguard measures with regard to the import of dessert apples were adopted by Regulations Nos 459/70, 565/70 and 686/70 of the Commission (OJ 1970, L 57, L 69 and L 84).

2. In May 1970 the plaintiffs in the main action applied to the Produktschap voor groenten en fruit (hereinafter referred to as 'the PGF') for import certificates in respect of dessert apples from third countries.

On the basis in particular of Regulations Nos 459/70, 565/70 and 686/70 the PGF replied that 'the application must be rejected' or that 'it has been decided to reject the application'.

On 5 August 1970 the parties lodged four applications against this rejection with the Court of Justice of the European Communities (Cases Nos 41 to 44/70) which were dismissed as unfounded by a judgment of 13 May 1971. They also initiated proceedings before the College van Beroep voor het Bedrijfsleven by applications of 30 June 1970.

3. The negative decision of the PGF was based on the abovementioned regulations of the Council and of the Commission of the European Communities and the provisions of Netherlands legislation based on the In-en Uitvoerwet (Law on Imports and Exports). Article 2(1) of the In-en Uitvoerbesluit landbouwgoederen 1963 (hereinafter referred to as 'the 1963 decision'), adopted in implementation of the said law, prohibits the import and export of certain goods including apples, without the authorization of the Minister for Agriculture and Fisheries. The Vrijstellingsbeschikking landbouwgoederen EEG 1968/1 (hereinafter referred to as 'the first decision of 1968'), supplemented

by a later decision of 1968, further provides that no import licence is necessary in the particular case of dessert apples from third countries.

By a subsequent decision of 1968 (hereinafter referred to as 'the second decision of 1968') delegating certain powers within the framework of the Law on Imports and Exports, the Minister for Agriculture and Fisheries delegated to the PGF his powers of issuing licences under Article 2 of the 1963 decision.

Under this delegation (Article 5 (3)), in exercising its powers the PGF is obliged to respect the provisions of regulations issued or to be issued by the Council within the sphere of the trade in products coming under Regulations No 23 and No 159/66 together with the rules enacted or to be enacted in implementation of those provisions including those from the Minister for Agriculture and Fisheries.

4. In the course of the procedure in the main action the plaintiffs argued *inter alia*

(a) first, that the fact that Community law, in this case Regulation No 459/70, confers powers or imposes obligations on the Member States implies that such powers or obligations may only be transferred to national bodies (such as the PGF) under a specific delegation which is absent in the present case;

(b) secondly, that 'the decision of 1963', in particular Article 2 (1) on the one hand and Articles 30, 31, 32 and 34 of the EEC Treaty together with Regulations Nos 159/66 and 2513/69 (Article 1 (1)) on the other hand, are incompatible.

Rules such as those comprised in the said article of the 'decision of 1963' constitute in fact a measure contrary to the said provisions of Community law. In this connexion the plaintiffs in the main action stated that the prohibition set out in the 'decision of 1963' cannot be contradicted by the 'first decision of 1968' because that decision entered into force on 1 April 1970 and not, like Regulation No 251/69, on 1 March 1970 and since it is a ministerial decree it constitutes legislation of inferior status to the 'decision of 1963' (royal decree).

5. By a judgment of 30 July 1971 the College van Beroep voor het Bedrijfsleven decided to stay the proceedings and to request the Court of Justice to give a preliminary ruling under [Article 267 TFEU] on the following questions:

'1. Does the fact that the provisions of the Treaty establishing the European Economic Community together with those of the regulations based thereon conferring powers or imposing obligations "upon the Member States" with regard to the implementation of the Treaty or of regulations imply, on a correct interpretation of those provisions, that the Member States may only transfer such powers or obligations to their authorities by means of an express provision?

2. Must the words "quantitative restrictions on imports together with all measures having equivalent effect", appearing in [Article 34 TFEU] Treaty, "quantitative restriction(s) or measures having equivalent effect", appearing in , in Article 13 of Regulation No 159/ 66/EEC and in Article 1 of Regula-tion No 2513/69/EEC, "quotas and measures having equivalent effect", appearing in [Article 35 TFEU] and "quantitative restrictions on exports, and all measures having equivalent effect", appearing in [Article 35 TFEU], be interpreted as applying also to legal rules of the Member States prohibit-ing imports and exports without a licence, but which in fact are not applied because exemptions are gran-ted from the prohibition and, where they are not, because the licence is always issued on request?'

6. Pursuant to Article 20 of the Protocol on the Statute of the Court written observations were lodged by the plaintiffs in the main action, by the Government of the Kingdom of the Netherlands and by the Commission of the European Communities.

The plaintiffs in the main action were represented by Mr B. H. ter Kuile, of the Hague Bar. The Government of the Kingdom of the Netherlands was represented by its Minister of Foreign Affairs. The Commission of the European Communities was represented by its Legal Adviser, Mrs Wilma Dona—Viscardini and Mr Jaques Bourgeois.

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 inquiries.

The oral observations of the Commission were heard on 25 November 1971.

The Advocate-General delivered his opinion at the hearing on 1 April 1971.

The Court decided to join the present cases for the purposes of the judgment.

II — Written observations submitted under Article 20 of the Statute of the Court

The observations submitted under Article 20 of the Statute of the Court may be summarized as follows:

A — *Observations submitted by the plaintiffs in the main action*

1. With regard to the *first question* the plaintiffs in the main action observe that the fact that national authority of the State, such as the Minister for Agriculture, is empowered on the basis of national legislation to conduct national policy with regard to Community trade in agricultural products does not automatically 'imply' under Netherlands law that such an authority is also empowered to cooperate in the implementation of the Community policy in the same sphere. This is why it was necessary, with regard to the powers conferred upon the Member States by Regulation No 459/70, to enact a provision under Netherlands law clarifying the EEC powers of the national authority entrusted with their exercise. Nevertheless this does not imply that powers conferred by a regulation upon a Member State cannot be transferred to a national authority by means of legislation if a rule of Community law itself provides for such transfer.

Since, so far as the plaintiffs to the main action are aware, there is no such sale, the problem to be resolved is whether the power and the obligations arising under Community law may only be transferred by the State to such authorities by means of legislation. The plaintiffs to the main action note that this question relates exclusively to internal law and conclude that:

> 'The extent to which the Member States may transfer powers or obligations to their delegated authorities other than by means of express provisions must be appraised in accordance with national law.'

With regard to the *second question* the plaintiffs in the main action observe first that, since the Member States have transferred their sovereignty to the Community, albeit within restricted spheres, they have thereby divested themselves of their power to issue or to apply national provisions in those spheres. Since the State has lost its sovereignty in the sphere in question it is of little importance to know how far the actual implementation of such national provisions by the Member State is compatible with the EEC system of trade. In this connexion it must not be forgotten that a Member State may at any time modify the actual effect which it gives to internal provisions with the result that what was not incompatible with the Community system could become so, and *vice versa*. The plaintiffs in the

main action observe that it is unimportant in the present case to consider the scope of the 'first decision of 1968' since the temporary granting of exemptions from the prohibition on importing or exporting without a licence, by means of secondary national legislative provisions or through the application of the 'any licence granted' procedure would in itself be incompatible with the said system.

If it were therefore to appear that the 'decision of 1963' contains quantitative restrictions on trade or measures having equivalent effect within the meaning of Regulation No 2513/69 of the Council, it would have to be concluded that in the present case this decision can produce no legal effect. After referring to more detailed considerations in part of their pleading in the proceedings before the national court the plaintiffs in the main action conclude that the second question must be answered in the affirmative.

B — *Observations submitted by the Government of the Kingdom of the Netherlands*

With regard to the *first question* the Government of the Kingdom of the Netherlands considers that since various provisions of the Treaty and of the implementing regulations confer powers or impose obligations upon the Member States with regard to the implementation of Community law, the only import factor with regard to this law is whether the Member States exercise those powers or fulfil those obligations. Apart from cases where under provisions of Community law certain duties are entrusted to specific institutions or national authorities, Member States may therefore decide themselves how to apply the provisions of the Treaty or of the implementing regulations.

With regard to the *second question* the Netherlands considers that the prohibition on quantitative restrictions and measures having equivalent effect must be interpreted as meaning that infringement of the articles referred to in the question asked can only follow from an *actual application* of measures contrary to this prohibition.

In fact it is internal law, considered in relation to its legislative and administrative provisions and the method of applying them and to the administrative procedures followed, which determines whether or not Community law has been infringed.

This principle is confirmed not only by the case-law of the Court but by the wording of various agricultural regulations which prohibit quantitative restrictions and measures having equivalent effect. Thus Article 1 of Regulation No 2513/69 provides that 'the *application* of all quantitative restrictions or measures having equivalent effect' to imports from third countries shall be prohibited. Furthermore, the question raised in the main action does not relate to a national prohibition against importing which was *in fact* not applied but to a national provision which was not applicable *in law* since in the present case the competent national authority granted an exemption applicable *ipso jure* (cf. the 'Vrijstellings beschikking Landbouwgoederen EEG 1968/I' which entered into force on 1 November 1968). A prohibition on imports which is not applicable under the national law cannot *a fortiori* be considered as contrary to Community law.

The Netherlands Government concludes that the second question should be answered in the negative.

C — *Observations submitted by the Commission of the European Communities*

With regard to the *first question* the Commission considers that since the material provisions of Community law (for example Article 1(2) of Regulation No 459/70) impose an obligation upon the Member States, it is those States, considered as a whole, which are envisaged and not a particular authority,

service or administration. In other words it cannot be conceded, under Community law, that the power of a Member State to apply certain measures implementing rules of Community law can only be transferred to one of its authorities by means of special provision of natural law. The question whether the application of Community law within the national legal order requires the assistance of one or more powers of the machinery of the State depends solely upon the constitutional system of the said State. On the basis of those principles the Commission considers that the reply to the first question should be as follows:

> 'The fact that the provisions of the EEC Treaty or of the regulations based thereon impose upon the "Member States" obligations regarding the application of the Treaty or of the regulations does not imply that the Member States may only transfer such powers or obligations to their authorities by means of an express provision. This implies that the Member States are obliged to have available within their legal systems all the means necessary to meet this obligation, or in the absence thereof to provide themselves with these means.'

With regard to the *second question* the Commission considers that in order to answer it correctly, it must be divided into three subquestions as follows:

(a) Do the provisions of the Member States prohibiting imports and exports without a licence (the issue of which depends solely on the decision of the national authorities to be taken in each individual case) constitute quantitative restrictions on imports or exports or measures having equivalent effect within the meaning of the articles cited by the national court?

(b) If so, do such provisions also constitute quantitative restrictions or measures having equivalent effect where exemptions are granted to the prohibition which they lay down.

(c) If no exemptions are granted must the said provisions still be so described even if the import certificate or licence is invariably issued on request?

Before replying to those three subquestions the Commission observes that all the articles mentioned can only refer to the same concept and that they relate to imports and exports in connexion with intra-Community trade and trade with third countries. Following from this, it considers that the expression 'quantitative restrictions' refers to all national measures directly excluding, totally or partially, the import or export of a product on the basis of numbers or quantities. With regard to the concept of 'measures having equivalent effect', these are measures the prohibition of which appears, within the system of the Treaty, as a necessary complement to the prohibition of quantitative restrictions. Their prohibition indicates the intention to prohibit not only measures which take the usual form of quantitative restrictions but also those which, although introduced under different names or by means of other procedures, would likewise result in affecting trade. However, whilst with regard to quantitative restrictions such an effect is direct, in the case of measures having equivalent effect it is indirect and arises from the fact that imports or exports are rendered more difficult or costly in comparison with the marketing of the domestic product. The difficulties created for imports or exports may be absolute or relative but it is in any event the potential effect of the measure in question which must be taken into consideration. Thus the measures at issue are only referred to by the EEC Treaty because of their potentially restrictive effect on imports or exports and not owing to their nature, their content or the objectives which they pursue.

Of course it must not be concluded from this that all measures having a restrictive effect on imports or exports are to be considered as measures having an effect equivalent to quantitative restrictions: this is particularly the case with regard to measures to which specific provisions of Community law are applicable (customs duties, measures with regard to aid, etc.). Furthermore, there are other measures which, although they have an inherently restrictive effect on trade, are compatible with the Treaty. These are measures falling within the framework of the powers or options explicitly or by implication left to the Member States (for example provisions on commerce and on customs clearance). Naturally those measures are also prohibited if the restrictive effect which they involve exceeds the extent necessary to attain the objective sought.

Replying on the basis of these considerations to the three subquestions mentioned above the Commission observes that in the first-mentioned case the provisions in question result in the direct exclusion, in whole or in part, of imports or exports and thus constitute quantitative restrictions on trade.

In the case referred to in the second place it is scarcely possible to speak any longer of quantitative restrictions or measures having equivalent effect concerning products and countries with regard to which imports or exports may be effected by means of exemptions.

Finally, in the third case a distinction must be drawn between a situation in which it is provided that the licence shall always be granted and that in which the licence is in fact always issued. This second situation in no way detracts from the restrictive nature of the provisions in question since a quantitative restriction remains such provided that it is capable of preventing imports or exports, irrespective of the question whether it actually does so or not. On the other hand in the first situation it may be said that there is no real quantitative restriction on imports or exports. The only question is under what conditions such rules are calculated to render imports more difficult or expensive, and whether their effect is not consequently equivalent to that of a quantitative restriction. This is undoubtedly the case if the grant of a licence is subject to time-limits and conditions. Where on the other hand, the licence is issued automatically and immediately each time it is requested ('toute licence accordée: TLA), the fact that imports or exports may be subject to the granting of a licence may not be considered as a quantitative restriction. Naturally it is still necessary to consider whether the ensuing effects do not exceed the framework of the system. In this respect the Commission considers that the TLA system was in general justified during the transitional period since it allowed the Member States to follow closely the development of trade and to intervene quickly where necessary on the basis of the numerous safeguard clauses in the Treaty.

At the present time a distinction must be drawn between intra-Community trade and trade with third countries. In the former case it appears that the TLA system is henceforth justifiable only with regard to Article 36 and in the application of certain minimum prices which continue under Article 44 of the Treaty. In the latter case appraisal of the problem is more delicate. Given the number and diversity of the provisions governing relations with third countries, especially in the commercial sphere, it is impossible to deal with all the cases in which the application of the TLA system is justified. In general, this is the case where Community legislation allows Member States to take unilateral protective measures. Such a possibility of this nature exists in particular under certain regulations of the Council (for example, Article 3 of Regulation No 2514/69) defining the conditions for

the implementation of protective measures for the organizations of the agricultural markets. The Commission concludes that an affirmative reply must be given to the third subquestion, except where licences are issued according to the TLA system, and where such a system is necessary to attain an objective laid down by the Treaty, and then proposes the following reply to the second question:

'The words, "quantitative restrictions on imports together with all measures having equivalent effect" appearing in [Article 34 TFEU], "quantitative restrictions or measures having equivalent effect" appearing in Article 31 of the Treaty, in Article 13 of Regulation No 159/66/EEC and in Article 1 of Regulation No 2513/69/EEC, "quotas and measures having equivalent effect" appearing in [Article 35 TFEU] and "quantitative restrictions on exports, and all measures having equivalent effect" appearing in [Article 35 TFEU],

— do not refer to the provisions of Member States prohibiting imports and exports without a licence when exemptions from the prohibition are granted within the limits of the province covered by such exemptions,

— refer to the provisions of Member States which prohibit imports and exports without a licence and the application of which is not precluded by provisions creating exceptions, even if the licence is always issued, unless it is granted automatically and immediately in accordance with the so-called TLA system and to the extent to which the restrictive effect does not go beyond the effects appropriate to such a system, as is the case particularly when that system is not justified by an objective pursued in accordance with the Treaty.'

Grounds of judgment

1 By a judgment of 30 July 1971 which was received at the Court Registry on 2 August 1971, the 'College van Beroep voor het Bedrijfsleven' requested the Court to give a preliminary ruling on the interpretation of various provisions of the Treaty and of rules of secondary law together with the content of various concepts adopted by the Treaty and those rules.

The first question

2 The Court is first of all asked whether the fact that various provisions of the Treaty and of regulations confer powers or impose obligations upon the Member States implies that the latter may only transfer those powers or obligations to national authorities by express provision.

3 Although under [Article 4 TFEU] the Member States are obliged to take all appropriate measures, whether general or particular, to ensure fulfil-ment of the obligations arising out of the Treaty, it is for them to determine which institutions within the national system shall be empowered to adopt the said measures.

4 The answer to the first question must therefore be that when provisions of the Treaty or of regulations confer power or impose obligations upon the States for the purposes of the implementation of Community law the question of how the exercise of such powers and the fulfilment of such obligations may be entrusted by Member States to specific national bodies is solely a matter for the constitutional system of each State.

Second question

5 The second question asks whether the concepts of 'quantitative restrictions on imports and measures having equivalent effect' or of 'quotas' referred to by [Articles 34 to 35 TFEU and Article 37 TFEU] and by Regulations Nos 159/66 (OJ 1966, No 192) and 2513/69 (OJ 1969, L 318) also apply to national legislative provisions prohibiting imports and exports without a licence but which in fact are not applied because exemptions are granted from the pro- hibition and, where this is not so, because the licence is always issued on request.

6 The question put refers both to the system of quantitative restrictions on intra-Community trade and the system of such restrictions on trade with third countries.

7 It is however clear from the scheme of the Treaty that those two systems must be distinguished.

8 Under [Articles 34 and 35 TFEU] quantitative restrictions and measures having equivalent effect are prohibited between Member States both with regard to imports and exports.

9 Consequently, apart from the exceptions for which provision is made by Community law itself those provisions preclude the application to intra-Community trade of a national provision which requires, even purely as a formality, import or export licences or any other similar procedure.

10 On the other hand in trade with third countries the application of quantita-tive restrictions and of measures having equivalent effect forms part of the common commercial policy under [Article 206 TFEU] and the pro- visions on the common agricultural policy, in particular [Article 40 TFEU] which provides for the establishment of 'common machinery for stabilizing imports or exports'.

11 It emerges from the file submitted to the Court that the dispute brought before the College van Beroep voor het Bedrijfsleven arose in the context not

of intra-Community trade but of the application of Regulation No 2513/69 which is concerned solely with the systems of importing fruit and vegetables produced in third countries.

12 Consequently, the question put by the national court must be considered in relation to the system of external trade so defined.

13 Article 1(1) of Regulation No 2513/69 provides that 'unless otherwise stated in Community provisions or derogations adopted by the Council' there shall be prohibited 'the application of any quantitative restrictions' on imports from third countries 'and all measures having equivalent effect'.

14 Article 2 of this regulation provides that derogations may be made from this principle if the Community market in one or more of the said products is in danger of undergoing 'owing to imports or exports, serious disturbances capable of jeopardizing the objectives of Article 39 of the Treaty'.

15 The question put to the Court thus involves an examination of whether Regulation No 2513/69 can be implemented in a Member State by means of legislation based on the principle of a general prohibition on imports unless a licence is granted, with appropriate exemptions, or applied in accordance with the system of 'all licences granted' in so far as Community law provides for freedom of trade with third countries.

16 The prohibition arising from Article 1 of Regulation No 2513/69 is not absolute since, as is clear from recitals 5 and 6 of the preamble and from the provisions of Articles 1 and 2 themselves, the Member States may be empowered to take certain protective measures in particular in the case of a threat of disturbance of the markets through imports from third countries.

17 The application of a body of rules laid down by legislation and based on a general prohibition on imports without a licence, in conjunction with a system of general exemptions, is thus, in the present state of the law, compatible with the general scheme of Regulation No 2513/69.

18 In the present state of the law the 'all licences granted' system is not incompatible with the general scheme of this regulation if licences are automatically issued to every applicant free of charge and without delay.

Costs

19 The costs incurred by the Government of the Kingdom of the Netherlands and by the Commission of the European Communities which submitted

observations to the Court are not recoverable. As those 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 national court, the decision on costs is a matter for that court.

On those grounds,

Upon reading the pleadings;
Upon hearing the report of the Judge-Rapporteur;
Upon hearing the parties;
Upon hearing the opinion of the Advocate-General;
Having regard to [Articles 34 to 35 and 37 TFEU];
Having regard to Regulation No 2513/69 of the Council of 9 December 1969 (OJ 1969, L 318);
Having regard to the Protocol on the Statute of the Court of Justice of the EEC, especially Article 20;
Having regard to the Rules of Procedure of the Court of Justice of the European Communities,

THE COURT

in answer to the questions referred to it by the College van Beroep voor het Bedrijfsleven, by the decision of that court of 30 July 1971, hereby rules:

1. **When provisions of the Treaty or of regulations confer powers or impose obligations on Member States for the purposes of the implementation of Community law the question of how such powers are to be exercised and whether the States may entrust the implementation of such obligations to specific national authorities is solely a matter for the constitutional system of each State.**

2. **The application of a body of rules laid down by legislation and based on a general prohibition on imports without a licence, in conjunction with a system of general exemptions, is, in the case of imports from third countries which are subject to Regulation No 2513/69, compatible with the general scheme of that regulation.**

The 'all licences granted' system is not incompatible with the gen-

eral scheme of the said regulation if such licences are automatically issued to every applicant free of charge and without delay.

Lecourt Mertens de Wilmars Kutscher

Donner Trabucchi Monaco Pescatore

Delivered in open court in Luxembourg on 15 December 1971.

A. Van Houtte
Registrar

R. Lecourt
President

OPINION OF MR ADVOCATE-GENERAL ROEMER DELIVERED ON 7 DECEMBER 1971[1]

Mr President,
Members of the Court,

The cases referred for a preliminary ruling to be dealt with today, which were submitted to you by the College van Beroep voor het Bedrijsleven, a Netherlands court of last instance having jurisdiction in economic matters, and which were joined for the purposes of the oral procedure by a decision of the Court of 10 November 1971, have their origin in events which were in part dealt with in Joined Cases 41 to 44/70 ([1971] ECR 411). I can accordingly refer, so far as the essential matters are concerned, to the account of the facts given at the time in the opinion and in the judgment and at this point I need only recall certain aspects or elaborate upon them.

The measures at issue in the main action were adopted under the common organization of the market in fruit and vegetables. As the Court is aware that organization of the market was established by Regulation No 23 of the Council of 4 April 1962 (OJ, English Special Edition, 1959-1962, p. 97), as supplemented by Regulation No 159/66 of 25 October 1966 (OJ No 192 of 27 October 1966, p. 3285) and that by means of Regulation No 2513/69 of the Council of 9 December 1969 (OJ 1969, L 318, p. 6) it effected a comprehensive harmonization of the rules governing imports from third countries. Accordingly, from 1 March 1970 a complete liberalization was effected in principle with regard *inter alia* to dessert apples, that is to say, there was a prohibition on the application to imports of the relevant products from third countries of quantitative restrictions or measures having equivalent effect. However, Regulation No 2513 also introduced a safeguard clause relating to trade with third countries. The conditions for its application and the details of the measures to be adopted are set out in Regulation No 2514/69 of 9 December 1969 (OJ 1969 L 318, p. 8). At the request of the French Government this safeguard clause was applied in the spring of 1970 on the ground that at that time a difficult situation prevailed on the market in apples in the Community. Accordingly a system of licences for the import of dessert apples from third countries was established for the period from 1 April to 30 June 1970 by Regulation No 549 of the Commission of 11 March 1970 (which entered into force on 15 March 1970 [OJ 1970, L 57, p. 20]). The details of its operation may be recalled from Cases 41-44/70. At present I only

1 — Translated from the German.