

JUDGMENT OF THE COURT
OF 28 JUNE 1978 ¹

Simmenthal S.p.A.
v Amministrazione delle Finanze dello Stato
(preliminary ruling requested
by the Pretura, Alessandria)

“Fees for veterinary and public health inspection”

Case 70/77

1. *Questions referred for a preliminary ruling — Reference to the Court — Conditions — Defended proceedings — Assessment by the national court (EEC Treaty, Art. 177)*
2. *Agriculture — Common organization of the markets — Beef and veal — Products imported from third countries — Veterinary and public health inspections — Charges — Customs Duties — Charges having equivalent effect — Prohibition (Regulation No 14/64 of the Council, Art. 12 (2); Regulation No 805/68 of the Council, Art. 20 (2))*
3. *Agriculture — Common organization of the markets — Beef and veal — Customs duties — Charges having equivalent effect — Prohibition — Entry into force (Regulation No 14/64 of the Council, Art. 12; Regulation No 805/68 of the Council, Art. 20 (2))*
4. *Customs duties — Charges having equivalent effect — Trade with third countries — Treatment applicable*
5. *Agriculture — Common organization of the markets — Trade with third countries — Customs duties — Charges having equivalent effect — Prohibition — Derogations — Permissibility — Conditions*
6. *Agriculture — Common organization of the markets — Beef and veal — Animals and fresh meat from third countries — Health inspections provided for by Directive No 72/462 — Charges — Permissibility — Derogations from the prohibition on charges having equivalent effect — Taking effect thereof — Condition — Adoption by the Community authorities of measures in implementation of the directive (Regulation No 805/68 of the Council, Art. 20 (2); Council Directive No 72/462, Arts. 12, 23, 24 to 26)*
7. *Agriculture — Common organization of the markets — Beef and veal — Fresh meat from third countries — Health inspections organized in accordance with Article 9 of Directive No 64/433 — Charges — Permissibility — Derogation from the prohibition on charges having equivalent effect — Non-discrimination between the*

¹ — Language of the Case: Italian

arrangements with regard to intra-Community trade and those with regard to trade with third countries

(Regulation No 14/64 of the Council, Art. 12 (2) and Regulation No 805/68 of the Council, Art. 20 (2); Council Directive No 64/433, Art. 9)

1. Although Article 177 does not make the reference to the Court subject to whether the proceedings during which the national court draws up the reference for a preliminary ruling were defended, it may where necessary prove to be in the interests of the proper administration of justice that a question should be referred for a preliminary ruling only after both sides have been heard. However, it is for the national court alone to assess whether that is necessary.
2. Pecuniary charges, whatever their amount, imposed by reason of veterinary or public health inspections of bovine animals and meat imported from third countries are to be regarded as charges having an effect equivalent to customs duties unless they relate to a general system of internal taxation applied systematically in accordance with the same criteria and at the same stage of marketing to domestic products and imported products alike.
3. The provisions of Article 12 (1) and (2) of Regulation No 14/64 took effect on 1 November 1964, and those of Article 20 (2) of Regulation No 805/68 on 29 July 1968.
4. In so far as trade with third countries is concerned, the question whether it is necessary to abolish, maintain, amend or introduce charges having equivalent effect must be related both to the requirements of the common commercial policy and to the requirements, consequent upon the introduction of the Common Customs Tariff, of harmonization of conditions of importation from third countries.
5. The Council may provide, in the regulations on the common organization of the markets, for exceptions or derogations from the prohibition on the levying of charges having equivalent effect in trade with third countries, provided however that the intrinsic effect of those charges on the relevant trade with third countries is uniform in all the Member States.
6. Although, as regards expenditure on health inspection of imports of animals and fresh meat from third countries, Articles 12 (8), 23 (4) and 26 of Directive No 72/462 provide for derogations from the prohibition on the levying of charges having equivalent effect which is laid down in Article 20 of Regulation No 805/68, those derogations can take effect only after the Member States have been given the opportunity to organize as prescribed in the directive the inspections referred to in Articles 12, 23, 24 and 25 thereof.
7. As regards veterinary and public health inspections of fresh meat from third countries, Article 9 of Directive No 64/433 in conjunction with Article 20 (2) of Regulation No 805/68 derogates from the prohibition on the imposition of health inspection charges to the extent necessary to ensure non-discriminatory treatment, on the one hand, of traders who put fresh meat on the market in intra-Community trade and thereby become liable to pay health inspection charges in the exporting Member State and, on the other hand, of those who import from third countries, provided that those charges do not exceed the actual cost of the inspections.