

# Joined Cases C-254/94, C-255/94 and C-269/94

**Fattoria Autonoma Tabacchi and Others**

**v**

**Ministero dell'Agricoltura e delle Foreste and Others**

(References for a preliminary ruling  
from the Tribunale Amministrativo Regionale del Lazio)

(Common organization of the market — Raw tobacco — Council  
Regulation (EEC) No 2075/92 — Commission Regulation (EEC) No 3477/92)

Opinion of Advocate General Elmer delivered on 29 February 1996 ..... I - 4239

Judgment of the Court (Fifth Chamber), 12 September 1996 ..... I - 4272

## Summary of the Judgment

- 1. Agriculture — Common organization of the markets — Raw tobacco — System of processing quotas introduced by Regulation No 2075/92 — Detailed rules for its application — Allocation of quotas to first processors — Obligation on such undertakings to issue cultivation certificates to producers — Option available to producers to change processors and giving rise to alterations in the quotas allocated — Whether compatible with Regulation No 2075/92 — Principle of proportionality — Breach — No breach*  
(EC Treaty, Art. 39; Council Regulation No 2075/92, Arts 9 and 10; Commission Regulation No 3477/92, Arts 3(3), 9 and 10)

2. *Agriculture — Common organization of the markets — Raw tobacco — System of processing quotas — Detailed rules for its application — Cultivation certificates — Producers suffering an abnormal reduction in production as a result of exceptional circumstances — Determination of the quantities to be taken into consideration for issuing certificates — Establishment of reserves calculated and allocated among producers according to a standard-rate system — Permissible — Condition*  
(Commission Regulation No 3477/92, Art. 9(3))
  
3. *Agriculture — Common organization of the markets — Raw tobacco — System of processing quotas — Detailed rules for its application — Producer groups which are themselves producers and which undertake the first processing on their own premises — National rules depriving them of the benefit of a single cultivation certificate or single production quota — Not permissible*  
(Commission Regulation No 3477/92, Art. 2, third indent, and Art. 21)
  
4. *Agriculture — Common organization of the markets — Raw tobacco — System of processing quotas — Rules for calculating quotas — Division of processing undertakings into distinct groups — Whether permissible — Condition — Allocation of quotas among producers — Application of different rules of calculation depending on the undertaking supplied — Permissible*  
(Council Regulation No 2075/92, Art. 9(3); Commission Regulation No 3477/92, Art. 9(1))

1. Articles 3(3), 9 and 10 of Regulation No 3477/92 laying down detailed rules for the application of the raw tobacco quota system for the 1993 and 1994 harvests do not breach the principles of the common organization of the market in that sector established by Regulation No 2075/92, since the obligation on a processing undertaking to issue cultivation certificates evidencing the delivery of raw tobacco by a producer, both at the qualitative and the quantitative level, to that processing undertaking during the previous harvests meets the Community legislature's concern to enable the national and Community authorities to obtain that information through an effective and transparent system designed to prevent fraudulent transactions, while allowing producers to change processing undertakings from one harvest to the next

and allowing those undertakings to turn to different producers.

The right which producers have under Article 10 of Regulation No 3477/92 to conclude cultivation contracts with an undertaking other than that which issued the cultivation certificate is intended, in accordance with Article 39 of the Treaty, to ensure for them a fair standard of living in so far as it enables them to avoid being in a position of dependence *vis-à-vis* the processing undertaking which issued the certificate.

Nor are the aforementioned Articles 3(3), 9 and 10 contrary to Article 10 of Regulation No 2075/92, since the quota to which that provision refers for the purpose of indicating the maximum quantities for which processing undertakings can conclude cultivation contracts is the quota allocated to the processor on the basis of the quantities processed over the reference period, which may be amended as a result of quota transfers effected in accordance with Article 10(3) of Regulation No 3477/92, resulting from the freedom, to which every producer must be entitled, to choose the undertaking to which he intends to deliver tobacco of the same group of varieties.

Finally, the system of cultivation certificates established by Regulation No 3477/92 complies with the principle of proportionality since it allows the objectives pursued by the Community legislature to be attained without the resultant disadvantages being manifestly disproportionate to those objectives.

2. It is clear from Article 9(3) of Regulation No 3477/92 laying down detailed rules for the application of the raw tobacco quota system for the 1993 and 1994 harvests that when a producer has suffered an abnormal reduction in production as a result of exceptional circumstances during a harvest to be taken into consideration

for the purpose of fixing his cultivation certificate, the Member State in question must first allocate an additional reference quantity for that harvest and then calculate the production average, thus corrected, during the reference period. Subject to this proviso, Member States have a considerable margin of discretion when giving effect to that provision, with the result that neither the advance establishment of reserve quotas calculated in relation to the quantities of the different types of tobacco produced, and taking account of the fact that certain types are more susceptible than others to natural disasters, nor the allocation of those quotas among the producers affected according to a system which does not necessarily result in an allocation corresponding exactly to the loss which each has incurred can, in principle, be regarded as contrary to Article 9(3), provided, however, that such a system operates in accordance with objective criteria.

3. The third indent of Article 2 and Article 21 of Regulation No 3477/92 laying down detailed rules for the application of the raw tobacco quota system for the 1993 and 1994 harvests preclude national rules not allowing a single cultivation certificate or single production quota to be given to a producer group founded with the aim of promoting and facilitating the cultivation of tobacco by its members, while at the same time undertaking the first processing of tobacco on its own premises.

4. Article 9(3) of Regulation No 2075/92, which lays down the rules for calculating the processing quotas distributed among first processors, must be interpreted as meaning that such undertakings may be divided into seven distinct groups, on condition that the processing quota is determined according to the rules of calculation prescribed for whichever of the three groups of undertaking distinguished by that provision the group in question belongs to. Under Article 9(1) of Regulation No 3477/92 laying down detailed rules for the application of the raw tobacco quota system for the 1993 and 1994 harvests, producers may have different rules for calculating the processing quota applied to them depending on the processing undertaking to which they delivered during the reference period.