

JUDGMENT OF THE COURT (Sixth Chamber)

6 July 2000 \*

In Case C-402/98,

REFERENCE to the Court under Article 177 of the EC Treaty (now Article 234 EC) by the Tribunale Amministrativo Regionale del Lazio (Italy) for a preliminary ruling in the proceedings pending before that court between

**Agricola Tabacchi Bonavicina Snc di Mercati Federica (ATB) and Others**

and

**Ministero per le Politiche Agricole,**

**Azienda di Stato per gli Interventi nel Mercato Agricolo (AIMA),**

**Mario Pittaro,**

on the validity of Council Regulation (EC) No 711/95 of 27 March 1995 amending Regulation (EEC) No 2075/92 on the common organisation of the market in raw tobacco (OJ 1995 L 73, p. 13), Commission Regulation (EC)

\* Language of the case: Italian.

No 1066/95 of 12 May 1995 laying down detailed rules for the application of Council Regulation (EEC) No 2075/92 as regards the raw tobacco quota system for the 1995, 1996 and 1997 harvests (OJ 1995 L 108, p. 5) and Commission Regulation (EC) No 1067/95 of 12 May 1995 amending Regulation (EEC) No 3478/92 laying down detailed rules for the application of the premium system for raw tobacco (OJ 1995 L 108, p. 11),

THE COURT (Sixth Chamber),

composed of: J.C. Moitinho de Almeida (Rapporteur), President of the Chamber,  
C. Gulmann, J.-P. Puissochet, V. Skouris and F. Macken, Judges,

Advocate General: D. Ruiz-Jarabo Colomer,  
Registrar: H.A. Rühl, Principal Administrator,

after considering the written observations submitted on behalf of:

- Agricola Tabacchi Bonavicina Snc di Mercati Federica (ATB) and Others, by E. Cappelli, P. de Caterini and A. Bandini, of the Rome Bar,
- the Italian Government, by U. Leanza, Head of the Legal Service in the Ministry of Foreign Affairs, acting as Agent, assisted by D. Del Gaizo, Avvocato dello Stato,

- the Council of the European Union, by I. Díez Parra and A. Tanca, Legal Advisers, acting as Agents,
- the Commission of the European Communities, by F.P. Ruggeri Laderchi, of its Legal Service, acting as Agent, assisted by A. Cevese, of the Vicenza Bar,

having regard to the Report for the Hearing,

after hearing the oral observations of Agricola Tabacchi Bonavicina Snc di Mercati Federica (ATB) and Others, of the Italian Government, the Council and the Commission at the hearing on 20 January 2000,

after hearing the Opinion of the Advocate General at the sitting on 10 February 2000,

gives the following

### Judgment

- 1 By order of 11 March 1998, received at the Court on 11 November 1998, the Tribunale Amministrativo Regionale (Regional Administrative Court), Lazio, referred to the Court for a preliminary ruling under Article 177 of the EC Treaty (now Article 234 EC) a question on the validity of Council Regulation (EC) No 711/95 of 27 March 1995 amending Regulation (EEC) No 2075/92 on the common organisation of the market in raw tobacco (OJ 1995 L 73, p. 13),

Commission Regulation (EC) No 1066/95 of 12 May 1995 laying down detailed rules for the application of Council Regulation (EEC) No 2075/92 as regards the raw tobacco quota system for the 1995, 1996 and 1997 harvests (OJ 1995 L 108, p. 5) and Commission Regulation (EC) No 1067/95 of 12 May 1995 amending Regulation (EEC) No 3478/92 laying down detailed rules for the application of the premium system for raw tobacco (OJ 1995 L 108, p. 11).

- 2 The question was raised in proceedings between Agricola Tabacchi Bonavicina Snc di Mercati Federica (ATB) and 23 other tobacco producers of the Veneto area ('ATB and Others') and the Ministero per le Politiche Agricole (Ministry of Agricultural Policy), the Azienda di Stato per gli Interventi nel Mercato Agricolo (AIMA) (State Agency for Intervention in the Agricultural Market) and Mr Pittaro, after the allocation to ATB and Others of production quotas for the 1995 harvest under Regulations Nos 711/95, 1066/95 and 1067/95.

### **Applicable Community law**

- 3 In order to ensure both the stability of the markets and a fair standard of living for the agricultural population in the raw tobacco sector, which is characterised by a lack of correspondence between supply and demand, Council Regulation (EEC) No 2075/92 of 30 June 1992 on the common organisation of the market in raw tobacco (OJ 1992 L 215, p. 70) modified the Community system governing the common organisation of the market in this sector. The regulation simplified the market management mechanisms while (i) ensuring that production was controlled in order to adapt it both to the requirements of the market and the demands of the budget and (ii) providing stronger means of control to ensure that the management mechanisms fully achieved the objectives of the common organisation of the market in raw tobacco.
- 4 Regulation No 2075/92 retained the system under which traditional producers were paid premiums by processing undertakings at the time of delivery of the tobacco. However, in order to limit Community tobacco production and to discourage the production of varieties which were not readily disposed of, the

regulation laid down a maximum global guarantee threshold for the Community divided into specific guarantee thresholds for each group of varieties.

- 5 The eighth recital in the preamble to Regulation No 2075/92 states:

‘Whereas, to ensure that the guarantee thresholds are observed, a processing quota system must be instituted for a limited period; whereas for a transitional period the Member States must allocate, within the guarantee thresholds, processing quotas to the firms concerned, the Community rules laid down for the purpose being applied to ensure fair allocation on the basis of quantities processed in the past, but disregarding any abnormal production levels; whereas the necessary measures will be taken to permit the quotas to be allocated to the producers subsequently, under satisfactory conditions; whereas Member States possessing the necessary data to allocate quotas to producers on the basis of past performance, should be authorised to do so’.

- 6 Article 9 of Regulation No 2075/92 which falls under Title II headed ‘System of production limitation’ provides:

‘3. On the basis of the quantities allocated pursuant to paragraph 2 and without prejudice to the application of paragraph 5, Member States shall distribute processing quotas on a [transitional] basis for the 1993 and 1994 harvests among the first processors in proportion to the average quantities delivered for processing during the three years preceding the year of the last harvest, broken down by group of varieties. However, production in 1992 and deliveries from this harvest shall not be taken into account. The procedure for allocating processing quotas for the following harvests shall not be affected by this allocation.

...

4. However, Member States may distribute quotas directly to producers if they dispose of the necessary data on production of all producers for the three harvests preceding the last harvest, in relation to varieties and quantities produced and delivered to a processor.'

- 7 Commission Regulations (EEC) Nos 3477/92 and 3478/92 of 1 December 1992 (OJ 1992 L 351, p. 11 and p. 17) laid down detailed rules for the application of Regulation No 2075/92, the first in respect of the quota system in the raw tobacco sector for the 1993 and 1994 harvests, and the second in respect of the premium system in that sector.

- 8 Regulation No 3477/92 states in the 17th recital in its preamble:

'... Member States must now take appropriate action to equip themselves with the means necessary for distributing the quotas direct to producers from the 1995 harvest onwards'.

- 9 Article 20 of the same regulation provides:

'The Member States shall establish a computerised database which shall contain, for each processor and each producer, information identifying their establishments or their holdings, the quotas or the quantities appearing on cultivation certificates allocated to them and any other information which may be useful for

monitoring the quota system and for the distribution of quotas direct to producers from the 1995 harvest onwards.'

- 10 Regulation No 711/95 amended Regulation No 2075/92 and revoked the transitional arrangements for allocating quotas among processing undertakings. Article 1 of Regulation No 711/95 amended in particular Article 9(3) of Regulation No 2075/92 which thereafter was worded as follows:

'On the basis of the quantities allocated pursuant to paragraph 2 and without prejudice to the application of paragraph 4, the Member States shall divide up production quotas among the growers in proportion to the average quantities delivered for processing in the three years preceding the year of the last harvest, broken down by group of varieties. However, production in 1992 and deliveries from that harvest shall not be taken into account; they shall be replaced by those of the fourth year preceding the year of the last harvest. The procedure for allocating production quotas for subsequent harvests shall not be affected by this distribution.'

- 11 Article 2 of Regulation No 711/95 provides:

'This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

It shall apply from the 1995 harvest ...'

- 12 Regulation No 711/95 was published on 1 April 1995 and entered into force on 2 April 1995. The Commission's proposal in respect of the regulation was published on 23 February 1995 (COM(94) 555 final, OJ 1995 C 46, p. 6).
- 13 On 4 April 1995 the Commission published a 'Notice to tobacco producers in the Community' (OJ 1995 C 82, p. 3) under which:

'Producers in the tobacco sector should take notice that their right to produce tobacco for which they receive a Community premium will continue to be subject to restrictions in the form of quotas for the 1995 harvest.

The Commission proposal to the Council to amend the basic regulation in this sector (Regulation (EEC) No 2075/92) as published in the *Official Journal of the European Communities* No C 46 of 23 February 1995, page 6, provides, inter alia, the distribution of quotas only to producers and not to first processors (under the current system, Member States had a choice whether to implement a system based on distribution of quotas to first processors or producers). For the 1995 harvest these quotas shall be based on the average quantities delivered for processing for the 1990, 1991 and 1993 harvests. Once the Council Regulation is amended following the consultation of the European Parliament, the Commission intends to amend its detailed implementing rules in order to take into account the changes introduced into the Council Regulation. In particular, there will be a switch-over from a system of quotas distributed at the level of first processors to a system of quotas distributed at the level of producers. Crops planted for harvest in 1995 will be affected by this change.

In addition, producers should take note that the Commission proposed to the Council, in the context of the 1995 price package, the following breakdown of quotas for the different groups of varieties of tobacco for the 1995 harvest.



...'

- 14 The notice then includes a table summarising, by reference to varieties of tobacco and by Member State, the breakdown of quotas proposed by the Commission to the Council for the 1995 harvest.

- 15 As regards the allocation of production quotas, Article 3 of Regulation No 1066/95 provides:

'...

Member States shall issue the producers with quota certificates not later than 31 January of the year of harvest.

...

For the 1995 harvest, Member States are hereby authorised to extend the deadline referred to in the second paragraph until 31 May.'

16 Article 20 of Regulation No 1066/95 provides:

‘This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.’

17 Regulation No 1066/95 was published on 13 May 1995 and entered into force on 14 May 1995.

18 Regulation No 1067/95 makes provision, in particular, about cultivation contracts, arrangements for the payment of premiums, controls and penalties.

19 Article 2 of that Regulation provides:

‘This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

It shall apply from the 1995 harvest ...’

20 Regulation No 1067/95 was published on 13 May 1995 and entered into force on 14 May 1995.

- 21 In addition, Council Regulation (EC) No 1550/95 of 29 June 1995 (OJ 1995 L 148, p. 39) fixed, for the 1995 harvest, the premiums and guarantee thresholds for leaf tobacco by group of tobacco varieties. Pursuant to Article 3 thereof, the regulation entered into force on the day of its publication in the *Official Journal of the European Communities*, namely 30 June 1995.

### The main proceedings and the question submitted for a preliminary ruling

- 22 ATB and Others applied to the Tribunale Amministrativo Regionale del Lazio for annulment of the measures and provisions adopted by the Italian authorities which distributed the national tobacco production quota for the 1995 harvest and allocated individual quotas to producers. Their action was brought on the basis that Regulations Nos 711/95, 1066/95 and 1067/95 are invalid.
- 23 The national court observed that tobacco is sown in February and that the young plants are planted out in the fields in April. Regulation No 711/95 entered into force on 2 April 1995. The provisions implementing this regulation, which are found in Regulations Nos 1066/95 and 1067/95, only became available on publication of those regulations, namely on 13 May 1995. Lastly, the global guarantee thresholds for each variety of tobacco, which are vital for the final determination of the quota to be allocated to each producer, were only fixed for the 1995 harvest when Regulation No 1550/95 was adopted, that is to say on 29 June 1995. Consequently, the tobacco producers had to make their production choices on the basis of data relating essentially to the 1993 and 1994 harvests and only began to receive the first reliable information in the course of the 1995 harvest, while definitive information became available to them only after the harvest was over.
- 24 The national court inferred from this that ATB and Others were not in a position to adjust their production for the 1995 harvest in accordance with the criteria laid down by Regulations Nos 711/95, 1066/95 and 1067/95, since the new

Community rules were adopted at a time when economic choices had already been taken and the plants for the harvest concerned had already been transferred to the fields.

- 25 The national court pointed out that ATB and Others are not criticising the new system applying the guarantee thresholds but object to the late stage at which the Community legislation was adopted since it was brought to their attention only when tobacco production for the 1995 harvest had already entered its final phase. According to the national court, the production quotas for 1995 mark a departure from the earlier processing quota system, resulting in an irrecoverable loss for producers amounting to the difference between the processing quotas and the production quotas.
- 26 The failure to adopt any transitional adjusting provisions and the failure to defer until the following harvest the impact of the new regime of 'guarantee thresholds' based on production quotas bore, in the view of ATB and Others, all the hallmarks of an infringement of the fundamental principles governing the common organisation of the market in raw tobacco and of the principle of the protection of legitimate expectations. First, it does not appear that the aim pursued by the introduction of a production quota can be achieved by regulations published when producers have already taken their decisions and implemented them. Second, the principle of the protection of legitimate expectations requires that measures limiting production should be adopted and made known in good time to ensure that producers' investments are not adversely affected.
- 27 In those circumstances, the Tribunale Amministrativo del Lazio decided to stay proceedings and to refer the following question to the Court of Justice for a preliminary ruling:

'By introducing innovative arrangements for the rules on premiums for the production of tobacco when planting had already been carried out and producers had made investments in accordance with reasonable assessment criteria based on the Community rules in force at the time of sowing and planting out in the fields,

do Article 2 of Council Regulation (EC) No 711/95 of 27 March 1995, Article 20 of Commission Regulation (EC) No 1066/95 of 12 May 1995 and Article 2 of Commission Regulation (EC) No 1067/95 of 12 May 1995, infringe the principles governing sound organisation of the agricultural market in tobacco and the principle of protection of legitimate expectations?’

28 As a preliminary point, it should be noted that ATB and Others and the Italian Government also dispute the validity of Regulation No 1550/95 which fixed the guarantee threshold by group of tobacco varieties.

29 In that respect it should be borne in mind that Article 177 of the EC Treaty establishes direct cooperation between the Court of Justice and the national courts by way of a non-contentious procedure excluding any initiative of the parties who are merely invited to be heard in the course of that procedure. Under Article 177 it is for the national court, and not the parties to the main action, to bring a matter before the Court of Justice. Since the right to determine the questions to be brought before the Court devolves upon the national court alone, the parties may not change the tenor of the questions (see, in particular, Case 44/65 *Hessische Knappschaft v Singer* [1965] ECR 965, at 970 and 971).

30 As the Commission has rightly pointed out, the Tribunale Amministrativo Regionale del Lazio has not asked the Court for a preliminary ruling on the validity of Regulation No 1550/95.

31 In those circumstances, there is no need to consider the validity of that regulation.

**The validity of Regulations Nos 711/95, 1066/95 and 1067/95**

- 32 Both ATB and Others and the Italian Government claim that Regulations Nos 711/95, 1066/95 and 1067/95 introduced significant innovations in the detailed rules of the premium system for tobacco production by introducing a permanent system applicable with effect from the 1995 harvest, under which observance of the guarantee threshold fixed annually for each variety of tobacco was to be ensured by allocating production quotas directly to the various producers and not to the processing undertakings.
- 33 ATB and Others submit that their legitimate expectations have been adversely affected by the fact that measures capable of having an effect on their investments were not brought to their attention in good time, since the regulations were applicable to the 1995 harvest even though they were published when the agricultural season was well under way. The regulations also fail to have regard to the principles on which the common organisation of the market in raw tobacco is founded and, in particular, the principle according to which time-limits should be set so that the quotas may be allocated sufficiently early to enable producers to take account of such factors, as far as possible, in tobacco production. That principle emerges from the third recital in the preamble to Regulation No 3477/92 and from the second recital of Regulation No 1066/95, as well as from the second paragraph of Article 3 of Regulation No 1066/95, which introduces an obligation on the part of the national authorities to issue the producers with quota certificates no later than 31 January of the year of harvest, although, for the 1995 harvest alone, Article 3 authorises Member States to extend that deadline until 31 May.
- 34 They claim, as does the Italian Government, that Regulation No 711/95, and the regulations applying it, namely Regulations Nos 1066/95 and 1067/95, have retroactive effect although Regulation No 711/95 was not intended to be retroactive; it was designed to bring about better production orientation, in the light of experience gained, by permitting Member States to pay premiums directly to the producers.
- 35 In that regard, both ATB and Others and the Italian Government point to the statement in paragraph 18 of the judgment in Case C-368/89 *Crispoltoni v*

*Fattoria Autonoma Tabacchi di Città de Castello* [1991] ECR I-3695 ('*Crispol-toni I*'), that the purpose of setting a production quota cannot be achieved if the relevant measures are adopted at a late stage when decisions regarding the extent of the area to be cultivated have already been taken and planting out has already taken place.

- 36 They also submit that the delay in adopting Regulations Nos 711/95, 1066/95 and 1067/95 obliged the tobacco growers to work out their own individual quotas on the basis of the method which had applied when processing quotas were being calculated for earlier harvests. Regulation No 1066/95 adjusted the method for calculating those quotas in a wholly unforeseeable way.
- 37 It must be observed at the outset that, whilst the protection of legitimate expectations is one of the fundamental principles of the Community, economic operators cannot have a legitimate expectation that an existing situation which is capable of being altered by the Community institutions in the exercise of their discretion will be maintained; this is particularly true in an area such as the common organisation of the markets, the object of which entails constant adjustments to meet changes in the economic situation. It follows that economic operators cannot claim a vested right to the maintenance of an advantage which they derive from the establishment of the common organisation of the markets and which they enjoyed at a given time (see, in particular, Joined Cases C-133/93, C-300/93 and C-362/93 *Crispoltoni and Others v Fattoria Autonoma Tabacchi and Donatab* [1994] ECR I-4863, paragraphs 57 and 58; and Case C-372/96 *Pontillo v Donatab* [1998] ECR I-5091, paragraphs 22 and 23).
- 38 That is particularly true in a case such as that in point in the main proceedings, where the applicable Community legislation, namely Article 9 of Regulation No 2075/92, provided that the new system of allocating quotas directly among the producers should be applied by all the Member States by, at the latest, the 1995 harvest, since the Member States were only able to continue allocating quotas to first processors on a transitional basis in respect of the 1993 and 1994 harvests (on the last point, see 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* [1996] ECR I-4235, paragraph 36).

39 It is true that, in paragraphs 20 and 21 of *Crispoltoni I*, the Court held that Council Regulation No 1114/88 of 25 April 1988 amending Regulation (EEC) No 727/70 on the common organisation of the market in raw tobacco (OJ 1988 L 110, p. 35) and Council Regulation No 2268/88 of 19 July 1988 fixing, for the 1988 harvest, the norm and intervention prices and the premiums granted to purchasers of leaf tobacco, the derived intervention prices for baled tobacco, the reference qualities, the production areas and the guaranteed maximum quantities and amending Regulation (EEC) No 1975/87 (OJ 1988 L 199, p. 20), were invalid in so far as they laid down a maximum guaranteed quantity for tobacco of the 'Bright' variety harvested in 1988. In arriving at this conclusion, the Court observed that, although the economic operators concerned must have considered that measures to limit any increase in tobacco production in the Community and to discourage the production of varieties that were difficult to dispose of were foreseeable, they were entitled to expect that they would be notified in good time of any measures affecting their investments.

40 That was not the case as regards the regulations at issue in *Crispoltoni I*. In paragraphs 14 to 16 of its judgment, the Court found that Regulations Nos 1114/88 and 2268/88 had retroactive effect in so far as they provided for reductions in the intervention prices and premiums if the maximum guaranteed quantity for tobacco of the 'Bright' variety harvested in 1988 was exceeded and in so far as they were published, respectively, at the end of April and the end of July 1988, at a time when the sowing for the current year had already been done and the planting out of the young plants had also been completed.

41 However, as was made clear in paragraph 45 of the judgment in Case C-324/96 *Petridi v Simou and Others* [1998] ECR I-1333, in *Crispoltoni I* the Court ruled on the retroactive application to the 1988 tobacco harvest of the system of maximum guaranteed quantity with which the economic operators concerned were unfamiliar, both in regard to the nature of the new measures for the



organisation of the tobacco market in the Community and in respect of the date on which those measures were to come into effect.

- 42 Regulation No 711/95 was, by contrast, adopted in a different context. The economic operators concerned had known since 30 July 1992, when Regulation No 2075/92 was published, that the processing quota system had been retained in Italy only on a transitional basis and that the new production quota system would apply as from the 1995 harvest.
- 43 Regulation No 711/95, which was published on 1 April 1995, merely confirmed that the production quota system would be applicable from the 1995 harvest, while the Commission's proposal relating to that regulation was published as early as 23 February 1995.
- 44 In addition, it should be noted that a Commission notice published on 4 April 1995 drew tobacco producers' attention to the transition from the processing quota system to the production quota system and to the fact that the crops for the 1995 harvest would be affected by this change. The notice included a table showing the breakdown between the Member States of quotas for the different groups of varieties of tobacco which the Commission was proposing to the Council in respect of the 1995 harvest and set out, in relation to varieties grown in Italy, identical amounts to those shown in Regulation No 1550/95.
- 45 Consequently, the economic operators concerned knew before the planting out of the young plants, which in Italy takes place towards the end of April, that the

production quota system would apply to the 1995 harvest and what quantities would be available for the relevant harvest in respect of the varieties grown in Italy. Planting out is the operation involving the greatest expense in tobacco growing and it is at the time it takes place that the growers have to decide on the extent of the areas to be cultivated.

46 In those circumstances, Regulation No 711/95 did not involve any infringement relating to the legitimate expectations of the tobacco producers or of the principles on which the common organisation of the market in raw tobacco is founded.

47 Nor furthermore, contrary to the submissions of both ATB and Others and the Italian Government, were the legitimate expectations of the tobacco producers adversely affected by the amendments made by Regulations Nos 1066/95 and 1067/95 to the detailed rules for the application of Regulation No 2075/92 as regards the quota and premium systems in the raw tobacco sector.

48 Article 9(3) of Regulation No 2075/92 required processing quotas to be calculated in proportion to the average quantities delivered for processing during the three years preceding the year of the last harvest, broken down by group of varieties, excluding, however, the 1992 harvest. The same system was applied for the purpose of determining production quotas in Member States which decided not to take advantage of the transitional processing quota system.

49 As the Advocate General has rightly noted at points 25 to 29 of his Opinion, it appears from a comparison of Regulation No 3477/92, which laid down detailed

rules for the application of the raw tobacco quota system for the 1993 and 1994 harvests, with Regulation No 1066/95, which laid down the detailed rules for the 1995, 1996 and 1997 harvests, that the essential elements for calculating the individual quotas were not altered. The method continued to be based on the average quantities delivered during the three years preceding the year of the last harvest, broken down by group of varieties, excluding, however, the 1992 harvest. The changes introduced by Regulation No 1066/95 were limited to adapting the detailed rules of that method of calculation to the production quota system which was introduced on a permanent basis by Regulation No 711/95.

50 It is apparent moreover from the observations of the Italian Government that the adjustment of the method of calculating the quotas did not prevent the Italian authorities from allocating to tobacco producers on a provisional basis, by circular of 28 February 1995, quotas for the 1995 harvest and confirming those quotas by a circular of 24 May 1995, that is to say on a date which was only 11 days after the publication of Regulation No 1066/95.

51 It follows that the adjustment by Regulation No 1066/95 of the method of calculation of individual quotas allocated to tobacco producers did not adversely affect either the legitimate expectations of those producers or the principles underlying the common organisation of the market in raw tobacco.

52 It should be added in that regard that, as the Commission has rightly observed, the quota production system decreases the risk of producers' individual quotas being reduced for reasons beyond their control since, under the production quota system, unlike the earlier system, tobacco producers' quotas can no longer be

reduced in proportion to reductions imposed on processing undertakings for reasons concerning only those undertakings.

53 Even supposing that the amendments made by Regulation No 1067/95 were to bring about a reduction in the premiums paid to ATB and Others, it would be sufficient to note, as stated in paragraph 37 above, that the economic operators in question cannot have a legitimate expectation that an existing situation which is capable of being altered by the Community institutions in the exercise of their discretion would be maintained; this is particularly true in an area such as the common organisation of the markets the object of which entails constant adjustments to meet changes in the economic situation. That is the case as regards the fixing of premiums which can be reduced from one year to the next (see *Pontillo*, paragraph 28).

54 In those circumstances, the answer to be given to the national court must be that consideration of the question has disclosed no factor of such a kind as to affect the validity of Regulations Nos 711/95, 1066/95 and 1067/95.

### Costs

55 The costs incurred by the Italian Government, by the Council and by the Commission, which have submitted observations to the Court, are not recoverable. Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court.

On those grounds,

THE COURT (Sixth Chamber),

in answer to the question referred to it by the Tribunale Amministrativo Regionale del Lazio by order of 11 March 1998, hereby rules:

Consideration of the question referred for a preliminary ruling has disclosed no factor of such a kind as to affect the validity of:

- Council Regulation (EC) No 711/95 of 27 March 1995 amending Regulation (EEC) No 2075/92 on the common organisation of the market in raw tobacco;
- Commission Regulation (EC) No 1066/95 of 12 May 1995 laying down detailed rules for the application of Council Regulation (EEC) No 2075/92 as regards the raw tobacco quota system for the 1995, 1996 and 1997 harvests; and

- Commission Regulation (EC) No 1067/95 of 12 May 1995 amending Regulation (EEC) No 3478/92 laying down detailed rules for the application of the premium system for raw tobacco.

Moitinho de Almeida

Gulmann

Puissochet

Skouris

Macken

Delivered in open court in Luxembourg on 6 July 2000.

R. Grass

J.C. Moitinho de Almeida

Registrar

President of the Sixth Chamber