

Case C-325/00

Commission of the European Communities

v

Federal Republic of Germany

(Free movement of goods — Measures having equivalent effect —
Label of origin and quality)

Opinion of Advocate General Jacobs delivered on 14 March 2002 I-9980
Judgment of the Court, 5 November 2002 I-9993

Summary of the Judgment

1. *Free movement of goods — Quantitative restrictions — Measures having equivalent effect — Definition — Promotional measures for national products by a body set up as a private company but established by a Member State and financed by a contribution imposed on producers — Included*
(Art. 30 EC Treaty (now, after amendment, Art. 28 EC))

2. *Free movement of goods — Quantitative restrictions — Measures having equivalent effect — National scheme for the promotion of agricultural and food products manufactured in a Member State — Quality label referring to the national origin of the products — Not permissible — Justification — Protection of industrial and commercial property — None*
(EC Treaty, Arts 30 and 36 (now, after amendment, Arts 28 EC and 30 EC))

1. The award of a quality label which emphasises the national origin of the products concerned by a body which although set up as a private company, is established by a national law of a Member State and financed by a contribution imposed on producers must be considered to be a public measure for the purpose of Article 30 of the Treaty (now, after amendment, Article 28 EC) ascribable to the State. Such a body, cannot, under Community law, enjoy the same freedom as regards the promotion of national production as that enjoyed by producers themselves or producers' associations of a voluntary character. Thus it is obliged to respect the basic rules of the Treaty on the free movement of goods when it sets up a scheme, open to all undertakings of the sectors concerned, which can have effects on intra-Community trade similar to those arising under the scheme adopted by the public authorities.
2. A scheme seeking to promote the distribution of agricultural and food products made in a Member State and for which the advertising message, conveyed by a quality and origin label, underlines the national origin of the relevant products, may encourage consumers to buy the products with the label in question to the exclusion of imported products, and therefore, at least potentially, have restrictive effects on the free movement of goods between Member States referred to in Article 30 of the Treaty (now, after amendment, Article 28 EC).

While it is true that the protection of geographical indications may, under certain conditions, fall within the protection of industrial and commercial property for the purposes of Article 36 of the Treaty (now, after amendment, Article 30 EC), a scheme defining the

(see paras 17-18, 21)

area of provenance as the extent of the territory of the Member State concerned and applying to all agricultural and food products fulfilling certain quality requirements, cannot in any case be considered a geographic indi-

cation capable of justification under Article 36 of the Treaty.

(see paras 23, 27)