

JUDGMENT OF THE COURT

5 FEBRUARY 1963<sup>1</sup>

Reference for a preliminary ruling under Article 177 of the EEC Treaty made by the Tariefcommissie, Amsterdam, on 16 August 1962 in the proceedings between

N.V. Algemene Transport— en Expeditie Onderneming  
van Gend & Loos

and

Nederlandse administratie der belastingen (Netherlands Inland  
Revenue Administration)<sup>2</sup>

Case 26/62

S u m m a r y

1. *Procedure — Preliminary ruling — Jurisdiction of the Court — Foundation — Interpretation of the Treaty*  
(EEC Treaty, subparagraph (a) of the first paragraph of Article 177)
  2. *Procedure — Preliminary ruling — Question — Choice — Relevance*  
(EEC Treaty, subparagraph (a) of the first paragraph of Article 177)
  3. *EEC Community—Nature—Subjects having rights and obligations—Individuals*
  4. *Member States of the EEC—Obligations—Failure to fulfil obligation—National courts or tribunals—Rights of individuals*  
(EEC Treaty, Articles 169, 170)
  5. *Customs duties — Increase — Prohibition — Direct effects — Individual rights — Protection*  
(EEC Treaty, Article 12)
  6. *Customs duties—Increase—Finding—Duties applied—Concepts*  
(EEC Treaty, Article 12)
  7. *Customs duties—Increase—Concepts*  
(EEC Treaty, Article 12)
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1. In order to confer jurisdiction on the Court to give a preliminary ruling it is necessary only that the question raised should clearly be concerned with the interpretation of the Treaty.
  2. The considerations which may have led a national court to its choice of questions as well as the relevance which it attributes to such questions in the context of a case before it are

1 — Language of the Case: Dutch.

2 — CMLR.

excluded from review by the Court when hearing an application for a preliminary ruling.<sup>1</sup>

3. The European Economic Community constitutes a new legal order of international law for the benefit of which the states have limited their sovereign rights, albeit within limited fields, and the subjects of which comprise not only the Member States but also their nationals. Independently of the legislation of Member States, Community law not only imposes obligations on individuals but is also intended to confer upon them rights which become part of their legal heritage. These rights arise not only where they are expressly granted by the Treaty but also by reason of obligations which the Treaty imposes in a clearly defined way upon individuals as well as upon the Member States and upon the institutions of the Community.
4. The fact that Articles 169 and 170 of the EEC Treaty enable the Commission and the Member States to bring before the Court a State which has not fulfilled its obligations does not deprive individuals of the right to plead the same obligations, should

the occasion arise, before a national court.

5. According to the spirit, the general scheme and the wording of the EEC Treaty, Article 12 must be interpreted as producing direct effects and creating individual rights which national courts must protect.
6. It follows from the wording and the general scheme of Article 12 of the Treaty that, in order to ascertain whether customs duties and charges having equivalent effect have been increased contrary to the prohibition contained in the said Article, regard must be had to the customs duties and charges actually applied by Member States at the date of the entry into force of the Treaty.<sup>2</sup>
7. Where, after the entry into force of the Treaty, the same product is charged with a higher rate of duty, irrespective of whether this increase arises from an actual increase of the rate of customs duty or from a rearrangement of the tariff resulting in the classification of the product under a more highly taxed heading, such increase is illegal under Article 12 of the EEC Treaty.

### In Case 26/62

Reference to the Court under subparagraph (a) of the first paragraph and under the third paragraph of Article 177 of the Treaty establishing the European Economic Community by the Tariefcommissie, a Netherlands administrative tribunal having final jurisdiction in revenue cases, for a preliminary ruling in the action pending before that court between

**N.V. ALGEMENE TRANSPORT- EN EXPEDITIE ONDERNEMING VAN GEND & LOOS**, having its registered office at Utrecht, represented by H.G. Stibbe and L.F.D. ter Kuile, both Advocates of Amsterdam, with an address for

<sup>1</sup> — Cf. Paragraph No 4 of Summary of Judgment in Case 13/61, Rec. 1962., p. 94.

<sup>2</sup> — Cf. Paragraph No 1 of Summary of Judgment in Case 10/61, Rec. 1962., p. 5.