survivor of such a person is to be regarded as the survivor of a worker for the purposes of Regulation No 1408/71.

2. The essential criterion for determining the scope of the term 'legislation of a Member State' within the meaning of Article 1 (j) of Regulation No 1408/71 is not the place in which the occupation was pursued but the link which exists between the worker, regardless of the place in which he pursued or is pursuing his occupation, and the social security scheme in a Member State under which he has completed periods of insurance.

Since the decisive criterion is the affiliation of an insured person to a social security scheme of a Member State, the fact that the insurance periods completed under that scheme were completed in non-member States is unimportant.

It follows that national rules such as those contained in the Belgian Law of 17 July 1963 establishing an optional insurance scheme for persons pursuing their activity in a State which is not a member of the Community are covered by Regulation No 1408/71 as legislation of a Member State, even if the benefits for which they provide can be based only on periods of activity completed in non-member States, and the provisions of Regulation No 1408/71, in particular Article 3 (1), are applicable to workers who are, or have been, subject to such rules.

REPORT FOR THE HEARING
delivered in Joined Cases 82 and 103/86 *

I — Facts and written procedure

1. Article 51 of the EEC Treaty requires the Council to adopt such measures in the field of social security as are necessary to provide freedom of movement for workers. In accordance with that provision the Council adopted Regulation No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community (Official Journal, English Special Edition 1971 (II), p. 416), as subsequently amended, in particular, by Council Regulation No 1390/81 of 12 May 1981 extending Regulation No 1408/71 to self-employed persons and members of their families (Official Journal 1981, L 143, p. 1) of which a consolidated text is set out in Regulation No 2001/83 of 2 June 1983 amending and updating Regulation No 1408/71 and Regulation No 574/72 laying down the procedure for implementing Regulation No 1408/71 (Official Journal 1983, L 230, p. 6).

* Language of the Case: French.

Article 2 (1) of that regulation defines *inter alia* the persons covered as follows:

'This Regulation shall apply to employed or self-employed persons who are or have been subject to the legislation of one or more Member States . . . as well as to the members of their families and their survivors.'

For the purposes of the regulation, 'employed person' is defined in Article 1 (a) as meaning:

' (i) any person who is insured, compulsorily or on an optional continued basis, for one or more of the contingencies covered by the branches of a social security scheme for employed or self-employed persons;

. . .

(iv) any person who is voluntarily insured for one or more of the contingencies covered by the branches dealt with in this Regulation, under a social security scheme of a Member State for employed or self-employed persons or for all residents or for certain categories of residents:

if such person carries out an activity as an employed or self-employed person,

or

if such person has previously been compulsorily insured for the same contingency under a scheme for employed or self-employed persons of the same Member State;

. . .'.

'Legislation' is defined in Article 1 (j) as follows:

'"legislation" means in respect of each Member State statutes, regulations and other provisions and all other implementing measures, present or future, relating to the branches and schemes of social security . . .'.

The regulation prohibits in its sphere of application any discrimination on grounds of nationality by stipulating in Article 3 (1) that:

'Subject to the special provisions of this Regulation, persons resident in the territory of one of the Member States to whom this Regulation applies shall be subject to the same obligations and enjoy the same benefits under the legislation of any Member State as the nationals of that State.'

2. The Office de sécurité sociale d'outre-mer is a public institution governed by Belgian law created by the Law of 17 July 1963 on overseas social security (*Moniteur belge* of 8. 1. 1964). It is responsible for administering the former colonial social security scheme guaranteed by the Law of 16 June 1960 placing under the control and guarantee of the Belgian State the institutions administering social security for persons employed in the Belgian Congo and Ruanda-Urundi and providing a guarantee by the Belgian State of social security benefits in favour of such persons (*Moniteur belge* of 30. 6. 1960) and the overseas social security scheme introduced by the aforesaid Law of 17 July 1963.

The former colonial social security scheme guaranteed by the Law of 16 June 1960 covering periods of insurance with the former colonial institutions until 1 July 1960 dates from the independence of the former Belgian Congo and was the subject of a judgment of the Court of 31 March 1977 in Case 87/76 *Bozzone* v *Office de sécurité*

sociale d'outre-mer [1977] ECR 687 and a judgment of 11 July 1980 in Case 150/79 *Commission* v *Kingdom of Belgium* [1980] ECR 2621. In the first of those judgments the Court ruled that Article 2 (1) of Regulation No 1408/71 had to be interpreted as also applying to workers who were, or had been, subject to the colonial employees' sickness and invalidity insurance scheme, the continuity of which was guaranteed by the Belgian Law of 16 June 1960. In the second judgment the Court declared that the Kingdom of Belgium had failed to fulfil its obligations under the EEC Treaty by imposing conditions of nationality or residence on workers who were nationals of the Member States of the Community and who came within the sphere of application of Regulation No 1408/71 for the grant of the social security benefits provided for by the Law of 16 June 1960.

Benefits paid under the Law of 16 June 1960, in particular old-age pensions, are linked to the Belgian consumer price index.

The overseas social security scheme established by the Law of 17 July 1963, covering insurance periods after 1 July 1960, is, in accordance with Article 12 of the law, a voluntary scheme of old-age, survivor's, sickness, invalidity and health-care insurance open to persons pursuing occupations in countries other than the Member States of the Community. Affiliation to the scheme is not subject to any conditions regarding nationality, occupation or the place of establishment of the employer and Article 13 of the law in principle excludes the application of Belgian legislation on social security for workers.

As regards the indexation of benefits, Article 51 of the Law of 17 July 1963 provides that:

'The provisions of this Chapter (Chapter VI — Adaptation of benefits to the cost of living) shall not be applicable to recipients of foreign nationality unless they are dependants of an insured person of Belgian nationality and reside in Belgium or unless they are nationals of a country which has entered into a reciprocal agreement which grants them such entitlement.'

3. Giancarlo Laborero, who was born in 1922 and is an Italian national, worked from 1953 to 1968 in the Belgian Congo, which became an independent State on 1 July 1960 and is now the Republic of Zaïre, and from 1968 to 1982 in Belgium, where he retired.

From 1953 to 1968 he was employed by a Belgian undertaking, which is now governed by the laws of Zaïre. Initially, he was insured under the colonial social security scheme guaranteed by the Law of 16 June 1960 and later under the overseas social security scheme introduced by the Law of 17 July 1963.

On 14 March 1983 the Office de sécurité sociale d'outre-mer granted him an annual pension of BFR 35 055 together with, *inter alia*, an indexation supplement amounting to BFR 143 860 and, under the Law of 17 July 1963, an annual non-indexed pension of BFR 42 569.

On 5 May 1983 Mr Laborero challenged that decision of the Office de sécurité sociale d'outre-mer before the Tribunal du travail, Brussels, on the ground that Article 51 of the Law of 17 July 1963 was incompatible with Regulation No 1408/71 and that he was also entitled to have the pension awarded to him under that law index-linked.

Considering that it remained uncertain whether the Law of 17 July 1963 was compatible with Regulation No 1408/71 or with the EEC Treaty, the Tribunal du travail, Brussels, by judgment of 3 March 1986, decided, pursuant to Article 177 of the EEC Treaty, to stay the proceedings until the Court of Justice gave a preliminary ruling on the following question:

'In view in particular of the second indent of Article 1 (a) (ii) ("... insured ... compulsorily or on an optional continued basis ...") and the second indent of subparagraph (iv) ("if such person has previously been compulsorily insured for the same contingency under a scheme for employed persons of the same Member State") and Article 4 (2) (dealing with general and special social security schemes, whether contributory or non-contributory),

does the Belgian Law of 17 July 1963 on overseas social security, in particular the first paragraph of Article 51, come under Regulation (EEC) No 1408/71 of the Council, in particular Article 3 (1)?

If it does not come under that regulation,

does the present formulation of the disputed interpretation of that Belgian legislation

constitute "discrimination on grounds of nationality" referred to in the first paragraph of Article 7 of the EEC Treaty or

is it contrary to the letter or spirit of Article 51 of the EEC Treaty?'

The judgment making the reference was received at the Court on 18 March 1986.

4. Mrs Francesca Sabato, an Italian national residing in Belgium, is the widow of Giuseppe Mezzorecchia. Mr Mezzorecchia, born in 1939 and also an Italian national, worked in the Democratic Republic of the Congo, which later became the Republic of Zaïre, from 1968 until his death on 23 November 1970.

From 1968 to 1970 Mr Mezzorecchia was covered by the overseas social security scheme established by the Law of 17 July 1983. Pursuant to that Law, on 24 November 1971 the Office de sécurité sociale d'outre-mer awarded the widow a survivor's pension of BFR 40 981 per annum from her husband's death and orphans' allowances for her two children.

By letter dated 16 April 1984 Mrs Sabato, relying on the provisions of Regulation No 1408/71, claimed that those benefits should be index-linked. By letter dated 9 May 1984 the Office de sécurité sociale d'outre-mer refused, pursuant to Article 51 of the Law of 17 July 1963, to grant that claim.

On 25 May 1984 Mrs Sabato challenged that decision before the Tribunal du travail, Charleroi. She contended that the decision constituted discrimination which was incompatible with Community law. By judgment of 26 September 1985 that court held that the optional and supplementary scheme established by the Law of 17 July 1963 to guarantee benefits in relation to an activity carried on in a completely independent country such as Zaïre fell outside the scope of Regulation No 1408/71 and dismissed Mrs Sabato's application.

Mrs Sabato appealed against that judgment to the Cour du travail, Mons, which, by judgment of 25 April 1986, considering that the case depended upon a question of interpretation of Community law the answer to which was not clear from the existing case-law, decided, pursuant to Article 177

of the EEC Treaty, to stay the proceedings until the Court of Justice gave a preliminary ruling on the following question:

'Does the optional supplementary scheme established by the Law of 17 July 1963 for the provision of benefits in relation to an activity pursued in a completely independent country such as Zaïre fall within the scope of Regulation No 1408/71 and is Article 51 of that Law compatible with Article 51 of the Treaty of Rome?'

The judgment making the reference was received at the Court on 30 April 1986.

5. In accordance with Article 20 of the Protocol on the Statute of the Court of Justice of the EEC, written observations were submitted on 2 June 1986 by Mr Laborero and on 2 July 1986 by Mrs Sabato, both represented by the Patronato ACLI in the person of D. Rossini, a trade union delegate, on 19 June and 31 July 1986 by the Office de sécurité sociale d'outre-mer, represented by Mr Waelbroeck and Mr van der Haegen, of the Brussels Bar, on 17 June and 14 July 1986 by the Commission of the European Communities, represented by Mrs Wolfcarius, a member of its Legal Department, on 24 June and 1 August 1986 by the Government of the Kingdom of Belgium, represented by R. Hoebaer, Director at the Ministry of Foreign Affairs, Foreign Trade and Cooperation with Developing Countries, and on 26 June and 31 July 1986 by the Government of the Italian Republic, represented by P. G. Ferri, Avocatto dello Stato.

6. By order of 3 October 1986, the Court, acting in accordance with Article 43 of the Rules of Procedure and after hearing of the views of the Advocate General, joined the two cases for the purposes of the oral procedure and the judgment.

7. The Court, having heard the report of the Judge-Rapporteur and the views of the Advocate General, decided to open the oral procedure without any preparatory inquiry and to assign the two joined cases to the Second Chamber.

II — Written observations submitted to the Court

According to the observations submitted, it is necessary, before assessing the compatibility with Community law of a provision of national law such as Article 51 of the Belgian Law of 17 July 1963, to clarify the scope of application of Regulation No 1408/71 as defined in Article 2 (1) of the regulation. The first matter to be examined is therefore whether the factual and legal circumstances in the two cases correspond to the definitions of 'employed persons' and 'legislation of a Member State', having regard in particular to the territorial scope of the social security scheme established by the Law of 17 July 1963.

The interpretation of the term 'employed person'

According to the observations submitted by Mr Laborero and Mrs Sabato and by the Commission, it cannot be disputed that Mr Laborero and Mr Mezzorecchia fulfilled or fulfil the conditions laid down in the first indent of Article 1 (a) (iv) of Regulation No 1408/71 in order to be considered employed persons. The Commission observes that those conditions must be assessed in direct relation with the periods in which the person pursued his occupation (as regards the criterion of nationality of one of the Member States, see the judgment of 12 October 1978 in Case 10/78 *Belbouab* v *Bundesknappschaft* [1978] ECR 1915). In the Commission's view, the optional insurance scheme established by the Law of 17 July

1963 is clearly a 'voluntary insurance' scheme, a concept which the Court has interpreted broadly (see the judgment of 16 March 1977 in Case 93/76 *Liégeois* v *ONPTS* [1977] ECR 543). Furthermore, Mr Laborero and Mr Mezzorecchia indisputably carried out 'an activity as an employed person' whilst covered by the insurance scheme in question.

The Commission states that, in the case of Mr Laborero, the applicability of Regulation No 1408/71 follows already from the fact that from 1968 to 1982 Mr Laborero was subject to the general social security scheme in Belgium. He therefore also fulfils the requirement laid down in the second indent of Article 1 (a) (iv) since he was 'previously . . . compulsorily insured for the same contingency' under the colonial scheme guaranteed by the Belgian Law of 16 June 1960.

According to the observations submitted by the Office de sécurité social d'outre-mer and the *Belgian Government*, the reference to the second indent of Article 1 (a) (ii) of Regulation No 1408/71 in the question referred by the Tribunal du travail, Brussels, (Case 82/82) is inappropriate since the scheme in question was a voluntary insurance scheme. The question is rather whether that scheme constitutes insurance 'on an optional continued basis' as referred to in Article 1 (a) (i).

As far as that question and Mr Laborero are concerned, the scheme established by the Law of 17 July 1963 cannot be regarded as the continuation of the compulsory colonial scheme. The Office de sécurité sociale d'outre-mer does not dispute that there are certain links between the two schemes, in particular as regards the aggregation of periods, but submits that the two schemes are different and independent of one another and that their scope of application is totally different.

According to those same observations, neither of the cases in question can be covered by the first indent of Article 1 (a) (iv) of the regulation since neither Mr Laborero nor Mrs Sabato were carrying out 'an activity as an employed or self-employed person' under the scheme in question at the time when they made their claims. In Mr Laborero's case, he cannot rely on the second indent of that provision either, since he cannot be regarded as having 'previously been compulsorily insured'. That phrase, which owes its existence to the judgment of 19 March 1964 in Case 75/63 *Hoekstra (née Unger)* v *Bestuur der Bedrijfsvereniging voor Detailhandel en Ambachten* [1964] ECR 177 and was introduced into the social security rules by Regulation No 1390/81, presupposes that the same social insurance scheme is involved or at least that the voluntary insurance scheme is governed by the same principles as the compulsory insurance scheme of which it is the continuation. However, the scheme established by the Law of 17 July 1963 is a quite specific and independent scheme distinct from the scheme guaranteed by the Law of 16 June 1960, which is governed by different principles and covers totally different persons and territories. As regards Mrs Sabato, the second indent does not apply to her in any way.

Finally, the Belgian Government submits that the social insurance scheme established by the Law of 17 July 1963 can in no event come under Article 1 (a) (iv) of Regulation No 1408/71 since it is not 'a social security scheme of a Member State for employed or self-employed persons'. The overseas social

security scheme is not connected with the general Belgian social security scheme, is independent from it and covers different persons and territory; a person may be covered by the Belgian social security scheme only by virtue of working in Belgian territory.

The interpretation of the term 'legislation of a Member State'

According to the observations submitted by *Mr Laborero* and *Mrs Sabato* and by the Commission, the Law of 17 July 1963 comes within the definition given in Article 1 (j) of Regulation No 1408/71. According to the judgment in *Bozzone*, cited above, that definition is remarkable for its 'breadth, including as it does all provisions laid down by law, regulation and administrative action by the Member States and must be taken to cover all the national measures applicable in this case'. The scheme established by the Law of 17 July 1963, being a contributory scheme, indisputably falls within the matters covered by Regulation No 1408/71 and is clearly of a legislative nature.

According to the same observations, the fact that any benefit paid under the Law of 17 July 1963 stems from insurance periods completed outside Community territory cannot as such exclude the application of the Community social security rules. As the Court held in its judgment of 11 July 1980 in Case 150/79 *Commission* v *Kingdom of Belgium* cited above, with regard to the Law of 16 June 1960, the benefits concerned are granted under a scheme introduced by a Belgian law and administered under the control of the Belgian State by a public body subject to Belgian law, the effects of which are produced principally in the Belgian metropolitan territory. Whether it is that institutional connecting factor which, as Mr Advocate General Darmon stated recently in his Opinion in Case 300/84 *Van Roosmalen* v *Bestuur van de Bedrijfsvereniging voor de Gezondheid, Geestelijke en Maatschappelijke Belangen*, constitutes the decisive criterion for the application of Regulation No 1408/71, it does not mean that the Member States are obliged to take account of insurance periods completed under a social security scheme of a non-member country, but simply means that the persons to whom that regulation is applicable are covered by the legislation of any Member State on the same conditions as its nationals, even if the activity on which their entitlement is based was carried out outside the Community.

The Commission points out that it is not possible to interpret the judgments in *Bozzone* and *Commission* v *Belgium* as concerning only former colonies or countries with which a Member State has special links, since the existence of such links was not the factor which led to the classification of the Law of 16 June 1960 as legislation within the meaning of Regulation No 1408/71.

The *Italian Government* observes that the Law of 17 July 1963 is distinguishable from the Law of 16 June 1960, which was the subject of the judgments in *Bozzone* and *Commission* v *Belgium*, cited above, only by virtue of a wider territorial scope, which cannot lead to a different result. The same reasons which determined how those cases were to be decided should apply to the Law of 17 July 1963.

According to the observations submitted by the Office de sécurité sociale d'outre-mer and the *Belgian Government*, the Law of 17 July 1963 cannot be regarded as 'legislation' within the meaning of Regulation No 1408/71 because the insurance provided for by that law does not come within the terri-

torial scope of the regulation. The territorial scope of that regulation cannot be wider than that of the EEC Treaty under which it was adopted and which, according to Article 227, is applicable only to the territories of the Member States. That territorial limitation excludes not only the application of Regulation No 1408/71 but also, if the cases in point are considered to be outside the scope *ratione personae* of the regulation, the application of any Community rules whatever, in particular Article 7 (1) of the EEC Treaty and the principle laid down therein prohibiting discrimination on grounds of nationality.

The Office de sécurité sociale d'outre-mer points out the difference between the territorial scope of the scheme established by the Law of 17 July 1963 and that of the colonial scheme guaranteed by the Law of 16 June 1960, which, according to the judgments in *Bozzone* and *Commission* v *Italy*, is covered by Regulation No 1408/71. It submits that the Court has not settled the territorial question raised by a scheme such as that established by the Law of 17 July 1963. In *Bozzone*, the preliminary question expressly concerned the application of Regulation No 1408/71 to an activity as an employed person carried on exclusively in territory associated to a Member State and the Court did not rule on the case of an activity as an employed person carried on exclusively outside the Member States and their associated territories. That was how the Belgian courts have understood those two judgments and how Belgian case-law, which is now well established and according to which neither Regulation No 1408/71 nor the rules of the EEC Treaty are applicable to the overseas social security scheme, has developed since 1981.

The Office de sécurité sociale d'outre-mer and the Belgian Government consider that an analysis of the case-law of the Court on social security confirms that interpretation. In one series of judgments (for example, the judgment of 8 April 1976 in Case 112/75 *Hirardin* [1976] ECR 553 and the judgments in *Bozzone* and *Commission* v *Italy*, cited above) concerning periods of activity in colonial or associated territories, the Court held Community law applicable. However, in a second set of cases (for example, the judgment of 16 November 1972 in Case 16/72 *Allgemeine Ortskrankenkasse Hamburg* v *Landesversicherungsanstalt Schleswig-Holstein* [1972] ECR 1141 and the judgment of 10 March 1977 in Case 75/76 *Kaucic* v *Institut national d'assurance maladie-invalidité* [1977] ECR 495) concerning periods of employment in non-member countries, the Court stated that periods completed in non-member countries did not give rise to rights, which necessarily means that such periods fall outside the scope of application of Regulation No 1408/71.

According to those same observations, in the related field concerning the application of the Community rules on the free movement of workers, the Court has also stated that there must be a sufficiently close link with the territory of the Community; see the judgment of 12 July 1984 in Case 237/83 *Prodest Sàrl* v *Caisse primaire d'assurance maladie de Paris* [1984] ECR 3153. In that judgment the Court held that activities temporarily carried on outside the territory of the Community were not sufficient to exclude the application of Community rules, 'as long as the employment relationship retains a sufficiently close link with that territory'.

According to the Office de sécurité sociale d'outre-mer, it is clear from that judgment that it is the employment relationship which must have the link. Since social security is ancillary to the pursuit of an occupation, the same criterion should be decisive as regards the application of the Community social security rules. This would exclude from the scope of application of those rules the scheme introduced by the Law of 17 July 1963 which covers only periods worked outside the Community territory and without any condition as to the place of the employer's establishment.

According to the Belgian Government, there is a presumption that Community law does not apply as regards periods of activity spent outside the territory of the Member States. However, that presumption may be refuted if a close link with the Member States is established. According to the judgment in *Prodest*, the tests for establishing whether such a link exists are employment by an undertaking established in the Community, the temporary pursuit of activities outside the Community, the maintenance of a subordinate relationship and the application of the social security scheme of a Member State. Those criteria are clearly not fulfilled as regards the scheme introduced by the Law of 17 July 1963. That scheme is not subject to any condition regarding the employer's place of establishment or regarding the duration of the activity in question; in the case of Belgian undertakings, it even excludes its application in the event of a temporary posting and is a voluntary scheme wholly separate from the general social security scheme.

Finally, the Office de sécurité sociale d'outre-mer points out that the territorial limitation of the Community rules is clear from the very title of Regulation No 1408/71 which refers to workers 'moving within the Community', and from the general scheme of that regulation. In Articles 1 (b) and 1 (c) it refers to the territory of a Member State and there are no rules in Articles 13 to 17 on the legislation applicable to persons carrying on an activity in a non-member country.

The question of compatibility with Community legislation

According to the observations submitted by *Mr Laborero* and *Mrs Sabato*, the *Italian Government* and the *Commission*, it is clear that a condition of nationality such as that in Article 51 of the Law of 17 July 1963 is incompatible with Article 3 (1) of Regulation No 1408/71, which expresses the general prohibition of discrimination laid down in Article 7 (1) of the EEC Treaty.

In their observations *Mr Laborero* and *Mrs Sabato* propose that the following answer be given to the questions submitted by the national courts:

'The principle of equal treatment laid down in Article 7 of the Treaty and implemented in the field of social security by Article 3 (1) of Regulation (EEC) No 1408/71 of the Council must also be applied with regard to workers who are nationals of Member States and who were subject to the legislation of a Member State in regard to activities carried on outside Community territory and who for that reason became entitled to social security benefits payable under an insurance scheme of the same State.

It follows that a provision of national law such as that in the Belgian Law of 17 July 1963 allowing only benefits paid to Belgian workers to be adjusted to the cost of living is incompatible with Community law'.

The *Italian Government* submits that the questions asked by the national courts on the application of Regulation No 1408/71 should be answered in the affirmative.

The *Commission* proposes the following answer:

'(1) Article 2 (1) of Regulation No 1408/71 must be interpreted as meaning that it applies to persons who carry on an activity as employed or self-employed persons outside Community territory whilst being covered by the social security scheme introduced by the Belgian Law of 17 July 1963 on overseas social security.

(2) Article 3 (1) of Regulation No 1408/71 prohibits Member States from refusing to index social security benefits payable to workers to whom the regulation applies but who are not nationals of the State responsible for payment nor members of the family or survivors of an insured national of the State responsible for payment residing in national territory nor nationals of a country with which a reciprocal agreement granting them the right to indexation has been concluded.'

According to the *Office de sécurité sociale d'outre-mer* and the *Belgian Government*, the question of compatibility with Community law does not arise since the scheme established by the Law of 17 July 1963 falls outside the ambit of any Community legislation owing to its territorial scope of application.

The *Office de sécurité sociale d'outre-mer* accordingly submits that the following answer be given to the questions asked by the national courts:

'By virtue of the provisions contained in the Article 1 (a) (i) and the second indent of Article 1 (a) (ii) and the second indent of Article 1 (a) (iv) of Regulation (EEC) No 1408/71 of the Council, the regulation does not apply to a purely voluntary social insurance scheme such as that established by the Belgian Law of 17 July 1963 concerning overseas social security which is not open to workers by reason of their affiliation to a previous compulsory insurance scheme and is not governed by principles analogous to those applying to compulsory insurance for workers who carry on their activities on Belgian territory or who carried on their activities in the former Belgian colony.

Furthermore, the provisions of Regulation No 1408/71 cannot have a wider territorial scope of application than that of Articles 7 and 48 to 51 of the Treaty, which do not apply to legislation relating to social security covering work performed exclusively outside the Community for employers who are not required to be established or have their principal place of business within the Community.'

The *Belgian Government* proposes the following answer to the questions submitted by the national courts:

'Having regard to the specific characteristics of the Law of 17 July 1963 on overseas social security — in this case voluntary insurance covering work which is neither temporary nor performed as part of a temporary posting and which is performed exclusively outside Community territory, in particular for employers established outside the Community — the law in question does not fall within the scope of application of Regulation No 1408/71.'

O. Due
Judge-Rapporteur