OPINION OF THE ADVOCATE GENERAL

Mr Advocate General Mischo delivered his Opinion on 22 February 1989.* He concluded as follows:

'Under Article 4(1) of the Treaty "each institution shall act within the limits of the powers conferred upon it by this Treaty". Since Article 128 does not confer on the Council the powers which it purported to exercise in adopting Decision 87/569/EEC on the basis of that article alone, that institution acted *ultra vires.* Decision 87/569/EEC should therefore be declared void and the Council ordered to pay the costs. The Commission, which intervened in support of the Council's conclusions, should bear its own costs.'

* Original language: French.