OPINION OF ADVOCATE GENERAL GULMANN
delivered on 12 May 1993 *

Mr President,
Members of the Court,

1. Under the Belgian Royal Decree of 6 June 1960 on the manufacture, preparation and wholesale distribution of medicinal products and the dispensing thereof, [1] importation into Belgium from other Member States of sterile medical supplies which are covered by that decree is subject to the issue of a prior authorization. That condition is laid down in the interests of public health.

Furthermore, the said imported products are subject to analyses and tests which must be carried out in Belgium. That requirement applies even when identical tests and analyses have been carried out in another Member State and when their results may be made available to the Belgian authorities as part of the prior authorization procedure. The Commission considered that in that case the application of the second condition constituted an infringement of Belgium's obligations under Article 30 and 36 of the EEC Treaty and brought these proceedings.

The Commission claims that the Court should declare that, 'by bringing into force Articles 15(2) and 53 of the Royal Decree of 6 June 1960 subjecting sterile medical supplies covered by that decree and imported from other Member States to duplicated laboratory tests or analyses, even when those same analyses and tests have been carried out in another Member State and when the results thereof may be made available to them, in particular as part of the prior authorization procedure, the Kingdom of Belgium has failed to fulfil its obligations under Articles 30 and 36 of the EEC Treaty'.

2. The Kingdom of Belgium has not denied that failure and has given notice of its intention to remedy it.

Conclusion

3. I therefore propose that the Court uphold the Commission's application and order Belgium to pay the costs.

* Original language: French.
1 — *Moniteur Belge* of 22 June 1960, p. 4684.