JUDGMENT OF THE COURT (Fifth Chamber)

1 February 2001 *

In Case C-333/99,

Commission of the European Communities, represented by T. van Rijn and B. Mongin, acting as Agents, with an address for service in Luxembourg,

applicant,

v

French Republic, represented by K. Rispal-Bellanger and C. Vasak, acting as Agents, with an address for service in Luxembourg,

defendant,

APPLICATION for a declaration that,

— by failing to determine the appropriate detailed rules for the utilisation of the quotas allocated to it for the 1988 and 1990 fishing years,

* Language of the case: French.

— by failing to ensure compliance with the Community rules on the conservation of species through adequate monitoring of fishing activities and through appropriate inspection of the fishing fleet, actual landings and catch records for both the 1988 and 1990 fishing years,

— by not temporarily prohibiting, in both the 1988 and 1990 fishing years, fishing by vessels flying the French flag or registered in French territory at times when the catches made were deemed to have exhausted the corresponding quota, and by finally prohibiting fishing at a time when the corresponding quota had been largely exceeded,

and

— by failing, for the 1988 and 1990 fishing years, to take penal or administrative action against any master or other person responsible for fishing after a prohibition had been imposed,

the French Republic has failed to fulfil its obligations under Article 5(2) of Council Regulation (EEC) No 170/83 of 25 January 1983 establishing a Community system for the conservation and management of fishery resources (OJ 1983 L 24, p. 1), in conjunction with Article 1(1) of Council Regulation (EEC) No 2241/87 of 23 July 1987 establishing certain control measures for fishing activities (OJ 1987 L 207, p. 1), under Article 11(2) of Regulation No 2241/87, and under Article 5(2) of Regulation No 170/83 in conjunction with Article 1(2) of Regulation No 2241/87,

THE COURT (Fifth Chamber),

composed of: A. La Pergola, President of the Chamber, M. Wathelet, D.A.O. Edward (Rapporteur), P. Jann and L. Sevón, Judges,

Advocate General: S. Alber,
Registrar: R. Grass,

having regard to the report of the Judge-Rapporteur,

after hearing the Opinion of the Advocate General at the sitting on 21 September 2000,

gives the following

Judgment

1 By application lodged at the Court Registry on 9 September 1999, the Commission of the European Communities brought an action under Article 226 EC in which it seeks a declaration that:

— by failing to determine the appropriate detailed rules for the utilisation of the quotas allocated to it for the 1988 and 1990 fishing years,

— by failing to ensure compliance with the Community rules on the conservation of species through adequate monitoring of fishing activities and through appropriate inspection of the fishing fleet, actual landings and catch records for both the 1988 and 1990 fishing years,

— by not temporarily prohibiting, in both the 1988 and 1990 fishing years, fishing by vessels flying the French flag or registered in French territory at times when the catches made were deemed to have exhausted the corresponding quota, and by finally prohibiting fishing at a time when the corresponding quota had been largely exceeded,

and

— by failing, for the 1988 and 1990 fishing years, to take penal or administrative action against any master or other person responsible for fishing after a prohibition had been imposed,

the French Republic has failed to fulfil its obligations under Article 5(2) of Council Regulation (EEC) No 170/83 of 25 January 1983 establishing a Community system for the conservation and management of fishery resources (OJ 1983 L 24, p. 1), in conjunction with Article 1(1) of Council Regulation (EEC) No 2241/87 of 23 July 1987 establishing certain control measures for fishing activities (OJ 1987 L 207, p. 1), under Article 11(2) of Regulation No 2241/87, and under Article 5(2) of Regulation No 170/83 in conjunction with Article 1(2) of Regulation No 2241/87.

The Community legal framework

2 Article 1 of Regulation No 170/83 states that the purpose of that regulation is to ensure the protection of fishing grounds, the conservation of the biological resources of the sea and their balanced exploitation on a lasting basis and in appropriate economic and social conditions.

3 Article 2(1) of Regulation No 170/83 provides for the formulation of the conservation measures necessary to achieve the above aims. Under Article 2(2):

'The measures referred to in paragraph 1 may include, in particular, for each species or group of species:

(a) the establishment of zones where fishing is prohibited or restricted to certain periods, types of vessel, fishing gear or certain end-uses;

(b) the setting of standards as regards fishing gear;

(c) the setting of a minimum fish size or weight per species;

(d) the restriction of fishing effort, in particular by limits on catches.'

4 Article 3 of Regulation No 170/83 provides that where, in the case of one species, it becomes necessary to limit the catch, the total allowable catch for each stock or group of stocks and the shares available to the Community are to be fixed each year. Under Article 4 of that regulation, the volume of the catches available to the Community is to be distributed between the Member States in a manner which assures each Member State relative stability of fishing activities for each of the stocks considered.

5 Pursuant to that provision, France was granted catch quotas for 1988 and 1990 by, respectively, Council Regulation (EEC) No 3977/87 of 21 December 1987 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1988 and certain conditions under which they may be fished (OJ 1987 L 375, p. 1) and Council Regulation (EEC) No 4047/89 of 19 December 1989 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1990 and certain conditions under which they may be fished (OJ 1989 L 389, p. 1).

6 With regard to the management of quotas, Article 5(2) of Regulation No 170/83 provides that 'Member States shall determine, in accordance with the applicable Community provisions, the detailed rules for the utilisation of the quotas allocated to them.'

7 The requirements arising from compliance with that obligation are set out in Regulation No 2241/87. Article 1 of that regulation provides:

'1. In order to ensure compliance with all the Regulations in force concerning conservation and control measures, each Member State shall, within its territory and within maritime waters subject to its sovereignty or jurisdiction, monitor fishing activity and related activities. It shall inspect fishing vessels and all activities whose inspection would enable verification of the implementation of this Regulation, including the activities of landing, selling and storing fish and recording landings and sales.

2. If the competent authorities of a Member State observe, as a result of monitoring or inspection carried out by them under paragraph 1, that the relevant rules concerning conservation and control measures are not being complied with, they shall take penal or administrative action against the master of such a vessel or any other person responsible.

3. In order to ensure that inspection is as effective and economical as possible, Member States shall coordinate their control activities and shall introduce measures whereby their competent authorities and the Commission may be regularly informed on a reciprocal basis of the experience acquired.'

8 In addition, Article 11(1) and (2) of Regulation No 2241/87 provides:

'1. All catches of a stock or group of stocks subject to quota made by fishing vessels flying the flag of a Member State or registered in a Member State shall be charged against the quota applicable to that State for the stock or group of stocks in question, irrespective of the place of landing.

2. Each Member State shall determine the date from which the catches of a stock or group of stocks subject to quota made by the fishing vessels flying its flag or registered in that Member State shall be deemed to have exhausted the quota applicable to it for that stock or group of stocks. As from that date, it shall provisionally prohibit [fishing] for that stock or group of stocks by such vessels as well as the retention on board, the transhipment and the landing of fish taken after that date and shall decide on a date up to which transhipments and landings or final notifications of catches are permitted. The Commission shall forthwith be notified of this measure and shall then inform the other Member States.'

Facts and pre-litigation procedure

9 The Commission initiated two separate infringement procedures against the French Republic concerning respectively the 1988 and 1990 fishing years.

The 1988 fishing year

10 Following an exchange of correspondence with the French authorities in regard to the 1988 fishing year, the Commission, after confirming that 14 stocks had been overfished by French fishermen during that period, charged the French Republic, in a letter of 1 October 1990, with failing to fulfil its obligations under Regulation No 2241/87 in regard to the monitoring of fishing activities, and gave that Member State formal notice to submit its observations within two months of notification of that letter.

11 According to the Commission, the French authorities had failed to establish a satisfactory system for monitoring the management of stocks, as required under Article 5(2) of Regulation No 170/83, in particular when overfishing resulted from landings made in the last month of 1988.

12 Second, the Commission considered that the French authorities had failed to impose a temporary ban on fishing at times when landings by vessels flying the French flag were deemed to have exhausted the corresponding quota or, where relevant, had finally prohibited fishing at a time when the corresponding quota had been largely exceeded, thereby infringing the obligations set out in Article 11(2) of Regulation No 2241/87, even despite the warning telexes which the Commission had sent to the French authorities concerning a large number of stocks.

13 In their reply of 27 November 1990, the French authorities acknowledged that the instances in which quotas had been exceeded were attributable to late closure of fishing, pleading the shortcomings in their statistical system for the volume of catches which they claimed had resulted in delays in monthly catch declarations and consequent difficulties in monitoring their development. They pointed out that, as from 1988, they had made every possible effort to rectify these problems relating to time-limits and reliability.

14 On 29 September 1992 the Commission sent to the French Republic a reasoned opinion in which it maintained its complaints regarding lack of monitoring of stock management and the late closure of fishing. So far as the second complaint was concerned, the Commission stressed that difficulties in implementing Community legislation, such as the shortcomings in the statistical mechanisms of the Member State concerned, could not justify any failure to comply with those rules.

15 The French Government replied to the reasoned opinion by letter of 3 December 1992, in which it stated that notification of catch data had improved since June 1991.

The 1990 fishing year

16 Following an exchange of correspondence with the French authorities in regard to the 1990 fishing year, the Commission, after confirming that six quotas allocated to France for that fishing year had been exceeded, once again, by letter of 25 January 1993, charged the French Republic with failing to fulfil its obligations under Regulation No 2241/87 in regard to the monitoring of fishing activities, and gave that Member State formal notice to submit its observations within two months of notification of that letter.

17 The Commission stated that measures to impose a temporary ban on fishing had, in particular, not been taken when catches were deemed to have exhausted quotas. Furthermore, although decreasing, the delays in sending data to the Commission were still continuing.

18 In its reply of 17 March 1993 the French Government stated that its system for processing catch data had become efficient and that the Commission had been able to receive the data in good time. It did not, however, provide any explanation in regard to the complaint of late closure of fishing.

19 The Commission sent to the French Republic on 4 June 1997 a reasoned opinion setting out the following heads of complaint:

(1) the French authorities had failed to determine the appropriate detailed rules for utilisation of the quotas allocated to France for the 1990 fishing year;

(2) those authorities had failed to ensure compliance with Community conservation rules through monitoring of fishing activities and appropriate inspections of catch landings and records for the 1990 fishing year;

(3) the French authorities did not impose a temporary ban on fishing by vessels flying the French flag or registered in French territory at times when catches made were deemed to have exhausted the corresponding quota; and

(4) those authorities failed to take penal or administrative action against the master or other person responsible for fishing after a ban had been imposed for that year.

20 By letter of 22 August 1997 the French Government stated that the appropriate detailed rules for utilisation of the quotas allocated to France had been adopted by Decree No 2413/90 of 24 August 1990 distributing certain fishing quotas allocated to France for 1990. So far as monitoring of compliance by fishermen with the Community rules was concerned, the French Government indicated that it had been possible to impose a measure closing fishing before the end of 1990 only in respect of the anchovy stock in ICES Zone VIII. That measure had been complied with since anchovy catches in November 1990, following the date on which fishing for that species had been closed, had amounted merely to some ten tonnes.

21 In the light of the French authorities' replies to its reasoned opinions of 29 September 1992 and 4 June 1997, the Commission formed the view that the French Republic had failed to ensure compliance with the Community system for the conservation and management of fishery resources, and for that reason brought the present action.

Admissibility of the action

22 According to the French Government, it follows from the wording and purpose of Article 226 EC that an action alleging failure to fulfil obligations must have a defined and circumscribed purpose in order to attain its ultimate objective, namely to secure compliance by the Member State against which the action has been brought. On the other hand, it is not the purpose of such an action to secure the condemnation in principle of that Member State, such as would result, as in this case, from an action brought some ten years after the events concerned.

23 In the exercise of its powers under Articles 211 EC and 226 EC, the Commission does not have to show that there is a specific interest in bringing the action since its function is, in the general interest of the Community, to ensure that Member States give effect to the Treaty and to obtain a declaration of any failure to fulfil the obligations deriving therefrom, with a view to bringing it to an end (Case 167/73 *Commission* v *France* [1974] ECR 359, paragraph 15, Case C-431/92 *Commission* v *Germany* [1995] ECR I-2189, paragraph 21, and Case C-365/97 *Commission* v *Italy* [1999] ECR I-7773, paragraph 59).

24 Furthermore, it is for the Commission to determine whether it is expedient to take action against a Member State and what provisions, in its view, the Member State has infringed, and to choose the time at which it will bring an action for failure to fulfil obligations; the considerations which determine its choice of time cannot affect the admissibility of the action (Case C-317/92 *Commission* v *Germany* [1994] ECR I-2039, paragraph 4, and Case C-35/96 *Commission* v *Italy* [1998] ECR I-3851, paragraph 27).

25 According to settled case-law, the rules of Article 226 EC must be applied without the Commission being obliged to act within a specific period (Case 324/82 *Commission* v *Belgium* [1984] ECR 1861, paragraph 12, and Case C-96/89 *Commission* v *Netherlands* [1991] ECR I-2461, paragraph 15). In the absence of any evidence that the unusual length of the pre-litigation procedure has adversely affected the French Republic's rights of defence, nothing can justify the conclusion that the Commission exercised its discretion under Article 226 EC in a manner contrary to the Treaty.

26 The action is therefore admissible.

Substance

27 The Commission has formulated three complaints against the French Republic, which it is necessary to analyse in turn:

— the lack of control measures, contrary to Article 5(2) of Regulation No 170/83, in conjunction with Article 1(1) of Regulation No 2241/87;

— the late closure of fishing, contrary to Article 11(2) of Regulation No 2241/87; and

— the absence of penal or administrative sanctions, contrary to Article 5(2) of Regulation No 170/83, in conjunction with Article 1(2) of Regulation No 2241/87.

The lack of control measures

28 According to the Commission, the French Republic has in three respects failed to fulfil the obligations imposed on it by Article 5(2) of Regulation No 170/83 and Article 1(1) of Regulation No 2241/87. In the first place, it claims that the French Republic failed to adopt sufficiently varied and effective measures to manage its fishing quotas; second, it claims that the French Republic failed to exercise adequate control over fishing and related activities; finally, it claims that the French Republic failed properly to inspect vessels and fish landings, sales and storage activities.

29 While it does not deny the charge of exceeding quotas in the 1988 and 1990 fishing years, the French Government cites the Court's case-law precluding the Commission from relying on a mere presumption rather than on precise and specific facts (Case 290/87 *Commission* v *Netherlands* [1989] ECR 3083, paragraph 17, Case C-62/89 *Commission* v *France* [1990] ECR I-925, paragraph 37, and Case C-244/89 *Commission* v *France* [1991] ECR I-163, paragraph 35).

30 The French Government says it is acting in accordance with the objectives of the common fisheries policy and argues that the reforms which it has undertaken to keep pace with developments in the Community rules have resulted in a gradual improvement in its management of fishery resources.

31 More specifically, it says that the instances in which quotas were exceeded decreased between 1988 and 1998 both in terms of percentages of amounts exceeded and in terms of the numbers of species concerned. It adds that such instances did not jeopardise the balance of fish resources and did not alter the stability keys underlying quota allocations among the Member States.

32 It should be observed at the outset that Article 226 EC enables the Commission to institute proceedings for failure to fulfil obligations each time it forms the view that a Member State has failed to fulfil an obligation under Community law, without its being required to draw distinctions based on the nature or gravity of the infringement (Case C-209/88 *Commission* v *Italy* [1990] ECR I-4313, paragraph 13).

33 The procedure laid down in Article 226 EC is based on the objective finding that a Member State has failed to fulfil its obligations under the Treaty or secondary legislation (see Case 301/81 *Commission* v *Belgium* [1983] ECR 467, paragraph 8, and Case C-71/97 *Commission* v *Spain* [1998] ECR I-5991, paragraph 14).

34 In the present case, the Commission has, in support of its action, put forward detailed facts establishing, in particular, 57% overfishing for sole and 330% overfishing for anglerfish during the 1988 fishing year, and demonstrating substantial overfishing in 1990. The Commission has further pointed out that, for several fish stocks, landings continued after the national fishing ban had been introduced and even after fishing had been halted by the Commission. The French Government has not challenged the accuracy of these findings.

35 It follows from the scale of those figures and the repetition of the situation which they describe that the instances of overfishing could not but have been the consequence of a failure by the French authorities to comply with their monitoring obligations. The French Government's argument that the Commission is basing itself on no more than a presumption is for that reason unjustified.

36 So far as the gradual improvement in fisheries management is concerned, it is irrelevant whether the failure to fulfil obligations is the result of intention or negligence on the part of the Member State responsible, or of technical difficulties encountered by it (*Commission* v *Spain*, cited above, paragraph 15). Although those efforts led to a reduction in the extent to which quotas were exceeded, they cannot excuse the failures that occurred.

37 As for the French Government's argument that non-compliance with its obligations did not result in damage, even assuming this to be established, it is important to remember that failure to comply with an obligation imposed by a rule of Community law is itself sufficient to constitute the breach, and that the fact that such a failure had no adverse effects is irrelevant (see Case C-209/88 *Commission* v *Italy*, cited above, paragraph 14).

38 It must therefore be held that, by failing to determine the appropriate detailed rules for the utilisation of the quotas allocated to it for the 1988 and 1990 fishing years and by failing to ensure compliance with the Community rules on the conservation of species through adequate monitoring of fishing activities and through appropriate inspection of the fishing fleet, actual landings and catch records for both the 1988 and 1990 fishing years, the French Republic has failed to fulfil its obligations under Article 5(2) of Regulation No 170/83, in conjunction with Article 1(1) of Regulation No 2241/87.

The late closure of fishing

39 The Court has already held, in its judgment in Case C-52/95 *Commission* v *France* [1995] ECR I-4443, paragraphs 29 and 30, that Article 11(2) of Regulation No 2241/87 requires Member States to adopt binding measures to prohibit on a provisional basis all fishing activity even before quotas are exhausted.

40 The Commission points out in the present case that, with regard to the 1988 fishing year, it alerted the French authorities on several occasions by telex of the state of exhaustion of stocks and of the risk of overfishing. So far as the 1990 fishing year is concerned, the Commission notified the six instances of overfishing. No action on this was taken by the French authorities.

41 With regard to the 1988 fishing year, the French Government acknowledged, in its letter of 23 October 1989, that the quotas had been exceeded without its having adopted any prohibition measures in good time; as justification, it cited the difficulties relating to the installation of new software and, with particular regard to plaice, sole and anglerfish, the difficulties encountered in the management of those quotas, which were very low and fished by a very widely dispersed fleet.

42 With regard to the 1990 fishing year, the French Government explained, in its letter of 22 January 1992, that the cases in which quotas had been exceeded were attributable to shortcomings in the statistical system then in force, which gave rise to a significant delay in monthly catch declarations and difficulties in monitoring the trends shown by them over time.

43 With regard, first, to the difficulty experienced by the French authorities in managing low-volume fish quotas, the Commission has rightly observed that such a difficulty was already foreseeable when the regulations fixing the annual quotas were discussed and adopted. Further, the French Government cannot justify the late closure of fishing by pleading the inadequacy of its monitoring system, the operational arrangements of which were insufficiently adapted to the characteristics of fishing by vessels flying the French flag.

44 Second, so far as the computer and statistical problems are concerned, the Court has consistently held that a Member State cannot rely on practical difficulties in order to justify its failure to adopt appropriate supervisory measures. On the contrary, it is for the Member States responsible for implementing Community regulations in the fishery products sector to overcome those difficulties by adopting appropriate measures (see Case C-62/89 *Commission* v *France*, cited above, paragraph 23, and Case C-52/95 *Commission* v *France*, cited above, paragraph 28).

45 It should be stressed in this regard that Article 11 of Regulation No 2241/87 is binding on Member States as a general rule which is indispensable for guaranteeing the effectiveness of any system for the conservation and management of fishery resources based on the apportionment, in the form of quotas allocated to the Member States, of the volume of catches available for the Community. It must therefore be concluded that the French authorities' delay in temporarily banning fishing in good time amounts to an infringement of Article 11(2) of Regulation No 2241/87.

46 The French Government maintains in its defence that it improved, as from 1989, the management of national fish quotas in order to make it more reliable and to be able to react in good time in the event of forecasts that quotas might be exceeded.

47 However, the improvement in the effectiveness of controls subsequent to such a failure has no bearing on the fact that, during the 1988 and 1990 fishing years, there were several instances of quotas being significantly exceeded within French territory or in the maritime waters under French jurisdiction without any temporary measures to ban fishing having been taken in good time.

48 It must therefore be held that, by not provisionally prohibiting fishing by vessels flying the French flag or registered in French territory in cases where the catches made were deemed to have exhausted the corresponding quota and, where relevant, by prohibiting fishing after the corresponding quota had been largely exceeded, in both the 1988 and 1990 fishing years, the French Republic has failed to fulfil its obligations under Article 11(2) of Regulation No 2241/87.

The absence of penal or administrative sanctions

49 The French Republic points out that in 1997 a system was introduced into French law of administrative sanctions for exceeding quotas, based on that set out in Council Regulation (EC) No 847/96 of 6 May 1996 introducing additional conditions for year-to-year management of total allowable catches and quotas (OJ 1996 L 115, p. 3).

50 However, as the Commission has rightly pointed out, Member States were, even before Regulation No 847/96 was adopted, required under Article 1(2) of Regulation No 2241/87 to take administrative action in cases of infringement of Community rules on the conservation and control of fishery resources. It is clear that the French authorities failed to satisfy that obligation in regard to the 1988 and 1990 fishing years.

51 So far as penal sanctions are concerned, the French Government justifies the paucity of criminal proceedings on the grounds, first, of the need for a prior ministerial closure decree relating to both a species and a fishing area, and, second, of the difficulty in securing confirmation of an infringement, most often at sea, by a sworn agent.

52 So far as evidence at sea is concerned, the Court has already held that exceeding quotas, which the control system seeks to preclude, is caused, not by catching certain types of fish, but rather by landing or transhipping excess catches. Article 1 of Regulation No 2241/87 makes it clear that the control measures and inspections imposed by provisions of Community law are directed at 'the activities of landing, selling and storing fish and recording landings and sales'. The infringements of the quota system which must be penalised by the Member State of landing or transhipment under Article 11c, added to Regulation No 2241/87 by Council Regulation (EEC) No 3483/88 of 7 November 1988 (OJ 1988 L 306, p. 2), are consequently those which take place when catches are landed or transhipped in a port of that Member State or within the maritime waters under its sovereignty or jurisdiction (Case C-9/89 *Commission* v *Spain* [1990] ECR I-1383, paragraphs 28 and 29).

53 Consequently, confirmation of an infringement at sea as a precondition of imposing a penal sanction is unnecessary as infringements could easily be

confirmed when catches are unloaded at port or during landing, sale or storage.

54 Furthermore, it should be borne in mind that, under Article 5(2) of Regulation No 170/83, it is for the Member States to determine the detailed rules for utilisation of the quotas allocated to them, including the conditions governing their application. It is settled case-law that a Member State cannot plead provisions, practices or situations in its internal legal system to justify non-compliance with obligations and time-limits arising from rules of Community law (see Case C-52/91 *Commission* v *Netherlands* [1993] ECR I-3069, paragraph 36).

55 It must therefore be held that, by failing, as regards the 1988 and 1990 fishing years, to take penal or administrative action against any master or other person responsible for fishing after imposition of a fishing ban, the French Republic has failed to fulfil its obligations under Article 5(2) of Regulation No 170/83, in conjunction with Article 1(2) of Regulation No 2241/87.

Costs

56 Under Article 69(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the Commission has applied for costs and the French Republic has been unsuccessful, the French Republic must be ordered to pay the costs.

On those grounds,

THE COURT (Fifth Chamber)

hereby:

1. Declares that:

— by failing to determine the appropriate detailed rules for the utilisation of the quotas allocated to it for the 1988 and 1990 fishing years and by failing to ensure compliance with the Community rules on the conservation of species through adequate monitoring of fishing activities and through appropriate inspection of the fishing fleet, actual landings and catch records for both the 1988 and 1990 fishing years;

— by not provisionally prohibiting fishing by vessels flying the French flag or registered in French territory in cases where the catches made were deemed to have exhausted the corresponding quota and, where relevant, by prohibiting fishing after the corresponding quota had been largely exceeded, in both the 1988 and 1990 fishing years;

and

— by failing, as regards the 1988 and 1990 fishing years, to take penal or administrative action against any master or other person responsible for fishing after imposition of a fishing ban,

the French Republic has failed to fulfil its obligations under Article 5(2) of Council Regulation (EEC) No 170/83 of 25 January 1983 establishing a Community system for the conservation and management of fishery resources, in conjunction with Article 1(1) of Council Regulation (EEC) No 2241/87 of 23 July 1987 establishing certain control measures for fishing activities, under Article 11(2) of Regulation No 2241/87, and under Article 5(2) of Regulation No 170/83 in conjunction with Article 1(2) of Regulation No 2241/87;

2. Orders the French Republic to pay the costs.

La Pergola Wathelet Edward

Jann Sevón

Delivered in open court in Luxembourg on 1 February 2001.

R. Grass A. La Pergola

Registrar President of the Fifth Chamber