OPINION OF ADVOCATE GENERAL LENZ
delivered on 10 March 1993 *

Mr President,
Members of the Court,

A — Introduction

1. In this action against the Kingdom of the Netherlands for failure to fulfil Treaty obligations, the Commission seeks a declaration that the breach of several fishing quotas in 1986 is attributable to breaches by the defendant Member State of its duty of care in the management of the quotas, particularly in the choice of dates for the prohibition of fishing.

2. A similar case relating to fishing activities in 1983, 1984 and 1985 has already been heard and decided by the Court. [1] In the meantime the Commission brought two further actions for failure to fulfil Treaty obligations against the French Republic which also related to the Member States' obligations, in the widest sense, in the management of fishing quotas. [2]

3. The *Commission* claims that the Court should:

— declare, pursuant to the second paragraph of Article 169 of the EEC Treaty, that, by exceeding the fishing quotas allocated to it for 1986, the Kingdom of the Netherlands has failed to fulfil its obligations under the combined provisions of Article 10(2) of Council Regulation (EEC) No 2057/82 and of Regulation (EEC) No 2374/86;

— order the Kingdom of the Netherlands to pay the costs.

The *Kingdom of the Netherlands* contends that the Court should:

— dismiss the Commission's application; and

— order the Commission to pay the costs.

4. Reference is made to the Report for the Hearing for the facts of the case, the legal framework and the parties' submissions. The facts and the parties' submissions are hereinafter reproduced only where necessary to this Opinion.

* Original language: German.

1 — Case 290/87 *Commission* v *Netherlands* [1989] ECR 3083.

2 — Case C-62/89 *Commission* v *France* [1990] ECR I-925, and Case C-244/89 *Commission* v *France* [1991] ECR I-163.

B — Assessment

I. *Admissibility*

(a) Clarification of the application

5. At the hearing the Member State's representative claimed that the application was unclear and therefore inadmissible. Regulation (EEC) No 2374/86 [3] was only a regulation amending Regulation (EEC) No 3721/85, [4] which fixed a herring quota for fishing grounds in the Skagerrak and the Kattegat, which did not affect the defendant Member State.

6. The Commission replied that its complaint related to an infringement of Article 10(2) of Regulation No 2057/82. [5] In addition, the objection had been lodged out of time.

7. Apart from the question whether the objection raised at the hearing is a 'new plea in law' within the meaning of Article 42(2) of the Rules of Procedure which is out of time and must therefore be dismissed, [6] it should be observed that the Court examines the admissibility of an action of its own motion, particularly where such elementary requirements of an action are involved as the clarity of the application which, in the case of a judgment, forms the basis of the decision.

8. Regulation No 2374/86 which is cited in the application refers in its title unmistakably to the basic regulation. The full title is as follows:

'Council Regulation (EEC) No 2374/86 of 24 July 1986 amending for the fourth time Regulation (EEC) No 3721/85 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1986 and certain conditions under which they may be fished.'

The documents exchanged in the pre-litigation procedure and the grounds of the application show beyond doubt that they are intended to refer to the basic regulation as last amended.

9. However, these considerations are to no purpose if the Commission validly restricted the terms of its application in the course of the hearing. In principle the Commission is free to withdraw individual complaints in the course of the procedure, which in the present case was also done in another connection.

10. As the Commission representative expressly pointed out that the only complaint now concerns the infringement of

3 — Council Regulation (EEC) No 2374/86 of 24 July 1986 amending for the fourth time Regulation (EEC) No 3721/85 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1986 and certain conditions under which they may be fished (OJ 1986 L 206, p. 4).

4 — Council Regulation (EEC) No 3721/85 of 20 December 1985 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1986 and certain conditions under which they may be fished (OJ 1985 L 361, p. 5).

5 — Council Regulation (EEC) No 2057/82 of 29 June 1982 establishing certain control measures for fishing activities by vessels of the Member States (OJ 1982 L 220, p. 1).

6 — See Case 11/81 *Dürbeck* v *Commission* [1982] ECR 1251, paragraphs 14 and 19.

Article 10(2) of Regulation No 2057/82, it remains to be established whether the application, as amended in this form, meets the requirements of certainty. Without the reference to Regulation No 2374/86, the form of the order sought is worded as follows:

'The Commission claims that the Court should:

— declare, pursuant to the second paragraph of Article 169 of the EEC Treaty, that, by exceeding the fishing quotas allocated to it for 1986, the Kingdom of the Netherlands has failed to fulfil its obligations under Article 10(2) of Council Regulation (EEC) No 2057/82; ...'.

11. The application ought to be capable of forming the basis of a judgment if it can be found that the relevant requirements are fulfilled. That that is indeed the case may easily be seen from a comparison with paragraph 1 of the operative part of the judgment in Case 290/87, which reads as follows:

'... by not deciding in good time to prohibit fishing for certain stocks in 1985, the Kingdom of the Netherlands has failed to fulfil its obligations under Article 10(2) of Council Regulation (EEC) No 2057/82 of 29 June 1982 establishing certain control measures for fishing activities by vessels of the Member States.'

12. As it is clearly unnecessary to examine any other objections to admissibility, it must be found that the action is admissible.

(b) The subject-matter of the dispute

13. The subject-matter of the dispute was amended or restricted several times, in both the legal and the factual respects, between the initiation, by means of the letter of formal notice of 2 October 1986, of the procedure for failure to fulfil obligations and the date of the hearing. Consequently it is appropriate to define the subject-matter as it appears at the date of the hearing and therefore constitutes the basis for the judgment.

14. According to the letter of formal notice of 2 October 1986 and the more detailed letter of 13 May 1987, the complaint was that Articles 1, 2 and 3 of Regulation No 3721/85, as last amended by Regulation No 2374/86, Article 5(2) of Regulation No 170/83 [7] and Article 10 of Regulation No 2057/82 had been contravened by the fact that the fishing quotas allocated to the Kingdom of the Netherlands had been exceeded in 14 cases and that there had been 12 cases of fishing of stocks for which a quota had not been allocated because fishing was in any case prohibited there, the so-called 'zero quotas'.

15. In the reasoned opinion of 21 November 1988 the Commission did not pursue the claim that the quotas had been exceeded in two cases. After the procedure was suspended and then resumed as a result of the

7 — 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).

judgment of 5 October 1989 in Case 290/87, the Commission enquired, in a letter dated 30 January 1990, as it had already done in the preceding correspondence, concerning the sanctions imposed for exceeding the quotas and for fishing for stocks subject to a 'zero quota'.

16. In the application, the Commission did not claim that there had been any omissions with regard to prosecuting and imposing sanctions for overfishing.

17. As part of the application, a list was produced to the Court showing 12 cases in which quotas had been exceeded, and it was alleged that in ten cases a provisional prohibition of fishing pursuant to Article 10(2) of Regulation No 2057/82 had not been ordered, and in the other two cases had been ordered only at a late stage.

18. As a result of the defendant Government's submissions, in the course of the written procedure the Commission amended its complaints to the effect that the provisional prohibitions had been ordered too late in all 12 cases and that, save in two cases, the Commission had not been notified of them. In the reply the Commission did not pursue the claim concerning the breach of the quota in one case, so that, in all, 11 cases of exceeding quotas now form the subject-matter of the dispute.

19. The problems of 'zero quota' fishing were referred to both in the pre-litigation procedure and in the application. However, in the application the complaint is no longer particularized for individual cases, for example, by a list.

20. At the hearing the Commission representative stated that it was incorrect that the Commission was no longer pursuing the matter of breach of the 'zero quotas'. However, he observed that the breach of a 'zero quota' was not a contravention of Article 10(2) of Regulation No 2057/82.

21. As the Commission has limited the form of the order it seeks so as to refer only to an infringement of Article 10(2) of Regulation No 2057/82, I presume that the disregard of 'zero quotas' is no longer at issue in these proceedings.

22. That interpretation may also be put upon the remark by the Commission representative that any lapses within the area of the Member State's responsibility with regard to the fishing of 'zero quotas' were not on the agenda in this action.

23. It therefore remains to consider the breach of catch quotas in 11 cases. With regard to the accompanying factual circumstances, in the course of the written procedure the parties engaged in a discussion of each case. The following table is intended to give a summary of the sometimes conflicting arguments concerning the 11 cases of exceeding quotas which form the subject-matter of the action. [8]

8 — A copy of the table, which may be removed, is annexed hereto.

	Species	Prohibition of fishing Comm 1986	Provisional Closure NL 1986	Quota (t)	Total catch (t)	Registration of catches according to Commission (t)	Registration of catches according to NL (t)
1	Herring Vb (EC) VIa north VIb	25. 11.	25. 11.	5 160	9 591	Oct: 4 763 Nov: 8 314	13 Nov: 4 763 = 92%
2	Cod IIa (EC) IV	25. 11.	18. 11. 25. 11.	18 670	25 056	Oct: 16 310 Nov: 22 277	13 Nov: 16 264 =87% 30 Nov: 18 177
3	Mackerel IIa (EC)IIIa, IIIb, a, c, d (EC) IV	14. 10.	15. 10.	1 200	1 949	Sept: 919 Oct: 1 746	11 Sept: = 47%
4	Mackerel II; Vb (EC);VI;VII; VIII (EC); XII	4. 6.	4. 6.	31 170	58 854	March: 41 069 May: 51 312	Mid-June: 22 271 = 72%
5	Sole IIIa; IIIb, c, d (EC)	27. 5.	19. 4.	50	111	Febr: 41 March: 62	10 Febr: 30 = 60%
6	Plaice IIIa (Skagerrak)	16. 8.	15. 8.	2 170	3 907	May: 1 862 June: 2 752	
7	Haddock IIIa; IIIb, c, d (EC)	12. 7.	5. 7.	10	35	April: 5 May: 16	15 May: 5 = 50% 15 June: 110%
8	Sole VIII	27. 5.	5. 4.	105	213	March: 213 May:	15 March: 0 18 March: 161
9	Whiting VII (except VIIa)	27. 5.	3. 5.	100	131	March: 117 April: 131	15 March: 62 = 62% 15 April: + 55
10	Herring VIa; VIIb, c		1. 11.	1 550	2 125	Sept: 1 391 Oct: 2 109	18 Oct: 1 391 = 90%
11	Whiting IIa (EC); IV		12. 12.	12 422	13 741	Oct: 11 033 Nov: 12 833	13 Nov: 11 682 = 94% 10 Dec: 12 829 = 103%

II. *Substance*

24. It is common ground between the parties that quotas were exceeded in 1986, in some cases substantially. The only matter at issue is whether the defendant Member State is responsible for the quotas having been exceeded because duties in Community law regarding quota management were not fulfilled or whether the breaches of quotas are attributable to circumstances beyond the control and outside the area of responsibility of the Member State.

25. According to the amended form of order sought, the only provision by which the Member State's conduct must be appraised is Article 10(2) of Regulation No 2057/82, which reads as follows:

'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 groups of stocks by such vessels as well as the retention on board, the transshipment and the landing of fish taken after that date and shall decide on a date up to which transshipments and landings or final notification of catches are permitted. The Commission shall forthwith be notified of this measure and shall then inform the other Member States.'

26. That provision involves various different obligations. First, the date from which the quota is *deemed* to have been exhausted must be fixed. As I pointed out in my Opinion in Case 290/87, the exhaustion of the quota is a fiction because the decision must be taken before the actual exhaustion of catch quotas, otherwise it cannot fulfil the aim and purpose of the provision. The decision must not be based solely on catches already registered, but must be governed also by estimates of catches not yet registered, expected catches and catches landed in other Member States.

27. The Member State imposes a provisional prohibition of fishing in direct conjunction with the fixing of the date on which the quota is exhausted. The prohibition must be binding. [9]

28. In addition, in the framework of its obligations under Article 10(2) of Regulation No 2057/82, the Member State decides on a date up to which the transshipment and landing of catches and the final notification of catches are still possible. That obligation is not a subject of the present dispute.

9 — See Case C-62/89, ibid., at paragraph 18.

29. Finally, the Member State must notify the Commission of the decision concerning the exhaustion of the quota and the provisional prohibition of fishing. That notification enables the Commission to inform other Member States of the catches made and in its turn to order a definitive prohibition of fishing.

30. The Court has repeatedly held that a Member State must take *in good time* the necessary measures to prevent a quota from being exceeded. [10] Consequently it is wrong to wait until the quota is almost exhausted before taking a decision. As already indicated, the decision must allow for pending registration and the notification of catches already made, as well as the catches still to be expected before the prohibition is published and takes effect. Finally, estimates of catches landed in other Member States, which are to be charged to the quota, must also be included in the decision-making process.

31. According to the Netherlands Government's arguments in the procedure, these factors are taken into account. However, the fact that there was nevertheless overfishing, which was in some cases quite substantial, gives rise to doubt as to whether these factors were actually taken into account and, if so, in an appropriate form.

32. Article 10(2) of Regulation No 2057/82 does not lay down an obligation to achieve a specific result in the sense that exceeding a quota represents in itself a failure by the Member State to fulfil its obligations. Nevertheless, the Member State has a duty to endeavour, by using *all* available means, to prevent quotas from being exceeded and, finally, it is answerable to the Community for the effectiveness of the means used.

33. The information produced to the Court permits the conclusion that in most cases fishing was prohibited too late. That may be attributable to the fact that the requisite information reached the competent authority too late, although that cannot justify the delay.

34. A comparison of the figures under headings 1, 7 and 10 of the table compiled for the purpose of this Opinion shows that the catch quantities given by the Commission for the end of a month are shown by the Netherlands Government as the registration figures for the middle of the following month. The time lag is manifest because the figures are identical in the categories concerned.

35. It appears from the submissions of the Netherlands Government that it assigned to a body governed by public law, the Produktschap voor Vis en Visprodukten, the duty of registering catches. In principle the registered particulars of catches are transmitted to the competent ministry once a month, normally on the 15th of the month for the preceding month. This once-monthly notification of existing catches, which is furthermore affected by a time lag of at least two

10 — Case 290/87, ibid., Case C-62/89, ibid., at paragraph 17.

weeks, leads to unjustifiable delays in collecting the information underlying the decision to prohibit fishing.

36. In some cases there have been further delays of two to three weeks between notification and the decision and publication of the prohibition, as shown by items 7, 8 and 9 of the table. Consequently, in certain cases more than four weeks elapsed between the actual registration of catches which already indicated that the quota was exhausted and the entry into force of the provisional prohibition of fishing.

37. Once again, a look at the table, in conjunction with the uncontested submissions of the parties, shows that these delays are clearly too long. According to the Commission's figures, the total catch for Category 1 registered at the end of October was 4 763 tonnes and at the end of November 8 314 tonnes. That would mean that approximately 3 500 tonnes of fish were caught in one month, which amounts to more than half the entire quota.

38. The situation is similar with regard to Category 2, for which, according to the Commission's figures, 16 310 tonnes were registered at the end of October and 22 277 tonnes at the end of November. That would mean that the total catch for the month in which the quota was likely to be exhausted was approximately 6 000 tonnes. Even according to the figures of the Netherlands Government itself, which had registered 16 264 tonnes on 13 November and 18 177 tonnes on 30 November, approximately 2 000 tonnes were caught within two weeks.

39. In Category 3 the Commission's figures show that 919 tonnes were registered at the end of September and 1 746 tonnes at the end of October, which means a catch of some 830 tonnes per month, that is, over two-thirds of the quota. The last example is provided by Category 4, for which the total catch was taken in the course of a single month (March).

40. To ensure the reliable management of quotas, a Member State has an obligation to take its decision on the basis of up-to-date figures. It cannot fall back on the excuse that registration is carried out by a public institution which forwards the relevant information only once a month.

41. During the proceedings the Netherlands Government argued that information was supplied more frequently if a quota appeared likely to become exhausted. In reply to a written question from the Court and further questioning at the hearing, the Netherlands Government was unable to show that there was a legal obligation to provide that information more frequently. To say that an administrative practice exists is not sufficient to remove doubts regarding the proper fulfilment of obligations. In the first place, assuming that the said practice does exist, the necessary results were not obtained. Secondly, an administrative practice may be altered at any time, which is contrary to the principle

of certainty in the legal systems of the Member States as regards the fulfilment of obligations under Community law.

42. The Netherlands Government's defence that the transmission of the catch registration data by the Produktschap to the Ministry conforms to the model of the Member States' obligations to notify the Commission is not convincing. The Member State is required, on the basis of its direct responsibility for observance of quotas, to monitor catches constantly.

43. The Court stated in Case C-244/89 that the period of 15 days for the notification of monthly catch figures to the Commission cannot in any case serve as an excuse for a Member State's failure to discharge its obligation to take the measures necessary provisionally to prohibit any fishing activity as soon as exhaustion of the quota appears imminent. [11] The Court also observed that a Member State may require the necessary information to be communicated more rapidly, for example by radio. [12]

44. In the final analysis, it is a matter for the Member State to decide how the registration of catches and the provision of information are organized. However, it is necessary to ensure that the requisite decisions are made in good time on the basis of up-to-date figures, which was not done in most of the 11 cases of breaches of quota which are the subject-matter of these proceedings.

45. The Netherlands Government's argument that the breaches of quota were due also to transmission problems relating to registration in other Member States is not convincing because, according to the Commission's undisputed arguments in the rejoinder, in every case of alleged breach of a quota, more than the catches corresponding to the quota were landed and registered in the Netherlands. It certainly cannot be claimed that there were transmission problems with regard to these catches. The fishermen in turn are required to supply their figures not more than three hours after landing their cargo. There is no justification for allowing the authorities several days, or even weeks, for the transmission of this information.

46. One must concur with the Netherlands Government's argument in its defence that it cannot be held responsible for breaches of quota in previous years in so far as the previous cases cannot have a direct causal connection with the present overfishing. However, it cannot be denied that substantial breaches of quotas in the past are a significant pointer which compels the Member State to exercise greater vigilance.

47. I should like to illustrate the obligations of Member States in this field by the following example.

The quotas allocated to the Member States correspond to bank accounts for a certain

11 — Case C-244/89, at paragraph 30.
12 — Case C-244/89, ibid., at paragraphs 21 and 30.

amount. The Member State to which the quotas are allocated is responsible for managing the accounts. It is responsible to the Community for ensuring that the account (the quota) is not overdrawn. In this connection it must exercise the care of a responsible businessman. While there is a large sum in the account, it may be sufficient to check the balance once a month. However, as the account nears exhaustion, the account-holder must check it so often as to be able to freeze it before it becomes overdrawn. Whatever happens, he must prevent an overdraft because the amount overdrawn is lost irretrievably. The account-holder must take particular care if overdrafts have occurred previously.

48. Measured by this criterion, the government of the defendant Member State has not adequately fulfilled its obligation to check the situation.

49. After this general description of the position with the regard to the Member State's obligations, it is necessary to examine one by one the arguments put forward by the Netherlands Government in its defence with regard to the various breaches of quota.

50. The figures produced by the Netherlands Government relating to Category 1 in the table do not in fact show that there was a delay in taking the decision to prohibit fishing. 242 tonnes of herring were caught in September, which amounts to 4% of the quota, and in October 662 tonnes, which amounts to 13% thereof. On 13 November 4 763 tonnes had been registered, which means that 92% of the quota had been exhausted, on the basis of which the closure of fishing was planned for the end of November.

51. However, it now appears from the Commission's arguments that the total catch of 4 763 tonnes had already been reached at the end of October, so that the figures produced to the Court presumably reflect a considerable delay in the transmission of the quantities caught. The closure of fishing was ordered after the Commission had sent a telex message to the Netherlands Government on 20 November informing it that the quota was exhausted. The fact that the Commission has to inform the Member State of the catches in its territory demonstrates that there are considerable shortcomings in the internal information system.

52. The situation is similar with regard to Category 3, for which, according to the Netherlands Government's figures, only 47% of the quota had been exhausted by 11 September although once again the Commission informed it by telex on 8 October that the quota had been exceeded.

53. The Netherlands Government's arguments concerning Category 2 seem to imply careful management of the quota. Accordingly, 16 264 tonnes of cod had been registered by 13 November, whereupon a decision on the closure of fishing was taken on 14 November, and came into force on 18 November, for fishermen also catching fish other than cod. Then the decision to prohibit fishing for all fishermen was taken on 21 November and came into force on 25 November. According to the Netherlands Government, at the end of November only 97% of the quota had been used up with a

catch of 18 177 tonnes. However, the figures produced by the Commission (16 310 tonnes at the end of October and 22 277 tonnes at the end of November) indicate a delay in the transmission of the figures.

54. The Netherlands Government's arguments concerning the mackerel catch in Category 4 do not show that it failed in its obligations. It states that enquiries were made from June concerning incorrect figures for catches. The decision to prohibit fishing was taken on 2 June and came into force on 4 June. The figures produced by the Netherlands Government cannot be reconciled in any way with those of the Commission.

55. Regarding catches in Category 5, the Netherlands Government states that fishing was provisionally prohibited from 12 February to 1 May because it was assumed that the data relating to the location of the catches were wrong. According to the Commission's figures, however, it was precisely during this period that the quotas must have been exceeded. In these circumstances, the documents do not make it possible to decide what caused the quotas to be exceeded.

56. With regard to catches of plaice in Category 6, the Netherlands Government states that fishing for these stocks was also provisionally prohibited from 12 February to 1 May. On 1 May fishing was resumed. On 1 August a total catch of 2 160 tonnes was registered, whereupon fishing was prohibited by a decision of 13 August which came into force on 15 August. As no further figures were provided for the period between 1 May and 11 August it is impossible to establish whether action ought to have been taken at an earlier date. In any case, according to the Commission's information, a catch of 2 752 tonnes had already been registered by the end of June.

57. The figures produced by the Netherlands Government for Categories 7, 8 and 9 show that fishing was prohibited too late. In these cases the reason was once again no doubt the delay in transmitting the figures. In Category 8 a catch exceeding the quota was apparently reached within two weeks. In this connection reference may be made to the judgment in Case C-244/89, in which the Court observes in substance [13] that the large capacity of the Member State's fishing vessels was a factor which required its authorities to be all the more vigilant, but not one which in any way diminished their obligation to ensure the observance of quotas.

58. Regarding catches of whiting in Category 11, the Netherlands Government contends that there were frequent quota exchanges of this stock. The initial quota was 7 760 tonnes and in December it finally became 12 422 tonnes. In connection with the problem of a quota exchange as justification for the continued authorization of fishing, I should like to refer to the judgment in Case C-62/89, [14] which includes the following passage:

'Such negotiations, the result of which is uncertain, cannot justify the continuation of fishing after the exhaustion of the quota,

13 — Case C-244/89, at paragraph 29.
14 — Case C-62/89, at paragraph 20.

since if the attempt to increase the quota by means of an exchange fails or the quantities obtained are insufficient to cover the catches made, any delay in the provisional closure of fishing is likely to aggravate the extent to which the quota is exceeded. It follows that any agreement for the exchange of quotas concluded with another Member State for the purpose of increasing a quota must take place either before the exhaustion of the initial quota or after the provisional prohibition of fishing.'

59. Finally, it is necessary to consider the complaint that the Commission was not notified of the provisional prohibition of fishing. That obligation is laid down in the last sentence of Article 10(2) of Regulation No 2057/82. The purpose of notification is to enable the Commission to transmit the necessary information to other Member States and in turn to order the definitive prohibitions. Therefore the Member State has in any case an obligation to inform the Commission of its decisions, even if the latter orders the definitive prohibitions more or less simultaneously. The decisions concerning the provisional closure of fishing in Categories 5, 7, 8 and 9 were adopted several days, or even weeks, before the Commission's decision, so that the Member State had no reason for believing that its notification would be superfluous.

60. The defendant Member State notified the Commission only of the measures relating to Categories 1 and 2. Therefore, by omitting to inform the Commission in the other cases, the Member State has failed to fulfil its obligations.

Costs

61. As the Commission is substantially successful in its claim, the defendant Member State must be ordered to pay the costs pursuant to Article 69(2) of the Rules of Procedure.

C — Conclusion

62. On the basis of the foregoing considerations I propose the following decision:

(1) In so far as in 1986 in several cases it only belatedly ordered the provisional prohibition of fishing for fish stocks subject to a quota system and omitted immediately to inform the Commission of such measures, the Kingdom of the Netherlands has failed to fulfil its obligations under Article 10(2) of Council Regulation (EEC) No 2057/82.

(2) The Kingdom of the Netherlands should be ordered to pay the costs.