Having regard to the Rules of Procedure of the Court of Justice of the European Communities, especially Article 69 (2);

THE COURT

hereby

1. **Rules that Applications 2 and 3/62 brought by the Commission of the European Economic Community against the Grand Duchy of Luxembourg and the Kingdom of Belgium are admissible and well founded;**

2. **Declares that the increases in the special duty determined by Luxembourg and Belgium on the issue of import licences for gingerbread, and the extension of that duty to products similar to gingerbread coming under Heading No 19.08 of the Common Customs Tariff, introduced after 1 January 1958, are contrary to the Treaty;**

3. **Orders the defendants to pay the costs.**

Donner Delvaux Rossi
Riese Hammes Trabucchi Lecourt

Delivered in open court in Luxembourg on 14 December 1962.

On behalf of the President
A. Van Houtte
Registrar

L. Delvaux
President of Chamber

OPINION OF MR ADVOCATE-GENERAL ROEMER DELIVERED ON 30 OCTOBER 1962[1]

Mr President,
Members of the Court,

The Commission of the European Economic Community which, in accordance with the Treaty, supervises the application of its provisions in order to ensure the proper functioning and development of the Common Market (Article 155), has instituted two actions,

1 — Translated from the German.

under Article 169, against the Kingdom of Belgium and the Grand Duchy of Luxembourg.

The facts which gave rise to these proceedings are as follows:

A Royal Decree of 16 August 1957 and a Grand-Ducal Decree of 20 August 1957 introduced in Belgium and Luxembourg a special duty to be levied on the issue of import licences for gingerbread. At first the duty amounted to 35 francs per 100 kilogrammes. On several occasions, subsequent orders and decrees have either increased or decreased this duty simultaneously and to the same extent in both Belgium and Luxembourg. Their details, and in particular those relating to the legislative process, need not concern us here. What is certain, however, is that both in Belgium and Luxembourg the rates of this duty at the commencement of these actions were higher than the level applicable when the EEC Treaty came into force. Since then it has not fallen below that level.

A Royal Decree of 24 February 1960 and a Grand-Ducal Decree of 27 February 1960 extended this duty to products similar to gingerbread under Heading No 19.08 of the Common Customs Tariff.

The Commission considered that these measures were incompatible with the Treaty and informed the Belgian and Luxembourg Governments of its opinion. The Governments subsequently replied, and on 27 September 1961 the Commission issued reasoned opinions under Article 169. At the request of the two Governments, the Commission extended until the end of November 1961 the time limits laid down by the opinions for rectifying the position so as to conform with the Treaty. On 27 November 1961, a short time before the expiration of these time limits, the Belgian Government declared that it was prepared to accept the opinion of the Commission. At the same time it asked for permission to retain the special duty complained of on the basis of the general protection clause in Article 226. The Luxembourg Government adopted the same attitude in a letter of 4 December 1961. Furthermore, on 1 February 1962 the Belgian Government requested the Commission to authorize this special duty on the grounds of the Decision of the Council, adopted in principle on 14 January 1962, concerning the levying of a countervailing charge on certain goods arising from the processing of agricultural products. It may be said at this point that none of these requests was successful.

As the special duty was still being applied, the Commission finally, on 21 February 1962, filed applications against the two States.

In its conclusions it invites the Court to find that these States infringed their obligations arising from the Treaty in that, after the Treaty entered into force, they 'increased the special duty levied on the issue of import licences for gingerbread and extended the levy of this duty to products similar to gingerbread, coming under Heading No 19.08 of the Common Customs Tariff'.

The defendant Member States acting through their Governments seek to have the applications declared inadmissible and in any event dismissed as unfounded. As the two cases were identical in their subject matter, they were joined by an Order of the Court of 19 June 1962 at the request of the Luxembourg Government so that they might be dealt with and determined jointly.

The Grand Duchy of Luxembourg does not in fact produce any gingerbread or similar product. However, by reason of its agreement with Belgium of 23 May 1935, Luxembourg is obliged to operate a common system of imports and exports; in the present case it is obliged to introduce the special duty in dispute for the importation of gingerbread and similar products. The Luxembourg Government has therefore limited itself in these proceedings to adopting the arguments

and conclusions of the Belgian Government.

Legal Consideration

1. The Admissibility of the application

The defendant Member States regard the applications as inadmissible in view of the Commission's own conduct.

According to the defendants, the Commission recognized that the measures taken were necessary in order to avoid a crisis in the sector of the economy in question. All that was required was to legalize these measures under the special procedure of Article 226. Thus, in the defendants' opinion, these proceedings represent a dispute over questions of form and procedure, and nothing more. Moreover, by making its readiness to consider the requests put forward under Article 226 conditional upon the prior suspension of the measures criticized, the Commission prevented the legalization of the measures. In so doing, it was guilty of a misuse of its rights, and thus lost the right to obtain a declaration that the defendants had infringed the Treaty.

As far as the first contention is concerned, the Commission denies ever having acknowledged that the requests for the application of the protection clause of Article 226 were well founded. The defendants did not attempt to prove in any way that their submission was correct. Furthermore, this contention is invalidated by their own arguments in another context. For they state that the Commission made its *willingness to consider* the requests dependent upon certain conditions of which there could have been no question if the Commission had already, on the occasion of an initial examination, come to a conclusion favourable to the defendants. Consequently, in these proceedings we do not have to consider whether the admissibility of an application based on Article 169 is affected by the willingness of the Commission to recognize the merits of a request under Article 226.

Moreover, as regards the relationship between Articles 169 and 226 two observations based on the text of the Treaty seem to me in the first instance to be incontrovertible.

First, it is nowhere provided that a request based on Article 226 interrupts the implementation of the procedures under Article 169. The Commission is not therefore bound to suspend the procedure under Article 169 in order to make a preliminary examination of the request for the protection clause to be applied. On the contrary, the two procedures are in principle entirely independent of one another.

Secondly, the Court has already stated in another case that the filing of a request under Article 226 does not terminate an infringement of the Treaty, that is to say, it does not constitute fulfilment of the Treaty within the meaning of Article 169. The rectification of a position inconsistent with the Treaty can be obtained by this procedure only after a grant of authorization by the Commission. In the present case, in view of the late filing of the requests and the fact that they did not contain a statement of reasons, there was no possibility of obtaining an authorization before the expiration of the time limits imposed for the fulfilment of the Treaty.

Consequently, the dispute rests essentially on the question whether in certain cases an application for a declaratory judgment can be inadmissible even though the formal conditions of Article 169 (expiration of the time limit without rectification of the situation to make it comply with the Treaty) have been fulfilled, that is to say, whether the Commission must renounce the exercise of its discretionary power to take proceedings.

One cannot state without further consideration that this point has no justification. We know that the content of

Article 169 is not restricted to a mere procedure for obtaining a declaratory judgment, for the purpose of which the fact that there had been an infringement of the Treaty could be sufficient although the infringement no longer existed. Its principal object is rather to attain a state of affairs consistent with the Treaty; one could therefore speak of a kind of enforcement procedure. If the desired result is achieved at the instigation of the Commission within the time limit fixed by it, the old state of affairs which was inconsistent with the Treaty cannot be submitted to the Court for legal consideration.

In view of this function of the enforcement procedure, one could envisage that in spite of having fulfilled all the formal requirements the Commission would be prevented from using its recourse to law under Article 169, for example, in a case where it is probable that the Member State in question will fulfil its obligations under the Treaty immediately after the expiration of the time limit fixed and where no legal interest in obtaining a declaration of the original infringement of the Treaty can be discerned.

It is however clear that that is not the case here. Rectification was sought, not by the introduction of steps intended to abolish the measures in dispute but by means of an authorization of the Commission under the protection clause of Article 226. The Commission could not estimate the chances of success of this action because the requests submitted to it did not contain a reasoned statement of the facts relied on which, as the meaning and object of the provision in question make clear, should appear in the requests.

Although the defendants observe on this point that the Commission refused to examine these requests in any manner, we have heard in the course of the proceedings that this does not correspond with the facts. It is true that the rather unfortunate phrasing of the Commission's letter, dated 20 December 1961, is calculated to give some weight to the defendants' contention. What is certain, however, is that the Commission received the defendants' representatives on 14 December 1961, and on this occasion, after a preliminary discussion on the question of the suspension of the measures, it expressed its willingness at least to receive statements of figures from the defendants' representatives.

In fact the Commission never received a statement of reasons. We must therefore declare that the defendants were negligent in this matter, with the result that they cannot now rely upon the possibility that their requests might have succeeded, or upon a lack of goodwill on the part of the Commission in order to have the applications dismissed.

As a result of these considerations I would suggest that even if Article 169 is not interpreted in a formal manner, there cannot be any question of an abuse of procedure or of an infringement of its duties by the Commission. The applications are therefore admissible.

2. On the substance of the case

As regards the substance of the case, the action depends upon the interpretation of Article 12 of the Treaty according to which 'Member States shall refrain from introducing between themselves any new customs duties on imports or exports or any charges having equivalent effect, and from increasing those which they already apply on their trade with each other'. One must therefore consider whether the duty levied by the Belgian and Luxembourg Governments on the issue of import licences for gingerbread and similar products constitutes a charge having equivalent effect within the meaning of Article 12.

In order to justify their measures, the defendants rely in the first place upon the opinion concerning the duty given by GATT and upon the fact that the institutions of the Community them-

selves, in another connexion, have not designated taxes of the same nature as those levied in this instance as charges having equivalent effect.

The defendants state that GATT does not consider special duties levied on the issue of import licences as charges having equivalent effect. According to List II of GATT, duties of this kind, levied in the Benelux countries, have not been bound.

On this we must remark that the defendants' reliance upon GATT (General Agreement on Tariffs and Trade), which was created in 1947, raises an insignificant objection. The object of this form of organization, and the procedures applied to achieve it, are in no way identical to or comparable with those of the EEC. This should be emphasized all the more since experience of GATT has proved that 'the value of the bindings of duty granted for each product is compromised by the application of non-tariff measures of protection' (Third Report of the Second Committee of the 18th Session, extract quoted by the defendants in the oral procedure).

Furthermore, it should be borne in mind, as the Commission's representative has rightly stressed, that the mention of the special Belgian and Luxembourg duties leads to the conclusion that in principle GATT included them, for otherwise the declaration which was made in List II would not have been necessary.

As regards the attitude of institutions of the Community, the defendants observe that up to the present the Commission has failed to issue directives under Article 13 (2) for the abolition of special duties such as those which are levied in Belgium and Luxembourg on the issue of import licences for gingerbread and similar products. It has therefore admitted by implication that these duties do not have an equivalent effect to customs duties and are not to be judged on the basis of Article 12.

In its statement of case, the Commission has told us that this interpretation is not correct. The directives provided for in Article 13 (2) have not yet been completed because the Commission wished to lessen the unfavourable consequences which the abolition of these customs duties and quotas relating to processed goods in accordance with the Treaty could bring upon those engaged in processing agricultural products subjected to a domestic marketing system. But it has always opposed an increase of these duties — that is, it has attempted to impose what it believes to be a correct application of Article 12. The earlier attitude of the Commission thus does not prejudice the result of this case.

Although, in connexion with problems of association, a memorandum of the Secretariat of the Council of Ministers noted that countervailing charges within the framework of the common agricultural policy of the 'Six', should not be considered as charges having equivalent effect, one cannot conclude from this that all charges having an identical or analogous function in the Member States are consistent with the Treaty. We are dealing here with a statement which was not intended, and should not be regarded, as a binding interpretation of the Treaty; the intention was rather to clarify the position for the purpose of the relationship of association and this, one might say conversely, would not have been needed if it had been certain that the Treaty did not in any way refer to charges of this kind.

Finally, it is not possible to find a valid argument to support the defendants' view in their reference to the above-mentioned Regulation of the Council of 4 April 1962, concerning the levying of a countervailing charge on certain products derived from the processing of agricultural products. The fact that as a result of this Regulation, and having regard also to the differences in price in the Member States of certain raw materials, a countervailing charge on the

importation of some products may be levied with the authorization of the Commission, shows rather that in the absence of these legislative measures the charges in question should be considered as being contrary to the Treaty.

None of these arguments gives us any cause for finding in favour of the defendants. We must therefore seek to interpret the provision in dispute concerning charges having equivalent effect on the basis of the general scheme of the Treaty in order to be able to decide whether the Commission's complaint is justified.

According to the Commission's submissions, it is necessary for the purpose of the interpretation of Article 12 to determine what effects are common to all customs duties, that is to say to make a thorough investigation of the essential nature of customs duties in relation to the free movement of goods. In so doing it claims to have found a decisive test in the fact that customs duties are imposed only on imported goods and not on domestic products.

The defendants claim that the characteristic effects of customs duties, as far as protective duties are concerned, can be seen in the fact that they help to increase the prices of imported goods; this shelters national production from foreign competition and creates a certain restriction on imports. On the other hand, the function of the special duty at issue is only to ensure an alignment of prices within the framework of a marketing system, in the sense that domestic producers would be guaranteed the same conditions of competition as regards the cost price of raw materials.

As regards the actual effects of the duties in dispute the Commission has stated, without being contradicted, that the final price of gingerbread imported from other Member States is higher than the price inside Belgium, even when the import duty is reduced to the level existing at the time when the Treaty came into force. It cannot, therefore, be said that the special duty has a countervailing function, at least as regards the final price. The same function is equally doubtful when one considers the cost prices of raw materials, for it is not easy to imagine that a uniform tax imposed at a flat rate can act in an equally compensatory manner as regards all the Member States, when the prices of the original products are not identical in each country.

From the legal point of view, one must note first of all that the opinions of the two parties do not differ, at least as regards the point at which attempts at interpretation should begin and as regards the question which is the crux of the case. As the stand-still rule of Article 12 is part of the section dealing with the elimination of customs duties between Member States and thus of the first Title of the Treaty concerning the free movement of goods, the essential problem is that of ignoring all the non-essential and fortuitous side-effects of customs duties and of considering their repercussions on the free movement of goods which the Treaty is intended to facilitate. We can find in the works of legal authors some observations on the problem with which we are dealing.[1] These few quotations naturally cannot do more than offer some guidance.

[1] — According to Dalloz, *Petit Dictionnaire de Droit* (1951, p. 488), customs duties, in so far as they are not duties of a fiscal character, are 'intended in the case of imports to compensate for the difference existing between the price of foreign imported products and that of similar French products'. Allix, *Traité élémentaire de science des Finances et de Législation financière française* (6th ed., 1931, p. 865) considers that one important object of protective customs duties is the protection of domestic industry against foreign competition. In the *Handwörterbuch der Rechtswissenschaft* by Stier-Somlo, Elster (1929, Vol. VI p. 1035) customs duty is defined as 'a charge to be levied on the occasion of the crossing of the border of a State'. If it is a question of a protective duty, it has the function of making competition more difficult in order to protect domestic production. Finally in the *Handbuch der Finanzwissenschaft* (1952, Vol. II, p. 725) we find the following definition: 'Import duties are charges which are levied upon the import into a customs territory of all goods or of specified goods'.

Nevertheless, what is remarkable is that it does not appear from any of the definitions that the test of a customs duty is the increase in the price of imported goods in relation to national prices.

It is thus with good reason that the Commission has observed that, in general the object of customs policy is not to create a differential income for domestic producers. There are numerous customs duties which are restricted to a countervailing effect, as we can also note from the textbooks.[1]

It is above all within the framework of the harmonious organization of a customs tariff that numerous rates of duty for finished products are calculated in terms of those for raw materials, a fact which has led the Commission to see precisely in the countervailing function of the special duty now in dispute a purpose typical of a customs duty. In the interests of a prices policy, duties are even sometimes fixed in such a manner that the level of prices operating within the country is not reached.

However, all these customs duties have a certain protective effect. They have the 'effect of regulating the market', to quote an important commentary on the German tax code[2] that is to say, a function on which the defendants have laid particular emphasis as regards their special duty.

I therefore agree with the Commission that the essential effect of the levying of customs duties is in fact the burden imposed unilaterally upon imported goods and that the rate of imposition plays as small a part as the procedure for levying them. The burden imposed restrains the movement of goods between States in a manner which varies according to its amount; but this restrictive effect does not only arise when domestic price levels have been exceeded.

In this particular case it follows first of all that the special duty in dispute, which, as is not contested, has the character of a charge, has effects equivalent to a customs duty, for it is levied only on the issue of import licences and therefore affects only imported goods.

The defendants seek to avoid this conclusion, and consequently the application of Article 12, by relying upon other provisions of the Treaty, the objects of the Treaty (notably the establishment of equivalent conditions of competition — Article 3 (f)) and the spirit of the Treaty. They mention in particular Article 95 which provides that 'No Member State shall impose, directly or indirectly, on the products of other Member States any internal taxation of any kind in excess of that imposed directly or indirectly on similar domestic products'. They claim that at least the guiding principle of this provision should be applied to their case, that is to say, it should be considered whether the special duties for gingerbread correspond to the domestic charges which the Belgian producers of gingerbread have to bear. In cases where imported rye is used, their production is affected by the properly levied import duty on rye, and in cases where home produced rye is used it suffers from the fact that the price of Belgian rye is artificially maintained at a higher level than the prices in world markets.

It is obvious that there can be no question of applying Article 95 directly. As the Commission remarks, the duty on imported rye does not amount to general internal taxation within the meaning of Article 95, but to an import duty imposed

[1] — *Handbuch der Finanzwissenschaft*, ibid. p. 726: 'One speaks of countervailing duties when supplementary duties are levied on goods, for the production, manufacture or exportation of which grants or subsidies are granted directly or indirectly; these duties normally reach the level of the estimated amount of the grants or subsidies.
Import duties or analogous charges which are intended to compensate for the charge imposed on domestic production by internal taxation in relation to foreign competition are also classed as countervailing duties.'

[2] — Hübschmann-Hepp-Spitaler, *Kommentar zur Reichsabgabenordnung* (1st to 4th ed., 1961, Vol. 1, p. 4, para. 1).

on foreign rye in order to increase its price. Moreover, a considerable percentage of gingerbread is produced with Belgian rye which is not subject to a corresponding duty. The defendants observe that the Belgian domestic price is maintained at an artificially high level, and it is possible that the producers of gingerbread who process domestic rye are as a result subject to a special charge. But nobody speaks of charges in the price of certain commodities in the interest, and for the benefit, of the manufacturers of these products. If in spite of this it were desired to extend the field of application of Article 95 to such circumstances, the realization of the objects of the Treaty would be seriously endangered.

The Commission also observes with good reason that the costs of production in Member States are also affected in various ways by other factors (for example by social security contributions, wages, the cost of fuel and power, of credit, price of capital goods, etc.). It is almost impossible to supervise all these factors of the cost price of each national product when they vary so much in time and from one undertaking to another. It would, therefore, be very easy to nullify to a large extent the effect of the elimination of customs barriers if by means of Article 95 one allowed the introduction in a general manner of compensation for domestic charges of every kind. The necessary consequence would be the extensive disintegration of the principles of the Treaty regarding the establishment of the free movement of goods. We cannot, therefore, as we are invited to do, give a wide interpretation to Article 95, and we must state that it does not offer any basis for the justification of the measures to which exception has been taken.

The defendants further point out that the import duty on gingerbread is a necessary result of the national agricultural policy allowed by the Treaty. In order to avoid disturbances in the processing industry which would have repercussions upon agricultural markets, this industry should be protected accordingly. The special duty in question is determined, the defendants say, in terms of the duty on imported rye; its effect, even with variations in its rate, is always the same in this regard, so much so that one cannot speak of an unlawful increase. If, 'en l'absence de texte'[1], the Commission attempts to find a justification for agricultural policy in the spirit of the Treaty, it is not consistent, as regards processed products, to follow the text of the Treaty strictly and to ignore its objects.

The Treaty, as we all know, sets forth in a special Title rules regarding agriculture which constitute a departure from the basic scheme of the Treaty. The provisions regarding the establishment of the Common Market, that is to say also those regarding the customs union, are only applicable to agricultural products in the absence of contrary provisions in Articles 39 to 46 (Article 38 (2)). In particular, in referring to Article 43 (replacement of national organizations by forms of common organization) and to Article 45 (authorization of long-term agreements between importing and exporting Member States), the Commission has with good reason declared that, until the introduction of a common agricultural policy, the national organizations, with their special regulations for agriculture and therefore also for the levying of import duties of variable amounts on agricultural products, might remain as they were. But it is perfectly clear that according to the Treaty this special system can be valid only for products listed in Annex II of the Treaty (Article 38 (2)). We do not find amongst these products gingerbread and similar products made from rye or rye flour, which in any case are

1 — Rejoinder, p. 38.

not products of first-stage processing (Article 38 (1)).

The Commission itself, however, admits that the differential system for agricultural products on the one hand and for processed products on the other hand may lead to a lack of harmony and even to disturbances in the economic life of Member States. The question which must be asked, therefore, is how one can avoid or lessen these consequences without damaging the system laid down by the Treaty.

When the defendants in their defence refer to Article 3 (f) of the Treaty which provides for the institution of a system ensuring that competition within the Common Market shall not be distorted, the Commission rightly objects that Article 3 (f) may characterize the activity of the *Community* but can never constitute the basis for autonomous acts of Member States intended to deviate from certain principles of the Treaty in order to compensate for unfavourable consequences of the implementation of the Treaty.

In addition, there are serious objections to an extension of the special rules for agricultural products:

First, it is contrary to elementary principles of interpretation to extend by implication exceptional provisions to facts which are not expressly referred to and thus further to widen a breach in a general rule of the Treaty (in this case Article 12).

Secondly, the Treaty mentions in several provisions products arising from processing. Article 38 (1) speaks of products of first-stage processing and includes them in the special system for agricultural products resulting from processing. According to Article 38 (3) a decision of the Council may supplement the list, set out in Annex II. Without claiming it to be a complete list, we may enumerate other provisions relating to processed products; these are the second paragraph of Article 10 (2) and Articles 21 (2), 25 (2), 37, 43 (4) and 45 (3). One cannot, therefore, say that the authors of the Treaty did not consider problems connected with processed products and use this as a reason for justifying a system of treatment corresponding to that applied in the case of basic products. Thus we cannot accept the arguments which the defendants draw from the agricultural provisions of the Treaty. Their observations on the fact that the special duty at issue has always been calculated in terms of agricultural policy are thus rendered invalid, as is their claim that the repercussions of this duty, in spite of its varying rates, have always remained the same having regard to its function in the field of agricultural policy. Article 12 is not concerned with the extent of the effect envisaged by a special duty, but only with the fact that the rate of a special duty is increased.

In our consideration of the measures in dispute, we have thus arrived at a conclusion which the Belgian Government itself adopted at an earlier date. When the Federal Republic of Germany extended to malt the import duty levied on barley in its marketing regulations, the Belgian Government observed that this decision was tantamount to the unilateral introduction of an import duty having equivalent effect to a customs duty and that it thus contravened Article 12 of the Treaty.

During the proceedings, the Commission has shown the way which was open to deal with the possible difficulties which we have just mentioned. According to the system laid down in the Treaty, the possibility exists in the first instance, in cases where difficulties arise, of taking refuge in the general safeguard clause of Article 226 of the Treaty. Other Member States have taken this course with successful results, and the defendants themselves took the first step in that direction when they made their requests of 27 November and 4 December 1961.

We have also heard that the Council, in application of the powers provided for in Article 235 of the Treaty for the

purpose of rectifying certain omissions, on 4 April 1962 took a Decision which is designed to meet circumstances such as those in the present case. I refer to the Decision relating to the levying of a countervailing charge on certain goods, derived from the processing of agricultural products. The defendants' representatives themselves agreed to this Decision. The Belgian Government drew the necessary consequences of the Decision to the extent that on 1 February 1962 it submitted that it should apply to the case of the production of gingerbread, without, it is true, obtaining a positive result.

We need not consider here whether, with the organization which in fact exists and its application in practice, these possibilities always hold out the promise of satisfactory results. All I shall say is that, upon an examination of the relevant principles at an abstract level, I find that such possibilities not only have the advantage of being integrated into the system of the Treaty, without damaging the structure of the Treaty itself and without raising fears of a collapse of its principles, but that they are also in line with the supranational organization of the Community with which autonomous and unilateral measures of Member States can in cases of doubt be reconciled only with difficulty.

In view of all these considerations the opinion of the Commission must be approved and confirmed and the Kingdom of Belgium and the Grand Duchy of Luxembourg must accordingly be declared to have contravened their obligations under the Treaty, by increasing, after the entry into force of the Treaty, the special duty levied on the issue of import licences for gingerbread and by extending this duty to products similar to gingerbread listed in Heading No 19.08 of the Common Customs Tariff.

As the applications are admissible and well founded, the costs should be paid by the defendants, in accordance with the application of the Commission.

ORDER OF THE COURT
3 DECEMBER 1962[1]

In Joined Cases 2 and 3/62

COMMISSION OF THE EUROPEAN ECONOMIC COMMUNITY

v

1. GOVERNMENT OF THE GRAND DUCHY OF LUXEMBOURG

and

2. GOVERNMENT OF THE KINGDOM OF BELGIUM

1 — Language of the Case: French.