2. If the rules on trading in beer, adopted by a Member State in order to define the different types of beer traditionally brewed in a certain part of the Community and to safeguard its typical taste, prohibit the marketing of any beer whose acidity exceeds a certain level, unless that beer is produced by processes traditionally used in that part of the Community to obtain sour beer, the extension of that prohibition to beer lawfully produced and marketed in another Member State must be regarded as a measure having an effect equivalent to a quantitative restriction, which is prohibited by Article 30 of the Treaty.

3. The extension by a Member State of a prohibition of a statement of the strength of the original wort of beer on the pre-packaging or the label thereof to beer imported from other Member States, necessitating an alteration of the label under which the imported beer, is lawfully marketed in the exporting Member State, must be regarded as a measure having an effect equivalent to a quantitative restriction, which is prohibited by Article 30 of the Treaty, unless such statement, regard being had to its specific terms, is of such a kind as to mislead the purchaser.

In Case 94/82

REFERENCE to the Court under Article 177 of the EEC Treaty by the Economische Politierechter [Magistrate dealing with commercial offences] in the Arrondissementsrechtbank [District Court] Arnhem for a preliminary ruling in the criminal proceedings brought against

DE KIKVORSCH GROOTHANDEL-IMPORT-EXPORT BV,

on the interpretation of the Community provisions on the free movement of goods in order to enable it to determine the compatibility with Articles 30 and 36 of the EEC Treaty of certain provisions of the Netherlands Bierverordening [Beer Order] 1976,

THE COURT (Second Chamber)

composed of: P. Pescatore, President of Chamber, O. Due and K. Bahlmann, Judges,

Advocate General: G. F. Mancini
Registrar: H. A. Rühl, Principal Administrator

gives the following

JUDGMENT

Facts and Issues

The facts of the case, the course of the procedure and the observations submitted pursuant to Article 20 of the Protocol on the Statute of the Court of Justice of the EEC may be summarized as follows:

I — Facts and written procedure

1. The accused in the main action, De Kikvorsch Groothandel-Import-Export BV (hereinafter referred to as "De Kikvorsch"), was summoned before the Economische Politierechter of the Arrondissementsrechtbank, Arnhem, for importing and marketing in 1980 in the Netherlands a beer described as "Berliner Kindl Weiße" from the Federal Republic of Germany.

It appears from the order making the reference that that beer did not meet the conditions which the product must satisfy under Article 6 (4) of the Bierverordening 1976, (Verordeningenblad Bedrijfsorganisatie of 31 August 1976, No 36), because its degree of acidity (pH) was 3.2 (the lower the pH, the more acid the beer) and was therefore less than the degree of acidity laid down and because it did not appear among the sour beers within the meaning of Article 1 (j) of the Bierverordening for which no minimum is laid down. In addition De Kikvorsch infringed Article 7 (3) of the Bierverordening because the label stated the strength of the original wort of the beer.

2. Article 6 (4) of the Bierverordening lays down the above-mentioned requirement concerning acidity in the following terms:

"The acidity (pH) of the beverages referred to in this regulation, other than the beverage referred to in Article 1 (j), must be higher than 3.9."

The beers referred to in Article 1 (j) are known as sour beers. The definition of those beers, which is laid down in the latter provision, is reproduced in the subparagraph (a) of the question submitted for a preliminary ruling.

3. Article 7 (2) of the Bierverordening states that it is prohibited to market in the Netherlands beer of which the extract strength of the original wort does not fall within one of the categories referred to in Article 7 (1). The reference to the category in which the beer is included must under Article 9 (1) (b) be stated on the pre-packaging as follows for example: "Category II" for beer which has an extract strength of the original wort of between 7 and 9.5 inclusive. On the other hand, Article 7 (3) provides that the extract strength of the original wort itself is not to be stated on the pre-packaging or on the label.

4. The Bierverordening was adopted under a decision of the Committee of Ministers of the Benelux Economic Union of 31 August 1973 on the harmonization of legislation concerning beer (Basic Text Benelux 1973/1974, p. 1680 et seq.). That decision also contains a prohibition of the marketing of beers of which the pH is less than 3.9, but it does not contain any prohibition of the statement of the extract strength of the original wort.

5. Under Article 14 (1) (b) of the Drank- en Horecawet [Law on beverages and cafés, hotels and restaurants] (of 7 December 1964, Staatsblad p. 386, most recently amended by the Law of 14 December 1977, Staatsblad p. 675), the alcoholic content must be stated in the Netherlands on the packaging of alcoholic beverages which are supplied to individuals in the course of trade for consumption otherwise than on the premises.

6. On 26 June 1970, the Commission submitted to the Council a proposal for a Council directive on the harmonization of the legislation of the Member States on beer (Journal Officiel 1970, C 105, p. 17). That proposal, which did not regulate the degree of acidity and contained no provision concerning a statement of the extract strength of the original wort on pre-packaging or labels, was subsequently withdrawn.

7. Having raised of his own motion the question of the compatibility of the above-mentioned provisions with Community law, the Economische Politierechter of the Arrondissementsrechtbank, Arnhem, decided to stay the proceedings under Article 177 of the EEC Treaty and refer the following question to the Court for a preliminary ruling:

"Assuming that the rules on the trade in beer in one Member State:

Define beer as:

The beverage which is obtained by alcoholic fermentation of wort prepared form raw materials containing starch and sugar, of hops (including hop powder and hop extract) and of drinking water;

Define sour beer as:

The beverage which is obtained:

(a) either by spontaneous fermentation with an extract strength of the original wort of at least 11% Plato, a total acidity of at least 30 milli-equivalents NaOH per litre, and a content of volatile acids of at least 2 milli-equivalents NaOH per litre, and which must be prepared from a wort of which at least 30 per cent of the total weight of the processed raw materials containing starch and sugar consists of wheat;

(b) or by surface fermentation and with the same acidity and extract strength of the original wort as the beer under (a);

Define pre-packaging as:

Packaging made and sealed in advance with a capacity of not more than five litres;

Prohibit the marketing or causing to be marketed of beer, not being sour beer, in which the degree of acidity (pH) of the beer is 3.9 or less;

Prohibit the marketing or causing to be marketed of beer if the pre-packaging of the beer or label thereon states the original wort strength of the beer;

Is the application of one or both of the provisions containing such prohibitions to beer which is imported from one Member State, where it is lawfully manufactured and marketed, to be regarded as a measure having an effect equivalent to a quantitative restriction, which is prohibited by Article 30 of the EEC Treaty, in so far as the marketing of beer is thereby impeded or precluded?"

8. The order made by the Economische Politierechter of the Arrondissementsrechtbank, Arnhem, was received at the Court Registry on 22 March 1982.

In accordance with Article 20 of the Protocol on the Statute of the Court of Justice of the EEC, written observations were submitted by the following: De Kikvorsch, represented by W. Aerts, of the Nijmegen Bar; the Government of the Netherlands, represented by F. Italianer, Secretary General of the Ministry of Foreign Affairs, acting as Agent; and the Comission represented by its Legal Adviser, R. Wägenbaur, acting as Agent, assisted by Th. van Rijn, a Member of its Legal Department.

Upon hearing the report of the Judge-Rapporteur and the views of the Advocate General, the Court decided to open the oral procedure without any preparatory inquiry. However, the Court requested the Commission to inform it in writing before the hearing whether the laws of the other Member States contained provisions similar to the Netherlands provisions in question.

In addition, the Commission and Government of the Netherlands were requested to bring to the hearing an expert on the production of beer.

By order of 17 November 1982, the Court decided to refer the case to the Second Chamber pursuant to Article 95 (1) and (2) of the Rules of procedure.

II — Written observations submitted to the Court

A — The observations of De Kikvorsch

On the basis of the judgments of the Court of 20 February 1979 in Case 120/78, *REWE-Zentrale* v *Bundesmonopolverwaltung für Branntwein*, [1979] ECR 649, of 26 June 1980 in Case 788/79, *Gilli and Andres*, [1980] ECR 2071, and of 19 February 1981 in Case 130/80, *Kelderman*, [1981] ECR 527, De Kikvorsch contends that the prohibitions laid down in Articles 6 (4) and 7 (3) of the Netherlands Bierverordening are capable of "presenting an obstacle, directly or indirectly, actually or potentially, to intra-Community trade".

Those articles in fact compel the producer of Berliner Kindl Weiße to choose between ceasing to export its product to the Netherlands or altering its

brewing method and labels to meet the Netherlands requirements. The alteration of brewing methods would lead to a change in the character of the beer so that it could no longer be called "Berliner Kindl Weiße".

According to De Kikvorsch, the provision on acidity is not justified by the imperative requirements of public health.

De Kikvorsch points out in this regard that Mr Teeuwen, a lawyer attached to the Produktschap voor Bier [The Beer Production Board] stated as a technical expert before the national court that the acidity was vital for the beer to keep well and that the minimum pH was fixed at 3.9 on the basis of considerations relating to consumer protection and public health. However, that expert provided no support for that statement, since he did not explain why a minimum pH of 3.9 was technically necessary in order to ensure that the beer would keep well.

Moreover, Mr Kok, another expert who is in the International Affairs Department of the Ministry of Public Health, Hygiene and the Environment, contradicted Mr Teeuwen's statement by declaring that considerations relating to the protection of public health did not play any role in the determination of the acidity. Mr Kok further stated that the decision of the Committee of Ministers of the Benelux Economic Union, by virtue of which the Bierverordening was adopted, fixed the degree of acidity of beer on the basis of the beer traditionally consumed in the Benelux countries.

De Kikvorsch concludes that at the time when the Bierverordening was drawn up, it simply was not envisaged that a beer might have a degree of acidity lower than 3.9.

De Kikvorsch also submits that Berliner Kindl Weiße is a well-known beer brewed according to traditional methods which has been on sale for years in the Federal Republic of Germany and in other countries, that it is produced in accordance with the rules laid down during the long history of German brewing, and that in addition as far as it knows there have never been any complaints in relation to the period for which that beer may be kept or in relation to public health.

So far as the prohibition of a statement of the extract strength of original wort of the beer is concerned, De Kikvorsch states that linguistically the words "stamwortgehalte" [strength of original wort] and "alcohol" in Dutch, like the words "Stammwürze" and "Alkohol" in German, are clearly distinct and do not resemble each other in any way either in writing or in relation to the way in which they are pronounced.

To assume that there would be a confusion between the extract strength of the original wort and the alcoholic content is to under-estimate the public, even though the public at large does not know enough about brewing methods to understand the precise significance of the expression "extract strength of the original wort". De Kikvorsch does not see how the prohibition of any statement of the strength of the original wort on the label may be based on grounds of consumer protection which are so compelling as to justify the resulting interference with the free movement of goods.

De Kikvorsch therefore suggests that the question submitted for a preliminary ruling should be answered as follows:

"The application of one or both of the prohibitory provisions contained in Articles 6 (4) and 7 (3) of the Bierverordening of 1976 to beer which is imported from another Member State in

which it is lawfully manufactured and marketed must be regarded as a measure having an effect equivalent to a quantitative restriction on imports, which is prohibited by Article 30 of the EEC Treaty, in so far as the marketing of beer is thereby impeded or precluded."

B — Observations of the Government of the Netherlands

In relation to the provision relating to acidity laid down in Article 6 (4) of the Bierverordening, the Government of the Netherlands observes that the determination of the pH levels by the Committee of Ministers of the Benelux Economic Union, on which the Netherlands Bierverordening is based, was related to a traditional idea of the taste of beer.

In relation to the prohibition of any statement of the extract strength of original wort, which appears in Article 7 (3) of the Bierverordening, the Government of the Netherlands states that it was taken from the previous order entitled "Verordening Verbod Vermelding Stamwortgehalte van Bier" [Order prohibiting any statement of the extract strength of the original wort of beer] of 1964. That prohibition was enacted at that time because there was a requirement in the Netherlands that the percentage of alcohol should be stated. The Netherlands Government in this connection quotes the following passage from the annual report of the Produktschap voor Bier for 1964: "A statement (of the strength of the original wort) was not compulsory but neither was it prohibited. The Board of the Produktschap considered that a statement of that kind would interfere with the provision concerning the statement of the percentage of alcohol. Indeed it is capable of causing confusion inasmuch as the consumer, for whom the extract strength of the original wort is a totally unknown concept, would assume that the beer in question was of a higher percentage and therefore a product of better quality. Furthermore that is scarcely likely to promote fair trading. A detailed study has shown that in practice even the statement of the two rates on the label of the bottle is not capable of preventing confusion among members of the public. In order to promote fair trading conditions and to prevent the confusion which is augmented by the fact that the strength of the original wort is most often mentioned on the label of imported beer, the Board of the Produktschap has decided to prepare a draft order prohibiting any statement of the strength of the original wort. . . . The quality of beer is based on the levels of carbonic acid, the acidity, the aroma resulting from fermentation, the aroma of hops, the bitterness and the percentage of alcohol. The four first-mentioned characteristics have as a whole no relation to the strength of the original wort whereas the percentage of alcohol is only remotely connected therewith."

The Government of the Netherlands concludes that the Produktschap based the prohibition of any statement of the strength of the original wort of beer on a desire to protect and inform the consumer.

C — Observations of the Commission

In relation to the provision on acidity contained in Article 6 (4) of the Bierverordening, the Commission observes that Mr Kok stated before the national court (see A. above) that the determination of the degree of acidity "was based on the beer which is commonly found in Benelux. The protection of public health played no part in the matter."

The Commission adds that that statement is broadly confirmed by a letter from the Director of the Institut

CIVO-Analyse TNO, submitted to the national court, which states:

'I have been asked to provide more detailed explanations of the reason for fixing a pH of 3.9 in Article 6 (4) of the Bierverordening of 1976.

Beers may be prepared by normal alcoholic fermentation or by mixed acidic fermentation. The first method is used in the Netherlands and yields the normal types of beer.

In Belgium and the Federal Republic of Germany, however, fermentation is based on mixtures of yeast and lactic acid bacteria (mixed acidic fermentation), which produces large quantities of lactic acid in addition to alcohol. Thus beers are obtained such as the Lambic and Gueuze in Belgium and *inter alia* the Weißbiere and the Weizenbiere in Germany.

The determination of a pH of 3.9 in Article 6 of the Bierverordening is intended in particular to ensure the continued production of a specific type of beer by using a yeast which is as pure as possible. In this way it is possible to prevent the formation of too great acidity, which would not correspond to the desired type of beer. At the same time a kind of protection is furnished against any adulteration which might result in pH values lower than 3.9 . . ."

In the Commission's opinion, it is clear from the above statement that the provision in question cannot be regarded as necessary on grounds of the protection of public health or of the consumer. It is chiefly intended to protect the types of beer which are traditionally to be found in the Benelux countries.

The Commission further points out that the Bierverordening of 1965 (Staatsblad No 93) which applied in the Netherlands until the entry into force of the Bierverordening of 1976 authorized a degree of acidity lower than 3.9. provided that the description of the beverage made it clear that it was not an ordinary beer within the meaning of Article 1 of the order.

The Commission streses that the sour beers to which Article 6 (4) of the Bierverordening does not apply must by virtue of Article 9 (4) be described as "Gueuze", "Gueuze Lambic" or "Lambic". In the Commission's opinion that shows that the definition of sour beers is borrowed from traditional Belgian beers.

The Commission points out that the Director of the Institut CIVO-Analyse TNO classifies the German Weißbiere and Weizenbiere in the same category as the Gueuze and Lambic and that Mr Teeuwen confirmed in his evidence (see A. above) that the Berliner Kindl Weiße is a sour beer. In his view, more detailed analyses would be required in order to determine whether a lower pH would have an effect on the shelf life of that beer.

Furthermore, it is not disputed that the beer in question is traditionally produced in the Federal Republic of Germany and has been marketed there for many years. The legislation in the Federal Republic of Germany, a country in which the production of beer is a very old tradition, does not contain any provision concerning the degree of acidity. There it is clearly considered that such a provision is unnecessary for the beer to have a satisfactory shelf life. In addition, it is a fact that the more acid the beer and the lower the pH, the better the beer keeps.

The Commission concludes that the provision on acidity, at least in relation to imported beer, cannot be regarded as necessary on imperative grounds of consumer protection or as justified on

grounds of the protection of public health. The prohibition of marketing in the Netherlands beers imported from other Member States which do not meet that requirement therefore constitutes a measure having an effect equivalent to a quantitative restriction on imports.

In relation to the prohibition of any statement of the extract strength of the original wort which is contained in Article 7 (3), of the Bierverordening, the Commission observes that the consumer is perfectly capable of distinguishing between the alcoholic content and the strength of the original wort, especially where both are stated. It considers that although the extract strength of the original wort is not a well-known concept, at least for the consumer in the Netherlands, it would be excessive to conclude that the consumer would assume that beer carrying such a statement has a certain degree of alcohol or is a product of a better quality. The prohibition of marketing in the Netherlands beer imported from other Member States where the extract strength of the original wort of the beer is stated on the pre-packaging or on the label must therefore in the Commission's opinion be considered to be a measure having an effect equivalent to a quantitative restriction on imports.

The Commission suggests that the Court should give the following answer to the question submitted to it by the national court:

"The concept of measures having an effect equivalent to quantitative restrictions on imports, referred to in Article 30 of the EEC Treaty, must be interpreted as covering the application to beer imported from another Member State in which it has been produced and marketed in accordance with the laws in force of a legal provision of a Member State prohibiting the marketing or causing to be marketed of beer where:

(a) the acidity (pH) of the beer, not being sour beer, is 3.9 or less

and/or

(b) the extract strength of the original wort of the beer is stated on the pre-packaging or on the label of the beer."

III — Oral procedure

At the sitting on 20 January 1983 oral argument was presented and questions put to the parties by the Court were answered by the following: W. Aerts, for the accused in the main action; J. W. de Zwaan, acting as Agent, assisted by G. Derdelinckx acting in the capacity of a technical expert, for the Government of the Netherlands; A. Carnelutti, acting as Agent, assisted by Mr Hulaud, acting in the capacity of a technical expert, for the French Government; and Mr Haagsma, a member of the Legal Department, for the Commission of the European Communities.

At the sitting the Government of the Netherlands confirmed that the purpose of the provisions of the Bierverordening concerning acidity was to define the different sorts of beer traditionally brewed in the Benelux States and that considerations relating to the protection of public health or to consumer protection did not play any role in the determination of the degree of acidity.

The Advocate General delivered his opinion at the sitting on 10 February 1983.

Decision

1 By judgment of 28 December 1981, which was received at the Court Registry on 22 March 1982, the Economische Politierechter [Magistrate dealing with commercial offences] in the Arrondissementsrechtbank [District Court], Arnhem, referred to the Court for a preliminary ruling under Article 177 of the EEC Treaty a question on the interpretation of Article 30 of the EEC Treaty, in order to enable him to determine the compatibility with Community law of certain provisions of the Netherlands Bierverordening [Beer Order] 1976, which was adopted by the Produktschap voor Bier [Beer Production Board] (Verordeningenblad Bedrijfsorganisatie of 31 August 1976].

2 That question arose in the context of criminal proceedings brought against a beer importer, who was accused of marketing in the Netherlands a beer imported from the Federal Republic of Germany and described as "Berliner Kindl Weiße", the acidity of which exceeded the limit laid down in Article 6 (4) of the Bierverordening, which had not been manufactured according to the processes provided for in Article 1 (j) for the preparation of so-called "sour" beers and the label of which stated the strength of the original wort of the beer, contrary to Article 7 (3) of the Bierverordening.

3 With regard to the provisions on acidity, it is clear from the file, as supplemented during the oral procedure before the Court, that the Bierverordening was adopted under a decision of the Committee of Ministers of the Benelux Economic Union of 31 August 1973 on the harmonization of legislation concerning beer (Basic Text Benelux 1973/1974, p. 1680 et seq.) and that the purpose of the relevant part of that decision was to define the different types of beer traditionally brewed in the Benelux countries and to protect their typical taste.

4 The prohibition of a statement of the strength of the original wort of the beer on the pre-packaging or label was taken from the Verordening Verbod Vermelding Stamwortgehalt van Bier [Order prohibiting any statement of the strength of the original wort of beer] of 1964. It is connected with the requirement that the alcoholic content must be stated on the packaging which is contained in Article 14 (1) (b) of the Drank- en Horecawet [Law on beverages and cafés, hotels and restaurants] of 7 December 1964 (Staatsblad, p. 386). It is clear from the file that the Produktschap wished to avoid the

risk of confusion between those statements, which, in the Netherlands, are both normally expressed in percentages.

5 Under those circumstances, the Economische Politierechter referred to the Court a question which in substance asks whether the extension of national prohibitory provisions such as those described above to beer imported from another Member State, in which it is lawfully produced and marketed, must be regarded as a measure having an effect equivalent to a quantitative restriction on imports, prohibited by Article 30 of the Treaty.

6 Before that question is answered, it should be recalled, as the Court has repeatedly held since its judgment of 20 February 1979 in Case 120/78, *REWE*, [1979] ECR 649, that in the absence of common rules relating to the production and marketing of the products concerned, obstacles to free movement within the Community resulting from disparities between the national laws must be accepted in so far as such rules, applicable to domestic and to imported products without distinction, may be recognized as being necessary in order to satisfy mandatory requirements relating *inter alia* to fariness in commercial dealings and consumer protection.

7 Consequently it is necessary to consider whether the extension to imported products of national provisions such as those in question in the main action is capable of impeding the free movement of goods between Member States and, if so, to what extent such obstacles are justified on the ground of the public interest underlying the national provisions. For that purpose, it is necessary to consider separately the two types of prohibition at issue in this case.

8 The extension to imported beer of national rules prohibiting the marketing of beer which does not comply with the conditions on acidity is likely to preclude beer lawfully produced and marketed in other Member States from being marketed in the Member State in question. That obstacle to the free

movement of goods between Member States cannot be justified by the need to define the different types of beer traditionally brewed in a certain part of the Community and to protect their typical taste. In particular, no consideration relating to the protection of the national consumer militates in favour of a rule preventing such consumer from trying a beer which is brewed according to a different tradition in another Member State and the label of which clearly states that it comes from outside the said part of the Community.

9 The answer to that part of the question for a preliminary ruling must therefor be that, if the rules on trading in beer, adopted by a Member State in order to define the different types of beer traditionally brewed in a certain part of the Community and to safeguard its typical taste, prohibit the marketing of any beer whose acidity exceeds a certain level, unless that beer is produced by processes traditionally used in that part of the Community to obtain sour beer, the extension of that prohibition to beer lawfully produced and marketed in another Member State must be regarded as a measure having an effect equivalent to a quantitative restriction, which is prohibited by Article 30 of the Treaty.

10 Although the extension to imported products of a prohibition of the statement of certain information on the packaging of a product is not an absolute barrier to the importation into the Member States concerned of products originating in other Member States, it is none the less of such a nature as to render the marketing of those products more difficult or more expensive, through the need to alter the label under which the product is lawfully marketed in the Member State in which it is produced.

11 Article 30 of the Treaty in no way prevents a Member State from protecting its consumers against labelling which is of such a kind as to mislead the purchaser. Such protection is indeed required by Article 2 (1) of Council Directive 79/112/EEC of 18 December 1978 on the approximation of the

laws of the Member States relating to the labelling, presentation and advertising of food-stuffs for sale to the ultimate consumer (Official Journal 1979, L 33, p. 1).

12 Such consumer protection may also entail a prohibition of the provision of certain information on the products, particularly if that information may be confused by the consumer with other information required by the national rules. For such a prohibition to be applied to products from another Member State, in such a way as to necessitate the alteration of the original labels of such products, the original labels must actually be of such a kind as to give rise to the confusion which the rules seek to avoid. The findings of fact necessary in order to establish whether or not there is such a risk of confusion are a matter for the national court.

13 The answer to the latter part of the question referred to the Court for a preliminary ruling should therefore be that the extension by a Member State of the prohibition of a statement of the strength of the original wort of beer on the pre-packaging or the label to beer imported from other Member States, necessitating an alteration of the label under which the imported beer is lawfully marketed in the exporting Member State must be regarded as a measure having an effect equivalent to a quantitative restriction, which is prohibited by Article 30 of the Treaty, unless such statement, regard being had to its specific terms, is of such a kind as to mislead the purchaser.

Costs

The costs incurred by the Governments of the French Republic and the Kingdom of the Netherlands and by the Commission of the European Communities, which have submitted observations to the Court, are not recoverable. As these proceedings are, in so far as the parties to the main action are concerned, in the nature of a step in the action pending before the national court, costs are a matter for that court.

On those grounds,

THE COURT (Second Chamber),

in answer to the questions submitted to it by the Economische Politierechter of the Arrondissementsrechtbank, Arnhem, by judgment of 28 December 1981, hereby rules:

1. **If the rules on trading in beer, adopted by a Member State in order to define the different types of beer traditionally brewed in a certain part of the Comunity and to safeguard its typical taste, prohibit the marketing of any beer whose acidity exceeds a certain level, unless that beer is produced by processes traditionally used in that part of the Community to obtain sour beer, the extension of that prohibition to beer lawfully produced and marketed in another Member State must be regarded as a measure having an effect equivalent to a quantitative restriction, which is prohibited by Article 30 of the Treaty.**

2. **If such rules prohibit a statement of the strength of the original wort of the beer on the pre-packaging or the label thereof, the extension of that prohibition to beer imported from other Member States, necessitating an alteration of the label under which the imported beer is lawfully marketed in the exporting Member State, must be regarded as a measure having an effect equivalent to a quantitative restriction, which is prohibited by Article 30 of the Treaty, unless such statement, regard being had to its specific terms, is of such a kind as to mislead the purchaser.**

Pescatore Due Bahlmann

Delivered in open court in Luxembourg on 17 March 1983.

For the Registrar

H. A. Rühl

Principal Administrator

P. Pescatore

President of the Second Chamber