

Opinion 3/94

Opinion pursuant to Article 228(6) of the EC Treaty

(GATT — WTO — Framework Agreement on Bananas)

Opinion of the Court, 13 December 1995 I - 4579

Summary of the Opinion

International agreements — Opinion of the Court — Purpose — Agreement envisaged — Agreement concluded after the request submitted to the Court — Request which has become devoid of purpose

(EC Treaty, Art. 228(6))

A request made to the Court for an Opinion under Article 228(6) of the EC Treaty becomes devoid of purpose, and the Court does not need to respond, where the Agreement to which it relates, which was envisaged at the time when the request was submitted to the Court, has since been concluded.

The purpose of that provision, which is to forestall complications which might result both in a Community context and in that of international relations from a decision of the Court to the effect that such an agreement was, by reason either of its content or of the procedure adopted for its conclusion, incompatible with the provisions of the Treaty, can

no longer be achieved if the Court rules on an agreement which has already been concluded. The fact that the Court does not respond to a request for an Opinion does not undermine the judicial protection of the institution or Member State which requested the Opinion at a time when the agreement had not yet been concluded since, first, Arti-

cle 228(6) is not principally aimed at protecting the interests and rights of the institution or State seeking an Opinion and, secondly, those rights may always be safeguarded by an action for annulment of the decision to conclude the agreement in conjunction, if need be, with a application for interim relief.