

Official Journal

of the European Communities

ISSN 0378-6978

L 51

Volume 23

25 February 1980

English edition

Legislation

Contents

I *Acts whose publication is obligatory*

.....

II *Acts whose publication is not obligatory*

Council

80/232/EEC:

- ★ Council Directive of 15 January 1980 on the approximation of the laws of the Member States relating to the ranges of nominal quantities and nominal capacities permitted for certain prepackaged products 1

Commission

80/233/EEC:

- ★ Commission Directive of 21 November 1979 adapting to technical progress Council Directive 76/756/EEC on the approximation of the laws of the Member States relating to the installation of the lighting and light-signalling devices on motor vehicles and their trailers 8

80/234/EEC:

- ★ Commission Decision of 5 December 1979 relating to a proceeding under Article 85 of the EEC Treaty (IV/29.011 — Rennet) 19

80/235/EEC:

- ★ Commission Decision of 21 December 1979 authorizing Denmark and the Federal Republic of Germany to apply special health guarantees for the prevention of leucosis in the case of bovine animals imported for breeding or production 28

80/236/EEC:

- ★ Commission Decision of 21 December 1979 amending Decisions 77/331/EEC and 78/118/EEC concerning special health guarantees in respect of bovine leucosis 35

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 15 January 1980

on the approximation of the laws of the Member States relating to the ranges of nominal quantities and nominal capacities permitted for certain prepackaged products

(80/232/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas Council Directive 76/211/EEC of 20 January 1976 on the approximation of the laws of the Member States relating to the making-up by weight or by volume of certain prepackaged products ⁽⁴⁾ specifies the tolerable negative errors in the contents of such prepackages, together with the markings and methods of control to be applied to such prepackages for them to circulate throughout the Community;

Whereas, however, the said Directive does not remove all the barriers to trade in prepackaged products which

result from differences in the laws on the metrological properties of such products; whereas, in particular, the Member States have different provisions concerning the volume or weight of such products; whereas such provisions must therefore be approximated;

Whereas, for a given product, the number of quantities which are so close to each other that they risk confusing the consumer should be reduced as far as possible, in the interests of greater market transparency;

Whereas these reductions should concern both the containers of prepackaged goods and products which are sold by weight or by volume;

Whereas Article 16 of Council Directive 71/316/EEC of 26 July 1971 on the approximation of the laws of the Member States relating to common provisions for both measuring instruments and methods of metrological control ⁽⁵⁾, as amended by the Accession Treaty ⁽⁶⁾, provides that harmonization of the requirements for marketing certain products, in particular as regards the prescription of certain prepacked quantities, may be covered by separate Directives,

⁽¹⁾ OJ No C 193, 18. 8. 1976, p. 3.

⁽²⁾ OJ No C 30, 7. 2. 1977, p. 34.

⁽³⁾ OJ No C 114, 11. 5. 1977, p. 30.

⁽⁴⁾ OJ No L 46, 21. 2. 1976, p. 1.

⁽⁵⁾ OJ No L 202, 6. 9. 1971, p. 1.

⁽⁶⁾ OJ No L 73, 27. 3. 1972, p. 4.

HAS ADOPTED THIS DIRECTIVE:

Article 1

This Directive shall apply to products put up in prepackages in accordance with Articles 1 and 2 of Directive 76/211/EEC and which are mentioned in the Annexes hereto; it shall not apply to prepackaged products intended solely for professional use.

Article 2

The products referred to in Article 1 shall be divided into three groups:

- (a) products sold by weight or by volume save those products referred to in (b) and (c).

Annex I lays down for each of these products the range of nominal quantities of the contents of the prepackages;

- (b) products sold by weight or by volume and put up in the rigid containers listed in Annex II, save for those products listed in Annex I.

Annex II lays down for such products the range of capacities for such containers;

- (c) products put up in aerosol form.

Annex III lays down the volumes of the liquid phase for such products and, in the case of metal containers, the capacity of the container.

Article 3

Prepackages shall in all cases indicate the nominal weight or volume of the contents of the product in accordance with the requirements of Directive 76/211/EEC.

In the cases referred to in Article 2 (b) and (c), the containers shall also indicate, in such a way as not to lead to any confusion with the above indication, their nominal capacity, in accordance with the provisions of Annex II and point 1 of Annex III, or where applicable, a reference to the EN standards mentioned in the Annexes.

Article 4

Where a multipack is made up of two or more individual prepackages, the ranges of values listed in Annexes I, II and III shall apply to the individual prepackages.

Where a prepackage is made up of two or more individual packages which are not intended to be sold individually, the ranges of values listed in Annexes I, II and III shall apply to the prepackage.

Article 5

Member States may not refuse, prohibit or restrict the placing on the market of prepackages which satisfy the requirements of this Directive, on the grounds of their nominal quantity in the case of prepackages listed in Annex I and point 2 of Annex III, or of the nominal capacity of their containers in the case of prepackages listed in Annex II, or for either of these two reasons in the case of products listed in point 1 of Annex III.

Article 6

Before 1 January 1982 Member States may not refuse, prohibit or restrict the placing on the market of prepackages which satisfy the requirements of Directive 76/211/EEC, where the nominal quantity in, or capacity of, the container has a value which is not shown in this Directive and which were placed on the market of the Member States concerned at the date of its notification.

The first paragraph shall not apply to the measures which will be taken by the United Kingdom and Ireland to define ranges in SI units.

Article 7

Member States shall bring into force the measures necessary to comply with this Directive within 24 months of its notification and shall forthwith inform the Commission thereof.

Member States shall ensure that the texts of the main provisions of internal law which they adopt in the field covered by this Directive are communicated to the Commission.

Article 8

This Directive is addressed to the Member States.

Done at Brussels, 15 January 1980.

For the Council

The President

G. ZAMBERLETTI

ANNEX I

RANGE OF NOMINAL QUANTITIES OF CONTENTS OF PREPACKAGES

1. **FOOD PRODUCTS SOLD BY WEIGHT** (quantity in g)
 - 1.1. **Butter** (CCT heading No 04.03), **margarine, emulsified or non-animal and vegetable fats** (low fat spreads)
125 — 250 — 500 — 1 000 — 1 500 — 2 000 — 2 500 — 5 000
 - 1.2. **Fresh cheeses except 'petits suisses' and other cheeses put up in the same way** (CCT subheading ex 04.04 E I c))
62.5 — 125 — 250 — 500 — 1 000 — 2 000 — 5 000
 - 1.3. **Table and cooking salt** (CCT subheading 25.01 A)
125 — 250 — 500 — 750 — 1 000 — 1 500 — 5 000
 - 1.4. **Impalpable sugars, red or brown sugars, candy sugars**
125 — 250 — 500 — 750 — 1 000 — 1 500 — 2 000 — 2 500 — 3 000 — 4 000 — 5 000
 - 1.5. **Cereal products** (excluding foods for infants)
 - 1.5.1. *Cereal flours, groats, flakes and oatmeal and meal, oatflakes* (excluding the products referred to in 1.5.4)
125 — 250 — 500 — 1 000 — 1 500 — 2 000 — 2 500 ⁽¹⁾ — 5 000 — 10 000
 - 1.5.2. *Pasta products* (CCT heading No 19.03)
125 — 250 — 500 — 1 000 — 1 500 — 2 000 — 3 000 — 4 000 — 5 000 — 10 000
 - 1.5.3. *Rice* (CCT heading No 10.06)
125 — 250 — 500 — 1 000 — 2 000 — 2 500 — 5 000
 - 1.5.4. *Ready-to-serve cereals and cereal flakes*
250 — 375 — 500 — 750 — 1 000 — 1 500 — 2 000
 - 1.6. **Dried vegetables** (CCT heading No 07.05) ⁽²⁾, **dried fruits** (CCT heading Nos or subheadings ex 08.01, 08.03 B, 08.04 B, 08.12)
125 — 250 — 500 — 1 000 — 1 500 — 2 000 — 5 000 — 7 500 — 10 000
 - 1.7. **Ground or unground roasted coffee, chicory and coffee substitutes**
125 — 250 — 500 — 1 000 — 2 000 — 3 000 — 4 000 — 5 000 — 10 000
 - 1.8. **Frozen products**
 - 1.8.1. *Fruit and vegetables* and pre-cooked potatoes for chips
150 — 300 — 450 — 600 — 750 — 1 000 — 1 500 — 2 000 — 2 500
 - 1.8.2. *Fish fillets and portions, breaded or not breaded*
100 — 200 — 300 — 400 — 500 — 600 — 800 — 1 000 — 2 000
 - 1.8.3. *Fish fingers*
150 — 300 — 450 — 600 — 900 — 1 200 — 1 500 — 1 800
2. **FOODSTUFFS SOLD BY VOLUME** (quantity in ml)
 - 2.1. **Ice-cream in quantities of more than 250 ml**
(excluding any ice-cream whose volume is not determined by the shape of the container)
300 — 500 — 750 — 1 000 — 1 500 — 2 000 — 2 500 — 3 000 — 4 000 — 5 000

⁽¹⁾ Not valid for oatmeal and oatflakes.⁽²⁾ Excluding potatoes and dehydrated vegetables.

3. DRY FOODS FOR DOGS AND CATS ⁽¹⁾ (quantity in g)
200 — 300 — 400 — 500 — 600 — 800 — 1 000 — 1 500 — 2 000 — 3 000 — 5 000
— 7 500 — 10 000
4. READY-TO-USE PAINTS AND VARNISHES (WITH OR WITHOUT ADDED SOLVENTS) (quantity in ml)
25 — 50 — 125 — 250 — 375 — 500 — 750 — 1 000 — 2 000 — 2 500 — 4 000 —
5 000 — 10 000
5. SOLID OR POWDERED GLUES AND ADHESIVES (quantity in g)
25 — 50 — 125 — 250 — 500 — 1 000 — 2 500 — 5 000 — 8 000 — 10 000
6. CLEANING PRODUCTS
(solids and powder in g, liquids and pastes in ml)
inter alia products for leather and footwear, wood and floor coverings, ovens and metals including for cars, windows and mirrors including for cars (CCT heading No 34.05); stain removers, starches and dyes for household use (CCT subheadings 38.12 A and 32.09 C), household insecticides (CCT heading No ex 38.11), descalers (CCT heading No 34.02), household deodorizers (CCT subheading 33.06 B), non-pharmaceutical disinfectants
25 — 50 — 75 — 100 — 150 — 200 — 250 — 375 — 500 — 750 — 1 000 — 1 500 —
2 000 — 5 000 — 10 000
7. COSMETICS: BEAUTY AND TOILET PREPARATIONS (CCT subheadings 33.06 A and B)
(solids and powders in g, liquids and pastes in ml)
 - 7.1. Products for skin and oral hygiene
shaving creams, all-purpose creams and lotions, hand creams and lotions, sun products, oral-hygiene products (excluding toothpaste)
15 — 30 — 40 — 50 — 75 — 100 — 125 — 150 — 200 — 250 — 300 — 400 — 500
— 1 000
 - 7.2. Toothpaste
25 — 50 — 75 — 100 — 125 — 150 — 200 — 250 — 300
 - 7.3. Hair-care products (except dyes) and bath products
lacquer, shampoos, rinsing products, strengtheners, brilliantines, hair cream (excluding the hair lotions referred to in 7.4), 'bubble baths' and other foaming products for bath and shower
25 — 50 — 75 — 100 — 125 — 150 — 200 — 250 — 300 — 400 — 500 — 750 —
1 000 — 2 000
 - 7.4. Alcohol-based products
containing less than 3 % by volume of natural or synthetic perfume oil and less than 70 % by volume of pure ethyl alcohol: aromatic waters, hair lotions, pre-shave and after-shave lotions
15 — 25 — 30 — 40 — 50 — 75 — 100 — 125 — 150 — 200 — 250 — 300 — 400 —
500 — 750 — 1 000
 - 7.5. Deodorants and personal-hygiene products
20 — 25 — 30 — 40 — 50 — 75 — 100 — 150 — 200
 - 7.6. Talcum powders
50 — 75 — 100 — 150 — 200 — 250 — 500 — 1 000

⁽¹⁾ Products with a moisture content of less than 14 %.

8. WASHING PRODUCTS
- 8.1. Solid toilet and household soaps (g) (CCT heading No 34.01)
25 — 50 — 75 — 100 — 150 — 200 — 250 — 300 — 400 — 500 — 1 000
- 8.2. Soft soaps (g) (CCT heading No 34.01)
125 — 250 — 500 — 750 — 1 000 — 5 000 — 10 000
- 8.3. Soap in flakes, chips, etc. (g) (CCT heading No 34.01)
250 — 500 — 750 — 1 000 — 3 000 — 5 000 — 10 000
- 8.4. Liquid washing, cleaning and scouring products and auxiliary products (CCT heading No 34.02) and hypochlorite preparations (excluding the products referred to in point 6) (quantity in ml)
125 — 250 — 500 — 750 — 1 000 — 1 250 ⁽¹⁾ — 1 500 — 2 000 — 3 000 — 4 000 — 5 000 — 6 000 — 7 000 — 10 000
- 8.5. Scouring powder (g)
250 — 500 — 750 — 1 000 — 10 000
- 8.6. Pre-wash and soaking products in powder form (g)
250 — 500 — 1 000 — 2 000 — 5 000 — 10 000
9. SOLVENTS (ml)
within the meaning of Council Directive 73/173/EEC of 4 June 1973 on the approximation of Member States' laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous preparations (solvents) ⁽²⁾
25 — 50 — 75 — 125 — 250 — 500 — 1 000 — 1 500 — 2 500 — 5 000 — 10 000
10. LUBRICATING OILS (ml)
125 — 250 — 500 — 1 000 — 2 000 — 2 500 — 3 000 — 4 000 — 5 000 — 10 000

⁽¹⁾ For hypochlorites only.

⁽²⁾ OJ No L 189, 11. 7. 1973, p. 7.

ANNEX II

RANGE OF PERMISSIBLE CONTAINER CAPACITIES

Standards EN 23,1, edition 2 (May 1978) and EN 76, edition 1 (December 1978) shall apply except where the products and capacity ranges laid down therein differ from those listed in this Annex.

1. PRESERVES AND SEMI-PRESERVES IN TINS AND GLASS CONTAINERS: VEGETABLE PRODUCTS (FRUIT, VEGETABLES, TOMATOES, POTATOES, WITH THE EXCEPTION OF ASPARAGUS, SOUPS, FRUIT OR VEGETABLE JUICES AND FRUIT NECTARS) FOR HUMAN CONSUMPTION

1.1. Tins and glass containers (capacity in ml)

106 — 156 — 212 ⁽¹⁾ — 228 ⁽¹⁾ — 314 — 370 — 425 ⁽¹⁾ — 446 ⁽¹⁾ — 580 — 720 — 850 — 1 062 — 1 700 — 2 650 — 3 100 — 4 250 — 10 200

1.1.1. Additional list for tumblers:

53 ⁽²⁾ — 125 ⁽²⁾ — 250 ⁽²⁾

1.2. List of capacities permitted for special products: (capacity in ml)

— *Truffles*: 26 — 53 — 71 — 106 — 212 — 425 — 720 — 850

— *Tomatoes*:

concentrates: 71 — 142 — 212 — 370 — 425 — 720 — 850 — 3 100 — 4 250

peeled or unpeeled: 236 — 370 — 425 — 720 — 850 — 2 650 — 3 100

— *Fruit cocktails, fruit in syrup*: 106 — 156 — 212 ⁽¹⁾ — 228 ⁽¹⁾ — 236 — 314 — 370 — 425 ⁽¹⁾ — 446 ⁽¹⁾ — 580 — 720 — 850 — 1 062 — 1 700 — 2 650 — 3 100 — 4 250 — 10 200

2. MOIST PET FOOD FOR CATS AND DOGS (capacity in ml)

212 ⁽¹⁾ — 228 ⁽¹⁾ — 314 — 425 ⁽¹⁾ — 446 ⁽¹⁾ — 850 — 1 062 — 1 700 — 2 650

3. WASHING AND CLEANING PRODUCTS IN POWDER FORM

The capacities of prepackages shall be as follows:

<i>Packet No</i>	<i>Volume in ml</i>
E 0.5	375
E 1	750
E 2	1 500
E 3	2 250
E 5	3 750
E 10	7 700
E 15	11 450
E 20	15 200
E 25	18 950
E 30	22 700
<i>Drum No</i>	
E 5	3 950
E 10	7 700
E 15	11 450
E 20	15 200
E 25	18 950
E 30	22 700

⁽¹⁾ These capacities will be re-examined no later than five years after the date on which the Directive is adopted.

⁽²⁾ Volume allowed for a period of 10 years from the date on which the Directive is adopted.

ANNEX III

RANGE OF VOLUMES FOR PRODUCTS SOLD IN AEROSOLS, WITH THE EXCEPTION OF THE PRODUCTS EXCLUDED IN POINT 7.4 OF ANNEX I AND MEDICINAL PRODUCTS

By way of derogation from Article 8 (1) (e) of Council Directive 75/324/EEC of 20 May 1975 on the approximation of the laws of the Member States relating to aerosol dispensers ⁽¹⁾, products sold in aerosols complying with the requirements of this Directive need not be marked with the nominal weight of their contents.

1. PRODUCTS SOLD IN METAL CONTAINERS

Volume of the liquid phase in ml	Container capacities in ml for:	
	Products propelled by liquid gas	(a) Products propelled by compressed gases alone (b) Products propelled by nitrous oxide or carbon dioxide alone or by mixtures of the two alone when the product has a Bunsen coefficient of 1.2 or less
25	40	47
50	75	89
75	110	140
100	140	175
125	175	210
150	210	270
200	270	335
250	335	405
300	405	520
400	520	650
500	650	800
600	800	1 000
750	1 000	—

2. PRODUCTS SOLD IN TRANSPARENT OR NON-TRANSPARENT GLASS OR PLASTIC CONTAINERS (volume of the liquid phase in ml):

25 — 50 — 75 — 100 — 125 — 150

⁽¹⁾ OJ No L 147, 9. 6. 1975, p. 40.

COMMISSION

COMMISSION DIRECTIVE

of 21 November 1979

adapting to technical progress Council Directive 76/756/EEC on the approximation of the laws of the Member States relating to the installation of the lighting and light-signalling devices on motor vehicles and their trailers

(80/233/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type approval of motor vehicles and their trailers ⁽¹⁾, as last amended by Directive 78/547/EEC ⁽²⁾, and in particular Articles 11, 12 and 13 thereof,

Having regard to Council Directive 76/756/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to the installation of lighting and light-signalling devices on motor vehicles and their trailers ⁽³⁾,

Whereas in the light of the experience gained and the present state of the art it is now possible to amplify certain requirements and bring them more into line with actual test conditions;

Whereas these amendments are to be followed by further amendments at present being examined, the effect of which will be to render certain requirements more stringent with a view to increasing the safety both of the occupants of the vehicles and of other road users;

Whereas the measures provided for in this Directive are in accordance with the opinion of the Committee for the Adaptation to Technical Progress of Directives for

the Removal of Technical Barriers to Trade in Motor Vehicles,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 76/756/EEC is hereby amended as follows:

1. Articles 2 and 3 are replaced by a new Article 2 as follows:

'Article 2

1. With effect from 1 May 1980, no Member State may, on grounds relating to the installation of the lighting and light-signalling devices, whether mandatory or optional, listed in items 1.5.7 to 1.5.20 of Annex I:

— refuse, in respect of a type of vehicle, to grant EEC type approval, to issue the document referred to in the last indent of Article 10 (1) of Directive 70/156/EEC, or to grant national type approval, or

— prohibit the entry into service of vehicles,

if the installation of the said lighting and light-signalling devices on this type of vehicle or on these vehicles complies with the provisions of this Directive.

2. With effect from 1 January 1981, Member States:

— may no longer issue the document referred to in the last indent of Article 10 (1) of Directive 70/156/EEC in respect of a type of vehicle in

⁽¹⁾ OJ No L 42, 23. 2. 1970, p. 1.

⁽²⁾ OJ No L 168, 26. 6. 1978, p. 39.

⁽³⁾ OJ No L 262, 27. 9. 1976, p. 1.

which the installation of the said lighting and light-signalling devices does not comply with the provisions of this Directive,

- may refuse to grant national type approval in respect of a type of vehicle in which the installation of the said lighting and light-signalling devices does not comply with the provisions of this Directive.

3. With effect from 1 October 1982, Member States may prohibit the entry into service of vehicles in respect of which a certificate pursuant to Article 10 of Directive 70/156/EEC concerning the installation of the said lighting and light-signalling devices was issued after 1 October 1979, where the installation of these devices does not comply with the provisions of this Directive.'

2. Articles 4, 5, 6 and 7 become Articles 3, 4, 5 and 6 respectively.

3. Annexes I and II are amended in accordance with the Annex to this Directive.

Article 2

Member States shall bring into force the provisions necessary in order to comply with this Directive by 30 April 1980 and shall forthwith inform the Commission thereof.

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 21 November 1979.

For the Commission

Étienne DAVIGNON

Member of the Commission

ANNEX

Amendments to the Annexes to Directive 76/756/EEC

ANNEX I: INSTALLATION OF LIGHTING AND LIGHT-SIGNALLING DEVICES

Item 1.3 is hereby amended as follows:

'1.3. *Unladen vehicle*

"Unladen vehicle" means the vehicle in running order, as defined in item 2.6 of Annex I, model information document, to Directive 70/156/EEC, but without driver.'

Item 1.5.3 is hereby amended as follows:

'1.5.3. *Grouped lamps*

"Grouped lamps" means devices having separate lenses or separate parts of lenses, separate light sources, but a common lamp body.'

Item 1.5.4 is hereby amended as follows:

'1.5.4. *Combined lamps*

"Combined lamps" means devices having separate lenses or separate parts of lenses, but a common light source and a common lamp body.'

Item 1.5.20 is hereby amended as follows:

'1.5.20. *Reflex reflector*

"Reflex reflector" means a device used to indicate the presence of a vehicle by the reflection of light emanating from a light source not connected to the vehicle, the observer being situated near the source.

For the purposes of this Directive the following are not considered as reflex reflectors:

- retro-reflecting number plates,
- the retro-reflecting signals mentioned in the ADR (European Agreement concerning the international carriage of dangerous goods by road),
- other retro-reflecting plates and signals which must be used to comply with a Member State's specifications for use as regards certain categories of vehicles or certain methods of operation.'

Item 1.6.1 is hereby amended as follows:

'1.6.1. *Illuminating surface of a lighting device*

"Illuminating surface of a lighting device" (1.5.7 to 1.5.10) means the orthogonal projection of the full aperture of the reflector in a transverse plane. If the lighting device has no reflector, the definition of item 1.6.2 shall be applied. If the lamp glass (or glasses) extend(s) over part only of the full aperture of the reflector, then the projection of that part only is taken into account.

In the case of a dipped-beam headlamp, the illuminating surface is limited by the apparent trace of the cut-off on to the lens. If the reflector and glass are adjustable relative to one another, the mean adjustment should be used.'

Item 1.6.4 is hereby amended as follows:

'1.6.4. *Apparent surface*

"Apparent surface", for a defined direction of observation, means the orthogonal projection of the light-emitting surface in a plane perpendicular to the direction of observation (see drawing in Appendix 2) and tangential to the most exterior point of the lens.'

After item 1.6.4 the following new item 1.6.5 shall be added:

1.6.5. *Light-emitting surface*

"Light-emitting surface" means all or part of the exterior surface of the transparent lens that encloses the lighting and light-signalling device and allows compliance with photometric and colorimetric requirements.'

Item 1.8 is hereby amended as follows:

'1.8. *Centre of reference*

"Centre of reference" means the intersection of the axis of reference with the light-emitting surface. This centre of reference is to be specified by the manufacturer of the lamp.'

Item 1.9 is hereby amended as follows:

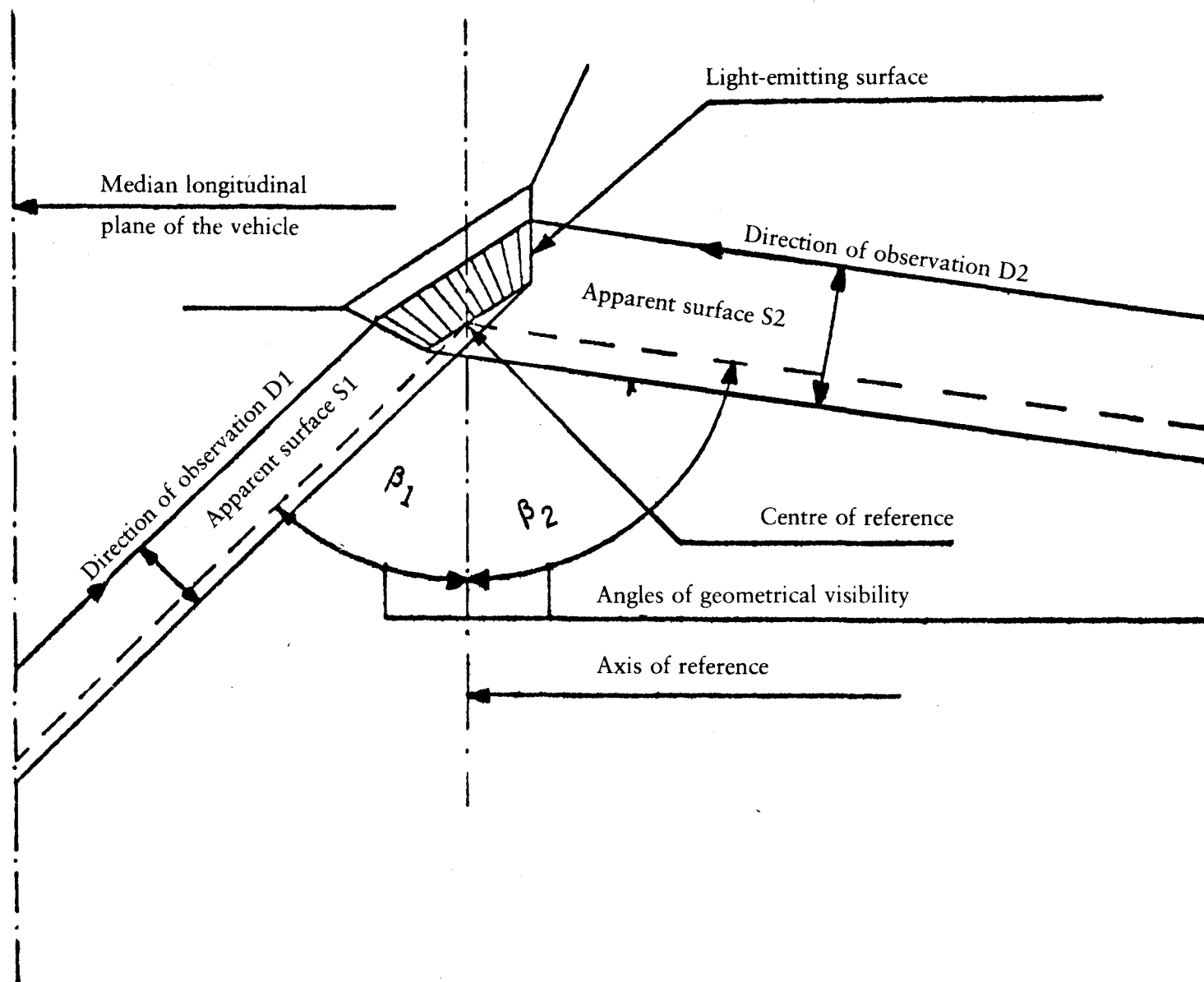
'1.9. *Angles of geometric visibility*

"Angles of geometric visibility" means the angles which determine the field of the minimum solid angle in which the apparent surface of the lamp must be visible. That field of the solid angle is determined by the segments of the sphere of which the centre coincides with the centre of reference of the lamp and the equator is parallel with the ground. These segments are determined in relation to the axis of reference. The horizontal angles β correspond to the longitude and the vertical angles α to the latitude. There must be no obstacle on the inside of the angles of geometric visibility to the propagation of light from any part of the apparent surface of the lamp observed from infinity.

If measurements are taken closer to the lamp, the direction of observation must be shifted parallel to achieve the same accuracy.

On the inside of the angles of geometric visibility no account is taken of obstacles, if they were already presented when the lamp was type-approved.

If, when the lamp is installed, any part of the apparent surface of the lamp is hidden by any further parts of the vehicle, proof shall be furnished that the part of the lamp not hidden by obstacles still conforms to the photometric values prescribed for the approval of the device as an optical unit (see figure below).'



Item 1.12 is hereby amended as follows:

‘1.12. A single lamp

“A single lamp” also means any combination of two or more lamps, whether identical or not, having the same function and emitting light of the same colour, if it comprises devices, the projection of whose aggregate illuminating surfaces in a given transverse plane occupies 60 % or more of the area of the smallest rectangle circumscribing the projections of those illuminating surfaces, provided that such combination is, where approval is required, approved as a single lamp.

This possible combination does not apply to main-beam headlamps, dipped-beam headlamps and front fog lamps.’

Item 1.14 is hereby amended as follows:

‘1.14. Distance between two lamps

“Distance between two lamps” which face in the same direction means the shortest distance between the orthogonal projections in a plane perpendicular to the axes of reference of the outlines of the two illuminating surfaces as defined according to the case mentioned in 1.6. The distance between two lamps may, however, be measured without determining the outlines of the illuminating surfaces exactly, where the distance is clearly in excess of the minimum requirements of the Directive.’

After item 1.17 the following new item 1.18 shall be added:

‘1.18. Ground

“Ground” means the surface on which the vehicle stands which should be substantially horizontal.’

Item 2.2.2 is hereby amended as follows:

- '2.2.2. a list of devices prescribed by the manufacturer for the lighting and light-signalling assembly. The list may include several types of device for each operation. Each type must be duly identified (component type-approval mark, name of manufacturer, etc.);'

Item 2.2.4 is hereby amended as follows:

- '2.2.4. layout drawing(s) for each individual lamp showing the illuminating surfaces as defined in 1.6, the axis of reference as defined in 1.7 and the centre of reference as defined in 1.8.'

Item 3.5.1 is hereby amended as follows:

- '3.5.1. be fitted to the vehicle symmetrically in relation to the median longitudinal plane (this estimate to be based on the exterior geometrical form of the lamp and not on the edge of its illuminating surface referred to in 1.6);'

Item 3.5.2 is hereby amended as follows:

- '3.5.2. be symmetrical to one another in relation to the median longitudinal plane; this requirement is not valid with regard to the interior structure of the lamp;'

Item 3.8 is hereby amended as follows:

- '3.8. The maximum height above ground shall be measured from the highest point and the minimum height from the lowest point of the illuminating surface.
In the case of dipped headlamps, the minimum height in relation to the ground is measured from the lowest edge of the reflector.'

After item 3.8 the following new item 3.8.1 shall be added:

- '3.8.1. The position, as regards width, will be determined from the edge of the illuminating surface which is the furthest from the median longitudinal plane of the vehicle when referred to the overall width, and from the inner edges of the illuminating surfaces when referred to the distance between the lamps.'

Item 3.10 is hereby amended as follows:

- '3.10. No red light emitted from a lamp as defined in 1.5 shall be visible towards the front and no white light emitted from a lamp as defined in 1.5 other than from the reversing lamp shall be visible towards the rear. Lamps used to illuminate the vehicle's interior shall not be taken into consideration in this respect.
This requirement is considered to have been met if:'

Item 3.10.1 is hereby amended as follows:

- '3.10.1. for the visibility of a red light towards the front: there must be no direct visibility of a light-emitting surface of a red lamp if viewed by an observer moving within Zone 1 in a transverse plane situated 25 m in front of the vehicle (see Appendix 3, figure 1);'

Item 3.10.2 is hereby amended as follows:

- '3.10.2. for the visibility of a white light towards the rear: there must be no direct visibility of a light-emitting surface of a white lamp if viewed by an observer moving within Zone 2 in a transverse plane situated 25 m behind the vehicle (see Appendix 3, figure 2).'

Item 3.11 is hereby amended as follows:

- '3.11. The electrical connections must be such that the front and rear position (side) lamps, the end-outline marker lamps if they exist, and the rear registration plate lamp can only be switched on and off simultaneously.

This is not valid when using front and rear position (side) lamps as parking lamps.'

Item 3.15.3 is hereby amended as follows:

- '3.15.3. In the event of a defect in the concealment control or other defects referred to in points 3.15.2.1 and 3.15.2.2, a concealed lighting device shall be capable of being moved into the position of use without the aid of tools.'

Item 3.15.6 is hereby amended as follows:

- '3.15.6. When the concealment device has a temperature of -30 to $+50$ °C the headlamp must be capable of reaching the fully-open position within three seconds of initial operation of the control.'

After item 3.15.6 the following new item 3.16 shall be added:

- '3.16. **Number of lamps**

The number of lamps mounted on the vehicle shall be equal to the number(s) specified in subparagraph 2 of 4.1 to 4.17.'

Item 4.1.4.3 is hereby amended as follows:

- '4.1.4.3. **Length:**

at the front of the vehicle and fitted in such a way that the light emitted does not cause discomfort to the driver either directly or indirectly through the rear-view mirrors and/or other reflecting surfaces of the vehicles.'

Item 4.1.5 is hereby amended as follows:

- '4.1.5. *Geometric visibility*

The visibility of the illuminating surface, including its visibility in areas which do not appear to be illuminated in the direction of observation considered, must be ensured within a divergent space defined by generating lines based on the perimeter of the illuminating surface and forming an angle of not less than 5° with the axis of reference of the headlamp. The origin of the angles of geometric visibility is the perimeter of the projection of the illuminating surface on a transverse plane tangent to the foremost part of the lens of the headlamp.'

Item 4.1.11 is hereby amended as follows:

- '4.1.11. *Tell-tale*

Circuit-closed tell-tale mandatory.'

Item 4.2.5 is hereby amended as follows:

- '4.2.5. *Geometric visibility*

Defined by angles α and β as specified in 1.9:

$\alpha = 15^\circ$ upwards and 10° downwards,

$\beta = 45^\circ$ outwards and 10° inwards.

Since the photometric values required for dipped-beam headlamps do not cover the full geometric field of vision, a minimum value of 1 cd in the space remaining is required for type-approval purposes. The presence of panels or other items of equipment near the light must not give rise to secondary effects causing discomfort to other road users.'

Item 4.2.11 is hereby amended as follows:

- '4.2.11. *Tell-tale*
Tell-tale optional.'

Item 4.3.11 is hereby amended as follows:

- '4.3.11. *Tell-tale*
Tell-tale optional.'

Item 4.4.11 is hereby amended as follows:

- '4.4.11. *Tell-tale*
Tell-tale optional.'

Item 4.5.3 is hereby amended as follows:

- '4.5.3. *Arrangement*
A: Two front direction-indicator lamps (category 1).
Two rear direction-indicator lamps (category 2).
Two side repeating direction-indicator lamps (category 5).

Where lamps combining the functions of front direction-indicator lamps (category 1) and side repeating direction-indicator lamps (category 5) are fitted, two additional side repeating direction-indicator lamps (category 5) may be fitted to meet the visibility requirements of 4.5.5.

B: Two rear direction-indicator lamps (category 2).'

Item 4.5.4.1 is hereby amended as follows:

- '4.5.4.1. *Width:*

The edge of the illuminating surface furthest from the median longitudinal plane of the vehicle must not be more than 400 mm from the extreme outer edge of the vehicle.

The distance between the inner edges of the two illuminating surfaces shall be not less than 600 mm. Where the vertical distance between the rear direction-indicator lamp and the corresponding rear position (side) lamp is not more than 300 mm, the distance between the extreme outer edge of the vehicle and the outer edge of the illuminating surface of the rear direction-indicator lamp must not exceed by more than 50 mm the distance between the extreme outer edge of the vehicle and the outer edge of the illuminating surface of the corresponding rear position (side) lamp.

For front direction-indicator lamps the illuminating surface must not be less than 40 mm from the illuminating surface of the dipped-beam headlamps or front fog lamps, if any. A smaller distance is permitted if the luminous intensity in the reference axis of the direction-indicator lamp is equal to at least 400 cd.'

Item 4.5.8 is hereby amended as follows:

- '4.5.8. *May not be combined*

with another lamp. May be combined only with direction-indicator lamps of another category.'

Item 4.5.11 is hereby amended as follows:

'4.5.11. Tell-tale

Operational tell-tale mandatory for front and rear direction-indicator lamps. It may be optical or auditory or both. If it is optical, it shall be a flashing light which, at least in the event of the malfunction of any of the front or rear direction-indicator lamps, is either extinguished, or remains alight without flashing, or shows a marked change of frequency. If it is entirely auditory it shall be clearly audible and shall show a marked change of frequency, at least in the event of the malfunction of any of the front or rear direction-indicator lamps.

If a motor vehicle is equipped to draw a trailer, it must be fitted with a special optical operational tell-tale for the direction-indicator lamps on the trailer unless the tell-tale of the drawing vehicle allows the failure of any one of the direction-indicator lamps on the vehicle combination thus formed to be detected.'

Item 4.6.10 is hereby amended as follows:

'4.6.10. Electrical connections

The signal shall be operated by means of a separate control enabling all the direction-indicator lamps to flash in phase.'

Item 4.6.11 is hereby amended as follows:

'4.6.11. Tell-tale

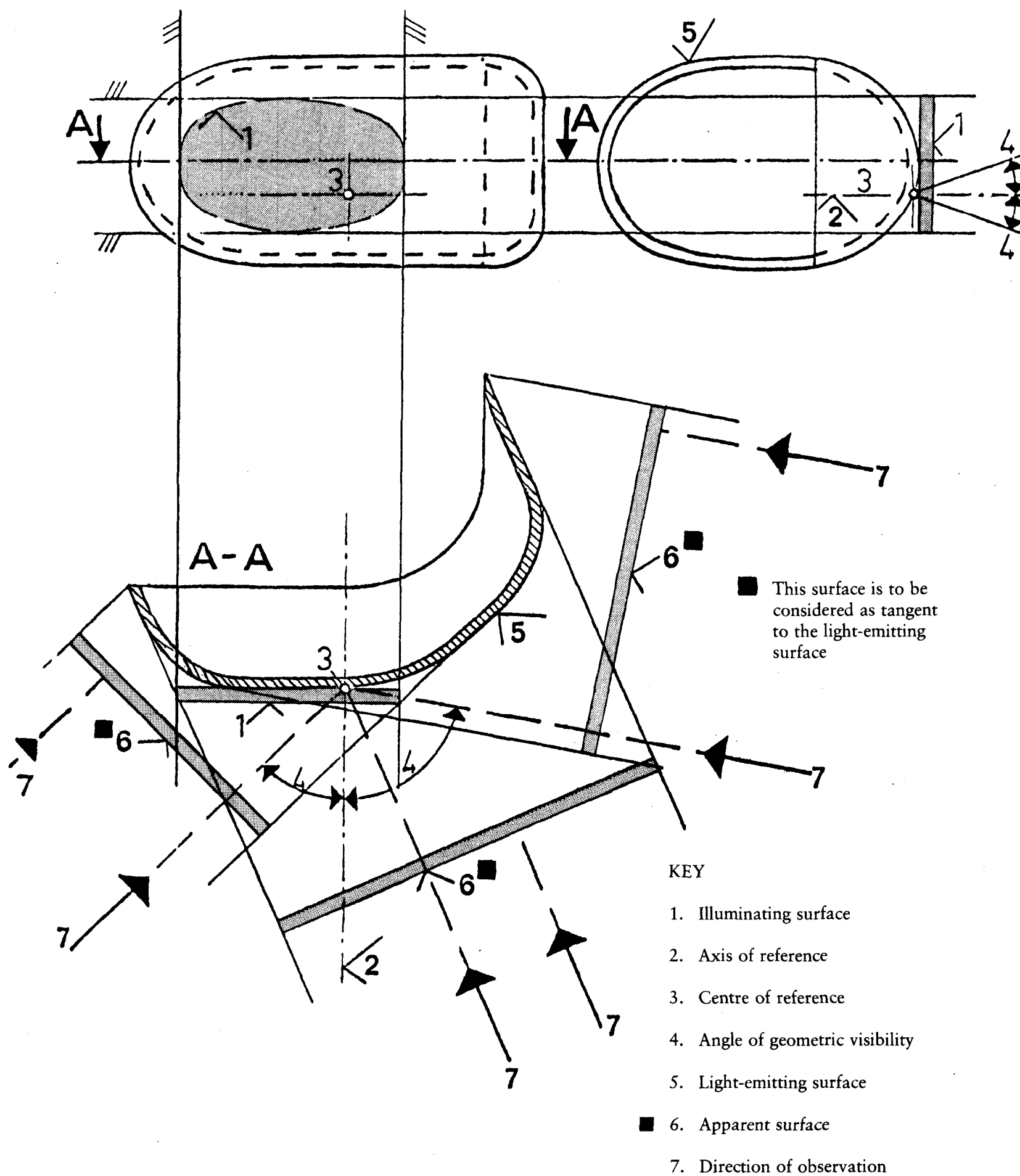
Circuit-closed tell-tale mandatory. Flashing warning light, which can operate in conjunction with the tell-tale(s) specified in 4.5.11.'

Item 4.7.11 is hereby amended as follows:

'4.7.11. Tell-tale

Tell-tale optional. Where fitted, this tell-tale must be an operational tell-tale consisting of a non-flashing warning light which comes on in the event of the malfunctioning of the stop lamps.'

Appendix 2: the drawing is replaced by the following drawing:



ANNEX II

Item 15 is hereby amended as follows:

- '15. The following documents, bearing the type-approval number indicated above, are annexed to this type-approval certificate:

.....List(s) of devices presented by the manufacturer for the lighting and light-signalling assembly; for each device the manufacturer's mark and the component type-approval mark are indicated.'

If expressly requested, these documents must be supplied to the competent authorities of the other Member States.

COMMISSION DECISION

of 5 December 1979

relating to a proceeding under Article 85 of the EEC Treaty (IV/29.011 — Rennet)

(Only the Dutch text is authentic)

(80/234/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 85 thereof,

Having regard to Council Regulation No 17 of 6 February 1962 ⁽¹⁾, and in particular Article 3 thereof,

Having regard to the notification, on 5 March 1975, of its rules by Coöperatieve Stremsel- en Kleurselfabriek, Leeuwarden, the Netherlands,

Having regard to the decision taken by the Commission on 14 February 1978 to initiate proceedings in this case,

Having heard the undertakings concerned in accordance with Article 19 (1) of Regulation No 17 and with Regulation No 99/63/EEC of 25 July 1963 ⁽²⁾,

Having regard to the opinion of the Advisory Committee on Restrictive Practices and Dominant Positions, delivered pursuant to Article 10 of Regulation No 17 on 3 April 1979,

WHEREAS:

I. THE FACTS

The main facts of the case are the following:

1. Background

1. Rennet is a ferment which curdles milk and is found in the lining membrane of the fourth stomach of calves. After extraction and purification it is used in cheese-making. For about 10 years now synthetic rennet has also been manufactured by means of chemical

processes. Rennet falls under Brussels Nomenclature heading No 35.07 covering enzymes.

2. Before 1905 only poor quality rennet was available in the Netherlands. 19 dairy cooperatives in Friesland decided to produce their own rennet and on 7 April 1905 established an association, Coöperatieve Stremsel- en Kleurselfabriek (hereinafter referred to as 'the Cooperative'), to manufacture, or have manufactured, the rennet they required for their cheese-making. Furthermore, the Cooperative was given the task of manufacturing and selling colouring agents for cheese-making; these are principally annatto and carotene.

3. In the ensuing years, all Dutch dairy cooperatives joined the Cooperative; current membership numbers about 40 undertakings. Since 1966 the Cooperative has also supplied rennet and colouring agents to non-members.

4. The Cooperative's rules, drawn up in 1905, were notified to the Commission on 5 March 1975. A revised version became effective on 17 July 1979 and was sent to the Commission.

2. The Cooperative's rules

5. The rules state that the Coöperatieve Stremsel- en Kleurselfabriek is an association of undertakings, formed on a cooperative basis, with the objective of manufacturing, or having manufactured, rennet and colouring agents for cheese on behalf of its members. The Cooperative may also sell these products to third parties.

6. Article 5 (1905 version) stated that only undertakings running one or more dairies on a cooperative basis in the Netherlands could qualify for membership of the Cooperative; since 1979, any undertaking of this type can join, wherever it is established. When a new member joins, it must enter in the association's register a signed and dated statement to the effect that it will abide by the rules of the association. Whereas under the 1905 rules each member was entitled to one vote when decisions were taken at the general meeting, under the 1979 revised rules, the

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

⁽²⁾ OJ No 127, 20. 8. 1963, p. 2268/63.

number of votes for each member depends upon the quantity of rennet it has purchased during the previous year.

7. Under Article 8 (Article 14 in the 1979 version), members are required to purchase from the Cooperative the rennet and colouring agents for cheese they require for their own use. A fine of 500 guilders is imposed if there is an infringement of this obligation.

8. Article 12 (Article 9 in the 1979 version) provides that, in the event of infringement of the rules or rules of procedure or of actions contrary to the interests of the Cooperative, any member may be expelled by a decision of the general meeting passed by a two-thirds majority.

9. Article 13 (Article 10 in the 1979 version) provides that, any member which resigns its membership or is expelled shall pay to the reserve fund of the Cooperative a sum of 2.50 guilders per litre of the average annual

quantity of rennet purchased from the Cooperative over the previous five years' membership. Article 10 of the 1979 rules adds that where a member resigns, but sells its undertaking to a member of the Cooperative, the general meeting can decide to exempt it totally or partially from paying this sum.

3. The Netherlands market in rennet and colouring agents for cheese

10. Production of rennet of animal origin in the Netherlands rose from 580 000 litres in 1970 to roughly 830 000 litres in 1978, and during the same period, production of colouring agents for cheese rose from about 31 000 litres to 60 000 litres.

Since 1971 the Cooperative has manufactured all rennet of animal origin produced in the Netherlands and about 90 % of colouring agents for cheese.

The following table shows developments in the Cooperative's production from 1970 to 1978 ⁽¹⁾:

Year	Production by the Cooperative (in litres)		% of national consumption	
	Rennet of animal origin	Colouring agents	Rennet of animal origin	Colouring agents
1970			97 %	90 %
1971			100 %	90 %
1972			100 %	90 %
1973			100 %	90 %
1974			100 %	90 %
1975			100 %	90 %
1976			100 %	90 %
1977			100 %	90 %
1978			100 %	90 %

11. The Cooperative supplies approximately 94 % of its rennet output and 80 % of its output of colouring agents to members, who account for over 90 % of the Netherlands products, the remainder of its output is sold to non-member cheese-makers in the Netherlands.

The table below gives the trend of quantities and prices of rennet and colouring agents sold by the Cooperative since 1970.

⁽¹⁾ In the published version of the Decision, some figures have hereinafter been omitted, pursuant to the provisions of Article 21 of Regulation No 17 concerning non-disclosure of business secrets.

Year	Rennet (in litres)			Colouring agents (in litres)		
	Sales to members	Sales to non-members	Average price	Sales to members	Sales to non-members	Average price
1970						
1971						
1972						
1973						
1974						
1975						
1976						
1977						
1978						

12. It can be seen that the price of rennet has fluctuated considerably since 1970; the movements are directly linked to the state of the market in calves' fourth stomachs, of which supplies vary substantially from year to year. Moreover, an Order of the Minister for Agriculture of 7 January 1970 ⁽¹⁾ prohibited the use of synthetic rennet in cheese-making in the Netherlands. However, a number of authorizations were given by the Ministry of Agriculture to allow the use of synthetic rennet; in 1973 in particular, the AKZO group announced that it had managed to improve the quality of its synthetic rennet and many users not belonging to the Cooperative applied to the Netherlands Minister for Agriculture for authorization to use this type of rennet.

13. These purchases can also be explained by the fact that synthetic rennet, which usually costs less than animal rennet, became particularly cheap at the beginning of the 1970's. Non-member cheese-makers felt that the difference in price was great enough to offset the slightly poorer quality of certain cheeses (notably Gouda) made with synthetic rennet.

14. Two years later, these authorizations were withdrawn on the grounds that the use of synthetic rennet made slightly bitter Gouda cheese.

15. Netherlands cheese-makers not belonging to the Cooperative may therefore no longer use synthetic rennet, but since they are not subject to the purchasing obligation laid down in the Cooperative's rules, they can still purchase rennet of animal origin produced outside the Netherlands, notably in the other Member States.

4. Production and trade in rennet and colouring agents for cheese in the Community

16. The main Community countries producing rennet of animal origin are Germany, France, Denmark and the Netherlands. Annatto and carotene are principally produced in Denmark, the Netherlands and France.

17. Trade in rennet within the Community in 1976, 1977 and 1978 is illustrated by the table below.

⁽¹⁾ Staatscourant No 19, 28. 1. 1970.

Imports of liquid rennet in 1976, 1977 and 1978

Source: Eurostat — Analytical external trade tables

(tonnes)

Origin \ Destination		Belgium/ Luxembourg	Denmark	Germany	France	Ireland	Italy	Netherlands	UK
Belgium/ Luxembourg	1976								
	1977			23					
	1978								
Denmark	1976	9		43	3	8			27
	1977	4		49		2		1	
	1978	1		57	16	5			
Germany	1976	13	89		44		35	5	1
	1977	17	120		65		14	9	1
	1978	16	81		52		36	1	
France	1976	14	39	12					11
	1977	12	93	2					10
	1978	22	21	15			153		6
Ireland	1976								
	1977								
	1978								
Italy	1976								
	1977								
	1978		8	2					
Netherlands	1976	2		43	27		1		
	1977								
	1978	3		6	6		1		17
UK	1976		134	11	3	117			
	1977		120	31	7	141	19		
	1978		40	73	2	105	7		
Total	1976	38	262	109	77	125	36	5	39
	1977	33	333	112	72	2	33	10	39
	1978	42	150	174	76	110	197	1	23

The table reveals that in those years only 16 tonnes of rennet were imported into the Netherlands. In contrast, other Community countries import quite large amounts, chiefly from Denmark, Germany, France and the United Kingdom.

The quantities exported by the Netherlands to other Community countries (mainly France and Germany) consist solely of synthetic rennet supplied by the AKZO group. The Cooperative has never supplied rennet of animal origin to other Member States.

18. There are no official statistics concerning trade in annatto and carotene. However, on the basis of

information obtained during examination of this case, it seems that Denmark is the principal exporter and supplies in particular France, the United Kingdom, Belgium and the Netherlands.

II. APPLICABILITY OF ARTICLE 85 (1) OF THE TREATY

19. Article 85 (1) of the EEC Treaty prohibits as incompatible with the common market all agreements between undertakings, decisions by associations of undertakings and concerted practices, which may affect

trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the common market.

20. The members of the Cooperative are dairy cooperatives which make and sell milk products and therefore constitute undertakings within the meaning of Article 85 of the EEC Treaty.

21. The rules were adopted on 7 April 1905 by an agreement entered into between the founder members of the Cooperative. As new members joined they gave their written agreement to the provisions of the rules, notably those which require members to purchase the whole of their requirements of rennet and colouring agents for cheese from the Cooperative. The provisions contained in the Cooperative's rules therefore constitute an agreement between undertakings within the meaning of Article 85 of the EEC Treaty.

22. The purchasing obligation, imposed on members of the Cooperative, which is enforced by the threat of a fine and reinforced by other provisions of the rules which provide, in case of infringement, for expulsion from the Cooperative and payment of a sum which is proportionate to the average quantity of rennet purchased each year, appreciably restricts competition within the common market. Because of this obligation, the dairy cooperatives belonging to the Cooperative, which represent over 90 % of the Netherlands dairy products industry, are prevented from purchasing rennet and colouring agents for cheese from other suppliers and are thus subject to a requirement to purchase the products exclusively from the Cooperative.

23. Other suppliers of rennet of animal origin, the only type of rennet authorized for cheese-making in the Netherlands, are located mainly in Germany, France and Denmark. Their rennet of animal origin is of excellent quality and their prices are comparable to those of the Cooperative. There are in the Community many other suppliers of colouring agents used in the dairy industry. The obligation of exclusive purchase laid down in Article 8 (Article 14 in the 1979 version) of the Cooperative's rules and reinforced by the provisions of Articles 12 and 13 (Articles 9 and 10 in the 1979 version) prevents members from purchasing rennet and colouring agents produced in other Community countries. Trade between Member States is therefore liable to be affected to an appreciable degree.

24. Article 13 (Article 10 in the 1979 version) of the rules provides that a member must pay to the reserve

fund a sum of 2.50 guilders per litre of the average annual amount of rennet purchased from the Cooperative whether it is expelled or resigns from the Cooperative. The figures submitted by the Cooperative reveal that each year approximately litres of rennet are supplied to the 44 members, an average of about litres per member. The sum payable in case of voluntary resignation would amount therefore on average to about guilders. In view of the rather limited financial resources of the Netherlands dairy cooperatives, payment of such a sum could prove an appreciable burden, the size of which is increased for members having large rennet requirements because the sum is proportional to the amount of rennet purchased annually by members. This provision therefore makes resignation very difficult, if not impossible, for any member wishing to obtain supplies from some other source in the Community or produce its own rennet and thus compete with the Cooperative.

Since the members of the Cooperative account for over 90 % of the Netherlands market in rennet of animal origin and there is only one producer in the Netherlands, this provision has the object and effect of helping to preserve a non-competitive structure in a substantial part of the common market. The requirement to pay this sum on resignation constitutes an appreciable restriction of competition within the common market.

25. This restriction is also liable to appreciably affect trade between Member States. It is difficult for members to resign from the Cooperative, whether in order to purchase freely in other Community countries or to set up competing production centres which could also sell rennet in other Member States.

III. INAPPLICABILITY OF COUNCIL REGULATION No 26

26. Rennet and colouring agents for cheese are not products listed in Annex II to the EEC Treaty, so that Council Regulation No 26 of 4 April 1962 applying certain rules of competition to production of and trade in agricultural products ⁽¹⁾ is not applicable in this case.

⁽¹⁾ OJ No 30, 20. 4. 1962, p. 993/62.

27. The field of application *ratione materiae* of that Regulation is restricted to the agricultural products listed in Annex II to the Treaty. Article 42 of the Treaty, on which that Regulation is based, provides for derogations from the rules of competition solely for production of and trade in the agricultural products listed in Annex II to the Treaty pursuant to Article 38 (1) and (3) of the Treaty. This is also confirmed by the wording of Articles 1 and 2 of Regulation No 26.

30. Consumers, who in this case are Netherlands purchasers of rennet and colouring agents for cheese, who may or may not be members of the Cooperative, and purchasers of cheese produced by members of the Cooperative, have had a fair share of the benefit resulting from the agreement. Thus, cost savings achieved in production have always been passed on in full in the price of products sold to members and non-members, because the Cooperative makes no profit and supplies anyone who wishes to purchase the products; for their part, final consumers have been able to purchase cheese made with better quality rennet at a low price; for these reasons, the agreement also fulfils the second condition set out in Article 85 (3).

IV. INAPPLICABILITY OF ARTICLE 85 (3) OF THE TREATY

28. Under Article 85 (3) of the Treaty the provisions of Article 85 (1) may be declared inapplicable in the case of any agreement or category of agreements between undertakings, any decision or category of decisions by associations of undertakings and any concerted practice or category of concerted practices which contributes to improving production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefits, and which does not impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives or afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

29. The agreement of 7 April 1905 between the undertakings which established the Coöperatieve Stremsel- en Kleurselfabriek in order to make or have made rennet and colouring agents for cheese which they needed for the manufacture of cheese has, in particular, contributed to improving production of these products in the Netherlands. The rennet produced by the Cooperative is of a better quality than that previously available on the Netherlands market. This high quality attracted dairy cooperatives which had not initially joined, and as a result the Cooperative not only extended its membership to most dairy cooperatives but also began to supply large quantities of rennet to non-members. Furthermore, the fact that the Cooperative maintains stocks of rennet for its members' use and for the use of non-members constitutes a definite economic advantage because it allows a constant and regular supply of the products concerned; thus by its principal object, the agreement fulfils one of the first conditions for the application of Article 85 (3).

31. However, the above-stated restrictions laid down in the rules, that is to say on the one hand, the exclusive purchasing obligation imposed on members, and on the other hand, the obligation to pay a sum in case of resignation, are not essential in order to attain the abovementioned advantages; these improvements in quality and the reduction in production costs, as well as the build-up of stocks and the profit thereby accruing to consumers are the result of an improved production process made possible by joint production; it is, however, not essential, in order to achieve these favourable results, to impose upon members an obligation to purchase exclusively from the Cooperative and to lay down in the rules binding measures which prevent them from leaving it; the undertakings concerned argued that these restrictions were essential because of the need to plan the manufacture of the products concerned; such planning, while useful, does not make the clause concerning exclusive purchasing, or the obligation to pay a sum upon resignation essential; this is all the more true since non-member users of rennet have been purchasing the product from the Cooperative without being subject to any purchasing obligation; less restrictive solutions do exist, such as an obligation to purchase a limited quantity of products from the Cooperative, or an obligation to give notice of withdrawal; these solutions would not prevent planning relating to the manufacture and stocking of the products concerned; however, it appears from the rules as they stand now that no such solutions have been accepted by the undertakings concerned.

32. Moreover, if a given undertaking can match the manufacturing costs and selling prices of other producers, it will be able to acquire and retain a share of the market without having to impose such restrictions on its member's freedom of action. Since it

was founded more than three quarters of a century ago, the producers' cooperative association has had more than enough time to test its profitability. It can therefore no longer need protecting by measures under which it supplies all its members' requirements and making it very difficult if not impossible for a member to resign, particularly since its membership is large and the demand it provides represents about 90 % of total demand in the Netherlands.

33. In the present case, the exclusive purchasing arrangements agreed between the members of the Cooperative and the payment of a sum of money on resignation provided for in Article 13 (Article 10 in the 1979 version) of the rules have the effect of virtually eliminating competition on almost the entire Netherlands market in rennet and colouring agents for cheese.

34. The agreement accordingly fails two of the tests for exemption under Article 85 (3) and cannot be exempted.

V. APPLICABILITY OF ARTICLE 3 OF COUNCIL REGULATION No 17

35. Under Article 3 (1) of Regulation No 17, where the Commission finds, upon application or upon its own initiative, that there is infringement of Article 85 of the Treaty, it may by decision require the undertakings and associations of undertakings concerned to bring such infringement to an end.

For the reasons set out above, the Coöperatieve Stremsel- en Kleurselfabriek has infringed Article 85 of the EEC Treaty, and the undertakings concerned must

be required to bring such infringements to an end without delay,

HAS ADOPTED THIS DECISION:

Article 1

The exclusive purchasing arrangements laid down in Article 8 (Article 14 in the 1979 version) of the rules of the Coöperatieve Stremsel- en Kleurselfabriek and Articles 12 and 13 (Articles 9 and 10 in the 1979 version) of those rules, and the obligation laid down in Article 13 (Article 10 in the 1979 version) of such rules requiring a resigning member to pay a sum proportional to the quantity of rennet purchased each year from the Cooperative, constitute infringements of Article 85 (1) of the Treaty establishing the European Economic Community.

Article 2

The application for exemption under Article 85 (3) of the Treaty establishing the European Economic Community is hereby refused.

Article 3

The undertakings to which this Decision is addressed shall ensure that the infringements referred to in Article 1 are brought to an end without delay.

Article 4

This Decision is addressed to the Coöperatieve Stremsel- en Kleurselfabriek, Emmakade 158, Leeuwarden, The Netherlands, and to the following undertakings:

Coöperatieve Zuivelfabriek en Melkinrichting 'Linge', Schoolstraat 2, Arkel,

Asser Coöperatieve Melkinr. en Melkprod. fabriek 'Acmesa', Parallelstraat 8, Assen,

Coöperatieve Ver. tot Expl. van Zuivel. en Melkprod. fabrieken 'De Combinatie', Rijperweg 20 M, Westbeemster,

Coöperatieve Melkproduktenbedrijven 'Domo-(Bedum)', De Perk 30, Beilen,

Coöperatieve Fabriek van Melkprodukten 'De Stichting', Hulsterstraat 20, Buren,

Coöperatieve Zuivelfabriek 'Noord-Oostergo', Betterwird 10, Dokkum,

Coöperatieve Zuivelfabriek 'Het Klaverblad', Schapendrift 1, Donkerbroek,

Coöperatieve Zuivelfabriek 'Ee en Omstreken', B C Bos, Ee,

Coöperatieve Zuivelvereniging 'Campina' D. Boutsiaan 2, Eindhoven,

Coöperatieve Zuivelfabriek 'Ezinge' Swinderenweg 26, Ezinge,
Melkunie Gelderen B.V. v/h Coöperatieve Melkverw. ver. 'Land van Heusden en Altena',
Hoofdstraat 43, Genderen,
Coöperatieve Zuivelindustrie 'Twee Provinciën', Verlaatsterweg 26, Gerkesklooster,
Coöperatieve Zuivelfabriek 'Trynwalden en Omstreken', Nautaweg 3, Giekerk,
Coöperatieve Zuivelfabriek 'Samenwerking', Neerpolderseweg 34, Ciessenburg,
Coöperatieve Zuivelfabriek 'De Goede Verwachting', Wagenstraat 16, Gilze,
Melkunie v/h Coöperatieve Melkcentrale le v.d. Kunstraat 116, 's-Gravenhage,
Coöperatieve Zuivelfabriek 'De Eensgezindheid', Dorpstraat 58, Den Ham,
Vecolac — v/h Coöperatieve Zuivelfabriek 'Juliana', Veerweg 3, Hasselt,
Coöperatieve Zuivelfabriek 'Havelte', Havelte,
Coöperatieve Zuivelfabriek 'Heerde' Kanaaldijk 123, Heerde,
Coöperatieve Zuivelindustrie 'De Toekomst', Heerenveen,
Coöperatieve Zuivelfabriek 'Ameland', Nijenhuis, Hollum,
Coöperatieve Melkverwerkingsvereniging 'DOC', Alteveerstraat 70, Hoogeveen,
Coöperatieve Zuivelfabriek 'Koekange', Dorpstraat 9, Koekange,
Friesche Coöperatieve Zuivel-Export Vereniging, Snekertrekweg 5, Leeuwarden,
Zuivelfabriek 'De Vereniging', Dusseldorperweg 38, Limmen,
Coöperatieve Zuivelfabriek 'De Eendracht' Wemeweg 19, Makkinga,
Coöperatieve Zuivelfabriek 'Zuidelijk Westerkwartier' Noorderringweg 33, Marum,
Coöperatieve Zuivelfabriek 'De Venen', Kolderveen 28, Nijeveen,
Coöperatieve Zuivelfabriek 'Norg', Eenerstraat 25, Norg,
Coöperatieve Zuivelfabriek 'De Goede Verwachting', Oosterwoldseweg 56, Oldeberkoop,
Coöperatieve Zuivelfabriek en Melkinrichting 'Oldewe', Bentheimerstraat 13, Oldenzaal,
Coöperatieve Zuivelindustrie 'De Zuid-Oosthoek' Nanningaweg 20, Oosterwolde,
Coöperatieve Zuivelfabriek 'De Eendracht' Iendrachtsingel 2, Opeinde,
Coöperatieve Ver. tot Expl. van Melkprod. fabrieken 'Noord-Holland', Koninginneweg 1,
Opmeer,
Coöperatieve Zuivelfabriek 'Huisternoord', Husternoord 2, Oudwoude,
Coöperatieve Melkproduktenfabriek 'Hovo', Kanaalstraat wz 12, Raalte,
Coöperatieve Zuivelfabriek 'De Toekomst', de Kapelle 4, Rinsumageest,
Coöperatieve Fabriek van Melkprodukten 'Roden-Zevenhuizen', Kanaalstraat 62, Roden,
Zuivelfabriek Campina v/h Coöperatieve Centrale Zuivelvereniging 'De Maasvallei', Pre
Bernhardstraat 43, Roermond,
Zuivelfabriek Campina v/h Coöperatieve Zuivelbedrijven 'Brabant-Zeeland', Industriestraat
15/a, Roosendaal,
Coöperatieve Zuivelfabriek 'De Vlijt' Oude rijkweg 649, Rouveen,
Coöperatieve Zuivelfabriek 'De Eendracht', Fatheraatgerstraat 8, Rossum,
Coöperatieve Zuivelfabriek 'De Kleine Winst', Oude Rijksweg 395, Rouveen,
Coöperatieve Zuivelfabriek 'Algemeen Belang', Dijkhuizen 94, Ruinerworld,
Coöperatieve Zuivelfabriek 'Ons Belang', Gemeenteweg 299, Staphorst,

Coöperatieve Zuivelfabriek 'De Toekomst', Pepergaweg 144, Steggerda,
Coöperatieve Biol. Zuivelveren 'Skylge' v/h Coöperatieve Zuivelfabriek 'Terschelling'
Formrum 48, Terschelling,
Zuivelfabriek Campina v/h Coöperatieve Zuivelvereniging 'Centraal Brabant',
Wilhelminapark 70, Tilburg,
Coöperatieve Zuivelfabriek 'De Eendracht', Markt 1, Tubbergen,
Coöperatieve Vereniging v/h Coöperatieve Zuivelindustrie 'Novac', Tukseweg 148,
Steenwijk,
Coöperatieve Zuivelindustrie 'De Foarutgong', Twijzel,
Coöperatieve Fabr. Melk- en Zuivelpr. 'Vecolac-Vollenhove', Weg v. Rollecate 19,
Vollenhove,
Vordense Coöperatieve Zuivelfabriek, Burg. Galleestraat 19, Vorden,
Coöperatieve Zuivelfabriek 'Wapserveen', Midden 69, Wapserveen,
Coöperatieve Zuivelfabriek 'Westerbork', Westeinde 37, Westerbork,
Ver. Coöperatieve Zuivelfabriek 'Combinatie O. Groningen', Grachtstraat 1, Winschoten,
Coöperatieve Zuivelindustrie 'De Goede Verwachting', Spoardijk 21, Workum,
Coöperatieve Fabriek van Melkprodukten 'Rogat', Rogat 12, De Wijk,
Coöperatieve Melkverwerkingsver. DOC v/h Coöperatieve Zuivelfabriek 'Eendracht',
Hoofdstraat 28, Zuidwolde,
Verenigde Coöperatieve Melkindustrie 'Coberco, Stationplein 37, Zutphen.

Done at Brussels, 5 December 1979.

For the Commission

Raymond VOUEL

Member of the Commission

COMMISSION DECISION

of 21 December 1979

authorizing Denmark and the Federal Republic of Germany to apply special health guarantees for the prevention of leucosis in the case of bovine animals imported for breeding or production

(Only the Danish and German texts are authentic)

(80/235/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 64/432/EEC of 26 June 1964 on animal health problems affecting trade in bovine animals and swine ⁽¹⁾, as last amended by Directive 79/580/EEC ⁽²⁾, and in particular Article 8 (2) thereof,

Whereas in accordance with Article 8 (2) of Council Directive 64/432/EEC a Member State may be authorized, under the procedure laid down in Article 12 and the conditions fixed under that procedure, to apply for intra-Community trade, health guarantees equivalent at most to those required by that Member State within the framework of a national programme for the prevention of a contagious or infectious bovine or swine disease which is not referred to in Annex E to the abovementioned Directive;

Whereas by Commission Decision 77/331/EEC of 22 April 1977 ⁽³⁾, as last amended by Decision 79/80/EEC ⁽⁴⁾, Denmark has already, by this procedure, been authorized to apply special health guarantees for the prevention of leucosis in the case of bovine animals imported for breeding or production;

Whereas by Commission Decision 73/30/EEC of 23 January 1973 ⁽⁵⁾, as last amended by Decision 79/80/EEC, the Federal Republic of Germany has also, by this procedure, been authorized to apply special health guarantees for the prevention of leucosis in the case of bovine animals imported for breeding or production;

Whereas Denmark and the Federal Republic of Germany by communications of 20 and 5 November

1979 respectively, have requested permission to apply special health guarantees in respect of leucosis for bovine animals imported for breeding or production originating in a Member State and intended in particular for combining with bovine stock not under suspicion for leucosis;

Whereas Denmark and the Federal Republic of Germany have submitted national plans for the accelerated eradication of leucosis which were approved by Commission Decisions 78/481/EEC ⁽⁶⁾ and 79/48/EEC ⁽⁷⁾; whereas these plans are currently implemented;

Whereas the special health guarantees which Denmark and the Federal Republic of Germany wish to apply in intra-Community trade in bovine animals for breeding or production are equivalent at most to those which these Member States apply within the framework of their national programmes for the prevention of leucosis; whereas their requests can therefore be granted;

Whereas Denmark and the Federal Republic of Germany have requested that the authorizations take effect on 1 January 1980; whereas the authorizations should be given for a limited period so as not to prejudice harmonization at a later stage;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION :

Article 1

From 1 January to 31 December 1980, Denmark and the Federal Republic of Germany are authorized to

⁽¹⁾ OJ No 121, 29. 7. 1964, p. 1977/64.

⁽²⁾ OJ No L 158, 26. 6. 1979, p. 17.

⁽³⁾ OJ No L 116, 7. 5. 1977, p. 13.

⁽⁴⁾ OJ No L 17, 21.1. 1979, p. 22.

⁽⁵⁾ OJ No L 77, 26. 3. 1973, p. 40.

⁽⁶⁾ OJ No L 152, 8. 6. 1978, p. 23.

⁽⁷⁾ OJ No L 13, 19. 1. 1979, p. 63.

require the application of the health guarantees laid down in Article 2 on entry into their territory of bovine animals for breeding or production, originating from the territory of another Member State and intended for combining with bovine stock not under suspicion of leucosis.

Article 2

The health guarantees referred to in Article 1 shall consist of the production of a certificate issued on the day of embarkation by an official veterinarian, drawn up, as a minimum requirement, in the language of the country of destination and certifying:

1. that the veterinarian has no official knowledge of facts which would lead him to conclude that a case of leucosis has occurred within the three preceding years in the bovine herd stock of origin, and that the owner of this herd had declared in writing that he has no knowledge of such facts and that he has also, in writing, further declared that the animal or animals intended for intra-Community trade have either been born and bred in the said

herd or have remained an integral part of it for the previous 12 months;

2. that during the past 12 months all the bovine animals over 12 months of age forming part of the bovine herd stock of origin have reacted negatively to a serological test carried out in accordance with Annex A or a haematological test carried out in accordance with Annex B.

Article 3

This Decision is addressed to the Kingdom of Denmark and the Federal Republic of Germany.

Done at Brussels, 21 December 1979.

For the Commission

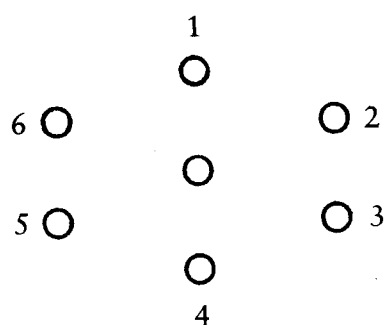
Finn GUNDELACH

Vice-President

ANNEX A

A. Agar gel immuno diffusion test

1. The antigen to be used in the test shall contain bovine leucosis virus glyco proteins. The antigen shall be standardized against a standard serum (EI serum) supplied by the State Veterinary Serum Laboratory, Copenhagen.
2. The official institutes indicated below shall be made responsible for calibrating the working laboratory standard antigen against the official EEC standard serum (EI serum) provided by the State Veterinary Serum Laboratory, Copenhagen.
 - (a) Germany: Bundesforschungsanstalt für Viruskkrankheiten der Tiere — Tübingen;
 - (b) Denmark: Statens Veterinaere Serum Laboratorium, Copenhagen.
3. The working laboratory standard antigens shall be submitted for testing against the official EEC standard serum at least once a year to the EEC reference laboratories listed in paragraph 2 above. Besides this standardization the antigen in use can be calibrated according to paragraph B.
4. The reagents for the test shall consist of:
 - (a) antigen: the antigen shall contain specific glycoproteins of enzootic bovine leucosis virus which has been standardized against the official EEC serum;
 - (b) the test serum;
 - (c) known positive control serum;
 - (d) Agar-gel,
 - 0.8 % agar,
 - 8.5 % NaCl,
 - 0.05 M Tris-buffer pH 7.2.
 15 ml of this agar shall be filled into a petri dish of 85 mm diameter, resulting in a depth of 2.6 mm agar.
5. A test pattern of seven moisture-free wells shall be cut in the agar to the bottom of the plate; the pattern shall consist of one centre well and six wells in a circle around it.
 - Diameter of central well : 4 mm,
 - diameter of peripheral wells: 6 mm,
 - distance between central and peripheral wells: 3 mm.
6. The central well shall be filled with the standard antigen. The peripheral wells 1 and 4 (according to scheme) are filled with known positive serum, the wells 2, 3, 5 and 6 are filled with test sera. The wells shall be filled until the meniscus disappears.



7. This results in the following amounts of reagents:
antigen: 32 microlitres,
control serum: 73 microlitres,
test sera: 73 microlitres.
8. Incubation shall be for 72 hours at room temperature (20 to 27 °C) in a closed humid chamber.
9. The test may be read at 24 and 48 hours but a final result may not be obtained before 72 hours.
 - (a) A test serum is positive if it forms a specific precipitin line with the BLV antigen and forms a complete line of identity with the control serum.
 - (b) A test serum is negative if it does not form a specific line with the BLV antigen and if it does not bend the line of the control serum.
 - (c) The reaction would be considered inconclusive if it:
 - (i) bends the line of the control serum towards the BLV antigen well without forming a visible precipitin line with the antigen, or
 - (ii) if it cannot be read either as negative or as positive.

In inconclusive reactions the test may be re-run and concentrated serum may be utilized.

B. Method for antigen standardization

Necessary solutions and materials :

1. 40 ml of 1.6 % agarose in 0.05 M Tris/HCl buffer, pH 7.2 with 8.2 % NaCl;
2. 15 ml of a bovine leucosis serum, having antibody only to bovine leucosis virus glycoproteins, diluted 1 : 10 in 0.05 M Tris/HCl buffer, pH 7.2 with 8.5 % NaCl;
3. 15 ml of a bovine leucosis serum, having antibody only to bovine leucosis virus glycoproteins, diluted 1 : 5 in 0.5 M Tris/HCl buffer, pH 7.2 with 8.5 % NaCl;
4. four plastic petri dishes with a diameter of 85 mm;
5. a punch with a diameter of 4 to 6 mm;
6. a reference antigen;
7. the antigen which is to be standardized;
8. a waterbath (56 °C).

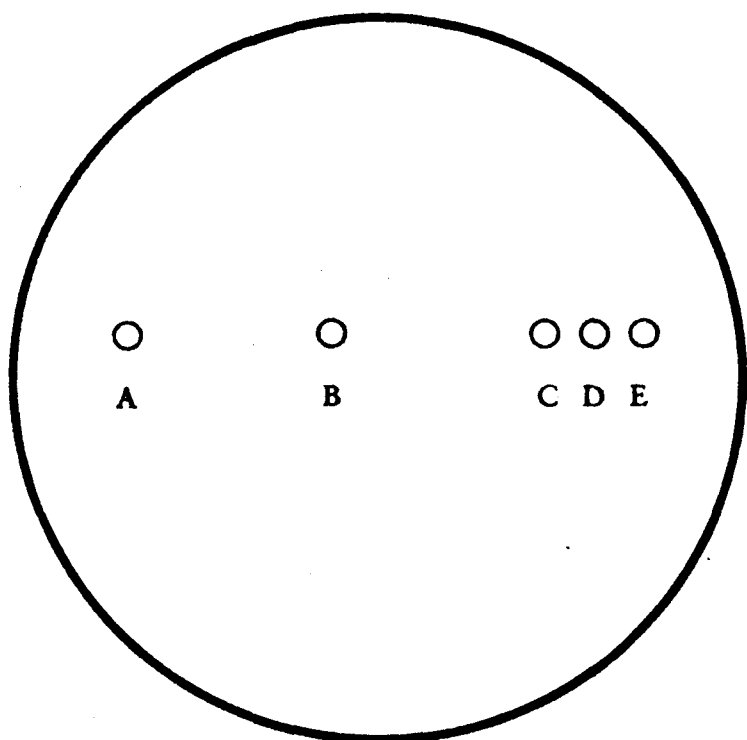
Procedure

Dissolve the agarose (1.6 %) in the Tris/HCl buffer by carefully heating to 100 °C. Place in 56 °C water bath for approximately one hour. Also, place the bovine leucosis serum dilutions in 56 °C water bath.

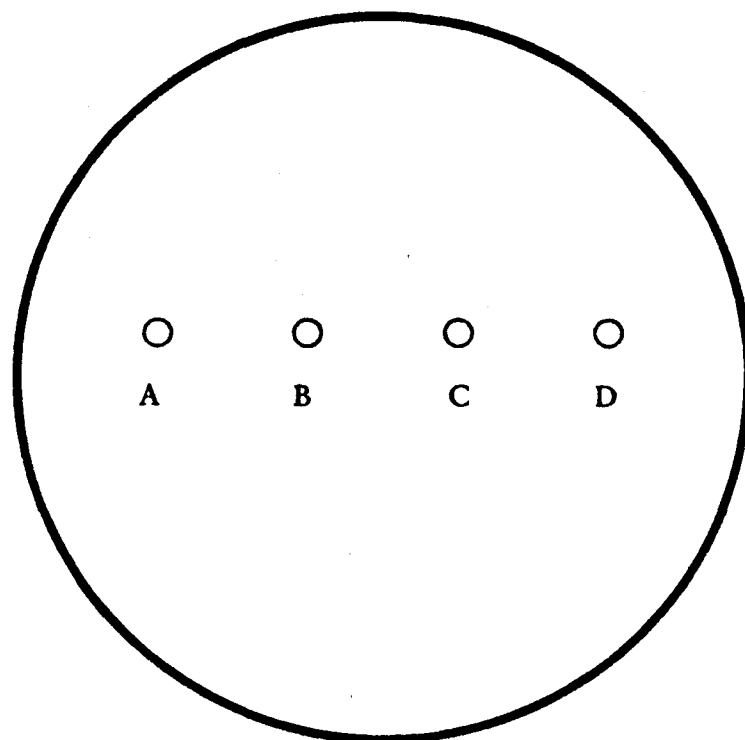
Now mix 15 ml of the 56 °C agarose solution with the 15 ml bovine leucosis serum (1 : 10), quickly shake and pour 15 ml into two petri dishes each. Repeat this procedure with the bovine leucosis serum diluted 1 : 5.

When the agarose has hardened, holes are punched according to the following scheme:

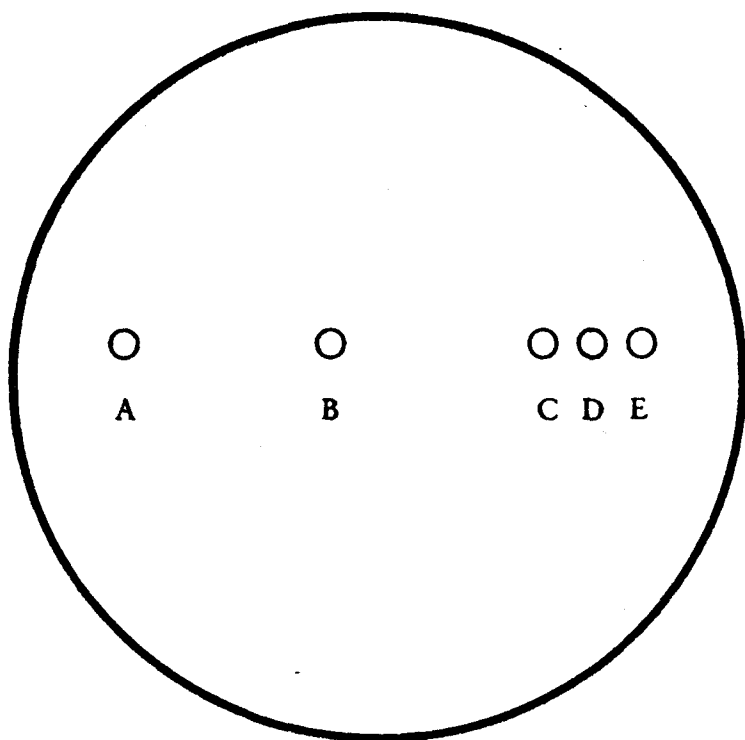
Petri dish No 1
Serum 1 : 10



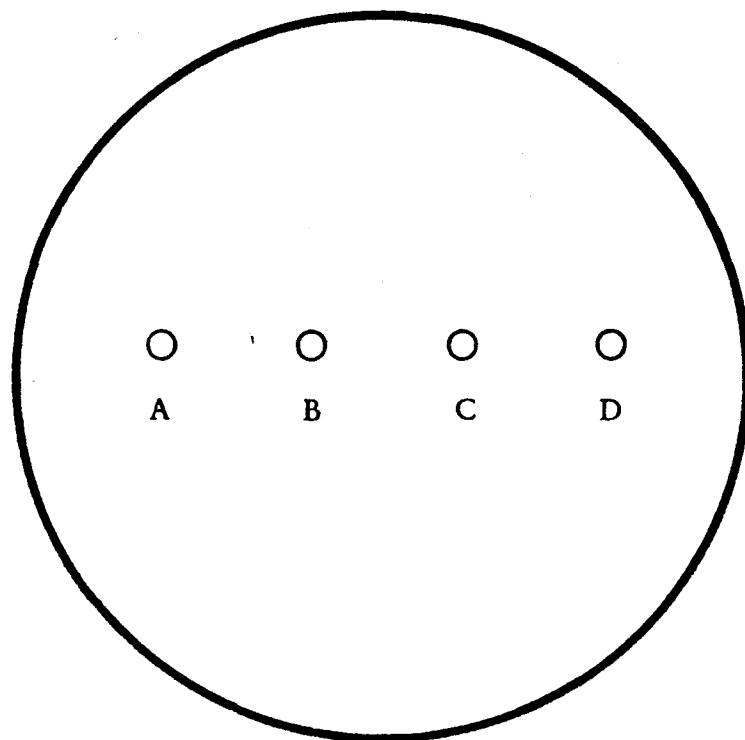
Petri dish No 2
Serum 1 : 10



Petri dish No 3
Serum 1 : 5



Petri dish No 4
Serum 1 : 5



Addition of antigen:

I. Petri dishes 1 and 3:

- well A — undiluted reference antigen,
- well B — 1 : 2 diluted reference antigen,
- well C and E — reference antigen,
- well D — undiluted antigen to be tested.

II. Petri dishes 2 and 4:

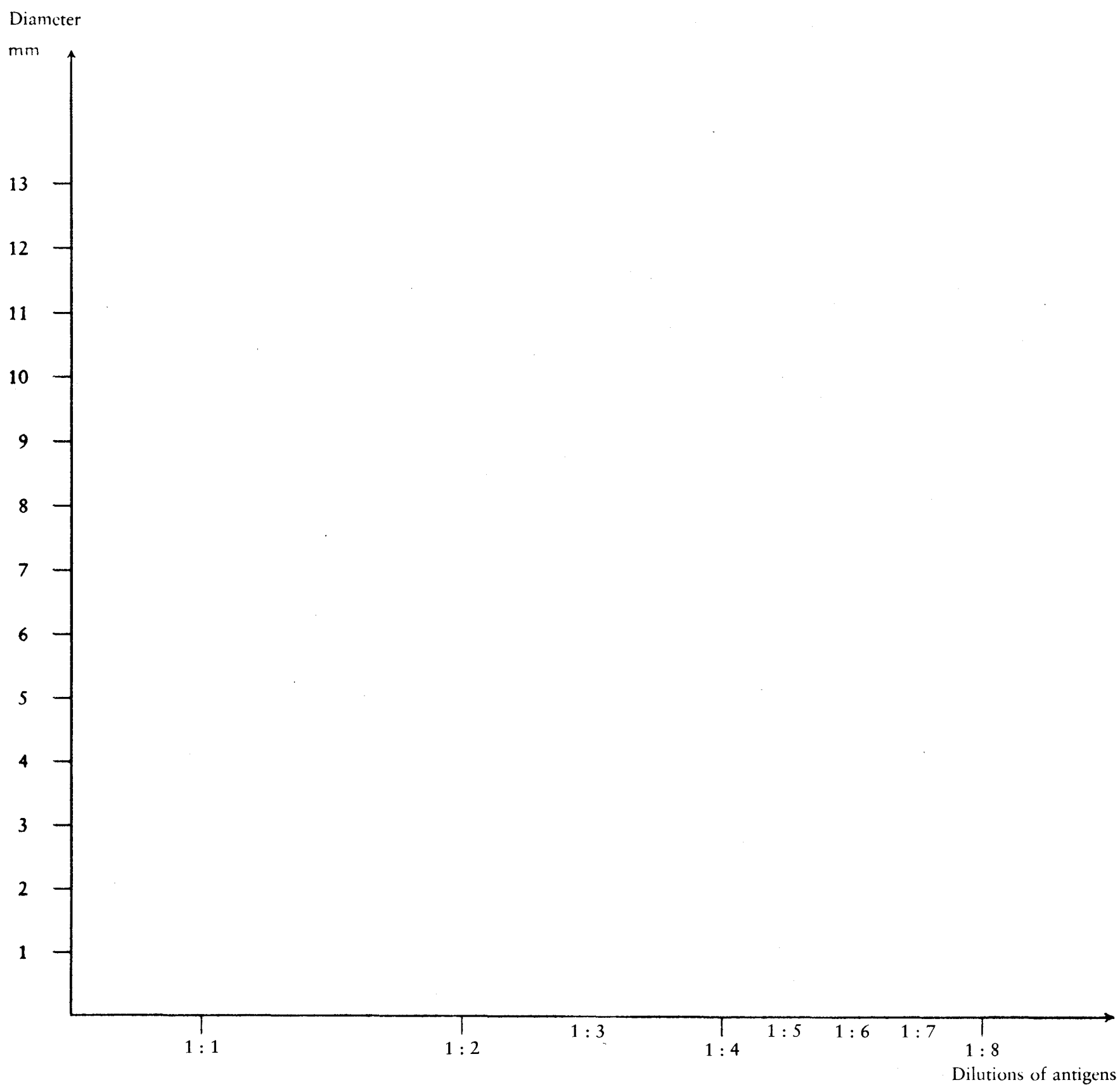
- well A — undiluted test antigen,
- well B — 1 : 2 diluted test antigen,

well C — 1 : 4 diluted test antigen,

well D — 1 : 8 diluted test antigen.

Additional instructions

1. The experiment shall be carried out with two serum dilutions (1 : 5 and 1 : 10) in order to achieve optimal precipitation.
2. If the precipitation diameter is too small with both dilutions, then the serum shall be further diluted.
3. If the precipitation diameter in both dilutions is too large and faint, then a lower serum dilution shall be chosen.
4. The final concentration of the agarose shall be 0.8 %; that of the sera 5 % and 10 % respectively.
5. Plot the measured diameters in the following coordinate system. The dilution of the antigen to be tested with the same diameter as the reference antigen is the working dilution.



ANNEX B

The blood test referred to in Article 2 (2) shall comply with the following requirements:

- (a) account shall be taken of the absolute number of leukocytes and the proportion of lymphocytes. The total number of lymphocytes per cubic millimetre shall be the determining factor and shall be calculated according to the following formula:

$$\frac{\text{total number of leukocytes per cubic millimetre} \times \text{percentage of lymphocytes}}{100}$$

- (b) the presence of an abnormal increase in the number of lymphocytes shall be concluded in the light of the following data.

For bovine animals:

of more than two years and not more than three years — more than 10 500 lymphocytes per cubic millimetre,

of more than three years and not more than four years — more than 9 500 lymphocytes per cubic millimetre,

of more than four years and not more than five years — more than 8 500 lymphocytes per cubic millimetre,

of more than five years and not more than six years — more than 8 000 lymphocytes per cubic millimetre,

of more than six years — more than 7 500 lymphocytes per cubic millimetre;

- (c) if the result of the blood test referred to in Article 2 (2) indicates a relatively high lymphocyte count, i.e. a number of lymphocytes less than 2 000 below the figures mentioned in (b), the same sample must be immediately given a fresh test, the result of which shall form the basis of the final evaluation.
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COMMISSION DECISION

of 21 December 1979

amending Decisions 77/331/EEC and 78/118/EEC concerning special health guarantees in respect of bovine leucosis

(Only the Dutch and English texts are authentic)

(80/236/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 64/432/EEC of 26 June 1964 on animal health problems affecting trade in bovine animals and swine ⁽¹⁾, as last amended by Directive 79/580/EEC ⁽²⁾, and in particular Article 8 (2) thereof,

Whereas by Commission Decision 77/331/EEC ⁽³⁾ the Netherlands was authorized to apply special health guarantees for the prevention of leucosis in the event of the introduction into its territory of bovine animals for breeding and production;

Whereas this authorization was extended on 23 December 1977 to Ireland and the United Kingdom by Commission Decision 78/118/EEC ⁽⁴⁾;

Whereas the benefit of this authorization was, in the various abovementioned Decisions, limited to 31 December 1978, in order to enable the Commission to make proposals to the Council with a view to framing Community rules in this matter;

Whereas in December 1978 the Commission submitted to the Council a proposal for a Regulation to this effect; whereas, in order to allow a sufficient period for the adoption and application of these Community rules under satisfactory conditions, the date of expiry of the special authorizations accorded to these Member States was postponed by one year, until 31 December 1979, by Commission Decision 79/80/EEC ⁽⁵⁾;

Whereas the Council has not yet been able to adopt the necessary rules; whereas, in consequence, the Netherlands, Ireland and the United Kingdom requested

on 27, 28, and 20 November 1979 respectively, the extension by one year of the special authorizations which they enjoy;

Whereas, in order to be able to reply to these requests, it is necessary to make a further study of the situation in these countries with regard to leucosis and, in particular, the special guarantees required by their national rules, both in national trade and in intra-Community trade; whereas, however, in the meantime, and in order to do this, the final date for the enjoyment of the special authorizations accorded to those Member States should be postponed by three months;

Whereas the use of a serological method for the diagnosis of the disease is the fruit of technical progress in this field and offers better guarantees than those provided by the haematological test still in use; whereas, in this respect, the proposal from the Commission submitted to the Council in December 1978 provides in particular for the gradual replacement of the haematological test by a Community serological test; whereas it is therefore now necessary, pending the adoption of the Community serological test, to permit the use by the Member States concerned of serological methods for the diagnosis of the disease;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

Article 1 of Decision 77/331/EEC is amended to read as follows :

‘The Netherlands is authorized until 31 March 1980 to require the application of the health guarantees laid down in Article 2 on entry into their territory of bovine animals for breeding or production, originating from the territory of another Member State and intended for combining with bovine stock not under suspicion of leucosis.’

⁽¹⁾ OJ No 121, 29. 7. 1964, p. 1977/64.

⁽²⁾ OJ No L 158, 26. 6. 1979, p. 17.

⁽³⁾ OJ No L 116, 7. 5. 1977, p. 13.

⁽⁴⁾ OJ No L 40, 10. 2. 1978, p. 21.

⁽⁵⁾ OJ No L 17, 24. 1. 1979, p. 22.

Article 2

In Article 1 of Decision 78/118/EEC the date '31 December 1979' is replaced by '31 March 1980'.

Article 3

Until 31 March 1980 the haematological test provided for in Article 2 of Decisions 77/331/EEC and 78/118/EEC may be replaced by a serological test carried out in accordance with the specifications of Annex A to Decision 80/235/EEC ⁽¹⁾.

Article 4

This Decision is addressed to the Kingdom of the Netherlands, Ireland and the United Kingdom.

Done at Brussels, 21 December 1979.

For the Commission

Finn GUNDELACH

Vice-President

⁽¹⁾ See page 28 of this Official Journal.