II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 18 September 1980

relating to a proceeding under Article 85 of the EEC Treaty (IV/25.007 — IMA Rules)

(Only the Dutch text is authentic)

(80/1071/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 made to the Commission on 17 March 1964, in accordance with Articles 2 and 4 of Regulation No 17, on behalf of a Number of undertakings (see Annexes 1 to 3) concerning certain agreements between them known as the 'IMA-Statuut' (IMA Rules), and to the accompanying application for negative clearance,

Having regard to the Commission Decision of 10 October 1979 to initiate proceedings in this case,

After giving the undertakings concerned an opportunity, in accordance with Article 19 (1) of Regulation No 17 and with Commission Regulation No 99/63/EEC of 25 July 1963 (2), to express their views and to ask for a hearing,

Having regard to the opinion delivered on 18 June 1980 by the Advisory Committee on Restrictive Practices and Dominant Positions in accordance with Article 10 of Regulation No 17,

Whereas:

A. THE FACTS

1 On 17 March 1964 the members of the IMA association, who are all agents, importers or processors of plywood (called 'triplex' in Dutch) established in the Netherlands, applied to the Commission for negative clearance for their 'IMA-Statuut' (IMA Rules) (3) or in the alternative for exemption under Article 85 (3) of the EEC Treaty.

2 After various information had been obtained, Commission officials met representatives of the IMA members in Rotterdam on 7 November 1973 and urged them to adjust the IMA Rules to the EEC Treaty's rules on competition without delay. Following this meeting, IMA members discussed amendments to the IMA Rules on several occasions, but no action was agreed.

(1) OJ No 13, 21. 2. 1962, p. 204/62.
(2) OJ No 127, 20. 8. 1963, p. 2268/63.

(3) IMA = abbreviation for 'importers/agents'.

3 The Commission was therefore compelled to resume investigation of the case. By letter dated 13 September 1976 it requested further information, but did not receive a reply. In a reminder dated 28 February 1977 the Commission warned the parties that it would carry out on-the-spot inspections if they did not supply the information in writing as had been requested. As this letter also remained unanswered, the Commission had inspections carried out between November 1977 and February 1978. A considerable amount of data was thereby obtained, on which the following description of the case is based.

1. Description of the relevant market

1.1. *The undertakings*

4 In the Netherlands, trade in plywood is carried out by undertakings with separate functions:

— agents, who negotiate supply contracts with Dutch buyers on behalf of manufacturers or foreign exporters ;

— importers, who import plywood on their own account and resell it to wholesalers, large-scale users (processors) or large retailers;

— wholesalers and retailers.

5 Wholesalers and retailers are directly involved in only a small proportion of international trade in plywood. When this is the case, the import formalities are usually handled by an agent receiving a commission from the supplier.

If, on the other hand, the goods are imported by an importer, he is obliged to use an agent's services only if the manufacturer concerned has appointed an exclusive agent for the Netherlands.

6 With these distinctions in mind, the undertakings involved, in the operation of the IMA Rules can be split into three groups: exclusive agents (see Annex 1), importers (Annex 2) and processors (Annex 3). Together they handle between 70 and 80 % of Dutch plywood imports, according to estimates in the trade, and 70 % of IMA imports are handled by the five largest IMA importers.

On 1 January 1978 there were 49 IMA members, comprising 21 agents, 25 importers and three processors. The 21 agents represent a total of 228 manufacturers and exporters world-wide, including 60 manufacturers in the Community (11 in Belgium, 11 in the Federal Republic of Germany, 23 in France, 14 in Italy and one in the United Kingdom). As most agents and importers in the Netherlands are members of IMA, the organization covers practically the whole Dutch market. The importers and agents who do the bulk of their business with other Community countries are listed at Annexes 4 and 5.

1.2. *Market structure*

7 The plywood market in its broad sense includes several submarkets, since not all sorts of plywood are equally good for the various uses to be taken into consideration. A distinction must be drawn between real plywood, consisting solely of sheets of wood; blockboard, laminboard and battenboard; other laminated wood products; and finally laminated chipboard. The quality of these products is very different and depends upon the sorts of wood, sheet and glue employed; it also depends upon the degree of humidity existing during the pressing operation. Plywood is mainly used in the furniture and building industry. In recent years it also has been increasingly sold in do-it-yourself shops.

8 There was a time when the Netherlands obtained most of its plywood from Europe, particularly from Finland. But, over the years, the initially complex manufacturing processes have been simplified and European manufacturers now have to cope, not only with powerful competitors from the United States and Canada, but also with increasingly keen competition from developing countries in Africa and the Far East.

The Netherlands, like other European countries, has become increasingly dependent on imports in recent years. Whilst in 1971 the Netherlands had to import 74 % of ascertainable domestic consumption of plywood, the figure had reached 93 % by 1976 (1).

The statistics in Annexes 6 to 8 give the detailed breakdown of Dutch imports in 1976, 1977 and 1978. It can be seen that well over two-thirds of imports come from non-Community countries and less than one-third from other Community Member States. Annexes 9 to 11 give an idea of the prices of plywood imported into the various EEC countries; they show that prices for imports coming from other EEC countries are markedly higher.

2. Conduct of the undertakings involved

2.1. *The IMA Rules*

9 The original version of the IMA Rules, as last amended on 17 October 1977, dates back to

(1) *Source:* FAO, Medium-term survey of the wood-based panels sector, Geneva, 1978, p. 30.

1933. They were conceived at a time when the Dutch economy was still suffering severely from the effects of the world economic crisis. The version of the IMA Rules signed by the current members was agreed on 10 November 1954 and came into force on 1 January 1955 for one year, automatically renewable from year to year (see paragraph 34 below). Subsequent changes to the Rules are recorded in the minutes of annual meetings of members.

10 The IMA Rules are based on the principle that members should safeguard each other's position in the Dutch plywood import business. Thus IMA importers (and IMA processors who import their supplies directly) may obtain the goods only from IMA agents, while IMA agents may supply only IMA importers (and IMA processors who import their supplies direct). The IMA Rules in detail are as follows.

2.1.1. Preamble and definitions

11 The preamble defines members of the association who import plywood as 'IMA importers', members who both import and process plywood as 'IMA users' and members who act as agents for foreign plywood manufacturers or exporters as 'IMA agents'. The preamble further states that it is vital to continue the cooperation between importers, users and agents begun in 1934 so as to ensure the 'smooth development of the Dutch plywood market'.

Rule 1 defines the various types of plywood which come under the heading of 'triplex'. Plywood manufactured in the Netherlands, in Surinam or the Netherlands Antilles is excluded.

2.1.2. Admission procedure and conditions

12 Rule 2 describes the procedure for admitting new members. When an application for admission is received, the 'Supervisory Bureau', which monitors compliance with the IMA Rules on behalf of members, must verify whether the applicant fulfils all the conditions for membership set out in the Rules (see paragraph 13 *et seq.* below). The Supervisory Bureau informs all IMA members in writing of its findings. Members have three weeks in which to comment. Thereafter the 'Confidential Committee' (see paragraph 24 below) decides on the application. If the Supervisory Bureau's report shows that all the conditions for membership are met and the Confidential Committee votes unanimously in favour, the application is accepted. Otherwise the application is referred to the members' meeting.

13 Rule 3 specifies the following conditions for membership for IMA importers:

(a) the importer must be of Dutch nationality at the time of applying and throughout the period of membership (in the case of companies, there must be a majority of Dutch nationals) ;

(b) at the time of application the importer must have had at least six years' continuous experience in a responsible position with a plywood wholesaler (in the case of companies at least one director or member must fulfil this condition) ;

(c) for at least three of the six years immediately preceding his application, the applicant must have sold an annual average of 2 000 m^3 of plywood in the Netherlands, acting as dealer or importer;

(d) at the time of applying and throughout the period of membership the applicant must have sufficient funds to import at least 2 000 m^3 of plywood per annum and to stock on average at least 250 m^3 per annum;

(e) throughout the period of membership he must import at least 2 000 m^3 per annum and maintain stocks of at least 250 m^3;

(f) throughout the period of membership the importer must possess adequate office accommodation and run his business in an orderly manner; he must have sufficient storage space to store at least 250 m^3 of plywood of various kinds, qualities and dimensions;

(g) throughout his period of membership the importer must not engage in any plywood processing activities on his own premises.

14 In special cases the general meeting of members may, after consulting the Confidential Committee, grant total or partial dispensation from the above requirements. This dispensation may be restricted to particular types of plywood, particular countries of origin, particular quantities, particular manufacturers or a particular period of time.

Rule 4 lists similar conditions for membership for plywood processors (IMA users). However in their case the minimum annual level of plywood imports is only 750 m^3.

15 Under Rule 5, agents who wish to become IMA members must fulfil the following conditions:

(a) the agent must be of Dutch nationality at the time of applying and throughout the period of membership (in the case of companies, there must be a majority of Dutch nationals);

(b) at the time of applying and throughout the period of membership the agent must possess exclusive distribution rights in the Netherlands for at least one foreign plywood manufacturer;

(c) throughout the period of membership the agent must act as a completely independent negotiator for the manufacturer or exporter with whom the agency contract has been made;

(d) throughout the period of membership the agent must negotiate annual sales of at least 100 m^3 of plywood.

16 In special cases the members' meeting may, after consulting the Confidential Committee, grant total or partial dispensation from the above requirements. The terms and scope of the dispensation may be restricted as for IMA importers.

2.1.3. Loss of membership — appeals procedure

17 Rule 6 specifies that an IMA member shall lose his membership if the Supervisory Bureau finds that he no longer fulfils all the conditions listed in Rules 3, 4 or 5 and the Confidential Committee takes a unanimous decision to expel him ('afvoering'). The Confidential Committee also has the right to decide unanimously not to expel the member, despite the findings of the Supervisory Bureau. Decisions of the Confidential Committee in such cases are binding on all IMA members.

If the Confidential Committee cannot reach a unanimous decision on the question of expulsion, the matter is referred to the members' meeting.

18 If a member commits a serious breach of the IMA Rules, the general meeting members may, on a motion from the Confidential Committee, resolve to strike him off the register of members ('royement').

In the cases referred to above and in the event of rejection of an application for admission, the party concerned may lodge an appeal ('beroep'). A decision on the appeal is taken by a board of three arbitrators (Rule 6 a).

2.1.4. Principal obligations of IMA members

19 Under Rule 7, IMA importers are required to use the services of IMA agents when purchasing plywood covered by the IMA Rules. Consequently they are prohibited from purchasing plywood either directly or indirectly without using an IMA agent. There is a general exception for transactions between IMA importers and between IMA importers and IMA users. In addition to this exception the Confidential Committee can grant dispensation in special cases after consulting the Supervisory Bureau.

Rule 8 imposes a similar obligation on IMA users, but there is no provision for dispensation.

20 Under Rule 9 IMA agents may not offer or sell plywood covered by the IMA Rules except under agency contracts approved by the Supervisory Bureau (see paragraph 21 below), and they may sell only to IMA importers or IMA users. In special cases the general meeting of members may, on a proposal from the Confidential Committee, grant dispensation from this obligation.

2.1.5. Approval of agency contracts

21 Save in the case of special dispensation from the Confidential Committee, agency contracts with plywood manufacturers are approved only if they grant the IMA agent concerned sole distribution rights in the Netherlands (Rule 10 (A)). If, despite exclusive distribution rights, plywood from the manufacturer concerned finds its way onto the Dutch market without the appropriate IMA agent being involved, approval of the agency contract may be withdrawn (by unanimous decision of the Confidential Committee or by decision of the general meeting of members). Agency contracts with exporters (other than manufacturers) are approved only for imports of 'Douglas fir three-ply' from the United States (Rule 10 (A) (a)).

22 If an IMA agent receives an order from a so-called 'gelegenheidspartij' (occasional customer), for whom he does not have exclusive distribution rights, he is permitted to negotiate the sale subject to approval by the Supervisory Bureau. He must disclose the name of the seller, and the IMA agent who actually has exclusive distribution rights is sent a copy of the order and of the invoice and 50 % of the Commission. If the manufacturer concerned is not represented by an IMA agent in the Netherlands, the full commission is kept by the IMA agent who handled the transaction (Rule 10 (A) (b)).

23 If a manufacturer who has an agency contract with an IMA agent replaces it with a new contract with another IMA agent, the provisions in Rule 10 (C) will apply, viz.:

(a) the new IMA agent must inform the Supervisory Bureau in writing that the agency contract has been made;

(b) the Supervisory Bureau in turn informs the former IMA agent in writing, and he has five days to object, giving reasons. The Confidential Committee will then decide whether to approve the new agency contract after hearing the agents involved and any other interested IMA members. If the decision of the Confidential Committee is unanimous, it is binding on all IMA members, subject to the appeals procedure provided for in Rule 6 a. Otherwise the decision rests with the general meeting of members (and is also subject to appeal under Rule 6 a).

2.1.6. Rules of procedure of the IMA bodies

24 Rule 11 provides that the Confidential Committee is convened if at least two members or the Supervisory Bureau consider it necessary (in practice it meets two to four times a year). The Supervisory Bureau decides on the time and place of the meeting. The Confidential Committee comprises six full members and six alternates, each group consisting of three importers, elected by the IMA importers, and three agents, elected by the IMA agents. The Supervisory Bureau provides the chairman, save as otherwise provided by the Confidential Committee. The quorum for a valid decision is two importers and two agents.

25 Under Rule 12 the general meeting of members, known as the 'IMA-vergadering' (IMA meeting), is convened by the Supervisory Bureau (in practice usually once a year). If five members request a meeting in writing, enclosing a draft agenda, the Supervisory Bureau is bound to call one. The Director of the Supervisory Bureau chairs the general meeting in association with the Confidential Committee. The powers of the general meeting are restricted to those laid down in the IMA Rules. Consequently it cannot intervene in the association's activities to take corrective action, the power to do so being reserved for the Confidential Committee and the Supervisory Bureau. Decisions taken by the general meeting on matters within its powers are binding on all IMA members.

26 Rule 13 gives each member one vote. If several members are involved in the same undertaking, they are allowed only one vote between them. Save as otherwise provided in the IMA Rules, more than half the votes of all IMA members (whether present or not) are required for a decision to be adopted. Furthermore, decisions are valid only if more than half of all IMA importers eligible to vote (even if absent from the meeting) have voted in favour of it.

27 Under Rule 16 the Supervisory Bureau is appointed by the general meeting and has the general task — apart from the special powers laid down in the IMA Rules — of monitoring members' compliance with the Rules. In practice this task is carried out by an accountant who has worked for the association for a number of years; he chairs the meetings required by the IMA Rules, and with the help of his staff, deals with the administrative and supervisory work involved.

28 The Supervisory Bureau may carry out inspections at the business premises of IMA members only if it has grounds for so doing, either because complaints have been received or when the Confidential Committee suspects that the IMA Rules have been infringed. IMA members are obliged, without exception, to allow the inspection to take place and to provide all information required by the Supervisory Bureau.

If a member fails to comply with this obligation or supplies incorrect information, this is regarded as more than an infringement of the IMA Rules in itself. It is further assumed that the member has been proved guilty of the suspected infringement which prompted the investigation.

2.1.7. Regular notification requirement and financial obligations of IMA members

29 Under Rule 16 (7) the Confidential Committee decides, in agreement with the Supervisory Bureau, what written information members should be required to supply regularly to the Supervisory Bureau. At present IMA importers and IMA users are required to make detailed quarterly reports on the supply contracts they have entered into. They must state the type of plywood purchased, the dates and serial numbers of the orders, the names of their suppliers and the IMA agents involved, together with the quantities supplied (in cubic metres). The Supervisory Bureau uses this information to compile statistical tables twice-yearly for members' use. These show the total volume of plywood

purchased by IMA members from the various countries of origin, listed by type of wood and broken down into 'triplex' (ordinary plywood), 'meubelplaat' (laminated wood products) and 'gefineerd spaanplaat' (veneered chipboard).

30 The Supervisory Bureau is pledged to absolute secrecy, even if the IMA Rules cease to have effect (Rule 17). If the Supervisory Bureau's function is taken over by another person, the Bureau must hand over to that person the complete IMA records. If the IMA Rules cease to have effect, the general meeting must decide where the records will be kept and ensure that they remain secret.

31 The cost of operating the IMA Rules is divided among all the members in a proportion decided by the general meeting, each member being required to pay a basic contribution plus a specified sum for each cubic metre of plywood imported (Rule 15). The IMA obtains further revenue by charging 'administrative fees' for approving new agency contracts, for processing applications for admission (even unsuccessful ones) and for admitting new members. In 1976, for example, total receipts were Fl 67 542·24 and total outgoings amounted to Fl 60 934·31.

2.1.8. Imposition of fines

32 In the event of infringement of the IMA Rules the Supervisory Bureau may fine the member concerned a sum not exceeding Fl 10 000 for each offence. The decision of the Supervisory Bureau is subject to 'beroep' (appeal) to the Confidential Committee, whose decision is in turn open to appeal to a board of three arbitrators (Rule 18).

33 The lodging of an appeal is without prejudice to the offending party's obligation to pay the fine together with costs.

The Confidential Committee may decide that all IMA members should receive copies of the fine notice issued by the Supervisory Bureau and of the appeal decisions given by itself and by the board of arbitrators.

2.1.9. Duration of the IMA Rules

34 After amendments had been made to the text of the IMA Rules in force from 1 January 1951, a new version of the Rules was signed on 10 November 1954 and entered into force on 1 January 1955 (Rule 20). The Rules are valid for one year and are automatically extended from year to year unless the prescribed notice of termination is given. The detailed procedure for giving notice is set out below.

35 Each IMA member has the right to cancel his membership at the end of any year by giving notice before 1 October of that year. His resignation is notified by registered letter to all IMA members by the Supervisory Bureau. Each IMA member is then entitled, for up to three weeks from receipt of that letter, to notify cancellation of his own membership from the end of the year, as a follow-up to his fellow member's resignation. If more than half of the importers, users or agents who were members at the beginning of the year resign in this way, the IMA Rules will cease to have effect at the end of the year.

2.2. *Application of the IMA Rules*

36 2.2.1. The principle of the 'smooth development of the Dutch plywood market' (preamble) plays a key role in the application of the IMA Rules. It requires the association to have a set of rules which are revealed to outsiders only after appropriate safeguards have been taken — particularly with regard to the proceedings under way in the EC Commission (minutes of the agents' meeting held on 5 November 1976, p. 5).

37 The IMA association ensures that new members are admitted only if they can demonstrate that they conform to the highest standards (see leaflet put out by the IMA agents, p. 3: 'You are in very good hands . . .'). This is true notably as regards professional experience and with respect to the level and volume of the business operations. This also explains why the quantitative admission requirements are constantly being forced up (most recently for importers by decision of the general meeting of 17 October 1977, minutes, p. 3). The reason given was that increased sales of plywood in the Netherlands made it necessary to raise the quantitative criteria.

38 The idea that a favourable development of the plywood sector might allow a greater number of firms to co-exist on the market is clearly a minor consideration in comparison with the 'smooth development of the Dutch plywood market'. Instead, the increased quantitative admission requirements lead to mergers between businesses which have no prospect of satisfying these requirements on their own either at the time of admission or in the long term (minutes of general meeting, 26 June 1975, p. 6). In any case it is very difficult for new members to establish a permanent position among long-standing IMA members, so that, generally speaking,

membership remains relatively stable (circular from the Supervisory Bureau dated 17 June 1976, p. 2).

39 This is seen as a means of avoiding undesirable developments which might occur should the IMA Rules cease to have effect. Members fear that competition would then intensify and culminate in 'dodelijke concurrentie' (cut-throat competition) (verbal statement made on 24 April 1978 by the representative of a large agency). The Rules are allegedly necessary to safeguard the orderly coordination of trade and prevent the entry of 'beunhazen' (cowboys) operating on low profit margins of 2 % or so (verbal statement made on 22 February 1978 by the representative of a large firm of importers).

40 Under these circumstances it is understandable that not all firms which apply for IMA membership are able to satisfy the expectations of IMA members. If the applicants are particularly cooperative, they are admitted even if all the conditions in the Rules are not fulfilled. The usual argument in such cases is that 'Voor het overige past de fabriek geheel in de IMA-opzet' (otherwise the firms fit perfectly into the IMA framework) (minutes of general meeting of 4 December 1973, p. 5). If on the other hand it is not possible to adduce positive arguments of this kind, the application for membership is rejected, despite the possible dispensation under the Rules, even if only one of the requisite conditions has not been met. This is shown by the fact that the general meeting of 16 November 1976 accepted an importer's application for membership, although he had not imported the specified minimum quantity for three years before applying, as required by Rule 3 (c) of the IMA Rules. On the same occasion, however, the general meeting rejected an application from another importer on the grounds that he did not fulfil the selfsame requirement in Rule 3 (c) (minutes of the general meeting of 16 November 1976, items 7 and 8).

41 The report dated 13 December 1976 of a discussion held in Amsterdam on 8 December 1976 between members of the IMA Confidential Committee and representatives of a French plywood manufacturer speaks volumes. The dispute hinged on the French manufacturer's intention, on expiry of his contract with an IMA agent, to continue supplying the IMA importers among his customers without working through an IMA agent. The IMA representatives complained to the French manufacturer that its plans for direct sales would disrupt the Dutch market. Instability would be in no one's interest. They claimed that while the IMA organization might not be perfect, it fulfilled a very important function. This was shown by the fact that between 70 and 80 % of Dutch plywood imports passed through IMA hands. Once manufacturers embarked on direct sales, the IMA Rules would be a dead letter. The IMA importers for their part were determined to hold fast to the Rules. The position adopted by the French manufacturer, which was regarded as the 'toonaangevende' (leading) French manufacturer, was especially important to the IMA. If, they claimed, the manufacturer decided to operate without the services of an IMA agent, it would find its outlets shrinking and be exposed to fiercer competition from other manufacturers. In response, the French manufacturer gave an assurance that it did not intend 'zijn prijzen zodanig te gaan stellen dat deze de rust op de markt zullen verstoren' (to set its prices at such a level as to disrupt the market). At the end of the discussion it asked for time to consider the matter. It later decided to abandon the idea of direct supplies and entered into an exclusive agency contract with another IMA agent.

42 2.2.2. The particular problems posed by the application of the IMA Rules on the admission of new members and the exclusion of former members require further clarification.

The first point to be made is that in practise the IMA no longer insists on Dutch nationality, a condition set out in Rules 3 (a), 4 (a) and 5 (a). Although on 11 January 1973 an application for admission was rejected on the grounds of these provisions (minutes of the Confidential Committee's meeting of 11 January 1973, item 4), the general meeting waived this requirement when on 26 June 1975 it resolved to admit a new member (minutes of members' meeting of 26 June 1975, item 10).

43 The unflagging interest of outsiders in gaining admission to the IMA association can easily be explained by the fact that the world's largest plywood manufacturers all have exclusive agency contracts with IMA agents (arbitral decision of 21 November 1968 on the admission of the importer Austria BV, p. 5), and consequently outsiders have no direct means of obtaining the types of plywood produced by these manufacturers. This creates a problem for IMA importers in that they are constantly losing customers as new importers are admitted. For until applicants are admitted they are obliged to buy the types of plywood covered by the IMA Rules from importers who are long-standing IMA members (minutes of agents' meeting of 5 November 1976, end of p. 2).

44 This also accounts for the IMA members' lack of enthusiasm about admitting more agents and importers and the repeated attempts to tighten up the admission requirements. Thus at the general meeting held on 26 June 1975 it was decided to raise the 'aanmeldingsgeld' (application fee) for agents from Fl 100 to Fl 500, but to leave it at Fl 1 000 for importers and processors (minutes, p. 3, item 7). It should be pointed out that the application fee is regarded as payment for the administrative costs involved and is never returned by the IMA, even if the application for admission is rejected. By the same decision the 'entreegeld' (entrance fee) for agents, importers and users was raised from Fl 150 to Fl 1 000. The minutes *(loc. cit.)* recorded the following statement: 'Gehoopt wordt dat de bovenstaande verhogingen zullen voorkomen dat bedrijven zich al te lichtvaardig voor het IMA-lidmaatschap aanmelden' (It is hoped that the above increases will deter firms from making frivolous applications for IMA membership).

45 Even more significant in this respect is the increase in the quantitative admission requirements decided at the general meeting held on 17 October 1977 (minutes, p. 3, item 4). The minimum quantity of plywood which an importer applying for admission was required to have imported annually for three years prior to making application was raised from 750 m^3 to 2 000 m^3. At the same time the general meeting raised the minimum quantity to be imported by members from 1 000 m^3 to 2 000 m^3 (minutes *loc. cit.)*. These decisions were the outcome of years of internal discussions, at which reference was repeatedly made to the unfavourable impression which such a tightening of the rules would be bound to have on national and European antitrust authorities considering the IMA case. A remark made by a member of the Confidential Committee and a committee meeting on 15 June 1977 (minutes, item 8) is instructive in this respect. The member expressed amazement at the volume of imports apparently achieved by certain aspiring members; it was difficult to see how they had attained such figures.

46 2.2.3. A key role in the practical application of the IMA Rules is played by the Supvervisory Bureau's power under Rule 10 (A) (b) to grant dispensations for 'gelegenheidspartij'. Such cases normally arise when a foreign manufacturer does not have an exclusive agency contract, approved by the IMA, with an IMA agent. IMA policy in such cases is to encourage such 'aflader' (suppliers) to 'adapt to the structure of the Dutch market' by entering into an agency contract (circular from the Supervisory Bureau dated 17 June 1976, foot of p. 2). Accordingly a dispensation is given only for a limited period and for limited quantities (circular *(loc. cit.)*. In particular, the Supervisory Bureau ensures that:

— the quantities for which the dispensation has been granted are not unreasonably large in the case of any specific importer;

— these quantities do not all come from the same manufacturer;

— the number of dispensations granted to a particular manufacturer (in respect of different importers) is not excessive.

Minutes of general meeting of 26 June 1975, p. 6, item 11).

47 If the foreign manufacturer persists in his refusal to enter into an exclusive agency contract, he cannot as a rule expect any further business from IMA members (cf. the cases of two French manufacturers, referred to in the minutes of the Confidential Committee meetings held on 2 April 1975 (p. 2, item 2) and on 28 September 1976 (p. 1 *et seq.*, item 4). If, however, the manufacturer has the whip hand, because he produces an unusual type of wood that is difficult to obtain elsewhere, the IMA will accept the situation as a special case. But even this is subject to the proviso that deliveries negotiated by an IMA agent must normally be made only to IMA importers, as in the case of a Belgian manufacturer, settled by decision of the general meeting on 4 December 1973 (minutes, p. 5, item 3). If a manufacturer steadfastly refuses to use the services of an IMA agent (even without an exclusive agreement), the IMA importer concerned pays the normal agency commission of 3 % to an IMA agent of his choice (minutes of the Confidential Committee meeting of 20 March 1973, p. 4, item 8).

48 2.2.4. The relationship between agents and importers has been under considerable strain at various times over the years. This has repeatedly given rise to discussions among members on reforming the IMA Rules.

Difficulties began to appear in 1973, when the collective discipline of IMA members loosened somewhat in the face of temporary supply problems. At that time foreign manufacturers who were not recognized by the IMA could not do business with IMA members unless the latter obtained special dispensation. When the Confidential Committee began discussing the

imposition of penalties, it became clear that some of its own members felt that the IMA Rules were too restrictive (minutes of the meeting held on 28 August 1973, p. 3 *et seq.*, item 4).

49 The Chairman of the Confidential Committee pointed out that the obligation to use agents was not always rational. This was particularly true in the case of imports from countries where large importers had their own purchasing agencies. On the other hand, he considered that the agents' function of protecting importers against direct imports by wholesalers was 'rationeel' (rational). Some wholesalers' businesses had grown so vast and were so highly organized that they could handle their own imports themselves (minutes *loc. cit.*, p. 5.).

50 Nor were the agents happy with the situation. They naturally recognized that the IMA's continued existence was in their interests, particularly because of the concentration among IMA importers of the orders they negotiated. At the same time they desired greater freedom of action in their dealings with large customers outside the IMA, to whom they already supplied considerable quantities of products not covered by the IMA Rules. They wished to be permitted to supply such customers with IMA products as well (minutes *loc. cit.*, p. 5).

51 The reform debate, at times conducted with an eye to the talks with the Commission, initially produced no concrete results, particularly as interest rapidly flagged when the supply situation improved. But tension continued to affect relations between agents and importers. The importers, for instance, complained that the agents were not actively involved equally in all the relevant producing countries, so that they (the importers) had to take the initiative to find new sources of supply (minutes of the agents' meeting of 5 November 1976, p. 2). The importers felt that in such cases they should not be obliged to go through IMA agents. Moreover this would be detrimental to the importers, since they would lose their supply advantage as soon as the agency contracts with the new suppliers, approved in accordance with the IMA Rules, were made known to other IMA members (minutes *loc. cit.)* For their part, the agents accused the importers of seeking direct contact with suppliers even in countries where agents were active, and of sometimes flouting the requirement to call in an IMA agent, for instance when importing plywood from North America (minutes *loc. cit.*, p. 3).

52 At the meeting of IMA members held on 16 November 1976, the first following the agents' meeting referred to above, the chairman stressed that the IMA Rules were still in the definite interests of both agents and importers (minutes, p. 5., item 9). Observance of the IMA principles enabled them to safeguard each other's market position. Where new economic developments made it difficult to abide by particular rules in specific sectors, consideration should be given to amending them. He referred to a proposal discussed by the Confidential Committee whereby the Committee would set out guidelines and delegate powers for certain sectors to the Supervisory Bureau, so that the latter could grant dispensation in cases other than those provided for in the Rules (minutes *loc. cit.)*.

53 Discussion of these proposed amendments continued throughout 1977. These showed that it was primarily the agents who were interested in the IMA's continued existence. The importers — the larger ones at any rate — were always able to conclude supply contracts with manufacturers direct. (As explained in paragraph 6 above, 70 % of IMA imports are handled by the five largest IMA importers). Nevertheless, even the IMA importers have an interest in upholding the IMA Rules. If the agents were excluded from negotiating contracts between foreign manufacturers and large importers, they would proceed to negotiate supply contracts between manufacturers and the importers' customers, that is to say wholesalers and large-scale users (minutes of the Confidential Committee's meeting of 17 August 1977, p. 3, item 10).

54 In the discussions on the 'versoepeling' (relaxation) of the IMA Rules, an additional factor was the resumption by the Commission of investigation of the case in autumn 1976 and the consideration that a 'formele versoepeling van de bepalingen van het IMA-Statuut' (formal relaxation of the provisions of the IMA rules) might prevent the EEC authorities from taking action (minutes of the Confidential Committee's meeting of 15 June 1977, p. 3, item 4). At that meeting the chairman explained that the proposed amendments were designed to transform the IMA Rules into a 'raamwerk' (framework) which would be implemented on the basis of 'uitvoeringsrichtlijnen' (practical guidelines) issued by the Confidential Committee. The Rules must be drafted in a more flexible manner. Whether this new freedom of action need actually be applied was another matter (minutes *loc. cit.*, p. 4).

55 Finally the general meeting of 17 October 1977 decided to approve in principle the proposed amendments as endorsed by the Confidential

Committee (minutes, p. 8). The main changes are as follows:

— the Supervisory Bureau would be empowered to grant dispensation for individual transactions in breach of the Rules, subject to limitations as regards type and volume set out in the Confidential Committee's guidelines (partial exclusion of IMA agents);

— there would be a clear obligation on the part of IMA members to notify all transactions involving plywood covered by the IMA Rules (confirmation of the obligation to notify laid down in guidelines from the Supervisory Bureau);

— greater supervision of members by the Supervisory Bureau, which would henceforth be able to carry out audits at any time on its own initiative.

2.3. *Statements by the parties involved in the course of proceedings*

After the statement of objections had been sent by letter dated 19 October 1979, the undertakings involved (see Annexes 4 and 5) informed the Commission by letter dated 9 January 1980 that subsequent to their earlier discussions they were now prepared formally to renounce their agreements embodying the IMA Rules, now overtaken by events, and to replace them by new, less restrictive agreements.

Although the Commission had informed the parties that in view of all aspects of the case they must still expect a Decision under Article 85 (1) of the EEC Treaty, they declined the offer of an oral hearing (telex dated 17 January 1980).

To date the undertakings involved have notified no new agreements to the Commission.

B. APPLICABILITY OF ARTICLE 85 (1) OF THE EEC TREATY

56 Article 85 (1) 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.

The statement made by the undertakings concerned by letter dated 9 January 1980 to the effect that the IMA Rules in their current form have been overtaken by events and that talks are in progress for a new set of rules does not alter the fact that the agreements remain in force until such time as they are formally terminated. Moreover, these statements leave certain doubts as to the potential future conduct of those concerned. They should accordingly be made aware, by a Decision, which practices constitute an infringement of Article 85 and what are the limits that Article 85 sets on their conduct.

The importers, agents and users belonging to IMA are undertakings within the meaning of Article 85 (1). The agreements made between them under the IMA Rules contravene Article 85 as explained hereinafter.

3. Principal obligations of importers (Rule 7 of the IMA Rules)

57 3.1. The obligation on the part of IMA importers to obtain supplies of plywood covered by the IMA Rules only from IMA agents unless authorized to do otherwise restricts their business freedom. They cannot buy direct from foreign manufacturers who are represented by IMA agents, nor can they obtain such plywood direct from other foreign suppliers (manufacturers or dealers) or from agents not belonging to IMA. The business freedom of foreign suppliers of plywood (manufacturers and dealers) is thereby likewise restricted, whether they are approved by IMA or not.

58 As an illustration of this it was mentioned above (paragraph 41) that a French manufacturer wished to continue supplying IMA importers but not through IMA agents. The only choice he had was either to give up all business with IMA members or to give up all business with non-IMA customers, the latter being the inevitable consequence of the renewed conclusion of an exclusive agency contract with an IMA agent.

59 Lastly, the business prospects of non-IMA agents in the Netherlands and elsewhere suffer likewise, since they cannot negotiate deliveries from the foreign manufacturers, exporters or dealers they represent to IMA importers. The same applies to

users belonging to IMA. The agreements from which these restrictions flow accordingly have the object of restricting competition within the common market, and the effect is all the more appreciable as IMA controls 70 % of Dutch plywood imports (see above, paragraph 6).

60 3.2. The relevant agreements are also apt to have an appreciable adverse effect on trade between Member States to the extent that they relate to business dealings with other Community countries i.e. the delivery of plywood manufactured there or of plywood manufactured in non-member countries and cleared for import. According to the Commission's investigations this applies to the activities of the importers listed in Annex 4, who do a substantial proportion of their import business with manufacturers in other EEC countries whose agents are recognized by IMA. Inter-state trade thus proceeds by a different channel from that which would normally have been followed in the absence of the offending obligations. The normal pattern of trade is thus being deflected from the norm in a manner detrimental to the attainment of the objectives of a single inter-state market. Consideration has to be given here not only to the substantial volume of Dutch plywood imports from other EEC countries, but also to the effects of exclusivity obligations on the activity of non-IMA agents doing business within the European Community both in the Netherlands and in other countries. The services they perform are within the concept of inter-state trade, and trade in services between manufacturers and importers must be given the same protection as trade in goods within the common market.

4. Principal obligations of agents (Rule 9 of the IMA rules)

61 4.1. The same approach must be taken to the obligations on the part of IMA agents to do business solely under (exclusive) agency contracts approved by IMA and arrange deliveries only to IMA importers and IMA users. When exercising their function as intermediaries in the sale of goods they are performing a service which is subject to the competition rules in the EEC Treaty in the same way as the sale of goods itself.

62 It follows from the Commission Notice of 24 December 1962 on exclusive dealing agreements with commercial agents [1] that agency agreements are not to be regarded as falling within the scope of the prohibition in Article 85 (1) simply by reason of the exclusivity. The right of IMA agents to enter into such contracts of their own individual free will is in no way disputed.

But, acting in concert contrary to Article 85 (1), they have restricted their freedom to compete by undertaking to do business solely on the basis of exclusive agency contracts approved by IMA and to supply plywood covered by the IMA Rules only to IMA importers or IMA users. They have thereby at the same time restricted the scope for choice of such foreign manufacturers as would like to use the services of these IMA agents without being willing to enter into exclusive agency contracts approved by IMA. Here again, in view of the volume of plywood imports controlled by IMA and by IMA agents, the restrictions of competition are appreciable.

63 4.2. The relevant agreements are also apt to have an appreciable adverse effect on trade between Member States to the extent that the agents listed in Annex 5 are parties to them (on the basis of recognized agency agreements, they act as intermediaries in a substantial volume of business with manufacturers in other Member States). The possibility of such an effect follows from what is stated above at 3.2 (paragraph 60) to the effect that inter-state trade includes the international provision of services. Whereas the cases considered there concerned the restriction by IMA importers of the business freedom of non-IMA agents, the point here is that the activities of IMA agents are restricted to IMA members, thus artificially distorting trade flows which affect both services and goods.

5. Other restrictive agreements by IMA members

5.1. *Procedure for approval of new agency contracts*

64 The procedure laid down in Rule 10 of the IMA Rules makes provision for withholding approval for a new agency contract made with a different

[1] OJ No 139, 24. 12. 1962, p. 2921/62.

IMA agent where a foreign manufacturer terminates an existing approved agency contract (Rule 10 (C), see above, paragraph 23). The inevitable consequence is that the foreign manufacturer must either withdraw his decision to terminate or accept that he must thereafter do no more business with IMA. To the extent that manufacturers in other Member States are affected, this constitutes an appreciable restriction of competition with an impact on inter-state trade which consequently falls within the scope of Article 85 (1). Even if the procedure has not been used particularly often in the past, it nevertheless translates an intention to influence decisions of the business partners of IMA members in an anti-competitive sense where certain circumstances obtain. The mere possibility of this influence is in itself capable of preventing foreign manufacturers from freely regulating their relations with IMA members.

5.2. *Agreements on control measures and penalties*

65 The control powers given to the Supervisory Bureau by Rule 16 of the IMA Rules are to be regarded as an additional restrictive element in conjunction with the anti-competitive agreements considered above. On their own they are not caught by Article 85 (1), but they must be seen as an integral part of the principal obligations undertaken by IMA members. This applies not only to the quarterly detailed particulars which importers are required to submit on the supply contracts they have entered into, which can lead to the imposition of penalties, but also to the agreement to allow investigations to be made at IMA members' business premises.

66 The agreements on the imposition of penalties for violations of the IMA Rules (Rule 18) are to be considered in the same sense. They serve to enforce the principal provisions of the Rules to which objection is taken, and are caught by Article 85 (1) in quite the same way, that is to say in all cases where business relations with undertakings in other EEC countries are in any way relevant.

C. APPLICABILITY OF ARTICLE 85 (3) OF THE EEC TREATY

67 Under Article 85 (3), the provisions of Article 85 (1) may be declared inapplicable in the case of agreements and concerted practices which contribute to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which do not:

(a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;

(b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

The tests for exemption of the agreements to which exception is taken pursuant to Article 85 (1) are not satisfied in the present case.

6. **Principal objections of importers (Rule 7 of the IMA Rules)**

68 The obligation to work through IMA agents when IMA importers enter into contracts for the delivery of plywood from other EEC countries has none of the beneficial effects required by Article 85 (3). In particular, there is no improvement in the distribution of goods. In the course of internal discussions between IMA members, the role of agents, even in the more complicated imports from overseas countries, has with good grounds been called into question, because the larger importers have highly developed business organizations and often have direct contacts with foreign manufacturers (see above, paragraphs 49 and 51). In view of the foregoing, the compulsory use of agents is superfluous in normal business within the common market, especially in a country like the Netherlands, which is wide open to the whole world and heavily involved in international business. To this extent even the business organizations run by the smaller and medium-sized importers (so classified) fully satisfy all the requirements for direct business with foreign manufacturers.

Furthermore, it is not shown that price advantages for Dutch users follow from the IMA Rules. Rather, the price statistics contained in Annexes 9 to 11 show that, excepting two product groups in 1977, the Dutch import price level is not at all the lowest.

69 Even if it were to be assumed that in certain EEC business dealings there is still some point in working through agents, this would still not justify exemption pursuant to Article 85 (3). The collective obligation of importers always to use agents, and only IMA agents at that, goes

distinctly too far. This obligation is incompatible with Article 85 (3) (a), which requires that the relevant agreements should not impose on the undertakings concerned restrictions which are not indispensable to the attainment of the objective of, in this case, improving the distribution of goods. If the use of agents which represent several EEC manufacturers at the same time provides small importers with an opportunity to make appreciable cost savings, then they should of course remain fully entitled to use these agents; but they should not be under a general obligation to do so.

70 The provisions in the IMA Rules for dispensation from this obligation do not invalidate this finding. Not only has the IMA hitherto made very restrictive use of this facility (see above, paragraphs 46 and 54); as a matter of principle it cannot be accepted that anti-competitive agreements should qualify for more lenient treatment simply because the parties to them or bodies set up by them occasionally refrain from enforcing the restrictions with their full vigour.

7. Principal obligations of agents (Rule 9 of the IMA Rules)

71 The obligation on the part of IMA agents to act as intermediaries in supplies from other EEC countries only under approved (exclusive) agency contracts and to arrange deliveries only to IMA importers or IMA users is ineligible for exemption under Article 85 (3) for similar reasons.

7.1. Regarding the obligation to enter into exclusive agency contracts with foreign manufacturers in the EEC, there is no evidence of any possible improvement in the distribution of goods. The foreign manufacturer clearly may have a natural interest in having certain markets worked by a single agent, working exclusively for him. It has already been seen (above, paragraph 62) that Article 85 (1) does not prevent a manufacturer from operating this kind of business technique, which may indeed be of benefit to the agent also. On the other hand it is quite conceivable that in many cases the manufacturer will not be interested in dealing with all his potential customers through a single agent and the agent may not be interested in doing-business with every class of customer. It follows that the collective obligation to enter into exclusive agency contracts does not have any of the beneficial effects required by Article 85 (3).

72 7.2. Nor does the obligation to arrange for deliveries only to IMA importers or IMA users help to improve the distribution of goods. On the contrary; if IMA agents were free to negotiate deliveries to wholesalers or major retailers such as DIY stores (doe-het-zelf-winkels), the process whereby goods leaving the manufacturer reach the consumer would in many cases be shortened, intermediaries' mark-ups could be saved and transport costs could be cut (see above, paragraph 53). Article 85 (3) exemption is accordingly out of the question.

8. Other restrictive agreements between IMA members

73 There is no evidence of any argument justifying exemption under Article 85 (3) for the other restrictive agreements in connection with the development of EEC business. This applies to all the arrangements considered above at 5.1 and 5.2 (paragraphs 64 to 66):

— the procedure for approval of certain new agency contracts;

— the required supply of information by the importers and the monitoring powers of the Supervisory Bureau;

— the imposition of penalties.

D. APPLICABILITY OF ARTICLES 3 (1) AND 16 (1) (a) OF REGULATION No 17

(Summary list of infringements)

74 9. The Commission must accordingly find that the infringements listed below have been committed and must require the undertakings concerned (listed in Annexes 4 and 5) to bring them without delay to an end pursuant to Article 3 (1) of Regulation No 17 to the extent that they have not already been terminated:

(a) the obligation on the part of IMA importers to obtain supplies of plywood covered by the IMA Rules from the other EEC States only via IMA agents, unless they have been given a dispensation (Rule 7 of the IMA Rules);

(b) the obligation on the part of IMA agents to offer or sell plywood covered by the IMA Rules from other EEC States only under approved exclusive agency contracts (Rule 9 of the IMA Rules);

(c) the obligation on the part of IMA agents to offer or sell plywood covered by the IMA Rules from other EEC States only to IMA importers or IMA users (Rule 9 of the IMA Rules);

(d) the obligation on the part of members to abide by decisions of IMA bodies withholding approval for agency contracts with EEC manufacturers which replace earlier agency contracts between the manufacturer and another IMA agent (Rule 10 (C) of the IMA Rules);

(e) the obligation on the part of IMA members to provide the Supervisory Bureau at regular intervals with detailed particulars of supply contracts entered into by them for deliveries from other EEC countries (Rule 16 of the IMA Rules);

(f) the obligation on the part of IMA members to allow the Supervisory Bureau to make investigations at their business premises into their relations with customers or suppliers in other EEC countries (Rule 16 together with Rules 7 and 9 of the IMA Rules);

(g) the obligation on the part of IMA members to abide by decisions of IMA bodies imposing penalties directly or indirectly relating to their business with customers or suppliers in other EEC countries (Rule 18 together with Rules 7 and 9 of the IMA Rules).

75 10. Lastly, pursuant to Article 16 (1) (a) of Regulation No 17, the Commission must in its Decision require the undertakings concerned to put an end to the infringements. This provision allows the Commission to impose on undertakings periodic penalty payments of from 50 to 1 000 units of account per day of delay, calculated from the date appointed by the decision. Since the parties are small and medium-sized firms, the impositions of periodic penalty payments of 300 EUA in the case of the IMA importers concerned and of 100 EUA in the case of the IMA agents concerned would appear justified.

HAS ADOPTED THIS DECISION:

Article 1

The parties to the following agreements, being the undertakings listed in Article 4, have infringed Article 85 (1) of the Treaty establishing the European Economic Community:

(a) the agreement requiring the IMA importers listed in Article 4 to obtain supplies of plywood covered by the IMA Rules from other EEC States only via IMA agents, unless they have been given a dispensation (Rule 7 of the IMA Rules);

(b) the agreement requiring the IMA agents listed in Article 4 to offer or sell plywood covered by the IMA Rules from other EEC States only under approved exclusive agency contracts (Rule 9 of the IMA Rules);

(c) the agreement requiring the said IMA agents to offer or sell plywood covered by the IMA Rules from other EEC States only to IMA importers or IMA users (Rule 9 of the IMA Rules);

(d) the agreement requiring the said IMA importers and agents to abide by decisions of IMA bodies withholding approval for agency contracts with EEC manufacturers which replace an earlier agency contract between the manufacturer and another IMA agent (Rule 10 (C) of the IMA Rules);

(e) the agreement requiring the said IMA importers and agents to provide the Supervisory Bureau at regular intervals with detailed particulars of supply contracts entered into by them for deliveries from other EEC countries (Rule 16 of the IMA Rules);

(f) the agreement requiring the said IMA importers and agents to allow the Supervisory Bureau to make investigations at their business premises into their relations with customers and suppliers in other EEC countries (Rule 16 together with Rules 7 and 9 of the IMA Rules);

(g) the agreement requiring the said IMA importers and agents to abide by decisions of IMA bodies imposing penalties directly or indirectly relating to their business with customers and suppliers in other EEC countries (Rule 18 together with Rules 7 and 9 of the IMA Rules).

Article 2

The application for exemption pursuant to Article 85 (3) of the Treaty is rejected.

Article 3

1. Those to whom this Decision is addressed shall without delay terminate the infringements found in Article 1 in so far as they have not already been terminated on their own initiative and shall in future desist from entering into agreements or engaging in concerted practices to the like effect.

2. For each day of delay a periodic penalty payment shall be payable by each of the undertakings participating in each of the infringements found in Article 1 which is not terminated within two months after notification of this Decision. In the case of the undertakings referred to in Article 4 (a) this periodic penalty payment shall amount to three hundred (300) European units of account, that is to say 824·56 Dutch guilders, and in the case of the undertakings referred to in Article 4 (b) to one hundred (100) European units of account, that is to say 274·85 Dutch guilders.

Article 4

This Decision is addressed to the following undertakings:

(a) *IMA importers*

Bijl Bouwstoffen Import BV,
Arnhem (Netherlands)

Bouwmaterialenhandel en Industrie Dripla BV,
Zwijndrecht (Netherlands)

Sasco Houtprodukten BV, Zwolle,
Zwolle (Netherlands)

Fijnplaat Fijnhout Plaatmaterialen Import BV,
Amsterdam (Netherlands)

A. Hemsing's Handelsmaatschappij BV,
Amsterdam (Netherlands)

BV Houthandel Holland Triplex Import (HTI),
Rotterdam (Netherlands)

Verenigde Internatio Hautbedrijven BV
Dordrecht (Netherlands)

Leeuwerik Plaat BV,
Eindhoven (Netherlands)

Ret Jongeneel
Utrecht (Netherlands)

Plaatmaterialen Rote Westzaan BV,
Westzaan (Netherlands)

BV Hardhouthandel Trima
Zaandam (Netherlands)

(b) *IMA agents*

M. Abas CV,
Amsterdam-C (Netherlands)

Bakker & Röpcke CV,
Amsterdam-C (Netherlands)

Foham Houtagenturen,
Utrecht (Netherlands)

BV Houtagenturen Scholten v/h Gustaf A. Faber,
Amsterdam-C (Netherlands)

BV Houtprodukten UCM,
Den Haag (Netherlands)

Interplaat Faber BV,
Heemstede (Netherlands)

Leenaars Oosterhout BV,
Oosterhout (N. Br.) (Netherlands)

Stahl & Zoon BV,
Rotterdam (Netherlands)

Vereenigde Houtagenturen,
Aerdenhout (Netherlands)

Done at Brussels, 18 September 1980.

For the Commission

Raymond VOUEL

Member of the Commission

ANNEX 1

IMA agents

M. Abas CV	Sarphatistraat 117	Amsterdam-C
Altius & Co. CV	Rijksweg 34 Postbus 494 (Bussum)	Naarden
Bakker & Röpcke CV	De Ruyterkade 128 Postbus 2214	Amsterdam-C
Cornelius Borst & Co. BV	De Ruyterkade 128 Postbus 2214	Amsterdam-C
Dekker Junior BV	Nic. Maesstraat 109 Postbus 5026	Amsterdam-C
Fins Verkoopkantoor	Meer en Vaart 318 Postbus 9030	Amsterdam
Foham Houtagenturen	Wilhelminapark 50 Postbus 14037	Utrecht
A. Frank CV	De Ruyterkade 128 Postbus 2214	Amsterdam-C
Erven D. van Hessen BV	Wilhelminapark 50 Postbus 14037	Utrecht
BV Houtagenturen Scholten v/h Gustaf A. Faber	Keizersgracht 501	Amsterdam-C
BV Houtprodukten UCM	Raamweg 15 Postbus 96819	Den Haag
Incona BV	Postbus 70	's-Graveland
Interplaat Faber BV	Herenweg 64 Postbus 175	Heemstede
Leenaars Oosterhout BV	Voorstraat 34	Oosterhout (N.Br.)
Eduard van Leer BV	Rokin 75 Postbus 3505	Amsterdam
Firma Monsjou & Endel	Beethovenlaan 28	Bilthoven
NV Handelmij Noordhout	Keizersgracht 758	Amsterdam-C
Stahl & Zoon BV	Rederijstraat 3 Postbus 1063	Rotterdam
Vereenigde Houtagenturen	Afterlaan 28 Postbus 106	Aerdenhout
W. van der Vlugt Consultants BV	Raamweg 15 Postbus 96824	Den Haag
Van der Weide & Co. BV	Gebouw Candida N. Z. Voorburgwal 120/126 Postbus 3975	Amsterdam-C

ANNEX 2

IMA importers

Handel Mij. Austria BV	Heereweg 290 Postbus 113	Lisse
NV Houthandel	Gevleweg 39—41 (Houthaven)	Amsterdam-C
Bijl Bouwstoffen Import BV	Beyerinckweg 24 Postbus 349	Arnhem
DPW Houtimport BV	Postbus 100	Zaandam
Bouwmaterialenhandel en Industrie Dripla BV	Merwedeweg 9 Postbus 39	Zwijndrecht
Houthandel v/h Eindhoven & Zoon BV Tevens: Sasco Hout- produkten BV, Zwolle	Gasthuisdijk 25 Postbus 520	Zwolle
Fetim BV	Rigakade 1 Houthaven	Amsterdam
Fijnplaat Fijnhout Plaatmaterialen Import BV	Nieuwe Hemweg 1—6 Postbus 1119	Amsterdam
Gépla BV (Bruynzeel Multipanel BV, Zaandam)	Oud Saenden 20 Postbus 59 t.a.v. de heer H. A. Küling	Zaandam (Uden)
BV Handelsonderneming v/h Fa. Hagenaar	Postbus 90	Hardinxveld-Giessendam
A. Hemsing's Handelmaatschappij BV	Vlothavenweg 20	Amsterdam
BV Houthandel Holland Triplex Import (HTI)	Abraham van Stolkweg 74 Postbus 1100	Rotterdam
Verenigde Internatio Houtbedrijven BV	Postbus 652	Dordrecht
Leeuwerik Plaat BV	Hurksestraat 22 Postbus 700	Eindhoven
BV Loka	Rijshoutweg 12 Postbus 91	Zaandam
Handelsonderneming Lutra BV	Ankerweg 4 Postbus 8138	Amsterdam
BV Madosa	Prins Hendrikkade 171	Amsterdam-C
Polman BV Imp. Hardhout en Plaatmateriaal	Postbus 1371	Enschede
Ret Jongeneel	Zeedijk 6 Postbus 49	Utrecht
Plaatmaterialen Rote Westzaan BV	Postbus 24	Westzaan
Schoenmakers Import BV	Archangelkade 8 Houthaven	Amsterdam
Jan Smulders Triplex Import BV	Postbus 140	Eindhoven
Handelsmaatschappij Tribomij BV	Keizersgracht 392	Amsterdam-C
BV Hardhouthandel Trima	Badhuisweg 1 Postbus 1093	Zaandam
Vezaply BV	Postbus 283	Beverwijk

ANNEX 3

IMA users

Bruynzeel Keukens BV	Wattweg 17 Postbus 140 t.a.v. de heer T. J. J. Veerman	Bergen op Zoom
Halbertsma BV	Stationsweg 6	Grouw
Emballagefabrieken Verma BV	Keulsekade 216	Utrecht

ANNEX 4

IMA importers doing EEC business

Bijl Bouwstoffen Import BV	Beyerinckweg 24 Postbus 349	Arnhem
Bouwmaterialenhandel en Industrie Dripla BV	Merwedeweg 9 Postbus 39	Zwijndrecht
Sasco Houtprodukten BV, Zwolle	Gasthuisdijk 25 Postbus 520	Zwolle
Fijnplaat Fijnhout Plaat-materialen Import BV	Nieuwe Hemweg 1—6 Postbus 1119	Amsterdam
A. Hemsing's Handelmaatschappij BV	Vlothavenweg 20	Amsterdam
BV Houthandel Holland Triplex Import (HTI)	Abraham van Stolkweg 74 Postbus 1100	Rotterdam
Verenigde Internatio Houtbedrijven BV	Postbus 652	Dordrecht
Leeuwerik Plaat BV	Hurksestraat 22 Postbus 700	Eindhoven
Ret Jongeneel	Zeedijk 6 Postbus 49	Utrecht
Plaatmaterialen Rote Westzaan BV	Postbus 24	Westzaan
BV Hardhouthandel Trima	Badhuisweg 1 Postbus 1093	Zaandam

ANNEX 5

IMA agents doing EEC business

M. Abas CV	Sarphatistraat 117	Amsterdam-C
Bakker & Röpcke CV	De Ruyterkade 128 Postbus 2214	Amsterdam-C
Foham Houtagenturen	Wilhelminapark 50 Postbus 14037	Utrecht
BV Houtagenturen Scholten v/h Gustaf A. Faber	Keizersgracht 501	Amsterdam-C
BV Houtprodukten UCM	Raamweg 15 Postbus 96819	Den Haag
Interplaat Faber BV	Herenweg 64 Postbus 175	Heemstede
Leenaars Oosterhout BV	Boorstraat 34	Oosterhout (N.Br.)
Stahl & Zoon BV	Rederijstraat 3 Postbus 1063	Rotterdam
Vereenigde Houtagenturen	Afterlaan 28 Postbus 106	Aerdenhout

ANNEX 6

Dutch imports of laminated wood products and plywood in 1976

(tonnes)

NIMEXE code	Description \ Origin	F	Benelux	D	I	UK	DK	IRL	EEC (Nine)	Non-EEC (Nine)	World
44.15-20	Plywood, consisting solely of sheets of wood	33 296	12 553	2 431	468	102	683	—	49 533	129 130	178 663
44.15-31	Blockboard, laminboard and battenboard	1 051	4 206	920	47	2	—	—	6 226	983	7 209
44.15-39	Laminated wood products other than blockboard, laminboard and battenboard	190	1 699	309	50	—	1	—	2 249	214	2 463
44.15-80	Plywood and laminated wood products other than those at 44.15-20 to 44.15-39; inlaid wood and wood marquetry	277	1 731	161	13	8	—	—	2 190	5 344	7 534
	Total: 44.15-20 to 44.15-80	34 814	20 189	3 821	578	112	684	—	60 198	135 671	195 869

Source: Statistical Office of the European Communities.

ANNEX 7

Dutch imports of laminated wood products and plywood in 1977

(tonnes)

NIMEXE code	Description \ Origin	F	Benelux	D	I	UK	DK	IRL	EEC (Nine)	Non-EEC (Nine)	World
44.15-20	Plywood, consisting solely of sheets of wood	36 308	7 865	2 601	518	881	141	—	48 314	151 665	199 979
44.15-31	Blockboard, laminboard and battenboard	319	2 972	1 098	77	30	—	—	4 496	1 959	6 455
44.15-39	Laminated wood products other than blockboard, laminboard and battenboard	8	1 398	321	1	123	4	—	1 855	525	2 380
44.15-80	Plywood and laminated wood products other than those at 44.15-20 to 44.15-39; inlaid wood and wood marquetry	52	1 067	537	34	6	12	—	1 708	2 349	4 057
	Total: 44.15-20 to 44.15-80	36 687	13 302	4 557	630	1 040	157	—	56 373	156 498	212 871

Source: Statistical Office of the European Communities.

ANNEX 8

Dutch imports of laminated wood products and plywood in 1978

(tonnes)

NIMEXE code	Origin / Description	F	Benelux	D	I	UK	DK	IRL	EEC (Nine)	Non-EEC (Nine)	World
44.15-20	Plywood, consisting solely of sheets of wood	43 005	4 932	1 517	555	12 169	481	—	62 659	190 827	253 486
44.15-31	Blockboard, laminboard and battenboard	83	2 124	970	34	119	—	—	3 330	1 786	5 116
44.15-39	Laminated wood products other than blockboard, laminboard and battenboard	54	962	269	89	119	1	—	1 494	467	1 961
44.15-80	Plywood and laminated wood products other than those at 44.15-20 to 44.15-39; inlaid wood and wood marquetry	292	478	396	372	69	—	—	1 607	218	1 825
	Total: 44.15-20 to 44.15-80	43 434	8 496	3 152	1 050	12 476	482	—	69 090	193 298	262 388

Source: Statistical Office of the European Communities.

ANNEX 9

Average prices of imported laminated wood products and plywood

1976

(EUA/tonne)

NIMEXE	Origin	D	F	I	NL	B-L	UK	IRL	DK	EUR-9
44.15-20	World	495	520	304	457	410	392	431	469	434
	Intra EUR-9	627	526	634	580	638	752	782	1 013	613
	Extra EUR-9	455	519	296	409	355	386	408	463	413
44.15-31	World	522	480	326	489	411	398	348	567	433
	Intra EUR-9	538	509	719	510	536	681	416	518	534
	Extra EUR-9	506	428	319	357	344	379	324	650	391
44.15-39	World	661	533	375	391	522	...	325	681	534
	Intra EUR-9	708	694	462	407	612	...	340	465	623
	Extra EUR-9	568	390	349	210	389	...	257	1 078	420
44.15-80	World	712	695	390	488	676	404	542	662	579
	Intra EUR-9	844	946	495	574	745	495	517	788	763
	Extra EUR-9	527	572	380	452	522	341	554	651	458

Source: EUROSTAT — NIMEXE.

ANNEX 10

Average prices of imported laminated wood products and plywood

1977

(EUA/tonne)

NIMEXE	Origin	D	F	I	NL	B-L	UK	IRL	DK	EUR-9
44.15-20	World	558	527	327	505	447	405	519	491	466
	Intra EUR-9	715	581	637	664	694	844	704	1 177	690
	Extra EUR-9	506	518	319	454	391	398	480	480	436
44.15-31	World	611	540	342	553	469	490	464	643	517
	Intra EUR-9	580	549	709	594	627	758	550	629	593
	Extra EUR-9	632	467	306	459	401	465	446	697	478
44.15-39	World	671	653	394	344	664	695	464	1 131	577
	Intra EUR-9	718	782	518	322	689	852	430	583	671
	Extra EUR-9	566	416	356	419	447	538	552	1 180	457
44.15-80	World	848	682	432	454	816	639	597	864	673
	Intra EUR-9	1 021	1 078	566	457	950	727	612	686	906
	Extra EUR-9	675	536	417	452	608	632	586	904	593

Source: EUROSTAT – NIMEXE.

ANNEX 11

Average prices of imported laminated wood products and plywood

1978

(EUA/tonne)

NIMEXE	Origin	D	F	I	NL	B-L	UK	IRL	DK	EUR-9
44.15-20	World	543	518	344	488	434	403	464	483	457
	Intra EUR-9	686	589	766	633	674	847	546	1 185	657
	Extra EUR-9	498	502	331	436	391	399	447	473	430
44.15-31	World	551	545	365	587	390	436	381	663	474
	Intra EUR-9	558	547	452	640	615	715	567	658	585
	Extra EUR-9	548	504	311	489	330	414	348	672	428
44.15-39	World	633	522	423	462	754	371	502	935	562
	Intra EUR-9	697	487	460	479	776	500	527	534	620
	Extra EUR-9	522	410	398	409	590	367	423	1 167	464
44.15-80	World	824	517	431	738	738	545	579	726	618
	Intra EUR-9	1 001	992	642	764	833	868	639	732	934
	Extra EUR-9	667	438	411	546	363	515	554	726	526

Source: EUROSTAT – NIMEXE.