II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 20 July 1988

relating to a proceeding under Article 85 of the EEC Treaty

(IV/31.902 — IVECO/FORD)

(Only the English and Dutch texts are authentic)

(88/469/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation No 17 of 6 February 1962, First Regulation implementing Articles 85 and 86 of the Treaty [1], as last amended by the Act of Accession of Spain and Portugal, and in particular Articles 6 and 8 thereof,

Having regard to the notification of agreements on a joint arrangement relating to heavy vehicles made on 24 June 1986 by the Ford Motor Company Ltd, Brentwood, Essex, United Kingdom, and Iveco Industrial Vehicles Corporation BV, Amstelveen, The Netherlands,

Having regard to the summary of the notification published [2] in accordance with Article 19 (3) of Regulation No 17,

Having consulted the Advisory Committee on Restrictive Practices and Dominant Positions,

Whereas :

I. THE FACTS

(1) The proceeding relates to an agreement between two motor vehicle manufacturers in the heavy vehicle sector on the setting up of a joint venture to take over Ford's previous manufacture of the 'Cargo' line and to market the latter together with Iveco heavy vehicles in the United Kingdom.

The parties

(2) The Ford Motor Company Ltd (Ford UK) is a subsidiary of the Ford Motor Company, Dearborn, Michigan, United States (Ford USA), and the only Ford Group company in Europe which manufactures and distributes heavy vehicles ; the only heavy vehicle it produces being the Cargo line, in the 6 tonnes and above gross vehicle weight range. Outside Europe, the Ford Group still produces heavy vehicles in the United States and Brazil.

(3) Iveco Industrial Vehicles Corporation BV (Iveco) is a holding company within the Fiat Group ; its subsidiaries include Iveco-Fiat SpA, Turin, Italy ; in the heavy vehicles sector, Iveco produces vehicles in the 3,5 tonnes and above gross vehicle weight range.

(4) The joint venture, Iveco-Ford Truck Ltd, (the JV), was set up with an initial equity of 39,6 million pounds sterling and its registered office in Watford, United Kingdom. Ford UK and Iveco each have a 48 % holding, the remaining 4 % being held by Credit Suisse First Boston Ltd, London.

[1] OJ No 13, 21. 2. 1962, p. 204/62.
[2] OJ No C 287, 27. 10. 1987, p. 10.

The agreements

(5) The basic agreement (referred to as the Omnibus Agreement), concluded on 15 April 1986, describes the objectives of the joint arrangement. The JV is to take over the production and sale of the heavy vehicles previously manufactured by Ford UK and marketed as the 'Cargo' line. In addition, though only in the United Kingdom, it is for the time being to market the heavy vehicles manufactured by Iveco that are to supplement the Cargo line (4 tonnes and above gross vehicle weight). Later, when Iveco's planned new generation of heavy vehicles replaces the Cargo line, the JV is to market the entire range of Iveco heavy vehicles in the United Kingdom.

(6) Other agreements provided for in the Omnibus Agreement relate to the internal make up of the JV, the transfer of Ford UK's Cargo business and related assets to the JV, licensing, production, supplies and marketing. All the arrangements are regarded by the parties as constituting one and the same transaction together with the Omnibus Agreement.

Under the Shareholders Agreement, Iveco has the right to appoint a majority of the members of the Board of Directors of the JV and to appoint its Chairman. The Chairman is also to be the Chief Executive. Iveco also has the right to appoint the Company Secretary and the Sales and Finance Managers. Ford UK has the right to appoint the Deputy Chairman, the Industrial Operations Manager and the Personnel Manager. In important matters relating to the JV, a qualified majority, which must include the vote of at least one Board member appointed by each of Iveco and Ford UK, is required. Important matters are deemed to include in particular changes affecting production, supplies of components, the Cargo, other heavy vehicle models and distribution.

(7) Ford UK sold to the JV the equipment necessary for the production of the Cargo line and Ford UK arranged for the transfer to the JV of the personnel employed there. The JV is granted the authority to use the industrial property rights necessary for production. A lease on the Langley plant has been concluded between Ford UK and the JV for a term of up to 17 years.

(8) Ford UK and the JV have agreed, with the concurrence of Iveco, that Ford UK will supply and the JV will purchase all of the JV's requirements of certain Cargo components, in particular engines and transmissions (Component Supply Agreement).

(9) The parties have agreed that the JV will give Ford UK the exclusive right to distribute all spare parts for the Cargo line and that it will supply to Ford UK spare parts which it manufactures itself (Parts Agreement, Service Parts Supply Agreement). The JV is required to continue to handle the Cargo supply agreements with third parties, using the Ford accounting system (Bought Out Parts Agreement/Service Agreement).

(10) The joint distribution by the JV of the Cargo and of the Iveco heavy vehicles complementing it is agreed only in respect of the United Kingdom, where the two specialized dealer networks of Ford UK and Iveco are to be combined and to be continued by the JV on a basis of exclusive and selective distribution on the pattern developed by Ford (Truck Specialist Dealer Agreement).

(11) The JV has the right to distribute Iveco products under the combined Iveco-Ford trademark; the JV was originally obliged to market the Cargo line produced by it under the Ford trademark only (Trademark Licence Agreement). Since the entry into effect of the notified agreements, the parties have agreed that, as regards Cargos sold in the United Kingdom, the Ford trademark can be used in conjunction with the Iveco trademark.

(12) Iveco has undertaken to bear the costs to the JV of marketing Iveco products in the United Kingdom (Marketing Services Agreement).

(13) The parties have stipulated that the JV must distribute the Cargo line on the European continent solely through the local Ford subsidiaries acting as importers (Distribution Agreement). Exports of Cargos to Greek and to non-European overseas Ford dealers are to be accomplished using the 'Ford Direct Market Operations' (FDMO), a special sales system developed by Ford US.

(14) Ford UK has undertaken in the Omnibus Agreement not to manufacture or sell heavy vehicles in Europe and the non-European Mediterranean area; Ford USA acting on its own behalf and on behalf of other Ford companies has undertaken not to manufacture or market heavy trucks in Europe and not to manufacture or market the 'Cargo Ram' heavy vehicle currently being manufactured in Brazil and in the Mediterranean area. These no-competition undertakings apply for as long as Ford UK is a shareholder in the JV and for a period five years thereafter, provided that this period shall not extend beyond the end of 1995.

Iveco has undertaken not to compete with the JV in the United Kingdom and to market in the United Kingdom, through the JV alone, only the 'complementary' Iveco products covered by the agreement; and Iveco has undertaken to procure that the JV shall not sell the Cargo in the United States, Canada, Brazil or Australia, except in a substantially differentiated form.

(15) The no-competition clause imposed on Iveco was originally to have applied for as long as Ford UK was a shareholder in the JV. The trademark licences granted by Ford UK were to apply beyond that period for a further five years. Following approaches by the Commission, the parties have amended the agreements in such a way that neither the ban on competition by Iveco nor the licensing agreements regarding the 'Ford Cargo' and 'Iveco-Ford' trademarks will now extend beyond 31 December 1995.

(16) Under the Omnibus Agreement, neither party may transfer its shares in the JV to third parties. Each party is entitled, as soon as the Cargo line is replaced by a new Iveco line, or otherwise at any time after 31 December 1992, to require the transfer of Ford UK's shares in the JV to Iveco. Ford UK can require that this be done with immediate effect (put option), whereas Iveco must give two years' prior notice (call option). If either option is exercised, the JV will be completely incorporated into the Fiat Group. This need not necessarily occur, since there is no provision in the agreements for an automatic termination of the joint arrangement.

The relevant markets

(17) The Cargo line has been manufactured in Europe since 1981 in 6 to 10,9 tonne, 11 to 24 tonne and 16 to 33 tonne gross vehicle weight models. The bulk of sales of Cargo vehicles is accounted for by the 6 to 11 tonne range of models. Neither Ford UK nor Iveco is including lighter transport vehicles, under 4 tonne gross vehicle weight, in the joint venture arrangement. Ford UK continue to be represented on this market with it's Transit range of vehicles, independently of Iveco.

(18) Iveco's heavy vehicle range comprises the following types and models:

— the 'S' range of 3,5 to 5 tonne transport vehicles,

— the 'Z' range of 5,1 to 8 tonne or 10,9 tonne transport vehicles and lorries,

— the 'M' range of 12 to 17,5 tonnes,

— the 'T' and 'TS' or 'P' and 'PA' ranges of 16 to 24 or 33 tonnes, and buses and special transport vehicles of 4 to 33 tonnes.

As a result of the agreements, Iveco vehicles in the 6 to 15,9 tonne range are largely excluded from distribution through the JV. The successful Iveco types 'T' in the 16 tonne + range may be sold throught the JV in the United Kingdom. Iveco heavy vehicles in the 'S' range below 4 tonnes are excluded.

With the combining of the dealer networks, the JV has over 115 authorized dealers in the United Kingdom.

(19) The market for heavy vehicles normally includes all lorries, buses and special transport vehicles above 3,5 tonnes gross vehicle weight. Heavy vehicles are sold by a number of other undertakings in the United Kingdom and the other Community countries that are in competition with one another and in some cases have substantial market shares. Sales of heavy vehicles continue to be marked by a preference among buyers for national suppliers:

	Registrations of heavy vehicles of 4 tonnes and above in 1985									
	UK %	I %	D %	F %	NL %	B %	DK %	IRL %	P %	E %
Daimler-Benz	11,6	8,7	62,6	21,1	23,5	28,6	13,8	8,7	3,1	6,3
Iveco	3,6	69,4	13,6	14,5	4,2	7,8	10,3	4,3	12,5	5,3
RVI	7,9	2,3	1	39	2,5	9,1	3,4	4,3	6,3	25,3
Volvo	8,4	4,1	1,9	10	15,1	14,3	25,9	8,7	9,4	3,2
Ford	18,7	1,4	1	2,6	1,7	2,6	6,9	13	6,3	—
MAN	2,6	2,3	16,7	1,4	7,6	5,2	6,9	—	—	5,3
Scania	4,9	6,8	2,3	4,8	13,4	10,4	22,4	4,3	3,1	3,2
DAF	5,6	2,3	0,6	4,8	27,7	15,6	5,2	4,3	3,1	2,1
Leyland	16,6	—	—	—	—	—	—	4,3	—	—
GM	11,2	—	—	—	—	—	—	4,3	—	—
Others	9	2,7	0,2	1,7	4,2	6,5	5,2	43,5	56,2	49,2

(20) Ford UK had a considerable market position in the United Kingdom with its sales of the Cargo line (in 1984 some 19%, 1985 some 18,7 % of sales of heavy vehicles in the 4 tonne+ class). Iveco, by contrast, had a much weaker market position in the United Kingdom (in 1984 some 3,5 %, 1985 some 3,6 %). Ford UK did not have major market shares in any of the other Member States with its lorries in the relevant classes. Iveco, by contrast, is one of the undertakings which have been able to penetrate beyond their home market into the other Member States and win substantial market shares there (see point 19). After Daimler-Benz (1985 : 114 059 units in the 3,5 tonne+ gross vehicle weight class), Iveco is the second largest producer of heavy vehicles in the Community (76 636 units); Ford UK is the fifth largest (17 160 units).

(21) Following the publication pursuant to Article 19 (3) of Regulation No 17, the Commission received comments from the Associazione Nazionale Industria dell'Ottica Meccanica Fine e di Precisione-Assottica, Milan, Italy. The Association objects to the requirement that the JV give Ford UK the exclusive right to deal in spare parts and, in particular, supply the spare parts it manufactures itself to Ford UK. It argues that this sort of restriction can be justified only in so far as Ford itself manufactures the components for the Cargo line. The Association also points to the distortions of competition that result from the vehicle manufacturers' practice of branding exclusively with their own trademark components and parts not manufactured by them.

II. LEGAL ASSESSMENT

A. Article 85 (1)

(22) The Omnibus Agreement between Ford UK and Iveco on the setting up of the joint venture (JV) and the series of agreements which the parties regard as being inextricably linked with it fall within the scope of Article 85 (1). They have as their object and effect the restriction of competition within the common market and may affect trade between Member States. However, they may be exempted under Article 85 (3).

(23) The JV is controlled jointly by Ford UK and Iveco through their equal shareholdings. Although Ford UK is giving up the production of heavy vehicles in Europe, the JV is not as yet incorporated into the Fiat-Iveco Group. It is indeed uncertain whether that will happen in the future. Iveco has the right to appoint a majority and the Chairman of the Board of Directors. For the day to day operations of the JV Iveco has the greater influence, especially as regards marketing. Ford UK is enabled to retain substantial influence on production and sale of the Cargo line by the JV, e.g. through the appointment of the Industrial Operations Manager and through the determination of the production and marketing programme. Major decisions relating to the JV must be approved by a qualified majority of the Board of Directors, which requires the affirmative vote of at least one Board member appointed both by the Iveco Group and by the Ford UK Group (see point 6).

(24) The JV is a business formation between competitors. It cannot be considered to be an independent new competitor in the heavy vehicles sector. Although the transfer of its previous heavy vehicle production to the JV means that Ford UK is withdrawing as a direct competitor, the Ford Group will continue to produce heavy vehicles in the relevant ranges in the United States and elsewhere overseas. Ford remains an important supplier there, and one which could also export to Europe.

Following the entry into force of the agreements on the setting up of the JV, therefore, a potential competitors' relationship continues to exist between Ford UK and Iveco or the JV. Iveco is indeed a direct competitor of the JV, since Iveco manufactures products that are in competition with the category to which the Cargo line belongs and is in a position to supply them everywhere in the common market. The fact that the parent companies of the JV, namely Ford UK and Iveco, have undertaken not to compete with the JV in a specific geographical area and for a limited period (see points 14 and 15) reinforces the conclusion that the setting up of the JV falls within the scope of Article 85 (1).

(25) The JV is associated with a series of agreements between the partners relating both to their competitive behaviour and to that of the JV.

The prohibitions of competition imposed on the partners are of differing scope. Iveco is prohibited from competing with the JV in the United Kingdom (see point 14 and 15). In line with the objectives of the JV, Iveco is required to sell its own heavy vehicles in the United Kingdom only through the JV, and in conjunction with the Ford Cargo line. So as to promote joint marketing through the JV, Iveco is required not to supply certain heavy vehicles to the United Kingdom in so far as they are in direct competition with the Ford Cargo. Competition between the two parties'

various heavy vehicle ranges is thus restricted and consumer choice in the United Kingdom reduced. The production and supply ban imposed an Ford UK (see points 14 and 15) prevents Ford UK until the end of 1995 from producing heavy vehicles of 4 tonnes+ gross vehicle weight in Europe or from supplying them to Europe, which reduces the number of suppliers in this sector.

(26) In so far as Iveco heavy vehicles and spare parts may also be branded with the Ford trademark and in so far as such products using the combined trademark may only be distributed in the United Kingdom, these measures contribute to the regionalization of the sales markets of the JV and Iveco. They may have the effect of making parallel imports more difficult.

(27) Joint marketing by the JV results in restrictions at the commercial level in so far as the dealers of the combined distribution network may distribute only the range of heavy vehicle products specified by the partners (the Ford Cargo line and the complementary Iveco vehicles, see points 5 and 10).

(28) In so far as the JV is required to continue to purchase all its requirements of certain components for the production of the Cargo from Ford UK, in particular engines and transmissions (see point 8), the scope for Iveco and other undertakings to supply such parts is limited, and hence demand competition is restricted to the detriment of other suppliers. The same applies to the trade in spare parts for the Cargo, which is reserved to Ford UK alone (see point 9). The JV cannot, therefore, operate on the market itself in this respect.

(29) The agreements may appreciably affect trade between Member States. The two parties, whose registered offices are situated in different Member States, operate throughout the common market. Trade between Member States is affected particularly because of the restrictions to which Iveco is subject in selling its heavy vehicles in the United Kingdom and to which the JV is subject in producing and selling heavy vehicles within the common market.

B. Article 85 (3)

(30) The conditions for exempting agreements under Article 85 (3) are fulfilled. The Omnibus Agreement on the setting up of the JV and the agreements associated with it improve the production and distribution of goods, while allowing consumers a fair share of the resulting benefit, without (a) imposing on the undertakings concerned restrictions that are not indispensable to the attainment of those objectives, of (b) affording such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

(31) The JV makes it possible to achieve rationalization effects. The market forces heavy vehicle manufacturers to produce a variety of types, since, particularly in the case of customers with large vehicle fleets, vehicles from a single manufacturer are often sought so as to take advantage of uniform maintenance and spare parts systems for different vehicle types and models (see Commission Decision 83/668/EEC 'VW-MAN') [1]. The JV makes it possible for the Cargo line to be supplemented and for the time pending the introduction of a new product range to be bridged. Iveco is able to move into Ford UK's previous position in the United Kingdom. It is already in a position to fill the existing gaps in Ford UK's range, and indeed to do so in the United Kingdom where Iveco has hitherto not been able to achieve any significant market share, while Ford UK has in the past held fairly substantial market shares and enjoyed a well-known brand image. After phasing out the Cargo line, advantages are to be expected as soon as the JV and Iveco produce and market a common range of vehicles with common components.

(32) The combining of Iveco's dealer network with the substantially larger Ford UK distribution network similarly increases the scope for Inveco's sales and reduces its costs.

(33) Ford dealers had already felt the lack of a complete range; their market shares had fallen in recent years. The addition of the complementary Iveco models will improve their competitiveness. Their distribution and service capacities can be maintained since there is now a chance that the existing vehicle will be replaced by a new generation of vehicles.

(34) The JV and the restrictions associated with it must be regarded as essential for achieving the objective of the cooperation and for improving the production and distribution of the goods.

The JV must be regarded as indispensable because it permits the rationalized and smooth transition from the old range of models to a new generation of vehicles; this could not be achieved with the same prospects of success in any other way. The JV's success is ensured in particular by the fact that Ford UK will give up production and distribution of heavy vehicles in Europe in favour of the JV by the end of 1995 and that, up to that time, Iveco will not sell directly (i.e. outside the JV) in the United Kingdom (see points 14, 15, 24 and 25).

[1] OJ No L 376, 31. 12. 1983, p. 11.

The JV needs to be certain, during the period in which the Cargo has not yet been replaced by new lines, that the parent companies will not jeopardise the situation through their own competitive actions. The prohibitions on competition apply only until five years after one of the parent companies has withdrawn from the JV, and at any rate only to the end of 1995 (see point 15). It must be assumed that the introduction phase will last that long. Iveco in particular, which would have been able to compete effectively against the JV, is subject to a ban on the distribution of competing products, albeit only in the United Kingdom. In the rest of the common market, the competitive situation between the Ford Cargo line and Iveco vehicles remains unchanged. This geographical distribution of tasks between Iveco and the JV can be accepted up to the end of 1995.

(35) The agreements related to the carrying of trademarks (see points 11 and 26) and the combining of dealer networks (see points 10 and 27) are similarly a necessary consequence of joint distribution. Until such time as a new complete range of products is created, Ford UK's existing goodwill can be maintained and exploited in the area of cooperation with Iveco by means of the JV.

(36) Ford UK's right to supply Cargo components (see points 8 and 28) makes it possible for the Cargo to continue to be manufactured by the JV during the transitional period. In so far as Ford UK also reserves the right to market spare parts for the Cargo (see points 9 and 28), the continuing supply of spare parts to dealers in accordance with the Ford distribution system is ensured, especially if these dealers distribute other Ford vehicles needing the same or similar parts. The undertaking of the JV to supply to Ford UK all spare parts which it manufactures itself matches the practice of all vehicle manufacturers, to commercialise the whole range of spare parts only through their own distribution networks. This undertaking does not affect the possibility for a third party supplier of the JV to distribute its own spare parts on the free market.

(37) The agreement does not result in competition being eliminated in respect of a substantial part of the relevant goods. It is to be assumed that effective competition exists in the common market in the heavy vehicles sector.

The extent of the restrictions of competition resulting from the agreements and of remaining competition is to be measured in terms of the relevant markets. These are primarily determined by the products covered by the cooperation agreement. The cooperation relates to heavy vehicles of 4 tonnes and above gross vehicle weight. This covers all lorries, but also buses and special transport vehicles, which are included because of the numerous similarities in their construction.

The 6 to 15,9 tonne range accounted for 40 % of all sales of heavy vehicles of 3,5 tonnes and above in the United Kingdom in 1985; Ford UK had a share of 37 % in this category. However, this range cannot be taken in isolation as a reference in assessing the competitive situation. Heavy vehicles of a greater or lesser gross vehicle weight must also be taken into account, in so far as they are regarded by consumers as substitute products and in so far as the cooperation has an impact on their manufacture or distribution. In particular, demand by large-scale purchasers is focused on the supply of a broad range of heavy vehicles from a single supplier. Supply by most heavy vehicle manufacturers is indeed in line with this requirement.

(38) On the basis of this market definition, the parties to the agreement together accounted in the United Kingdom in 1985 for 24,06 % of sales of heavy vehicles, while in 1986 (the year in which the cooperation began) and 1987 the shares of the suppliers were as follows:

	Sales/Registration of heavy vehicles of 3,5 tonnes in the United Kingdom		
	1985	1986	1987
DAF-Leyland	—	22,98 %	22,44 %
Iveco-Ford	—	19,35 %	22,92 %
Ford	18,04 %	—	—
Leyland	15,99 %	—	—
Daimler-Benz	11,45 %	14,11 %	14,41 %
GM-Bedford	10,89 %	9,12 %	2,01 %
Renault	8,57 %	8,32 %	8,7 %
Volvo	8,1 %	8,42 %	10,46 %
Iveco	6,02 %	—	—
DAF	5,3 %	—	—
Scania	4,63 %	4,85 %	4,89 %
MAN-VW	2,82 %	4,7 %	4,43 %

Given this structure, it may be assumed that effective competition exists in the part of the common market in which the coooperation has its main impact.

(39) It must also be assumed that the cooperation between the parties in the United Kingdom does not lead to any significant reduction in the intensity of competition in the other areas of the common market. Although Iveco is, after Daimler-Benz, the second largest manufacturer of heavy vehicles in the common market, and although both have substantial market shares in other member countries as well as in their home country (see point 19), the parties together achieved a share of only 20,4 % of total sales of heavy vehicles in the common market in 1985 and a share of 19,33 % (of which Iveco-Ford had 4,74 %) in 1986 and of 18,4 % (of which Iveco-Ford had 4,9 %) in 1987.

	Sales/Registration of heavy vehicles of 3,5 tonnes + in the common market		
	1985	1986	1987
Daimler-Benz	24,1 %	27,5 %	26,3 %
Iveco	16,7 %	13,64 %	12,4 %
Iveco-Ford		4,74 %	4,9 %
Renault	10,7 %	11,91 %	11,7 %
MAN-VW	4,0 %	7,97 %	7,8 %
Volvo	6,1 %	7,58 %	8,0 %
DAF	3,3 %	(5,58 %)	(5,4 %)
DAF-Leyland		9,98 %	9,49 %
Scania	4,6 %	5,49 %	5,49 %
Leyland	4,0 %	(4,4 %)	(4,0 %)
Pegaso/ENASA		2,47 %	2,5 %
GM-Bedford	2,1 %	2,33 %	1,0 %
Ford (Cargo)	3,7 %	0,95 %	1,1 %

(40) For the rest, the JV does not wholly exclude competition between Ford UK and Iveco. In the Member States other than the United Kingdom, the relevant heavy vehicles continue to be sold under different trade marks and through entirely separate distribution channels.

(41) It is to be expected that consumers will enjoy a fair share of the resulting benefit. Customers who previously preferred Ford vehicles now have the possibility of purchasing vehicles complementary to the Cargo, wihtin the same distribution network. Such customers can also look forward to a new and complete range of vehicles produced by the JV. A broad range of vehicles manufactured in accordance with the modular principle means that vehicles and components can be manufactured and hence costs reduced. Since competitive pressure from other suppliers is intense (see point 38), it may be expected that the resulting benefit will at least partly be passed on to consumers. There are also the advantages deriving from improved customer and after-sales service that will be brought about through joint distribution and the combining of the dealer networks. The advantages to be expected from the agreements on a whole outweigh the disadvantages associated with the restrictions of competition.

(42) The comments submitted to the Commission by third parties in response to publication of the summary of the notification in accordance with Article 19 (3) of Regulation No 17 (see point 21) do not give rise to any assessment of the agreement notified other than that set out above : as already stated (see point 36), the exclusive right to distribute spare parts for the Cargo is essential to the cooperation so as to ensure the continuing supply of spare parts to dealers in accordance with the Ford distribution system. It is, moreover, limited in time to the period until the new range is introduced. Furthermore, it is a fact known to the Commission that some motor-vehicle manufacturers pursue a policy of not tolerating any parts-suppliers' marks in addition to their own trademarks. marks. This is a phenomenon which the Commission cannot examine from a competition angle in this proceeding, but which it intends to make the subject of special investigations.

C. Terms of the exemption

(43) Pursuant to Article 6 (1) of Regulation No 17, the exemption under Article 85 (3) of the Treaty may be applied with retroactive effect from 24 June 1986, the day of notification, since the conditions of Article 85 (3) were fulfilled from that date. Pursuant to Article 8 (1) of Regulation No 17, the exemption may be granted for the period up to 31 December 1995.

(44) In view of the shortness of this period, it is not necessary to require the parties, in accordance with Article 8 (1) of Regulation No 17, to present, as is otherwise the case, reports on the implementation of the cooperation before 31 December 1995. Should the cooperation be continued and a new notification made, the parties must in any case show that the conditions of Article 85 (3) continue to be fulfilled,

HAS ADOPTED THIS DECISION:

Article 1

1. In accordance with Article 85 (3) of the EEC Treaty, the provisions of Article 85 (1) are hereby declared inapplicable to the agreements of 15 April 1986 between The Ford Motor Company Limited and Iveco Industrial Vehicles Corporation BV.

2. The exemption granted in paragraph 1 shall apply from 24 June 1986 to 31 December 1995.

Article 2

This Decision is addressed to the following undertakings:

1. The Ford Motor Company Limited,
Eagle Way, Brentwood, Essex,
United Kingdom

2. Iveco Industrial Vehicles Corporation BV,
Professor Bavinklaan 5, Amstelveen
Netherlands

3. Iveco-Ford Truck Limited,
Station Road, Watford, Hertfordshire,
United Kingdom.

Done at Brussels, 20 July 1988.

For the Commission

Peter SUTHERLAND

Member of the Commission