

In Case 90/83

REFERENCE to the Court under Article 177 of the EEC Treaty by the High Court of Justice, Queen's Bench Division, Divisional Court, for a preliminary ruling in the proceedings pending before that court between

MICHAEL PATERSON, appellant,

and

W. WEDDEL & COMPANY LIMITED, respondent;

RONALD EDMOND BROOK, appellant,

and

EXETER HIDE AND SKIN COMPANY LIMITED, respondent;

ALBAN DEREK KEDWARD, appellant,

and

FREDERICK ANTHONY LEYLAND, respondent,

on the interpretation of Article 14a (2) (c) of Regulation (EEC) No 543/69 of the Council of 25 March 1969 on the harmonization of certain social legislation relating to road transport (Official Journal, English Special Edition 1969 (I), p. 170), as amended by Council Regulations No 515/72 of 28 February 1972 (Official Journal, English Special Edition 1972 (I), p. 134) and No 2827/77 of 12 December 1977 (Official Journal L 334, p. 1),

THE COURT (First Chamber)

composed of: T. Koopmans, President of Chamber, Lord Mackenzie Stuart and G. Bosco, Judges,

Advocate General: P. VerLoren van Themaat
Registrar: P. Heim

gives the following

JUDGMENT

Facts and Issues

I — Facts and written procedure

The combined provisions of Regulation No 543/69 of the Council of 25 March 1969 on the harmonization of certain social legislation relating to road transport (Official Journal, English Special Edition 1969 (I), p. 170), as amended by Council Regulations No 515/72 of 28 February 1972 (Official Journal, English Special Edition 1972 (I), p. 134) and No 2827/77 of 12 December 1977 (Official Journal L 334, p. 1), and of Regulation (EEC) No 1463/70 of the Council of 20 July 1970 on the introduction of recording equipment in road transport (Official Journal, English Special Edition 1970 (II), p. 482), as amended by Council Regulation (EEC) No 2828/77 of 12 December 1977 (Official Journal L 334, p. 5), lay down special rules for vehicles intended for the transportation of passengers or goods. When they exceed certain dimensions and are not assigned to a regular service, they must be fitted with a mechanical monitoring device for recording periods during which the vehicle is travelling or stationary, together with the speed of travel (the device being known as a tachograph). If no tachograph is fitted to the vehicle, the crews must carry an individual control book in which the daily work and rest periods, together with other information, must be entered. In the United Kingdom, the above provisions were incorporated into the national legislation as Sections 97 (1) (a) and (b) and 98 (4) of the Transport Act 1968, as amended first by the 1972 Act concerning the accession of the United Kingdom to the European Communities and secondly by the Passenger and

Goods Vehicles (Recording Equipment) Regulations 1979. Provision is made for fines of up to UKL 200 for breach of the legislation.

Certain exceptions to the general rules are, however, provided for in the Community regulations; in particular, Article 14a (2) of Regulation No 543/69, as amended by Regulation No 2827/77, provides as follows:

“Member States may, after consulting the Commission, grant exemptions from this regulation for the following national transport operations and uses:

- (a) ...
- (b) ...
- (c) transport of live animals from farms to local markets and vice versa, and *transport of animal carcasses or waste not intended for human consumption.*”

The United Kingdom availed itself of that option when introducing the Community Road Transport Rules (Exemptions) Regulations 1978 (Statutory Instrument 1978/1158), as amended by the Community Road Traffic Rules (Exemptions) (Amendment) Regulations 1980 (Statutory Instrument 1980/226), Regulation No 3 of which contains provisions identical to those of the aforesaid Article 14a (2) (c).

On 25 February, 29 September and 3 November 1981 three lorries belonging respectively to F. A. Leyland, the pro-

prietor of an undertaking trading in live animals intended for slaughter, and in carcasses and parts of carcasses; to W. Weddel and Company Limited, wholesale butchers; and to the Exeter Hide and Skin Company Limited, which carries out the preliminary treatment of animal skins following slaughter but prior to delivery to the tanners, were inspected when they were transporting the following: in the first case, 21 forequarters and one brisket of beef; in the second, sides of hind and fore-quarters of beef and lamb, together with boxes containing offal, chicken legs and cuts of frozen beef; and in the third case, raw sheepskins. In the first two cases it was found that the vehicles were not fitted with tachographs but that the drivers were equipped with individual control books, whereas in the last case the driver proved to be without an individual control book.

Charges were brought against the owners of the above vehicles for infringement both of the Community regulations and of the above-mentioned British laws. The accused denied that the provisions regarding the tachograph and individual control book applied to them, on the ground that the exemption provided for in Article 14a (2) (c) of Regulation No 543/69 was applicable. In their opinion, the phrase "not intended for human consumption" which appears in the aforesaid provision of Article 14a refers only to the waste, and not to the carcasses, so that the latter, whether or not intended for such consumption, are covered by the exemption from the general provisions of the regulation. It was argued that the quarters of beef and lamb, namely parts of carcasses, must be regarded as carcasses in the broad sense of the term; that sheepskins fell within the category of waste "not intended for human consumption"; and lastly, that the presence in the lorries of small quantities of other goods besides the

carcasses could not preclude the application of the exemption.

The magistrates accepted those arguments and acquitted the accused. The appellants — namely, Alban Derek Kedward, a police constable, who was later replaced by the Director of Public Prosecutions, Michael Paterson, an officer of the Licensing Authority of the Yorkshire Traffic Area, and Ronald Edmund Brook, a traffic examiner of the Department of Transport — stated the cases for the Opinion of the High Court of Justice, in this instance the Divisional Court of the Queen's Bench Division. The latter, by an order of 21 April 1983, stayed the proceedings and referred to the Court of Justice for a preliminary ruling on the following questions (relating to the three above-mentioned cases jointly):

1. Does the reference in paragraph 2 (c) of Article 14a of Council Regulation (EEC) No 543/69 of 25 March 1969 on the harmonization of certain social legislation relating to road transport (as amended by Council Regulation (EEC) No 515/72 of 28 February 1972 and Council Regulation (EEC) No 2827/77 of 12 December 1977) (hereinafter referred to as "the regulation") to "animal carcasses" apply:
 - (a) to all animal carcasses irrespective of whether intended for human consumption, or
 - (b) only to animal carcasses which are not intended for human consumption?
2. If the answer to Question 1 is (a), does the reference in the regulation to

“animal carcasses” include parts of carcasses and, if so, subject to what if any limitations? In particular, does the reference include:

- (a) twenty one forequarters of beef and one brisket?
- (b) side or quarters?
- (c) chicken legs?
- (d) offal?

3. Does the reference in the regulation to “animal . . . waste . . . intended for human consumption” apply:

- (a) only to parts of animals which are intended for oral human consumption, or
- (b) also to those parts of animals which are intended for any other use, e.g. as animal food or industrial or commercial use, i.e. to all parts of animals save only those which are to be merely thrown away or destroyed?

4. If the answer to Question 3 is (b), does the animal part cease to be “animal waste . . . intended for human consumption” as soon as it is first treated with a view to being prepared for such use, or at a later stage, and if later, when?

5. Does the reference in the regulation to “operations . . . for the transport of animal carcasses or waste . . .” apply:

- (a) only when the load being transported consists exclusively (subject only to *de minimis* considerations) of animal carcasses or waste, or
- (b) also when the load being transported consists substantially or in

part (and if so, what proportion) of animal carcasses or waste?

The order making the reference was lodged at the Court Registry on 19 May 1983.

Pursuant to Article 20 of the Protocol on the Statute of the Court of Justice, written observations were submitted by the Government of the United Kingdom, represented by Mrs G. Dagtoglou, Treasury Solicitor, acting as Agent; by W. Weddel & Company Limited and Exeter Hide and Skin Company Limited, represented by A. Pardoe, Barrister (Lincoln’s Inn), instructed by R.A. Roberts and G.D. Cann & Hallett, Solicitors in London; and by the Commission of the European Communities, represented by its Principal Legal Adviser, George Close, acting as Agent.

Upon hearing the report of the Judge-Rapporteur and the views of the Advocate General the Court decided to open the oral procedure without any preparatory inquiry.

By an order of 19 October 1983, the Court further decided, pursuant to Article 95 (1) and (2) of the Rules of Procedure, to assign the case to the First Chamber.

II — Written observations of the parties

In relating to the first question, the *United Kingdom* observes that in view of the very wide meaning of the term employed in the English version of the regulation at issue (“waste”, which refers generally to all useless by-products of any industrial process) the provision at issue would be meaningless unless the words “animal carcasses or waste” were

read together. That may lead to the conclusion that the phrase “not intended for human consumption” should also be interpreted as referring both to the carcasses and to the waste. Consequently, the exemption in the general legislation should apply to the transportation not of all animal carcasses but only of those not intended for human consumption. Nevertheless, the use of the disjunctive in the text under consideration, and the absence of a comma between the words “carcasses” and “waste”, would lend support to the opposite view. The exemption might be warranted by the requirements of transporting speedily and without formalities products which, not being intended for human consumption, are not usually chilled or frozen and are thus more liable to decompose, thereby becoming a hazard to public health. The foregoing would argue in favour of the second alternative proposed by the court making the reference; however, the assumptions underlying the contention are by no means certain, for if it had been the intention of the Community legislature to facilitate the transport of meat which was neither chilled nor frozen, the regulation could have said so explicitly; furthermore, it is not established that carcasses intended as food for humans are invariably transported in a chilled or frozen state. Moreover, it might well be asked why waste intended for human consumption was excluded from the exemption; the draftsmen of the regulation intended, perhaps, to emphasize that waste qualified for exemption *even though* it was not intended for human consumption. In brief, the United Kingdom does not put forward a solution but confines itself to the observation that, since breach of the provision under dispute carries a criminal penalty, it should be construed in favour of the individual.

On the second question, the United Kingdom proposes not to adhere to the

strictly literal meaning of the term “carcasses”, which means the whole body of an animal, but rather to refer to usage in the meat and butchery trade, according to which animal quarters are also regarded as “carcasses” in the wider sense of the word. Indeed, if the provision at issue were designed to facilitate the transport of edible meat as such, the conclusion to be drawn would be that the exemption must include all butchered or jointed parts of the carcass.

Turning to the third question, the United Kingdom notes that the expression “intended for human consumption” generally means “to be eaten by humans”; however, that interpretation encounters the difficulty that the English word “waste” means something which has no use at all and which is therefore, by definition, not intended for consumption in any manner whatever. In any case, it takes the view that too broad an interpretation, referring indiscriminately to any use of the waste, cannot be accepted since the exemption from the general rule would thereby become inexplicable. In order to justify it, it would be necessary to assert that the exemption applied in principle to all the products of animal slaughter, and to infer that the provision under dispute was intended to specify that it applied to animal waste even if it was not intended for human consumption; the interpretation already tentatively envisaged in the context of the first question would therefore have to be accepted. The

United Kingdom does not reach any definite conclusion on that point either.

As regards the fourth question, the United Kingdom takes the view that animal waste must cease to enjoy the exemption as soon as it has undergone an initial treatment by way of preparation for its ultimate use, since there is no further hazard to public health thereafter. Turning to the last question, it takes the view that the exemption applies only if the consignments being transported consist exclusively of animal carcasses or waste, because the saving clause can apply only to the activity specified in the relevant article, and because a wider interpretation might give rise to evasion and defeat the purpose of the law in question.

The undertakings, hereinafter referred to as "*Weddel*" and "*Exeter*", rely in regard to the first question on the wording of the relevant provision, especially the use therein of a disjunctive between the words "carcasses" and "waste", to support their claim that the exemption must cover all animal carcasses, whether or not they are intended for human consumption. That contention is also endorsed by the fact that the transportation of carcasses not intended for human consumption is very rare, and yet the exemption cannot have been drafted to embrace solely a very limited set of circumstances.

As to the second question, *Weddel* and *Exeter* take the view that the provision in question envisages only two categories of products leaving the slaughterhouse after slaughter: "carcasses" and "waste not intended for human consumption". It follows that, since parts of carcasses and offal can by no means be regarded as inedible waste, there are grounds for

treating them as "carcasses" in the wider sense of the term.

As for the third question, both the wording and the spirit of the provision at issue indicate that the words "human consumption" mean "consumption as food". Since almost all parts of slaughtered animals are used in one way or another, the opposite construction would deprive the provision in question of meaning and practical value. The expression "waste not intended for human consumption" therefore refers in fact not only to waste to be thrown away but also to those parts of slaughtered animals intended for use otherwise than as food for humans.

In the light of the reply to the above question, the following (fourth) question serves no further purpose.

Finally, with regard to the fifth question *Weddel* and *Exeter* contend that the exemption applies even in cases where the consignment being transported includes goods other than carcasses or animal waste, provided that the transportation of such carcasses and waste is the main purpose of the operation. That interpretation is supported, in particular, by the objective pursued by the provision allowing the exemption, and by the reference in the regulation to "national transport operations"; in any case, it is in keeping with essential practical requirements.

As an introductory remark, the *Commission* observes that the exemption from the general provisions which is allowed for the transportation of animal carcasses and waste not intended for human consumption calls, like any provision allowing an exception to a general rule, for strict interpretation. It is justified by the need to safeguard public health, since

carcasses and waste may carry disease, as they are susceptible to infection, readily deteriorate and often harbour many bacteria. It is desirable that such products should reach their destination as soon as possible, without being delayed during transportation for the sake of complying with regulations regarding maximum driving periods and minimum rest periods, or with the rules concerning tachographs. Since that is the objective of the provision at issue, the latter should be construed only in the light of that objective.

Having said that, the Commission notes, in relation to the first two questions, that the wording used in the various language versions for referring to "carcasses" all allude to the "whole body" of the slaughtered animal, subject — in certain versions — to the dressing which takes place in the slaughterhouse after the slaughtering. In trade usage, a distinction must be drawn between animals intended for human consumption and those which are not so intended, whether by their nature or on account of their being diseased and hence a hazard to health. In the first case, the word "carcase" means the almost whole body of the animal after proper dressing. In the second case — which clearly does not concern the butchery and meat trade — the term in question refers to the whole body of the animal. As regards the phrase "not intended for human consumption" and the question as to whether it refers solely to the animal waste or to the carcasses as well, several language versions are ambiguous, but the wording of the German and Dutch versions indicates that the expression must be attached not only to the waste but also to the carcasses; the latter thesis must therefore prevail.

It is clear from an examination of trade usage and from the Explanatory Notes to the Common Customs Tariff that there is a large volume of trade involving carcasses coming from slaughterhouses and intended for human consumption — that is to say, by far the larger part of the carcasses, and it is part of normal commercial management to ensure that they are transported in conformity with the legislation in force. On the other hand, in the case of animal carcasses not intended for human consumption, and especially diseased animals, it may be very important to proceed swiftly with the disposal of carcasses which may be hazardous to public health. Accordingly it would appear logical to apply the exemption only to carcasses not intended for human consumption. That contention is borne out by the fact that Annex I to Council Directive No 64/433/EEC of 26 June 1964 on health problems affecting intra-Community trade in fresh meat (codified version: Official Journal 1975, C 189, p. 31) provides for storage, in special lockable premises, of animals slaughtered in a slaughterhouse but declared unfit for human consumption.

As regards the meaning of the term "waste", which is the subject of the third question, the Commission observes that the word used in the English text generally refers to useless remnants; in the other language versions, on the other hand, the terms employed appear to cover rather the by-products of the animal after the carcase has been dressed. Accordingly, the exemption appears to embrace, besides truly useless

waste, the products of slaughtered animals intended for consumption other than consumption as food for humans, such as feed for domestic animals, or the manufacture of fertilisers or soap, and so on. In the light of trade usage, to construe "waste" as meaning objects without any commercial value whatever is inappropriate, since the by-products of slaughtering may be divided into edible offal and remnants (as is also indicated by the Common Customs Tariff), the inedible by-products being further subdivided into products capable of commercial use and products to be disposed of. In brief, for the purposes of the provision at issue the term "waste" must be construed as referring to all inedible by-products of animal slaughter together with the unusable remnants, and not the latter alone. Even in that case, the exemption is warranted on grounds which relate to the protection of public health. As for the meaning of the phrase "intended for human consumption", examination of the various language versions leads to the conclusion that it means consumption as food, and that interpretation is also borne out by trade usage.

As for the fourth question, the Commission, referring to the grounds relating to the protection of public health which underlie and justify the exemption, observes that carcasses and waste not intended as food for humans may constitute a hazard until they undergo an initial treatment for preserving them (removal of fat, rinsing, salting etc.), which of course applies to commercially useful waste but not to waste for disposal, which is not usually treated.

Lastly, as regards the fifth question, the first alternative proposed by the court

making the reference should be adopted because no other interpretation is warranted by the wording of the provision, and because it is undesirable to encourage the mixing of meat products intended for consumption as food for humans with by-products intended for quite a different use, which might be harmful to health. That opinion is confirmed by the Council directive of 26 June 1974, mentioned above, which provides that during transportation and storage meat products are to be separated from waste not intended for consumption as food for humans.

The Commission therefore proposes to give the following replies to the questions raised by the court of reference:

1. The exemption in Article 14a (2) (c) with respect to carcasses applies only to carcasses not intended for human consumption.
2. Strictly speaking, the second question does not call for an answer in view of the reply given to the first question as the products mentioned in the second question are intended for human consumption. In any case, the term "carcasses" is not apt to include the animal parts listed in the question. In particular, it is not appropriate to apply a definition contained in a measure of national legislation for the particular purposes of that measure to a Community measure whose scope and purposes are different.

3. Question three refers to “animal . . . waste . . . intended for human consumption”. In fact, Article 14a (2) (c) speaks of “waste not intended for human consumption”. The exemption does not cover parts of animals which are for use for human oral consumption. The scope of the exemption in question should be limited to the by-products of slaughtering which are not intended for human consumption.
4. In the case of by-products with some commercial value, the exemption should only apply to them in their raw state, that is to say, before the first process is applied to them. Such processing is designed to preserve them, and it would be contrary to the rationale of the exemption to extend it to cover products in subsequent stages of processing.
5. The exemption should be restricted to consignments consisting of the products mentioned therein. It should

not be extended to cases where the consignment consists, substantially or in part, of animal carcasses and waste not intended for human consumption and partly of other products.

III — Oral procedure

At the sitting on 19 January 1984 oral argument was presented by two of the respondents in the main proceedings, namely W. Weddel & Company Limited and Exeter Hide and Skin Company Limited, both represented by Alan Pardoe, Barrister of Lincoln's Inn, instructed by Messrs R. A. Roberts and Messrs G. D. Cann & Hallett, Solicitors; and by the Commission of the European Communities, represented by George Close, its Principal Legal Adviser, acting as Agent.

The Advocate General delivered his opinion at the same sitting.

Decision

- 1 By order dated 21 April 1983 which was received at the Court Registry on 19 May 1983, the High Court of Justice, Queen's Bench Division, Divisional Court, referred to the Court for a preliminary ruling under Article 177 of the EEC Treaty several questions on the interpretation of Article 14a of Regulation No 543/69 of the Council of 25 March 1969 on the harmonization of certain social legislation relating to road transport (Official Journal, English Special Edition 1969 (I), p. 170), as amended by Regulation No 515/72 of the Council of 28 February 1972 (Official Journal, English Special Edition 1972 (I), p. 134) and Council Regulation No 2827/77 of 12 December 1977 (Official Journal 1977 L 334, p. 1).
- 2 Those questions arose in criminal proceedings brought against three undertakings which had used their vehicles for the carriage by road of certain

animal products intended principally for human consumption, in contravention of the requirements of Regulation No 543/69 cited above and of those of Regulation No 1463/70 of the Council of 20 July 1970 on the introduction of recording equipment in road transport (Official Journal, English Special Edition 1970 (II), p. 482). In the first case the products being transported comprised sides of hindquarters and forequarters of beef or lamb together with boxes containing chicken or imported beef, in the second case raw sheepskins and in the third case 21 forequarters of beef and one brisket contained in 31 boxes.

- 3 Regulation No 543/69 lays down rules regarding the composition of the crews engaged in the carriage of goods by road where certain vehicles are used (Articles 5 and 6), the limitation of driving periods (Articles 7 to 10) and daily and weekly rest periods (Articles 11 and 12).
- 4 In order to ensure that those rules are observed, provision is made for control measures which differ depending on whether or not the vehicle is assigned to a regular service. In the latter case, Article 14 (1) provides that crew members are to carry an individual control book conforming to the model in the annex to the regulation. The individual control book has been progressively replaced by a monitoring device (tachograph), of which the installation in vehicles was made compulsory by Regulation No 1463/70, cited above.
- 5 Article 5 of Regulation No 515/72, cited, above inserted a new article, Article 14a, in Regulation No 543/69, to which Regulation No 2827/77 in turn added further paragraphs. The second of those paragraphs provides that:

“Member States may, after consulting the Commission, grant exemptions from this regulation for the following national transport operations and uses:

 - (a) ...
 - (b) ...
 - (c) transport of live animals from farms to local markets and vice versa, and transport of animal carcasses or waste not intended for human consumption.”

- 6 The United Kingdom availed itself of the possibility of exemption provided for in Article 14a (2) (c) by adopting the Community Road Transport Rules (Exemptions) Regulations 1978, which were subsequently amended, the provisions of Regulation No 3 being identical to those of Article 14a (2) (c) cited above.
- 7 Before the national court, the three respondent undertakings sought to rely upon the exemption provided for in Article 14a (2) (c). They claimed that the transport operations in respect of which criminal proceedings had been brought against them fell within the scope of that exemption and that consequently they were not bound to observe the Community requirements regarding the obligation to fit tachographs to vehicles used for the carriage of goods by road or the obligation for the crews of such vehicles to carry an individual control book.
- 8 In those circumstances the national court stayed the proceedings and referred the following questions to the Court:

- “1. Does the reference in paragraph 2 (c) of Article 14a of Council Regulation (EEC) No 543/69 of 25 March 1969 on the harmonization of certain social legislation relating to road transport (as amended by Council Regulation (EEC) No 515/72 of 28 February 1972 and Council Regulation (EEC) No 2827/77 of 12 December 1977) (hereinafter referred to as ‘the regulation’) to ‘animal carcasses’ apply:
- (a) to all animal carcasses irrespective of whether intended for human consumption, or
- (b) only to animal carcasses which are not intended for human consumption?
2. If the answer to Question 1 is (a), does the reference in the regulation to ‘animal carcasses’ include parts of carcasses and, if so, subject to what if any limitations? In particular, does the reference include:
- (a) 21 forequarters of beef and one brisket?
- (b) side or quarters?
- (c) chicken legs?
- (d) offal?

3. Does the reference in the regulation to ‘animal . . . waste . . . intended for human consumption’ apply:
 - (a) only to parts of animals which are intended for oral human consumption, or
 - (b) also to those parts of animals which are intended for any other use, e.g. as animal food or for industrial or commercial use, i.e. to all parts of animals save only those which are to be merely thrown away or destroyed?

4. If the answer to Question 3 is (b), does the animal part cease to be ‘animal waste . . . intended for human consumption’ as soon as it is first treated with a view to being prepared for such use, or at a later stage, and if later, when?

5. Does the reference in the regulation to ‘operations . . . for the transport of animal carcasses or waste . . .’ apply:
 - (a) only when the load being transported consists exclusively (subject only to *de minimis* considerations) of animal carcasses or waste, or
 - (b) also when the load being transported consists substantially or in part (and if so, what proportion) of animal carcasses or waste?”

The first question

- 9 By the first question, the national court wishes to know whether the exemption provided for in Article 14a (2) (c) of Regulation No 543/69 covers all animal carcasses or only those not intended for human consumption.

- 10 In the observations which it submitted to the Court, the United Kingdom claimed that the use of the disjunctive “or” between the terms “carcasses” and “waste” and the absence of a comma after the term “waste” in the English, French and Italian texts shows that the qualifying words “not intended for human consumption” must apply only to waste. However, the

United Kingdom acknowledged that an interpretation to the effect that the qualifying words refer also to carcasses is likewise possible. Weddel & Company Limited and Exeter Hide and Skin Company Limited [hereinafter referred to as “Weddel” and “Exeter”], two of the respondents in the main proceedings, favour the restrictive interpretation and also point out that if those qualifying words were to apply also to carcasses, Article 14a (2) (c) would be deprived of its practical meaning since the carriage of carcasses not intended for human consumption is very rare.

- 11 That interpretation cannot be accepted. As the Commission has pointed out, whilst it is true that, according to certain language versions of Article 14a (2) (c), both the view maintained by Weddel and Exeter and, in part, by the United Kingdom and the opposite view are theoretically possible, other versions, in particular the Dutch language version, are worded in such a way as to exclude uncertainty. In fact, in that version, the qualifying words “not intended for human consumption” precede the term “carcasses” and consequently can apply only to both waste and carcasses.

- 12 The interpretation thus deriving from the unequivocal language versions is confirmed by an analysis of Article 14a, considered in its entirety and in the light of its legal context.

- 13 All the cases in which an exemption from Regulation No 543/69 is rendered possible by Article 14a relate to transport operations displaying particular characteristics, by reason either of the use of specialized vehicles or of the specific nature of the articles to be transported. It was precisely in view of the latter fact that Regulation No 2827/77, by inserting paragraph 2 (c) in Article 14a, encouraged rapid transport of animal carcasses not intended for human consumption.

- 14 In fact, as the Commission has rightly pointed out, carcasses of that type, by contrast with those intended for human consumption, do not undergo any treatment of such a kind as to facilitate their conservation or avoid the risk of contamination. Consequently, those products must be moved rapidly in view of the potential dangers which they may represent for public health, both human and animal.

15 In view of the fact that the carriage of carcasses intended for human consumption, which accounts for a very substantial amount of trade, can be carried out in compliance with the requirements of Regulation No 543/69 and without any risk to public health, there is no justification for a generalized exemption in favour of that type of carriage.

16 In addition, that conclusion necessarily follows from the fact that since Article 14a (2) envisages derogations from the general rules contained in Regulation No 543/69, it cannot be interpreted so as to extend its effects further than is necessary for the protection of the interests which it is intended to safeguard.

17 It is therefore necessary to state in reply to the first question that the term "animal carcasses" used in Article 14a (2) (c) of Regulation No 543/69 of the Council of 25 March 1969 on the harmonization of certain social legislation relating to road transport, as amended by Regulation No 515/72 of the Council of 28 February 1972 and Council Regulation No 2827/77 of 12 December 1977, refers solely to carcasses which are not intended for human consumption.

18 In view of the answer given to the first question, it is unnecessary to reply to the second question.

The third question

19 By the third question, the national court asks, essentially, whether the term "animal . . . waste not intended for human consumption" contained in Article 14a (2) (c) refers also to parts of animals intended to be used for purposes other than oral consumption.

20 All the parties which have submitted observations to the Court have expressed the view that not only unusable remains of slaughtered animals but also inedible animal by-products are covered by Article 14a (2) (c).

- 21 In that connection, it should be noted that in ordinary language the term “human consumption” can mean only “use by humans as food”. That is particularly clear in the case of Article 14a (2) (c) since the most frequent and usual purpose of animal products to which that provision refers is precisely to feed human beings.
- 22 That interpretation is not contradicted by the slightly different terms used in the various language versions of Article 14a. In fact, terms such as “déchets d’abattage”, “scarti di macellazione”, “Schlachtabfälle”, “slagteraffald”, “slachtafvalen” and “waste” perfectly reflect the idea that for the purposes of utilization of the carcase of an animal, even though the inedible parts may be used in non-food industries such as the leather or fertilizer industries, they have far less value and importance than the edible products which, for their part, undeniably represent the sole “primary” products of animal slaughter.
- 23 It is therefore necessary to state in reply to the third question that the term “animal . . . waste not intended for human consumption” in Article 14a (2) (c) refers only to parts of animals not intended for oral human consumption.
- 24 In view of the reply given to the third question, it is unnecessary to reply to the fourth question.

The fifth question

- 25 By the fifth question, the national court asks in essence whether the possibility of exemption envisaged in Article 14a (2) (c) applies where the load being transported includes products not covered by that exemption.
- 26 If transport operations were allowed exemption from the application of Regulation No 543/69 for the sole reason that they included animal carcasses or waste not intended for human consumption, the provisions of Regulation No 543/69 could readily be defeated. The addition to the load being

transported of even a small number of carcasses or a minimal quantity of waste would suffice to avoid the application of that regulation.

- 27 That result would be manifestly contrary to the objectives pursued by Article 14a, which is intended to exempt from the application of Regulation No 543/69 only specific transport operations.
- 28 It is therefore necessary to state in reply to the fifth question that the term "operations . . . for the transport of animal carcasses or waste" used in Article 14a (2) (c) refers solely to operations in which only animal carcasses and waste not intended for human consumption are transported.

Costs

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

On those grounds,

THE COURT (First Chamber),

in answer to the questions referred to it by the High Court of Justice, Queen's Bench Division, Divisional Court, by order of 21 April 1983, hereby rules:

1. The term "animal carcasses" used in Article 14a (2) (c) of Regulation No 543/69 of the Council of 25 March 1969 on the harmonization of certain social legislation relating to road transport, as amended by Regulation No 515/72 of the Council of 28 February 1972 and Council Regulation No 2827/77 of 12 December 1977, refers solely to carcasses which are not intended for human consumption;

2. The term “animal . . . waste not intended for human consumption” contained in Article 14a (2) (c) refers only to parts of animals not intended for oral human consumption;
3. The term “operations . . . for the transport of animal carcasses or waste” used in Article 14a (2) (c) refers solely to operations in which only animal carcasses and waste not intended for human consumption are transported.

Koopmans

Mackenzie Stuart

Bosco

Delivered in open court in Luxembourg on 22 March 1984.

For the Registrar

D. Louterman

Administrator

T. Koopmans

President of the First Chamber

OPINION OF MR ADVOCATE GENERAL
VERLOREN VAN THEMAAT
DELIVERED ON 19 JANUARY 1984¹

*Mr President,
Members of the Court,*

I consider the observations submitted by the Commission in this case sufficiently comprehensive and appropriate for there to be no necessity for me to make any addition or amendment thereto. The other observations, both written and oral, which were submitted to the Court

were also, of course, extremely useful; however, I do not consider them such as to refute the very persuasive arguments put forward by the Commission. If I well understand him, Counsel for the first two accused in the main proceedings has based the observations we have just heard primarily on the English language version of the relevant regulation, as well as on certain ambiguities present in that

¹ — Translated from the French.