

7. Does the concept of production in Article 86 of the EAEC Treaty also encompass the enrichment of uranium?
8. Are uranium and light-enriched uranium 'source materials' within the meaning of the last phrase of Article 197 (1) of the EAEC Treaty?
9. (a) Can civil-law title under Paragraph 903 of the Bürgerliches Gesetzbuch (German Civil Code, hereinafter the 'BGB') be acquired and transferred in respect of materials that have become the property of the Euratom Community under the first sentence of Article 86 of the EAEC Treaty?
- (b) Does the unlimited right of use and consumption afforded to holders of rights under Article 87 of the EAEC Treaty exist as a property or quasi-property interest sui generis alongside rights in rem under the Bürgerliches Gesetzbuch of the Federal Republic of Germany?
10. Does an undertaking pursue any of its activities in the territories of the Member States of the Euratom Community within the meaning of Article 196 (b) of the EAEC Treaty if it acquires or disposes of enriched uranium stored there?
11. Does Article 73 of the EAEC Treaty also apply mutatis mutandis to agreements concerning enriched uranium stored within the territory of the Euratom Community where all of the parties are nationals of third States?
1. Are Council Regulations Nos 1269/1999 ⁽¹⁾ and 822/2001 ⁽²⁾, which fix Community tariff quotas only in respect of the importation of barley for the manufacture of beer aged in tanks containing beechwood, valid in the light of the prohibition on discrimination between producers laid down in the second subparagraph of Article 34(2) of the Treaty?
2. If the abovementioned regulations are invalid, does Article 10(2) of Council Regulation (EEC) No 1766/92 ⁽³⁾ of 30 June 1992 on the common organisation of the market in cereals, in conjunction with Commission Regulation (EC) No 2023/2001 ⁽⁴⁾ of 15 October 2001 fixing the import duties in the cereals sector, nevertheless require that import duty be charged on high-graded barley falling within CN code 1003 00 which is intended for the production of beer made from malt?

⁽¹⁾ Council Regulation (EC) No 1269/1999 of 14 June 1999 opening a Community tariff quota for barley falling within CN code 100300 (OJ L 151 of 18 June 1999, p. 1).

⁽²⁾ Council Regulation (EC) No 822/2001 of 24 April 2001 opening a Community tariff quota for barley for malting falling within CN code 100300 (OJ L 120 of 28 April 2001, p. 1).

⁽³⁾ Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals (OJ L 181 of 1 July 1992, p. 21).

⁽⁴⁾ Commission Regulation (EC) No 2023/2001 of 15 October 2001 fixing the import duties in the cereals sector (OJ L 273 of 16 October 2001, p. 18).

Reference for a preliminary ruling by the College van Beroep voor het bedrijfsleven (Netherlands), by order of that court of 18 February 2004, in the case of Heineken Brouwerijen B.V. v Hoofdproductschap Akkerbouw,

(Case C-126/04)

(2004/C 106/59)

Reference has been made to the Court of Justice of the European Communities by order of the College van Beroep voor het bedrijfsleven (Administrative Court for Trade and Industry) (Netherlands), received at the Court Registry on 8 March 2003, for a preliminary ruling in the case of Heineken Brouwerijen B.V. against Hoofdproductschap Akkerbouw (Central Board for Agricultural Products) on the following questions:

Reference for a preliminary ruling by the High Court of Justice (England & Wales), Queen's Bench Division by order of that court dated 18 November 2003, amended on 27 February 2004, in the case of Master Declan O'Byrne against Aventis Pasteur MSD Ltd and Aventis Pasteur SA.

(Case C-127/04)

(2004/C 106/60)

Reference has been made to the Court of Justice of the European Communities by an order of the High Court of Justice (England & Wales), Queen's Bench Division, dated 18 November 2003, amended on 27 February 2004, which was received at the Court Registry on 8 March 2004, for a preliminary ruling in the case of Master Declan O'Byrne against Aventis Pasteur MSD Ltd and Aventis Pasteur SA on the following questions:

1. On a true interpretation of Article 11 of the Council Directive ⁽¹⁾, when a product is supplied pursuant to a contract of sale by a French manufacturer to its wholly owned English subsidiary, and then by the English company to another entity, is the product put into circulation:

- (a) when it leaves the French company; or
- (b) when it reaches the English company; or
- (c) when it leaves the English company; or
- (d) when it reaches the entity receiving the product from the English company?

2. Where proceedings asserting rights conferred on the claimant pursuant to the Council Directive in respect of an allegedly defective product are instituted against one company (A) in the mistaken belief that A was the producer of the product when in fact the producer of the product was not A but another company (B), is it permissible for a Member State under its national laws to confer a discretionary power on its courts to treat such proceedings as 'proceedings against the producer' within the meaning of Article 11 of the Council Directive?

3. Does Article 11 of the Council Directive, correctly interpreted, permit a Member State to confer a discretionary power on a court to allow B to be substituted for A as a defendant to proceedings of the kind referred to in Question 2 above ('the relevant proceedings') in circumstances where:

- (a) the period of 10 years referred to in Article 11 has expired;
- (b) the relevant proceedings were instituted against A before the 10 year period expired; and
- (c) no proceedings were instituted against B before the expiry of the 10 year period in respect of the product which caused the damage alleged by the claimant?

⁽¹⁾ Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (OJ L 210, 07.08.1985, p. 29).

Reference for a preliminary ruling by the Rechtbank van Eerste Aanleg te Dendermonde, by decision of that court of 19 January 2004, in the case of Het Openbaar Ministerie against (1) Annic Andréa Raemdonck and (2) the company Raemdonck-Janssens BVBA

(Case C-128/04)

(2004/C 106/61)

Reference has been made to the Court of Justice of the European Communities by the Rechtbank van Eerste Aanleg te Dendermonde (Court of First Instance in Dendermonde) for a preliminary ruling by decision of 19 January 2004, received at the Court Registry on 9 March 2004, in the case of Het Openbaar Ministerie (Public Prosecutor's Office) against (1) Annic Andréa Raemdonck and (2) the company Raemdonck-Janssens BVBA on the following question:

Must the terms 'materials or equipment' as contained in Article 13(1)(g) of Council Regulation (EEC) No 3820/85 ⁽¹⁾ of 20 December 1985 on the harmonisation of certain social legislation relating to road transport be construed as covering only 'tools and instruments' or do those terms, on the contrary, also cover the goods required for the performance of construction work, which may be transported together with or separate from the tools and instruments, such as building materials or cables?

⁽¹⁾ OJ 1985 L 370, pp 1-7.

Reference for a preliminary ruling by the Conseil d'Etat (Belgium) Administrative Division, by judgment of that court of 25 February 2004 in the case Espace Trianon SA and Société wallonne de location-financement SA (SOFI-BAIL) against the Office communautaire et régional de la formation professionnelle et de l'emploi (FOREM)

(Case C-129/04)

(2004/C 106/62)

Reference has been made to the Court of Justice of the European Communities by the Conseil d'Etat (Belgium), Administrative Division, of the 25 February 2004, which was received at the Court Registry on 9 March 2004, for a preliminary ruling in the case of Espace Trianon SA and Société wallonne de location-financement SA (SOFIBAIL) against the Office communautaire et régional de la formation professionnelle et de l'emploi (FOREM).

The Conseil d'Etat (Belgium), Administrative Division, asks the Court of Justice to give a preliminary ruling on the following questions: