

thereto and packaged under this trade mark, from transferring them into containers of a different size, providing them with new packaging, affixing to such packaging the proprietor's trade mark and importing the preparations distinguished and in this manner into Member State B?

3. Is the proprietor of the trade mark entitled to do this or does he thereby infringe provisions of the EEC Treaty — in particular those contained in Article 86 thereof — even if he acquires a dominant position within the market in Member State B with regard to the medicinal preparation in question, when prohibition on imports of a repacked product to which the proprietor's trade mark has been affixed has in actual fact a restrictive effect on the market, because different sizes of packages are used in countries A and B and because the importation of the product in another manner has not yet in fact made any appreciable progress on the market, and when the actual effect of the prohibition is that between the Member States there is maintained a substantial — in certain circumstances disproportionate — price differential, without its being possible to prove that the owner of the mark is using the prohibition solely or mainly to maintain this price differential?

Removal of Case 81/76 ⁽¹⁾

By order of 24 November 1976 the Court of Justice of the European Communities ordered the removal from the Register of Case 81/76: Douwe Egberts GmbH v. Hauptzollamt Kleve.

⁽¹⁾ OJ No C 223, 23. 9. 1976.

Removal of Case 8/76 ⁽¹⁾

By order of 25 November 1976 the Court of Justice of the European Communities (First Chamber) ordered the removal from the Register of Case 8/76: Enrica Lodi v. European Parliament.

⁽¹⁾ OJ No C 43, 25. 2. 1976.
