Addendum to the Reports for the Hearing in Joined Cases C-106/90, C-317/90 and C-129/91 *

V — Replies to the questions asked by the Court

1. In reply to the Court's question requesting it to specify the precise scope of its applications for compensation in each of Cases C-106/90, C-317/90 and C-129/91, in particular as the situation stands following the judgment of the High Court in Dublin on 9 July 1991, *Emerald Meats* acknowledges that in each of the three actions a significant part of the damages requested have been received in one way or another. Moreover, since its entitlement to quota in 1990 and 1991 has now been recognized, and the tonnages concerned have been accepted as reference imports for future allocations, its claims for related continuing damage in these cases are now no longer relevant.

However, Emerald Meats still submits that the Commission could have prevented all the proceedings brought and should be held responsible for the negative effect which its acts and omissions have had on Emerald Meats' business. The compensation which Emerald Meats continues to claim concerns, on the one hand, the global damage occasioned to its operations which have been at a standstill for two and a half years and, on the other hand, the costs incurred in the present cases, save for those relating to Case C-317/90 R which it was awarded by the Irish courts.

With regard to the general damage sustained by its business since February 1990, Emerald Meats claims in respect of:

(1) the financial loss suffered through loss of trade;

(2) interest on an inter-company loan made by Emerald Meats London Limited to Emerald Meats to help fund the present actions and to support the company;

(3) the costs incurred by Emerald Meats, not including legal fees, in preparing for these actions, and for the related actions before the Irish courts;

(4) lawyer's fees incurred in the actions before the High Court in Dublin which are not recoverable before that court;

(5) loss incurred by Emerald Meats due to its obligation to provide a customer with a credit owing to Emerald Meats' inability to provide the said licence on the date promised;

* Language of the case: English.

(6) interest on the sum representing the value of the quota of which Emerald Meats was deprived in 1990;

(7) financial loss incurred by Emerald Meats owing to the drop in the market price of frozen meat between February 1991 and July 1991.

Emerald Meats states that its claims in no way overlap with the damages awarded by the Irish courts. It points out that, although the High Court in Dublin acknowledged in the judgment of 9 July 1991 that the failure to obtain the quota to which Emerald Meats was entitled in 1990 severely disrupted its business and its relationship with other traders, that court did not award any amount by way of general damages.

2. Acting upon the Court's request for information on the state of the proceedings initiated pursuant to Article 169 of the EEC Treaty against Ireland, the *Commission* stated that it had decided on 26 March 1991 to suspend the proceedings until the High Court in Dublin had given a decision in the case brought before it by Emerald Meats. After it had been informed by the Irish authorities on 6 December 1991 of the effect given to Commission Regulation (EEC) No 3021/91 of 16 October 1991 (amending Regulation (EEC) No 3885/90 laying down detailed rules for the application of the import arrangements provided for in Council Regulation (EEC) No 3838/90 for frozen meat of bovine animals falling within CN Code 0202 and products falling within CN Code 0206 29 91 (OJ 1990 L 287, p. 11)), adopted in order to revise the quota allocation for 1990 to take account of the judgment of the High Court in Dublin of 9 July 1991, and in view of the fact that the Irish authorities had lodged an appeal against that judgment, the Commission decided on 18 December 1991 to continue the suspension of the infringement proceedings. The Commission added that 'in two meetings held on 22 January and 13 February 1992, the Commission's services discussed the revised entitlement with the Irish authorities' and that 'at the last meeting it was concluded that one point still needed to be checked, and that the Irish authorities would make the necessary investigations and report back as soon as possible'. It stated that 'in view of the reply of the Irish authorities' it would 'take a decision on the continuation of the infringement procedure'.

F. A. Schockweiler
Judge-Rapporteur