from protection, even where they form part of a unit which is already protected as such.

2. The right of a proprietor of a protected design to prevent third parties from manufacturing and selling or importing, without his consent, products incorporating the design constitutes the very subject-matter of his exclusive right. It follows that an obligation imposed upon the proprietor of a protected design to grant to third parties, even in return for a reasonable royalty, a licence for the supply of products incorporating the design would lead to the proprietor thereof being deprived of the substance of his exclusive right, and that a refusal to grant such a licence cannot in itself constitute an abuse of a dominant position.

However, the exercise of such an exclusive right by the proprietor of a registered design in respect of car body panels may be prohibited by Article 86 if it involves, on the part of an undertaking holding a dominant position, certain abusive conduct such as the arbitrary refusal to supply spare parts to independent repairers, the fixing of prices for spare parts at an unfair level or a decision no longer to produce spare parts for a particular model even though many cars of that model are still in circulation, provided that such conduct is liable to affect trade between Member States.

REPORT FOR THE HEARING
delivered in Case 238/87 *

I — Facts and legal background

(a) *The dispute in the main proceedings*

AB Volvo (hereinafter referred to as 'Volvo'), which is a company incorporated under the laws of Sweden, is the controlling company of the Volvo group, which includes *inter alia* companies specializing in the manufacture and production of cars, trucks, buses, marine and industrial engines and aerospace engines. In most Community countries, Volvo cars are sold by Volvo companies, except for the United Kingdom, Greece and Spain where they are imported and sold by wholly independent companies.

Erik Veng (UK) Ltd (hereinafter referred to as 'Veng') is a legally independent United Kingdom company. Formerly it was a 50% subsidiary of Veng A/S Denmark which, like other undertakings established in Italy

* Language of the Case: English.

and in Spain, provide Veng with automobile body panels for sale in the United Kingdom.

The dispute in the main proceedings concern the importation and sale in the United Kingdom by Veng of the Volvo 200 series front wing. According to Veng, the body panels in question are imported from Italy, apart from an initial batch made in Taiwan and imported via Denmark.

In this dispute, Volvo has commenced proceedings against Veng alleging infringement of its Registered Design No 968895. Veng denies infringing Volvo's rights under national law and challenges the validity of the registered design. In its defence Veng also relies on Article 86 of the EEC Treaty. However, Veng has undertaken to abandon in this action all allegations of abuse and intended abuse under Article 86 of the EEC Treaty as are presently pleaded save for the allegation of abuse on account of the plaintiff's refusal to grant a licence to the defendant or others under the registered design in question and not to raise in this action any other alleged defence under the said Article 86 or other provision of Community law.

Taking the view that judgment in the case depended on an interpretation of Community law, the Patents Court requested the Court of Justice to give a preliminary ruling on the following questions:

'(1) If a substantial car manufacturer holds registered designs which, under the law of a Member State, confer on it the sole and exclusive right to make and import replacement body panels required to effect repair of the body of a car of its manufacture (if such body panels are not replaceable by body panels of any other design), is such a manufacturer, by reason of such sole and exclusive rights, in a dominant position within the meaning of Article 86 of the EEC Treaty with respect to such replacement parts?

(2) Is it prima facie an abuse of such dominant position for such a manufacturer to refuse to license others to supply such body panels, even where they are willing to pay a reasonable royalty for all articles sold under the licence (such royalty to represent an award which is just and equitable having regard to the merits of the design and all the surrounding circumstances, and to be determined by arbitration or in such other manner as the national court shall direct)?

(3) Is such abuse likely to affect trade between Member States within the meaning of Article 86 by reason of the fact that the intending licensee is thereby prevented from importing the body panels from a second Member State?'

(b) *Legal background*

The design in question has been registered under the United Kingdom Registered Designs Act 1949. Section 1 of the Act determines the designs which are to be registrable.

According to section 1 (3) of the Act, a 'design' means 'features of shape, configuration, pattern or ornament applied to an article by any industrial process or means, being features which in the finished article

appeal to and are judged solely by the eye, that does not include a method or principle of construction or features of shape or configuration which are dictated solely by the function which the article to be made in that shape or configuration has to perform'.

According to section 9, the period of validity of the exclusive right which is in the first instance five years may be extended twice, thereby giving a maximum of 15 years.

Section 10 of the Act provides for the grant, on request, of a compulsory licence in respect of the registered design. The only ground on which such a compulsory licence may be granted is that the design is not applied in the United Kingdom to such an extent as is reasonable in the circumstances of the case.

The International Convention for the Protection of Industrial Property, signed in Paris on 20 March 1883 (hereinafter referred to as 'the Paris Convention'), provides for the compulsory licensing of patents in order 'to prevent the abuses which might result from the exercise of the exclusive rights conferred by the patent, for example, failure to work' (Article 5 A (2)). However, the Convention makes no such provision in the case of industrial designs.

The Convention provides for the forfeiture of patents where the grant of compulsory licences would not have been sufficient to prevent such abuses (Article 5 A (3)). However, the protection of industrial designs may not be subject to any forfeiture, either by reason of failure to work or by reason of the importation of articles corresponding to those which are protected (Article 5 B).

(c) *The market in automobile replacement parts for Volvo 200 series cars*

The 200 series car was first launched in August 1974 and a new model of that series was introduced in 1980. According to Volvo, in 1986 its sales in the United Kingdom of the 200 series car totalled 10 544 units.

The front wings of the 200 series car are the only body panels which are registered as a design in the United Kingdom by Volvo. In the United Kingdom, therefore, all the other body panels in a 200 series car may be freely manufactured and marketed.

The registered design in question expires in June 1989.

II — Procedure

The order for reference was received at the Court Registry on 3 August 1987.

In accordance with Article 20 of the Protocol on the Statute of the Court of Justice of the EEC, observations were submitted by Veng, represented by Robin Jacob, QC, and Peter Prescott, by AB Volvo, represented by David Vaughan, Richard Miller, William Richards and Durrant Piesse, by the French Government, represented by Mr Régis de Gouttes, acting as Agent, by the United Kingdom, represented by H. R. L. Purse, of the Treasury Solicitor's Department, acting as Agent, by

the Italian Government, represented by Ivo M. Braguglia, avvocato dello Stato, and by the Commission of the European Communities, represented by Anthony McClellan and Ida Langermann, acting as Agents.

On hearing the report of the Judge-Rapporteur and the views of the Advocate General, the Court decided to assign the case to the full Court and to open the oral procedure without any preparatory inquiry.

III — Written observations

First question

1.1. According to Volvo and the United Kingdom, French and Italian Governments, the mere fact that an undertaking holds industrial and commercial property rights which confer upon it the sole and exclusive right to make and import spare parts for a product does not necessarily mean that that undertaking is in a dominant position in respect of the spare-parts market even if parts of another design cannot be substituted for those that are the subject of protection. A dominant position must be assessed *in concreto* on the basis of a wide variety of factors.

In that regard, it is important to determine the relevant market, both from the geographical point of view and from the point of view of the product. According to the Italian Government, the relevant market is not the market in replacement parts produced by a single car manufacturer but the general market in car replacement parts on which independent manufacturers of replacement parts and other car manufacturers are active. For the buyer, the market in replacement parts does not constitute a separate market from the car market. The price of replacement parts and repairs is one of the criteria which determine which car is purchased. Accordingly, if the buyer's point of view is taken into account, the relevant market is not the market in replacement parts but the market in cars and/or maintenance and repair work.

Volvo states that, contrary to what Veng maintains, the price at which Volvo front wings are sold by Volvo concessionaires in the United Kingdom is not determined by Volvo and that its trade price to its concessionaires and dealers was UKL 66.56 in the middle of 1986. UKL 101.27 was the price at the retail level in December 1985.

According to Veng and the Commission, Volvo occupies a dominant position on the market. The Court has consistently held that, in order for the holder of an industrial property right to occupy a dominant position he should have the power to impede the maintenance of effective competition over a considerable part of the relevant market, having regard in particular to the existence and position of any producers or distributors who may be marketing similar goods or goods which may be substituted for them (judgment of 18 February 1971 in Case 40/70 *Sirena* [1971] ECR 69).

In its judgment of 13 February 1979 in Case 85/76 (*Hoffmann-La Roche* [1979] ECR 461, at p. 520), the Court stated that:

'the dominant position thus referred to relates to a position of economic strength enjoyed by an undertaking which enables it to prevent effective competition being maintained in the relevant market by affording it the power to behave to an appreciable extent independently of its competitors, its customers and ultimately of the consumers.

Such a position does not preclude some competition, which it does where there is a monopoly or quasi-monopoly, but enables the undertaking which profits by it, if not to determine, at least to have an appreciable influence on the conditions under which that competition will develop, and in any case to act largely in disregard of it so long as such conduct does not operate to its detriment.'

If it is borne in mind that original (Volvo) replacement body panels compete only with replacement body panels which are compatible with Volvo cars, as non-compatible parts cannot be fitted to those cars, and that Volvo has the exclusive right to make and import such body panels, the result is that, according to the aforesaid case-law of the Court, Volvo occupies a dominant position on the relevant market, namely the United Kingdom market, which constitutes an essential part of the common market. The Court has already held that the market of a single Member State may constitute a 'substantial part' of the common market (judgment of 9 November 1983 in Case 322/81 *Michelin* [1983] ECR 3461).

According to Veng, the difference in the prices for the body panel in question constitutes further evidence of the existence of a dominant position. Whereas Volvo's front wings are sold to the public at UKL 101.27 per piece, Veng's price for the equivalent article is UKL 54. Therefore Volvo is able, in practice, to behave to an appreciable degree independently of its competitors, its customers and the ultimate consumers.

In response to Volvo's argument that Volvo is not, in reality, able to impose terms and conditions without limit since to do so would tend ultimately to drive its customers into the arms of other motor manufacturers, Veng relies on three counter-arguments: in the first place, other car manufacturers may be in a similar position with respect to their registered designs. Secondly, Community law does not require as a precondition to a finding of the existence of a dominant position that the party in question should be absolutely free from all competitive pressures: his power to behave independently of competitors and customers need only be appreciable (*Hoffmann-La Roche, supra*). Thirdly, if that were a complete answer to the allegation of dominance, it would be so in every case. It is not a defence for an undertaking which is in a dominant position in the short term to state that its position may be prejudiced in the long term.

1.2. In the light of their observations, as summarized in the preceding section, the parties to the main proceedings, the Commission and the governments which have submitted observations propose that the Court answer the first question submitted by the national court as follows:

'(i) The existence of industrial design rights, creating monopoly rights under national law in the manufacture and sale of products subject to those design rights, even if they extend to replacement body panels not replaceable by body panels of any other design, may contribute to the existence of a dominant position of a car manufacturer but the existence of such rights does not necessarily by itself create such a position. Whether such a manufacturer is in a dominant position will depend upon a full evaluation by the national court of the relevant product market and relevant geographical market, the economic conditions of the market place and the relevant economic strength of the undertakings already in the market place as well as possible future entrants (Volvo);

(ii) Article 86 of the EEC Treaty should be interpreted as meaning that the mere existence of a registered design for replacement body panels does not confer a dominant position on the holder of this right, the dominant position being dependent on the lack of similar or substitutable products (the Commission);

(iii) The holder of a registered design which, under the legislation of a Member State, confers on him the sole and exclusive right to make and import replacement body panels cannot be regarded as having a dominant position in that Member State within the meaning of Article 86 of the EEC Treaty solely because he is the holder of that right (the French Government);

(iv) Whether an undertaking is in a dominant position in a particular market, whether it is abusing that position and whether any abuse affects trade between Member States are questions for the national court to decide following an assessment of all the facts of the case, and in the circumstances described in the first question the car manufacturer is not necessarily in a dominant position within the meaning of Article 86 of the Treaty of Rome (the United Kingdom);

(v) Veng proposes that the first question be answered in the affirmative, whilst the Italian Government proposes that it be answered in the negative.'

Second question

2.1. Volvo, the aforesaid governments and the Commission consider that, as the Court has consistently held (*inter alia* in its judgment of 23 May 1978 in Case 102/77 *Hoffmann-La Roche* [1978] ECR 1139), the exercise of an industrial property right in accordance with the provisions of Article 36 of the Treaty is not contrary to Article 86 of the Treaty on the sole ground that it is the act of an undertaking occupying a dominant position. Such exercise constitutes an abuse of a dominant position only in certain particular situations.

That is the case, in particular, according to the Commission and the United Kingdom, where the holder of the industrial property right charges prices which are unjustifiably high. In such a case the industrial property right could be used as an instrument for the

abuse of a dominant position in so far as the exercise of that right enables the proprietor to fend off threats from potential competitors and thereby to some extent reinforces the abuse by enabling the proprietor to continue to abuse his dominant position.

The specific subject-matter of the right to the design confers the exclusive right on the holder to use the design with a view to manufacturing industrial products and putting them into circulation for the first time, either directly or by the grant of licences to third parties, as well as the right to oppose infringements. In that regard, reference is made to the judgments of the Court of 14 September 1982 in Case 144/81 (*Keurkoop* [1982] ECR 2853) and of 31 October 1974 in Case 15/74 (*Centrafarm* [1974] ECR 1147).

According to the United Kingdom, the right to exclude competition in relation to the subject-matter of the right goes to the very essence of an industrial property right even where the potential competitors concerned are willing to pay a reasonable royalty.

Volvo and the Italian Government argue that to impose an obligation on the holder of a right to a design to grant a licence on the sole ground that the holder occupies a dominant position is contrary to Article 222 of the EEC Treaty. According to the Italian Government, that would constitute expropriation without there being any reason connected with the public interest to justify such expropriation. The establishment of a compulsory licensing system would give rise to absurd consequences. In the case of replacement body panels, it would be necessary, in order to satisfy requirements relating to the protection of consumers (from the point of view of both quality and safety), to ensure that the licensee supplied a product of the same quality as that supplied by the licensor and holder of the registered design. That would entail the transmission of all the licensor's know-how to the licensee. Even that might not be sufficient. In some cases, the licensor would have to supply the licensee with a whole range of specific raw materials (pigments, colours and resins) in order to enable the licensee to produce goods of the same quality.

The Italian Government also maintains that the obligation to grant a licence does not apply in the field of industrial and ornamental designs. According to Volvo, the Paris Convention confines itself to providing for the grant of a compulsory licence in the case of patents.

Volvo further maintains that even in a case where there has been an abuse of the dominant position and that abuse relates to intellectual property rights, it by no means follows that the holder of such rights can be ordered to grant compulsory licences to third parties. In the first place, the courts of the United Kingdom have jurisdiction in cases concerning the grant of compulsory licences only on appeal from an order made by the Registrar where such a licence has been applied for. Secondly, even if the Commission were empowered under Article 3 of Regulation No 17 to order a compulsory licence to be granted, such an order would be appropriate only in exceptional cases and if the other remedies consisting of fines and periodic penalty payments were not sufficient to secure the termination of the infringement.

According to Veng there are two principles recognized by Community law which do not normally conflict with one another but,

when they do, must be reconciled having regard to the objectives of the Community, particularly as set forth in Article 3 (f) of the Treaty. Those principles are as follows:

(i) competition in the common market must not be eliminated;

(ii) national industrial property rights are worthy of respect.

Mere inaction may constitute an abuse of a dominant position, as is clear from the case-law of the Court, which has classified a refusal to supply goods as an abuse of a dominant position (judgments of 6 March 1974 in Joined Cases 6 and 7/73 *Istituto Chemioterapico Italiano* [1974] ECR 223 and of 14 February 1978 in Case 27/76 *United Brands* [1978] ECR 207). However, this is not a case of a mere failure to act: the refusal to grant licences occurs in the context of a positive attack on competitors by Volvo which is itself responsible for initiating proceedings in the English courts.

It also follows from the case-law of the Court that it may be an abuse of a dominant position to exercise a right, and in particular an industrial property right recognized by national law. In that regard Veng refers to the judgments of 21 February 1973 in Case 6/72 (*Continental Can* [1973] ECR 215) and of 21 February 1968 in Case 24/67 (*Parke, Davis* [1968] ECR 55, at p. 81) and to *Sirena* and *Hoffmann-La Roche* which are cited above. That occurs where, as in this case, normal market forces are not free to operate at the level of competition (as consumers are unable to make a choice in view of the absence of substitute products) and the exercise of the right cannot be justified by any rational purpose of an industrial property right (the reward of those who, by a creative effort and/or by investment and work have brought on to the market products that are new and useful or attractive).

In those exceptional cases, where the product is artificially shielded from competition, it is the task of Community competition law to reconcile two apparently conflicting objectives, namely rewarding the innovator and protecting the consumer. The only satisfactory solution is to consider the use of compulsory licensing which combines the merits of justly rewarding the innovator for his creative effort yet putting it outside his power to eliminate the possibility of competition on the relevant market.

The principles governing the calculation of the royalty are well known in the practice of all the Member States and of other countries such as the United States of America, where the grant of compulsory licences in return for a royalty has frequently been used as a means of preventing anti-trust violations. A typical method is to establish what rate would have been agreed between a willing licensor and a willing licensee. In that regard, evidence of what royalty rates are common for similar inventions is generally the most pertinent.

As is also the case with voluntary licences, compulsory licences normally contain provisions whereby the licensor may appoint an independent professional to visit the premises of the licensee and examine his accounts in order to ensure due compliance with the terms of the licence.

In those circumstances, the refusal to grant a licence in return for a just and reasonable reward permits the inference to be drawn that the proprietor of the industrial property right in question wishes to create a monopoly situation in which opportunities will arise for exacting more than a just reward.

Special cases may arise in which a proprietor is justified in refusing to grant a licence in order to be entitled to counter-attack. That is not the position in this case, since the only threat to Volvo is that Veng proposes to use the design subject to the payment of a fair royalty.

It would not be a satisfactory solution to wait until the proprietor had eliminated competition, and then belatedly exercise the supervisory jurisdiction over him under Article 86. That solution would compel the competent authorities for an unlimited period to control the proprietor's business at a detailed level and on a recurrent basis, a task to which they could devote only limited resources.

2.2. In the light of their observations, as summarized in the preceding section, the parties to the main proceedings, the Commission and the aforesaid governments propose that the Court answer the second question submitted by the national court as follows:

'(i) The holder of an industrial design right, even if in a dominant position, does not abuse that dominant position within the terms of Article 86 of the EEC Treaty simply by refusing to licence others to do acts which would otherwise be infringements of those rights, whether or not such other persons may be prepared to pay a royalty for such a licence (Volvo);

(ii) Article 86 of the EEC Treaty should be interpreted as meaning that the refusal by a holder of a registered design to grant licences which would enable others to supply body panels covered by the registered design is not prima facie an abuse of dominant position as the refusal is no more than the result of the enforcement of the registered design right. In certain circumstances the exercise of the industrial property right may however be an instrument for the abuse. This can be the case if the proprietor of the industrial property right abuses a dominant position on the markets for replacement panels for cars of its own make, for example by charging excessive prices, and in such a situation uses the industrial property right to reinforce the abuse (the Commission);

(iii) On the assumption that the holder of such a right might be in a dominant position on the market in question, it is not prima facie an abuse of that position if he refuses to license others to supply body panels in return for a reasonable royalty where those panels have been registered as a design protected by the law of industrial and commercial property (the French Government);

(iv) Whether an undertaking is in a dominant position in a particular market, whether it is abusing that position and whether any abuse affects trade between Member States are questions for the national court to decide following an assessment of all the facts of the case, and in the circumstances described in the first question, for the manufacturer to refuse to license others to supply replacement body panels even where those others are willing to pay a reasonable royalty is not prima facie an abuse of a dominant position (the United Kingdom);

(v) The Italian Government proposes that the second question be answered in the negative, unless it is considered devoid of purpose as a result of a negative answer being given to the first question;

(vi) Veng proposes that the question be answered in the affirmative.'

Third question

3.1. Volvo maintains that the answer to the third question depends to a great extent upon the findings of fact made by the national court and, in particular, on whether the front wings in question were originally manufactured in Taiwan and imported into the United Kingdom directly or via Denmark and whether they are now manufactured in Italy and imported into the United Kingdom from that country. If the national court were to find that the relevant parts were manufactured in Taiwan and merely transhipped in Denmark (or another Member State) without ever having properly entered into free circulation in that Member State within the meaning of Article 9 (2) of the EEC Treaty, then the fact that a trader is prevented from importing such parts into the United Kingdom is not likely to affect trade between Member States.

According to the United Kingdom, the fact that Veng is, by virtue of the refusal of a licence, prohibited from importing parts from another Member State does not necessarily mean that trade between Member States is affected. The national court must assess whether in the absence of the abuse (on the assumption that the mere refusal to grant import licences constitutes an abuse, which the United Kingdom does not accept) trade between Member States at an appreciable level would be likely to exist.

According to the French Government, Veng has produced no evidence to show that the exercise of the exclusive right to the design by Volvo gave rise to restrictions on intra-Community trade falling under the prohibitions laid down in the EEC Treaty. It merely questions *a priori* whether it is possible for the car manufacturer to assert the exclusive manufacturing and marketing rights arising under the registered design and considers that it has the right to import into the United Kingdom parts made in Denmark without Volvo's consent.

According to the Italian Government, practices alleged to constitute an abuse are aimed not at preventing intra-Community trade but rather at preventing manufacture and sale within a given country. Accordingly, the Court's ruling that conduct the effect of which is restricted to the territory of a single Member State does not come within the scope of Article 86 of the

Treaty (see, for instance, the judgment of 31 May 1979 in Case 22/78 *Hugin* [1979] ECR 1869) would seem to be applicable.

According to the Commission, trade between the Member States may be said to be affected if the abuse, for example the charging of excessive prices, relates to replacement body panels which the company occupying a dominant position has manufactured in another Member State and imported into the United Kingdom.

Veng contends that body panels form an article of commerce which is regularly traded throughout the common market. The importation of those parts by Veng from Denmark or Italy is part of its normal pattern of trade. If Volvo's action is successful, it will result in a court order prohibiting Veng from importing the contested parts from other Member States. Hence the abusive conduct complained of is not confined to the territory of one Member State and the situation is to be contrasted with that found to exist in *Hugin*, concerning spare parts for cash registers.

In that case the conduct complained of was the refusal by Hugin to supply spare parts of its own manufacture. The Court raised the question whether it might be assumed that trade between Member States in that commodity would exist if market conditions were entirely free and not subject to Hugin's restrictive practices. The answer that was given was that since the only source of the goods would have been Hugin itself or one of its subsidiaries, and since there was no price differential in the various territories of the Community, an independent undertaking would derive no economic advantage from buying the parts from another branch of the same undertaking. Further, those parts were of such relatively insignificant value as not to constitute a commodity of commercial interest in trade between Member States. Consequently there was no normal pattern of trade between Member States in those parts, and Hugin's conduct could not be regarded as having the effect of diverting the movement of goods from its normal channels, taking into account the economic and technical factors peculiar to the sector in question (paragraphs 21 to 26 of the decision). Accordingly Hugin's conduct was not a matter for Community law but fell to be considered under national law only (paragraph 16 of the decision).

According to Veng, if an undertaking which occupies a dominant position and is established in the common market aims to eliminate a competitor who is also established in the common market, it is immaterial whether such behaviour relates to trade between Member States once it is shown that the elimination of that competitor will have repercussions on the patterns of competition in the common market. That was decided by the Court in its judgment of 14 February 1979 in Case 27/76 (*United Brands* [1978] ECR 207).

3.2. In the light of their observations, as summarized in the preceding section, the parties to the main proceedings, the Commission and the aforesaid governments propose that the Court answer the third question submitted by the national court as follows:

'(i) In order to determine whether an abuse is likely to affect trade between Member States, it is necessary to foresee with a sufficient degree of probability on the basis of a set of objective factors of law and fact that it may have an influence, direct or indirect, actual or potential on the pattern of trade between Member States. Trade between Member States is not affected in the case of products manufactured outside the Community, merely because it is transhipped, in a Member State, without having entered into free circulation in that Member State (Volvo);

(ii) Article 86 of the EEC Treaty should be interpreted as meaning that trade between Member States may be said to be affected if the abuse relates to products which are imported from one Member State into another (the Commission);

(iii) Community law does not preclude the holder of a right to a registered design granted in a Member State from asserting the exclusive right acquired by virtue of that registration in order to prevent the sale and exportation into another Member State of spare parts, in particular body panels of a motor car intended for sale as spare parts for that car (the French Government);

(iv) Whether an undertaking is in a dominant position in a particular market, whether it is abusing that position and whether any abuse affects trade between Member States are questions for the national court to decide following an assessment of all the facts of the case, and the fact that a person is prohibited from importing a product from another Member State does not necessarily mean that the requirement in Article 86 that trade between Member States may be affected is satisfied; the national court must assess whether, in the absence of the abuse in question, trade between Member States at an appreciable level would be likely to exist (the United Kingdom);

(v) The Italian Government proposes that the third question be answered in the negative, unless it is considered devoid of purpose;

(vi) Veng proposes that this question be answered in the affirmative.'

J. C. Moitinho de Almeida
Judge-Rapporteur