

**Motor vehicle industry**

**European Parliament resolution on the draft Commission regulation on the application of Article 81(3) of the Treaty to categories of vertical agreements and concerted practices in the motor vehicle industry (2002/2046(INI))**

*The European Parliament,*

- having regard to the draft Commission regulation on the application of Article 81(3) of the Treaty to categories of vertical agreements and concerted practices in the motor vehicle industry<sup>1</sup>),
  - having regard to the Commission report on the evaluation of Regulation (EC) No 1475/95 on the application of Article 85(3) of the Treaty to certain categories of motor vehicle distribution and servicing agreements (COM(2000) 743),
  - having regard to the most recent Commission report, of 25 February 2002, on motor vehicle prices in the European Union,
  - having regard to the hearing of 11 September 2001 of the Committee on Economic and Monetary Affairs,
  - having regard to Rule 163 of its Rules of Procedure,
  - having regard to the report of the Committee on Economic and Monetary Affairs and the opinion of the Committee on Legal Affairs and the Internal Market (A5-0144/2002),
- A. whereas an internal market for motor vehicle distribution and services de facto does not exist in the European Union,
- B. whereas there continue to be substantial price differences on motor vehicles within the European Union, and whereas those differences may be as much as 40% between Member States on certain models,
- C. whereas the introduction of the euro has made those price differences obvious and will thus contribute to price convergence,
- D. whereas vertical distribution agreements, unlike virtually any other restriction on competition, may simultaneously have effects with the potential to both boost and hamper competition,
- E. whereas the future EU competition policy relating to vertical distribution agreements must be framed so as to take appropriate account of the unequal economic power wielded by manufacturers and distributors,

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<sup>1</sup> OJ C 67, 16.3.2002, p. 2.

- F. whereas any opening-up of motor vehicle distribution and services to competition must in no circumstances lead to traffic safety being jeopardised,
- G. whereas an immediate total liberalisation of this sector would be unjustified, but whereas a continuation of the existing system would be equally harmful,
- H. whereas the sector has for some time been undergoing comprehensive structural change and a process of concentration,
1. Welcomes the general approach taken by the Commission, which is to build on the block exemption regulation instead of completely abandoning it or leaving it in place as it stands;
  2. Wishes, in the interests of fair competition, that this Regulation should take into account in particular the interests of smaller and medium-sized undertakings as the weaker trading partner so that a kind of liability is established for the stronger trading partner in respect of substantial investments which benefit the latter;
  3. Reminds the Commission that, to be effective, regulations must be clear, unambiguous and enforceable; is very concerned that the draft proposal is too complicated and unclear in its intentions; is surprised that further guidelines, not yet available, will also be required to interpret these proposals;
  4. Considers that over-complex regulation, and uncertainties over its interpretation, works against the interest of consumers and SMEs and favours players with large resources; insists that the Commission must re-evaluate its proposals if the real benefits for consumers are to be delivered quickly and effectively;
  5. Considers that the explanatory statements in the draft regulation - particularly those suggesting that car manufacturers can keep control over the size, density and composition of their dealer networks - are inconsistent with the regulatory proposals to disallow any form of 'location clause'; calls on the Commission to align its regulatory strategy statement with its legislative proposals;
  6. Calls on the Commission to make an early report on car sales tax discrepancies between EU Member States, their impact on car prices and the means of creating a true internal market;
  7. Calls on the Convention and the Intergovernmental Conference to ensure that regulations such as this are subject to the codecision procedure in future;
  8. Calls on the Commission to take account of the suggested modifications:

Commission draft

Modifications by Parliament

Modification 1  
Recital 8

(8) It can be presumed that, where a suppliers share of the relevant market does not exceed the thresholds provided for in the general conditions for the application of this Regulation, vertical agreements which do not contain certain types of severely anti-competitive restraints generally lead to an improvement in production or distribution and allow consumers a fair share of the resulting benefits. This sector specific Regulation contains stricter rules than those provided for by Commission Regulation 2790/99, and it can therefore in particular be presumed that in general distribution agreements have such advantages where the supplier concerned has a market share ***of up to 30%, or of up to 40% in case of quantitative selective distribution for the sale of new motor vehicles.*** In the case of vertical agreements containing exclusive supply obligations, it is the market share of the buyer which is relevant for determining the overall effects of such vertical agreements on the market.

(8) It can be presumed that, where a suppliers share of the relevant market does not exceed the thresholds provided for in the general conditions for the application of this Regulation, vertical agreements which do not contain certain types of severely anti-competitive restraints generally lead to an improvement in production or distribution and allow consumers a fair share of the resulting benefits. This sector specific Regulation contains stricter rules than those provided for by Commission Regulation (EC) No 2790/1999, and it can therefore in particular be presumed that in general distribution agreements have such advantages where the supplier concerned has a market share of up to 40%. In the case of vertical agreements containing exclusive supply obligations, it is the market share of the buyer which is relevant for determining the overall effects of such vertical agreements on the market.

Modification 2  
Recital 10

(10) To prevent a supplier from terminating a contract because a distributor or a repairer engages in pro-competitive behaviour, such as active or passive sales to foreign consumers, multi-branding or subcontracting of after sales services, which may not be restricted under this Regulation, ***every notice of termination must clearly state the reasons for the termination. Furthermore, a period of notice, normally of two years is introduced in order to strengthen the independence of distributors from their suppliers.***

(10) To prevent a supplier from ***announcing an exceptional notice of termination*** because a distributor or a repairer engages in pro-competitive behaviour, such as active or passive sales to foreign consumers, multi-branding or subcontracting of after sales services, which may not be restricted under this Regulation, ***such notices of termination by the supplier should not be legally valid. In order to strengthen the independence from distributors and authorised repairers of their suppliers, the Regulation should provide for a minimum period of notice of two years in the case of regular terminations and liability to pay compensation in the event that the distributor or authorised repairer has made substantial investments at the instigation of the supplier which have not yet been amortised when the notice of termination***

*comes into effect and the distributor or authorised repairer in question cannot put them to any other reasonable commercial use or can only do so with great difficulty.*

Modification 3  
Recital 14 a (new)

*(14a) In order to safeguard the functioning of the European internal market, suppliers may choose between a selective and an exclusive distribution system, provided that they use the same system within the European Union.*

Modification 4  
Recital 17

(17) If the supplier were to limit the distributor's sales to end users in other Member States, for instance by making the distributor's remuneration or the purchase price dependent on the destination of the vehicles or on the place of residence of the end users, this would amount to an indirect restriction of sales. Other examples of indirect restrictions on sales include supply quotas based on a sales territory other than the common market, whether or not these are combined with sales targets, or sales targets based on a sales territory other than the common market. Bonus systems based on the destination of the vehicles or any form of discriminatory product allocation, whether in the case of shortage of the production output or otherwise, *may* also amount to indirect restrictions on sales.

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Modification 5  
Recital 21

(21) Motor vehicles are expensive and technically complex mobile goods which require repair and maintenance services at regular and irregular intervals. However, it is not indispensable for distributors of new

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motor vehicles to also carry out repair and maintenance services. The legitimate interest of suppliers and consumers can be fully satisfied if the distributor subcontracts these services, including the honouring of warranties, free servicing and recall work, to a repairer or to a number of repairers within the distribution system of the supplier and if the consumer is duly informed about the location of the official repairer in case of subcontracting. Nor is it necessary, in order to adequately provide for repair and maintenance services, for repairers to also sell new motor vehicles. This Regulation therefore does not cover vertical agreements containing any direct or indirect obligation or incentive which leads to the linking of sales and after sales service activities or which makes the performance of one of these activities dependent on the performance of the other; this is in particular the case where the remuneration of the distributors or authorised repairers relating to the purchase or sale of goods or services necessary for one activity is made dependent on the sales of goods or services relating to the other activity, or where all such goods are indistinctly aggregated into a single remuneration or discount system.

motor vehicles to also carry out repair and maintenance services. The legitimate interest of suppliers and consumers can be fully satisfied if the distributor subcontracts these services, including the honouring of warranties, free servicing and recall work, to a repairer or to a number of repairers within the distribution system of the supplier ***one of which must operate in the immediate vicinity or else the distributor must organise access to service and repair work locally*** and if the consumer is duly informed ***about the location of the official repairer*** in case of subcontracting. Nor is it necessary, in order to adequately provide for repair and maintenance services, for repairers to also sell new motor vehicles. This Regulation therefore does not cover vertical agreements containing any direct or indirect obligation or incentive which leads to the linking of sales and after sales service activities or which makes the performance of one of these activities dependent on the performance of the other; this is in particular the case where the remuneration of the distributors or authorised repairers relating to the purchase or sale of goods or services necessary for one activity is made dependent on the sales of goods or services relating to the other activity, or where all such goods are indistinctly aggregated into a single remuneration or discount system.

#### Modification 6 Recital 25

(25) In order to protect effective competition on the market for repair and maintenance services and to prevent foreclosure of independent repairers, manufacturers must allow interested independent operators to have full access to all technical information, diagnostic and other equipment, tools, including all relevant software, and training required for the repair and maintenance of motor vehicles. Independent operators who must be allowed such access include independent repairers, manufacturers of repair

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equipment or tools, publishers of technical information, automobile clubs, roadside assistance operators, operators offering inspection and testing services and operators offering training for repairers. The conditions of access should in particular not discriminate between authorised and independent operators; access should be given in due course upon request; the price for the information should take account of the extent to which the independent operator uses it. A manufacturer should give independent repairers access to technical information on new motor vehicles at the same time as such access is given to its authorised repairers and should not oblige an independent repairer to purchase more than the necessary information needed for the type of repair or maintenance work to be executed. It is, however, legitimate and proper for suppliers to withhold access to technical information which might allow a third party to bypass or disarm on-board anti-theft devices. Moreover, the legitimate interest of the motor vehicle manufacturer to decide the mode of exploitation of its intellectual property rights and know-how has to be taken into account when granting licences to third parties. However, these rights must be exercised in a manner which avoids any type of abuse.

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#### Modification 7 Recital 26

(26) In order to ensure access to or to prevent collusion on the relevant markets and to give distributors opportunities to sell vehicles of brands from two or more manufacturers, that are not connected undertakings, certain specific conditions are to be attached to the block exemption. To this end, non-compete obligations should *not* be exempted. In particular, this Regulation does not cover any prohibition on sales of competing makes. This is without prejudice to the ability of the manufacturer to *require*

(26) In order to ensure access to or to prevent collusion on the relevant markets and to give distributors opportunities to sell *passenger* vehicles of brands from two or more manufacturers, that are not connected undertakings, certain specific conditions are to be attached to the block exemption. To this end, non-compete obligations should *only* be exempted *to a limited degree*. In particular, this Regulation does not cover any prohibition on sales of competing makes. This is without prejudice to the

*the distributor to display the vehicles in brand-specific areas of the showroom in order to avoid brand confusion. However, further requirements, such as an obligation to employ brand specific sales personnel, are considered to be non-exempted indirect non-compete obligations. Similarly, an obligation to display the full range of motor vehicles constitutes a non-exempted indirect non-compete obligation if it makes the sale or display of vehicles manufactured by different undertakings impossible or unreasonably difficult.*

*ability of the manufacturer to conclude with the distributor conditions for the separate representation of different brands, taking into account economic feasibility and market conditions in order to avoid brand confusion and inadvertently helping competing brands, to ensure that the brand image is maintained among customers and to guarantee a high quality of care and expertise by salesmen. An obligation to display the full range of motor vehicles constitutes a non-exempted indirect non-compete obligation if vehicles manufactured by different undertakings are being sold. In the event of a dispute between the supplier and distributor on the conditions required for separate brand representation, independent arbitration on the contract terms should apply.*

Modification 8  
Recital 26a (new)

*(26a) In the commercial vehicle sector a ban on the separation of brands could lead to restrictions on competition between brands, since suppliers often intervene with support measures in finally determining the sales price. A number of different suppliers would therefore rapidly be apprised of the competitiveness and marketing strategies of their competitors and would make no attempt to be competitive beyond this point. Commercial vehicle distributors should therefore be permitted to agree on non-compete obligations with their suppliers.*

Modification 9  
Recital 28

(28) In addition, specific conditions are required to exclude certain restrictions in a selective distribution system from being covered by this Regulation. This applies in particular to obligations which have the effect of preventing the members of a selective distribution system from selling the

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brands of particular competing suppliers, which could easily lead to foreclosure of certain brands. Two further conditions are necessary in order to create opportunities for distributors who wish to seize market opportunities outside their place of establishment, for market integration and in order to increase price competition and choice of consumers where suppliers have a certain overall presence. To this end a restriction imposed on the authorised distributor of passenger cars as to its ability to establish itself in any Member State, is excluded from the cover of the Regulation. Moreover, for suppliers of new motor vehicles other than passenger cars, a condition limiting the duration of restrictions on the place of establishment of a distributor to five years is necessary in order to allow both parties to adapt their agreements to changing market conditions.

brands of particular competing suppliers, which could easily lead to foreclosure of certain brands. Two further conditions are necessary in order to create opportunities for distributors who wish to seize market opportunities outside their place of establishment, for market integration and in order to increase price competition and choice of consumers where suppliers have a certain overall presence. To this end a restriction imposed on the authorised distributor of passenger cars as to its ability to establish itself in any Member State, is excluded from the cover of the Regulation, ***provided that a review in 2005 shows that the conditions of Article 81(3) cannot be fulfilled without such an exclusion; an exclusion can therefore be considered, at the earliest, after the completion of the review.*** Moreover, for suppliers of new motor vehicles other than passenger cars, a condition limiting the duration of restrictions on the place of establishment of a distributor to five years is necessary in order to allow both parties to adapt their agreements to changing market conditions.

Modification 10  
Recital 33

***(33) In order to strengthen supervision of parallel networks of vertical agreements which have similar restrictive effects and which cover more than 50 % of a given market, the Commission may declare this Regulation inapplicable to vertical agreements containing specific restraints relating to the market concerned, thereby restoring the full application of Article 81 to such agreements.***

***Deleted***

Modification 11  
Article 1, point (b)

(b) "Non-compete obligation" means any direct or indirect obligation causing the buyer not to manufacture, purchase, sell or

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resell goods or services which compete with the contract goods or services, or any direct or indirect obligation on the buyer to purchase from the supplier or from another undertaking designated by the supplier more than **50 %** of the buyer's total purchases of the contract goods or services and their substitutes on the relevant market, calculated on the basis of the value of its purchases in the preceding calendar year. This does not ***include a requirement that the distributor sell motor vehicles from other suppliers in separate sales areas of the showroom in order to avoid confusion between the makes;***

resell goods or services which compete with the contract goods or services, or any direct or indirect obligation on the buyer to purchase from the supplier or from another undertaking designated by the supplier more than **30 %** of the buyer's total purchases of the contract goods or services and their substitutes on the relevant market, calculated on the basis of the value of its purchases in the preceding calendar year. This does not ***affect the freedom of the supplier to agree with the distributor on the separate representation of several makes, if this is commercially feasible.***

Modification 12  
Article 1, point (q)

(q) "Original spare parts" are spare parts which are produced by the manufacturer of the components which are or were used for the assembly of the new motor vehicle and which are manufactured ***on*** the same production ***line*** as these components. It is ***for the spare part producer to prove*** that these ***spare parts match the quality of*** the components used for the assembly of the new motor ***vehicles.***

(q) "Original spare parts" are spare parts which are produced by the manufacturer of the components which are or were used for the assembly of the new motor vehicle and which are manufactured ***according to*** the same ***specifications and*** production ***processes*** as these components. ***In any case, measures must be taken to ensure that manufacturers of spare parts can be made accountable under civil law.***

Modification 13  
Article 1, point (r)

(r) "Spare parts of matching quality" are spare parts which match the quality of the components which are or were used for the assembly of a new motor vehicle and which are produced by the producer of these components or another undertaking ***and for which the spare part producer can prove that they match the quality of those components.***

(r) "Spare parts of matching quality" are spare parts which match the quality of the components which are or were used for the assembly of a new motor vehicle and which are produced by the producer of these components or another undertaking. ***It is for the spare part producer to prove to the purchaser that these spare parts match the quality of the components used for the assembly of the new motor vehicles.***

Modification 14  
Article 3, paragraph 1

1. Subject to paragraphs 2, 3, 4, 5, 6 and 7 of this Article, the exemption provided for in Article 2 shall apply on condition that the supplier's market share on the relevant market on which it sells the new motor vehicles, spare parts for motor vehicles or repair and maintenance services does not exceed **30 %**.

1. Subject to paragraphs 2, 3, 4, 5, 6 and 7 of this Article, the exemption provided for in Article 2 shall apply on condition that the supplier's market share on the relevant market on which it sells the new motor vehicles, spare parts for motor vehicles or repair and maintenance services does not exceed **40%**.

Modification 15  
Article 3, paragraph 2

***2. By way of exception to paragraph 1 the market share threshold for the application of Article 2 shall be 40 % for agreements establishing quantitative selective distribution systems for the sale of new motor vehicles***

***Deleted***

Modification 16  
Article 3, paragraph 4

4. In the case of vertical agreements containing exclusive supply obligations, the exemption provided for in Article 2 shall apply on condition that the market share held by the buyer does not exceed **30 %** of the relevant market on which it purchases the contract goods or services.

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Modification 17  
Article 3, paragraph 5

5. The exemption provided for in Article 2 shall apply on condition that the vertical agreement concluded with a distributor or repairer provides that if a supplier wishes to give notice of termination, ***the notice must include detailed reasons for the termination in order to prevent a supplier*** to end a vertical agreement with a distributor because

5. The exemption provided for in Article 2 shall apply on condition that the vertical agreement concluded with a distributor or repairer provides that if a supplier wishes to give notice of termination, ***he must do so in writing specifying detailed reasons justifying the termination; to be valid these reasons must be transparent, objective and***

of practices which may not be restricted under this regulation, in particular those practices, restriction of which results in the misapplication of the exemption either to the vertical agreement as a whole, in accordance with Article 4, or to the restriction in question, in accordance with Article 5.

***non-discriminatory towards the other party. Such a notice of termination is, however, not legally valid if it is designed to end a vertical agreement with a distributor because of practices which may not be restricted under this regulation, in particular those practices, restriction of which results in the misapplication of the exemption either to the vertical agreement as a whole, in accordance with Article 4, or to the restriction in question, in accordance with Article 5.***

Modification 18  
Article 3, paragraph 6

6. The exemption provided for in Article 2 shall apply on condition that the vertical agreement concluded with a distributor or repairer provides that if a supplier wishes to give notice of termination, the period of notice for regular termination of the agreement has to be at least two years for both parties; ***this period is reduced to at least one year where:***

***(a) the supplier is obliged by law or by special agreement to pay appropriate compensation on termination of the agreement; or***

***(b) the supplier terminates the agreement where it is necessary to reorganise the whole or a substantial part of the network.***

6. The exemption provided for in Article 2 shall apply on condition that the vertical agreement concluded with a distributor or repairer provides that if a supplier wishes to give notice of termination, the period of notice for regular termination of the agreement has to be at least two years for both parties.

***The supplier shall be liable to pay compensation if the distributor or authorised repairer has made substantial investments at the behest of the supplier which have not been amortised when the notification of termination enters into force and if the distributor or repairer whose contracts have been terminated cannot reasonably exploit these investments commercially in any other way or can only do so with great difficulty.***

Modification 19  
Article 3, paragraph 7

7. The exemption provided for in Article 2 shall apply on condition that the vertical agreement provides for the parties to refer disputes concerning the fulfilment of their contractual obligations to an independent expert third party or arbitrator. Such disputes may for instance arise over the application

7. The exemption provided for in Article 2 shall apply on condition that the vertical agreement provides for the parties to refer disputes concerning the fulfilment of their contractual obligations to an independent expert third party or arbitrator. Such disputes may for instance arise over the application

of agreed criteria to set sales targets, the attainment of sales targets or supply obligations, the implementation of stock requirements, the implementation of an obligation to provide or use demonstration vehicles, whether the prohibition to operate out of an unauthorised place of establishment limits the ability of the retailer's business to expand *or whether the termination of an agreement is justified by the reasons given in the notice*. This possibility is without prejudice to each party's right to apply to a national court.

of agreed criteria to set sales targets, the attainment of sales targets or supply obligations, the implementation of stock requirements, the implementation of an obligation to provide or use demonstration vehicles, whether the prohibition to operate out of an unauthorised place of establishment limits the ability of the retailer's business to expand, *the economic feasibility of a separate brand representation or the questions whether:*

*(a) a notification of termination has been issued owing to conduct which, under the terms of this Regulation, may not be restricted;*

*(b) in the case of a regular notification of termination by the supplier, appropriate compensation shall be paid in accordance with Article 3(6) of this Regulation.* This possibility is without prejudice to each party's right to apply to a national court.

#### Modification 20

Article 4, paragraph 1, point (a a) (new)

*(aa) the introduction of a selective or exclusive distribution system in an area smaller than the entire common market;*

#### Modification 21

Article 4, paragraph 1, point (f)

(f) the restriction of the distributor's ability to sell any *motor* vehicle which corresponds to a model within the contract range of the distributor;

(f) the restriction of the distributor's ability to sell any *passenger* vehicle which corresponds to a model within the contract range of the distributor;

#### Modification 22

Article 4, paragraph 1, point (g)

(g) the restriction of the ability of the distributor of motor vehicles to subcontract the provision of repair and maintenance services to authorised repairers on condition that the distributor duly informs the

(g) the restriction of the ability of the distributor of motor vehicles to subcontract the provision of repair and maintenance services to authorised repairers, *one of which must operate in his immediate*

consumer before the conclusion of the sales contract about the location of the authorised repairer;

*vicinity, failing which the distributor must arrange local access to after-sales services, on condition that the distributor duly informs the consumer before the conclusion of the sales contract about the location of the authorised repairer;*

#### Modification 23

Article 4, paragraph 1, point (k a) (new)

*(ka) the restriction of the distributor's ability to choose the models it would like to order, sell and display within the range of models of a car manufacturer.*

#### Modification 24

Article 4, paragraph 2

2. The exemption provided for in Article 2 shall not apply where the supplier of motor vehicles refuses to give independent operators access to any technical information, *diagnostic and other equipment, tools, including any relevant software, and training* required for the repair and maintenance of these motor vehicles or for the implementation of environmental protection measures. Access has to be given to independent operators in a non-discriminatory and proportionate way. If the relevant item is covered by an intellectual property right or constitutes know-how, access shall not be withheld in any abusive manner.

2. The exemption provided for in Article 2 shall not apply where the supplier of motor vehicles refuses to give independent operators access to any technical information required for the repair and maintenance of these motor vehicles or for the implementation of environmental protection measures. *Such access shall include, but shall not be confined to, the unrestricted use of the electronic control and diagnostic systems of a motor vehicle, the programming of the systems in accordance with the specifications of the supplier, repair and training instructions and information required for the diagnostic and servicing tools and equipment to be made available.* Access has to be given to independent operators in a non-discriminatory, *prompt* and proportionate way, *in which connection the data shall be provided in usable form.* If the relevant item is covered by an intellectual property right or constitutes know-how, access shall not be withheld in any abusive manner.

#### Modification 25

Article 5, point (a)

(a) any direct or indirect non-compete obligation relating to the sale of *motor* vehicles;

(a) any direct or indirect non-compete obligation relating to the sale of *passenger* vehicles;

Modification 26  
Article 5, paragraph 1 a (new)

*By way of derogation from paragraph 1(e), distributors should enjoy contractual freedom, as soon as economically feasible, to agree to separate brand displays with the supplier (motor vehicle manufacturer). This could include separate show rooms, separate staff, special brand displays etc. Economic feasibility may be examined by an arbitration board.*

Modification 27  
Article 9, paragraph 2, point (d)

(d) if the market share is initially not more than 30% or 40% respectively but subsequently rises *above* 35% or 45% respectively, the exemption provided for in Article 2 shall continue to apply for one calendar year following the year in which the level of 30% or 40% respectively was first exceeded;

(d) if the market share is initially not more than 30% or 40% respectively but subsequently rises *to* 35% or 45% respectively, the exemption provided for in Article 2 shall continue to apply for one calendar year following the year in which the level of 30% or 40% respectively was first exceeded;

Modification 28  
Article 11 a (new)

*Article 11a*

*Publication of general guidelines*

*The Commission shall draw up and publish as soon as possible a manual setting out general guidelines to provide greater legal certainty for the parties involved.*

Modification 29  
Article 12

The prohibition laid down in Article 81(1) of the EC Treaty shall not apply during the

The prohibition laid down in Article 81(1) of the EC Treaty shall not apply during the

period from 1 October 2002 to 30 September 2003 in respect of agreements already in force on 30 September 2002 which do not satisfy the conditions for exemption provided for in this Regulation but which satisfy the conditions for exemption provided for in Regulation (EC) No 1475/95.

period from 1 October 2002 to 30 September 2003 in respect of agreements already in force on 30 September 2002 which do not satisfy the conditions for exemption provided for in this Regulation but which satisfy the conditions for exemption provided for in Regulation (EC) No 1475/95.

***Rights and obligations which result from a change in the system of the application of the exemption under this Regulation compared to Regulation (EC) No 1475/95 will only become enforceable on 1 October 2003.***

***By way of derogation from Article 14, the provisions of Article 5(f) shall enter into force no sooner than 1 October 2005, and after the Commission has established that the conditions in Article 81(3) of the Treaty will not be fulfilled unless the provisions become applicable.***

9. Instructs its President to forward this resolution to the Council and Commission.