United Brands in the EEC, this company spent about two million units of account in each of the years 1967 and 1968 when it introduced its Chiquita brand name into these Member States and on average one and a half million units of account in each of the following years.

Finally it should be pointed out that, in accordance with its usual practice, the Commission has not enforced its decision and that, since the fines do not carry interest, their actual effect is to that extent reduced.

Although the Commission is well aware of the difficulties which the recovery of fines has caused in the past, it has not expressed the fine which it imposed in national currency. The Court in the exercise of its unlimited jurisdiction and following its judgment of 9 March 1977 in Joined Cases 41, 43 and 44 to 73, *Société Anonyme Générale Sucrière and Others* v *Commission of the European Communities* [1977] ECR 445, will be bound to determine the amount of the fine in national currency. If it is acknowledged, in accordance with the judgment of 14 July 1972 in Case 48/69, *Imperial Chemical Industries Limited* v *Commission of the European Communities* [1972] ECR 621 *et seq.*), that the joint nature of the conduct on the market as between a parent company and its subsidiaries prevails over the formal separation of these companies, this amount could even be expressed in American dollars; if not it should be the currency of the country where the principal subsidiary of United Brands has its registered office. I prefer to leave this last point as well as the admissibility of United Brands' claim for damages to be determined by your Lorships. If your Lordships were to uphold this claim it would only be necessary according to the same case-law to convert it into national currency.

To sum up I submit that the application be dismissed and that the costs, including those relating to the procedure for the adoption of an interim measure, be borne jointly and severally by the applicants.

ORDER OF THE COURT OF 11 MAY 1978

In Case 27/76

UNITED BRANDS COMPANY, a corporation registered in New Jersey, United States of America

and

UNITED BRANDS CONTINENTAAL B.V., a Netherlands company having its registered office at 3 Van Vollenhovenstraat, 3002 Rotterdam, represented and assisted by Ivo Van Bael and Jean-François Bellis of the Brussels Bar,

with an address for service in Luxembourg at the Chambers of Mr Elvinger and Mr Hoss, 84 Grand Rue,

applicants,

v

COMMISSION OF THE EUROPEAN COMMUNITIES, represented by its Legal Advisers, Antonio Marchini-Camia and John Temple Lang, acting as Agents, with an address for service in Luxembourg at the office of Mr Mario Cervino, Jean Monnet Building,

defendant,

THE COURT

composed of: H. Kutscher, President, M. Sørensen and G. Bosco (Presidents of Chambers), A. M. Donner, J. Mertens de Wilmars, Lord Mackenzie Stuart, A. O'Keeffe and A. Touffait, Judges,

Advocate General: H. Mayras
Registrar: A. Van Houtte

makes the following

ORDER

Facts and issues

On 14 February 1978 the Court gave a judgment in Case 27/76.

The applicants in this case, by a letter of 22 February, applied, pursuant to Article 66 (1) of the Rules of Procedure, for rectification of "clerical mistakes" said to be therein contained.

In essence they request the Court:

1. To make a clearer distinction in certain passages of the judgment between "on the one hand, the clause prohibiting the resale of bananas while still green and, on the other hand, a temporary prohibition on exporting imposed in the Netherlands in 1967 and officially withdrawn at the beginning of 1971";
2. To bring the authentic wording — that is to say the English wording — of paragraph 134 of the Decision into line with the French translation by deleting the last ten words of that paragraph;

3. To amend paragraph 304 of the Decision and paragraph 2 of the operative part thereof in such a way that the conversion into Netherlands guilders of the amount of the fine expressed in units of account will be effected on the basis of Article 10 of the Financial Regulation of 25 April 1973 (Official Journal L 116, p. 1).

The defendant, who has been notified pursuant to Article 66 (2) of the Rules of Procedure, has in essence replied:

— On the first point of the application that, while it wondered whether "this point is material", it did not object to an appropriate modification of the wording;

— On the second point thereof that the French version should be amended in the light of the English wording which is authentic;

— On the third point thereof that "what the Court has written is entirely correct and should not be changed";

As provided for in Article 66 (3) of the Rules of Procedure the Advocate General was heard.

Decision

1 Article 66 (1) of the Rules of Procedure provides that clerical mistakes or errors in calculation and obvious slips in a judgment may be rectified by the Court of its own motion or on application by a party.

2 As far as the first two points of the application are concerned it is advisable to make the rectifications to the judgment indicated in paragraph 1 of the operative part hereof.

3 The third point of the application is designed to alter a legal decision contained in the judgment and not to rectify an alleged clerical mistake, error in calculation or obvious slip.

4 To that extent the application must be dismissed.

On those grounds,

THE COURT

hereby makes the following order:

1. **The judgment given by the Court on 14 February 1978 in Case 27/76 shall be rectified as follows:**

   (a) **In Section II, 5, of the Facts and issues, the second sentence of the thirty-first paragraph commencing with the words "Similarly the Commission refers ..." the part of the sentence which reads "This clause never amounted to an absolute prohibition" shall be replaced by "The clause prohibiting the resale of bananas while still green has never itself amounted to an absolute prohibition".**

   (b) **In paragraph 130 of the Decision the wording from and including "to sell bananas other than" to the end of the paragraph shall be deleted.**

   (c) **Paragraph 131 of the Decision is to read as follows:**

   "Furthermore it points out that UBC had also insisted that its ripener/distributors should not sell bananas other than those supplied by UBC while they were distributors of UBC's bananas and should not resell UBC's bananas to competing ripeners and dealers from other countries and gave them an assurance that it had imposed the same requirement on its distributor/ripeners in other countries".

   (d) **In paragraph 132 of the Decision the words "This abuse was brought into practice in January 1967" shall be replaced by the words "This practice began in January 1967".**

   (e) **In paragraph 134 of the Decision the words "turned down its requests because they were prevented from doing so under their contracts" shall be replaced by "were barred from complying with these requests".**

   (f) **In paragraph 154 of the Decision the part of the sentence which reads "Under the terms of the clause ..." shall be replaced by "Under the terms of the 1967 general conditions of sale ...".**

2. **The application for rectification of the third point is dismissed.**

3. The original of this order shall be annexed to the original of the rectified judgment. A note of this order shall be made in the margin of the original of the judgment.

Luxembourg, 11 May 1978.

A. Van Houtte
Registrar

H. Kutscher
President

ORDER OF THE COURT OF 26 JUNE 1978

In Case 27/76

UNITED BRANDS COMPANY, a corporation registered in New Jersey, United States of America

and

UNITED BRANDS CONTINENTAAL B.V., a Netherlands company having its registered office at 3 Van Vollenhovenstraat, 3002 Rotterdam, represented and assisted by Ivo Van Bael and Jean-François Bellis of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Mr Elvinger and Mr Hoss, 84 Grand Rue,

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v

COMMISSION OF THE EUROPEAN COMMUNITIES, represented by its Legal Advisers, Antonio Marchini-Camia and John Temple Lang, acting as Agents, with an address for service in Luxembourg at the office of Mario Cervino, Jean Monnet Building,

defendant,