JUDGMENT OF THE COURT (Third Chamber)

13 December 2007 *

In Case C-408/06,

REFERENCE for a preliminary ruling under Article 234 EC from the Bundesfinanzhof (Germany), made by decision of 13 July 2006, received at the Court on 5 October 2006, in the proceedings

Landesanstalt für Landwirtschaft

v

Franz Götz,

THE COURT (Third Chamber),

composed of A. Rosas, President of the Chamber, U. Lõhmus, J. Klučka, P. Lindh and A. Arabadjiev (Rapporteur), Judges,

* Language of the case: German.

Advocate General: M. Poiares Maduro,
Registrar: B. Fülöp, Administrator,

having regard to the written procedure and further to the hearing on 19 September 2007,

after considering the observations submitted on behalf of:

— the Landesanstalt für Landwirtschaft, by P. Gorski and N. Vogl, acting as Agents,

— Mr Götz, by H. Zaisch, Steuerberater,

— the German Government, by M. Lumma and C. Blaschke, acting as Agents,

— the United Kingdom Government, by T. Harris, acting as Agent, and P. Harris, Barrister,

— the Commission of the European Communities, by D. Triantafyllou, acting as Agent,

having decided, after hearing the Advocate General, to proceed to judgment without an Opinion,

gives the following

Judgment

1 This reference for a preliminary ruling concerns the interpretation of Article 4(5) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1), as amended by Council Directive 2001/4/EC of 19 January 2001 (OJ 2001 L 22, p. 17) ('the Sixth Directive'), and of points 7 and 12 of Annex D to that directive.

2 The reference has been made in the context of proceedings between the Landesanstalt für Landwirtschaft (the regional body responsible for agriculture) ('the Landesanstalt') and Mr Götz concerning an invoice relating to the sale of a delivery reference quantity of cow's milk ('the delivery reference quantity') which was issued by the Landesanstalt without a separate statement of the value added tax ('VAT').

Legal context

Community legislation

3 Article 4 of the Sixth Directive provides:

'1. "Taxable person" shall mean any person who independently carries out in any place any economic activity specified in paragraph 2, whatever the purpose or results of that activity.

2. The economic activities referred to in paragraph 1 shall comprise all activities of producers, traders and persons supplying services including mining and agricultural activities and activities of the professions. The exploitation of tangible or intangible property for the purpose of obtaining income therefrom on a continuing basis shall also be considered an economic activity.

...

5. States, regional and local government authorities and other bodies governed by public law shall not be considered taxable persons in respect of the activities or transactions in which they engage as public authorities, even where they collect dues, fees, contributions or payments in connection with these activities or transactions.

However, when they engage in such activities or transactions, they shall be considered taxable persons in respect of these activities or transactions where treatment as non-taxable persons would lead to significant distortions of competition.

In any case, these bodies shall be considered taxable persons in relation to the activities listed in Annex D, provided they are not carried out on such a small scale as to be negligible.

Member States may consider activities of these bodies which are exempt under Article 13 or 28 as activities which they engage in as public authorities.'

4 The activities listed in points 7 and 12 of Annex D are, respectively, 'the transactions of agricultural intervention agencies in respect of agricultural products carried out pursuant to Regulations on the common organisation of the market in these products' and 'the running of staff shops, cooperatives and industrial canteens and similar institutions'.

5 Lastly, it must be stated that Council Regulation (EEC) No 3950/92 of 28 December 1992 establishing an additional levy in the milk and milk products sector (OJ 1992 L 405, p. 1), as amended by Council Regulation (EC) No 2028/2002 of 11 November 2002 (OJ 2002 L 313, p. 3) ('Regulation No 3950/92'), constitutes the background to the dispute in the main proceedings.

National legislation

The Law on the implementation of the common organisation of the markets

6 The Law on the implementation of the common organisation of the markets (Gesetz zur Durchführung der gemeinsamen Marktorganisationen, BGBl. 1995 I, p. 1147) authorises, in Paragraph 8(1), the definition, by regulation, of inter alia the detailed rules governing the transfer of delivery reference quantities.

The Regulation on additional levies

7 The Regulation on additional levies (Zusatzabgabenverordnung) of 12 January 2000 (BGBl. 2000 I, p. 27, the 'ZAV') includes in particular, in the version applicable to the case in the main proceedings, the following provisions:

'Paragraph 7: Reorganisation of the transfer system

(1) ... Under Paragraph 7(2) and (3) and Paragraphs 8 to 11, delivery reference quantities may be transferred independently of the land ...

Paragraph 8: Regulated transfer of delivery reference quantities effected for consideration

(1) Except in the cases of Paragraph 7(2) and (3) and of succession within the meaning of Paragraph 7(1), second sentence, and Paragraph 12(3), the transfer of delivery reference quantities under Paragraph 7(1), second sentence, shall be carried out by *Verkaufsstellen* (sales points) pursuant to Paragraph 8(3) and Paragraphs 9 to 11 on 1 April, 1 July or 30 October of each calendar year ...

(2) The *Länder* shall organise the *Verkaufsstellen*. There shall be at least one *Verkaufsstelle* competent for every *Land*. The activity of a *Verkaufsstelle* may span the area of more than one *Land*. In appropriate cases, private individuals may be put in charge of a *Verkaufsstelle* if

1. they or their institutions are representative of agricultural professional associations or organisations, and

2. the reliability and suitability of such persons are beyond doubt.

...

(3) Delivery reference quantities may be transferred only within the transfer areas listed in the annex. ...'

The Law on turnover tax

8 The 1999 Law on turnover tax (Umsatzsteuergesetz 1999, BGBl. 1999 I, p. 1270, 'the UStG'), in the version applicable to the case in the main proceedings, states in Paragraph 14(1) that, if 'the trader engages in taxable supplies of goods or services under Paragraph 1(1)(1), he is entitled and, where he carries out such transactions for another trader for the latter's business, is required to issue an invoice on which the tax is shown separately if requested to do so by the other party'. Paragraph 2(3) of that Law reserves the possibility, for legal persons governed by public law, to carry

out an industrial, commercial or professional activity only in the course of their industrial or commercial businesses or of their agricultural or forestry businesses.

The legal scheme of the Landesanstalt

9 The Landesanstalt, which is the legal successor of the Landesanstalt für Ernährung (the regional body responsible for food), was established under Paragraph 8(2) of the ZAV. It operated the only milk-quota sales point created in the *Land* of Bavaria and had the status of a public-law body attached to that *Land*.

The dispute in the main proceedings and the questions referred for a preliminary ruling

10 The dispute in the main proceedings is between a Bavarian farmer, Mr Götz, and the Landesanstalt. With the aim of reducing surpluses of cow's milk, the Landesanstalt centralised the applications of different producers in order to establish those who wanted to sell delivery reference quantities and those who wanted to buy them. That policy was based on Regulation No 3950/92, which established an additional levy to be paid by producers who delivered quantities of milk exceeding a given threshold.

11 The process put in place by the Landesanstalt in 2001 was as follows. On set dates the 'supplier' producers submitted to the milk-quota sales point written offers to transfer delivery reference quantities, stating their price. On those same dates, the

'demand-customer' producers followed a symmetrical process, submitting a written offer to purchase a specific delivery reference quantity at a price of their choice. The milk-quota sales point was responsible for, first of all, comparing the offers and the applications and determining a mean price, which would make it possible for the prices of both parties to overlap approximately. Where necessary, all the amounts were reduced. Subsequently, the milk-quota sales point allocated 5% of the delivery reference quantities offered to the national reserve, then, in accordance with the procedure explained in detail by the national court, from which it is apparent inter alia that cash transfers were made to the milk-quota sales point itself, it reallocated and made payments in respect of the remaining delivery reference quantities.

12 In 2001, Mr Götz, a milk producer and the owner of a farming business in Bavaria, wished to purchase a delivery reference quantity of 16 500 kg at a maximum price of DM 2/kg. The Landesanstalt informed Mr Götz, on 3 April 2001, that his purchase offer had been successful with effect from 1 April 2001 as the mean price was DM 1.58/kg. It issued an invoice, which did not show the VAT separately, in the name of Mr Götz. Mr Götz, whose activities were taxed under the UStG, lodged an administrative objection with the Landesanstalt by which he sought to have an invoice issued on which that tax appeared separately. The Landesanstalt dismissed that objection by decision of 29 August 2001 on the grounds of its status as a public authority and its role as a mere intermediary.

13 Mr Götz brought the case before the Finanzgericht München (Finance Court, Munich), which granted his application, taking the view, on the basis of the UStG, that the Landesanstalt had acted as a trader and in its own name. The Landesanstalt appealed to the Bundesfinanzhof (Federal Finance Court), which decided to stay the proceedings and to refer the following questions to the Court for a preliminary ruling:

'(1) Is a "*Milchquoten-Verkaufsstelle*" (milk-quota sales point) set up by a German *Land* which transfers delivery reference quantities to milk producers for consideration:

(a) an agricultural intervention agency within the meaning of the third subparagraph of Article 4(5) of and Annex D(7) to [the Sixth Directive] which carries out transactions in respect of agricultural products pursuant to regulations on the common organisation of the market in those products, or

(b) a *Verkaufsstelle* (staff shop) within the meaning of the third subparagraph of Article 4(5) of and Annex D(12) to the Sixth Directive?

(2) If Question 1 is to be answered in the negative:

(a) In circumstances such as those in the main proceedings, where in a Member State both public and private milk-quota sales points transfer delivery reference quantities for consideration, is it the case that when assessing whether the treatment of a *Milchquoten-Verkaufsstelle* of a body governed by public law as a non-taxable person would lead to "significant distortions of competition" within the meaning of the second subparagraph of Article 4(5) of the Sixth Directive the relevant geographic market is the transfer area defined by the Member State?

(b) When assessing whether the treatment of a public *Milchquoten-Verkaufsstelle* as a non-taxable person would lead to such "significant distortions of competition" is only the normal case of transfers independently of the land (by a *Verkaufsstelle*) to be taken into consideration, or are other types of transfers independently of the land (by farmers as taxable persons) also to be included even though they are only exceptional cases?'

The questions referred for a preliminary ruling

Initial observations

14 It must be noted at the outset that the questions referred by the Bundesfinanzhof are both based on the premise that the activity of transferring delivery reference quantities for consideration is covered by the Sixth Directive. Both the first question referred, relating to the possible automatic liability to VAT on the part of the appellant in the main proceedings under Annex D to the Sixth Directive, and both parts of the second question referred, relating to a finding in respect of the 'significant distortions of competition' which may be caused by the alleged non-taxable status of the Landesanstalt in its capacity as a body governed by public law, pursuant to Article 4(5) of the Sixth Directive, presuppose that the activity carried out by a milk-quota sales point, whether its status is that of a body governed by public law or of an entity governed by private law, is covered by the Sixth Directive.

15 Although Article 4 of the Sixth Directive gives a very wide scope to VAT, only activities of an economic nature are, however, covered by that provision (see, to that

effect, Case C-306/94 *Régie dauphinoise* [1996] ECR I-3695, paragraph 15, and Case C-465/03 *Kretztechnik* [2005] ECR I-4357, paragraph 18). In particular, the application of Article 4(5) of the Sixth Directive implies a prior finding that the activity considered is of an economic nature (Case C-284/04 *T-Mobile Austria and Others* [2007] ECR I-5189, paragraph 48).

16 It is therefore necessary to establish, before answering the questions referred, whether the activity of transferring delivery reference quantities for consideration is in fact an economic activity.

17 It must be borne in mind, in that regard, that according to settled case-law the definition of 'economic activity' is objective in character, in the sense that the activity is considered per se and without regard to its purpose or results (Case 235/85 *Commission* v *Netherlands* [1987] ECR 1471, paragraph 8, and Case C-223/03 *University of Huddersfield* [2006] ECR I-1751, paragraph 47).

18 'Economic activity' is defined in Article 4(2) of the Sixth Directive as including all activities of producers, traders and persons supplying services, inter alia the exploitation of tangible or intangible property for the purpose of obtaining income therefrom on a continuing basis (*Régie dauphinoise*, paragraph 15, and *T-Mobile Austria and Others*, paragraph 33). The latter criteria, relating to the permanent nature of the activity and the income which is obtained from it, have been treated by the case-law as applying not only to the exploitation of property, but to all of the activities referred to in Article 4(2) of the Sixth Directive. An activity is thus, generally, categorised as economic where it is permanent and is carried out in return for remuneration which is received by the person carrying out the activity (see to that effect, *Commission* v *Netherlands*, paragraphs 9 and 15).

19 In that regard, the activity at issue in the main proceedings in the present case consists in gathering, for a given milk marketing year, the objectives of milk producers, in order to allow those who plan to produce at below the threshold applicable to them to sell the delivery reference quantities which they think they will not use and to allow those who intend, conversely, to exceed that threshold to purchase the corresponding delivery reference quantities without being caught by the additional levy provided for by Regulation No 3950/92. That activity also involves making the offer and the application overlap by fixing a mean price, receiving the delivery reference quantities sold and allocating them to purchasers and receiving and then paying the sums agreed upon for the transfer of those reference quantities. It follows that the activity in question must be treated, for the purposes of the Sixth Directive, as a supply of services, as a result of which the offers and the applications of milk producers are compared, thereby allowing a mean price to be set. Consequently, unlike the activity at issue in the case which gave rise to the judgment in *T-Mobile Austria and Others* (paragraph 43), the activity forming the subject-matter of the dispute in the main proceedings in the present case does appear to be capable, as a matter of principle, of being carried out by economic operators.

20 That being so, it will be for the national court making the reference to determine whether the activity at issue in the main proceedings, in the light of the detailed rules according to which it was organised in Germany in 2001, is permanent and is carried out in return for remuneration, as pointed out in paragraph 18 of this judgment.

21 It is also for that national court to establish, if necessary, whether the activity is carried out by the milk-quota sales points for the purpose of receiving that remuneration (see, to that effect, *Régie dauphinoise*, paragraph 15), while taking account of the fact that the receipt of a payment does not, per se, mean that a given activity is economic in nature (see, to that effect, *T-Mobile Austria and Others*, paragraph 45, and the case-law cited).

22 If the national court finds that both criteria for an economic activity, namely its permanence and the receipt of remuneration in consideration for the activity, have

not been met, then the activity at issue in the main proceedings, in the circumstances in which it was carried out in Germany in 2001, should not be regarded as an economic activity and, consequently, would not be covered by the Sixth Directive.

23 However, should the national court find that both criteria mentioned in the previous paragraph have been met, the answers to the two questions referred for a preliminary ruling must be as follows:

The first question

24 By its first question, the Bundesfinanzhof asks whether a milk-quota sales point is an agricultural intervention agency within the meaning of the third subparagraph of Article 4(5) of the Sixth Directive, read in conjunction with point 7 of Annex D thereto, or a staff shop within the meaning of the third subparagraph of Article 4(5) of the directive, read in conjunction with point 12 of Annex D to that directive.

Status as an agricultural intervention agency

25 As regards the question whether or not a milk-quota sales point is an agricultural intervention agency carrying out taxable transactions pursuant to point 7 of Annex D to the Sixth Directive, it must be borne in mind that such transactions are those of agricultural intervention agencies in respect of agricultural products carried out pursuant to regulations on the common organisation of the market in those products and that those three criteria are cumulative.

26 Although there is no doubt, in the present case, that the milk-quota sales point established by the Landesanstalt intervenes in the milk sector pursuant to a regulation on the common organisation of the market, it is clear that that activity relates not to milk, but to delivery reference quantities. It does not therefore concern agricultural products within the meaning of point 7 of Annex D to the Sixth Directive. Furthermore, the task of the milk-quota sales point differs significantly from that of an agricultural intervention agency, which is characterised by the purchase and the resale of the agricultural products themselves, as may be done by any economic operator, and that activity takes the form inter alia of stockpiling, as is the case, inter alia, as far as cereals are concerned (see Case C-334/01 *Glencore Grain Rotterdam* [2003] ECR I-6769). The logic of the automatic liability to VAT inherent in Annex D to the Sixth Directive thus excludes from its scope the activity of allocating milk quotas among the producers as the centralisation of the different offers of those producers was not the result of an operator purchasing and reselling agricultural products on the market.

27 The milk-quota sales point operated by the Landesanstalt is therefore not an agricultural intervention agency.

Status as a staff shop

28 The question whether a sales point is a staff shop ('Verkaufsstelle') within the meaning of point 12 of Annex D to the Sixth Directive arises by reason of the fact that the term 'Verkaufsstelle' features in the title of the sales point at issue in the main proceedings.

29 It must, in that regard, be borne in mind that Community provisions must be interpreted and applied uniformly in the light of the versions existing in all the languages of the European Community (see Case C-449/93 *Rockfon* [1995] ECR I-4291, paragraph 28; Case C-296/95 *EMU Tabac and Others* [1998] ECR I-1605, paragraph 36; and Case C-280/04 *Jyske Finans* [2005] ECR I-10683, paragraph 31).

30 It is settled case-law that the wording used in one language version of a Community provision cannot serve as the sole basis for the interpretation of that provision, or be made to override the other language versions in that regard. Such an approach would be incompatible with the requirement of the uniform application of Community law (see Case C-149/97 *Institute of the Motor Industry* [1998] ECR I-7053, paragraph 16).

31 Where there is divergence between the various language versions of a Community text, the provision in question must therefore be interpreted by reference to the purpose and general scheme of the rules of which it forms part (Case C-437/97 *EKW and Wein & Co* [2000] ECR I-1157, paragraph 42, and Case C-1/02 *Borgmann* [2004] ECR I-3219, paragraph 25).

32 The broad meaning of the German word 'Verkaufsstelle' (sales point) is absent, for example, in the French-language version of point 12 of Annex D to the Sixth Directive, which uses the word 'économat', and likewise in the English-language ('staff shops'), Spanish-language ('economatos') or even Italian-language ('spacci')

versions of that point. That comparison by way of guidance makes it possible to ascertain that the term 'staff shop', within the meaning of point 12 of Annex D, refers to entities responsible for selling various products and goods to the staff of the undertakings or authorities to which they are attached. That is not the task of the sales point at issue in the main proceedings, as that point is responsible for contributing to the balancing out of delivery reference quantities, with a view to limiting them, in the best interests of each producer.

33 It is thus apparent from the context, the purpose and the general scheme of the Sixth Directive that the milk-quota sales point operated by the Landesanstalt cannot be equated with a staff shop within the meaning of point 12 of Annex D to the Sixth Directive.

34 Accordingly, the answer to the first question referred for a preliminary ruling must be that a milk-quota sales point is neither an agricultural intervention agency within the meaning of the third subparagraph of Article 4(5) of the Sixth Directive, read in conjunction with point 7 of Annex D thereto, nor a staff shop within the meaning of the third subparagraph of Article 4(5) of that directive, read in conjunction with point 12 of Annex D thereto.

The second question

35 By its second question, the Bundesfinanzhof asks the Court whether the transfer area of delivery reference quantities ('the transfer area') defined by the Member State constitutes the relevant geographic market for the purpose of assessing whether the

treatment, as a non-taxable person, of a milk-quota sales point of a body governed by public law would lead to 'significant distortions of competition' within the meaning of the second subparagraph of Article 4(5) of the Sixth Directive and whether, when that assessment is being made, only the normal case of transfers of delivery reference quantities independently of the land is to be taken into consideration, or whether all the other cases of transfers independently of the land are to be taken into account.

Observations submitted to the Court

36 The Landesanstalt maintains that the relevant geographic market, for the purpose of the second subparagraph of Article 4(5) of the Sixth Directive, is constituted by the transfer area as defined by the Member State. It takes the view that only the normal case of transfers of delivery reference quantities, independently of the land, is to be taken into account.

37 According to Mr Götz, the relevant geographic market is not the transfer area covered by the public-law body at issue in the main proceedings, but all the transfer areas defined by the Member State. Furthermore, he argues, it is necessary to take into consideration not only the normal case of transfers of delivery reference quantities, but also the other cases of transfers, independently of the land.

38 The German Government submits, first, that public milk-quota sales points are not subject to VAT, secondly, that the relevant geographic market is the transfer area defined by the Member State and, thirdly, that there is no potential for competition between the different milk-quota sales points. The German Government expresses

the identical view to that of the Landesanstalt as regards the second part of the second question referred.

39 The United Kingdom Government observes that, in circumstances such as those in the main proceedings, there can be no demand or supply which exceeds the geographic scope of a given transfer area and is capable of having an impact within that transfer area. Thus, each transfer area is a separate geographic market. The United Kingdom Government does not make any observations concerning the second part of the second question referred.

40 Lastly, the Commission takes the view that the relevant geographic market corresponds to the transfer area defined by the Member State. It maintains, furthermore, that it is necessary not only to take into account the situation of a transfer of delivery reference quantities independently of the land by a public milk-quota sales point, but to take into account all the cases of transfers in the light of the possibility, for purchasers of competing services, of deducting input VAT.

Reply of the Court

41 It is important to point out at the outset that Article 4(5) of the Sixth Directive provides an exemption for bodies governed by public law when acting as public authorities and that both conditions must be fulfilled (see, to that effect, Case 107/84 *Commission* v *Germany* [1985] ECR 2655, and *Commission* v *Netherlands*, paragraphs 20 and 21).

42 It follows that it is only if the public person acts within the framework of the rights and powers of a public authority that it is necessary to determine, in order to maintain the fiscal neutrality in respect of VAT, whether treatment as a non-taxable person would be such as to lead to 'significant distortions of competition'.

43 Assuming that the Landesanstalt acts within the framework of the rights and powers of a public authority, it is apparent from the case file submitted to the Court and also from the observations submitted at the hearing that the transfers of delivery reference quantities cannot be carried out by operators other than the sales points.

44 It is apparent from the information provided by the national court that, where the transfer is a regulated transfer effected for consideration, within the meaning of Paragraph 8 of the ZAV, it can be carried out only by a public or private milk-quota sales point. Although Paragraph 8(2) of the ZAV provides that a milk-quota sales point may span the area of more than one *Land* and, conversely, that a *Land* may contain several milk-quota sales points, that serves solely to take account of the disparity between the *Länder* both as regards their surface area and the number of milk producers operating in their respective territories. The fact remains that, within a given transfer area, the transfer of delivery reference quantities cannot be carried out by private operators liable to VAT. It is apparent, furthermore, from Paragraph 8(3) of the ZAV that delivery reference quantities may be transferred only within the transfer areas. There is therefore no competition situation, for the purposes of Article 4(5) of the Sixth Directive, within a given transfer area and it is thus the

transfer area that constitutes the relevant geographic market for the purpose of establishing whether there are significant distortions of competition.

45 As regards the other cases of transfer listed in Paragraph 8(1) of the ZAV, which take place without the use of milk-quota sales points, it must be pointed out, as was stated at the hearing, that these take place in very specific circumstances. Thus they relate, inter alia, to transfers arising on the occasion of a succession, a marriage or the transfer of a holding, which do not correspond to commercial situations, but derive from legal facts which result in transfers of delivery reference quantities only incidentally. There is thus no possibility of competition, within the meaning of Article 4(5) of the Sixth Directive, between the milk-quota sales points and the producers making a transfer of delivery reference quantities which is covered by the cases provided for in Paragraph 8(1) of the ZAV as those cases are so specific as to make it appear unlikely that a milk producer would decide to meet the conditions of such a transfer, for example by purchasing a holding, simply in order to acquire delivery reference quantities by means other than from the milk-quota sales points.

46 The answer to the second question referred for a preliminary ruling must therefore be that the treatment of a milk-quota sales point as a non-taxable person in respect of the activities or transactions in which it engages as a public authority, within the meaning of Article 4(5) of the Sixth Directive, cannot give rise to significant distortions of competition, by reason of the fact that it is not faced, in a situation such as that at issue in the main proceedings, with private operators providing services which are in competition with the public services. As that finding applies in respect of all milk-quota sales points operating within a given transfer area, defined by the Member State concerned, that area constitutes the relevant geographic market for the purpose of establishing whether there are significant distortions of competition.

Costs

47 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Third Chamber) hereby rules:

1. **A milk-quota sales point is neither an agricultural intervention agency within the meaning of the third subparagraph of Article 4(5) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment, as amended by Council Directive 2001/4/EC of 19 January 2001, read in conjunction with point 7 of Annex D thereto, nor a staff shop within the meaning of the third subparagraph of Article 4(5) of that directive, read in conjunction with point 12 of Annex D thereto.**

2. **The treatment of a milk-quota sales point as a non-taxable person in respect of activities or transactions in which it engages as a public authority, within the meaning of Article 4(5) of the Sixth Directive, as amended by Directive 2001/4/EC, cannot give rise to significant distortions of competition, by reason of the fact that it is not faced, in a situation such**

as that at issue in the main proceedings, with private operators providing services which are in competition with the public services. As that finding applies in respect of all milk-quota sales points operating within a given delivery reference quantity transfer area, defined by the Member State concerned, that area constitutes the relevant geographic market for the purpose of establishing whether there are significant distortions of competition.

[Signatures]