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Exclusive import rights in the French overseas territories: the Authority fines Nexans and Sonepar

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Resume: *The French Competition Authority fined Nexans and Sonepar €6.5 million on April 2nd, 2026, for violating the "Lurel" prohibition by maintaining an exclusive import deal for Nexans cables in all five French overseas departments and regions between 2015 and 2023. The distribution contracts described Sonepar as a non-exclusive distributor, yet numerous items of documentary and behavioral evidence which, taken as a whole, constitute a body of evidence demonstrated the existence of the practices. The ruling is the Authority's first to sanction practices reported by a whistleblower whose anonymity is protected, and the fine imposed under the settlement procedure is the largest ever imposed for import exclusivity.*

Competition law plays a particularly important role in the French overseas territories. Its purpose is to help keep prices down in these markets that are often highly concentrated, where there is therefore a risk of price increases. Since the Act of November 20th, 2012, on economic regulation in the overseas territories, known as the "Lurel Act", agreements or concerted practices whose object or effect is to grant exclusive import rights to an undertaking or a group of undertakings are prohibited in the overseas departments and regions (the "DROM") and in certain other overseas collectivities[1]. Such agreements may nevertheless be exempted under Article L. 420-4, III of the Commercial Code, provided that their authors can show that they are based on objective grounds drawn from economic efficiency and that they reserve to consumers a fair share of the resulting profit. Businesses had until March 22nd, 2013, to bring existing arrangements into line[2].

Decision no. 26-D-04 of April 2nd, 2026, concerns Nexans, a French cable manufacturer, and Sonepar, one of the two dominant distributors of electrical equipment

[1] Act no. 2012-1270 of November 20th, 2012, on economic regulation in the overseas territories, which introduced Article L. 420-2-1 of the French Commercial Code.

[2] Aut. conc., Decision no. 26-D-04 of April 2nd, 2026, *Nexans / Sonepar* (electrical cables in the DROM), paras. 67-69 (public version published on 7 May 2026). All quotations from the decision are translated by the author.

in France. Their distribution contracts for the DROM stated that Sonepar acted as a "non-exclusive distributor". However, the investigation showed that, between May 13th, 2015 and November 20th, 2023, Nexans treated Sonepar's local subsidiaries in Réunion, Mayotte, French Guiana, Martinique and Guadeloupe as its only distributor: it referred customers to them, declined to compete with them and favoured them over other distributors[3].

The case started with a report received on August 1st, 2023, from a whistleblower, concerning Réunion. It was followed by a report from the competition and consumer protection directorate (DGCCRF), in December 2023 and February 2024, and by a self-referral by the Authority in January 2025. The statement of objections was notified on June 5th, 2025. Neither group contested it, and both signed settlement agreements on July 25th, 2025, under Article L. 464-2, III of the Commercial Code[4]. After a hearing on January 27th, 2026, the Authority imposed fines of 3 million euros on the Nexans group and 3.5 million euros on the Sonepar group[5]. A number of issues can be brought up, such as how an exclusivity that is not specified in any contract can be regarded as a prohibited agreement. What can be learned about enforcement from the first whistleblower case that was settled? The Authority establishes the exclusivity through a body of concordant evidence (I). The decision is noteworthy for both its origin and procedure as well as its sanction (II).

I. The prohibition of exclusive import rights: a characterisation based on the facts rather than on the contractual terms

A. An infringement in itself, but one requiring a meeting of minds

The Authority first reminds us that granting exclusive import rights in the DROM (that is, the right granted by a supplier to a single undertaking to import and market its products in a given territory, to the exclusion of all others) is an infringement in itself, "independently of its presumed, potential or actual impact" on competition, as the Paris Court of Appeal held in 2022. Therefore, it is enough that such a privilege has been conferred. The only justification that can be put forward is the one provided for by Article L. 420-4, III of the Commercial Code: it calls for evidence of objective grounds drawn from economic efficiency, with a fair share of the resulting profit reserved to consumers[6]. In practice, this exemption appears to remain largely theoretical: in the champagne case, the Authority held that the agreements could not

[3] Decision no. 26-D-04, paras. 25-26 and 73-75.
[4] Ibid., paras. 1-6.
[5] Ibid., paras. 138-139 and operative part, Arts. 1 and 2.
[6] Decision no. 26-D-04, paras. 68 and 70, citing Paris Court of Appeal, 9 June 2022, Distillerie Dillon, no. 20/16288, para. 58.

benefit from it because the undertakings had not shown that consumers received a fair share of the profit[7].

In the present case, the facts are the following. The distribution contracts for the DROM stated that Sonepar acted as a "non-exclusive distributor", whereas the objections alleged that, between May 13th, 2015, and November 20th, 2023, Nexans France, as author, and Nexans, as parent company, had granted to Sonepar and its local subsidiaries exclusive rights to import Nexans electrical cables in Réunion, Mayotte, French Guiana, Martinique and Guadeloupe. The decision does not examine any justification under Article L. 420-4, III, since the groups did not contest the objections[8].

The requirement of an agreement counteracts this strictness. A purely *de facto* exclusivity, for which the beneficiary took no positive action, falls outside the prohibition, according to the Court of Cassation, because the text targets an agreement or a concerted practice. The meeting of minds may result from direct documentary evidence or, in the absence of such evidence, from indirect behavioral evidence, in which case it must rest on a body of "serious, precise and concordant" evidence, assessed as a whole[9]. Therefore, what matters is not the impact of the exclusivity on competition but the existence of a concurrence of wills between the supplier and its distributor.

B. A body of evidence disproving a "non-exclusive" designation

1) Evidence of a documentary and behavioral nature establishing the exclusivity

The Authority is not bound by the terms of the contracts when it legally characterises the practices: the written contracts, which described Sonepar as a "non-exclusive distributor", were therefore of no help to the parties. According to the Authority, numerous items of a documentary and behavioral nature made it possible to establish that Sonepar benefited from an import exclusivity throughout the DROM. Regarding the documentary evidence, Nexans and Sonepar frequently stated that their collaboration was exclusive, whether it applied to the entire DROM or just specific territories. For example, Nexans informed a French Guiana customer in September 2019 that it had opted for an exclusive collaboration with Sonepar. In November

[7] Aut. conc., Decision no. 20-D-16 of 29 October 2020 (champagne, French Antilles and French Guiana), in which the Authority held that the agreements and practices could not benefit from the exemption of Article L. 420-4, III, since the undertakings had not shown that consumers received a fair share of the resulting profit. This decision is itself cited in Decision no. 26-D-04, note 105.

[8] Decision no. 26-D-04, paras. 25 and 62-66.

[9] Cass. com., 26 January 2022, no. 20-14.000, para. 9, as cited in Decision no. 26-D-04, para. 71.

2020, Nexans' in-house counsel stated during an internal call that Sonepar had a *de facto* exclusivity in Réunion which was, in her words, "completely prohibited"[10].

The behavioral evidence is consistent with this. Nexans systematically redirected customers to Sonepar's local subsidiaries, refused to provide quotes in direct competition with them and handled requests from the rival distributor Yesss Électrique with Sonepar's interests in mind. It checked to see if Sonepar had already been consulted, reserved part of its product range for Sonepar, or granted it better terms[11]. The episode in Réunion is the most remarkable. When a local competitor sold Nexans cables that had been obtained through Mauritius and Madagascar, Nexans reacted against its Mauritian and Malagasy customers, raising prices, extending delivery times and replacing premium products with goods in plain packaging[12]. Lastly, Sonepar was Nexans' only distributor in the DROM in 2021, according to customs records[13].

2) The exceptional nature of non-exclusive sales and the absence of objective justification

The parties pointed out occasional sales by Nexans to competitors of Sonepar, including Yesss Électrique and the DIY chains Leroy Merlin and Weldom. The Authority was not convinced. Sales to Yesss Électrique were exceptional and gave rise to internal discussion on whether, and at what price, to answer, so that Sonepar could remain the preferred partner. Home improvement retailers, for their part, were not competitors of Sonepar, since they serve end users rather than professional installers[14]. The Authority also had evidence that the parties knew the arrangement was unlawful. Indeed, in 2018 Nexans complained to Sonepar that a customer was using the Lurel Act against it as a threat[15]. Such knowledge is an objective feature that the Authority takes into account when assessing the gravity of the practices, so that the intention of the parties is not irrelevant.

The conclusion is clear: a contractual "non-exclusive" label is neither an excuse nor a justification, when internal communications and commercial conduct tell a different story. The Authority's segment-based definition of a competing distributor may limit the defenses of businesses that occasionally sell outside of their preferred channel. The

[10] Decision no. 26-D-04, paras. 35, 49 and 73-76. Original wording: « nous avons opté pour une collaboration exclusive avec SONEPAR en Guyane » (para. 49); « Sonepar à La Réunion a une exclusivité de facto, qui est complètement interdite » (para. 35).
[11] Ibid., paras. 38-40, 44-47, 53-55 and 58-61.
[12] Ibid., paras. 33-37. The documents on which this episode rests were supplied by the whistleblower.
[13] Ibid., paras. 30 and 82.
[14] Decision no. 26-D-04, paras. 79-81.
[15] Ibid., paras. 50 and 127.

decision has already raised comments[16], mainly on the record fine and on the whistleblower origin of the case, which are the two points that we will study later in this article.

II. A landmark in detection and a measured sanction: a whistleblower case settled before the Authority

A. The first sanction of practices reported by a protected whistleblower

Since Decree no. 2022-1284 of October 3rd, 2022, whistleblowers who are identified, report in good faith, and do not receive direct financial compensation are eligible to use the Authority's exclusive route. The scheme guarantees anonymity, confidentiality and protection against retaliation, and the Authority presents it as a detection tool that complements its leniency programme[17]. While the leniency programme remains an important detection tool, the protection available to whistleblowers before the 2022 decree was more limited. Decision 26-D-04 is the first decision of the Authority to sanction practices reported by a person who sought whistleblower status and whose anonymity is protected. An author has also noted that it is the first self-referral and the first decision of the Authority to come from a whistleblower[18].

However, it would be an overstatement to credit the whistleblower with the whole case. In fact, the alert of August 1st, 2023, concerned Réunion in 2020 and 2021. The DGCCRF then transmitted a report prompted by a suspicion raised in Mayotte, dawn raids were carried out on January 30th 2024, and the seized documents showed an exclusivity covering all five DROM and running back to 2015[19]. The whistleblower acted as a trigger and supplied the Réunion episode of retaliation against parallel imports; the rest of the file came from the Authority's ordinary investigative powers.

B. A fine set under the settlement procedure: a record, yet a modest one

Under the settlement procedure, the General Rapporteur proposes a range for the fine, and the Authority then imposes a sanction within it, without justifying it by its 2021 sanctions

[16] See M. Debroux, "Amendes : L'Autorité de la concurrence inflige l'amende la plus élevée jamais prononcée en matière d'exclusivités d'importation et sanctionne, pour la première fois, des pratiques révélées par un lanceur d'alerte (Nexans ; Sonepar)", Concurrences, no. 7-2026; E. Dieny, "La loi Lurel fait de nouvelles victimes, cette fois-ci dans la distribution de câbles électriques", L'Essentiel Droit de la distribution et de la concurrence, no. 6, 4 June 2026; and the alert published in Concurrences, no. 5-2026.

[17] Decree no. 2022-1284 of 3 October 2022; Act no. 2016-1691 of 9 December 2016 ("Sapin II"), Art. 6; Autorité de la concurrence, press release of 2 April 2026.

[18] E. Dieny, "La loi Lurel fait de nouvelles victimes, cette fois-ci dans la distribution de câbles électriques", L'Essentiel Droit de la distribution et de la concurrence, no. 6, 4 June 2026.

[19] Decision no. 26-D-04, paras. 1-4 and 31.

methodology[20]. The parties still argued that the infringement was minor. The Authority rejected their argument on several grounds. It recalled that Lurel infringements are less serious than classic cartels but remain serious. An exclusivity established through actual business practices is no less serious than one expressly provided for in a contract. Cable manufacturing and electrical wholesaling are both concentrated markets, with high barriers to entry. And the practices lasted more than ten years after the expiry of the period for bringing existing arrangements into line, furthermore with full awareness of their unlawfulness[21]. The infringement lasted more than eight years and six months[22]. The size of the groups also has an impact on the amount, since both parent companies were held liable together with their subsidiaries[23].

The attribution of the practices to the parent companies also deserves attention, since it determines who bears the fine. Wholly or almost wholly owned subsidiaries are presumed to be under the decisive influence of their parent companies according to *Akzo Nobel* case law. But here Coredime, which is a Réunion distributor, was owned at 70.08% by Sonepar's subsidiaries (CGE Distribution, then Sonepar France Distribution) until October 2022, which is not enough to apply this presumption, and the Authority needed to look beyond the shareholding. The Authority relied on parent approval of Coredime's budget and important contracts, the makeup of its strategic board, and the consolidation of its accounts within the group[24].

The total fine of €6.5 million (3 million and 3.5 million euros) is the highest ever imposed for import exclusivity. Yet the Authority itself stresses that earlier decisions are not a legal framework for later ones[25]. When compared to the turnover estimates mentioned in the ruling, roughly €8.5 billion for Nexans in 2024 and €33.3 billion for Sonepar in 2023, each sanction is significantly less than 0.1% of group turnover and falls considerably short of the permissible maximum. After being lowered by settlement, one could wonder how much of a deterrent effect such sums still have for behavior that continued for more than eight years. The "record" reveals both the severity of this fine and the low level of previous ones.

Conclusion

[20] Autorité de la concurrence, Procedural Notice of 21 December 2018 on the settlement procedure, para. 37, and Notice of 30 July 2021 on the method for setting financial penalties, para. 5, as recalled in Decision no. 26-D-04, paras. 112-113 (see also paras. 63-66).
[21] Decision no. 26-D-04, paras. 114-128; the Authority cites its decision no. 16-D-15 of 6 July 2016, para. 46, for the lower relative gravity of Lurel infringements.
[22] Ibid., para. 129.
[23] Ibid., paras. 130-135.
[24] Ibid., paras. 94-103, applying the Akzo Nobel case law, as recalled in paras. 86-88 (Case C-97/08 P, Akzo Nobel and Others v Commission, 10 September 2009, paras. 54-61).
[25] Ibid., para. 136.

This decision shows that the Authority is not bound by the title or the terms of a contract: it characterises a practice as the granting of exclusive import rights on the basis of the reality of the facts, here through numerous items of a documentary and behavioral nature which, taken as a whole, constitute a body of evidence[26]. Although the contract did not provide for it, Nexans in this instance behaved as though Sonepar was its exclusive distributor in the DROM. The decision also shows that the whistleblower channel is now being used in practice, although it remains only one of several sources of information available to the Authority. An appeal is still pending, and its outcome will show whether this evidentiary approach holds[27].

In our view, the decision deserves a nuanced appraisal. On the one hand, it applies the case law of the Court of Cassation with rigour: by requiring a meeting of minds proved by a body of serious, precise and concordant evidence, the Authority avoids turning Article L. 420-2-1 into a prohibition of any *de facto* exclusivity, while preventing the contractual label from becoming a shield. As E. Dieny observes[28], it matters little that the contracts expressly state that they are non-exclusive, and this does not even reduce the gravity of the infringement. On the other hand, the settlement limits the scope of the decision. Because the groups did not contest the objections, the reasoning on the meeting of minds, on the segment-based notion of competitor and on the exemption of Article L. 420-4, III was not put to the test, and the fines, set within the agreed range, are not explained by the sanctions methodology, which makes them difficult to compare with earlier decisions. Finally, there is a certain tension in treating Lurel infringements as less serious than classic cartels, while some authors file the case under "territorial allocation" and speak of a cartel[29].

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[26] Decision no. 26-D-04, paras. 73-74 and 83.
[27] Autorité de la concurrence, case page for Decision 26-D-04, "Recours et pourvois".
[28] E. Dieny, op. cit.
[29] E. Dieny, op. cit.; see also the alerts classified under "Territorial allocation" in Concurrences, nos. 5-2026 and 7-2026, and Decision no. 26-D-04, paras. 113 and 118.