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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 151/97**of 28 January 1997**

on the sale of beef at prices fixed at a flat rate in advance held by certain intervention agencies and intended for supplying the Canary Islands and repealing Regulation (EC) No 1910/95

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal⁽¹⁾, as last amended by Regulation (EC) No 2222/96⁽²⁾, and in particular Article 7 (3) thereof,

Having regard to Council Regulation (EEC) No 1601/92 of 15 June 1992 concerning specific measures for the Canary Islands with regard to certain agricultural products⁽³⁾, as last amended by Council Regulation (EC) No 2348/96⁽⁴⁾, and in particular Article 3 (2) thereof,

Whereas certain intervention agencies hold substantial stocks of beef bought into intervention; whereas an extension of the storage period for that beef should be avoided on account of the ensuing high costs;

Whereas Commission Regulation (EC) No 1328/96 of 9 July 1996, establishing a forecast balance for the supply to the Canary Islands of live bovine animals and beef and veal products⁽⁵⁾, lays down the forecast supply balance for frozen meat of bovine animals for the period 1 July 1996 to 30 June 1997; whereas, in the light of traditional trade patterns, it is appropriate to release intervention beef for the purpose of supplying the Canary Islands during that period;

Whereas Article 3 of Commission Regulation (EC) No 2790/94 of 16 November 1994 laying down common detailed rules for the implementation of Council Regulation (EEC) No 1601/92 concerning specific measures for

the Canary Islands with regard to certain agricultural products⁽⁶⁾, as amended by Regulation (EC) No 2883/94⁽⁷⁾, provides for the use of aid certificates issued by the competent Spanish authorities for supplies from the Community; whereas, in order to improve the operation of the abovementioned arrangements, certain derogations from that Regulation should be provided for, in particular, with regard to the application for and the issue of aid certificates;

Whereas for the purpose of purchase and control procedures, it is appropriate to apply certain provisions of Commission Regulation (EEC) No 2173/79 of 4 October 1979 on detailed rules of application for the disposal of beef bought in by intervention agencies and repealing Regulation (EEC) No 216/69⁽⁸⁾, as last amended by Regulation (EC) No 2417/95⁽⁹⁾, and Commission Regulation (EEC) No 3002/92 of 16 October 1992 laying down common detailed rules for verifying the use and/or destination of products from intervention⁽¹⁰⁾, as last amended by Regulation (EC) No 770/96⁽¹¹⁾;

Whereas it is necessary to provide for the lodging of a security to guarantee that the beef arrives at the intended destination;

Whereas Commission Regulation (EC) No 1910/95⁽¹²⁾ should be repealed;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 296, 21. 11. 1996, p. 50.

⁽³⁾ OJ No L 173, 27. 6. 1992, p. 13.

⁽⁴⁾ OJ No L 320, 11. 12. 1996, p. 1.

⁽⁵⁾ OJ No L 171, 10. 7. 1996, p. 9.

⁽⁶⁾ OJ No L 296, 17. 11. 1994, p. 23.

⁽⁷⁾ OJ No L 304, 29. 11. 1994, p. 18.

⁽⁸⁾ OJ No L 251, 5. 10. 1979, p. 12.

⁽⁹⁾ OJ No L 248, 14. 10. 1995, p. 39.

⁽¹⁰⁾ OJ No L 301, 17. 10. 1992, p. 17.

⁽¹¹⁾ OJ No L 104, 27. 4. 1996, p. 13.

⁽¹²⁾ OJ No L 184, 3. 8. 1995, p. 3.

HAS ADOPTED THIS REGULATION:

Article 3

Article 1

1. A sale shall be organized of approximately:
 - 29 tonnes of boneless beef held by the Danish intervention agency,
 - 97 tonnes of boneless beef held by the Spanish intervention agency,
 - 800 tonnes of boneless beef held by the French intervention agency,
 - 800 tonnes of boneless beef held by the Irish intervention agency,
 - 500 tonnes of bone-in beef held by the Austrian intervention agency,
 - 200 tonnes of bone-in beef held by the Belgian intervention agency,
 - 1 000 tonnes of bone-in beef held by the Danish intervention agency,
 - 500 tonnes of bone-in beef held by the German intervention agency,
 - 1 000 tonnes of bone-in beef held by the Spanish intervention agency,
 - 800 tonnes of bone-in beef held by the French intervention agency,
 - 500 tonnes of bone-in beef held by the Irish intervention agency,
 - 100 tonnes of bone-in beef held by the Italian intervention agency,
 - 500 tonnes of bone-in beef held by the Netherlands intervention agency,
 - 800 tonnes of bone-in beef held by the Portuguese intervention agency,
 - 30 tonnes of bone-in beef held by the Swedish intervention agency.
2. This meat shall be sold for delivery to the Canary Islands.
3. The qualities and selling prices of the products are given in Annex I hereto.

Article 2

1. Subject to the provisions of this Regulation, the sale shall take place in accordance with the provisions of Regulation (EEC) No 2173/79, and in particular Articles 2 to 5 thereof, Regulation (EEC) No 3002/92 and Regulation (EC) No 2790/94.
2. The intervention agencies shall sell those products in each product group which have been in storage longest, first.

Particulars of the quantities and places where the products are stored shall be made available to interested parties at the addresses given in Annex II.

1. After receiving a purchase application, the intervention agency shall only conclude the contract after having checked with the competent Spanish agencies referred to in Annex III that the quantity concerned is available within the forecast supply balance.

2. The Spanish agency shall immediately reserve for the applicant the quantity requested until receipt of the application for the relevant aid certificate. Notwithstanding Article 6 (1) of Regulation (EC) No 2790/94, the certificate application must be accompanied only by the original of the purchase invoice issued by the seller intervention agency or by a certified copy.

3. Notwithstanding Article 3 (1) of Regulation (EC) No 2790/94, the aid shall not be paid for meat sold pursuant to this Regulation.

4. Notwithstanding Article 3 (4) (b) of Regulation (EC) No 2790/94, in box 24 of the aid certificate application and of the aid certificate shall be entered: 'aid certificate for use in the Canary Islands — no aid to be paid'.

Article 4

Notwithstanding the second subparagraph of Article 2 (2) of Regulation (EEC) No 2173/79 purchase applications shall not indicate the store or stores where the meat applied for is being kept.

Article 5

Notwithstanding Article 15 (1) of Regulation (EEC) No 2173/79, the security shall be:

- ECU 3 000 per tonne of boneless beef (except fillets),
- ECU 6 300 per tonne of fillets,
- ECU 1 800 per tonne of bone-in beef.

Delivery of the products concerned to the Canary Islands shall be a primary requirement within the meaning of Article 20 of Commission Regulation (EEC) No 2220/85 ⁽¹⁾.

Article 6

In the removal order referred to in Article 3 (1) (b) of Regulation (EEC) No 3002/92 and the T5 control copy shall be entered:

Carne de intervención destinada a las islas Canarias — Sin ayuda [Reglamento (CE) n° 151/97]

Interventionskød til De Kanariske Øer — uden støtte (Forordning (EF) nr. 151/97)

⁽¹⁾ OJ No L 205, 3. 8. 1985, p. 5.

Interventionsfleisch für die Kanarischen Inseln — ohne Beihilfe (Verordnung (EG) Nr. 151/97)

Κρέας από την παρέμβαση για τις Καναρίους Νήσους — χωρίς ενισχύσεις [Κανονισμός (ΕΚ) αριθ. 151/97]

Intervention meat for the Canary Islands — without the payment of aid (Regulation (EC) No 151/97)

Viandes d'intervention destinées aux îles Canaries — Sans aide [règlement (CE) n° 151/97]

Carni in regime d'intervento destinate alle isole Canarie — senza aiuto [regolamento (CE) n. 151/97]

Interventievlees voor de Canarische eilanden — zonder steun (Verordening (EG) nr. 151/97)

Carne de intervenção destinada às ilhas Canárias — sem ajuda [Regulamento (CE) n° 151/97]

Kanariansaarille osoitettu interventiolihä — ilman tukea (Asetus (EY) N:o 151/97)

Interventionskött för Kanarieöarna — utan bidrag (Förordning (EG) nr 151/97).

Article 7

Regulation (EC) No 1910/95 is hereby repealed.

Article 8

This Regulation shall enter into force on the seventh day following its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

ANEXO I — BILAG I — ANHANG I — ΠΑΡΑΡΤΗΜΑ I — ANNEX I — ANNEXE I — ALLEGATO I — BIJLAGE I —
ANEXO I — LIITE I — BILAGA I

Estado miembro	Productos	Cantidad aproximada (toneladas)	Precio de venta expresado en ecus por tonelada
Medlemsstat	Produkter	Tilnærmet mængde (tons)	Salgspriser i ECU/ton
Mitgliedstaat	Erzeugnisse	Ungefähre Mengen (Tonnen)	Verkaufspreise, ausgedrückt in ECU/Tonne
Κράτος μέλος	Προϊόντα	Κατά προσέγγιση ποσότητα (τόνοι)	Τιμές πώλησεως εκφραζόμενες σε Ecu ανά τόνο
Member State	Products	Approximate quantity (tonnes)	Selling prices expressed in ecus per tonne
État membre	Produits	Quantité approximative (tonnes)	Prix de vente exprimés en écus par tonne
Stato membro	Prodotti	Quantità approssimativa (tonnellate)	Prezzi di vendita espressi in ecu per tonnellata
Lid-Staat	Producten	Hoeveelheid bij benadering (ton)	Verkoopprijzen uitgedrukt in ecu per ton
Estado-membro	Produtos	Quantidade aproximada (toneladas)	Preço de venda expresso em ecus por tonelada
Jäsenvaltio	Tuotteet	Arvioitu määrä (tonneina)	Myyntihinta ecuina tonnilta
Medlemsstat	Produkter	Ungefärlig kvantitet (ton)	Försäljningspris i ecu per ton

a) Carne deshuesada — Udbenet kød — Fleisch ohne Knochen — Οπίσθια τέταρτα με κόκαλα — Boneless beef — Viande désossée — Carni senza osso — Vlees zonder been — Carne desossada — Luuton naudanliha — Benfritt kött

DANMARK	— Klump (Int 12)	12	1 100
	— Mørbrad (Int 15)	5	4 700
	— Tyksteg (Int 16)	12	1 100
ESPAÑA	— Babilla (Int 12)	13	1 100
	— Tapa (Int 13)	21	1 400
	— Contratapa (Int 14)	28	1 300
	— Solomillo (Int 15)	6	4 700
	— Cadera (Int 16)	14	1 100
	— Lomo (Int 17)	15	2 000
FRANCE	— Tranche grasse (Int 12)	100	1 100
	— Tranche (Int 13)	100	1 400
	— Semelle (Int 14)	100	1 300
	— Filet (Int 15)	200	4 700
	— Rumsteak (Int 16)	100	1 100
	— Faux-filet (Int 17)	200	2 000
IRELAND	— Thick flank (Int 12)	100	1 100
	— Topside (Int 13)	100	1 400
	— Silverside (Int 14)	100	1 300
	— Fillet (Int 15)	200	4 700
	— Rump (Int 16)	100	1 100
	— Striploin (Int 17)	200	2 000

b) Cuartos traseros con hueso — Bagfjerdinger, ikke udbenet — Hinterviertel mit Knochen — Εμπρόσθια τέταρτα με κόκαλα — Bone-in hindquarters — Quartiers arrière avec os — Quarti posteriori non disossati — Achtervoeten met been — Quartos traseiros com osso — Luullinen takaneljännen — Bakkvartsparter med ben

BELGIQUE/ BELGIË	— Quartiers arrière/ Achtervoeten	200	1 000
DEUTSCHLAND	— Hinterviertel	500	1 000
DANMARK	— Bagfjerdinger	1 000	1 000
ESPAÑA	— Cuartos traseros	1 000	1 000
FRANCE	— Quartiers arrière	800	1 000
IRELAND	— Hindquarters	500	1 000
ITALIA	— Quarti posteriori	100	1 000
NEDERLAND	— Achtervoeten	500	1 000
ÖSTERREICH	— Hinterviertel	500	1 000
PORTUGAL	— Quartos traseiros	800	1 000
SVERIGE	— Bakkvartsparter	30	1 000

*ANEXO II — BILAG II — ANHANG II — ΠΑΡΑΡΤΗΜΑ II — ANNEX II — ANNEXE II —
ALLEGATO II — BIJLAGE II — ANEXO II — LIITE II — BILAGA II*

**Direcciones de los organismos de intervención — Interventionsorganernes adresser —
Anschriften der Interventionsstellen — Διευθύνσεις των οργανισμών παρεμβάσεως — Addresses
of the intervention agencies — Adresses des organismes d'intervention — Indirizzi degli
organismi d'intervento — Adressen van de interventiebureaus — Endereços dos organismos de
intervenção — Interventioelinten osoitteet — Interventionsorganens adresser**

BELGIQUE/BELGIË:

Bureau d'intervention et de restitution belge
Rue de Trèves 82
B-1040 Bruxelles
Belgisch Interventie- en Restitutiebureau
Trierstraat 82
B-1040 Brussel
Téléphone: (32 2) 287 24 11; télex: BIRB. BRUB/24076-65567; télécopieur: (32 2) 230 2533/280 03 07

BUNDESREPUBLIK DEUTSCHLAND:

Bundesanstalt für Landwirtschaft und Ernährung (BLE)
Postfach 180203, D-60083 Frankfurt am Main
Adickesallee 40
D-60322 Frankfurt am Main
Tel.: (49) 69 1564-704/755; Telex: 411727; Telefax: (49) 69 15 64-790/791

DANMARK:

Landbrugs- og Fiskeriministeriet
EU-direktoratet
Kampmannsgade 3
DK-1780 København V
Tlf. (45) 33 92 70 00; telex 151317 DK; fax (45) 33 92 69 48, (45) 33 92 69 23

ESPAÑA:

FEGA (Fondo Español de Garantía Agraria)
Calle Beneficencia, 8
E-28005 Madrid
Teléfono: (91) 347 65 00, 347 63 10; télex: FEGA 23427 E, FEGA 41818 E; fax: (91) 521 98 32, 522 43 87

FRANCE:

OFIVAL
80, avenue des Terroirs-de-France
F-75607 Paris Cedex 12
Téléphone: (33 1) 44 68 50 00; télex: 215330; télécopieur: (33 1) 44 68 52 33

ITALIA:

AIMA (Azienda di Stato per gli interventi nel mercato agricolo)
Via Palestro 81
I-00185 Roma
Tel. 49 49 91; Telex 61 30 03; telefax: 445 39 40/445 19 58

IRELAND:

Department of Agriculture, Food and Forestry
Agriculture House
Kildare Street
IRL-Dublin 2
Tel. (01) 678 90 11, ext. 2278 and 3806
Telex 93292 and 93607, telefax (01) 661 62 63, (01) 678 52 14 and (01) 662 01 98

NEDERLAND:

Ministerie van Landbouw, Natuurbeheer en Visserij, Voedselvoorzienings- en verkoopbureau
p/a LASER, Zuidoost
Slachthuisstraat 71
Postbus 965
6040 AZ Roermond
Tel. (31-475) 35 54 44; telex 56396 VIBNL; fax (31-475) 31 89 39.

ÖSTERREICH:

AMA-Agrarmarkt Austria
Dresdner Straße 70
A-1201 Wien
Tel: (0222) 33 15 12 20; Telefax: (0222) 33 15 1297

PORTUGAL:

Instituto Nacional de Intervenção e Garantia Agrícola
Rua Camilo Castelo Branco nº 45/1º, 2º e 3º
P-1050 Lisboa
Tel.: (351-1) 313 50 00, 313 50 83; telefax: (351-1) 314 23 59; telex: 66207/8/9/10

SVERIGE:

Statens jordbruksverk — Swedish Board of Agriculture
Vallgatan 8
S-551 82 Jönköping
Tfn (46-36) 15 50 00; telex 70991 SJV-S; fax (46-36) 19 05 46

*ANEXO III — BILAG III — ANHANG III — ΠΑΡΑΡΤΗΜΑ ΙΙΙ — ANNEX III — ANNEXE III
— ALLEGATO III — BIJLAGE III — ANEXO III — LIITE III — BILAGA III*

Organismos españoles a que se refiere el apartado 1 del artículo 3 — De i artikel 3, stk. 1, omhandlede spanske organer — Die in Artikel 3 Absatz 1 genannten spanischen Stellen — Οι ισπανικοί οργανισμοί που προβλέπονται στο άρθρο 3 παράγραφος 1 — The Spanish agencies referred to in Article 3 (1) — Les organismes espagnols visés à l'article 3 paragraphe 1 — Organismi spagnoli di cui all'articolo 3, paragrafo 1 — In artikel 3, lid 1, bedoelde Spaanse instanties — Organismos espanhois referidos no nº 1 do artigo 3º — 3 Artiklan 1 kohdan tarkoittama espanjalainen toimielin — De i artikel 3.1 avsedda spanska organen

— Dirección Territorial de Comercio en Las Palmas

José Frachy Roca, 5
E-35007
Las Palmas de Gran Canaria
[Teléfono: (28) 26 14 11 y (28) 26 21 36; telefax: (28) 27 89 75]

— Dirección Territorial de Comercio en Santa Cruz de Tenerife

Pilar, 1
E-38002
Santa Cruz de Tenerife
[Teléfono: (22) 24 14 80 y (22) 24 13 79; telefax: (22) 24 42 61]

COMMISSION REGULATION (EC) No 152/97

of 28 January 1997

amending Annexes III and V to Council Regulation (EEC) No 3030/93 of 12 October 1993 on common rules for imports of certain textile products from third countries

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3030/93 of 12 October 1993 on common rules for imports of certain textile products from third countries⁽¹⁾, as last amended by Regulation (EC) No 2315/96, and in particular Article 19 thereof⁽²⁾,

Whereas Council Decision 95/155/EC of 10 April 1995⁽³⁾ provisionally applied the Agreement between the European Community and the People's Republic of China on trade in textile products not covered by the MFA bilateral Agreement on trade in textile products initialled on 9 December 1988, as extended and modified by the Exchange of Letters initialled on 8 December 1992;

Whereas the said Agreement, applicable from 1 January 1995 to 31 December 1996, was automatically renewed for a year by virtue of Article 17, not having been denounced by either Party;

Whereas the Community quantitative limits for 1997 should therefore be shown in Appendix C of Annex V to Regulation (EEC) No 3030/93;

Whereas the arrangement between the European Community and the Kingdom of Morocco on trade in textile products provides for a system of special controls applicable to the Tangiers free zone; whereas Table B in Annex III to Regulation (EEC) No 3030/93 mistakenly

refers only to the 'Tangiers zone' and this error needs to be corrected;

Whereas Table D in Annex III and Appendix A to Annex V of Regulation 3030/93 also contain two technical errors that need correction;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Textile Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3030/93 is amended as follows:

1. in Table B of Annex III the words 'Morocco (only Tangiers zone)' in the 'Third country' column are hereby replaced by the words 'Morocco (only Tangiers free zone)';
2. references to Category 2 in Table D of Annex III are hereby deleted;
3. in Appendix A to Annex V CN code 6204 62 33 is hereby added to the 'Remarks' column for Category 6, Hong Kong;
4. Appendix C of Annex V is hereby replaced by the annex to this Regulation.

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28 January 1997.

For the Commission

Leon BRITTAN

Vice-President

⁽¹⁾ OJ No L 275, 8. 11. 1993, p. 1.

⁽²⁾ OJ No L 314, 4. 12. 1996, p. 1.

⁽³⁾ OJ No L 104, 6. 5. 1995, p. 1.

ANNEX

Appendix C to Annex V

Community quantitative limits

(The complete description of the goods is shown in Annex I (B))

Third country	Category	Unit	Community quantitative limits		
			1995	1996	1997
China	GROUP I				
	ex 20 ⁽¹⁾	tonnes	33	35	37
	ex 39 ⁽¹⁾	tonnes	322	337	354
	GROUP II				
	ex 13 ⁽¹⁾	1 000 pieces	616	634	653
	ex 18 ⁽¹⁾	tonnes	759	793	825
	ex 24 ⁽¹⁾	1 000 pieces	142	149	156
	GROUP IV				
	115	tonnes	979	1 008	1 038
	117	tonnes	466	480	494
	118	tonnes	1 018	1 059	1 101
	120	tonnes	401	417	434
	122	tonnes	137	143	149
	123	tonnes	68	71	74
	GROUP V				
	124 ⁽²⁾	tonnes	749	779	810
	125 A	tonnes	16	16	16
	125 B	tonnes	29	31	33
	126	tonnes	16	16	16
	127 A	tonnes	21	22	23
	127 B	tonnes	10	11	12
	136 A	tonnes	320	333	346
	140	tonnes	105	109	113
	145	tonnes	21	22	23
	146 A	tonnes	125	130	135
	146 B	tonnes	188	196	204
	151 B	tonnes	1 933	2 011	2 091
	156 ⁽³⁾	tonnes	2 588	2 679	2 786
	157 ⁽³⁾	tonnes	10 250	10 506	10 716
	159 ⁽³⁾	tonnes	3 950	3 990	4 030
	160	tonnes	44	45	46
	161 ⁽³⁾	tonnes	13 136	13 465	13 869

⁽¹⁾ Categories marked by 'ex' cover products other than those of wool or fine animal hairs, cotton or synthetic or artificial textile materials.⁽²⁾ This limit does not apply to fibres of polyvinyl alcohol falling within CN code ex 5503 90 90.⁽³⁾ For these categories, China undertakes to give users belonging to the Community textile industry priority access to 23 % of the quantitative limits concerned for 90 days beginning on 1 January of each year.

COMMISSION REGULATION (EC) No 153/97
of 28 January 1997
establishing the standard import values for determining the entry price of
certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables⁽¹⁾, as last amended by Regulation (EC) No 2375/96⁽²⁾, and in particular Article 4 (1) thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy⁽³⁾, as last amended by Regulation (EC) No 150/95⁽⁴⁾, and in particular Article 3 (3) thereof,

Whereas Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third

countries, in respect of the products and periods stipulated in the Annex thereto;

Whereas, in compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 29 January 1997.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28 January 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ No L 325, 14. 12. 1996, p. 5.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 28 January 1997 establishing the standard import values
for determining the entry price of certain fruit and vegetables

(ECU/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 15	204	44,2
	212	105,3
	624	203,8
	999	117,8
0707 00 10	052	114,3
	053	186,8
	068	81,2
	999	127,4
0709 10 10	220	150,7
	999	150,7
0709 90 71	052	131,5
	204	123,5
	628	130,2
	999	128,4
0805 10 01, 0805 10 05, 0805 10 09	052	44,3
	204	39,5
	212	47,0
	220	32,8
	448	26,7
	600	58,0
	624	53,9
	999	43,2
0805 20 11	204	66,9
	624	54,9
	999	60,9
0805 20 13, 0805 20 15, 0805 20 17, 0805 20 19	052	34,8
	204	102,6
	400	95,8
	464	117,0
	624	79,9
	662	45,2
	999	79,2
	052	76,4
0805 30 20	528	64,8
	600	83,7
	999	75,0
0808 10 51, 0808 10 53, 0808 10 59	052	68,1
	060	52,8
	064	42,2
	400	89,5
	404	88,4
	720	47,8
	728	104,6
	999	70,5
0808 20 31	052	127,2
	064	51,7
	400	102,5
	512	79,1
	624	73,6
	999	86,8

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 68/96 (OJ No L 14, 19. 1. 1996, p. 6). Code '999' stands for 'of other origin'.

II

(Acts whose publication is not obligatory)

COUNCIL

**DECISION No 2/96 OF THE ASSOCIATION COUNCIL, ASSOCIATION
BETWEEN THE EUROPEAN COMMUNITIES AND THEIR MEMBER
STATES, OF THE ONE PART, AND THE SLOVAK REPUBLIC, OF THE
OTHER PART**

of 9 December 1996

**concerning the duties applied by the Slovak Republic to imports of processed
agricultural goods originating in the Community**

(97/82/ECSC, EC, Euratom)

THE ASSOCIATION COUNCIL,

Having regard to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Slovak Republic, of the other part⁽¹⁾, and in particular to Article 6 (1) of Protocol 3 on trade between the Slovak Republic and the Community in agricultural products not covered by Annex II to the EC Treaty,

Whereas under the provisions of Protocol 3 the Slovak Republic has undertaken to determine both the agricultural part and the non-agricultural part of the levies applied on import from the Community to the goods covered by that Protocol, and to reduce the non-agricultural part in accordance with the timetable set out in Table 2 of the Annex to the said Protocol;

Whereas the Slovak Republic has calculated in accordance with Articles 1 and 2 of Protocol 3 the agricultural components which will, in accordance with the timetable referred to in Article 5 (2) of that Protocol, replace the current levies,

HAS DECIDED AS FOLLOWS:

Article 1

The duties applicable on import into the Slovak Republic to processed agricultural products originating in the Community and listed in Protocol 3 on trade between the Slovak Republic and the Community in agricultural products not covered by Annex II to the EC Treaty and are set out in the Annex to this Decision.

Article 2

This Decision enters into force on 1 January 1997.

Done at Bratislava, 9 December 1996.

For the Association Council

The President

P. HAMZIK

⁽¹⁾ OJ No L 359, 31. 12. 1994, p. 1.

ANNEX

Duties applied by the Slovak Republic to imports of processed agricultural products originating in the Community

CN Code	Description	Rate of duty				
		1996	1997	1998	1999	2000 and after
1	2	3	4	5	6	7
0403	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa:					
0403 10	— Yoghurt:					
	— — Flavoured or containing added fruit, nuts or cocoa:					
	— — — In powder, granules or other solid forms, of a milk fat content, by weight:					
0403 10 51	— — — — Not exceeding 1,5 %	10,00	10,00	10,00	10,00	10,00
0403 10 53	— — — — Exceeding 1,5 % but not exceeding 27 %	10,00	10,00	10,00	10,00	10,00
0403 10 59	— — — — Exceeding 27 %	10,00	10,00	10,00	10,00	10,00
	— — — Other, of a milk fat content, by weight:					
0403 10 91	— — — — Not exceeding 3 %	15,00	15,00	15,00	15,00	15,00
0403 10 93	— — — — Exceeding 3 % but not exceeding 6 %	15,00	15,00	15,00	15,00	15,00
0403 10 99	— — — — Exceeding 6 %	10,00	10,00	10,00	10,00	10,00
0403 90	— Other:					
	— — Flavoured or containing added fruit, nuts or cocoa:					
	— — — In powder, granules or other solid forms, of a milk fat content, by weight:					
0403 90 71	— — — — Not exceeding 1,5 %	max ⁽¹⁾	max	max	max	max
0403 90 73	— — — — Exceeding 1,5 % but not exceeding 27 %	max	max	max	max	max
0403 90 79	— — — — Exceeding 27 %	26,20	24,40	22,50	22,50	22,50
	— — — Other, of a milk fat content, by weight:					
0403 90 91	— — — — Not exceeding 3 %	21,00	16,50	12,00	12,00	12,00
0403 90 93	— — — — Exceeding 3 % but not exceeding 6 %	21,50	17,30	13,00	13,00	13,00
0403 90 99	— — — — Exceeding 6 %	24,20	21,40	18,50	18,50	18,50

⁽¹⁾ Duty calculated on the basis of the price difference of the basic agricultural product between the world market and the Slovak market.

1	2	3	4	5	6	7
0405	Butter and other fats and oils derived from milk; dairy spreads:					
0405 20	— Dairy spreads:					
0405 20 10	— — Of a fat content, by weight, of 39 % or more, but less than 60 %	4,10	4,10	4,10	4,10	4,10
0405 20 30	— — Of a fat content, by weight, of 60 % or more, but not exceeding 75 %	4,10	4,10	4,10	4,10	4,10
1517	Margarine, edible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this Chapter, other than edible fats or oils or their fractions of No 1516:					
1517 10	— Margarine, excluding liquid margarine:					
1517 10 10	— — Containing more than 10 % but not more than 15 % by weight of milk fats	20,00	20,00	20,00	20,00	20,00
1517 90	— Other:					
1517 90 10	— — Containing more than 10 % but not more than 15 % by weight of milk fats	20,00	20,00	20,00	20,00	20,00
1704	Sugar confectionery (including white chocolate), not containing cocoa:					
1704 10	— Chewing gum, whether or not sugar-coated:					
1704 10 11 to 1704 10 19	— — Containing less than 60 % by weight of sucrose (including invert sugar expressed as sucrose)	7,50	7,50	7,50	7,50	7,50
1704 10 91 to 1704 10 99	— — Containing 60 % or more by weight of sucrose (including invert sugar expressed as sucrose)	7,50	7,50	7,50	7,50	7,50
1704 90	— Other:					
1704 90 10	— — Liquorice extract containing more than 10 % by weight of sucrose but not containing other added substances	7,50	7,50	7,50	7,50	7,50
1704 90 30	— — White chocolate	7,50	7,50	7,50	7,50	7,50
1704 90 51 to 1704 90 99	— — Other	11,20	9,40	7,50	7,50	7,50
1803	Cocoa paste, whether or not defatted	4,00	3,00	3,00	3,00	3,00
1804 00 00	Cocoa butter, fat and oil	1,00	0,80	0,80	0,80	0,80
1805 00 00	Cocoa powder, not containing added sugar or other sweetening matter	6,70	5,00	5,00	5,00	5,00
1806	Chocolate and other food preparation containing cocoa:					
1806 10	— Cocoa powder, containing added sugar or other sweetening matter	10,50	8,30	6,00	6,00	6,00
1806 20	— Other preparations in block slabs or bars weighing more than 2 kg or in liquid, paste, powder, granular or other bulk form in containers or immediate packings of a content exceeding 2 kg:					

1	2	3	4	5	6	7
1806 20 10	— — Containing 31 % or more by weight of cocoa butter or containing a combined weight of 31 % or more of cocoa butter and milk fat	14,00	13,50	12,70	12,70	12,70
1806 20 30	— — Containing a combined weight of 25 % or more, but less than 31 % of cocoa butter and milk fat	11,30	9,50	7,60	7,60	7,60
	— — Other:					
1806 20 50	— — — Containing 18 % or more by weight of cocoa butter	10,50	8,30	6,00	6,00	6,00
1806 20 70	— — — <i>Chocolate milk crumb</i>	10,90	8,90	6,90	6,90	6,90
1806 20 80	— — — Chocolate flavour coating	11,20	9,40	7,50	7,50	7,50
1806 20 95	— — — Other	11,20	9,40	7,50	7,50	7,50
1806 31 00	— — Filled	12,80	11,40	10,00	10,00	10,00
1806 32	— — Not filled	13,10	11,60	10,00	10,00	10,00
1806 90	— Other	11,20	9,40	7,50	7,50	7,50
1901	Malt extract; food preparations of flour, meal, starch or malt extract, not containing cocoa or containing less than 40 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of heading No 0401 to 0404, not containing cocoa or containing less than 5 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included:					
1901 10	— Preparations for infant use, put up for retail sale	5,50	5,50	5,50	5,50	5,50
1901 20	— Mixes and doughs for the preparation of bakers' wares of No 1905	5,50	5,50	5,50	5,50	5,50
1901 90	— Other	7,30	6,10	4,90	4,90	4,90
1902	Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni, couscous, whether or not prepared:					
	— Uncooked pasta, not stuffed or otherwise prepared:					
1902 11 00	— — Containing eggs	19,20	19,20	19,20	19,20	19,20
1902 19	— — Other	19,20	19,20	19,20	19,20	19,20
1902 20	— Stuffed pasta whether or not cooked or otherwise prepared:					
1902 20 91 to 1902 20 99	— — Other	10,00	10,00	10,00	10,00	10,00
1902 30	— Other pasta:					
1902 30 10	— — Dried	19,00	19,00	19,00	19,00	19,00
1902 30 90	— — Other	17,40	17,40	17,40	17,40	17,40
1902 40	— Couscous	5,50	5,50	3,70	1,90	0,00

1	2	3	4	5	6	7
1903	Tapioca and substitutes therefor prepared from starch, in the form of flakes, grains, pearls, siftings or similar forms	2,00	2,00	1,30	0,70	0,00
1904	Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, <i>cornflakes</i>), cereals other than maize (corn), in grain form or in the form of flakes or other worked grains (except flour and meal), precooked or otherwise prepared, not elsewhere specified or included:					
1904 10	— Prepared foods obtained by the swelling or roasting of cereals or cereal products	4,50	4,50	4,50	4,00	3,00
1904 20	— Prepared foods obtained from unroasted cereal flakes or from mixtures of unroasted cereal flakes and roasted cereal flakes or swelled cereals:					
	— — Other:					
1904 20 91	— — — Obtained from maize	4,50	4,50	4,50	4,00	3,00
1904 20 95	— — — Obtained from rice	0	0	0	0	0
1904 20 99	— — — Other	4,50	4,50	4,50	4,00	3,00
1904 90	— Other:					
1904 90 10	— — Rice	0	0	0	0	0
1904 90 90	— — Other	4,50	4,50	4,50	4,00	3,00
1905	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products:					
1905 10	— Crispbread	6,00	4,50	4,50	4,50	4,50
1905 20	— Gingerbread and the like:					
1905 20 10	— — Containing by weight of sucrose less than 30 % (including invert sugar expressed as sucrose)	6,70	5,00	5,00	5,00	5,00
1905 20 30	— — Containing by weight of sucrose 30 % or more but less than 50 % (including invert sugar expressed as sucrose)	6,70	5,00	5,00	5,00	5,00
1905 20 90	— — Containing by weight of sucrose 50 % or more (including invert sugar expressed as sucrose)	7,60	6,40	6,40	5,90	5,00
1905 30	— Sweet biscuits; waffles and wafers:					
	— — Completely or partially coated or covered with chocolate or other preparations containing cocoa:					
1905 30 11	— — — In immediate packings of a net content not exceeding 85 g	7,50	6,30	5,00	5,00	5,00
1905 30 19	— — — Other	7,50	6,30	5,00	5,00	5,00
	— Other:					
	— — Sweet biscuits:					
1905 30 30	— — — Containing 8 % or more by weight of milk fats	8,60	7,80	7,00	7,00	7,00
	— — — Other:					

1	2	3	4	5	6	7
1905 30 51	— — — Sandwich biscuits	8,60	7,80	7,00	7,00	7,00
1905 30 59	— — — — Other	7,50	6,30	5,00	5,00	5,00
	— — — Waffles and wafers:					
1905 30 91	— — — — Salted, whether or not filled	5,00	5,00	5,00	5,00	5,00
1905 30 99	— — — — Other	5,00	5,00	5,00	5,00	5,00
1905 40	— Rusks, toasted bread and similar toasted products	5,00	5,00	5,00	5,00	5,00
1905 90	— Other	5,00	5,00	5,00	5,00	5,00
2101	Extracts, essences and concentrates, of coffee, tea or maté and preparations with a basis of these products or with a basis of coffee, tea or maté; roasted chicory and other roasted coffee substitutes and extracts, essences and concentrates thereof:					
	— Extracts, essences and concentrates of coffee, and preparations with a basis of these extracts, essences or concentrates or with a basis of coffee:					
2101 12	— — Preparations with a basis of these extracts, essences or concentrates or with a basis of coffee:					
2101 12 98	— — — Other	1,90	1,90	1,90	1,90	1,90
2101 20	— Extracts, essences and concentrates of tea or maté, and preparations with a basis of these extracts, essences and concentrates or with a basis of tea or maté	1,90	1,90	1,90	1,90	1,90
2101 30	— Roasted chicory and other roasted coffee substitutes and extracts, essences and concentrates thereof	12,00	10,00	8,00	8,00	8,00
2102	Yeasts (active or inactive); other similar single-cell micro-organisms, dead (but not including vaccines of No 3002); prepared baking powders:					
2102 10	— Active yeasts:					
2102 10 10	— — Culture yeast	9,00	8,50	8,00	8,00	8,00
2102 10 31 to 2102 10 39	— — Bakers' yeasts	7,00	7,00	7,00	7,00	6,80
2102 10 90	— — Other	7,00	7,00	7,00	7,00	6,80
2102 20	— Inactive yeasts: other single-cell micro-organisms, dead:					
	— — Inactive yeasts:					
2102 20 11	— — — In Tablet, cube or similar form, or in immediate packings of a net content not exceeding 1 kg	7,00	7,00	7,00	7,00	6,80
2102 30 00	— Prepared baking powder	4,50	4,50	4,50	4,50	4,50
2103	Sauces and preparations thereof; mixed condiments and mixed seasonings; mustard flour and meal and prepared mustard:					
2103 10	— Soya sauce	0,00	0,00	0,00	0,00	0,00
2103 20	— Tomato ketchup and other tomato sauces	7,50	6,30	5,00	5,00	5,00

1	2	3	4	5	6	7
2103 30	— Mustard flour and meal and prepared mustard:					
2103 30 90	— — Prepared mustard:	4,50	4,50	4,50	4,50	4,50
2103 90	— Other:					
2103 90 90	— — Other	5,00	5,00	5,00	5,00	5,00
2104	Soups and broths and preparations therefor; homogenized composite food preparations:					
2104 10	Soups and broths and preparations therefor	4,00	4,00	4,00	4,00	4,00
2104 20	Homogenized composite food preparations	4,50	4,50	4,50	4,50	4,50
2105	Ice cream and other edible ice, whether or not containing cocoa	15,00	15,00	15,00	15,00	15,00
2106	Food preparations not elsewhere specified or included:					
2106 10	— Protein concentrates and textured protein substances	4,40	4,40	4,40	4,40	4,00
2106 90	— Other:					
2106 90 10	— — Cheese fondues	4,10	4,10	4,10	4,10	4,10
2106 90 20	— Compound alcoholic preparations, other than those based on odorous substances, of a kind used for the manufacture of beverages:	12,50	12,50	12,50	12,50	12,50
	— — Other:					
2106 90 92	— — — Containing no milk fats, sucrose, isoglucose, glucose or starch or containing less than 1,5 % milk fat, 5 % sucrose or isoglucose, 5 % glucose or starch	4,10	4,10	4,10	4,10	4,10
2106 90 98	— — — Other	4,10	4,10	4,10	4,10	4,10
2202	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading No 2009:					
2202 10	— Waters including mineral waters and aerated waters containing added sugar or other sweetening matter or flavoured	15,00	15,00	15,00	15,00	15,00
2202 90	— Other:					
2202 90 10	— — Not containing products of No 0401 to 0404 or fat obtained from products of No 0401 to 0404	5,50	5,50	5,50	5,50	5,50
	— — Other, containing by weight of fat obtained from the products of heading Nos 0401 to 0404:					
2202 90 91	— — — Less than 0,2 %	6,20	6,20	6,20	6,20	6,20
2202 90 95	— — — 0,2 % or more but less than 2 %	max	max	max	max	max
2202 90 99	— — — 2 % or more	max	max	max	max	max
2203	Beer made from malt	14,00	14,00	14,00	14,00	14,00

1	2	3	4	5	6	7
2205	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances	13,30	10,00	10,00	10,00	10,00
2208	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % vol.; spirits, liqueurs, and other spirituous beverages, compound alcoholic preparations of a kind used for the manufacture of beverages:					
2208 20	— Spirits obtained by distilling grape wine or grape mare	12,50	12,50	12,50	12,50	12,50
2208 30	— Whiskies	5,00	5,00	5,00	5,00	5,00
2208 40	— Rum and taffia	7,50	7,50	7,50	7,50	7,50
2208 50	— Gin and Geneva	7,50	7,50	7,50	7,50	7,50
2208 60	— Vodka:					
	— — Of an alcoholic strength by volume of 45,4 % volume or less in containers holding:					
2208 60 11	— — — 2 litres or less	15,00 ⁽¹⁾	15,00 ⁽¹⁾	15,00 ⁽¹⁾	15,00 ⁽¹⁾	15,00 ⁽¹⁾
2208 60 19	— — — More than 2 litres	15,00 ⁽¹⁾	15,00 ⁽¹⁾	15,00 ⁽¹⁾	15,00 ⁽¹⁾	15,00 ⁽¹⁾
	— — Of an alcoholic strength by volume of more than 45,4 % volume in containers holding:					
2208 60 91	— — — 2 litres or less	25,00	25,00	25,00	25,00	25,00
2208 60 99	— — — More than 2 litres	25,00	25,00	25,00	25,00	25,00
2208 70	— Liqueurs:					
2208 70 10	— — In containers holding 2 litres or less	15,00	15,00	15,00	15,00	15,00
2208 70 90	— — In containers holding more than 2 litres	25,00	25,00	25,00	25,00	25,00
2208 90	— Other:					
	— — Arrack, in containers holding:					
2208 90 11	— — — 2 litres or less	15,00	15,00	15,00	15,00	15,00
2208 90 19	— — — More than 2 litres	15,00	15,00	15,00	15,00	15,00
	Plum, pear or cherry spirit (excluding liqueurs), in containers holding:					
2208 90 33	— — — 2 litres or less	15,00	15,00	15,00	15,00	15,00
2208 90 38	— — — More than 2 litres	25,00	25,00	25,00	25,00	25,00
	— — Other spirits, liqueurs and other spirituous beverages, in containers holding:					
	— — — 2 litres or less:					

⁽¹⁾ This rate applies to imports of vodka of position CN 2208 60 11 and 2208 60 19 within a total annual quota of 5 000 hectolitres. All imports exceeding this quota are subject to a duty rate of 25 %.

1	2	3	4	5	6	7
2208 90 41	— — — Ouzo	25,00	25,00	25,00	25,00	25,00
	— — — Other:					
	— — — — Spirits (excluding liqueurs):					
	— — — — — Distilled from fruit:					
2208 90 45	— — — — — Calvados	25,00	25,00	25,00	25,00	25,00
2208 90 48	— — — — — Other	25,00	25,00	25,00	25,00	25,00
	— — — — — Other:					
2208 90 52	— — — — — Korn	25,00	25,00	25,00	25,00	25,00
2208 90 57	— — — — — Other	25,00	25,00	25,00	25,00	25,00
2208 90 69	— — — — — Other spirituous beverages	15,00	15,00	15,00	15,00	15,00
	— — — More than 2 litres:					
	— — — — Spirits (excluding liqueurs):					
2208 90 71	— — — — — Distilled from fruit	25,00	25,00	25,00	25,00	25,00
2208 90 74	— — — — — Other	25,00	25,00	25,00	25,00	25,00
2208 90 78	— — — — — Liqueurs and other spirituous beverages	25,00	25,00	25,00	25,00	25,00
	— — — Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % volume, in containers holding:					
2208 90 91	— — — — 2 litres or less	25,00	25,00	25,00	25,00	25,00
2208 90 99	— — — — More than 2 litres	25,00	25,00	25,00	25,00	25,00
3302	Mixtures of odoriferous substances and mixtures (including alcoholic solutions) with a basis of one or more of these substances, of a kind used in raw materials in industry; other preparations based on odoriferous substances, of a kind used in the manufacture of beverages:					
	— Of a kind used in the food or drink industries:					
3302 10	— — Of the type used in the drink industries:					
	— — — Preparations containing all flavouring agents characterizing a beverage:					
3302 10 10	— — — — Of an actual alcoholic strength by volume exceeding 0,5 %	12,50	12,50	12,50	12,50	12,50
	— — — — Other:					
3302 10 21	— — — — — Containing no milk fats, sucrose, isoglucose, glucose or starch or containing less than 1,5 % milk fat, 5 % sucrose or isoglucose, 5 % glucose or starch	4,10	4,10	4,10	4,10	4,10
3302 10 29	— — — — — Other	4,10	4,10	4,10	4,10	4,10

**DECISION No 1/96 OF THE ASSOCIATION COUNCIL, ASSOCIATION
BETWEEN THE EUROPEAN COMMUNITIES AND THEIR MEMBER
STATES, OF THE ONE PART, AND THE REPUBLIC OF BULGARIA, OF THE
OTHER PART**

of 17 December 1996

**concerning the export of certain ECSC steel products from Bulgaria to the
Community for the period 1 January to 31 December 1997 (extension of the
double-checking system established by Decision No 3/95 of the Association
Council)**

(97/83/ECSC)

THE ASSOCIATION COUNCIL,

Article 2

Whereas the Contact Group referred to in Article 11 of Protocol 2 to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Bulgaria, of the other part⁽¹⁾, which entered into force on 1 February 1995, met on 25 September 1996 and agreed to recommend to the Association Council established under Article 105 of the Agreement that the double-checking system introduced in 1996 by Association Council Decision No 3/95⁽²⁾ should be extended for the period between 1 January and 31 December 1997 subject to certain amendments;

Whereas the Association Council, having been supplied with all relevant information, has agreed with this recommendation,

HAS DECIDED AS FOLLOWS:

Article 1

The double-checking system established by Association Council Decision No 3/95 for the period 1 January to 31 December 1996 shall continue to apply for the period between 1 January and 31 December 1997, subject to the amendments shown in Article 2. In the preamble and Article 1 (1) and (3) of the Decision, references to the period 1 January to 31 December 1996 are hereby replaced by references to 1 January to 31 December 1997. Article 1 (4) shall be repealed.

1. The first sentence of Article 2 (2) of the Decision shall be amended to read as follows:

'The Community undertakes to supply the Bulgarian authorities with precise statistical information on import documents issued by Member States in respect of the export documents issued by the Bulgarian authorities pursuant to Article 1.'

2. Annex I to the Decision shall be replaced by the text contained in the Annex to this Decision.

3. In Annex III to the Decision 'Export Licence' shall be replaced by 'Export Document'.

4. In Annex IV to the Decision, paragraph 3 shall be amended to read as follows:

'The export documents shall be valid for six months from the date of their issue.'

Article 3

This Decision shall enter into force on the date of signature thereof.

It shall apply with effect from 1 January 1997.

Done at Brussels, 17 December 1996.

For the Association Council

The President

I. BOKOVA

⁽¹⁾ OJ No L 358, 31. 12. 1994, p. 3.

⁽²⁾ OJ No L 325, 30. 12. 1995, p. 37.

ANNEX

ANNEX I

BULGARIA

List of products subject to double-checking (1997)

7206 10 00	7209 28 90	7213 91 49	7225 20 20
7206 90 00	7209 90 10	7213 91 70	7225 30 00
		7213 91 90	7225 40 20
7208 10 00	7210 11 10	7213 99 10	7225 40 50
7208 25 00	7210 12 11	7213 99 90	7225 40 80
7208 26 00	7210 12 19		7225 50 00
7208 27 00	7210 20 10	7214 20 00	7225 91 10
7208 36 00	7210 30 10	7214 30 00	7225 92 10
7208 37 10	7210 41 10	7214 91 10	7225 99 10
7208 37 90	7210 49 10	7214 91 90	
7208 38 10	7210 50 10	7214 99 10	7226 11 10
7208 38 90	7210 61 10	7214 99 31	7226 19 10
7208 39 10	7210 69 10	7214 99 39	7226 19 30
7208 39 90	7210 70 31	7214 99 50	7226 20 20
7208 40 10	7210 70 39	7214 99 61	7226 91 10
7208 40 90	7210 90 31	7214 99 69	7226 91 90
7208 51 10	7210 90 33	7214 99 80	7226 92 10
7208 51 30	7210 90 38	7214 99 90	7226 93 20
7208 51 50			7226 94 20
7208 51 91	7211 13 00	7215 90 10	7226 99 20
7208 51 99	7211 14 10		
7208 52 10	7211 14 90	7216 10 00	7227 10 00
7208 52 91	7211 19 20	7216 21 00	7227 20 00
7208 52 99	7211 19 90	7216 22 00	7227 90 10
7208 53 10	7211 23 10	7216 31 11	7227 90 50
7208 53 90	7211 23 51	7216 31 19	7227 90 95
7208 54 10	7211 29 20	7216 31 91	
7208 54 90	7211 90 11	7216 31 99	7228 10 10
7208 90 10	7212 10 10	7216 32 11	7228 10 30
	7212 10 91	7216 32 19	7228 20 11
7209 15 00	7212 20 11	7216 32 91	7228 20 19
7209 16 10	7212 30 11	7216 32 99	7228 20 30
7209 16 90	7212 40 10	7216 33 10	7228 30 20
7209 17 10	7212 40 91	7216 33 90	7228 30 41
7209 17 90	7212 50 31	7216 40 10	7228 30 49
7209 18 10	7212 50 51	7216 40 90	7228 30 61
7209 18 91	7212 60 11	7216 50 10	7228 30 69
7209 18 99	7212 60 91	7216 50 91	7228 30 70
7209 25 00		7216 50 99	7228 30 89
7209 26 10	7213 10 00	7216 99 10	7228 60 10
7209 26 90	7213 20 00		7228 70 10
7209 27 10	7213 91 10	7225 11 00	7228 70 31
7209 27 90	7213 91 20	7225 19 10	7228 80 10
7209 28 10	7213 91 41	7225 19 90	7228 80 90

COMMISSION

COMMISSION DECISION

of 30 October 1996

relating to a proceeding under Article 85 of the EC Treaty

(IV/34.503 — Ferry operators — Currency surcharges)

(Only the English, French and Dutch texts are authentic)

(97/84/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

I. THE FACTS

Having regard to the Treaty establishing the European Community,

A. THE BACKGROUND TO THIS DECISION

Having regard to Council Regulation (EEC) No 4056/86 of 22 December 1986 laying down detailed rules for the application of Articles 85 and 86 of the EC Treaty to maritime transport⁽¹⁾, as amended by the Act of Accession of Austria, Finland and Sweden, and in particular Article 19 (2) thereof,

Having regard to the Commission Decision of 12 September 1994, to open a proceeding in this case,

Having given the parties the opportunity to make known their views on the objections raised by the Commission in accordance with Article 23 of Regulation 4056/86, and with Commission Regulation (EEC) No 4260/88 of 16 December 1988 on the communications, complaints and applications and the hearings provided for in Council Regulation (EEC) No 4056/86 of the Treaty to maritime transport⁽²⁾, as last amended by the Act of Accession of Austria, Finland and Sweden,

After consulting the Advisory Committee on Agreements and Dominant Positions in Maritime Transport,

Whereas:

- (1) This Decision arises from investigations made in April 1993 under Article 18 (3) of Regulation (EEC) No 4056/86 at the offices of four ferry operators. During the investigations the Commission discovered documentary evidence showing that a number of ferry operators had agreed the common imposition of a currency surcharge on freight following the devaluation of the pound sterling in September 1992. Five operators, namely P&O European Ferries, Stena Sealink, SNAT, Brittany Ferries and North Sea Ferries, announced identical surcharges to be imposed on freight to be transported on United Kingdom-Continent routes, with a common introduction date and common method of calculation.

B. THE UNDERTAKINGS

- (2) The undertakings which are concerned by the present procedure are roll-on, roll-off ferry (ro-ro) operators, who provide freight services on a number of routes between England and continental Europe:

— P&O European Ferries Ltd (P&OEF) is a subsidiary of the Peninsular and Oriental Steam Navigation Company (P&OSNC), P&OEF provides roll-on, roll-off freight services on the short-sea routes between Dover and Calais, the Western Channel routes between Portsmouth and Le Havre or Cherbourg, and, at the time of the infringement, on a North Sea route between Felixstowe and Zeebrugge and Rotterdam. In

⁽¹⁾ OJ No L 378, 31. 12. 1986, p. 4.

⁽²⁾ OJ No L 376, 31. 12. 1988, p. 1.

addition, at the time of the infringement it had a pooling arrangement with the Belgian operator Regie Voor Maritime Transport (RMT) under which it provided services between Dover and Ostend and Zeebrugge. P&OEF has informed the Commission that its turnover on the relevant market in 1992 was UKL [...] (*).

- Stena Line UK (Sealink or SSL) is a wholly-owned subsidiary of Stena Line AB, a Swedish company with a consolidated turnover in 1994 of Skr 9,4 billion. Under the name Stena Sealink Line it operated services between Dover and Dunkirk, Newhaven and Dieppe, and Cherbourg and Southampton. It also previously provided services on the short cross-Channel route between Dover and Calais, under a pooling arrangement with Société Nouvelle d'Armement Transmanche (SNAT) (†). SSL has informed the Commission that its turnover on the UK-France freight market in 1993 was UKL [...].
- Sea France (SNAT) is a wholly-owned subsidiary of GIE Transmanche which is itself owned as to 86,6 % by SNCF, the French national railway company. Formerly known as SNAT (see above), its total turnover in 1991 was FF 1 112 637 867.
- Bretagne Angleterre Irlande SA (BAI) is a French company which, under the name Brittany Ferries (BF), provides roll-on, roll-off freight services on Western Channel routes between Portsmouth and Plymouth and Caen, St. Malo and Roscoff. In addition, BAI(UK) Ltd, a United Kingdom subsidiary of BAI, also provides freight services on a Western Channel route, Poole to Cherbourg, through another subsidiary, Truckline Ferries. BAI's turnover in 1993, was FF 1,8 billion.
- North Sea Ferries (NSF) operates services on North Sea routes between Hull, Ipswich and Teesport and Zeebrugge and Rotterdam, and is a 50:50 joint venture between P&OSNC and Koninklijke Nedlloyd Groep NV. Its turnover in 1991 was £ 56 404 559.

- (3) The actions of a number of other ferry operators who introduced currency surcharges in the relevant market, were examined by the Commission. These operators are not concerned by this procedure but

are referred to at various stages below. The companies concerned were:

- Tor Line, a Dutch-based subsidiary of the Swedish company Tor Line AB, which is itself a subsidiary of the Danish operator DFDS, and which operates a service on the North Sea from Immingham to Rotterdam,
- Sally Line, a Finnish-owned company operating services from Ramsgate to Dunkirk and Ostend,
- Olau Line, which until recently operated on the Sheerness-Vlissingen route,
- Stena Line BV, a sister company of Stena Sealink which operates on the route Harwich-Hook of Holland.

- (4) The combined market share of the five operators concerned by this procedure on the overall relevant market in 1992 is estimated to have been over 60 %, based on figures published in 'Cruise & Ferry Info', an annual trade publication, figures published by the UK Department of Transport, and figures provided by P&OEF.

The market

- (5) The relevant market is the market for the provision of freight services by sea between the United Kingdom and France, Belgium and the Netherlands. It includes transport both to and from the United Kingdom.

Geographically, this market includes all services between, on the one hand, ports on the east and south coasts of England, and on the other, ports in northern France, Belgium and The Netherlands. It is possible to identify more narrowly delineated sectors within this market. In particular it can be broken down into three main sectors: short cross-Channel routes, western Channel routes and North Sea routes. There is a significant competitive overlap between the western Channel and the short cross-Channel routes, and between the short cross-Channel routes and the North Sea routes. This substitutability arises from the fact that the ports in question have good transport connections such that onward transportation to a variety of end destinations throughout the United Kingdom, or Continental Europe, respectively, is relatively easy and commonplace.

Transport of freight traffic between those ports could at the material time be effected only by means of ferry services, as the Channel Tunnel was not open at that time. The services in question were either roll-on, roll-off (ro-ro) or lift-on, lift-off (lo-lo). This includes, *inter alia*, driver-accompanied goods vehicles, unaccompanied trailers, containers, etc. The operators concerned by this Decision are all roll-on, roll-off ferry operators.

(*) In the published version of the Decision, some information has hereinafter been omitted, pursuant to the provisions of Article 24 of Regulation (EEC) No 4056/86 concerning professional secrecy.

(†) OJ No C 82, 19. 3. 1994, p. 7. This agreement is now discontinued.

It is estimated that the overall United Kingdom-Continent freight market in 1992, was approximately 2,9 million freight units, 59 % of which were on the North Sea, 30 % on the Dover Strait (short cross-Channel), and 11 % on the Western Channel. The operators concerned by this Decision had estimated market shares of approximately 49 % on the North Sea, 83 % on the Dover Strait, and 100 % on the Western Channel.

The concerted practice

- (6) The concerted practice relates to the simultaneous imposition of identical currency surcharges by certain ferry operators on all roll-on, roll-off freight charges paid in sterling on certain United Kingdom-Continental routes in 1992.
- (7) Following the devaluation of sterling by about 17 % on 16 September 1992, ferry operators with income in sterling and expenses in other currencies were obliged to decide how to respond to the possibility of reductions in the real value of their revenues and increases in real terms of their costs. Operators in the United Kingdom, for example, would have had a proportion of their income in sterling, while some of their costs such as fuel and spare parts would have been in other currencies. Operators in continental Europe would also have been affected if they had significant income in sterling, and also faced the prospect that customers would seek to switch their accounts to sterling or to other operators to take advantage of the devaluation. On the other hand, any operators with significant income in other currencies and costs in sterling would have benefited from the devaluation.
- (8) Each ferry operator was therefore faced with a commercial decision. A range of possible options existed: For example, an operator could have raised its prices to take account of reduced revenue, or attempted to win customers from its rivals by not raising, or even lowering, prices. In fact, all of the normal commercial considerations which apply in a free market would have applied in this situation. The cost structures of the various ferry operators in the relevant market would vary significantly according to their size, places of operation, sources of supply, numbers of vessels, employees, etc. Their responses to the devaluation of sterling would not, therefore, have been expected to be uniform.
- (9) In late September 1992, a number of international road haulage operators announced that they would be imposing currency surcharges on freight charges paid in sterling. This seems to have influenced the ferry operators in their response to the situation, as all the operators in the relevant market subsequently introduced a currency surcharge in one form or another. The parties to the infringement introduced surcharges on the same date, namely 1 November 1992, at identical rates, and with the same method of calculation. Three operators issued letters to their customers which were almost identically worded. The introduction of a currency surcharge is not, in itself, objected to by the Commission, as this was a commercial decision which each firm acting independently was entitled to take. However, the evidence clearly shows that almost all of the ferry operators in the relevant market contacted their competitors directly and discussed their intended response to the situation that had arisen.
- (10) The surcharges announced on United Kingdom-France (Dover Straits and Western Channel) routes by Stena Sealink, SNAT, P&OEF and Brittany/Truckline Ferries were identical. The operators concerned had an estimated market share of 88 % on these routes in 1992.
- (11) On United Kingdom-Belgium routes (Dover Straits and North Sea), both P&OEF and North Sea Ferries announced surcharges which were identical to the MAT scale for Belgium (a scale of surcharges which had been adopted by MAT Transport, a road haulage firm, in September 1992, hereinafter referred to as 'the MAT scales'. These provided for different scales of surcharges for transport to or from 13 European countries, including France, Belgium and the Netherlands. The amount of the surcharge to be applied for transport to or from any given country in any given week could be calculated using exchange rates published in the Financial Times of the preceding Friday.) It is estimated that these operators had a market share of over 50 % on these routes.
- (12) United Kingdom-Holland routes (North Sea), North Sea Ferries announced surcharges which were identical to the MAT scale for the Netherlands, while P&OEF announced surcharges which were almost identical. These operators had an estimated market share of over 30 % on United Kingdom-Holland routes in 1992.
- (13) All of the operators introduced their surcharges on 1 November 1992.

C. COMMISSION INVESTIGATIONS

- (14) On 6 and 7 April 1993, Commission officials acting pursuant to Article 18 of Regulation (EEC) No 4056/86, carried out simultaneous investigations without warning at the offices of three of the undertakings to which this Decision is addressed: P&O European Ferries, Stena Sealink and Brittany Ferries. An investigation was also carried out at the premises of Sally Line and Truckline Ferries, a subsidiary of Brittany Ferries.

Following the investigations, requests for information under Article 16 of Regulation (EEC) No 4056/86 were sent to the undertakings named above.

D. EVIDENCE

- (15) The main evidence on which this Decision is based includes:
- (a) messages sent, mostly by telefax, between various operators relating to the introduction of, and calculation of, a currency surcharge;
 - (b) internal memoranda written by employees of P&OEF, Sealink and Brittany Ferries;
 - (c) admissions made by P&O European Ferries and Stena Sealink in their replies to the Commission's requests for information and in their replies to the Commission's Statement of Objections.

P&OEF and Stena Sealink

- (16) Stena Sealink informed the Commission ⁽¹⁾ that, on 29 September 1992, a meeting was held in Paris between Stena Sealink and SNAT at which, *inter alia*, the effects of the devaluation of sterling were discussed. Sealink stated that at this meeting, SNAT informed it that it feared losing customers because of dual currency accounts that they held with competitors, P&OEF in particular (customers having a choice of paying in French francs or sterling would choose sterling). Sealink stated that the Freight Director of P&OEF joined the meeting by prior arrangement with Sealink and the effects of the devaluation were discussed. According to Sealink, SNA stated that unless P&OEF took action to remove the anomaly created by the devaluation, it would be obliged to reduce its French franc rates. P&OEF's Freight Director agreed to discuss the matter with his Managing Director.
- (17) Further meeting between Sealink, SNAT and P&OEF took place on 2 October 1992, to discuss proposals for rationalization of ferry services to

compete with Eurotunnel. Currency surcharges were also discussed. According to P&OEF ⁽²⁾, 'the parties' discussion reached a number of basic conclusions — that it was necessary to impose a currency surcharge to ensure viable trading — that it was necessary to impose a currency surcharge to restore order to the market'. P&OEF stated that the three operators reached a common view that the imposition of a surcharge on an 'orderly timescale' was necessary to protect each company's interests. Moreover, P&OEF stated that, as the three operators present represented the larger operators, there was an expectation that their intention to adopt a surcharge would find favour with smaller operators such as Sally Line and Brittany Ferries.

- (18) Stena Sealink stated that during the course of these discussions, SNAT repeated the statement it had made at the meeting in Paris that it would have to reduce its French franc freight rates to remain competitive, unless the United Kingdom operators increased their sterling rates. Sealink stated that it informed SNAT and P&OEF that it intended to introduce a currency surcharge, but that P&OEF did not wish to do so. However, P&OEF stated that it would contact other operators about the implications of a currency surcharge.
- (19) On 5 October 1992, P&OEF sent a table of surcharges to Stena Sealink. P&OEF states that the purpose of sending this table was to provide Sealink with an indication of the type of surcharge that P&OEF was intending to adopt and that it followed on from the discussions of 2 October. (This surcharge table had in fact been sent to P&OEF by North Sea Ferries, and set out four sliding scales of surcharges, based respectively on the approximate exchange rates for Dutch, Belgian, French and German currencies at the time of the sterling devaluation.)
- (20) In the event however, as P&OEF states, the ferry operators cooperated in the selection of different scales of surcharges, namely ones which were identical to the MAT scale (see point (11)).
- (21) According to Stena Sealink, a number of telephone conversations took place between it and P&OEF during the week commencing 5 October 1992. In the course of these telephone conversations, the parties discussed the suitability of the MAT scales, the date on which each party would announce the imposition of surcharges, and the date of implementation thereof.
- (22) On 12 October 1992, Stena Sealink sent a copy of the MAT Transport schedule of surcharges to SNAT and Stena Line BV.

⁽¹⁾ Stena Sealink reply to Article 16 request.

⁽²⁾ P&OEF reply to Article 16 request

- (23) On 14 October 1992, Stena Sealink sent P&OEF by telefax a copy of the letter it was proposing to issue to its customers on the following day announcing surcharges on all freight paid in sterling on all its Anglo-French routes from 1 November 1992⁽¹⁾. The scale of surcharges proposed in this draft letter was identical to the MAT scale for transport to or from France. A manuscript note at the foot of this document indicated that Sealink's telefax was followed by a telephone conversation between P&OEF and Stena Sealink on 14 October 1992 in which P&OEF pointed out a factual inaccuracy in the letter and Stena Sealink indicated that it would be amended to correct the mistake.

According to P&OEF, the parties had agreed that Sealink should take the initiative in introducing the surcharge, and Sealink sent this draft letter to P&OEF in order to inform it of the surcharge which it was going to adopt, and the date upon which it would be adopted.

- (24) Stena Sealink states that during the period around 15 October P&OEF telephoned to say that Sally Line would not implement a surcharge and asked Sealink to contact it. Sealink did so and was told that Sally Line did not wish to implement a surcharge.

P&OEF contacted Sally Line on 16 October 1992, and sent it a copy of the letter which had been issued by Stena Sealink to its customers, announcing the imposition of surcharges, on the previous day. P&OEF indicated to Sally Line that it intended to apply the same scale of surcharges. According to P&OEF, Sally Line accepted the need for a surcharge but did not consider that it could justify applying the MAT scale. On 22 October P&OEF again contacted Sally Line and told it that if it applied different surcharges this would create 'confusion and difficulties in the market place'⁽²⁾.

Sally Line issued a letter to its customers on 23 October, the text of which was almost identical to those of P&OEF and Brittany Ferries; but the level of surcharges was lower and did not correspond to the MAT scale. Since there is no sufficient evidence that Sally Line's decisions on the introduction of surcharges, and the amount charged, were a result of collusion, Sally Line is not an addressee of this Decision.

- (25) Stena Sealink states that from 19 October onwards it received a number of telephone calls from P&OEF during which adverse customer reaction to

the announcement of the surcharges was discussed. On 22 October P&OEF enquired how the two companies could collect the surcharge if customers did not want to pay it. Sealink replied that it was necessary to impress upon customers that there was a clear intention to implement the surcharge and that that was what Stena Sealink was doing.

On 29 or 30 October 1992, in the course of a telephone conversation, P&OEF complained to Stena Sealink that SNAT was giving some freight customers a discount in order to compensate them for the increase in the comparative value of the French franc against sterling. According to Stena Sealink, after having checked the position with SNAT, it informed P&OEF, again by telephone, that although there were some such arrangements they would cease on the implementation of the surcharge on 1 November 1992.

Subsequently, on 5 November, P&OEF telephoned Stena Sealink and informed it that as a result of SNAT's actions, it had decided not to impose the surcharge on its larger customers. P&OEF then gave Stena Sealink, over the telephone, a list of about 35 to 40 such customers.

- (26) A document dated 13 November 1992, found at its premises, indicates that P&OEF [...]. Another internal document indicates that from 23 November 1992, P&OEF [...].

- (27) A document found at the premises of Stena Sealink, dated 24 November 1992, addressed to SNAT states [...].

- (28) Another document found at Stena Sealink states that [...].

- (29) According to P&OEF, it abandoned the surcharge in favour of a global renegotiation of 1993 rates with its larger customers. This is confirmed by documents found at the premises of P&OEF. However, the surcharge continued to be applied to other customers, and documents found at the premises of Sally Line indicate that P&OEF issued letters to its customers on its Felixstowe-Rotterdam/Zeebrugge services on 20 November 1992, in which it advised them of 1993 freight rate increases, and in which it stated: 'To avoid any misunderstanding Currency Surcharge will continue to apply as per the scale, effective from 1 November 1992, which was announced in our letter 19 October 1992'. Similar letters were issued on 23 November 1992, to customers on its Dover-Calais/Boulogne/Zeebrugge/Ostend services.

⁽¹⁾ Document found at the premises of P&OEF.

⁽²⁾ Document found at Sally Line during the Commission investigation.

- (30) A document dated 24 November 1992, found at P&OEF, states [...].

Brittany/Truckline Ferries

- (31) P&OEF states that it contacted Brittany Ferries to inform it that P&OEF and other operators intended to introduce a currency surcharge on the basis of a common sliding scale. According to P&OEF⁽¹⁾, 'Brittany Ferries agreed the initiative' and P&OEF supplied Truckline Ferries with a copy of the letter P&OEF intended to send to its customers announcing the imposition of surcharges, together with a copy of the proposed sliding scale surcharges.
- (32) Stena Sealink states that between 12 and 15 October 1992, it was contacted by Brittany Ferries and was asked what it would do regarding the devaluation of sterling. Sealink informed Brittany Ferries that it was going to implement a surcharge along the lines adopted by MAT Transport Ltd, effective from 1 November 1992, and applying to all customers without exception.

- (33) An internal Brittany Ferries note⁽²⁾ dated 16 October 1992, states:

'All the major operators, namely Sealink, P&O, Olau, Sally, etc. have either issued or are in the process of issuing the attached to all clients on both the Continent and United Kingdom. My understanding is that this will be rigorously applied without exception to all clients and would suggest that we issue the following on Monday' (19 October 1992).

Attached to this fax was a draft letter, which was almost identical to that which was subsequently issued by P&OEF on 19 October 1992, and a surcharge table corresponding to the MAT scale.

- (34) On 21 October 1992, Brittany Ferries sent P&OEF a copy⁽³⁾ of the letter Truckline Ferries had sent to its customers on the previous day announcing the imposition of a currency surcharge with effect from 1 November 1992. P&OEF states that this was in order to confirm its verbal indication that they had implemented the surcharge upon the basis of the MAT scale.
- (35) As with P&OEF and Sealink, the Commission discovered no evidence during its investigations that Brittany Ferries had made any attempt to calculate its exposure to losses arising from the devaluation of sterling before deciding to use the MAT scale of surcharges. On the contrary, it is clear from a document dated 7 December 1992,

discovered at the premises of Brittany Ferries, that no attempt was made to calculate surcharges directly related to the company's cost structure at the time they were announced. This document refers to a request for information received from the UK Office of Fair Trading (which had also received a complaint concerning the ferry operators' actions) and [...].

- (36) An internal Brittany Ferries document⁽⁴⁾ dated 26 October 1992, refers to P&OEF and Sealink and states [...] The author of the document argues that Brittany Ferries should be flexible in its implementation of its surcharges. The Commission's interpretation of this document is that an agreement had been reached between P&OEF, Sealink and Brittany Ferries that a currency surcharge would be introduced and that it would be applied to all customers.

North Sea Ferries

- (37) According to North Sea Ferries, which is a joint venture between P&O and Nedlloyd, and which has board members in common with P&OEF, it and P&OEF adopted a coordinated approach to the issue of the currency surcharge introduction, with the date of implementation of the currency surcharge by North Sea Ferries (1 November 1992) being selected for it by P&OEF⁽⁵⁾. North Sea Ferries states that its decision to impose a surcharge was taken on the same date in mid-October 1992 as P&OEF took its decision to impose a surcharge.

- (38) NSF states that it was contacted by Stena Line BV on 12 or 13 October 1992, and was informed by it that it would introduce a surcharge. A copy of the scale was exchanged. This information was relayed to P&OEF the same day⁽⁶⁾. NSF states that it did not inform Stena BV of its intended actions in relation to surcharges but since Stena Sealink was aware of P&OEF's intended actions on the North Sea it would also have been aware of North Sea Ferries' proposed course of action.

- (39) In reply to a Request for Information sent to it by the Commission, Stena Line BV stated that on 12 October Stena Sealink sent it a copy of the MAT scale, and on the same or the following day Stena BV contacted North Sea Ferries to inform it that it would introduce a surcharge on a sliding scale. It also stated that it discussed the effects of the devaluation at some point between 2 and 14 October with North Sea Ferries⁽⁷⁾.

⁽¹⁾ P&OEF reply to Article 16 request.

⁽²⁾ Document found at the premises of Brittany Ferries.

⁽³⁾ Document found at the premises of P&OEF.

⁽⁴⁾ Document found at the premises of Truckline Ferries.

⁽⁵⁾ North Sea Ferries reply to Article 16 request.

⁽⁶⁾ Document found at the premises of P&OEF.

⁽⁷⁾ Stena Line BV reply to Article 16 request.

- (40) North Sea Ferries states that it indicated to Tor Line in early October its intention to introduce a currency surcharge and that Tor Line was encouraged to follow suit but no commitment was given.

Arguments of the parties

P&O

- (41) P&O accepts that in October 1992 it participated in a concerted practice with SSL and SNAT. However, it argues that the surcharges were never implemented as intended and were abandoned at the beginning of November 1992 and had no effect on the market. There was no effect on 1993 rates. It also argues that its concerted behaviour cannot properly be said to have included Brittany Ferries, and that its coordination with its joint venture undertaking, NSF, cannot constitute an infringement of Article 85.

Sealink

- (42) SSL accepts that together with SNAT it participated in a concerted practice with P&O and infringed Article 85 (1). However, it argues that the imposition of a heavy fine would not be warranted as the surcharges were not implemented. It also argues that it was entitled to consult with SNAT on matters concerning pricing under the terms of their pooling agreement. SSL applied a unilateral 5 % surcharge on 5 November 1992, with effect from 1 November 1992. SSL also argues that it could not be said to have engaged in a concerted practice with Brittany Ferries, as the contacts between them consisted only of one telephone call.

SNAT

- (43) SNAT argues in its response to the Commission's Statement of Objections that it simply followed the initiative of its pool partner, Stena Sealink, and that it had no contact with any other ferry operator. The fact that a representative of P&OEF attended the meeting on 29 September 1992 was an exceptional occurrence and was at the invitation of Stena Sealink. SNAT says that it 'simply declared that it intended to take the measures necessary to maintain its market share, including lowering its French

franc tariffs, if it was likely to lose its competitiveness for clients who were benefiting from having the option of paying in francs or pounds sterling with competitors (translation)'. The second meeting on 2 October 1992 was held in order to discuss the possibility of a 'Super Pool' between the three operators and no fundamental conclusions were reached concerning currency surcharges. SNAT contends that these meetings do not constitute proof of a concerted practice between P&O, SSL and SNAT, and that in any case such a concerted practice could not have had as its object the restriction of competition, and could not have affected trade between Member States. SNAT says it had no knowledge of the exchanges of tables between SSL and P&O. SSL was responsible for sales and marketing in the UK under the terms of the pooling agreement and therefore SNAT left the details of the implementation of a surcharge to SSL. SNAT denies SSL's claim that the currency surcharges were instigated to meet its wishes.

- (44) SNAT argues that the common implementation date and scale can be explained by the oligopolistic structure and transparency of the market.

- (45) SNAT says that of its [...] clients, only [...] were invoiced in sterling, among whom [...] did not pay the surcharges, and [...] more paid but received the amount back in rebates. The surcharges were not applied after 31 December 1992 and were not incorporated into 1993 rates. 1993 rates were raised generally by 5 %, although individually negotiated rates with some large clients actually fell.

Brittany Ferries

- (46) Brittany Ferries argued during the oral hearing that the market was oligopolistic and transparent. It stated that when deciding how to react to the devaluation of sterling it was essential to know how its competitors were going to act, so it took steps to find out, but had no agreement with them. Sealink announced its plans publicly on 16 October 1992, while Brittany Ferries happened to find out about P&O's plans during the course of a telephone conversation between one of its employees and an employee of P&O. Brittany Ferries argues that there was a convergence of interests — it wanted to find out what its competitors were going to do, while its competitors, who had already begun a concerted

practice, had an interest in passing a message on to Brittany Ferries. Brittany Ferries claims that the Freight Manager of Truckline Ferries, Mr [...], who is no longer with the company, may have had a copy of P&O's letter in advance. It was he who prepared a draft letter for the Managing Director of Brittany Ferries (UK), Mr [...], but he did not inform him that he knew of P&O's letter. Mr [...] statement in reply to the Commission's request for information, that he had personally drafted the letter, might be explained by the fact that he was in a difficult position *vis-à-vis* his superiors, inasmuch as one of his employees had placed the company in a delicate situation.

- (47) Brittany Ferries also argues that because the internal memorandum of 16 October 1992, quoted by the Commission in its statement of Objections, was incorrect in stating that Olau Line and Sally Line had decided to introduce surcharges, this proves that Brittany Ferries was not party to any agreement, otherwise it would have known that Olau Line and Sally Line were not participating. Brittany Ferries says that it applied the same surcharge as the others for 'psychological reasons'. Since some prominent road transport operators had introduced a surcharge, and since most of the ferry companies' clients were road transport operators, it seemed likely that they would accept the idea of surcharges being introduced by the ferry operators.
- (48) In its reply to the Statement of Objections P&O states that its managing Director, Mr [...], contacted Mr [...] to inform him of the action P&O, SSL and SNAT intended to take. It states that it regarded Brittany's response not as a binding commitment, but rather an informal indication that, for its own independent commercial reasons, Brittany was minded to follow the commercial lead of the principal operators. Although Truckline subsequently confirmed that this approach was to be implemented, P&O did not consider it had obtained prior commitment.
- (49) Brittany Ferries states that the surcharge affected only 10 % of its haulier clients and that it was applied only until 1 January 1993. However, Brittany Ferries issued a letter⁽¹⁾ to its customers on 30 November 1992, in which it stated that the currency surcharge would be incorporated into its rate structure in addition to rate increases for 1993.

North Sea Ferries

- (50) NSF concedes that it cooperated with P&OEF in October 1992 in the preparation and planned

introduction of a currency surcharge scale but argues that this did not amount to a concerted practice. It argues that Article 85 should not apply to the coordination that took place, as it and P&OEF have a common parent company, P&OSNC.

- (51) NSF also argues that the coordinated approach was abandoned shortly after the introduction of surcharges, and had no economic impact on the market.

The Commission's assessment of the parties' arguments

- (52) The Commission notes P&OEF's and SSL's admission that they infringed Article 85 by engaging in a concerted practice with each other and SNAT. The Commission rejects SNAT's argument that it had no knowledge of contact with any ferry operator other than its pooling partner, SSL. Although the purpose of the meetings held on 29 September 1992 and 2 October 1992, was not primarily to discuss currency surcharges, it is admitted that the surcharges were discussed in the presence of representatives of all three companies. The Commission acknowledges that SNAT and SSL were entitled to consult each other concerning the surcharges given that their services are pooled, but the contact with P&OEF is a clear infringement of Article 85 (see paragraphs 55 to 59). While the Commission can accept that SNAT may have had no direct contact with other ferry operators after 2 October 1992, the evidence indicates that it had indirect contact with P&OEF at least, via its pooling partner SSL.
- (53) With regard to Brittany Ferries, the evidence shows that there was contact between both P&OEF and SSL and Brittany Ferries. The parties have argued that since contacts were minimal these cannot constitute a concerted practice. The Commission cannot accept this. If companies are willing to cooperate with each other in reacting to market situations then lengthy consultations may not be necessary. SSL argues that its contact with Brittany amounted merely to one phone call. In the circumstances, one phone call was probably sufficient given, that P&O had also been in touch with Brittany and that Brittany, by its own admission, was eager to find out what its competitors planned to do about the devaluation of sterling.

P&O's letter to customers was evidently passed to Brittany Ferries and Brittany Ferries sent P&O a copy of the letter Truckline Ferries had sent to its customers on the previous day, announcing the imposition of a currency surcharge with effect from 1 November 1992. P&O states that it was in order to confirm its verbal indication that it had implemented the surcharge.

⁽¹⁾ Document found at the premises of Truckline Ferries.

BF has argued that because the internal memorandum of 16 October 1992, quoted by the Commission in its Statement of Objections, was incorrect in stating that Olau Line and Sally Line had decided to introduce surcharges, this proves that BF was not party to any agreement. The Commission would interpret this document simply as an indication that the parties assumed that other companies would fall in with their plans. Both P&O and SSL were in contact with Sally Line at that time.

An internal Brittany Ferries document, written by a member of BF's sales staff, refers to P&OEF and Sealink and states [...]. The author of the document argues that Brittany Ferries should be flexible in its implementation of its surcharges. The Commission's interpretation of this document is that BF had instructed its sales staff that it had been agreed with P&O and SSL that the surcharges were to be applied without exception to all clients.

- (54) In respect of North Sea Ferries, the Commission cannot accept NSF's and P&O's arguments that the relationship between them precludes an infringement of Article 85. The parties themselves have stated that North Sea Ferries is able to determine its own day-to-day commercial policy independently from its parents, P&O and Nedlloyd⁽¹⁾. It follows that it is not part of the P&O organization and must be viewed as a separate actor on the market. The parties do not deny that collusion took place in this case.

II. LEGAL ASSESSMENT

Article 85

- (55) Article 85 (1) of the EC Treaty prohibits as incompatible with the Common Market all agreements between undertakings or concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition, and in particular those which directly or indirectly fix purchase or selling prices or any other trading conditions.
- (56) In order to establish the existence of a concerted practice, it is sufficient that the undertakings knowingly substitute practical cooperation for the risks of competition that might otherwise develop⁽²⁾. A concerted practice requires direct or in-

direct contact between the competitors having the object or the effect of influencing their conduct on the market or of disclosing the conduct which they themselves have decided to adopt or contemplate adopting on the market⁽³⁾. It is clear from the evidence that the parties engaged in direct discussions aimed at settling on a common course of conduct in relation to the introduction of currency surcharges. It is also clear that these discussions took place at senior levels between the parties, with the managing directors in particular being directly involved.

- (57) In light of the level of contact between the operators and the exchanges of information between them in relation to the imposition of a surcharge, it is clear that the similarities between the surcharges imposed by several of them did not result from the transparency of the relevant market, as some of the operators have suggested. In particular, the information which was known to each of the parties to the infringement about the activities of the other parties, was known, not as a result of consultation with common customers, but instead as a result of direct exchanges of information between them.
- (58) In order for Article 85 to apply, it is necessary that the agreement or concerted practice between the parties has the object or effect of restricting competition. The clear object of the arrangement between the parties was to bring about the imposition of a common currency surcharge with effect from the same date. There can be no doubt that this arrangement amounted to a concerted practice, the object of which was to fix trading conditions by the parties thereto.

- (59) The arrangement between the operators clearly falls within Article 85, notwithstanding the difficulties experienced by the operators in actually applying the surcharges announced to their customers⁽⁴⁾. While it may be the case that the surcharges were not implemented in precisely the form which had been announced by the operators in mid-October 1992, the result of the operators' cooperation was nevertheless to influence the trading conditions in the relevant market.

⁽¹⁾ NSF reply to Statement of Objections, point 3.9; P&O reply to Statement of Objections, point 3.10.

⁽²⁾ Judgment of the Court of Justice of 14 July 1972 in Case 48/69, *ICI v. Commission*, [1972] ECR 619, paragraph 64.

⁽³⁾ Judgment of the Court of Justice of 16 December 1975 in Joined Cases 40-48, 50, 54-56, 111, 113 & 114/73, *Suiker Unie et al v. Commission*, [1975] ECR 1663, paragraph 174.

⁽⁴⁾ Commission Decision 86/398/EEC ('Polypropylene') (OJ No L 230, 18. 8. 1986, p. 1), where activities were found to infringe Article 85, notwithstanding that the target prices agreed between the parties to the infringement were never in fact achieved.

Effect on trade between Member States

- (60) Given the importance of the undertakings concerned in the market for freight services by sea between the United Kingdom and northern France, Belgium and The Netherlands, there can be no doubt that the arrangement had at least a potential effect on trade between Member States.
- (61) A concerted practice between the major suppliers of a particular service will, by its very nature, affect the pattern of trade between Member States which would have emerged in the absence of any such practice. This is especially clear where the service in question is an international transport service. In the present case, the parties concerned account for a large proportion of the service market in question and are established in different Member States. A diminution in competition between them is likely to deflect demand from one to another and thus alter the pattern of trade in that service between Member States. There is also at least a potential secondary effect in that an increase in the price of transport services is likely to depress demand for those services, thereby diminishing trade in goods between the United Kingdom and continental Europe.

Conclusion

- (62) On the basis of the above, the Commission considers that P&O European Ferries, Stena Sealink, SNAT and Brittany Ferries participated in a concerted practice contrary to Article 85 of the EC Treaty by agreeing the amount of a currency surcharge which would be applied to roll-on, roll-off freight services between the United Kingdom and France.
- (63) The Commission also considers that P&OEF and North Sea Ferries participated in a concerted practice contrary to Article 85 by agreeing the amount of a currency surcharge which would be applied to roll-on, roll-off freight services between the UK and Belgium and the Netherlands.

FINES**Article 19 (2) of Regulation (EEC) No 4056/86**

- (64) Under Article 19 (2) of Regulation (EEC) No 4056/86, the Commission may by decision impose on undertakings fines of from ECU 1 000 to ECU 1 million, or a sum in excess thereof but not exceeding 10 % of the turnover in the preceding business year of each of the undertakings participating in the infringement, where either intentionally

or negligently they infringe Article 85 (1) of the Treaty. In fixing the amount of the fine, regard shall be had both to the gravity and to the duration of the infringement.

Gravity

- (65) A concerted practice by which the most important operators in the market for transporting freight by roll-on, roll-off ferry, have attempted to introduce a uniform increase in price, constitutes a serious breach of Community law. The operators have argued that the surcharges were justified in that they were faced with substantial losses if they did not increase their sterling prices. The Commission does not deny that any operator acting independently was entitled to introduce currency surcharges if it considered it necessary. It is clear from the evidence, however, that P&OEF, Stena Sealink, SNAT, Brittany Ferries, and North Sea Ferries attempted to eliminate uncertainty concerning the actions of their competitors, by agreeing to introduce identical, or almost identical, surcharges. Most of the operators have argued either that the surcharges were not implemented at all or that they were only partially implemented. The Commission can accept that the introduction of surcharges was only partially successful, largely due to the resistance displayed by customers to the introduction of surcharges. The fact that it was not entirely successful does not make it a less serious infringement. A deliberate and manifest infringement of one of the clearest aspects of the prohibition laid down in Article 85 (1) must be regarded as serious.
- (66) The Commission considers that the ringleaders in the concerted practice were clearly P&OEF and Stena Sealink. The other operators played a relatively minor role.

Duration

- (67) The Commission considers the concerted practice to have begun from 2 October 1992 as far as P&OEF, Sealink and SNAT are concerned, since its origins appear to lie in the meeting held on that date, with Brittany Ferries and North Sea Ferries joining in mid-October 1992. The evidence indicates that the surcharges were applied to smaller customers whose market power was less than their larger competitors, and that they remained in place until 31 December 1992. As stated in paragraph 28, a document found at Stena Sealink states that [...] Another document found at Stena Sealink, addressed to SNAT, states [...] Documents found at the premises of Sally Line indicate that P&OEF issued letters to its customers on its Felixstowe-

Rotterdam/Zeebrugge services on 20 November 1992, in which it advised them of 1993 freight rate increases, and in which it stated: 'To avoid any misunderstanding currency surcharge will continue to apply as per the scale, effective from 1 November 1992, which was announced in our letter 19 October 1992'. Similar letters were issued on 23 November 1992, to customers on its Dover-Calais/Boulogne/Zeebrugge/Ostend services. Another internal P&OEF document indicates that from 23 November 1992, P&OEF [...] A further document found at P&OEF states [...]. SNAT admits that [...] of its [...] clients invoiced in sterling paid the surcharges, and says that the surcharges were not applied after 31 December 1992, which implies they were paid up to that date. Similarly, Brittany Ferries states that the surcharge affected 10 % of its haulier clients and that it was applied until 1 January 1993.

The Commission is prepared to accept that the infringement ended at the end of 1992.

- (68) The Commission does not consider that the infringement in this case merits very substantial fines. Although what the companies concerned intended to achieve constituted a serious breach of Community law, in practice the simultaneous introduction of currency surcharges proved to be only partially successful. However, merely symbolic fines would not be appropriate either, given the blatant nature of the infringement. The Commission also considers that P&OEF and Stena Sealink should be fined a greater amount than the other parties in view of the fact that they were the principal organizers of the concerted practice.
- (69) The Commission acknowledges the fact that Stena Sealink in particular provided a full and frank reply to the Commission's request for information following its unannounced investigations. However, it considers that a reduction of the fine would not be appropriate in this particular case, given that the cooperation came only after the Commission's investigations had brought the infringement to light, and that Stena Sealink was one of the principal organizers of the concerted practice. This is in line with the policy outlined in the Commission's recent notice regarding reductions in fines in cartel cases⁽¹⁾,

HAS ADOPTED THIS DECISION:

Article 1

P&O European Ferries, Stena Line UK (Stena Sealink), Sea France (SNAT), Brittany Ferries and North Sea Ferries have infringed Article 85 (1) of the EC Treaty by participating from early to mid-October 1992 until 31

December 1992 in a concerted practice by which the leading roll-on roll-off ferry operators in the UK-Continent freight market contacted each other secretly so as to discuss and determine their reaction to the devaluation of sterling in September 1992.

Article 2

The following fines are hereby imposed on the undertakings named herein in respect of the infringement found in Article 1:

- (i) P&OEF, a fine of ECU 400 000;
- (ii) Stena Line UK (Stena Sealink), a fine of ECU 100 000;
- (iii) Sea France (SNAT), a fine of ECU 60 000;
- (iv) Brittany Ferries, a fine of ECU 60 000;
- (v) North Sea Ferries, a fine of ECU 25 000.

Article 3

The fines shall be paid within three months of the date of notification of this Decision to the following account:

Account No 310-0933000-43
Commission of the European Communities
Banque Bruxelles-Lambert
Agence Européenne
Rond-Point Schuman/Schumanplein 5
B-1040 Brussels.

After three months, interest shall automatically be payable at the rate charged by the European Monetary Institute on its ecu transactions on the first working day of the month in which this Decision was adopted, plus 3,5 percentage points, namely, 7,5 %.

Article 4

This Decision is addressed to:

- P&O European Ferries
Channel House
Channel View Road
Dover
GB-Kent CT17 9TJ;
- Stena Line UK
Charter House
Park St.
Ashford
GB-Kent TN24 8EX;
- Sea France
3, rue Ambroise Paré
F-75475 Paris Cedex 10;
- Brittany Ferries S.A.
Port de Bloscon
F-29680 Roscoff;
- North Sea Ferries
Postbus 1123
NL-3180 AC Rozenburg ZH.

⁽¹⁾ OJ No C 207, 18. 7. 1996, p. 4.

This Decision is enforceable pursuant to Article 192 of the EC Treaty.

Done at Brussels, 30 October 1996.

For the Commission

Karel VAN MIERT

Member of the Commission
