

Official Journal

of the European Communities

ISSN 0378-6978

L 163

Volume 42

29 June 1999

English edition

Legislation

Contents

I *Acts whose publication is obligatory*

- Commission Regulation (EC) No 1382/1999 of 28 June 1999 establishing the standard import values for determining the entry price of certain fruit and vegetables 1
- Commission Regulation (EC) No 1383/1999 of 28 June 1999 fixing the refunds applicable to cereal and rice sector products supplied as Community and national food aid 3
- ★ Commission Regulation (EC) No 1384/1999 of 28 June 1999 establishing the forecast supply balance of the Canary Islands for products of the processed fruit and vegetable sector for the period 1 July 1999 to 30 June 2000 5
- ★ Commission Regulation (EC) No 1385/1999 of 28 June 1999 amending Regulation (EEC) No 2999/92 laying down detailed rules for the application of the specific measures for the supply of processed fruit and vegetables to Madeira and to determine the forecast supply balance for the period 1 July 1999 to 30 June 2000 7
- Commission Regulation (EC) No 1386/1999 of 28 June 1999 amending Regulation (EC) No 2198/98 increasing to 1 350 203 tonnes the quantity of barley held by the German intervention agency for which a standing invitation to tender for export has been opened 9
- ★ Commission Regulation (EC) No 1387/1999 of 28 June 1999 amending Regulation (EEC) No 388/92 laying down detailed rules for implementation of the specific arrangements for the supply of cereal products to the French overseas departments (FOD) and establishing a forecast supply balance 11
- ★ Commission Regulation (EC) No 1388/1999 of 28 June 1999 amending Regulation (EEC) No 1445/76 specifying the different varieties of *Lolium perenne* L. 13

Price: EUR 19,50

(Continued overleaf)

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

★ Commission Regulation (EC) No 1389/1999 of 28 June 1999 amending Regulation (EC) No 2789/98 derogating temporarily from Regulation (EC) No 1445/95 on rules of application for import and export licences in the beef and veal sector	16
Commission Regulation (EC) No 1390/1999 of 28 June 1999 amending Regulation (EEC) No 1627/89 on the buying in of beef by invitation to tender	17
Commission Regulation (EC) No 1391/1999 of 28 June 1999 fixing Community producer and import prices for carnations and roses with a view to the application of the arrangements governing imports of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip	19
★ Commission Regulation (EC) No 1392/1999 of 28 June 1999 opening a standing invitation to tender for the export of barley held by the Finnish intervention agency	21
Commission Regulation (EC) No 1393/1999 of 28 June 1999 opening a standing invitation to tender for the export of barley held by the Belgian intervention agency .	26
Commission Regulation (EC) No 1394/1999 of 28 June 1999 amending Regulation (EC) No 1758/98 increasing to 1 250 000 tonnes the quantity of wheat of bread-making quality held by the French intervention agency for which a standing invitation to tender for export has been opened	31
★ Commission Regulation (EC) No 1395/1999 of 28 June 1999 amending Regulation (EC) No 1759/98 increasing to 1 091 530 tonnes the quantity of barley held by the United Kingdom intervention agency for which a standing invitation to tender for export has been opened	33
Commission Regulation (EC) No 1396/1999 of 28 June 1999 amending Regulation (EC) No 1232/1999 increasing to 300 015 tonnes the quantity of wheat of bread-making quality held by the German intervention agency for which a standing invitation to tender for export has been opened	35
Commission Regulation (EC) No 1397/1999 of 28 June 1999 amending Regulation (EC) No 1760/98 increasing to 2 338 000 tonnes the quantity of barley held by the French intervention agency for which a standing invitation to tender for export has been opened	37
★ Commission Regulation (EC) No 1398/1999 of 28 June 1999 fixing for the 1999/2000 marketing year the levy in connection with the offsetting of storage costs for sugar	39
★ Council Directive 1999/30/EC of 22 April 1999 relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air	41

II *Acts whose publication is not obligatory*

Commission

1999/421/EC:

★ Commission Decision of 26 January 1999 relating to a proceeding pursuant to Article 85 of the EC Treaty (Case IV/36.253 — P&O Stena Line) (<i>notified under document number C(1998) 4539</i>)	61
---	----

- ★ **Commission Decision of 24 June 1999 laying down measures for the application of the Order of the President of the Court of First Instance of the European Communities of 30 April 1999 in Case T-44/98 RII (*notified under document number C(1999) 1736*)** 83

Acts adopted pursuant to Title V of the Treaty on European Union

- ★ **Council Decision of 28 June 1999 extending Joint Action 96/250/CFSP in relation to the nomination of a Special Envoy for the African Great Lakes Region** 85

- ★ **Council Decision of 28 June 1999 amending Decision 1999/357/CFSP implementing Common Position 1999/318/CFSP concerning additional restrictive measures against the Federal Republic of Yugoslavia** 86

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1382/1999
of 28 June 1999
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 1498/98 ⁽²⁾, and in particular Article 4 (1) 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 June 1999.

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

Done at Brussels, 28 June 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 337, 24.12.1994, p. 66.

⁽²⁾ OJ L 198, 15.7.1998, p. 4.

ANNEX

to the Commission Regulation of 28 June 1999 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	42,3
	999	42,3
0707 00 05	052	66,7
	628	130,8
	999	98,8
0709 90 70	052	52,6
	999	52,6
0805 30 10	382	55,2
	388	52,8
	528	63,6
	999	57,2
0808 10 20, 0808 10 50, 0808 10 90	388	81,7
	400	67,9
	508	67,4
	512	70,6
	524	65,7
	528	68,1
	804	97,3
	999	74,1
	052	147,4
	999	147,4
0809 20 95	052	260,6
	064	151,2
	400	181,9
	616	130,6
	999	181,1
0809 40 05	052	101,9
	624	260,1
	999	181,0

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2317/97 (OJ L 321, 22.11.1997, p. 19). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 1383/1999
of 28 June 1999
fixing the refunds applicable to cereal and rice sector products supplied as
Community and national food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals⁽¹⁾, as last amended by Commission Regulation (EC) No 2547/98⁽²⁾, and in particular the third subparagraph of Article 13(2) thereof,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice⁽³⁾, as amended by Regulation (EC) No 2072/98⁽⁴⁾, and in particular Article 13(3) thereof,

Whereas Article 2 of Council Regulation (EEC) No 2681/74 of 21 October 1974 on Community financing of expenditure incurred in respect of the supply of agricultural products as food aid⁽⁵⁾ lays down that the portion of the expenditure corresponding to the export refunds on the products in question fixed under Community rules is to be charged to the European Agricultural Guidance and Guarantee Fund, Guarantee Section;

Whereas, in order to make it easier to draw up and manage the budget for Community food aid actions and to enable the Member States to know the extent of Community participation in the financing of national

food aid actions, the level of the refunds granted for these actions should be determined;

Whereas the general and implementing rules provided for in Article 13 of Regulation (EEC) No 1766/92 and in Article 13 of Regulation (EC) No 3072/95 on export refunds are applicable *mutatis mutandis* to the above-mentioned operations;

Whereas the specific criteria to be used for calculating the export refund on rice are set out in Article 13 of Regulation (EC) No 3072/95;

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

HAS ADOPTED THIS REGULATION:

Article 1

For Community and national food aid operations under international agreements or other supplementary programmes, and other Community free supply measures, the refunds applicable to cereals and rice sector products shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 1 July 1999.

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

Done at Brussels, 28 June 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 126, 24.5.1996, p. 37.

⁽³⁾ OJ L 329, 30.12.1995, p. 18.

⁽⁴⁾ OJ L 265, 30.9.1998, p. 4.

⁽⁵⁾ OJ L 288, 25.10.1974, p. 1.

ANNEX

to the Commission Regulation of 28 June 1999 fixing the refunds applicable to cereal and rice sector products supplied as Community and national food aid

(EUR/t)

Product code	Refund
1001 10 00 9400	0,00
1001 90 99 9000	26,00
1002 00 00 9000	60,00
1003 00 90 9000	34,00
1004 00 00 9400	40,00
1005 90 00 9000	52,00
1006 30 92 9100	145,00
1006 30 92 9900	145,00
1006 30 94 9100	145,00
1006 30 94 9900	145,00
1006 30 96 9100	145,00
1006 30 96 9900	145,00
1006 30 98 9100	145,00
1006 30 98 9900	145,00
1006 30 65 9900	145,00
1006 40 00 9000	—
1007 00 90 9000	52,00
1101 00 15 9100	35,00
1101 00 15 9130	35,00
1102 20 10 9200	81,42
1102 20 10 9400	69,79
1102 30 00 9000	—
1102 90 10 9100	62,01
1103 11 10 9200	30,00
1103 11 90 9200	30,00
1103 13 10 9100	104,69
1103 14 00 9000	—
1104 12 90 9100	75,22
1104 21 50 9100	82,68

NB: The product codes are defined in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24. 12. 1987, p. 1), amended.

COMMISSION REGULATION (EC) No 1384/1999
of 28 June 1999

**establishing the forecast supply balance of the Canary Islands for products of the
processed fruit and vegetable sector for the period 1 July 1999 to 30 June 2000**

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

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 prod-
ucts ⁽¹⁾, as last amended by Regulation (EC) No 2348/
96 ⁽²⁾, and in particular Article 3(4) thereof,

- (1) Whereas, pursuant to Articles 2 and 3 of Regula-
tion (EEC) No 1601/92, the quantities of certain
processed fruit and vegetable products in the fore-
cast supply balance, covered by CN codes 2007 99
and 2008 and qualifying for exemption from duty
on direct imports from third countries or for aid for
consignments from the rest of the Community
should be determined;
- (2) Whereas Commission Regulation (EC) No 2790/
94 ⁽³⁾ as last amended by Regulation (EC) No 825/
98 ⁽⁴⁾, lays down the common rules for the applica-
tion, of the arrangements for the supply of certain
agricultural products to the Canary Islands;
- (3) Whereas pursuant to Regulation (EEC) No 1601/
92, the supply arrangements apply from 1 July;
whereas, as a result, provision should be made for
this Regulation to apply immediately;

- (4) Whereas the measures provided for in this Regula-
tion are in accordance with the opinion of the
Management Committee for Processed Fruit and
Vegetables,

HAS ADOPTED THIS REGULATION:

Article 1

1. For the purpose of applying Articles 2 and 3 of
Regulation (EEC) No 1601/92, the quantities covered by
the forecast supply balance of processed fruit and
vegetable products qualifying for exemption from duty on
imports from third countries or for Community aid shall
be as set out in the Annex.

2. Without prejudice to a revision of the supply
balance during the period concerned, the quantities laid
down for the various products listed in Part II of the
Annex may be exceeded by up to 20 % provided that the
overall quantity is not exceeded.

Article 2

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

It shall apply from 1 July 1999.

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

Done at Brussels, 28 June 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 173, 27.6.1992, p. 13.
⁽²⁾ OJ L 320, 11.12.1996, p. 1.
⁽³⁾ OJ L 296, 17.11.1994, p. 23.
⁽⁴⁾ OJ L 117, 21.4.1998, p. 5.

ANNEX

Establishing the forecast supply balance of the Canary Islands for products of the processed fruit and vegetable sector for the period 1 July 1999 to 30 June 2000

		<i>(tonnes)</i>
CN code	Description	Quantity
<i>Part I</i>		
2007 99	Preparations other than homogenised, containing fruit other than citrus fruit	6 000 ⁽¹⁾
<i>Part II</i>		
2008	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or sweetening matter or spirit, not elsewhere specified or included:	
2008 20	— pineapples	3 000
2008 30	— citrus fruit	500
2008 40	— pears	3 850 ⁽²⁾
2008 50	— apricots	200
2008 70	— peaches	8 000
2008 80	— strawberries	700 ⁽³⁾
	— other, including mixtures other than those of subheading No 2008 19:	
2008 92	— — mixtures	2 920 ⁽⁴⁾
2008 99	— — other than palm hearts and mixtures	750
Total		19 920

⁽¹⁾ Of which 1 000 tonnes for the processing and/or packaging sector.

⁽²⁾ Of which 2 250 tonnes for the processing and/or packaging sector.

⁽³⁾ Of which 600 tonnes for the processing and/or packaging sector.

⁽⁴⁾ Of which 670 tonnes for the processing and/or packaging sector.

COMMISSION REGULATION (EC) No 1385/1999
of 28 June 1999

amending Regulation (EEC) No 2999/92 laying down detailed rules for the application of the specific measures for the supply of processed fruit and vegetables to Madeira and to determine the forecast supply balance for the period 1 July 1999 to 30 June 2000

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

Having regard to Council Regulation (EEC) No 1600/92 of 15 June 1992 concerning specific measures for the Azores and Madeira with regard to certain agricultural products ⁽¹⁾, as last amended by Commission Regulation (EC) No 562/98 ⁽²⁾, and in particular Article 10 thereof,

- (1) Whereas the quantities of products eligible for the specific supply arrangements are determined by means of periodic forecast balances which may be revised according to the essential requirements of the market taking into account local production and traditional trade flows;
- (2) Whereas Commission Regulation (EEC) No 2999/92 ⁽³⁾, as last amended by Regulation (EC) No 1124/1999 ⁽⁴⁾, lays down the detailed rules for the application of the specific measures for the supply of processed fruit and vegetables to Madeira and the forecast balance fixing the quantities eligible for the specific supply arrangements for the period 1 July 1998 to 30 June 1999;
- (3) Whereas valuation of the requirements of the Madeiran market for the period 1 July 1999 to 30

June 2000 has led to establishment of a forecast supply balance as in the Annex;

- (4) Whereas the supply arrangements are applicable from 1 July; whereas, as a result, provision should be made for this Regulation to apply immediately;
- (5) Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for products processed from Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EEC) No 2999/92 is replaced by the Annex to this Regulation.

Article 2

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

It shall apply from 1 July 1999.

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

Done at Brussels, 28 June 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 173, 27.6.1992, p. 1.

⁽²⁾ OJ L 76, 13.3.1998, p. 6.

⁽³⁾ OJ L 301, 17.10.1992, p. 7.

⁽⁴⁾ OJ L 135, 29.5.1999, p. 39.

ANNEX

ANNEX

**Forecast supply balance covering processed fruit and vegetable products for Madeira for the period
1 July 1999 to 30 June 2000**

<i>(tonnes)</i>		
CN code	Description	Quantity
2008	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included	
2008 20	— Pineapples	350
2008 40	— Pears	10
2008 60	— Cherries	1
2008 70	— Peaches	450
	— Other, including mixtures other than those of subheading 2008 19:	
2008 92	— — Mixtures	3
2008 99	— — Other than palm hearts and mixtures	4
Total		818'

**COMMISSION REGULATION (EC) No 1386/1999
of 28 June 1999**

**amending Regulation (EC) No 2198/98 increasing to 1 350 203 tonnes the quantity
of barley held by the German intervention agency for which a standing invitation
to tender for export has been opened**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals⁽¹⁾, as last amended by Commission Regulation (EC) No 923/96⁽²⁾, and in particular Article 5 thereof,

- (1) Whereas Commission Regulation (EEC) No 2131/93⁽³⁾, as last amended by Regulation (EC) No 39/1999⁽⁴⁾, lays down the procedures and conditions for the disposal of cereals held by the intervention agencies;
- (2) Whereas Commission Regulation (EC) No 2198/98⁽⁵⁾, as last amended by Regulation (EC) No 1199/1999⁽⁶⁾, opened a standing invitation to tender for the export of 1 149 933 tonnes of barley held by the German intervention agency; whereas, Germany informed the Commission of the intention of its intervention agency to increase by 200 270 tonnes the quantity for which a standing invitation to tender for export has been opened; whereas the total quantity of barley held by the German intervention agency for which a standing invitation to tender for export has been opened should be increased to 1 350 203 tonnes;
- (3) Whereas this increase in the quantity put out to tender makes it necessary to alter the list of regions

and quantities in store; whereas Annex I to Regulation (EC) No 2198/98 must therefore be amended;

- (4) Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2198/98 is hereby amended as follows:

1. Article 2 is replaced by the following:

'Article 2

1. The invitation to tender shall cover a maximum of 1 350 203 tonnes of barley for export to third countries, with the exception of the United States of America, Canada and Mexico.
 2. The regions in which the 1 350 203 tonnes of barley are stored are stated in Annex I to this Regulation;
2. Annex I is replaced by the Annex hereto.

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 June 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 126, 24.5.1996, p. 37.

⁽³⁾ OJ L 191, 31.7.1993, p. 76.

⁽⁴⁾ OJ L 5, 9.1.1999, p. 64.

⁽⁵⁾ OJ L 277, 14.10.1998, p. 9.

⁽⁶⁾ OJ L 146, 11.6.1999, p. 9.

*ANNEX**'ANNEX I**(tonnes)*

Place of storage	Quantity
Schleswig-Holstein/Hamburg/ Niedersachsen/Bremen/ Nordrhein-Westfalen	358 519
Hessen/Rheinland-Pfalz/ Baden-Württemberg/ Saarland/Bayern	93 277
Berlin/Brandenburg/ Mecklenburg-Vorpommern	506 861
Sachsen/Sachsen-Anhalt/Thüringen	391 546'

COMMISSION REGULATION (EC) No 1387/1999
of 28 June 1999

amending Regulation (EEC) No 388/92 laying down detailed rules for implementation of the specific arrangements for the supply of cereal products to the French overseas departments (FOD) and establishing a forecast supply balance

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

Having regard to Council Regulation (EEC) No 3763/91 of 16 December 1991 introducing specific measures in respect of certain agricultural products for the benefit of the French overseas departments ⁽¹⁾, as last amended by Regulation (EC) No 2598/95 ⁽²⁾, and in particular Article 2(6) thereof,

- (1) Whereas the quantities of products eligible for the specific supply arrangements are determined by means of periodic forecast balances which may be revised according to the essential requirements of the market taking into account local production and traditional trade flows;
- (2) Whereas, pursuant to Article 2 of Regulation (EEC) No 3763/91, the forecast supply balance of cereal products to the FOD for 1999 was established by Commission Regulation (EEC) No 388/92 ⁽³⁾, as last amended by Regulation (EC) No 2621/98 ⁽⁴⁾; whereas to meet the needs of this region, amend-

ments must be made to this forecast supply balance; whereas, subsequently, Regulation (EEC) No 388/92 should be amended;

- (3) Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EEC) No 388/92 is 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*.

It shall apply with effect from 1 January 1999.

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

Done at Brussels, 28 June 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 356, 24.12.1991, p. 1.

⁽²⁾ OJ L 267, 9.11.1995, p. 1.

⁽³⁾ OJ L 43, 19.2.1992, p. 16.

⁽⁴⁾ OJ L 329, 5.12.1998, p. 14.

ANNEX

ANNEX

Cereals supply balance for the French overseas departments (1999)

(tonnes)

Cereals originating in third countries (ACP/developing countries) or EC	Common wheat	Durum wheat	Barley	Maize	Durum wheat meal and groats	Malt
Guadeloupe	60 000	—	2 500	16 000	—	100
Martinique	1 500	—	4 500	22 000	1 000	500
French Guiana	200	—	300	2 000	—	—
Réunion	32 500	—	19 500	100 000	—	3 500
Total	94 200	—	26 800	140 000	1 000	4 100
Total	266 100*					

COMMISSION REGULATION (EC) No 1388/1999

amending Regulation (EEC) No 1445/76 specifying the different varieties of
Lolium perenne L.

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

Having regard to Council Regulation (EEC) No 2358/71 of 26 October 1971 on the common organisation of the market in seeds ⁽¹⁾, as last amended by the Act of Accession of Austria, Finland and Sweden, and Regulation (EC) No 192/98 ⁽²⁾, and in particular Article 3(5) thereof,

- (1) Whereas Commission Regulation (EEC) No 1445/76 ⁽³⁾, as last amended by Regulation (EC) No 1317/98 ⁽⁴⁾, listed the varieties of *Lolium perenne* L. of high persistence, late or medium late, and of *Lolium perenne* L. of low persistence, medium late, medium early or early, within the meaning of the provisions adopted pursuant to Article 3 of Regulation (EEC) No 2358/71;
- (2) Whereas, since the last amendment of Regulation (EEC) No 1445/76, certified seed of certain varieties of *Lolium perenne* L. is no longer marketed, while certified seed of other varieties has appeared on the market and will be marketed for the first

time during the 1999/2000 marketing year; whereas, furthermore, the application of the classification criteria to certain varieties of *Lolium perenne* L. results in their inclusion in one of the abovementioned lists; whereas the Annexes to Regulation (EEC) No 1445/76 should therefore be amended accordingly;

- (3) Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Seeds,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and II to Regulation (EEC) No 1445/76 are hereby replaced by the Annexes to this Regulation.

Article 2

This Regulation shall enter into force on 1 July 1999.

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

Done at Brussels,.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 246, 5.11.1971, p. 1.

⁽²⁾ OJ L 20, 27.1.1998, p. 16.

⁽³⁾ OJ L 161, 23.6.1976, p. 10.

⁽⁴⁾ OJ L 183, 26.6.1998, p. 15.

ANNEX I

ANNEX I

Varieties of high persistence, late or medium late

Abercraigs	Broutor	Fanal (T)	Lorina
Aberelf	Burton	Faustino	Madera (T)
Ace	Cadans	Feeder	Magella
Aladin	Caddy	Fetione (T)	Magic
Allegro	Calibra (T)	Figaro	Magyar
Amadeus	Campania	Fingal	Maine
Ambon	Cancan	Flair	Mammout (T)
Ancona	Capper	Foxtrot	Manhattan
Andes	Captain	Freija	Marabella
Anduril	Cardinal	Galore	Marino (T)
Animo	Carillon	Garfield	Markanta
Antara	Carrick	Gemma (T)	Martina
Apollo	Cassius	Gerona	Marylin
Arabella	Castle (T)	Gilford	Master
Aragon	Chablis	Gitana (T)	Meba
Armor (T)	Chagall	Gladio	Melani
Atlas	Chantal	Glen	Meltra RVP (T)
Avenue	Chapparal	Globe	Melvina
Babylon	Cheops (T)	Greengold (T)	Mentor
Baccara	Chino	Gwendal	Meradonna (T)
Ballet	Choice	Helios	Merci
Barball	Citadel (T)	Henrietta	Merganda
Barcampo	Claudius	Heraut	Merigold
Barclay	Clermont (T)	Herbie	Merkator (T)
Barcredo	Clerpin	Herbus (T)	Merkem (T)
Bardessa	Colorado (T)	Hercules	Merlette
Bareine	Compas	Hermes	Merlov
Barema	Compliment	Hippo (T)	Mervue
Barenza	Concerto	Honneur	Meteor
Barezane	Concile	Icaro	Mexico
Barfort (T)	Condesa (T)	Imago	Mickey
Barglen	Cooper (T)	Isabel	Mikado
Baricade	Corbet	Jetta	Milca
Barink	Cordoba	Jumbo	Milton
Barlatan	Cornwall	Juventus (T)	Missouri (T)
Barlenna	Corso	Kalinka	Modenta
Barlet	Cud	Karin	Module
Barlinda	Dacapo	Kelvin	Modus (T)
Barlouise	Dali	Kent Indigenous	Mombassa
Barlow	Danilo	Kerdion	Mondial
Barlux	Darius	Laguna (T)	Montagne (T)
Barmaco	Disco	Langa	Montando (T)
Barmedia (T)	Domingo	Lasso	Montreux
Barplus	Donata	Leon	Morimba
Barpolo	Dorset	Lex 86	Moronda
Barriere	Dragon	Lexus	Murdock
Barry	Dromore	Lihersa	Navarra (T)
Bartwingo	Duramo	Limage	Nelson
Barweide	Eden	Limes	Norlea
Belcampo (T)	Edgar	Linocita	Norton
Belfort (T)	Electra	Liparis	Ohio
Bellevue	Elegana	Lipondo	Opera
Belmonte	Elgon (T)	Liquick	Opinion
Bocage (T)	Elka	Lisabelle	Option
Bologna	Eminent (T)	Lisuna	Orleans
Borvi	Entrar	Livonne	Outsider
Boston	Envy	Livorno	Pacage
Boulevard	Esperon (T)	Livree	Paddok
Bovian	Evita	Loretta	Pagode
Brighstar	Exito	Lorettanova	Panache

Pancho	Progress	Siberia	Trimmer
Pandora (I)	Proton (I)	Sirius (I)	Troubadour
Parcour	Pulsar	Sisu	Tucson
Pastoral (I)	Rally (I)	Solio	Twydown
Patora	Rastro	Sommora	Twygem
Pavo	Recolta	Sourire	Twygold
Pedro	Record	Sponsor	Twyjade
Pelleas	Renoir	Sprinter	Twystar
Perfect	Riikka	Stratos	Tyrone
Perma	Ritz	Summit	Ulysses
Phoenix (I)	Rival	Superstar	Umbria
Piamonte (I)	Ronja	Sussex	Ventoux (I)
Pippin	Roy (I)	Sydney	Veritas
Plaisir	Sabor	Talbot	Vienna
Player	Sakini	Talgo	Vigor
Pluto (I)	Salem	Taya	Vincent
Pomerol (I)	Sameba	Texas	Wadi
Portsteward	Sanremo	Tireno	Weigra
Precision	Santiago (I)	Titus	Wendy
Preference	Sarsfield	Tivoli (I)	York
Premium	Score (Fair Way)	Toledo	Zambesi'
Prester	Sensation	Trani	
Profit	Sevilla	Tresor	

ANNEX II

'ANNEX II

Varieties of low persistence, medium late, medium early or early

Atempo (I)
 Dalton
 Romeo
 Verna Pajbjerg
 Vivace'

COMMISSION REGULATION (EC) No 1389/1999
of 28 June 1999
amending Regulation (EC) No 2789/98 derogating temporarily from Regulation
(EC) No 1445/95 on rules of application for import and export licences in the beef
and veal sector

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 organisation of the market in beef and veal ⁽¹⁾, as last amended by Regulation (EC) No 1633/98 ⁽²⁾, and in particular Article 9(2) thereof,

- (1) Whereas Commission Regulation (EC) No 2789/98 ⁽³⁾, as last amended by Regulation (EC) No 962/1999 ⁽⁴⁾, grants a temporary derogation from Commission Regulation (EC) No 1445/95 ⁽⁵⁾, as last amended by Regulation (EC) No 2648/98 ⁽⁶⁾, on rules of application for import and export licences in the beef and veal sector;
- (2) Whereas the reasons for extending the validity of the export licences with advance fixing of the refund and for extending the derogation granted in Article 10(5) to products falling within CN code 0202 and to certain products falling within CN code 1602 50 are still valid; whereas it is therefore

necessary to extend the validity of Regulation (EC) No 2789/98;

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

HAS ADOPTED THIS REGULATION:

Article 1

In the second paragraph of Article 2 of Regulation (EC) No 2789/98, '30 June 1999' is replaced by '31 December 1999'.

Article 2

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

It shall apply from 1 July 1999.

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

Done at Brussels, 28 June 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 148, 28.6.1968, p. 24.

⁽²⁾ OJ L 210, 28.7.1998, p. 17.

⁽³⁾ OJ L 347, 23.12.1998, p. 33.

⁽⁴⁾ OJ L 119, 7.5.1999, p. 25.

⁽⁵⁾ OJ L 143, 27.6.1995, p. 35.

⁽⁶⁾ OJ L 335, 10.12.1998, p. 39.

COMMISSION REGULATION (EC) No 1390/1999
of 28 June 1999
amending Regulation (EEC) No 1627/89 on the buying in of beef by invitation to tender

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 organisation of the market in beef and veal ⁽¹⁾, as last amended by Regulation (EC) No 1633/98 ⁽²⁾, and in particular Article 6(7) thereof,

Whereas Commission Regulation (EEC) No 1627/89 of 9 June 1989 on the buying in of beef by invitation to tender ⁽³⁾, as last amended by Regulation (EC) No 1277/1999 ⁽⁴⁾, opened buying in by invitation to tender in certain Member States or regions of a Member State for certain quality groups;

Whereas the application of Article 6(2), (3) and (4) of Regulation (EEC) No 805/68 and the need to limit intervention to buying in the quantities necessary to ensure reasonable support for the market result, on the basis of the prices of which the Commission is aware, in an

amendment, in accordance with the Annex hereto, to the list of Member States or regions of a Member State where buying in is open by invitation to tender, and the list of the quality groups which may be bought in;

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

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EEC) No 1627/89 is hereby replaced by the Annex hereto.

Article 2

This Regulation shall enter into force on 5 July 1999.

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

Done at Brussels, 28 June 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 148, 28.6.1968, p. 24.

⁽²⁾ OJ L 210, 28.7.1998, p. 17.

⁽³⁾ OJ L 159, 10.6.1989, p. 36.

⁽⁴⁾ OJ L 153, 19.6.1999, p. 30.

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

Estados miembros o regiones de Estados miembros y grupos de calidades previstos en el apartado 1 del artículo 1 del Reglamento (CEE) n° 1627/89

Medlemsstater eller regioner og kvalitetsgrupper, jf. artikel 1, stk. 1, i forordning (EØF) nr. 1627/89

Mitgliedstaaten oder Gebiete eines Mitgliedstaats sowie die in Artikel 1 Absatz 1 der Verordnung (EWG) Nr. 1627/89 genannten Qualitätsgruppen

Κράτη μέλη ή περιοχές κρατών μελών και ομάδες ποιότητας που αναφέρονται στο άρθρο 1 παράγραφος 1 του κανονισμού (ΕΟΚ) αριθ. 1627/89

Member States or regions of a Member State and quality groups referred to in Article 1 (1) of Regulation (EEC) No 1627/89

États membres ou régions d'États membres et groupes de qualités visés à l'article 1^{er} paragraphe 1 du règlement (CEE) n° 1627/89

Stati membri o regioni di Stati membri e gruppi di qualità di cui all'articolo 1, paragrafo 1 del regolamento (CEE) n. 1627/89

In artikel 1, lid 1, van Verordening (EEG) nr. 1627/89 bedoelde lidstaten of gebieden van een lidstaat en kwaliteitsgroepen

Estados-membros ou regiões de Estados-membros e grupos de qualidades referidos no n.º 1 do artigo 1.º do Regulamento (CEE) n.º 1627/89

Jäsenvaltiot tai alueet ja asetuksen (ETY) N:o 1627/89 1 artiklan 1 kohdan tarkoittamat laaturyhmät

Medlemsstater eller regioner och kvalitetsgrupper som avses i artikel 1.1 i förordning (EEG) nr 1627/89

Estados miembros o regiones de Estados miembros	Categoría A			Categoría C		
Medlemsstat eller region	Kategori A			Kategori C		
Mitgliedstaaten oder Gebiete eines Mitgliedstaats	Kategorie A			Kategorie C		
Κράτος μέλος ή περιοχές κράτους μέλους	Κατηγορία Α			Κατηγορία Γ		
Member States or regions of a Member State	Category A			Category C		
États membres ou régions d'États membres	Catégorie A			Catégorie C		
Stati membri o regioni di Stati membri	Categoria A			Categoria C		
Lidstaat of gebied van een lidstaat	Categorie A			Categorie C		
Estados-membros ou regiões de Estados-membros	Categoria A			Categoria C		
Jäsenvaltiot tai alueet	Luokka A			Luokka C		
Medlemsstater eller regioner	Kategori A			Kategori C		
	U	R	O	U	R	O
België-Belgique	×	×				
Danmark		×				
España	×	×				
France						×
Great Britain						
Ireland				×	×	×
Northern Ireland				×	×	×
Österreich	×	×				

COMMISSION REGULATION (EC) No 1391/1999
of 28 June 1999

fixing Community producer and import prices for carnations and roses with a view to the application of the arrangements governing imports of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip

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

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip ⁽¹⁾, as last amended by Regulation (EC) No 1300/97 ⁽²⁾, and in particular Article 5 (2) (a) thereof,

Whereas, pursuant to Article 2 (2) and Article 3 of above-mentioned Regulation (EEC) No 4088/87, Community import and producer prices are fixed each fortnight for uniflorous (bloom) carnations, multiflorous (spray) carnations, large-flowered roses and small-flowered roses and apply for two-weekly periods; whereas, pursuant to Article 1b of Commission Regulation (EEC) No 700/88 of 17 March 1988 laying down detailed rules for the application of the arrangements for the import into the Community of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip ⁽³⁾, as last amended by Regulation (EC) No 2062/

97 ⁽⁴⁾, those prices are determined for fortnightly periods on the basis of weighted prices provided by the Member States; whereas those prices should be fixed immediately so the customs duties applicable can be determined; whereas, to that end, provision should be made for this Regulation to enter into force immediately,

HAS ADOPTED THIS REGULATION:

Article 1

The Community producer and import prices for uniflorous (bloom) carnations, multiflorous (spray) carnations, large-flowered roses and small-flowered roses as referred to in Article 1b of Regulation (EEC) No 700/88 for a fortnightly period shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 29 June 1999.

It shall apply from 30 June to 13 July 1999.

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

Done at Brussels, 28 June 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 382, 31.12.1987, p. 22.

⁽²⁾ OJ L 177, 5.7.1997, p. 1.

⁽³⁾ OJ L 72, 18.3.1988, p. 16.

⁽⁴⁾ OJ L 289, 22.10.1997, p. 1.

ANNEX

(EUR/100 pieces)

Period from 30 June to 13 July 1999				
Community producer price	Uniflorous (bloom) carnations	Multiflorous (spray) carnations	Large-flowered roses	Small-flowered roses
	11,56	14,86	21,21	10,08
Community import prices	Uniflorous (bloom) carnations	Multiflorous (spray) carnations	Large-flowered roses	Small-flowered roses
Israel	—	—	7,84	7,12
Morocco	12,22	15,27	—	—
Cyprus	—	—	—	—
Jordan	—	—	—	—
West Bank and Gaza Strip	—	—	—	—

COMMISSION REGULATION (EC) No 1392/1999

of 28 June 1999

opening a standing invitation to tender for the export of barley held by the Finnish intervention agency

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals⁽¹⁾, as last amended by Commission Regulation (EC) No 923/96⁽²⁾, and in particular Article 5 thereof,

- (1) Whereas Commission Regulation (EEC) No 2131/93⁽³⁾, as last amended by Regulation (EC) No 39/1999⁽⁴⁾, lays down the procedure and conditions for the disposal of cereals held by intervention agencies;
- (2) Whereas, given the current market situation, a standing invitation to tender should be opened for the export of 48 149 tonnes of barley held by the Finnish intervention agency;
- (3) Whereas special procedures must be laid down to ensure that the operations and their monitoring are properly effected; whereas, to that end, provision should be made for a security lodgement scheme which ensures that aims are met while avoiding excessive costs for the operators; whereas derogations should accordingly be made to certain rules, in particular those laid down in Regulation (EEC) No 2131/93;
- (4) Whereas, where removal of the barley is delayed by more than five days or the release of one of the securities required is delayed for reasons imputable to the intervention agency the Member State concerned must pay compensation;
- (5) Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

Subject to the provisions of this Regulation the Finnish intervention agency issues a standing invitation to tender

for the export of barley held by it in accordance with Regulation (EEC) No 2131/93.

Article 2

1. The invitation to tender shall cover a maximum of 48 149 tonnes of barley for export to third countries, with the exception of the United States, Canada and Mexico.
2. The regions in which the 48 149 tonnes of barley are stored are set out in Annex I.

Article 3

1. Notwithstanding the third paragraph of Article 16 of Regulation (EEC) No 2131/93, the price to be paid for the export shall be that quoted in the tender.
2. No export refund or tax or monthly increase shall be granted on exports carried out pursuant to this Regulation.
3. Article 8(2) of Regulation (EEC) No 2131/93 shall not apply.

Article 4

1. The export licences shall be valid from their date of issue within the meaning of Article 9 of Regulation (EEC) No 2131/93 until the end of the fourth month thereafter.
2. Tenders submitted in response to this invitation to tender may not be accompanied by export licence applications submitted pursuant to Article 44 of Commission Regulation (EEC) No 3719/88⁽⁵⁾.

Article 5

1. Notwithstanding Article 7(1) of Regulation (EEC) No 2131/93, the time limit for submission of tenders in respect of the first partial invitation to tender shall be 9 a.m. (Brussels time) on 1 July 1999.
2. The time limit for submission of tenders in respect of subsequent partial invitations to tender shall be 9 a.m. (Brussels time) each Thursday thereafter.
3. The last partial invitation to tender shall be 9 a.m. (Brussels time) on 30 September 1999.
4. Tenders shall be lodged with the Finnish intervention agency.

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 126, 24.5.1996, p. 37.

⁽³⁾ OJ L 191, 31.7.1993, p. 76.

⁽⁴⁾ OJ L 5, 9.1.1999, p. 64.

⁽⁵⁾ OJ L 331, 2.12.1988, p. 1.

Article 6

1. The intervention agency, the storer and the successful tenderer shall, at the request of the latter and by common agreement, either before or at the time of removal from storage as the successful tenderer chooses, take reference samples for counter-analysis at the rate of at least one sample for every 500 tonnes and shall analyse the samples. The intervention agency may be represented by a proxy, provided this is not the storer.

The analysis results shall be forwarded to the Commission in the event of a dispute.

Reference samples for counter-analysis shall be taken and analysed within seven working days of the date of the successful tenderer's request or within three working days if the samples are taken on removal from storage. Where the final result of sample analyses indicates a quality:

- (a) higher than that specified in the notice of invitation to tender, the successful tenderer must accept the lot as established;
- (b) higher than the minimum characteristics laid down for intervention but below the quality described in the notice of invitation to tender, providing that the differences having regard to those criteria do not exceed the following limits:
 - two kilograms per hectolitre as regards specific weight, which must not, however, be less than 60 kg/hl,
 - one percentage point as regards moisture content,
 - half a percentage point as regards impurities as specified in points B.2 and B.4 of the Annex to Commission Regulation (EEC) No 689/92 ⁽¹⁾, and
 - half a percentage point as regards impurities as specified in point B.5 of the Annex to Regulation (EEC) No 689/92, the percentages admissible for noxious grains and ergot, however, remaining unchanged,

the successful tenderer must accept the lot as established;

- (c) higher than the minimum characteristics laid down for intervention but below the quality described in the notice of invitation to tender, and a difference exceeding the limits set out in point (b), the successful tenderer may:
 - accept the lot as established, or
 - refuse to take over the lot in question. The successful tenderer shall be discharged of all his obligations relating to the lot in question and the securities shall be released only once he has informed the Commission and the intervention agency forthwith in accordance with Annex II; however, if he requests the intervention agency to supply him with another lot of intervention barley

of the quality laid down at no additional charge, the security shall not be released. The lot must be replaced within three days of the date of the successful tenderer's request. The successful tenderer shall notify the Commission immediately thereof in accordance with Annex II;

- (d) below the minimum characteristics laid down for intervention, the successful tenderer may not remove the lot in question. He shall be discharged of all his obligations relating to the lot in question and the securities shall be released only once he has informed the Commission and the intervention agency forthwith in accordance with Annex II; however, he may request the intervention agency to supply him with another lot of intervention barley of the quality laid down at no additional charge. In that case, the security shall not be released. The lot must be replaced within three days of the date of the successful tenderer's request. The successful tenderer shall immediately inform the Commission thereof in accordance with Annex II.

2. However, if the barley is removed before the results of the analyses are known, all risks shall be borne by the successful tenderer from the time the lot is removed, without prejudice to any means of redress of which he may avail himself against the storer.

3. If, as a result of successive replacements, the successful tenderer has not received a replacement lot of the quality laid down within one month of the date of his request for a replacement, he shall be discharged of all his obligations and the securities shall be released once he has informed the Commission and the intervention agency forthwith in accordance with Annex II.

4. Except where the final results of analyses indicate a quality below the minimum characteristics laid down for intervention, the costs of taking the samples and conducting the analyses provided for in paragraph 1 but not of inter-bin transfers shall be borne by the European Agricultural Guidance and Guarantee Fund (EAGGF) in respect of up to one analysis per 500 tonnes. The costs of inter-bin transfers and any additional analyses requested by the successful tenderer shall be borne by him.

Article 7

By derogation from Article 12 of Commission Regulation (EEC) No 3002/92 ⁽²⁾, the documents relating to the sale of barley in accordance with this Regulation, and in particular the export licence, the removal order referred to in Article 3(1)(b) of Regulation (EEC) No 3002/92, the export declaration and, where necessary, the T5 copy shall carry the entry:

⁽¹⁾ OJ L 74, 20.3.1992, p. 18.

⁽²⁾ OJ L 301, 17.10.1992, p. 17.

- Cebada de intervención sin aplicación de restitución ni gravamen, Reglamento (CE) n° 1392/1999
- Byg fra intervention uden restitutionsydelse eller -afgift, forordning (EF) nr. 1392/1999
- Interventionsgerste ohne Anwendung von Ausfuhrerstattungen oder Ausfuhrabgaben, Verordnung (EG) Nr. 1392/1999
- Κριθή παρέμβασης χωρίς εφαρμογή επιστροφής ή φόρου, κανονισμός (ΕΚ) αριθ. 1392/1999
- Intervention barley without application of refund or tax, Regulation (EC) No 1392/1999
- Orge d'intervention ne donnant pas lieu à restitution ni taxe, règlement (CE) n° 1392/1999
- Orzo d'intervento senza applicazione di restituzione né di tassa, regolamento (CE) n. 1392/1999
- Gerst uit interventie, zonder toepassing van restitutie of belasting, Verordening (EG) nr. 1392/1999
- Cevada de intervenção sem aplicação de uma restituição ou imposição, Regulamento (CE) n.º 1392/1999
- Interventio-ohraa, johon ei sovelleta vientitukea eikä vientimaksua, asetus (EY) N:o 1392/1999
- Interventionskorn, utan tillämpning av bidrag eller avgift, förordning (EG) nr 1392/1999.

Article 8

1. The security lodgement pursuant to Article 13(4) of Regulation (EEC) No 2131/93 must be released once the export licences have been issued to the successful tenderers.
2. Notwithstanding Article 17 of Regulation (EEC) No 2131/93, the obligation to export shall be covered by a security equal to the difference between the intervention price applying on the day of the award and the price awarded but not less than EUR 10 per tonne. Half of the security shall be lodged when the licence is issued and

the balance shall be lodged before the cereals are removed.

Notwithstanding Article 15(2) of Regulation (EEC) No 3002/92:

- the part of the security lodged when the licence is issued must be released within 20 working days of the date on which the successful tenderer provides proof that the cereals removed have left the customs territory of the Community.

Notwithstanding Article 17(3) of Regulation (EEC) No 2131/93:

- the remainder must be released within 15 working days of the date on which the successful tenderer provides the proof referred to in Article 18 of Regulation (EEC) No 3665/87.

3. Except in duly substantiated exceptional cases, in particular the opening of an administrative enquiry, any release of the securities provided for in this Article after the time limits specified in this same Article shall confer an entitlement to compensation from the Member State amounting to EUR 0,015 per 10 tonnes for each day's delay.

This compensation shall not be charged to the EAGGF.

Article 9

Within two hours of the expiry of the time limit for the submission of tenders, the Finnish intervention agency shall notify the Commission of tenders received. Such notification shall be made using the model set out in Annex III and the telex or fax numbers set out in Annex IV.

Article 10

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 June 1999.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

<i>(tonnes)</i>	
Place of storage	Quantity
Koria	26 834
Turenki	21 315

ANNEX II

**Communication of refusal of lots under the standing invitation to tender for the export of
barley held by the Finnish intervention agency**

(Article 6(1) of Regulation (EC) No 1392/1999)

— Name of successful tenderer:

— Date of award of contract:

— Date of refusal of lot by successful tenderer:

Lot No	Quantity in tonnes	Address of silo	Reason for refusal to take over
			— Specific weight (kg/hl) — % sprouted grains — % miscellaneous impurities (Schwarzbesatz) — % of matter which is not basic cereal of unimpaired quality — Other

*ANNEX III***Standing invitation to tender for the export of barley held by the Finnish intervention agency**

(Regulation (EC) No 1392/1999)

1	2	3	4	5	6	7
Tender No	Consignment No	Quantity (tonnes)	Offer price (EUR/tonne) ⁽¹⁾	Price increases (+) or reductions (-) (EUR/tonne) p.m.	Commercial costs (EUR/tonne)	Destination
1						
2						
3						
etc.						

⁽¹⁾ This price includes the increases or reductions relating to the lot to which the tender refers.

ANNEX IV

The only numbers to use to call Brussels are (DG VI-C-1)

- fax 296 49 56,
295 25 15;
- telex 22037 AGREC B,
22070 AGREC B (Greek characters).

COMMISSION REGULATION (EC) No 1393/1999
of 28 June 1999
opening a standing invitation to tender for the export of barley held by the
Belgian intervention agency

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals⁽¹⁾, as last amended by Commission Regulation (EC) No 923/96⁽²⁾, and in particular Article 5 thereof,

- (1) Whereas Commission Regulation (EEC) No 2131/93⁽³⁾, as last amended by Regulation (EC) No 39/1999⁽⁴⁾, lays down the procedure and conditions for the disposal of cereals held by intervention agencies;
- (2) Whereas, given the current market situation, a standing invitation to tender should be opened for the export of 53 483 tonnes of barley held by the Belgian intervention agency;
- (3) Whereas special procedures must be laid down to ensure that the operations and their monitoring are properly effected; whereas, to that end, provision should be made for a security lodgement scheme which ensures that aims are met while avoiding excessive costs for the operators; whereas derogations should accordingly be made to certain rules, in particular those laid down in Regulation (EEC) No 2131/93;
- (4) Whereas, where removal of the barley is delayed by more than five days or the release of one of the securities required is delayed for reasons imputable to the intervention agency the Member State concerned must pay compensation;
- (5) Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

Subject to the provisions of this Regulation the Belgian intervention agency issues a standing invitation to tender

for the export of barley held by it in accordance with Regulation (EEC) No 2131/93.

Article 2

1. The invitation to tender shall cover a maximum of 53 483 tonnes of barley for export to third countries, with the exception of the United States, Canada and Mexico.
2. The regions in which the 53 483 tonnes of barley are stored are set out in Annex I.

Article 3

1. Notwithstanding the third paragraph of Article 16 of Regulation (EEC) No 2131/93, the price to be paid for the export shall be that quoted in the tender.
2. No export refund or tax or monthly increase shall be granted on exports carried out pursuant to this Regulation.
3. Article 8(2) of Regulation (EEC) No 2131/93 shall not apply.

Article 4

1. The export licences shall be valid from their date of issue within the meaning of Article 9 of Regulation (EEC) No 2131/93 until the end of the fourth month thereafter.
2. Tenders submitted in response to this invitation to tender may not be accompanied by export licence applications submitted pursuant to Article 44 of Commission Regulation (EEC) No 3719/88⁽⁵⁾.

Article 5

1. Notwithstanding Article 7(1) of Regulation (EEC) No 2131/93, the time limit for submission of tenders in respect of the first partial invitation to tender shall be 9 a.m. (Brussels time) on 1 July 1999.
2. The time limit for submission of tenders in respect of subsequent partial invitations to tender shall be 9 a.m. (Brussels time) each Thursday thereafter.
3. The last partial invitation to tender shall be 9 a.m. (Brussels time) on 30 September 1999.
4. Tenders shall be lodged with the Belgian intervention agency.

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 126, 24.5.1996, p. 37.

⁽³⁾ OJ L 191, 31.7.1993, p. 76.

⁽⁴⁾ OJ L 5, 9.1.1999, p. 64.

⁽⁵⁾ OJ L 331, 2.12.1988, p. 1.

Article 6

1. The intervention agency, the storer and the successful tenderer shall, at the request of the latter and by common agreement, either before or at the time of removal from storage as the successful tenderer chooses, take reference samples for counter-analysis at the rate of at least one sample for every 500 tonnes and shall analyse the samples. The intervention agency may be represented by a proxy, provided this is not the storer.

The analysis results shall be forwarded to the Commission in the event of a dispute.

Reference samples for counter-analysis shall be taken and analysed within seven working days of the date of the successful tenderer's request or within three working days if the samples are taken on removal from storage. Where the final result of sample analyses indicates a quality:

- (a) higher than that specified in the notice of invitation to tender, the successful tenderer must accept the lot as established;
- (b) higher than the minimum characteristics laid down for intervention but below the quality described in the notice of invitation to tender, providing that the differences having regard to those criteria do not exceed the following limits:
 - two kilograms per hectolitre as regards specific weight, which must not, however, be less than 60 kg/hl,
 - one percentage point as regards moisture content,
 - half a percentage point as regards impurities as specified in points B.2 and B.4 of the Annex to Commission Regulation (EEC) No 689/92 ⁽¹⁾, and
 - half a percentage point as regards impurities as specified in point B.5 of the Annex to Regulation (EEC) No 689/92, the percentages admissible for noxious grains and ergot, however, remaining unchanged,

the successful tenderer must accept the lot as established;

- (c) higher than the minimum characteristics laid down for intervention but below the quality described in the notice of invitation to tender, and a difference exceeding the limits set out in point (b), the successful tenderer may:
 - accept the lot as established, or
 - refuse to take over the lot in question. The successful tenderer shall be discharged of all his obligations relating to the lot in question and the securities shall be released only once he has informed the Commission and the intervention agency forthwith in accordance with Annex II; however, if he requests the intervention agency to

supply him with another lot of intervention barley of the quality laid down at no additional charge, the security shall not be released. The lot must be replaced within three days of the date of the successful tenderer's request. The successful tenderer shall notify the Commission immediately thereof in accordance with Annex II;

- (d) below the minimum characteristics laid down for intervention, the successful tenderer may not remove the lot in question. He shall be discharged of all his obligations relating to the lot in question and the securities shall be released only once he has informed the Commission and the intervention agency forthwith in accordance with Annex II; however, he may request the intervention agency to supply him with another lot of intervention barley of the quality laid down at no additional charge. In that case, the security shall not be released. The lot must be replaced within three days of the date of the successful tenderer's request. The successful tenderer shall immediately inform the Commission thereof in accordance with Annex II.

2. However, if the barley is removed before the results of the analyses are known, all risks shall be borne by the successful tenderer from the time the lot is removed, without prejudice to any means of redress of which he may avail himself against the storer.

3. If, as a result of successive replacements, the successful tenderer has not received a replacement lot of the quality laid down within one month of the date of his request for a replacement, he shall be discharged of all his obligations and the securities shall be released once he has informed the Commission and the intervention agency forthwith in accordance with Annex II.

4. Except where the final results of analyses indicate a quality below the minimum characteristics laid down for intervention, the costs of taking the samples and conducting the analyses provided for in paragraph 1 but not of inter-bin transfers shall be borne by the European Agricultural Guidance and Guarantee Fund (EAGGF) in respect of up to one analysis per 500 tonnes. The costs of inter-bin transfers and any additional analyses requested by the successful tenderer shall be borne by him.

Article 7

By derogation from Article 12 of Commission Regulation (EEC) No 3002/92 ⁽²⁾, the documents relating to the sale of barley in accordance with this Regulation, and in particular the export licence, the removal order referred to in Article 3(1)(b) of Regulation (EEC) No 3002/92, the export declaration and, where necessary, the T5 copy shall carry the entry:

⁽¹⁾ OJ L 74, 20.3.1992, p. 18.

⁽²⁾ OJ L 301, 17.10.1992, p. 17.

- Cebada de intervención sin aplicación de restitución ni gravamen, Reglamento (CE) n° 1393/1999
- Byg fra intervention uden restitutionsydelse eller -afgift, forordning (EF) nr. 1393/1999
- Interventionsgerste ohne Anwendung von Ausfuhrerstattungen oder Ausfuhrabgaben, Verordnung (EG) Nr. 1393/1999
- Κριθή παρέμβασης χωρίς εφαρμογή επιστροφής ή φόρου, κανονισμός (ΕΚ) αριθ. 1393/1999
- Intervention barley without application of refund or tax, Regulation (EC) No 1393/1999
- Orge d'intervention ne donnant pas lieu à restitution ni taxe, règlement (CE) n° 1393/1999
- Orzo d'intervento senza applicazione di restituzione né di tassa, regolamento (CE) n. 1393/1999
- Gerst uit interventie, zonder toepassing van restitutie of belasting, Verordening (EG) nr. 1393/1999
- Cevada de intervenção sem aplicação de uma restituição ou imposição, Regulamento (CE) n.º 1393/1999
- Interventio-ohraa, johon ei sovelleta vientitukea eikä vientimaksua, asetus (EY) N:o 1393/1999
- Interventionskorn, utan tillämpning av bidrag eller avgift, förordning (EG) nr 1393/1999.

Article 8

1. The security lodgement pursuant to Article 13(4) of Regulation (EEC) No 2131/93 must be released once the export licences have been issued to the successful tenderers.
2. Notwithstanding Article 17 of Regulation (EEC) No 2131/93, the obligation to export shall be covered by a security equal to the difference between the intervention price applying on the day of the award and the price awarded but not less than EUR 10 per tonne. Half of the security shall be lodged when the licence is issued and

the balance shall be lodged before the cereals are removed.

Notwithstanding Article 15(2) of Regulation (EEC) No 3002/92:

- the part of the security lodged when the licence is issued must be released within 20 working days of the date on which the successful tenderer provides proof that the cereals removed have left the customs territory of the Community.

Notwithstanding Article 17(3) of Regulation (EEC) No 2131/93:

- the remainder must be released within 15 working days of the date on which the successful tenderer provides the proof referred to in Article 18 of Regulation (EEC) No 3665/87.

3. Except in duly substantiated exceptional cases, in particular the opening of an administrative enquiry, any release of the securities provided for in this Article after the time limits specified in this same Article shall confer an entitlement to compensation from the Member State amounting to EUR 0,015 per 10 tonnes for each day's delay.

This compensation shall not be charged to the EAGGF.

Article 9

Within two hours of the expiry of the time limit for the submission of tenders, the Belgian intervention agency shall notify the Commission of tenders received. Such notification shall be made using the model set out in Annex III and the telex or fax numbers set out in Annex IV.

Article 10

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 June 1999.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

<i>(tonnes)</i>	
Place of storage	Quantity
Hainaut	12 497
Liège	11 366
Namur	22 167
Oost-Vlaanderen	1 249
West-Vlaanderen	6 204

ANNEX II

Communication of refusal of lots under the standing invitation to tender for the export of barley held by the Belgian intervention agency

(Article 6(1) of Regulation (EC) No 1393/1999)

— Name of successful tenderer:

— Date of award of contract:

— Date of refusal of lot by successful tenderer:

Lot No	Quantity in tonnes	Address of silo	Reason for refusal to take over
			— Specific weight (kg/hl) — % sprouted grains — % miscellaneous impurities (Schwarzbesatz) — % of matter which is not basic cereal of unimpaired quality — Other

*ANNEX III***Standing invitation to tender for the export of barley held by the Belgian intervention agency**

(Regulation (EC) No 1393/1999)

1	2	3	4	5	6	7
Tender No	Consignment No	Quantity (tonnes)	Offer price (EUR/tonne) ⁽¹⁾	Price increases (+) or reductions (-) (EUR/tonne) p.m.	Commercial costs (EUR/tonne)	Destination
1						
2						
3						
etc.						

⁽¹⁾ This price includes the increases or reductions relating to the lot to which the tender refers.*ANNEX IV*

The only numbers to use to call Brussels are (DG VI-C-1)

- fax 296 49 56,
295 25 15;
- telex 22037 AGREC B,
22070 AGREC B (Greek characters).
-

COMMISSION REGULATION (EC) No 1394/1999
of 28 June 1999

amending Regulation (EC) No 1758/98 increasing to 1 250 000 tonnes the quantity of wheat of breadmaking quality held by the French intervention agency for which a standing invitation to tender for export has been opened

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

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1253/1999 ⁽²⁾, and in particular Article 5 thereof,

- (1) Whereas Commission Regulation (EEC) No 2131/93 ⁽³⁾, as last amended by Regulation (EC) No 39/1999 ⁽⁴⁾, lays down the procedures and conditions for the disposal of cereals held by the intervention agencies;
- (2) Whereas Commission Regulation (EC) No 1758/98 ⁽⁵⁾, as last amended by Regulation (EC) No 1144/1999 ⁽⁶⁾, opened a standing invitation to tender for the export of 1 050 000 tonnes of wheat of breadmaking quality held by the French intervention agency; whereas France informed the Commission of the intention of its intervention agency to increase by 200 000 tonnes the quantity for which a standing invitation to tender for export has been opened; whereas the total quantity of wheat of breadmaking quality held by the French intervention agency for which a standing invitation to tender for export has been opened should be increased to 1 250 000 tonnes;
- (3) Whereas this increase in the quantity put out to tender makes it necessary to alter the list of regions

and quantities in store; whereas Annex I to Regulation (EC) No 1758/98 must therefore be amended;

- (4) Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1758/98 is hereby amended as follows:

1. Article 2 is replaced by the following:

Article 2

1. The invitation to tender shall cover a maximum of 1 250 000 tonnes of wheat of breadmaking quality to be exported to all third countries.
2. The regions in which the 1 250 000 tonnes of wheat of breadmaking quality are stored are stated in Annex I to this Regulation.

2. Annex I is replaced by the Annex hereto.

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 June 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 160, 26.6.1999, p. 18.

⁽³⁾ OJ L 191, 31.7.1993, p. 76.

⁽⁴⁾ OJ L 5, 9.1.1999, p. 64.

⁽⁵⁾ OJ L 221, 8.8.1998, p. 3.

⁽⁶⁾ OJ L 137, 1.6.1999, p. 20.

*ANNEX**'ANNEX I*

<i>(tonnes)</i>	
Place of storage	Quantity
Amiens	241 000
Clermont	1 000
Chalons	69 000
Dijon	23 000
Lille	129 000
Orléans	363 000
Paris	172 000
Poitiers	54 000
Rouen	150 000
Rennes	12 000
Nantes	16 000
Nancy	20 000'

COMMISSION REGULATION (EC) No 1395/1999
of 28 June 1999

amending Regulation (EC) No 1759/98 increasing to 1 091 530 tonnes the quantity of barley held by the United Kingdom intervention agency for which a standing invitation to tender for export has been opened

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

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1253/1999 ⁽²⁾, and in particular Article 5 thereof,

- (1) Whereas Commission Regulation (EEC) No 2131/93 ⁽³⁾, as last amended by Regulation (EC) No 39/1999 ⁽⁴⁾, lays down the procedures and conditions for the disposal of cereals held by the intervention agencies;
- (2) Whereas Commission Regulation (EC) No 1759/98 ⁽⁵⁾, as last amended by Regulation (EC) No 1144/1999 ⁽⁶⁾, opened a standing invitation to tender for the export of 889 230 tonnes of barley held by the United Kingdom intervention agency; whereas the United Kingdom informed the Commission of the intention of its intervention agency to increase by 202 300 tonnes the quantity for which a standing invitation to tender for export has been opened; whereas the total quantity of barley held by the United Kingdom intervention agency for which a standing invitation to tender for export has been opened should be increased to 1 091 530 tonnes;
- (3) Whereas this increase in the quantity put out to tender makes it necessary to alter the list of regions

and quantities in store; whereas Annex I to Regulation (EC) No 1759/98 must therefore be amended;

- (4) Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1759/98 is hereby amended as follows:

1. Article 2 is replaced by the following:

Article 2

1. The invitation to tender shall cover a maximum of 1 091 530 tonnes of barley for export to third countries, with the exception of the United States of America, Canada and Mexico.

2. The regions in which the 1 091 530 tonnes of barley are stored are stated in Annex I to this Regulation⁷

2. Annex I is replaced by the Annex hereto.

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 June 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 160, 24.5.1996, p. 37.

⁽³⁾ OJ L 191, 31.7.1993, p. 76.

⁽⁴⁾ OJ L 5, 9.1.1999, p. 64.

⁽⁵⁾ OJ L 221, 8.8.1998, p. 8.

⁽⁶⁾ OJ L 137, 1.6.1999, p. 20.

ANNEX

ANNEX I

<i>(tonnes)</i>	
Place of storage	Quantity
Aberdeenshire	18 433
Bedfordshire	9 687
Berwickshire	6 639
Dorset	22 436
Dumfries	19 050
East Lothian	45 247
Edinburgh	33 570
Essex	8 760
Fife	10 229
Gloucester	25 314
Gloucestershire	21 626
Keith	7 852
Leicestershire	11 753
Lincolnshire	170 652
Mid Lothian	12 074
Norfolk	90 949
North Humberside	64 252
North Lincolnshire	49 246
Northamptonshire	19 530
Northumberland	10 040
Norwich	44 789
Nottinghamshire	20 700
Pocklington York	12 876
Salisbury	45 901
Shropshire	40 515
Somerset	8 240
Strathclyde	53 744
Suffolk	33 275
Taunton	13 744
West Sussex	23 661
Wiltshire	10 911
Worcestershire	50 700
York	75 135'

**COMMISSION REGULATION (EC) No 1396/1999
of 28 June 1999**

amending Regulation (EC) No 1232/1999 increasing to 300 015 tonnes the quantity of wheat of breadmaking quality held by the German intervention agency for which a standing invitation to tender for export has been opened

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

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1253/1999 ⁽²⁾, and in particular Article 5 thereof,

- (1) Whereas Commission Regulation (EEC) No 2131/93 ⁽³⁾, as last amended by Regulation (EC) No 39/1999 ⁽⁴⁾, lays down the procedures and conditions for the disposal of cereals held by the intervention agencies;
- (2) Whereas Commission Regulation (EC) No 1232/1999 ⁽⁵⁾, opened a standing invitation to tender for the export of 200 006 tonnes of wheat of breadmaking quality held by the German intervention agency; whereas, Germany informed the Commission of the intention of its intervention agency to increase by 100 009 tonnes the quantity for which a standing invitation to tender for export has been opened; whereas the total quantity of wheat of breadmaking quality held by the German intervention agency for which a standing invitation to tender for export has been opened should be increased to 300 015 tonnes;
- (3) Whereas this increase in the quantity put out to tender makes it necessary to alter the list of regions and quantities in store; whereas Annex I to Regula-

tion (EC) No 1232/1999 must therefore be amended;

- (4) Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1232/1999 is hereby amended as follows:

1. Article 2 is replaced by the following:

Article 2

1. The invitation to tender shall cover a maximum of 300 015 tonnes of wheat of breadmaking quality to be exported to all third countries.
 2. The regions in which the 300 015 tonnes of wheat of breadmaking quality are stored are stated in Annex I to this Regulation.
2. Annex I is replaced by the Annex hereto.

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 June 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 160, 26.6.1999, p. 18.

⁽³⁾ OJ L 191, 31.7.1993, p. 76.

⁽⁴⁾ OJ L 5, 9.1.1999, p. 64.

⁽⁵⁾ OJ L 149, 16.6.1999, p. 15.

*ANNEX**'ANNEX I**(tonnes)*

Place of storage	Quantity
Schleswig-Holstein/Hamburg/ Niedersachsen/Bremen/ Nordrhein-Westfalen	134 217
Hessen/Rheinland-Pfalz/ Baden-Württemberg/ Saarland/Bayern	71 692
Berlin/Brandenburg/ Mecklenburg-Vorpommern	25 849
Sachsen/Sachsen-Anhalt/Thüringen	68 257'

COMMISSION REGULATION (EC) No 1397/1999
of 28 June 1999

amending Regulation (EC) No 1760/98 increasing to 2 338 000 tonnes the quantity of barley held by the French intervention agency for which a standing invitation to tender for export has been opened

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals⁽¹⁾, as last amended by Regulation (EC) No 1253/1999⁽²⁾, and in particular Article 5 thereof,

- (1) Whereas Commission Regulation (EEC) No 2131/93⁽³⁾, as last amended by Regulation (EC) No 39/1999⁽⁴⁾, lays down the procedures and conditions for the disposal of cereals held by the intervention agencies;
- (2) Whereas Commission Regulation (EC) No 1760/98⁽⁵⁾, as last amended by Regulation (EC) No 1198/1999⁽⁶⁾, opened a standing invitation to tender for the export of 2 138 000 tonnes of barley held by the French intervention agency; whereas, France informed the Commission of the intention of its intervention agency to increase by 200 000 tonnes the quantity for which a standing invitation to tender for export has been opened; whereas the total quantity of barley held by the French intervention agency for which a standing invitation to tender for export has been opened should be increased to 2 338 000 tonnes;
- (3) Whereas this increase in the quantity put out to tender makes it necessary to alter the list of regions

and quantities in store; whereas Annex I to Regulation (EC) No 1760/98 must therefore be amended;

- (4) Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1760/98 is hereby amended as follows:

1. Article 2 is replaced by the following:

Article 2

1. The invitation to tender shall cover a maximum of 2 338 000 tonnes of barley to be exported to all third countries with the exception of the United States, Canada and Mexico.

2. The regions in which the 2 338 000 tonnes of barley are stored are stated in Annex I to this Regulation.

2. Annex I is replaced by the Annex hereto.

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 June 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 160, 26.6.1999, p. 18.

⁽³⁾ OJ L 191, 31.7.1993, p. 76.

⁽⁴⁾ OJ L 5, 9.1.1999, p. 64.

⁽⁵⁾ OJ L 221, 8.8.1998, p. 13.

⁽⁶⁾ OJ L 146, 11.6.1999, p. 7.

*ANNEX**'ANNEX I**(tonnes)*

Place of storage	Quantity
Amiens	91 000
Châlons	213 000
Dijon	119 000
Lille	351 054
Nantes	37 000
Nancy	73 000
Orléans	503 000
Paris	139 000
Poitiers	205 000
Rouen	605 546
Toulouse	1 400'

**COMMISSION REGULATION (EC) No 1398/1999
of 28 June 1999**

**fixing for the 1999/2000 marketing year the levy in connection with the offsetting
of storage costs for sugar**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organisation of the markets in the sugar sector⁽¹⁾, as last amended by Commission Regulation (EC) No 1148/98⁽²⁾, and in particular Article 8(5) thereof,

(1) Whereas Article 8(1) of Regulation (EEC) No 1785/81 provides that the storage costs for sugar and syrups shall be reimbursed at a flat rate by the Member States;

(2) Whereas Article 6 of Council Regulation (EEC) No 1358/77⁽³⁾, as last amended by Regulation (EEC) No 3042/78⁽⁴⁾, provides that the levy for Community sugar shall be calculated by dividing the total estimated reimbursed by the estimated quantity of sugar which will be marketed during the sugar marketing year in question; whereas the total estimated reimbursed is to be increased or decreased, as the case may be, by the amounts carried forward from previous marketing years;

(3) Whereas Article 8(4) of Regulation (EEC) No 1785/81 provides that the monthly reimbursement shall be fixed by the Council simultaneously with the derived intervention prices; whereas the reimbursement laid down for 1999/2000 should be used to calculate the levy;

(4) Whereas, pursuant to Article 4 of Regulation (EEC) No 1358/77, the quantity in store to be taken into account for the reimbursement of any one month's storage costs is equal to the arithmetic mean of the quantities in store at the beginning and end of the month in question; whereas, for the 1999/2000 marketing year, the quantities of Community sugar in store each month may be estimated on the basis

of estimated stocks at the beginning of the marketing year, estimated monthly production and the quantities likely to be marketed for domestic consumption or exported during the same month; whereas total average monthly stocks during the 1999/2000 marketing year can be estimated at approximately 95 million tonnes of sugar expressed as white sugar; whereas the total reimbursement for Community sugar can thus be estimated at approximately EUR 314 million for the 1999/2000 marketing year; whereas the balance of previous marketing years can be estimated at a positive amount of EUR 27 million; whereas the detailed rules for the application of the system for offsetting storage costs for sugar provide that the levy is to be fixed per 100 kilograms of white sugar; whereas the quantity of Community sugar which will be marketed during the 1999/2000 marketing year for domestic consumption or for export may be estimated at approximately 14 million tonnes of sugar expressed as white sugar; whereas the levy for Community sugar should therefore be EUR 2,00 per 100 kilograms of white sugar;

(5) Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

For the 1999/2000 marketing year, the levy referred to in the second subparagraph of Article 8(2) of Regulation (EEC) No 1785/81 shall be EUR 2,00 per 100 kilograms of white sugar.

Article 2

This Regulation shall enter into force on 1 July 1999.

⁽¹⁾ OJ L 177, 1.7.1981, p. 4.

⁽²⁾ OJ L 159, 3.6.1998, p. 38.

⁽³⁾ OJ L 156, 25.6.1977, p. 4.

⁽⁴⁾ OJ L 361, 23.12.1978, p. 8.

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

Done at Brussels, 28 June 1999.

For the Commission

Franz FISCHLER

Member of the Commission

COUNCIL DIRECTIVE 1999/30/EC

of 22 April 1999

relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 130s(1) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Acting in accordance with the procedure laid down in Article 189c of the Treaty ⁽³⁾,

- (1) Whereas, on the basis of principles enshrined in Article 130r of the Treaty, the European Community programme of policy and action in relation to the environment and sustainable development (the fifth Environment Action Programme) ⁽⁴⁾ envisages in particular amendments to legislation on air pollutants; whereas that programme recommends the establishment of long-term air-quality objectives;
- (2) Whereas Article 129 of the Treaty provides that health-protection requirements shall form a constituent part of the Community's other policies; whereas Article 3(o) of the Treaty provides that the activities of the Community shall include a contribution to the attainment of a high level of health protection;
- (3) Whereas, pursuant to Article 4(5) of Council Directive 96/62/EC of 27 September 1996 on ambient air quality assessment and management ⁽⁵⁾, the Council is to adopt the legislation provided for in paragraph 1 and the provisions laid down in paragraphs 3 and 4 of the same Article;
- (4) Whereas the limit values laid down in this Directive are minimum requirements; whereas, in accordance with Article 130t of the Treaty, Member States may maintain or introduce more stringent protective measures; whereas, in particular, stricter limit values may be introduced to protect the health of particularly vulnerable categories of the

population, such as children and hospital patients; whereas a Member State may require that limit values be attained before the dates laid down in this Directive;

- (5) Whereas ecosystems should be protected against the adverse effects of sulphur dioxide; whereas vegetation should be protected against the adverse effects of oxides of nitrogen;
- (6) Whereas different types of particles can have different harmful effects on human health; whereas there is evidence that risks to human health associated with exposure to man-made particulate matter are higher than risks associated with exposure to naturally occurring particles in ambient air;
- (7) Whereas Directive 96/62/EC requires that action plans be developed for zones within which concentrations of pollutants in ambient air exceed limit values plus any temporary margins of tolerance applicable in order to ensure compliance with limit values by the date or dates laid down; whereas insofar as they relate to particulate matter such action plans and other reduction strategies should aim to reduce concentrations of fine particles as part of the total reduction in concentrations of particulate matter;
- (8) Whereas Directive 96/62/EC provides that the numerical values for limit values and alert thresholds are to be based on the findings of work carried out by international scientific groups active in the field; whereas the Commission is to take account of the most recent scientific-research data in the epidemiological and environmental fields concerned and of the most recent advances in metrology for re-examining the elements on which limit values and alert thresholds are based;
- (9) Whereas in order to facilitate the review of this Directive in 2003 the Commission and the Member States should consider encouraging research into the effects of the pollutants referred to herein, namely sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead;

⁽¹⁾ OJ C 9, 14.1.1998, p. 6.

⁽²⁾ OJ C 214, 10.7.1998, p. 1.

⁽³⁾ Opinion of the European Parliament of 13 May 1998 (OJ C 167, 1.6.1998, p. 103), Council Common Position of 24 September 1998 (OJ C 360, 23.11.1998, p. 99) and Decision of the European Parliament of 13 January 1999 (OJ C 104, 14.4.1999, p. 44).

⁽⁴⁾ OJ C 138, 17.5.1993, p. 5.

⁽⁵⁾ OJ L 296, 21.11.1996, p. 55.

- (10) Whereas standardised accurate measurement techniques and common criteria for the location of measuring stations are an important element in the assessment of ambient-air quality with a view to obtaining comparable information across the Community;
- (11) Whereas, in accordance with Article 12(1) of Directive 96/62/EC, the amendments necessary for adaptation to scientific and technical progress may relate solely to criteria and techniques for the assessment of concentrations of sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead or detailed arrangements for forwarding information to the Commission, and may not have the effect of modifying limit values or alert thresholds either directly or indirectly;
- (12) Whereas up-to-date information on concentrations of sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air should be readily available to the public,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Objectives

The objectives of this Directive shall be to:

- establish limit values and, as appropriate, alert thresholds for concentrations of sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air intended to avoid, prevent or reduce harmful effects on human health and the environment as a whole,
- assess concentrations of sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air on the basis of common methods and criteria,
- obtain adequate information on concentrations of sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air and ensure that it is made available to the public,
- maintain ambient-air quality where it is good and improve it in other cases with respect to sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead.

Article 2

Definitions

For the purposes of this Directive:

1. 'ambient air' shall mean outdoor air in the troposphere, excluding work places;

2. 'pollutant' shall mean any substance introduced directly or indirectly by man into the ambient air and likely to have harmful effects on human health and/or the environment as a whole;
3. 'level' shall mean the concentration of a pollutant in ambient air or the deposition thereof on surfaces in a given time;
4. 'assessment' shall mean any method used to measure, calculate, predict or estimate the level of a pollutant in the ambient air;
5. 'limit value' shall mean a level fixed on the basis of scientific knowledge, with the aim of avoiding, preventing or reducing harmful effects on human health and/or the environment as a whole, to be attained within a given period and not to be exceeded once attained;
6. 'alert threshold' shall mean a level beyond which there is a risk to human health from brief exposure and at which immediate steps shall be taken by the Member States as laid down in Directive 96/62/EC;
7. 'margin of tolerance' shall mean the percentage of the limit value by which this value may be exceeded subject to the conditions laid down in Directive 96/62/EC;
8. 'zone' shall mean part of their territory delimited by the Member States;
9. 'agglomeration' shall mean a zone with a population concentration in excess of 250 000 inhabitants or, where the population concentration is 250 000 inhabitants or less, a population density per km² which for the Member States justifies the need for ambient air quality to be assessed and managed.
10. 'oxides of nitrogen' shall mean the sum of nitric oxide and nitrogen dioxide added as parts per billion and expressed as nitrogen dioxide in micrograms per cubic meter;
11. 'PM₁₀' shall mean particulate matter which passes through a size-selective inlet with a 50 % efficiency cut-off at 10 µm aerodynamic diameter;
12. 'PM_{2,5}' shall mean particulate matter which passes through a size-selective inlet with a 50 % efficiency cut-off at 2,5µm aerodynamic diameter;
13. 'upper assessment threshold' shall mean a level specified in Annex V, below which a combination of measurements and modelling techniques may be used to assess ambient-air quality, in accordance with Article 6(3) of Directive 96/62/EC;
14. 'lower assessment threshold' shall mean a level specified in Annex V, below which modelling or objective-estimation techniques alone may be used to assess ambient-air quality in accordance with Article 6(4) of Directive 96/62/EC;

15. 'natural events' shall mean volcanic eruptions, seismic activities, geothermal activities, wild-land fires, high-wind events or the atmospheric resuspension or transport of natural particles from dry regions;
16. 'fixed measurements' shall mean measurements taken in accordance with Article 6(5) of Directive 96/62/EC.

Article 3

Sulphur dioxide

1. Member States shall take the measures necessary to ensure that concentrations of sulphur dioxide in ambient air, as assessed in accordance with Article 7, do not exceed the limit values laid down in Section I of Annex I from the dates specified therein.

The margins of tolerance laid down in Section I of Annex I shall apply in accordance with Article 8 of Directive 96/62/EC.

2. The alert threshold for concentrations of sulphur dioxide in ambient air shall be that laid down in Section II of Annex I.

3. In order to assist the Commission in preparing the report provided for in Article 10, until 31 December 2003 Member States shall, where practicable, record data on concentrations of sulphur dioxide averaged over ten minutes from certain measuring stations which they have selected as representative of air quality in inhabited areas close to sources and at which hourly concentrations are measured. At the same time as data are supplied on hourly concentrations in accordance with Article 11(1) of Directive 96/62/EC, Member States shall report to the Commission, for those selected measuring stations, the number of ten-minute concentrations which have exceeded 500 µg/m³, the number of days within the calendar year on which that occurred, the number of those days on which hourly concentrations of sulphur dioxide simultaneously exceeded 350 µg/m³ and the maximum ten-minute concentration recorded.

4. Member States may designate zones or agglomerations within which limit values for sulphur dioxide as laid down in Section I of Annex I are exceeded owing to concentrations of sulphur dioxide in ambient air due to natural sources. Member States shall send the Commission lists of any such zones or agglomerations together with information on concentrations and sources of sulphur dioxide therein. When informing the Commission in accordance with Article 11(1) of Directive 96/62/EC, Member States shall provide the necessary justification to demonstrate that any exceedances are due to natural sources.

Within such zones or agglomerations Member States shall be obliged to implement action plans in accordance with Article 8(3) of Directive 96/62/EC only where the limit

values laid down in Section I of Annex I are exceeded owing to man-made emissions.

Article 4

Nitrogen dioxide and oxides of nitrogen

1. Member States shall take the measures necessary to ensure that concentrations of nitrogen dioxide and, where applicable, of oxides of nitrogen, in ambient air, as assessed in accordance with Article 7, do not exceed the limit values laid down in Section I of Annex II as from the dates specified therein.

The margins of tolerance laid down in Section I of Annex II shall apply in accordance with Article 8 of Directive 96/62/EC.

2. The alert threshold for concentrations of nitrogen dioxide in ambient air shall be that laid down in Section II of Annex II.

Article 5

Particulate matter

1. Member States shall take the measures necessary to ensure that concentrations of PM₁₀ in ambient air, as assessed in accordance with Article 7, do not exceed the limit values laid down in Section I of Annex III as from the dates specified therein.

The margins of tolerance laid down in Section I of Annex III shall apply in accordance with Article 8 of Directive 96/62/EC.

2. Member States shall ensure that measuring stations to supply data on concentrations of PM_{2.5} are installed and operated. Each Member State shall choose the number and the siting of the stations at which PM_{2.5} is to be measured as representative of concentrations of PM_{2.5} within that Member State. Where possible sampling points for PM_{2.5} shall be co-located with sampling points for PM₁₀.

Within nine months of the end of each year Member States shall send the Commission the arithmetic mean, the median, the ninety-eighth percentile and the maximum concentration calculated from measurements of PM_{2.5} over any twenty-four hours within that year. The ninety-eighth percentile shall be calculated in accordance with the procedure laid down in Section 4 of Annex I to Council Decision 97/101/EC of 27 January 1997 establishing a reciprocal exchange of information and data from networks and individual stations measuring ambient air pollution within the Member States⁽¹⁾.

3. Action plans for PM₁₀ prepared in accordance with Article 8 of Directive 96/62/EC and general strategies for decreasing concentrations of PM₁₀ shall also aim to reduce concentrations of PM_{2.5}.

⁽¹⁾ OJ L 35, 5.2.1997, p. 14.

4. Where the limit values for PM_{10} laid down in Section I of Annex III are exceeded owing to concentrations of PM_{10} in ambient air due to natural events which result in concentrations significantly in excess of normal background levels from natural sources, Member States shall inform the Commission in accordance with Article 11(1) of Directive 96/62/EC, providing the necessary justification to demonstrate that such exceedances are due to natural events. In such cases, Member States shall be obliged to implement action plans in accordance with Article 8(3) of Directive 96/62/EC only where the limit values laid down in Section I of Annex III are exceeded owing to causes other than natural events.

5. Member States may designate zones or agglomerations within which limit values for PM_{10} as laid down in Section I of Annex III are exceeded owing to concentrations of PM_{10} in ambient air due to the resuspension of particulates following the winter sanding of roads. Member States shall send the Commission lists of any such zones or agglomerations together with information on concentrations and sources of PM_{10} therein. When informing the Commission in accordance with Article 11(1) of Directive 96/62/EC, Member States shall provide the necessary justification to demonstrate that any exceedances are due to such resuspended particulates, and that reasonable measures have been taken to lower the concentrations.

Within such zones or agglomerations Member States shall be obliged to implement action plans in accordance with Article 8(3) of Directive 96/62/EC only where the limit values laid down in Section I of Annex III are exceeded owing to PM_{10} levels other than those caused by winter road sanding.

Article 6

Lead

Member States shall take the measures necessary to ensure that concentrations of lead in ambient air, as assessed in accordance with Article 7, do not exceed the limit values laid down in Section I of Annex IV as from the dates specified therein.

The margins of tolerance laid down in Section I of Annex IV shall apply in accordance with Article 8 of Directive 96/62/EC.

Article 7

Assessment of concentrations

1. The upper and lower assessment thresholds for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead for the purposes of Article 6 of Directive 96/62/EC shall be those laid down in Section I of Annex V.

The classification of each zone or agglomeration for the purposes of the same Article 6 shall be reviewed at least every five years in accordance with the procedure laid down in Section II of Annex V. Classification shall be reviewed earlier in the event of significant changes in activities relevant to ambient concentrations of sulphur dioxide, nitrogen dioxide or, where relevant, oxides of nitrogen, particulate matter or lead.

2. The criteria for determining the location of sampling points for the measurement of sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air shall be those listed in Annex VI. The minimum number of sampling points for fixed measurements of concentrations of each relevant pollutant shall be as laid down in Annex VII and they shall be installed in each zone or agglomeration within which measurement is required if fixed measurement is the sole source of data on concentrations within it.

3. For zones and agglomerations within which information from fixed measurement stations is supplemented by information from other sources, such as emission inventories, indicative measurement methods and air-quality modelling, the number of fixed measuring stations to be installed and the spatial resolution of other techniques shall be sufficient for the concentrations of air pollutants to be established in accordance with Section I of Annex VI and Section I of Annex VIII.

4. For zones and agglomerations within which measurement is not required, modelling or objective-estimation techniques may be used.

5. The reference methods for the analysis of sulphur dioxide, of nitrogen dioxide and of oxides of nitrogen and for the sampling and analysis of lead shall be as laid down in Sections I to III of Annex IX.

The reference method for the sampling and measurement of PM_{10} shall be as laid down in Section IV of Annex IX.

The provisional reference method for the sampling and measurement of $PM_{2.5}$ shall be as laid down in Section V of Annex IX.

The reference techniques for air-quality modelling shall be as laid down in Section VI of Annex IX.

6. The date by which Member States shall inform the Commission of the methods they have used for the preliminary assessment of air quality under Article 11(1)(d) of Directive 96/62/EC shall be eighteen months after the entry into force of this Directive.

7. Any amendments necessary to adapt this Article and Annexes V to IX to scientific and technical progress shall be adopted in accordance with the procedure laid down in Article 12 of Directive 96/62/EC.

*Article 8***Public information**

1. Member States shall ensure that up-to-date information on ambient concentrations of sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead is routinely made available to the public as well as to appropriate organisations such as environmental organisations, consumer organisations, organisations representing the interests of sensitive populations and other relevant health-care bodies by means, for example, of broadcast media, press, information screens or computer-network services.

Information on ambient concentrations of sulphur dioxide, nitrogen dioxide and particulate matter shall be updated on at least a daily basis, and, in the case of hourly values for sulphur dioxide and nitrogen dioxide, wherever practicable, information shall be updated on an hourly basis. Information on ambient concentrations of lead shall be updated on a three-monthly basis.

Such information shall at least indicate any exceeding of the concentrations in the limit values and alert thresholds over the averaging periods laid down in Annexes I to IV. It shall also provide a short assessment in relation to limit values and alert thresholds and appropriate information regarding effects on health.

2. When making plans or programmes available to the public under Article 8(3) of Directive 96/62/EC, including plans or programmes referred to under Articles 3(4), 5(4) and 5(5) of this Directive, Member States shall also make them available to the organisations referred to in paragraph 1.

3. When an alert threshold laid down in Annex I or II is exceeded, details made available to the public in accordance with Article 10 of Directive 96/62/EC shall at least include the items listed in Section III of the Annex in question.

4. Information made available to the public and to organisations under paragraphs 1 and 3 shall be clear, comprehensible and accessible.

*Article 9***Repeals and transitional arrangements**

1. Council Directive 80/779/EEC of 15 July 1980 on air-quality limit values and guide values for sulphur dioxide and suspended particulates⁽¹⁾ shall be repealed

with effect from 19 July 2001 except that Articles 1, 2(1), 3(1), 9, 15 and 16 of Directive 80/779/EEC and Annexes I, IIb and IV thereto shall be repealed with effect from 1 January 2005.

2. Council Directive 82/884/EEC of 3 December 1982 on a limit value for lead in the air⁽²⁾ shall be repealed with effect from 19 July 2001 except that Articles 1, 2, 3(1), 7, 12 and 13 of Directive 82/884/EEC shall be repealed with effect from 1 January 2005.

3. Council Directive 85/203/EEC of 7 March 1985 on air-quality standards for nitrogen dioxide⁽³⁾ shall be repealed with effect from 19 July 2001 except that Articles 1(1), first indent, and (2), 2, first indent, 3(1), 5, 9, 15 and 16 of Directive 85/203/EEC and Annex I thereto shall be repealed with effect from 1 January 2010.

4. From 19 July 2001 Member States shall employ measurement stations and other methods of air-quality assessment that comply with this Directive to assess concentrations of sulphur dioxide, nitrogen dioxide and lead in ambient air to obtain data for the purpose of demonstrating compliance with the limit values laid down in Directives 80/779/EEC, 82/884/EEC and 85/203/EEC until such time as the limit values laid down in those Directives cease to apply.

5. From 19 July 2001 Member States may employ measurement stations and other methods of air-quality assessment that comply with this Directive as regards PM₁₀ to assess concentrations of suspended particulate matter for the purpose of demonstrating compliance with the limit values for total suspended particulates laid down in Annex IV to Directive 80/779/EEC; for the purpose of demonstrating such compliance, however, the data so collected shall be multiplied by a factor of 1.2.

6. Member States shall inform the Commission of any exceedances of the limit values laid down in Directives 80/779/EEC, 82/884/EEC and 85/203/EEC, together with the values recorded, the reasons for each recorded instance and the measures taken to prevent any recurrence, within nine months of the end of each year in accordance with the procedure laid down in Article 11 of Directive 96/62/EC until such time as the limit values laid down in those Directives cease to apply.

7. In the zones in which a Member State considers it necessary to limit or prevent a foreseeable increase in pollution by sulphur dioxide, oxides of nitrogen or suspended particulate matter it may continue to use the guide values for the protection of ecosystems laid down in Annex II to Directive 80/779/EEC and in Annex II to Directive 85/203/EEC.

⁽¹⁾ OJ L 229, 30.8.1980, p. 30.

⁽²⁾ OJ L 378, 31.12.1982, p. 15.

⁽³⁾ OJ L 87, 27.3.1985, p. 1.

*Article 10***Report and review**

No later than 31 December 2003 the Commission shall submit to the European Parliament and the Council a report based on the experience acquired in the application of this Directive and, in particular, on the results of the most recent scientific research concerning the effects on human health and ecosystems of exposure to sulphur dioxide, nitrogen dioxide and oxides of nitrogen, different fractions of particulate matter and lead, and on technological developments including the progress achieved in methods of measuring and otherwise assessing concentrations of particulate matter in ambient air and the deposition of particulate matter and lead on surfaces.

With a view to maintaining a high level of protection of human health and the environment and taking into account the experience acquired in the application of this Directive in Member States including, in particular, the conditions as laid down in Annex VI under which measurement has been carried out, the aforementioned report will be accompanied by proposals for the amendment of this Directive if appropriate. In particular, the Commission will examine the limit values for the second stage for PM_{10} with a view to making them mandatory and will consider confirming or altering the limit values for the second stage and, if appropriate, for the first stage. In addition, the Commission will give particular attention to setting limit values for $PM_{2.5}$ or different fractions of particulate matter, as appropriate. Furthermore the Commission will examine the annual limit value for the protection of human health for nitrogen dioxide and will make a proposal confirming or modifying that value. It will also examine the hourly limit value for nitrogen dioxide in the light of World Health Organisation guidelines and consider whether that limit value should be confirmed or altered.

The Commission will also consider whether alert thresholds can be set, consistent with other pollutants in this Directive, for PM_{10} , $PM_{2.5}$ or particular fractions of particulate matter, as appropriate.

*Article 11***Penalties**

Member States shall determine the penalties applicable to breaches of the national provisions adopted pursuant to this Directive. Those penalties shall be effective, proportionate and dissuasive.

*Article 12***Implementation**

1. The Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 19 July 2001. They shall forthwith inform the Commission thereof.

When the Member States adopt those measures, these shall contain references to this Directive or shall be accompanied by such references on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.

2. The Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

*Article 13***Entry into force**

This Directive shall enter into force on the twentieth day after that of its publication in the *Official Journal of the European Communities*.

*Article 14***Addressees**

This Directive is addressed to the Member States.

Done at Luxembourg, 22 April 1999.

For the Council

The President

W. MÜLLER

ANNEX I

LIMIT VALUES AND THE ALERT THRESHOLD FOR SULPHUR DIOXIDE

I. Limit values for sulphur dioxide

Limit values must be expressed in $\mu\text{g}/\text{m}^3$. The volume must be standardised at a temperature of 293 °K and a pressure of 101,3 kPa.

	Averaging period	Limit value	Margin of tolerance	Date by which limit value is to be met
1. Hourly limit value for the protection of human health	1 hour	350 $\mu\text{g}/\text{m}^3$, not to be exceeded more than 24 times a calendar year	150 $\mu\text{g}/\text{m}^3$ (43 %) on the entry into force of this Directive, reducing on 1 January 2001 and every 12 months thereafter by equal annual percentages to reach 0 % by 1 January 2005	1 January 2005
2. Daily limit value for the protection of human health	24 hours	125 $\mu\text{g}/\text{m}^3$, not to be exceeded more than 3 times a calendar year	None	1 January 2005
3. Limit value for the protection of ecosystems	Calendar year and winter (1 October to 31 March)	20 $\mu\text{g}/\text{m}^3$	None	19 July 2001

II. Alert threshold for sulphur dioxide

500 $\mu\text{g}/\text{m}^3$ measured over three consecutive hours at locations representative of air quality over at least 100 km² or an entire zone or agglomeration, whichever is the smaller.

III. Minimum details to be made available to the public when the alert threshold for sulphur dioxide is exceeded

Details to be made available to the public should include at least:

- the date, hour and place of the occurrence and the reasons for the occurrence, where known;
- any forecasts of:
 - changes in concentrations (improvement, stabilisation, or deterioration), together with the reasons for those changes,
 - the geographical area concerned,
 - the duration of the occurrence;
- the type of population potentially sensitive to the occurrence;
- the precautions to be taken by the sensitive population concerned.

ANNEX II

LIMIT VALUES FOR NITROGEN DIOXIDE (NO₂) AND OXIDES OF NITROGEN (NO_x) AND THE ALERT THRESHOLD FOR NITROGEN DIOXIDE**I. Limit values for nitrogen dioxide and oxides of nitrogen**

Limit values must be expressed in µg/m³. The volume must be standardised at a temperature of 293 °K and a pressure of 101,3 kPa.

	Averaging period	Limit value	Margin of tolerance	Date by which limit value is to be met
1. Hourly limit value for the protection of human health	1 hour	200 µg/m ³ NO ₂ , not to be exceeded more than 18 times a calendar year	50 % on the entry into force of this Directive, reducing on 1 January 2001 and every 12 months thereafter by equal annual percentages to reach 0 % by 1 January 2010	1 January 2010
2. Annual limit value for the protection of human health	Calendar year	40 µg/m ³ NO ₂	50 % on the entry into force of this Directive, reducing on 1 January 2001 and every 12 months thereafter by equal annual percentages to reach 0 % by 1 January 2010	1 January 2010
3. Annual limit value for the protection of vegetation	Calendar year	30 µg/m ³ NO _x	None	19 July 2001

II. Alert threshold for nitrogen dioxide

400 µg/m³ measured over three consecutive hours at locations representative of air quality over at least 100 km² or an entire zone or agglomeration, whichever is the smaller.

III. Minimum details to be made available to the public when the alert threshold for nitrogen dioxide is exceeded

Details to be made available to the public should include at least:

- the date, hour and place of the occurrence and the reasons for the occurrence, where known;
- any forecasts of:
 - changes in concentrations (improvement, stabilisation, or deterioration), together with the reasons for those changes,
 - the geographical area concerned,
 - the duration of the occurrence;
- the type of population potentially sensitive to the occurrence;
- the precautions to be taken by the sensitive population concerned.

ANNEX III

LIMIT VALUES FOR PARTICULATE MATTER (PM₁₀)

	Averaging period	Limit value	Margin of tolerance	Date by which limit value is to be met
STAGE 1				
1. 24-hour limit value for the protection of human health	24 hours	50 µg/m ³ PM ₁₀ , not to be exceeded more than 35 times a calendar year	50 % on the entry into force of this Directive, reducing on 1 January 2001 and every 12 months thereafter by equal annual percentages to reach 0 % by 1 January 2005	1 January 2005
2. Annual limit value for the protection of human health	Calendar year	40 µg/m ³ PM ₁₀	20 % on the entry into force of this Directive, reducing on 1 January 2001 and every 12 months thereafter by equal annual percentages to reach 0 % by 1 January 2005	1 January 2005

STAGE 2⁽¹⁾

1. 24-hour limit value for the protection of human health	24 hours	50 µg/m ³ PM ₁₀ , not to be exceeded more than 7 times a calendar year	To be derived from data and to be equivalent to the Stage 1 limit value	1 January 2010
2. Annual limit value for the protection of human health	Calendar year	20 µg/m ³ PM ₁₀	50 % on 1 January 2005 reducing every 12 months thereafter by equal annual percentages to reach 0 % by 1 January 2010	1 January 2010

⁽¹⁾ Indicative limit values to be reviewed in the light of further information on health and environmental effects, technical feasibility and experience in the application of Stage 1 limit values in the Member States.

ANNEX IV

LIMIT VALUE FOR LEAD

	Averaging period	Limit value	Margin of tolerance	Date by which limit value is to be met
Annual limit value for the protection of human health	Calendar year	0,5 µg/m ³ ⁽¹⁾	100 % on the entry into force of this Directive, reducing on 1 January 2001 and every 12 months thereafter by equal annual percentages to reach 0 % by 1 January 2005, or by 1 January 2010 in the immediate vicinity of specific point sources, of which the Commission must be notified.	1 January 2005, or 1 January 2010 in the immediate vicinity of specific industrial sources situated on sites contaminated by decades of industrial activities. The Commission must be notified of those sources by 19 July 2001 ⁽²⁾ . In such cases, the limit value as from 1 January 2005 will be 1,0 µg/m ³ .

⁽¹⁾ The process laid down in Article 10 for the review of this Directive will include consideration of the possibility of supplementing or replacing the limit value by a deposition limit value in the immediate vicinity of point sources.

⁽²⁾ Such notification must be accompanied by appropriate justification. The area in which higher limit values apply must not extend further than 1 000 m from such specific sources.

ANNEX V

**DETERMINATION OF REQUIREMENTS FOR ASSESSMENT OF CONCENTRATIONS OF
SULPHUR DIOXIDE, NITROGEN DIOXIDE (NO₂), AND OXIDES OF NITROGEN (NO_x),
PARTICULATE MATTER (PM₁₀) AND LEAD IN AMBIENT AIR WITHIN A ZONE OR
AGGLOMERATION**

I. Upper and lower assessment thresholds

The following upper and lower assessment thresholds will apply:

(a) SULPHUR DIOXIDE

	Health protection	Ecosystem protection
Upper assessment threshold	60 % of 24-hour limit value (75 µg/m ³ , not to be exceeded more than 3 times in any calendar year)	60 % of winter limit value (12 µg/m ³)
Lower assessment threshold	40 % of 24-hour limit value (50 µg/m ³ , not to be exceeded more than 3 times in any calendar year)	40 % of winter limit value (8 µg/m ³)

(b) NITROGEN DIOXIDE AND OXIDES OF NITROGEN

	Hourly limit value for the protection of human health (NO ₂)	Annual limit value for the protection of human health (NO ₂)	Annual limit value for the protection of vegetation (NO _x)
Upper assessment threshold	70 % of limit value (140 µg/m ³ , not to be exceeded more than 18 times in any calendar year)	80 % of limit value (32 µg/m ³)	80 % of limit value (24 µg/m ³)
Lower assessment threshold	50 % of limit value (100 µg/m ³ , not to be exceeded more than 18 times in any calendar year)	65 % of limit value (26 µg/m ³)	65 % of limit value (19,5 µg/m ³)

(c) PARTICULATE MATTER

The upper and lower assessment thresholds for PM₁₀ are based on the indicative limit values for 1 January 2010.

	24-hour average	Annual average
Upper assessment threshold	60 % of limit value (30 µg/m ³ , not to be exceeded more than seven times in any calendar year)	70 % of limit value (14 µg/m ³)
Lower assessment threshold	40 % of limit value (20 µg/m ³ , not to be exceeded more than seven times in any calendar year)	50 % of limit value (10 µg/m ³)

(d) LEAD

	Annual average
Upper assessment threshold	70 % of limit value (0,35 µg/m ³)
Lower assessment threshold	50 % of limit value (0,25 µg/m ³)

II. Determination of exceedances of upper and lower assessment thresholds

Exceedances of upper and lower assessment thresholds must be determined on the basis of concentrations during the previous five years where sufficient data are available. An assessment threshold will be deemed to have been exceeded if during those five years the total number of exceedances of the numerical concentration of the threshold is more than three times the number of exceedances allowed each year.

Where fewer than five years' data are available Member States may combine measurement campaigns of short duration during the period of the year and at locations likely to be typical of the highest pollution levels with results obtained from information from emission inventories and modelling to determine exceedances of the upper and lower assessment thresholds.

—

ANNEX VI

LOCATION OF SAMPLING POINTS FOR THE MEASUREMENT OF SULPHUR DIOXIDE, NITROGEN DIOXIDE AND OXIDES OF NITROGEN, PARTICULATE MATTER AND LEAD IN AMBIENT AIR

The following considerations will apply to fixed measurement.

I. Macroscale siting*(a) Protection of human health*

Sampling points directed at the protection of human health should be sited:

- (i) to provide data on the areas within zones and agglomerations where the highest concentrations occur to which the population is likely to be directly or indirectly exposed for a period which is significant in relation to the averaging period of the limit value(s);
- (ii) to provide data on levels in other areas within the zones and agglomerations which are representative of the exposure of the general population.

Sampling points should in general be sited to avoid measuring very small micro-environments in their immediate vicinity. As a guideline, a sampling point should be sited to be representative of air quality in a surrounding area of no less than 200 m² at traffic-orientated sites and of several square kilometres at urban-background sites.

Sampling points should also, where possible, be representative of similar locations not in their immediate vicinity.

Account should be taken of the need to locate sampling points on islands, where that is necessary for the protection of human health.

(b) Protection of ecosystems and vegetation.

Sampling points targeted at the protection of ecosystems or vegetation should be sited more than 20 km from agglomerations or more than 5 km from other built-up areas, industrial installations or motorways. As a guideline, a sampling point should be sited to be representative of air quality in a surrounding area of at least 1 000 km². A Member State may provide for a sampling point to be sited at a lesser distance or to be representative of air quality in a less extended area, taking account of geographical conditions.

Account should be taken of the need to assess air quality on islands.

II. Microscale siting

The following guidelines should be met as far as practicable:

- the flow around the inlet sampling probe should be unrestricted without any obstructions affecting the airflow in the vicinity of the sampler (normally some metres away from buildings, balconies, trees, and other obstacles and at least 0,5 m from the nearest building in the case of sampling points representing air quality at the building line);
- in general, the inlet sampling point should be between 1,5 m (the breathing zone) and 4 m above the ground. Higher positions (up to 8 m) may be necessary in some circumstances. Higher siting may also be appropriate if the station is representative of a large area;
- the inlet probe should not be positioned in the immediate vicinity of sources in order to avoid the direct intake of emissions unmixed with ambient air;
- the sampler's exhaust outlet should be positioned so that recirculation of exhaust air to the sampler inlet is avoided;

- location of traffic-orientated samplers:
 - for all pollutants, such sampling points should be at least 25 m from the edge of major junctions and at least 4 m from the centre of the nearest traffic lane,
 - for nitrogen dioxide, inlets should be no more than 5 m from the kerbside,
 - for particulate matter and lead, inlets should be sited so as to be representative of air quality near to the building line.

The following factors may also be taken into account:

- interfering sources;
- security;
- access;
- availability of electrical power and telephone communications;
- visibility of the site in relation to its surroundings;
- safety of public and operators;
- the desirability of co-locating sampling points for different pollutants;
- planning requirements.

III. Documentation and review of site selection

The site-selection procedures should be fully documented at the classification stage by such means as compass-point photographs of the surrounding area and a detailed map. Sites should be reviewed at regular intervals with repeated documentation to ensure that selection criteria remain valid over time.

ANNEX VII

CRITERIA FOR DETERMINING MINIMUM NUMBERS OF SAMPLING POINTS FOR FIXED MEASUREMENT OF CONCENTRATIONS OF SULPHUR DIOXIDE (SO₂), NITROGEN DIOXIDE (NO₂) AND OXIDES OF NITROGEN, PARTICULATE MATTER AND LEAD IN AMBIENT AIR

I. Minimum number of sampling points for fixed measurement to assess compliance with limit values for the protection of human health and alert thresholds in zones and agglomerations where fixed measurement is the sole source of information

(a) Diffuse sources

Population of agglomeration or zone (thousands)	If concentrations exceed the upper assessment threshold	If maximum concentrations are between the upper and lower assessment thresholds	For SO ₂ and NO ₂ in agglomerations where maximum concentrations are below the lower assessment threshold
0-250	1	1	not applicable
250-499	2	1	1
500-749	2	1	1
750-999	3	1	1
1 000-1 499	4	2	1
1 500-1 999	5	2	1
2 000-2 749	6	3	2
2 750-3 749	7	3	2
3 750-4 749	8	4	2
4 750-5 999	9	4	2
> 6 000	10	5	3
	For NO ₂ and particulate matter: to include at least one urban-background station and one traffic-orientated station		

(b) Point sources

For the assessment of pollution in the vicinity of point sources, the number of sampling points for fixed measurement should be calculated taking into account emission densities, the likely distribution patterns of ambient-air pollution and the potential exposure of the population.

II. Minimum number of sampling points for fixed measurements to assess compliance with limit values for the protection of ecosystems or vegetation in zones other than agglomerations

If maximum concentrations exceed the upper assessment threshold	If maximum concentrations are between the upper and lower assessment thresholds
1 station every 20 000 km ²	1 station every 40 000 km ²

In island zones the number of sampling points for fixed measurement should be calculated taking into account the likely distribution patterns of ambient-air pollution and the potential exposure of ecosystems or vegetation.

ANNEX VIII

DATA-QUALITY OBJECTIVES AND COMPILATION OF RESULTS OF AIR-QUALITY ASSESSMENT

I. Data-quality objectives

The following data-quality objectives for the required accuracy of assessment methods, of minimum time coverage and of data capture of measurement are laid down to guide quality-assurance programmes.

	Sulphur dioxide, nitrogen dioxide and oxides of nitrogen	Particulate matter and lead
Continuous measurement		
Accuracy	15 %	25 %
Minimum data capture	90 %	90 %
Indicative measurement		
Accuracy	25 %	50 %
Minimum data capture	90 %	90 %
Minimum time coverage	14 % (One measurement a week at random, evenly distributed over the year, or eight weeks evenly distributed over the year.)	14 % (One measurement a week at random, evenly distributed over the year, or eight weeks evenly distributed over the year.)
Modelling		
Accuracy:		
Hourly averages	50 %-60 %	Not defined at present ⁽¹⁾
Daily averages	50 %	
Annual averages	30 %	
Objective estimation		
Accuracy:	75 %	100 %

⁽¹⁾ Any amendment necessary to adapt this point to scientific and technical progress will be adopted in accordance with the procedure laid down in Article 12(2) of Directive 96/62/EC.

The accuracy of the measurement is defined as laid down in the 'Guide to the Expression of Uncertainty of Measurements' (ISO 1993) or in ISO 5725-1 'Accuracy (trueness and precision) of measurement methods and results' (1994). The percentages in the table are given for individual measurements averaged, over the period considered, by the limit value, for a 95 % confidence interval (bias + two times the standard deviation). The accuracy for continuous measurements should be interpreted as being applicable in the region of the appropriate limit value.

The accuracy for modelling and objective estimation is defined as the maximum deviation of the measured and calculated concentration levels, over the period considered by the limit value, without taking into account the timing of the events.

The requirements for minimum data capture and time coverage do not include losses of data due to the regular calibration or the normal maintenance of the instrumentation.

By way of derogation, Member States may apply random measurements instead of continuous measurements for particulate matter and lead if they can demonstrate to the Commission that accuracy within the 95 % confidence interval with respect to continuous monitoring is within 10 %. Random sampling must be spread evenly over the year.

II. Results of air quality assessment

The following information should be compiled for zones or agglomerations within which sources other than measurement are employed to supplement information from measurement or as the sole means of air-quality assessment:

- a description of assessment activities carried out;
- the specific methods used, with references to descriptions of the method;
- the sources of data and information;
- a description of results, including accuracies and, in particular, the extent of any area or, if relevant, the length of road within the zone or agglomeration over which concentrations exceed limit value(s) or, as may be, limit value(s) plus applicable margin(s) of tolerance and of any area within which concentrations exceed the upper assessment threshold or the lower assessment threshold;
- for limit values the object of which is the protection of human health, the population potentially exposed to concentrations in excess of the limit value.

Where possible, Member States should compile maps showing concentration distributions within each zone and agglomeration.

III. Standardisation

For sulphur dioxide and oxides of nitrogen the volume must be standardised at a temperature of 293 °K and a pressure of 101,3 kPa.

ANNEX IX

REFERENCE METHODS FOR ASSESSMENT OF CONCENTRATIONS OF SULPHUR DIOXIDE, NITROGEN DIOXIDE AND OXIDES OF NITROGEN, PARTICULATE MATTER (PM₁₀ AND PM_{2.5}) AND LEAD**I. Reference method for the analysis of sulphur dioxide:**

ISO/FDIS 10498 (Standard in draft) Ambient air — determination of sulphur dioxide — ultraviolet fluorescence method.

A Member State may use any other method which it can demonstrate gives results equivalent to the above method.

II. Reference method for the analysis of nitrogen dioxide and oxides of nitrogen:

ISO 7996: 1985 Ambient air — determination of the mass concentrations of nitrogen oxides — chemiluminescence method.

A Member State may use any other method which it can demonstrate gives results equivalent to the above method.

III.A Reference method for the sampling of lead:

The reference method for the sampling of lead will be that described in the Annex to Directive 82/884/EEC until such time as the limit value in Annex IV to this Directive is to be met, when the reference method will be that for PM₁₀ as laid down in Section IV of this Annex.

A Member State may use any other method which it can demonstrate gives results equivalent to the above method.

III.B Reference method for the analysis of lead:

ISO 9855: 1993 Ambient air — Determination of the particulate lead content of aerosols collected in filters. Atomic absorption spectroscopy method.

A Member State may use any other method which it can demonstrate gives results equivalent to the above method.

IV. Reference method for the sampling and measurement of PM₁₀

The reference method for the sampling and measurement of PM₁₀ will be that described in EN 12341 'Air Quality — Field Test Procedure to Demonstrate Reference Equivalence of Sampling Methods for the PM₁₀ fraction of particulate matter'. The measurement principle is based on the collection on a filter of the PM₁₀ fraction of ambient particulate matter and the gravimetric mass determination.

A Member State may use any other method which it can demonstrate gives results equivalent to the above method or any other method which the Member State concerned can demonstrate displays a consistent relationship to the reference method. In that event the results achieved by that method must be corrected by a relevant factor to produce results equivalent to those that would have been achieved by using the reference method.

Each Member State must inform the Commission of the method used to sample and measure PM₁₀. The Commission must as soon as possible carry out intercomparison exercises for PM₁₀ sampling and measurement methods in order to provide information for the review of this Directive in accordance with Article 10.

V. Provisional reference method for the sampling and measurement of PM_{2.5}

The Commission will produce guidelines, in consultation with the committee referred to in Article 12 of Directive 96/62/EEC, for an appropriate provisional reference method for the sampling and assessment of PM_{2.5} by 19 July 2001.

A Member State may use any other method which it considers suitable.

Each Member State must inform the Commission of the method used to sample and measure PM_{2.5}. The Commission must as soon as possible carry out intercomparison exercises for PM_{2.5} sampling and measurement methods in order to provide information for the review of this Directive in accordance with Article 10.

VI. Reference modelling techniques:

Reference modelling techniques cannot be specified at present. Any amendments to adapt this point to scientific and technical progress must be adopted in accordance with the procedure laid down in Article 12(2) of Directive 96/62/EC.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 26 January 1999

relating to a proceeding pursuant to Article 85 of the EC Treaty

(Case IV/36.253 — P&O Stena Line)

(notified under document number C(1998) 4539)

(Only the English text is authentic)

(1999/421/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to the Treaty establishing the European Community,

Whereas:

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 Treaty to maritime transport ⁽¹⁾, as last amended by the Act of Accession of Austria, Finland and Sweden, and in particular the second subparagraph of Article 12(4) thereof,

I. THE FACTS

Having regard to the summary of the application published ⁽²⁾ pursuant to Article 12(2) of Regulation (EEC) No 4056/86,

1. The application

Having regard to the Commission's notification to the parties of 10 June 1997 that there exist serious doubts within the meaning of Article 12(3) of Regulation (EEC) No 4056/86 as to the applicability of Article 85(3) to the agreement in question,

Having regard to the summary of the relevant agreement published ⁽³⁾ pursuant to Article 23(3) of Regulation (EEC) No 4056/86,

(1) On 31 October 1996 The Peninsular and Oriental Steam Navigation Company ('P&O') and Stena Line Limited (Stena) submitted an application to the Commission pursuant to Article 12(1) of Regulation (EEC) No 4056/86 for negative clearance under Article 85(1) of the Treaty or, in the alternative, exemption under Article 85(3) in respect of a proposed joint venture merging their respective ferry operations on the Short French Sea and Belgian Straits.

(2) On 10 December 1996, SeaFrance SA ('SeaFrance') submitted a complaint to the Commission against the proposal to create a joint venture.

⁽¹⁾ OJ L 378, 31.12.1986, p. 4.

⁽²⁾ OJ C 80, 13.3.1997, p. 3.

⁽³⁾ OJ C 39, 6.2.1998, p. 21.

(3) On 13 March 1997, pursuant to Article 12(2) of Regulation (EEC) No 4056/86, the Commission published a summary of the application in the *Official Journal of the European Communities* and invited interested parties to submit their comments within 30 days⁽⁴⁾. Comments were received from a variety of sources including competitors, customers, trade associations, local government, public representatives, private individuals and one Member State.

(4) On 10 June 1997, before the expiry of the 90-day deadline provided for in Article 12(3) of Regulation (EEC) 4056/86, the Commission informed the parties that there existed serious doubts within the meaning of that Article as to the applicability of Article 85(3) of the Treaty to the agreement in question.

(5) On 6 February 1998, pursuant to Article 23(3) of Regulation (EEC) No 4056/86, the Commission published a notice indicating its intention to exempt the agreement⁽⁵⁾.

2. The parties and the complainant

(6) P&O is listed on the London Stock Exchange and is the parent company of a diversified group with interests including roll-on/roll-off (ro-ro) ferries, deep sea container and bulk shipping, cruise vessels, European haulage, international port management, exhibition organisation, commercial construction, property development and the sale of domestic property. The roll-on/roll-off ferry business operates tourist and freight ferry services between Great Britain and mainland Europe and Ireland.

(7) Stena operates ferry services between Great Britain and mainland Europe and Ireland. It forms part of the Stena Line AB group which operates ferry services in north-western Europe, including routes in Scandinavia and from the Hook of Holland to Harwich. Stena Line AB is listed on the Stockholm Stock Exchange and forms part of the Stena Sphere group of companies, whose interests include ferries, offshore contracting for the oil and gas industry, shipping, drilling, property, finance and metals.

(8) P&O and Stena are hereinafter referred to as 'the parties'.

(9) The complainant SeaFrance operates ferry services on the Dover/Calais route. SeaFrance is owned by the French railway company SNCF.

3. The agreement

(10) The parties have agreed to combine P&O's and Stena's respective ferry operations on the Short French Sea and Belgian Straits in a joint venture company called P&O Stena Line. P&O previously operated a mixed tourist and freight service between Dover and Calais on the Short French Sea and a freight-only service between Dover and Zeebrugge on the Belgian Straits. Stena previously operated mixed tourist and freight services between Dover and Calais and Newhaven and Dieppe on the Short French Sea.

(11) The P&O company which previously operated its Short French Sea and Belgian Straits services, P&O European Ferries (Dover) Limited, has become the vehicle for the joint venture. Stena has transferred all assets and liabilities currently employed on its Dover/Calais and Newhaven/Dieppe routes to the joint venture company. The share capital of the company is owned 60 % by P&O and 40 % by Stena, although voting rights are split equally between the two parties. Similarly, representation and voting rights on the Board of Directors of the joint venture company are divided equally between P&O and Stena.

(12) The parties originally envisaged that P&O Stena Line would have assets of approximately GBP 410 million, funded by approximately GBP 100 million of equity and the remainder by debt, part of which would be secured by mortgages over the vessels, the remainder being guaranteed by P&O. The parties subsequently informed the Commission that P&O Stena Line would have assets of about GBP [...] million⁽⁶⁾, funded by a combination of equity, loan stock, borrowings and securities. Upon starting operations, its assets included a total of 14 ships: five multi-purpose ferries (operating mixed tourist and freight services) and three freight-only vessels previously owned by P&O; and five multi-purpose ferries and one fast craft previously owned by Stena.

⁽⁴⁾ See footnote 2.

⁽⁵⁾ See footnote 3.

⁽⁶⁾ Certain information is not included in the published text for reasons of confidentiality.

- (13) It was envisaged that the joint venture would operate a regular service between Dover and Calais departing every 45 minutes and employing six multi-purpose vessels. Three multi-purpose vessels would be withdrawn from service. The joint venture would continue to operate P&O's three vessel, freight-only, service on the Dover/Zeebrugge route as well as Stena's one fast craft and one multi-purpose vessel service on the Newhaven/Dieppe route.
- (14) The joint venture started operating services on 10 March 1998. P&O Stena Line subsequently informed the Commission that it intended to operate a seventh multi-purpose vessel (the *Pride of Bruges*) on the Dover/Calais route for the 1998 summer season (May to September) and possibly thereafter. P&O Stena Line has also informed the Commission that on 16 October 1998 it removed the fast craft from the Newhaven/Dieppe route for a refit, after which the craft was not put back on the route but delivered back to its owners on 30 October 1998, and that it is consulting with its employees about the future of its service on that route.
- (15) The parties projected that the joint venture would give rise to cost savings of GBP 75 million as a result in savings in the costs of ships and the costs of overheads (port costs, administration and marketing). That figure included projected savings from the removal of Stena's *Pegasus* fast craft from the Newhaven/Dieppe route, and the removal of Stena's vessel *Antrim* from the Newhaven/Dieppe route to be replaced by P&O's vessel *Pride of Bruges*. In fact, Stena removed the *Pegasus* from the Newhaven/Dieppe route in October 1996, well before the implementation of the joint venture. Further, the joint venture did not dispose of the *Cambria* as originally intended but transferred it from the Dover/Calais route to the Newhaven/Dieppe route because the *Pride of Bruges* has been kept on the Dover/Calais route. Using the parties' figures for the costs of those ships, the costs savings brought about by the joint venture can be estimated to be GBP [...] million.
- (16) Under the agreement, P&O and Stena undertake not to be involved directly or indirectly (other than through the joint venture) with the provision of ferry services calling at any port on the English coastline between (and including) Newhaven and (but excluding) Harwich or on the European mainland coastline between (and including) Dieppe and (but excluding) Zeebrugge. The joint venture's activities are limited to the provision of ferry services on the Dover/Calais, Dover/Zeebrugge and Newhaven/Dieppe routes.
- (17) The parties operate other ferry services that have not been brought into the joint venture.
- (18) P&O operates the following services:
- (a) on the North Sea, P&O's subsidiary P&O North Sea Ferries operates mixed passenger/freight services on the Hull/Zeebrugge and Hull/Rotterdam routes, as well as freight-only services on the Teesport/Zeebrugge and Teesport/Rotterdam routes. P&O European Ferries operated freight-only services on the Felixstowe/Zeebrugge and Felixstowe/Rotterdam routes; these services are now operated by P&O North Sea Ferries;
 - (b) on the Western Channel, P&O European Ferries operates mixed passenger/freight services between Portsmouth and Le Havre, Cherbourg and Bilbao;
 - (c) on the Irish Sea, P&O European Ferries operates mixed passenger/freight on the northern corridor. P&O's subsidiary Pandoro operates freight-only services in the northern and central corridors.
- (19) Stena operates the following services:
- (a) on the North Sea, Stena Line BV (part of the Stena Line AB group) operates passenger and freight services on the Harwich/Hook of Holland route;
 - (b) on the Irish Sea, Stena operates mixed passenger/freight services on all three corridors, as well as the largely freight-only Holyhead/Dublin route on the central corridor.
- Stena does not operate services on the Western Channel. Until 1996, it operated on the Southampton/Cherbourg route.
- #### 4. Relevant markets.
- (20) This section considers the following two relevant markets on which the joint venture operates:
- (a) the market for tourist passenger services (passengers and passenger vehicles) on the Short Sea routes, consisting of routes across the Short French Sea (routes between Dover, Folkestone, Ramsgate, Newhaven and Calais, Dieppe, Boulogne, Dunkirk; and the Channel Tunnel) and the Belgian Straits (Ramsgate/Ostend);

(b) the market for unitised freight services (maritime services and door-to-door intermodal services) between England and mainland Europe (Western Channel, Short Sea and North Sea routes).

- (21) Section 6 considers the Western Channel, North Sea and Irish Sea tourist passenger routes on which the proposed joint venture will not operate, but on which (together with the Anglo/Continental freight market) the parties operate their own independent services.

4.1. *Business passengers*

- (22) In the Night Services⁽⁷⁾ and Eurotunnel⁽⁸⁾ decisions, the Commission found there to be distinct markets for leisure travellers and for business travellers, since the two groups of travellers have different demands. The business traveller values rapidity, comfort and frequency, whereas leisure travellers put a higher value on price. Business passengers and tourist passengers can therefore be considered separate markets.
- (23) Most business passengers wishing to travel between England and mainland Europe would be likely to use scheduled air services or high speed train services (Eurostar and connecting rail services) in view of their greater rapidity and comfort than ferry or Le Shuttle services (shuttle services for cars and lorries through the Channel Tunnel). For business passengers, Eurostar and air services will be substitutable for ferry and Le Shuttle services. To the extent that business passengers do use ferry or Le Shuttle services, the existence of competing rail and air services means that the joint venture and Le Shuttle (even if they were not to compete with each other) would be faced with effective competition for business travellers. As far as passengers are concerned therefore, the assessment of the proposed joint venture may be confined to the effects on tourist passengers.

4.2. *Tourist passengers*

4.2.1. *Le Shuttle services and ferry services are substitutes*

⁽⁷⁾ Commission Decision 94/663/EC (OJ L 259, 7.10.1994, p. 20), paragraphs 20 to 27.

⁽⁸⁾ Commission Decision 94/894/EC (OJ L 354, 31.12.1994, p. 66), paragraphs 64 to 66.

- (24) The complainant SeaFrance questions the extent of substitutability between maritime services and the Eurotunnel service. It argues that because the characteristics of the two modes of transport are appreciably different, one can deduce that there will be a rapid segmentation of demand between those who, for reasons linked to its characteristics, systematically prefer the tunnel and those who prefer the maritime services. This segmentation will occur, according to SeaFrance, when all customers who so wish have tried out the tunnel.

- (25) There is evidence, however, that market shares of both ferries and Eurotunnel will vary in response to relative prices. Between February and May 1996, Eurotunnel's market share of Short French Sea car traffic fell in successive months from 41 % in February to 35 % in May. Eurotunnel reduced its brochure prices with effect from June 1996, and its market share rose in successive months until the Tunnel fire in November 1996 from 36 % in June to 46 % in October.

- (26) To the extent that there are categories of passengers who would either only ever use the ferries or only ever use the Tunnel, they will not constitute a separate market because the operators have no means of identifying their preferences and charging them higher prices.

4.2.2. *Eurostar services are not a substitute for ferry services*

- (27) The parties consider that the direct city to city rail services offered by Eurostar has an impact on 'both the foot passenger and tourist vehicle sector of the ferry market'. The parties doubt however that distinguishing foot passengers and passengers travelling with a vehicle is helpful or relevant to assessing the joint venture.

- (28) Foot passengers (that is passengers who do not enter a vessel in a coach or car) represented 13 and 17 % respectively of P&O's and Stena's passengers in 1996 (January to October). The numbers were 990 000 and 720 000 respectively. By way of

comparison, P&O and Stena respectively carried 3,1 and 1,4 million coach passengers, and Short French Sea ferry operators and Le Shuttle together carried 25,3 million passengers in that period. Eurostar carried 4,9 million passengers in the full year 1996.

(29) Eurostar services will clearly not be a substitute for some categories of ferry and Le Shuttle passengers, such as those who travel (whether by foot (on the ferries), car or coach) to take advantage of duty-free goods and cheaper duty-paid goods in France. Duty-free sales are unavailable on the Eurostar system, and the Eurostar services are not as convenient for day trips to retailers located in France.

(30) Eurostar's main competitors are the airlines: in 1996 more passenger travelled by Eurostar on the combined London/Paris and London/Brussels routes than travelled by air (18 % fewer passenger travelled by air between London and Paris in 1996 to October compared to 1995 to October). The London/Paris or London/Brussels city centre to city centre tourist who would consider Eurostar substitutable for ferry and Le Shuttle would, in the absence of Eurostar, be likely to have travelled by air rather than ferry or Le Shuttle. The position may be different for a low-budget tourist, who may consider scheduled coach services (that use a ferry or Le Shuttle) to be an alternative to Eurostar. Scheduled coach operations are one of the categories of traffic carried by the ferries and Le Shuttle where there is likely to be more keen price competition due to the purchasing power of the coach operators and the lack of market transparency.

(31) It is thus only a limited category of tourist passenger for which Eurostar services may in practice be substitutable for those of the ferries and Le Shuttle. For the larger proportion of customers the services will not be sufficiently substitutable for Eurostar to be considered as being within the same relevant market as the ferries and Le Shuttle.

4.2.3. Geographic aspect

(32) The volume of the Short French Sea services, their frequency, speed of crossing and price mean that the Western Channel and North Sea routes cannot be considered substitutable. The reduced crossing time offered by the fast ferry services on the Newhaven/Dieppe and Ramsgate/Ostend routes

mean that those services offer a significant degree of competition to services on the Dover/Calais and Folkestone/Calais routes, and should be included in the relevant Short Sea market.

(33) The duration of crossing of the Short Sea services is 35 minutes by Le Shuttle or Hoverspeed hovercraft, 50 to 55 minutes by Hoverspeed fast ferry to France, 75 to 90 minutes by Dover/Calais conventional ferry, 100 minutes by Ramsgate/Ostend fast ferry, 125 minutes by Dover/Ostend fast ferry and 135 minutes by Newhaven/Dieppe fast ferry. The short crossing time means that these routes are in particular preferable for those passengers who travel primarily in order to buy duty-free goods and products charged lower rates of duty in France.

(34) By comparison, crossing times on other services are:

Harwich/Hook of Holland	Stena HSS (high speed sea service):	3 hours 40 minutes
Poole/Cherbourg:		4½ hours
Portsmouth/Cherbourg:		5 hours (7 to 8 hours overnight) (2 hours 25 minutes by fast ferry)
Portsmouth/Le Havre:		5½ hours (7½ to 8 hours overnight)
Portsmouth/Caen:		6 hours
Hull/Zeebrugge:		13 to 15 hours (overnight)

(35) The Short French Sea ports, particularly Dover, Folkestone and Calais, have good motorway access. The Short French Sea offers the widest choice of type of service (conventional ferry, fast ferry and tunnel), and significantly higher frequencies than on North Sea and Western Channel routes. The high frequencies mean that passengers increasingly travel without having pre-booked ('turn up and go')

(36) These characteristics of the Short Sea routes means that customers have been attracted to using these routes. Prices on Short Sea services would have to rise very significantly before customers would switch to other routes on the Western Channel or North Sea, and certain categories of customers (such as day-trippers) would respond to price rises by deciding not travel at all rather than by switching to the other routes.

4.3. *Freight market*

- (37) The parties carry freight on ro-ro ferries. Ro-ro services compete with other means of transporting unitised freight⁽⁹⁾. Unitised freight (as opposed to bulk freight) is stored, for the purpose of transportation, in one of a variety of standardised modes including driver-accompanied vehicles, unaccompanied trailers and containers. Unitised freight can be carried on ro-ro vessels and lo-to (lift-on, lift-off) vessels, and via the Channel Tunnel on Le Shuttle Freight services and freight trains.
- (38) Short Sea freight services compete with other Anglo/continental freight services, that is, services between England and mainland Europe (Western Channel, Short Sea and North Sea routes)⁽¹⁰⁾.

II. LEGAL ASSESSMENT

5. Article 85(1) of the Treaty

- (39) The formation of the joint venture constitutes a restriction of competition within the meaning of Article 85(1) because the parties were actual competitors on the relevant markets on which the joint venture operates.
- (40) That restriction of competition is appreciable. The parties have a high combined market share (even if their combined market share on the Short Sea declined following the market entry of Eurotunnel). The joint venture is a full function joint venture which operates in the same freight transport market as its parents, and in a neighbouring passenger transport market to those in which its parents operate.
- (41) The formation of the joint venture has an effect on trade between Member States given the importance of the parties in the Short Sea tourist market and in the Anglo/Continental freight market⁽¹¹⁾.

⁽⁹⁾ See Commission Decision 97/84/EC (OJ L 26, 29.1.1997, p. 23) *Ferry Operators — Currency Surcharges*, paragraph 5.

⁽¹⁰⁾ See footnote 9. For the purposes of that Decision, the Commission considered the relevant geographic aspect of the freight market to be limited to services between England and France, Belgium and the Netherlands.

⁽¹¹⁾ See the sixth recital in the preamble to Regulation (EEC) No 4056/86 describing the effect which restrictive practices concerning international maritime transport may have on Community ports.

6. Absence of spillover

- (42) The Commission has concluded that no restriction of competition within the meaning of Article 85(1) arises out of the risk that the parties' cooperation within the joint venture might spill over into the parties' independent tourist passenger services on the North Sea, Western Channel and Irish Sea and their independent freight services on the Anglo/Continental freight market.

6.1. *North Sea tourist services*

6.1.1. Market

- (43) In 1997, North Sea services carried 470 000 tourist vehicles and 2,32 million passengers. The North Sea services comprise those on routes between ports on the east coast of England and ports in Belgium and the Netherlands. Services to Hamburg and Esbjerg (operated by Scandinavian Seaways) are not considered to be part of the same market. It is likely to be only a small proportion of tourist travelling on P&O's and Stena's services to Belgium and the Netherlands who would find services to Hamburg and Esbjerg to be substitutable.
- (44) The prices which operators on the North Sea routes may charge is constrained by the prices prevailing on the Short Sea. It is clear from data provided by the parties that rates achieved by the operators on the North Sea between 1994 and 1996 have followed very closely the rates achieved on the Short Sea. Market studies also support the argument that passengers travelling to and from the catchment areas traditionally associated with the North Sea routes have been switching to the Short Sea in recent years. However, the reverse is not evident, which suggests one-way substitutability i.e. the North Sea is constrained by the Short Sea, but not vice versa. Tourist services on the North Sea routes should therefore be considered to operate within a relevant market consisting of North Sea and Short Sea routes.

- (45) On the North Sea, P&O North Sea Ferries operates services on the Hull/Zeebrugge and Hull/Rotterdam routes. Stena Line operates on Harwich/Hook of Holland route, on which in 1997 it introduced HSS fast ferries. Scandinavian Seaways operates on Newcastle/Ijmuiden (Amsterdam). Olau and then Eurolink until 1996 operated on the Sheerness/Vlissingen route, and the P&O European Ferries Felixstowe/Zeebrugge route carried tourist vehicles until 1996. Market shares of North Sea tourist vehicles are as follows:

Table 1. North Sea and Short Sea tourist vehicle shares

	1997 (thousand PCU ⁽¹⁾)	1997 (%)
P&O (North Sea)	226	3,15
Stena (North Sea)	205	2,86
Scandinavian Seaways (North Sea)	35	0,49
Eurotunnel	2 384	33,27
P&O (Short Sea)	1 738	24,25
Stena (Short Sea)	1 173	16,37
SeaFrance	580	8,09
Hoverspeed	528	7,37
Holyman Sally (Ramsgate/Dunkirk)	49	0,68
Holyman Sally (Ramsgate/Ostend)	248	3,46
Total	7 166	99,99

Source: The parties.

⁽¹⁾ Passenger car unit.

6.1.2. Assessment

- (46) Any attempt by the parties to coordinate behaviour on the North Sea will be destabilised by competition from the Short Sea. Therefore it cannot be concluded that the creation of the joint venture will make it reasonably foreseeable that the parties will act in a way which they did not before the creation of the joint venture and in a way which brings about an appreciable restriction of competition between those parents. The parties' cooperation on the Short Sea is therefore unlikely to spill over onto their activities on the North Sea.

6.2. Western Channel tourist services

6.2.1. Market

- (47) In 1997 Western Channel services carried 1,1 million tourist vehicles and 4,22 million passengers. The Western Channel services comprise routes to the west of the Short Sea between ports on the south coast of England and ports on the north coast of France.
- (48) As with the North Sea, the evidence suggests that prices which operators on the Western Channel routes may charge is constrained by the prices prevailing on the Short Sea, but not vice versa. Tourist services on the Western Channel routes should therefore be considered to operate within a relevant market consisting of Western Channel and Short Sea routes.
- (49) Only P&O European Ferries and Brittany Ferries operate services on the Western Channel routes. Until 1996 Stena Line operated on the Southampton/Cherbourg route. Since then it has considered operating a fast ferry on the route. Market shares of Western Channel tourist vehicles are as follows:

Table 2. Western Channel and Short Sea tourist vehicle shares

	1997 (thousand PCU)	1997 (%)
Brittany Ferries (Western Channel)	702	8,95
P&O (Western Channel)	440	5,61
Eurotunnel	2 384	30,4
P&O (Short Sea)	1 738	22,16
Stena (Short Sea)	1 173	14,96
SeaFrance	580	7,4
Hoverspeed	528	6,73
Holyman Sally (Ramsgate/Dunkirk)	49	0,62
Holyman Sally (Ramsgate/Ostend)	248	3,16
Total	7 842	99,99

Source: The parties.

6.2.2. Assessment

- (50) In relation to the Western Channel, the parties argue that there cannot be any coordination of P&O's and Stena's operations since Stena is no longer active on those routes. Stena should, however, be considered a potential competitor given that it has considered (and can presumably reconsider) whether to re-enter the Southampton/Cherbourg route with a fast ferry service.
- (51) However, the same considerations apply to the Western Channel, as to the North Sea. Any attempt by the parties to coordinate behaviour on the Western Channel will be destabilised by competition from the Short Sea. The parties' cooperation on the Short Sea is therefore unlikely to spill over onto their actual or potential activities on the Western Channel.

6.3. Irish Sea tourist services

6.3.1. Market

- (52) The Irish Sea can be divided into three relevant tourist markets: the Northern, Central and Southern Corridors⁽¹²⁾. In 1997 services on the three corridors carried respectively 590 000, 460 000 and 380 000 tourist vehicles and 2,7, 2,8 and 1,5 million passengers. Market shares in the three corridors are as follows:

Table 3. Northern Corridor Irish Sea tourist vehicle market shares (%)

	Routes currently operated	1995	1996	1997
Stena	Belfast/Stranraer	52	47	46
P&O	Larne/Cairnryan	28	33	30
Sea Containers (SeaCat Scotland)	Belfast/Stranraer	18	18	21
Norse Irish Ferries	Belfast/Liverpool	2	2	3

Source: P&O; for 1997, Passenger Shipping Association.

⁽¹²⁾ See Commission Decision 94/19/EC, 'Sea Containers v. Stena Sealink', (OJ L 15, 18.1.1994, p. 8) paragraphs 11 and 13.

Table 4. Central Corridor Irish Sea tourist vehicle market shares (%)

	Routes currently operated	1995	1996	1997
Stena	Dublin/Holyhead Dun Laoghaire/Holyhead	68	68	64
Irish Ferries	Dublin/Holyhead	32	32	31
Sea Containers (Isle of Man Steam Packet Company)	Dublin/Liverpool	—	—	5

Source: P&O; for 1997, Passenger Shipping Association.

Table 5. Southern Corridor Irish Sea tourist vehicle market shares (%)

	Routes currently operated	1995	1996	1997
Stena	Rosslare/Fishguard	60	52	45
Irish Ferries	Rosslare/Pembroke	25	27	42
Swansea Cork Ferries	Cork/Swansea	15	17	13

Source: P&O; for 1997, Passenger Shipping Association.

- (53) Stena is present with mixed freight/passenger services on all three corridors (as well as the largely freight-only Holyhead/Dublin route on the Central Corridor). P&O operates tourist services only on the Northern Corridor (in addition, P&O's Pandoro subsidiary operates freight-only services in the Northern and Central Corridors).
- (54) Ferry operators on the Irish Sea offer landbridge services from Ireland to mainland Europe combining a crossing on their Irish Sea services with a crossing on a Britain/Continent service. The proportions of landbridge traffic carried by the principal operators on the Irish Sea, together with their partners for the leg between Britain and the mainland, are as follows:

Table 6. Landbridge services on the Irish Sea

Landbridge traffic 1997 (%)			Tourist operator on Britain/Continent legs
	Tourist	Freight	
Stena	[...]	[...]	Stena, Brittany Ferries
P&O	[...]	[...]	P&O, Scandinavian Seaways
Sea Containers	0,4	n/a	Hoverspeed, Scandinavian Seaways
Irish Ferries	[...]	[...]	Eurotunnel, P&O, Scandinavian Seaways
Swansea Cork	7,4	13,6	P&O, Hoverspeed, Sally, Brittany Ferries

Source: The operators and their brochures. Swansea Cork figures are for 1997 January to June. Stena figures are for Southern and Central Corridors.

- (55) Landbridge tickets, at least on the Central and Southern Corridors, account for an appreciable, albeit low, proportion of Irish Sea tourist traffic, and a higher proportion of freight. Landbridge tickets account only for a small proportion (less than 1 %) of Short Sea tourist traffic.

6.3.2. Assessment

- (56) The only corridor on which both parties offer tourist services is the Northern Corridor. Almost all tourist traffic carried on the Northern Corridor is intra-United Kingdom traffic:

Table 7. Northern Corridor Irish Sea passengers originating in Ireland

	(%)	Number
Stena	[< 5]	[< 60 000]
Sea Containers	2	

Source: Stena, Sea Containers.

- (57) In view of the low proportion and low amount of inter-State traffic using the Northern Corridor tourist routes, it can be concluded that there is no appreciable effect on inter-State trade.

6.4. Anglo/Continental freight market

6.4.1. Market

- (58) The Anglo/Continental freight market is characterised by strong price competition, low barriers to entry, and purchasing power on the part of larger customers.
- (59) The market shares of operators of freight services on Anglo/Continental routes are as follows:

Table 8. Anglo/Continental freight market 1996 (January to October) and 1997

Operator	1996			1997		
	Volume (thousand freight units)	Market shares (%)		Volume (thousand freight units)	Market shares (%)	
		A	B		A	B
Eurotunnel	426	15		268	7	
North Sea Ferries	248	9		685	17	
P&OEF (Felixstowe) (1)	204	7				
P&OEF (Portsmouth)	122	4	20	157	4	21
P&OEF (Dover)	476	17		873	21	
Stena Short Sea	207	8	25	357	9	30

Operator	1996			1997		
	Volume (thousand freight units)	Market shares (%)		Volume (thousand freight units)	Market shares (%)	
		A	B		A	B
Stena Western Channel	12	—	3	—	—	3
Stena BV	77	3		112	3	
SNAT/SeaFrance	107	4		393	10	
Brittany Ferries	125	4		181	4	
Sally	101	4		117	3	
Ostend Line	64	2		—	—	
Cobelfret ⁽²⁾	146	5		210	5	
Olau/Eurolink ⁽²⁾	29	1		—	—	
Maersk	63	2		90	2	
Bell Line ⁽²⁾	45	2		70	2	
Geestline ⁽²⁾	45	2		70	2	
UTL/IFF ⁽²⁾	57	2		85	2	
DFDS/Torline	58	2		90	2	
Other operators ⁽²⁾	259	9		350	9	
Total		100	48		100	54

⁽¹⁾ P&O European Ferries (Felixstowe) is now part of P&O North Sea Ferries.

⁽²⁾ Estimates.

Source: P&O and Stena. Column A shows the market share of each service, column B shows the aggregated market shares of each parents' retained services, and of the services which now make up the joint venture.

6.4.2. Assessment

- (60) On the basis of the 1997 market shares, the joint venture would have had a 30 % share, P&O 21 %, and Stena 3 %. In that period Eurotunnel had a 7 % share (as compared to 15 % in the 10 months before the Tunnel fire), SeaFrance had a 10 % share and eight other operators had shares of between 2 and 5 %. Even if the joint venture and the parties were to coordinate their behaviour, they would be unlikely to be able to raise prices without losing their customers to competitors.

7. Article 85(3) of the Treaty: Short Sea tourist market

7.1. *Improvement in the production or distribution of goods, or promotion of technical or economic progress*

- (61) The first and second conditions of Article 85(3) require an assessment of the efficiencies and other benefits that can be expected from merging the parties' separate ferry operations on the Short Sea, and the extent to which those efficiencies will benefit consumers.

- (62) The creation of the joint venture will bring about benefits, notably the improved frequency to be offered by the joint venture, continuous loading, and estimated cost savings of GBP [...] million. The overall positive benefits will arise even were the joint venture to decide to stop operating on the Newhaven/Dieppe route.

7.2. Allowing consumers a fair share of the resulting benefit

- (63) Customers can be expected to benefit from the improved frequency and continuous loading. Customers can be expected to benefit from the cost savings to the extent that the joint venture will be faced by effective competition.

7.3. No restrictions which are not indispensable

- (64) The third condition of Article 85(3) requires consideration of whether less restrictive alternatives are available to achieve the benefits of the proposed joint venture.

- (65) The Commission considers that lesser forms of cooperation between P&O and Stena, such as joint scheduling, interlining or pooling, would be unlikely to lead to the benefits to be achieved by the joint venture. In particular, any form of cooperation less than a joint venture would not achieve the savings in administration and marketing, which represent a significant part (GBP [...] million) of the estimated GBP [...] million costs savings.

- (66) Under the agreement, P&O and Stena undertake not to be involved directly or indirectly (other than through the joint venture) with the provision of ferry services calling at any port on the English coastline between (and including) Newhaven and (but excluding) Harwich or on the European mainland coastline between (and including) Dieppe and (but excluding) Zeebrugge. The joint venture's activities are limited to the provision of ferry services on the Dover/Calais, Dover/Zeebrugge and Newhaven/Dieppe routes. These restrictions can be regarded as necessary for the creation of the joint venture.

7.4. No elimination of competition in respect of a substantial part of the products in question

- (67) The fourth condition of Article 85(3) requires an assessment of whether the proposed joint venture can be expected to be faced with effective competition in the Short Sea tourist passenger market.

- (68) In its 'letter of serious doubts' the Commission stated its concern that the creation of the joint venture could lead to a duopolistic market structure conducive to parallel behaviour of the joint venture and Eurotunnel. This issue is addressed in the following section.

8. Risk of creation of duopoly on the Short Sea tourist market

8.1. Market concentration before and after the creation of the joint venture

8.1.1. Operators' positions on the market before the creation of the joint venture

- (69) The most important recent change to the market for cross-channel ferry services has been the opening of the Channel Tunnel in 1994. Other major changes have been the ending, on 31 December 1995, of the pooling arrangement between Stena and Société Nouvelle d'Armement Transmanche (SNAT; now SeaFrance), and the ending, on 1 March 1997, of the pooling arrangement between Sally Line and Regie Voor Maritiem Transport (RMT).

- (70) Since 1993 there have been large increases in capacity and market volume, and consumers have benefited from price reductions. From 1993 to 1996, passenger vehicle numbers increased from 3,6 to 5,8 million, and passenger numbers from 20,3 to 30,2 million (of which 8,7 million were accounted for by Eurotunnel). In the first half of 1997, passenger vehicle numbers increased by 11,6 % as compared to the same period in 1996.

- (71) Table 9 shows the market shares of operators of tourist services on the Short French Sea for different periods since 1994.

Table 9. Short French Sea: market share of tourist vehicles

	1993	1994	1995	1996 to October	October 1996	1997
Eurotunnel	0,0	0,0	25,9	39,3	45,5	36,9
P&O	45,5	49,3	35,7	26,5	23,7	26,9
Stena	20,4	19,7	15,0	19,5	16,6	18,2
SNAT/SeaFrance	14,4	15,2	11,6	5,5	6,8	9,0
Hoverspeed	11,8	9,5	6,5	6,0	4,6	8,2
Sally/Holyman Sally	7,9	6,3	5,3	3,2	2,8	0,8
Total	100	100	100	100	100	100

Source: P&O and Stena.

(72) The market share figures considered in Table 9 relate to the Short French Sea and thus do not include Holyman Sally's service on the Ramsgate/Ostend route. It started a new fast ferry service on 1 March 1997. The service ended in March 1998 and was replaced from 6 March 1998 by a fast ferry service between Dover and Ostend jointly owned by Holyman and Hoverspeed. Sally then continued to operate a freight service on the Ramsgate/Ostend route (which also carried passengers from late June 1998) until the service was closed on 20 November 1998.

(73) Since the opening of the Channel Tunnel in 1994, Eurotunnel gained market share until the Tunnel fire in November 1996. The year-by-year growth in Eurotunnel's market share masks uneven monthly fluctuations. For example, Eurotunnel lost market share from February to May 1996. Eurotunnel's market share in 1997 (37 %) was lower than its market share immediately before the fire (46 %). Eurotunnel's market share can be expected to return to its level before the fire and to resume growth.

(74) P&O's market share fell from 46 % in 1993 to 27 % in 1996 (first 10 months). In the 1997 its market share was 27 % notwithstanding the effects of the Tunnel fire. Stena sustained its market share at around 20 % over the period 1993 to 1996 (first 10 months), but with a drop to 15 % in 1995. Its rise to 20 % in 1996 (notwithstanding Eurotunnel's increased market share) can be attributed to its success in attracting customers of the Stena/SNAT pool after it broke up at the end of 1995. Stena was less successful than the other Dover/Calais ferry operators in increasing its market share as a result of the Tunnel fire.

8.1.2. Degree of concentration on the market: size and distribution of market shares

(75) The creation of the joint venture reduced the number of operators on the market from six to five. More significantly, on the basis of 1997 market shares, the creation of the joint venture increased the combined market share of the two largest operators from 64 % (Eurotunnel and P&O) to 82 % (Eurotunnel and joint venture). Furthermore, the creation of the joint venture changes the variation of market share sizes. Before the joint venture there is one clear leader (37 %), and a spread of sizes of smaller operators (27 %, 18 %, 9 %, 8 %, 1 %). After the joint venture, the difference in size between the top two operators is reduced (from over 10 % difference, to 8 %). The distribution of operators becomes one of two leaders (45 %, 37 %), followed a long way behind by three operators (9 %, 8 %, 1 %).

8.1.3. Instability of market shares

(76) The parties point to the instability of market shares in recent years and the unlikelihood that they will be stable in the future. They point out that Eurotunnel's prospectus has referred to an intent to reach a market share of 70 %, and state that other operators have made investments predicated on them increasing their market shares. They thus consider that the ferry operators and Eurotunnel do not have a community of interest in maintaining market shares or prices.

(77) Market shares have not been stable due in particular to the entry of Eurotunnel onto the market. The growth in Eurotunnel's market share has not been linear; in particular the Tunnel fire caused a reduction in its market share. The ending of the Stena/SNAT pool also caused instability in market shares.

8.2. *Factors affecting competition between the joint venture and Eurotunnel*

8.2.1. Pricing practices and market transparency

(78) There are three main fare categories:

(a) Published brochure fares. Prices typically vary according to time of year, time of day, length of stay and type of vehicles and number of passengers. Brochures include discounted fares applicable to early bookings. Brochure fares are used as the basis for fare reductions for groups of 10 or more travelling together in a minibus or coach.

(b) Promotional fares. These include day trip and longer stay promotions offered in conjunction with newspapers, offers advertised in the national and local press, duty-free discounts, discounts offered in brochures (including early booking fares), and discounts offered for example through certain organisations such as motoring organisations. In 1996 the parties developed policies of matching competitors' fares, and direct sales staff have been given discretion to negotiate rates within defined limits.

(c) Negotiated rates for ITX operators (that is, travel companies offering self-drive holidays with an inclusive price for a sea crossing and accommodation), coach package holiday operators and scheduled coach operators. Rates for ITX operators are typically agreed in the summer of the preceding year.

(79) The situation in the tourist market differs from that in the freight market where almost all prices are negotiated individually between operator and freight haulier.

(80) Parallel behaviour is more difficult when transactions are large, infrequent and not published. The ferry operators' contracts with ITX operators and larger coach operators meet those conditions. However, the published brochure and promotional prices are still significant and the ITX and coach categories form only a limited part of operators' traffic and ticket revenue.

(81) Cars constitute the large majority of tourist vehicles carried on the Short Sea routes: 94 % for P&O (1996 to October), 96 % for Stena (1996 to October) and 97 % for Eurotunnel (1996). Apart from those vehicles travelling on bookings made through ITX operators, [...] % for P&O in 1995, and [...] % for Stena in the 1995 peak season), and the limited number of 'closed' promotions (that is, promotions limited to a category of persons and thus not generally publicised), the carriage of tourist cars is a market in which transactions are small and frequent, and at prices that are transparent to other operators. These features indicate market transparency.

(82) It is not only the brochure prices that are transparent to other operators. Promotions will be advertised and thus capable of being monitored by competitors. Operators also have access to monthly figures for the volumes carried by their competitors, allowing them to monitor effects of shifts in relative prices.

8.2.2. Capacity constraints

(83) The parties argue that Eurotunnel has 'vast unutilised capacity' which, together with its high frequency of crossings, is one of the factors that gives it exceptional market power in the Short French Sea tourist market. Further, the parties argue that the different available capacities and different rates of capacity utilisation held by Eurotunnel and the ferry operators will result in Eurotunnel and the ferry operators having significant incentives to adjust their pricing strategies so as to grow volumes, fill unutilised capacity and maximise contributions to fixed costs.

8.2.2.1. Nature and distribution of capacity

(84) The entry on stream of the capacity of Eurotunnel was accompanied by increased capacity offered by the ferries. Table 10 gives the figures for 1996 provided by the various operators. When considering the figures in Table 10, the following should be borne in mind. The Tunnel fire in November 1996 meant that Eurotunnel's capacity was reduced as compared to a full year of operation. SeaFrance low capacity utilisation rate is at least in part due to its having started operations only in 1996; in the first half of 1997 its capacity utilisation rate was 59 %.

Table 10. Short Sea — 1996 capacity and carryings

	Capacity (million PCU)	Carryings (million PCU)	Capacity utilisation (%)
Eurotunnel	9,12	4,94	54
P&O	11,8	5,1	43
Stena	7,09	2,79	39
SeaFrance	4,05	1,26	31
Hoverspeed	0,67	0,36	53
Sally and Sally/RMT	3,16	1,22	38
Total	35,9	15,7	44

Source: The operators

- (85) The capacity offered varies in nature. Eurotunnel uses passenger-only or freight-only shuttles. Eurotunnel is able to decrease its capacity (in off peak periods) in relatively small amounts by removing trains, with only small changes to the frequency of departures. The parties and SeaFrance use multi-purpose vessels which can carry both passengers and freight. The size of these vessels means that capacity comes in larger lumps, making it more difficult to reduce capacity in off peak periods whilst keeping an acceptable frequency.
- (86) The capacity utilisation rates indicated in the table are nominal figures calculated by dividing the total carryings by the total nominal capacity of each operator's service(s). In practice, operators are unable to use 100 % of their nominal capacity, and so the effective utilisation rates are higher than those indicated.
- (87) The parties argue that Eurotunnel and the joint venture can be expected to have considerable spare capacity over a full year. They estimate that in 1997, had the joint venture gone ahead, each of Eurotunnel and the joint venture would have had a 46 % capacity utilisation rate (for comparison, the parties' actual 1996 capacity utilisation rates were 43 % (P&O) and 39 % (Stem)). However, it is relevant to consider the capacity utilisation at peak periods in order to assess whether the operators will at those times have scope to attract additional passengers by decreasing prices; this is considered in points 91 to 99.
- (88) Eurotunnel's capacity is determined by the Tunnel system. The necessity to offer a competitive frequency means that a ferry operator has to operate at least three conventional ferries or two fast ferries. A ferry operator has an incentive to maximise the capacity of each individual vessel, in order to lower unit costs. An operator then has to set prices in order to maximise its revenue from its chosen level of capacity (indeed the expected revenues will also been taken into account in the initial decision as to capacity). Prices can be changed more rapidly and flexibly than capacity.
- (89) Firms faced with excess capacity will normally have an incentive to cut prices to fill that excess capacity. Where possible they will seek to price discriminate between customers (for example by promotional fares) in order to maximize revenue. Where prices are transparent, any price cuts will provoke rapid retaliation. All these effects appear to have occurred since the end of 1995 when the increased capacity of the ferry operators coincided with the entry of the capacity of Eurotunnel. This has brought benefits for consumers as prices have fallen.
- (90) The ferry operators have had the further incentive to compete amongst themselves in order to signal their commitment to the market and to position themselves for a possible ferry rationalisation.
- 8.2.2.2. Capacity at peak periods
- (91) Eurotunnel and the joint venture have sufficient capacity to cater for twice the 1996 level of demand during the year. It must be considered whether

there is sufficient capacity at critical times of the year, such as peak periods, which would make it more likely that those operators would raise prices in parallel than compete for volume.

- (92) Eurotunnel defines a capacity restriction as arising when it cannot accept all traffic that turns up on the next or immediately following shuttle. 'Peak times' are defined as weekends in July and August. This does not correspond with a situation where demand exceeds supply in a structural way. Eurotunnel introduced a reservation system in order to avoid some of the congestion problems experienced at peak times in 1996, and states that it has been successful, with about 50 % of traffic now pre-booked.
- (93) Peak periods for the ferries occur only on a limited number of days during the year — mostly weekends between May and August — and then only for a few hours each day. Even at peak periods the consumer has a choice of fares and the ferry operators' fares are differentiated even on individual days. During the high season it remains possible to obtain at least three different brochure fares depending on the day and time of travel, in addition to promotional offers. A flexible traveller and the overwhelming majority of the traffic on Dover-Calais is leisure traffic can shop around to get the best deal and will not be faced by capacity constraints.
- (94) Furthermore, the joint venture indicated that it had decided to operate a seventh multi-purpose vessel on the Dover/Calais route for the 1998 summer season because market growth rates in 1997 and 1998 had exceeded the parties original projections based on 1996 data. Thus it appears that the joint venture has in practice decided to increase capacity rather than be faced with capacity constraints.
- (95) Eurotunnel and the ferry operators therefore have incentives to adjust their pricing strategies so as to grow volumes rather than increasing prices. The existence of spare capacity could restrain any attempt by either operator individually to raise prices because its competitor would have the necessary spare capacity at its disposal to carry customers who switch.
- (96) That conclusion holds provided that Eurotunnel does not reach its capacity limits for operating Le Shuttle tourist services. On the basis of Eurotunnel's own projections, that would not seem likely. Eurotunnel's financial restructuring proposals included projections that it would continue to increase its market share of tourist vehicles on the Dover/Folkestone to Calais route. It projected that traffic growth would be significantly lower in the 1996 to 1999 period as compared to the preceding three years, would fall in 2000 due to the effects of duty-free abolition, and then would resume annual growth of less than 5 %. On that basis it projected its market share on the Dover/Folkestone to Calais route to continue to grow, reaching 63 % in 2000, 67 % in 2002 and 70 % in 2006. Eurotunnel has not announced any short-term plans for investments to increase Le Shuttle tourist capacity; as stated above, it is aiming to spread tourist demand away from peak periods. In the longer term, it could increase capacity by investing in new signalling (to increase the frequencies of train paths in the Tunnel) and in new tourist shuttles.
- (97) However, if market growth were to be considerably higher than that for which Eurotunnel has planned, then Eurotunnel could find that Le Shuttle tourist services became capacity constrained before it was willing or able to increase capacity. The most important factor influencing demand is likely to be the ending of duty-frees; other factors will include changes in disposable incomes, holiday patterns and the erosion of cultural barriers between the two sides of the Channel.
- (98) At off peak times, both the joint venture and Eurotunnel have clear incentives to increase loads due to their low load factors. A sizeable part of the ferry operators' income (60 %) is made in periods which are off peak. This is largely due to the importance of on-board spending by passengers. Given that load factors in these periods are only 50 %, raising prices would be a risky strategy in that it might (a) deter passengers who would have travelled only for the purpose of buying duty-free goods, and (b) shift demand to rival operators. Revenues during the peak June-August period amount only to 40 % of the ferries' annual revenue.

- (99) After 1999, if demand falls following the termination of duty-free sales, then (assuming no withdrawal of capacity) there will be increased overcapacity in the market. To the extent that it is possible to forecast, on-board spending will still be important to the ferries, and Eurotunnel may also have developed its retailing activities in its terminals in the meantime. In such a scenario, both parties would therefore still have an incentive to maximise load factors in order to increase revenues. However, the outcome may be different if demand for cross-Channel travel were to increase strongly notwithstanding the loss of duty-free revenues. In such a scenario, Eurotunnel may find its Le Shuttle tourist service capacity constrained.

8.2.3. Cost structures

- (100) Firms with differing cost structures are less likely to act in parallel⁽¹³⁾. This section considers the costs structures of Le Shuttle and of the parties' Short Sea ferry operations.
- (101) Le Shuttle's operating costs in 1996 were as follows.

Table 11. Le Shuttle operating costs, 1996

(4,9 million PCU carried)	million GBP	GBP per PCU
Directly attributable costs:		
— Travel agents' commission	[...]	[...]
— Terminal costs, Le Shuttle crew wages, retail commercial costs and sales staff, maintenance on rolling stock	[...]	[...]
— Depreciation on rolling stock	[...]	[...]
— Le Shuttle's share of Tunnel operating costs	[...]	[...]
— Power, fuel, retail staff, Tunnel maintenance, insurance, operations	[...]	[...]
— Depreciation on Tunnel, equipment, etc.	[...]	[...]
— Administration and marketing	[...]	[...]
— Start up/exceptional costs	[...]	[...]
Total	[...]	

Source: Eurotunnel.

- (102) The parties' operating costs in 1996 were as follows:

Table 12. Parties' operating costs 1996

(P&O: 3,9 million PCU carried) (Stena: 2,8 million PCU carried)	P&O		Stena	
	million GBP	GPB per PCU	million GBP	GPB per PCU
Travel agents' commission	[...]	[...]	[...]	[...]
Port taxes/port transit costs	[...]	[...]	[...]	[...]
Other product cost	[...]	[...]	[...]	[...]
Vessel operating costs (excluding depreciation)	[...]	[...]	[...]	[...]
Depreciation	[...]	[...]	[...]	[...]
Administration and marketing	[...]	[...]	[...]	[...]
Total	[...]		[...]	

Source: P&O, Stena. P&O figures cover Dover/Calais only; Stena figures cover Dover/Calais and Newhaven/Dieppe.

⁽¹³⁾ This is in particular because, if two firms have the same marginal cost function, they will both, by setting a profit-maximising cost where marginal cost equals marginal revenue, independently arrive at a price that maximises joint profits. If marginal costs differ and price differentials between the two firms are not sustainable, then firms will have difficulty agreeing on a price. See Scherer and Ross, *Industrial Market Structure and Economic Performance*, Third Edition, pp. 238 to 244.

- (103) The parties consider variable costs to be those costs which vary according to the amount of traffic carried on the basis of a given level of investment. Both Le Shuttle and the ferries will have travel agents' commissions as such a cost. In addition, the parties will pay port taxes; on the basis of P&O's actual costs in 1996 on the Dover/Calais route, the parties calculate these to be approximately GBP [...] per PCU carried. The parties suggest that Le Shuttle may also have some very minor additional variable costs. The parties rightly conclude that on this basis Le Shuttle's variable costs are significantly less than those of the parties (and thus those that can be expected of the joint venture).
- (104) The variable costs identified by the parties are the costs that are variable over the shortest of periods; they are in fact the same as marginal costs. The parties consider that it is these relative short-term variable costs of carrying incrementally more traffic that are important, because it is these costs that will determine pricing strategy.
- (105) Table 13 shows the operators' per unit operating costs (as calculated above) divided into short-term variable costs (as defined above), semi-variable costs (for the ferries: vessel operating costs and other product cost; for Le Shuttle: terminal costs, Le Shuttle crew wages, retail commercial costs and sales staff, maintenance on rolling stock), overheads (administration and marketing; for Le Shuttle: Le Shuttle share of power, fuel, retail staff, Tunnel maintenance, insurance, and operations). Le Shuttle's share of Tunnel depreciation costs and its start up/exceptional costs are ignored as they can be considered respectively sunk costs and non-recurring costs.

Table 13. Operators' per unit operating costs, 1996 (GBP)

	P&O	Stena	Le Shuttle
Variable costs	[...]	[...]	[...]
Semi-variable costs	[...]	[...]	[...]
Overheads	[...]	[...]	[...]
Depreciation	[...]	[...]	[...]
Total	[...]	[...]	[...]

Source: Table 11 and 12.

- (106) When the combined variable and semi-variable costs are considered, Le Shuttle's 1996 per unit operating costs at GBP [...] remain lower than those of P&O at GBP [...] and significantly lower than those of Stena at GBP [...]. Given the differences in variable and semi-variable costs, Eurotunnel may have more room to manoeuvre than the ferries when it comes to sustaining periods of low pricing. In addition, the composition of costs is quite different between Eurotunnel and the ferries, in particular with regard to the port dues which are paid by the ferries. There is also scope for further divergence in cost structures in the future, as the market evolves. Eurotunnel may therefore be tempted to try to increase market share by underpricing the ferries as it did from May 1996.

8.2.4. Conclusion as to competition between the joint venture and Euro-tunnel

- (107) In the light of the above, it can be concluded that the characteristics of the joint venture and Eurotunnel are such that they can be expected to compete with each other rather than to act in parallel to raise prices.

8.3. *Other actual and potential competitors*

- (108) The degree of competition in the market will also be affected by the presence of other actual or potential competitors to the joint venture and Eurotunnel. This section first considers whether other operators already on the market can be expected to provide effective competition. Secondly, entry barriers are considered in order to assess whether new operators could be expected to enter the market.

8.3.1. Impact of competition from operators other than Le Shuttle

- (109) At its start of operations, the joint venture was faced with four competitors: Le Shuttle, SeaFrance, Hoverspeed, and Holyman Hoverspeed.
- (110) SeaFrance considers that the creation of the joint venture will progressively eliminate competing ferry operators, in particular SeaFrance, the only direct competitor on the Dover/Calais route, because of the frequency of the joint venture's sailings and the benefits the joint venture would derive from the renown of its parents' names.
- (111) Sea Containers (the owner of Hoverspeed) has said that the creation of the joint venture can be supported if the position of other operators in the market were clearly protected. It is concerned that the joint venture could at any time start fast ferry services in direct competition to small niche operators, like Hoverspeed or Holyman Sally, with no incremental overhead expense. Therefore, through predatory pricing Hoverspeed and/or Holyman Sally could be driven out of business.
- (112) The parties state that the joint venture will achieve cost savings necessary to meet the strong competition from Eurotunnel. They state that although competition to the joint venture will primarily come from Eurotunnel, the joint venture will also have to respond competitively to the actions of the three other ferry operators. The parties argue that those operators' recent investments indicate a clear commitment to stay in the market.
- (113) If the parties' projections show that their own operations would not be sustainable if they continued on a stand-alone basis, that raises the question of how sustainable SeaFrance's position

will be in particular after the ending of duty-free concessions in 1999.

- (114) SeaFrance complains that it will be disadvantaged by the joint venture's proposed timetable of a departure every 45 minutes during 18 hours a day and hourly for the remaining time. P&O currently operates a 45 minute frequency at peak times only. The 45 minute schedule allows for continuous loading. SeaFrance argues that to compete with the joint venture it would have to consider increasing its fleet to four or five vessels in order to be able to offer a competitive frequency.
- (115) As a fast ferry operator, Hoverspeed may be better able to succeed in the more difficult market conditions after 1999. After the end of duty-free, customers may place more value on the higher speed offered by fast craft than on the more extensive leisure and retailing amenities on board the large multi-purpose vessels. Hoverspeed Holyman can exploit its geographic niche to Belgium.
- (116) The extent to which the other ferry operators will provide effective competition after 1999 is uncertain. SeaFrance, which would compete the most directly against the joint venture, may be most at risk of being unable to remain in the market, notwithstanding that it was successful in increasing its market share in 1997. Hoverspeed, including Hoverspeed Holyman, may have scope to develop its market niches, but it can be doubted whether it can provide effective competition given its limited capacity.
- (117) In conclusion, there is not a sufficient probability of effective competition from the other operators after 1999 to conclude that they alone would ensure that competition would not be eliminated.

8.3.2. Potential competition: entry barriers

- (118) The creation of the joint venture releases ferry berths at each of Dover and Calais, and therefore access to berths would not, as it has been in the past, be an entry barrier.
- (119) The minimum efficient scale for Short French Sea services is considered by the operators to be three conventional ferries or two fast ferries. The parties state that, other than relocating suitable ferries from other routes, the lowest cost entry would be by means of chartering three conventional ferries (at between GBP 5 to 10 million each per year

according to the parties) or two fast ferries (at between GBP 3,5 and 4 million according to the parties), or purchasing two fast ferries. Other alternatives include the purchase of second-hand ferries (the price of which would vary depending on the age and type of vessel), or, for existing ferry operators, relocating ferries currently used on other routes. Costs could be further increased by the need to comply with the new safety requirements arising out of the International Convention for the Safety of Life at Sea (SOLAS) and the Stockholm Agreement, and the possible need to convert cabin space in ferries built for longer routes to retail, amusement and sitting space more appropriate to the Short Sea.

(120) SeaFrance doubts the feasibility of using second-hand vessels, because they have to meet SOLAS standards if switched to a new route. It thus considers that the only feasible way to enter the market with multi-purpose vessels would be to purchase at least four vessels costing GBP 85 million each, a total of GBP 340 million.

(121) The SOLAS standards are applicable to all vessels (old and new) operating on international routes. The cost of meeting the standards would only be an additional cost if a ferry was switched from a domestic route on which it is not required to comply with SOLAS requirements.

(122) The parties acknowledge that the investments required in ferries are 'clearly material and have a degree of risk attached to them'. Although the parties state that the risk is limited by the fact that the ferries could be used on other routes and would have a resale value, switching ferries (back) to other routes may itself carry costs.

(123) The parties also consider that the fact that the other three existing ferry operators have all made investments in new ferries shows that the costs and risks of making investments in ferries do not constitute an insurmountable barrier to entry. The costs and risks faced by a potential new entrant cannot, however, be usefully compared to existing players investing in incremental capacity increases and improved services. Unlike an existing player

adding say a fourth ferry, a new entrant, in order to operate the minimum scale of operation, would introduce a lump of new capacity relatively large in relation to the market thus making retaliation more likely and so increasing the risk of the entry.

(124) A new entrant would have to establish marketing and sales operations. The parties consider that advertising would be likely to cost GBP 1 to 2 million per year. At least during start-up, spending on advertising relative to sales would probably be higher relative to sales than the average for the industry. Marketing costs would be lower for a new entrant which was an existing ferry operator with an established marketing and sales operations and known name.

(125) The creation of the joint venture should not in itself alter the financial costs (both for ferries and for marketing and sales) of new entry.

(126) In conclusion, entry barriers for companies not already in the ferry industry can be considered high, making new entry from such a source unlikely. Entry barriers would be lower for an existing ferry operator which was able to switch from other routes vessels already meeting modern safety requirements. For such an operator, the entry costs would be limited to the costs of any necessary conversions for Short Sea operations, and marketing and sales costs. Any new entry would seem more likely to be by way of a take-over of, or a joint venture with, an existing operator (as was the case with Holyman Sally).

8.4. *Conclusion on the risk of duopoly*

(127) The Commission considers that characteristics of the market are such that the joint venture and Eurotunnel can be expected to compete with each other rather than to act in parallel to raise prices. First, although a more concentrated market structure is brought about by the creation of the joint venture, with Eurotunnel and the joint venture each having similar large market shares, market shares have not been stable in recent years. Secondly, Eurotunnel and the joint venture are

unlikely both to face significant capacity restraints and they have different cost structures. Thirdly, other ferry operators can, at least until 1999, be expected to provide competition. The proposed joint venture can therefore be expected to be faced with effective competition in the Short Sea tourist passenger market. The Commission therefore considers that the fourth condition of Article 85(3) of the Treaty is fulfilled.

(128) An important change in market conditions will occur when duty-free concessions are abolished in mid-1999. The effects of the loss of revenue from duty-free sales is uncertain. It seems likely that ticket prices will rise⁽¹⁴⁾ and some operators have stated that prices will be likely to rise in the order of 30 to 40 %⁽¹⁵⁾. Price increases would, however, decrease the number of tourist passengers and operators have strong incentives to limit any price increases by reducing costs and to developing alternative sources of revenue.

(129) The abolition of duty-free concessions may have knock-on effects on competition between the joint venture and Eurotunnel in one or more of the following ways. First, Eurotunnel might find its Le Shuttle tourist service capacity constrained if demand for cross-Channel travel were to increase more strongly than it has projected and notwithstanding possible price increases due to the loss of duty-free revenues. Secondly, to the extent that operators are not successful in developing revenue sources to replace duty-free sales, they will have less incentive to maximise load factors in order to increase revenues. Thirdly, the extent to which the other ferry operators will after 1999 be able to provide effective competition to the joint venture and Eurotunnel is uncertain.

(130) The Commission therefore considers it appropriate in this case to limit the duration of the exemption to three years from the date of implementation of the agreement, that is from 10 March 1998. This will enable the Commission to assess the impact of the joint venture on the Short Sea tourist market after the 2000 summer season, by which time the

full effects of the end of duty-free concessions on market conditions can be expected to be known.

9. Article 85(3) of the Treaty: Anglo/Continental freight market

(131) In relation to this market the joint venture does not risk eliminating competition and the other conditions for exemption pursuant Article 85(3) are fulfilled.

9.1. *Improvement in the production or distribution of goods, or promotion of technical or economic progress*

(132) The creation of the joint venture will bring about benefits, notably the improved frequency to be offered by the joint venture, continuous loading, and the projected cost savings. These benefits will accrue to freight customers.

9.2. *Allowing consumers a fair share of the resulting benefit*

(133) Freight customers can be expected to benefit from the improved frequency and continuous loading, and can be expected to benefit from the cost savings to the extent that the joint venture will be faced by effective competition.

9.3. *No restrictions which are not indispensable*

(134) As concluded in point 65, lesser forms of cooperation, such as a joint scheduling, interlining or pooling, would be unlikely to lead to the benefits to be achieved by the joint venture. In particular, any form of cooperation less than a joint venture would not achieve the savings in administration and marketing.

9.4. *No elimination of competition in respect of a substantial part of the products in question*

(135) The Anglo/Continental freight market is characterised by strong price competition, low barriers to entry, and purchasing power on the part of larger customers. The joint venture will face competition from other operators including Eurotunnel, SeaFrance and the parties' retained services. Competition in the Anglo/Continental freight market will therefore not be eliminated.

⁽¹⁴⁾ See for example the comments of P&O Stena Line Managing Director Mr Russ Peters 'Prices are going to go up as and when duty-free is abolished, but they will still have to be at a market price that people will pay' (*Lloyd's List*, 24 April 1998).

⁽¹⁵⁾ Sally Chairman and Chief Executive Mr Bill Moses is quoted as saying 'The task is to replace the average on board spend of about GBP 18 per person and I believe passenger fares will have to go up as much as 45 %' (*Lloyd's List*, 23 May 1998); SeaFrance Managing Director Mr Robin Wilkins is reported as predicting that 'passengers will have to pay 30 % more to cross the Channel when duty-free sales are abolished' (*Lloyd's List*, 5 May 1998).

10. Conclusions

- (136) For the reasons set out above, the Commission finds that the parties' proposed joint venture infringes Article 85(1) of the Treaty but is capable of exemption pursuant to Article 85(3).
- (137) Pursuant to Article 13 of Regulation (EEC) No 4056/86, a decision applying Article 85(3) of the Treaty is to indicate the period for which it is to be valid; normally such period should not be less than six years. The exemption in this case should take effect from the date of implementation of the agreement and, for the reasons given at points 128, 129 and 130, its duration should be limited to three years,

HAS ADOPTED THIS DECISION:

Article 1

Pursuant to Article 85(3) of the Treaty, the provisions of Article 85(1) of the Treaty are hereby declared inapplicable for the period 10 March 1998 to 9 March 2001 to the creation of the P&O Stena Line joint venture as notified

to the Commission by The Peninsular and Oriental Steam Navigation Company and Stena Line Limited.

Article 2

This Decision is addressed to:

- The Peninsular and Oriental Steam Navigation Company
78 Pall Mall
London SW1Y 5EH
United Kingdom;
- Stena Line Limited
Charter House
Park Street
Ashford
Kent TN24 8EX
United Kingdom.

Done at Brussels, 26 January 1999.

For the Commission

Karel VAN MIERT

Member of the Commission

COMMISSION DECISION

of 24 June 1999

laying down measures for the application of the Order of the President of the Court of First Instance of the European Communities of 30 April 1999 in Case T-44/98 RII

(notified under document number C(1999) 1736)

(1999/422/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

- (1) Whereas on 30 April 1999 the President of the Court of First Instance of the European Communities made an order in Case T-44/98 RII (Emesa Sugar (Free Zone) NV — hereinafter called 'Emesa' — v. the Commission of the European Communities), suspending, as regards Emesa, the application of Article 108b of Council Decision 91/482/EEC of 25 July 1991 on the association of the overseas countries and territories with the European Economic Community⁽¹⁾, as last amended by Decision 97/803/EC⁽²⁾, of Commission Regulation (EC) No 2553/97 of 17 December 1997 on rules for issuing import licences for certain products covered by CN codes 1701, 1702, 1703 and 1704 and qualifying as ACP/OCT originating products⁽³⁾, and of the Commission Decision of 23 December 1997 (VI/51329)⁽⁴⁾, (hereinafter called the 'Order');
- (2) Whereas, in addition, the Order authorised Emesa to import ground sugar originating in the overseas countries and territories (OCTs), within the meaning of Article 6 of Annex II to Decision 91/482/EEC, on the conditions set out in that Decision as they applied up to 30 November 1997 and subject to certain requirements and restrictions;
- (3) Whereas in order to enable Emesa to carry out the transactions for which it received authorisation in the Order, the implementing provisions which the Member States and Emesa must observe should be laid down,

period 1 May to 31 October 1999, 7 500 tonnes of ground sugar originating in the OCTs within the meaning of Article 6 of Annex II to Decision 91/482/EEC, subject to the following conditions:

1. Importation shall be conditional on the issue of an import licence. The competent authorities in the Member States shall issue licences in accordance with the applicable provisions of Commission Regulation (EEC) No 3719/88⁽⁵⁾.

Box 24 of the licence shall contain the entry 'ORDER OF THE PRESIDENT OF THE COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES IN CASE T-44 RII OF 30.4.1999'.

Emesa shall establish a security of EUR 3/tonne which shall be released if the goods are imported in accordance with the import licence.

2. Sugar originating in the OCTs imported into the Community in accordance with the Order shall be sold at a price at least equivalent to EUR 63,19 per 100 kilograms of standard quality white sugar as defined in Council Regulation (EEC) No 793/72⁽⁶⁾.

In addition to the security provided for in the last paragraph of point 1, Emesa shall lodge at the customs office where the formalities of release for free circulation are carried out, at the latest on the day on which the sugar is declared to the customs authorities, a bank guarantee of USD 28/tonne.

The security shall be released by order of the President of the Court in favour of Emesa if the Court of Justice of the European Communities declares, in its judgment in Case C-17/98, that Article 108b of Decision 91/482/EEC is void.

Article 2

HAS ADOPTED THIS REGULATION:

Article 1

Emesa Sugar (Free Zone) NV, a company set up under Aruban law, established in Oranjestad, Aruba, is hereby authorised to import into the Community, during the

Import licences shall be issued and the goods shall be imported not later than 31 October 1999.

Article 3

Emesa shall not apply for import licences pursuant to Regulation (EC) No 2553/97.

⁽¹⁾ OJ L 263, 19.9.1991, p. 1.

⁽²⁾ OJ L 329, 29.11.1997, p. 50.

⁽³⁾ OJ L 349, 19.12.1997, p. 26.

⁽⁴⁾ Not published in the Official journal.

⁽⁵⁾ OJ L 331, 2.12.1988, p. 1.

⁽⁶⁾ OJ L 94, 21.4.1972, p. 1.

Article 4

Council Regulation (EEC) No 2913/92 shall apply provided it does not conflict with the provisions of this Decision.

Article 5

This Decision shall apply with effect from 1 June 1999.

Article 6

This Decision is addressed to the Member States and Emesa Sugar (Free Zone) NV.

Done at Brussels, 24 June 1999.

For the Commission

Franz FISCHLER

Member of the Commission

(Acts adopted pursuant to Title V of the Treaty on European Union)

COUNCIL DECISION

of 28 June 1999

extending Joint Action 96/250/CFSP in relation to the nomination of a Special Envoy for the African Great Lakes Region

(1999/423/CFSP)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union and, in particular, Articles 14 and 28 thereof,

Whereas:

- (1) Joint Action 96/250/CFSP of 25 March 1996 adopted by the Council on the basis of Article 13 of the Treaty on European Union, in relation to the nomination of a Special Envoy for the African Great Lakes Region ⁽¹⁾, as last extended by Decision 98/452/CFSP ⁽²⁾, expires on 31 July 1999;
- (2) In its conclusions of 9 November 1998 the Council invited Mr Ajello to continue its efforts to this end in his contacts with key players of the region and others actively interested in the current situation in the Democratic Republic of the Congo;
- (3) On the basis of the review of Joint Action 96/250/CFSP, application thereof should be extended for a year,

HAS DECIDED AS FOLLOWS:

Article 1

The validity of Joint Action 96/250/CFSP shall be extended until 31 July 2000. The Joint Action shall be reviewed six months after the date on which this Decision is adopted.

Article 2

1. The financial reference amount intended to cover the costs related to the mission of the Special Representative for the African Great Lakes Region shall be EUR 1 137 000.

2. The amount specified in paragraph 1 shall be allocated to finance the infrastructure and current expenditure of the Special Representative, including his salary and that of his support staff not covered by secondment. Member States and EU institutions may propose the secondment of staff to work with the Special Representative. The remuneration of staff who might be so seconded shall be covered respectively by the Member State or EU institution concerned.

3. The Council notes that the Presidency, Commission and/or Member States, as appropriate, will provide logistical support in the region.

4. The privileges, immunities and further guarantees necessary for the completion and smooth functioning of the mission of the Special Representative and the members of his staff shall be defined with the parties. Member States and the Commission shall grant all necessary support to such effect.

Article 3

This Decision shall enter into force on the date of its adoption.

Article 4

This Decision shall be published in the Official Journal.

Done at Luxembourg, 28 June 1999.

For the Council

The President

M. NAUMANN

⁽¹⁾ OJ L 87, 4.4.1996, p. 1.

⁽²⁾ OJ L 198, 15.7.1998, p. 1.

COUNCIL DECISION**of 28 June 1999****amending Decision 1999/357/CFSP implementing Common Position 1999/318/CFSP concerning additional restrictive measures against the Federal Republic of Yugoslavia****(1999/424/CFSP)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Common Position 1999/318/CFSP⁽¹⁾ adopted by the Council on 10 May 1999 concerning additional restrictive measures against the Federal Republic of Yugoslavia (FRY) and Decision 1999/357/CFSP⁽²⁾ implementing that Common Position,

Whereas the list at Article 1 of Decision 1999/357/CFSP needs to be updated in accordance with Article 1(3) of Common Position 1999/318/CFSP,

HAS ADOPTED THIS DECISION:

Article 1

Article 1 of Decision 1999/357/CFSP shall be replaced by the following:

'Article 1

The persons to which the obligation of non-admission referred to in Article 1 of Common Position 99/318/CFSP applies are the following:

Milosevic Slobodan President of FRY

Milosevic's family

Gajic-Milosevic Milica Daughter-in-law

Markovic Mirjana Wife

Milosevic Borislav Brother

Milosevic Marija Daughter

Milosevic Marko Son

FRY Government

Antic Bozidar Deputy Minister, Ministry of Trade (Foreign)

Bogdanovic Radmilo Head of Committee on Security of Federal Parliament

Bozovic Srdja Speaker, Federal Chamber of Republics

Bulatovic Momir Prime Minister

Bulatovic Pavle Minister of Defence

Djeric Velizar Minister of Sport

Dragas Mirjana Deputy Minister, Ministry of Labour, Health and Social Security

Drobnjakovic Dejan Minister for Transport

Etinski Rodoljub Chief Legal Adviser at Ministry of Foreign Affairs

Filipovic Rade Minister of Economy

Jevtic Milan, Maj-Gen Head of Administration, Ministry of Defence

Jovanovic Zivadin Minister of Foreign Affairs

Kikic Zoran Director of European Department, Minister of Foreign Affairs

⁽¹⁾ OJ L 123, 13.5.1999, p. 1.

⁽²⁾ OJ L 140, 3.6.1999, p. 1.

Knezevic Zoran	Minister of Justice
Korac Maksim	Assistant Minister, Ministry of Labour, Health and Social Security
Kostic Yugoslav	Minister without Portfolio
Kovac Miodrag	Minister of Labour, Health and Social Security
Kutlesic Vladan	Deputy Prime Minister
Latinovic Dusan	Deputy Minister, Ministry of Justice
Lilic Zoran	Deputy Prime Minister
Markicevic Slavenko	Deputy Minister, Ministry for Telecommunications
Markovic Dragan	Minister without portfolio
Markovic Milisav	Deputy Minister, Ministry of the Interior
Matic Goran	Minister without portfolio
Minic Miomir	Speaker, Federal Chamber of Citizens
Minic Radonja	Deputy Minister
Novakovic Zoran	Deputy Minister, Ministry of Foreign Affairs
Ognjanovic Vuk	Minister without Portfolio
Radojevic Dojcilo	Minister for Telecommunications
Sainovic Nikola	Deputy Prime Minister
Savovic Margit	Minister without Portfolio
Sipovac Nedeljko	Minister of Agriculture
Siradovic Djordje	Minister of Trade and Tourism
Sokolovic Zoran	Minister of Internal Affairs
Stevanovic Aco	Deputy Minister, Ministry for Telecommunications
Velickovic Ljubisa, Col-Gen	Deputy Minister of Defence
Vucinic Drago	Deputy Minister, Ministry of Finance
Vujovic Nebojsa	Speaker of Ministry of Foreign Affairs
Vukovic Borislav	Minister of Trade (Foreign)
Vuksanovic Danilo	Deputy Prime Minister
Zebic Jovan	Deputy Prime Minister
Zelenovic Jagos	Minister of Development, Science and Environment

Serbian Government

Andjelkovic Zoran	President of the Provisional Executive Council for Kosovo
Babic Slobodan	Vice-President
Babovic Jovan	Minister of Agriculture
Blazic Branislav	Minister of Environment
Bojic Milovan	Deputy Prime Minister
Cerovic Slobodan	Minister of Tourism
Cosic Zivota	Minister of Mining
Curcic Nikola	Deputy Minister, Ministry of the Interior
Djogo-Antonovic Dusanka	Assistant to the Minister for Information
Djordjevic Vlastimir, Col-Gen	Deputy Minister, Ministry of the Interior
Drobnjak Bosko	Member of the Provisional Executive Council for Kosovo
Gojkovic Maja	Minister without portfolio
Haliti Bajram	Member of the Provisional Executive Council for Kosovo
Ivkovic Branislav	Minister of Science and Technology
Jankovic Dragoljub	Minister of Justice
Karic Bogoljub	Minister without portfolio

Karlicic Miljkan	Assistant to the Minister for Information
Kocovic Dragoljub	Minister of Youth & Sports
Kovacevic Dejan	Minister of Construction
Krasic Zoran	Minister of Trade
Lazic Djura	Minister without portfolio
Marjanovic Mirko	Prime Minister
Markovic Radomir	Deputy Minister, Ministry of the Interior
Markovic Ratko	Deputy Prime Minister
Milacic Borislav	Minister of Finance
Milenkovic Tomislav	Minister of Labour
Milicevic Lepasava	Minister of Health
Milutinovic Milan	President
Mircic Miroslav	Serbs in Diaspora
Misic Stojan, Maj-Gen	Deputy Minister, Ministry of the Interior
Mitrovic Luka	Minister of Industry
Momcilov Paja	Minister without portfolio
Nedeljkovic Miroslav	Minister of Family Care
Nikolic Tomislav	Deputy Prime Minister
Perosevic Bosko	President of the Executive Council for Vojvodina
Poplazić Gordana	Minister of Local Government
Popovic Miodrag	Assistant to the Minister for Information
Radovanovic Milovan	Religion Minister
Ristivojevic Dragisa	Deputy Head of Public Security Department
Sabovic Gulbehar	Member of the Provisional Executive Council for Kosovo
Sedlak Ivan	Minister without portfolio
Seselj Vojislav	Deputy Prime Minister
Simatovic Frenki	Chief of Special Forces of State Security
Simic Zeljko	Minister of Culture
Smiljanovic Zivorad	President of Vojvodina Parliament
Stevanovic Obrad	Deputy Minister, Ministry of the Interior
Stojiljkovic Vlajko	Minister of the Interior
Tabakovic Jorgovanka	Minister of Privatisation
Todorovic Drago	Minister of Transport/Communications
Todorovic Jovo	Minister of Education
Tomic Dragan	Deputy Prime Minister
Tomic Dragomir	Deputy Prime Minister
Tomovic Slobodan	Minister without portfolio
Vajt Ibro	Member of the Provisional Executive Council for Kosovo
Vasiljevic Cedomir	Minister without portfolio
Veljko Odalovic	Deputy Head of the Kosovo Okrug
Visic Radmila	Deputy Minister of Information
Vucic Aleksandar	Minister for Information
Zekovic Petar, Maj-Gen	Deputy Minister, Ministry of the Interior
Zivkovic Vojislav	Member of the Provisional Executive Council for Kosovo

Military

Antanasijevic, Maj	Commander 57 Battle Group Battalion 3 Army
Antonic, Col	D Commander 52 Pristina Corps 3 Army
Arsenovic Konstantin, Lt-Col-Gen	General Staff (VJ), Chief of Logistics
Cirkovic Mladen, Col	Commander 15 Armed Brigade 3 Army
Cvetic Lubinko	Deputy Head of Security in Kosovo
Davidovic Grujica	Commander of Vzice Army Corps
Delic Bozidar, Col	Commander 549 Motorised Brigade 3 Army
Dimceviski Dragutin, Maj Officer	3 Army
Djakovic Milan, Col Officer	3 Army
Djakovic Milorad, Col	52 Pristina Corps 3 Army
Djokic Dejan, Cap Officer	3 Army
Djosan, Col	Commander 52 Light Air Defence Brigade 3 Army
Djudic, Col	Commander 354 Infantry Brigade 3 Army
Djurkovic Ljubinko	Lt Col Officer, 3 Army
Ojdanic Dragoljub	Col Gen Chief of General Staff (VJ)
Farkas Geza, Lt Col Gen	Chief of Intelligence & Security Directorate, General Staff
Filic Bozidar, Lt Col	MUP Speaker on Kosovo Issues
Gajic, Col	Chief of Strategic Intelligence & Security Directorate, General Staff
Gajic David	Head of Security in Kosovo
Gregar Mihajlo, Col Officer	3 Army
Grjkovic Milos, Maj Gen	President of Military High Court
Gusic Miroljub	Judge at 3 Army Military Court
Jelic Kisman, Col	Commander 243 Mechanised Brigade 3 Army
Jovic Radomir, Maj Commander	55 Battle Group Battalion 3 Army
Krga Bogdan, Maj Gen	Head of Second Department (Intelligence), General Staff
Lazarevic Vladimir, Gen Major	Commander 52 Pristina Corps 3 Army
Loncar Dusan, Maj Gen	President of FRY Commission for Relations with OSCE
Lukic, Col	Commander 72 Special Forces Brigade
Manic, Col	Chief of Staff 125 Motorised Brigade 3 Army
Marjanovic Radomir, Col Gen	Deputy Chief at General Staff
Mihajlovic Bratislav, Cap Officer	3 Army
Miladinovic Radenko	Judge at 3 Army Military Court
Milojevic Vukatin, Col	Judge at 3 Army Military Court
Milosavljevic Milivoje, Cap I Class	Local Commander Prizren
Novakovic Milivoje, Col	Head of Information Department, General Staff
Obradovic Milorad, Lt Col Gen	Commander 2 Army
Obrencevic, Maj Gen	Chief of Military Prosecution

Panic Dragoljub, Maj Gen	Acting Chief of General Staff for Ground Forces, General Staff
Pavkovic Nebojsa, Gen	Commander 3 Army
Radjenovic Stevan, Cap	Head of Police at Lipljane
Radosavljevic Stanimir, Col	Military Prosecutor, Nis
Rakocevic Aleksandar, Gen	Head of Information Service of VJ
Ristic Miroljub	MUP Kosovska Mitrovica
Samardzic Dusan, Col Gen	Chief of Military Readiness Inspectorate, General Staff
Savovic Milorad, Lt Col	President of 2 Army Military Court
Simic Miodrag, Lt Col Gen	Chief of Staff 3 Army/Nis
Susic Slavoljub, Col Gen	Head of the Military Department at Presidential Office
Slivcanin Dusko, Cap I Class Officer	3 Army
Smiljanic Spasoje, Lt Col Gen	Commander Air & Air Defence Forces
Sorak Goran, Mar	Commander 53 Battle Group Battalion 3 Army
Stankovic Ivica, Cap I Class Officer	3 Army
Stefanovic, Col	Commander 52 Artillery Brigade 3 Army
Stefanovic Radojko, Col	Local Commander Gnjilane
Stojanovic Momir, Lt Col	Head of State Security in Pristina
Stojimirovic, Gen Major	Chief of Staff HQ 3 Army
Stojinovic Ljubisa, Maj Gen	Commander Special Unit Corps
Todorov, Lt Col	Commander 63 Parachute Brigade
Tomic, Lt Col	Commander 211 Armed Brigade 3 Army
Trajkovic Sinisa, Col	Chief of Staff 15 Armed Brigade 3 Army
Trkulja, Col	Commander Special Unit Corps
Velickovic Ljubisa, Lt Col Gen	Acting Chief of General Staff Air and Air Defence Forces, General Staff
Zdravkovic Srba, Col	Commander 243 Motorised Brigade 3 Army
Zec Milan, Vice Adm	Commander Navy
Zirojevic Zeljko, Cap I Class	Press Officer, Pristina Corps, 3 Army
Zivanovic Radojko, Col	Commander 125 Motorised Brigade 3 Army
<i>Persons close to the regime whose activities support President Milosevic</i>	
Acimovic Slobodan	Assistant Director of Beogradska Bank
Andjelkovic Stanislav	Mayor of Suva Reka
Antic Dragan	General Director "Politika A.D."
Beko Milan	Director of "Zastava"
Bogdanovic Aleksandar	Director of "Metropol" Press Center
Bozic Ljubinko	Mayor of Lipljane
Bozovic Radoman	Managing Director of GENEX

Buba-Morina Bratislava	JUL, Serbian Commissioner for Refugees, Head of Yugoslavian Women's League, plaintiff on 7 November 1998
Budimirovic Dobrivoje	President of "Srbijasuma"
Cekovic Jova	SPDR official
Cicak Zoran	Special adviser to the President of Beogradska Bank
Dabisljevic Sveta	Mayor of Klina
Dacic Ivica	SPS, Spokesman
Damjanovic Jevrem	Editor in Chief "Ilustrovana Politika"
Danilovic Blagoje	Judge at Serbian High Court
Djedovic Gavrilko	Director General for Foreign Affairs, National Bank of Yugoslavia (NBY)
Djolic Gvozdan	Local SPS head, Aleksandrovac
Djonovic Ivko	General Director of "Takovo"
Djordjevic Ljubisa	Director Commercial Bank
Djordjevic Zivorad	JUL, Editor in Chief of daily "Borba"
Djurkovic Milivoje	Mayor of Decani
Dobic Alexander	Beogradska Bank official
Doknic Slobodan	Mayor of Vucitrn
Dragan Tomic	Director of JUGOPETROL (and Speaker of the Serbian Parliament)
Dragas Branko	Chief Executive Beogradska Bank
Dragisic Stevo	SRS
Fodor Oskar	Member of SPS Executive Council
Gajevic Gorica	SPS, Secretary-General
Govedarica Balsa	President of Serbian High Court
Ivancevic Sladjana	Director of Marketing at PGP RTS
Ivic Zivorad	SPS Vice-President
Jablanovic Dragan	Mayor of Leposavic
Jakovlevic Dusica	Director of credit lines Beogradska Bank
Jaksic Milorad	General Director of "PTT Srbije"
Jovanovic Natasa	SRS, Regional Head, Sumadija
Jovanovic Zivotije	Head of JUL Section Jagodino
Jovanovic Zoran	Owner of Lebanese-based Serbian firms Nana Sal and Menta Sal
Kalicanin Selimir	Head of SPS Section Kosovska Mitrovica
Karic Dragomir	Member of Karic family (bankers, etc.)
Karic Milenka	Businesswoman, wife of Bogoljub Karic
Karic Sreten	Member of Karic family (bankers, etc.)
Karic Zoran	Member of Karic family (bankers, etc.)
Kertes Mihail	Director, Federal Customs
Krsmanovic Dragisa	State Prosecutor of Serbia
Krstajic Marija	Director of "Galenika"
Lazarevic Ivan	Beogradska Bank Official

Lenard Tatjana	Member of JUL Directorate, Head of RTS information programme
Lijesevic Dragan	Foreign Exchange, NBY
Lincevski Vladimir	Beogradska Bank official
Ljubicic Vladimir	General Director "Geneks Hotels"
Ljubic Radomir	General Director of "Sloboda", Cacak
Maljkovic Nebojsa	Member of JUL Directorate
Maljkovic Nebojsa	President "Dunav" Insurance Company
Markovic Ivan	JUL, spokesman
Markovic Zoran	Executive Director of Beogradska Bank
Martinov Suzana	Beogradska Bank official
Matic Olivera	Beogradska Bank official
Matkovic Dusan	Director of Smederero Iron Works, SPS Vice-President
Mihajlovic Ljubomir	Executive Officer Commercial Bank
Mihajlovic Milivoje	Mayor of Krusevac, SPS
Mihajlovic Radoslav	Manager at "EPS"
Mihaljevic Nena	Director of "Pekabeta"
Milekovic Dejan	Editor in Chief "TV BK Telekom"
Miletic Milivoje	Member of SPS Executive Council
Milojevic Mihajlo	President, FRY Chamber of Commerce
Milosevic Zoran	Major of Obilic
Milovanovic Dragoljub-Minja	Member of SPS Executive Council
Minic Milomir	Member of SPS Executive Council
Miskovic Miroslav	Director Delta Bank
Mitrovic Zeljko	Owner of "TV Pink"
Mrkovic Milutin	Director, "CIP"
Nicovic Djordje	Private Banker, former Deputy Governor of the National Bank
Nikacevic Aleksandar	Director "B92"
Nojic Vojislav	Mayor of Kosovska Mitrovica
Pankov Radovan	Member of SPS Executive Council
Pejcic Bogoljub	Editor in Chief "Srpska Rec"
Percevic Goran	Member of SPS Executive Council
Peric Bogdan	Mayor of Gnjilane
Perucic Zlatan	President Beogradska Bank
Popovic Gordana	Beogradska Bank official
Popovic Jovo	Head of District Pec
Puric Sanja	Main Speaker "TV Politika"
Radenkovic Dejan	Member of SPS Executive Council
Radevic Milorad	Head of the Patriotic Federation Belgrade, Head of Serbian Archive, plaintiff on 23 October 1998
Radovanovic Dusan	SPS Regional Head, NIS
Radulovic Slobodan	General Director of "C Market"

Raicevic Tomica	Member of SPS Executive Council
Raicevic Aleksandar	Member of SPS Executive Council
Ristic Ljubisa	President of JUL
Rodic Radoslav	Owner of "Rodica MB"
Rodic Milan	Member of JUL directorate
Roza-Despotovic Gordana	Member of SPS Executive Council
Rugova Hajrije	Member of SPS Executive Council
Simic Dusan	Mayor of Pristina
Simic Sima	Mayor of Srbica
Sokolovacki Zivko	Member of JUL Directorate
Stambuk Vladimir	Member of JUL Directorate
Stanic Nikola	Vice-Governor of NBY
Stankovic Srboljub	Member of JUL Directorate
Stanojevic Momcilo	Mayor of Djakovica
Stevovic Vesna	Beogradska Bank official
Todorovic Tihomir	Director of "C-Market"
Tomasevic Ljiljana	Executive Director of Beogradska Bank
Tomic Milova	Mayor of Podujevo
Trajkovic Zdravko	Head of District Kosovska Mitrovica
Trbojevic Zarko	First Vice-Governor of NBY
Uncanin Rajko	General Director "Grmec"
Veselinovic Slavko	SPS, Head of Council for information and propaganda in the SPS-Board
Vlatkovic Dusan	Governor of National Bank of Yugoslavia
Vucic Borka	Director of Beogradska Bank
Vucurevic Boza	Geneva-based businessman, Co-owner of NIVADA
Zecevic Milija	Banker
Zecevic Miodrag	Banker
Zivanovic Milan	General Director of "GSB"
Zivkovic Zivota	Member of SPS Executive Council
Zvetkovic Zivota	Mayor of Aleksandrovac, SPS'

Article 2

This Decision shall take effect on the date of its adoption.

Article 3

This Decision shall be published in the Official Journal.

Done at Luxembourg, 28 June 1999.

For the Council
The President
M. NAUMANN