

English edition

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Notice to readers (see page 3 of the cover)

⁽¹⁾ Text with EEA relevance

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1031/98
of 18 May 1998
establishing the standard import values for determining the entry price of certain
fruit and vegetables

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

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

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

Whereas Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commis-

sion 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 19 May 1998.

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

Done at Brussels, 18 May 1998.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ L 325, 14. 12. 1996, p. 5.

⁽³⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 18 May 1998 establishing the standard import values for determining the entry price of certain fruit and vegetables

(ECU/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0707 00 05	052	86,9
	068	99,9
	999	93,4
0709 90 70	052	67,2
	999	67,2
0805 10 10, 0805 10 30, 0805 10 50	052	34,3
	204	39,6
	212	62,8
	400	55,4
	600	43,5
	624	45,3
	999	46,8
0805 30 10	382	58,7
	388	58,7
	600	58,7
	999	58,7
0808 10 20, 0808 10 50, 0808 10 90	060	37,0
	388	76,9
	400	94,3
	404	90,4
	508	92,0
	512	85,0
	524	92,6
	528	74,3
	804	104,0
	999	82,9

⁽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 1032/98
of 18 May 1998
opening an invitation to tender for the reduction in the duty on maize imported
into Spain from third countries

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

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals⁽¹⁾, as last amended by Regulation (EC) No 923/96⁽²⁾, and in particular Article 12(1) thereof,

Whereas, pursuant to the Agreement on Agriculture concluded during the Uruguay Round of multilateral trade negotiations, the Community has undertaken to import a certain quantity of maize into Spain;

Whereas Commission Regulation (EC) No 1839/95 of 26 July 1995 laying down detailed rules for the application of tariff quotas for imports of maize and sorghum into Spain and imports of maize into Portugal⁽³⁾, as amended by Regulation (EC) No 1963/95⁽⁴⁾, lays down the rules governing the administration of those special arrangements; whereas this Regulation lays down the special additional detailed rules necessary for implementing the invitation to tender, in particular those relating to the lodging and release of the security to be lodged by operators to ensure compliance with their obligations and, in particular, the obligation to process or use the imported product on the Spanish market;

Whereas in the light of current market needs in Spain, an invitation to tender for the reduction in the duty on imports of maize should be opened in the framework of these special arrangements for imports;

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

1. An invitation to tender is hereby opened for the reduction in the import duty referred to in Article 10(2) of Regulation (EEC) No 1766/92 on maize to be imported into Spain.
2. The invitation to tender shall be open until 18 June 1998. During that period, weekly invitations shall be issued with quantities and closing dates as shown in the notice of invitation to tender.
3. Regulation (EC) No 1839/95 shall apply save as otherwise provided for in this Regulation.

Article 2

Import licences issued under these invitations to tender shall be valid 50 days from the date they are issued, within the meaning of Article 10(4) of Regulation (EC) No 1839/95.

Article 3

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

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

Done at Brussels, 18 May 1998.

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 177, 28. 7. 1995, p. 4.

⁽⁴⁾ OJ L 189, 10. 8. 1995, p. 22.

COMMISSION REGULATION (EC) No 1033/98

of 18 May 1998

amending Regulation (EEC) No 3719/88 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products

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 Articles 9(2) and 23 thereof, and to the corresponding provisions of the other regulations on the common organisation of the market in agricultural products,

Whereas Article 8(4) of Commission Regulation (EEC) No 3719/88⁽³⁾, as last amended by Regulation (EC) No 1404/97⁽⁴⁾, provides that where the quantity imported or exported exceeds the quantity shown on the licence or certificate by not more than 5 %, it is to be considered to have been imported or exported under that licence or certificate;

Whereas, where an import licence covering an agricultural product is also used to administer a tariff quota to which preferential arrangements apply, such preferential arrangements are to apply to importers by virtue of the licence or certificate irrespective of whether the product is to be accompanied by a document from a third country;

Whereas, with a view to avoiding any overrun in the quota, the preferential arrangements must apply up to the quantity for which the licence or certificate was issued; whereas, with a view to facilitating imports, the tolerance provided for in Article 8(4) of Regulation (EEC) No 3719/88 should be permitted, provided that it is specified at the same time that the part of the quantity exceeding that shown on the licence or certificate but within the tolerance does not qualify under the preferential arrangements and full duty is payable thereon on import;

Whereas, where imports of a product are not subject to presentation of an import licence and where such a licence serves to administer a quota, the application of the tolerance is not necessary; whereas in such cases the quantity in excess of that shown on the licence or certificate should be regarded as having been imported outside the licence and subject to full duty and cannot

qualify under the preferential arrangements covering the quota;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the relevant management committees,

HAS ADOPTED THIS REGULATION:

Article 1

Article 45 of Regulation (EEC) No 3719/88 is hereby replaced by the following:

Article 45

1. Where imports of a product are subject to presentation of an import licence and where that licence also serves to determine eligibility under preferential arrangements, the quantities imported within the tolerance in excess of the quantity shown on the import licence shall not qualify under the preferential arrangements.

Save where the regulations in particular sectors require special wording, Section 24 of licences and certificates shall indicate one of the following:

- Régimen preferencial aplicable a la cantidad indicada en las casillas 17 y 18
- Præferenceordning gældende for mængden anført i rubrik 17 og 18
- Präferenzregelung, anwendbar auf die in den Feldern 17 und 18 genannte Menge
- Προτιμησιακό καθεστώς εφαρμοζόμενο για την ποσότητα που αναγράφεται στα τετραγώνια 17 και 18
- Preferential arrangements applicable to the quantity given in Sections 17 and 18
- Régime préférentiel applicable pour la quantité indiquée dans les cases 17 et 18
- Regime preferenziale applicabile per la quantità indicata nelle caselle 17 e 18
- Preferentiële regeling van toepassing voor de in de vakken 17 en 18 vermelde hoeveelheid
- Regime preferencial aplicável em relação à quantidade indicada nas casas 17 e 18,
- Etuuskohtelu, jota sovelletaan kohdissa 17 ja 18 esitettyihin määriin
- Preferensordning tillämplig för den kvantitet som anges i fält 17 och 18

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ L 331, 2. 12. 1988, p. 1.

⁽⁴⁾ OJ L 194, 23. 7. 1997, p. 5.

2. Where licences as referred to in paragraph 1 also serve to administer a Community tariff quota, the term of validity of licences may not extend beyond the date on which the quota expires.

3. Where the product in question cannot be imported outside the quota or where import licences for the product in question are issued subject to special conditions, the import licences shall not provide for any tolerance concerning quantities in excess.

The figure "0" (zero) shall be shown in Section 19 of the licence.

4. Where imports of a product are not subject to presentation of an import licence and where an import licence serves to administer preferential arrangements

covering that product, the import licences shall not provide for any tolerance concerning quantities in excess.

The figure "0" (zero) shall be shown in Section 19 of the licence.'

Article 2

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

It shall apply to licences and certificates applied for from the date on which it enters into force.

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

Done at Brussels, 18 May 1998.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 1034/98
of 18 May 1998

amending Council Regulation (EC) No 669/97 opening and providing for the administration of Community tariff quotas and ceilings and establishing Community surveillance for certain fish and fishery products originating in the Faroe Islands

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 669/97 of 14 April 1997 opening and providing for the administration of Community tariff quotas and ceilings, establishing Community surveillance for certain fish and fishery products originating in the Faroe Islands, defining detailed provisions for amending and adapting these measures and repealing Regulation (EC) No 1983/95⁽¹⁾, and in particular Articles 5 and 6 thereof,

Whereas Article 36 of the Agreement between the European Community, of the one part and the Government of Denmark and the Home Government of the Faroe Islands, of the other part, signed on 6 December 1996⁽²⁾, provides for the possible abolition of customs duties applicable to imports into the Community of certain fish and fishery products listed in Protocol 1 to the said Agreement;

Whereas Decision No 1/98 of the EC/Denmark-Faroe Islands Joint Committee⁽³⁾ extends Community tariff concessions to certain fishery products;

Whereas abolition is subject to Community tariff quotas and ceilings; whereas quotas should therefore be opened and the Community tariff ceiling amended for the products originating in the Faroe Islands indicated respectively in Annexes I and II to this Regulation;

Whereas the preferential rates of duty apply only where the free-at-frontier price determined by the Member States in accordance with Article 22 of Council Regula-

tion (EEC) No 3759/92 of 17 December 1992 on the common organisation of the market in fishery and aquaculture products⁽⁴⁾, as last amended by Regulation (EC) No 3318/94⁽⁵⁾, is at least equal to the reference price set, or to be set, by the Community for the products or categories of products concerned;

Whereas this Regulation introduces changes made necessary by an amendment to the EC/Denmark-Faroe Islands Agreement in the form of an exchange of letters;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The tariff quotas in Annex I to this Regulation under order numbers 09.0685 and 09.0687 shall be added to Annex I to Regulation (EC) No 669/97.
2. The tariff ceiling in Annex II to this Regulation shall replace that for order number 17.0029 in Annex II to Regulation (EC) No 669/97.

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 with effect from 1 May 1998.

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

Done at Brussels, 18 May 1998.

For the Commission
Mario MONTI
Member of the Commission

⁽¹⁾ OJ L 101, 18. 4. 1997, p. 1.

⁽²⁾ OJ L 53, 22. 2. 1997, p. 2.

⁽³⁾ OJ L 90, 25. 3. 1998, p. 40.

⁽⁴⁾ OJ L 388, 31. 12. 1992, p. 1.

⁽⁵⁾ OJ L 350, 31. 12. 1994, p. 15.

ANNEX I

Fishery products subject to tariff quotas

Order No	CN code	TARIC subdivision	Description of goods	Rate of duty	Quota volume (tonnes) (1)
09.0685	0306		Crustaceans, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine; crustaceans, in shell, cooked by steaming or by boiling in water, whether or not chilled, frozen, dried, salted or in brine; flours, meals and pellets of crustaceans, fit for human consumption:		50
	0306 14 ex 0306 14 90	*10	– Frozen: – – Crabs: – – – Other: – – – – Red crabs (<i>Geryon</i> spp.)	0	
	0306 24 ex 0306 24 90	*10	– Not frozen: – – Crabs: – – – Other: – – – – Red crabs (<i>Geryon</i> spp.)	0	
09.0687	0307		Molluscs, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine; aquatic invertebrates other than crustaceans and molluscs, live, fresh, chilled, frozen, dried, salted or in brine; flours, meals and pellets of aquatic invertebrates other than crustaceans, fit for human consumption:		50
	0307 31		– Mussels (<i>Mytilus</i> spp., <i>Perna</i> spp.):		
	0307 31 10		– – Live, fresh or chilled:		
	0307 39		– – – <i>Mytilus</i> spp.	0	
	0307 39 10		– – Other: – – – <i>Mytilus</i> spp.	0	

(1) Depending on the date of application of this Regulation, the quota volumes for the 1998 calendar year shall be calculated *pro rata temporis*.

ANNEX II

Fishery products subject to Community tariff ceilings

Order No	CN code	TARIC Subdivision	Description of goods	Rate of duty	Volume (tonnes)
17.0029	0305		Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; flours, meals and pellets of fish, fit for human consumption:		1 400
	0305 59		– Dried fish, whether or not salted but not smoked:		
	ex 0305 59 90		– – Other:		
			– – – Other:		
		*10	– – – – Of ling (<i>Molva molva</i>)	0	
		*20	– – – – Of bleu ling (<i>Molva dipterygia dipterygia</i>)	0	
		*30	– – – – Of tusk (<i>Brosme brosme</i>)	0	
			– Fish, salted but not dried or smoked and fish in brine:		
	0305 69 90		– – – Other	0	

COMMISSION REGULATION (EC) No 1035/98
of 18 May 1998

amending Regulation (EC) No 1435/97 determining the Member States in which the campaigns to promote the consumption of grape juice may be carried out in respect of the 1996/97 wine year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organisation of the market in wine ⁽¹⁾ as last amended by Regulation (EC) No 2087/97 ⁽²⁾, and in particular Article 46(5) and Article 81 thereof,

Whereas, in view of the time needed to complete examination of the programmes, the time limit provided for signature of contracts in Article 1(2) of Commission Regulation (EC) No 1435/97 ⁽³⁾ should be extended;

Whereas the time limit resulting from the provision in the initial text is 1 May 1998; whereas the Regulation must therefore enter into force on the day of its publication;

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

HAS ADOPTED THIS REGULATION:

Article 1

Article 1(2) of Regulation (EC) No 1435/97 is hereby replaced by the following:

‘2. Contracts for that campaign shall be signed by 1 July 1998 at the latest. The payment of contracts shall be made at the latest three months after the successful fulfilment of the contracts.’

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, 18 May 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 84, 27. 3. 1987, p. 1.

⁽²⁾ OJ L 292, 25. 10. 1997, p. 1.

⁽³⁾ OJ L 196, 24. 7. 1997, p. 58.

COMMISSION REGULATION (EC) No 1036/98
of 18 May 1998

fixing the maximum aid for concentrated butter for the 181st special invitation to tender opened under the standing invitation to tender provided for in Regulation (EEC) No 429/90

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

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organisation of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EC) No 1587/96 ⁽²⁾, and in particular Article 7a(3) thereof,

Whereas, in accordance with Commission Regulation (EEC) No 429/90 of 20 February 1990 on the granting by invitation to tender of an aid for concentrated butter intended for direct consumption in the Community ⁽³⁾, as last amended by Regulation (EC) No 417/98 ⁽⁴⁾, the intervention agencies are opening a standing invitation to tender for the granting of aid for concentrated butter; whereas Article 6 of that Regulation provides that in the light of the tenders received in response to each special invitation to tender, a maximum amount of aid is to be fixed for concentrated butter with a minimum fat content of 96 % or a decision is to be taken to make no award; whereas the end-use security must be fixed accordingly;

Whereas, in the light of the tenders received, the maximum aid should be fixed at the level specified below and the end-use security determined accordingly;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 181st special invitation to tender under the standing invitation to tender opened by Regulation (EEC) No 429/90, the maximum aid and the amount of the end-use security shall be as follows:

— maximum aid:	ECU 134/100 kg
— end-use security:	ECU 148/100 kg.

Article 2

This Regulation shall enter into force on 19 May 1998.

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

Done at Brussels, 18 May 1998.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 21.

⁽³⁾ OJ L 45, 21. 2. 1990, p. 8.

⁽⁴⁾ OJ L 52, 21. 2. 1998, p. 18.

COMMISSION REGULATION (EC) No 1037/98
of 18 May 1998
on the supply of cereals as food aid

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

Having regard to Council Regulation (EC) No 1292/96 of 27 June 1996 on food-aid policy and food-aid management and special operations in support of food security⁽¹⁾, and in particular Article 24(1)(b) thereof,

Whereas the abovementioned Regulation lays down the list of countries and organisations eligible for Community aid and specifies the general criteria on the transport of food aid beyond the fob stage;

Whereas, following the taking of a number of decisions on the allocation of food aid, the Commission has allocated cereals to certain beneficiaries;

Whereas it is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EC) No 2519/97 of 16 December 1997 laying down general rules for the mobilisation of products to be supplied under Council Regulation (EC) No 1292/96 as Community food aid⁽²⁾; whereas it is necessary to specify

the time limits and conditions of supply to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

Article 1

Cereals shall be mobilised in the Community, as Community food aid for supply to the recipient listed in the Annex, in accordance with Regulation (EC) No 2519/97 and under the conditions set out in the Annex.

The tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in the tender is deemed unwritten.

Article 2

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

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

Done at Brussels, 18 May 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 166, 5. 7. 1996, p. 1.

⁽²⁾ OJ L 346, 17. 12. 1997, p. 23.

ANNEX

LOTS A, B

1. **Action No:** 5/98 (A); 6/98 (B)
2. **Beneficiary** (2): North Korea
3. **Beneficiary's representative:** Flood Damage Rehabilitation Committee, PO Box 44, Pyongyang Democratic People's Republic of Korea. Contact: Ri Si Hong, Director
Tel. (850-5) 382 70 00, fax 381 46 60, telex 5350KP/5351KP
4. **Country of destination:** North Korea
5. **Product to be mobilised:** maize
6. **Total quantity (tonnes net):** 37 000
7. **Number of lots:** 2 (A: 19 000 tonnes; B: 18 000 tonnes)
8. **Characteristics and quality of the product** (3) (3): see OJ C 114, 29.4.1991, p. 1 (II.A.(1)(d))
9. **Packaging** (7) (10): see OJ C 267, 13.9.1996, p. 1 (1.0A 1.c, 2.c and B.3)
10. **Labelling or marking** (6) (8): see OJ C 114, 29.4.1991, p. 1 (II.A.(3))
 - Language to be used for the markings: English and Korean
 - Supplementary markings: 'FOR FREE DISTRIBUTION'
11. **Method of mobilisation of the product:** the Community market
12. **Specified delivery stage:** free at port of landing — landed (9)
13. **Alternative delivery stage:** free at port of shipment — fob, stowed and trimmed
14. (a) **Port of shipment:** —
 - (b) **Loading address:** —
15. **Port of landing:** Nampo
16. **Place of destination:** —
 - port or warehouse of transit: —
 - overland transport route: —
17. **Period or deadline of supply at the specified stage:** (11)
 - first deadline; A: 2.8.1998; B: 3 to 16.8.1998
 - second deadline; A: 16.8.1998; B: 17 to 30.8.1998
18. **Period or deadline of supply at the alternative stage:**
 - first deadline; A: 15 to 21.6.1998; B: 29.6 to 5.7.1998
 - second deadline; A: 29.6 to 5.7.1998; B: 13 to 19.7.1998
19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
 - first deadline: 2.6.1998
 - second deadline: 16.6.1998
20. **Amount of tendering guarantee:** ECU 5 per tonne
21. **Address for submission of tenders and tendering guarantees** (1): Bureau de l'aide alimentaire, Attn Mr T. Vestergaard, Bâtiment Loi 130, bureau 7/46, Rue de la Loi/Wetstraat 200, B-1049 Brussels
telex 25670 AGREC B; fax (32-2) 296 70 03/296 70 04 (exclusively)
22. **Export refund** (4): refund applicable on 15.5.1998, fixed by Commission Regulation (EC) No 977/98 (OJ L 137, 9.5.1998, p. 3)

LOT C

1. **Action No:** 7/98
2. **Beneficiary** (?): North Korea
3. **Beneficiary's representative:** Flood Damage Rehabilitation Committee, PO Box 44, Pyongyang Democratic People's Republic of Korea. Contact: Ri Si Hong, Director
Tel. (850-5) 382 70 00, fax 381 46 60, telex 5350KP/5351KP
4. **Country of destination:** North Korea
5. **Product to be mobilised:** milled rice (product code 1006 30 92 9900, 1006 30 94 9900, 1006 30 96 9900, 1006 30 98 9900)
6. **Total quantity (tonnes net):** 10 000
7. **Number of lots:** 1
8. **Characteristics and quality of the product** (3) (?): see OJ C 114, 29.4.1991, p. 1 (II.A. (1) (f))
9. **Packaging** (?): see OJ C 267, 13.9.1996, p. 1 (1.0.A 1.c, 2.c and B.3)
10. **Labelling or marking** (6) (?): see OJ C 114, 29.4.1991, p. 1 (II.A. (3))
 - Language to be used for the markings: English and Korean
 - Supplementary markings: 'FOR FREE DISTRIBUTION'
11. **Method of mobilisation of the product:** the Community market
12. **Specified delivery stage:** free at port of landing — landed (?)
13. **Alternative delivery stage:** free at port of shipment, fob stowed
14. (a) **Port of shipment:** —
(b) **Loading address:** —
15. **Port of landing:** Nampo
16. **Place of destination:** —
 - port or warehouse of transit: —
 - overland transport route: —
17. **Period or deadline of supply at the specified stage:**
 - first deadline: 9.8.1998
 - second deadline: 23.8.1998
18. **Period or deadline of supply at the alternative stage:**
 - first deadline: 22 to 28.6.1998
 - second deadline: 6 to 12.7.1998
19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
 - first deadline: 2.6.1998
 - second deadline: 16.6.1998
20. **Amount of tendering guarantee:** ECU 5 per tonne
21. **Address for submission of tenders and tendering guarantees** (?): Bureau de l'aide alimentaire, Attn Mr T. Vestergaard, Bâtiment Loi 130, bureau 7/46, Rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel telex: 25670 AGREC B; fax: (32 2) 296 70 03 / 296 70 04 (exclusively)
22. **Export refund** (?): refund applicable on 15.5.1998, fixed by Commission Regulation (EC) No 977/98 (OJ L 137, 9.5.1998, p. 3)

Notes:

- (¹) Supplementary information: André Debongnie (tel. (32-2) 295 14 65).
Torben Vestergaard (tel. (32-2) 299 30 50).
- (²) The supplier shall contact the beneficiary or its representative as soon as possible to establish which consignment documents are required.
- (³) The supplier shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.
- (⁴) Commission Regulation (EC) No 259/98 (OJ L 25, 31.1.1998, p. 39) is applicable as regards the export refund. The date referred to in Article 2 of the said Regulation is that referred to in point 22 of this Annex.
- (⁵) The supplier shall supply to the beneficiary or its representative, on delivery, the following document:
— phytosanitary certificate.
- (⁶) Notwithstanding OJ C 114, point IIA (3)(c) or II B (3)(c) is replaced by the following: 'the words "European Community"'.
(⁷) Since the goods may be rebagged, the supplier must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.
(⁸) The marking in Korean must be made as follows on the reverse side of the packaging:

European Community:	구 주 공 동 체
Maize:	옥 수 수
Rice:	쌀
For free distribution:	무 상 배 급 용

- (⁹) In addition to the provisions of Article 14(3) of Regulation (EC) No 2519/97, vessels chartered shall not appear on any of the four most recent quarterly lists of detained vessels as published by the Paris Memorandum of Understanding on Port State Control (Council Directive 95/21/EC, (OJ L 157, 7.7.1995, p. 1)).
- (¹⁰) Bagging may be carried out at the port of landing.
- (¹¹) The final subparagraph of Article 14(14) of Regulation (EC) No 2519/97 (OJ L 346, 17.12.1997, p. 23) applies.
-

COMMISSION REGULATION (EC) No 1038/98
of 18 May 1998
on the supply of split peas as food aid

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

Having regard to Council Regulation (EC) No 1292/96 of 27 June 1996 on food-aid policy and food-aid management and special operations in support of food security⁽¹⁾, and in particular Article 24(1)(b) thereof,

Whereas the abovementioned Regulation lays down the list of countries and organisations eligible for Community aid and specifies the general criteria on the transport of food aid beyond the fob stage;

Whereas, following the taking of a number of decisions on the allocation of food aid, the Commission has allocated split peas to certain beneficiaries;

Whereas it is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EC) No 2519/97 of 16 December 1997 laying down general rules for the mobilisation of products to be supplied under Council Regulation (EC) No 1292/96 as Community food aid⁽²⁾; whereas it is necessary to specify the time limits and conditions of supply to determine the resultant costs;

Whereas, in order to ensure that the supplies are carried out, provision should be made for tenderers to be able to mobilise either green split peas or yellow split peas,

HAS ADOPTED THIS REGULATION:

Article 1

Split peas shall be mobilised in the Community, as Community food aid for supply to the recipients listed in the Annex, in accordance with Regulation (EC) No 2519/97, and under the conditions set out in the Annex.

Tenders shall cover either green split peas or yellow split peas. Tenders shall be rejected unless they specify the type of peas to which they relate.

The tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in the tender is deemed unwritten.

Article 2

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

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

Done at Brussels, 18 May 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 166, 5. 7. 1996, p. 1.

⁽²⁾ OJ L 346, 17. 12. 1997, p. 23.

ANNEX

LOTS A, B

1. **Action No:** 13/98 (A); 14/98 (B)
2. **Beneficiary** ^(?): North Korea
3. **Beneficiary's representative:** Flood Damage Rehabilitation Committee, PO Box 44, Pyongyang Democratic People's Republic of Korea, Contact: Ri Si Hong, Director
Tel. (850-2) 382 70 00, fax 381 46 60, telex 5350KP/5351KP.
4. **Country of destination:** North Korea
5. **Product to be mobilised** ⁽⁸⁾: split peas
6. **Total quantity (tonnes net):** 6 000
7. **Number of lots:** 2 (A: 3 000; B: 3 000 tonnes)
8. **Characteristics and quality of the product** ⁽³⁾ ⁽⁴⁾ ⁽⁷⁾: —
9. **Packaging** ⁽⁵⁾: see OJ C 267, 13.9.1996, p. 1 (4.0A 1.c. 2.c. and B.1)
10. **Labelling or marking** ⁽⁶⁾ ⁽⁹⁾: see OJ C 114, 29.4.1991, p. 1 (II.A. (3))
— Language to be used for the markings: English and Korean
— Supplementary markings: 'FOR FREE DISTRIBUTION'
11. **Method of mobilisation of the product:** The product must originate from the Community
12. **Specified delivery stage:** free at port of landing — landed ⁽¹⁰⁾
13. **Alternative delivery stage:** free at port of shipment
14. (a) **Port of shipment:** —
(b) **Loading address:** —
15. **Port of landing:** A: Nampo; B: Haeju
16. **Place of destination:** —
— port or warehouse of transit: —
— overland transport route: —
17. **Period or deadline of supply at the specified stage:**
— first deadline: 6.9.1998
— second deadline: 20.9.1998
18. **Period or deadline of supply at the alternative stage:**
— first deadline: 13 to 26.7.1998
— second deadline: 27.7 to 9.8.1998
19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
— first deadline: 2.6.1998
— second deadline: 16.6.1998
20. **Amount of tendering guarantee:** ECU 5 per tonne
21. **Address for submission of tenders and tendering guarantees** ⁽¹⁾: Bureau de l'aide alimentaire, Attn Mr T. Vestergaard, Bâtiment Loi 130, bureau 7/46, Rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel
telex: 25670 AGREC B; fax: (32 2) 296 70 03 / 296 70 04 (exclusively)
22. **Export refund:** —

LOT C

1. **Action No:** 67/97
2. **Beneficiary** (1): WFP (World Food Programme), via Cristoforo Colombo 426, I-00145 Roma
tel.: (39-6) 6513 2988; fax: 6513 2844/3; telex: 626675 WFP I
3. **Beneficiary's representative:** to be designated by the recipient
4. **Country of destination:** Liberia
5. **Product to be mobilised** (8): split peas
6. **Total quantity (tonnes net):** 1 557
7. **Number of lots:** 1
8. **Characteristics and quality of the product** (3) (4) (7): —
9. **Packaging** (5): see OJ C 267, 13.9.1996, p. 1 (4.0 A 1.c, 2.c and B.4)
10. **Labelling or marking** (6): see OJ C 114, 29.4.1991, p. 1 (II.A.(3))
— Language to be used for the markings: English
— Supplementary markings: —
11. **Method of mobilisation of the product:** The product must originate from the Community
12. **Specified delivery stage:** free at port of shipment
13. **Alternative delivery stage:** —
14. (a) **Port of shipment:** —
(b) **Loading address:** —
15. **Port of landing:** —
16. **Place of destination:** —
— port or warehouse of transit: —
— overland transport route: —
17. **Period or deadline of supply at the specified stage:**
— first deadline: 29.6 to 19.7.1998
— second deadline: 13.7 to 2.8.1998
18. **Period or deadline of supply at the alternative stage:**
— first deadline: —
— second deadline: —
19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
— first deadline: 2.6.1998
— second deadline: 16.6.1998
20. **Amount of tendering guarantee:** ECU 5 per tonne
21. **Address for submission of tenders and tendering guarantees** (1): Bureau de l'aide alimentaire, Attn Mr T. Vestergaard, Bâtiment Loi 130, bureau 7/46, Rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel
telex: 25670 AGREC B; fax: (32 2) 296 70 03 / 296 70 04 (exclusively)
22. **Export refund:** —

Notes:

- (¹) Supplementary information: André Debongnie (Tel.: (32 2) 295 14 65).
Torben Vestergaard (Tel.: (32 2) 299 30 50).
- (²) The supplier shall contact the beneficiary or the representative as soon as possible to establish which consignment documents are required.
- (³) The supplier shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.
- (⁴) The supplier shall supply to the beneficiary or its representative, on delivery, the following document:
— phytosanitary certificate.
- (⁵) Since the goods may be rebagged, the supplier must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.
- (⁶) Notwithstanding OJ C 114, point IIA (3) (c) is replaced by the following: 'the words "European Community"' and point IIA (3) (b) by the following: 'pois cassés'.
- (⁷) Tenders shall be rejected unless they specify the type of peas to which they relate.
- (⁸) Yellow or green peas (*Pisum sativum*) for human consumption of the most recent crop. The peas must not have been coloured artificially. The split peas must be steam-treated for at least two minutes or have been fumigated (⁹) and meet the following requirements:
— moisture: maximum 15 %,
— foreign matters: maximum 0,1 %,
— broken split peas: maximum 10 % (pea fragments passing through a sieve of circular mesh of 5 mm diameter),
— percentage of discoloured seeds or of different colour: maximum 1,5 % (yellow peas), maximum 15 % (green peas),
— cooking time: maximum 45 minutes (after soaking for 12 hours).
- (⁹) The successful tender shall supply to the beneficiary or its representative, on delivery a fumigation certificate.
- (⁹) The marking in Korean must be made as follows on the reverse side of the packaging:

European Community: 구 주 공 동 체

Peas: 완 두

For free distribution: 무 상 배 급 용

(¹⁰) In addition to the provisions of Article 14(3) of Regulation (EC) No 2519/97, vessels chartered shall not appear on any of the four most recent quarterly lists of detained vessels as published by the Paris Memorandum of Understanding on Port State Control (Council Directive 95/21/EC, (OJ L 157, 7.7.1995, p. 1)).

COMMISSION REGULATION (EC) No 1039/98
of 18 May 1998
on the supply of vegetable oil as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1292/96 of 27 June 1996 on food-aid policy and food-aid management and special operations in support of food security⁽¹⁾, and in particular Article 24(1)(b) thereof,

Whereas the abovementioned Regulation lays down the list of countries and organisations eligible for Community aid and specifies the general criteria on the transport of food aid beyond the fob stage;

Whereas, following the taking of a number of decisions on the allocation of food aid, the Commission has allocated vegetable oil to certain beneficiaries;

Whereas it is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EC) No 2519/97 of 16 December 1997 laying down general rules for the mobilisation of products to be supplied under Council Regulation (EC) No 1292/96 as Community food aid⁽²⁾; whereas it is necessary to specify the time limits and conditions of supply to determine the resultant costs;

Whereas, in order to ensure that the supplies are carried out for a given lot, provision should be made for tenderers to be able to mobilise either rape-seed oil or sunflower

oil; whereas the contract for the supply of each such lot is to be awarded to the tenderer submitting the lowest tender,

HAS ADOPTED THIS REGULATION:

Article 1

Vegetable oil shall be mobilised in the Community, as Community food aid for supply to the recipient listed in the Annex, in accordance with Regulation (EC) No 2519/97 and under the conditions set out in the Annex.

The supply shall cover the mobilisation of vegetable oil produced in the Community. Mobilisation may not involve a product manufactured and/or packaged under inward processing arrangements.

Tenders shall cover either rape-seed oil or sunflower oil. Tenders shall be rejected unless they specify the type of oil to which they relate.

The tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in his tender is deemed unwritten.

Article 2

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

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

Done at Brussels, 18 May 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 166, 5. 7. 1996, p. 1.

⁽²⁾ OJ L 346, 17. 12. 1997, p. 23.

ANNEX

LOT A

1. **Action No:** 12/98
2. **Beneficiary** (2): North Korea
3. **Beneficiary's representative:** Flood Damage Rehabilitation Committee, PO Box No 44, Pyongyang Democratic People's Republic of Korea. Contact: Ri Si Hong, Director
Tel. (850-2) 382 70 00, fax 381 46 60, tlx 5350KP/5351KP
4. **Country of destination:** North Korea
5. **Product to be mobilised:** vegetable oil: refined rapeseed oil or refined sunflower oil
6. **Total quantity (tonnes net):** 3 000
7. **Number of lots:** 1
8. **Characteristics and quality of the product** (3) (4) (6): see OJ C 114, 29.4.1991, p. 1 (III.A.(1)(a) or (b))
9. **Packaging:** see OJ C 267, 13.9.1996, p. 1 (10.7A and B.2)
10. **Labelling or marking** (5) (7): see OJ C 114, 29.4.1991, p. 1 (III.A.(3))
 - language to be used for the markings: English and Korean
 - supplementary markings: 'FOR FREE DISTRIBUTION'
11. **Method of mobilisation of the product:** mobilisation of refined vegetable oil produced in the Community
Mobilisation may not involve a product manufactured and/or packaged under inward-processing arrangements
12. **Specified delivery stage:** free at port of landing — landed (8)
13. **Alternative delivery stage:** free at port of shipment
14. (a) **Port of shipment:** —
(b) **Loading address:** —
15. **Port of landing:** Nampo
16. **Place of destination:** —
 - port or warehouse of transit: —
 - overland transport route: —
17. **Period or deadline of supply at the specified stage:**
 - first deadline: 16.8.1998
 - second deadline: 30.8.1998
18. **Period or deadline of supply at the alternative stage:**
 - first deadline: 22.6-5.7.1998
 - second deadline: 6-19.7.1998
19. **Deadline for the submission of tenders (12 noon, Brussels time):**
 - first deadline: 2.6.1998
 - second deadline: 16.6.1998
20. **Amount of tendering guarantee:** ECU 15 per tonne
21. **Address for submission of tenders and tendering guarantees** (1): Bureau de l'aide alimentaire, Attn Mr T. Vestergaard, Bâtiment Loi 130, bureau 7/46, rue de la Loi/Wetstraat 200, B-1049 Brussels
telex 25670 AGREC B; fax (32 2) 296 70 03/296 70 04 (exclusively)
22. **Export refund:** —

Notes:

- (¹) Supplementary information: André Debongnie (tel. (32-2) 295 14 65).
Torben Vestergaard (tel. (32-2) 299 30 50).
- (²) The supplier shall contact the beneficiary or its representative as soon as possible to establish which consignment documents are required.
- (³) The supplier shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.
- (⁴) The supplier shall supply to the beneficiary or its representative, on delivery, the following document:
— health certificate.
- (⁵) Notwithstanding OJ C 114, point III. A (3) (c) is replaced by the following: ‘the words “European Community”’.
- (⁶) Tenders shall be rejected unless they specify the type of oil to which they relate.
- (⁷) The marking in Korean must be made as follows on the reverse side of the packaging:

European Community:

구주공동체

Rape seed oil:

유채씨 기름

Sunflower oil:

해바라기 기름

For free distribution:

무상배급용

- (⁸) In addition to the provisions of Article 14(3) of Regulation (EC) No 2519/97, vessels chartered shall not appear on any of the four most recent quarterly lists of detained vessels as published by the Paris Memorandum of Understanding on Port State Control (Council Directive 95/21/EC (OJ L 157, 7.7.1995, p. 1)).

COUNCIL DIRECTIVE 98/29/EC

of 7 May 1998

on harmonisation of the main provisions concerning export credit insurance for transactions with medium and long-term cover

THE COUNCIL OF THE EUROPEAN UNION,

(1986 to 1994)⁽¹⁾, in particular under Article 3(1)(a) and paragraph (j) of Annex I thereto;

Having regard to the Treaty establishing the European Community, and in particular Article 113 thereof,

(7) Whereas the premium charged by credit insurers should correspond to the risk insured;

Having regard to the proposal from the Commission,

(1) Whereas medium and long-term export credit insurance plays a crucial role in international trade and constitutes a major commercial policy instrument;

(8) Whereas harmonisation would foster cooperation among the credit insurers acting on behalf of the State or with State support, and enhance cooperation among enterprises within the Community as envisaged by Article 130 of the Treaty;

(2) Whereas medium and long-term export credit insurance plays an important part in trade with developing countries and thus fosters their integration into the world economy, which is an objective of Community development policy;

(9) Whereas both harmonisation and cooperation are major and crucial factors in the competitiveness of Community exporters on non-Community markets;

(3) Whereas the differences between the official medium and long-term export credit insurance systems currently operating in the Member States with regard to the main constituents of cover, premiums and cover policy may result in distortions of competition among enterprises within the Community;

(10) Whereas the Commission White Paper on completing the internal market adopted by the European Council in June 1985 stresses the importance of an environment conducive to cooperation among enterprises in the Community;

(4) Whereas it seems appropriate that the measures provided for in this Directive should not go beyond what is necessary to achieve the objective of the harmonisation necessary to ensure that export policy is based on uniform principles and that competition between enterprises in the Community is not distorted;

(11) Whereas, by a Decision⁽²⁾ dated 27 September 1960, the Council set up a Policy Coordination Group for Credit Insurance, Credit Guarantees and Financial Credits;

(5) Whereas in order to lessen existing distortions of competition, it is desirable that the different official export credit insurance systems be harmonised, as envisaged in Article 112 of the Treaty, on the basis of uniform principles and in such a way as to form an integral part of the common commercial policy;

(12) Whereas on 15 May 1991 the said Policy Coordination Group mandated experts from each of the Member States at that time who, as the Single Market 1992 Experts' Group, submitted reports containing a set of proposals on 27 March 1992, 11 June 1993 and 9 February 1994;

(6) Whereas the provision by governments (or special institutions controlled by governments) of export credit guarantee or insurance programmes at premium rates which are inadequate to cover the long-term operating costs and losses of the programmes are classified as prohibited export subsidies in the Agreement on Subsidies and Countervailing Measures concluded in the framework of the Uruguay Round of multilateral trade negotiations

(13) Whereas by Decision 93/112/EEC⁽³⁾, the Council implemented into Community law the OECD Arrangement on Guidelines for Officially Supported Export Credits;

(14) Whereas Council Directive 70/509/EEC of 27 October 1970 on the adoption of a common credit insurance policy for medium- and long-term

⁽¹⁾ OJ L 336, 23. 12. 1994, p. 156.

⁽²⁾ OJ 66, 27. 10. 1960, p. 1339/60.

⁽³⁾ OJ L 44, 22. 2. 1993, p. 1. Decision as last amended by Decision 97/530/EC (OJ L 216, 8. 8. 1997, p. 77).

transactions with public buyers⁽¹⁾ and Council Directive 70/510/EEC of 27 October 1970 on the adoption of a common credit insurance policy for medium and long-term transactions with private buyers⁽²⁾, should be replaced by this Directive;

- (15) Whereas this initial harmonisation of export credit insurance should be considered as a step towards convergence of the various systems of the Member States,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Scope

This Directive applies to cover for transactions related to the export of goods and/or services originating in a Member State, in so far as this support is provided directly or indirectly for the account of, or with the support of, one or more Member States, involving a total risk period of two years or more, that is to say, the repayment period including the manufacturing period.

This Directive does not apply to cover for bid, advance payment, performance and retention bonds. Neither does it apply to cover for risks relating to construction equipment and material when locally used for the performance of the commercial contract.

Article 2

Obligations of the Member States

Member States shall ensure that any institution providing cover directly or indirectly in the form of export credit insurance, guarantees or refinancing for the account of the Member State or with the support of the Member State representing the government itself or controlled by and/or acting under the authority of the government providing cover, hereinafter referred to as 'insurers', covers transactions related to the export of goods and/or service in accordance with the provisions set out in the Annex, when destined for countries outside the Community and financed by buyer credit or supplier credit or paid on cash terms.

Article 3

Implementing decisions

The decisions referred to in point 46 of the Annex shall be taken by the Commission, in accordance with the procedure laid down in Article 4.

⁽¹⁾ OJ L 254, 23. 11. 1970, p. 1. Directive as last amended by the 1994 Act of Accession.

⁽²⁾ OJ L 254, 23. 11. 1970, p. 26. Directive as last amended by the 1994 Act of Accession.

Article 4

Committee

The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission.

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the committee, they shall be communicated by the Commission to the Council forthwith. In that event:

- the Commission shall defer application of the measures which it has decided for a period which may not exceed one month from the date of communication,
- the Council, acting by a qualified majority, may take a different decision within the time limit referred to in the first indent.

Article 5

Report and review

The Commission shall submit a report to the Council by 31 December 2001 on the experience gained and the convergence achieved in applying the provisions laid down in this Directive.

Article 6

Relationship to other procedures

The procedures laid down by this Directive supplement those established by Decision 73/391/EEC⁽³⁾.

Article 7

Repeal

Directive 70/509/EEC and Directive 70/510/EEC are hereby repealed.

Article 8

Transposition

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 April 1999. They shall forthwith inform the Commission thereof.

⁽³⁾ OJ L 346, 17. 12. 1973, p. 1. Decision as amended by Decision 76/641/EEC (OJ L 223, 16. 8. 1976, p. 25).

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

Article 9

Entry into force

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Communities*.

Article 10

Addressees

This Directive is addressed to the Member States.

Done at Brussels, 7 May 1998.

For the Council

The President

M. BECKETT

ANNEX

COMMON PRINCIPLES FOR EXPORT CREDIT INSURANCE

CHAPTER I: CONSTITUENTS OF COVER

Section 1: **General principles and definitions**1. *Scope of the common principles*

- (a) The common principles laid down in this Annex shall apply to cover for supplier credit transactions with public or private buyers and to cover for buyer credit transactions with public or private borrowers.
- (b) The common principles shall apply to cover for all risks as defined in point 4. Nevertheless, the insurer may decide in each individual case to limit its cover to certain risks only.
- (c) When all the obligations of a private debtor are wholly and unconditionally guaranteed by an entity which is considered public in accordance with point 5 of this Annex, the common principles for public debtors shall apply.

When used in this Annex, the term 'debtor' means either the buyer or borrower as referred to in point 1(a), or their guarantor with regard to the insured transaction.

2. *Characteristics of supplier credit*

- (a) The term 'supplier credit' shall apply to a commercial contract providing for an export of goods and/or services originating in a Member State between one or more suppliers and one or more buyers, whereby the buyer(s) undertake to pay the supplier(s) on cash terms or on credit terms.
- (b) Cover provisions for supplier credit shall apply where cover is given to enterprises established in a Member State in accordance with Article 58 of the Treaty.
- (c) If a commercial contract is being financed by means of a buyer credit or any other financing arrangement, cover given to the exporter for the commercial contract itself shall follow the provisions for cover for supplier credits.

3. *Characteristics of buyer credit*

- (a) The term 'buyer credit' shall apply to a loan agreement between one or more financial institutions and one or more borrowers financing a commercial contract providing for an export of goods and/or services originating in a Member State, whereby the lending institution(s) undertake to pay the supplier(s) under the underlying transaction on cash terms on behalf of the buyer(s)/borrower(s), while the buyer(s)/borrower(s) will reimburse the lending institution(s) on credit terms.
- (b) Cover provisions for buyer credit shall apply where cover is given to financial institutions, irrespective of their place of establishment or registration, provided that the buyer credit constitutes an unconditional obligation of the borrower to repay its debt, irrespective of the performance of the commercial contract to be financed.
- (c) Cover provisions for buyer credit shall apply to cover given to a financial institution in respect of negotiable instruments properly held by that financial institution and payable by a buyer pursuant to any arrangement for the financing of a commercial contract.

4. *Definition of the risks involved*

- (a) The commercial risk for private debtors is determined by points 14, 15 and 16.
- (b) The political risk for private debtors is determined by points 17 to 22, and for public debtors by points 15 to 22.
- (c) The manufacturing risk is determined by point 6(b).
- (d) The credit risk is determined by point 6(c).

5. *Status of the debtor*

- (a) Any entity which, in whatever form, represents the public authority itself and which cannot, either judicially or administratively, be declared insolvent, shall be considered as a public debtor. This may either be a sovereign debtor, i.e. an entity which represents the full faith and credit of the State, e.g. the Ministry of Finance or the Central Bank, or any other subordinate public entity, such as regional, municipal or parastatal authorities or other public institutions.
- (b) When assessing the status of a debtor, the insurer shall take into account:
 - the legal status of the debtor,
 - the real effectiveness of any legal action against the debtor,
 - the debtor's sources of finance and revenue; this shall take account of the fact that a public debtor may also discharge his debts by using sources which are not related to central government funds, for example through revenues raised by local taxation, or by providing public services,
 - the degree of influence or control over the debtor that can be exercised by the host country government.
- (c) Any debtor which is not public, according to the aforementioned criteria, shall be, in principle, considered as private.

Section 2: **Scope of cover**

6. *Covered risk*

- (a) The covered risks shall be the risk of loss arising from the manufacturing and the credit risk.
- (b) Loss arising from manufacturing risk materialises when the performance of the contractual obligations of the policyholder, or the manufacture of the goods ordered, has been suspended for a period of six consecutive months, provided that such suspension is caused directly and exclusively by the occurrence of one or more of the covered causes of loss listed in points 14 to 22.
- (c) Loss arising from credit risk materialises when the policyholder has been unable to obtain payment of any amount due to it under the relevant commercial contract or loan agreement during a period of three months after the due date, provided that such non-payment is caused directly and exclusively by the occurrence of one or more of the covered causes of loss listed in points 14 to 22.
- (d) Where the risk related to a buyer credit is guaranteed unconditionally the insurer shall follow the principles and procedures laid down in points 32, 33, and 47(a).

7. *Extent of cover*

- (a) Cover for manufacturing risk shall include, within the limit of the contract amount, the costs incurred by the policyholder either in performing its contractual obligations or in manufacturing the goods subject to the contract, provided that such costs are properly attributable to the performance of the contract.

Cover for the manufacturing risk shall not include:

- costs incurred in respect of goods and/or services for which cover of the credit risk has already taken effect,
 - amounts paid by the policyholder following the calling of a bond issued in respect of the covered contract; however, this does not prevent the insurer from covering such risks outside the scope of this Directive, and
 - amounts corresponding to penalties and damages paid by the policyholder to the debtor.
- (b) Cover for credit risk shall include the amount (principal and interest) owed by the buyer under the commercial contract or by the borrower under the loan agreement, including interest accruing after the due date (post-maturity interest).

Cover for credit risk shall exclude amounts corresponding to penalties and damages paid by the policyholder to the debtor.

8. *Percentage of cover*

- (a) The percentage of cover and the basis for determining the maximum amount of the indemnity for which the insurer may be liable shall be expressly laid down in the credit insurance policy issued by the insurer.
- (b) If an insurer gives a cover percentage higher than 95 %, it shall follow the principles and procedures laid down in points 32, 33 and 47(a).

9. *Uninsured percentage*

Without prejudice to the provisions of point 8(b), the policyholder shall retain for its own account any uninsured percentage. The insurer may decide to allow the policyholder to wholly or partially lay off such uninsured percentage.

10. *Cover for transactions in foreign currency*

If transactions provide for payment or financing in one or more foreign currencies, cover may be given in any such currency.

11. *Foreign supplies*

Subcontracts with parties in one or more Member States are automatically included in the cover in accordance with Council Decision 82/854/EEC of 10 December 1982 on the rules applicable, in the fields of export guarantees and finance for export, to certain subcontracts with parties in other Member States or in non-member countries⁽¹⁾.

12. *Effective date of cover*

(a) In case of a buyer credit, cover shall take effect on the date of entry into force of the loan agreement, provided that the conditions precedent stipulated in the credit insurance policy and the loan agreement have been met.

(b) In case of a supplier credit, cover of the manufacturing risk shall take effect on the date of entry into force of the commercial contract, provided that the conditions precedent stipulated in the credit insurance policy and the commercial contract have been met.

Cover of the credit risk shall take effect on the date on which full completion of the contractual obligations of the policyholder entitles the latter to payment, provided that the conditions precedent stipulated in the credit insurance policy and the commercial contract have been met. However, cover of the credit risk may take effect on the date of each partial delivery or partial dispatch, provided that the policyholder, under the terms of the contract, is entitled to payment of a fixed and definitive amount corresponding to the value of the goods and/or services delivered or dispatched.

Section 3: Causes of loss and exclusions of liability

13. *Liability of the insurer*

The insurer shall be liable if the loss is directly and exclusively attributable to one or more of the covered causes of loss laid down in points 14 to 22.

14. *Insolvency*

Insolvency of the private debtor and, if any, its guarantor, either *de jure* or *de facto*.

15. *Default*

Default of the debtor and, if any, its guarantor.

16. *Arbitrary repudiation or refusal*

Decision of the buyer under a supplier credit to interrupt or cancel the commercial contract, or to refuse to accept the goods and/or services, without being entitled to do so.

17. *Decision of a third country*

Any measure or decision of the government of a country other than the country of the insurer, or the country of the policyholder, including measures and decisions of public authorities which are deemed to constitute government interventions, which prevents performance of the loan agreement or the commercial contract, respectively.

18. *Moratorium*

General moratorium decreed either by the government of the country of the debtor, or by that of a third country through which payment in respect of the loan agreement or the commercial contract is to be effected.

⁽¹⁾ OJ L 357, 18. 12. 1982, p. 20.

19. *Prevention or delay in the transfer of funds*

Political events, economic difficulties, or legislative or administrative measures which occur or are taken outside the country of the insurer, and which prevent or delay the transfer of funds paid in respect of the loan agreement or the commercial contract.

20. *Legal provisions in the debtor's country*

Legal provisions adopted in the country of the debtor declaring payments made by the debtor in local currency to be valid discharge of the debt, notwithstanding that, as a result of fluctuations in exchange rates, such payments, when converted into the currency of the commercial contract or of the loan agreement, no longer cover the amount of the debt at the date of transfer of funds.

21. *Decision of the country of the insurer or of the policyholder*

Any measure or decision of the government of the country of the insurer or of the policyholder, including measures and decisions of the European Community, relating to trade between a Member State and third countries, such as a ban on exports, in so far as its effects are not covered otherwise by the government concerned.

22. *Force majeure*

Cases of *force majeure* occurring outside the country of the insurer, which could include war including civil war, revolution, riot, civil disturbance, cyclone, flood, earthquake, volcanic eruption, tidal wave, and nuclear accident, in so far as its effects are not insured otherwise.

23. *General exclusion from liability*

The insurer should be entitled to decline liability for any loss that is directly or indirectly attributable to the following:

- (a) any action or omission by the policyholder, or by any person acting on its behalf;
- (b) any provision restricting the policyholder's rights, which is included in the loan agreement, the commercial contract, or any associated document including any document relating to the guarantee or security arrangements involved;
- (c) any further agreement between the policyholder and the debtor after conclusion of the loan agreement or the commercial contract, which prevents or delays the payment of the debt;
- (d) in the case of a supplier credit, any failure of subcontractors, co-contractors, or other suppliers to perform their obligations, provided that such failure is not a consequence of political events as described in causes of loss listed in points 17 to 22.

Section 4: Provisions for the indemnification of claims

24. *Claim waiting period*

- (a) The claim waiting period shall correspond to the period of time set for the covered risk to materialise, as laid down in point 6(b) and (c).
- (b) No claim waiting period need apply:
 - when, in the case of a private debtor, the non-payment is due to the debtor's insolvency, either *de jure* or *de facto*,
 - in case of a bilateral intergovernmental debt restructuring agreement.

25. *Indemnification and assignment*

- (a) The policyholder is entitled to indemnification at the end of the claim waiting period as defined in point 24, provided that the conditions precedent to the insurance and the indemnification have been fulfilled, the claim is legally valid, and the policyholder has managed the risk with due diligence.
- (b) The insurer is entitled to assignment of the policyholder's rights under, respectively, the loan agreement or the commercial contract.

26. *Secured obligations*

If the debtor's obligations to the policyholder have been secured by means of a guarantee or other security, the policyholder must have taken all necessary measures as required in the policy to ensure not only that the guarantee or other security is valid and enforceable, but also to actually enforce the security.

27. *Calculation of the claim*

Without prejudice to the provisions of point 31, the insurer shall, in calculating the payment of a claim, not pay the policyholder an amount exceeding the actual amount of its total loss, and/or exceeding the amount which the policyholder was actually entitled to receive from the borrower under the loan agreement or from the buyer under the commercial contract, respectively.

28. *Payment of the claim*

The claim shall be paid without delay, at the latest, however, within one month of the end of the claim waiting period, provided that the insurer has been notified promptly of the occurrence of the claim and received all necessary information, documents, and evidence in order to establish the validity of the claim in good time.

In the case of cover for manufacturing risk, the claim shall be paid within one month either of the end of the claim waiting period, or of the date of receipt of an expert's report, where relevant, or of the date of agreement by the policyholder and the insurer on the amount of the claim, whichever is later.

29. *Disputes relating to the claim*

If losses subject to an application for indemnification by the policyholder relate to rights which are in dispute, the insurer may defer the payment of the claim until the dispute is settled in favour of the policyholder by the court or arbitration body provided for in the loan agreement or the commercial contract, respectively.

30. *Bilateral intergovernmental debt restructuring agreement*

(a) If the covered loan agreement or commercial contract is subject to a bilateral intergovernmental debt restructuring agreement, the policyholder shall follow the conditions of the restructuring agreement in respect of both the insured and the uninsured portions of that loan agreement or commercial contract, respectively. The policyholder shall give any necessary assistance to the insurer for the performance of the restructuring agreement.

(b) If the insured amount is included in a bilateral intergovernmental debt restructuring agreement, the insurer may waive the one-month period provided for in point 28, once the bilateral agreement is effective.

31. *Additional costs*

Additional costs resulting from action to minimise or avoid loss shall be covered proportionally to the percentage of cover under the credit insurance policy, provided that they have been approved by the insurer. Additional costs include costs of court action and other legal expenses to minimise or avoid loss but exclude costs of establishing the validity of a claim.

However, if such costs also relate to amounts or maturities not covered by the insurer, they shall be attributed proportionally to the insured and uninsured amounts or maturities.

CHAPTER II: PREMIUM

32. *General principles for setting the premium*

Premiums shall converge. To this end the premium charged for export credit insurance shall:

- correspond to the risk (country, sovereign, public and/or private risk) covered,
- adequately reflect the scope and the quality of the cover granted,
- not be inadequate to cover long-term operating costs and losses.

33. *Quality of cover*

When determining the quality of cover as mentioned in point 32, the insurer shall duly take into account the percentage of cover, the conditionality of cover, and any other condition affecting the quality of cover.

34. *Country risk assessment*

The level of premium charged for each country or each country category shall be based on an appropriate country risk assessment.

35. *Creditworthiness of the debtor*

When setting premium rates, the insurer shall appropriately take the creditworthiness of the debtor including its status as set out in point 5 into account.

36. *Risk period*

When calculating the premium, the insurer shall take account of the total risk period as well as the repayment profile and interest.

37. *Chargeable amount*

(a) Premium shall be paid on the chargeable amount and shall be based, as far as possible, on minimum premium benchmarks. The benchmarks shall be expressed in percentages of a reference value as if the premium were collected in full at the date of the insurance or guarantee; for credit risk this reference value shall at least be, respectively, the amount of the principal of the loan or the (re-)financed portion of the commercial contract, and for manufacturing risk the total contract value minus the downpayment.

(b) In the case of manufacturing risk, the chargeable amount may be reduced to the expected maximum loss.

38. *Payment of premium*

(a) The total premium amount shall be due on the date of the credit insurance policy or guarantee or when the contract or loan agreement becomes fully effective.

(b) The premium may be paid in instalments or by adding a spread to the interest rate, provided that this corresponds, in net present value terms, to the premium amount referred to in point 38(a) above.

CHAPTER III: COUNTRY COVER POLICY

39. *Determination of the country cover policy*

(a) The insurer shall, in the light of its size and the structural economic constraints, base its country cover policy on its assessment of the risk by country, its total outstanding exposure for each country, and the composition of its country risk portfolio.

(b) In setting its country cover policy, the insurer shall take into account each debtor country's classification.

(c) Nevertheless, the insurer shall be free to stop or limit insuring business for a particular country, regardless of the country classification.

40. *Definition of total outstanding exposure*

The total outstanding exposure shall, within the limits of the percentage of cover, be determined on the basis of the amounts for medium and long-term business, as defined in Article 1 of the Directive.

41. *Country risk*

(a) As regards the group of countries which constitute the best risk, the insurer shall, in principle, set no restrictions on its cover policy.

(b) For other countries, the insurer may set restrictions on its cover policy.

(c) An insurer which, in principle, does not offer cover for a country or a particular group of countries, may, however, exceptionally cover certain transactions for reasons of bilateral policy or national interest, or where sufficient freely convertible foreign exchange is available for the transaction in question.

(d) Concerning the countries referred to in point (b) above, insurers may set risk limits, in cumulative or alternative manner, for example:

— the total outstanding exposure for that country,

— the total value of offers of cover,

— the value of new contracts to be covered,

— the maximum amount covered per transaction.

Insurers may also increase the applicable premium.

Below the risk limits for a particular country, there shall in principle be no limit on cover policy.

42. *Specific conditions for country cover*

In any case, the insurer may routinely apply to a particular country, irrespective of the corresponding country category, certain cover conditions such as:

- payment and/or transfer guarantee by the Central Bank or the Finance Ministry of the relevant country,
- irrevocable letter of credit or bank guarantee,
- extension of the claim waiting period,
- reduction in the cover percentage,
- restriction of the cover for certain sectors of activity or for certain types of projects.

CHAPTER IV: NOTIFICATION PROCEDURES

43. *Scope of the notification procedures*

- (a) Insurers shall apply the following procedures to the common principles set out in Chapters I, II and III.
- (b) These procedures shall supplement those established under Council Decision 73/391/EEC of 3 December 1973 on consultation and information procedures in matters of credit insurance, credit guarantees and financial credits⁽¹⁾.

44. *Types of notification procedures*

There shall be four types of notification procedures, destined to the Commission and the other insurers:

- annual notification for information,
- notification for decision,
- ex-ante notification for information, and
- ex-post notification for information.

The data provided shall not be disclosed to third parties.

45. *Annual notification for information*

- (a) At the end of each year, at the latest however by 30 April of the following year, each insurer shall report to the other insurers and to the Commission on its activity over the previous year on a retrospective basis. This report shall cover all debtor countries and shall contain, for each of these countries:
 - the total amount of cover the insurer has offered,
 - the total outstanding exposure as defined in point 40,
 - the premium earned,
 - the amount of recoveries made, and
 - the amount of claims paid.
- (b) At the beginning of each year, at the latest by 31 January, each insurer shall report to the other insurers and to the Commission on its cover policy, including the type and level of ceilings as well as the conditions the insurer intends to routinely impose on cover, as envisaged or applicable for the year to come.

46. *Notification for decision*

- (a) In case of competing offers from Community exporters or banks, an insurer involved shall respond promptly to any request for information from another insurer involved on the status of the debtor of the transaction in question — as defined in point 5.
- (b) In case of disagreement on the status of the debtor, the insurers involved shall make the information available to the other insurers in a bid to settle on a mutually agreed status.
- (c) If insurers cannot agree on the status of the debtor within 10 working days from the request for information, the insurers involved shall bring the matter with the relevant information to the attention of the Commission, which shall take a decision in accordance with the procedure laid down in Article 4 of this Directive.

⁽¹⁾ OJ L 346, 17. 12. 1973, p. 1. Decision as last amended by the 1994 Act of Accession.

47. Ex-ante notification for information

- (a) An insurer which intends to derogate from the provisions of this Annex by giving more favourable cover conditions either for a particular transaction or a set of transactions, or for a certain sector or sectors, or for a certain country or countries, or for its overall system, shall notify the other insurers and the Commission of its intention at least seven working days before its decision becomes effective, stating the reasons for the intended derogation, for example the need to match international competition, and the corresponding premium rate to be charged.
- (b) An insurer which intends to charge a lower premium than that set out in its annual notification in accordance with point 45(b), shall notify the other insurers and the Commission of its intention at least seven working days before its decision becomes effective.
- (c) An insurer which, following another insurer's notification in accordance with point (a) or (b) above, intends to give more favourable conditions than the initiating notifier, shall notify the other insurers and the Commission of its intention at least seven working days before its decision becomes effective, stating the premium rate it intends to charge.
- (d) An insurer which, in accordance with point 41(c), intends to cover transactions with debtors in countries, for which it normally does not offer cover, shall notify the other insurers and the Commission of its intention at least seven working days before its decision becomes effective, stating the premium rate it intends to charge.

48. Ex-post notification for information

- (a) An insurer which decides to derogate from the provisions of this Annex by giving less favourable cover conditions either for a particular transaction or a set of transactions, or for a certain sector or sectors, or for a certain country or countries, or for its overall system, should at the latest by 31 January notify the other insurers and the Commission accordingly for the preceding calendar year.
- (b) An insurer which decides to adjust one or more elements of its country cover policy set out in its annual notification in accordance with point 45(b), shall promptly notify the other insurers and the Commission accordingly.
- (c) An insurer which, following a notification in accordance with points 47(a) and/or (b), decides to give the same conditions as the initiating notifier, shall promptly notify the other insurers and the Commission accordingly.
- (d) Each insurer shall promptly give detailed replies to any request from other insurers or the Commission for clarification or information on its activity.

49. Use of an electronic mail system

All notifications shall normally be made via an electronic mail system, or, if necessary, by other appropriate means of instant written communication.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 6 May 1998

rejecting the application submitted by Techno Cycles (France) for an exemption pursuant to Commission Regulation (EC) No 88/97 from the anti-dumping duty extended to certain bicycle parts originating in the People's Republic of China

(98/336/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

After consulting the Advisory Committee,

Having regard to the Treaty establishing the European Community,

Whereas:

A. PROCEDURE

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾, as amended by Regulation (EC) No 2331/96⁽²⁾,

(1) By Regulation (EC) No 71/97, the definitive duty imposed on imports of bicycles originating in the People's Republic of China by Regulation (EC) No 2474/93 was extended to imports of certain bicycle parts from that country (hereinafter referred to as 'the extended anti-dumping duty').

Having regard to Council Regulation (EC) No 71/97 of 10 January 1997 extending the definitive anti-dumping duty imposed by Regulation (EEC) No 2474/93 on bicycles originating in the People's Republic of China to imports of certain bicycle parts from the People's Republic of China, and levying the extended duty on such imports registered pursuant to Regulation (EC) No 703/96⁽³⁾,

(2) On 26 September 1996, during the investigation leading to the adoption of Regulation (EC) No 71/97, Tekno Cycles asked to be exempted from the extended anti-dumping duty pursuant to Article 13(4) of Regulation (EC) No 384/96 (hereinafter referred to as 'the basic Regulation').

Having regard to Commission Regulation (EC) No 88/97 of 20 January 1997 on the authorisation of the exemption of imports of certain bicycle parts originating in the People's Republic of China from the extension by Council Regulation (EC) No 71/97 of the anti-dumping duty imposed by Council Regulation (EEC) No 2474/93⁽⁴⁾, and in particular Article 7(3) thereof,

(3) By Regulation (EC) No 88/97, the Commission declared Tekno Cycles' request for exemption admissible, initiated an investigation, and suspended payment of the customs debt incurred for the extended anti-dumping duty.

(4) In order to ascertain whether Tekno Cycles' operations fell within the scope of Article 13(2) of the basic Regulation, the Commission requested and received the necessary information from the company, which was verified at its premises on 24 and 25 February 1997.

⁽¹⁾ OJ L 56, 6. 3. 1996, p. 1.

⁽²⁾ OJ L 317, 6. 12. 1996, p. 1.

⁽³⁾ OJ L 16, 18. 1. 1997, p. 55.

⁽⁴⁾ OJ L 17, 21. 1. 1997, p. 17.

(5) In view of the fact that Tekno Cycles had only started to assemble bicycles in March 1996, the

investigation period was taken to run from 1 March 1996 to 28 February 1997.

B. RESULTS OF THE INVESTIGATION

1. Nature of the circumvention practice

- (6) The investigation has established that, on several occasions, the company concerned ordered almost complete bicycles in disassembled form from the People's Republic of China during the investigation period. For the shipments to Europe the suppliers ensured that the parts destined for Tekno Cycles were spread in different containers sent on different dates and invoiced by different companies in Hong Kong having the same address. By following this practice, the company concerned avoided having the imported parts classified in accordance with Rule 2(a) of the General Rules for the Interpretation of the Nomenclature of the Common Customs Tariff as finished bicycles which would have been subject to the anti-dumping duty.

2. Conditions of Article 13(2) of the basic Regulation

(a) *Start or substantial increase of operations*

- (7) The assembly operations of Tekno Cycles started in March 1996, well after the original investigation into imports of bicycles originating in the People's Republic of China.

(b) *60 % of the total value of the parts constituting the assembled product*

- (8) It was established that the proportion of Chinese parts used in the company's assembly operations varied from 64 to 96 % of the total value of the parts used in each model; this applied to all bicycle models assembled during the investigation period.

(c) *25 % rule on the added value to the parts brought in*

- (9) The value added in the Community on a per-model basis to the parts brought in was found to vary between 12 and 16 % of the manufacturing cost of a complete bicycle, and was therefore clearly below the 25 % threshold set by point (b) of Article 13(2) of the basic Regulation.

(d) *Undermining of the remedial effects of the duty and evidence of dumping*

(i) Undermining

- (10) The Commission applied the methodology described in recitals 19 and 20 of Regulation (EC) No 71/97. A comparison was established between the sales prices of all bicycles assembled by Tekno

Cycles and sold in the Community during the investigation period, and the 'non-dumped' export prices of Chinese bicycles in the original investigation.

- (11) The comparison was made between identical or comparable groups of bicycles; the prices of the assembled bicycles were adjusted in order to ensure that the comparison was made at the same level of trade. The undermining margins for those groups where undermining was found were expressed as a percentage of the total non-dumped import value (cif Community border) of Chinese bicycles, as established in the original investigation, for all groups included in the comparison.
- (12) Overall, the comparison showed that the sales prices of assembled bicycles have undercut the non-dumped export prices of Chinese bicycles in the original investigation period by an average of 31 %.

(ii) Evidence of dumping

- (13) Dumping was calculated on the basis of all models assembled and sold by Tekno Cycles in the investigation period which were compared to the normal values previously established for comparable bicycles, using the same criteria and the same reference country, namely Taiwan, as in the original investigation, in a manner as reasonable as possible.
- (14) In view of the fact that normal values had been established at FOB Taiwan level for the exporters concerned, resale prices in the Community had to be made comparable with this level. The actual comparison was thus made between FOB China and FOB Taiwan.
- (15) The dumping margin found was 12 %.

C. CONCLUSION

- (16) For the reasons explained above, it was established that the assembly operations of Tekno Cycles fell within the scope of Article 13(2) of the basic Regulation during the investigation period. Accordingly, pursuant to Article 7(3) of Regulation (EC) No 88/97, the suspension of payment of the extended anti-dumping duty is lifted for Tekno Cycles.
- (17) The company was informed of the essential facts and considerations on the basis of which the Commission intended to propose the rejection of its request for exemption, and was given an opportunity to comment. The comments were considered and, where appropriate, the findings have been changed accordingly,

HAS ADOPTED THIS DECISION:

Article 1

The application of Techno Cycles pursuant to Article 13(4) of Regulation (EC) No 384/96 to be exempted from the extended anti-dumping duty is hereby rejected.

Article 2

This Decision is addressed to the Member States and to: Techno Cycles, Cap St Antoine, 155, rue de Rosny, F-93102 Montreuil Cedex — France.

Done at Brussels, 6 May 1998.

For the Commission

Leon BRITTAN

Vice-President

COMMISSION DECISION

of 21 January 1998

concerning aid granted by the Flemish Region to the company Air Belgium and the tour operator Sunair in connection with the use of Ostend Airport

(Only the Dutch and French texts are authentic)

(Text with EEA relevance)

(98/337/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 93(2) thereof,

Having regard to the agreement on the European Economic Area, and in particular point (a) of Article 62(1) thereof,

Having served notice on the interested parties, in accordance with the provisions of the abovementioned Articles, to pass on their comments, and in view of those comments;

Whereas:

THE FACTS

I

In letters dated 1 and 20 June 1995 respectively the Belgian Tour Operators' Association lodged a complaint with the Commission against the subsidies granted by the Flemish Region to tour operators and airlines operating non-scheduled flights to and from Ostend Airport. As a result of the complaint the Commission conveyed that information to the Belgian authorities by mail on 15 September 1995 and then asked them to answer the two following questions in order to enable the Commission to examine the matter in the light of Articles 92 and 93 of the Treaty with regard to State aids.

- What action has the Flemish Region taken in order to assist tour operators and airlines using Ostend Airport? On what date did that action take effect? Would you please supply a copy of the regulations or decisions introducing such action.
- Since such action was initiated what amounts have been paid to the tour operators and airlines using Ostend Airport? Would you please supply a detailed table of the amounts in question, broken down according to recipient company, for each year involved.

In its letter of 17 October 1995 the Belgian Government sent the Commission a detailed answer to those questions. It emerged from this that the action by the Flemish Region to assist tour operators and airlines using Ostend Airport was intended to promote charter flights from that airport. It was the outcome of an agreement reached on 1 March 1994 between (a) the Flemish Region and (b) the airline Air Belgium NV and the tour operator Sunair NV. Under that agreement Air Belgium and Sunair undertook to implement a minimum programme of 36 charter flights (corresponding to an estimated 5 202 passengers) between Ostend Regional Airport and Majorca, Alicante and Monastir during the 1994 summer season, namely between June and September. Among other things they also undertook to provide a comparable schedule of flights in 1995 and 1996. In return 'in view of the importance in economic and tourism terms of the expansion of charter flights from Flemish airports' the Flemish Region confers the following advantages (Article 3 of the agreement, paragraphs 1 to 4), more particularly in order to provide the flights in question with:

- for 1994, an exemption from landing and parking fees (Article 3(1)),
- solely for 1994 and within the limit of 7 000 passengers carried, a subsidy calculated in such a way that Air Belgium and Sunair may offer each passenger a discount of BEF 1 000 as compared with the normal fare charged at Brussels-National Airport (Article 3(2)),
- a programme promoting the flights in question, covering a maximum figure of BEF 4,5 million (2,5 million for 1994 and 1 million each for 1995 and 1996). That programme, drawn up jointly with Air Belgium and Sunair, will take the form of advertisements, posters and other activities intended to promote the regional Flemish airports of Ostend and Antwerp in general. In 1995 and 1996 it could also take the form of a further exemption from landing and parking fees (Article 3(3)),
- for 1994 only, a subsidy intended to compensate Air Belgium for the additional cost of using Ostend

Airport. That subsidy amounts to a maximum of 50 % of the real extra cost, as demonstrated by invoice and restricted to BEF 2 million (Article 3(4)).

In its reply the Belgian Government also stated:

- that the subsidy granted in 1994 in order to offer every passenger using Ostend Airport a competitive advantage of BEF 1 000 over Zaventem Airport, provided for in Article 3(2) of the contract of 1 March 1994, ultimately rose to BEF 1 426 680, or 2 124 actual passengers. That amount has so far neither been paid by the Flemish Region nor even been claimed by the joint parties to the contract,
- that the subsidy intended to compensate for the extra costs in 1994, provided for by Article 3(4) of the contract of 1 March 1994, ultimately amounted to BEF 528 693, or 15 passenger-carrying flights. The amount was claimed by Air Belgium but has still not been paid by the Flemish Region.

In view of this information the Commission, on 13 March 1996, decided in this instance to initiate the procedure provided for by Article 93(2) of the Treaty. The Commission's doubts that prompted that initiation were based on the two following factors: the exemption from landing and parking fees, and the two subsidies described above most certainly constitute State aids within the meaning of Article 92(1) of the Treaty and of Article 61(1) of the Agreement on the European Economic Area (hereinafter referred to as the 'EEA Agreement'); the absence, at first sight, of any scope for exemption under paragraphs 2 and 3 of the said Articles. In its decision to initiate the procedure the Commission also expressed the wish to obtain all of the necessary information on the content of the flight-promotion programme for 1994, 1995 and 1996, amounting to a maximum of BEF 4,5 million.

In a letter of 29 March 1996 the Commission brought its decision to initiate the procedure to the attention of Belgium and served notice on that country to comment. That letter was published in the *Official Journal of the European Communities*⁽¹⁾, and the other Member States and interested parties were also invited to comment in accordance with Article 93(2) of the Treaty.

II

No Member State other than Belgium and no interested party has commented following publication in the *Official Journal of the European Communities*.

However, in a letter dated 13 May 1996, Belgium passed on its comments following the decision to initiate the procedure, and in response to the Commission's letter of

29 March 1996. It covered the four measures identified by the Commission, and stated that:

- ultimately the exemption from the landing and parking rights for 1994 and the two following years, as provided for by Article 3(1) of the contract of 1 March 1994, had not been granted to Air Belgium NV,
- the subsidy of BEF 1 426 680 granted in 1994 in order to offer each passenger a discount of BEF 1 000 as compared with Zaventem Airport, as provided for by Article 3(2) of the contract of 1 March 1994, had so far not been claimed by the tour operator Sunair NV, which had therefore still not received that amount,
- the maximum of BEF 4,5 million intended to finance a flight-promotion programme in 1994, 1995 and 1996, as provided by Article 3(3) of the contract of 1 March 1994, was used by Ostend Airport in order to raise public awareness of the airport among passengers on non-scheduled flights. For this commercial purpose and in order to reach the holidaymakers concerned in a highly targeted manner, the airport chose to channel the advertising via the publications and publicity campaigns conducted by the tour operator Sunair NV,
- the subsidy intended to compensate for the extra cost of using Ostend Airport, as provided for by Article 3(4) of the contract of 1 March 1994, was reduced from BEF 528 683 to BEF 270 116 after negotiations had taken place. That subsidy has still not been paid.

In that same correspondence, the Belgian authorities stressed that the action by the public authorities proved, in the final event, to be narrower in scope than that intended by the contract of 1 March 1994, owing to the success of the advertising campaigns, particularly for the non-scheduled winter flights. Moreover, no other contract has been concluded since then. They added that the two subsidies amounting to BEF 1 426 680 and BEF 270 117 respectively would only be paid if authorised by the Commission.

In a letter of 10 July 1996 the Commission informed the Belgian authorities that the information contained in their letter of 13 May 1996 did not enable it to deliver a final opinion on this matter. It therefore asked them to supply (a) a copy of the amendments made to the contracts with regard to the exemption from landing and parking fees and (b) further information on the activities and amounts involved as part of the flight-advertising programme. The Belgian authorities sent the Commission the information in question on 29 July 1996.

Finally, in its letter of 17 September 1997 the Belgian authorities noted that:

⁽¹⁾ OJ C 121, 25. 4. 1996, p. 8.

- the landing and parking fees were paid in the normal way by Air Belgium (Article 3(1) of the contract of 1 March 1994),
 - the subsidy provided for by Article 3(2) of the contract of 1 March 1994 was claimed, and involved BEF 984 600 — an amount which is still to be examined by the Flemish region and which will only be paid if approved by the Commission,
 - the cost of the advertising campaign of BEF 4,5 million was paid back to Sunair SA,
 - the subsidy of BEF 270 116 provided for by Article 3(4) of the contract of 1 March 1994 was claimed by Air Belgium SA, but will only be paid if approved by the Commission.
- the granting, in 1994, of a subsidy calculated as a function of the number of passengers carried and intended to confer a competitive advantage on the use of Ostend airport as compared with Zaventem airport (Article 3(2) of the contract),
 - the financing of a flight-advertising programme in 1994, 1995 and 1996 for a maximum amount of BEF 4,5 million (Article 3(3) of the contract),
 - the granting, in 1994, of a subsidy intended to compensate for the additional cost of using Ostend airport (Article 3(4) of the contract).

LEGAL ASSESSMENT

III

On the exemption from landing and parking fees for the years 1994, 1995 and 1996

It is clear from the information in the Commission's possession that the measure consisting in the exemption of the companies Air Belgium NV and Sunair NV from the fees charged for landing and parking aircraft at Ostend airport, as stipulated by paragraph 1 and the final indent of paragraph 3 of Article 3 of the contract of 1 March 1994 concluded between the two companies in the Flemish Region was ultimately withdrawn and never took effect. It is therefore appropriate to terminate the procedure on this matter, which has become irrelevant.

On the other three measures at issue

Pursuant to Article 92(1) of the Treaty and Article 61(1) of the EEA Agreement any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods is, in so far as it affects trade between Member States or the Contracting Parties, incompatible with the common market and with the EEA Agreement. 'State aids' must be taken to mean aid granted by the central, regional or local authorities in a Member State or by public or private bodies set up or designated by these in order to manage aid (judgment of the Court of Justice of the European Communities of 22 March 1977, Case 78/76, Steinike & Weinlig v. Federal Republic of Germany⁽¹⁾).

The three measures set out below, covered by the above-mentioned contract of 1 March 1994, should be examined in the light of those provisions:

It would seem, turning first of all to the flight-advertising programmes in 1994, 1995 and 1996 that, according to the information in the Commission's possession, the programme included publicity features and advertisements in the catalogues produced by the tour operator Sunair NV which also illustrated the position occupied by Ostend airport among Belgium's airports. They constitute a simple advertising vehicle that benefits Ostend airport and forms part of the normal activity of the Flemish region, which owns and manages Ostend airport, in order to publicise that airport. Neither its aim nor its effect was to confer an advantage on the tour operator Sunair NV, which had received BEF 4,5 million, which corresponded to the cost of that advertising campaign, above and beyond the profits which the owner/manager of the airport was likely to expect in return. It follows that the measure is not State aid within the meaning of Article 92(1) of the Treaty or Article 61(1) of the EEA Agreement. No objection should therefore be raised to this.

Next, as far as the two subsidies provided for by paragraphs 2 and 4 of Article 3 of the contract of 1 March 1994 and claimed by Air Belgium, to the tune of BEF 984 600 and BEF 270 116 respectively, are concerned: those measures constitute State aids within the meaning of Articles 92(1) and 61(1) referred to above. First, their public nature means that the action was taken, in a contractual manner, by a regional authority. Secondly, the existence of aid arises (a) from the reality of financial transfers in the form of direct subsidies, and (b) from the specific nature of those measures, which only concern two companies. Thirdly, the aids affect trade between Member States inasmuch as they apply to two companies whose air-transport business, which by its very nature directly affects trade, extends to several Member States and may cover the entire EEA. This has been particularly true since the entry into force, on 1 January 1993, of Council Regulations (EEC) No 2407/92⁽²⁾, (EEC) No 2408/92⁽³⁾ and (EEC) No 2409/92⁽⁴⁾ ('third aviation package'), which liberalise the Community civil-aviation market. Furthermore, two of the destinations specifically mentioned by

⁽²⁾ OJ L 240, 24. 8. 1992, p. 1.

⁽³⁾ OJ L 240, 24. 8. 1992, p. 8.

⁽⁴⁾ OJ L 240, 24. 8. 1992, p. 15.

⁽¹⁾ [1977] ECR 596, at paragraph 21.

the Belgian authorities are located within another Member State of the Community. Fourthly, the aids distort competition since they are granted only to two companies that are in direct competition with other Community companies within the common market. It must be pointed out here that the agreement concluded on 1 March 1994 between (a) the Flemish region and (b) the companies Air Belgium NV and Sunair NV stipulates that the flight schedule may be discontinued and that the Flemish region would then suspend its financial involvement if, during 1994 to 1995, other companies were to provide flights departing from Ostend to the same destinations and if Air Belgium and Sunair consequently suffered demonstrable financial losses. This latter clause clearly illustrates the exclusive nature of the measure. Indeed, the Belgian authorities have not challenged the description of the two subsidies in question as aid.

IV

The Commission should have been notified of the two abovementioned aid packages, which are not covered by the approved aid systems, in accordance with Article 93(3) of the Treaty. By omitting to give notification of that aid in advance, that is to say, before providing it, Belgium has failed to meet the obligations imposed upon it by Article 93(3). The aid has thus been granted illegally and is unlawful.

V

The two aid packages should be examined in terms of their compatibility with the common market, bearing in mind the provisions of Article 92(2) and (3) of the Treaty and Article 61(2) and (3) of the EEA Agreement.

The provisions of points (a), (b) and (c) of Article 92(2) of the Treaty and of points (a), (b) and (c) of Article 61(2) of the EEA Agreement do not apply to the aid in question, since it represents neither aid having a social character, granted to individual consumers without discrimination as to product origin, nor aid intended to make good the damage caused by natural disasters or other exceptional occurrences; still less is it aid granted to the economy of certain areas of Germany.

Article 92(3) of the Treaty and Article 61(3) of the EEA Agreement list the forms of aid which may be considered compatible with the common market. That compatibility

is to be assessed from a Community point of view and not that of a single Member State.

In order to safeguard the proper functioning of the common market and in view of the principles set out in point (g) of Article 3 of the Treaty, the exemptions from the provisions of Article 92(1), as defined in paragraph 3 of that Article, must be interpreted strictly when any system of aid or any individual measure is examined. In addition, in view of the sharper competition resulting from the gradual liberalisation of air transport under the third set of measures, the Commission must maintain a stringent policy of checking State aids in order to prevent them from having effects that run counter to the common interest⁽¹⁾.

Points (a) and (c) of Article 92(3) of the Treaty and points (a) and (c) of Article 61(3) of the EEA Agreement contain exemptions for aid intended to promote or smooth the development of certain regions. The aid in question had been granted by the Flemish Region, was *ad hoc* in nature, and could not benefit from the abovementioned exemptions since (a) it was operating and not investment aid, and (b) did not meet the eligibility criteria concerning the regional aid under point (a) of Article 92(3) of the Treaty or point (a) of Article 61(3) of the Agreement.

The provisions of point (b) of Article 92(3) of the Treaty and point (b) of Article 61(3) of the EEA Agreement likewise do not apply in this instance since the aid at issue is not intended to promote the execution of a European project or to remedy a serious disturbance in the economy of a Member State.

The exemptions under point (c) of Article 92(3) of the Treaty and point (c) of Article 61(3) of the EEA Agreement as regards aid intended to ease the expansion of certain economic activities applies even less to this instance in that, as was said earlier, the various types of aid in question are direct, operational aids and not aids intended to spur investment. Moreover, the Commission is only prepared to grant such an exemption to aid that accompanies a company restructuring process⁽²⁾. However, it would seem that Air Belgium and Sunair are not currently undergoing any restructuring nor that the aid in question is being granted as part of any restructuring. In any case, the Belgian authorities have never pleaded that provision.

Finally, it needs again to be pointed out that in general terms the Commission limits the scope for direct aid in providing aviation services to two highly specific cases⁽³⁾:

— first of all, where a Member State invokes the provisions of Article 4 of Regulation (EEC) No 2408/92 on public-service obligations. That is in no way the case here,

⁽¹⁾ Application of Articles 92 and 93 of the EC Treaty and Article 61 of the EEA Agreement to State aids in the aviation sector (OJ C 350, 10. 12. 1994, p. 5).

⁽²⁾ See footnote 6, Chapter V(2).

⁽³⁾ See footnote 6, Chapter III.

— secondly, where point (a) of Article 92(2) of the Treaty and point (a) of Article 61(2) of the Agreement are applied. It has already been stated earlier that this exemption could not apply to the present instance.

It emerges from the above that the two subsidies in question are not covered by any of the cases provided for by Article 92(2) and (3) of the Treaty or Article 61(2) and (3) of the EEA Agreement. It is therefore appropriate to order Belgium to cease providing these aids, which are incompatible with the common market,

HAS ADOPTED THIS DECISION:

Article 1

The two subsidies provided for by, respectively, paragraphs 2 and 4 of Article 3 of the contract concluded on 1 March 1994 between (a) the Flemish Region, and (b) the air transport operator Air Belgium NV and the tour operator Sunair NV, and claimed by Air Belgium NV for amounts of BEF 984 600 and BEF 270 116, constitute illegal State aid, since they were granted in breach of point (a) of Article 93(3) of the EC Treaty. The aid is incompatible with the common market within the meaning of Article 92 of the EC Treaty and Article 61 of the EEA Agreement.

Article 2

Belgium is ordered to cancel payment of the two subsidies referred to in Article 1.

Article 3

Within two months from notification of this Decision, Belgium shall inform the Commission of the action that it has taken in order to comply therewith.

Article 4

The Commission has no objection to the payment of BEF 4,5 million to the tour operator Sunair NV in order that the Flemish Region may in general finance the advertising of the regional airports at Ostend and Antwerp, as provided for by paragraph 3, first indent, of Article 3 of the contract of 1 March 1994, referred to in Article 1 of this Decision.

Article 5

The procedure concerning the exemption from landing and parking fees provided for in paragraph 1 and the final indent of paragraph 3 of Article 3 of the contract of 1 March 1994 referred to in Article 1 of this Decision is terminated.

Article 6

This Decision is addressed to the Kingdom of Belgium.

Done at Brussels, 21 January 1998.

For the Commission

Neil KINNOCK

Member of the Commission

COMMISSION DECISION

of 14 May 1998

amending Decision 98/226/EC concerning certain protection measures relating to classical swine fever in the Netherlands

(Text with EEA relevance)

(98/338/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market⁽¹⁾, as last amended by Directive 92/118/EEC⁽²⁾ and, in particular, Article 10(4) thereof,

Whereas outbreaks of classical swine fever have occurred in the Netherlands;

Whereas in view of the trade in live pigs, semen, embryos and ova, these outbreaks are liable to endanger the herds of other Member States;

Whereas the Netherlands have taken measures within the framework of Council Directive 80/217/EEC of 22 January 1980 introducing Community measures for the control of classical swine fever⁽³⁾, as last amended by the Act of Accession of Austria, Finland and Sweden;

Whereas, as a result of the disease situation the Commission adopted Decision 97/216/EC of 26 March 1997 concerning protection measures relating to classical swine fever in the Netherlands and repealing Commission Decision 97/122/EC⁽⁴⁾;

Whereas, as it was possible to identify geographically areas which presented a particular risk, the Commission adopted Decision 98/226/EC of 19 March 1998 amending Decision 97/216/EC concerning certain protection

measures relating to classical swine fever in the Netherlands⁽⁵⁾;

Whereas, as a result of the favourable evolution of the disease, it is necessary to amend Decision 98/226/EC;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Decision 98/226/EC is replaced by the Annex to this Decision.

Article 2

The Member States shall amend the measures they apply to trade so as to bring them into compliance with this Decision. They shall immediately inform the Commission thereof.

Article 3

This Decision is addressed to Member States.

Done at Brussels, 14 May 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 224, 18. 8. 1990, p. 29.

⁽²⁾ OJ L 62, 15. 3. 1993, p. 49.

⁽³⁾ OJ L 47, 21. 2. 1980, p. 11.

⁽⁴⁾ OJ L 87, 2. 4. 1997, p. 24.

⁽⁵⁾ OJ L 85, 20. 3. 1998, p. 34.

ANNEX

The territory of the Netherlands situated inside the following natural, administrative or man-made borders:

From the intersection at Prins Willem Alexanderweg and the river Waal, along the Waal in an eastern direction, to Kaliwaal and to Duffeltdijk (Kekerdom, municipality of Ubbergen). From Duffeltdijk in a southern direction to Kapitteldijk and to the Dutch-German border. From the Dutch-German border in a southern direction to Zwarteweg. From Zwarteweg in a southern direction to the N 271. From the N 271 in a southern direction to the bridge over the river Niers. Along the Niers in a northern direction, then in a western direction to the river Maas. Along the Maas in a southern direction to the Maasstraat intersection (SambEEK, municipality of Boxmeer). From Maasstraat in a north-western direction, then in a western direction to Zandsteeg, then on to Sambeeksedijk and to Verlengde Heistraat. From Verlengde Heistraat in a southern direction to Heikantsepeelweg. From Heikantsepeelweg in a south-western direction to the A 73. From the A 73 in a south-eastern direction to Mullensdijk. From Mullensdijk in a south-western direction to Stevenbeekseweg. From Stevenbeekseweg in a southern direction to Groeningsedijk. From Groeningsedijk in a western direction to the Oploseweg. From the Oploseweg in a south-eastern direction to Hondenbergweg. From Hondenbergweg in a south-western direction, then to Boveneind and to Vredepaaldreef. From Vredepaaldreef in a southern direction, then in a western direction to Oploseweg. From Oploseweg in a southern direction to Ripsestraat and to Burgemeester Wijtvlietlaan. From Burgemeester Wijtvlietlaan in a western direction to Doctor de Quayweg. From Doctor de Quayweg in a south-western direction to Sijpseweg. From Sijpseweg in a northern direction to Rooie Hoefsedijk. From Rooie Hoefsedijk in a south-western direction to Oost-om. From Oost-om in a northern direction to Scheiweg. From Scheiweg in a western direction to Lodderdijk. From Lodderdijk in a south-eastern direction to St-Annastraat, then to Willem de Haasstraat and to Vondellaan. From Vondellaan in a south-western direction to Kruiseind. From Kruiseind in a north-western direction to Pandelaar, then to Koksedijk, then to Gemertsdijk, then to Heuvelberg, then to Molentend and to Brugstraat. From Brugstraat in a western direction to Hezelstraat, then to Kerkstraat, then to Schansoord and to Veghelsdijk. From Veghelsdijk in a western direction to Erpseweg and to Rembrandtlaan (N 265). From Rembrandtlaan in a south-western direction to Rijksweg (N 279). From Rijksweg in a north-western direction to the A 2. From the A 2 in a northern direction to the Hertogenbosch-Nijmegen railway line. From the intersection at the A 2 and the Hertogenbosch-Nijmegen railway line, follow the railway line in a north-eastern direction to Deken van Roestellaan. From Deken van Roestellaan in a northern direction to Rodenborchweg to Schoolstraat. From Schoolstraat in an eastern direction to Bruggen and to Slagkampweg. From Slagkampweg in a northern direction to Blokkenweg. From Blokkenweg in an eastern direction to Vliertwijksestraat. From Vliertwijksestraat in a northern direction to Eerste Hoefsteeg. From Eerste Hoefsteeg in an eastern direction to Kerkdijk. From Kerkdijk in a northern direction to the Hertogswetering watercourse. From Hertogswetering in an eastern direction to Lutterstraat. From Lutterstraat in a northern direction to Osseweg and to Lithovensdijk. From Lithovensdijk in a north-eastern direction, then in a northern direction to Oyense Benedendijk to Veerstraat. From Veerstraat in a northern direction, crossing the river Maas, to Oyense Veerweg and to Veerweg. From Veerweg in a western direction to Nieuweweg. From Nieuweweg in a north-eastern direction to Hoogroekstraat. From Hoogroekstraat in an eastern direction to Zijveld. From Zijveld in a northern direction to Heemstraweg. From Heemstraweg in a western direction to Prins Willem Alexanderweg. From Prins Willem Alexanderweg in a northern direction to the Waal intersection.

COMMISSION DECISION

of 14 May 1998

concerning protection measures relating to classical swine fever in Spain and
repealing Decision 97/285/EC

(Text with EEA relevance)

(98/339/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty establishing the European Community,

Article 1

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market⁽¹⁾, as last amended by Directive 92/118/EEC⁽²⁾, and in particular Article 10(4) thereof,

Whereas a number of outbreaks of classical swine fever have occurred in Spain;

Whereas Spain has taken measures within the framework of Council Directive 80/217/EEC of 22 January 1980 introducing Community measures for the control of classical swine fever⁽³⁾, as last amended by the act of Accession of Austria, Finland and Sweden;

Whereas as a result of disease situation it was necessary to adopt Commission Decision 97/285/EC of 30 April 1997 concerning certain protection measures relating to classical swine fever in Spain⁽⁴⁾ and to amend it by Decisions 97/446/EC⁽⁵⁾, 98/93/EC⁽⁶⁾ and 98/271/EC⁽⁷⁾;

Whereas Spain has adopted the national serosurveillance programme for classical swine fever approved with Commission Decision 98/176/EC⁽⁸⁾;

Whereas due to classical swine fever evolution and spread of disease to pig holdings located in the provinces of Zaragoza and Seville it is necessary to modify adopted measures concerning the movement of pigs and the trade of boar semen from some areas of Spain;

Whereas the protection measures introduced by Commission Decision 97/285/EC, as amended by Decisions 97/446/EC, 98/93/EC and 98/271/EC, in the interest of clarity, must be repealed;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

1. Spain shall not send pigs to other Member States unless:

(a) these pigs come from a holding located in an area outside the area described in Annex I where:

- no live pigs have been introduced during the 30-day period immediately prior to the dispatch of the pigs in question,
- serological checks for classical swine fever have been carried out in accordance with Annex IV of Council Directive 80/217/EEC with a negative result within the 30 days prior to dispatch,
- an inspection of all pigs on the holding and a clinical examination of the pigs to be moved, including the taking of temperature of a proportion thereof have been carried out by the official veterinarian within 24 hours of dispatch;

(b) these pigs are transported directly from the holding of dispatch to the holding or slaughterhouse of destination in officially sealed vehicles.

2. Movements of pigs coming from areas outside the area described in Annex I to other Member States shall only be allowed following three days advance notification to the central and local veterinary authorities in the Member State of destination and dispatched by the local competent veterinary authority.

Article 2

Spain shall not send pigs from the areas described in Annex I to other parts of its territory, unless these pigs are for direct slaughter and are slaughtered at slaughterhouses in Spain designated by the competent veterinary authorities.

Article 3

Notwithstanding the provisions of Article 2, Spain shall not send pigs for breeding and production from the areas described in Annex II to other parts of Spain unless:

⁽¹⁾ OJ L 224, 18. 8. 1990, p. 29.

⁽²⁾ OJ L 62, 15. 3. 1993, p. 49.

⁽³⁾ OJ L 47, 21. 2. 1980, p. 11.

⁽⁴⁾ OJ L 114, 1. 5. 1997, p. 47.

⁽⁵⁾ OJ L 190, 19. 7. 1997, p. 48.

⁽⁶⁾ OJ L 18, 23. 1. 1998, p. 35.

⁽⁷⁾ OJ L 120, 23. 4. 1998, p. 23.

⁽⁸⁾ OJ L 65, 5. 3. 1998, p. 26.

- (a) these pigs come from a holding of dispatch where:
- they have been kept during at least 30 days or since birth if younger than 30 days old,
 - serological checks for classical swine fever have been carried out in accordance with Annex IV of Council Directive 80/217/EEC with a negative result within the 30 days prior to dispatch,
 - an inspection of all pigs on the holding and a clinical examination of the pigs to be moved, including the taking of temperature of a proportion thereof have been carried out by the official veterinarian with 24 hours of dispatch;
- (b) each of these pigs is marked by an eartag which allows the identification of the holding of dispatch;
- (c) these pigs are transported directly from the holding of dispatch to the holding of destination in officially sealed vehicles;
- (d) these pigs remain at the holding of destination for at least 30 days and no pig can leave this holding during this period unless sent directly for slaughter.

Article 4

Spain shall not send to other Member States porcine semen unless the semen originates from boars kept at a collection centre referred to in Article 3(a) of Council Directive 90/429/EEC⁽¹⁾ and situated outside the area described in Annex I.

Article 5

1. The Health certificate provided for in Council Directive 64/432/EEC⁽²⁾ accompanying pigs sent from Spain must be completed by the following:

‘Animals in accordance with Commission Decision 98/339/EC of 14 May 1998 concerning certain protection measures relating to classical swine fever in Spain and repealing Decision 97/285/EC’.

2. The health certificate provided for in Council Directive 90/429/EEC accompanying boar semen sent from Spain must be completed by the following:

‘Semen in accordance with Commission Decision 98/339/EC of 14 May 1998 concerning certain protection measures relating to classical swine fever in Spain and repealing Decision 97/285/EC’.

Article 6

Spain shall ensure that vehicles which have been used for the transport of pigs are cleaned and disinfected after each operation and the transporter shall furnish proof of such disinfection.

Article 7

Spain shall at eight days interval present data on the classical swine fever situation in the format indicated in Annex III.

Article 8

Decision 97/285/EC is hereby repealed.

Article 9

The Member States shall amend the measures they apply to trade so as to bring them into compliance with this Decision. They shall immediately inform the Commission thereof.

Article 10

This Decision is addressed to Member States.

Done at Brussels, 14 May 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 224, 18. 8. 1990, p. 62.

⁽²⁾ OJ 121, 29. 7. 1964, p. 1977/64.

*ANNEX I***Comarcas in the province of Lerida**

Pla D'Urgell

Urgell

Noguera

Segrià

Garrigues

Segarra

Comarcas veterinarias in the province of Segovia

Cuéllar

Carbonero el Mayor

Cantalejo

Santa María la Real de Nieva

Sepúlveda

Segovia

Comarcas veterinarias in the region of Madrid

Madrid

Parla

Aranjuez

Navalcarnero

Colmenar Viejo

Buitrago

Comarcas veterinarias in the province of Toledo

Toledo

Yuncos

Torrijos

Comarcas veterinarias in the province of Zaragoza

Alagón

Borja

Tauste

Zaragoza

Illueco

La Almunia de Doña Godina

Comarcas veterinarias in the province of Seville

Los Alcores

*ANNEX II***Comarcas veterinarias in the province of Segovia**

Cuéllar

Carbonero el Mayor

Cantalejo

Santa María la Real de Nieva

Sepúlveda

Segovia

Comarcas veterinarias in the region of Madrid

Madrid

Parla

Aranjuez

Navalcarnero

Colmenar Viejo

Buitrago

Comarcas veterinarias in the province of Toledo

Toledo

Yuncos

Torrijos

Comarcas veterinarias in the province of Lerida

Garrigues

Segarra

CORRIGENDA

Corrigendum to Council Regulation (EC) No 393/98 of 16 February 1998 imposing a definitive anti-dumping duty on imports of stainless steel fasteners and parts thereof originating in the People's Republic of China, India, the Republic of Korea, Malaysia, Taiwan and Thailand⁽¹⁾

(Official Journal of the European Communities L 50 of 20 February 1998)

On page 12, in '2. Duty', recital 117, first line in the section of the table relating to Taiwan:

for: 'Arrow Fastener Co. Ltd',

read: 'Arrow Fastener Co. Ltd/Level Fastener Co. Ltd, Taipei'.

On page 13, in Article 1(2), first line in the section of the table relating to Taiwan:

for: 'Arrow Fastener Co. Ltd',

read: 'Arrow Fastener Co. Ltd/Level Fastener Co. Ltd, Taipei'.

⁽¹⁾ As a consequence, Level Fastener Co. Ltd, Taipei is to be treated as if it was subject to an anti-dumping duty of 5,3 % as of the date of entry into force of Regulation (EC) No 393/98.

NOTICE TO READERS

Legal acts whose publication is not obligatory are not given an official number forming an integral part of their title but, if published in the Official Journal, are allocated a publication number by the Office for Official Publications.

Since such acts are often notified or transmitted to the addressees bearing the number of the procedure under which they were adopted (number C(1998) . . .), it has been decided to establish a link between the publication numbers.

Accordingly, from 1 June the procedure numbers will be inserted after the title of the relevant acts of the Commission.