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⁽¹⁾ Text with EEA relevance

Notice to readers (see page 3 of the cover)

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1/98
of 2 January 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 3 January 1998.

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

Done at Brussels, 2 January 1998.

For the Commission
Hans VAN DEN BROEK
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 2 January 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
0702 00 00	052	76,7
	204	47,3
	999	62,0
0709 10 00	220	184,3
	999	184,3
0709 90 70	052	102,3
	204	138,3
	999	120,3
0805 10 10, 0805 10 30, 0805 10 50	052	44,3
	204	38,0
	220	44,5
	388	18,5
	448	24,0
	624	52,8
	999	37,0
0805 20 10	204	52,7
	999	52,7
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	92,8
	624	99,2
	999	96,0
0805 30 10	052	90,4
	400	84,5
	600	86,5
	999	87,1
0808 10 20, 0808 10 50, 0808 10 90	060	47,0
	400	84,7
	404	86,4
	720	56,7
0808 20 50	999	68,7
	064	85,0
	400	97,9
	999	91,5

⁽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 2/98
of 2 January 1998
amending the import duties in the cereals sector

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 Commission Regulation (EC) No 923/96⁽²⁾,

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector⁽³⁾, as last amended by Regulation (EC) No 2092/97⁽⁴⁾, and in particular Article 2 (1) thereof,

Whereas the import duties in the cereals sector are fixed by Commission Regulation (EC) No 2638/97⁽⁵⁾;

Whereas Article 2 (1) of Regulation (EC) No 1249/96 provides that if during the period of application, the

average import duty calculated differs by ECU 5 per tonne from the duty fixed, a corresponding adjustment is to be made; whereas such a difference has arisen; whereas it is therefore necessary to adjust the import duties fixed in Regulation (EC) No 2638/97,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and II to Regulation (EC) No 2638/97 are hereby replaced by Annexes I and II to this Regulation.

Article 2

This Regulation shall enter into force on 3 January 1998.

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

Done at Brussels, 2 January 1998.

For the Commission

Hans VAN DEN BROEK

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 161, 29. 6. 1996, p. 125.

⁽⁴⁾ OJ L 292, 25. 10. 1997, p. 10.

⁽⁵⁾ OJ L 356, 31. 12. 1997, p. 23.

ANNEX I

Import duties for the products listed in Article 10 (2) of Regulation (EEC) No 1766/92

CN code	Description	Import duty by land inland waterway or sea from Mediterranean, the Black Sea or Baltic Sea ports (ECU/tonne)	Import duty by air or by sea from other ports ⁽²⁾ (ECU/tonne)
1001 10 00	Durum wheat ⁽¹⁾	0,00	0,00
1001 90 91	Common wheat seed	42,97	32,97
1001 90 99	Common high quality wheat other than for sowing ⁽³⁾	42,97	32,97
	medium quality	57,40	47,40
	low quality	65,55	55,55
1002 00 00	Rye	75,58	65,58
1003 00 10	Barley, seed	75,58	65,58
1003 00 90	Barley, other ⁽³⁾	75,58	65,58
1005 10 90	Maize seed other than hybrid	84,56	74,56
1005 90 00	Maize other than seed ⁽³⁾	84,56	74,56
1007 00 90	Grain sorghum other than hybrids for sowing	75,58	65,58

⁽¹⁾ In the case of durum wheat not meeting the minimum quality requirements referred to in Annex I to Regulation (EC) No 1249/96, the duty applicable is that fixed for low-quality common wheat.

⁽²⁾ For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal (Article 2 (4) of Regulation (EC) No 1249/96), the importer may benefit from a reduction in the duty of:

- ECU 3 per tonne, where the port of unloading is on the Mediterranean Sea, or
- ECU 2 per tonne, where the port of unloading is in Ireland, the United Kingdom, Denmark, Sweden, Finland or the Atlantic Coasts of the Iberian Peninsula.

⁽³⁾ The importer may benefit from a flat-rate reduction of ECU 14 or 8 per tonne, where the conditions laid down in Article 2 (5) of Regulation (EC) No 1249/96 are met.

ANNEX II

Factors for calculating duties

(period from 30 December 1997 to 31 December 1997)

1. Averages over the two-week period preceding the day of fixing:

Exchange quotations	Minneapolis	Kansas City	Chicago	Chicago	Minneapolis	Minneapolis
Product (% proteins at 12 % humidity)	HRS2. 14 %	HRW2. 11,5 %	SRW2	YC3	HAD2	US barley 2
Quotation (ECU/tonne)	121,82	114,31	111,53	95,00	210,92 (¹)	100,22 (¹)
Gulf premium (ECU/tonne)	21,23	14,16	8,80	6,32	—	—
Great Lakes premium (ECU/tonne)	—	—	—	—	—	—

(¹) Fob Gulf.

2. Freight/cost: Gulf of Mexico — Rotterdam: ECU 13,37 per tonne; Great Lakes — Rotterdam: ECU 23,60 per tonne.

3. Subsidy within the meaning of the third paragraph of Article 4 (2) of Regulation (EC) No 1249/96: ECU 0,00 per tonne (HRW2)
: ECU 0,00 per tonne (SRW2).

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 18 December 1997

on a TACIS Civil Society Development Programme for Belarus for 1997

(98/1/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and the Treaty establishing the European Atomic Energy Community,

Having regard to Council Regulation (Euratom, EC) No 1279/96 of 25 June 1996 concerning the provision of assistance to economic reform and recovery in the new independent States and Mongolia⁽¹⁾, and in particular to Article 3 (11) thereof,

Having regard to the proposal from the Commission,

Whereas the internal situation of Belarus has deteriorated, in particular since November 1996, leading to a step backwards in the process of democratization and the restriction of basic liberties and violations of human rights;

Whereas, for this reason, no TACIS Indicative Programme 1996-1999 nor, consequently, any action programme could be negotiated with Belarusian authorities, although such programmes would normally form the basis of bilateral TACIS cooperation with a partner State, pursuant to Article 5 of Regulation (Euratom, EC) No 1279/96;

Whereas the Council has adopted a position towards Belarus which is stated in the Conclusions of 24 February 1997, the Declaration of 29 April 1997 and the Conclusions of 15 September 1997, suspending cooperation with the Belarusian authorities in the absence of convincing efforts to proceed with the necessary democratic reforms,

but offering assistance to Belarus in the process of democratization, in particular in two specific areas: human rights protection and freedom of the media;

Whereas the Community has provided support for the process of democratization through budget line B7-7010, but that effort should be deepened and complemented by other measures;

Whereas Article 3 (11) of Regulation (Euratom, EC) No 1279/96 allows the Council to take appropriate measures concerning assistance to a partner State when an essential element for the continuation of cooperation through assistance is missing, in particular in cases of violation of democratic principles and human rights;

Whereas the Commission has proposed to the Council to set up a Civil Society Development Programme for Belarus in the framework of the 1997 TACIS programme as the appropriate measure towards Belarus;

Whereas, even in the absence of a TACIS Indicative Programme 1996-1999 and, consequently, of an action programme for Belarus, the programme proposed by the Commission will be implemented in compliance with the appropriate procedures laid down in Regulation (Euratom, EC) No 1279/96, in particular Articles 6 and 8 thereof,

HAS DECIDED AS FOLLOWS:

Article 1

The TACIS Civil Society Development Programme for Belarus for 1997 is hereby approved for a maximum amount of ECU 5 million.

⁽¹⁾ OJ L 165, 4. 7. 1996, p. 1.

Article 2

The Programme shall be implemented by the Commission, acting in accordance with the appropriate procedures laid down in Regulation (Euratom, EC) No 1279/96, in particular Articles 6 and 8 thereof.

Article 3

This Decision shall be published in the *Official Journal of the European Communities*.

Done at Brussels, 18 December 1997.

For the Council

The President

F. BODEN

COUNCIL DECISION**of 18 December 1997****fixing the amount of the Community financial contribution for 1997 to
expenditure incurred by the Swedish authorities for the release of smolt**

(98/2/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of Austria, Finland and Sweden, and in particular Article 125 thereof,

Whereas Article 125 of the Act of Accession provides that the Council, acting by a qualified majority on a proposal from the Commission, shall fix annually the amount of the Community's financial contribution to the release of smolt carried out by the competent Swedish authorities;

Whereas that financial contribution must be approved in the light of the balances existing immediately before Sweden's accession;

Whereas Council Regulation (EEC) No 2210/80 of 27 June 1980 on the conclusion of an Agreement between the European Community and the Government of Sweden relating to certain measures intended to promote the reproduction of salmon in the Baltic Sea⁽¹⁾ provides that the amount of the Community contribution must be equal to the actual costs to the Swedish authorities of breeding, tagging and releasing the quantity of smolt necessary to produce a quantity of salmon equal to the non-reciprocal quota allocated to the Community in the Swedish fishery zone for the year during which the contribution is to be granted;

Whereas the Commission has received Sweden's application for the Community financial contribution for 1997; whereas this application is the same as for 1994;

Whereas the International Committee for Baltic Fisheries has recommended a TAC for the Baltic salmon stock and

the proportion of that TAC to be allocated to the Community;

Whereas the TAC fixed for 1997 has been reduced; whereas the Swedish application must be re-examined in the light of that fact;

Whereas the amount of the Community financial contribution has been calculated by applying proportionally this reduction to the non-reciprocal quota which Sweden would have allocated to the Community, had the bilateral agreement remained applicable,

HAS ADOPTED THIS DECISION:

Article 1

The amount of the Community financial contribution for 1997 to expenditure on promoting salmon reproduction in the Baltic Sea shall not exceed ECU 575 382.

Article 2

This Decision is addressed to the Kingdom of Sweden.

Done at Brussels, 18 December 1997.

For the Council

The President

F. BODEN

⁽¹⁾ OJ L 226, 29. 8. 1980, p. 7.

COUNCIL DECISION
of 18 December 1997
amending Decision 96/411/EC on improving Community agricultural statistics
(98/3/EC)

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

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

Having regard to the opinion of the European Parliament ⁽²⁾,

Whereas Decision 96/411/EC ⁽³⁾ provides for the presentation of reports, on the one hand, by the Member States to the Commission, and on the other, by the Commission to the European Parliament and to the Council;

Whereas the deadlines set for the transmission of these reports are proving to be too inflexible taking into account the experience gathered;

Whereas, it is necessary therefore to postpone the dates laid down and to introduce more flexible deadlines,

Article 1

Decision 96/411/EC is hereby amended as follows:

1. in Article 5, the date '31 March' shall be replaced by '31 July';
2. in Article 11, the date '1 November 1997' shall be replaced by '1 November 1999'.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 18 December 1997.

For the Council

The President

F. BODEN

⁽¹⁾ OJ C 337, 7. 11. 1997, p. 8.

⁽²⁾ Opinion delivered on 16 December 1997 (not yet published in the Official Journal).

⁽³⁾ OJ L 162, 1. 7. 1996, p. 14.

COMMISSION

COMMISSION DECISION

of 26 November 1997

relating to a proceeding pursuant to Article 65 of the ECSC Treaty

(Case IV/36.069 *Wirtschaftsvereinigung Stahl*)

(Only the German text is authentic)

(98/4/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 65 thereof,

Having regard to the notification submitted on 28 May 1996 in the name of the *Wirtschaftsvereinigung* and 16 of its members,

Having regard to the information transmitted to the Commission pursuant to Article 47 of the ECSC Treaty on 24 September 1996,

Having regard to the written comments submitted pursuant to Article 36 of the ECSC Treaty in the name and on behalf of the parties on 29 April 1997 and taking note of the fact that, by letter dated 12 May 1997, the parties formally waived their right to submit oral comments,

Whereas:

I. FACTS

A. PROCEDURE

- (1) On 28 May 1996 an information exchange system was notified to the Commission in the name and on behalf of the *Wirtschaftsvereinigung Stahl*, the German steel industry trade association, and 16 of its members.

A warning letter was sent to the association on 8 July 1996. In view of the extremely brief nature of the notification and following a meeting with the parties on 31 July, a request for information was sent to them pursuant to Article 47 of the ECSC Treaty. Following analysis of the reply comprising, among other things, all the questionnaires 2-71,

2-72, 2-73 and 2-74 for the 16 undertakings concerned and the past four years, the Commission sent a statement of objections to the parties on 4 March 1997.

The parties submitted their comments on 29 April 1997. While they did not in any way dispute the facts as set out in the statement of objections and recounted below, they stated that, in their view, those facts did not constitute an infringement of the competition rules.

B. THE PARTIES

- (2) The notification was submitted in the name of 16 German steel producers and that of the trade association to which they belong, the *Wirtschaftsvereinigung Stahl* ⁽¹⁾.
- (3) The ***Wirtschaftsvereinigung Stahl*** (hereinafter called the WV) is an association bringing together almost every German steel undertaking and a number of Belgian and Luxembourg associate members.

Its object is to defend its members' collective interests. Its functions include keeping its members informed of new developments and representing them before national and Community authorities.

The WV is a member of Eurofer, an association of Community steel undertakings and of national associations of European steel undertakings.

- (4) The 16 notifying undertakings belong to six separate groups, namely: Usinor, Cockerill-Sambre, Preussag, Arbed, Thyssen and Krupp.

⁽¹⁾ The names of the 16 notifying undertakings appear in bold type.

- (5) **AG der Dillinger Hüttenwerk** (hereinafter called Dillinger) produces ordinary steel and alloy steel (excluding stainless steel), which it processes into hot-rolled flat products. The French undertaking Usinor, which, through subsidiaries, produces steel products of every shape and quality, holds 48,75 % of the share capital of Dillinger. Usinor is the second largest steel producer in the Community and the fourth largest in the world. It controls either alone or jointly the following producers of steel (including finished products):

- in France: Sollac SA, Creusot Loire Industrie, Unimétal, Ascométal, Imphy, Lorfonte, Ugine, Ugine Savoie, GTS, Allevard, Fortech and Tecphy,
- in Germany: Dillinger and its subsidiary Rogesa,
- in Spain: Sidmed (jointly with the Luxembourg based undertaking ARBED) and Galmed (jointly with the Luxembourg based undertaking ARBED and the German undertaking Thyssen Stahl AG),
- in Portugal: Siderurgia Nacional Produtos Planos (jointly with the Dutch undertaking Hoogovens, the eighth-ranking steel producer in the Community),
- in Italy: La Magona (jointly with the Italian undertaking Lucchini),
- in Luxembourg: SA Train à Fil Esch-Schifflange and Sogeraïl.

Dillinger is a member of both the WV and Eurofer. Usinor participates in Eurofer through the Fédération Française de l'Acier.

- (6) **EKO Stahl GmbH** (hereinafter called EKO) produces ordinary and alloy steel (excluding stainless steel), which it processes into hot-rolled, cold-rolled and coated flat products

EKO is a subsidiary of the Belgian undertaking Cockerill-Sambre, which, through subsidiaries, produces steel products of every shape and quality. Cockerill-Sambre is the seventh-ranking steel producer in Europe and occupies a very prominent position in the market for flat products. It controls either alone or jointly the following producers of steel (including finished products):

- in Belgium: Cockerill-Sambre, Carlam, Segal (jointly with the Dutch undertaking Hoogovens and the Luxembourg undertaking ARBED) and Delloye Mathieu,

- in Germany: EKO,
- in France: Beautor, PUM and Haironville,
- in Luxembourg: Galvalange (with the Luxembourg undertaking ARBED).

Cockerill-Sambre participates in Eurofer through the Groupement de la Sidérurgie Belge.

- (7) **Krupp Hoesch Stahl AG** ⁽²⁾ (hereinafter called KHS) produces both directly and through subsidiaries steel products of every shape and quality. KHS is the sixth-ranking steel producer in Europe. Besides Krupp Thyssen Nirosta and Rasselstein, which are also notifying parties (see below) and which it controls jointly with Thyssen, KHS controls the following producers of steel (including finished products) in Germany: **Hoesch Hohenlimburg**, **Krupp VDM**, **Krupp Edelstahlprofil**, and **HSP Hoesch Spundwand und Profil**.

KHS is a member of the WV and Eurofer.

- (8) **Krupp Thyssen Nirosta GmbH** (hereinafter called KTN) produces stainless steel flat products. With a share of approximately 40 % of the flat products market, it is the leading producer of stainless steel in Europe. KTN controls the only Italian producer of stainless steel flat products, **Acciai Speciali Terni**.

- (9) **Preussag Stahl AG** (hereinafter called Preussag) produces in Germany ordinary steel and alloy steel (excluding stainless steel), most of which is processed into flat products and beams.

Preussag is a member of the WV and Eurofer.

- (10) **Stahlwerke Bremen GmbH** (hereinafter called Stahlwerke Bremen) produces ordinary steel and alloy steel (excluding stainless steel), which it processes into flat products. Stahlwerke Bremen is a subsidiary of the Luxembourg undertaking Arbed, which through subsidiaries produces steel products of every shape and quality. Arbed is the fourth-ranking steel producer in Europe. It controls alone or jointly the following producers of steel (including finished products):

- in Luxembourg: Profilarbed, Laminoir de Dudelange, Galvalange (jointly with Cockerill-Sambre (see above)), Ares, and Giebel (jointly with Ewald Giebel),
- in Germany: Stahlwerke Bremen, Bregal (jointly with the Finnish undertaking Rautaruukki and the Japanese undertaking Itoh) and Stahlwerke Thüringen,

⁽²⁾ By Decision of 28 July 1997, the Commission authorized pursuant to Article 66 of the ECSC Treaty the merging of the flat carbon-steel products activities of Thyssen Stahl AG and Krupp Hoesch Stahl AG.

- in Belgium: Sidmar, ALZ (stainless steel), Sikel, Segal (jointly with the Dutch undertaking Hoogovens and the Belgian undertaking Cockerrill-Sambre (see above)), Decosteel and Galtec (jointly with the Dutch undertaking Hoogovens),
- in France: Stul,
- in Spain: Aceralia.

Stahlwerke Bremen is a member of the WV and Eurofer. Arbed participates in Eurofer through the Groupement des Industries Sidérurgiques Luxembourgeoises.

- (11) **Thyssen Stahl AG** ⁽³⁾ (hereinafter called Thyssen) produces both directly and through subsidiaries steel products of every shape and quality. Thyssen is the fifth-ranking steel producer in Europe. Besides KTN (see above) and Rasselstein (see below), which are also notifying parties and which it controls jointly with KHS, Thyssen controls alone or jointly the following producers of steel (including finished products):

- in Germany: Röhrenwerke Bous (jointly with Mannesmann), **Rasselstein Hoesch GmbH, EBG Bochum, Stahlwerk Oberhausen GmbH, Walzdraht Hochfeld GmbH** ⁽⁴⁾, and **WK Edelstahl Witten Krefeld GmbH**.
- in the Netherlands: Nedstaal,
- in Spain: Galmed (jointly with the Luxembourg based undertaking ARBED and the French undertaking Usinor (see above)).

Thyssen is a member of the WV and Eurofer.

C. THE NOTIFIED AGREEMENT

- (12) The notified agreement is an information exchange agreement. According to the parties, the agreement is informal (*formlose Vereinbarung*). Participation is voluntary.

1. Nature of the information

- (13) The exchange relates to questionnaires 2-71 to 2-74 ECSC ⁽⁵⁾ and to the market shares of producers in Germany. These questionnaires, which were drawn up by the Commission, are transmitted to it pursuant to Article 47 of the ECSC Treaty to enable it to 'carry out its duties laid down in Article 3 of the ECSC Treaty'. The notifying parties have decided to exchange:

- the market shares held for each of the products by the producers on the German market and in the Community,
- data on deliveries by each producer of the various ECSC products in each of the Member States (questionnaire 2-71), all qualities combined,
- data on deliveries by each producer of the various ECSC products in certain third countries and by geographic area (questionnaire 2-72),
- deliveries of steel on the national market by product according to qualities and by consumer industry (questionnaire 2-73),
- deliveries of certain qualities of steel by product in each of the Member States (questionnaire 2-74).

The exchange is therefore concerned solely with data on deliveries and on market shares.

2. Aggregation of the data

- (14) All the data exchanged are individual. All those taking part in the system receive all the information concerning the other producers, including that relating to products which they do not themselves produce.

- (15) Market shares are calculated by determining the ratio between the deliveries by each producer and total deliveries in Germany calculated as follows:

Deliveries in Germany (questionnaire 2-71)

+ Intra-Community deliveries (statistics of the SBA ⁽⁶⁾)

+ Imports from third countries (statistics of the SBA)

± Statistical corrections

= Deliveries on the German market

- (16) The data are presented by product and by country of delivery. Cross-checking between questionnaires 2-71 and 2-74 makes it possible to break down deliveries by quality of steel.

A distinction can be made between 45 different products and eight qualities of steel.

With regard to deliveries on the German market (questionnaire 2-73), a distinction can be made between 28 different consumer sectors.

3. Age of the data

- (17) The data are exchanged at the end of the month following the period to which they relate. What is involved, therefore, is a monthly exchange of recent data (one month old).

⁽³⁾ See footnote 2.

⁽⁴⁾ This undertaking has been acquired by the ISPAT group after the notification.

⁽⁵⁾ Commission Decision No 1566/86/ECSC (OJ L 141, 28. 5. 1986, p. 1), as last amended by Decision No 3641/92/ECSC (OJ L 376, 22. 12. 1992, p. 1). The data are processed by the Statistical Office. They are aggregated and serve as a basis for the production of detailed statistics.

⁽⁶⁾ Statistisches Bundesamt.

4. Structure of the system

- (18) The WV collects the data from the various undertakings which send them to it in different forms (letter, electronic mail, etc). The exchanged data are not made available to third parties.

Its employees are independent of its members. Data are not discussed at members' meetings.

- (19) Only 16 undertakings out of the 74 members of the WV have notified their participation in the system, but the stated objective of the WV is that all should join in the not-too-distant future. The 16 notifying undertakings account for 94 % of all deliveries by German undertakings of flat products and 27 % of all deliveries of long products (including 100 % for sheet piling and 80 % for permanent way material).

D. THE PRODUCT MARKETS

1. The steel industry: general remarks

- (20) Between 1977 and 1988 the Community steel industry was governed by more or less binding production quota or delivery arrangements coupled with measures concerning prices and external trade. These arrangements came to an end on 30 June 1988. The Commission nevertheless introduced a system for monitoring production and deliveries by producers in the Community and in third countries. As part of this system, each undertaking was required to declare its deliveries to the Commission. The system expired in 1990. Faced with a worsening situation in the steel industry, in March 1993 the Commission adopted guidelines relating to production and deliveries of steel products within the Community market⁽⁷⁾. These guidelines were communicated to all undertakings for products within their product range. Following a marked improvement in the situation in the steel market in 1994, the Commission decided to terminate the measure.
- (21) In the course of the last seven years, the Commission has adopted two Decisions relating to infringements of Article 65 of the ECSC Treaty (Decision 90/471/ECSC⁽⁸⁾ in the field of stainless steel, and

Decision 94/215/ECSC⁽⁹⁾ in the field of beams). The main Community steel groups were involved in these cases.

- (22) The steel industry is highly capital-intensive, especially in the flat-products sector. There are therefore considerable barriers to entry, linked to the initial cost of the necessary investment. Fixed costs are very high. The steel industry suffers from chronic overcapacity due among other things to the size of the exit barriers. To help reduce these, in 1993 the Commission authorized a financial mechanism facilitating the closure of production capacity for heavy sections, hot-rolled wide coils and strip, and reversing-mill plate⁽¹⁰⁾.
- (23) Until the 1980s, steel undertakings had often been public undertakings with a very distinct national character. Major merger operations and the formation of new undertakings have led to the emergence of European groups with plants in a number of Member States. Nevertheless, trade flows between Member States are remarkably stable.

- (24) Except in the case of stainless steel, consumption of which is increasing, the European steel markets are mature markets. The products made by the various producers are homogeneous. As a rule customers have no preference between one supplier and another: the quality of products is transparent and the various parameters (delivery periods, transport costs, etc.) easy to compare.
- (25) Steel undertakings are required pursuant to Article 60 of the ECSC Treaty to publish their price lists. This obligation is discharged by sending the lists to the Commission at least two working days before they enter into force. Undertakings are also obliged to communicate their lists to any interested party who so requests.

Owing to its having been regulated for so long, there are numerous sources of detailed statistical data in the steel industry.

⁽⁷⁾ OJ C 83, 24. 3. 1993, p. 6.

⁽⁸⁾ OJ L 220, 15. 8. 1990, p. 28.

⁽⁹⁾ OJ L 116, 6. 5. 1994, p. 1.

⁽¹⁰⁾ Commission Decision 94/6/ECSC of 21 December 1993 authorizing common financial arrangements in respect of individual programmes involving the closure of production capacity in the Community steel industry for heavy sections, hot-rolled wide coils and strip, and reversing-mill plate (OJ L 6, 8. 1. 1994, p. 30).

2. The various markets for steel products

- (26) Steel is made either from iron ore ('integrated steelworks' ⁽¹¹⁾) or from scrap ('electric steelworks' ⁽¹²⁾). Integrated steelworks account for approximately 70 % of all steel production in the Community. The steel obtained from melting ore or scrap (semi-finished products in the form of ingots, slabs, blooms and billets) is not usable as such and has to be rolled to give it its final shape and properties.
- (27) In terms of their shape, there are two major categories of product:
- flat products obtained in the form of sheets (plates) or of coils (band steel). Products which are simply hot-rolled may subsequently be cold-rolled and coated (tinplate, galvanized sheets). Most flat products (apart from those of stainless steel) are made in integrated steelworks. Flat products are used to make pipes and tubes, ships, boilers, buildings, cars, packaging, etc.,
 - long products: concrete reinforcing bars, rods, beams, joists, wire rod. Long products are used in sectors such as construction, bolt, nut and screw manufacture, wire drawing, etc.
- (28) According to their composition, a distinction is made between non-alloy steels, stainless and heat-resisting steels and other alloy steels.
- (29) The products listed in the questionnaires forming the subject matter of the notification belong to different product markets depending on their characteristics, the use to which they are put, and the plant and know-how needed to produce them. There are 23 product markets in all: semi-finished products, 12 flat product markets and 10 long product markets.

(a) Semi-finished products

- (30) After solidification, crude steel takes the form of large blocks (ingots, slabs, blooms, billets) which must be rolled, that is to say passed between rollers which reduce the thickness of the blocks and give them their final shape. Most producers of finished products produce steel for their own purposes, but they also sell part of the semi-finished products

they produce. Of the 152 million tonnes of crude steel produced in 1995, approximately 24 million were sold in the form of semi-finished products.

There are more than 125 undertakings or groups producing crude steel in Europe. The market is therefore dispersed.

(b) Flat products

- (31) There are 12 markets for flat products:

Hot-rolled wide strip of non-alloy steel: These products may be sold without further processing (as is the case with 40 % of production) or be processed into cold-rolled sheet, which in turn may be sold further processing or coated.

There are 12 undertakings or groups in the Community which are independent of one another at the level of the production of wide strip. However, when it comes to processing such hot-rolled wide strip into cold-rolled sheet or coated sheet (which accounts for 60 % of production), there are in the Community 10 joint ventures, including six production cooperatives (which means cooperatives performing no marketing function); only seven of the 12 groups referred to above are totally independent of one another.

Hot-rolled wide strip of stainless steel: There are only six producers in the Community, of which the three largest account for 70 % of production.

Hot-rolled wide strip of alloy (excluding stainless) steel: There are 10 or so producers in the Community. Deliveries by German undertakings in Europe account for more than half of all deliveries by European undertakings.

Cold-rolled sheet of non-alloy steel: Cold rolling helps to reduce further the thickness of products and to endow them with special properties. Hot-rolled wide sheet may be cold reduced. Two thirds of cold-reduced sheet is then coated. The price of cold-reduced sheet is 25 % higher than that of hot-rolled wide strip. Only seven of the 13 existing producers are totally independent of one another.

Cold-rolled sheet of stainless steel: There are only six producers in the Community, of which the three largest account for 70 % of production.

Cold-rolled sheet of alloy (excluding stainless) steel: There are 10 or so producers in the Community. Deliveries by German undertakings in Europe account for 37 % of all deliveries by European undertakings.

⁽¹¹⁾ Very large plants (coking, sintering, blast furnaces, converters); very little operating flexibility; average minimum capacity of some 2 million tonnes a year; very high initial investment and maintenance costs.

⁽¹²⁾ Limited investment (electric furnace); considerable operating flexibility.

Coated sheet (with the exception of steel for packaging or tinplate): More than 90 % of coated, non-tinned sheet is galvanized sheet. Nearly half of all cold-rolled sheet is coated with a metal coating other than tin (by hot dipping or by electrolysis). This operation increases the sheet's value by approximately 40 %.

There are a dozen producers in the Community. There are in the Community 10 joint ventures, including six production cooperatives (cooperatives without any marketing function); only five of those 12 producers are totally independent of one another.

Steel for packaging (or tinplate): Cold-rolled sheet is sold tinned, that is, coated with a tin coating to protect it from oxidation. The value added by the tinning is of the order of 60 %.

There are eight producers in the Community, of which the two largest account for 45 % of Community production.

Reversing-mill plate and universal plate of non-alloy steel: These consist of thick, uncoiled sheet. There are 20 or so undertakings or groups in the Community, of which the three largest account for 44 % of production.

Reversing-mill plate and universal plate of stainless steel: There are only five undertakings or groups in the Community, of which the two largest account for more than 60 % of deliveries in the Community.

Reversing-mill plate of alloy (other than stainless) steel: There are fewer than 15 undertakings or groups in the Community. Deliveries in the Community by German undertakings account for more than half of all deliveries by European undertakings in the Community.

Electrical sheet: There are eight undertakings or groups in the Community, of which the two largest account for more than 60 % of production.

The markets for flat products are therefore all concentrated.

(c) Long products

- (32) There are 10 markets for long products.

Beams and sections for mine shafts: 20 or so undertakings or groups produce beams in the Community, of which the four largest account for more than 65 % of production.

Wire rod of non-alloy steel: There are forty or so undertakings or groups in the Community, of which the four largest account for more than 40 % of production.

Wire rod of stainless steel: There are eight producers in the Community.

Wire rod of alloy (other than stainless) steel: There are 30 or so undertakings or groups in the Community. Deliveries in the Community by

German undertakings account for 25 % of all deliveries by European undertakings in the Community.

Concrete reinforcing bars: There are more than 50 undertakings or groups in the Community, of which the four largest account for more than 40 % of production.

Merchant bars of non-alloy steel: There are more than 80 undertakings or groups in the Community. The five largest account for 40 % of production.

Merchant bars of stainless steel: There are 15 or so undertakings or groups in the Community.

Merchant bars of alloy (other than stainless) steel: In the absence of more detailed information, it may be assumed that a large number of merchant bar producers produce both non-alloy steels and alloy steels.

Permanent way material: There are 10 or so undertakings or groups in the Community, of which the three largest account for more than half of production.

Sheet piling: There are only four undertakings or groups in the Community.

The structures of the various markets for long products are therefore diversified. Some markets are highly concentrated (sheet piling, beams, permanent way material), while others are more dispersed (concrete reinforcing bars, merchant bars, wire rod).

E. THE GEOGRAPHIC MARKET

- (33) Numerous decisions pursuant to Article 66 of the ECSC Treaty have established that the relevant market for the various steel products is the Community market owing *inter alia* to the lack of barriers to intra-Community trade and the volume of intra-Community trade, which represents 30 % of all deliveries by Community producers in the Community.

- (34) Nevertheless, this finding must be qualified to some extent. The figure of approximately 30 % stems from the fact that, firstly, a large number of countries do not produce the full range of products and, secondly, there are countries whose 'domestic' market is very small compared with the output of the national producer. Moreover, where there is a national producer, its deliveries on its domestic market account for more than half of all deliveries by Community producers on that market⁽¹³⁾ and the market shares of the other producers on each market are fairly stable over time.

⁽¹³⁾ This is especially the case with flat products, special steels and certain long products (sheet piling, permanent way material and sections for mine shafts).

F. POSITION OF GERMAN UNDERTAKINGS COMPARED WITH THAT OF OTHER
COMMUNITY UNDERTAKINGS

(35) Deliveries by German undertakings:

(%)

Share of German undertakings in deliveries by Community undertakings in the Community in 1995

	Non-alloy steels	Stainless steel	Other alloy steels
Hot-rolled wide strip	25	18	51
Cold-rolled sheet	26	24	37
Coated sheet	28	—	21
Steel for packaging	19	—	—
Reversing-mill plate	25	24	51
Electrical sheet	36	—	38
Beams	26	—	52
Wire rod	31	11	25
Merchant steels	10	17	25
Concrete reinforcing bars	11	—	—
Sheet piling	40	—	—
Permanent way material	25	—	—
Total	24	21	38

(%)

Share of German undertakings in deliveries by Community undertakings in Germany in 1995

	Non-alloy steels	Stainless steel	Other alloy steels
Hot-rolled wide strip	76	44	84
Cold-rolled sheet	67	55	57
Coated sheet	68	—	38
Steel for packaging	71	—	—
Reversing-mill plate	66	46	89
Electrical sheet	93	—	84
Beams	57	—	72
Wire rod	77	46	67
Merchant steel	38	52	66
Concrete reinforcing bars	60	—	—
Sheet piling	73	—	—
Permanent way material	76	—	—
Total	67	52	76

G. LINKS WITH UNDERTAKINGS LOCATED IN OTHER MEMBER STATES

- (36) Account must also be taken of the fact that some German undertakings form part of larger European steel groups:
- the British undertaking British Steel controls Manstaedtwerke,
 - the French undertaking Usinor holds 48,75 % of the share capital of Dillinger,
 - the Belgian undertaking Cockerill-Sambre controls Eko Stahl,
 - the Luxembourg undertaking Arbed controls Stahlwerke Bremen, Stahlwerke Thüringen and Bregal,
 - the Italian undertaking Riva controls Henningsdorf and Brandenburger,
 - the Italian undertaking Feralpi controls ESF Riesa,
 - the Finnish undertaking Rautaruukki controls Bregal with Arbed.
- (37) Similarly, German undertakings have interests in other Member States: Krupp and Thyssen in Italy (AST) and Thyssen in Spain (Galmed).

II. ASSESSMENT

A. ARTICLE 65 (1)

1. General

- (38) Article 65 (1) of the ECSC Treaty prohibits all agreements between undertakings, decisions by associations of undertakings and concerted practices tending directly or indirectly to prevent, restrict or distort normal competition within the common market, particularly those tending:
- (a) to fix or determine prices;
 - (b) to restrict or control production, technical development or investment;
 - (c) to share the markets, products, customers or sources of supply.

- (39) As the Commission decided in the 'UK Tractors' case⁽¹⁴⁾, an agreement to exchange information which is both sensitive, recent and individualized in a concentrated market where there are important barriers to entry, is liable to restrict competition between the undertakings parties thereto in so far as it increases market transparency to such a degree that any independent competitive action on the part of an undertaking can immediately be noticed by its competitors, which are able to take suitable retaliatory measures. By eliminating any hidden competition in the market, the information exchange reduces considerably the advantage to be gained by an undertaking from competitive action and tends to dissuade it from trying to increase its market share.
- (40) This view was upheld on 27 October 1994 by the Court of First Instance, which held in the UK Tractors case⁽¹⁵⁾ that general use, as between main suppliers, of exchanges of precise information at short intervals, identifying registered vehicles and the place of their registration is, on a highly concentrated oligopolistic market on which competition is already greatly reduced and exchange of information facilitated, likely to impair considerably the competition which exists between traders. In such circumstances, the sharing, on a regular and frequent basis, of information concerning the operation of the market has the effect of periodically revealing to all competitors the market positions and strategies of the various individual competitors.

- (41) Although they concern Article 85 of the EC Treaty, these findings are transposable to Article 65 of the ECSC Treaty, both Treaties being motivated, as the Court of Justice held in its judgment of 18 May 1962⁽¹⁶⁾, by a 'common intention'. Moreover, the Commission normally interprets in a similar fashion the prohibition in Article 65 (1) of the ECSC Treaty and that in Article 85 (1) of the EC Treaty, notably as regards exchanges of information between undertakings. In the notice concerning agreements, decisions and concerted practices in the field of cooperation between enterprises⁽¹⁷⁾, the Commission viewed such cooperation in the same way under both Treaties.

⁽¹⁴⁾ Commission Decision 92/157/EEC of 17 February 1992 relating to a proceeding pursuant to Article 85 of the EEC Treaty — UK Agricultural Tractor Registration Exchange (OJ L 68, 13. 3. 1992, p. 19).

⁽¹⁵⁾ Judgments in Cases T-34/92, Fiatagri UK Ltd and New Holland Ford Ltd v. Commission [1994] ECR II, p. 905, at paragraph 91 and T-35/92, John Deere Ltd v. Commission [1994] ECR II p. 957, at paragraph 51.

⁽¹⁶⁾ Case 13/60 'Geitling', Ruhrkohlen-Verkaufsgesellschaft mbH and others v. High Authority of the European Coal and Steel Community [1962] ECR p. 165.

⁽¹⁷⁾ OJ C 75, 29. 7. 1968, p. 3, corrigendum OJ C 84, 28. 8. 1968, p. 14.

2. Restrictive effects of the notified agreement

- (42) The undertakings decided to exchange questionnaires ECSC 2-71, 2-72, 2-73 and 2-74 (see footnote 5). The latter two are inextricably linked to the first, which must therefore be analysed first.

(a) Questionnaires 2-71, 2-73 and 2-74

- (43) Questionnaire 2-71 is concerned with data on deliveries by type of product and by Member State of destination. They are individual, monthly and recent data. They are sensitive and confidential inasmuch as they make it possible to establish the various undertakings' market position. Combined with questionnaires 2-73 and 2-74, this questionnaire reveals the strategy of each undertaking in each Member State for the various products (45 products, eight qualities), and more particularly on the German market (28 different consumer sectors).

- (44) The assessment of the notified exchange is directly linked to the degree of concentration of the market for the products in question and to its characteristics. The case-law (see above) has clearly established that the restriction of competition stems from the fact that, on an oligopolistic market, the exchange increases transparency in such a way as to deter competition between participants.

- (45) All the markets for flat products and those for beams, sheet piling, permanent way material and stainless steel wire rod are concentrated. The concentration must be assessed in the light of various criteria, including the number of producers present in the market, the existence of structural links between them, the combined market shares of the main undertakings, and the barriers to entry. In the present case, for flat products, beams, sheet piling, permanent way material and wire rod of stainless steel, the number of producers in Europe is no greater than 20 (see above). For all these products, the sum of the production of the four leading producers comes to more than half of total production. The barriers to entry are very high owing to the capital intensity of the industry. There are numerous structural links between the steel groups. Thus, for example, only seven of the 12 producers of hot-rolled wide strip and sheet and five of the 12 producers of coated sheet are totally independent of one another (see above). These markets may therefore be characterized as highly concentrated markets.

- (46) On these concentrated markets, the notified decision to carry out the exchange of information in question is liable to restrict competition. The fact of informing one's competitors each month of deliveries of each product in the different Member States and of one's market shares in one's domestic market is likely to deter them from trying to increase market shares. Competitors will be able to identify those undertakings which try to increase their market share and to take retaliatory measures against them. The notified exchange is therefore liable to induce undertakings to abandon a fundamental competitive activity consisting in increasing their market shares. The period during which an undertaking can engage in competitive activity is greatly reduced by the frequency of the exchange and the recentness of the data exchanged. By removing any remaining hidden competition in markets characterized by a small degree of openness, by fairly stable trade flows between Member States, by considerable homogeneity of products and chronic overcapacity, the notified agreement makes highly probable the development of behaviour having the effect of freezing market shares.

- (47) The undertakings party to the agreement account for approximately one quarter of all Community deliveries in the Community. The notified information exchange is liable to restrict competition appreciably. This effect is even more noticeable on the German market, where the undertakings account for between one half and three-quarters of Community deliveries.

- (48) For some of these products (beams, grain-oriented electrical sheet, steel for packaging, most stainless steel products), there is only one notifying producer. The undertakings to which it would communicate the data relating to its deliveries are not active on the same product market and there is therefore no restriction of competition directly caused by that exchange. However, some of the undertakings which receive data but are not competitors of the data-provider are controlled by undertakings which themselves control competitors of the data provider. There is no guarantee that such particularly sensitive data would not end up in the hands of such competitors.

In view of the above, the Commission considers that the exchange of questionnaires 2-71, 2-73 and 2-74 restricts competition in respect of the following products:

Product	Lines of question- naire 2-71	Lines of question- naire 2-73	Lines of question- naire 2-74
Hot-rolled wide strip	311 to 336	311 to 336	8320, 8330
Cold-rolled sheet	411, 416	411, 416	8410
Coated sheet	451 to 457	451 to 457	
Steel for packaging	430, 440	430, 440	
Reversing-mill plate	341 to 350	341 to 350	8340
Electrical sheet	421 to 427	420	
Beams	540 to 559	540, 550	1550, 8550
Wire rod of stainless steel			1510, 2510, 3510, 4510, 5510, 6510, 7510 and 8510
Permanent way material	570	570	
Sheet piling	560	560	

- (49) A large number of undertakings are active on the other product markets. The restrictive effect of an exchange of sensitive information is less marked in such cases. There is therefore no objection to the notified exchange in respect of the following products: semi-finished products, merchant bars, concrete reinforcing bars and wire rod (with the exception of wire rod of stainless steel).

(b) *Questionnaire 2-72*

- (50) The Commission has no objections to the exchange of this questionnaire.

3. Arguments put forward by the parties

- (51) In support of their notification, the parties submitted a legal study and two economic studies. The main arguments put forward are outlined below.

Age of the data

- (52) In their notification the parties state that: 'The exchange is confined to the communication of data on quantities; no data on prices or turnover will be exchanged. The exchanged data concern only past conduct on the market and not future conduct'.

In a market where demand is stable, as is the case with the relevant product markets, the future be-

haviour of competitors may largely be anticipated on the basis of their recent transactions. The observation of competitors' behaviour and past performance is at the root of all the agreement's restrictive effects as described above. The more accurate and recent the information on quantities sold and market shares, the greater its impact on undertakings' future market behaviour.

From a certain point in time, however, data concerning past transactions becomes truly historic and no longer has any real impact on future behaviour⁽¹⁸⁾. In the present case, although the exchanged data relate to a past period, they must be deemed to be recent if they are less than a year old (here, they are one month old).

Proof of the restrictive effect

- (53) The notifying parties state that 'the notified exchange of information is not caught by Article 65 (1) of the ECSC Treaty because it has neither as its object nor as its effect a restriction of competition'.

⁽¹⁸⁾ Thus, for example, in the UK Tractors case the Commission considered that an annual exchange of one-year-old information on sales by the various competitors did not significantly distort competition (abovementioned Decision, recital 50).

The Commission considers that account must be taken not only of the immediate, visible effects of an agreement but also of its potential effects and of the fact that an agreement can create a structure capable of being used for anti-competitive purposes. Article 65 (1) must be interpreted as covering potentially anti-competitive effects because the objective of that provision is the maintenance of an effective competitive structure. This objective is particularly material in a highly concentrated market where an information exchange creates a structure of transparency which prevents any hidden competition. The fact that the Commission has been unable to establish the existence of an actual effect on the market therefore has no bearing on the outcome of the proceeding inasmuch as Article 65 (1) of the ECSC Treaty prohibits both actual anti-competitive effects and potential effects, provided that these are sufficiently marked.

The UK Tractors judgment

- (54) The parties consider that the judgment of the Court of First Instance in the UK Tractors case was to some extent unfavourable to the Commission.

According to the legal study submitted in support of the notification, the Court of First Instance only partly concurred with the Commission in the UK Tractors case, in that it required the exchanges, before they could constitute an infringement of Article 85 (1) of the EC Treaty, to take place on a concentrated market in which competition is *already reduced*.

The Commission considers that this interpretation is wrong. In the above case, the Court of First Instance held⁽¹⁹⁾ that general use, as between main suppliers, of exchanges of precise information at short intervals, identifying registered vehicles and the place of their registration is, on a highly concentrated oligopolistic market such as the market in question on which competition is, as a result, already greatly reduced and exchange of information facilitated, likely to impair considerably the competition which exists between traders.

Impairment of competition was therefore considered in the case in point, not as an additional condition for the application of Article 85 (1), but as a logical consequence of the oligopolistic nature of the relevant market.

Competition in the relevant market

- (55) Following the logic of the argument set out above, the parties submitted to the Commission an

economic study which seeks to show that competition in the steel market is intense.

- (56) The study does not distinguish between the various product markets despite the fact that they differ considerably from one another (degree of concentration of the market, rate of utilization of production capacity, price trends, barriers to entry due *inter alia* to differences in fixed costs, transport costs, etc.). In view of the importance of these various factors when it comes to assessing the restrictive effect of the notified agreement, the furnished study is not really relevant to this case.

Existence of information on quantities in other economic sectors

- (57) The parties submitted in support of their notification a study seeking to show that the availability of recent, individualized information in the consumer goods sector promotes competition and that the notified exchange would accordingly have a beneficial effect on competition.

- (58) This argument is invalid, for two main reasons. First of all, they are not agreements between competitors capable of being caught by Article 65 of the ECSC Treaty or Article 85 of the EC Treaty. Specialist organizations carry out studies on the basis of surveys at the point of sale. Secondly, the information is sold by those organizations and not exchanged between competitors. However accurate those surveys are, this is an instance of a provision of services by a third party and not of an agreement capable of being assessed in the light of Article 65 of the ECSC Treaty.

4. Applicability of Article 65 (1)

- (59) In a communication dated 31 December 1994⁽²⁰⁾ concerning the withdrawal of the quarterly guidelines relating to production and deliveries of steel products, the Commission reminded undertakings and their associations that pursuant to Article 65 (1) they are prohibited from replacing the flanking measures introduced so far by the Commission by a similar or equivalent private information exchange system.
- (60) The exchange of questionnaires 2-71 and 2-73 is contrary to Article 65 (1) in that it institutes a system for the exchange of information on recent individual data on deliveries and market shares in the fields of flat products, beams, sheet piling and permanent way material.

⁽¹⁹⁾ See footnote 15.

⁽²⁰⁾ OJ C 379, 31. 12. 1994, p. 36.

- (61) The exchange of questionnaire 2-74 is contrary to Article 65 (1) for the products mentioned above and for wire rod.

B. INAPPLICABILITY OF ARTICLE 65 (2)

- (62) Since it is neither a specialization agreement nor a joint-buying or joint-selling agreement, the notified agreement cannot be authorized by the Commission on the basis of Article 65 (2).

C. APPLICABILITY OF ARTICLE 65 (5)

- (63) Pursuant to Article 65 (5), the Commission may impose fines or periodic penalty payments on undertakings which have entered into an agreement which is automatically void or have enforced or attempted to enforce an agreement or decision which is automatically void, or have engaged in practices prohibited by paragraph 1 of that Article.
- (64) In this case, the parties have stated that they have not implemented the notified agreement following the warning letter which the Commission sent to them on 8 July 1996. There are therefore no grounds for fining them,

HAS ADOPTED THIS DECISION:

Article 1

The information exchange agreement notified on 28 May 1996 infringes Article 65 of the ECSC Treaty in so far as it involves an exchange of questionnaires 2-71, 2-73 and 2-74 in respect of flat products, beams, sheet piling, permanent way material and wire rod of stainless steel.

Article 2

The information exchange agreement notified on 28 May 1996 does not fulfil the conditions for authorization pursuant Article 65 (2).

Article 3

The Wirtschaftsvereinigung Stahl and the 16 notifying undertakings shall refrain from implementing the notified exchange.

Article 4

This Decision is addressed to:

Wirtschaftsvereinigung Stahl
Breitestraße 69
D-40213 Düsseldorf

AG der Dillinger Hüttenwerke
Postfach 1580
D-66748 Dillingen

EKO Stahl GmbH
Werkstraße 1
D-15890 Eisenhüttenstadt
Krupp Hoesch Stahl AG
Eberhardstraße 12
D-44145 Dortmund

Krupp Thyssen Nirosta GmbH
Alleestraße 165
D-44793 Bochum

Preussag Stahl AG
Eisenhüttenstraße 99
D-38239 Salzgitter

Stahlwerke Bremen GmbH
Auf den Delben 35
D-28237 Bremen

Thyssen Stahl AG
Kaiser-Wilhelm-Straße 100
D-47166 Duisburg.

Done at Brussels, 26 November 1997.

For the Commission

Karel VAN MIERT

Member of the Commission

COMMISSION DECISION

of 9 December 1997

on the introduction of a pilot computerised animal-health management system
for pig farms (Infoporc) in France

(Text with EEA relevance)

(98/5/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field ⁽¹⁾, as last amended by Decision 94/370/EC ⁽²⁾, and in particular Article 37 (2) thereof,

Whereas the French authorities have requested the Commission to provide Community financial assistance for the introduction of a pilot computerized animal-health management system for pig farms (Infoporc) in France;

Whereas the system entails keeping a register of pig farms and identifying livestock movements; whereas this falls within the scope of Article 37 of Decision 90/424/EEC;

Whereas the aim of introducing such a system is to control animal-health measures by means of real-time information on the health status of livestock and the management of animal movements; whereas the introduction of the system will help in identifying and tracing animal movements with a view to enhancing animal health in the Community and is accordingly in line with a priority objective of the latter;

Whereas the French authorities have entrusted the Association régionale Interprofessionnelle Porcine de Bretagne (ARIP) with the task of setting up this pilot computerized system under the supervision of the public authorities;

Whereas in due time an assessment should be made of the introduction of the system and the results for animal health with a view to its extension;

Whereas the system's organizational details and the rules for the Community's financial contribution should be laid down;

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

Article 1

For the purposes of this Decision, the authority responsible at technical level shall be the Association Régionale Interprofessionnelle Porcine de Bretagne (ARIP) represented by its chairman.

That body shall work under the general supervision of the French Ministry of Agriculture, Fisheries and Food.

In particular:

- the Veterinary Health Directorates of Côtes d'Armor, Finistère, Ille-et-Vilaine and Morbihan shall be responsible for the animal-health aspects,
- the Departmental Stockfarming Establishments of Côtes d'Armor, Finistère, Ille-et-Vilaine and Morbihan shall be responsible for the technical aspects of identification,
- the Brittany Regional Directorate for Agriculture and Forestry shall be responsible for the financial aspects.

Article 2

The authority responsible shall undertake to:

- devise, develop and introduce a pilot computerised system for animal-health management of pig farming (Infoporc) in accordance with the details and timetable set out in Annex 1.

The measure shall commence on the date on which this Decision is notified and shall end on 31 December 1998,

- submit a progress report by 1 June 1998 and a final report by 31 March 1999 to the Commission and the Member States within the Standing Veterinary Committee.

Article 3

1. The Community's financial contribution shall be 20 % of the eligible expenditure, with a ceiling of ECU 200 000.

2. Expenditure as referred to in paragraph 1 shall cover the following:

- the acquisition and installation of computer equipment (central servers and user work stations),

⁽¹⁾ OJ L 224, 18. 8. 1990, p. 19.

⁽²⁾ OJ L 168, 2. 7. 1994, p. 31.

- the purchase and development of software,
- the costs of setting up the system (general supervision, system design and establishment supervision, training and involvement of users),
- maintenance and final assessment costs.

Article 4

1. The Community's financial contribution shall be granted to the French authorities after supporting documents are presented. The French authorities shall present the supporting documents to the Commission.
2. The planned schedule for expenditure shall be as follows:
 - 1997: 35 %,
 - 1998: 65 %.
3. At the request of the French authorities, an advance of up to 40 % of the total Community contribution may be granted. The request must be presented by the French authority before 15 December 1997.

4. Supporting documents shall be presented by 30 June 1999 at the latest.

Article 5

A review of the system's contribution to the animal-health management of pig farms shall be drawn up by the Commission on the basis of the final report drafted by the authority responsible, and presented to the Member States meeting within the Standing Veterinary Committee.

A further decision regarding adjustments to the system may be taken on the basis of that review.

Article 6

This Decision is addressed to France.

Done at Brussels, 9 December 1997.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

The pilot computerized system was designed with a view to monitoring Aujeszky's disease. It provides a trial for the introduction of a standardized animal-health management system for areas with a high livestock density.

The design selected for the computerized information system could serve as reference basis for the development of database systems for livestock records and movements.

The project is in line with the measure for the identification of livestock and the tracing of livestock movements with a view to monitoring animal health and helping to improve the animal-health status of holdings.

1. Contents

The selected option involves two main measures:

- keeping a register of pig farms,
- identifying livestock movements.

The aim of the two measures is to control animal-health measures by means of real-time information on the health status of livestock and the management of animal movements.

A. Keeping the farm register

A common reference register is to be introduced. Each partner (veterinary services, laboratories, livestock services, producer groups and veterinarians) undertakes to help keep the register up to date by forwarding the information they have available by computer transmission. Rules on validation will be laid down. The information is input via a suitable mask (identification of stockfarm, geographical location, type of activity, animal-health information, etc.).

Access to the common register is subject to rules depending on the tasks and competence of each partner.

The computerized information system includes the link-up of sites (around 40) and a central computerized administration system.

B. Identifying livestock movements

Ultimately the aim of the system is to identify all pig movements.

In the first stage, the emphasis will be on identifying piglet movements (from breeding establishments to fattening establishments).

The computerized system for the stockfarm register is also used for the identification of livestock movements. The input mask includes information relating to the farms of origin, the farms of destination and the details of transport with respect to each movement.

2. Timetable

A. First phase: From the date on which this Decision is notified to 1 May 1998

This phase will cover:

- the finalization of software (application and communication),
- the purchase and installation of computer equipment (server centres and network sites),
- the purchase and installation of communication equipment (modems, etc.),
- the development of the common reference register,
- test on specific areas.

B. Second phase: 1 May to 31 December 1998

This will be an operational phase covering:

- verification of the proper functioning of the system,
 - the rectifying of any shortcomings,
 - an assessment of the technical aspects and the system's contribution to the animal-health management of pig farms.
-

ANNEX II

FORECAST COSTS

All tasks will be subject to a call for tenders in accordance with the regulations in force.

1. *Purchase and installation of computer equipment and purchase of basic software*

A Central servers	436 000 FF
B User work stations	874 000 FF
Subtotal 1	1 310 000 FF

2. *Development of software*

A Development of application software	2 874 500 FF
B Corrective and development maintenance	361 000 FF
Subtotal 2	3 235 500 FF

3. *Costs of setting up system*

A General supervision	885 000 FF
B Supervision of computer system establishment	796 000 FF
C User training and involvement	400 000 FF
Subtotal 3	2 081 000 FF

4. *Costs of maintenance and final assessment*

A Maintenance	400 000 FF
B Final assessment	100 000 FF
Subtotal 4	500 000 FF
Grand total	7 126 000 FF

COMMISSION DECISION

of 11 December 1997

amending the information contained in the list in the Annex to Commission Regulation (EC) No 2332/96 establishing, for 1997, the list of vessels exceeding eight metres length overall and permitted to fish for sole within certain areas of the Community using beam trawls whose aggregate length exceeds nine metres

(98/6/EC)

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

Having regard to Council Regulation (EEC) No 894/97 of 29 April 1997 laying down certain technical measures for the conservation of fishery resources ⁽¹⁾,

Having regard to Commission Regulation (EEC) No 3554/90 of 10 December 1990 adopting provisions for the establishment of the list of vessels exceeding eight metres overall which are permitted to fish for sole within certain areas of the Community using beam trawls of an aggregate length exceeding nine metres ⁽²⁾, as last amended by Regulation (EC) No 3407/93 ⁽³⁾, and in particular Article 2 thereof,

Whereas Commission Regulation (EC) No 2332/96 ⁽⁴⁾ establishes, for 1997, the list of vessels exceeding eight metres overall which are permitted to fish for sole within certain areas of the Community using beam trawls of an aggregate length exceeding nine metres as provided in Article 10 (3) (c) of Regulation (EEC) No 894/97;

Whereas the authorities of the Member States concerned have applied for the information in the list provided for in Article 10 (3) (c) of Regulation (EEC) No 894/97 to be

amended; whereas the said authorities have provided all the information supporting their applications pursuant to Article 2 of Regulation (EEC) No 3554/90; whereas it has been found that the information complies with the requirements and whereas, therefore, the information in the list annexed to the Regulation should be amended,

HAS ADOPTED THIS DECISION:

Article 1

The information in the list annexed to Regulation (EC) No 2332/96 is amended as shown in the Annex hereto.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 11 December 1997.

For the Commission

Emma BONINO

Member of the Commission

⁽¹⁾ OJ L 132, 23. 5. 1997, p. 1.

⁽²⁾ OJ L 346, 11. 12. 1990, p. 11.

⁽³⁾ OJ L 310, 14. 12. 1993, p. 19.

⁽⁴⁾ OJ L 317, 6. 12. 1996, p. 3.

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

A. Datos que se retiran de la lista — Oplysninger, der skal slettes i listen — Aus der Liste herauszunehmende Angaben — Στοιχεία που διαγράφονται από τον κατάλογο — Information to be deleted from the list — Renseignements à retirer de la liste — Dati da togliere dall'elenco — Inlichtingen te schrappen uit de lijst — Informações a retirar da lista — Luettelosta poistettavat tiedot — Uppgifter som skall tas bort från förteckningarna

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BÉLGICA / BELGIEN / BELGIEN / ΒΕΛΓΙΟ / BELGIUM / BELGIQUE / BELGIO /
BELGIË / BÉLGICA / BELGIA / BELGIEN

N	782	Nancy	OQFD	Nieuwpoort	110
O	110	Jeaninne-Margaret	OPEF	Oostende	193
Z	88	Nova Cura	OPDJ	Zeebrugge	104

ALEMANIA / TYSKLAND / DEUTSCHLAND / ΓΕΡΜΑΝΙΑ / GERMANY / ALLEMAGNE / GERMANIA /
DUITSLAND / ALEMANHA / SAKSA / TYSKLAND

ACC	7	Elke	DCGN	Accumersiel	175
BEN	2	Möwe	DCET	Bensersiel	188
BUS	4	Adler	DJIC	Büsum	100
CUX	4	Nordergrunde	DFPD	Cuxhaven	220
EMD	2	Merry Lene	DB5331	Emden	67
FRI	35	Lilli	DIRQ	Friedrichskoog	107
FRI	76	Anneliese	DITD	Friedrichskoog	151
FRI	175	Luise	DIJK	Friedrichskoog	145
GRE	3	Horizont	DCMU	Greetsiel	184
GRE	28	Vorwärts	DCDN	Greetsiel	110
HAR	1	Gesine Albrecht	DCQM	Harlesiel	191
HOO	1	De Liededeelers	DJIS	Hooge	136
HUS	28	Zukunft	DLYQ	Husum	162
HUS	7	Gila	DDEJ	Husum	175
NEU	227	Stortebeker	DLYJ	Neuharlingersiel	175
NEU	232	Seerose	DDGE	Neuharlingersiel	210
NOR	209	Sirius	DCLS	Norddeich	69
NOR	225	Nordmeer	DCDB	Norddeich	110
PEL	2	Annemarie	DJFK	Pellworm	132
POG	2	Jan	DQQH	Pogum	221
SC	13	Condor	DISD	Büsum	160
SC	15	Martina	DJWD	Büsum	184
SC	18	Gaby-Egel	DIWD	Büsum	184
SC	33	Joke Sabine	DJGS	Büsum	184
SC	37	Michel	DFOL	Büsum	220
SC	44	Klaus Groth I	DIUC	Büsum	184
SD	5	Hoffnung	DISX	Friedrichskoog	140
SD	8	Rugenort	DIWK	Friedrichskoog	165
SD	10	Christine	DJCH	Friedrichskoog	138
SD	30	Cormoran	DFOC	Friedrichskoog	140
SD	34	Keen Tied	DDEW	Friedrichskoog	146
SH	1	Bleibtreu	DMHR	Heiligenhafen	220
SH	13	Hoffnung	DLYD	Heiligenhafen	147
SH	23	Albatros	DFPF	Heiligenhafen	221
SK	18	Frans Willem	DFOL	Kiel	220
SPI	10	Jan Janssen Bruhns	DCSR	Spieka	151
ST	4	Möwe	DCSP	Tönning	145
ST	6	Hilke-Marita	DNHA	Tönning	221
ST	6	Hilka Maritta	DNHA	Tönning	221
ST	12	Anja II	DJIV	Tönning	165
ST	24	Karolin	DJIF	Tönning	99

PAÍSES BAJOS / NEDERLANDENE / NIEDERLANDE / ΚΑΤΩ ΧΩΡΕΣ / NETHERLANDS / PAYS-BAS /
PAESI BASSI / NEDERLAND / PAÍSES BAIXOS / ALANKOMAAAT / NEDERLÄNDERNA

BR	29	Eendracht	PDYB	Breskens	220
GO	57	Johanna Maria	PFDS	Goedereede-Ouddorp	221
HA	41	Antje		Harlingen	158
OD	3	Jan		Goedereede-Ouddorp	188
OD	7	Adrianus	PHEQ	Goedereede-Ouddorp	221
OD	3	Jan		Goedereede-Ouddorp	188
OD	7	Adrianus	PHEQ	Goedereede-Ouddorp	221
OD	27	Vertrouwen	PIFW	Goedereede-Ouddorp	221
WL	8	Albatros		Westdongeradeel	92
WR	12	Dirk	PDQD	Wieringen	158
WR	21	Jente	PFCW	Wieringen	221
WR	23	De Vrouw Geertruida	PDPO	Wieringen	221
WR	51	Nova Cura	PGKG	Wieringen	221
WR	57	Jacoba	PEYI	Wieringen	220
WR	89	Geja Anjo		Wieringen	175
WR	106	Alida Catherina	PCLM	Den Oever	221
WR	112	Zwaantje	PIZE	Wieringen	206
WR	131	Twee Gebroeders	PIBP	Wieringen	175
WR	174	Aleida	PCKC	Wieringen	221
WR	177	Neeltje Alida	PGEU	Wieringen	221
WR	210	Exmera Gratia	PEAM	Wieringen	221
ZK	15	Lambert		Ulrum-Zoutkamp	220
ZK	18	Liberty		Ulrum-Zoutkamp	138
ZK	25	Elisabeth		Ulrum-Zoutkamp	176
ZK	33	Reitdiep		Ulrum-Zoutkamp	159
ZK	34	Eems	PDVR	Ulrum-Zoutkamp	134
ZK	36	Lauwers		Ulrum-Zoutkamp	110
ZK	40	Morgenster	PGAQ	Ulrum-Zoutkamp	221
ZK	49	Twee Gebroeders	PHXM	Ulrum-Zoutkamp	220

B. Datos que se añaden a la lista — Oplysninger, der skal anføres i listen — In die Liste hinzuzufügende Angaben — Στοιχεία που προστίθενται στον κατάλογο — Information to be added to the list — Renseignements à ajouter à la liste — Dati da aggiungere all'elenco — Inlichtingen toe te voegen aan de lijst — Informações a aditar à lista — Luetteloon lisättävät tiedot — Uppgifter som skall läggas till i förteckningen

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O	110	Jeaninne-Margaret	OPEF	Oostende	192
O	782	Nancy	OQFD	Oostende	110

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DUITSLAND / ALEMANHA / SAKSA / TYSKLAND

ACC	8	Orion	DCFM	Accumersiel	221
ACC	10	Komet	DCWK	Accumersiel	221
BÜS	4	Adler	DJIC	Büsum	100
CUX	2	Jan Janshen Bruhns	DCSR	Cuxhaven	151
CUX	4	Nordergründe	DFPD	Cuxhaven	220
CUX	13	Seerose	DISP	Cuxhaven	183
CUX	15	Bastian	DITD	Cuxhaven	151
CUX	17	Osteriff	DDGE	Cuxhaven	210

1	2	3	4	5
DIT 6	Amisia	DQNW	Ditzum	221
DOR 8	Delphin	DEUP	Dorum	151
FRI 35	Zenit	DCGN	Friedrichskoog	175
FRI 75	Luise	DIJK	Friedrichskoog	184
GRE 3	Horizont	DCMU	Greetsiel	221
GRE 8	Gretje	DJMP	Greetsiel	214
GRE 28	Vorwärts	DCDN	Greetsiel	110
HAR 1	Gesine Albrecht	DCQM	Harlesiel	220
HAR 3	Sperber	DCVF	Harlesiel	146
HOO 50	Sturmvogel	DDAX	Hooksiel	175
HOO 1	De Liekedeelers	DJIS	Hooge	184
HUS 28	Zukunft	DLYQ	Husum	184
NEU 227	Störtebeker	DLYJ	Neuharlingersiel	175
NEU 229	Falke	DCGQ	Neuharlingersiel	174
NEU 232	Möwe	DCET	Neuharlingersiel	190
NEU 235	Nordlicht		Neuharlingersiel	126
NEU 245	Seestern	DCKM	Neuharlingersiel	161
NOR 213	Nordsee	DCPV	Norddeich	206
NOR 225	Nordmeer	DCDB	Norddeich	107
OTT 1	Mareike	DIRQ	Otterndorf	176
PEL 2	Annemarie	DJFK	Pellworm	221
POG 1	Jan	DQQH	Pogum	184
SC 11	Anne-Gret	DIYM	Büsum	140
SC 13	Condor	DISD	Büsum	184
SC 18	Gaby Egel	DITV	Büsum	221
SC 33	Joke Sabine	DJGS	Büsum	184
SC 40	Klassje	DFMP	Büsum	184
SC 44	Klaus Groth I	DIUC	Büsum	220
SC 15	Martina	DIWD	Büsum	221
SD 30	Cormoran	DFOC	Friedrichskoog	220
SD 5	Hoffnung	DISX	Friedrichskoog	165
SD 8	Rugenort	DIWK	Friedrichskoog	184
SD 10	Christine	DJCH	Friedrichskoog	184
SD 34	Keen Tied	DDEW	Friedrichskoog	175
SK 18	Frans Willem	DFOL	Büsum	184
SK 18	Frans Willem	DFOL	Büsum	220
ST 4	Möwe	DCSP	Tönning	221
ST 6	Hilke-Marita	DNHA	Tönning	221
ST 6	Hilka Maritta	DNHA	Tönning	221
ST 12	Anja II	DJIV	Tönning	221
ST 24	Karolin	DJIF	Tönning	221
SU 1	Stefanie	DDEJ	Husum	221

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BR 7	Res Nova	PHAI	Oostburg-Breskens	221
GO 57	Johanna Maria	PFDS	Goedereede-Ouddorp	221
GO 210	Exmera Gratia	PEAM	Goedereede-Ouddorp	134
HA 30	Arcona	PGEU	Harlingen	221
HA 41	Antje	PCMP	Harlingen	158
HD 31	Marsdiep		Den Helder	221
HD 32	Klaasje	PFJT	Den Helder	221
HD 65	Harmtje Pieter	PENI	Den Helder	221
OD 3	Adrianne	PFWH	Goedereede-Ouddorp	221
OD 7	Adrianus	PHEQ	Goedereede-Ouddorp	221
OD 9	Geertruida	PEGK	Goedereede-Ouddorp	221
OD 15	De Zwerver	PDPIX	Goedereede-Ouddorp	221
OD 21	Cornelis Willem	PDMX	Goedereede-Ouddorp	221

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SCH	20	Deo Volente	PDOQ	Scheveningen	221
SCH	65	Quo Vadis		Scheveningen	221
SL	6	Dina Cornelia	PDQJ	Goedereede-Stellendam	221
SL	9	Boy Robin	PDER	Goedereede-Stellendam	138
SL	42	Hendrika Cornelia	PEPZ	Goedereede-Stellendam	221
TH	7	Adriana Maria	PCDY	Tholen	221
TH	10	Dirkje	PDQX	Tholen	221
TH	25	Pieterella Johanna	PGSY	Tholen	221
VLI	7	Eben Haezer	PDWW	Vlissingen	221
WR	7	Johanna	PFDU	Den Oever	221
WR	21	Jente	PGUX	Wieringen	221
WR	23	De Vrouw Geertruida	PDPO	Wieringen	221
WR	64	Annewien		Wieringen	221
WR	112	Zwaantje	PIZE	Wieringen	219
WR	129	Grietje Hendrika	PEKX	Wieringen	221
WR	131	Twee Gebroeders	PIPB	Wieringen	220
WR	224	De Tea Dieuwertje	PDOI	Wieringen	221
YE	40	Dei Gratia	PIPF	Yerseke	221

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