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# Legislation

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EN

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# REGULATION (EC) No 258/97 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**of 27 January 1997**

**concerning novel foods and novel food ingredients**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 100a thereof,

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

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

Acting in accordance with the procedure laid down in Article 189b of the Treaty (3) in the light of the joint text approved by the Conciliation Committee on 9 December 1996,

(1) Whereas differences between national laws relating to novel foods or food ingredients may hinder the free movement of foodstuffs; whereas they may create conditions of unfair competition, thereby directly affecting the functioning of the internal market;

(2) Whereas, in order to protect public health, it is necessary to ensure that novel foods and novel food ingredients are subject to a single safety assessment through a Community procedure before they are placed on the market within the Community; whereas in the case of novel foods and novel food ingredients which are substantially equivalent to existing foods or food ingredients a simplified procedure should be provided for;

(3) Whereas food additives, flavourings for use in foodstuffs and extraction solvents are covered by other Community legislation and should therefore be excluded from the scope of this Regulation;

(4) Whereas appropriate arrangements should be made for the placing on the market of novel foods and novel food ingredients derived from plant varieties subject to Council Directive 70/457/EEC of 29 September 1970 on the common catalogue of varieties of agricultural plant species (4) and Council Directive 70/458/EEC of 29 September 1970 on the marketing of vegetable seed (5);

(5) Whereas risks to the environment may be associated with novel foods or novel food ingredients which contain or consist of genetically modified organisms; whereas Council Directive 90/220/EEC of 23 April 1990 on the deliberate release into the environment of genetically modified organisms (6) stipulates that, for such products, an environmental risk assessment must always be undertaken to ensure environmental safety; whereas, in order to establish a unified Community system for assessment of such products, provision must be made under this Regulation for a specific environmental risk assessment, which in accordance with the procedure provided for in Article 10 of Directive 90/220/EEC must be similar to that laid down in that Directive, but must also include the assessment of the suitability of the product to be used as a food or food ingredient;

(1) OJ No C 190, 29. 7. 1992, p. 3 and OJ No C 16, 19. 1. 1994, p. 10.
(2) OJ No C 108, 19. 4. 1993, p. 8.
(3) Opinion of the European Parliament of 27 October 1993 (OJ No C 315, 22. 11. 1993, p. 139). Council Common Position of 23 October 1995 (OJ No C 320, 30. 11. 1995, p. 1) and Decision of the European Parliament of 12 March 1996 (OJ No C 96, 1. 4. 1996, p. 26). Decision of the Council of 19 December 1996 and Decision of the European Parliament of 16 January 1997.
(4) OJ No L 225, 12. 10. 1970, p. 1. Directive as last amended by Directive 90/654/EEC (OJ No L 353, 17. 12. 1990, p. 48).
(5) OJ No L 225, 12. 10. 1970, p. 7. Directive as last amended by Directive 90/654/EEC (OJ No L 353, 17. 12. 1990, p. 48).
(6) OJ No L 117, 8. 5. 1990, p. 15. Directive as last amended by Directive 94/15/EC (OJ No L 103, 22. 4. 1994, p. 20).

(6) Whereas the Scientific Committee for Food set up by Decision 74/234/EEC [1] should be consulted on any question relating to this Regulation which may have an effect on public health;

(7) Whereas Council Directive 89/397/EEC of 14 June 1989 on the official control of foodstuffs [2] and Council Directive 93/99/EEC of 29 October 1993 on the subject of additional measures concerning the official control of foodstuffs [3] apply to novel foods or food ingredients;

(8) Whereas, without prejudice to the other requirements in Community legislation relating to the labelling of foodstuffs, additional specific requirements on labelling should be laid down; whereas these requirements must be subject to precise provisions in order to ensure that the necessary information is available to the consumer; whereas defined population groups associated with well established practices regarding food should be informed when the presence in a novel food of material which is not present in the existing equivalent foodstuff gives rise to ethical concerns as regards those groups; whereas foods and food ingredients which contain genetically modified organisms and which are placed on the market must be safe for human health; whereas this assurance is provided for through compliance with the authorization procedure contained in Directive 90/220/EEC and/or by the single assessment procedure laid down in this Regulation; whereas insofar as an organism is defined by Community law, with respect to labelling, information to the consumer on the presence of an organism which has been genetically modified constitutes an additional requirement applicable to the foods and food ingredients referred to in this Regulation;

(9) Whereas, in respect of foods and food ingredients which are intended to be placed on the market to be supplied to the final consumer, and which may contain both genetically modified and conventional produce, and without prejudice to the other labelling requirements of this Regulation, information for the consumer on the possibility that genetically modified organisms may be present in the foods and food ingredients concerned is deemed — by way of exception, in particular as regards bulk consignments — to fulfil the requirements of Article 8;

(10) Whereas nothing shall prevent a supplier from informing the consumer on the labelling of a food or food ingredient that the product in question is not a novel food within the meaning of this Regulation or that the techniques used to obtain novel foods indicated in Article 1 (2) were not used in the production of that food or food ingredient;

(11) Whereas, under this Regulation, provision should be made for a procedure instituting close cooperation between Member States and the Commission within the Standing Committee on Foodstuffs set up by Decision 69/414/EEC [4];

(12) Whereas a *modus vivendi* between the European Parliament, the Council and the Commission concerning the implementing measures for acts adopted in accordance with the procedure laid down in Article 189b of the Treaty was concluded on 20 December 1994 [5],

HAVE ADOPTED THIS REGULATION:

*Article 1*

1. This Regulation concerns the placing on the market within the Community of novel foods or novel food ingredients.

2. This Regulation shall apply to the placing on the market within the Community of foods and food ingredients which have not hitherto been used for human consumption to a significant degree within the Community and which fall under the following categories:

(a) foods and food ingredients containing or consisting of genetically modified organisms within the meaning of Directive 90/220/EEC;

(b) foods and food ingredients producted from, but not containing, genetically modified organisms;

(c) foods and food ingredients with a new or intentionally modified primary molecular structure;

(d) foods and food ingredients consisting of or isolated from micro-organisms, fungi or algae;

(e) foods and food ingredients consisting of or isolated from plants and food ingredients isolated from animals, except for foods and food ingredients obtained by traditional propagating or breeding practices and having a history of safe food use;

[1] OJ No L 136, 20. 5. 1974, p. 1.
[2] OJ No L 186, 30. 6. 1989, p. 23. Directive as last amended by Directive 93/99/EEC (OJ No L 290, 24. 11. 1993, p. 14).
[3] OJ No L 290, 24. 11. 1993, p. 14.
[4] OJ No L 291, 19. 11. 1969, p. 9.
[5] OJ No C 102, 4. 4. 1996, p. 1.

(f) foods and food ingredients to which has been applied a production process not currently used, where that process gives rise to significant changes in the composition or structure of the foods or food ingredients which affect their nutritional value, metabolism or level of undesirable substances.

3. Where necessary, it may be determined in accordance with the procedure laid down in Article 13 whether a type of food or food ingredient falls within the scope of paragraph 2 of this Article.

*Article 2*

1. This Regulation shall not apply to:

(a) food additives falling within the scope of Council Directive 89/107/EEC of 21 December 1988 on the approximation of the laws of the Member States concerning food additives authorized for use in foodstuffs intended for human consumption [1];

(b) flavourings for use in foodstuffs, falling within the scope of Council Directive 88/388/EEC of 22 June 1988 on the approximation of the laws of the Member States relating to flavourings for use in foodstuffs and to source materials for their production [2];

(c) extraction solvents used in the production of foodstuffs, falling within the scope of Council Directive 88/344/EEC of 13 June 1988 on the approximation of the laws of the Member States on extraction solvents used in the production of foodstuffs and food ingredients [3].

2. The exclusions from the scope of this Regulation referred to in paragraph 1, indents (a) to (c) shall only apply for so long as the safety levels laid down in Directives 89/107/EEC, 88/388/EEC and 88/344/EEC correspond to the safety level of this Regulation.

3. With due regard for Article 11 the Commission shall ensure that the safety levels laid down in the above Directives, as well as in the implementing measures for these Directives and this Regulation, correspond to the safety level of this Regulation.

[1] OJ No L 40, 11. 2. 1989, p. 27. Directive as last amended by Directive 94/34/EC (OJ No L 237, 10. 9. 1994, p. 1).
[2] OJ No L 184, 15. 7. 1988, p. 61. Directive as last amended by Directive 91/71/EEC (OJ No L 42, 15. 2. 1991, p. 25).
[3] OJ No L 157, 24. 6. 1988, p. 28. Directive as last amended by Directive 92/115/EEC (OJ No L 409, 31. 12. 1992, p. 31).

*Article 3*

1. Foods and food ingredients falling within the scope of this Regulation must not:

— present a danger for the consumer,

— mislead the consumer,

— differ from foods or food ingredients which they are intended to replace to such an extent that their normal consumption would be nutritionally disadvantageous for the consumer.

2. For the purpose of placing the foods and food ingredients falling within the scope of this Regulation on the market within the Community, the procedures laid down in Articles 4, 6, 7 and 8 shall apply on the basis of the criteria defined in paragraph 1 of this Article and the other relevant factors referred to in those Articles.

However, in the case of foods or food ingredients referred to in this Regulation derived from plant varieties subject to Directives 70/457/EEC and 70/458/EEC, the authorization decision referred to in Article 7 of this Regulation shall be taken in accordance with the procedures provided for in those Directives, provided they take account of the assessment principles laid down in this Regulation and the criteria set out in paragraph 1 of this Article, with the exception of the provisions relating to the labelling of such foods or food ingredients, which shall be established, pursuant to Article 8, in accordance with the procedure laid down in Article 13.

3. Paragraph 2 shall not apply to the foods and food ingredients referred to in Article 1 (2) (b) where the genetically modified organism used in the production of the food or food ingredient has been placed on the market in accordance with this Regulation.

4. By way of derogation from paragraph 2, the procedure laid down in Article 5 shall apply to foods or food ingredients referred to in Article 1 (2) (b), (d) and (e) which, on the basis of the scientific evidence available and generally recognized or on the basis of an opinion delivered by one of the competent bodies referred to in Article 4 (3), are substantially equivalent to existing foods or food ingredients as regards their composition, nutritional value, metabolism, intended use and the level of undesirable substances contained therein.

Where necessary, it may be determined in accordance with the procedure laid down in Article 13 whether a type of food or food ingredient falls under this paragraph.

*Article 4*

1. The person responsible for placing on the Community market (hereinafter 'the applicant') shall submit a request to the Member State in which the product is to be placed on the market for the first time. At the same time, he shall forward a copy of the request to the Commission.

2. An initial assessment as provided for in Article 6 shall be carried out.

Following the procedure referred to in Article 6 (4), the Member State referred to in paragraph 1 shall inform the applicant without delay:

— that he may place the food or food ingredient on the market, where the additional assessment referred to in Article 6 (3) is not required, and that no reasoned objection has been presented in accordance with Article 6 (4), or

— that, in accordance with Article 7, an authorization decision is required.

3. Each Member State shall notify to the Commission the name and address of the food assessment bodies responsible in its territory for preparing the initial assessment reports referred to in Article 6 (2).

4. Before the date of entry into force of this Regulation, the Commission shall publish recommendations concerning the scientific aspects of:

— the information necessary to support an application and the presentation of such information,

— the preparation of the initial assessment reports provided for in Article 6.

5. Any detailed rules for implementing this Article shall be adopted in accordance with the procedure laid down in Article 13.

*Article 5*

In the case of the foods or food ingredients referred to in Article 3 (4), the applicant shall notify the Commission of the placing on the market when he does so. Such notification shall be accompanied by the relevant details provided for in Article 3 (4). The Commission shall forward to Member States a copy of that notification within 60 days and, at the request of a Member State, a copy of the said relevant details. The Commission shall publish each year a summary of those notifications in the 'C' series of the *Official Journal of the European Communities.*

With respect to labelling, the provisions of Article 8 shall apply.

*Article 6*

1. The request referred to in Article 4 (1) shall contain the necessary information, including a copy of the studies which have been carried out and any other material which is available to demonstrate that the food or food ingredient complies with the criteria laid down in Article 3 (1), as well as an appropriate proposal for the presentation and labelling, in accordance with the requirements of Article 8, of the food or food ingredient. In addition, the request shall be accompanied by a summary of the dossier.

2. Upon receipt of the request, the Member State referred to in Article 4 (1) shall ensure that an initial assessment is carried out. To that end, it shall notify the Commission of the name of the competent food assessment body responsible for preparing the initial assessment report, or ask the Commission to arrange with another Member State for one of the competent food assessment bodies referred to in Article 4 (3) to prepare such a report.

The Commission shall forward to the Member States without delay a copy of the summary provided by the applicant and the name of the competent body responsible for carrying out the initial assessment.

3. The initial assessment report shall be drawn up within a period of three months from receipt of a request meeting the conditions laid down in paragraph 1, in accordance with the recommendations referred to in Article 4 (4), and shall decide whether or not the food or food ingredient requires additional assessment in accordance with Article 7.

4. The Member State concerned shall without delay forward the report of the competent food assessment body to the Commission, which shall forward it to the other Member States. Within a period of 60 days from the date of circulation of the report by the Commission, a Member State or the Commission may make comments or present a reasoned objection to the marketing of the food or food ingredient concerned. The comments or objections may also concern the presentation or labelling of the food or food ingredient.

Comments or objections shall be forwarded to the Commission, which shall circulate them to Member States within the period of 60 days referred to in the first subparagraph.

The applicant shall, where a Member State so requests, provide a copy of any pertinent information appearing in the request.

*Article 7*

1. Where an additional assessment is required in accordance with Article 6 (3) or an objection is raised in accordance with Article 6 (4), an authorization decision shall be taken in accordance with the procedure laid down in Article 13.

2. The decision shall define the scope of the authorization and shall establish, where appropriate:

— the conditions of use of the food or food ingredient,

— the designation of the food or food ingredient, and its specification,

— specific labelling requirements as referred to in Article 8.

3. The Commission shall without delay inform the applicant of the decision taken. Decisions shall be published in the *Official Journal of the European Communities*.

*Article 8*

1. Without prejudice to the other requirements of Community law concerning the labelling of foodstuffs, the following additional specific labelling requirements shall apply to foodstuffs in order to ensure that the final consumer is informed of:

(a) any characteristic or food property such as:

— composition,

— nutritional value or nutritional effects,

— intended use of the food,

which renders a novel food or food ingredient no longer equivalent to an existing food or food ingredient.

A novel food or food ingredient shall be deemed to be no longer equivalent for the purpose of this Article if scientific assessment, based upon an appropriate analysis of existing data, can demonstrate that the characteristics assessed are different in comparison with a conventional food or food ingredient, having regard to the accepted limits of natural variations for such characteristics.

In this case, the labelling must indicate the characteristics or properties modified, together with the method by which that characteristic or property was obtained;

(b) the presence in the novel food or food ingredient of material which is not present in an existing equivalent foodstuff and which may have implications for the health of certain sections of the population;

(c) the presence in the novel food or food ingredient of material which is not present in an existing equivalent foodstuff and which gives rise to ethical concerns;

(d) the presence of an organism genetically modified by techniques of genetic modification, the non-exhaustive list of which is laid down in Annex I A, Part 1 of Directive 90/220/EEC.

2. In the absence of an existing equivalent food or food ingredient, appropriate provisions shall be adopted where necessary in order to ensure that consumers are adequately informed of the nature of the food or food ingredient.

3. Any detailed rules for implementing this Article shall be adopted in accordance with the procedure laid down in Article 13.

*Article 9*

1. Where a food or food ingredient falling within the scope of this Regulation contains or consists of a genetically modified organism within the meaning of Article 2 (1) and (2) of Directive 90/220/EEC, the information required in the request for placing on the market referred to in Article 6 (1) shall be accompanied by:

— a copy of the written consent, if any, from the competent authority, to the deliberate release of the genetically modified organisms for research and development purposes provided for in Article 6 (4) of Directive 90/220/EEC, together with the results of the release(s) with respect to any risk to human health and the environment;

— the complete technical dossier supplying the relevant information requested in Article 11 of Directive 90/220/EEC and the environmental risk assessment based on this information, the results of any studies carried out for the purposes of research and development or, where appropriate, the decision authorizing the placing on the market provided for in part C of Directive 90/220/EEC.

Articles 11 to 18 of Directive 90/220/EEC shall not apply to foods or food ingredients which contain or consist of genetically modified organisms.

2. In the case of foods or food ingredients falling within the scope of this Regulation containing or consisting of genetically modified organisms, the decision referred to in Article 7 shall respect the environmental safety requirements laid down by Directive 90/220/EEC to ensure that all appropriate measures are taken to prevent the adverse effects on human health and the environment which might arise from the deliberate release of genetically modified organisms. During evaluation of requests for the placing on the market of products containing or consisting of genetically modified organisms, the necessary consultations shall be held by the Commission or the Member States with the bodies set up by the Community or the Member States in accordance with Directive 90/220/EEC.

*Article 10*

Detailed rules for the protection of the information provided by the applicant shall be adopted in accordance with the procedure laid down in Article 13.

*Article 11*

The Scientific Committee for Food shall be consulted on any matter falling within the scope of this Regulation likely to have an effect on public health.

*Article 12*

1. Where a Member State, as a result of new information or a reassessment of existing information, has detailed grounds for considering that the use of a food or a food ingredient complying with this Regulation endangers human health or the environment, that Member State may either temporarily restrict or suspend the trade in and use of the food or food ingredient in question in its territory. It shall immediately inform the other Member States and the Commission thereof, giving the grounds for its decision.

2. The Commission shall examine the grounds referred to in paragraph 1 as soon as possible within the Standing Committee for Foodstuffs; it shall take the appropriate measures in accordance with the procedure laid down in Article 13. The Member State which took the decision referred to in paragraph 1 may maintain it until the measures have entered into force.

*Article 13*

1. Where the procedure defined in this Article is to be implemented, the Commission shall be assisted by the Standing Committee for Foodstuffs, hereinafter referred to as the 'Committee'.

2. Matters shall be referred to the Committee by the Chairman either on his own initiative or at the request of the representative of a Member State.

3. 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.

4. (a) The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

(b) If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

*Article 14*

1. No later than five years from the date of entry into force of this Regulation and in the light of experience gained, the Commission shall forward to the European Parliament and to the Council a report on the implementation of this Regulation accompanied, where appropriate, by any suitable proposal.

2. Notwithstanding the review provided for in paragraph 1, the Commission shall monitor the application of this Regulation and its impact on health, consumer protection, consumer information and the functioning of the internal market and, if necessary, will bring forward proposals at the earliest possible date.

*Article 15*

This Regulation shall enter into force 90 days 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, 27 January 1997.

*For the European Parliament*
*The President*
J. M. GIL-ROBLES

*For the Council*
*The President*
G. ZALM

## COMMISSION STATEMENT — AD ARTICLE 2

The Commission confirms that should it appear, in the light of experience, that there are gaps in the system of protection of public health provided for by the existing legal framework, in particular in respect of processing aids, it will formulate appropriate proposals in order to fill those gaps.

# COMMISSION REGULATION (EC) No 259/97

**of 13 February 1997**

**repealing Regulation (EC) No 1482/95 determining as transitional measure the conversion rates to be applied under the Common Customs Tariff to agricultural products and certain products obtained from the processing thereof**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3290/94 of 22 December 1994 on the adjustments and transitional arrangements required in the agricultural sector in order to implement the agreements concluded during the Uruguay Round of multilateral trade negotiations [1], as amended by Regulation (EC) No 1193/96 [2],

Whereas Commission Regulation (EC) No 1482/95 [3], as amended by Regulation (EC) No 1224/96 [4], lays down transitional measures until 30 June 1997 to facilitate the transition to the arrangements resulting from the agreements concluded during the Uruguay Round of negotiations; whereas those transitional measures were taken to prevent a deflection of trade pending the decision of the European Parliament and the Council on the Commission proposal on an amendment of Article 18 of Commission Regulation (EEC) No 2913/92 [5], as last amended by Regulation (EC) No 82/97 [6]; whereas those transitional measures are no longer justified and entail administrative complications since the amendment of that Article 18 by Regulation (EC) No 82/97;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committees concerned,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 1482/95 is hereby repealed.

*Article 2*

This Regulation shall enter into force on 1 March 1997.

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

Done at Brussels, 13 February 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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[1] OJ No L 349, 31. 12. 1994, p. 105.
[2] OJ No L 161, 29. 6. 1996, p. 1.
[3] OJ No L 145, 29. 6. 1995, p. 43.
[4] OJ No L 161, 29. 6. 1996, p. 70.
[5] OJ No L 302, 19. 10. 1992, p. 1.
[6] OJ No L 17, 21. 1. 1997, p. 1.

# COMMISSION REGULATION (EC) No 260/97

## of 13 February 1997

## re-establishing the preferential customs duty on imports of single-flower (standard) carnations originating in Israel

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan and Morocco [1], as last amended by Regulation (EC) No 539/96 [2], and in particular Article 5 (2) (b) thereof,

Whereas Regulation (EEC) No 4088/87 fixes conditions for the application of a preferential customs duty on large-flowered roses, small-flowered roses, uniflorous (bloom) carnations and multiflorous (spray) carnations within the limit of tariff quotas opened annually for imports of fresh cut flowers into the Community;

Whereas Council Regulation (EC) No 1981/94 [3], as last amended by Regulation (EC) No 2397/96 [4], opens and provides for the administration of Community tariff quotas for cut flowers and flower buds, fresh, originating in Cyprus, Jordan, Morocco and Israel;

Whereas Article 2 (3) of Regulation (EEC) No 4088/87 stipulates that the preferential customs duty shall be reintroduced for a given product of a given origin if the prices of the imported product (full rate customs duty not deducted) are, for at least 70 % of the quantities for which prices are available on representative Community import markets, not less than 85 % of the Community producer price for a period, calculated from the actual date of suspension of the actual preferential customs duty,

— of two successive market days, after suspension under Article 2 (2) (a) of that Regulation,

— of three successive market days, after suspension under Article 2 (2) (b) of that Regulation;

Whereas Commission Regulation (EC) No 1985/96 [5] fixed Community producer prices for carnations and roses for application of the arrangements for importation from the countries in question;

Whereas Commission Regulation (EEC) No 700/88 [6], as last amended by Regulation (EEC) No 2917/93 [7], laid down detailed rules for the application of these arrangements;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92 [8], as last amended by Regulation (EC) No 150/95 [9], are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93 [10], as last amended by Regulation (EC) No 1482/96 [11];

Whereas the preferential customs duty fixed for single-flower (standard) carnations originating in Israel by Regulation (EC) No 1981/94 was suspended by Commission Regulation (EC) No 98/97 [12];

Whereas on the basis of price recordings made as specified in Regulations (EEC) No 4088/87 and (EEC) No 700/88 it must be concluded that the requirement for reintroduction of the preferential customs duty laid down in the last indent of Article 2 (3) of Regulation (EEC) No 4088/87 is met for single-flower (standard) carnations originating in Israel; whereas the preferential customs duty should be reintroduced,

HAS ADOPTED THIS REGULATION:

*Article 1*

For imports of single-flower (standard) carnations (CN codes ex 0603 10 13 and ex 0603 10 53) originating in Israel the preferential customs duty set by amended Regulation (EC) No 1981/94 is reintroduced.

*Article 2*

This Regulation shall enter into force on 14 February 1997.

(1) OJ No L 382, 31. 12. 1987, p. 22.
(2) OJ No L 79, 29. 3. 1996, p. 6.
(3) OJ No L 199, 2. 8. 1994, p. 1.
(4) OJ No L 327, 18. 12. 1996, p. 1.
(5) OJ No L 264, 17. 10. 1996, p. 14.
(6) OJ No L 72, 18. 3. 1988, p. 16.
(7) OJ No L 264, 23. 10. 1993, p. 33.
(8) OJ No L 387, 31. 12. 1992, p. 1.
(9) OJ No L 22, 31. 1. 1995, p. 1.
(10) OJ No L 108, 1. 5. 1993, p. 106.
(11) OJ No L 188, 27. 7. 1996, p. 22.
(12) OJ No L 19, 22. 1. 1997, p. 17.

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

Done at Brussels, 13 February 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

# COMMISSION REGULATION (EC) No 261/97

## of 13 February 1997

## re-establishing the preferential customs duty on imports of multiflorous (spray) carnations originating in Israel

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan and Morocco [1], as last amended by Regulation (EC) No 539/96 [2], and in particular Article 5 (2) (b) thereof,

Whereas Regulation (EEC) No 4088/87 fixes conditions for the application of a preferential customs duty on large-flowered roses, small-flowered roses, uniflorous (bloom) carnations and multiflorous (spray) carnations within the limit of tariff quotas opened annually for imports of fresh cut flowers into the Community;

Whereas Council Regulation (EC) No 1981/94 [3], as last amended by Regulation (EC) No 2397/96 [4], opens and provides for the administration of Community tariff quotas for cut flowers and flower buds, fresh, originating in Cyprus, Jordan, Morocco and Israel;

Whereas Article 2 (3) of Regulation (EEC) No 4088/87 stipulates that the preferential customs duty shall be reintroduced for a given product of a given origin if the prices of the imported product (full rate customs duty not deducted) are, for at least 70 % of the quantities for which prices are available on representative Community import markets, not less than 85 % of the Community producer price for a period, calculated from the actual date of suspension of the actual preferential customs duty,

— of two successive market days, after suspension under Article 2 (2) (a) of that Regulation,

— of three successive market days, after suspension under Article 2 (2) (b) of that Regulation;

Whereas Commission Regulation (EC) No 1985/96 [5] fixed Community producer prices for carnations and roses for application of the arrangements for importation from the countries in question;

Whereas Commission Regulation (EEC) No 700/88 [6], as last amended by Regulation (EEC) No 2917/93 [7], laid down detailed rules for the application of these arrangements;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92 [8], as amended by Regulation (EC) No 150/95 [9], are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93 [10], as amended by Regulation (EC) No 1482/96 [11];

Whereas the preferential customs duty fixed for multiflorous (spray) carnations originating in Israel by Regulation (EC) No 1981/94 was suspended by Commission Regulation (EC) No 99/97 [12];

Whereas on the basis of price recordings made as specified in Regulations (EEC) No 4088/87 and (EEC) No 700/88 it must be concluded that the requirement for reintroduction of the preferential customs duty laid down in the last indent of Article 2 (3) of Regulation (EEC) No 4088/87 is met for multiflorous (spray) carnations originating in Israel; whereas the preferential customs duty should be reintroduced,

HAS ADOPTED THIS REGULATION:

*Article 1*

For imports of multiflorous (spray) carnations (CN codes ex 0603 10 13 and ex 0603 10 53) originating in Israel the preferential customs duty set by amended Regulation (EC) No 1981/94 is reintroduced.

*Article 2*

This Regulation shall enter into force on 14 February 1997.

(1) OJ No L 382, 31. 12. 1987, p. 22.
(2) OJ No L 79, 29. 3. 1996, p. 6.
(3) OJ No L 199, 2. 8. 1994, p. 1.
(4) OJ No L 327, 18. 12. 1996, p. 1.
(5) OJ No L 264, 17. 10. 1996, p. 14.
(6) OJ No L 72, 18. 3. 1988, p. 16.
(7) OJ No L 264, 23. 10. 1993, p. 33.
(8) OJ No L 387, 31. 12. 1992, p. 1.
(9) OJ No L 22, 31. 1. 1995, p. 1.
(10) OJ No L 108, 1. 5. 1993, p. 96.
(11) OJ No L 188, 27. 7. 1996, p. 22.
(12) OJ No L 19, 22. 1. 1997, p. 19.

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

Done at Brussels, 13 February 1997.

*For the Commission*
Franz FISCHLER
*Member of the Commission*

# COMMISSION REGULATION (EC) No 262/97

## of 13 February 1997

## establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

Whereas Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

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

*Article 2*

This Regulation shall enter into force on 14 February 1997.

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

Done at Brussels, 13 February 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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[1] OJ No L 337, 24. 12. 1994, p. 66.
[2] OJ No L 325, 14. 12. 1996, p. 5.
[3] OJ No L 387, 31. 12. 1992, p. 1.
[4] OJ No L 22, 31. 1. 1995, p. 1.

*ANNEX*

**to the Commission Regulation of 13 February 1997 establishing the standard import values for determining the entry price of certain fruit and vegetables**

*(ECU/100 kg)*

| CN code | Third country code (1) | Standard import value |
|---|---|---|
| 0702 00 15 | 204 | 41,9 |
| | 212 | 113,6 |
| | 624 | 212,1 |
| | 999 | 122,5 |
| 0707 00 10 | 068 | 88,5 |
| | 999 | 88,5 |
| 0709 10 10 | 220 | 132,6 |
| | 999 | 132,6 |
| 0709 90 73 | 052 | 127,1 |
| | 204 | 132,8 |
| | 628 | 141,9 |
| | 999 | 133,9 |
| 0805 10 01, 0805 10 05, 0805 10 09 | 052 | 39,8 |
| | 204 | 41,2 |
| | 212 | 41,0 |
| | 220 | 49,1 |
| | 448 | 23,2 |
| | 600 | 57,2 |
| | 624 | 57,9 |
| | 999 | 44,2 |
| 0805 20 11 | 204 | 91,7 |
| | 999 | 91,7 |
| 0805 20 13, 0805 20 15, 0805 20 17, 0805 20 19 | 052 | 55,1 |
| | 204 | 68,7 |
| | 400 | 104,7 |
| | 464 | 87,1 |
| | 600 | 101,0 |
| | 624 | 82,6 |
| | 662 | 57,7 |
| | 999 | 79,6 |
| 0805 30 20 | 052 | 72,7 |
| | 600 | 79,4 |
| | 999 | 76,0 |
| 0808 10 51, 0808 10 53, 0808 10 59 | 039 | 97,7 |
| | 052 | 59,3 |
| | 060 | 58,0 |
| | 400 | 85,4 |
| | 404 | 79,9 |
| | 999 | 76,1 |
| 0808 20 31 | 388 | 77,0 |
| | 400 | 107,5 |
| | 512 | 77,0 |
| | 528 | 93,1 |
| | 624 | 78,0 |
| | 999 | 86,5 |

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

# COMMISSION REGULATION (EC) No 263/97

## of 13 February 1997

## amending representative prices and additional duties for the import of certain products in the sugar sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector [1], as last amended by Regulation (EC) No 1599/96 [2],

Having regard to Commission Regulation (EC) No 1423/95 of 23 June 1995 laying down detailed implementing rules for the import of products in the sugar sector other than molasses [3], as last amended by Regulation (EC) No 1127/96 [4], and in particular the second subparagraph of Article 1 (2), and Article 3 (1) thereof,

Whereas the amounts of the representative prices and additional duties applicable to the import of white sugar, raw sugar and certain syrups are fixed by Commission Regulation (EC) No 1195/96 [5], as last amended by Regulation (EC) No 230/97 [6];

Whereas it follows from applying the general and detailed fixing rules contained in Regulation (EC) No 1423/95 to the information known to the Commission that the representative prices and additional duties at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

The representative prices and additional duties on imports of the products referred to in Article 1 of Regulation (EC) No 1423/95 shall be as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 14 February 1997.

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

Done at Brussels, 13 February 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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[1] OJ No L 177, 1. 7. 1981, p. 4.
[2] OJ No L 206, 16. 8. 1996, p. 43.
[3] OJ No L 141, 24. 6. 1995, p. 16.
[4] OJ No L 150, 25. 6. 1996, p. 12.
[5] OJ No L 161, 29. 6. 1996, p. 3.
[6] OJ No L 37, 7. 2. 1997, p. 9.

*ANNEX*

**to the Commission Regulation of 13 February 1997 amending representative prices and the amounts of additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 99**

*(ECU)*

| CN code | Amount of representative prices per 100 kg net of product concerned | Amount of additional duty per 100 kg net of product concerned |
|---|---|---|
| 1701 11 10 (1) | 22,55 | 5,03 |
| 1701 11 90 (1) | 22,55 | 10,26 |
| 1701 12 10 (1) | 22,55 | 4,84 |
| 1701 12 90 (1) | 22,55 | 9,83 |
| 1701 91 00 (2) | 25,66 | 12,44 |
| 1701 99 10 (2) | 25,66 | 7,88 |
| 1701 99 90 (2) | 25,66 | 7,88 |
| 1702 90 99 (3) | 0,26 | 0,39 |

(1) For the standard quality as defined in Article 1 of amended Council Regulation (EEC) No 431/68 (OJ No L 89, 10. 4. 1968, p. 3).

(2) For the standard quality as defined in Article 1 of Council Regulation (EEC) No 793/72 (OJ No L 94, 21. 4. 1972, p. 1).

(3) By 1 % sucrose content.

# COMMISSION REGULATION (EC) No 264/97

## of 13 February 1997

## fixing the export refunds on cereals and on wheat or rye flour, groats and meal

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], and in particular Article 13 (2) thereof,

Whereas Article 13 of Regulation (EEC) No 1766/92 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products in the Community may be covered by an export refund;

Whereas the refunds must be fixed taking into account the factors referred to in Article 1 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals [3], as last amended by Regulation (EC) No 95/96 [4];

Whereas, as far as wheat and rye flour, groats and meal are concerned, when the refund on these products is being calculated, account must be taken of the quantities of cereals required for their manufacture; whereas these quantities were fixed in Regulation (EC) No 1501/95;

Whereas the world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination;

Whereas the refund must be fixed once a month; whereas it may be altered in the intervening period;

Whereas it follows from applying the detailed rules set out above to the present situation on the market in cereals, and in particular to quotations or prices for these products within the Community and on the world market, that the refunds should be as set out in the Annex hereto;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The export refunds on the products listed in Article 1 (a), (b) and (c) of Regulation (EEC) No 1766/92, excluding malt, exported in the natural state, shall be as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 14 February 1997.

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

Done at Brussels, 13 February 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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[1] OJ No L 181, 1. 7. 1992, p. 21.
[2] OJ No L 126, 24. 5. 1996, p. 37.
[3] OJ No L 147, 30. 6. 1995, p. 7.
[4] OJ No L 18, 24. 1. 1996, p. 10.

*ANNEX*

**to the Commission Regulation of 13 February 1997 fixing the export refunds on cereals and on wheat or rye flour, groats and meal**

*(ECU / tonne)*

| Product code | Destination (1) | Amount of refund |
|---|---|---|
| 0709 90 60 | — | — |
| 0712 90 19 | — | — |
| 1001 10 00 9200 | — | — |
| 1001 10 00 9400 | 01 | 0 |
| 1001 90 91 9000 | — | — |
| 1001 90 99 9000 | 03 | 8,00 |
| | 02 | 0 |
| 1002 00 00 9000 | 03 | 21,00 |
| | 02 | 0 |
| 1003 00 10 9000 | — | — |
| 1003 00 90 9000 | 03 | 18,00 |
| | 02 | 0 |
| 1004 00 00 9200 | — | — |
| 1004 00 00 9400 | — | — |
| 1005 10 90 9000 | — | — |
| 1005 90 00 9000 | — | — |
| 1007 00 90 9000 | — | — |
| 1008 20 00 9000 | — | — |
| 1101 00 11 9000 | — | — |
| 1101 00 15 9100 | 01 | 24,50 |
| 1101 00 15 9130 | 01 | 23,00 |
| 1101 00 15 9150 | 01 | 21,00 |
| 1101 00 15 9170 | 01 | 19,50 |
| 1101 00 15 9180 | 01 | 18,00 |
| 1101 00 15 9190 | — | — |
| 1101 00 90 9000 | — | — |
| 1102 10 00 9500 | 01 | 41,00 |
| 1102 10 00 9700 | — | — |
| 1102 10 00 9900 | — | — |
| 1103 11 10 9200 | 01 | 9,00 (2) |
| 1103 11 10 9400 | — | — (2) |
| 1103 11 10 9900 | — | — |
| 1103 11 90 9200 | 01 | 9,00 (2) |
| 1103 11 90 9800 | — | — |

(1) The destinations are identified as follows:
01 All third countries,
02 Other third countries,
03 Switzerland and Liechtenstein.

(2) No refund is granted when this product contains compressed meal.

*NB:* The zones are those defined in amended Commission Regulation (EEC) No 2145/92 (OJ No L 214, 30. 7. 1992, p. 20).

# COMMISSION REGULATION (EC) No 265/97

## of 13 February 1997

## fixing the corrective amount applicable to the refund on cereals

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], and in particular Article 13 (8) thereof,

Whereas Article 13 (8) of Regulation (EEC) No 1766/92 provides that the export refund applicable to cereals on the day on which application for an export licence is made must be applied on request to exports to be effected during the period of validity of the export licence; whereas, in this case, a corrective amount may be applied to the refund;

Whereas Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the cereals and the measures to be taken in the event of disturbance on the market for cereals [3], as last amended by Regulation (EC) No 95/96 [4], allows for the fixing of a corrective amount for the products listed in Article 1 (1) (c) of Regulation (EEC) No 1766/92; whereas that corrective amount must be calculated taking account of the factors referred to in Article 1 of Regulation (EC) No 1501/95;

Whereas the world market situation or the specific requirements of certain markets may make it necessary to vary the corrective amount according to destination;

Whereas the corrective amount must be fixed at the same time as the refund and according to the same procedure; whereas it may be altered in the period between fixings;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92 [5], as last amended by Regulation (EC) No 150/95 [6], are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93 [7], as last amended by Regulation (EC) No 1482/96 [8];

Whereas it follows from applying the provisions set out above that the corrective amount must be as set out in the Annex hereto;

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

HAS ADOPTED THIS REGULATION:

*Article 1*

The corrective amount referred to in Article 1 (1) (a), (b) and (c) of Regulation (EEC) No 1766/92 which is applicable to export refunds fixed in advance in respect of malt shall be as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 14 February 1997.

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

Done at Brussels, 13 February 1997.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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(1) OJ No L 181, 1. 7. 1992, p. 21.
(2) OJ No L 126, 24. 5. 1996, p. 37.
(3) OJ No L 147, 30. 6. 1995, p. 7.
(4) OJ No L 18, 24. 1. 1996, p. 10.
(5) OJ No L 387, 31. 12. 1992, p. 1.
(6) OJ No L 22, 31. 1. 1995, p. 1.
(7) OJ No L 108, 1. 5. 1993, p. 106.
(8) OJ No L 188, 27. 7. 1996, p. 22.

*ANNEX*

**to the Commission Regulation of 13 February 1997 fixing the corrective amount applicable to the refund on cereals**

*(ECU/tonne)*

| Product code | Destination (1) | Current | 1st period | 2nd period | 3rd period | 4th period | 5th period | 6th period |
|---|---|---|---|---|---|---|---|---|
| | | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 0709 90 60 | — | — | — | — | — | — | — | — |
| 0712 90 19 | — | — | — | — | — | — | — | — |
| 1001 10 00 9200 | — | — | — | — | — | — | — | — |
| 1001 10 00 9400 | 01 | 0 | 0 | 0 | 0 | − 10,00 | — | — |
| 1001 90 91 9000 | — | — | — | — | — | — | — | — |
| 1001 90 99 9000 | 01 | 0 | 0 | 0 | 0 | 0 | — | — |
| 1002 00 00 9000 | 01 | 0 | 0 | 0 | 0 | 0 | — | — |
| 1003 00 10 9000 | — | — | — | — | — | — | — | — |
| 1003 00 90 9000 | 01 | 0 | 0 | 0 | 0 | − 20,00 | — | — |
| 1004 00 00 9200 | — | — | — | — | — | — | — | — |
| 1004 00 00 9400 | 01 | 0 | 0 | 0 | 0 | 0 | — | — |
| 1005 10 90 9000 | — | — | — | — | — | — | — | — |
| 1005 90 00 9000 | 01 | 0 | 0 | 0 | 0 | 0 | — | — |
| 1007 00 90 9000 | — | — | — | — | — | — | — | — |
| 1008 20 00 9000 | — | — | — | — | — | — | — | — |
| 1101 00 11 9000 | — | — | — | — | — | — | — | — |
| 1101 00 15 9100 | 01 | 0 | 0 | 0 | 0 | 0 | — | — |
| 1101 00 15 9130 | 01 | 0 | 0 | 0 | 0 | 0 | — | — |
| 1101 00 15 9150 | 01 | 0 | 0 | 0 | 0 | 0 | — | — |
| 1101 00 15 9170 | 01 | 0 | 0 | 0 | 0 | 0 | — | — |
| 1101 00 15 9180 | 01 | 0 | 0 | 0 | 0 | 0 | — | — |
| 1101 00 15 9190 | — | — | — | — | — | — | — | — |
| 1101 00 90 9000 | — | — | — | — | — | — | — | — |
| 1102 10 00 9500 | 01 | 0 | 0 | 0 | 0 | 0 | — | — |
| 1102 10 00 9700 | — | — | — | — | — | — | — | — |
| 1102 10 00 9900 | — | — | — | — | — | — | — | — |
| 1103 11 10 9200 | 01 | 0 | 0 | 0 | 0 | − 15,00 | — | — |
| 1103 11 10 9400 | — | — | — | — | — | — | — | — |
| 1103 11 10 9900 | — | — | — | — | — | — | — | — |
| 1103 11 90 9200 | 01 | 0 | 0 | 0 | 0 | 0 | — | — |
| 1103 11 90 9800 | — | — | — | — | — | — | — | — |

(1) The destinations are identified as follows:
01 all third countries.

*NB:* The zones are those defined in amended Commission Regulation (EEC) No 2145/92 (OJ No L 214, 30. 7. 1992, p. 20).

# DIRECTIVE 97/4/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**of 27 January 1997**

**amending Directive 79/112/EEC on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 100a thereof,

Having regard to Council Directive 79/112/EEC of 18 December 1978 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs [1], and in particular Article 6 (2) (c) and (3) and Article 7,

Having regard to the proposal from the Commission [2],

Having regard to the opinion of the Economic and Social Committee [3],

Acting in accordance with the procedure laid down in Article 189b of the Treaty [4] in the light of the join text approved on 16 October 1996 by the Conciliation Committee,

Whereas, in the context of achieving the objectives of the internal market, the use of the name customary in the Member State in which a product is manufactured should also be allowed in the case of products to be sold in another Member State;

Whereas, with the twofold aim of providing the consumer with better information and ensuring fair trade, the labelling rules as regards the exact nature and characteristics of products need to be further improved;

Whereas, in accordance with the rules of the Treaty, the provisions applicable to sales names remain subject to the general rules on labelling in Article 2 and more particularly the principle that they must not be such as to mislead the consumer about the characteristics of the foodstuff;

Whereas the Court of Justice of the European Communities has delivered several judgments in which it recommends detailed labelling, in particular the compulsory affixing of suitable labels giving the nature of the product sold; whereas this course of action, which enables the consumer to make his choice in full knowledge of the facts, is the most appropriate since it creates fewest obstacles to free trade;

Whereas it is for the Community legislature to adopt measures deriving from that case law,

HAVE ADOPTED THIS DIRECTIVE:

*Article 1*

Directive 79/112/EEC is hereby amended as follows:

1. the following recital shall be inserted after the sixth recital:

   'Whereas that need means that Member States may, in compliance with the rules of the Treaty, impose language requirements;'

2. the following shall be added to Article 3 (1):

   '2a. the quantity of certain ingredients or categories of ingredients as provided for in Article 7;'

3. Article 5 (1) shall be replaced by the following:

   '1. The name under which a foodstuff is sold shall be the name provided for in the European Community provisions applicable to it.

   (a) In the absence of European Community provisions, the name under which a product is sold shall be the name provided for in the laws, regulations and administrative provisions applicable in the Member State in which the product is sold to the final consumer or to mass caterers.

   Failing this, the name under which a product is sold shall be the name customary in the Member State in which it is sold to the final consumer or to

[1] OJ No L 33, 8. 2. 1979, p. 1. Directive as last amended by Commission Directive 93/102/EC (OJ No L 291, 25. 11. 1993, p. 14).
[2] OJ No C 122, 14. 5. 1992, p. 12, and OJ No C 118, 29. 4. 1994, p. 6.
[3] OJ No C 332, 16. 12. 1992, p. 3.
[4] Opinion of the European Parliament of 27 October 1993 (OJ No C 315, 22. 11. 1993, p. 102), Council Common Position of 15 June 1995 (OJ No C 182, 15. 7. 1995, p. 1) and Decision of the European Parliament of 25 October 1995 (OJ No C 308, 20. 11. 1995, p. 30). Decision of the European Parliament of 10 December 1996 and Decision of the Council of 10 January 1997.

mass caterers, or a description of the foodstuff, and if necessary of its use, which is clear enough to let the purchaser know its true nature and distinguish it from other products with which it might be confused.

(b) The use in the Member State of marketing of the sales name under which the product is legally manufactured and marketed in the Member State of production shall also be allowed.

However, where the application of the other provisions of this Directive, in particular those set out in Article 3, would not enable consumers in the Member State of marketing to know the true nature of the foodstuff and to distinguish it from foodstuffs with which they could confuse it, the sales name shall be accompanied by other descriptive information which shall appear in proximity to the sales name.

(c) In exceptional cases, the sales name of the Member State of production shall not be used in the Member State of marketing when the foodstuff which it designates is so different, as regards its composition or manufacture, from the foodstuff known under that name that the provisions of point (b) are not sufficient to ensure, in the Member State of marketing, correct information for consumers.';

4. Article 6 (2) (c) shall be replaced by the following:

'(c) products comprising a single ingredient, where:

— the trade name is identical with the ingredient name, or

— the trade name enables the nature of the ingredient to be clearly identified.';

5. the first indent of Article 6 (5) (b) (Directive 79/112/EEC) shall be replaced by the following:

'— ingredients which belong to one of the categories listed in Annex I and are constituents of another foodstuff need only be designated by the name of that category.

Alterations to the list of categories in Annex I may be effcted in accordance with the procedure laid down in Article 17.

However, the designation "starch" listed in Annex I must always be complemented by the indication of its specific vegetable origin, when that ingredient may contain gluten,';

6. the second indent of Article 6 (5) (b) (Directive 79/112/EEC) shall be replaced by the following:

'— ingredients belonging to one of the categories listed in Annex II must be designated by the name of that category, followed by their specific name or EEC number; if an ingredient belongs to more than one of the categories, the category appropriate to the principal function in the case of the foodstuff in question shall be indicated.

Amendments to this Annex based on advances in scientific and technical knowledge shall be adopted in accordance with the procedure laid down in Article 17.

However, the designation "modified starch" listed in Annex II must always be complemented by the indication of its specific vegetable origin, when that ingredient may contain gluten.';

7. Article 7 shall be replaced by the following:

*'Article 7*

1. The quantity of an ingredient or category of ingredients used in the manufacture or preparation of a foodstuff shall be stated in accordance with this Article.

2. The indication referred to in paragraph 1 shall be compulsory:

(a) where the ingredient or category of ingredients concerned appears in the name under which the foodstuff is sold or is usually associated with that name by the consumer; or

(b) where the ingredient or category of ingredients concerned is emphasized on the labelling in words, pictures or graphics; or

(c) where the ingredient or category of ingredients concerned is essential to characterize a foodstuff and to distinguish it from products with which it might be confused because of its name or appearance; or

(d) in the cases determined in accordance with the procedure laid down in Article 17.

3. Paragraph 2 shall not apply:

(a) to an ingredient or category of ingredients:

— the drained net weight of which is indicated in accordance with Article 8 (4), or

— the quantities of which are already required to be given on the labelling under Community provisions,

— which is used in small quantities for the purposes of flavouring,

— which, while appearing in the name under which the food is sold, is not such as to govern the choice of the consumer in the country of marketing because the variation in quantity is not essential to characterize the foodstuff or does not distinguish it from similar foods. In cases of doubt it shall be decided by the procedure laid down in Article 17 whether the conditions laid down in this indent are fulfilled.

(b) where specific Community provisions stipulate precisely the quantity of an ingredient or of a category of ingredients without providing for the indication thereof on the labelling;

(c) in the cases referred to in the fourth and fifth indents of Article 6 (5) (a);

(d) in the cases determined in accordance with the procedure laid down in Article 17.

4. The quantity indicated, expressed as a percentage, shall correspond to the quantity of the ingredient or ingredients at the time of its/their use. However, Community provisions may allow for derogations from this principle for certain foodstuffs. Such provisions shall be adopted in accordance with the procedure laid down in Article 17.

5. The indication referred to in paragraph 1 shall appear either in or immediately next to the name under which the foodstuff is sold or in the list of ingredients in connection with the ingredient or category of ingredients in question.

6. This Article shall apply without prejudice to Community rules on nutrition labelling for foodstuffs.';

8. The following Article shall be inserted:

*'Article 13a*

1. Member States shall ensure that the sale is prohibited within their own territories of foodstuffs for which the particulars provided for in Article 3 and Article 4 (2) do not appear in a language easily understood by the consumer, unless the consumer is in fact informed by means of other measures determined in accordance with the procedure laid down in Article 17 as regards one or more labelling particulars.

2. Within its own territory, the Member State in which the product is marketed may, in accordance with the rules of the Treaty, stipulate that those labelling particulars shall be given in one or more languages which it shall determine from among the official languages of the Community.

3. Paragraphs 1 and 2 shall not preclude the labelling particulars from being indicated in several languages.';

9. in Article 14, the second paragraph shall be deleted.

*Article 2*

Member States shall, where appropriate, amend their laws, regulations and administrative provisions in order to:

— allow trade in products conforming to this Directive no later than 14 August 1998,

— prohibit trade in products not conforming to this Directive no later than 14 February 2000. However, trade in products not conforming to this Directive and labelled before that date shall be permitted until stocks are fully depleted.

The Member States shall forthwith inform the Commission of those provisions.

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 3*

This Directive shall apply as from the date of its publication in the *Official Journal of the European Communities.*

*Article 4*

This Directive is addressed to the Member States.

Done at Brussels, 27 January 1997.

| *For the European Parliament* | *For the Council* |
|---|---|
| *The President* | *The President* |
| J. M. GIL-ROBLES | G. ZALM |

## COMMISSION STATEMENT

The Commission can agree to the amendment to the first and second indents of Article 6 (5) (b) of Directive 79/112/EEC. The Commission undertakes to submit, in accordance with the procedure laid down in Article 17, a draft directive for the amendment of Annexes I and II of Directive 79/112/EEC to the Standing Committee for Foodstuffs, as soon as possible, in order to bring the Annexes into line with the new text of Article 6.

# DIRECTIVE 97/5/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

## of 27 January 1997

## on cross-border credit transfers

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission [1],

Having regard to the opinion of the Economic and Social Committee [2],

Having regard to the opinion of the European Monetary Institute,

Acting in accordance with the procedure laid down in Article 189b of the Treaty [3] in the light of the joint text approved on 22 November 1996 by the Conciliation Committee,

(1) Whereas the volume of cross-border payments is growing steadily as completion of the internal market and progress towards full economic and monetary union lead to greater trade and movement of people within the Community; whereas cross-border credit transfers account for a substantial part of the volume and value of cross-border payments;

(2) Whereas it is essential for individuals and businesses, especially small and medium-sized enterprises, to be able to make credit transfers rapidly, reliably and cheaply from one part of the Community to another; whereas, in conformity with the Commission Notice on the application of the EC competition rules to cross-border credit transfers [4], greater competition in the market for cross-border credit transfers should lead to improved services and reduced prices;

(3) Whereas this Directive seeks to follow up the progress made towards completion of the internal market, in particular towards liberalization of capital movements, with a view to the implementation of economic and monetary union; whereas its provisions must apply to credit transfers in the currencies of the Member States and in ecus;

(4) Whereas the European Parliament, in its resolution of 12 February 1993 [5], called for a Council Directive to lay down rules in the area of transparency and performance of cross-border payments;

(5) Whereas the issues covered by this Directive must be dealt with separately from the systemic issues which remain under consideration within the Commission; whereas it may become necessary to make a further proposal to cover these systemic issues, particularly the problem of settlement finality;

(6) Whereas the purpose of this Directive is to improve cross-border credit transfer services and thus assist the European Monetary Institute (EMI) in its task of promoting the efficiency of cross-border payments with a view to the preparation of the third stage of economic and monetary union;

(7) Whereas, in line with the objectives set out in the second recital, this Directive should apply to any credit transfer of an amount of less than ECU 50 000;

(8) Whereas, having regard to the third paragraph of Article 3b of the Treaty, and with a view to ensuring transparency, this Directive lays down the minimum requirements needed to ensure an adequate level of customer information both before and after the execution of a cross-border credit transfer; whereas these requirements include indication of the complaints and redress procedures offered to customers, together with the arrangements for access thereto; whereas this Directive lays down minimum execution requirements, in particular in terms of performance, which institutions offering cross-border credit transfer services should adhere to, including the obligation to execute a cross-border credit transfer in accordance with the customer's instructions; whereas this Directive fulfils the conditions deriving from the principles set out in Commission Recommendation 90/109/EEC of 14 February 1990

[1] OJ No C 360, 17. 12. 1994, p. 13, and OJ No C 199, 3. 8. 1995, p. 16.
[2] OJ No C 236, 11. 9. 1995, p. 1.
[3] Opinion of the European Parliament of 19 May 1995 (OJ No C 151, 19. 6. 1995, p. 370), Council common position of 4 December 1995 (OJ No C 353, 30. 12. 1995, p. 52) and Decision of the European Parliament of 13 March 1996 (OJ No C 96, 1. 4. 1996, p. 74). Decision of the Council of 19 December 1996 and Decision of the European Parliament of 16 January 1997.
[4] OJ No C 251, 27. 9. 1995, p. 3.
[5] OJ No C 72, 15. 3. 1993, p. 158.

on the transparency of banking conditions relating to cross-border financial transactions [1]; whereas this Directive is without prejudice to Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering [2];

(9) Whereas this Directive should contribute to reducing the maximum time taken to execute a cross-border credit transfer and encourage those institutions which already take a very short time to do so to maintain that practice;

(10) Whereas the Commission, in the report it will submit to the European Parliament and the Council within two years of implementation of this Directive, should particularly examine the time-limit to be applied in the absence of a time-limit agreed between the originator and his institution, taking into account both technical developments and the situation existing in each Member State;

(11) Whereas there should be an obligation upon institutions to refund in the event of a failure to successfully complete a credit transfer; whereas the obligation to refund imposes a contingent liability on institutions which might, in the absence of any limit, have a prejudicial effect on solvency requirements; whereas that obligation to refund should therefore be applicable up to ECU 12 500;

(12) Whereas Article 8 does not affect the general provisions of national law whereby an institution has responsibility towards the originator when a cross-border credit transfer has not been completed because of an error committed by that institution;

(13) Whereas it is necessary to distinguish, among the circumstances with which institutions involved in the execution of a cross-border credit transfer may be confronted, including circumstances relating to insolvency, those caused by *force majeure;* whereas for that purpose the definition of *force majeure* given in Article 4 (6) of Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours [3] should be taken as a basis;

(14) Whereas there need to be adequate and effective complaints and redress procedures in the Member States for the settlement of possible disputes between customers and institutions, using existing procedures where appropriate,

HAVE ADOPTED THIS DIRECTIVE:

## SECTION I

## SCOPE AND DEFINITIONS

### *Article 1*

### Scope

The provisions of this Directive shall apply to cross-border credit transfers in the currencies of the Member States and the ECU up to the equivalent of ECU 50 000 ordered by persons other than those referred to in Article 2 (a), (b) and (c) and executed by credit institutions or other institutions.

### *Article 2*

### Definitions

For the purposes of this Directive:

(a) 'credit institution' means an institution as defined in Article 1 of Council Directive 77/780/EEC [4], and includes branches, within the meaning of the third indent of that Article and located in the Community, of credit institutions which have their head offices outside the Community and which by way of business execute cross-border credit transfers;

(b) 'other institution' means any natural or legal person, other than a credit institution, that by way of business executes cross-border credit transfers;

(c) 'financial institution' means an institution as defined in Article 4 (1) of Council Regulation (EC) No 3604/93 of 13 December 1993 specifying definitions for the application of the prohibition of privileged access referred to in Article 104a of the Treaty [5];

(d) 'institution' means a credit institution or other institution; for the purposes of Articles 6, 7 and 8, branches of one credit institution situated in different Member States which participate in the execution of a cross-border credit transfer shall be regarded as separate institutions;

(e) 'intermediary institution' means an institution which is neither that of the originator nor that of the beneficiary and which participates in the execution of a cross-border credit transfer;

[1] OJ No L 67, 15. 3. 1990, p. 39.
[2] OJ No L 166, 28. 6. 1991, p. 77.
[3] OJ No L 158, 23. 6. 1990, p. 59.
[4] OJ No L 322, 17. 12. 1977, p. 30. Directive as last amended by Directive 95/26/EC (OJ No L 168, 18. 7. 1995, p. 7).
[5] OJ No L 332, 31. 12. 1993, p. 4.

(f) 'cross-border credit transfer' means a transaction carried out on the initiative of an originator via an institution or its branch in one Member State, with a view to making available an amount of money to a beneficiary at an institution or its branch in another Member State; the originator and the beneficiary may be one and the same person;

(g) 'cross-border credit transfer order' means an unconditional instruction in any form, given directly by an originator to an institution to execute a cross-border credit transfer;

(h) 'originator' means a natural or legal person that orders the making of a cross-border credit transfer to a beneficiary;

(i) 'beneficiary' means the final recipient of a cross-border credit transfer for whom the corresponding funds are made available in an account to which he has access;

(j) 'customer' means the originator or the beneficiary, as the context may require;

(k) 'reference interest rate' means an interest rate representing compensation and established in accordance with the rules laid down by the Member State in which the establishment which must pay the compensation to the customer is situated;

(l) 'date of acceptance' means the date of fulfilment of all the conditions required by the institution as to the execution of the cross-border credit transfer order and relating to the availability of adequate financial cover and the information required to execute that order.

SECTION II

## TRANSPARENCY OF CONDITIONS FOR CROSS-BORDER CREDIT TRANSFERS

*Article 3*

### Prior information on conditions for cross-border credit transfers

The institutions shall make available to their actual and prospective customers in writing, including where appropriate by electronic means, and in a readily comprehensible form, information on conditions for cross-border credit transfers. This information shall include at least:

— indication of the time needed, when a cross-border credit transfer order given to the institution is executed, for the funds to be credited to the account of the beneficiary's institution; the start of that period must be clearly indicated,

— indication of the time needed, upon receipt of a cross-border credit transfer, for the funds credited to the account of the institution to be credited to the beneficiary's account,

— the manner of calculation of any commission fees and charges payable by the customer to the institution, including where appropriate the rates,

— the value date, if any, applied by the institution,

— details of the complaint and redress procedures available to the customer and arrangements for access to them,

— indication of the reference exchange rates used.

*Article 4*

### Information subsequent to a cross-border credit transfer

The institutions shall supply their customers, unless the latter expressly forgo this, subsequent to the execution or receipt of a cross-border credit transfer, with clear information in writing, including where appropriate by electronic means, and in a readily comprehensible form. This information shall include at least:

— a reference enabling the customer to identify the cross-border credit transfer,

— the original amount of the cross-border credit transfer,

— the amount of all charges and commission fees payable by the customer,

— the value date, if any, applied by the institution.

Where the originator has specified that the charges for the cross-border credit transfer are to be wholly or partly borne by the beneficiary, the latter shall be informed thereof by his own institution.

Where any amount has been converted, the institution which converted it shall inform its customer of the exchange rate used.

SECTION III

## MINIMUM OBLIGATIONS OF INSTITUTIONS IN RESPECT OF CROSS-BORDER CREDIT TRANSFERS

*Article 5*

### Specific undertakings by the institution

Unless it does not wish to do business with that customer, an institution must at a customer's request, for a cross-border credit transfer with stated specifications, give an undertaking concerning the time needed for execution of the transfer and the commission fees and charges payable, apart from those relating to the exchange rate used.

*Article 6*

**Obligations regarding time taken**

1. The originator's institution shall execute the cross-border credit transfer in question within the time limit agreed with the originator.

Where the agreed time limit in not complied with or, in the absence of any such time limit, where, at the end of the fifth banking business day following the date of acceptance of the cross-border credit transfer order, the funds have not been credited to the the account of the beneficiary's institution, the originator's institution shall compensate the originator.

Compensation shall comprise the payment of interest calculated by applying the reference rate of interest to the amount of the cross-border credit transfer for the period from:

— the end of the agreed time limit or, in the absence of any such time limit, the end of the fifth banking business day following the date of acceptance of the cross-border credit transfer order, to

— the date on which the funds are credited to the account of the beneficiary's institution.

Similarly, where non-execution of the cross-border credit transfer within the time limit agreed or, in the absence of any such time limit, before the end of the fifth banking business day following the date of acceptance of the cross-border credit transfer is attributable to an intermediary institution, that institution shall be required to compensate the originator's institution.

2. The beneficiary's institution shall make the funds resulting from the cross-border credit transfer available to the beneficiary within the time limit agreed with the beneficiary.

Where the agreed time limit is not complied with or, in the absence of any such time limit, where, at the end of the banking business day following the day on which the funds were credited to the account of the beneficiary's institution, the funds have not been credited to the beneficiary's account, the beneficiary's institution shall compensate the beneficiary.

Compensation shall comprise the payment of interest calculated by applying the reference rate of interest to the amount of the cross-border credit transfer for the period from:

— the end of the agreed time limit or, in the absence of any such time limit, the end of the banking business day following the day on which the funds were credited to the account of the beneficiary's institution, to

— the date on which the funds are credited to the beneficiary's account.

3. No compensation shall be payable pursuant to paragraphs 1 and 2 where the originator's institution or, as the case may be, the beneficiary's institution can establish that the delay is attributable to the originator or, as the case may be, the beneficiary.

4. Paragraphs 1, 2 and 3 shall be entirely without prejudice to the other rights of customers and institutions that have participated in the execution of a cross-border credit transfer order.

*Article 7*

**Obligation to execute the cross-border transfer in accordance with instructions**

1. The originator's institution, any intermediary institution and the beneficiary's institution, after the date of acceptance of the cross-border credit transfer order, shall each be obliged to execute that credit transfer for the full amount thereof unless the originator has specified that the costs of the cross-border credit transfer are to be borne wholly or partly by the beneficiary.

The first subparagraph shall be without prejudice to the possibility of the beneficiary's institution levying a charge on the beneficiary relating to the administration of his account, in accordance with the relevant rules and customs. However, such a charge may not be used by the institution to avoid the obligations imposed by the said subparagraph.

2. Without prejudice to any other claim which may be made, where the originator's institution or an intermediary institution has made a deduction from the amount of the cross-border credit transfer in breach of paragraph 1, the originator's institution shall, at the originator's request, credit, free of all deductions and at its own cost, the amount deducted to the beneficiary unless the originator requests that the amount be credited to him.

Any intermediary institution which has made a deduction in breach of paragraph 1 shall credit the amount deducted, free of all deductions and at its own cost, to the originator's institution or, if the originator's institution so requests, to the beneficiary of the cross-border credit transfer.

3. Where a breach of the duty to execute the cross-border credit transfer order in accordance with the originator's instructions has been caused by the beneficiary's institution, and without prejudice to any other claim which may be made, the beneficiary's institution shall be liable to credit to the beneficiary, at its own cost, any sum wrongly deducted.

*Article 8*

**Obligation upon institutions to refund in the event of non-execution of transfers**

1. If, after a cross-border credit transfer order has been accepted by the originator's institution, the relevant amounts are not credited to the account of the beneficiary's institution, and without prejudice to any other claim which may be made, the originator's institution shall credit the originator, up to ECU 12 500, with the amount of the cross-border credit transfer plus:

— interest calculated by applying the reference interest rate to the amount of the cross-border credit transfer for the period between the date of the cross-border credit transfer order and the date of the credit, and

— the charges relating to the cross-border credit transfer paid by the originator.

These amounts shall be made available to the originator within fourteen banking business days following the date of his request, unless the funds corresponding to the cross-border credit transfer have in the meantime been credited to the account of the beneficiary's institution.

Such a request may not be made before expiry of the time limit agreed between the originator's institution and the originator for the execution of the cross-border credit transfer order or, in the absence of any such time limit, before expiry of the time limit laid down in the second subparagraph of Article 6 (1).

Similarly, each intermediary institution which has accepted the cross-border credit transfer order owes an obligation to refund at its own cost the amount of the credit transfer, including the related costs and interest, to the institution which instructed it to carry out the order. If the cross-border credit transfer was not completed because of errors or omissions in the instructions given by that institution, the intermediary institution shall endeavour as far as possible to refund the amount of the transfer.

2. By way of derogation from paragraph 1, if the cross-border credit transfer was not completed because of its non-execution by an intermediary institution chosen by the beneficiary's institution, the latter institution shall be obliged to make the funds available to the beneficiary up to ECU 12 500.

3. By way of derogation from paragraph 1, if the cross-border credit transfer was not completed because of an error or omission in the instructions given by the originator to his institution or because of non-execution of the cross-border credit transfer by an intermediary institution expressly chosen by the originator, the originator's institution and the other institutions involved shall endeavour as fas as possible to refund the amount of the transfer.

Where the amount has been recovered by the originator's institution, it shall be obliged to credit it to the originator. The institutions, including the originator's institution, are not obliged in this case to refund the charges and interest accruing, and can deduct the costs arising from the recovery if specified.

*Article 9*

**Situation of *force majeure***

Without prejudice to the provisions of Directive 91/308/EEC, institutions participating in the execution of a cross-border credit transfer order shall be released from the obligations laid down in this Directive where they can adduce reasons of *force majeure*, namely abnormal and unforeseeable circumstances beyond the control of the person pleading *force majeure*, the consequences of which would have been unavoidable despite all efforts to the contrary, which are relevant to its provisions.

*Article 10*

**Settlement of disputes**

Member States shall ensure that there are adequate and effective complaints and redress procedures for the settlement of disputes between an originator and his institution or between a beneficiary and his institution, using existing procedures where appropriate.

SECTION IV

**FINAL PROVISIONS**

*Article 11*

**Implementation**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 14 August 1999 at the latest. They shall forthwith inform the Commission thereof.

When Member States adopt these provisions, 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.

2. Member States shall communicate to the Commission the text of the main laws, regulations or administrative provisions which they adopt in the field governed by this Directive.

*Article 12*

**Report to the European Parliament and the Council**

No later than two years after the date of implementation of this Directive, the Commission shall submit a report to the European Parliament and the Council on the application of this Directive, accompanied where appropriate by proposals for its revision.

This report shall, in the light of the situation existing in each Member State and of the technical developments that have taken place, deal particularly with the question of the time limit set in Article 6 (1).

*Article 13*

**Entry into force**

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

*Article 14*

**Addressees**

This Directive is addressed to the Member States.

Done at Brussels, 27 January 1997.

| *For the European Parliament* | *For the Council* |
|---|---|
| *The President* | *The President* |
| J. M. GIL-ROBLES | G. ZALM |

## JOINT STATEMENT — BY THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION

The European Parliament, the Council and the Commission note the determination of the Member States to implement the laws, regulations and administrative provisions required to comply with this Directive by 1 January 1999.

II

*(Acts whose publication is not obligatory)*

# COMMISSION

## DECISION No 3/96 OF THE EC-EFTA JOINT COMMITTEE ON COMMON TRANSIT

**of 5 December 1996**

**amending Article 50 of Appendix II to the Convention of 20 May 1987 on a common transit procedure**

(97/117/EC)

THE JOINT COMMITTEE,

Having regard to the Convention of 20 May 1987 on a common transit procedure, and in particular Article 15 (3) (a) thereof [1],

Whereas Appendix II to the Convention includes provisions concerning irregularities in the common transit procedure;

Whereas, in view of the number of common transit operations not discharged, alternative means of proof should be introduced to bring about the discharge of common transit operations pursuant to Article 50 of Appendix II to the Convention,

HAS DECIDED AS FOLLOWS:

*Article 1*

Article 50 of Appendix II to the Convention shall be replaced by the following:

*'Article 50*

Proof of the regularity of a T1 or T2 transit operation within the meaning of Article 34 (2) (d) of Appendix I shall be furnished to the satisfaction of the competent authorities:

(a) by the production of a customs or commercial document certified by the competent authorities establishing that the goods in question were presented at the office of destination or, where Article 111 applies, to the authorized consignee. That document shall contain enough information to enable the said goods to be identified;

or

(b) by the production of a customs document issued in a third country placing the goods under a customs procedure or by a copy or photocopy thereof; such copy or photocopy must be certified as being a true copy by the organization which certified the original document, by the authorities of the third country concerned or by the authorities of one of the countries. The document shall contain enough information to enable the goods in question to be identified.'

*Article 2*

This Decision shall enter into force on 1 March 1997.

Done at Brussels, 5 December 1996

*For the Joint Committee*

*The Chairman*

James CURRIE

[1] OJ No L 226, 13. 8. 1987, p. 2.

# DECISION No 4/96 OF THE EC-EFTA JOINT COMMITTEE ON COMMON TRANSIT

**of 5 December 1996**

**amending Appendices I, II and III to the Convention of 20 May 1987 on a common transit procedure**

(97/118/EC)

THE JOINT COMMITTEE,

Having regard to the Convention of 20 May 1987 on a common transit procedure (1), and in particular Article 15 (3) (a) thereof,

Whereas by Decision No 1/95 of 26 October 1995 of the EC-EFTA Joint Committee, the Czech Republic, Hungary, Poland and Slovakia were invited to become Contracting Parties to the said Convention;

Whereas in accordance with the procedure laid down in Article 15 A of the Convention, the accession of the countries concerned became effective on 1 July 1996;

Whereas in consequence of the accession of these countries, Appendices I, II and III to the Convention concerned and the forms annexed thereto must be amended to include the translations into the languages of the new Contracting Parties of the endorsements used in standard practice by the customs authorities in connection with the movement of goods, and the codes corresponding to the names of the new countries,

HAS DECIDED AS FOLLOWS:

*Article 1*

Article 22 of Appendix I to the Convention shall be amended as follows:

1. in paragraph 5, the section which contains the words 'Differences: office where goods were presented.....(name and country)', translated into all the languages of the countries which are currently Contracting Parties to the Convention, is replaced by the following:

'ES: Diferencias: mercancías presentadas en la oficina .....(nombre y país)

DA: Forskelle: det sted, hvor varerne blev frembudt .....(navn og land)

DE: Unstimmigkeiten: Stelle, bei der die Gestellung erfolgte .....(Name und Land)

EL: Διαφορές: εμπορεύματα προσκομισθέντα στο τελωνείο .....(Όνομα και χώρα)

EN: Differences: office where goods were presented .....(name and country)

FR: Différences: marchandises présentées au bureau .....(nom et pays)

IT: Differenze: ufficio al quale sono state presentate le merci .....(nome e paese)

NL: Verschillen: kantoor waar de goederen zijn aangebracht .....(naam en land)

PT: Diferenças: mercadorias apresentadas na estância .....(nome e país)

FI: Muutos: toimipaikka, jossa tavarat esitetty ..... .....(nimi ja maa)

SV: Avvikelse: tullanstalt där varorna anmäldes ..... .....(namn och land)

CS: Nesrovnalosti: úřad, kterému bylo zboží dodáno .....(název a země)

HU: Eltérések: Hivatal, ahol az áruk bemutatása megtőrtént .....(név és ország)

IS: Breying: tollstjoraskriftstofa øar sem vôrum var framvisad .....(Nafn og land)

NO: Forskjell: det tollsted hvor varene ble fremlagt .....(navn og land)

PL: Niezgodności: urząd w którym przedstawiono towar .....(nazwa i kraj)

SK: Nezrovnalosti: ùrad, ktorému bol tovar predložený .....(názov a krajina)';

2. in paragraph 6:

(a) the section which contains the words 'Export from.....(1) subject to restrictions', translated into all the languages of the countries which are currently Contracting Parties to the Convention, is replaced by the following:

'ES: Salida de .....
(1) sometida a restricciones

DA: Udførsel fra .....
(1) undergivet restriktioner

DE: Ausgang aus .....
(1) Beschränkungen unterworfen

EL: Έξοδος από .....
(1) υποκείμενη σε περιορισμούς

(1) OJ No L 226, 13. 8. 1987, p. 2.

EN: Export from .....
(1) subject to restriction

FR: Sortie de .....
(1) soumise à des restrictions

IT: Uscita dalla (dall') .....
(1) soggetta a restrizioni

NL: Verlaten van .....
(1) aan beperkingen onderworpen

PT: Saída da .....
(1) sujeita a restrições

FI: Vienti .....
(1) rajoitusten alaista

SV: Utförsel från .....
(1) underkastad restriktioner

CS: Vývoz z .....
(1) podléhá omezením

HU: Indult .....
(1) korlátozások alá esik

IS: Utflutningur fra .....
(1) haour takmörkunum

NO: Utførsel fra .....
(1) underlagt restriksjoner

PL: Wywóz z .....
(1) podlega ograniczeniom

SK: Vývoz z .....
(1) podlieha obmedzeniam';

(b) the section which contains the words 'Export from .....(1) subject to duty', translated into all the languages of the countries which are currently Contracting Parties to the Convention, is replaced by the following:

'ES: Salida de .....
(1) sujeta a pago de derechos

DA: Udførsel fra .....
(1) betinget af afgiftsbetaling

DE: Ausgang aus .....
(1) Abgabenerhebung unterworfen

EL: Έξοδος από .....
(1) υποκείμενη σε επιβάρυνση

EN: Export from .....
(1) subject to duty

FR: Sortie de .....
(1) soumise à imposition

IT: Uscita dalla (dall') .....
(1) soggetta a tassazione

NL: Verlaten van .....
(1) aan belastingheffing onderworpen

PT: Saída da .....
(1) sujeita a pagamento de imposições

FI: Vienti .....
(1) maksujen alaista

SV: Utförsel från .....
(1) underkastad avgifter

CS: Vývoz z .....
(1) podléhá clu, daním a poplatkům

HU: Indult .....
(1) vám-, adóköteles

IS: Gjaldskyldur utflutningur fra .....
(1)

NO: Utførsel fra .....
(1) belagt med avgifter

PL: Wywóz z .....
(1) podlega opłatom

SK: Vývoz z .....
(1) podlieha poplatkom';

(c) the text of footnote (1) shall be replaced by the following:

'(1) This endorsement shall comprise, as appropriate and in the language of the said endorsement, the words "Community", "the Czech Republic", or "Iceland", or "Norway", or "Poland", or "Slovakia", or "Switzerland", or "Hungary".'

*Article 2*

Appendix II to the Convention shall be amended as follows:

1. in Article 10 the section which contains the words 'Issued retroactively', translated into all the languages of the countries which are currently Contracting Parties to the Convention, is replaced by the following:

'ES: Expedido *a posteriori*

DA: Udstedt efterfølgende

DE: Nachträglich ausgestellt

EL: Εκδοθέν εκ των υστέρων

EN: Issued retroactively

FR: Délivré *a posteriori*

IT: Rilasciato a posteriori

NL: Achteraf afgegeven

PT: Emitido *a posteriori*

FI: Annettu jälkikäteen

SV: Utfärdat i efterhand

CS: Vystaveno dodatečně

HU: Utólag kiállítva

IS: Útgefið eftir à

NO: Utstedt i etterhånd

PL: Wystawiony z mocą wsteczną

SK: Vystavené dodatočne';

2. in the second subparagraph of Article 34 B (2), the section which contains the words 'application of the second subparagraph of Article 34 B (2) of Appendix II of the Convention of 20 May 1987', translated into all the languages of the countries which are currently Contracting Parties to the Convention, is replaced by the following:

'ES: aplicación del segundo párrafo del punto 2 del artículo 34 *ter* del apéndice II del Convenio de 20 de mayo de 1987

DA: anvendelse af artikel 34b, nr. 2, andet afsnit, tillæg II til konventionen af 20. maj 1987

DE: Anwendung von Artikel 34b Nummer 2 zweiter Unterabsatz der Anlage II des Übereinkommens vom 20. Mai 1987

EL: Εφαρμογή του άρθρου 34δ σημείο 2 δεύτερο εδάφιο του προσαρτήματος ΙΙ της σύμβασης της 20ής Μαΐου 1987,

EN: application of the second paragraph of Article 34 B (2) of Appendix II of the Convention of 20 May 1987

FR: application de l'article 34 *ter* point 2 deuxième alinéa de l'appendice II de la convention du 20 mai 1987

IT: applicazione dell'articolo 34 ter, punto 2, secondo comma dell'appendice II della convenzione del 20 maggio 1987

NL: toepassing van artikel 34 ter, punt 2, tweede alinea, van aanhangsel II bij de Overeenkomst van 20 mei 1987

PT: aplicação do ponto 2, segundo parágrafo, do artigo 34º B do apêndice 2 da Convenção de 20 de Maio de 1987

FI: 20 päivänä toukokuuta 1987 tehdyn yleissopimuksen liitteessä II olevan 34 b artiklan 2 kohdan toista alakohtaa sovellettu

SV: tillämpning av artikel 34 b punkt 2 andra stycket i bilaga II till konventionen av den 20 maj 1987

CS: Použití čl. 34 b, bod 2, druhý pododstavec přílohy II Úmluvy z 20. května 1987

HU: az 1987 május 20-i Egyezmény II. Melléklet 34b. cikk 2. bekezdés második albekezdés alkalmazása

IS: Beiting b-lidar 2. mgr. 2. tölul, 34. gr. II vidbætis vid samninginn frà 20. maí 1987

NO: anvendelse av Artikkel 34 b, paragraf 2, andre avsnitt av vedlegg II til konvensjonen av 20. mai 1987

PL: zastosowanie Art. 34b ust.2, drugi podustęp Zał.. II Konwencji z dn. 20. maja 1987

SK: Uplatnenie článku 34 b, odsek 2, druhý pododsek prílohy II Dohovoru z 20. mája 1987';

3. in the second subparagraph of Article 44 the section which contains the words 'Limited validity', translated into all the languages of the countries which are currently Contracting Parties to the Convention, is replaced by the following:

'ES: Validez limitada

DA: Begrænset gyldighed

DE: Beschränkte Geltung

EL: Περιορισμένη ισχύς

EN: Limited validity

FR: Validité limitée

IT: Validità limitata

NL: Beperkte geldigheid

PT: Validade limitada

FI: Voimassa rajoitetusti

SV: Begränsad giltighet

CS: Omezená platnost

HU: Korlátozott érvényű

IS: Takmarkað gildissvið

NO: Begrenset gyldighet

PL: Ograniczona wanżość

SK: Obmedzená platnost';

4. in Article 107 (1), the section which contains the words 'Simplified procedure', translated into all the languages of the countries which are currently Contracting Parties to the Convention, is replaced by the following:

'ES: Procedimiento simplificado

DA: Forenklet procedure

DE: Vereinfachtes Verfahren

EL: Απλουστευμένη διαδικασία

EN: Simplified procedure

FR: Procédure simplifiée

IT: Procedura semplificata

NL: Vereenvoudigde regeling

PT: Procedimento simplificado

FI: Yksinkertaistettu menettely

SV: Förenklat förfarande

CS: Zjednodušen postup

HU: Egyszerűsített eljárás

IS: Einfölduð afgreiðsla

NO: Forenklet prosedyre

PL: Procedura uproszczona

SK: Zjednodušen režim';

5. in Article 109 (2), the section which contains the words 'Signature waived', translated into all the languages of the countries which are currently Contracting Parties to the Convention, is replaced by the following:

'ES: Dispensa de firma

DA: Fritaget for underskrift

DE: Freistellung von der Unterschriftsleistung

EL: Δεν απαιτείται υπογραφή

EN: Signature waived

FR: Dispense de signature

IT: Dispensa dalla firma

NL: Van ondertekening vrijgesteld
PT: Dispensada a assinatura
FI: Vapautettu allekirjoituksesta
SV: Befriad från underskrift

CS: Osvobození od podpisu
HU: Aláírás alóli mentesség
IS: Undanbegið undirskrift
NO: Fritatt for underskrift
PL: Zwolniony ze składania podpisu
SK: Oslobodenie od podpisu';

6. in Article 121 (2), the section which contains the words 'Simplified procedure', translated into all the languages of the countries which are currently Contracting Parties to the Convention, is replaced by the following:

'ES: Procedimiento simplificado
DA: Forenklet procedure
DE: Vereinfachtes Verfahren
EL: Απλουστευμένη διαδικασία
EN: Simplified procedure
FR: Procédure simplifiée
IT: Procedura semplificata
NL: Vereenvoudigde regeling
PT: Procedimento simplificado
FI: Yksinkertaistettu menettely
SV: Förenklat förfarande

CS: Zjednodušený postup
HU: Egyszerűsített eljárás
IS: Einfölduð afgreiðsla
NO: Forenklet prosedyre
PL: Procedura uproszczona
SK: Zjednodušen režim';

7. in Article 122 (2), the section which contains the words 'Signature waived', translated into all the languages of the countries which are currently Contracting Parties to the Convention, is replaced by the following:

'ES: Dispensa de firma
DA: Fritaget for underskrift
DE: Freistellung von der Unterschriftsleistung
EL: Δεν απαιτείται υπογραφή
EN: Signature waived
FR: Dispense de signature
IT: Dispensa dalla firma
NL: Van ondertekening vrijgesteld
PT: Dispensada a assinatura
FI: Vapautettu allekirjoituksesta
SV: Befriad från underskrift

CS: Osvobození od podpisu
HU: Aláírás alóli mentesség
IS: Undanbegið undirskrift
NO: Fritatt for underskrift
PL: Zwolniony ze składania podpisu
SK: Oslobodenie od podpisu'.

*Article 3*

Annex IV (Comprehensive guarantee), Annex V (Guarantee for a single operation), Annex VI (Flat-rate guarantee) and Annex VII (Certificate of guarantee) to Appendix II to the Convention shall be replaced respectively by those contained in Annexes A, B, C and D to this Decision.

*Article 4*

Appendix III to the Convention shall be amended as follows:

1. In Annex IX to Appendix III 'Codes to be used in the forms for making T 1 and T 2 declarations', under the heading 'Box 51: Intended transit offices', in the list of codes applicable for the indication of countries, the following codes shall be added for the Czech Republic, the Republic of Hungary, the Republic of Poland and the Slovak Republic:

| | |
|---|---|
| '— Czech Republic | CZ |
| — Republic of Hungary | HU |
| — Republic of Poland | PL |
| — Slovak Republic | SK'. |

*Article 5*

The forms referred to in Annexes IV, V, VI and VII to Appendix II to the Convention (Comprehensive guarantee, Guarantee for a single operation, Flat-rate guarantee and Certificate of guarantee) which were in use prior to the entry into force of this Decision may continue to be used, subject to the required drafting amendments, until stocks are exhausted or, at the latest, until 31 December 1998.

*Article 6*

This Decision shall enter into force on 1 January 1997.

Done at Brussels, 5 December 1996.

*For the Joint Committee*
*The Chairman*
James CURRIE

*ANNEX A*

*'ANNEX IV*

SPECIMEN I

**COMMON TRANSIT PROCEDURE/COMMUNITY TRANSIT**

**COMPREHENSIVE GUARANTEE**

*(Comprehensive guarantee covering several transit operations under the Convention on a common transit procedure/several Community transit operations under the relevant Community Regulations)*

I. **Undertaking by the guarantor**

1. The undersigned (1) .....

.....

resident at (2) .....

.....

hereby jointly and severally guarantees, at the office of guarantee of .....

up to a maximum amount of .....

in favour of the European Community comprising the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland, and the Republic of Hungary, the Republic of Iceland, the Kingdom of Norway, the Republic of Poland, the Slovak Republic, the Swiss Confederation and the Czech Republic (3),

any amount for which a principal (4) .....

.....

may be or become liable to the abovementioned States by reason of infringements or irregularities committed in the course of a transit operation under the Convention on a common transit procedure/Community transit carried out by that person, including duties, taxes, agricultural levies and other charges — with the exception of pecuniary penalties — as regards principal or further liabilities, expenses and incidentals.

2. The undersigned undertakes to pay upon the first application in writing by the competent authorities of the States referred to in paragraph 1 and without being able to defer payment beyond a period of 30 days from the date of application the sums requested up to the limit of the abovementioned maximum amount, unless he or she or any other person concerned establishes before the expiry of that period, to the satisfaction of the competent authorities, that the transit operation under the Convention on a common transit procedure/Community transit was conducted without any infringement or irregularity within the meaning of paragraph 1.

The competent authorities may, upon request of the undersigned and for any reasons recognized to be valid, defer the period within which the undersigned is obliged to pay the requested sums beyond a period of 30 days from the date of application for payment. The expenses incurred, from granting this additional period, and in particular any interest, must be calculated in such a way that the amount is equivalent to that which would be charged to that end on the money market or financial market in the State concerned.

This amount may not be reduced by the sums already paid in pursuance of this undertaking unless recourse is had to the undersigned in respect of a transit operation under the Convention on a common transit procedure/Community transit which began before the receipt of the earlier application for payment or during the 30 days following that receipt.

(1) Surname and forenames, or name of firm.
(2) Full address.
(3) Delete the name of any Contracting Party or Parties of which the territory will not be used.
(4) Surname and forenames, or name of firm, and full address of the principal.

3. This undertaking shall be valid from the day of its acceptance by the office of guarantee.

This guarantee may be cancelled at any time by the undersigned, or by the State in the territory of which the office of guarantee is situated.

The cancellation shall take effect on the 16th day after notification thereof to the other party.

The undersigned shall remain responsible for payment of the sums which become payable in respect of transit operations under the Convention on a common transit procedure/Community transit covered by this undertaking which began before the date on which the cancellation took effect, even if the demand for payment is made after that date.

4. For the purpose of this undertaking the undersigned gives his address for service (1), as (2) .....

.....

and, in each of the other States referred to in paragraph 1, as care of:

| State | Surname and forenames, or name of firm, and full address |
|---|---|
| ..... | ..... |
| ..... | ..... |
| ..... | ..... |
| ..... | ..... |
| ..... | ..... |
| ..... | ..... |

The undersigned acknowledges that all correspondence and notices and any formalities or procedures relating to this undertaking addressed to or effected in writing at one of his addresses for service shall be accepted as duly delivered to him.

The undersigned acknowledges the jurisdiction of the courts of the places where he has an address for service.

The undersigned undertakes to maintain his addresses for service or, if he has to alter one or more of those addresses, to inform the office of guarantee in advance.

Done at ..... on .....

.....

(Signature) (3)

II. **Acceptance by the office of guarantee**

Office of guarantee .....

Guarantor's undertaking accepted on .....

.....

(Stamp and signature)

---

(1) If, in the law of the State, there is no provision for address for service the guarantor shall appoint, in each of the States referred to in paragraph 1, an agent authorized to receive any communications addressed to him. The courts of the places in which the addresses for service of the guarantor or of his agents are situated shall have jurisdiction in disputes concerning this guarantee. The acknowledgement in the second subparagraph and the undertaking in the fourth subparagraph of paragraph 4 must be made to correspond.

(2) Full address.

(3) The signature must be preceded by the following in the signatory's own handwriting: "Guarantee for the amount of....." with the amount written out in full.'

*ANNEX B*

*'ANNEX V*

SPECIMEN II

**COMMON TRANSIT PROCEDURE/COMMUNITY TRANSIT**

**GUARANTEE FOR A SINGLE OPERATION**

*(Guarantee covering a single transit operation under the Convention on a common transit procedure/ a single Community transit operation under the relevant Community Regulations)*

## I. Undertaking by the guarantor

1. The undersigned (1) .....

.....

resident at (2) .....

.....

hereby jointly and severally guarantees, at the office of departure of .....

up to a maximal amount of .....

in favour of the European Community comprising the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland, and the Republic of Hungary, the Republic of Iceland, the Kingdom of Norway, the Republic of Poland, the Slovak Republic, the Swiss Confederation and the Czech Republic (3),

any amount for which a principal (4) .....

.....

may be or become liable to the abovementioned States by reason of infringements or irregularities committed in the course of a transit operation under the Convention on a common transit procedure/Community transit carried out by that person

from the office of departure of .....

to the office of destination of .....

in respect of the goods designated hereinafter, including duties, taxes, agricultural levies and other charges — with the exception of pecuniary penalties — as regards principal or further liabilities, expenses and incidentals.

2. The undersigned undertakes to pay upon the first application in writing by the competent authorities of the States referred to in paragraph 1 and without being able to defer payment beyond a period of 30 days from the date of application the sums requested unless he or she or any other person concerned establishes before the expiry of that period, to the satisfaction of the competent authorities, that the transit operation under the Convention on a common transit procedure/Community transit was conducted without any infringement or irregularity within the meaning of paragraph 1.

   The competent authorities may, upon request of the undersigned and for any reasons recognized to be valid defer the period within which the undersigned is obliged to pay the requested sums beyond a period of 30 days from the date of application for payment. The expenses incurred, from granting this additional period, and in particular any interest, must be calculated in such a way that the amount is equivalent to that which would be charged to that end on the money market or financial market in the State concerned.

3. This undertaking shall be valid from the day of its acceptance by the office of departure.

(1) Surname and forenames, or name of firm.
(2) Full address.
(3) Delete the name of any Contracting Party or Parties of which the territory will not be used.
(4) Surname and forenames, or name of firm, and full address of the principal.

4. For the purpose of this undertaking, the undersigned gives his address for service (1), as (2) .....

.....

and, in each of the other States referred to in paragraph 1, as care of:

| State | Surname and forenames, or name of firm, and full address |
|---|---|
| ..... | ..... |
| ..... | ..... |
| ..... | ..... |
| ..... | ..... |
| ..... | ..... |
| ..... | ..... |

The undersigned acknowledges that all correspondence and notices and any formalities or procedures relating to this undertaking addressed to or effected in writing at one of his addresses for service shall be accepted as duly delivered to him.

The undersigned acknowledges the jurisdiction of the courts of the places where he has an address for service.

The undersigned undertakes to maintain his addresses for service or, if he has to alter one or more of those addresses, to inform the office of guarantee in advance.

Done at ..... on .....

.....

(Signature) (3)

II. **Acceptance by the office of departure**

Office of departure .....

Guarantor's undertaking accepted on ..... to cover the T 1/T 2 (4)

transit operation, issued on ..... under No .....

.....

(Stamp and signature)

(1) If, in the law of the State, there is no provision for address for service the guarantor shall appoint, in each of the States referred to in paragraph 1, an agent authorized to receive any communications addressed to him. The courts of the places in which the addresses for service of the guarantor or of his agents are situated shall have jurisdiction in disputes concerning this guarantee. The acknowledgement in the second subparagraph and the undertaking in the fourth subparagraph of paragraph 4 must be made to correspond.

(2) Full address.

(3) The signature must be preceded by the following in the signatory's own handwriting: "Guarantee".

(4) Delete as appropriate.'

*ANNEX C*

*'ANNEX VI*

SPECIMEN III

**COMMON TRANSIT PROCEDURE/COMMUNITY TRANSIT**

**FLAT-RATE GUARANTEE**

*(Flat-rate guarantee system)*

I. **Undertaking by the guarantor**

1. The undersigned (1) .....

.....

resident at (2) .....

.....

hereby jointly and severally guarantees, at the office of guarantee of .....

in favour of the European Community comprising the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland, and the Republic of Hungary, the Republic of Iceland, the Kingdom of Norway, the Republic of Poland, the Slovak Republic, the Swiss Confederation and the Czech Republic, any amount for which a principal may become liable to the abovementioned States by reason of infringements or irregularities committed in the course of a transit operation under the Convention on a common transit procedure/Community transit carried out by that person, including duties, taxes, agricultural levies and other charges — with the exception of pecuniary penalties — as regards principal or further liabilities, expenses and incidentals charges with regard to which the undersigned has agreed to be responsible by the issue of guarantee vouchers up to a maximum of ECU 7 000 per guarantee voucher.

2. The undersigned undertakes to pay upon the first application in writing by the competent authorities of the States referred to in paragraph 1 and without being able to defer payment beyond a period of 30 days from the date of application the sums requested up to ECU 7 000 per guarantee voucher, unless he or she or any other person concerned establishes before the expiry of that period, to the satisfaction of the competent authorities, that the transit operation under the Convention on a common transit procedure/Community transit was conducted without any infringement or irregularity within the meaning of paragraph 1.

The competent authorities may upon request of the undersigned and for any reasons recognized to be valid, defer the period within which the undersigned should pay the requested sums beyond a period of 30 days from the date of application for payment. The expenses incurred, from granting this additional period, and in particular any interest, must be calculated in such a way that the amount is equivalent to that which would be charged to that end on the money market or financial market in the State concerned.

3. This undertaking shall be valid from the day of its acceptance by the office of guarantee.

This guarantee may be cancelled at any time by the undersigned, or by the State in the territory of which the office of guarantee is situated.

The cancellation shall take effect on the 16th day after notification thereof to the other party.

The undersigned shall remain responsible for payment of the sums which become payable in respect of transit operations under the Convention on a common transit procedure/Community transit covered by this undertaking which began before the date on which the cancellation took effect, even if the demand for payment is made after that date.

(1) Surname and forenames, or name of firm.
(2) Full address.

4. For the purpose of this undertaking the undersigned gives his address for service (1), as (2) .....

.....

and, in each of the other States referred to in paragraph 1, as care of:

| State | Surname and forenames, or name of firm, and full address |
|---|---|
| ..... | ..... |
| ..... | ..... |
| ..... | ..... |
| ..... | ..... |
| ..... | ..... |
| ..... | ..... |

The undersigned acknowledges that all correspondence and notices and any formalities or procedures relating to this undertaking addressed to or effected in writing at one of his addresses for service shall be accepted as duly delivered to him.

The undersigned acknowledges the jurisdiction of the courts of the places where he has an address for service.

The undersigned undertakes to maintain his addresses for service or, if he has to alter one or more of those addresses, to inform the office of guarantee in advance.

Done at ..... on .....

.....

(Signature) (3)

II. **Acceptance by the office of guarantee**

Office of guarantee .....

Guarantor's undertaking accepted on .....

.....

(Stamp and signature)

(1) If, in the law of the State, there is no provision for address for service the guarantor shall appoint, in each of the States referred to in paragraph 1, an agent authorized to receive any communications addressed to him. The courts of the places in which the addresses for service of the guarantor or of his agents are situated shall have jurisdiction in disputes concerning this guarantee. The acknowledgement in the second subparagraph and the undertaking in the fourth subparagraph of paragraph 4 must be made to correspond.

(2) Full address.

(3) The signature must be preceded by the following in the signatory's own handwriting: "Guarantee".'

*ANNEX D*

*'ANNEX VII*

**TC 31 — CERTIFICATE OF GUARANTEE** *(Front)*

| | | |
|---|---|---|
| 1. Valid until | Day \| Month \| Year | 2. No |
| 3. Principal (surname and forename, or name of company and complete address and country) | | |
| 4. Guarantor (surname and forename, or name of company and complete address and country) | | |
| 5. Guarantee office (complete address and country) | | |
| 6. Guarantee cover (in national currency) | in figures: | in words: |

7. The guarantee office certifies that the above named principal is authorized to carry out Community transit T 1/T 2 in the following customs territories which have not been crossed through:

EUROPEAN COMMUNITY, HUNGARY, ICELAND, NORWAY, POLAND, SLOVAKIA, SWITZERLAND, CZECH REPUBLIC

8. Validity extended until

| Day | Month | Year | |
|---|---|---|---|
| | | | inclusive |

At ....., on .....
(place of signature) (date)

(Official signature and stamp of office of guarantee)

At ....., on .....
(place of signature) (date)

(Official signature and stamp of office of guarantee)

*N.B.*: This certificate must be returned without delay to the guarantee office on cancellation of the guarantee.

9. Persons authorized to sign T 1 or T 2 declarations on behalf of the principal *(Back)*

| 10. Surname, forename and specimen signature of authorized person | 11. Signature of principal (*) | 10. Surname, forename and specimen signature of authorized person | 11. Signature of principal (*)' |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |

(*) If the principal is a company, the person who signs in box 11 (eleven) must give his surname, forename and status in the company.

# DECISION No 5/96 OF THE EC/EFTA JOINT COMMITTEE ON COMMON TRANSIT

**of 5 December 1996**

**relating to the renewal of the ban on use of the comprehensive guarantee, made by Decision Nos 1/96 and 2/96 of the EC-EFTA Joint Committee on common transit**

(97/119/EC)

THE JOINT COMMITTEE,

Having regard to the Convention of 20 May 1987 on a common transit procedure [1], and in particular Article 34 A of Appendix II thereto [2],

Whereas under the provisions of Article 34 A of Appendix II, the use of the comprehensive guarantee may be temporarily forbidden at the request of one or more Contracting Parties, with regard to goods which present an exceptional risk of fraud;

Whereas by Decision Nos 1/96 [3] and 2/96 [4] the EC-EFTA Joint Committee on common transit has adopted measures to temporarily forbid the use of the comprehensive guarantee for the transport of cigarettes of subheading 24.02.20 of the harmonized system and for certain other sensitive goods, because of the exceptional risk of fraud affecting those operations;

Whereas the protection of the financial interests at risk in those operations makes it necessary to maintain the same measures for common transit as for Community transit in order to ensure maximum effectiveness;

Whereas the Joint Committee considers it necessary to renew the ban in question for a period of six months,

HAS DECIDED AS FOLLOWS:

*Article 1*

The measures taken by Decision Nos 1/96 and 2/96 of the EC/EFTA Joint Committee on common transit are renewed for a period of six months.

*Article 2*

This Decision shall enter into force on 5 December 1996.

It shall apply from 1 February 1997.

Done at Brussels, 5 December 1996.

*For the Joint Committee*

*The Chairman*

James CURRIE

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[1] OJ No L 226, 13. 8. 1987, p. 2.
[2] OJ No L 12, 15. 1. 1994, p. 33.
[3] OJ No L 226, 7. 9. 1996, p. 20.
[4] OJ No L 226, 7. 9. 1996, p. 22.