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II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 29 July 1991

concerning animal health conditions and veterinary certification for the importation of
bovine semen from the United States of America

(91/479/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 88/407/EEC of 14 June 1988 laying down the animal health requirements applicable to intra-Community trade in and imports of deep-frozen semen of domestic animals of the bovine species ⁽¹⁾, at last amended by Directive 90/425/EEC ⁽²⁾, and, in particular, Articles 10 and 11 thereof,

Whereas the United States of America appears in the list, established by Commission Decision 90/14/EEC ⁽³⁾, of third countries from which Member States authorize importation of semen of domestic animals of the bovine species;

Whereas it appears that the animal health situation in the United States of America is good and controlled by well-structured and organized veterinary services as regards diseases transmissible through semen;

Whereas the competent veterinary authorities of the United States of America have confirmed that the United States of America has for at least 12 months been free from

rinderpest, foot-and-mouth disease and contagious bovine pleuro-pneumonia and that no vaccinations have been carried out against those diseases during that time;

Whereas the competent veterinary authorities of the United States of America have undertaken to notify the Commission and the Member States by telex or telefax, within 24 hours, of the conformation of the occurrence of any of the abovementioned diseases or of bluetongue or epizootic haemorrhagic disease or of any change in vaccination policy concerning any of them or, within an appropriate period, of any proposed change in the United States' import rules concerning domestic animals or the semen or embryos thereof;

Whereas the competent veterinary authorities of the United States of America have provided animal health guarantees in respect of bovine tuberculosis and brucellosis which are equivalent to those applicable within the Community;

Whereas the competent veterinary authorities of the United States of America have undertaken to supervise officially the issue of certificates arising from this Decision and to ensure all relevant certificates, derogations and laboratory findings on which certification may have been based remain on official file for at least 12 months following the dispatch of the semen to which they refer;

Whereas the competent veterinary authorities of the United States of America have undertaken to approve officially semen collection centres for the export of bovine semen to the European Economic Community as required by Article 9 of Directive 88/407/EEC;

⁽¹⁾ OJ No L 194, 22. 7. 1988, p. 10.

⁽²⁾ OJ No L 224, 18. 8. 1990, p. 29.

⁽³⁾ OJ No L 8, 11. 1. 1990, p. 71.

Whereas the competent veterinary authorities of the United States of America have undertaken to determine and to communicate without delay to the Commission the date on which, in respect of each approved semen collection centre, all activity of those *Culicoides* species capable of transmitting bluetongue or epizootic haemorrhagic disease ceases and the date on which the activity of such *Culicoides* species is resumed;

Whereas animal health conditions and veterinary certification must be adapted according to the animal health situation of the third country concerned;

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

HAS ADOPTED THIS DECISION:

Article 1

1. Until 31 December 1992, Member States may authorize the importation from the United States of America of bovine semen collected from bulls which have given other

than a negative result to the test for bluetongue or the test for epizootic haemorrhagic disease prescribed in Annex I A to this Decision, but shall do so in accordance with the provisions of Annexes II A and II B and shall ensure that such semen does not enter into intra-Community trade. The Commission will review the provisions of this paragraph before the date indicated above.

2. Member States shall authorize the importation from the United States of America of bovine semen which conforms to the conditions listed in the certificate set out in Annex I A and, where relevant, the certificate set out in Annex I B.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 29 July 1991.

For the Commission

Ray Mac SHARRY

Member of the Commission

for the importation of bovine semen from the United States of America

Competent authority: United States Department of Agriculture — APHIS

Centre approval No:

[illegible]

(Strike out unused entries. This certificate applies only to semen collected at a single approved collection centre.)

Marks on seal applied to transport container:

.....

by:
(means/identification of transport)

Name and address of consignor:

.....

Name and address of consignee:

IV. Health information:

I, the undersigned federal veterinarian, certify that:

1. the United States of America has been free, during a period commencing at least 12 months before the first collection of the semen described above and finishing 30 days after the final collection of such semen, from cattle plague (rinderpest);
2. the approved semen collection centre in which the semen described above was collected:
 - (a) has been approved, on the basis that it conforms to all the provisions of this paragraph, by the federal veterinary authority of the United States of America for the export of bovine semen to the European Community;
 - (b) is situated at the centre of an area of 50 km radius in which, during a period commencing at least three months before the first collection of the semen described above and finishing 30 days after the final collection of such semen, there has been no evidence of foot-and-mouth disease, contagious bovine pleuro-pneumonia or vesicular stomatitis;
 - (c) has been free, during a period commencing at least three months before the first collection of semen described above and finishing 30 days after the final collection of such semen, from foot-and-mouth disease and brucellosis;
 - (d) has been free, during a period commencing at least 30 days before the first collection of the semen described above and finishing 30 days after the final collection of such semen, from rabies, anthrax, tuberculosis, enzootic bovine leukosis, or any evidence of infection with *Trichomonas foetus*, *Campylobacter foetus*, *Leptospira canicola*, *Leptospira pomona*, *Leptospira grippotyphosa*, *Leptospira hardjo* or *Leptospira icterohaemorrhagica*;
 - (e) is inspected by a federal veterinarian at least twice a year at which times all matters relating to the conditions set out in this certificate are considered and verified;
 - (f) is under the permanent supervision of a centre veterinarian and is so supervised that:
 - (i) animals are admitted only with the express permission of the centre veterinarian, all movements of animals, in or out, being recorded;
 - (ii) a record is kept of the breed, date of birth, identification and health history of each bovine animal in the centre and of all diagnostic tests and the results thereof, all treatments and all vaccinations carried out on the animals kept therein;
 - (iii) the entry of unauthorized persons is prevented and authorized visitors are required to comply with the conditions laid down by the centre veterinarian;
 - (iv) only technically competent staff are employed, suitably trained in disinfection procedures and hygiene techniques relevant to the control of the spread of disease;
 - (g) contains only bovine animals, except that other domestic animals strictly necessary for the normal operation of the centre may be admitted provided that they present no risk of infection to the bovine species and that they fulfil the conditions laid down by the centre veterinarian;
 - (h) is so constructed that:
 - (i) it has animal accommodation physically separated from the semen processing and semen storage rooms, which are physically separated from each other;
 - (ii) it has an isolation facility for sick animals;
 - (iii) it has a semen collection facility which has a separate room for the cleaning and disinfection or sterilization of equipment;
 - (iv) it has a semen processing room and a semen storage room (which need not necessarily be on the same site);
 - (v) contact with outside livestock is prevented;
 - (vi) the entire centre is capable of being readily cleaned and disinfected;

provided that, where the above conditions are fulfilled, an approved semen collection centre may share a site with one or more other semen collection centres;

3. the bulls present in the approved semen collection centre during the period of collection and storage of the semen described above:

- (a) were in the approved semen collection centre on, and continuously since, 1 January 1990, and have since their arrival been subjected to all the tests described, with the results provided for, at (d) below;

or

- (b) or were transferred from an approved semen collection centre without coming into contact with animals of a lesser health status and, where applicable, in transport which was thoroughly cleansed and disinfected before use;

or

- (c) were admitted, on the authority of the centre veterinarian and showing no clinical signs of disease:

- (i) having originated in herds which were accredited tuberculosis-free by the federal veterinary authority or which were situated in accredited tuberculosis-free areas as defined by the federal veterinary authority and not having been held at any time in herds of lower status;

- (ii) having originated in herds which were certified brucellosis-free by the federal veterinary authority or which were situated in brucellosis class free or class A areas as defined by the federal veterinary authority and not having been held at any time in herds of lower status;

- (iii) — having:

- originated in herds free for at least three years from any evidence for enzootic bovine leukosis, or
- been produced by cows which were subjected, within 30 days before the entry of their sons into the isolation facility, to a serological test for enzootic bovine leukosis carried out in accordance with the procedure laid down in Annex G to Council Directive 64/432/EEC with negative result, or
- been subjected, within 30 days before entry into the officially-approved isolation facility or after having reached the age of two years, whichever is the later, to a serological test for enzootic bovine leukosis carried out in accordance with the procedure laid down in Annex G to Council Directive 64/432/EEC with negative result;

- (iv) having been subjected, within 30 days before entry to the officially-approved isolation facility, to the following tests with negative result in each case:

- a United States Department of Agriculture (USDA) caudal fold tuberculin test,
- a USDA standard serological tube test for brucellosis which is negative at less than 30 IU of agglutination per millilitre and a complement fixation test showing a brucella count lower than 20 EEC units per millilitre (20 ICFT units),
- a serological test for enzootic bovine leukosis carried out in accordance with the procedure laid down in Annex G to Directive 64/432/EEC,
- a serum neutralization test or ELISA test for infectious bovine rhino-tracheitis/infectious pustular vulvo-vaginitis,
- a virus isolation test for bovine viral diarrhoea on blood samples in susceptible cell cultures subsequently subjected to a fluorescent antibody test or an immunoperoxidase test provided that, if at the time of its entry, any bull was less than six months old, the test was delayed until the animal reached that age,

and to the following tests with negative result in each case except where this certificate applies to semen collected and shipped before 1 January 1993 and where the importing Member State has indicated in writing that it is applying the terms of paragraph 1 of Article 1 of Commission Decision 91/479/EEC

- a blocking Elisa test for bluetongue using a group specific monoclonal antibody carried out according to the procedure laid down in Annex IV A to Commission Decision 91/479/EEC,
- an agar gel immunodiffusion test for all serotypes of epizootic haemorrhagic disease found in the United States of America carried out according to the procedure laid down in Annex IV B to Commission Decision 91/479/EEC,

granted that all or any of the above tests may have been carried out while the animals were in the officially approval isolation facility provided that if the result of any test for which this certificate requires a negative result was other than negative the isolation period of 30 days for the other bulls in the isolation facility was not considered to have commenced until after the animal concerned had been removed from the facility and, if applicable, the tuberculosis or brucellosis status of the facility had been restored;

- (v) having, after the completion of the pre-isolation tests described in (iv) above, undergone a period of at least thirty days in an officially approved isolation facility which was, at the date of their entry, at the centre of an area of 10 km radius in which there has been no evidence of foot-and-mouth disease, cattle plague (rinderpest), contagious bovine pleuro-pneumonia or vesicular stomatitis, the centre having been free for at least three months from foot-and-mouth disease and brucellosis and for at least 30 days from rabies, anthrax, tuberculosis and enzootic bovine leukosis and in which they were subjected to the following tests with negative result in each case:

- a USDA standard serological tube test for brucellosis which is negative at less than 30 IU of agglutination per millilitre and a complement fixation test showing a brucella count lower than 20 EEC units per millilitre (20 ICFT units),
- either an immunofluorescent antibody test or a culture test for *Campylobacter foetus* infection on a sample of preputial material or artificial vaginal washings,
- a microscopic examination and a culture test for *Trichomonas foetus* infection on a sample of preputial material or artificial vaginal washings,
- a serum neutralization test or Elisa test for infectious bovine rhino-tracheitis/infectious pustular vulvo-vaginitis,

provided that if the result of any test was other than negative the isolation period of 30 days for the remaining animals was not considered to have commenced until after the animal concerned had been removed from the facility and, where relevant, the brucellosis status of the facility had been restored,

and in which they were treated against Leptospirosis by the injection on two separate occasions, fourteen days apart, of streptomycin or dihydrostreptomycin, or a mixture thereof, at a rate of 25 mg per kg of live body weight;

- (d) were subjected at least once a year to the following tests with negative result in each case:

- (i) a USDA caudal fold tuberculin test;
- (ii) a USDA standard serological tube test for brucellosis that is negative at less than 30 IU of agglutination per millilitre and a complement fixation test showing a brucella count lower than 20 EEC units per millilitre (20 ICFT units);
- (iii) a serological test for enzootic bovine leukosis carried out in accordance with the procedure laid down in Annex G to Directive 64/432/EEC;
- (iv) a serum neutralization test or Elisa test for infectious bovine rhino-tracheitis/infectious pustular vulvo-vaginitis, provided that, in respect of semen collected prior to 31 December 1992 and where the competent authority of the importing Member State has so indicated in writing, the semen of bulls positive to either of these tests may be accepted provided a virus isolation and/or animal inoculation test for the above disease complex has been carried out on such semen with negative result, in this latter case the test having been carried out on the at the laboratory;
- (v) either an immunofluorescent antibody test or a culture test for *Campylobacter foetus* infection on a sample of preputial material or artificial vaginal washings, except that no test under this heading is required in the case of animals which are not being used for the production of semen provided that such a test is carried out before semen production is resumed;
- (vi) a serological test for the *canicola*, *pomona*, *grippotyphosa*, *hardjo* and *icterohaemorrhagica* serotypes of *Leptospira*,

and at least twice a year to the following tests with negative result in each case except where this certificate applies to semen collected and shipped before 1 January 1993 and where the veterinary authority of the importing Member State has indicated in writing that it is applying the terms of paragraph 1 of Article 1 of Commission Decision of 29 July 1991 (C(91) 1541 final):

- (i) a blocking Elisa test for bluetongue using a group specific monoclonal antibody carried out according to the procedure laid down in Annex IV A to Commission Decision 91/479/EEC;
- (ii) an agar gel immunodiffusion test for all serotypes of epizootic haemorrhagic disease found in the United States of America carried out according to the procedure laid down in Annex IV B to Commission Decision 91/479/EEC.

all the above tests (with the exception of the tuberculin test) being carried out in a laboratory approved for the purpose by the federal veterinary authority of the United States of America;

4. The semen described above

- is classified as bluetongue-free according to the definition contained in Annex II A to Commission Decision 91/479/EEC and, in particular, paragraph 5 thereof;

or

- is classified as bluetongue-tested according to the definition contained in Annex II B to Commission Decision 91/479/EEC and, in particular, paragraph 2 thereof and where the veterinary authority of the importing Member State has indicated in writing that it is applying the terms of paragraph 1 of Article 1 of Commission decision 91/479/EEC (*),

(*) delete whichever does not apply.

and was

- (a) collected, without the use of electro-ejaculation or electro-stimulation techniques, in an approved semen collection centre from bulls:

- (i) which have been continuously on the territory of the United States of America during a period commencing at least six months before the first collection of the semen described above and finishing on the date of its dispatch;
- (ii) which, other than as provided for in a written derogation given in the terms of 3 (d) (iv) above or of Article 1 of Commission Decision 91/479/EEC have not given a positive result to any of the tests referred to in this certificate;
- (iii) which were not, while in the approved semen collection centre, used for natural service;
- (iv) which were kept in the approved semen collection centre for a continuous period of at least 30 days immediately prior to the collection of the semen;
- (v) which showed no clinical signs of disease at the time;

- (b) processed in an approved semen collection centre:

- (i) in which, during the collection of the semen described above, no semen was processed other than semen from bulls in approved centres or semen from bulls having the same health status as bulls in approved centres, provided that in the latter case such processing took place with separate equipment and at different times to the processing of semen from approved centres and that the processing facility was thoroughly cleansed and disinfected before being again used for the processing of semen from bulls in approved centres;
- (ii) in conditions of the strictest hygiene, all implements and equipment coming into contact with the donor bulls or with the semen being properly disinfected or sterilized, as appropriate, before use;
- (iii) using additives, diluents or extenders in which any products of animal origin were obtained from sources which presented no animal health risk or which were so treated prior to use that such risk was prevented;

- (c) protected by the addition of the following antibiotics in such quantities as were necessary to produce the indicated concentrations in the final diluted semen:

not less than:

- 500 IU per ml streptomycin,
- 500 IU per ml penicillin,
- 150 µg per ml lincomycin,
- 300 µg per ml spectinomycin,

and immediately afterwards held at a temperature of not less than 5° C (41° F) for a period of not less than 45 minutes.

or

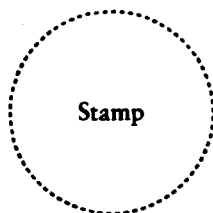
not less than:

- 50 µg per ml tylosin,
- 250 µg per ml gentamycin,
- 150 µg per ml lincomycin,
- 300 µg per ml spectinomycin,

contact between the antibiotic and the undiluted semen being maintained for at least 3 minutes at the temperature at which they were mixed and the semen and the non-glycerol fraction of the diluent being held at a temperature of not less than 5° C (41° F) for at least two hours;

- (d) put into individual containers (straws) each marked with the date of collection, the breed and identity of the donor bull and the identity of the approved centre of collection, provided that such information, or any part of it, may have been marked in code where a full translation of such code has been made available to the competent authority of the importing Member State, and provided that there is a clear correspondence between the marking on each straw and the identification incorporated in this certificate;
- (e) stored, in containers which have been thoroughly cleansed and disinfected or sterilized, as appropriate, before use and using cryogenic agents which have not previously been used for any other product of animal origin, in the approved semen collection centre under the supervision of the centre veterinarian for a period of not less than 30 days prior to dispatch;
- (f) not exported after the date of a positive test on any bull in the centre, other than a test for bluetongue or epizootic haemorrhagic disease as provided for in Article 1 (1) of Commission Decision 91/479/EEC, or a test for infectious bovine rhino-tracheitis/infectious pustular vulvo-vaginitis as provided for in a written derogation given under the terms of 3 (d) (iv) above, or before the health status of the centre has been re-established;
- (g) dispatched in containers which have been thoroughly cleansed and disinfected or sterilized, as appropriate, before use and using cryogenic agents which have not previously been used for any other product of animal origin and which have been sealed under the supervision of the federal veterinarian prior to dispatch from the approved semen collection centre.

Done at, on
(place) (date)



Signature

Name in block letters

Official title

ANNEX I B

SUPPLEMENTARY CERTIFICATE

for the transfer of semen from one container to another for shipment from the United States of America to the European Economic Community

I, the undersigned federal veterinarian, certify that:
The semen to which the certificates and seals indicated below refer was transferred, in an approved semen collection centre and under my direct supervision, from the containers in which it was received, seals intact, to the container in which it is to be despatched to the European Economic Community.

Centre of origin	Certificate No	Seal No

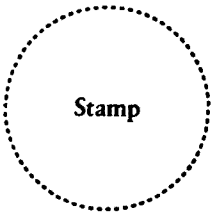
The transfer was carried out at:
.....

Approval No:

The seal applied to the shipment container carries the marks:

The certificates in respect of all the semen in the container are attached.

Done at, on
(place) (date)



Signature
Name in block letters
Official title

ANNEX II A

Procedure for the classification as bluetongue-free of bovine semen intended for export from the United States of America to the European Economic Community

1. All bovine animals in the approved semen collection centre are subjected, within thirty days prior to entry and at six-month intervals thereafter, to a blocking Elisa test for bluetongue virus antibodies and an AGID test for antibodies to all strains of epizootic haemorrhagic disease virus known to exist in the United States of America according to the protocols set out in Annex IV.
2. A bull which has given a negative result to the most recent application of the tests referred to in paragraph 1, is defined for the purpose of this Decision as bluetongue sero-negative unless or until the blood or the semen of the bull gives a positive result to any test referred to in this Annex or in Annex III.
3. The vector-free season as it relates to an approved semen collection centre is defined for the purpose of this Decision as a period commencing 21 days after the date, determined by the United States Department of Agriculture and communicated without delay to the management of the approved semen collection centre concerned and to the Commission of the European Communities, on which all activity of those *Culicoides* species capable of transmitting bluetongue or epizootic haemorrhagic disease virus ceases in the region in which the centre is located, and finishing 21 days before the date, determined and communicated in like manner, on which such *Culicoides* activity resumes.
4. A semen collection period, as it relates to the collection of semen for export to the Community, is defined for the purpose of this Decision as a period not greater than three weeks during which such semen is collected. If the actual time during which such semen is collected is greater than three weeks then this time is divided into two or more collection periods, none of which is greater than three weeks and each of which is treated as a separate collection period in as far as the application of the tests and procedures relating to bluetongue and epizootic haemorrhagic disease referred to in this Decision are concerned.
5. Semen which falls into either of the categories described below is classified as bluetongue-free for the purposes of export of that semen to the European Community:
 - (a) semen collected during the vector-free season from a bluetongue sero-negative bull when a sample of blood from the bull concerned, collected 21 days after the end of the semen collection period, has been submitted, with negative result, to an ELISA test for bluetongue virus antibodies and to an AGID test for antibodies to all serotypes of epizootic haemorrhagic disease virus known to occur in the United States of America according to the protocols set out in Annex IV;
 - (b) semen collected other than during the vector-free season from a bluetongue sero-negative bull when a sample of blood from the bull concerned, collected 21 days after the end of the semen collection period, has been submitted, with negative result, to an Elisa test for bluetongue virus and antibodies and to an AGID test for antibodies to all serotypes of epizootic haemorrhagic disease known to occur in the United States of America according to the protocols set out in Annex IV and when samples of blood collected from the bull on the dates of the collection of the semen intended for export have been submitted, with negative result, to the virus isolation procedure described in Annex III.

ANNEX II B**Procedure for the classification as bluetongue-tested of bovine semen intended for export from the United States of America to the European Economic Community**

1. The definitions set out in Annex II A apply.
 2. Semen which falls into either of the categories described below is classified as bluetongue-tested for the purposes of export of that semen to the European Community:
 - (a) semen collected during the vector-free season from a bull which is other than bluetongue sero-negative when a comparison of a sample of blood collected at the start of the vector-free season with one collected 21 days after the end of the semen collection period shows no evidence of sero-conversion or of a fourfold or greater increase in the level of serum-neutralizing antibodies to any of the serotypes of bluetongue virus or of epizootic haemorrhagic disease virus known to occur in the United States of America and when samples of blood collected from the bull on the dates of the collection of the semen intended for export to the Community have been submitted, with negative result, to the virus isolation procedure described in Annex III;
 - (b) semen collected at any time of year from a bull which is other than sero-negative when a comparison of a sample of blood collected at the start of the semen collection period with one collected 21 days after the end of the same period shows no evidence of sero-conversion or of a fourfold or greater increase in the level of serum-neutralizing antibodies to any of the serotypes of bluetongue virus or of epizootic haemorrhagic disease virus known to occur in the United States of America and when samples of blood collected from the bull on the dates of the collection of the semen intended for export have been submitted with negative result to the virus isolation procedure described in Annex III.
 3. Bluetongue-tested semen must be certified separately from semen defined as bluetongue-free under the terms of Annex II A.
-

*ANNEX III***Virus isolation procedure for the detection of bluetongue virus in blood in connection with the export of bovine semen from the United States of America to the European Economic Community**

1. Blood is taken from the bull on the day of each collection of semen intended for export (normally twice weekly) and inoculated subcutaneously and intradermally into a sheep, determined by blocking Elisa test prior to the first such inoculation to be sero-negative, within 48 hours of collection.
2. Blood for virus isolation is collected twice weekly from the sheep for a period of three weeks commencing on the day of the first inoculation referred to in paragraph 1.
3. Blood from the bull and the sheep are inoculated within 48 hours of collection into at least six chicken eggs containing 11-day embryos.
4. If there are no embryo deaths or if embryo deaths occur within two days of inoculation without specific lesions the test is considered negative after seven days.
5. Material from any embryo dying between two and seven days is passaged through chicken eggs containing 11 day embryos, using at least six eggs per dead embryo.
6. If the passage of material from a dead embryo gives rise to an embryo mortality of 50 % or more the test is considered positive. The virus or viruses, after adaption to cell culture, are serotyped to confirm the presence of bluetongue virus.
7. Serum is taken twice weekly from the bull and once weekly from the sheep over a period of three weeks and is subjected to the blocking Elisa described in Annex IV, a serum neutralization test for bluetongue virus antibodies, the AGID test described in Annex IV and a serum neutralization test for epizootic haemorrhagic disease virus antibodies.
8. The sheep is re-submitted to a blocking Elisa 21 days after the last inoculation of blood from the bull.
9. Seroconversion or a fourfold or greater increase in antibody titre in either the bull or the sheep indicates current or recent infection and the test is considered positive.
10. The serological testing is carried out on all samples together at the end of the collection period.
11. Semen is not released for export until all tests have been completed with negative result.

ANNEX IV A

Protocol for a blocking or competitive enzyme-linked immunosorbent assay test using a group specific monoclonal antibody for the detection of bluetongue virus antibodies

THE BLUETONGUE COMPETITIVE ELISA USING MONOCLONAL ANTIBODY 3-17-A3

The competitive Elisa using monoclonal antibody 3-17-A3 is capable of detecting antibodies to all known serotypes of bluetongue virus (BTV).

The principle of the test is the interruption of the reaction between BTV antigen and a group-specific monoclonal antibody (3-17-A3) by the addition of test serum dilutions. Antibodies to BTV present in the test serum block the reactivity of the monoclonal antibody (Mab) and result in a reduction in the expected colour development on addition of enzyme substrate.

Material and Reagents:

1. Flat-bottomed microtitre plates.
2. Antigen: prepared as described below.
3. Blocking buffer: 5 % (w/v) 'Marvel' dried milk powder, 0,1 % (v/v) Tween-20 (supplied as polyoxyethylene sorbiton monolaurate syrup) in PBS.
4. Monoclonal antibody: 3-17-A3 (supplied as hybridoma tissue-culture supernatant) stored at -20°C or freeze-dried, diluted 1/50 with blocking buffer before use, directed against the group-specific polypeptide p7.
5. Conjugate: rabbit anti-mouse globulin (adsorbed and eluted) conjugated to horseradish peroxidase and kept in the dark at 4°C .
6. Substrate and chromogen: 0,2 gm of orthophenylene diamine (OPD) dissolved in a buffer consisting of 2,553 g of citric acid and 4,574 g of di-sodium hydrogenorthophosphate made up to 500 ml with distilled water, divided into 25 ml aliquots and kept in the dark at -20°C , with 12 μl /25 ml of hydrogen peroxide (30 % w/v) added immediately before use.

Handle OPD with care — wear rubber gloves — suspected mutagen.

7. 1 Molar sulphuric acid: 26,6 ml of acid added to 473,4 ml of distilled water.

Remember — always add acid to water, never water to acid.

8. Orbital shaker.
9. Elisa plate reader (the test may be read visually).

Test format

	H	G	F	E	D	C	B	A	
Blank			Antigen + conjugate						1
Mab-control			Antigen + Mab + conjugate						2
+ ve control	1/2	1/4	1/8	1/16	1/32	1/64	1/128	1/256	3
Test sera	1/2	1/4	1/8	1/16	1/2	1/4	1/8	1/16	4
									5
									6
									7
									8
									9
									10
									11
									12

Test protocol:

Blank control:

row 1 A — H is a blank control consisting of BTV antigen and conjugate. This may be used to blank the Elisa reader.

Mab control:

row 2 A — H is the monoclonal antibody control and consists of BTV antigen, monoclonal antibody and conjugate. This represents a negative control. The mean of the optical density readings from this control row represents the 0 % inhibition value.

Positive control:

row 3 A — H is the positive control. This consists of BTV antigen, BTV positive antiserum dilutions, Mab and conjugate. This is included as an indicator that the test is functioning properly and similar levels of inhibition should be obtained from test to test.

Test sera:

in the test format shown above, 18 sera can be tested over a dilution rate of 1/2, 1/4, 1/8 and 1/16. This will give some indication of the titre of antibody in the test sera. The dilution range could be extended further to obtain serum dilution end-point titres. Alternatively, for large-scale serological surveys, sera could be tested at a single dilution (1/4) or two dilutions (1/2 and 1/4) as a rapid screening test.

Procedure:

1. Dilute BTV antigen to pre-titrated concentration in PBS, sonicate briefly to disperse aggregated virus (if sonicator is not available, pipette vigorously) and add 50 µl to all wells of the Elisa plate. Tap sides of plate to disperse antigen.
2. Incubate at 37 °C for 60 minutes on an orbital shaker. Wash plates three times by flooding and emptying the wells with unsterile PBS and blot dry on absorbent paper.
3. Add 50 µl per well of blocking buffer. Add test sera and positive serum to the appropriate wells and dilute across the plate using a multichannel pipette. Do not add sera to the blank control or the Mab control.
4. Immediately after the addition of the test sera, dilute Mab in blocking buffer (to pre-titrated dilution) and add 50 µl to all wells of the plate except for the blank control.
5. Incubate at 37 °C for 60 minutes on an orbital shaker. Wash three times with PBS and blot dry.
6. Dilute rabbit anti-mouse concentrate to 1/5 000 in blocking buffer and add 50 µl to all wells of the plate.
7. Incubate at 37 °C for 60 minutes on an orbital shaker. Wash three times with PBS and blot dry.
8. Thaw the OPD and immediately before use add 12 µl of 30 % hydrogen peroxide to each 25 ml of OPD. Add 50 µl to all wells of the plate. Allow colour to develop for approximately 10 minutes and stop the reaction with 1 M sulphuric acid (50 µl per well). Colour should develop in the Mab control wells and in those wells containing sera with no antibody to BTV.
9. Examine and record the plates either visually or using a spectrophotometric reader.

Analysis of results:

Calculate the mean OD reading from the Mab controls. This represents the 0 % inhibition value. Optical density readings from the test sera are expressed as percentage inhibition values using the following formula:

$$\text{Percentage inhibition value} = 100 \frac{\text{OD in the presence of test serum}}{\text{OD in the absence of test serum}} \times 100.$$

Inhibition values greater than 40 % at a serum dilution of 1/4 are considered positive. Visual reading is possible as 40 % inhibition is the lowest value easily discernible by eye.

Preparation of BTV Elisa antigen:

1. Wash 10 roux of confluent BHK-21 cells three times with serum-free Eagle's medium and infect with bluetongue virus serotype 1 in serum-free Eagle's medium.
2. Incubate at 37 °C and examine daily for cytopathic effect (cpe).
3. When cpe is evident in 80 to 90 % of the cell sheet of each roux, harvest the virus by shaking any still-attached cells from the glass.
4. Centrifuge at 2 000 to 3 000 rpm to pellet the cells.
5. Discard the supernatant and re-suspend the cells in approximately 30 ml of PBS containing 1 % 'Sarkosyl' and 2 ml phenylmethanesulphonyl fluoride (lysis buffer). This may cause the cells to form a gel and more lysis buffer may be added to reduce this effect.

NB: phenylmethanesulphonyl fluoride is harmful — handle with extreme caution.

6. Disrupt the cells for 60 seconds using an ultrasonic probe at an amplitude of 30 microns.
7. Centrifuge at 10 000 rpm for 10 minutes.
8. Store the supernatant at +4 °C and re-suspend the remaining cell pellet in 10 to 20 ml of lysis buffer.
9. Sonicate and clarify, storing the supernatant at each stage, a total of three times.
10. Pool the supernatants and centrifuge at 24 000 rpm for 120 minutes at +4 °C over a 5 ml cushion of 40 % sucrose (w/v in PBS) using 30 ml Beckmann centrifuge tubes and an SW 28 rotor.
11. Discard the supernatant, drain the tubes thoroughly and re-suspend the pellet in PBS by sonication. Store the antigen in aliquots at -70 °C.

Titration of BTV Elisa antigen:

Bluetongue Elisa antigen is titrated by the indirect Elisa. Twofold dilutions of antigen are titrated against a constant dilution (1/50) of monoclonal antibody 3-17-A3. The protocol is as follows:

Procedure:

1. Dilute BTV antigen in PBS across the microtitre plate in a twofold dilution series (50 µl/well) using a multichannel pipette.
2. Incubate for one hour at 37 °C on an orbital shaker.
3. Wash plates three times with PBS.
4. Add 50 µl of monoclonal antibody 3-17-A3 (diluted 1/50) to each well of the microtitre plate.
5. Incubate for one hour at 37 °C on an orbital shaker.
6. Wash plates three times with PBS.
7. Add 50 µl of rabbit anti-mouse globulin conjugated to horseradish peroxidase, diluted to a pre-titrated optimal concentration, to each well of the microtitre plate.
8. Incubate for one hour at 37 °C on an orbital shaker.
9. Add substrate and chromogen as described previously. Stop the reaction after 10 minutes by the addition of 1 Molar sulphuric acid (50 µl/well).

In the competitive assay, the monoclonal antibody must be in excess, therefore a dilution of antigen is chosen which falls on the titration curve (not on the plateau region) which gives approximately 0,8 OD after 10 minutes.

ANNEX IV B**Protocol for an agar-gel immuno-diffusion test for the detection of epizootic haemorrhagic disease antibodies**

The agar gel immuno-diffusion test is carried out according to the following

Antigen:

Precipitating antigen is prepared in any cell culture system that supports the rapid multiplication of a reference strain of bluetongue virus. BHK or Vero cells are recommended. Antigen is present in the supernatant fluid at the end of virus growth but requires 50 to 100-fold concentration to be effective. This may be achieved by any standard protein concentration procedure; virus in the antigen may be inactivated by the addition of 0,3 % (v/v) beta-propiolactone.

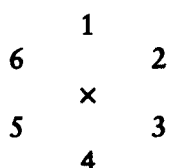
Known positive control serum:

Using the international reference serum and antigen a national standard serum is produced, standardized for optimal proportion against the international reference serum, freeze-dried and used as the known control serum in each test.

Test serum**Procedure:**

1 % agarose prepared in borate or sodium barbitol buffer, pH 8,5 to 9,0, is poured into a petri dish to a minimum depth of 3,0 mm.

A test pattern of seven moisture-free wells, each 5,0 mm in diameter, is cut in the agar. The pattern consists of one centre well and six wells arranged round it in a circle of radius 3 mm.



The central well is filled with the standard antigen. Peripheral wells 2, 4 and 6 are filled with known positive serum, wells 1, 3 and 5 are filled with test sera.

The system is incubated for up to 72 hours at room temperature in a closed humid chamber.

Interpretation:

A test serum is positive if it forms a specific precipitin line with the antigen and forms a complete line of identity with the control serum. A test serum is negative if it does not form a specific line with the antigen and it does not bend the line of the control serum. Petri dishes should be examined against a dark background and using indirect illumination.

COMMISSION DECISION

of 30 July 1991

relating to a proceeding pursuant to Article 85 of the EEC Treaty (case No IV/32.659
IATA Passenger Agency Programme)

(91/480/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to Council Regulation No 17 of 6 February 1962, first Regulation implementing Articles 85 and 86 of the Treaty ⁽¹⁾, as last amended by the Act of Accession of Spain and Portugal, and in particular, Articles 6 and 8 thereof,

Having regard to the application for negative clearance and the notifications for exemption, submitted pursuant to Articles 2 and 4 of Regulation No 17 on 21 March 1988 and 6 November 1989, concerning certain Resolutions of IATA regarding passenger agencies.

Having regard to the summary of the application and notification published ⁽²⁾ pursuant to Article 19 (3) of Regulation No 17,

After consultation with the Advisory Committee for Restrictive Practices and Dominant Positions,

WHEREAS

I. THE FACTS

A. Subject of the Decision

(1) This Decision relates to the following IATA Resolutions dealing with travel agencies:

- Resolution 814: IATA sales agency distribution rules
- Resolution 814d: Travel agency commissioner
- Resolution 814e: Conduct of review by travel agency commissioner

('the Resolution 814 series').

B. The undertakings: IATA and its membership

(2) IATA is an association of enterprises composed of 189 member air carriers. It was founded at the international Air Transport Operators Conference at Havana, Cuba, in April 1945.

(3) Members of IATA are classified as active or associate. Any air transport enterprise operating an air service between the territories of two or more States is eligible for membership as an active member.

(4) The undertakings are the 154 active member airlines participating in the IATA passenger agency conference (Paconf). 35 IATA associate member airlines ⁽³⁾ do not offer international scheduled services nor participate in the Paconf. The arrangements, however, affect them because they comply with them.

C. The product: air travel agency services

(5) The IATA resolutions, subject of this Decision, concern air travel agency services, or the sale of air transportation for passengers through intermediaries.

D. The Market

(6) The global operating revenues for scheduled international passenger services of IATA member airlines in 1986, according to IATA financial statistical reporting forms, were US \$ 37 250 million. The individual member's total turnovers ranged in 1986 from US \$ 1,4 to 6 688 million. Revenues from international scheduled passenger traffic of IATA airlines based in the Community and members of the Association of European Airlines (AEA) amounted in the same year, according to the AEA Yearbook 1986, to US \$ 14 995 million.

(7) All IATA member airlines use the passenger agency programme for their sales. The programme embraces over 26 000 sales outlets (agencies) in 165 countries, of which outlets 10 151 (1987 figures) are located in the Community. According to IATA the estimated 1987 sales volume of scheduled international air

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

⁽²⁾ OJ No C 267, 23. 10. 1990, p. 2.

⁽³⁾ Annex for IATA Active and Associate Member.

transportation by IATA agents in the Community amounted to approximately US \$ 14 914 million.

- (8) Sales are made by means of a contract for carriage (ticket) issued to the passenger by the airline or, within the terms of the arrangements, by the airlines' appointed agent on the airlines' behalf. The airlines have their own sales shops in their biggest markets, but effect, according to IATA estimates, 70 % of their sales in Europe through travel agencies.

E. The agreements

THE IATA PASSENGER AGENCY PROGRAMME

General

- (9) The passenger agency programme, which has been established by the PACONF and is the IATA's system for appointing intermediaries, is one of its basic institutions. It is argued that the main objective of the programme is to ensure that travel agency outlets selling on behalf of IATA members are competent and professional, provide dependable and impartial service to the public and appointing airlines, and handle the airline's monies and documents with integrity.
- (10) The programme incorporates three main features:
- (a) accreditation, whereby any person may seek approval to promote and sell international air transport for remuneration by IATA members, by satisfying specified basic criteria and entering into contractual relations with those airlines;
 - (b) bank settlement plans (BSPs), clearing houses which provide to both airlines and agents economies of scale and the benefits of standardization and automation in the collection and distribution of monies due from IATA agents to airlines. BSPs exist in all the Member States;
 - (c) training programmes, helping agents, both those already accredited and those which may seek IATA accreditation, to achieve and maintain in a cost-effective manner the standards required to help the customer to choose among the airline products offered.
- (11) The management of the programme is assigned to the Agency Administration Division, within the IATA Secretariat.

The IATA resolutions under examination ⁽¹⁾

Qualifications for accreditation and retention as an IATA passenger agent

- (12) Any person in possession of the appropriate official licences, where required, may become an accredited agent by making an application in the form prescribed to the IATA agency services manager in the country where such person carries on business, and by meeting the qualifications set out below. Such qualifications must continue to be met in order to ensure retention as an accredited agent. For this purpose the term 'applicant' when used below shall be understood to include an already accredited agent. In this context 'person' means an individual, partnership, firm, association, company or corporation whose activities, upon accreditation, include those of a travel agent serving the general public.
- (13) The applicant shall submit independently produced financial statements prepared in accordance with local accounting practices as specified and published by the IATA body entrusted with accreditation; such statements shall be evaluated and found satisfactory pursuant to the methodology and standards established from time to time by the same body. To obtain a satisfactory evaluation, the applicant may be required to provide additional financial support in the form of recapitalization or of a bank or insurance guarantee. When the financial position of an agent is subject to review and the agent is unable to meet the financial criteria, normal business fluctuations shall be taken into account and the agent will be provided with a reasonable period of time to meet those criteria.
- (14) Each place of business requiring a separate application, the applicant must wholly own and fully manage the business for which approval is sought as a branch office location.
- (15) The applicant must have in its employment at least one staff member present at the place of business under application during the working hours of such place of business, who meets the necessary criteria of competence and experience in respect of the country where such place of business is located.
- (16) The place of business under application shall be open for business on a regular basis, be identified and trade as a travel agency; provided that a place of business which does not meet the aforementioned conditions

(1) Unless otherwise specified the provisions above are contained in Resolution 814.

may nevertheless be approved if it meets all other qualifications and is:

- (i) solely devoted to the organizing of inclusive tours and performs the issuance of traffic documents related to such inclusive tours only;

or

- (ii) a branch office location situated on the premises of an organization, plant or commercial firm and dedicated substantially to the travel requirements of that organization, plant or commercial firm;

or

- (iii) a satellite ticket printer location (see below).

IATA has provided an undertaking that the term 'substantially' under (ii) has no restrictive meaning and that any commercial firm wishing to run its travel department as a branch in-plant location can apply for accreditation according to the IATA rules.

The place of business shall not be located in office space jointly occupied with another travel agency, an accredited agent or an air carrier. There is no restriction on location at an airport.

- (17) The applicant shall not have a name which is:

- (i) the same as that of IATA or of one its members,

or

- (ii) similar to the name of a member; provided that this shall not preclude approval of such applicant by the agency services manager if no protest is received from any member.

The place of business must not be identified as an office of an IATA member or of a group of IATA members.

- (18) The applicant, its managerial staff or its principal shareholders, directors or officers or managers shall not have been found guilty of wilful violations of fiduciary obligations incurred in the course of business nor be undischarged bankrupts.

- (19) No person who is a director of, or who holds a financial interest or a position of management in, the applicant shall have been a director of, or had a financial interest or held a position of management in, an agent which has been removed from the agency list, or is under notice of default, and still has outstanding commercial debts, or in such an agent whose commercial debts were met solely or in part by recourse to a financial bond or guarantee; provided that the applicant may nevertheless be approved if such person did not participate in the acts or omissions that caused such removal or default.

- (20) The applicant is not a general agent in the country (whether or not for the whole of the country) or any

air carrier; provided that this shall not preclude approval of such an applicant by the agency services manager if the application contains evidence to his satisfaction that the applicant will have ceased to be such a general sales agent before the date of effectiveness of the agency services manager's decision to accredit the applicant.

- (21) The premises in respect of which approval is sought shall meet the security standards set out in the resolution and the applicant undertakes to implement the security precautions prescribed. (This because unwritten airline tickets are valuable).

- (22) In respect of the issue of tickets and other traffic documents after approval, an agent shall comply with the relevant provisions in the programme.

- (23) Where officially required, the applicant must be in possession of a valid licence to trade.

- (24) All material statements made in the application shall be accurate and complete. Various fees have to be paid by the applicant in order to become an accredited agent.

- (25) In case that the applicant applies for a satellite ticket printer (STP) location, i.e. a place of business in which a device which is capable of printing documents is set, under control of an IATA agent, the qualifications refer mainly to security standards in order to avoid that unauthorized parties print tickets. At least one qualified person must be in charge of the STP. Such person need not necessarily be employed by the agent.

Procedures for accreditation

- (26) The applicant is required to complete an application form and submit it to the competent IATA agency services manager, accompanied by the necessary documents and financial statements and by fees, including application, entry and first annual agency fees. The manager must ask the applicant to provide additional information.

- (27) The manager will publish a listing of the applications received in order that the IATA members may within 45 days file evidence and indicate the grounds why, in their opinion, the applicant does not meet the qualifications. In this case the applicant is informed and invited to respond.

- (28) A decision must be taken within 60 days of the date of publication of the listing. The applicant is to be notified promptly in writing and, in the event of rejection, must be given clear reasons why the application failed.

- (29) A rejected applicant may, within 30 calendar days of the manager's notice, request reconsideration of his decision, or otherwise invoke the procedures for review by the travel agency commissioner (the commissioner).

IATA members having opposed a successful accreditation may also request reconsideration or review of the manager's decision.

- (30) Successful applicants will be entered on the IATA agency list and the IATA Director General will execute a sales agency agreement on behalf of such IATA members as may appoint agents.

- (31) Accredited agents included in the agency list may be appointed by individual IATA airlines:

— either by means of a statement of general concurrence appointing all accredited agents delivered by the airlines and deposited with IATA,

— or by the airline delivering to such agent a certificate of appointment.

IATA members are entitled to cancel an agent's appointment.

Custody and issue of tickets and other traffic documents

- (32) The issuance of tickets is made by IATA agents on behalf of the member airlines which have appointed them, either by using the individual members' tickets or traffic documents, or by using standard IATA tickets to be validated with the individual carriers' identification plates which, accordingly, have to be handed to the agents.

- (33) Resolution 814 provides in section D, first paragraph, that no airline or IATA member participating in a BSP may deposit or maintain stocks of its own traffic documents with any IATA agent. This is to convey ticket sales clearing toward BSPs. IATA has submitted that a number of BSPs are only marginally viable and that their viability could be jeopardized by allowing the placing of carriers' own tickets with agents, since these tickets are not handled through the BSPs. IATA has undertaken to take the action required, such as action towards consolidation of BSPs, so that this restriction could be eliminated within a maximum of three years.

Payment of Commission

- (34) Agents duly appointed by IATA members are paid commission for the sale of international air passenger transportation, at such rate as may be authorized from time to time by individual member airlines. The resolution contains rules as to how to calculate commission, and rules related to refunds and to sales to governments. There is no ban on splitting commissions with the customer.

Administrative rules

- (35) Resolution 814 also contains technical and administrative rules on how to report and remit payments through the BSP or directly to airlines, rules on agents' indebtedness and default, and rules on change of ownership, legal status, name or business place.

Measures affecting agents' standing

- (36) Agents may relinquish accreditation or may be removed by IATA, for the reasons specified in resolution 814 (e.g. not meeting the qualifications for retention, because of default or delinquency, etc.). They may also be suspended or reprimanded. The procedures and the effects of the various situations are specified, also.

Review of IATA agency administration decisions affecting applicants and agents, and review of agents' status

- (37) Decisions affecting applicants and agents, issued by the competent IATA bodies may be reviewed at first instance by an IATA commissioner appointed for that purpose, referred to in resolution 814d, who will also deal with the review of the agents' status when some grievance against him has been raised by the IATA agency administration. The decisions of the commissioner are, for their part, subject to review by arbitration. Procedures for review by the commissioner are contained in resolution 814e. Procedures for review by arbitration are contained in resolution 814.

Review of a member's individual decisions

- (38) Resolution 814 provides for the right of review of IATA members' individual decisions affecting agents. Accordingly, an agent which considers itself aggrieved by the decision of a member:

- (a) to refuse to appoint such agent;
or
- (b) to withdraw its appointment of such agent;
or
- (c) in the case of a Member participating in the BSP:
 - (i) to refuse to supply its carrier identification plate to,
or
 - (ii) to withdraw its carrier identification plate from any such agent's locations;
or
- (d) in the case of a member not participating in the BSP:
 - (i) to refuse to supply its traffic documents to,
or
 - (ii) to remove its traffic documents from any of such agent's locations,

with the result that such agent's commercial interests are adversely affected to the point of placing its business in jeopardy, has the right to obtain such member's criteria for appointing agents or reasons for refusal, withdrawal or removal. If the agent believes such justification is unreasonable then the agent is required in the first instance to seek clarification and satisfaction from the member. If the issue is not thereby resolved, then the agent has the right to have the member's decision reviewed. When the member's decision was made in application of the collective provisions, the agent's right for review is not to be exercised against the member individually but according to the general rules on resolution 814e.

- (39) IATA has adopted resolution 814e in order to deal with individual member's decisions review procedures. These rules treat both agents and airlines on an equal footing.

Implementation

- (40) IATA undertook that resolutions 814, 814d and 814e would be implemented in all Member States not later than 31 December 1990.

At the same time the regimes set forth by IATA resolutions series 800, 808 and 802 would no longer apply to agents whose places of business are within the Community.

F. The resolutions 814 series as compared to the previous regimes

- (41) On 15 June 1989, following IATA's notification of 21 March 1988 the Commission sent IATA a statement of objections based on Article 19 (1) of Regulation No 17 concerning the following IATA resolutions:

- resolution 800: Passenger sales agency administration rules, (as amended);

- resolution 800a: Application form for approval as an IATA Passenger Sales Agent;
- resolution 800b: Passenger sales agency agreement;
- resolution 808: Passenger sales agency rules — Europe, (as amended);
- resolution 808e: Conduct of review by travel agency commissioner;
- resolution 802: IATA agency distribution system — Europe, (as amended).

- (42) Following this statement of objections, IATA informed the Commission that a new resolution to be applied within the European Community would be prepared. This new Resolution would replace resolutions series 800, 802 and 808. On 6 November 1989 resolution 814 series were notified.

- (43) As compared to resolutions 800, 808 and 802 the resolution 814 series have eliminated a number of restrictions on agents:

- there is no 'productivity criterion', i.e. the need that applicants attain a minimum turnover in order to get IATA accreditation;
- staffing requirements have been lowered to the minimum levels necessary to offer a reliable service to customers;
- there is no prohibition of granting rebates to the benefit of the customer by commission splitting;
- there is no prohibition of non-cash payments to agents (beneficial services);
- there is no veto right for flag carriers when implementing Resolution 814 in their own country;
- procedures for accreditation have been shortened;
- there is no ban on locating agencies at airports;
- rules on premises and branch offices have been relaxed in order to permit in-house travel departments of commercial firms to get the IATA accreditation;
- any person, and not only already established travel agents, may obtain the IATA accreditation by fulfilling the criteria therefor;
- a neutral review and arbitration procedure has been established that will permit agents to contest decisions that might hamper their commercial activities. This is especially important in case of dominant carriers' individual decisions.

- (44) Another major step forward has been the elimination of exclusivity arrangements from the passenger agency programme. Accordingly, IATA agents are entitled to work for non-IATA airlines, or for IATA airlines on a bilateral basis, while airlines are entitled to enter into agreements with non-IATA agents.

G. Comments of interested parties

- (45) A letter with comments was received by the Commission from Mr E. Theophanopoulos, Director of Marines TRV Services Ltd, a travel agency in Athens, also member of the board of the Greek Travel Agents Association and of the IATA Agency Programme Joint Council in Greece. While proposing possible changes in the text of IATA resolutions 814, 814d and 814e, Mr Theophanopoulos criticizes the provisions in paragraph 33 of this Decision and the way IATA resolutions are approved by the Greek authorities. He suggests that greater transparency should exist concerning the general terms of the airlines' business relationship with travel agents, too. He does not oppose the exemption, however. The Commission has taken into consideration Mr Theophanopoulos' comments for the drafting of this decision.

No comments opposing the present exemption for the IATA resolution 814 series were received from interested third parties in response to the Commission's notice pursuant to Article 19 (3) of Regulation No 17.

II. LEGAL ASSESSMENT

- (46) The agreements among member airlines of IATA referred to in paragraph 1 fall within Article 85 (1) since they restrict competition and affect trade between Member States. They cannot therefore be given negative clearance as the IATA requests. They can, however, be exempted pursuant to Article 85 (3).

A. Article 85 (1)

- (47) IATA member airlines are undertakings within the meaning of Article 85 (1), and the arrangements made between them and formalized in the IATA resolution 814 series constitute agreements and decisions of an association of undertakings falling within the scope of that Article.

(a) Object and effect of restricting competition

- (48) The abovementioned agreements and decisions restrict competition between individual IATA member airlines

at the level of distribution of their passenger air transport services, from the moment they agree to apply collectively an identical distribution scheme for a very important part of their sales. Although the selective system is not exclusive for agents or for carriers and there is no territorial limitation imposed on agents, the IATA programme is in fact the favourite distribution channel for most airlines.

Distribution policies are thus aligned to a certain degree with most other airlines for an important part of their business.

- (49) The distribution and sales system agreed by IATA member airlines leaves little room for other forms of distribution based on a different type of policy that could be adopted by individual IATA airlines, and results in a rather rigid sales structure. Should the IATA system not exist, each airline would have its own network of agents, normally different from those of its competitors. This would produce greater competition both between agents and between airlines.

- (50) The resolutions have also the greatest impact in the travel agency business community in the Community and create a more rigid structure than bilateral systems, which would introduce stronger elements of competition in distribution.

- (51) Thirdly, competition between agents will be affected, even though sharing commissions with customers is allowed. Some limitation in competition is inherent in any collective distribution system in which criteria for selection are homogeneous. Thus competition for sales between specialist agents like IATA's will necessarily remain more limited than could be expected otherwise.

Furthermore competition with non-IATA agents or with other participants in the distribution market outside the IATA framework will be distorted because membership of the collective IATA agency system gives some agents an artificial advantage over distributors who remain outside the system.

- (52) From the above there can be little doubt that the relevant IATA resolutions affect the structure of competition on the European Community market as a whole at the three levels just mentioned.

- (53) As for the restriction referred to in paragraph 33, it is a disincentive for most of the IATA airlines to enter into bilateral distribution deals with IATA accredited

agents outside the IATA framework. Competition is restricted in that IATA agents are not able to freely operate parallel distribution channels with individual members of IATA on a bilateral basis.

(b) *Effect on trade between Member States*

- (54) The IATA resolutions under examination concern services in which there is a substantial trade within the Community, as evidenced in recitals 7 to 9. The programme, permitting sales of air transportation all over the world affects all IATA members' distribution policies in the Community.

Therefore, the agreements have an effect on intra-Community trade, as they produce a substantial impact in the whole structure of competition.

B. Article 85 (3)

- (55) The IATA resolutions under examination meet the conditions for exemption laid down in Article 85 (3). They contribute to improving the production and distribution of goods and to promoting technical and economic progress, while allowing customers a fair share of the resulting benefit. They neither impose, on the undertakings concerned, restrictions which are not indispensable to the attainment of these objectives nor do they afford the undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

Improvement in production and distribution, promotion of technical and economic progress

- (56) The resolutions permit central administration of IATA agents can afford a reduction in airlines' costs of administering their retail agents; many airlines could not afford to administer a large chain of agents of their own, and in particular small/medium sized airlines regard the IATA agency system as an irreplaceable essential. The advantages are particularly attractive for airlines with extensive international operations, providing market access which would be otherwise difficult and expensive to achieve. Through a single standard agreement executed with IATA, an agent whose authorization to represent IATA members is recognized after appropriate appraisal may issue tickets on behalf of any appointing member. The system promotes worldwide standards in selling the airlines' products and upholds the financial integrity of marketing outlets.

- (57) The IATA resolution 814 system contributes to improving the distribution of the air transport product by:

(a) offering each member airline the benefits of economies of scale by:

- identifying and accrediting suitable sales outlets,
- standardising contractual relationships with Agents,
- promoting higher standards of competence and reliability in the distribution industry;

(b) providing agents with:

- a shortened accreditation procedure on non-discriminatory grounds,
- a simplified contractual relationship with all IATA member airlines,
- immediate ability to sell the services of most airlines,
- simplified administration, reporting and staff training,
- a built-in procedure for the even-handed treatment of disputes with airlines, through reference of such disputes to a neutral arbitration body,
- the professional back-up of the IATA secretariat (publications, advice, training programmes etc.),
- the professional standing which accompanies IATA accreditation.

- (58) The provisions of resolution 814 referred to in recital 33 will permit marginally viable BSPs to consolidate during a reasonable period in which ticket sales clearing will be performed mainly via established BSPs. BSPs are regarded by airlines and agents alike as a very cost-effective way of clearing their own accounts by greatly reducing administrative costs through standardization.

Advantages for customers

- (59) The IATA system as put forward by resolution 814 series allows customers a fair share of the resulting benefits through:

- (a) reliability standards required of agents (financial viability, staff qualifications and experience, security of premises and ticket stock);

- (b) wide choice of IATA agents (10 000 throughout the Community and increasing, following resolution 814's criteria);
 - (c) access to agents representing a large number of major airlines;
 - (d) increased competition between IATA agents by permitting them to grant rebates out of their commission.
- (60) Preserving the BSP clearing system will allow agents to avoid costly paperwork. Economies thereof will be passed on to customers via, *inter alia*, commission splitting.

Indispensability for the restrictions

- (61) The standardization and the economies of scale achieved by the system set forth by the resolutions could not be obtained without a uniform international system. In effect, the IATA system is based on the high number of airlines and the high number of agents involved therein. Its restrictive features, but also its beneficial effects stem from this fact. Those and the others are inseparable.
- (62) As for the provisions referred to in recital 33, being temporary, they are indispensable for preserving certain marginally viable small Member States' BSPs. Directing ticket sales clearance to them will make costs per ticket decrease, so that airlines and agents will continue to find it economical to patronise these marginal BSPs. In this way the BSP system will keep on covering the whole Community.

Elimination of competition

- (63) Competition among airlines at distribution level is not eliminated by the IATA resolution 814 series system. Airlines are free to offer agents the remuneration, via commission or otherwise, they consider appropriate. They are also free to make their own sales and to establish their own distribution network on a bilateral basis, on conditions different from those agreed in IATA.
- (64) As stated in recital 63, airlines are allowed to and in fact effect part of their sales by parallel competing channels. Competition is not eliminated by the resolutions, which in no case impose exclusivity on the interested parties.
- (65) A substantial competition among agents, IATA or non-IATA, and whether appointed on a multilateral basis or on a bilateral basis, will remain. In effect,

IATA agents will compete not only by offering better service to their customers, but also by sharing commissions with the customer. They will also compete with non-IATA agents. Although limited in number at present, there is also the possibility that some IATA-accredited agents may enter into bilateral deals with IATA airlines and compete on a non-IATA basis with other fellow IATA-accredited agents.

- (66) Regarding recital 33, apart from the competitive elements referred to above, this restriction is limited to the placing of individual airlines' ticket stocks in IATA agents' premises in certain cases. It does not actually prohibit bilateral deals outside the IATA framework, although it is a disincentive for doing so. Only the airlines participating in a given BSP are subject to this provision which, in any event, permits bilateral case-by-case deals between IATA agents and IATA airlines on a non-IATA basis, provided that stocks are not kept by the agent.

- (67) Concerning this point, in conclusion, the Commission considers that competition is not eliminated by the IATA system because, together with it, actual and future methods of distribution based on different types of policies co-exist and will further develop in a progressively liberalized European market for services in general and agencies and air transportation in particular.

Economic and structural impact of the resolutions under examination

- (68) The regime set up by IATA resolutions 814, 814d and 814e goes in the sense of liberalization, is more responsive to market realities than the previous resolutions, and was prompted by the Commission's intervention following IATA's notifications.
- (69) As a result of the changes introduced into the system, the relationship between agents and IATA airlines becomes more balanced and entry into the air travel sales business on behalf of IATA members is easier, without any loss as to agent's competence or reliability. As a result of this, sales outlets are likely to increase in number, to the benefit of the customer, who will also benefit from the increased competition among agents.
- (70) In the opinion of the Commission the resolution 814 system should avoid the risk of abuse or discriminatory application of the procedure set forth.

In this sense it is noteworthy that any refusal of approval to someone satisfying the criteria would be discriminatory, and that local implementation should not deviate from those criteria.

- (71) In a time of air travel expansion and increasing liberalization in European air transportation, the passenger programme as set forth in resolution 814 series may play an important role in making the market more fluid to the benefit of airlines, agents and customers alike.

Duration of the exemption

- (72) Article 8 (1) of Regulation No 17 provides that exemptions under Article 85 (3) may be granted only for a specific period and that conditions and obligations may be attached to them.
- (73) In view of the nature of the agreements and decisions under examination, the appropriate duration of the exemption, which serves the objectives listed in Article 85 (3), is considered to be 10 years from the date of the first notification, that is until 20 March 1998.
- (74) As regards the specific provision of resolution 814 referred to in recital 34, the appropriate duration is considered to be until 31 December 1992.
- (75) The Commission does not deem it necessary to impose any conditions or obligations, and relies as to the interpretation of certain clauses of the resolutions on the undertakings provided by IATA on 25 January 1990. They concern in particular the interpretation

of the term 'substantially' referred to in recital 16, the duration of the provision in recital 33 and the adoption of an adequate procedure for review of individual members' decisions referred to in recital 39. However, the Commission will closely monitor the working of the system before this exemption expires, in order to assess whether a renewal could be granted, if it were requested,

HAS ADOPTED THIS DECISION:

Article 1

Pursuant to Article 85 (3), the provisions of Article 85 (1) of the EEC Treaty are hereby declared inapplicable for the period 21 March 1988 to 20 March 1998 to IATA resolutions 814, 814d and 814e, except the provisions of resolution 814, section D, first paragraph, referred to in recital 33 of this Decision, in which case the period will be 6 November 1989 until 31 December 1992.

Article 2

This Decision is addressed to the International Air Transport Association and to the undertakings listed in the Annex to this Decision.

Done at Brussels, 30 July 1991.

For the Commission

Leon BRITTAN

Vice president

ANNEX

International Air Transport Association — membership

189 Members (154 Active and 35 Associate) on 15th February 1990

Active members

Adria Airways	British Midland Airways Ltd
Aer Lingus plc	Brymon Airways
Aeroflot Soviet Airlines	Cameroon Airlines
Aerolíneas Argentinas	Canadian Airlines International Ltd
Aerolineas Nicaraguenses SA (AERONICA)	Caribbean Air Cargo Company Ltd
Aerovias de México SA de CV (AEROMEXICO)	Ceskoslovenske Aerolinie (CSA)
Aerovias Nacionales de Colombia SA (AVIANCA)	Compañía Mexicana de Aviación SA de CV (MEXICANA)
Affretair (PVT) Ltd	Continental Airlines Inc.
Air Afrique	Cook Islands International Airlines Ltd
Air Algérie	Crossair
Air Botswana	Cruzeiro do Sul SA — Servicos Aéreos
Air Bremen GmbH & Co.	Cyprus Airways Ltd
Air Bridge Carriers Ltd	Dan-Air Services Ltd
Air Canada	Delta Air Regionalflugverkehr GmbH
Air Europe Ltd	Democratic Yemen Airlines (ALYEMOA)
Air France	Deutsche Lufthansa AG (LUFTHANSA)
Air Gabon	Eastern Air Lines Inc.
Air Guinée	Egyptair
Air Jamaica Ltd	El Al Israel Airlines Ltd
Air Littoral	Emirates
Air Madagascar	Empresa Consolidada Cubana de Aviación (CUBANA)
Air Malawi Ltd	Empresa de Transporte Aéreo del Perú (AEROPERU)
Air Malta Company Ltd	Empresa Ecuatoriana de Aviación SA (ECUATORIANA)
Air Martinique	Ethiopian Airlines Corporation
Air Mauritius	Federal Express Corporation
Air New Zealand Ltd	Finnair Oy
Air Niugini	Friendly Islands Airways Ltd
Air Pacific Ltd	Gambia Air Shuttle Ltd
Air Seychelles Ltd	Garuda Indonesia
Air Tanzania Corporation	German Wings Luftfahrtunternehmen GmbH
Air Tunganu Corporation	Ghana Airways Corporation
Air UK	Gulf Air Company GSC
Air Zaïre	Hong Kong Dragon Airlines Ltd (DRAGONAIR)
Air Zimbabwe Corporation	IBERIA, Líneas Aéreas de España SA
Air India	Icelandair
Airline of the Marshall Islands	Indian Airlines
Alaska Airlines Inc.	Iran Air, The Airline of the Islamic Republic of Iran
Alisarda SpA	Iraqi Airways
Alitalia — Linee Aeree Italiane SpA	Jamahiriya Libyan Arab Airlines
All Nippon Airways Co., Ltd	Japan Airlines Co. Ltd
American Airlines Inc.	Japan Air System Co. Ltd
America West Airlines, Inc.	Jugoslovenski Aerotransport (JAT)
Ariana Afghan Airlines Co. Ltd	Kenya Airways Ltd
Austrian Airlines	KLM Royal Dutch Airlines
Balkan Bulgarian Airlines	Korean Air
Berlin European UK Ltd	Kuwait Airways Corporation
Birmingham European Airways plc	LAM — Linhas Aéreas de Moçambique
Braathens SAFE	
British Airways plc	

Lauda Air Luftfahrt AG
Lesotho Airways Corporation
Línea Aérea del Cobre SA (LADECO)
Línea Aérea Nacional — Chile SA
(LAN-CHILE)
Líneas Aéreas Costarricenses SA (LACSA)
Líneas Aéreas Paraguayas — LAP
Lloyd Aéreo Boliviano SA (LAB)
Loganair Ltd
London City Airways
MALEV — Hungarian Airlines
Manx Airlines Ltd
Middle East Airlines Airliban (MEA)
Nationair Canada
NFD Luftverkehrs AG
Nigeria Airways Ltd
Nippon Cargo Airlines (NCA)
Olympic Airways, SA
Pakistan International Airlines Corp. (PIA)
Pan American World Airways, Inc.
Philippine Airlines Inc.
PLUNA — Primeras Líneas Uruguayas
de Navegación Aérea
Polskie Linie Lotnicze (LOT)
Polynesian Airlines Ltd
Qantas Airways Ltd
Royal Air Maroc
Royal Jordanian (ALIA — The Royal
Jordanian Airline)
Royal Swazi National Airways Corp. Ltd
Ryanair Ltd
SABENA (Société anonyme belge
d'exploitation de la navigation aérienne)
Saudi Arabian Airlines Corp. (SAUDIA)
Scandinavian Airlines System (SAS)
Scottish European Airways
Solomon Airlines
Somali Airlines
South African Airways (SAA)
Sudan Airways Company Ltd
Swedair AB
Swiss Air Transport Co. Ltd (SWISSAIR)
Syrian Arab Airlines
TAGG — Linhas Aéreas de Angola
(ANGOLA AIRLINES)
TAP — Air Portugal
Tempelhof Airways USA Inc.
Tower Air Inc.
Trans-Mediterranean Airways SAL (TMA)
Transavia Holland BV d/b/a Transavia
Airlines
Trans World Airlines Inc. (TWA)
Trinidad & Tobago (BWIA International)
Airways Corp.

Tunis Air
Turk Hava Yollari AO (TURKISH
AIRLINES)
United Airlines
USAir, Inc.
UTA (Union de Transports Aériens)
VARIG SA (Viação Aérea Rio-Grandense)
Venezolana Internacional de Aviación SA
(VIASA)
Virgin Atlantic Airways
YEMENIA Yemen Airways
Zambia Airways Corporation Ltd
ZAS Airline of Egypt

Associate members

Aero Lloyd Flugreisen GmbH & Co.
Luftverkehrs-KG
Air America (Air Specialities Corp. d/b/a Air
America)
Air Écosse Ltd
Air Ínter (Lignes Aériennes Intérieures)
Air Réunion
Air Tahiti
Aloha Airlines, Inc.
Ansett Airlines of Australia
Ansett New Zealand
Austral Líneas Aéreas SA
Australian Airlines Ltd
Aviación y Comercio, SA (AVIACO)
Commercial Airways (Pty) Ltd
DLT Deutsche Luftverkehrsgesellschaft mbH
Douglas Airways Pty Ltd
East-West Airlines
Falcon Cargo AB
Flight West Airlines Ltd
INTAIR
IPEC Aviation
Kendell Airlines
LAR Transregional (Linhas Regionais SA)
Mount Cook Airlines
Namib Air (Pty) Ltd
Salair AB
Sunflower Airlines Ltd
Sunstate Airlines
TALAIR Pty Ltd
Transbrasil SA Linhas Aéreas (Trans Brasil)
Trans-Jamaican Airlines Ltd
Transport Aérien Transregional (TAT)
Vayudoot Ltd
Viação Aérea Sao Paulo SA (VASP)
Wairarapa Airlines Ltd
Wideroe Flyveselskap A/S

COMMISSION DECISION

of 30 July 1991

relating to a proceeding pursuant to Article 85 of the EEC Treaty (Case No IV/32.792 — IATA cargo agency programme)

(91/481/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

having regard to Council Regulation No 17 of 6 February 1962, first Regulation implementing Articles 85 and 86 of the Treaty ⁽¹⁾ as last amended by the Act of Accession of Spain and Portugal, and in particular, Articles 6 and 8 thereof,

Having regard to the application for negative clearance and the notifications for exemption, submitted pursuant to Articles 2 and 4 of Regulation No 17 on 7 July 1988, 2 October 1989 and 17 April 1990, concerning certain resolutions of IATA regarding cargo agencies.

Having regard to the summary of the application and notification published ⁽²⁾ pursuant to Article 19 (3) of Regulation No 17,

After consultation with the Advisory Committee for Restrictive Practices and Dominant Positions,

Whereas

I. THE FACTS

A. Subject of the Decision

- (1) This Decision to the following IATA resolutions dealing with cargo agencies:

- resolution 805: IATA cargo agency distribution system rules, Europe,
- resolution 805d: agency commissioner,
- resolution 805e: Conduct of review by agency commissioner,

('the Resolution 805 series').

B. The undertakings: IATA and its membership

- (2) IATA is an association of enterprises composed of 189 member air carriers, it was founded at the International Air Transport Operators Conference at Havana, Cuba, in April 1945.

- (3) Members of IATA are classified as active or associate. Any air transport enterprise operating an air service between the territories of two or more States is eligible for membership as an active member.

- (4) The undertakings are the 154 active member airlines participating in the IATA Cargo Agency Conference (Caconf). 35 IATA associate member airlines ⁽³⁾ do not offer international scheduled services nor participate in the Caconf. The arrangements, however, affect them because they comply with them.

C. The product: air freight agency services

- (5) The IATA resolutions, subject of this Decision, concern air freight cargo agency services, or the sale of air freight transportation through intermediaries.

D. The Market

- (6) According to IATA the global operating revenues for scheduled international cargo services of all IATA member airlines in 1989, were approximately US \$ 12 500 million, out of total revenues for all services (passenger, cargo, mail and other) of about US \$ 70 700 million. The individual members' total turnovers (passenger, cargo, mail and other) range from US \$ 1,5 million to US \$ 9 960 million.

According to the Association of European Airlines (AEA) Yearbook Statistical Appendices for 1988, the total revenues of AEA airlines based in the Community ⁽⁴⁾ coming from international cargo traffic amounted to US \$ 4 899 million.

- (7) All IATA member airlines use the cargo agency programme for their sales. IATA accredited cargo agents, which number approximately 1 000 in the

⁽¹⁾ OJ No 13, 21. 2. 1962, p. 204/62.

⁽²⁾ OJ No C 320, 20. 12. 1990, p. 4.

⁽³⁾ See Annex for IATA Active and Associate Members.

⁽⁴⁾ Community Carriers in AEA comprise Aer Lingus, Air France, Alitalia, British Airways, Iberia, KLM, Lufthansa, Luxair, Olympic, Sabena, SAS, TAP and UTA.

Community, of a total of some 3 000 IATA agents registered worldwide, are in the majority independent businesses. (It is estimated that in the Community there are approximately 300 to 400 professional intermediaries handling international cargo not registered as IATA cargo agents.) However, they may sometimes be part of a group of companies. In a few instances, they are controlled by transport enterprises such as railways and shipping lines and even by member airlines of IATA.

- (8) Sales are made by means of a contract for carriage (air waybill) issued by the airline or, within the terms of the arrangements, by the airlines' appointed agent on the airlines' behalf. The airlines have their own sales outlets in their biggest markets, but make, according to estimates, approximately 70 % of their sales in Europe through IATA cargo agents, the remainder being handled through airlines' own sales offices, or through their general sales agents.

E. The agreements

THE IATA CARGO AGENCY PROGRAMME

General

- (9) The cargo agency programme, which has been established by the Caconf and is the IATA's system for appointing intermediaries, in the field of cargo carriage, is one of its basic institutions. It is argued that the main objective of the programme is to ensure that cargo agency outlets selling on behalf of IATA members are professional, provide dependable service to shippers and appointing airlines, and handle shippers' goods and airlines' monies with integrity.
- (10) The programme incorporates three main features:
- (a) accreditation, whereby any person may seek approval to promote and process international air cargo transportation for remuneration by IATA members, by satisfying specified basic criteria and entering into contractual relations with those airlines;
 - (b) cargo accounts settlement systems (CASS), clearing houses which provide to both airlines and agents economies of scale and the benefits of standardization and automation in the collection and distribution of monies due from IATA to airlines.

- (c) vocational training programmes, helping intermediaries, both IATA agents and others which may seek IATA accreditation, to achieve and maintain in a cost-effective manner the standards required to help the customer to make his choice of the airline products offered; this is particularly important in developing competence in handling of dangerous goods, to ensure safety of passengers, of crew and of aircraft on which these shipments are loaded.

- (11) The management of the programme is assigned to the agency administration division, within the IATA Secretariat.

The IATA resolutions under examination ⁽¹⁾

Qualifications for accreditation and retention as an IATA cargo agent

- (12) Any person in possession of the appropriate official licences, where required, may become an IATA cargo agent by making an application in the form prescribed to the IATA agency administrator in the country where such person carries on business, and by meeting the qualifications set out below. Such qualifications must continue to be met in order to ensure retention as an IATA cargo agent. For this purpose the term 'applicant' when used below shall be understood to include an already accredited agent.
- (13) The applicant shall submit independently produced financial statements prepared in accordance with local accounting practices as specified and published by the IATA body entrusted with accreditation; such statements shall be evaluated pursuant to the methodology and standards established from time to time by the same body. To obtain a satisfactory evaluation, the applicant may be required to provide additional financial support in the form of recapitalization or of a bank or insurance guarantee. When the financial position of an agent is reviewed, if the agent is unable to meet the financial criteria, normal business fluctuations shall be taken into account and the agent will be provided with a reasonable period of time to meet those criteria.
- (14) The applicant is required to employ at all places where it makes air cargo for carriage full-time staff competent and qualified to provide the services and handling functions set by IATA. The applicant must supply evidence that:

⁽¹⁾ Unless otherwise specified the provisions above are contained in Resolution 805.

- (a) two such persons hold an adequate basic diploma having completed an acceptable course;
 - (b) two such persons, at the time of application and at all time subsequent to registration;
 - (i) hold an IATA/FIATA (Fédération internationale des associations de transitaires et assimilés — International Federation of Air Freight Forwarders Associations) advanced diploma including training in handling of dangerous goods, obtained within the previous two years; or
 - (ii) have completed, within the previous two years, an equivalent dangerous goods course of training given by an IATA member, or another training course in handling dangerous goods recognized by IATA and offered by another entity.
- (15) The applicant must in the country concerned:
- (a) maintain and operate at least one office (or a department of such an office) engaged in the promotion or sale of international air cargo transportation over the lines of IATA members, and the handling of consignments therein;
 - (b) have adequate insurance to cover its liability for loss of or damage to shippers' cargo.
- (16) The applicant must have premises, staff and equipment for the performance of the following functions as a minimum:
- (a) quoting airlines' rates and charges and conditions pertaining to such rates and charges;
 - (b) assisting customers in completing the required formalities for the transportation of cargo by air, including reservation services;
 - (c) delivering (or arranging for delivery of) consignments to an airline at any airport designated by the airline for general acceptance of all consignments ready for carriage;
 - (d) accepting restricted articles for carriage and delivery (or arranging for delivery) to an airline in accordance with the applicable dangerous goods regulations;
 - (e) collecting charges from customers, and remitting monies due to carriers.
- (17) Where officially required, the applicant must be in possession of a valid licence to trade. Suspension or withdrawal of this licence constitute grounds to initiate a review of the agent.

- (18) The applicant must not have a name which is:
- (i) the same as or misleadingly similar to that of an IATA member;
- or
- (ii) the same as that of another IATA cargo agent in the same country; this prohibition does not apply to persons entered on the cargo agency list prior to 1 April 1984.
- The place of business must not be identified as an office of an IATA member.
- (19) The applicant, its managerial staff, its principal shareholders (and persons for whom they act as nominees), directors, officers and managers shall not have been found guilty of wilful violations of fiduciary obligations incurred in the course of business nor be undischarged bankrupts.

Procedures for accreditation

- (20) The applicant is required to complete an application form and submit it to the IATA agency administrator, accompanied by the necessary documents and financial statements and by fees, including application, entry and first annual agency fees. The agency administrator may ask the applicant to provide additional information.
- (21) The administrator will publish a listing of the applications received in order that the IATA members may within 30 days file evidence and indicate the grounds why, in their opinion, the applicant does not meet the qualifications. In this case the applicant is informed and invited to respond.
- (22) A decision must be taken within 45 days of the date of publication of the listing. The applicant is to be notified promptly in writing and, in the event of rejection, must be given clear reasons why the application failed.
- (23) A rejected applicant may, within 30 calendar days of the agency administrator's notice request reconsideration of his decision, and where still aggrieved, subsequently invoke the procedures for review by the agency commissioner referred to in resolution 805d (see recital 32 below).
- (24) Successful applicants will be entered on the IATA cargo agency list and the IATA Director General will execute a cargo agency agreement with each person registered as an agent. The agency administrator must promptly notify all airlines of the names of parties executing cargo agency agreements and the dates of

such agreements. The agency administrator is required to maintain, publish and circulate from time to time a cargo agency list of all persons with whom the Director General has entered into a cargo agency agreement.

- (25) An IATA member may appoint an agent which is on the cargo agency list:
- (i) by depositing with the agency administrator a statement of general agreement for the appointment of all agents. IATA shall from time to time publish a list of members having deposited such a statement of general agreement;
 - (ii) alternatively, a member may inform the agent, in writing with copy to the agency administrator, that the member specifically agrees in its appointment as an agent.
- (26) The member airline having appointed an agent may cancel such appointment by so notifying the agent in writing with a copy to the agency administrator.
- (27) The provision of air waybills shall be at the option of the member. The member may, also at its opinion, authorize the agent to issue neutral air waybills on the member's behalf.

Payment of Commission

- (28) Agents duly appointed by IATA members are paid commission for the sale of international air cargo transportation, at such rates as may be authorized from time to time by individual member airlines. The resolution 805 contains rules as to how to calculate commission, and rules related to interline sales, payment of commission to applicants, duties of agents in order to be paid commission (acceptance and delivery of goods, provision of air waybills and collection of payment), agents in country of destination, charter transportation, government transportation and refunds. There is no ban on splitting commissions with the shipper.

Administrative rules

- (29) Resolution 805 also contains technical and administrative rules on how to collect funds and remit payments through CASS or directly to airlines, rules on change of ownership, legal status, name or address.

Dispute procedures

- (30) If at any time after receipt of a declaration of default from a member the agency administrator becomes aware that there exists between that member and the agent a commercial dispute in respect of the period for which the notice of irregularity was sent and/or in respect of previous periods, the agency administrator is required to withhold or to withdraw, as the case may be, the declaration of default. If such declaration is withdrawn, the agency administrator must terminate actions against the agent and notify all members and, where applicable, the CASS management accordingly. Upon receipt of such notification, members must pay any commission withheld from the agent. The notice of irregularity giving rise to the withheld or withdrawn declaration of default must be removed by the agency administrator. If a declaration of default was the result of an error and the declaring member so notifies the agency administrator and submits details in writing, the agency administrator must withdraw the declaration of default and the procedures above also apply in such a case.

Measures affecting agents' standing

- (31) Agents may relinquish accreditation or may be removed by IATA for the reasons specified in resolution 805 (e. g. not meeting the qualifications for retention, because of default or irregularities, losing the licence to trade in the countries where this is required, etc.). They may also be suspended or reprimanded. The procedures and the effects of the various situations are specified.

Review of IATA agency administrator's decisions affecting applicants and agents, and review of agents' status

- (32) Decisions affecting applicants and agents, issued by the competent IATA bodies may be reviewed at first instance by an IATA commissioner appointed for that purpose, referred to in resolution 805d, who will also deal with the review of the agents' status when some grievance against him has been raised by the IATA agency administrator. The decisions of the commissioner are, for their part, subject to review by arbitration. Procedures for review by the commissioner are contained in resolution 805e. Procedures for review by arbitration are contained in resolution 805.

Review of a member's individual decisions

(33) Resolution 805 provides for the right of review of IATA members' individual decisions affecting agents. Accordingly, an agent which considers itself aggrieved by the decision of a member:

(a) to refuse to appoint such agent,

or

(b) to withdraw its appointment of such agent;

or

(c) to refuse to:

(i) supply the agent with stock of its air waybills;

or

(ii) authorize the agent to issue neutral air waybills on its behalf;

or

(d) to withdraw:

(i) its air waybill stock from the agent;

or

(ii) its authorization to the agent to issue neutral air waybills on its behalf,

with the result that such agent's commercial interests are adversely affected to the point of placing its business in jeopardy, has the right to obtain such member's criteria for appointing agents for the reasons for the refusal or withdrawal. If the agent believes such justification is unreasonable then the agent is required, in the first instance, to seek clarification and satisfaction from the member. If the issue is not thereby resolved, the agent has the right to have the member's decision reviewed by the agency commissioner. Where the member's decision to withdraw its appointment, stock of air waybills or authorization to issue neutral air waybills from the agent was made in application of the collective provisions of resolution 805 the agent's right for review is not to be exercised against the member individually but as set forth in the particular provisions concerned and in resolution 805e.

Implementation

(34) Resolutions 805, 805d and 805e will be implemented in all Member States by not later than 1 July 1991.

At the same time the regimes set forth by IATA resolutions series 801 and 803 will no longer apply to agents whose places of business are within the Community.

F. The resolution 805 series as compared to the previous regimes

(35) In its first application of 7 July 1988, IATA notified several resolutions concerning the IATA cargo agency

programme, whose core consisted in the resolution 801 series, namely:

— resolution 801: cargo agency administration rules,

— resolution 801: cargo agency agreement.

(36) Subsequent to this application the IATA Caconf adopted a new resolution 803 series replacing resolution 801 series and introducing material changes to IATA's arrangements concerning cargo agencies. The new resolutions were notified on 2 October 1989. According to IATA they were developed with a view to the changing regulatory environment and took into account, inter alia, the Commission's concerns regarding cargo agents.

(37) By letter of 17 April 1990 IATA further notified resolution 805 series substituting resolution 803 as the basic applicable regime in the European Community. These resolutions contain a number of changes in comparison to the provisions of the earlier resolutions. Many of these changes were introduced following the Commission's intervention.

(38) As compared to resolution 801 series and resolution 803 series the resolution 805 series have eliminated a number of restrictions on agents:

— there is no 'productivity criterion', i. e. the need that applicants attain a minimum turnover in order to get IATA accreditation,

— staffing requirements have been adapted as required to offer a reliable service to customers. The Commission accepted IATA's arguments that at locations where cargo agents perform activities related to handling of dangerous goods, two staff are necessary. International cargo transportation involves many participants, complex documentation and handling of dangerous cargo. For that reason agents should not only be successful in selling transportation but also reliable in handling consignments while accurate in preparing documents,

— there is no prohibition of granting rebates to the benefit of the customer by commission splitting,

— there is no prohibition of non-cash payments to agents (beneficial services),

— procedures for accreditation have been shortened,

— rules on premises have been relaxed in order to permit in-house air freight departments of commercial firms to obtain IATA accreditation. In particular, the requirement included in Resolution 801 that, in order to obtain IATA accreditation an

applicant must be 'open to the general public' has been dropped from resolution 805,

- any person, and not only already established agents, may obtain the IATA accreditation by fulfilling the criteria therefor,
 - limitations to the possibility of selling charter air freight transport by agents have been dropped,
 - a neutral review and arbitration procedure has been established that will permit agents to contest decisions that might hamper their commercial activities. This is especially important in case of dominant carriers' individual decisions.
- (39) Another major step forward has been the elimination of exclusivity arrangements from the cargo agency programme. Accordingly, IATA agents are entitled to work for non-IATA airlines or charter companies, or for IATA airlines on a bilateral basis, while airlines are entitled to enter into agreements with non-IATA agents.

G. Comments of interested parties

- (40) The Commission received comments from several freight forwarders' association, namely the Bundesverband Spedition und Lagerei e.V. (BSL), (letter of 14 January 1991), the Belgian Air Freight Industry, (BAFI), (letter of 15 January 1991), the International Federation of Freight Forwarders Associations, (FIATA), (letter of 17 January 1991), and the European Liaison Committee of Common Market Forwarders, (CLECAT), (letter of 17 January 1991).

Forwarders, while globally supporting the Commission's intentions as expressed in its notice pursuant to Article 19 (3) of Regulation No 17, criticized the omission of the requirement that in order to get accreditation an applicant should be 'open to the general public'. They argued that access to the IATA programme should not be open to in-house agents.

Furthermore, in their view the suppression of such a requirement could entail a restriction of commerce, shipper discrimination and hazards to aircraft safety.

Forwarders also submit that IATA airlines make not only 70 % but up to 95 % of their sales in Europe through IATA cargo agents, and that they do not benefit from CASS, the IATA clearing houses for air freight sales (see recital 10), as benefits are confined to airlines. Forwarders are not opposed to CASS, however, because such systems do no damage.

The Commission has considered the freight forwarders' comments on the suppression by IATA in resolution 805 of the requirement included in resolution 801 that, in order to obtain IATA accreditation an applicant must be 'open to the general public'. Neither IATA carriers nor shippers were against the suppression of this requirement. In the Commission's opinion, such a requirement could be used to withhold accreditation from companies fulfilling the other objective requirements, which would not be legitimate.

Experience has shown that once in the air freight agency business, commercial and industrial companies have developed and opened to the general public their own agencies, thus increasing the number of sales outlets to the benefit of other shippers.

The Commission, accordingly, does not concur with the freight forwarders' views in this respect. As to CASS, the Commission has taken into account the freight forwarders' comments in its decision.

II. LEGAL ASSESSMENT

- (41) The agreements among member airlines of IATA referred to in paragraph 1 fall within Article 85 (1) since they restrict competition and affect trade between Member States. They cannot therefore be given negative clearance as the IATA requests. They can, however, be exempted pursuant to Article 85 (3).

A. Article 85 (1)

- (42) IATA member airlines are undertakings within the meaning of Article 85 (1), and the arrangements made between them and formalized in the IATA resolution 805 series constitute agreements and decisions of an association of undertakings falling within the scope of that Article.

(a) Object and effect of restricting competition

- (43) The abovementioned agreements and decisions restrict competition between individual IATA member airlines at the level of distribution of their air freight transport services, from the moment they agree to apply collectively an identical distribution scheme for a very important part of their sales. Although the selective system is not exclusive for agents or for carriers and there is no territorial limitation imposed on agents, the IATA programme is in fact the favourite distribution channel for most airlines. Distribution policies are thus aligned to a certain degree with most other airlines for an important part of their business.

(44) The distribution and sales system agreed by IATA member airlines leaves little room for other forms of distribution based on a different type of policy that could be adopted by individual IATA airlines, and results in a rather rigid sales structure. Should the IATA system not exist, each airline would have its own network of agents, normally different from those of its competitors. This would produce greater competition both between agents and between airlines.

(45) The resolutions have also the greatest impact in the freight forwarding business community in the Community, and create a more rigid structure than bilateral systems, which would introduce stronger elements of competition in distribution.

(46) Thirdly, competition between agents will be affected, even though sharing commissions with customers (shippers) is allowed. Some limitation in competition is inherent in any collective distribution system in which criteria for selection are homogeneous. Thus competition for sales between specialist agents like IATA's will necessarily remain more limited than could be expected otherwise.

Furthermore competition with non-IATA agents or with other participants in the distribution market outside the IATA framework will be distorted because membership of the collective IATA agency system gives some agents an artificial advantage over distributors who remain outside the system.

(47) From the above there can be little doubt that the relevant IATA resolutions affect the structure of competition on the Community market as a whole at the three levels just mentioned.

(b) Effect on trade between Member States

(48) The IATA resolutions under examination concern services in which there is a substantial trade within the Community, as evidenced in paragraphs 6 to 8.

Therefore, the agreements have an effect on intra-Community trade, as they produce a substantial impact in the whole structure of competition.

B. Article 85 (3)

(49) The IATA resolutions under examination meet the conditions for exemption laid down in Article 85 (3). They contribute to improving the production and distribution of goods and to promoting technical and economic progress, while allowing customers a fair share of the resulting benefit. They neither impose on the undertakings concerned, restrictions which are not

indispensable to the attainment of these objectives nor do they afford the undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

Improvement in production and distribution, promotion of technical and economic progress

(50) The resolutions permit central administration of IATA agents and afford a reduction in airlines' costs of administering their retail agents; many airlines could not afford to administer a large chain of agents of their own, and in particular small/medium sized airlines regard the IATA agency system as an irreplaceable essential. The advantages are particularly attractive for airlines with extensive international operations, providing market access which would be otherwise difficult and expensive to achieve. Through a single standard agreement executed with IATA, an agent whose authorization to represent IATA members is recognized after appropriate appraisal may issue air waybills on behalf of any appointing member. The system promotes worldwide standards in selling the airlines' products and upholds the financial integrity of marketing outlets. Through its safety aspect, it also protects the travelling public who not infrequently travel on aircraft transporting air cargo.

(51) The IATA resolution 805 system contributes to improving the distribution of the air transport product by:

(a) offering each member airline the benefits of economies of scale by:

- identifying and accrediting suitable sales outlets,
- standardizing contractual relationships with agents,
- promoting higher standards of competence and reliability in the distribution industry;

(b) providing agents with:

- a shortened accreditation procedure on non-discriminatory grounds,
- a simplified contractual relationship with all IATA member airlines,
- immediate ability to sell the services of most airlines,

- simplified administration and reporting,
- access to professional staff training,
- a built-in procedure for the even-handed treatment of disputes with airlines, through reference of such disputes to a neutral arbitration body,
- the professional back-up of the IATA secretariat (publications, advice, training programmes etc.)
- the professional standing which accompanies IATA accreditation.

Advantages for customers

- (52) The IATA system as put forward by resolution 805 series allows customers a fair share of the resulting benefits through:
- (a) technical/operational standards required of agents to demonstrate reliability (financial viability, staff qualifications and experience including competence in the handling of dangerous goods, suitability of premises and handling equipment);
 - (b) wide choice of IATA agents (approximately 1 000 throughout the Community that will increase, following the application of resolution 805's criteria);
 - (c) access to agents representing a large number of airlines serving the widest range of destinations;
 - (d) increased competition between IATA agents, by permitting them to grant rebates out of their commission.

Indispensability of the restrictions

- (53) The standardization and the economies of scale achieved by the system set forth by the resolutions could not be obtained without a uniform international system. In effect, the IATA system is based on the high number of airlines and the high number of agents involved therein. Its restrictive features, but also its beneficial effects stem from this fact. Those and the others are inseparable.

Elimination of competition

- (54) Competition among airlines at distribution level is not eliminated by the IATA resolution 805 series system. Airlines are free to offer agents the remuneration, via

commission or otherwise, they consider appropriate. They are also free to make their own sales and to establish their own distribution network on a bilateral basis, on conditions different from those agreed in IATA.

- (55) As stated in recital 54, airlines are allowed to and in fact effect part of their sales by parallel competing channels. Competition is not eliminated by the resolutions, which in no case impose exclusivity on the interested parties. Agents are allowed, in particular, to sell transportation in non-IATA airlines and in air charter companies.

- (56) A substantial competition among agents, IATA or non-IATA, and whether appointed on a multilateral basis or on a bilateral basis, will remain. In effect, IATA agents will compete not only by offering better service to their customers, but also by sharing commissions with them. They will also compete with non-IATA agents. There is also the possibility that some IATA accredited agents may enter into bilateral deals with IATA airlines and compete on a non-IATA basis with other fellow IATA-accredited agents.

- (57) Concerning this point, in conclusion, the Commission considers that competition not eliminated by the IATA system because, together with it, actual and future methods of distribution based on different types of policies co-exist and will further develop in a progressively liberalized European market for services in general and agencies and air transportation in particular.

Economic and structural impact of the Resolutions under examination

- (58) The regime set up by IATA resolutions 805, 805d and 805e goes in the sense of liberalization, is more responsive to market realities than the previous Resolutions, and was prompted by the Commission's intervention following IATA's notifications.

- (59) As a result of all these changes, the relationship between agents and IATA airlines becomes more balanced and entry into the air freight agency business on behalf of IATA members is easier, without any loss as to the agents' competence or reliability. As a result of this, sales outlets are likely to increase in number, to the benefit of the customer, who will also benefit from the increased competition among agents.

(60) In the opinion of the Commission, the resolution 805 system should avoid the risk of abuse or discriminatory application of the procedure set forth. In this sense it is noteworthy that any refusal of approval to someone satisfying the criteria would be discriminatory, and that local implementation should not deviate from those criteria.

(61) In a time of air freight transport expansion and increasing liberalization in European air transportation, the cargo programme as set forth in resolution 805 series may play an important role in making the market more fluid to the benefit of airlines, agents and customers alike.

Duration of the exemption

(62) Article 8 (1) of Regulation No 17 provides that exemptions under Article 85 (3) may be granted only for a specific period and that conditions and obligations may be attached to them.

(63) The Commission does not deem necessary to impose any conditions or obligations. However, the Commission will closely monitor the working of the system before this exemption expires, in order to assess whether a renewal could be granted, if it were requested.

(64) In view of the nature of the agreements and decisions under examination, the appropriate duration of the exemption, which serves the objectives listed in Article 85 (3), is considered to be 10 years from the date of the first notification, that is until 6 July 1998,

HAS ADOPTED THIS DECISION:

Article 1

Pursuant to Article 85 (3), the provisions of Article 85 (1) of the EEC Treaty are hereby declared inapplicable for the period 7 July 1988 to 6 July 1998 to IATA resolutions 805, 805d and 805e.

Article 2

This Decision is addressed to the International Air Transport Association and to the undertakings listed in the Annex to this Decision.

Done at Brussels, 30 July 1991.

For the Commission

Leon BRITTAN

Vice president

ANNEX

International Air Transport Association — membership

189 Members (154 Active and 35 Associate) on 15th February 1990

Active members

Adria Airways	British Midland Airways Ltd
Aer Lingus plc	Brymon Airways
Aeroflot Soviet Airlines	Cameroon Airlines
Aerolíneas Argentinas	Canadian Airlines International Ltd
Aerolineas Nicaraguenses SA (AERONICA)	Caribbean Air Cargo Company Ltd
Aerovias de México SA de CV (AEROMEXICO)	Ceskoslovenske Aerolinie (CSA)
Aerovias Nacionales de Colombia SA (AVIANCA)	Compañía Mexicana de Aviación SA de CV (MEXICANA)
Affretair (PVT) Ltd	Continental Airlines Inc.
Air Afrique	Cook Islands International Airlines Ltd
Air Algérie	Crossair
Air Botswana	Cruzeiro do Sul SA — Servicos Aéreos
Air Bremen GmbH & Co.	Cyprus Airways Ltd
Air Bridge Carriers Ltd	Dan-Air Services Ltd
Air Canada	Delta Air Regionalflugverkehr GmbH
Air Europe Ltd	Democratic Yemen Airlines (ALYEMOA)
Air France	Deutsche Lufthansa AG (LUFTHANSA)
Air Gabon	Eastern Air Lines Inc.
Air Guinée	Egyptair
Air Jamaica Ltd	El Al Israel Airlines Ltd
Air Littoral	Emirates
Air Madagascar	Empresa Consolidada Cubana de Aviación (CUBANA)
Air Malawi Ltd	Empresa de Transporte Aéreo del Perú (AEROPERU)
Air Malta Company Ltd	Empresa Ecuatoriana de Aviación SA (ECUATORIANA)
Air Martinique	Ethiopian Airlines Corporation
Air Mauritius	Federal Express Corporation
Air New Zealand Ltd	Finnair Oy
Air Niugini	Friendly Islands Airways Ltd
Air Pacific Ltd	Gambia Air Shuttle Ltd
Air Seychelles Ltd	Garuda Indonesia
Air Tanzania Corporation	German Wings Luftfahrtunternehmen GmbH
Air Tungaru Corporation	Ghana Airways Corporation
Air UK	Gulf Air Company GSC
Air Zaïre	Hong Kong Dragon Airlines Ltd (DRAGONAIR)
Air Zimbabwe Corporation	IBERIA, Líneas Aéreas de España SA
Air India	Icelandair
Airline of the Marshall Islands	Indian Airlines
Alaska Airlines Inc.	Iran Air, The Airline of the Islamic Republic of Iran
Alisarda SpA	Iraqi Airways
Alitalia — Linee Aeree Italiane SpA	Jamahiriya Libyan Arab Airlines
All Nippon Airways Co., Ltd	Japan Airlines Co. Ltd
American Airlines Inc.	Japan Air System Co. Ltd
America West Airlines, Inc.	Jugoslovenski Aerotransport (JAT)
Ariana Afghan Airlines Co. Ltd	Kenya Airways Ltd
Austrian Airlines	KLM Royal Dutch Airlines
Balkan Bulgarian Airlines	Korean Air
Berlin European UK Ltd	Kuwait Airways Corporation
Birmingham European Airways plc	LAM — Linhas Aéreas de Moçambique
Braathens SAFE	
British Airways plc	

Lauda Air Luftfahrt AG
 Lesotho Airways Corporation
 Línea Aérea del Cobre SA (LADECO)
 Línea Aérea Nacional — Chile SA
 (LAN-CHILE)
 Líneas Aéreas Costarricenses SA (LACSA)
 Líneas Aéreas Paraguayas — LAP
 Lloyd Aéreo Boliviano SA (LAB)
 Loganair Ltd
 London City Airways
 MALEV — Hungarian Airlines
 Manx Airlines Ltd
 Middle East Airlines Airliban (MEA)
 Nationair Canada
 NFD Luftverkehrs AG
 Nigeria Airways Ltd
 Nippon Cargo Airlines (NCA)
 Olympic Airways, SA
 Pakistan International Airlines Corp. (PIA)
 Pan American World Airways, Inc.
 Philippine Airlines Inc.
 PLUNA — Primeras Líneas Uruguayas
 de Navegación Aérea
 Polskie Linie Lotnicze (LOT)
 Polynesian Airlines Ltd
 Qantas Airways Ltd
 Royal Air Maroc
 Royal Jordanian (ALIA — The Royal
 Jordanian Airline)
 Royal Swazi National Airways Corp. Ltd
 Ryanair Ltd
 SABENA (Société anonyme belge
 d'exploitation de la navigation aérienne)
 Saudi Arabian Airlines Corp. (SAUDIA)
 Scandinavian Airlines System (SAS)
 Scottish European Airways
 Solomon Airlines
 Somali Airlines
 South African Airways (SAA)
 Sudan Airways Company Ltd
 Swedair AB
 Swiss Air Transport Co. Ltd (SWISSAIR)
 Syrian Arab Airlines
 TAGG — Linhas Aéreas de Angola
 (ANGOLA AIRLINES)
 TAP — Air Portugal
 Tempelhof Airways USA Inc.
 Tower Air Inc.
 Trans-Mediterranean Airways SAL (TMA)
 Transavia Holland BV d/b/a Transavia
 Airlines
 Trans World Airlines Inc. (TWA)
 Trinidad & Tobago (BWIA International)
 Airways Corp.

Tunis Air
 Turk Hava Yollari AD (TURKISH AIRLINES)
 United Airlines
 USAir, Inc.
 UTA (Union de Transports Aériens)
 VARIG SA (Viação Aérea Rio-Grandense)
 Venezolana Internacional de Aviación SA
 (VIASA)
 Virgin Atlantic Airways
 YEMENIA Yemen Airways
 Zambia Airways Corporation Ltd
 ZAS Airline of Egypt

Associate members

Aero Lloyd Flugreisen GmbH & Co.
 Luftverkehrs-KG
 Air America (Air Specialities Corp. d/b/a Air
 America)
 Air Écosse Ltd
 Air Inter (Lignes Aériennes Intérieures)
 Air Réunion
 Air Tahiti
 Aloha Airlines, Inc.
 Ansett Airlines of Australia
 Ansett New Zealand
 Austral Líneas Aéreas SA
 Australian Airlines Ltd
 Aviación y Comercio, SA (AVIACO)
 Commercial Airways (Pty) Ltd
 DLT Deutsche Luftverkehrsgesellschaft mbH
 Douglas Airways Pty Ltd
 East-West Airlines
 Falcon Cargo AB
 Flight West Airlines Ltd
 INTAIR
 IPEC Aviation
 Kendell Airlines
 LAR Transregional (Linhas Regionais SA)
 Mount Cook Airlines
 Namib Air (Pty) Ltd
 Salair AB
 Sunflower Airlines Ltd
 Sunstate Airlines
 TALAIR Pty Ltd
 Transbrasil SA Linhas Aéreas (Trans Brasil)
 Trans-Jamaican Airlines Ltd
 Transport Aérien Transregional (TAT)
 Vayudoot Ltd
 Viação Aérea Sao Paulo SA (VASP)
 Wairarapa Airlines Ltd
 Wideroe Flyveselskap A/S