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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 2292/97**of 19 November 1997****fixing the representative prices and the additional import duties for molasses in the sugar sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Commission Regulation (EC) No 1422/95 of 23 June 1995 laying down detailed rules of application for imports of molasses in the sugar sector and amending Regulation (EEC) No 785/68⁽³⁾, and in particular Articles 1 (2) and 3 (1) thereof,

Whereas Regulation (EC) No 1422/95 stipulates that the cif import price for molasses, hereinafter referred to as the 'representative price', should be set in accordance with Commission Regulation (EEC) No 785/68⁽⁴⁾; whereas that price should be fixed for the standard quality defined in Article 1 of the above Regulation;

Whereas the representative price for molasses is calculated at the frontier crossing point into the Community, in this case Amsterdam; whereas that price must be based on the most favourable purchasing opportunities on the world market established on the basis of the quotations or prices on that market adjusted for any deviations from the standard quality; whereas the standard quality for molasses is defined in Regulation (EEC) No 785/68;

Whereas, when the most favourable purchasing opportunities on the world market are being established, account must be taken of all available information on offers on the world market, on the prices recorded on important third-country markets and on sales concluded in international trade of which the Commission is aware, either directly or through the Member States; whereas, under Article 7 of Regulation (EEC) No 785/68, the Commission may for this purpose take an average of

several prices as a basis, provided that this average is representative of actual market trends;

Whereas the information must be disregarded if the goods concerned are not of sound and fair marketable quality or if the price quoted in the offer relates only to a small quantity that is not representative of the market; whereas offer prices which can be regarded as not representative of actual market trends must also be disregarded;

Whereas, if information on molasses of the standard quality is to be comparable, prices must, depending on the quality of the molasses offered, be increased or reduced in the light of the results achieved by applying Article 6 of Regulation (EEC) No 785/68;

Whereas a representative price may be left unchanged by way of exception for a limited period if the offer price which served as a basis for the previous calculation of the representative price is not available to the Commission and if the offer prices which are available and which appear not to be sufficiently representative of actual market trends would entail sudden and considerable changes in the representative price;

Whereas where there is a difference between the trigger price for the product in question and the representative price, additional import duties should be fixed under the conditions set out in Article 3 of Regulation (EC) No 1422/95; whereas should the import duties be suspended pursuant to Article 5 of Regulation (EC) No 1422/95, specific amounts for these duties should be fixed;

Whereas application of these provisions will have the effect of fixing the representative prices and the additional import duties for the products in question as set out in the Annex to this Regulation;

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ L 141, 24. 6. 1995, p. 12.

⁽⁴⁾ OJ L 145, 27. 6. 1968, p. 12.

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

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and the additional duties applying to imports of the products referred to in Article 1 of Regulation (EC) No 1422/95 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 20 November 1997.

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

Done at Brussels, 19 November 1997.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

fixing the representative prices and additional import duties applying to imports of molasses in the sugar sector

CN code	Amount of the representative price in ECU per 100 kg net of the product in question	Amount of the additional duty in ECU per 100 kg net of the product in question	Amount of the duty to be applied to imports in ECU per 100 kg net of the product in question because of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 ⁽²⁾
1703 10 00 ⁽¹⁾	8,12	—	0,09
1703 90 00 ⁽¹⁾	11,11	—	0,00

⁽¹⁾ For the standard quality as defined in Article 1 of amended Regulation (EEC) No 785/68.

⁽²⁾ This amount replaces, in accordance with Article 5 of Regulation (EC) No 1422/95, the rate of the Common Customs Tariff duty fixed for these products.

COMMISSION REGULATION (EC) No 2293/97

of 19 November 1997

fixing the export refunds on white sugar and raw sugar exported in its unaltered state

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 1 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EC) No 1599/96⁽²⁾, and in particular point (a) of the first subparagraph of Article 19 (4) thereof,

Whereas Article 19 of Regulation (EEC) No 1785/81 provides that the difference between quotations or prices on the world market for the products listed in Article 1 (1) (a) of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Regulation (EEC) No 1785/81 provides that when refunds on white and raw sugar, undenatured and exported in its unaltered state, are being fixed account must be taken of the situation on the Community and world markets in sugar and in particular of the price and cost factors set out in Article 17a of that Regulation; whereas the same Article provides that the economic aspect of the proposed exports should also be taken into account;

Whereas the refund on raw sugar must be fixed in respect of the standard quality; whereas the latter is defined in Article 1 of Council Regulation (EEC) No 431/68 of 9 April 1968 determining the standard quality for raw sugar and fixing the Community frontier crossing point for calculating cif prices for sugar⁽³⁾, as amended by Regulation (EC) No 3290/94⁽⁴⁾; whereas, furthermore, this refund should be fixed in accordance with Article 17a (4) of Regulation (EEC) No 1785/81; whereas candy sugar is defined in Commission Regulation (EC) No 2135/95 of 7 September 1995 laying down detailed rules of application for the grant of export refunds in the sugar sector⁽⁵⁾; whereas the refund thus calculated for sugar containing added flavouring or colouring matter must apply to their sucrose content and, accordingly, be fixed per 1 % of the said content;

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

Whereas, in special cases, the amount of the refund may be fixed by other legal instruments;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽⁶⁾, as last amended by Regulation (EC) No 150/95⁽⁷⁾, are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93⁽⁸⁾, as last amended by Regulation (EC) No 1482/96⁽⁹⁾;

Whereas the refund must be fixed every two weeks; whereas it may be altered in the intervening period;

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

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81, undenatured and exported in the natural state, are hereby fixed to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 20 November 1997.

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ L 89, 10. 4. 1968, p. 3.

⁽⁴⁾ OJ L 349, 31. 12. 1994, p. 105.

⁽⁵⁾ OJ L 214, 8. 9. 1995, p. 16.

⁽⁶⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁷⁾ OJ L 22, 31. 1. 1995, p. 1.

⁽⁸⁾ OJ L 108, 1. 5. 1993, p. 106.

⁽⁹⁾ OJ L 188, 27. 7. 1996, p. 22.

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

Done at Brussels, 19 November 1997.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

to the Commission Regulation of 19 November 1997 fixing the export refunds on white sugar and raw sugar exported in its unaltered state

Product code	Amount of refund
	— ECU/100 kg —
1701 11 90 9100	37,31 ⁽¹⁾
1701 11 90 9910	33,02 ⁽¹⁾
1701 11 90 9950	⁽²⁾
1701 12 90 9100	37,31 ⁽¹⁾
1701 12 90 9910	33,02 ⁽¹⁾
1701 12 90 9950	⁽²⁾
	— ECU/1 % of sucrose × 100 kg —
1701 91 00 9000	0,4056
	— ECU/100 kg —
1701 99 10 9100	40,56
1701 99 10 9910	39,62
1701 99 10 9950	39,62
	— ECU/1 % of sucrose × 100 kg —
1701 99 90 9100	0,4056

⁽¹⁾ Applicable to raw sugar with a yield of 92 %; if the yield is other than 92 %, the refund applicable is calculated in accordance with the provisions of Article 17a (4) of Regulation (EEC) No 1785/81.

⁽²⁾ Fixing suspended by Commission Regulation (EEC) No 2689/85 (OJ L 255, 26. 9. 1985, p. 12), as amended by Regulation (EEC) No 3251/85 (OJ L 309, 21. 11. 1985, p. 14).

**COMMISSION REGULATION (EC) No 2294/97
of 19 November 1997**

**fixing the maximum export refund for white sugar for the 16th partial invitation
to tender issued within the framework of the standing invitation to tender
provided for in Regulation (EC) No 1408/97**

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EC) No 1599/96⁽²⁾, and in particular the second subparagraph of Article 17 (5) (b) thereof,

Whereas Commission Regulation (EC) No 1408/97 of 22 July 1997 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar⁽³⁾, requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EC) No 1408/97 a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question;

Whereas, following an examination of the tenders submitted in response to the 16th partial invitation to

tender, the provisions set out in Article 1 should be adopted;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 16th partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1408/97 the maximum amount of the export refund is fixed at ECU 42,624 per 100 kilograms.

Article 2

This Regulation shall enter into force on 20 November 1997.

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

Done at Brussels, 19 November 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ L 194, 23. 7. 1997, p. 16.

COMMISSION REGULATION (EC) No 2295/97

of 19 November 1997

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

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

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

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

Whereas Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third

countries, in respect of the products and periods stipulated in the Annex thereto;

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 20 November 1997.

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

Done at Brussels, 19 November 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ L 325, 14. 12. 1996, p. 5.

⁽³⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 19 November 1997 establishing the standard import values for determining the entry price of certain fruit and vegetables

(ECU/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 45	204	50,1
	999	50,1
0707 00 40	052	62,1
	999	62,1
0709 90 79	052	111,7
	999	111,7
0805 20 31	204	85,0
	999	85,0
0805 20 33, 0805 20 35, 0805 20 37, 0805 20 39	052	64,3
	464	123,7
	999	94,0
	052	95,0
0805 30 40	528	49,9
	999	72,5
	052	128,9
	388	527,1
0806 10 50	389	325,1
	400	248,4
	504	377,4
	999	321,4
	052	53,6
	060	44,4
	064	41,2
0808 10 92, 0808 10 94, 0808 10 98	400	83,4
	404	79,9
	512	39,3
	528	51,2
	999	56,1
	052	81,5
	064	81,0
0808 20 67	400	97,5
	999	86,7

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

COMMISSION REGULATION (EC) No 2296/97

of 19 November 1997

specifying the extent to which applications for export licences for products in the beef and veal sector may be accepted

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

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal⁽¹⁾, as last amended by Regulation (EC) No 2222/96⁽²⁾,

Having regard to Commission Regulation (EC) No 1445/95 of 26 July 1995 on rules of application for import and export licences in the beef and veal sector and repealing Regulation (EEC) No 2377/80⁽³⁾, as last amended by Regulation (EC) No 2284/97⁽⁴⁾, and in particular Article 10 thereof,

Whereas Article 44 of Commission Regulation (EEC) No 3719/88 of 16 November 1988 laying down common detailed rules for the application of the system of import and export licences and advance-fixing certificates for agricultural products⁽⁵⁾, as last amended by Regulation (EC) No 1404/97⁽⁶⁾, lays down special rules covering applications for export licences under invitations to tender opened in importing third countries;

Whereas the quantity covered by applications for advance fixing of refunds is greater than the amount normally disposed of; whereas it has therefore been decided that applications submitted for certain products under Article

44 of Regulation (EC) No 3719/88 in the period 13 to 19 November 1997 should be rejected and no further application for advance fixing should be accepted on 20 November 1997,

HAS ADOPTED THIS REGULATION:

Article 1

In accordance with Article 10 (2) of Regulation (EC) No 1445/95:

1. applications for export licences with advance fixing of the refund for products in categories 5, 6, 9, 10, 12, 13, 15, 17 and 19 in Annex III to Regulation (EC) No 1445/95 submitted under Article 44 of Regulation (EEC) No 3719/88 in the period 13 to 19 November 1997 are hereby rejected;
2. the submission of applications for export licences with advance fixing of the refund for the products referred to in point 1 shall be suspended on 20 November 1997.

Article 2

This Regulation shall enter into force on 20 November 1997.

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

Done at Brussels, 19 November 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 148, 28. 6. 1968, p. 24.
⁽²⁾ OJ L 296, 21. 11. 1996, p. 50.
⁽³⁾ OJ L 143, 27. 6. 1995, p. 35.
⁽⁴⁾ OJ L 314, 18. 11. 1997, p. 17.
⁽⁵⁾ OJ L 331, 2. 12. 1988, p. 1.
⁽⁶⁾ OJ L 194, 23. 7. 1997, p. 5.

COMMISSION REGULATION (EC) No 2297/97
of 19 November 1997
amending representative prices and additional duties for the import of certain
products in the sugar sector

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

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

Having regard to Commission Regulation (EC) No 1423/95 of 23 June 1995 laying down detailed implementing rules for the import of products in the sugar sector other than molasses ⁽³⁾, as last amended by Regulation (EC) No 1143/97 ⁽⁴⁾, and in particular the second subparagraph of Article 1 (2), and Article 3 (1) thereof,

Whereas the amounts of the representative prices and additional duties applicable to the import of white sugar, raw sugar and certain syrups are fixed by Commission Regulation (EC) No 1222/97 ⁽⁵⁾, as last amended by Regulation (EC) No 2291/97 ⁽⁶⁾;

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 20 November 1997.

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

Done at Brussels, 19 November 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ L 141, 24. 6. 1995, p. 16.

⁽⁴⁾ OJ L 165, 24. 6. 1997, p. 11.

⁽⁵⁾ OJ L 173, 1. 7. 1997, p. 3.

⁽⁶⁾ OJ L 315, 19. 11. 1997, p. 11.

ANNEX

to the Commission Regulation of 19 November 1997 amending representative prices and the amounts of additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 99

(ECU)

CN code	Amount of representative prices per 100 kg net of product concerned	Amount of additional duty per 100 kg net of product concerned
1701 11 10 ⁽¹⁾	25,06	3,77
1701 11 90 ⁽¹⁾	25,06	9,00
1701 12 10 ⁽¹⁾	25,06	3,63
1701 12 90 ⁽¹⁾	25,06	8,57
1701 91 00 ⁽²⁾	26,25	12,11
1701 99 10 ⁽²⁾	26,25	7,59
1701 99 90 ⁽²⁾	26,25	7,59
1702 90 99 ⁽³⁾	0,26	0,39

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

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

⁽³⁾ By 1 % sucrose content.

II

(Acts whose publication is not obligatory)

COUNCIL

Information on the entry into force of the Interim Agreement on trade and trade-related matters with Armenia⁽¹⁾

The Interim Agreement on trade and trade-related matters which the Council decided to conclude on 29 April 1997 with Armenia will enter into force on 1 December 1997, as the notifications of completion of the procedures provided for in Article 32 of the Agreement were made by both parties on 31 October 1997.

⁽¹⁾ OJ L 129, 21. 5. 1997, p. 1, and
OJ L 262, 24. 9. 1997, p. 5.

EUROPEAN ECONOMIC AREA

THE EEA JOINT COMMITTEE

DECISION OF THE EEA JOINT COMMITTEE

No 51/97

of 31 July 1997

**amending Annex II (Technical regulations, standards, testing and certification)
to the EEA Agreement**

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as adjusted by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas Annex II to the Agreement was amended by Decision of the EEA Joint Committee No 14/97⁽¹⁾;

Whereas Council Directive 96/32/EC of 21 May 1996 amending Annex II to Directive 76/895/EEC relating to the fixing of maximum levels for pesticide residues in and on fruit and vegetables and Annex II to Directive 90/642/EEC relating to the fixing of maximum levels for pesticide residues in and on certain products of plant origin, including fruit and vegetables, and providing for the establishment of a list of maximum levels⁽²⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

1. The following indent shall be added in point 13 (Council Directive 76/895/EEC) of Chapter XII of Annex II to the Agreement:

— 396 L 0032: Council Directive 96/32/EC of 21 May 1996 (OJ L 144, 18. 6. 1996, p. 12).'

2. The following indent shall be added in point 54 (Council Directive 90/642/EEC) of Chapter XII of Annex II to the Agreement:

— 396 L 0032: Council Directive 96/32/EC of 21 May 1996 (OJ L 144, 18. 6. 1996, p. 12).'

Article 2

The texts of Directive 96/32/EC in the Icelandic and Norwegian languages, which are annexed to the respective language versions of this Decision, are authentic.

Article 3

This Decision shall enter into force on 1 August 1997, provided that all the notifications pursuant to Article 103 (1) of the Agreement have been made to the EEA Joint Committee.

⁽¹⁾ OJ L 182, 10. 7. 1997, p. 46.

⁽²⁾ OJ L 144, 18. 6. 1996, p. 12.

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Communities*.

Done at Brussels, 31 July 1997.

For the EEA Joint Committee

The President

E. BULL

DECISION OF THE EEA JOINT COMMITTEE

No 52/97

of 31 July 1997

amending Annex II (Technical regulations, standards, testing and certification)
to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as adjusted by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas Annex II to the Agreement was amended by Decision of the EEA Joint Committee No 14/97⁽¹⁾;

Whereas Council Directive 96/33/EC of 21 May 1996 amending the Annexes to Directives 86/362/EEC and 86/363/EEC on the fixing of maximum levels for pesticide residues in and on cereals and foodstuffs of animal origin respectively⁽²⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

1. The following indent shall be added in point 38 (Council Directive 86/362/EEC) of Chapter XII of Annex II to the Agreement:

— 396 L 0033: Council Directive 96/33/EC of 21 May 1996 (OJ L 144, 18. 6. 1996, p. 35).'

2. The following indent shall be added in point 39 (Council Directive 86/363/EEC) in Chapter XII of Annex II to the Agreement:

— 396 L 0033: Council Directive 96/33/EC of 21 May 1996 (OJ L 144, 18. 6. 1996, p. 35).'

Article 2

The texts of Directive 96/33/EC in the Icelandic and Norwegian languages, which are annexed to the respective language versions of this Decision, are authentic.

Article 3

This Decision shall enter into force on 1 August 1997, provided that all the notifications pursuant to Article 103 (1) of the Agreement have been made to the EEA Joint Committee.

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Communities*.

Done at Brussels, 31 July 1997.

For the EEA Joint Committee

The President

E. BULL

⁽¹⁾ OJ L 182, 10. 7. 1997, p. 46.

⁽²⁾ OJ L 144, 18. 6. 1996, p. 35.

DECISION OF THE EEA JOINT COMMITTEE

No 53/97

of 31 July 1997

amending Annex II (Technical regulations, standards, testing and certification)
to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as adjusted by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas Annex II to the Agreement was amended by Decision of the EEA Joint Committee No 14/97⁽¹⁾;

Whereas Commission Directive 96/11/EC of 5 March 1996 amending Directive 90/128/EEC relating to plastic materials and articles intended to come into contact with foodstuffs⁽²⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following indent shall be added to point 52 (Commission Directive 90/128/EEC) of Chapter XII of Annex II to the Agreement:

— 396 L 0011: Commission Directive 96/11/EC of 5 March 1996 (OJ L 61, 12. 3. 1996, p. 26).'

Article 2

The texts of Directive 96/11/EC in the Icelandic and Norwegian languages, which are annexed to the respective language versions of this Decision, are authentic.

Article 3

This Decision shall enter into force on 1 August 1997, provided that all the notifications pursuant to Article 103 (1) of the Agreement have been made to the EEA Joint Committee.

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Communities*.

Done at Brussels, 31 July 1997.

For the EEA Joint Committee

The President

E. BULL

⁽¹⁾ OJ L 182, 10. 7. 1997, p. 46.

⁽²⁾ OJ L 61, 12. 3. 1996, p. 26.

DECISION OF THE EEA JOINT COMMITTEE

No 54/97

of 31 July 1997

amending Annex II (Technical regulations, standards, testing and certification)
to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as adjusted by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas Annex II to the Agreement was amended by Decision of the EEA Joint Committee No 14/97⁽¹⁾;

Whereas Council Regulation (EC) No 1935/95 of 22 June 1995 amending Regulation (EEC) No 2092/91 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs⁽²⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following indent shall be added in point 54b (Council Regulation (EEC) No 2092/91) of Chapter XII of Annex II to the Agreement:

— 395 R 1935: Council Regulation (EC) No 1935/95 of 22 June 1995 (OJ L 186, 5. 8. 1995, p. 1).'

Article 2

The texts of Regulation (EC) No 1935/95 in the Icelandic and Norwegian languages, which are annexed to the respective language versions of this Decision, are authentic.

Article 3

This Decision shall enter into force on 1 August 1997, provided that all the notifications pursuant to Article 103 (1) of the Agreement have been made to the EEA Joint Committee.

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Communities*.

Done at Brussels, 31 July 1997.

For the EEA Joint Committee

The President

E. BULL

⁽¹⁾ OJ L 182, 10. 7. 1997, p. 46.

⁽²⁾ OJ L 186, 5. 8. 1995, p. 1.

DECISION OF THE EEA JOINT COMMITTEE

No 55/97

of 31 July 1997

amending Annex II (Technical regulations, standards, testing and certification)
to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as adjusted by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas Annex II to the Agreement was amended by Decision of the EEA Joint Committee No 14/97 ⁽¹⁾;

Whereas Commission Regulation (EC) No 418/96 of 7 March 1996 amending Annex VI to Regulation (EEC) No 2092/91 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs ⁽²⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following indent shall be added in point 54b (Council Regulation (EEC) No 2092/91) of Chapter XII of Annex II to the Agreement:

— **396 R 0418:** Commission Regulation (EC) No 418/96 of 7 March 1996 (OJ L 59, 8. 3. 1996, p. 10).'

Article 2

The texts of Regulation (EC) No 418/96 in the Icelandic and Norwegian languages, which are annexed to the respective language versions of this Decision, are authentic.

Article 3

This Decision shall enter into force on 1 August 1997, provided that all the notifications pursuant to Article 103 (1) of the Agreement have been made to the EEA Joint Committee.

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Communities*.

Done at Brussels, 31 July 1997.

For the EEA Joint Committee

The President

E. BULL

⁽¹⁾ OJ L 182, 10. 7. 1997, p. 46.

⁽²⁾ OJ L 59, 8. 3. 1996, p. 10.

DECISION OF THE EEA JOINT COMMITTEE

No 56/97

of 31 July 1997

amending Annex II (Technical regulations, standards, testing and certification)
to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as adjusted by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas Annex II to the Agreement was amended by Decision of the EEA Joint Committee No 14/97⁽¹⁾;

Whereas Commission Directive 96/3/EC of 26 January 1996 granting derogation from certain provisions of Council Directive 93/43/EEC on the hygiene of foodstuffs as regards the transport of bulk liquid oils and fats by sea⁽²⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following indent shall be added in point 54j (Council Directive 93/43/EEC) of Chapter XII of Annex II to the Agreement:

‘, as amended by:

— 396 L 0003: Commission Directive 96/3/EC of 26 January 1996 (OJ L 21, 27. 1. 1996, p. 42).’

Article 2

The texts of Directive 96/3/EC in the Icelandic and Norwegian languages, which are annexed to the respective language versions of this Decision, are authentic.

Article 3

This Decision shall enter into force on 1 August 1997, provided that all the notifications pursuant to Article 103 (1) of the Agreement have been made to the EEA Joint Committee.

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Communities*.

Done at Brussels, 31 July 1997.

For the EEA Joint Committee

The President

E. BULL

⁽¹⁾ OJ L 182, 10. 7. 1997, p. 46.

⁽²⁾ OJ L 21, 27. 1. 1996, p. 42.

DECISION OF THE EEA JOINT COMMITTEE

No 57/97

of 31 July 1997

amending Annex II (Technical regulations, standards, testing and certification)
to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as adjusted by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas Annex II to the Agreement was amended by Decision of the EEA Joint Committee No 14/97 ⁽¹⁾;

Whereas Commission Directive 96/8/EC of 26 February 1996 on foods intended for use in energy-restricted diets for weight reduction ⁽²⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following new point shall be inserted after point 54o (Commission Decision 94/458/EC) of Chapter XII of Annex II to the Agreement:

'54p. 396 L 0008: Commission Directive 96/8/EC of 26 February 1996 on foods intended for use in energy-restricted diets for weight reduction (OJ L 55, 6. 3. 1996, p. 22).'

Article 2

The texts of Directive 96/8/EC in the Icelandic and Norwegian languages, which are annexed to the respective language versions of this Decision, are authentic.

Article 3

This Decision shall enter into force on 1 August 1997, provided that all the notifications pursuant to Article 103 (1) of the Agreement have been made to the EEA Joint Committee.

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Communities*.

Done at Brussels, 31 July 1997.

For the EEA Joint Committee

The President

E. BULL

⁽¹⁾ OJ L 182, 10. 7. 1997, p. 46.

⁽²⁾ OJ L 55, 6. 3. 1996, p. 22.

DECISION OF THE EEA JOINT COMMITTEE

No 58/97

of 31 July 1997

**amending Annex II (Technical regulations, standards, testing and certification)
to the EEA Agreement**

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as adjusted by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas Annex II to the Agreement was amended by Decision of the EEA Joint Committee No 15/97⁽¹⁾;

Whereas Commission Directive 96/12/EC of 8 March 1996 amending Council Directive 91/414/EEC concerning the placing of plant protection products on the market⁽²⁾ is to be incorporated into the Agreement;

Whereas Commission Directive 96/46/EC of 16 July 1996 amending Council Directive 91/414/EEC concerning the placing of plant protection products on the market⁽³⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following indents shall be added in point 12a (Council Directive 91/414/EEC) in Chapter XV of Annex II to the Agreement:

- **396 L 0012:** Commission Directive 96/12/EC of 8 March 1996 (OJ L 65, 15. 3. 1996, p. 20).
- **396 L 0046:** Commission Directive 96/46/EC of 16 July 1996 (OJ L 214, 23. 8. 1996, p. 18).'

Article 2

The texts of Directives 96/12/EC and 96/46/EC in the Icelandic and Norwegian languages, which are annexed to the respective language versions of this Decision, are authentic.

Article 3

This Decision shall enter into force on 1 August 1997, provided that all the notifications pursuant to Article 103 (1) of the Agreement have been made to the EEA Joint Committee.

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Communities*.

Done at Brussels, 31 July 1997.

For the EEA Joint Committee

The President

E. BULL

⁽¹⁾ OJ L 182, 10. 7. 1997, p. 47.

⁽²⁾ OJ L 65, 15. 3. 1996, p. 20.

⁽³⁾ OJ L 214, 23. 8. 1996, p. 18.

DECISION OF THE EEA JOINT COMMITTEE

No 59/97

of 31 July 1997

amending Annex XVII (Intellectual property) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as adjusted by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as 'the Agreement', and in particular Article 98 thereof,

Whereas Annex XVII to the Agreement was amended by Decision of the EEA Joint Committee No 59/96⁽¹⁾;

Whereas Regulation (EC) No 1610/96 of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products⁽²⁾ is to be incorporated into the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The following point shall be inserted after point 6 (Council Regulation (EEC) No 1768/92) in Annex XVII to the Agreement:

'6a. **396 R 1610:** Regulation (EC) No 1610/96 of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products (OJ L 198, 8. 8. 1996, p. 30).

The provisions of the Regulation, shall for the purposes of the present Agreement, be read with the following adaptations:

(a) in Article 3 (1) (b), the following shall be added:

‘; for the purposes of this subparagraph and the Articles which refer to it, an authorization to place the product on the market granted in accordance with the national legislation of the EFTA State shall be treated as an authorization granted in accordance with Directive 91/414/EEC or an equivalent provision of national law of an EC Member State.’;

(b) Article 20 shall not apply;

(c) as regards Iceland and Norway, this Regulation shall apply from 2 January 1998;

(d) the following paragraphs shall be added to Article 19:

‘3. If a basic patent in an EFTA State lapses, due to the expiry of its lawful term, between 8 February 1997 and 2 January 1998, the certificate shall take effect only with respect to the time following the date of publication of the application for the certificate. However, Article 13 shall apply as to the calculation of the duration of the certificate.

4. In the case of paragraph 3, the application for a certificate shall be lodged within two months of 2 January 1998.

5. A certificate applied for in accordance with paragraph 3 shall not prevent any third party who, between the lapse of the basic patent and the publication of the application for a certificate, in good faith has commercially used the invention or made serious preparation for such use, to continue such use.’;

⁽¹⁾ OJ L 21, 23. 1. 1997, p. 11.

⁽²⁾ OJ L 198, 8. 8. 1996, p. 30.

(e) in addition the following shall apply as regards Liechtenstein:

In view of the patent union between Liechtenstein and Switzerland, Liechtenstein shall not deliver any supplementary protection certificates for plant protection products as laid down in this Regulation. However, certificates for plant protection products delivered by Switzerland shall take effect in Liechtenstein as from the entry into force of the relevant legislation in Switzerland.'

Article 2

The texts of Regulation (EC) No 1610/96 in the Icelandic and Norwegian languages, which are annexed to the respective language versions of this Decision, are authentic.

Article 3

This Decision shall enter into force on 1 August 1997, provided that all the notifications pursuant to Article 103 (1) of the Agreement have been made to the EEA Joint Committee.

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Communities*.

Done at Brussels, 31 July 1997.

For the EEA Joint Committee

The President

E. BULL

EFTA SURVEILLANCE AUTHORITY

EFTA SURVEILLANCE AUTHORITY DECISION

No 187/97/COL

of 16 July 1997

on the 11th amendment of the Procedural and Substantive Rules in the Field of State Aid

THE EFTA SURVEILLANCE AUTHORITY

has amended the Procedural and Substantive Rules in the Field of State Aid ⁽¹⁾, adopted on 19 January 1994 ⁽²⁾, as last amended on 11 September 1996 ⁽³⁾, as follows:

The following rules on State aid to maritime transport shall be added to the State Aid Guidelines as a new Chapter 24A and a new Annex VIII:

'24A. AID TO MARITIME TRANSPORT ⁽¹⁾

24A.1. *Introduction*

24A.1.1. Previous guidelines on aid to shipping companies and the EEA Agreement

- (1) In 1989, the European Commission adopted "Guidelines for aid to shipping companies" [SEC(89) 921 final]. However, these guidelines, which were not published in the *Official Journal of the European Communities*, are not listed in Annex XV to the EEA Agreement as an act of which the European Commission and the EFTA Surveillance Authority shall take due account when applying and interpreting the State aid provisions of the EEA Agreement. In view of this, the above guidelines were not integrated in the initial version of the present State Aid Guidelines of the EFTA Surveillance Authority adopted on 19 January 1994. The basic State aid provisions of the EEA Agreement (including Articles 61 and 62) nevertheless apply in full to the maritime transport sector, and irrespective of the above omission, the EFTA Surveillance Authority has considered the Commission guidelines of 1989 on aid to shipping companies to be EEA relevant.

24A.1.2. Maritime policy in the context of the EEA Agreement and the free market principle

- (1) The European Community has developed a maritime policy which has been laid down in several communications to the Council. The EEA Agreement does not provide for a common external trade policy and therefore does not embrace all

⁽¹⁾ Hereinafter referred to as 'the State Aid Guidelines'.

⁽²⁾ OJ L 231, 3. 9. 1994, p. 1; EEA Supplement to OJ No 32, 3. 9. 1994.

⁽³⁾ OJ L 42, 13. 2. 1997, p. 33; EEA Supplement to OJ No 7, 13. 2. 1997.

aspects of the Community maritime policy. As concerns trade relations with third countries and cooperation at international level, the EFTA States independently pursue their own maritime policies. However, Protocol 19 of the Agreement foresees that the Contracting Parties will coordinate their actions and measures towards third countries, according to specific provisions, and may consult each other, *inter alia*, on shipping matters dealt with in international organizations. In general terms the objectives of the EFTA States maritime policies appear broadly similar to those underlying the maritime policy of the European Community⁽²⁾, which covers the promotion of Community shipping, external relations and maritime safety, together with shipbuilding and maritime technology. The aim of both the Community and the EFTA States has been to ensure freedom of access to shipping markets across the world for safe and environmentally friendly ships, preferably registered in EEA States with EEA nationals employed on board. This approach has to a certain extent succeeded in opening up markets particularly in Europe, and given the consumer a wide choice of competitive shipping services. On the other hand, the proportion of ships entered in EEA States' registers and the number of EEA seafarers employed have both declined significantly, especially over the last decade.

- (2) Underpinning the above philosophy is legislation at international, EEA and national levels. In particular on safety standards and working conditions, international conventions and resolutions apply and the European Community and the EFTA States actively promote the raising of world standards in the appropriate forums, such as, in particular, the International Maritime Organization. At Community level, in 1986, the Council adopted a basic package of legislation on shipping, based on an open market non-protectionist philosophy⁽³⁾. Broadly speaking, the Community decided that generally there should be no further requirement than establishment in the Community to confer the right to provide shipping services between the Community to confer the right to provide shipping services between the Community and third countries or between Member States. Thus, for example, Council Regulation (EEC) No 4055/86 provides for the freedom to provide services for all Community established carriers, irrespective of whether they operate vessels under Community or third country flags. Regulations (EEC) No 4055/86 and (EEC) No 4056/86 are included in the EEA Agreement as acts referred to (binding acts) in Annexes XIII and XIV of the Agreement, and Regulations No 4057/86 and (EEC) No 4058/86 are listed as acts of which the Contracting Parties shall take note.
- (3) The exceptions to this open trade philosophy, where trades are still restricted to vessels registered in EU Member States and under EU Member States' flags, are mainly related to certain cabotage trades⁽⁴⁾. This implies that in general registration of a vessel in an EEA State offers few economic advantages; on the contrary, there may be disadvantages, such as strict manning conditions to be respected and EEA States' fiscal and social arrangements for companies and their employees which mean that in most cases, it is relatively expensive to operate EEA-registered ships with EEA seafarers on board. Further, there are few costs for third country operators entering the open trades. In addition, while there are no direct or indirect taxes or duties, such as apply to many imported goods and services, applicable to shipping services to ensure some comparability between EEA and non-EEA operators' costs, there is direct competition between EEA-registered ships and third country vessels not only in international trades but also in most trades within the EEA.
- (4) Moreover, the shipping industry is extremely mobile and an onerous regime can easily be avoided through registering vessels in other countries (giving absolute freedom in manning) and, if necessary, establishing a nominal level of admini-

stration or management outside an EEA State (to avoid its fiscal systems). Furthermore, there has, in recent years, been a large supply of seafarers available from low-wage third countries, giving shipowners a low-cost option when selecting crews. There is also at present cyclical and structural overcapacity which means that the industry is demand-led and shippers can push down freight rates; this, combined with high fixed costs for shipowners, means that the incentive to cut costs and possibly corners increases and the pursuit of high quality in operations may not be commercially attractive. This may then undermine the long-term interests of the Contracting Parties in safe, efficient, environmentally friendly transport.

24A.1.3. Development of the EEA shipping sector: decreasing competitiveness of EEA flags

- (1) The European shipping industry faces stiff international competition and according to the Community Guidelines of 6 May this year, referred to in the introduction, the size of the Community registered fleet in total worldwide maritime transport has been decreasing steadily over the last three decades. In 1970, 32 % of the world tonnage sailed under the flags of EC Member States; by 1995 this share had decreased to 14 %. The share of the major open-registry countries increased from 19 % to 38 % over the same period. There has also been a correspondingly steady decrease in the number of EC seafarers employed on board. In an EEA context it may be pointed out that the fleet under the Norwegian flag declined substantially in the years up to 1987, whereafter registered tonnage in the Norwegian International Shipping Register has grown considerably.
- (2) In the absence of measures at EEA level providing a degree of harmonization⁽²⁾, EEA States have taken initiatives independently in order to preserve their maritime interests. Important economic considerations, maintaining employment and know-how and the strategic value of the fleet have all been identified as influencing national policy decisions. It is also recognized that quality must not be prejudiced by cost-cutting by shipowners simply in order to survive in the face of low-cost competition emanating particularly from flags of convenience, quality must be preserved and improved, both in terms of the technical standards and the operation of the vessels which implies a continuing need for training and employing people with the requisite skills.
- (3) Measures were, therefore, progressively introduced to slow down the trend to flag out, such as relaxing conditions applicable to national first registers, developing second or international registers or using State aid measures or a combination of these, but no single approach has been wholly successful.
- (4) Flagging-out of vessels is, however, not the end of the problem. Where flag States outside the EEA offer an attractive international service infrastructure, flagging-out has tended in recent years to be followed by relocation of ancillary activities (such as ship management) to countries outside the EEA, leading to an even greater loss of employment, both on board ship and on shore. A further consequence has been a loss of maritime know-how. A perception that there are a limited number of positions available at sea, a difficult working environment and few opportunities to develop a career has led to a decrease in the number of students at maritime training institutes and in the recruitment of young seafarers, which has compounded the negative effects on board and on shore.

24A.1.4. The rationale behind the approach to State aid to maritime transport

- (1) The competitive difference between ships registered in the EEA and those registered outside, especially those operated under flags of convenience, depends primarily on fiscal costs. This is because the cost of capital is essentially the same worldwide and equally there is no differential in the technology available. The fiscal costs (corporate taxation and wage-related liabilities in respect of seafarers), however, have been shown by different studies to be the critical and distortive factor.
- (2) In principle, operating aid should be exceptional, temporary and degressive. In the case of maritime transport, however, the problem of the competitiveness of the EEA fleet on the world market is a structural one, deriving in large part from external factors. As the immediate prospects of resolving this cost-gap problem do not appear good, the need for aid measures to allow shipowners to operate EEA-registered ships competitively in the global market is not likely to be short term.
- (3) In the international context, the European Community and the EFTA States have pressed for liberalization of world maritime transport services in discussions under the WTO framework but important trading partners were unwilling to accept the proposals tabled and further debate has been postponed until the next round of comprehensive negotiations on services, which is due to take place no later than the year 2000. It also seems unlikely, in the immediate future, that there will be international agreements on the application of competition rules for maritime transport, including restriction of national aid schemes.
- (4) In the future, the level of aid may be progressively reduced, provided that the world economic and political situation allows it. In particular, if the new disciplines which are presently being negotiated in the framework of GATS relating to the potentially distortive effects of subsidies on trade in services entered into force, the current rules would be amended accordingly. For the present, the situation should be monitored through regular review of aid in the light of the competitiveness of EEA fleets in the world market.

24A.2. *Scope and General Objectives*

- (1) The approach to State aid under the EEA Agreement needs to accommodate differences in the priorities and approaches of the States party to the EEA Agreement while ensuring that competitive distortions are kept to a minimum.
- (2) The EFTA Surveillance Authority's role is to set the parameters within which State aid in the EFTA States will be approved. Aid schemes should not be at the expense of other EEA States' economies and must be shown not to risk distorting competition and adversely affecting trading conditions between the Contracting Parties to an extent contrary to the common interest. State aid must always be restricted to what is necessary to achieve its purpose and be granted by State authorities (including at national, regional and local levels) must always be taken into account.

24A.2.1. Scope of the rules

- (1) These rules cover any aid granted by EFTA States or through State resources in favour of maritime transport. This includes any financial advantage conferred in any form whatsoever funded by public authorities (whether at national, regional, provincial, departmental or local level). For these purposes, "public authorities" may also include public undertakings and State-controlled banks. Arrangements whereby the State guarantees loans or other funding by commercial banks may also fall within the definition of aid. The guidelines draw no distinction between types of beneficiary in terms of their legal structure (e.g. companies, partnerships or individuals), nor between public or private ownership, and any reference to companies, shall be taken to include all other types of legal entity.
- (2) These rules do not cover aid to shipbuilding (within the meaning of the act referred to in point 1b of Annex XV to the EEA Agreement⁽⁶⁾, or any successor instrument intended to give effect to the State aid provisions of the OECD Agreement respecting normal competitive conditions in the commercial shipbuilding and ship-repair industry when it enters into force) or aid for fishing vessels. Investments in infrastructure are not normally considered to involve State aid within the meaning of Article 61 (1) of the EEA Agreement, if the State provides free and equal access to the infrastructure for the benefit of all interested operators. However, the Authority may examine such investments if they could directly or indirectly benefit particular shipowners. Finally, the Authority has established the principle that no State aid is involved where public authorities contribute to a company on a basis that would be acceptable to a private investor operating under normal market economy conditions⁽⁷⁾.

24A.2.2 General objectives

- (1) Increased transparency of State aid is necessary so that not only national authorities in the broad sense but also companies and individuals are aware of their rights and obligations. These rules are intended to contribute to this and to clarify what State aid schemes may be introduced in order to support the maritime interest of the Contracting Parties. Since this is considered to be enhancing the competitiveness of the fleets of the Contracting Parties, State aid may generally be granted only in respect of ships entered in EEA States' registers⁽⁸⁾. This policy should:
 - safeguard EEA employment, (both on board and on shore),
 - preserve maritime know-how in the EEA and develop maritime skills,
 - improve safety.
- (2) However, State aid may, in certain exceptional cases, be granted in respect of ships entered in registers under point 3 of Annex VIII to these Guidelines, provided the EFTA State concerned establishes that the register contributes directly to the objectives mentioned above.
- (3) Additionally, flag-neutral aid measures may be approved in certain exceptional cases where it is clearly demonstrated by the State concerned that common objectives of the Contracting Parties are served (see sections 24A.3.1 and 24A.7).
- (4) Further common objectives of the Contracting Parties concerning transport policy⁽⁹⁾ may also be taken into account, such as the construction of a framework for sustainable mobility and, as part of this, the promotion of short-sea shipping and development of its full potential.

24A.3. *Fiscal and social measures to improve competitiveness***24A.3.1. Fiscal treatment of shipowning companies**

- (1) In the shipping sector, EEA States have responded to the difficulties caused by the diverse factors affecting international competition in different ways, reflecting the different circumstances. Some have been able to rely on general measures while others have resorted to State aid.
- (2) Many third countries have developed significant shipping registers sometimes supported by an efficient international service infrastructure, attracting shipowners with a fiscal climate which is considerably milder than within the European Economic Area. The low tax environment has resulted in there being an incentive for companies not only to flag out their vessels but also to consider corporate relocation. It should be emphasized that there are no effective international rules at present to curb such tax competition and few administrative, legal or technical barriers to moving a ship's registration from an EEA State's register. This leaves all EEA States having significant fleets with a common problem; the creation of conditions which allow fair competition with flags of convenience seems the best way forward.
- (3) Tax harmonization as such is not an objective of the EEA Agreement. However, the question of fiscal competition between EEA States should be addressed. There appears to be an increasing degree of convergence in EEA States' approaches to shipping aid. Flagging-out between EEA States is a rare phenomenon. As concerns maritime transport, fiscal competition is mainly an issue between EEA States on the one hand, and third countries on the other hand since the cost savings available to shipowners through third country registers are considerable, in comparison to the options available within the EEA. Furthermore, profits in shipping, which would be subject to tax, have been depressed in recent years so that the differences between effective rates of tax in the EEA States have in practice been of relatively little importance. The continual decline of the fleets registered in EEA States, while the proportion of world shipping under control of EEA shipowners has remained relatively stable over the last decade, testifies to this.
- (4) In order to counter this tendency, many EEA States have taken special measures to improve the fiscal climate for shipowning companies, including, for instance, accelerated depreciation on investment in ships or the right to reserve profits made on the sale of ships for a number of years on a tax-free basis provided that these profits are reinvested in ships.
- (5) These fiscal alleviation measures which apply in a special way to shipping are considered to be State aid. Equally, the system used in certain EEA States and third countries of replacing the normal corporate tax regime by a tonnage tax is a State aid. Tonnage tax means that the shipowner pays an amount of tax linked directly to the tonnage operated. The tonnage tax will be payable irrespective of the company's actual earnings, or profits or losses made.
- (6) Such measures have been shown to safeguard high quality employment in the on-shore maritime sector, such as management directly related to shipping and also in associated activities (insurance, brokerage and finance). In view of the importance of such activities to the economies of the Contracting Parties and in support of the earlier stated objectives, these types of fiscal incentives can generally be endorsed. Further, safeguarding quality employment and stimulating a competitive shipping industry established in an EEA State through fiscal incentives taken together with other initiatives on training and enhancement of safety will facilitate the development of European shipping in the global market.

- (7) The Authority is aware that the income of shipowners is nowadays often obtained from the operation of ships under different flags, for instance, when making use of chartered vessels under foreign flag or by making use of partner vessels within alliances. It is also recognized that the incentive for expatriation of management and ancillary activities would continue if the shipowner obtained a significant financial benefit from maintaining different establishments and accounting separately for EEA flag earnings and other earnings. This would be the case, for example, if the non-EEA flag earnings were liable either to the full rate of corporate taxation in an EEA State or a low rate of tax overseas if overseas management could be demonstrated.
- (8) The objective of State aid to maritime transport is to promote the competitiveness of the EEA fleets in the global shipping market. Consequently, fiscal alleviation schemes should, as a rule, require a link with a flag of an EEA State. However, they may also, exceptionally, be approved where they apply to the entire fleet operated by a shipowner company established within an EEA State's territory liable to corporate tax, provided that it is demonstrated that the strategic and commercial management of all ships concerned is effectively carried out from within the territory and that this activity contributes substantially to economic activity and employment within the European Economic Area. The evidence furnished by the State concerned to demonstrate this economic link should include details of vessels owned and operated under EEA States' registers, EEA nationals employed on ships and in land-based activities and investments in fixed assets. It must be stressed that the aid must be necessary to promote the repatriation of the strategic and commercial management of all ships concerned in the EEA and, in addition, that the beneficiaries of the schemes must be liable to corporate tax in the EEA. Also the Authority would request any available evidence to show that all vessels operated by companies benefiting from these measures comply with the relevant international and EEA safety standards, including those relating to onboard working conditions.
- (9) Where fiscal schemes are approved on the above exceptional basis, the Authority will require the provision of regular reports, demonstrating the effect of the measure (in conjunction with any other State aid scheme operated in the EFTA State) on the EEA-registered fleet operated from the EFTA State and on employment of EEA seafarers. The Authority will closely monitor the situation regarding possible distortion of competition in trade between Contracting Parties to the EEA Agreement.
- (10) In all cases, the benefits of schemes must facilitate the development of the shipping sector and employment in support of the common interest. Consequently, the fiscal advantages mentioned above must be restricted to shipping activities; hence in cases where a shipowning company is also engaged in other commercial activities, transparent accounting would be required in order to prevent spillover to non-shipping related activities. This approach would help EEA shipping to be competitive, with tax liabilities comparable to levels applying elsewhere in the world, but would preserve an EFTA State's normal tax levels for other activities and personal remuneration of shareholders and directors.

24A.3.2. Labour-related costs

- (1) Public measures directed towards specific sectors for alleviation of labour costs involve a risk of upsetting the proper functioning of the EEA Agreement and can thus be detrimental to the competitiveness of European industry and long-term job creation⁽¹⁰⁾. In particular, the effects of this approach are likely to be particularly negative

with regard to sectors with overcapacity or in crisis (defined as those in which the demand for EEA products is stagnating or falling), sensitive sectors (those where there is significant intra-EEA trade and competition), and sectors in international competition.

- (2) However, maritime transport can be considered to present a special case⁽¹⁾. In its guidelines of 1989, the Commission considered that "aid in the field of social security and seafarers' income taxation, tending to reduce the burden borne by shipping companies without reducing the level of social security for the seafarers and resulting from the operation of ships registered in the Community may be considered compatible with the common market". The Authority considers this approach to remain valid also in the EEA context.
- (3) Maritime transport is a sector experiencing a certain overcapacity worldwide and where international competition is fierce. However, the problem identified in the industrial sectors with overcapacity or in crisis is that aid can have the effect of transferring difficulties, and unemployment problems, to EEA competitors who do not enjoy such advantages. In maritime transport, demand for quality is increasing and there is estimated to be a growth potential in the market; further, there is a lack of trained and qualified seafarers worldwide. It can therefore be concluded that aid supporting employment of, particularly, skilled EEA seafarers should not be discouraged on this basis. The degree of cooperation between carriers through conferences and consortia, etc. in liner trades and the proportion of cross-trading in bulk operations mean that the centre of gravity in competition is between EEA and non-EEA carriers. Finally, wage-cost differentials between the low-wage countries and the EEA States are very significant, and integrating new production technology, innovation, quality and training can more durably improve performance in terms of competitiveness and employment. While this is true for most industrial sectors, it is largely not the case in maritime transport for the reasons outlined in section 24A.1.
- (4) Support measures for the maritime sector should, therefore, aim primarily at reducing fiscal and other costs and burdens borne by EEA countries' shipowners and EEA seafarers (i.e. those liable to taxation and/or social security contributions in an EEA State) towards levels in line with world norms. They should directly stimulate the development of the sector and employment, rather than provide general financial assistance.
- (5) In line with the objective, therefore, the following action on employment costs should be allowed for EFTA States' shipping:
 - reduced rates of contributions for the social protection of EEA seafarers employed on board ships registered in an EEA State,
 - reduced rates of income tax for EEA seafarers on board ships registered in an EEA State.
- (6) For this type of aid, a maximum reduction of liabilities to zero may be permitted, allowing EFTA States to bring employment-related costs to levels in line with world norms which often entails exemption from tax and social security liabilities for seafarers. However, no subsidy on net wages of EEA seafarers may be granted, as this might lead to a distortion of competitive conditions between EEA States. The alleviation of fiscal burdens would not remove the interest of the shipowner in negotiating an appropriate salary package with potential crew members and their labour representatives. Seafarers from EEA States with lower wage levels would still, therefore, have a competitive advantage over those from other EEA States with higher wage expectations. In any event, EEA seafarers will continue to be more expensive than the cheapest available in the global market. Hence, there is no danger of overcompensation entailed in this measure.

- (7) For internal reasons some EEA States prefer not to apply reduced rates as mentioned above, but instead may reimburse shipowners, partially or wholly, for the costs resulting from these levies. Such an approach may generally be considered as equivalent to the reduced rate system as described above, provided that there is a clear link to these levies, no element of overcompensation, and the system is transparent and is not open to abuse.

24A.4. *Crew relief*

- (1) Aid for crew relief is a separate measure which can be in the common interest of the Contracting Parties. Such aid tends to reduce the costs of employing EEA seafarers, especially those on ships operating in distant waters. Whereas the Commission's guidelines of 1989 limited aid of this type to 50 % of the total costs incurred for these reasons, the new approach in the present rules to limiting the levels of State aid (see section 24A.10) implies that it is not necessary to impose a specific limitation for this type of measure. Aid may therefore be granted in the form of payment or reimbursement of the costs of repatriation of EEA seafarers working on board ships entered in EEA States' registers.

24A.5. *Investment aid*

- (1) At present, some EEA States grant aid for newly built vessels only, others also for the purchase of certain categories of second-hand vessels or for conversion or modernization of existing vessels. These schemes have tended to create or maintain overcapacity, leading to lower freight rates, thus stimulating EEA operators to cut costs in many cases by flagging-out. Further, the system has induced shipowners in some instances to make decisions about buying and selling ships for fiscal rather than commercial reasons.
- (2) Subsidies for fleet renewal are not common in other transport modes (road haulage, aviation). Since they tend to distort competition, the approval of such schemes is rarely justifiable, except where part of a structural reform leading to reductions in overall fleet capacity.
- (3) Investment aid for new ships must comply with the provisions of the act on aid to shipbuilding referred to in point 1.B of Annex XV to the EEA Agreement (see paragraph 24A.2.1 (2)) or any other EEA legislation which may replace it.
- (4) Within the framework of the present rules, other investment aid may however be permitted, in line with safe-seas objectives, in certain restricted circumstances to improve equipment on board vessels entered in an EEA State's registers or to promote the use of safe and clean ships, such as providing incentives to upgrade EEA-registered ships to standards which exceed the mandatory safety and environmental standards laid down in international conventions and anticipating agreed higher standards, thus enhancing safety and environmental controls. Such aid must comply with the shipbuilding provisions, as referred to in paragraph 24A.2.1 (2), when applicable.
- (5) Since shipping is essentially very mobile, regional aid for maritime companies in disadvantaged regions, which often takes the form of investment aid to companies investing in the regions, may only be permitted where it is clear that the benefits will accrue to the region over a reasonable time period. This would, for example, be the case if the investment related to the construction of dedicated warehouses or purchase of fixed transshipment equipment. Investment aid for maritime companies in disadvantaged regions may then only be permitted where it also complies with the regional aid rules (see section 24A.6).

24A.6. *Regional aid on the basis of Article 61 (3) (a) and (c)*

- (1) In the context of regional aid schemes, the Authority will apply the general rules set out in Part VI of the present Guidelines (Rules on regional aid) or future amendments thereto.

24A.7. *Training*

- (1) Many training schemes followed by seafarers and supported by the State are not considered to be State aid because they are of a general nature (whether vocational or academic). These are, therefore, not subject to notification and examination by the Authority.
- (2) If a scheme is to be considered to include State aid, notification is, however, required. This may be the case if, for example, a particular scheme is specifically related to on-board training and the benefit of State financial support is received by the training organization, the cadet, seafarer or shipowner. State aid to training will be approved, provided the aid meets the Authority's general criteria (e.g. proportionality, non-discrimination and transparency as well as, where appropriate, relating to training carried out on board ships entered in EEA registers). Exceptionally, training on board other vessels may be supported where justified by objective criteria, such as the lack of available places on vessels in an EEA State's register.
- (3) Where financial contributions are paid for on-board training, the trainee may not, in principle, be an active member of the crew but must be supernumerary. This provision is to ensure that net wage subsidies cannot be paid for seafarers occupied in normal crewing activities.
- (4) Similarly to safeguard and develop maritime expertise in the EEA and the competitive edge of the EEA maritime industries, further extensive research and development efforts are necessary, with a focus on quality, productivity, safety and environmental protection. For such projects, State support may also be authorized within the limits set by the EEA Agreement⁽¹²⁾.

24A.8. *Restructuring aid (including privatization)*

- (1) Although the rules on aid for rescuing and restructuring firms in difficulty⁽¹³⁾ apply to transport only to the extent that the specific nature of the sector is taken into account, the Authority will apply those guidelines in considering restructuring aid for maritime companies.

24A.9. *Public service obligations and contracts*

- (1) Direct aid aiming at covering operating losses is, in general, not compatible with the functioning of the EEA Agreement. However, subsidization can, in principle, be accepted for public service obligations (PSO). A PSO is defined as any obligation imposed on a carrier to ensure the provision of a service satisfying fixed standards of continuity, regularity, capacity and pricing, which standards the carrier would not assume if it were solely considering its economic interest.
- (2) PSOs may be imposed for scheduled services to ports serving peripheral regions in the EEA States or thinly served routes considered vital for the economic development of that region, in cases where the operation of market forces would not ensure a sufficient service level.
- (3) The Authority's practice in assessing contracts relating to PSOs is generally to consider that reimbursement of operating losses incurred as a direct result of fulfilling certain

public service obligations is not State aid within the meaning of Article 61 (1) of the EEA Agreement. Notification is not, therefore, required within the meaning of Article 1 (3) of Protocol 3 to the Surveillance and Court Agreement, provided that the following criteria are met:

- for public service contracts to be consistent with the functioning of the EEA Agreement and not to constitute State aid, the Authority expects public tenders to be made, as the development and implementation of schemes must be transparent and allow for the development of competition,
 - adequate publicity must be given to the call for tender and all requirements concerning the level and frequency of the service, capacity, prices and standards required, etc. must be specified in a clear and transparent manner to ensure that all EEA carriers with the right of access to the route (according to EEA legislation) have had an equal chance to bid,
 - the EFTA State can then award a contract to the successful bidder (except in exceptional and duly justified cases, whichever bidder requires the lowest financial compensation) and reimburse the extra costs incurred by the operator as a result of providing the service. This should be directly related to the calculated deficit made by the operator in providing the service. It should be accounted for separately for each such service so that it can be verified that there is no overcompensation or cross-subsidy and that the system cannot be used to support inefficient management and operating methods. Where a grant is made by the EFTA State on this basis and it is limited to reimbursement of extra costs incurred (together with a reasonable return on capital employed), the scheme will be considered not to amount to State aid.
- (4) The duration of public service contracts should be limited to a reasonable and not overlong period (normally in the order of five years), since contracts for significantly longer periods could entail the danger of creating a (private) monopoly. After expiration of the contract period, such contracts should be subject to re-tendering in accordance with the procedure described above.
- (5) Restrictions of access to the route to a single operator may only be granted if, when the public service contract is awarded according to the abovementioned procedure, there is no competitor providing, or having a demonstrated intention to provide, scheduled services on the route. The terms of any restriction or exclusivity must in any case be compatible with the provisions of Article 59 of the EEA Agreement.
- (6) It must be stressed that if there is evidence that an EFTA State has not selected the cheapest offer or if complaints are received alleging unfairness in the awarding procedure, the Authority will request information in order to verify whether the award includes State aid elements. If aid has been granted in breach of the procedural requirements of the Surveillance and Court Agreement, the Authority may issue an interim order suspending payment of aid and will in appropriate cases open the procedure pursuant to Article 1 (2) of Protocol 3 to the Surveillance and Court Agreement.
- (7) Although it is considered appropriate for EFTA States to make maximum use of the above procedures, exceptions may be justified, such as in the case of island cabotage involving regular ferry services. In those instances, measures must be notified and will continue to be assessed under the general State aid rules. In its assessment of compatibility with the EEA Agreement, the Authority will verify whether or not the aid may divert significant volumes of traffic or involve overcompensation, which could allow the selected carrier to cross-subsidize operations on which other EEA carriers compete.

24A.10. Limits to aid

- (1) As was explained above, certain EEA States support their maritime sectors through tax reduction while other EEA States prefer to make direct payments, for instance, by providing reimbursement of seafarers' income tax. In view of the fact that the fiscal systems of the EEA States are not harmonized, it is felt that the two alternatives should remain possible. Obviously, those two approaches may, in some instances, be combined. However, this risks cumulation of aid to levels which are disproportionate with the common objectives of the Contracting Parties and could lead to a subsidy race between EEA States.
- (2) A reduction to zero of taxation and social charges for seafarers and of corporate taxation of shipping activities is the maximum level of aid which may be permitted. To avoid distortion of competition, other systems of aid may not provide greater benefit than this. Consequently, although each aid scheme notified by an EFTA State will be examined on its own merits, it is considered that the total amount of aid in the form of direct payments in the framework of sections 24A.3 to 24A.6 should not exceed the total amount of taxes and social contributions collected from shipping activities and seafarers; to do so would, it is considered, affect trading conditions to an extent contrary to the EEA provisions as the aid would be disproportionate to the objective.

24A.11. Final remarks

- (1) The implementation of these rules presupposes discipline on the part of both national authorities and the EFTA Surveillance Authority, particularly in respect of the formal obligations to provide notification and the time limits to be adhered to. To expedite the examination of aid measures, the EFTA States are urged to notify the Authority of proposed aid measures at the draft stage, supplying all the particulars necessary for their assessment, in accordance with Article 1 (3) of Protocol 3 to the Surveillance and Court Agreement. The Authority considers that an EFTA State has failed to fulfil its procedural obligations where an aid measure, which has not been notified to and approved by the Authority, has been put into effect either in accordance with national law or by giving a financial commitment to potential beneficiaries.
- (2) The Authority will use all the measures at its disposal to ensure that the EFTA States fulfil their obligations pursuant to Article 1 (3) of Protocol 3 to the Surveillance and Court Agreement, see Chapter 6 of the present Guidelines (specificities regarding aid unlawful on procedural grounds).
- (3) The EFTA Surveillance Authority and the Commission, according to the Community guidelines on State aid to maritime transport, seek to ensure that nationals and companies of all EEA States have full access without discrimination to the facilities, products and services found in one EEA State⁽¹⁴⁾. In the case of establishment by entry in shipping registers, this principle has been applied since the judgment of the Court of Justice of 25 July 1991 in Case C-221/89, *The Queen v. Secretary of State for Transport, ex parte: Factortame Ltd, et al*⁽¹⁵⁾. Without prejudice to the provisions laid down in the specific adaptations (g) and (h) to the Act referred to in point 1 of Annex XII to the EEA Agreement (Council Directive 88/361/EEC for the implementation of Article 67 of the Treaty), the Authority considers this same principle, by virtue of Article 6 of the EEA Agreement, to be applicable also in the context of the EEA Agreement. Similarly, State aid may not discriminate on grounds of nationality between companies established in EEA States.
- (4) The EFTA Surveillance Authority will closely monitor the effects of aid schemes to ensure that competition in trade between the Contracting Parties to the EEA Agreement is not distorted and that their common objectives are being served.

- (5) These Guidelines will apply from the date of their adoption by the EFTA Surveillance Authority. Schemes existing at the time of entry into force of the EEA Agreement on 1 January 1994 and schemes which the Authority has subsequently authorized will be subject to review pursuant to Article 1 (1) of Protocol 3 to the Surveillance and Court Agreement.

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- (¹) This chapter corresponds to the Community guidelines on State aid to maritime transport adopted by the Commission on 6 May 1997 (OJ C 205, 5. 7. 1997).
- (²) This observation is *inter alia* based on comments, dated 24 October 1996, by the Standing Committee of the EFTA States on the Commission communication 'Towards a new maritime strategy'.
- (³) The 1986 package (OJ L 378, 31. 12. 1986, pp. 1, 4, 14 and 21) consists of four Regulations: Regulation (EEC) No 4055/86 applying the principle of freedom to provide maritime transport between Member States and between Member States and third countries, as last amended by Regulation (EEC) No 3573/90 (OJ L 353, 17. 12. 1990, p. 16), Regulation (EEC) No 4056/86 laying down detailed rules for the application of Articles 85 and 86 of the Treaty to maritime transport, Regulation (EEC) No 4057/86 on unfair pricing practices in maritime transport, Regulation (EEC) No 4058/86 concerning coordinated action to safeguard free access to cargoes in ocean trades.
- (⁴) It should be noted that Council Regulation (EEC) No 3577/92, applying the principle of freedom to provide services to maritime transport within the Member States (maritime cabotage) has, at the time of writing, not yet been integrated in the EEA Agreement, but the matter has been on the agenda of the EEA Joint Committee for a long time.
- (⁵) It is noted that recognizing the declining competitiveness of the EC flags, the Commission proposed a series of positive measures in 1989. These included a Community ship register (Euros), which was to be operated in conjunction with Member States' first national registers and to guarantee shipowners State aid in return for accepting certain obligations as to employment of Community nationals in the crew. However, in the end, the Council was unable to accept the Euros approach.
- (⁶) Council Directive 90/648/EEC on aid to shipbuilding (OJ L 380, 31. 12. 1990), as last amended by Directive 94/73/EC (OJ L 351, 31. 12. 1994), and as prolonged by Regulations (EC) No 3094/95 (OJ L 332, 30. 12. 1995) and (EC) No 1904/96 (OJ L 251, 3. 10. 1996). The act has been adapted for the purpose of the EEA Agreement by Decisions of the EEA Joint Committee No 21/95 (OJ L 158, 8. 7. 1995; EEA Supplement No 25, 8. 7. 1995), No 16/96 (OJ L 124, 23. 5. 1996; EEA Supplement No 22, 23. 5. 1996) and No 58/96 (OJ L 182, 10. 7. 1997; EEA Supplement to the Official Journal No 29, 10. 7. 1997).
- (⁷) See Chapters 19 and 20 of the present Guidelines.
- (⁸) See Annex VIII to these Guidelines for a definition of EEA States' registers.
- (⁹) Commission White Paper: "The future development of the common transport policy", COM(92) 494 final.
- (¹⁰) This matter was addressed in the Commission notice on monitoring of State aid and reduction of labour costs (OJ C 1, 3. 1. 1997). This notice has not been integrated in the present State Aid Guidelines of the EFTA Surveillance Authority.
- (¹¹) The special situation of the maritime transport sector in this regard was accepted by the Commission in 1989, when it adopted its first guidelines on aid to the sector.
- (¹²) See Chapters 14 (Aid for research and development) and 15 (Aid for environmental protection) of the present Guidelines.
- (¹³) See Chapter 16 of the present Guidelines.

(¹⁴) Reference is made, however, to the fact referred to in a footnote to paragraph 24A.1.2.(3), that Council Regulation (EEC) No 3577/92 (maritime cabotage) has not yet been integrated in the EEA Agreement.

(¹⁵) [1991] ECR I-3905.

ANNEX VIII

DEFINITION OF EEA STATES' REGISTERS FOR THE PURPOSE OF THE RULES IN CHAPTER 24A ON AID TO MARITIME TRANSPORT

"EEA States' registers" should be understood as meaning registers governed by the law of an EC Member State or an EFTA State party to the EEA Agreement and applying to the territories forming part of either the European Community or an EFTA State.

1. All the first registers of EEA States are EEA States' registers.
2. In addition, the following registers, located in EEA States and subject to their laws, are EEA States' registers:
 - the Danish International Register of Shipping (DIS),
 - the German International Shipping Register (ISR),
 - the Madeira International Ship Register (MAR),
 - the Canary Islands Register,
 - the Norwegian International Shipping Register (NIS).
3. Other registers are not considered to be EEA States' registers even if they serve in practice as a first alternative for shipowners based in that EEA State. This is because they are located in and subject to the law of territories where the EC Treaty and hence the EEA Agreement do not, in whole or in substantial part, apply. Hence, the following registers are not EEA States' registers:
 - the Kerguelen Register (the EC Treaty does not apply to this territory),
 - the Dutch Antilles' Register (this territory is associated to the European Community; only part IV of the EC Treaty applies to it. It is responsible for its own fiscal regime),
 - the registers of:
 - Isle of Man (only specific parts of the EC Treaty apply to the Isle of Man — see Article 227 (5) (c) of the EC Treaty. The Isle of Man Parliament has sole right to legislate on fiscal matters),
 - Bermuda and Cayman Islands (they are part of the territories associated to the European Community; only part IV of the EC Treaty applies to them. They have a fiscal autonomy).
4. In the case of Gibraltar, the EC Treaty applies fully and, although the territory is not considered part of the United Kingdom, the Gibraltar register is, for the purposes of the rules in Chapter 24A of these Guidelines, considered to be an EEA States' register.

Done at Brussels, 16 July 1997.

For the EFTA Surveillance Authority

Hannes HAFSTEIN

Acting President