JUDGMENT OF THE COURT OF FIRST INSTANCE (Fifth Chamber)
11 December 2003 *

In Case T-65/99,

Strintzis Lines Shipping SA, established in Piraeus (Greece), represented by K. Adamantopoulos, V. Akritidis and A. Papakrivopoulos, lawyers, with an address for service in Luxembourg,

applicant,

v

Commission of the European Communities, represented by R. Lyal and D. Triantafyllou, acting as Agents, and G. Athanassiou, lawyer, with an address for service in Luxembourg,

defendant,

APPLICATION for annulment of Commission Decision 1999/271/EC of 9 December 1998 relating to a proceeding pursuant to Article 85 of the EC Treaty (IV/34.466 — Greek Ferries) (OJ 1999 L 109, p. 24),

* Language of the case: Greek.

THE COURT OF FIRST INSTANCE
OF THE EUROPEAN COMMUNITIES (Fifth Chamber),

composed of: J.D. Cooke, President, R. García-Valdecasas and P. Lindh, Judges,

Registrar: J. Plingers, Administrator,

having regard to the written procedure and further to the hearing on 1 July 2002,

gives the following

Judgment

Facts

1 The applicant, Strintzis Lines SA, is a Greek ferry operator which provides passenger and vehicle transport services on Greek and foreign shipping routes, including routes between Greece and Italy, where it operates lines between Patras and Ancona, passing through Corfu and Igoumenitsa, and between Patras and Brindisi and Patras and Bari.

2 Following a complaint from a customer in 1992 that ferry prices were very similar on routes between Greece and Italy, the Commission, acting pursuant to Article 16 of Council Regulation (EEC) No 4056/86 of 22 December 1986 laying down detailed rules for the application of Articles 85 and 86 of the Treaty to maritime transport (OJ 1986 L 378, p. 4), sent a request for information to certain ferry operators. Then, in accordance with Article 18(3) of Regulation No 4056/86, it carried out investigations at the offices of six ferry operators, five in Greece and one in Italy.

3 On 4 July 1994 the Commission adopted decision C(94) 1790/5 requiring Minoan Lines to submit to an investigation (hereinafter 'the investigation decision'). On 5 and 6 July 1994 Commission officials carried out inspections at premises situated at 64 B Kifissias Avenue, 151 25 Maroussi, Athens. It later transpired that those premises belonged to the company European Trust Agency ('ETA'), a different legal entity from that mentioned in the investigation decision. During the inspection the Commission obtained copies of a large number of documents which it subsequently treated as evidence in relation to the various companies into which it was inquiring.

4 The Commission later sent further requests for information, pursuant to Article 16 of Regulation No 4056/86, to the applicant and to other ferry companies asking them to provide further details concerning the documents found during the inspection.

5 On 21 February 1997 the Commission initiated formal proceedings, sending a statement of objections to nine companies including the applicant.

6 On 9 December 1998 the Commission adopted Decision 1999/271/EC relating to a proceeding pursuant to Article 85 of the EC Treaty (IV/34.466 — Greek Ferries) (OJ 1999 L 109, p. 24, hereinafter 'the Decision').

7 The Decision contains the following provisions:

'*Article 1*

1. Minoan Lines, Anek Lines, Karageorgis Lines, Marlines SA and Strintzis Lines have infringed Article 85(1) of the EC Treaty by agreeing prices to be applied to roll-on roll-off ferry services between Patras and Ancona.

The duration of these infringements is as follows:

(a) in the case of Minoan Lines and Strintzis Lines, from 18 July 1987 until July 1994;

(b) in the case of Karageorgis Lines, from 18 July 1987 until 27 December 1992;

(c) in the case of Marlines SA, from 18 July 1987 until 8 December 1989;

(d) in the case of Anek Lines, from 6 July 1989 until July 1994.

2. Minoan Lines, Anek Lines, Karageorgis Lines, Adriatica di Navigazione SpA, Ventouris Group Enterprises SA and Strintzis Lines have infringed Article 85(1) of the EC Treaty by agreeing on the levels of fares for trucks to be applied on the Patras to Bari and Brindisi routes.

The duration of these infringements is as follows:

(a) in the case of Minoan Lines, Ventouris Group Enterprises SA and Strintzis Lines, from 8 December 1989 until July 1994;

(b) in the case of Karageorgis Lines, from 8 December 1989 until 27 December 1992;

(c) in the case of Anek Lines, from 8 December 1989 until July 1994;

(d) in the case of Adriatica di Navigazione SpA, from 30 October 1990 until July 1994.

Article 2

The following fines are hereby imposed on the following undertakings in respect of the infringement found in Article 1:

— Minoan Lines, a fine of ECU 3.26 million,

— Strintzis Lines, a fine of ECU 1.5 million,

— Anek Lines, a fine of ECU 1.11 million,

— Marlines SA, a fine of ECU 0.26 million,

— Karageorgis Lines, a fine of ECU 1 million,

— Ventouris Group Enterprises SA, a fine of ECU 1.01 million,

— Adriatica di Navigazione SpA, a fine of ECU 0.98 million.

...'

8 The Decision was addressed to seven undertakings: Minoan Lines, established in Heraklion, Crete (Greece) (hereinafter 'Minoan'), Strintzis Lines, established in Piraeus (Greece) (hereinafter 'the applicant' or 'Strintzis'), Anek Lines, established in Hania, Crete (hereinafter 'Anek'), Marlines SA, established in Piraeus ('Marlines'), Karageorgis Lines, established in Piraeus ('Karageorgis'), Ventouris Group Enterprises SA, established in Piraeus ('Ventouris') and Adriatica di Navigazione SpA, established in Venice (Italy) ('Adriatica').

Procedure and forms of order sought by the parties

9 By application lodged at the Registry of the Court of First Instance on 3 March 1999 the applicant brought the present action for annulment of the Decision.

10 On hearing the report of the Judge-Rapporteur the Court decided to initiate the oral procedure and, by way of measures of organisation of procedure, called upon the Commission to answer, in writing, a question and to produce certain documents. The Commission complied with that request within the time allowed.

11 The parties presented oral argument and answered the questions put to them by the Court at the hearing on 1 July 2002.

12 The applicant claims that the Court should:

— annul the Decision in its entirety;

— in the alternative, annul Article 1 of the Decision with regard to the duration of the alleged infringement, or in any event annul or reduce the fine imposed on it;

— order the Commission to pay the costs.

13 The Commission contends that the Court should:

— dismiss the action in its entirety;

— order the applicant to pay the costs.

Law

14 Strintzis puts forward three pleas in law in support of its application for annulment of the Decision. By the first, it alleges that the inspection carried out by the Commission at ETA's offices was unlawful. By the second it pleads incorrect application to the present case of Article 85(1) of the EC Treaty (now Article 81(1) EC) resulting from incorrect and incomplete appraisal of the factual circumstances. By its third plea Strintzis alleges that the statement of reasons given for the Decision is inadequate.

15 In support of the application which it makes in the alternative, for annulment of or a reduction in its fine, the applicant pleads infringement of the principle of proportionality in fixing the amount of the fine. This plea falls into three limbs: incorrect assessment of the gravity of the infringement, of its duration and of the amount of the fine.

I — *The pleas for annulment of the Decision*

The first plea: the unlawfulness of the inspection carried out by the Commission at ETA's offices

Arguments of the parties

16 The applicant submits that the inspection which the Commission carried out in July 1994 at the offices of ETA, Minoan's agent, was unlawful and that, consequently, the information found during the inspection cannot be used as evidence.

17 First of all, the applicant argues that it has a legitimate interest in the inspection being ruled unlawful in that a good number of the pieces of evidence used by the Commission against it were uncovered at ETA's offices. Similarly, it asserts that the actions of the other undertakings concerned and the general conduct of the present matter have been directly influenced by the results of the unlawful search carried out at ETA's offices. For that reason, and in so far as the documents gathered on that occasion and the other documents filed subsequently by other undertakings were all used by the Commission as evidence against it, the applicant submits that it has a legitimate interest in raising the objection that the search was unlawful.

18 The applicant maintains that, contrary to the Commission's submission, it is entitled to raise the matter of the unlawfulness of the search of ETA's offices as a plea for annulment of the Decision despite having expressly acknowledged the facts relating to the consultations concerning the fixing of tariffs. The applicant's admission of certain facts in no way signifies that it agrees with the Commission's appraisal of them.

19 The applicant observes that the investigation decision was addressed to Minoan, not to its agent ETA. Contrary to the Commission's claim, ETA and Minoan do not constitute one and the same economic and legal entity. In reaching that conclusion the Commission ignored a commercial reality, namely the fact that a company with a broad shareholding among the public, such as Minoan, normally calls upon a company such as ETA to represent its interest in so far as concerns international routes. That does not, however, justify treating ETA as Minoan. Indeed, the applicant maintains that the economic interests of ETA may be opposed to those of Minoan.

20 Moreover, the applicant doubts that the Commission can apply its theory of economic unity to the inspections which it carries out, arguing that the Commission cannot invoke the theory in order to investigate companies other than the one to which the investigation decision is addressed, otherwise it would have absolute power to carry out searches, without warning, at the offices of any undertakings belonging to the same economic entity as the company to which an investigation decision is addressed, provided only that it adopts a decision of general effect that makes provision for searches to be organised at the head office of the addressee company.

21 Lastly, according to the applicant, by acting as it did, the Commission infringed the rights of the defence in relation to arbitrary interference and also the principles of proportionality, sound administration, limited interference and legal certainty.

22 The Commission disputes those arguments. First of all it submits that the applicant has no legitimate interest in raising this issue as a plea for annulment because it has already expressly admitted the facts which were established by the documents found at ETA's offices. Furthermore, it submits that it would have reached the same finding regarding the prohibited cartel even if no account had been taken of the documents in question.

23 The Commission maintains that inasmuch as the applicant implies that its conduct and that of the other undertakings concerned would have been different if the allegedly unlawful inspection had not been carried out it totally contradicts the submission put forward during the administrative procedure that the undertakings concerned had offered complete cooperation; the fact that the parties concerned did not contest the facts on which the Commission's statement of objections was based was taken into account by the Commission as a mitigating circumstance warranting a reduction in the fines (paragraph 169 of the Decision). Since the applicant now suggests that that collaboration was offered solely because evidence was found relating to the conclusion and implementation of the cartels at issue, the Commission proposes that the Court should take that circumstance into account in the exercise of its jurisdiction to assess the amount of the fine and, if appropriate, increase it.

24 As regards the lawfulness of the inspection, the Commission maintains that there is no question in this case of any arbitrary search because the inspection was carried out at offices used for the business of Minoan, the company given as the addressee of the investigation decision. The Commission submits that that conclusion is supported by the way in which Minoan presented itself to third parties and by the ship management contracts pursuant to which ETA acted as manager of Minoan's vessels. The Commission observes that, in shipping organisation, the manager is a direct representative, acting in the name and on behalf of the shipowner who bears responsibility for the legal effects of the obligations undertaken by the manager and assumes ultimate financial risk. In the present case, it is clear from the contracts between the two companies that ETA acted as intermediary between the shipowner and agents, customers, banks, and state and port authorities wherever they enter into relations with the shipowner.

25 On this point the Commission refers to consistent case-law according to which, where an agent works for his principal he can in principle be regarded as an auxiliary organ forming an integral part of the latter's undertaking bound to carry out the principal's instructions and thus, like a commercial employee, forms an economic unit with this undertaking (Joined Cases 40/73 to 48/73, 50/73, 54/73 to 56/73, 111/73, 113/73 and 114/73 *Suiker Unie and Others* v *Commission* [1975] ECR 1663, paragraph 539). According to the Commission, ETA acts as an integral part of Minoan, given that Minoan has entrusted to it the daily management and logistical and commercial supervision of its vessels. The Commission concludes from that that the two companies are characterised, in so far as concerns the operation of the vessels managed by ETA, by unity of action and that they constitute one and the same economic entity. Consequently, the Commission made no mistake as to the addressee of the investigation decision or as to the place where it was to carry out its inspection.

26 In the alternative, the Commission submits that, even if there had been some error regarding the addressee of the investigation decision, that does not mean that the evidence cannot be used. That consequence would ensue only if the Commission had exceeded its investigatory powers, which have been conferred on it to use in such a way as to ensure that the rights of defence of the undertakings concerned are respected (see the order of the President of the Court of Justice in Case 46/87 R *Hoechst* v *Commission* [1987] ECR 1549, paragraph 34).

Findings of the Court

A — The applicant's interest in raising the plea

27 The Commission disputes that the applicant has any legitimate interest in raising the issue of the legality of the inspection carried out at ETA's offices as a plea for annulment because it has already expressly admitted the facts which were established by the documents found at those offices.

28 However, the fact that the applicant has acknowledged certain facts in no way means that it has waived its right to dispute, or can be prevented from disputing the lawfulness of an investigation in which the Commission obtained documents capable of providing evidence of an infringement. In fact, as the applicant states, even if it has expressly admitted the facts relating to the consultations concerning the fixing of tariffs, it may still disagree with the manner in which the Commission obtained the documents upon which the Decision is based, or with the manner in which the Commission appraised those documents as evidence of a cartel.

29 As this Court has held, 'the risk that an undertaking which has been granted a reduction in its fine in recognition of its cooperation will subsequently seek annulment of the decision finding the infringement of the competition rules and imposing a penalty on the undertaking responsible for the infringement, and will succeed before the Court of First Instance or before the Court of Justice on appeal, is a normal consequence of the exercise of the remedies provided for in the Treaty and the Statute of the Court of Justice. Accordingly, the mere fact that an undertaking which has cooperated with the Commission and which for that reason has been given a reduction in the amount of its fine has successfully challenged the Decision before the Community judicature cannot justify a fresh review of the size of the reduction granted to it' (Case T-354/94 *Stora Kopparbergs Bergslags* v *Commission* [2002] ECR II-843, paragraph 85).

30 In light of the foregoing, the Court holds that the applicant does have a legitimate interest in disputing the manner in which the investigation was conducted and rejects the Commission's request for the Court to exercise its unfettered jurisdiction and increase the fine imposed on the applicant and thus negate the advantage which it obtained from the Commission by admitting the facts.

B — Substance

31 By this plea the applicant essentially complains that the Commission unlawfully gathered the evidence on which it based the Decision in that it obtained that evidence in the course of an investigation carried out at the offices of a company that was not the addressee of the investigation decision. The applicant argues that, by so doing, the Commission exceeded its powers of investigation and infringed Article 18 of Regulation No 4056/86 and general principles of law.

32 In examining the merits of this plea reference should be made to the principles which determine the extent of the Commission's investigatory powers and the factual background to the case.

1. The Commission's powers of investigation

33 It is clear from the 16th recital in the preamble to Regulation No 4056/86 that the legislature saw fit that the regulation should make provision for the 'decision-making powers and penalties that are necessary to ensure compliance with the prohibitions laid down in Article 85(1) and Article 86 [of the Treaty], as well as the conditions governing the application of Article 85(3)'.

34 More specifically, the powers granted the Commission in on-the-spot investigations are set out in Article 18 of Regulation No 4056/86. That provision reads as follows:

'*Article 18*

Investigating powers of the Commission

1. In carrying out the duties assigned to it by this regulation, the Commission may undertake all necessary investigations into undertakings and associations of undertakings.

To this end the officials authorised by the Commission are empowered:

(a) to examine the books and other business records;

(b) to take copies of or extracts from the books and business records;

(c) to ask for oral explanations on the spot;

(d) to enter any premises, land and vehicles of undertakings.

2. The officials of the Commission authorised for the purpose of these investigations shall exercise their powers upon production of an authorisation in writing specifying the subject matter and purpose of the investigation and the penalties provided for in Article 19(1)(c) in cases where production of the

required books or other business records is incomplete. In good time before the investigation, the Commission shall inform the competent authority of the Member State in whose territory the same is to be made of the investigation and of the identity of the authorised officials.

3. Undertakings and associations of undertakings shall submit to investigations ordered by decision of the Commission. The decision shall specify the subject matter and purpose of the investigation, appoint the date on which it is to begin and indicate the penalties provided for in Article 19(1)(c) and Article 20(1)(d) and the right to have the decision reviewed by the Court of Justice.

4. The Commission shall take decisions referred to in paragraph 3 after consultation with the competent authority of the Member State in whose territory the investigation is to be made.

5. Officials of the competent authority of the Member State in whose territory the investigation is to be made, may at the request of such authority or of the Commission, assist the officials of the Commission in carrying out their duties.

6. Where an undertaking opposes an investigation ordered pursuant to this article, the Member State concerned shall afford the necessary assistance to the officials authorised by the Commission to enable them to make their investigation. To this end, Member States shall take the necessary measures, after consulting the Commission, before 1 January 1989.'

35 The wording of Article 18 of Regulation No 4056/86 is the same as that of Article 14 of Council Regulation No 17: First Regulation implementing Articles 85 and 86 of the Treaty (OJ, English Special Edition, Series I (1959-1962), p. 87). Both regulations were adopted in implementation of Article 87 of the EC Treaty (now, after amendment, Article 83 EC) in order to clarify the precise rules for applying Article 85 of the Treaty and Article 86 of the EC Treaty (now Article 82 EC). The case-law relating to the scope of the Commission's investigatory powers under Article 14 of Regulation No 17 is therefore equally applicable to the present case.

36 According to Article 87(2)(a) and (b) of the Treaty, the purpose of Regulation No 17 is to ensure compliance with the prohibitions laid down in Article 85(1) and Article 86 of the Treaty and to lay down detailed rules for the application of Article 85(3). The regulation is thus intended to ensure that the aim stated in Article 3(f) of the Treaty is achieved. To that end it confers on the Commission wide powers of investigation and of obtaining information by providing, in the eighth recital in its preamble, that the Commission must be empowered, throughout the common market, to require such information to be supplied and to undertake such investigations 'as are necessary' to bring to light infringements of Articles 85 and 86 of the Treaty (Case 136/79 *National Panasonic* v *Commission* [1980] ECR 2033, paragraph 20, and Case 155/79 *AM & S* v *Commission* [1982] ECR 1575, paragraph 15). The 16th recital in the preamble to Regulation No 4056/86 is to the same effect.

37 Equally, the Community judicature has emphasised how important it is that fundamental rights are respected, particularly the rights of the defence in all procedures involving application of the competition rules laid down in the Treaty, and has specified how the rights of the defence are to be reconciled with the Commission's powers during administrative procedures and also at the preliminary stages of inquiry and information gathering.

38 The Court has ruled that the rights of the defence must be observed by the Commission during administrative procedures which may lead to the imposition of penalties and also during preliminary inquiry procedures because it is

necessary to prevent those rights from being irremediably impaired during preliminary inquiry procedures including, in particular, investigations which may be decisive in providing evidence of the unlawful nature of conduct engaged in by undertakings for which they may be liable (Joined Cases 46/87 and 227/87 *Hoechst* v *Commission* [1989] ECR 2859, paragraph 15).

39 As regards, more specifically, the powers accorded the Commission by Article 14 of Regulation No 17 and the extent to which the rights of the defence may restrict them, the Court has acknowledged that the need for protection against arbitrary or disproportionate intervention by public authorities in the sphere of the private activities of any person, whether natural or legal, constitutes a general principle of Community law (the judgment in *Hoechst* v *Commission*, cited above, paragraph 19, and Case C-94/00 *Roquette Frères* [2002] ECR I-9011, paragraph 27). The Court has held that, in all the legal systems of the Member States, any intervention by the public authorities in the sphere of private activities of any person, whether natural or legal, must have a legal basis and be justified on the grounds laid down by law, and, consequently, that those systems provide, albeit in different forms, protection against arbitrary or disproportionate intervention.

40 The Court has also held that the aim of the powers given to the Commission by Article 14 of Regulation No 17 is to enable it to carry out its duty under the EC Treaty of ensuring that the rules on competition are applied in the common market. The function of those rules is, as follows from the fourth recital in the preamble to the Treaty, Article 3(f) and Articles 85 and 86, to prevent competition from being distorted to the detriment of the public interest, individual undertakings and consumers. The exercise of these powers thus contributes to the maintenance of the system of competition intended by the Treaty with which undertakings are absolutely bound to comply (*Hoechst* v *Commission*, cited above, paragraph 25).

41 Similarly, the Court has held that both the purpose of Regulation No 17 and the list of powers conferred on the Commission's officials by Article 14 thereof show that the scope of investigations may be very wide. More specifically, the Court has expressly ruled that 'the right to enter any premises, land and means of transport of undertakings is of particular importance inasmuch as it is intended to permit the Commission to obtain evidence of infringements of the competition rules in the places in which such evidence is normally to be found, that is to say, on the business premises of undertakings' (*Hoechst* v *Commission*, paragraph 26).

42 The Court has also taken pains to emphasise how important it is to preserve the effectiveness of investigations as a necessary tool for the Commission in carrying out its role as guardian of the Treaty in competition matters, ruling that 'that right of access would serve no useful purpose if the Commission's officials could do no more than ask for documents or files which they could identify precisely in advance. On the contrary, such a right implies the power to search for various items of information which are not already known or fully identified. Without such a power, it would be impossible for the Commission to obtain the information necessary to carry out the investigation if the undertakings concerned refused to cooperate or adopted an obstructive attitude' (*Hoechst* v *Commission*, cited above, paragraph 27).

43 Nevertheless, it should be noted that Community law provides undertakings with a range of guarantees against arbitrary or disproportionate intervention by public authorities in the sphere of their private activities (*Roquette Frères*, cited above, paragraph 43).

44 Article 14(3) of Regulation No 17 requires the Commission to state reasons for the decision ordering an investigation by specifying its subject-matter and purpose. As the Court has held, this is a fundamental requirement, designed not merely to show that the proposed entry onto the premises of the undertakings concerned is justified but also to enable the undertakings to assess the scope of their duty to cooperate whilst at the same time safeguarding their rights of defence (*Hoechst* v *Commission*, paragraph 29, and *Roquette Frères*, cited above, paragraph 47).

45 The Commission is likewise obliged to state in that decision, as precisely as possible, what it is looking for and the matters to which the investigation must relate (*National Panasonic* v *Commission*, cited above, paragraphs 26 and 27). As the Court has held, that requirement is intended to protect the rights of defence of the undertakings concerned, which would be seriously compromised if the Commission could rely on evidence against undertakings which was obtained during an investigation but was not related to the subject-matter or purpose thereof (Case 85/87 *Dow Benelux* v *Commission* [1989] ECR 3137, paragraph 18, and *Roquette Frères*, paragraph 48).

46 Moreover, an undertaking against which the Commission has ordered an investigation may bring an action against that decision before the Community judicature under the fourth paragraph of Article 173 of the EC Treaty (now, after amendment, the fourth paragraph of Article 230 EC). If the decision in question is annulled by the Community judicature, the Commission will in that event be prevented from using, for the purposes of proceeding in respect of an infringement of the Community competition rules, any documents or evidence which it might have obtained in the course of that investigation, as otherwise the decision on the infringement might, in so far as it was based on such evidence, be annulled by the Community judicature (see the orders of the President of the Court of Justice in *Hoechst* v *Commission*, cited above, paragraph 34, and in Case 85/87 R *Dow Chemical Nederland* v *Commission* [1987] ECR 4367, paragraph 17, and *Roquette Frères*, cited above, paragraph 49).

47 Those are the considerations which must inform the Court's examination of the merits of the applicant's plea that the investigation was unlawful.

2. The merits of the plea

48 Before the merits of this plea can be examined it is necessary to set out the circumstances in which the investigation was carried out.

(a) Relevant facts agreed between the parties

49 On 12 October 1992, acting pursuant to Regulation No 4056/86 on a complaint that ferry prices were very similar on routes between Greece and Italy, the Commission sent a request for information to Minoan at its registered office (Agiou Titou 38, Heraklion, Crete).

50 On 20 November 1992 the Commission received a letter in response to its request for information, signed by Mr Sfinias on Minoan headed paper which bore, in the top left-hand corner, the single commercial logo 'Minoan Lines' and, beneath that, the address '2 Vas. Konstantinou Ave., (Stadion); 11635, Athens'.

51 On 1 March 1993 the Commission sent a second request for information to Minoan, again at its registered office in Heraklion.

52 On 5 May 1993 an answer was given to the Commission's letter of 1 March 1993 in a letter again signed by Mr Sfinias on Minoan headed paper which again bore the commercial logo 'Minoan Lines' in the top left-hand corner, but this time with no address beneath it. At the foot of the page were two addresses: 'INTERNATIONAL LINES HEAD OFFICES: 64 B Kifissias Ave., GR, 15125 Maroussi, Athens' and below that 'PASSENGER OFFICE: 2 Vassileos Konstantinou Ave., GR, 11635 Athens'.

53 On 5 July 1994, certain Commission officials went to premises situated at 64 B Kifissias Avenue, 151 25 Maroussi, Athens, and gave to certain persons who, it transpired, are employees of ETA, the investigation decision and authorisations Nos D/06658 and D/06659 of 4 July 1994, signed by the Director-General of the Directorate-General for Competition, authorising the officials to carry out the investigation.

54 On the basis of those documents, the Commission officials asked the ETA employees to agree to the investigation being carried out. The employees however drew the Commission officials' attention to the fact that they were at the offices of ETA, that they were employees of ETA and that ETA was a separate legal entity that had no relationship with Minoan other than that of being its agent. The Commission officials, after telephoning their superiors in Brussels, insisted on carrying out the investigation and reminded the ETA employees that, should they refuse, sanctions under Article 19(1) and Article 20(1) of Regulation No 4056/86 could be adopted. (Those two provisions were cited in the investigation decision and the text of the provisions was set out in an annex thereto.) The Commission officials also asked the department for investigation of the market and for competition of the Greek Ministry of Commerce, as the competent national authority in competition matters, to send one of its officials to ETA's offices.

55 The Commission officials did not expressly advise the ETA employees of their right to legal assistance but gave them a two-page note which explained the nature and normal conduct of the investigation.

56 After telephoning their manager, who was not in Athens, the ETA employees finally decided to submit to the investigation, albeit signalling that they would record their disagreement in the minutes.

57 The Commission officials then began their investigation, which ended the following day, 6 July 1994.

58 Lastly, it should be mentioned that, as the applicant's representative, ETA had full authority to act as, and to refer to itself in commercial matters, as 'Minoan Lines Athens' and to use Minoan's trademark and logo in the conduct of its business as agent.

59 In light of the foregoing, the Court regards it as clear from the facts that:

— first, in carrying out its work as agent and representative of Minoan, ETA had authority to present itself to the public at large and to the Commission as Minoan, its identity, when conducting the commercial matters in question being practically coterminous with that of Minoan;

— secondly, the fact that the Commission's letters to Minoan were passed on to Mr Sfinias so that he would reply directly to the Commission indicates that Minoan, ETA and Mr Sfinias were all aware from the beginning of the Commission's intervention that the institution was in the process of dealing with a complaint; they also learned of the nature of the complaint, the subject-matter of the request for information and the fact that the Commission was acting pursuant to Regulation No 4056/86, which was cited in the letters in question; it follows that, by sending the letters to Mr Sfinias for an answer, Minoan gave him, and ETA, authority to present themselves to the Commission as the interlocutor duly appointed by Minoan for the purposes of the investigation;

— thirdly, it is clear both from the foregoing and from the fact that Minoan had delegated the conduct of its business to ETA that the offices at 64 B Kifissias Avenue housed in fact the real centre of 'Minoan's' commercial activities and were therefore the place where the books and business records relating to the activities in question were held.

60 It follows that those premises were the premises of Minoan as addressee of the investigation decision, within the meaning of Article 18(1)(d) of Regulation No 4056/86.

(b) Compliance with the principles defining the extent of the Commission's powers of investigation

61 It is clear from the documents before the Court that both the investigation decision and the investigation authorisations which the Commission officials presented to the ETA employees satisfied the requirement to state the subject-matter and purpose of the investigation. The investigation decision in fact devotes a page and a half of its preamble to explaining the basis of the Commission's

conclusion that the principal companies serving routes between Greece and Italy might have formed a cartel on ferry rates for passengers, vehicles and lorries contrary to Article 85(1) of the Treaty. It sets out the principal characteristics of the relevant market, names the principal companies operating in that market, including Minoan, defines the market shares of the companies serving the three routes and describes in detail the type of conduct which it regards as possibly contravening Article 85(1) of the Treaty. The decision clearly states that the addressee company, Minoan, is one of the principal companies active in the market and states that Minoan is already aware of the investigation.

62 Next, Article 1 of the operative part of the investigation decision expressly states that the purpose of the investigation is to establish whether the mechanisms for setting the prices or rates charged by the companies operating roll-on roll-off ferries between Greece and Italy are contrary to Article 85(1) of the Treaty. Article 1 of the investigation decision also mentions the addressee's obligation to submit to the investigation and describes the powers of the Commission officials in the investigation. Article 2 states the date on which the investigation is to be carried out. Article 3 gives the name of the addressee of the decision. It states that the decision is addressed to Minoan. Three addresses are given as potential inspection sites: first, 28 Poseidon Key, Piraeus, secondly, 24 Poseidon Key, thirdly 64 B Kifissias Avenue, 15125 Maroussi, Athens, the place to which the Commission officials ultimately went. Lastly, Article 4 mentions the right to bring an action against the investigation decision before the Court of First Instance, explaining that any such action would not have suspensive effect unless the Court were to decide otherwise.

63 As far as concerns the investigation authorisations given to the Commission officials, these expressly stated that the officials were authorised to proceed in accordance with the objectives set out in the investigation decision, a copy of which was annexed thereto.

64 That being so, it was clear from the content of those documents that the Commission was seeking evidence of Minoan's involvement in a presumed cartel and believed it would find that evidence, amongst other places, at the premises at 64 B Kifissias Avenue, 15125 Maroussi, Athens, which it regarded as belonging to Minoan. It this connection, it should be borne in mind that that was the address printed on the notepaper used by Minoan on 5 May 1993 to reply to the Commission's request for information of 1 March 1993, the words 'INTERNATIONAL LINES HEAD OFFICES: 64 B Kifissias Avenue GR, 15125 Maroussi, Athens' being printed at the foot of the page.

65 The Court finds that the investigation decision and authorisations contained all the necessary information to enable the ETA employees to judge whether, given the reasons underlying the decision and in light of their knowledge of the nature and extent of the relationship between ETA and Minoan, they were obliged to consent to the investigation which the Commission proposed to carry out at their premises.

66 It must therefore be concluded that, as far as the investigation decision and authorisations are concerned, the requirements laid down by case-law were fully satisfied in so far as concerns the occupier of the premises inspected, namely ETA, because, as the company managing Minoan's affairs in the market for roll-on roll-off passenger ferry services between Greece and Italy, it was in a position to comprehend the extent of its duty to cooperate with the Commission officials and because its rights of defence remained fully protected, given the detailed statement of reasons provided in those documents and the express mention of its right to bring an action against the investigation decision before the Court of First Instance. The fact that neither ETA nor Minoan subsequently chose to bring an action does not undermine that conclusion; it tends to confirm it.

67 It should be borne in mind in this connection that, whilst ETA was legally a separate entity from Minoan, in its role as Minoan's representative and sole manager of those of Minoan's affairs which were the subject-matter of the investigation, its identity merged with that of its principal. Consequently, it fell under the same obligation to cooperate as that incumbent on its principal.

68 Furthermore, in the event that Minoan might be permitted to avail itself of the rights of defence of ETA, a distinct entity, it must be held that those rights have never been called into question. The investigation had no bearing either on any separate business ETA might have had or ETA's own books and business records.

69 The Commission cannot be criticised in this case for having assumed that Minoan had its own premises at the address in Athens to which the Commission officials went or for having stated that address in its investigation decision as being the place in which Minoan had one of its centres of activity.

70 Next, the Court addresses the question whether the Commission, in insisting on carrying out its investigation, satisfied all relevant legal requirements.

71 It is clear from the case-law mentioned earlier that the Commission must, in all its investigatory work, ensure compliance with the principle that the actions of the Community institutions must have a legal basis and with the principle of protection against arbitrary intervention by the public authorities in the sphere of private activities of any person, whether natural or legal (see the judgment in *Hoechst* v *Commission*, cited above, paragraph 19). It would be excessive and contrary to the provisions of Regulation No 4056/86 and fundamental principles

of law to allow the Commission a general right of access, based on an investigation decision addressed to one legal entity, to inspect premises belonging to another legal entity simply on the pretext that the latter is closely connected with the addressee of the investigation decision or that the Commission believes it will find there documents belonging to the addressee of the decision.

72 However, in the present case, the applicant cannot justly complain that the Commission attempted to broaden its investigatory powers, visiting premises belonging to a company other than the addressee of the decision. On the contrary, it is clear from the documents before the Court that the Commission acted diligently and amply fulfilled its duty to make as sure as possible, before the investigation began, that the premises which it proposed to inspect indeed belonged to the legal entity which it wished to investigate. It should not be forgotten in this connection that there had been an exchange of correspondence between the Commission and Minoan in which Minoan had answered two letters from the Commission with two letter signed by Mr Sfinias, who, it finally transpired, is the manager of ETA, without mentioning ETA's very existence or the fact that it was operating in the market through an exclusive agent.

73 It should also be observed, as the Commission pointed out in its defence, without being contradicted on the point by the applicant, that the list of members of the union of Greek ferry owners includes Mr Sfinias, the signatory of the two letters from Minoan, that the table of tariffs published by Minoan mentions a general agency with an address at 64 B Kifissias, Athens and, lastly, that the Athens telephone directory contains an entry for Minoan Lines at the address to which the Commission officials went in order to carry out their investigation.

74 However, the question remains whether, after having discovered that ETA was a different company and that they were therefore not in possession of an investigation decision for that company, the Commission officials ought to have withdrawn and, if appropriate, returned with a decision addressed to ETA, properly setting out the reasons warranting the investigation in this particular case.

75 The Court must hold that, in view of these particular circumstances, it was reasonable of the Commission to regard the 'information' given by the ETA employees as insufficient either to throw light instantly on the issue of a distinction between the two undertakings or to warrant suspending the inspection, and this all the more so, as the Commission emphasises, because deciding whether or not the two were in fact the same undertaking called for an assessment of matters of substance and, in particular, interpretation of the scope of Article 18 of Regulation No 4056/86.

76 In the circumstances of the present case, it must be held that, even after ascertaining that the premises they were visiting belonged to ETA and not to Minoan, the Commission was entitled to take the view that they should be treated as premises used by Minoan for the conduct of its business and that, therefore, they could be treated as being the business premises of the undertaking to which the investigation decision was addressed. It should be borne in mind in this connection that the Court has held that the right to enter any premises, land and means of transport of undertakings is of particular importance inasmuch as it is intended to permit the Commission to obtain evidence of infringements of the competition rules in the places in which such evidence is normally to be found, that is to say, on the 'business premises of undertakings' (the judgment in *Hoechst* v *Commission*, cited above, paragraph 26). In the exercise of its investigatory powers, therefore, the Commission was entitled to take into account in its reasoning the fact that its chances of finding proof of the supposed infringement would be higher if it were to investigate the premises from which the target company in fact conducted its business as a matter of practice.

77 In any event, the Court would add that there was no definitive opposition to the Commission proceeding with its investigation.

78 It follows that, in the present case, the Commission did not exceed its powers of investigation under Article 18(1) of Regulation No 4056/86 when it insisted on carrying out an investigation.

(c) The rights of the defence and the question whether there was excessive interference on the part of the public authorities in the sphere of ETA's activities

79 As the Court has pointed out, according to its case-law and that of the Court of Justice, whilst it is necessary to preserve the utility of Commission investigations, the Commission must, for its part, satisfy itself that the rights of defence of the undertaking under investigation are respected and must abstain from all arbitrary or disproportionate intervention in the sphere of their private activities (the judgments in *Hoechst* v *Commission*, cited above, paragraph 19, *Dow Benelux* v *Commission*, cited above, paragraph 30, Joined Cases 97/87 to 99/87 *Dow Chemical Ibérica and Others* v *Commission* [1989] ECR 3165, paragraph 16, and Joined Cases T-305/94 to T-307/94, T-313/94 to T-316/94, T-318/94, T-325/94, T-328/94, T-329/94 and T-335/94 *Limburgse Vinyl Maatschappij and Others* v *Commission* [1999] ECR II-931 ('*PVC II*'), paragraph 417).

80 As regards observance of the rights of the defence, the Court points out that neither the applicant nor the legal entity which occupied the premises inspected by the Commission, that is to say ETA, thought it appropriate to bring an action against the investigation decision on the basis of which the investigation was conducted, even though, as Article 18(3) of Regulation No 4056/86 expressly provides, that was within their power.

81 Furthermore, as for the applicant, suffice it to say that it now avails itself of its right to ask for judicial review of the intrinsic lawfulness of the investigation as part of its present action for annulment of the final decision which the Commission adopted under Article 85(1) of the Treaty.

82 It is also established that, in so far as the ETA employees made no definitive opposition to the Commission proceeding with its investigation, the Commission saw itself under no obligation to seek a warrant and/or the assistance of the police in order to carry out the investigation. It follows that an investigation of the sort that was carried out in the present case is one that is carried out with the cooperation of the undertaking concerned. The fact that the Greek competition

authorities were contacted and that one of their agents came to the investigation site cannot undo that conclusion because that measure is provided for by Article 18(5) of Regulation No 4056/86 in cases where undertakings do not oppose investigation. That being so, there can be no question of undue interference by the public authority in the sphere of ETA's activity, there being no evidence that the Commission went beyond the cooperation offered by the ETA employees (*PVC II*, cited above, paragraph 422).

C — Conclusion

83 It is clear from the foregoing that in this case the Commission fully obeyed the law as regards both the investigation authorisations which it granted and the manner in which it subsequently conducted the investigation and that, in doing so, it preserved the rights of defence of the undertakings concerned and fully complied with the general principle of Community law that guarantees protection against intervention by public authorities in the sphere of the private activities of any person, whether natural or legal, that is arbitrary or disproportionate.

84 This plea must therefore be ruled unfounded.

The second plea: incorrect application to the case of Article 85(1) of the Treaty, in that the undertakings concerned did not have the requisite autonomy, their conduct being dictated by legislation and directions from the Greek authorities

Arguments of the parties

85 The applicant admits that, like most shipping companies providing passenger and vehicle transportation on routes between Greece and Italy, it participated for a number of years in negotiations to fix the tariffs applicable in that market.

86 Nevertheless, it reproaches the Commission for not having thoroughly considered the relevant facts, inasmuch as it totally disregarded the effect of the legislative and regulatory framework governing merchant shipping in Greece, the involvement of the Ministry of Merchant Shipping in the market for transport services between Greece and Italy and the imposition upon the shipping companies of public service obligations.

87 The applicant maintains that it was this disregard of the factual context of the case which led the Commission to the incorrect conclusion that the undertakings concerned enjoyed sufficient autonomy in the matter of pricing policy on the international segment of routes between Greece and Italy and thus to make the manifest error of concluding that Article 85(1) of the Treaty is applicable.

88 In order to demonstrate that it had no autonomy during the period in question in fixing the international tariffs, the applicant refers, first of all, to the effect of the legislative and regulatory framework for shipping in Greece and, in particular, to the impact of Law No 4195/29 on unfair competition in passenger shipping.

89 The applicant emphasises the importance which Greece attaches to the shipping routes linking Greece with Italy and points out that these routes include a section within Greek territory (from Patras or Igoumenitsa to Corfu). Under Greek legislation, it is the Ministry of Merchant Shipping which approves connections and fixes uniform prices for the domestic leg of these routes. More precisely, tariffs are fixed by ministerial decision on a proposal from the Union of Greek Cabotage Shipowners and after consultation of the Consultative Committee for Cabotage Lines. The applicant states that the legislation which applies to the domestic part of routes is the Public Shipping Code (the chapter on cabotage, Articles 158 to 180a), Law No 4195/29 and Decree-Law No 288/69 on the monitoring of journeys made by Greek passenger transport vessels between Greek ports and ports in other Mediterranean countries.

90 The applicant observes that Articles 1, 2 and 4 of Law No 4195/29 create obligations and lay down prohibitions — in relation solely to the domestic part of international routes — applicable to companies operating between Greece and Italy. The applicant submits that the Commission incorrectly assessed the effect of that law, confining its examination to the law's wording and not considering its substance, that is to say, the way in which the law is applied in the whole of the market for transport between Greece and Italy. The law prohibits, 'in the case of routes to destinations abroad, any reduction in the tariffs for transporting passengers or goods which, charged for anti-competitive purposes, brings prices to levels that are derisory or disproportionate in comparison with what would be a reasonable and just charge for the services provided and with passenger's requirements in terms of security and comfort or to levels lower than those that are generally applied in the port in question'. According to the applicant, because the companies are obliged to continue operating lines in winter, they have in the past been willing to reduce their tariffs to very low levels so as to use part of the spare capacity that they are required to maintain. A policy of low prices on a given market unavoidably leads to a price war and to prices that are 'derisory or disproportionate in comparison with... the services provided'. This would cause Law No 4195/29 to be applied and would most certainly provoke the direct intervention of the Ministry of Merchant Shipping. That being so, even though the law in question merely fixes a lower limit for tariffs, its real effect is to make it impossible for the companies entrusted with the performance of these services of public interest to compete on tariffs. The Commission consequently erred in its assessment of the real consequences of the law for the market in question in that it failed to understand that, combined with the obligation to perform the services in question, the law left the companies concerned no choice but to agree to make their tariffs uniform.

91 Next, the applicant observes that Decree-Law No 288/69, to which all passenger transport vessels which fly the Greek flag and which embark passengers at Greek ports to take them to other Mediterranean ports are subject, imposes very strict obligations on shipowners. Under Articles 2 and 3 of the decree-law owners must submit to the Ministry of Merchant Shipping a written declaration setting out all their itineraries, from which they may not depart.

92 The applicant reminds the Court that, before operating a domestic line, it is necessary to obtain from the Ministry of Merchant Shipping an 'operating licence' for each ship concerned. It submits that the ministry essentially regards the international segment of routes as a natural extension of the domestic part. This is borne out by the fact that, in the case of both of the applicant's ships (*Ioanian Island* and *Ioanian Galaxy*), the ministry mentioned the ships' final destination in the operating licence. Lastly, the ministry has never — at least not in the last 15 years — granted a ship operating licence for journeys between Patras and Corfu that do not go on to an Italian port.

93 According to the applicant, because of the application of this legislation by the Ministry of Merchant Shipping, the companies operating lines between Greece and Italy and also making the domestic leg of the journey have found themselves subject to onerous obligations which should properly be regarded as public service obligations, as are those which fall within the scope of the regulations on cabotage. They include, more specifically, obligations to operate connections in accordance with a regular timetable throughout the year and to provide a regular service throughout the week (responsibility for which is shared among the largest undertakings), the mandatory monitoring of the frequency with which ships lie in dock, specific regulations for the transportation of goods and in particular an obligation to reserve space for goods vehicles regardless of how full vehicles decks may be or the season, and charging the tariffs fixed for the domestic part of journeys and keeping within the upper and lower limits for fares fixed by the Ministry of Merchant Shipping for the international leg of routes between Greece and Italy, so as to maintain capacity throughout the year, irrespective of the very significant reduction in demand in winter.

94 The applicant points out that these public service obligations solely concern companies operating international lines which also provide the Patras-Igoumenitsa-Corfu connection. It argues that the obligations are directly linked to the requirement that the companies obtain and keep an operating licence for the domestic part of their routes because, should they fail to satisfy these obligations, they risk the withdrawal of their operating licences, and these must be held if domestic transport is to be provided.

95 The obligations demonstrate that the primary purpose of the Ministry of Merchant Shipping's intervention in this market is to ensure that total capacity in the market for transport between Greece and Italy is apportioned in time in a balanced fashion and in such a way as to ensure a regular flow of passengers, vehicles and goods throughout the year and throughout the week.

96 The applicant adds that, because of the policy of the Ministry of Merchant Shipping, the companies are not in a position to withdraw their services during the winter months and transfer them to other more profitable markets: providing a service on the Patras-Corfu-Igoumenitsa-Italy line in winter is a precondition for operating in that market during the tourist season. Because it is not justified by demand, all-year round service on that line entails excess capacity, which could threaten the viability of companies if the obligation were not accompanied by the ministry's invitation to fix tariffs in a rational manner, and in particular to keep within certain lower limits.

97 Next, the applicant observes that the market in question was characterised by great transparency: the companies impugned were very well aware of the parameters for the tariffs and of domestic itineraries thanks to the annual meetings of the consultative committee for the fixing of domestic tariffs and itineraries. Moreover, these parameters were similar to those applicable to international routes. All shipowners were therefore in an excellent position to ascertain their competitors' positions precisely, a situation which created a natural tendency towards the alignment of tariffs on all routes between Greece and Italy.

98 According to the applicant, the practical result of imposing public service obligations was to generate structural over-capacity in the market, a situation which would have been impossible to maintain had there been free competition. That being so, the only solution was, it says, to make sure that tariffs converged,

especially in so far as concerned their lower limit. Negotiations undertaken to cause tariffs to converge were therefore a means of providing the services of public interest demanded by the ministry. Indeed, this conduct on the part of the shipping companies was indirectly approved by the Greek Government.

99 The applicant asserts in this connection that the Ministry of Merchant Shipping adopted the corrective measures laid down in Law No 4195/29 and directed at the market for transport between Greece and Italy as a precaution and that, in order to keep excess capacity in the market at a competitive price level, it encouraged the companies concerned to fix their tariffs within strictly defined upper and lower limits, to refrain from increasing their tariffs by more than the rate of inflation and from reducing them to levels which would lead to a price war.

100 The applicant also comments upon the effect that Law No 4195/29 has on the autonomy of companies, adding that, if the Ministry of Merchant Shipping at no point during the period in question intervened in drastic fashion to radically restructure the market, as it could have done under Law No 4195/29, it is because the companies impugned obeyed its instructions, applied its national policy in favour of routes between Greece and Italy and fixed their tariffs rationally, as they were 'encouraged' to do by the ministry.

101 Moreover, the applicant argues that the 'wishes', 'encouragements' or even 'recommendations' which the ministry addressed to the impugned companies could not in fact be disregarded because the operating licences which they held were for both the market for transport between Greece and Italy and for other domestic lines (cabotage). Consequently, the applicant was left with no choice as to whether or not to perform its public service obligations.

102 The applicant concludes from this that the Greek regulatory framework, the practice of the Ministry of Merchant Shipping and the obligations which it imposed, the need to plan ahead, the uncertainty regarding the volume of demand during the tourist season, the risk of swingeing increases in costs resulting from unforeseeable annual depreciations of the drachma, the obligation to reveal projects in the context of the compulsory negotiations concerning the domestic part of routes and the need to comply with the ministry's recommendations to keep tariff increases for the international segment of the market for transport between Greece and Italy within the rate of inflation all constrained it to protect itself, to a degree, against competition to which it could not respond by interrupting or reducing its business. Had it not done so, the 'equilibrium' which the ministry sought in this market would have been compromised by unilateral action on the part of one company or another, with undesirable results for the ministry (such as the suspension of the transportation of goods, high prices, a price war between the companies and an inevitable reduction in capacity). The applicant admits that, in the circumstances, price convergence came about by means of framework agreements between the companies, but it insists that these agreements left the companies free to depart from them, as they imposed no obligations and there were no enforcement clauses.

103 The applicant submits that the framework agreements for fixing the level of tariffs had no negative incidence on price competition in the market for roll-on roll-off ferry services between Greece and Italy because, quite simply, there was no such competition. The legislative and regulatory framework had in fact reduced the companies' ability to fix prices at the level they wished (in accordance with their own economic criteria) and made the market in question absolutely transparent.

104 To illustrate this view, the applicant points out, first of all, that, as the Permanent Representative of Greece to the European Union mentioned in his letter to the Commission of 17 May 1995, the Ministry of Merchant Shipping fixes the tariffs for domestic lines and for the domestic segment of international lines, whilst the tariffs for the international segments are set freely by the companies. Moreover, in so far as concerns the tariffs for the international segments, the Permanent Representative emphasised in his letter that, with a view to protecting Greece's

national interests, the ministry checks what tariffs the companies are charging and encourages them to keep their tariffs at a modest, competitive level such that annual increases remain in any event within the level of inflation. Furthermore, the Permanent Representative acknowledged that the companies' freedom to set their tariffs autonomously is limited by Law No 4195/29 which, amongst other things, prohibits the application of fares which would be derisory or disproportionate by comparison with the services provided. Lastly, the Permanent Representative also indicated that the fundamental concern of the Greek Government was to avoid by all means possible the collapse of the market as a result of a possible price war between the companies present in the market.

105 In the applicant's view, these assertions demonstrate, first, that the Ministry of Merchant Shipping and Law No 4195/29 define upper and lower tariffs and, secondly, that the tariffs applied on international routes are influenced — indirectly and in part — by the tariffs fixed by the State for the domestic segment of international routes. That influence may be explained by the fact that the way the tariffs are fixed for the domestic parts of routes influences the way they are fixed for the international parts of routes in that the information taken into account for fixing the domestic tariffs (unit costs, salaries, capacity usage, available spare capacity, etc.) is just the same as that used for establishing the tariffs on the international parts of routes. Consequently, according to the applicant, wherever there are reasons for the Ministry of Merchant Shipping to increase (as a precautionary measure) the tariffs for the domestic parts of routes, it will be necessary to increase the tariffs for the international parts also.

106 The applicant reproaches the Commission for failing properly to address the issue which it raised at the beginning of the administrative procedure, namely the question of the importance of the public service obligations from the point of view of the competitive conditions on the market for transport between Greece and Italy. The Commission did no more than ask a fragmentary and fallacious question of the Greek authorities, merely enquiring as to the extent to which the ministry had threatened the impugned companies with the withdrawal of their operating licences should they not agree amongst themselves the tariffs applicable to the international segments of routes between Greece and Italy. Whilst the

applicant acknowledges that the ministry did not directly impose an obligation on shipowners to agree on the tariffs for the international parts of journeys, it submits that the Commission ought to have asked the Greek Government what consequences would have ensued had the companies concerned failed to satisfy their public service obligations, as defined by the Greek Government, had they not taken up the ministry's invitation to keep increases to the tariffs for the international party of routes between Greece and Italy within the rate of inflation, had they entered into unfair competition. The applicant submits that any failure on its part to comply with the obligations imposed by the Greek authorities would have entailed the withdrawal of its operating licence and would have exposed it to other undesirable consequences.

107 In the circumstances, the applicant takes the view that its compliance with the regulatory and legislative framework in Greece, with the policy of the Ministry of Merchant Shipping regarding the fixing of tariffs for the market for transport between Greece and Italy and with the public service obligations, together with the transparency which prevailed in the market, caused it to lose its autonomy in fixing the tariffs applicable on that market.

108 Therefore, the applicant's conduct could not, it says, fall within the scope of the prohibition laid down in Article 85(1) of the Treaty. The Commission's legal assessment is vitiated because it is based on the incorrect premiss that the companies wanted to negotiate the tariffs for the transportation of passengers, tourist vehicles and goods vehicles between Greece and Italy, whereas in fact those negotiations were the result of various initiatives of the Ministry of Merchant Shipping, which were supported by the regulatory and legislative framework in force in Greece.

109 The applicant maintains that the facts of the present case are comparable to those in Case T-387/94 *Asia Motor France and Others* v *Commission* [1996] ECR II-961, in which the Court held (in paragraph 65 of the judgment) that an

undertaking has lost its autonomy where it appears on the basis of objective, relevant and consistent evidence that given conduct was unilaterally imposed upon it by the national authorities through the exercise of irresistible pressure, such as, for example, the threat of adopting State measures likely to cause it to sustain substantial losses. The applicant also refers to the judgment in *Suiker Unie and Others* v *Commission*, cited above, in which the Court concluded (see paragraphs 63 to 73) that the conduct with which the Commission took issue did not fall within the scope of Article 85 of the Treaty because of the effect which Italian rules had on competition. In particular, the Court held that the Commission had made insufficient allowance for the effect of the rules and their implementation on the essential aspects of the conduct with which the undertakings in question were charged and had therefore overlooked a crucial factor in the evaluation of the infringements which it alleged.

110 The applicant complains that the Commission failed to consider the extent to which the particular circumstances of the case rendered Article 85(1) of the Treaty inapplicable, even though the letters sent by the Greek authorities to the Commission made clear what those circumstances were.

111 The Commission, for its part, disputes the assertion that the conditions for application of Article 85(1) of the Treaty have not been satisfied in this case and, in particular, the idea that the provision is not applicable because the undertakings impugned lacked autonomy in fixing the tariffs for the international segments of routes between Greece and Italy.

112 The Commission argues, at the outset, that, as the applicant itself acknowledges, the factors which it mentions in support of its view that it lacked autonomy, whether taken together or separately, in no way compelled the companies impugned to fix by common accord the tariffs to be applied to the international parts of routes between Greece and Italy. No legislative or regulatory provision, and not even the attitude of the State authorities, compelled, in fact or in law, the companies impugned to conclude the agreements with which the Decision is concerned. The Commission adds that these factors neither directly nor indirectly removed all possibility of competition in fixing the international tariffs.

113 Next, the Commission disputes the applicant's allegation that, because of the legislative and regulatory framework in Greece, the application of Law No 4195/29 on unfair competition and the Greek authorities' incitement to adopt certain conduct, the undertakings had no autonomy.

114 In so far as concerns the effect which the pressure exerted by the Greek State authorities allegedly had on the applicant's autonomy, the Commission disputes the assertion that the cartel at issue was concluded on the initiative of the Greek authorities, which indirectly approved the practice as a means of achieving their national policy on the market for transport between Greece and Italy.

115 The Commission also takes issue with the applicant's other allegations concerning incorrect application of Article 85(1) of the Treaty to the present case.

116 First of all, the Commission disputes the applicant's argument that, because the companies had grown accustomed to mandatory negotiations, it would have been impossible for them to determine precisely what was authorised in the context of the regular negotiations. The Commission states that, according to settled case-law, whether or nor the applicant was aware of the fact that it was infringing Article 85(1) of the Treaty is of negligible importance. It is sufficient that it knew that its conduct was likely to restrict competition (Joined Cases 100/80 to 103/80 *Musique diffusion française* v *Commission* [1983] ECR 1825, paragraph 112).

117 Secondly, the Commission submits that, contrary to the applicant's claim, it did take account of the content of the letters sent by the Permanent Representation of Greece to the European Union and by the Greek Ministry of Merchant Shipping

which, according to the applicant, explained that the Greek authorities essentially regulated most of the competition parameters other than the tariffs for the international parts of routes between Greece and Italy (paragraphs 101 to 105 of the Decision).

118 Thirdly, in response to the argument that the agreement was not binding, the Commission points out that, according to the case-law of the Court of Justice, in order for a restriction to be considered a cartel, within the meaning of Article 85(1) of the Treaty, it is sufficient that it constitutes a faithful reflection of the resolve of the impugned undertakings, without it being necessary for the agreement to bear the characteristics of a binding contract. As far as concerns the fact that it was possible for tariffs to vary, the limits for such variance were, in part, agreed by the companies concerned, as is clear from the evidence.

Findings of the Court

119 It is clear from the case-law that Articles 85 and 86 of the EC Treaty apply only to anti-competitive conduct engaged in by undertakings on their own initiative (see, to that effect, Case 41/83 *Italy* v *Commission* [1985] ECR 873, paragraphs 18 to 20, Case C-202/88 *France* v *Commission* [1991] ECR I-1223, paragraph 55, Case C-18/88 *GB-INNO-BM* [1991] ECR I-5941, paragraph 20, and Joined Cases C-359/95 P and C-379/95 P *Commission and France* v *Ladbroke Racing* [1997] ECR I-6265, paragraph 33). If anti-competitive conduct is required of undertakings by national legislation or if the latter creates a legal framework which itself eliminates any possibility of competitive activity on their part, Articles 85 and 86 do not apply. In such a situation, the restriction on competition is not attributable, as those provisions implicitly require, to the autonomous conduct of the undertakings (*Commission and France* v *Ladbroke Racing*, cited above, paragraph 33, Case T-228/97 *Irish Sugar* v *Commission* [1999] ECR II-2969, paragraph 130, and Case T-513/93 *Consiglio Nazionale degli Spedizionieri Doganali* v *Commission* [2000] ECR II-1807, paragraph 58).

120 Articles 85 and 86 may apply, however, if it is found that the national legislation does not preclude undertakings from engaging in autonomous conduct which prevents, restricts or distorts competition (Joined Cases 209/78 to 215/78 and 218/78 *Van Landewyck and Others* v *Commission* [1980] ECR 3125, paragraph 126, *Commission and France* v *Ladbroke Racing*, cited above, paragraph 34, *Irish Sugar* v *Commission*, cited above, paragraph 130, and *Consiglio Nazionale degli Spedizionieri Doganali* v *Commission*, cited above, paragraph 59).

121 Moreover, it should be recalled that the possibility of excluding specific anti-competitive conduct from the scope of Article 85(1), on the ground that it was required of the undertakings in question by existing national legislation or that any possibility of competitive activity on their part has been eliminated, has been applied restrictively by the Community judicature (*Van Landewyck and Others* v *Commission*, cited above, paragraphs 130 and 133, *Italy* v *Commission*, cited above, paragraph 19, Joined Cases 240/82 to 242/82, 261/82, 262/82, 268/82 and 269/82 *Stichting Sigarettenindustrie and Others* v *Commission* [1985] ECR 3831, paragraphs 27 to 29, *Asia Motor France and Others* v *Commission*, cited above, paragraphs 60 and 65, and *Consiglio Nazionale degli Spedizionieri Doganali* v *Commission*, cited above, paragraph 60).

122 Thus, in the absence of any binding regulatory provision imposing anti-competitive conduct, the Commission is entitled to conclude that the operators in question enjoyed no autonomy only if it appears on the basis of objective, relevant and consistent evidence that that conduct was unilaterally imposed upon them by the national authorities through the exercise of irresistible pressure, such as, for example, the threat to adopt State measures likely to cause them to sustain substantial losses (*Asia Motor France and Others* v *Commission*, cited above, paragraph 65).

123 In the present case, the applicant's argument consists in maintaining that the existing legislative and regulatory framework in Greece and the policy pursued by the Greek Ministry of Merchant Shipping decisively restricted the autonomy of

the shipping companies, in particular in so far as concerns the fixing of tariffs applicable both on the domestic routes and on the international segment of routes between Greece and Italy. It follows, says the applicant, that the shipping companies found themselves obliged to contact each other, to consult and to negotiate in relation to the fundamental parameters of their commercial policy, such as their prices.

124 The Court must therefore establish whether the conduct complained of in this case has its origin in the national legislation or in the practices of the Greek authorities or, on the other hand, to some extent at least, in the will of the applicant and of the other undertakings which participated in the agreements. The Court must therefore determine whether the legislative and regulatory framework and the policy of the Greek Ministry of Merchant Shipping had the cumulative effect of robbing the undertakings of their autonomy in adopting a tariff policy for the routes between Greece and Italy and thus of removing any possibility of competition between them.

125 Merchant shipping in Greece is governed by the public law shipping code, the private law shipping code and by other specific regulations that contain provisions on unfair competition in the maritime transport sector, including in particular Law No 4195/29 on unfair competition and Law No 703/77 on free competition, which entered into force on 1 January 1979 with a view to the Hellenic Republic's accession to the European Communities.

126 In the exercise of its powers under the legislation just mentioned, the Greek Ministry of Merchant Shipping adopts the following measures, inter alia: (a) the grant of 'operating licences' for domestic routes, including licences for the domestic segment of international journeys; (b) ratification of uniform mandatory tariffs for domestic routes or for the domestic segments of international routes, such as the Patras-Igoumenitsa-Corfu leg; (c) annual approval of connections; (d) monitoring of the periods for which ships lie in dock so as to ensure that mandatory connections are facilitated, and (e) the imposition of

mandatory negotiations between shipping companies so as to programme and coordinate connections before routing plans are approved by the Ministry of Merchant Shipping for the coming year, in the context of new negotiations between the ministry and the shipping companies.

127 The parties are agreed that the grant of operating licences, the setting of mandatory tariffs, the annual approval of routes and the Greek Ministry of Merchant Shipping's monitoring of periods for which ships lie in dock all relate to domestic, not international lines. Moreover, the Commission stated in its pleadings, without being contradicted on the point by the applicant, that the obligation to operate regular services, which attaches to the operating licence, solely affects ships flying the Greek flag which serve domestic routes only or which serve international routes, but in the case of the latter the obligation attaches only in respect of the domestic part of the journey. Similarly, the Commission has pointed out, again without being contradicted on the point, that the undertakings were free to choose to serve international lines with or without a domestic leg, or even purely domestic lines. Therefore, if an undertaking chose to serve international lines with no national segment there was no need for it to obtain an operating licence or to comply with the obligations attaching thereto.

128 Similarly, for the purpose of fixing tariffs for domestic routes, the Ministry of Merchant Shipping asked shipping companies to submit overall proposals for each route, justifying the figures proposed by reference to operating costs, inflation, the profitability of lines, the frequency of journeys, and so on. Next, on the basis of the tariffs proposed, the justification for them and other more general criteria relating to overall government policy, the ministry would approve or amend the proposals after taking the opinion of the prices and revenue commission of the Greek finance ministry, such approval or amendment having in fact the effect of fixing the tariffs in question. The administrative fixing of tariffs for the domestic segments of corresponding connections would therefore have an impact on the tariffs for the international segments of routes between Greece and Italy inasmuch as they would serve as indicative prices.

129 Greek legislation relating to unfair competition and, in particular, Article 2 of Law No 4195/29, prohibits 'in the case of routes to destinations abroad, any reduction in the tariffs for transporting passengers or goods which, charged for anti-competitive purposes, brings prices to levels that are derisory or disproportionate in comparison with what would be a reasonable and just charge for the services provided and with passenger's requirements in terms of security and comfort or to levels lower than those that are generally applied in the port in question'. Article 4 of Law No 4195/29 provides that:

'where freedom to fix tariffs for routes to destinations abroad leads to unfair competition, in addition to applying the foregoing provisions, the Ministry of Shipping (Department of Merchant Shipping) may, after taking the opinion of the council for merchant shipping, fix upper and lower limits for tariffs for transporting passengers and goods on Greek passenger vessels travelling between Greek ports and ports abroad. Compliance with those limits is mandatory and offenders will be subject to the penalties laid down in Article 3.'

130 Moreover, it has been alleged that the Ministry of Merchant Shipping encouraged shipping companies to fix low rates for the international legs of routes, to keep annual increases within the level of inflation and to prevent any kind of price war between themselves, so that it not be obliged to intervene and make use of its powers under Law No 4195/29.

131 In its letter of 23 December 1994, mentioned in paragraph 101 of the Decision, which was sent in reply to the Commission's letter of 28 October 1994, the Ministry of Merchant Shipping stated:

'...

As far as the memorandum submitted by Strintzis Lines is concerned, I have no particular comments apart from clarifying that there is no involvement of the Ministry in the rate fixing policy which is followed by the companies on the international routes. Our involvement is strictly confined in the fixing of prices in routes only.

As I have already explained in more detail to you in our September meeting, Greece considers the sea corridor between the west Greek ports and the Italian east ports of paramount national as well as Community importance since it is the only main direct link to connect Greece with the rest of the European Union.

It is therefore to our national and Community interests that the vessels engaged between Greece and Italy operate all year round, to facilitate our import-export trade as well as the passenger traffic. Furthermore, as you may well understand, it is to our national interest that the tariff rates applied must be competitive, but at the same time at a level where the transportation cost will be kept low, so as our import-export trade be kept competitive in the European markets.

Now I come to the specific question you have put to me and I must say that I haven't seen anything in the Strintzis memorandum that could possibly guide me to that conclusion.

I am sure that there is a misunderstanding. It is unthinkable and it is out of any question that the Ministry threatens to withdraw operating licences for domestic routes if companies fail to agree prices on international routes.

As you will see from the relevant legislation I have attached herewith, when the Ministry accords an operating licence for the domestic trades, there are certain obligations (all year round services, frequency of sailings, etc.) which must be respected, otherwise the Ministry has the right to withdraw the licence. Furthermore, the tariffs are determined by a Ministerial Decision which is being issued periodically. This specific legislation affects the vessels of the respective companies with operating licences for the domestic part of the voyage between Greece and Italy (Patras-Igoumenitsa-Corfu)...'

132 Similarly, by letter of 17 March 1995 (referred to in paragraph 103 of the Decision), sent in reply to the Commission's letter of 13 January 1995, the Deputy Permanent Representative of the Hellenic Republic to the European Union, wrote:

'1. The Greek Government attaches great importance to the smooth promotion of the sea route linking the ports between western Greece (principally Patras, Igoumenitsa and Corfu) and the Italian ports of Ancona, Bari, Brindisi and Trieste.

...

Regular, uninterrupted sailings, throughout the year, between Greek and Italian ports, are a factor of decisive importance in enabling and ensuring the development of Greek import and export trade and thus, in a wider sense, Community trade as a whole.

The policy of the Greek Government and, more specifically, of the Ministry of Merchant Shipping, which is responsible for defining national policy for maritime transport, is thus directed toward preserving the smooth operation of the route between Greece and Italy.

The services offered on this route are regarded by us as services of public interest for our country. Given that, you will understand that it is a fundamental concern to the Greek Government to ensure the viability of this route and the prevention by all possible means of a price war which could hinder the smooth progression of import and export trade or the transport of vehicles and passengers. I would reiterate that our principal concern is to ensure operation of the route throughout the year and to avoid interruptions due to a price war.

2. Given those facts and the positions adopted in consequence, the competent departments of the Greek Ministry of Merchant Shipping adopted decisions aimed at regulating in the most appropriate manner the normal transportation of vehicles during any given period of the year. Measures were therefore adopted to ensure that a certain number of places always be reserved for goods vehicles on passenger and vehicle ships and that the ships' vehicle deck never be entirely filled with tourist vehicles, especially during the summer months when there are more passengers. This has made it possible to maintain the movement of goods and to keep markets supplied.

Care is also taken to keep very strictly to shipping route plans, so as to avoid delays, but also so that issues can be dealt with such as the presence of appropriate receiving facilities at ports of destination, which are needed to ensure the safety of and improve the service provided to the passengers and vehicles carried.

3. As regards freight charges applied by the shipping companies, I would observe that the involvement of the Ministry of Merchant Shipping, as the authority responsible for regulating shipping, in cabotage freight, is limited to fixing prices solely for national cabotage operations. I would point out that, on international lines, even where the journey includes calls at Greek ports (for example Patras-Corfu-Ancona), whilst the part of the journey between the Greek ports is subject to an agreed price schedule, the prices on the journey between Greece and Italy are fixed freely by the companies operating that line. It is true, in such a case, that the total price of the ticket for a journey to Italy is influenced — indirectly and partially, of course — by the tariff fixed by the State for the transport within Greece.

Moreover, as regards the tariffs for journeys abroad — which are freely fixed, as I said — the Ministry of Merchant Shipping encourages the shipping companies to keep them low and competitive and in any event to keep annual increases within the level of inflation. Our national interests in fact demand that our export trade is kept competitive and that our imports remain as cheap as possible. Other than that, the companies are free to fix their tariff rates according to their own commercial and economic criteria.

That freedom is restricted by Greek legislation if it leads to unfair competition. More specifically, Law No 4195/29 (a copy of which is attached) seeks to prevent unfair competition between shipping lines operating on routes between Greece and destinations abroad, inter alia, by prohibiting derisory tariff rates, the simultaneous departure from the same port of two or more ships serving the same line and failure to operate the published service (except in certain cases of *force majeure* — Article 3). Where there is unfair competition, the Ministry of Merchant Shipping may set upper and lower levels of fares (Article 4). Where it does so, it will informally encourage the companies to keep their tariff rates low and to prevent annual increases from exceeding the rate of inflation.

4. Those observations seemed to me to be necessary in order to demonstrate that the line between Patras and Italy, which was created by private enterprise without any State aid, must continue to operate without interruption so that the ships which serve that line can continue to provide services of public interest, as we regard them to be for our country, for that sea link is the only direct link between our country and the other countries of the European Union.

5. Lastly, I would point out that the legal framework governing the grant and withdrawal of operating licences which, I would stress, apply only to domestic routes within Greece, provides that, where a company fails to comply with the obligations set out in the operating licence granted it (regarding, for example, faultless operation of published lines, the annual period of lying in dock, maintaining the proper frequency of sailings), the Ministry of Merchant Shipping may withdraw the licence.'

133 Whilst those two letters from the Greek authorities emphasise that the proper functioning and regularity of the maritime lines connecting Greece with Italy is a question of national importance, they confirm that neither the legislation applicable in Greece nor the policy implemented by the Greek authorities demands that agreements be concluded to fix the tariff rates applicable on international lines.

134 Admittedly, the information given to the Commission by the Greek authorities makes it clear that one of the authorities' main concerns was to ensure regular service throughout the year on maritime lines to Italy and that they were also anxious about the adverse effects that might be caused by unfair competition, such as a price war. It is also clear that, in order to prevent unfair competition, the law grants the Ministry of Merchant Shipping power to set upper and lower limits for tariffs. However, the fact remains that no concertation on prices would be legitimate, even in a case such as this, because each undertaking would still remain free to decide its prices, autonomously, within the upper and lower limits set. Moreover, the information offered in the letters just considered confirms that prices on maritime routes between Greece and Italy are set freely by the

companies operating those lines. Furthermore, it is also indisputably clear from what is said in those letters that, in order to ensure that Greek exports remain competitive and that the price of imports to Greece remains reasonable, the Ministry of Merchant Shipping encouraged shipping companies not to increase their prices in concert but merely to keep their prices low and competitive, so as to avoid, in any event, annual increases greater than the rate of inflation.

135 It follows that each of the shipping companies serving those lines enjoyed acknowledged autonomy in setting its pricing policy and was thus at all times subject to the rules on competition. The letters point up the fact that, as far as the Greek authorities are concerned, full application of the competition rules and thus also of the prohibition of price agreements under Article 85(1) of the Treaty did not prevent the shipping companies, either in fact or in law, from fulfilling the task given them by the Greek Government. Therefore, the fact that, in its letter of 17 March 1995, the Permanent Representation of the Hellenic Republic describes the operation of lines between Greece and Italy as being 'services of public interest' is irrelevant for the purposes of applying Article 85 of the Treaty. For precisely the same reasons it is unnecessary to consider whether the Commission was right to dispute the argument that the undertakings with which the Decision is concerned must be viewed under Community law as 'undertakings entrusted with the operation of services of general economic interest', within the meaning of Article 90(2) of the EC Treaty (now Article 86(2) EC).

136 The information contained in the letters mentioned confirms that the applicant cannot succeed in its allegation that the cumulative effect of the parameters influenced the tariff rates applicable to the international part of lines between Greece and Italy and had the effect of restricting the autonomy of the undertakings in planning and deciding their pricing policy. It confirms that the Greek Ministry of Merchant Shipping intervened in the tariff-fixing policy applied by the shipping companies on international lines only to the extent of encouraging them to keep their tariffs low and to keep annual increases within the level of inflation. Given that attitude on the part of the Greek authorities,

there remained the clear possibility of competition on the market that could be prevented, restricted or distorted by the autonomous conduct of undertakings.

137 It must be added that Law No 4195/29 contains no prohibition on reducing the tariffs applicable on international lines. Whilst that law, whose purpose is to preclude any unfair competition between shipping companies operating lines between Greek and foreign ports, specifically prohibits the reduction of tariffs to derisory levels, the simultaneous departure from the same port of two or more ships serving the same line and failure to operate the published service, except in certain cases of *force majeure* (Article 2), it does not rob the undertakings impugned by the Commission of all 'margin of autonomy'. On the contrary, it confirms that each undertaking is, in principle, free to determine its tariff policy as it sees fit, provided that it does not enter into unfair competition. The prohibition on unfair competition can in no way be interpreted as requiring the undertakings in question to conclude agreements to fix the tariffs applicable on international lines. In the absence of any binding regulatory provision imposing anti-competitive conduct, the applicant can rely on a lack of autonomy only if it can produce objective, relevant and consistent evidence that that conduct was unilaterally imposed upon it by the Greek authorities through the exercise of irresistible pressure, such as, for example, the threat to adopt State measures likely to cause it to sustain substantial losses.

138 Now, the letters from the Greek authorities show that those authorities neither adopted measures nor employed any practice that could be deemed 'irresistible pressure' on the shipping companies compelling them to conclude tariff agreements. The applicant cannot therefore claim that the undertakings in question were deprived of any margin of autonomy in defining their tariff policy or that the anti-competitive conduct of which the Commission complains was imposed on them by existing Greek legislation or by the policy implemented by the Greek authorities.

139 As regards the Ministry of Merchant Shipping's encouraging shipping companies to fix low rates on international routes and not to exceed the rate of inflation when applying annual increases, whilst the ministry's letter refers to informal 'encouragement', there is no suggestion in it of 'unilaterally imposing' such action on the companies. It was therefore open to the companies to resist the informal encouragement without thereby exposing themselves to any threat that State measures might be adopted. Furthermore, the Greek ministry categorically denied that it could threaten to withdraw operating licences for domestic routes should the companies fail to reach agreement on the tariffs applicable on international routes, and that is clear from the letter of 23 December 1994.

140 In so far as concerns the power conferred on the Greek Ministry of Merchant Shipping by Law No 4195/29 to set upper and lower price limits in the event of unfair competition, so as to prevent any price war, it must be observed that the law in question does not deprive the impugned undertakings of 'all margin of autonomy'. It gives them a certain liberty to determine their tariff policy provided that they do not engage in unfair competition. Indeed, according to Article 4 of Law No 4195/29, the Ministry of Merchant Shipping has no right to set upper or lower limits for the tariffs in question except where the freedom of the undertakings autonomously to fix the tariffs for routes to destinations abroad results in acts of unfair competition.

141 In light of all the foregoing this plea must be rejected as unfounded.

The third plea: the statement of reasons given for the Decision is inadequate

Arguments of the parties

142 The applicant complains that the reasons which the Commission gave for the Decision were, in so far as concerns several of the arguments which it put forward at the administrative procedure, insufficient.

143 First of all, the applicant submits that, in so far as the Commission failed to express an opinion on the effect which the public service obligations had on the degree of autonomy enjoyed by the undertakings concerned in fixing the tariffs applicable on the international part of journeys, the Decision is vitiated by an insufficient statement of reasons. In particular, it complains that the Commission failed to consider the extent to which the Greek regulatory and legislative framework, the encouragement given by the Greek authorities and the public service obligations of the undertakings concerned were factors rendering Article 85(1) of the Treaty inapplicable. Secondly, the Decision fails to state why the Commission ignored the observations which the applicant made concerning the letters sent by the Permanent Representation of Greece to the European Union and by the Greek Ministry of Merchant Shipping confirming the effect of the factors just mentioned on the autonomy of the undertakings concerned. Thirdly, the Commission failed to give a sufficient statement of the reasons for which the applicant's arguments regarding the inapplicability of Article 85(1) of the Treaty to the facts of the case should be ignored or rejected.

144 The applicant acknowledges that the Commission is not bound to reproduce in a decision all the arguments advanced by the undertakings concerned. However, it argues that, according to case-law, it must nevertheless set out the facts and legal considerations having decisive importance in the context of the decision (*Asia Motor France and Others* v *Commission*, cited above, paragraph 104) and which are directly connected with the matter (Case T-15/89 *Chemie Linz* v *Commission* [1992] ECR II-1275, paragraph 328). The applicant submits that it has demonstrated that the considerations relating to the public service obligations imposed by the Ministry of Merchant Shipping have special importance in the Decision, yet they were not mentioned in it (Case C-360/92 P *Publishers Association* v *Commission* [1995] ECR I-23).

145 The Commission considers that the statement of reasons which it gave enabled the applicant to appraise the Decision's merits and that it amply expressed its position in the Decision in so far as concerns the applicant's arguments mentioned above, expressly stating the facts upon which it based the Decision.

Findings of the Court

146 As the applicant acknowledges, the Commission is not bound to reproduce in a decision all the arguments advanced by the parties. Nevertheless, it must set out the facts and legal considerations having decisive importance in the context of the Decision (*Asia Motor France and Others* v *Commission*, cited above, paragraph 104, and *Chemie Linz* v *Commission*, paragraph 328).

147 Contrary to the applicant's claim, it is clear from paragraphs 98 to 108 of the Decision that the Commission amply expressed its position on the applicant's arguments relating to the effect which the public service obligations had on the degree of autonomy enjoyed by the undertakings concerned and, therefore, on the issue of the applicability of Article 85(1) of the Treaty to the facts of the case. Similarly, it is clear from paragraphs 101, 103, 105, 106 and 108 of the Decision that the Commission did refer to the letters from the Greek authorities to which the applicant refers.

148 Nor can the applicant claim that its arguments relating to the public service obligations imposed by the Ministry of Merchant Shipping were ignored. Whilst the existence of such obligations might have been important in the context of the Decision, it was merely one of many factors raised by the applicant to show that the undertakings had no autonomy because of the legislative and regulatory framework and because of the policy implemented by the Greek authorities. The Court holds that the Commission's position on this issue was clearly set out in paragraphs 98 to 108 of the Decision and that, more specifically, the argument based on the existence of the public service obligations was expressly referred to in paragraph 99 of the Decision as part of the Commission's response to the argument concerning the undertakings' loss of autonomy. Given that, the

applicant cannot claim that the Commission gave insufficient reasons in the Decision because it gave no precise answer to the argument relating to the public service obligations. Lastly, and in any event, as the Commission states, the applicant cannot complain that the Commission should have evaluated these arguments in greater detail because the public service obligations concern only the domestic part of routes between Greece and Italy.

149 This plea must therefore be ruled unfounded.

II — *The plea put forward in the alternative for a reduction in the fine*

150 In support of its application for annulment of or a reduction in its fine, the applicant argues that, when assessing the amount of the fine which it imposed on the applicant, the Commission erred in its assessment of both the gravity of the infringement and its duration, which caused it to breach the principle of proportionality.

A — *The first limb: incorrect assessment of the gravity of the infringement*

Arguments of the parties

151 The applicant maintains that the amount of the fine imposed on it is disproportionate in that the Commission failed to consider certain factors pertaining to the gravity of the infringement. Assuming there had been an infringement, it was, in the applicant's view, one of minor importance, within the

meaning of the Guidelines on the method of setting fines imposed pursuant to Article 15(2) of Regulation No 17 and Article 65(5) of the ECSC Treaty (OJ 1998 C 9, p. 3, hereinafter 'the Guidelines'), because it had little or no effect and a limited geographical scope.

152 First of all, the Commission failed to take sufficient account of the Greek legislative framework and of the pressure exerted by the Greek Ministry of Merchant Shipping whereas, according to case-law, where the national legislative framework has a significant impact on a given market, that constitutes a mitigating circumstance (*Stichting Sigarettenindustrie and Others* v *Commission*, cited above, paragraphs 94 and 96, and *Suiker Unie and Others* v *Commission*, cited above, paragraphs 618 to 620). In the present case, the Commission did not concern itself with considering the restrictions upon competition between the undertakings or the form which that competition took on the relevant market. Lastly, the applicant complains that the Commission failed to take account of the fact that, in this case, discounts were the only area in which competition could come into play, an omission similar to that which the Court of Justice criticised in its judgment in *Suiker Unie and Others* v *Commission*, cited above (see paragraphs 70 and 71).

153 Secondly, customers were not adversely affected, as is corroborated by the fact that the Commission did not complain that the companies made any inadmissible increases in tariffs. On the contrary, the regular and uninterrupted service provided on the routes in question, at very low prices and on very modern, safe vessels, was of benefit to customers.

154 Thirdly, according to the applicant, there is a contradiction in the fact that it is charged with a grave infringement of Community law for having participated in a practice which the Greek Government regards as tending to attain a Community objective, namely the promotion and development of intra-Community trade.

155 The applicant complains that the Commission departed from the Guidelines by classifying the infringement as serious even though it satisfied none of the criteria specified in the definition of serious infringements given in the Guidelines. It points out that, under the Guidelines, serious infringements are more often than not horizontal or vertical restrictions of the same type as minor infringements, but more rigorously applied, with a wider market impact, and with effects in extensive areas of the common market. There might also be abuse of a dominant position (refusals to supply, discrimination, exclusion, loyalty discounts made by dominant firms in order to shut competitors out of the market, etc.). In the present case, however, the infringement alleged against the undertakings was not rigorously applied, did not have a wide market impact, did not have effects in extensive areas of the common market and did not consist in the abuse of a dominant position.

156 Lastly, the applicant maintains that it was unaware that its conduct was unlawful: the impugned companies could not imagine that their conduct was unlawful because of the Greek Government's involvement in and encouragement of various of the practices complained of.

157 The Commission disputes those arguments.

Findings of the Court

1. General remarks

158 In this case it is common ground that the Commission determined the fine imposed on the applicant in accordance with the general method for setting fines

described in the Guidelines, which apply equally to fines imposed pursuant to Article 19(2) of Regulation No 4056/86. It is also appropriate to observe that the applicant does not dispute that the Guidelines apply.

159 Article 19(2) of Regulation No 4056/86 provides that '[t]he Commission may by decision impose on undertakings or associations of undertakings fines of from [EUR] 1 000 to [EUR] one million, or a sum in excess thereof but not exceeding 10% of the turnover in the preceding business year of each of the undertakings participating in the infringement, where either intentionally or negligently... they infringe Article 85(1)... the Treaty'. Article 19(2) also provides that '[i]n fixing the amount of the fine, regard shall be had both to the gravity and to the duration of the infringement'.

160 The first paragraph of Section 1 of the Guidelines provides that, when calculating a fine, the basic amount will be determined according to the gravity and duration of the infringement, which are the only criteria referred to in Article 19(2) of Regulation No 4056/86.

161 According to the Guidelines, when calculating a fine, the Commission takes as the starting point a given amount determined by reference to the gravity of the infringement. The appraisal of the gravity of the infringement must take account of the actual nature of the infringement, its specific impact on the market, where it can be measured, and the size of the relevant geographic market (Section 1 A, first paragraph). In that context, infringements are divided into three categories, namely 'minor infringements', for which the likely fines are between EUR 1 000 and EUR 1 million, 'serious infringements', for which the likely fines are between EUR 1 million and EUR 20 million, and 'very serious infringements', for which the fines are likely to exceed EUR 20 million (Section 1 A, first to third indents).

162 Next, mindful of the differential treatment which it is appropriate to apply to undertakings, the Guidelines state that, within each of those categories of infringement, and in particular the categories described as serious and very serious, the scale of fines allows differential treatment to be applied to undertakings according to the nature of the infringements committed (Section 1 A, third paragraph). It is also necessary to take account of the effective economic capacity of the offenders to cause significant damage to other operators, in particular consumers, and to set the amount of the fine at a level which ensures that it has a sufficiently deterrent effect (Section 1 A, fourth paragraph). Furthermore, account may be taken of the fact that large undertakings have in most cases infrastructures capable of providing them with legal and economic information on the basis of which they can better appreciate the unlawful nature of the conduct and the consequences stemming from it under competition law (Section 1 A, fifth paragraph).

163 Within each of the three categories just defined, it may be appropriate in cases involving several undertakings, such as cartels, to apply weightings to the amounts decided on so as to take account of the specific weight and therefore the real impact on competition of the unlawful conduct of each undertaking, especially where there is considerable disparity in the sizes of the undertakings that have committed an infringement of the same nature and to make consequential adjustments to the basic amount depending on the specific characteristics of each undertaking (Section 1 A, sixth paragraph).

164 As regards the factor relating to the duration of the infringement, the Guidelines draw a distinction between infringements of short duration (in general, less than one year), for which the starting amount, determined for gravity, should not be increased, infringements of medium duration (in general, one to five years), for which the amount determined for gravity may be increased by up to 50%, and infringements of long duration (in general, more than five years), for which the amount determined for gravity may be increased by 10% per year (first to third indents of the first paragraph of Section 1 B).

165 Next, the Guidelines set out, by way of example, a list of aggravating and mitigating circumstances which may be taken into consideration in order to increase or reduce the basic amount and refer to the Commission notice of 18 July 1996 on the non-imposition or reduction of fines in cartel cases (OJ 1996 C 207, p. 4) ('the Leniency Notice').

166 By way of a general remark, the Guidelines state that the final amount calculated according to this method (basic amount increased or reduced on a percentage basis) may not in any case exceed 10% of the worldwide turnover of the undertakings, as laid down by Article 19(2) of Regulation No 4056/86 (Section 5(a)). The Guidelines further provide that, depending on the circumstances, account should be taken, once the above calculations have been made, of certain objective factors such as a specific economic context, any economic or financial benefit derived by the offenders, the specific characteristics of the undertakings in question and their real ability to pay in a specific social context, and that the fines should be adjusted accordingly (Section 5(b)).

167 It follows that, under the method laid down in the Guidelines, fines continue to be calculated according to the two criteria referred to in Article 19(2) of Regulation No 4056/86, namely the gravity of the infringement and its duration, and the maximum percentage of turnover of each undertaking as laid down in that provision is observed. Consequently, the Guidelines do not go beyond the legal framework of the fines set out in that provision (Case T-23/99 *LR AF 1998* v *Commission* [2002] ECR II-1705, paragraphs 231 and 232).

2. The merits of the first limb of the plea

168 As has just been recalled, in the Guidelines, cartels are in principle classed as very serious infringements. That classification accords perfectly with the case-law of

the Court of Justice and of the Court of First Instance, which holds this type of infringement to be one of the most serious restrictions of competition, especially where the cartel is concerned with price fixing.

169 Now, as far as the present case and the applicant's situation are concerned, it is clear from paragraphs 147 to 150 of the Decision that, although the Commission stated (in paragraph 147 of the Decision) that '[a]n agreement by which the price of transporting passengers and freight by roll-on roll-off ferries was agreed by some of the most important ferry operators in the relevant market constitutes, by its nature, a very serious breach of Community law', it in fact classed the infringement as being only a serious one (paragraph 150 of the Decision). It came to reduce the gravity of the infringement after observing that 'the infringement had a limited actual impact on the market' and that, 'during the period of the infringement, the Greek Government encouraged the undertakings to keep fare increases within the inflation rates' and that consequently 'fares were kept at one of the lowest levels within the common market for maritime transport from one Member State to the other' (paragraph 148 of the Decision). Furthermore, the Commission took account of the fact that the infringement 'produced its effect within a limited part of the common market, namely three of the Adriatic sea routes', a market that is small compared to other markets within the European Union (paragraph 149 of the Decision).

170 It follows that the Commission was right to classify the infringement in the Decision as a serious one.

171 The Court must also reject the applicant's argument concerning the influence exerted by the Greek legislative and regulatory framework. The Court found, on considering the second plea, that in this case the legislative context and the actions of the Greek authorities did not preclude application of Article 85(1) of the Treaty because the undertakings were left with some room for manœuvre in

defining their tariff policy. The reference to the Court's solution to the problem of there being no residual competition in *Suiker Unie and Others* v *Commission*, cited above, is not relevant to the present case. Next, as regards the particular context of this case, suffice it to observe that, as the Commission points out, it was indeed taken into account as a mitigating circumstance. It is clear from paragraph 163 of the Decision that the Commission believed that the usual practice of fixing domestic fares in Greece through a consultation of all domestic operators and the *ex post* decision of the Ministry of Merchant Shipping might have created some doubt among the Greek companies operating also on domestic routes as to whether price fixing consultation for the international route did indeed constitute an infringement. Those considerations justified a reduction of the fines by 15% for all the undertakings. For the same reasons, the applicant cannot complain that the Commission disregarded the fact that it was unaware that its conduct was unlawful.

172 As regards the arguments that customers were not adversely affected by the agreements at issue because there were no inadmissible increases in tariffs and because the infringement had only a limited effect on the market, it must be held that, contrary to the applicant's claim, these were taken into account by the Commission, as is clear from paragraphs 148 and 149 of the Decision. In paragraph 148, the Commission stated that 'the infringement had a limited actual impact on the market' and that, 'during the period of the infringement, the Greek Government encouraged the undertakings to keep fare increases within the inflation rates' and that consequently 'fares were kept at one of the lowest levels within the common market for maritime transport from one Member State to the other'. Furthermore, the Commission took account of the fact that the infringement 'produced its effect within a limited part of the common market, namely three of the Adriatic sea routes', a market that is small compared to other markets within the European Union (paragraph 149 of the Decision). It was in recognition of these very circumstances that the Commission decided to reduce the degree of severity of the infringement and treat the facts as constituting a serious infringement rather than a very serious one, as it could have done under the Guidelines.

173 Moreover, since it has been established that the applicant seriously infringed Community law by participating in agreements with its competitors, it cannot claim that it was merely engaging in a practice which the Greek Government considered to be in furtherance of Community objectives. The objective of developing intra-Community trade cannot be served by means which are strictly prohibited by the provisions of the Treaty.

174 It follows from the foregoing that this limb of the plea must be rejected.

B — *The second limb: incorrect assessment of the duration of the infringement*

Arguments of the parties

175 The applicant takes issue with the Commission's assessment of the duration of the infringement and maintains that no agreements on tariffs were concluded for the years 1987, 1988 and 1989. In so far as concerns 1987, the Commission has no evidence of an agreement relating to tariff policy. The negotiations which the companies held in 1987, in which it admits participating, solely concerned the tariffs for 1988. As regards 1988 and 1989, the applicant argues that the negotiations did not lead to a common table of tariffs for the transportation of passengers, as confirmed by the fact that the tariffs which it published for those years were different from those published by the other companies.

176 The Commission refers to the case-law according to which price fixing is in itself an infringement of Article 85(1) of the Treaty and argues that the applicant's

participation in consultations relating to tariffs for 1987, 1988 and 1989 is established by the documents mentioned in paragraphs 9, 10 and 12 of the Decision. Lastly, it observes that the question whether or not an agreement is prohibited is unrelated to its degree of success on implementation.

Findings of the Court

177 In this case, the arguments which the applicant puts forward in relation to the Commission's assessment of the duration of the infringement, for the purposes of determining the amount of the fine, in effect call into question the evidence produced by the Commission of the existence and scope of the infringement. The applicant in fact disputes the Commission's assessment of the duration of the infringement because, it says, no agreement on tariffs was concluded for 1987, 1988 and 1989. It is therefore necessary to consider whether the evidence relating to those years (paragraphs 9 to 12 of the Decision) is sufficient to prove the existence of a cartel such as that alleged by the Commission and the applicant's involvement in it during the period in question.

178 It clear from the description of the facts given in paragraphs 9 to 12 of the Decision, which the applicant does not dispute, and especially from the telex of 15 March 1989 to which the Commission refers, that Minoan attempted to persuade Anek to become a party to the agreement concluded with the other impugned companies operating the same route, including the applicant, on 18 July 1987 and that, faced with Anek's hesitation, the other companies (namely Minoan, Karageorgis, Marlines and the applicant) decided to charge collectively, from 26 June 1989 onwards, the same goods vehicle tariffs as those applied by Anek. Moreover, the telex of 22 June 1989 shows that Minoan informed Anek of this decision. It follows that the Commission was entitled to conclude that the telex showed not only that there was an agreement, but also that the applicant was a party to it.

179 The applicant claims that there is no evidence of a cartel in so far as concerns 1987 because the negotiations which the companies held in 1987, in which it acknowledges participating, related to the tariffs for 1988. However, as the Commission points out in the Decision (in paragraph 9), the author of the telex of 15 March 1989 states:

'the pricing policy for 1988, as mutually established with the other interested parties, was decided on 18 July 1987. This has in fact been the usual practice.'

180 In so far as concerns 1988 and 1989, the applicant acknowledges that negotiations on tariffs were held. However, contrary to the applicant's submission, the fact that they did not lead to a common table of passenger tariffs is irrelevant to deciding whether or not Article 85(1) of the Treaty has been infringed because the Court has already established the anti-competitive purpose of the agreements in issue.

181 Moreover, in so far as concerns the question whether the Commission took account of the fact that the agreements in issue were not in fact applied by the parties, the answer is that it did indeed do so when calculating the fine, as has been observed earlier.

182 It follows from the foregoing that the second limb of this plea must be rejected.

C — *The third limb: breach of the principle of proportionality in the calculation of the fine*

Arguments of the parties

183 The applicant asserts that the Commission breached the principle of proportionality in that the fine which it imposed on it was too large in view of the nature of the infringement, the public service obligations incumbent on it, the intervention of the Ministry of Merchant Shipping and the fact that the agreements in issue had limited effect.

184 The applicant points out that the fine imposed on it represents 2.6% of its worldwide turnover, a proportion which it regards as very high given the infringement in issue and by comparison with other earlier cases. It also observes that the fine ultimately imposed by the Commission equates to 115% of the basic amount, a high figure given the number of mitigating circumstances which, although present in this case, were not taken into account by the Commission. The applicant in fact takes the view that the Commission ought to have reduced the fine further in view of the fact that it cooperated with the institution during the administrative procedure and that it was uncertain as to whether or not Article 85(1) of the Treaty applied and also in view of the Greek legislative and regulatory framework, its public service obligations and the involvement of the Ministry of Merchant Shipping in the routes between Greece and Italy.

185 Lastly, the applicant complains that the Commission took no account of other reasons for reducing the fine, such as that the fact that the infringement was not the result of its own wishes, the fact that there was no agreement for 1987 and that a programme for compliance with the competition rules was implemented. In this connection it refers to the judgment in *PVC II*, cited above (paragraph 1162).

186 The Commission submits that the applicant has not stated the reasons for which the fine imposed was disproportionate by comparison with the gravity and duration of the infringement and points out that the mitigating circumstances which the applicant mentions have already been taken into account in the Decision (paragraphs 110, 148 and 149).

187 According to the Commission, the argument that the fine imposed is clearly disproportionate when one considers how other companies guilty of more serious infringements have been treated cannot be accepted because fines are not calculated according to any 'mathematical formula'.

188 In so far as concerns the programme for compliance with competition law to which the applicant refers, that does not alter the fact of the infringement found in this case. Furthermore, the Commission did take account of the fact that the applicant did not dispute the facts on which the complaints set out in the Decision rest and that it did reduce the amount of the fine.

Findings of the Court

189 The Court must consider whether the fine imposed on the applicant is disproportionate by comparison with the gravity and duration of the infringement alleged against it.

190 The applicant was fined EUR 1 500 000 for having participated in a cartel of long duration classified, rightly, as a serious infringement. That represents 2.6% of its worldwide turnover, as the applicant itself has said. The fine which the Commission ultimately imposed on the applicant amounts to 115% of the basic amount.

191 As regards the gravity of the infringement, the Court held, when considering the first limb of this plea, that the applicant was wrong to allege incorrect assessment of the gravity of the infringement.

192 As regards the Commission's assessment of the duration of the infringement, the Guidelines provide that infringements lasting for more than five years are to be regarded as being of long duration and that such infringements warrant an uplift of up to 10% per annum of the amount decided on to reflect the gravity of the infringement.

193 Paragraph 153 of the Decision explains that the Commission found that, in the case of the applicant and Minoan, the infringement began on 18 July 1987 at the latest and went on until July 1994 (when the Commission carried out its investigation), totalling seven years. The Commission classified the infringement as one of long duration in the case of the applicant, Minoan and Karageorgis and one of medium-term duration in the case of the other companies (paragraph 155 of the Decision) and that justified increasing the fines by 10% for every year of the infringement for the applicant and Minoan, giving a total increase of 70% (paragraph 156 of the Decision). As for the other companies, the Commission increased the fine by 20% for Marlines and by between 35% and 55% for the other operators. Table 2 sets out the percentage increments applied in the case of each company.

194 Given that the Guidelines provide that infringements lasting for more than five years are to be regarded as being of long duration and that such infringements warrant an uplift of up to 10% per annum of the amount decided on to reflect the gravity of the infringement, the applicant cannot say that it is the victim of a breach of the principle of proportionality as regards the calculation of the duration of the infringement in which it took part.

195 Next, contrary to the applicant's submission, all the mitigating circumstances to which it points were indeed taken into account in the Decision.

196 It is clear from paragraphs 162 to 164 of the Decision that the Commission allowed the undertakings the benefit of various mitigating circumstances.

197 First, as was pointed out in paragraph 163 of the Decision, the Commission found that the Greek companies operating also on domestic routes were possibly in doubt as to whether price fixing consultation for the international segments of routes did indeed constitute an infringement. That consideration justified a 15% reduction in the fines imposed on all the undertakings.

198 Secondly, the Commission took into account (in paragraph 164 of the Decision) the fact that Marlines, Adriatica, Anek and Ventouris had played an exclusively 'follow-my-leader' role in the infringement and found that that justified a 15% reduction in the fines imposed on those four undertakings. The applicant cannot claim any such reduction because it did not play an exclusively 'follow-my-leader' role, as is clear from the evidence set out in the Decision.

199 Thirdly, it must be remembered that in paragraph 169 of the Decision the Commission pointed out that a 20% reduction in the fines was granted for all companies, including the applicant, in view of the fact that they had not contested the factual basis of the Commission's statement of objections. The applicant cannot therefore complain that its cooperation with the Commission was not taken into account in the calculation of the fine, or that greater account ought to have been taken, absent any further information on the nature and extent of that cooperation.

200 Nor can the applicant reproach the Commission for failing to reduce the fine further on account of the applicant's alleged ignorance of the fact that its conduct was unlawful because the confusion created by the legislative and political framework imposed by the Greek authorities concerning domestic traffic was in fact taken into account and the undertakings were allowed a 15% reduction on account of it (in paragraph 163 of the Decision).

201 Lastly, the Court does not accept the argument drawn from the alleged implementation of a programme for compliance with competition rules. Admittedly, it is important that the applicant should take measures to prevent any future infringement of Community competition law by its staff, but that does not affect the fact and scope of the infringement found. The mere fact that, in certain cases, the Commission took account in earlier decisions of the introduction of an information programme as a mitigating circumstance does not mean that it was under an obligation to do so in this case (*PVC II*, cited above, paragraph 1162). Its desire to cooperate with the Commission, evidenced by the fact that it did not dispute the facts on which the complaints set out in the Decision rest, has already been taken into account by the Commission, resulting in a 20% reduction in the fine.

202 It follows that the third limb of this plea must be rejected and thus also the plea in its entirety.

203 In the light of all the foregoing, the action must be dismissed in its entirety.

Costs

204 Under Article 87(2) of the Rules of Procedure of the Court of First Instance, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the applicant has been unsuccessful and the Commission has applied for costs, the applicant must be ordered to pay the Commission's costs.

On those grounds,

THE COURT OF FIRST INSTANCE (Fifth Chamber)

hereby:

1. **Dismisses the application;**

2. **Orders the applicant to bear its own costs and to pay those incurred by the Commission.**

Cooke García-Valdecasas Lindh

Delivered in open court in Luxembourg on 11 December 2003.

H. Jung P. Lindh

Registrar President

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