ORDER OF THE COURT OF FIRST INSTANCE
(First Chamber, Extended Composition)
16 August 1995 *

In Case T-290/94,

Kaysersberg SA, a company governed by French law, established in Kaysersberg (France), represented by Dominique Voillemot and Jacques-Philippe Gunther, of the Paris Bar, with an address for service in Luxembourg at the Chambers of Jacques Loesch, 11 Rue Goethe,

applicant,

v

Commission of the European Communities, represented by Francisco González Díaz, of its Legal Service, and Géraud de Bergues, a national civil servant on secondment to the Commission, acting as Agents, with an address for service in Luxembourg at the office of Georgios Kremlis, of its Legal Service, Wagner Centre, Kirchberg,

defendant,

* Language of the case: French.

APPLICATION for the annulment of Commission Decision 94/893/EC of 21 June 1994 declaring a concentration to be compatible with the common market and the functioning of the EEA Agreement (IV/M.430 — Procter & Gamble/VP Schickedanz (II), OJ 1994 L 354, p. 32),

THE COURT OF FIRST INSTANCE
OF THE EUROPEAN COMMUNITIES
(First Chamber, Extended Composition),

composed of: J. L. Cruz Vilaça, President, D. P. M. Barrington, A. Saggio, H. Kirschner and A. Kalogeropoulos, Judges,

Registrar: H. Jung,

makes the following

Order

1 By application lodged at the Court Registry on 8 January 1995, Procter & Gamble GmbH ('P&G'), a company governed by German law, established in Schwalbach (Germany), wholly owned by The Procter & Gamble Company, represented by Mario Siragusa, of the Rome Bar, Giuseppe Scassellati Sforzolini, of the Bologna Bar, and Nicholas Lesly, Barrister, of the Bar of England and Wales, with an address for service in Luxembourg at the Chambers of Elvinger & Hoss, 15 Côte d'Eich, applied to intervene in Case T-290/94 in support of the form of order sought by the defendant and, pursuant to Article 35(2)(b) of the Rules of Procedure of the Court of First Instance, sought leave to use the English language both in the written procedure and the oral procedure.

2 By order of 19 May 1995, the President of the First Chamber, Extended Composition, granted leave to intervene.

3 In support of its application for derogation from the rules on languages, P&Gasserts that: as the subsidiary of a United States company, it uses English as the working language in every country where it is present, the concentration plan it notified to the Commission was drawn up in English, it used English throughout the proceedings, including at the hearings, and only the English text of the decision is authentic.

4 The applicant has objected to that application, pointing out that the possibility provided for in Article 35(2)(b) of the Rules of Procedure is an exception to the principle that the language of the case is to be chosen by the applicant and that such derogation is to be interpreted strictly. It submits that the intervener has not adduced any evidence in support of its application showing that to conduct proceedings in French would impair its rights, which is a requirement laid down in the case-law of the Court of First Instance (see the order of 13 May 1993 in Case T-74/92 *Ladbroke Racing* v *Commission* [1993] ECR II-535). It points out that, by opting to notify its proposed concentration in English, P&Gobliged all the other parties involved to use that language. Consequently, a corresponding approach should be adopted in these proceedings before the Court.

5 Finally, the applicant considers that, in the case of intervention, to permit a second language of the case would lead to the unjustified lengthening of the proceedings on account of the multiple translations which would become necessary (judgment in Case T-17/93 *Matra Hachette* v *Commission* [1994] ECR II-595, paragraph 21).

6 The Court observes that the fourth subparagraph of Article 35(3) of its Rules of Procedure dispenses only Member States which intervene from compliance with the rule that interveners must use the language of the case determined by the main parties. However, Article 35(2)(b) of the Rules of Procedure allows the Court, at the request of one of the parties, and after the opposite party has been heard, to authorize the use of a language mentioned in Article 35(1) other than the language of the case for all or part of the proceedings (see the order of 6 February 1995 in Case T-66/94 *Auditel* v *Commission* [1995] ECR II-239).

7 The Court finds that the arguments put forward by the applicant to intervene to the effect that English is the working language of the group of which it forms part and that the proceedings before the Commission were conducted in English do not demonstrate that, in the absence of such a derogation, its rights would be adversely affected during the written procedure, since it may obtain, by its own means, English translations of the submissions and other documents in the case (see the order in *Ladbroke Racing* v *Commission*, cited above, paragraph 17, the orders of 1 July 1993 in Case T-3/93 *Air France* v *Commission*, paragraph 23, of 15 July 1993 in Case T-2/93 *Air France* v *Commission*, paragraph 18, of 10 February 1995 in Case T-154/94 *Comité des Salines de France* v *Commission*, paragraph 41, not published in the European Court Reports, and the order in *Auditel* v *Commission*, cited above, paragraph 37). The request for a derogation from the rules on languages must therefore be rejected as far as the written procedure is concerned.

8 As to the oral procedure, however, the Court considers that it is appropriate to grant the intervener's request to use English, since, on the one hand, it has an obvious interest on its part in continuing to be assisted by counsel of its choice and, on the other, that derogation will not impair the procedural rights of the main parties to the proceedings and, in particular, will not cause any delay in the proceedings.

On those grounds,

THE COURT OF FIRST INSTANCE (First Chamber, Extended Composition)

hereby orders:

1. **The request submitted by Procter & Gamble GmbH for derogation from the rules on the use of languages is dismissed as regards the written procedure.**

2. **Procter & Gamble GmbH's request for leave to use English during the oral procedure is granted.**

3. **The costs are reserved.**

Luxembourg, 16 August 1995.

H. Jung

Registrar

J. L. Cruz Vilaça

President