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⁽¹⁾ Text with EEA relevance

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1983/95

of 24 July 1995

opening and providing for the administration of Community tariff quotas and ceilings and established Community surveillance for certain fish and fishery products originating in the Faroe Islands and establishing the detailed provisions for amending and adapting these quotas

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Whereas Article 3 and 8 of the Agreement between the European Economic Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part, signed on 2 December 1991⁽¹⁾, provided for the abolition of customs duties applicable to imports into the Community of certain fish and fishery products listed in Protocol 1 attached to the said Decision;

Whereas the abolition is subject to Community tariff quotas and ceilings and, for some of these products, Community statistical surveillance; whereas the said Community tariff quotas and ceilings in respect of products originating in the Faroe Islands should therefore be opened for the volumes indicated respectively in Annexes I and II to this Regulation and Community statistical surveillance established in respect of the products listed in Annex III thereto;

Whereas the preferential rates of duty indicated in Annexes I, II and III apply only where the free-at-frontier price determined by the Member States in accordance with Article 22 of Regulation (EEC) No 3759/92 of 17 December 1992 on the common organization of the market in fishery products and aquaculture⁽²⁾ is at least equal to the reference price set, or to be set, by the Community for the products or categories of products concerned;

Whereas, by the Agreement in the form of an exchange of letters between the European Community and the Government of Denmark and the Home Government of the Faroe Islands amending Tables I and II of the Annex to Protocol 1 of the Agreement between the European Economic Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part, signed on 2 December 1991⁽³⁾, certain amendments were made in the table of products listed in the Annexes to the said Agreement;

Whereas, for reasons of simplification, provision should be made to empower the Commission to give effect, following receipt of the opinion of the Customs Code Committee set up by Article 247 of Regulation (EEC) No 2913/92⁽⁴⁾, to necessary amendments and technical adaptations to the Annexes to this Regulation, arising from amendments of the combined nomenclature and Taric codes and to adaptations of volume, periods and quota rates arising from decisions by the Council or by the Commission;

Whereas this Regulation may apply in the case of any amendment of the said Agreement in the form of an exchange of letters which may specify the products eligible for tariff quotas or subject to statistical surveillance, quota-volumes, duties and tariff periods, and any eligibility criteria; whereas provision should therefore be made for the Commission to make corresponding amendments to this Regulation and the Annexes thereto, after first having obtained the opinion of the Customs Code Committee;

Whereas the Agreement provides for tariff quotas, tariff ceilings and statistical surveillance for an indefinite period; whereas, therefore, to make its implementation

⁽¹⁾ OJ No L 371, 31. 12. 1991, p. 2.

⁽²⁾ OJ No L 388, 31. 12. 1992, p. 1. Regulation as last amended by Regulation (EC) No 3318/94 (OJ No L 350, 31. 12. 1994, p. 1).

⁽³⁾ OJ No L 54, 10. 3. 1995, p. 25.

⁽⁴⁾ OJ No L 302, 19. 10. 1992, p. 1.

more efficient and simpler, this Regulation should apply on a multiannual basis;

Whereas equal and continuous access to the quotas in respect of the products listed in Annex I should be ensured for all Community importers and the rates of duty laid down for the quotas should be applied consistently to all imports of the products in question in all Member States until the quotas are exhausted;

Whereas the Community should take the decision to open tariff quotas in the execution of its international obligations; whereas, to ensure the efficiency of a common administration of these quotas, there is no reason why the Member States should not be authorized to draw from the quota-volumes the necessary quantities corresponding to actual imports; whereas this method of administration does, however, require close cooperation between the Member States and the Commission, which must be able to monitor the rate at which the quotas are used up and inform the Member States accordingly;

Whereas, in respect of products listed in Annex II and subject to Community tariff ceilings, Community surveillance may be effected by charging imports of these products against the ceilings at Community level as and when the products are presented at customs and declared for free circulation; whereas this method of administering the ceilings should enable customs duties to be restored as soon as the ceilings in question are reached at Community level;

Whereas this method of administering the ceilings calls for close and speedy cooperation between the Member States and the Commission, which must be able to monitor the level reached by imports charged against the ceilings and inform the Member States accordingly; whereas this cooperation should be close enough to allow the Commission to take the appropriate steps to restore customs duties as soon as one of the ceilings is reached;

Whereas, for the products listed in Annex III, it would seem appropriate to have recourse to the system of statistical surveillance administered by the Commission pursuant to the relevant provisions of Regulations (EEC) No 1736/75⁽¹⁾ and (EEC) No 2658/87⁽²⁾,

HAS ADOPTED THIS REGULATION:

Article 1

From 1 January to 31 December each year, the customs duty available to imports into the Community of products

listed in Annex I and originating in the Faroe Islands shall be suspended at the levels and within the limits of the Community tariff quotas specified therein.

Article 2

The tariff quotas referred to in Article 1 shall be administered by the Commission, which may take any appropriate administrative measure to ensure efficient operation.

Article 3

Where an importer enters a product covered by this Regulation for free circulation in a Member State accompanied by a request for preferential treatment and by a movement certificate, and his declaration is accepted by the customs authorities, the Member State concerned shall, by notifying the Commission accordingly, draw a quantity from the quota concerned to satisfy the requirement.

Applications for drawings from the quotas shall indicate the date on which the declarations were accepted and shall be sent to the Commission forthwith.

Drawings shall be granted by the Commission on the basis of the date when the declarations for free circulation were accepted by the customs authorities of the Member State concerned, provided the available balance is sufficient.

Where a Member State fails to use the quantities drawn it shall return them as soon as possible to the relevant quota.

Where the quantities applied for are in excess of the available balance, allocation shall be made in proportion to the requirements. The Member State shall be informed by the Commission of the quantities drawn.

Article 4

1. From 1 January to 31 December each year imports into the Community of certain products originating in the Faroe Islands, listed in Annexes II and III, shall be subject respectively to import ceilings and Community surveillance.

The description of the products referred to in the first subparagraph, the ceilings and the customs duty applicable are specified in the said Annexes.

2. Imports shall be charged against the ceilings as and when the products are presented to customs under cover of declarations for free circulation accompanied by a movement certificate complying with the rules laid down in the Protocol concerning the definition of the concept of originating products and methods of administrative cooperation annexed to Decision 91/668/EEC.

⁽¹⁾ OJ No L 183, 14. 7. 1975, p. 3.

⁽²⁾ OJ No L 256, 7. 9. 1987, p. 1.

Goods may be charged against the ceiling only if the movement certificate is presented before the date when collection of customs duty is resumed.

Utilization of ceilings shall be recorded at Community level on the basis of imports charged against them as specified in the first and second subparagraphs.

Member States shall inform the Commission of any import operation carried out in accordance with the procedure determined above at the intervals and within the deadlines laid down in paragraph 4.

3. As soon as the ceilings are reached, the Commission may, by adopting a Regulation, resume the collection of the customs duties applicable to third countries until the end of the calendar year.

4. Member States shall send the Commission, no later than the 15th of each month, the statements showing the quantities charged during the preceding month.

5. The statistical surveillance provided for in respect of products specified in Annex III shall be carried out at Community level on the basis of imports charged as specified in the first subparagraph of paragraph 2 and notified to the Statistical Office of the European Communities pursuant to Regulations (EEC) No 1736/75 and (EEC) No 2658/87.

Article 5

1. The provisions necessary to apply this Regulation, in particular :

- (a) any technical amendments and adaptations which may be needed as a result of changes to the combined nomenclature or Taric codes ;
- (b) any adaptations needed following a change to the Agreement between the European Community and the Faroe Islands, as approved by an act of the Council,

shall be adopted in accordance with the procedure set out in Article 6 (2).

2. The provisions adopted pursuant to paragraph 1 do not authorize the Commission to :

- carry over preferential quantities from one quota period to another,
- amend the timetables laid down in the Agreements or protocols,
- transfer quantities from one quota to another,
- open and administer quotas resulting from new agreements,
- adopt legislation affecting the administration of quotas subject to import certificates.

Article 6

1. The Commission shall be assisted by the Customs Code Committee.

2. The Commission's representative shall submit a proposal to the Committee concerning the measures to be taken. The Committee shall give its opinion on the proposal within a time limit to be specified at the chairman's discretion, depending on the urgency of the matter in question. The Committee shall give its opinion by a majority vote as laid down in Article 148 (2) of the Treaty for acts which the Council is required to adopt on a proposal from the Commission. In Committee votes, the Member States' votes shall be weighted according to the method given in Article 148 (2). The chairman shall not vote.

The measures adopted by the Commission shall apply with immediate effect. However, if they differ from the Committee's opinion, the Commission shall immediately submit the proposed measures to the Council. In this case, the Commission shall delay their implementation for three months from the date of submission.

The Council may take a different decision, by a qualified majority, within the time limit specified in the previous subparagraph.

3. The Committee may examine any question concerning the application of this Regulation which is raised by its chairman either at the latter's initiative or at the request of a Member State.

Article 7

Rates of duty specified in Annexes I, II and III shall apply only where the free-at frontier price determined by Member States in accordance with Regulations (EEC) No 3759/92 and (EC) No 3318/94 is at least equal to the reference price set or to be set by the Community in respect of the products or categories of products concerned.

Article 8

The Commission shall adopt all appropriate measures, in close cooperation with the Member States, to apply this Regulation.

Article 9

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

It shall apply from 1 January 1995.

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

Done at Brussels, 24 July 1995.

For the Council

The President

P. SOLBES MIRA

ANNEX I

On certain fish and fishery products subject to tariff quotas

Order No	CN code	Taric sub-division	Description	Rate of duty	Tariff quotas (tonnes)
09.0671	0301		Live fish :		700 (1)
			– Other live fish :		
	ex 0301 91 00	*10	– – Trout (<i>Salmo trutta</i> , <i>Salmo gairdneri</i> , <i>Salmo clarki</i> , <i>Salmo aguabonita</i> , <i>Salmo gilae</i>)(2) :		
			– Trout (<i>Salmo gairdneri</i>)	0	
	0302		Fish, fresh or chilled, excluding fish fillets and other fish meat of heading No 0304 :		
			– Salmonidae, excluding livers and roes :		
	ex 0302 11 00	*10	– – Trout (<i>Salmo trutta</i> , <i>Salmo gairdneri</i> , <i>Salmo clarki</i> , <i>Salmo aguabonita</i> , <i>Salmo gilae</i>)(2) :		
			– Trout (<i>Salmo gairdneri</i>)	0	
	0303		Fish, frozen, excluding fish fillets and other fish meat of heading No 0304 :		
			– Other salmonidae, excluding livers and roes :		
	ex 0303 21 00	*10	– – Trout (<i>Salmo trutta</i> , <i>Salmo gairdneri</i> , <i>Salmo clarki</i> , <i>Salmo aguabonita</i> , <i>Salmo gilae</i>)(2) :		
			– Trout (<i>Salmo gairdneri</i>)	0	
	0304		Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen :		
09.0673	0304 10		– Fresh or chilled :		4 900 (1)
			– – Fillets :		
			– – – Of freshwater fish :		
	ex 0304 10 11	*10	– – – – Of trout (<i>Salmo trutta</i> , <i>Salmo gairdneri</i> , <i>Salmo clarki</i> , <i>Salmo aguabonita</i> , <i>Salmo gilae</i>)(2) :		
			– Of trout (<i>Salmo gairdneri</i>)	0	
	0304 20		– Frozen fillets :		
			– – Of freshwater fish :		
	ex 0304 20 11	*10	– – – Trout (<i>Salmo trutta</i> , <i>Salmo gairdneri</i> , <i>Salmo clarki</i> , <i>Salmo aguabonita</i> , <i>Salmo gilae</i>)(2) :		
			– Of trout (<i>Salmo gairdneri</i>)	0	
	0304 90		– Other :		
			– – – Of freshwater fish :		
	ex 0304 90 10	*11	– Of trout (<i>Salmo gairdneri</i>)	0	
	0301		Live fish :		4 900 (1)
			– Other live fish :		
	0301 99		– – Other :		
			– – – Freshwater fish :		

Order No	CN code	Taric sub-division	Description	Rate of duty	Tariff quotas (tonnes)
09.0673 (cont'd)	ex 0301 99 11		— — — — Pacific salmon (<i>Oncorhynchus</i> spp.) Atlantic salmon (<i>Salmo salar</i>) and Danube salmon (<i>Hucho bucho</i>) ⁽³⁾ :	0	
			— — — — — Atlantic salmon (<i>Salmo salar</i>)	0	
		*20	— — — — — young	0	
		*30	— — — — — other	0	
	0302		Fish, fresh or chilled, excluding fish fillets and other fish meat of heading No 0304:		
			— Salmonidae, excluding livers and roes:		
	ex 0302 12 00		— — Pacific salmon (<i>Oncorhynchus</i> spp.), Atlantic salmon (<i>Salmo salar</i>) and Danube salmon (<i>Hucho bucho</i>) ⁽³⁾ :	0	
			— — — Atlantic salmon (<i>Salmo salar</i>)	0	
		*11	— — — — whole	0	
		*13	— — — — gutted, with 'head on'	0	
		*15	— — — — gutted and with head removed	0	
		*19	— — — — other	0	
	0303		Fish, frozen, excluding fish fillets and other fish meat of heading No 0304:		
			— Other salmonidae, excluding livers and roes:		
	ex 0303 22 00		— — Atlantic salmon (<i>Salmo salar</i>) and Danube salmon (<i>Hucho bucho</i>):	0	
			— — — Atlantic salmon (<i>Salmo salar</i>)	0	
		*21	— — — — whole	0	
		*23	— — — — gutted, with 'head on'	0	
		*25	— — — — gutted and with head removed	0	
		*29	— — — — other	0	
	0304		Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen:		
	0304 10		— Fresh or chilled:		
			— — Fillets:		
			— — — Of freshwater fish:		
	ex 0304 10 13	*10	— — — — Of Pacific salmon (<i>Oncorhynchus</i> spp.), Atlantic salmon (<i>Salmo salar</i>) and Danube salmon (<i>Hucho bucho</i>) ⁽³⁾ :		
			— — — — — Of Atlantic salmon (<i>Salmo salar</i>)	0	
	0304 20		— Frozen fillets:		
			— — Of freshwater fish:		
	ex 0304 20 13	*10	— — — Of Pacific salmon (<i>Oncorhynchus</i> spp.), Atlantic salmon (<i>Salmo salar</i>) and Danube salmon (<i>Hucho bucho</i>) ⁽³⁾ :		
			— — — — Of Atlantic salmon (<i>Salmo salar</i>)	0	
	0304 90		— Other:		
	ex 0304 90 10	*13	— — — Of freshwater fish:		
			— — — — Of Atlantic salmon (<i>Salmo salar</i>)	0	

Order No	CN code	Taric sub-division	Description	Rate of duty	Tariff quotas (tonnes)
09.0675	1604		Prepared or preserved fish ; caviar and caviar substitutes prepared from fish eggs :		400
	ex 1604 11 00	*30	- Fish, whole or in pieces, but not minced :		
			- - Salmon :		
	1604 19		- - - Atlantic Salmon (<i>Salmo salar</i>)	0	
	ex 1604 19 10	*10	- - - Other :		
			- - - - Salmonidae, other than salmon :		
09.0677	1604		- - - - Trout (<i>Salmo gairdneri</i>)	0	150
	1604 12		- Other prepared or preserved fish :		
	1604 12 10		- - Of salmon :		
	1604 15		- - - Of Atlantic salmon (<i>Salmo salar</i>)	0	
	ex 1604 15 11	*10	- - - Of salmonidae, other than salmon :		
	ex 1604 15 19	*10	- - - Of trout (<i>Salmo gairdneri</i>)	0	
09.0681	1604 19		- - - - Fillets, raw merely coated with batter or breadcrumbs, whether or not pre-fried in oil, deep frozen	0	1 200
	1604 19 92		- - - - Mackerel :		
	1604 19 93		- - - - Of the species <i>Scomber scombrus</i> and <i>Scomber japonicus</i>		
	1604 19 94		- - - - Fillets :		
	1604 19 95		- - - - - Of the species <i>Scomber scombrus</i>	0	
	1604 19 98		- - - - - Other :		
09.0681	1604 20		- - - - - Of the species <i>Scomber scombrus</i>	0	1 200
	ex 1604 20 50		- - - - - Of the species <i>Scomber scombrus</i>	0	
	1604 20 90		- Other prepared or preserved fish :		
			- - - Of sardines, bonito, mackerel of the species <i>Scomber scombrus</i> and <i>Scomber japonicus</i> , fish of the species <i>Orcynopsis unicolor</i> :		
			- - - - Of mackerel of the species <i>Scomber scombrus</i>	0	
			- - - - Of the other fish	0	
09.0681	1604 20 05		- - - - Of herring	0	1 200
			- - - - - Other :		
			- - - - - Other :		
			- - - - - Other :		
			- - - - - Cod (<i>Gadus morhua</i> , <i>Gadus ogac</i> , <i>Gadus macrocephalus</i>)	0	
			- - - - - Coalfish (<i>Pollachius virens</i>)	0	
09.0681	1604 20 05		- - - - - Hake (<i>Merluccius</i> spp., <i>Urophycis</i> spp.)	0	1 200
			- - - - - Alaska pollack (<i>Theragra chalcogramma</i>) and pollack (<i>Pollachius pollachius</i>)	0	
			- - - - - Other	0	
			- Other prepared or preserved fish :		
			- - Preparations of surimi :	0	

Order No	CN code	Taric sub-division	Description	Rate of duty	Tariff quotas (tonnes)
09.0681 (cont'd)	ex 1604 20 90		— — — Of other fish		
		*20	— — — — Preserved smoked coalfish	0	
			— — — — Brisling or sprats (<i>Sprattus sprattus</i>):		
		*30	— — — — — in airtight cans (TN-018)(⁽¹⁾)	0	
		*35	— — — — — Other	0	
		*40	— — — — Of mackerel (<i>Scomber australasicus</i>)	0	
		*50	— — — — Lamprey	0	
		*90	— — — — Other	0	
09.0679	1605		Crustaceans, molluscs and other aquatic invertebrates, prepared or preserved :		2 000
	1605 20		— Shrimps and prawns :		
	1605 20 10		— — In airtight containers	0	
			— — Other :		
	1605 20 91		— — — In immediate packings of a net content not exceeding 2 kg	0	
	1605 20 99		— — — Other	0	
	ex 1605 40 00	*20	— Other crustaceans : — <i>Nephrops norvegicus</i>	0	

(⁽¹⁾) Figures refer to the commercial presentation 'whole and gutted'. For imports falling within HS code 0304, a coefficient of 2 shall be applied for quantities drawn from the respective tariff quota reference ceiling.

(⁽²⁾) Note new scientific names :

Obsolete scientific name	Replaced by
<i>Salmo gairdneri</i>	<i>Oncorhynchus mykiss</i>
<i>Salmo clarki</i>	<i>Oncorhynchus clarki</i>
<i>Salmo aguabonita</i>	<i>Oncorhynchus aguabonita</i>
<i>Salmo gilae</i>	<i>Oncorhynchus gilae</i>

(⁽³⁾) *Oncorhynchus* spp.: with the exception of the species listed in footnote 2, also *Oncorhynchus apache* and *Oncorhynchus chrysogaster*.

(⁽⁴⁾) 'Airtight cans' means cans which are soldered or bonded in such a manner that neither air nor germs can penetrate and which cannot be opened other than by the process of deterioration.

ANNEX II

On certain fishery products subject to Community tariff ceilings

Order No	CN code	Taric sub-division	Description	Rate of duty	Amount of tariff ceiling (tonnes)
17.0011	0302		Fish, fresh or chilled, excluding fish fillets and other fish meat of heading No 0304 :		2 000 (1)
	0302 40		– Herrings (<i>Clupea harengus</i> , <i>Clupea pallasii</i>), excluding livers and roes :		
	0302 40 90		– – From 16 June to 14 February	0	
	0303		Fish, frozen, excluding fish fillets and other fish meat of heading No 0304 :		
	0303 50		– Herring, (<i>Clupea harengus</i> , <i>Clupea pallasii</i>), excluding livers and roes :		
	0303 50 90		– – From 16 June to 14 February		
	0304		Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen :		
	0304 20		– Frozen fillets :		
	0304 20 75		– – Of herring (<i>Clupea harengus</i> , <i>Clupea pallasii</i>)	0	
			– Other :		
17.0013	0302		Fish, fresh or chilled, excluding fish fillets and other fish meat of heading No 0304 :		3 000
	0302 64		– – Mackerel (<i>Scomber scombrus</i> , <i>Scomber australasicus</i> , <i>Scomber japonicus</i>):		
	ex 0302 64 90	*10	– – – From 16 June to 14 February :		
			– Mackerel (<i>Scomber scombrus</i>)	0	
17.0015	0304		Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen :		25 000
	0304 20		– Frozen fillets :		
	0304 20 31		– – Of coalfish (<i>Pollachius virens</i>)	0	
	0304 90		– Other :		
	0304 90 41		– – – Of coalfish (<i>Pollachius virens</i>)	0	
17.0017	0305		Fish, dried, salted or in brine ; smoked fish, whether or not cooked before or during the smoking process ; fish meal fit for human consumption :		5 000
	0305 30		– Fish fillets, dried, salted or in brine, but not smoked :		
	0305 30 50		– – Of lesser or Greenland halibut (<i>Reinhardtius hippoglossoides</i>), salted or in brine	0	
	0305 30 90		– – Other	0	

Order No	CN code	Taric sub-division	Description	Rate of duty	Amount of tariff ceiling (tonnes)
17.0019	0305		Fish, dried, salted or in brine, smoked fish, whether or not cooked before or during the smoking process ; fish meal fit for human consumption :		1 000
	ex 0305 41 00	*10	– Smoked fish, including fillets : – – Pacific salmon (<i>Oncorhynchus</i> spp.), Atlantic salmon (<i>Salmo salar</i>) and Danube salmon (<i>Hucho bucho</i>)⁽³⁾ : – – Atlantic salmon (<i>Salmo salar</i>)	0	
	0305 49		– – Other :		
	0305 49 10		– – – Lesser or Greenland halibut (<i>Reinhardtius hippoglossoides</i>)	0	
	0305 49 20		– – – Atlantic halibut (<i>Hippoglossus hippoglossus</i>)	0	
	ex 0305 49 30	*10	– – – Mackerel (<i>Scomber scombrus</i>, <i>Scomber australasicus</i>, <i>Scomber japonicus</i>) : – – Mackerel (<i>Scomber scombrus</i>)	0	
	ex 0305 49 40	*10	– – – Trout (<i>Salmo trutta</i>, <i>Salmo gairdneri</i>, <i>Salmo clarki</i>, <i>Salmo aguabonita</i>, <i>Salmo gilae</i>)⁽²⁾ : – – Trout (<i>Salmo gairdneri</i>)	0	
	0305 49 50		– – – Eels (<i>Anquilla</i> spp.)	0	
	0305 49 90		– – – Other	0	
17.0021	0302		Fish, fresh or chilled, excluding fish fillets and other fish meat of heading No 0304 :		12 600 ⁽¹⁾
			– Other fish, excluding livers and roes :		
	0302 69		– – Other :		
			– – – Redfish (<i>Sebastes</i> spp.) :		
	0302 69 31		– – – – Of the species <i>Sebastes marinus</i>	0	
	ex 0302 69 33	*10	– – – – Other : – – – – Of the species <i>Sebastes mentella</i>	0	
	0303		Fish, frozen, excluding fish fillets and other fish meat of heading No 0304 :		
			– Other fish, excluding livers and roes :		
	0303 79		– – Other :		
			– – – Saltwater fish :		
			– – – Redfish (<i>Sebastes</i> spp.) :		
	0303 79 35		– – – – Of the species <i>Sebastes marinus</i>	0	

Order No	CN code	Taric sub-division	Description	Rate of duty	Amount of tariff ceiling (tonnes)
17.0021 (cont'd)	ex 0303 79 37	*10	— — — — — Other : — Of the species <i>Sebastes mentella</i>	0	
	0304		Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen :		
	0304 10		— Fresh or chilled		
			— — Fillets		
			— — — Other :		
	0304 10 35		— — — — Of the fish (<i>Sebastes</i> spp.)	0	
	0304 20		— Frozen fillets :		
			— — Of redfish (<i>Sebastes</i> spp.):		
	0304 20 35		— — — Of the species <i>Sebastes marinus</i>	0	
	ex 0304 20 37	*10	— — — Other : — Of the species <i>Sebastes mentella</i>	0	
17.0023	0304		Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen :		3 000
	0304 10		— Fresh or chilled		
			— — Fillets :		
			— — — Other :		
	0304 10 33		— — — — Of coalfish (<i>Pollachius virens</i>)	0	
	0304 10 38		— — — — Other	0	
17.0025	0304		Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen :		550
	0304 20		— Frozen fillets :		
	0304 20 43		— — Of ling (<i>Molva</i> spp.)	0	
17.0027	0304		Fish, fillets and other fish meat (whether or not minced), fresh, chilled or frozen :		1 800 (!)
	0304 20		— Frozen fillets :		
	ex 0304 20 96	*40	— — Other : — Of blue whiting	0	
	0304 90		— Other :		
			— — Other :		
	0304 90 59		— — — — Of blue whiting (<i>Micromensitius poutassou</i> o <i>Gadus poutassou</i>)	0	
17.0029	0305		Fish, dried, salted or in brine ; smoked fish, whether or not cooked before or during the smoking process ; fish meal fit for human consumption :		1 400
			— Fish, salted but not dried or smoked and fish in brine :		
	0305 69		— — Other :		
	0305 69 90		— — — Other	0	

Order No	CN code	Taric sub-division	Description	Rate of duty	Amount of tariff ceiling (tonnes)
17.0031	0306		Crustaceans, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine, crustaceans, in shell, cooked by steaming or by boiling in water, whether or not chilled, frozen, dried, salted or in brine :		11 000
	0306 13		— Frozen :		
	0306 13 10		— — Shrimps and prawns : — — — Of the family pandalidae	0	
17.0033	0305		Fish, dried, salted or in brine ; smoked fish whether or not cooked before or during the smoking process ; fish meal fit for human consumption :		500
			— Fish, salted but not dried or smoked and fish in brine :		
	0305 61 00		— — Herrings (<i>Clupea harengus</i> , <i>Clupea pallasii</i>)	0	
	1604		Prepared or preserved fish, caviar or caviar substitutes prepared from fish eggs :		
			— Fish, whole or in pieces, but not minced :		
	1604 12		— — Herrings :		
			— — — Other :		
	1604 12 91		— — — — In airtight containers	0	
	1604 12 99		— — — — Other	0	

(¹) Figures refer to the commercial presentation whole and gutted. For imports falling within HS code 0304, a coefficient of 3 shall be applied for quantities drawn from this reference ceiling.

(²) Change of scientific names.

Obsolete scientific name	Replaced by
<i>Salmo gairdneri</i>	<i>Oncorhynchus mykiss</i>
<i>Salmo clarki</i>	<i>Oncorhynchus clarki</i>
<i>Salmo aguabonita</i>	<i>Oncorhynchus aguabonita</i>
<i>Salmo gilae</i>	<i>Oncorhynchus gilae</i>

(³) *Oncorhynchus* spp.: with the exception of the species listed in footnote 2 as well as *Oncorhynchus apache* and *Oncorhynchus chrysogaster*.

ANNEX III

On fish subject to statistical surveillance

Order No	CN code	Taric sub-division	Description	Rate of duty
17.0035	0302		Fish, fresh or chilled, excluding fish fillets and other fish meat of heading No 0304 :	
			– Flat fish (<i>Pleuronettidi</i> , <i>Botidi</i> , <i>Cinoglossidi</i> , <i>Soleidi Scoftalmidi</i> and <i>Citaridi</i>), excluding livers and roes :	
	0302 29		– – Other :	
	0302 29 90		– – – Other	0
17.0037	0302 69		– Other fish, excluding livers and roes :	
			– – Other :	
			– – – Saltwater fish :	
	0302 69 91		– – – – Horse mackerel (sead) (<i>Caranx trachurus</i> , <i>Trachurus trachurus</i>)	0
	0302 69 92		– – – – Pink cusk-eel (<i>Genypterus blacodes</i>)	0
	0302 69 93		– – – – Fish of the species <i>Kathetostoma giganteum</i>	0
	0302 69 96		– – – – Other	0
17.0039	0303		Fish, frozen, excluding fish fillets and other fish meat of heading No 0304	
			– Other fish, excluding livers and roes :	
	0303 79		– – Other :	
			– – – Saltwater fish :	
	0303 79 91		– – – – Horse mackerel (sead) (<i>Caranx trachurus</i> , <i>Trachurus trachurus</i>)	0
	0303 79 92		– – – – Blue grenadier (<i>Macruronus novaezealandiae</i>)	0
	0303 79 93		– – – – Pink cusk-eel (<i>Genypterus blacodes</i>)	0
	0303 79 94		– – – – Fish of the species <i>Pelotreis flavilatus</i> and <i>Peltorbampus novaezealandiae</i>	0
	0303 79 95		– – – – Fish of the species <i>Kathetostoma giganteum</i>	0
	0303 79 96		– – – – Other	0
17.0041	0304		Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen :	
	0304 20		– Frozen fillets :	
	0304 20 91		– – Of blue grenadier (<i>Macruronus novaezealandiae</i>)	0
	ex 0304 20 96		– – Other :	
			– – – Other, excluding blue whiting	
		* 20	– – – – Of halibut (<i>Reinhardtius Hippoglossoides</i> , <i>Hippoglossus hippoglossus</i> , <i>Hippoglossus stenolepis</i>)	0
		* 70	– – – – Of the species Patagonian grenadier (<i>Macruronus magellanicus</i>) and patagonian rockcod (<i>Salilota australis</i>)	0
		* 90	– – – – Other	0
17.0043	0304 90		– Other :	
	0304 90 97		– – – – Other	0

COMMISSION REGULATION (EC) No 1984/95

of 10 August 1995

imposing a provisional anti-dumping duty on imports of powdered activated carbon originating in the People's Republic of China

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3283/94 of 22 December 1994 on protection against dumped imports from countries not members of the European Community⁽¹⁾, as last amended by Regulation (EC) No 1251/95⁽²⁾, and in particular Article 23 thereof,Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community⁽³⁾, as last amended by Council Regulation (EC) No 522/94⁽⁴⁾, and in particular Article 11 thereof,

After consulting the Advisory Committee,

Whereas :

A. PROCEDURE

- (1) In September 1993, the Commission received a complaint lodged by the Conseil Européen de l'Industrie Chimique (hereinafter referred to as 'Cefic') on behalf of Community producers allegedly representing the vast majority of Community production of powdered activated carbon.

The complain contained evidence of dumping of the said product originating in the People's Republic of China and of material injury resulting therefrom which was considered sufficient to justify the initiation of a proceeding.

- (2) The Commission announced by means of a notice published in the *Official Journal of the European Communities*⁽⁵⁾, the initiation of an anti-dumping proceeding concerning imports of powdered activated carbon originating in the People's Republic of China and commenced an investigation.
- (3) The Commission officially notified the exporters and importers known to be concerned and the representatives of the exporting country of the initiation of the proceeding and gave the parties

concerned the opportunity to make their views known in writing and to request a hearing.

- (4) Representatives of only one Chinese exporter, Shanghai Chemicals Import & Export Corporation, Shanghai, requested and were granted a hearing and made their views known in writing. The representatives of several importers of the product in question were also granted hearings and made their views known in writing.
- (5) Representatives of Cefic requested and were granted a hearing and made their views known in writing.
- (6) One Community producer which was not a signatory to the complaint, VCA Srl Monopoli, Italy, also made its views known in writing but did not reply to the Commission's questionnaire, nor did it request a hearing.
- (7) The Commission sought and verified all the information it deemed to be necessary for the purpose of a preliminary determination and carried out investigations at the premises of the following :

(a) Community producers :

- CECA SA, Paris, France,
- Chemviron Carbon, Brussels, Belgium,
- Norit NV, Amersfoort, Netherlands ;

(b) importers/distributors :

- Germany :
 - Europe Asia International Trade Development GmbH, Hamburg,
 - Lurgi Aktivkohle GmbH, Frankfurt-am-Main ;
- Italy :
 - Camel Chemicals SpA, Milan,
 - Carboclean SpA, Milan,
 - Hydro-line SpA, Milan.

The Commission also received and used information from two other importers in the Community which replied to the relevant questionnaire.

- (8) Questionnaires were sent to six known exporters in the People's Republic of China and to two companies situated in Hong Kong which were known to trade in Chinese activated carbons. Only Shanghai Chemicals Import & Export Corporation replied to the Commission's questionnaire. No cooperation was therefore received from any other Chinese exporters or Hong Kong trading company.

⁽¹⁾ OJ No L 349, 31. 12. 1994, p. 1.

⁽²⁾ OJ No L 122, 2. 6. 1995, p. 1.

⁽³⁾ OJ No L 209, 2. 8. 1988, p. 1.

⁽⁴⁾ OJ No L 66, 10. 3. 1994, p. 10.

⁽⁵⁾ OJ No C 64, 2. 3. 1994, p. 5.

- (9) As the United States of America (hereinafter referred to as 'the USA') has been used as 'analogue country' for the purpose of calculating normal value (see recital 23 *et seq.*), the Commission visited the premises of two producers there of powdered activated carbon. Both of these companies requested, however, that their names should not be divulged.
- (10) The investigation of dumping covered the period from 1 January to 31 December 1993 (hereinafter referred to as 'the investigation period').

B. PRODUCT UNDER INVESTIGATION

1. Description of the product concerned

- (11) The product concerned is activated carbon in powdered form (hereinafter referred to as 'PAC'). It is obtained from a variety of raw materials such as coal, peat, lignite, wood, olive stones or coconut shells which are activated in the Community, the People's Republic of China and the USA, by means of a steam or chemical process.
- (12) Steam activated carbon is produced in two stages. First, the raw material (coal, peat, etc.) is carbonized and a coke is produced. The next stage consists of reacting the semi-finished product with steam, so as to enlarge the inner pore walls. This process allows the pore structure to be easily altered and the carbons can be made to suit different purposes.
- (13) Chemically activated carbon is produced by mixing a chemical with a carbonaceous material (normally wood) and carbonizing the resultant mixture. The chemicals normally used, phosphoric acid and zinc chloride, swell the raw material and open up its internal structure. It should be noted, however, that the use of zinc chloride as an activating agent has ceased in the Community and chemical activation is now by means of phosphoric acid. This development took place mainly for environmental reasons and reasons of cost (zinc chloride activation being more expensive than phosphoric acid activation). Those companies in the USA which cooperated with the Commission's investigation also use phosphoric acid for producing chemically activated PAC. In contrast, however, information received from cooperating importers has shown that chemically activated PAC originating in the People's Republic of China has mainly been activated by zinc chloride (although certain Chinese exporters were found to have exported PAC activated by phosphoric acid to the Community).
- (14) By varying the basic production process, or by mixing together steam and chemically activated PAC into 'blends', different types of PAC can be produced. Various technical characteristics or properties are imparted to the finished product which can make it more suitable for certain applications than others. All these different types of PAC are referred to hereinafter as 'grades'. With regard to its main applications, PAC is used for water purification purposes of treatment of waste water and also by the food, chemical and pharmaceutical industries for the adsorption of colours and impurities.
- (15) It should, however, be noted that the carbon's pore structure does not have to be opened up to the same extent for the removal of small molecules from solutions (e.g. for water purification) as for the removal of colour molecules (e.g. from sugar solutions). It follows that to open up the pore structure is more costly as the yield decreases and extra heat is required. Thus, a water treatment carbon is cheaper to produce than a sugar decolourizing carbon and users are therefore careful to select the most cost effective type of carbon for a particular application.
- (16) Activated carbon also exists in granular and pellet (extruded) form, however, these products are not included in the present proceeding as they have a different production process and different applications. Moreover, no dumping complaint was lodged concerning these other forms of activated carbon.
- (17) The Commission found that whilst PAC can be manufactured from several different raw materials, exists in many different grades and can be used for many different purposes, its essential characteristics remain basically the same and, for the purposes of the present proceeding, it may be regarded as one product.

2. Like product

- (18) It was argued by certain interested parties that chemically activated Chinese PAC which is activated using zinc chloride is a product with particular technical characteristics and porosity properties which make it particularly suitable for certain applications. They contended that it should not, therefore, be considered as a like product to PAC produced in the Community (or chemically activated PAC produced in the USA). It was nevertheless admitted by the same interested parties that chemically activated Chinese PAC is in direct competition with chemically activated PAC produced in the Community and even, in certain cases, with Community produced steam activated PAC.

- (19) Although it is true that the basic activating agent for chemically activated Chinese PAC is different to that used in the Community, the Commission nevertheless considers that the final Chinese product, irrespective of whether it is steam or chemically activated (or a blend of both), is sufficiently similar with regard to its technical characteristics and uses to be considered as a like product to steam or chemically activated PAC produced in the Community. In this regard it should be pointed out that none of the parties involved contest that the respective methods of production are all similar (chemical activating agent apart); that the general physical and technical characteristics of PAC produced by steam or chemical activation in the Community and the People's Republic of China closely resemble each other; and that the products compete with one another. Moreover, the interested parties themselves have stated that different PAC grades are interchangeable to a great extent since they can have the same basic application or perform the same basic function.
- (20) Accordingly, it is the provisional finding of the Commission that PAC produced and sold by the Community industry on the Community market is a like product within the meaning of Article 2 (12) of Regulation (EEC) No 2423/88 to the PAC exported to the Community by the People's Republic of China.
- (21) By analogy with recital 19, the Commission also concludes that PAC produced in the USA was alike to the PAC originating in the People's Republic of China exported to the Community.

C. COMMUNITY INDUSTRY

- (22) The Commission's investigation showed that the Community producers which cooperated in the investigation accounted for approximately 92 % of all sales of PAC produced in the Community and can, therefore, in accordance with Article 4 (5) of Regulation (EEC) No 2423/88, be considered as constituting 'the Community industry'. In this context, it should be noted that these producers do not only manufacture PAC, but also activated carbons in other forms (i.e. granules and pellets). Certain of these companies are involved in engineering activities within the activated carbon sector and also manufacture products other than activated carbons.

D. DUMPING

1. Normal value — choice of analogue country

- (23) The People's Republic of China does not have a market economy, therefore, in accordance with Article 2 (5) of Regulation (EEC) No 2423/88, the determination of normal value was based on a market economy country (the 'analogue country').
- (24) With regard to the choice of analogue country, various options were put forward. The complainants considered the USA to be the most appropriate whilst certain importers and cooperating Chinese exporter suggested Malaysia. On the basis of available information, the Commission considered that Japan might also be a suitable choice.
- (25) Questionnaires requesting information were sent to all known producers in these three countries. However, meaningful data was only received from two of the four known producers of PAC in the USA. Consequently, neither Malaysia nor Japan could be used as the analogue country.

In determining whether the USA was an appropriate choice of analogue country, the Commission took account of the following:

- imports into the USA from third countries account for approximately 18 % of domestic consumption of all activated carbons,
- production of PAC in the USA was 67 087 tonnes during the investigation period (whilst that of the People's Republic of China was estimated to be 50 000 tonnes),
- the USA applies moderate customs duties of 4 % to imports of PAC from 'Most Favoured Nations',
- no quotas or anti-dumping measures are applied to imports into the USA of PAC,
- access to raw materials and the production methods (steam/chemical activation) for PAC in the USA are basically the same as in the People's Republic of China and the Community,
- PAC production in the USA is undertaken by a limited number of large producers which benefit from economies of scale, whilst the production in the People's Republic of China is undertaken by several small producers. Given that PAC production is not particularly labour intensive, it is considered that any Chinese comparative advantage of cheap labour is counteracted largely by the economies of scale in the USA.

- the PAC produced by the cooperating companies in the USA (which account for approximately 50 % of the total PAC production there), was considered to be a like product to that exported to the Community by the Chinese producers.

- (26) It is evident from the above that the USA is neither an isolated market nor a closed market and in terms of access to raw materials, production volume and the product itself, it is comparable to the People's Republic of China. In conformity with Article 2 (5) of Regulation (EEC) No 2423/88, the USA is considered to be an appropriate and not unreasonable choice of analogue country for establishing normal value in this particular case.

2. Normal value — calculation of normal value

- (27) Normal value has been calculated for each of the grades of PAC originating in the People's Republic of China and exported to the Community during the investigation period on the basis of data relating to equivalent grades of PAC produced by the cooperating producers in the USA. In this respect, for every Chinese grade exported to the Community, a weighted average customer-delivered domestic sales price to distributors of the equivalent grades produced in the USA was established.
- (28) When compared to the overall cost of production for each of the two production methods (steam/chemical aviation), it was found that these domestic customer-delivered prices in the USA yielded a profit. In accordance with Article 2 (5) (a) (i) of Regulation (EEC) No 2423/88, normal value was therefore established on a grade-by-grade basis using the PAC selling price in the USA at a customer-delivered commercial stage and at distributor level, during the investigation period.

3. Export price

- (29) In view of the lack of cooperation from the majority of Chinese exporters and the often significant variances in prices between the many different grades of PAC imported into the Community, the Commission carefully considered the fairest and most appropriate method of establishing export prices in this particular proceeding.
- (30) As already mentioned in recital 16, activated carbon also exists in granular and pellet form and, for statistical purposes, all types of activated carbon are grouped together under the same Combined

Nomenclature code. It is therefore not possible to differentiate from Eurostat data between imports of activated carbon in powdered form and activated carbon in other forms. This means that Eurostat data cannot be used to establish export prices for PAC.

- (31) However, in view of the high level of cooperation from importers/distributors (which are considered to account for the vast majority of purchases from the People's Republic of China), the Commission concluded that the most reasonable basis for establishing export prices was to take the declared cif Community frontier import prices of these cooperating companies and adjust them to fob Chinese frontier prices. This was achieved by deducting known freight and insurance costs.

- (32) It should be noted that one interested party situated in the Community was found to be related to a Chinese exporter and acted as its import agent. For this exporter, in accordance with Article 2 (8) (b) of Regulation (EEC) No 2423/88, it was necessary to construct the export price on the basis of the price at which the product was sold by its related agent to independent importers in the Community. For this purpose, an adjustment was made for all costs incurred by the related agent and profit achieved.

4. Comparison

- (33) To calculate the dumping margin, the Commission made a comparison at the same level of trade between normal value and export price (i.e. at the level of sales of Chinese exporters to importers/distributors in the Community and of producers in the USA to their domestic distributors). This comparison was on a transaction-by-transaction basis for each PAC grade originating in the People's Republic of China and exported to the Community during the investigation period. In this respect, the Commission considered that the prices used were at a similar commercial stage for the purposes of the present investigation (i.e. the customer-delivered price in the USA is regarded as a similar commercial stage to the fob Chinese frontier price).
- (34) Where appropriate (and where adequate information was available), normal values and export prices were adjusted to take account of certain of the selling expenses specified in Article 2 (9) of Regulation (EEC) No 2423/88. These adjustments for differences affecting price comparability comprised transport, insurance, packing costs and commissions.

- (35) It was argued by certain interested parties that no comparison between PAC grades produced in the People's Republic of China and the USA could be made without detailed laboratory analyses and uniform testing of the various grades under consideration. It is nevertheless the provisional finding of the Commission that for every Chinese PAC grade there are equivalent PAC grades produced in the USA and that the basis for the grade-by-grade comparisons made by the Commission (i.e. available technical specifications and known uses), is both adequate and reasonable in this particular case. This conclusion is supported by the fact that no justified specific adjustments have been claimed by the interested parties for any physical or technical differences between PAC grades produced in the People's Republic of China and the USA. Furthermore, no alternative comparisons have been proposed.

5. Dumping margin

- (36) On a transaction-by-transaction basis, the comparison showed the existence of dumping for PAC originating in the People's Republic of China exported to the Community during the investigation period. The dumping margin was equal to the amount by which the normal value, as established, exceeded the prices for export to the Community. The weighted average dumping margin of all transactions, expressed as a percentage of the cif free-at-Community frontier price, was 71,5 %.

E. INJURY

1. Community consumption, volume and market share of imports

(a) General remarks

- (37) In calculating the total consumption of PAC in the Community (in tonnes), the Commission added together the total sales in the Community of PAC produced in the Community by the cooperating producers, the total estimated sales in the Community of the non-cooperating producers, the known imports into the Community of PAC originating in the People's Republic of China and the estimated imports into the Community of PAC originating in third countries other than the People's Republic of China (referred to hereinafter as 'other third countries'). Details of the sources of this data are given below.

- (38) Data used by the Commission concerning non-cooperating producers in the Community has been derived from two sources, namely Cefic and certain importers/distributors. In the absence of any information to the contrary, the assumption has been made that the total estimated production of these non-cooperating producers was sold inside and outside the Community in the same proportions as the sales of the cooperating Community producers.

- (39) With regard to the volume of imports originating in the People's Republic of China, as mentioned in recital 30, no official import statistics were available separately for PAC. However, the data furnished to the Commission by the cooperating Chinese exporter, together with information supplied by the cooperating importers/distributors appeared to represent the quasi-totality of such imports into the Community and, therefore, forms the basis for the Commission's provisional findings concerning the volume of Chinese imports.

- (40) As concerns imports from other third countries, it was claimed by certain importers/distributors that the available Eurostat data for the Combined Nomenclature code covering activated carbons also, incorrectly, included products other than activated carbons. It was also claimed that many of the countries shown in Eurostat as having exported activated carbons to the Community did not in fact have production of these products.

- (41) Being satisfied as to the accuracy of these claims and the information provided, the Commission first excluded from its calculations concerning imports, consumption etc., those countries which, although listed in Eurostat as having exported activated carbons to the Community, were thought by Cefic and the importers/distributors not to have any production of these products. With regard to the remaining countries listed in Eurostat which were known to have production of activated carbons (and were also known to export to the Community), an estimate was made of the quantity of such exports of PAC using data provided by Cefic and the importers/distributors.

(b) Community consumption

- (42) On this basis, the Commission found that Community consumption of PAC had risen from approximately 34 100 tonnes in 1990 to approximately 36 100 tonnes in 1991 and to approximately 37 300 tonnes in 1992. During the investigation period the level of consumption dropped to around 35 250 tonnes. There was, nevertheless, an overall rise in consumption of 3,3 % between 1990 and the investigation period.

(c) *Volume and market share of dumped imports*

- (43) With regard to the volume of dumped imports originating in the People's Republic of China, this increased from 1 395 tonnes in 1990 to 2 895 tonnes in 1991 and to 4 439 tonnes in 1992. During the investigation period, the volume of dumped imports dropped to 4 008 tonnes. This nevertheless represents an overall rise in import volume of 187 % between 1990 and the investigation period.
- (44) The share of the Community market held by these dumped imports of PAC originating in the People's Republic of China was 4,1 % in 1990, 8,0 % in 1991, 11,9 % in 1992 and 11,4 % during the investigation period.

2. Prices of the dumped imports and undercutting

- (45) The Commission's investigation showed that the weighted average cif import price of Chinese PAC at the Community frontier was ECU 755 per tonne in 1990, ECU 830 per tonne in 1991, ECU 784 per tonne in 1992 and ECU 835 per tonne during the investigation period. This represents an increase of 10,6 % between 1990 and the investigation period.
- (46) In order to calculate whether undercutting had occurred, the Commission first considered it appropriate to establish which of the Community-produced grades of PAC were equivalent in terms of technical specifications and uses to the imported Chinese grades. As with the comparison made for dumping mentioned in recital 35, it was argued by certain interested parties that no price comparison between PAC grades produced in the Community and the People's Republic of China could be made without independent laboratory analyses based on uniform test methods.
- (47) In this respect, the Commission found that for any given grade of PAC originating in the People's Republic of China and sold in the Community, there are several grades of Community-produced PAC in direct competition with it. For most grades, the competing products were found to be technically similar. Accordingly, the Commission considers that the comparisons it made between Community and Chinese-produced grades of PAC

based on objective criteria, namely technical data and uses provided by the cooperating parties, constitutes, for the purposes of these provisional findings, the fairest and most appropriate basis for determining whether undercutting had occurred.

- (48) On a grade-by-grade basis, the Community producers' weighted average net ex-works sales prices in the Community were compared to the weighted average import prices of the equivalent Chinese grades, adjusted to duty-paid net ex-warehouse levels. This comparison was considered to be at the same level of trade as both sets of prices taken were for sales to end users. On a grade-by-grade basis, this comparison showed that only one Chinese grade, representing 1,3 % of total Chinese PAC imports, was not undercutting the ex-works Community producers' prices. For all the other Chinese grades examined, the undercutting margins, expressed as percentages of the ex-works Community producers' prices, ranged from 6,2 % to 37,2 %. On a weighted average basis for all Chinese PAC grades, the Commission found that the overall level of undercutting was 23,5 %.

3. Situation of the Community industry

(a) *Preliminary remarks*

- (49) By way of a preliminary remark, it should be noted that unless otherwise specified, all data contained in recitals 50 to 59 relate only to those Community producers which cooperated fully with the Commission's investigation. As mentioned in recital 22, the cooperating Community producers represent approximately 92 % of the total sales of all Community producers during the investigation period.
- (50) It should also be pointed out that between 1990 and the investigation period, very small quantities of PAC were imported into the Community from third countries other than the People's Republic of China by certain cooperating Community producers. Although such quantities represented only approximately 0,7 % of their total annual sales in the Community, all data relating to such purchases have nevertheless been excluded from the data given in recitals 51 to 58 below. Information contained in these recitals therefore relates only to PAC produced in the Community.

(b) Production

- (51) The Commission investigation established that production in the Community declined continuously from 38 663 tonnes in 1990 to 32 581 tonnes during the investigation period, a fall of 15,7 %.

(c) Production capacity and capacity utilization

- (52) The Commission found that the Community producers' production capacity remained relatively stable at around 51 000 tonnes between 1990 and the investigation period. However, as a consequence of the continuous fall in production, capacity utilization declined from 76,3 % in 1990 to 64,2 % during the investigation period.

(d) Stocks

- (53) The investigation showed that the Community producers' stocks of PAC declined by 27 % between 1990 and the investigation period.

(e) Sales and market share

- (54) The volume of sales in the Community by the cooperating Community producers fell continuously from 28 240 tonnes in 1990 to 24 510 tonnes during the investigation period, a drop of 13,2 %. With regard to the cooperating Community producers' sales made outside the Community, the Commission's investigation showed that there was also an overall decline of 9,3 % from 10 166 tonnes in 1990 to 9 220 tonnes during the investigation period. With regard to the sales of the non-cooperating Community producers over the same period, these were estimated to have remained stable at around 2 000 tonnes.
- (55) The market share in the Community of the cooperating Community producers declined from 82,8 % in 1990 to 69,5 % during the investigation period. The market share in the Community of the non-cooperating Community producers was estimated to have remained stable at around 5,7 % over the same period.

(f) Prices and costs

- (56) The weighted average selling price of all grades of PAC sold in the Community by the Community producers rose from ECU 1 531 per tonne in 1990 to ECU 1 605 per tonne in 1991. In 1992 and the investigation period, the prices dropped to ECU 1 589 per tonne and ECU 1 552 per tonne respectively.

vely. Between 1990 and the investigation period, the weighted average selling price in the Community of all grades of PAC therefore rose, but only by 1,4 %.

- (57) The Commission found that the weighted average production cost of these Community producers had risen continuously from ECU 1 384 per tonne in 1990 to ECU 1 720 per tonne during the investigation period, an increase of 24,3 %. This rising cost of production was found to have been caused mainly by increasing raw material costs, higher fixed costs resulting from falling capacity utilization and costs incurred for environmental protection.

(g) Profitability

- (58) During 1990 the Community producers were found to have made an overall weighted average profit of 9,6 % (on turnover) on their sales in the Community of all grades of PAC produced in the Community. In 1991 their financial situation deteriorated and they were marking an overall weighted average profit of only 2,4 %. By 1992 the position had deteriorated further and a weighted average loss of 5,4 % occurred. By the investigation period, the overall weighted average loss on all grades of PAC sold in the Community stood at 10,8 %.

(h) Employment

- (59) The investigation showed that the number of people employed in the Community PAC sector fell by 16,3 % from 734 to 614 between 1990 and the investigation period.

(i) Conclusions concerning injury

- (60) Most of the economic factors mentioned above which have been examined by the Commission, e.g. production, capacity utilization, sales volumes, profitability and employment, clearly show that the Community producers' position has deteriorated between 1990 and the investigation period. As can be seen, these producers have been unable to raise their prices in line with increased production costs and this has consequently led to significant losses during the investigation period. An important loss of market share also took place between 1990 and the investigation period.
- (61) On the basis of all these factors, the Commission has concluded, for the purpose of its preliminary findings, that the Community producers of PAC

have suffered injury within the meaning of Article 4 (2) of Regulation (EEC) No 2423/88, as concerns their production of PAC.

F. CAUSATION

1. Effect of dumped imports

- (62) As has been shown in recital 43, the volume of dumped imports originating in the People's Republic of China increased by 187 % between 1990 and the investigation period. The share of the Community PAC market of dumped Chinese imports also rose significantly from 4,1 % to 11,4 % over this period and it is evident that this increase in market share has been at the expense of the Community producers whose market share dropped from 82,8 % to 69,5 %. It is also clear that this rise in dumped imports coincided with the decline in the sales volume and production levels of the Community producers, even though Community consumption was increasing by 3,3 % between 1990 and the investigation period. In addition, the significant undercutting of the Community producers' sales prices by dumped Chinese PAC imports (by margin of up to 37,2 %) must also have contributed to the inability of the Community producers to raise their prices to profitable levels.
- (63) Whilst the Commission accepts that the Chinese exporters raised their selling prices by 10,6 % overall between 1990 and the investigation period, exports of PAC during the investigation period were nevertheless being made at highly dumped prices which seriously undercut the Community producers' prices and thus contributed to the injury being suffered by them.
- (64) The Commission therefore considers that dumped imports of PAC originating in the People's Republic of China have contributed to the injury suffered by the Community industry.

2. Other factors

- (65) The Commission also took into account the effect of factors other than imports of Chinese origin when examining the cause of the injury suffered by the Community producers of PAC. In this respect, the Commission first examined the level of imports into the Community from other third countries. Using the methodology referred to in recitals 40 and 41, it was found that imports from these other

third countries had increased from approximately 2 600 tonnes in 1990 to approximately 5 500 tonnes during 1992. However the volume of imports dropped to around 4 700 tonnes during the investigation period. Although this represents an overall increase of approximately 80 % in such imports between 1990 and the investigation period, it is nevertheless a much lower rate than has been observed for imports of Chinese origin. The market share in the Community of these imports from other third countries rose from 7,6 % in 1990 to 13,3 % during the investigation period.

- (66) Examination of all available data indicates that only imports from Malaysia increased at a similar rate to imports from the People's Republic of China between 1990 and the investigation period, that is to say from an estimated 600 tonnes to approximately 1 750 tonnes. The volume of these Malaysian imports was significantly less than that of the Chinese imports and consequently they held a much lower market share within the Community (i.e. 4,9 % as opposed to 11,4 % for the People's Republic of China during the investigation period).
- (67) However, on the basis of available Eurostat data, the cooperating Chinese exporter argued that these Malaysian imports must have been made at dumped prices. Moreover, it was claimed that as the price in Eurostat for these imports was lower than the Chinese import price, any injury suffered by the Community producers should be attributed to the Malaysian imports and not those from the People's Republic of China.

In response to these arguments, Cefic stated that the Community producers had no evidence of dumping for PAC imports from Malaysia. Furthermore, prior to the abovementioned claim from the Chinese exporter, a major importer of Chinese and Malaysian PAC had provided price data to the Commission which indicated that imports from Malaysia were not dumped.

As mentioned in recital 30, it should also be remembered that the Eurostat data for CN code 3802 10 00 includes not only PAC but also activated carbons in granular and pellet form (which, generally speaking, are more expensive products than PAC). Since, according to available market information, the data concerning Malaysian import prices do not relate purely to the product under investigation, any such prices derived from Eurostat are not comparable with actual PAC prices concerning the Community producers or the People's Republic of China obtained during the course of the investigation.

(68) In view of the foregoing (and particularly the conflicting nature of the allegations made by the interested parties), the Commission considers that there is insufficient reliable data available to enable conclusions to be drawn as to whether or not Malaysian imports were at dumped prices. It follows also that at the present time there is no justification for extending the current investigation to Malaysia. In addition, the information available concerning Malaysian import prices makes it impossible for the Commission to draw conclusions on the effect of such imports on the Community market.

(69) The Commission also examined the volume of sales of PAC of all grades exported outside the Community by the Community producers. It was found that such sales accounted for approximately 27 % of the Community producers' total sales volume between 1990 and the investigation period. In terms of weight, these sales amounted to 10 166 tonnes in 1990, 10 127 tonnes in 1991, 8 430 tonnes in 1992 and 9 220 tonnes during the investigation period. Between 1990 and the investigation period, this represents a decline of 9,3 %. It is evident that this loss of export sales outside the Community has contributed further to the Community producers' poor overall economic situation concerning PAC even though, taken in isolation, such sales were found to have been made at profitable levels.

(70) Certain interested parties argued that any injury suffered by the Community producers was caused by PAC production overcapacity in the Community. They submitted that this overcapacity was due to declining demand, resulting from developments in technology and increasing use of recyclable activated carbons (i.e. granules and pellets). It has, however, been clearly established that, irrespective of any possible increase in demand for recyclable activated carbons, consumption of PAC in the Community actually increased by 3,3 % between 1990 and the investigation period. Moreover, given that this overcapacity was present even in 1990 when the Community producers achieved adequate profits (see recitals 52 and 58), the injury suffered by these producers during the investigation period cannot be attributed to this factor.

3. Conclusions concerning cause of injury

(71) It can be argued that the increased volume of imports from third countries other than the People's Republic of China (and in particular Malaysia) may have contributed to the losses suffered by the Community industry. It can also be argued that the loss of sales outside the Community market has not helped the situation of the Community producers. Neither of these arguments,

however, detract from the fact that imports of PAC originating in the People's Republic of China, taken in isolation, by virtue of their dumped low prices, significant undercutting, increasing volume and growing market penetration have, within the meaning of Article 4 (1) of Regulation (EEC) No 2423/88, caused material injury to the Community industry.

G. COMMUNITY INTEREST

1. General considerations

(72) A determination as to whether the Community interest calls for intervention in the form of anti-dumping measures must be based on an appreciation of all the various interests taken as a whole, including the interests of the Community industry, users and consumers. In making such an appreciation, the need to eliminate the trade distorting effects of injurious dumping and to restore effective competition must be given special consideration.

(73) Against this background, the Commission has considered the effect anti-dumping measures on PAC originating in the People's Republic of China would have in relation to the interests of these different parties.

2. Interest of the Community producers

(74) Given the increasingly large financial losses which are occurring, the Commission considers that without measures to correct the effect of the dumped Chinese imports, the viability of the Community PAC industry may be at risk. It follows that with fewer producers present in the Community market, the amount of competition is also reduced. Indeed, the Commission has been informed that a PAC production facility in the Community is in the process of being run down with a view to final closure at the end of 1995. This will lead to further loss of jobs in an industry with already declining employment and, if dumped imports were allowed to continue, could mean other production sites in the Community closing.

3. Interest of users

(75) One interested party argued that the market demand for PAC in the Community cannot be covered without imports, due to the high export levels of the Community producers. However, it is clear from the data given in recitals 42, 52 and 69 that the production capacity of the Community industry remaining after the deduction of its export sales still exceeds the yearly consumption of the

Community market. Furthermore, imports from all third countries excluding the People's Republic of China cover almost 14 % of the Community market. The Commission therefore considers that there would be no shortage of supply of PAC if anti-dumping measures were to be taken against the People's Republic of China. In this respect, the purpose of trade defence measures is not to exclude from the Community market exporters found to have dumped injuriously, but simply to restore fair competition.

- (76) The consequences of a possible price increase of Chinese PAC following the imposition of any anti-dumping measures should also be seen in the context of the proportion of the value of purchases of PAC by users in relation to their total inputs. It can be argued that the public utilities which use PAC for water purification and the industrial users which use it for waste water treatment, decolourisation and adsorption of impurities have benefited in the short term from the low prices of dumped Chinese imports. However, on the basis of information available, the Commission considers that for these provisional findings, PAC is a secondary material and purchases by users account for a small percentage of their total inputs. Dumping measures are therefore unlikely to have a major impact on users' overall budgets, a view which would tend to be supported by the fact that no public or industrial user of PAC has made any submission to the Commission thus far during the course of the investigation.

4. Conclusion

- (77) On the basis of the foregoing, the Commission concludes that the precarious situation of the Community producers makes action against dumping necessary. The possible impact of such action on users of PAC is not, on balance, considered sufficient to deny legitimate protection to the Community producers of PAC against unfair trading practices. Accordingly, the Commission considers that provisional anti-dumping measures should be imposed against imports of PAC originating in the People's Republic of China.

H. PROVISIONAL DUTY

- (78) In order to establish a level of duty adequate to remove the injury caused by dumping, it is first

necessary to consider the minimum pre-tax profit required for Community producers to remain competitive. In this regard, one such producer claimed that 15 % was necessary, whilst another submitted 10 % was the minimum. Given, however, that PAC is a long-established product and that demand has only increased slightly in recent years, the Commission considers that both of these figures are high. In addition, it should be noted that the overall level of net profit before tax achieved by the Community producers on all their activities relating to activated carbon ranged from 1 % to 5 % during the investigation period. These figures include not only the loss-making PAC sales but also sales of activated carbon in granular and pellet form, plant installation and engineering. Accordingly, the Commission is of the opinion that, for the purposes of the present proceeding, a 5 % pre-tax profit on the break-even PAC sales price in the Community is reasonable.

- (79) The Commission then calculated for each Chinese grade imported into the Community during the investigation period, a weighted average net ex-works selling price for the equivalent grades produced by the Community industry. As has been set out in recital 58, the Community producers suffered an overall loss on PAC sales in the Community during the investigation period. It was therefore necessary to uplift these weighted average net ex-works selling prices to a level which not only allowed the Community industry to cover its cost of production but also achieve a reasonable profit of 5 %.

- (80) The Community producers' profit-yielding price, as established for each Chinese grade, was then compared to the Chinese cif import price, adjusted to a duty paid ex-warehouse level in the Community. The difference between these two prices (which is the injury elimination amount), expressed on a weighted average basis as a percentage of the cif import price, free-at-Community frontier is 66,8 %.

- (81) As the dumping margin established of 71,5 % in this proceeding exceeds this injury elimination percentage, the anti-dumping duty should be based on the lower figure in accordance with Article 13 (3) of Regulation (EEC) No 2423/88.

I. FINAL PROVISIONS

- (82) In the interests of sound administration, a period should be fixed within which the parties concerned may make their views known in writing and request a hearing. Furthermore, it should be stated that all findings made for the purpose of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive duty which the Community may propose,

2. The rate of anti-dumping duty applicable to net free-at-Community frontier price before duty shall be 66,8 %.

3. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

4. The release for free circulation in the Community of the product referred to in paragraph 1 shall be subject to the provision of a security equivalent to the amount of the provisional duty.

Article 2

HAS ADOPTED THIS REGULATION :

Without prejudice to Article 7 (4) (b) and (c) of Regulation (EEC) No 2423/88, the parties concerned may make known their views in writing and ask to be heard orally by the Commission within one month of the date of entry into force of the Regulation.

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of powdered activated carbon falling within CN code ex 3802 10 00 (Taric code 3802 10 00 * 91) and originating in the People's Republic of China.

Article 3

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 10 August 1995.

For the Commission

Martin BANGEMANN

Member of the Commission

COMMISSION REGULATION (EC) No 1985/95
of 14 August 1995
on the supply of vegetable oil as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3972/86 of 22 December 1986 on food-aid policy and food-aid management⁽¹⁾, as last amended by Regulation (EEC) No 1930/90⁽²⁾, and in particular Article 6 (1) (c) thereof,

Whereas Council Regulation (EEC) No 1420/87 of 21 May 1987 laying down implementing rules for Regulation (EEC) No 3972/86 on food-aid policy and food-aid management⁽³⁾ lays down the list of countries and organizations eligible for food-aid operations and specifies the general criteria on the transport of food aid beyond the fob stage;

Whereas, following the taking of a number of decisions on the allocation of food aid, the Commission has allocated to certain recipients 985 tonnes of vegetable oil;

Whereas it is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EEC) No 2200/87 of 8 July 1987 laying down general rules for the mobilization in the Community of products to be supplied as Community food aid⁽⁴⁾, as amended by Regulation (EEC) No 790/91⁽⁵⁾; whereas it is necessary to specify the time limits and conditions of supply and the procedure to be followed to determine the resultant costs;

Whereas, for a given lot, given the small quantities to be supplied, the packaging methods and the large number of destinations of the supplies, provision should be made for

the possibility for tenderers to indicate two ports of loading, where necessary not belonging to the same port area,

HAS ADOPTED THIS REGULATION:

Article 1

Vegetable oil shall be mobilized in the Community, as Community food aid for supply to the recipient listed in the Annexes, in accordance with Regulation (EEC) No 2200/87 and under the conditions set out in the Annexes. Supplies shall be awarded by the tendering procedure.

The supply shall cover the mobilization of vegetable oil produced in the Community. Mobilization may not involve a product manufactured and/or packaged under inward processing arrangements.

For lots A and B, notwithstanding Article 7 (3) (d) of Regulation (EEC) No 2200/87, the tender may indicate two ports of shipment not necessarily belonging to the same port area.

The successful tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in his tender is deemed unwritten.

Article 2

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 14 August 1995.

For the Commission

Erkki LIIKANEN

Member of the Commission

⁽¹⁾ OJ No L 370, 30. 12. 1986, p. 1.

⁽²⁾ OJ No L 174, 7. 7. 1990, p. 6.

⁽³⁾ OJ No L 136, 26. 5. 1987, p. 1.

⁽⁴⁾ OJ No L 204, 25. 7. 1987, p. 1.

⁽⁵⁾ OJ No L 81, 28. 3. 1991, p. 108.

ANNEX I

LOT A

1. **Operation Nos** ⁽¹⁾: see Annex II
2. **Programme**: 1994 and 1995
3. **Recipient** ⁽²⁾: Euronaid, PO Box 12, NL-2501 CA Den Haag (tel. (31 70) 33 05 757; telefax 36 41 701; telex 30960 EURON NL)
4. **Representative of the recipient** ⁽³⁾: to be designated by the recipient
5. **Place or country of destination**: see Annex II
6. **Product to be mobilized**: refined rape seed oil
7. **Characteristics and quality of the goods** ⁽³⁾ ⁽⁷⁾: OJ No C 114, 29. 4. 1991, p. 1 (under IIIA (1) (a))
8. **Total quantity**: 730 tonnes net
9. **Number of lots**: one (see Annex II)
10. **Packaging and marking** ⁽⁶⁾ ⁽⁸⁾: see OJ No C 114, 29. 4. 1991, p. 1 (under IIIA (2) (1), IIIA (2) (3) and IIIA (3))
 - five-litre metal canisters, without cardboard cross-pieces
 - language to be used for the markings: see Annex II
11. **Method of mobilization**: mobilization of refined rape seed oil produced in the Community. Mobilization may not involve a product manufactured and/or packaged under inward-processing arrangements
12. **Stage of supply**: free at port of shipment ⁽⁹⁾
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: —
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment**: 25. 9 — 15. 10. 1995
18. **Deadline for the supply**: —
19. **Procedure for determining the costs of supply** ⁽⁴⁾: tendering
20. **Date of expiry of the period allowed for submission of tenders**: 12 noon (Brussels time) on 29. 8. 1995
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 12 noon (Brussels time) on 12. 9. 1995
 - (b) period for making the goods available at the port of shipment: 9 — 29. 10. 1995
 - (c) deadline for the supply: —
22. **Amount of the tendering security**: ECU 15 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders and tendering securities** ⁽¹⁾: Bureau de l'aide alimentaire, à l'attention de Monsieur T. Vestergaard, bâtiment Loi 120, bureau 7/46, rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel (telex 22037 AGREC B; telefax (32 2) 296 20 05 / 295 01 32 / 296 10 97)
25. **Refund payable on request by the successful tenderer**: —

LOT B

1. **Operation No** ⁽¹⁾: see Annex II
2. **Programme**: 1994
3. **Recipient** ⁽²⁾: Euronaid, PO Box 12, NL-2501 CA Den Haag (tel. (31 70) 33 05 757; telefax 36 41 701; telex 30960 EURON NL)
4. **Representative of the recipient** ⁽³⁾: to be designated by the recipient
5. **Place or country of destination**: see Annex II
6. **Product to be mobilized**: refined sunflower oil
7. **Characteristics and quality of the goods** ⁽⁴⁾ ⁽⁷⁾: No C 114, 29. 4. 1991, p. 1 (under IIIA (1) (b))
8. **Total quantity**: 255 tonnes net
9. **Number of lots**: one (see Annex II)
10. **Packaging and marking** ⁽⁶⁾ ⁽⁸⁾: see OJ No C 114, 29. 4. 1991, p. 1 (under IIIA (2) (1), IIIA (2) (3) and IIIA (3))
 - five-litre metal canisters, without cardboard cross-pieces
 - language to be used for the marking: see Annex II
 - B 3: supplementary markings: 'Expiry date:...' (date of manufacture + 18 months)
11. **Method of mobilization**: mobilization of refined sunflower oil produced in the Community. Mobilization may not involve a product manufactured and/or packaged under inward-processing arrangements
12. **Stage of supply**: free at port of shipment ⁽⁹⁾
13. **Port of shipment**: —
14. **Port of landing specified by the recipient**: —
15. **Port of landing**: —
16. **Address of the warehouse and, if appropriate, port of landing**: —
17. **Period for making the goods available at the port of shipment**: 25. 9 — 15. 10. 1995
18. **Deadline for the supply**: —
19. **Procedure for determining the costs of supply** ⁽⁴⁾: tendering
20. **Date of expiry of the period allowed for submission of tenders**: 12 noon (Brussels time) on 29. 8. 1995
21. **In the case of a second invitation to tender**:
 - (a) deadline for the submission of tenders: 12 noon (Brussels time) on 12. 9. 1995
 - (b) period for making the goods available at the port of shipment: 9 — 29. 10. 1995
 - (c) deadline for the supply: —
22. **Amount of the tendering security**: ECU 15 per tonne
23. **Amount of the delivery security**: 10 % of the amount of the tender in ecus
24. **Address for submission of tenders and tendering securities** ⁽¹⁾: Bureau de l'aide alimentaire, à l'attention de Monsieur T. Vestergaard, bâtiment Loi 120, bureau 7/46, rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel (telex 22037 AGREC B; telefax (32 2) 296 20 05 / 295 01 32 / 296 10 97)
25. **Refund payable on request by the successful tenderer**: —

Notes :

- (¹) The operation number should be mentioned in all correspondence.
- (²) The successful tenderer shall contact the recipient as soon as possible to establish which consignment documents are required.
- (³) The successful tenderer shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.
B3 : the radioactivity certificate and the certificate of origin must be legalized by the diplomatic representation in the country of origin of the goods.
- (⁴) Article 7 (3) (g) of Regulation (EEC) No 2200/87 shall not be applicable to tenders submitted.
- (⁵) The supplier should send a duplicate of the original invoice to : Willis Corroon Scheuer, PO Box 1315, NL-1000 BH Amsterdam.
- (⁶) Notwithstanding OJ No C 114, point IIIA(3)(c) is replaced by the following : 'the words "European Community"'.

(⁷) The successful tenderer shall supply to the beneficiary or its representative, on delivery, a sanitary certificate (B3 : and Expiry date ; A4 : the sanitary certificate must be legalized by the diplomatic representation in the country of origin of goods).
- (⁸) Shipment to take place in 20-foot containers, FLC/FCL (B3 : each containing 15 tonnes net). The supplier will be responsible for the cost of making the containers available in the stack position at the container terminal at the port of shipment. The recipient will be responsible for all subsequent loading costs, including the cost of moving the containers from the container terminal.
The provisions of Article 13 (2), second subparagraph, of Regulation (EEC) No 2200/87 shall not apply.
The successful tenderer must submit to the recipient's agent a complete packing list of each container, specifying the number of metal canisters belonging to each shipping number as specified in the invitation to tender. The rows of cartons (each third tier) must be separated by a hardboard layer (minimum 2 300 × 610 × 3 mm).
The successful tenderer must seal each container with a numbered locktainer (sysko locktainer 180 seal), the number of which is to be provided to the recipient's forwarder.
- (⁹) For Lot A and B, notwithstanding Article 7 (3) (d) of Regulation (EEC) No 2200/87, the tender may indicate two ports of shipment not necessarily belonging to the same port area.

ANEXO II — BILAG II — ANHANG II — ΠΑΡΑΡΤΗΜΑ II — ANNEX II — ANNEXE II — ALLEGATO II — BIJLAGE II —
ANEXO II — LIITE II — BILAGA II

Lote	Cantidad total (en toneladas)	Cantidades parciales (en toneladas)	Acción n°	País de destino	Lengua que se debe utilizar en la rotulación
Parti	Totalmængde (tons)	Delmængde (tons)	Aktion nr.	Bestemmelsesland	Mærkning på følgende sprog
Partie	Gesamtmenge (in Tonnen)	Teilmengen (in Tonnen)	Maßnahme Nr.	Bestimmungsland	Kennzeichnung in folgender Sprache
Παρτίδα	Συνολική ποσότητα (σε τόνους)	Μερικές ποσότητες (σε τόνους)	Δράση αριθ.	Χώρα προορισμού	Γλώσσα που πρέπει να χρησιμοποιηθεί για τη σήμανση
Lot	Total quantity (in tonnes)	Partial quantities (in tonnes)	Operation No	Country of destination	Language to be used for the marking
Lot	Quantité totale (en tonnes)	Quantités partielles (en tonnes)	Action n°	Pays de destination	Langue à utiliser pour le marquage
Lotto	Quantità totale (in tonnellate)	Quantitativi parziali (in tonnellate)	Azione n.	Paese di destinazione	Lingua da utilizzare per la marcatura
Partij	Totale hoeveelheid (in ton)	Deelhoeveelheden (in ton)	Maatregel nr.	Land van bestemming	Taal te gebruiken voor de opschriften
Lote	Quantidade total (em toneladas)	Quantidades parciais (em toneladas)	Acção n°	País de destino	Língua a utilizar na rotulagem
Erä	Kokonaismäärä (tonnia)	Osittaismäärä (tonnia)	Toimi N:o	Määrämaa	Merkinnässä käytettävä kieli
Parti	Total kvantitet (ton)	Delkvantitet (ton)	Aktion nr	Bestämmelsesland	Märkning på följande språk
A	730	A 1: 90 A 2: 285 A 3: 90 A 4: 250 A 5: 15	1633/94 1659/94 1660/94 1661/94 140/95	Zimbabwe Haïti Haïti Guatemala Madagascar	English Français Français Español Français
B	255	B 1: 135 B 2: 30 B 3: 90	1623/94 1663/94 1668/94	El Salvador Gambia Egypt	Español English English

COMMISSION REGULATION (EC) No 1986/95**of 14 August 1995****determining the extent to which the applications for import licences submitted in July 1995 for certain cheeses under certain tariff quotas opened by Commission Regulation (EC) No 1600/95 can be accepted**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION :

Having regard to the Treaty establishing the European Community,

*Article 1*Having regard to Commission Regulation (EC) No 1600/95 of 30 June 1995 laying down detailed rules for the application of the import arrangements and opening tariff quotas for milk and milk products ⁽¹⁾, as amended by Regulation (EC) No 1763/95 ⁽²⁾, and in particular Article 14 (4) thereof,

Import licences applied for for products falling within the order numbers in Annex 7 to the CN listed in the Annex hereto, lodged under Regulation (EC) No 1600/95 for the period 1 July to 30 September 1995, shall be awarded in accordance with the allocation factors indicated.

Whereas applications lodged for the products referred to in Annex II of Regulation (EC) No 1600/95 concern quantities greater than those available ; whereas, therefore, the allocation factors should be fixed for the quantities applied for the period 1 July to 30 September 1995,

Article 2

This Regulation shall enter into force on 15 August 1995.

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

Done at Brussels, 14 August 1995.

For the Commission

Erkki LIIKANEN

Member of the Commission⁽¹⁾ OJ No L 151, 1. 7. 1995, p. 12.⁽²⁾ OJ No L 171, 21. 7. 1995, p. 36.

ANNEX

Order number in Annex 7 to the combined nomenclature	Allocation factor
27	0,0303
29	0,1719
30	0,0318
31	0,0297
32	0,0165
34	0,0111
37	0,0180

COMMISSION REGULATION (EC) No 1987/95**of 14 August 1995****establishing the standard import values for determining the entry price of
certain fruit and vegetables**

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

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 1740/95 ⁽²⁾, and in particular Article 4 (1) thereof,

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

Whereas Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commis-

sion fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto;

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

HAS ADOPTED THIS REGULATION :

Article 1

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

Article 2

This Regulation shall enter into force on 15 August 1995.

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

Done at Brussels, 14 August 1995.

For the Commission

Erkki LIIKANEN

Member of the Commission

⁽¹⁾ OJ No L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ No L 167, 18. 7. 1995, p. 10.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 14 August 1995 establishing the standard import values
for determining the entry price of certain fruit and vegetables

(ECU/100 kg)			(ECU/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value	CN code	Third country code ⁽¹⁾	Standard import value
0702 00 35	052	47,7	0808 10 92, 0808 10 94, 0808 10 98	512	186,0
	060	80,2		600	87,4
	066	41,7		624	130,7
	068	32,4		999	130,9
	204	50,9		039	79,3
	212	117,9		064	79,1
	624	75,0		388	58,3
	999	63,7		400	62,3
0707 00 25	052	50,1	0808 20 57	508	68,4
	053	166,9		512	49,2
	060	68,3		524	45,8
	066	53,8		528	54,8
	068	60,4		800	91,9
	204	49,1		804	77,6
	624	207,3		999	66,7
	999	93,7		052	71,0
0709 90 79	052	55,6	0809 30 41, 0809 30 49	388	47,3
	204	77,5		512	53,3
	624	196,3		528	54,0
	999	109,8		800	55,8
0805 30 30	388	63,4	0809 40 30	804	64,8
	512	77,7		999	57,7
	524	58,9		052	56,5
	528	55,5		220	121,8
	600	54,7		624	106,8
	624	78,0		999	95,0
	999	64,7		064	77,5
0806 10 40	052	113,6		066	62,1
	220	110,8		624	152,8
	400	155,3		999	97,5
	412	132,4			

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 3079/94 (OJ No L 325, 17. 12. 1994, p. 17). Code '999' stands for 'of other origin.'

COMMISSION REGULATION (EC) No 1988/95**of 14 August 1995****amending representative prices and additional duties for the import of certain products in the sugar sector**

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

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EC) No 1101/95 ⁽²⁾,

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

Whereas the amounts of the representative prices and additional duties applicable to the import of white sugar, raw sugar and certain syrups are fixed by Commission Regulation (EC) No 1568/95 ⁽⁴⁾, as last amended by Regulation (EC) No 1980/95 ⁽⁵⁾;

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 15 August 1995.

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

Done at Brussels, 14 August 1995.

For the Commission

Erkki LIIKANEN

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 110, 17. 5. 1995, p. 1.

⁽³⁾ OJ No L 141, 24. 6. 1995, p. 16.

⁽⁴⁾ OJ No L 150, 1. 7. 1995, p. 36.

⁽⁵⁾ OJ No L 191, 12. 8. 1995, p. 19.

ANNEX

to the Commission Regulation of 14 August 1995 amending representative prices and the amounts of additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 99

(ECU)

CN code	Amount of representative prices per 100 kg net of product concerned	Amount of additional duty per 100 kg net of product concerned
1701 11 10 ⁽¹⁾	24,85	3,87
1701 11 90 ⁽¹⁾	24,85	9,11
1701 12 10 ⁽¹⁾	24,85	3,70
1701 12 90 ⁽¹⁾	24,85	8,68
1701 91 00 ⁽²⁾	33,35	8,56
1701 99 10 ⁽²⁾	33,35	4,33
1701 99 90 ⁽²⁾	33,35	4,33
1702 90 99 ⁽³⁾	0,33	0,33

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

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

⁽³⁾ By 1 % sucrose content.

COMMISSION REGULATION (EC) No 1989/95

of 14 August 1995

determining the percentage of quantities covered by applications for export
licences for eggs which may be accepted

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

Having regard to Commission Regulation (EC) No
1371/95 of 16 June 1995 laying down detailed rules for
implementing the system of export licences in the egg
sector⁽¹⁾, and in particular Article 3 (4) thereof,

Whereas Regulation (EC) No 1371/95 provides for
specific measures where applications for export licences
concern quantities and/or expenditure which exceed the
normal trade patterns or where there is a risk that they
will be exceeded, taking account of the limit referred to in
Article 8 (12) of Council Regulation (EEC) No 2771/75⁽²⁾,
as last amended by the Act of Accession of Austria,
Finland and Sweden, and by Regulation (EC) No
3290/94⁽³⁾, and/or the corresponding expenditure during
the period in question;

Whereas the market for certain egg products is affected
by uncertainties; whereas the refunds currently applicable
for these products could lead to applications being made
for export licences for speculative purposes; whereas
there is a risk that the issue of certificates for the quanti-
ties applied for from 7 to 11 August 1995 may lead to the
quantities corresponding to the normal trade patterns for
the products concerned being exceeded;

Whereas applications for which export licences have not
yet been granted should be rejected for the products

concerned and acceptance coefficients applying to the
quantities requested should be fixed,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for export licences for eggs submitted
pursuant to Regulation (EC) No 1371/95 shall be dealt
with as follows:

1. for applications from 7 to 11 August 1995, 100 % of
the quantities applied for in the case of categories 1
and 2 referred to in Annex I to the abovementioned
Regulation shall be accepted;
2. for applications from 9 to 11 August 1995, 100 % of
the quantities applied for in the case of categories 3, 4,
5 and 7 referred to in Annex I to the abovementioned
Regulation shall be accepted;
3. applications submitted from 9 to 11 August 1995 are
accepted with a coefficient of 16 % for category 6
referred to in Annex I of the abovementioned Regula-
tion.

Article 2

This Regulation shall enter into force on 16 August 1995.

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

Done at Brussels, 14 August 1995.

For the Commission

Erkki LIIKANEN

Member of the Commission

⁽¹⁾ OJ No L 133, 17. 6. 1995, p. 16.

⁽²⁾ OJ No L 282, 1. 11. 1975, p. 49.

⁽³⁾ OJ No L 349, 31. 12. 1994, p. 105.

COMMISSION REGULATION (EC) No 1990/95

of 14 August 1995

amending Regulation (EC) No 1942/95 setting for the period 1 July 1995 to 30 June 1996 rules of application for the tariff quotas for beef and veal provided for by the Europe Agreements concluded between the Community and its Member States on the one hand and the Republic of Poland, the Republic of Hungary, the Czech Republic, the Slovak Republic, Bulgaria and Romania on the other

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3491/93 of 13 December 1993 on certain procedures for applying the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Hungary of the other part⁽¹⁾, and in particular Article 1 thereof,

Having regard to Council Regulation (EC) No 3492/93 of 13 December 1993 on certain procedures for applying the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Poland, of the other part⁽²⁾, and in particular Article 1 thereof,

Having regard to Council Regulation (EC) No 3296/94 of 19 December 1994 on certain procedures for applying the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Czech Republic, of the other part⁽³⁾, and in particular Article 1 thereof,

Having regard to Council Regulation (EC) No 3297/94 of 19 December 1994 on certain procedures for applying the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Slovak Republic, of the other part⁽⁴⁾, and in particular Article 1 thereof,

Having regard to Council Regulation (EC) No 3382/94 of 19 December 1994 on certain procedures for applying the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Romania, of the other part⁽⁵⁾, and in particular Article 1 thereof,

Having regard to Council Regulation (EC) No 3383/94 of 19 December 1994 on certain procedures for applying the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Bulgaria of the other part⁽⁶⁾, and in particular Article 1 thereof,

Having regard to Council Regulation (EC) No 3379/94 of 22 December 1994 opening and administering certain Community tariff quotas in 1995 for certain agricultural products and for beer⁽⁷⁾, and in particular Article 3 thereof,

Having regard to Council Regulation (EC) No 3290/94 of 22 December 1994 on the adjustments and transitional arrangements required in the agriculture sector in order to implement the agreements concluded during the Uruguay Round of multilateral trade negotiations⁽⁸⁾, and in particular Article 3 (1) thereof,

Whereas Article 2 (1) (e) of Regulation (EC) No 1942/95⁽⁹⁾ stipulates certain entries that must figure in box 20 of the licence and licence application; whereas this text should be clarified;

Whereas Article 3 (2) of Regulation (EC) No 1942/95 may lead to confusion; whereas the text should be supplemented accordingly by distinguishing between the two types of quota;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1942/95 is hereby amended as follows:

1. Article 2 (1) (e) is replaced by the following:

'(e) the licence application and the licence shall show at least one of the following in box 20:

- letra a) del apartado 1 del artículo 1 del Reglamento (CE) n° 1942/95,
- letra b) del apartado 1 del artículo 1 del Reglamento (CE) n° 1942/95,
- Artikel 1, stk. 1, litra a), i forordning (EF) nr. 1942/95,

⁽¹⁾ OJ No L 319, 21. 12. 1993, p. 1.

⁽²⁾ OJ No L 319, 21. 12. 1993, p. 4.

⁽³⁾ OJ No L 341, 30. 12. 1994, p. 14.

⁽⁴⁾ OJ No L 341, 30. 12. 1994, p. 17.

⁽⁵⁾ OJ No L 368, 31. 12. 1994, p. 1.

⁽⁶⁾ OJ No L 368, 31. 12. 1994, p. 5.

⁽⁷⁾ OJ No L 366, 31. 12. 1994, p. 3.

⁽⁸⁾ OJ No L 349, 31. 12. 1994, p. 105.

⁽⁹⁾ OJ No L 186, 5. 8. 1995, p. 30.

- Artikel 1, stk. 1, litra b), i förordning (EF) nr. 1942/95,
 - Artikel 1 Absatz 1 Buchstabe a) der Verordnung (EG) Nr. 1942/95,
 - Artikel 1 Absatz 1 Buchstabe b) der Verordnung (EG) Nr. 1942/95,
 - Άρθρο 1 παράγραφος 1 στοιχείο α) του κανονισμού (ΕΚ) αριθ. 1942/95,
 - Άρθρο 1 παράγραφος 1 στοιχείο β) του κανονισμού (ΕΚ) αριθ. 1942/95,
 - Article 1 (1) (a) of Regulation (EC) No 1942/95,
 - Article 1 (1) (b) of Regulation (EC) No 1942/95,
 - article 1^{er} paragraphe 1 point a) du règlement (CE) n° 1942/95,
 - article 1^{er} paragraphe 1 point b) du règlement (CE) n° 1942/95,
 - articolo 1, paragrafo 1, lettera a) del regolamento (CE) n. 1942/95,
 - articolo 1, paragrafo 1, lettera b) del regolamento (CE) n. 1942/95,
 - artikel 1, lid 1, onder a), van Verordening (EG) nr. 1942/95,
 - artikel 1, lid 1, onder b), van Verordening (EG) nr. 1942/95,
 - N° 1, alínea a), do artigo 1º do Regulamento (CE) n° 1942/95,
 - N° 1, alínea b), do artigo 1º do Regulamento (CE) n° 1942/95,
 - Asetuksen (EY) N:o 1942/95 1 artiklan 1 kohdan a alakohta,
 - Asetuksen (EY) N:o 1942/95 1 artiklan 1 kohdan b alakohta,
 - Artikel 1.1 a i förordning (EG) nr 1942/95,
 - Artikel 1.1 b i förordning (EG) nr 1942/95.
2. Article 3 (2) is replaced by the following:
- ‘2. If an applicant presents more than one application for the same country of origin relating to:
- (a) the products referred to in Article 1 (1) (a); or
 - (b) the products referred to in Article 1 (1) (b)
- all his applications for the products under the same point shall be inadmissible.’

Article 2

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

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

Done at Brussels, 14 August 1995.

For the Commission

Erkki LIIKANEN

Member of the Commission

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 26 July 1995

on the adoption of the Community programme for structural assistance in the fisheries and aquaculture sector and the processing and marketing of its products in Austria (Objective 5a outside Objective 1 regions — the period 1995-1999)

(Only the German text is authentic)

(95/331/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3699/93 of 21 December 1993 laying down the criteria and arrangements regarding Community structural assistance in the fisheries and aquaculture sector and the processing and marketing of its products ⁽¹⁾, and in particular Article 4 (2) thereof,

Whereas Austria submitted to the Commission on 31 March 1995 the single programming document referred to in Article 3 of Regulation (EC) No 3699/93;

Whereas the single programming document includes amongst others a description of the priorities selected and the applications for assistance from the Financial Instrument for Fisheries Guidance (FIFG), as well as an indication of the planned use of the assistance available from the European Investment Bank (EIB) and the other financial instruments in implementing the Community programme concerning the fisheries and aquaculture sector and the processing and marketing of its products, hereinafter referred to as 'the sector';

Whereas certain areas of Austria are eligible for structural assistance under Objective 1 as defined in Article 8 of Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between them-

selves and with the operations of the European Investment Bank and the other existing financial instruments ⁽²⁾, as amended by Regulation (EC) No 3193/94 ⁽³⁾; whereas structural assistance for measures in these areas will be covered by a general programme for Objective 1;

Whereas a separate decision on the Community programme for structural measures has to be taken for those regions of Austria, that are not covered by Objective 1;

Whereas, in accordance with Article 3 of Regulation (EEC) No 4253/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽⁴⁾, as amended by Regulation (EC) No 3193/94, the Commission is responsible for ensuring, within the framework of the partnership, coordination and consistency between assistance from the funds and assistance provided by the EIB and the other financial instruments, including the assistance of the ECSC and the other actions for structural purposes;

Whereas the EIB has been involved in the drawing up of the Community programme in accordance with the provisions of Article 8 (1) of Regulation (EEC) No 4253/88, applicable by analogy in the establishment of

⁽¹⁾ OJ No L 346, 31. 12. 1993, p. 1.

⁽²⁾ OJ No L 185, 15. 7. 1988, p. 9.

⁽³⁾ OJ No L 337, 24. 12. 1994, p. 11.

⁽⁴⁾ OJ No L 374, 31. 12. 1988, p. 1.

the single programming document; whereas the EIB has declared itself prepared to contribute to the implementation of this document on the basis of the forecast loan packages shown in this decision and in conformity with its statutory provisions;

Whereas the second paragraph of Article 2 of Commission Regulation (EEC) No 1866/90 of 2 July 1990 on arrangements for using the ecu for the purpose of the budgetary management of the Structural Funds⁽¹⁾, as last amended by Regulation (EC) No 2745/94⁽²⁾, stipulates that in the Commission decisions approving a single programming document, the Community assistance available for the entire period and the annual breakdown thereof shall be set out in ecus at current prices for the year in which each decision is taken and shall be subject to indexation; whereas this annual breakdown must be compatible with the progressive increase in the commitment appropriations shown in Annex III to Regulation (EEC) No 2052/88 in the version modified according to the Act of Accession⁽³⁾; whereas indexation is based on a single rate per year, corresponding to the rates applied annually to budget appropriations on the basis of the mechanism for the technical adjustment of the financial perspectives;

Whereas Article 1 of Council Regulation (EEC) No 2080/93 of 20 July 1993 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the financial instrument for fisheries guidance⁽⁴⁾, defines the measures for which the FIFG may provide financial support; whereas Regulation (EC) No 3699/93 defines the criteria and arrangements regarding Community structural assistance in the sector;

Whereas the Community programme has been established in agreement with the Member State concerned through the partnership defined in Article 4 of Regulation (EEC) No 2052/88;

Whereas the Community programme satisfies the conditions and includes the information required by Article 14 of Regulation (EEC) No 4253/88; whereas the aid application satisfies the conditions required by Article 33 (2) of Regulation (EEC) No 4253/88;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities⁽⁵⁾, as last amended by Regulation (Euratom, ECSC, EC) No 2730/94⁽⁶⁾, states that the legal commitments entered into for measures extending over

more than one financial year must contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas all the other conditions laid down for the grant of aid from the FIFG have been complied with;

Whereas the measures contained in this Decision are consistent with the opinion of the Standing Management Committee of Fisheries Structures,

HAS ADOPTED THIS DECISION:

Article 1

The Community programme for structural assistance in the fisheries and aquaculture sector and the processing and marketing of its products in Austria under Objective 5a, excluding Objective 1 areas, covering the period 1 January 1995 to 31 December 1999, is hereby approved.

Article 2

The Community programme includes the following essential information:

- (a) a statement of the main priorities for joint action, their specific quantified objectives, an appraisal of their expected impact and their consistency with economic, social and regional policies in Austria.

The main priorities are:

- aquaculture,
- product processing and marketing,
- product promotion,
- other measures (studies, technical assistance etc.);

- (b) the assistance from the FIFG as referred to in Articles 3 and 4;

- (c) the detailed provisions for implementing the single programming document comprising:

- the procedures for monitoring and evaluation,
- the financial implementation provisions,
- the rules for compliance with community policies;

- (d) the procedures for verifying additionality and an initial evaluation of the latter.

Article 3

The assistance from the FIFG granted to this Community programme amounts to a maximum of ECU 2,00 million at 1995 prices.

The expenditure actually incurred are eligible for assistance under FIFG from 1 January 1995.

⁽¹⁾ OJ No L 170, 3. 7. 1990, p. 36.

⁽²⁾ OJ No L 290, 11. 11. 1994, p. 4.

⁽³⁾ OJ No L 1, 1. 1. 1995, p. 218.

⁽⁴⁾ OJ No L 193, 31. 7. 1993, p. 1.

⁽⁵⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽⁶⁾ OJ No L 293, 12. 11. 1994, p. 7.

The procedure for granting this financial assistance, including the financial contribution from the FIFG to the various priorities and measures which this present Community programme comprises, is set out in the financing plan.

The national financial contribution as indicated in the financing plan may be met in part by Community loans from the European Investment Bank and other types of loan.

Article 4

For the purpose of indexation, the annual breakdown of the maximum overall allocation provided as assistance from the FIFG is as follows:

<i>millions of ecu (1995 prices)</i>	
1995	0,40
1996	0,40
1997	0,40
1998	0,40
1999	0,40
Total	2,00

Article 5

The budgetary commitment for the first instalment under FIFG amounts to ECU 0,40 million.

Commitment of subsequent instalments will be based on the financing plan for the single programming document and progress in its implementation.

Article 6

The procedures for the grant of the assistance may be amended subsequently, subject to the availability of funds and the budgetary rules, in the light of adjustments decided on in accordance with the procedure laid down in Article 25 (5) of Regulation (EEC) No 4253/88.

Article 7

The Community aid concerns expenditure on actions under the present Community programme which, in the Member State concerned, is the subject of legally binding commitments and for which the requisite finance has been specifically allocated not later than 31 December 1999. The final date for taking account of expenditure on these measures is 31 December 2001.

Article 8

The single programming document shall be implemented in accordance with Community law, and in particular Articles 6, 30, 48, 52 and 59 of the Treaty and the Community directives on the coordination of procedures for the award of contracts.

Article 9

This Decision is addressed to the Federal Republic of Austria.

Done at Brussels, 26 July 1995.

For the Commission

Emma BONINO

Member of the Commission

COMMISSION DECISION

of 26 July 1995

**amending Decision 94/269/EC laying down specific conditions for importing
fishery and aquaculture products from Colombia**

(Text with EEA relevance)

(95/332/EC)

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

Having regard to Council Directive 91/493/EEC of 22 July 1991⁽¹⁾, laying down the health conditions for the production and the placing on the market of fishery products, as last amended by the Act of Accession of Austria, Finland and Sweden, and in particular Article 11 (5) thereof,

Whereas the list of establishments approved by Colombia for importing fishery and aquaculture products into the Community has been drawn up in Decision 94/269/EC⁽²⁾, as last amended by Commission Decision 94/469/EC⁽³⁾; whereas this list may be amended following the communication of a new list by the competent authority in Colombia;

Whereas the competent authority in Colombia has communicated a new list adding 2 establishments and amending the data of 1 establishment;

Whereas it is necessary to amend the list of approved establishments accordingly;

Whereas the measures provided for in this Decision have been drawn up in accordance with the procedure laid down by Commission Decision 90/13/EEC⁽⁴⁾,

HAS ADOPTED THIS DECISION:

Article 1

Annex B of Decision 94/269/EC is replaced by the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 26 July 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 268, 24. 9. 1991, p. 15.

⁽²⁾ OJ No L 115, 6. 5. 1994, p. 38.

⁽³⁾ OJ No L 194, 29. 7. 1994, p. 85.

⁽⁴⁾ OJ No L 8, 11. 1. 1990, p. 70.

ANNEX

ANNEX B

LIST OF APPROVED ESTABLISHMENTS

Number	Name and address
0017-91	Comercializadora Internacional Vikingos, SA (Vikingos SA), Cartagena
0017-95	Unipez SA, Cartagena
0019-91	Frigorífico y Pesca de Cartagena, SA (CI Frigopesca SA), Cartagena
0023-91	Comercializadora Internacional Océanos SA (CI Océanos), Cartagena
0040-91	Comercializadora Antillana SA (Antillana SA), Cartagena
0024-91	Comercializadora Internacional (Coapesca Ltda), Cartagena
0023-91	Atunes de Colombia SA, Cartagena
0023-91	Seatech International, Cartagena
0001-91	Frigorífica Ganadero SA (Frigogan SA), Barranquilla
0042-91	Industrial Pesquera Colombiana SA (Indupesca SA), Cartagena
00197-91	Comercializadora Internacional del Mar, SA (Cimar SA), Buenaventura
0013-91	Industria de Pesca sobre el Pacífico SA (Inpesca SA), Buenaventura
0109-92	Compañía Pesquera Colombiana (Copescol SA), Buenaventura
0198-92	Armadores Pesqueros Colombianos (Arpecol), Buenaventura
0033-91	Inversiones Marítimas del Pacífico, Ltda (Invermarp), Buenaventura
0028-91	Comercializadora El Delfín Blanco, Ltda, Tumaco
0043-91	Comercializadora Internacional «Maragrica SA», Tumaco
0050-94	Investigaciones y Desarrollos del Pacífico «Idelpacífico SA», Tumaco
0030-93	Cartagena Shrimp Co. Ltda, Cartagena
0011-94	Piscifactoría El Diviso Ltda, Popayán
0228-85	Cartagenera de Acuicultura SA, San Onofre (Sucre)
0134-88	Truchas de los Andes SA, Santafé de Bogotá
0009-91	Aquacultivos del Caribe SA, Galera Zamba (Bolívar)
0032-91	Camarones del Caribe SA, Cartagena
0111-91	Guinulero SA, Tumaco
0043-92	Agrosoledad SA, Sanatero (Córdoba)
0071-92	Agropesquera Industrial Bahía Cúpica Ltda, Buenaventura
0073-92	Inversiones Camaroneras Ltda, Ciénaga (Magdalena)
0139-92	Colapia SA, Cali
0149-92	Aquacultura del Mar «Aquamar SA», Tumaco
0152-92	Compañía Camaronera Balboa SA, Tumaco
0029-93	Agrotijo SA, Sanatero (Córdoba)
0040-93	Acuipesca SA, Cartagena
0058-93	Agrocalao Ltda, Sanatero (Córdoba)
0066-93	Colombiana de Acuicultura SA, Cartagena
0071-93	Amaris Ltda, Buenaventura
0100-92	Agro Marina Santa Ana Ltda, Santa Marta'

COMMISSION DECISION

of 28 July 1995

on the adoption of the Community programme for structural assistance in the fisheries and aquaculture sector and the processing and marketing of its products in Finland (Objective 5a outside Objective 6 regions — the period 1995-1999)

(Only the Finnish text is authentic)

(95/333/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3699/93 of 21 December 1993 laying down the criteria and arrangements regarding Community structural assistance in the fisheries and aquaculture sector and the processing and marketing of its products⁽¹⁾, hereinafter referred to as 'the sector', and in particular Article 4 (2) thereof,

Whereas the Government of the Republic of Finland submitted to the Commission on 24 March 1995 the single programming document referred to in Article 3 (1) of Regulation (EC) No 3699/93;

Whereas the single programming document includes amongst others a description of the priorities selected and the applications for assistance from the Financial Instrument for Fisheries Guidance (FIFG), as well as an indication of the planned use of the assistance available from the European Investment Bank (EIB) and the other financial instruments in implementing the Community programme;

Whereas certain areas of Finland are eligible for structural assistance under Objective 6 as defined in Protocol 6 on the special procedures concerning Objective 6 in the framework of the Structural Funds in Finland and Sweden⁽²⁾, this new priority objective which is in addition to the other five objectives under the Structural Funds and implemented under Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments⁽³⁾, as amended by Regulation (EC) No 3193/94⁽⁴⁾; whereas structural assistance for measures in these areas will be covered by a general programme for Objective 6;

Whereas a separate decision on the Community programme for structural measures has to be taken for those regions of Finland that are not covered by Objective 6;

Whereas, in accordance with Article 3 of Regulation (EEC) No 4253/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments⁽⁵⁾, as amended by Regulation (EC) No 3193/94, the Commission is responsible for ensuring, within the framework of the partnership, coordination and consistency between assistance from the funds and assistance provided by the EIB and the other financial instruments, including the assistance of the ECSC and the other actions for structural purposes;

Whereas the EIB has been involved in the drawing up of the Community programme in accordance with the provisions of Article 8 (1) of Regulation (EEC) No 4253/88, applicable by analogy in the establishment of the single programming document; whereas the EIB has declared itself prepared to contribute to the implementation of this document on the basis of the forecast loan packages shown in this decision and in conformity with its statutory provisions;

Whereas the second paragraph of Article 2 of Commission Regulation (EEC) No 1866/90 of 2 July 1990 on arrangements for using the ecu for the purpose of the budgetary management of the Structural Funds⁽⁶⁾, as last amended by Regulation (EC) No 2745/94⁽⁷⁾, stipulates that in the Commission decisions approving a single programming document, the Community assistance available for the entire period and the annual breakdown thereof shall be set out in ecus at current prices for the year in which each decision is taken and shall be subject to indexation; whereas this annual breakdown must be compatible with the progressive increase in the commitment appropriations shown in Annex III to Regulation (EEC) No 2052/88 in the version modified according to the Act of Accession⁽⁸⁾; whereas indexation is based on a single rate per year, corresponding to the rates applied annually to budget appropriations on the basis of the mechanism for the technical adjustment of the financial perspectives;

⁽¹⁾ OJ No L 346, 31. 12. 1993, p. 1.

⁽²⁾ OJ No C 241, 29. 8. 1994, p. 354.

⁽³⁾ OJ No L 185, 15. 7. 1988, p. 9.

⁽⁴⁾ OJ No L 337, 24. 12. 1994, p. 11.

⁽⁵⁾ OJ No L 374, 31. 12. 1988, p. 1.

⁽⁶⁾ OJ No L 170, 3. 7. 1990, p. 36.

⁽⁷⁾ OJ No L 290, 11. 11. 1994, p. 4.

⁽⁸⁾ OJ No L 1, 1. 1. 1995, p. 218.

Whereas Article 1 of Council Regulation (EEC) No 2080/93 of 20 July 1993 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the financial instrument for fisheries guidance ⁽¹⁾, defines the measures for which the FIFG may provide financial support; whereas Regulation (EC) No 3699/93 defines the criteria and arrangements regarding Community structural assistance in the sector;

Whereas the Community programme has been established in agreement with the Member State concerned through the partnership defined in Article 4 of Regulation (EEC) No 2052/88;

Whereas the Community programme satisfies the conditions and includes the information required by Article 14 of Regulation (EEC) No 4253/88; whereas the aid application satisfies the conditions required by Article 33 (2) of Regulation (EEC) No 4253/88;

Whereas Article 1 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽²⁾, as last amended by Regulation (Euratom, ECSC, EC) No 2730/94 ⁽³⁾, states that the legal commitments entered into for measures extending over more than one financial year must contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted;

Whereas all the other conditions laid down for the grant of aid from the FIFG have been complied with;

Whereas the measures contained in this Decision are consistent with the opinion of the Standing Management Committee of Fisheries Structures,

HAS ADOPTED THIS DECISION:

Article 1

The Community programme for structural assistance in the fisheries and aquaculture sector and the processing and marketing of its products in Finland under Objective 5a, excluding Objective 6 areas, covering the period 1 January 1995 to 31 December 1999, is hereby approved.

Article 2

The Community programme includes the following essential information:

- (a) a statement of the main priorities for joint action, their specific quantified objectives, an appraisal of their expected impact and their consistency with economic, social and regional policies in Finland;

⁽¹⁾ OJ No L 193, 31. 7. 1993, p. 1.

⁽²⁾ OJ No L 356, 31. 12. 1977, p. 1.

⁽³⁾ OJ No L 293, 12. 11. 1994, p. 7.

The main priorities are:

- adjustment of fishing effort;
- renewal and modernization of the fishing fleet;
- aquaculture,
- enclosed seawater areas;
- fishing port facilities;
- product processing and marketing,
- product promotion,
- studies, technical assistance and other services provided;

- (b) the assistance from the FIFG as referred to in Articles 3 and 4;

- (c) the detailed provisions for implementing the single programming document comprising:

- the procedures for monitoring and evaluation,
- the financial implementation provisions,
- the rules for compliance with community policies;

- (d) the procedures for verifying additionality and an initial evaluation of the latter.

Article 3

The assistance from the FIFG granted to this Community programme amounts to a maximum of ECU 23 million at 1995 prices.

The expenditure actually incurred is eligible for assistance under FIFG from 1 January 1995.

The procedure for granting this financial assistance, including the financial contribution from the FIFG to the various priorities and measures which this present Community programme comprises, is set out in the financing plan.

The national financial contribution as indicated in the financing plan may be met in part by Community loans from the European Investment Bank and other types of loan.

Article 4

For the purpose of indexation, the annual breakdown of the maximum overall allocation provided as assistance from the FIFG is as follows:

<i>millions of ecu (1995 prices)</i>	
1995	4,14
1996	4,53
1997	4,61
1998	4,72
1999	5,00
Total	23,00

Article 5

The budgetary commitment for the first instalment under FIFG amounts to ECU 4,14 million.

Commitment of subsequent instalments will be based on the financing plan for the single programming document and progress in its implementation.

Article 6

The procedures for the grant of the assistance may be amended subsequently, subject to the availability of funds and the budgetary rules, in the light of adjustments decided on in accordance with the procedure laid down in Article 25 (5) of Regulation (EEC) No 4253/88.

Article 7

The Community aid concerns expenditure on actions under the present Community programme which, in the Member State concerned, is the subject of legally binding commitments and for which the requisite finance has

been specifically allocated not later than 31 December 1999. The final date for taking account of expenditure on these measures is 31 December 2001.

Article 8

The single programming document shall be implemented in accordance with Community law, and in particular Articles 6, 30, 48, 52 and 59 of the Treaty and the Community directives on the coordination of procedures for the award of contracts.

Article 9

This Decision is addressed to the Republic of Finland.

Done at Brussels, 28 July 1995.

For the Commission

Emma BONINO

Member of the Commission
