

Official Journal

of the European Communities

ISSN 0378-6978

L 155

Volume 41

29 May 1998

English edition

Legislation

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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1083/98
of 28 May 1998
establishing the standard import values for determining the entry price of certain
fruit and vegetables

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

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

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

Whereas Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the 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 29 May 1998.

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

Done at Brussels, 28 May 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ L 325, 14. 12. 1996, p. 5.

⁽³⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 28 May 1998 establishing the standard import values for determining the entry price of certain fruit and vegetables

(ECU/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	204	43,7
	999	43,7
0707 00 05	052	87,0
	068	75,5
	999	81,3
0709 90 70	052	75,2
	999	75,2
0805 10 10, 0805 10 30, 0805 10 50	052	34,6
	204	39,6
	212	60,0
	388	51,3
	524	69,9
	528	53,1
	600	53,4
	624	54,6
	999	52,1
	382	57,8
0805 30 10	388	53,8
	999	55,8
0808 10 20, 0808 10 50, 0808 10 90	060	34,0
	388	72,9
	400	86,0
	404	86,3
	508	95,1
	512	79,3
	524	96,1
	528	76,2
	804	111,1
	999	81,9

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2317/97 (OJ L 321, 22. 11. 1997, p. 19). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 1084/98

of 28 May 1998

imposing a provisional anti-dumping duty on imports of stainless steel bars
originating in India

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾, as last amended by Regulation (EC) No 905/98⁽²⁾, and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

- (1) In August 1997 the Commission announced by a notice (hereafter 'notice of initiation') published in the *Official Journal of the European Communities*⁽³⁾ the initiation of an anti-dumping proceeding with regard to imports into the Community of stainless steel bars (hereafter 'SSB') originating in India and commenced an investigation.
- (2) The proceeding was initiated as a result of a complaint lodged by the European Confederation of Iron and Steel Industries (Eurofer) on behalf of Community producers representing a major proportion of the Community production of SSB. The complaint contained evidence of dumping and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.
- (3) The Commission officially advised the Community producers, exporting producers and importers known to be concerned, the representatives of the exporting country and the complainant of the initiation of the proceeding; it gave the parties concerned the opportunity to make their views known in writing and to request a hearing.

A number of exporting producers in India as well as some producers, importers and suppliers in the Community made their views known in writing. All parties who so requested within the time limits set in the notice of initiation were granted a hearing.
- (4) The Commission sent questionnaires to all parties known to be concerned and received replies from a number of companies in the Community and India.

- (5) The Commission sought and verified all the information it deemed necessary for the purpose of a preliminary determination and carried out investigations at the premises of the following companies:

(a) *Community producers*

- Cogne Acciai Speciali Srl, Aosta, Italy,
- Krupp Edelstahlprofile GmbH, Siegen, Germany,
- Rodacciai SpA, Bosisio Parrini, Italy,
- Sprint Metal Edelstahlziehereien GmbH, Hemer, Germany,
- Trafilerie Bedini Srl, Peschiera Borromeo, Italy,
- Ugine-Savoie SA, Ugine, France.

During the verification visit to Rodacciai SpA the company withdrew its cooperation and consequently the information provided by this company could not be taken into account for the investigation.

(b) *Exporting producers in India*

- Bhansali Brightbars Pvt Ltd/Bhansali Ferromet Pvt Ltd, Mumbai,
- Facor (Ferro Alloys Corp. Ltd), Nagpur,
- Grand Foundry Ltd, Mumbai,
- Isibars Ltd, Mumbai,
- Mukand Ltd, Mumbai,
- Panchmahal Steel Ltd, Baroda,
- Raajratna Metal Industries Ltd. Ahmedabad,
- Venus Wire Industries Ltd, Mumbai,
- Viraj Alloys Ltd, Mumbai.

(c) *Importers in the Community related to exporting Indian producers*

- Isibars GmbH, Düsseldorf, Germany,
- Mukand International Ltd, London, United Kingdom.

(d) *Importers in the Community not related to exporting Indian producers*

- Thyssen Schulte GmbH, Dortmund, Germany,
- Ibero Edelstahlhandel & Co KG, Mülheim, Germany,
- Metaalcompagnie 'Brabant', Valkenswaard, Netherlands.

⁽¹⁾ OJ L 56, 6. 3. 1996, p. 1.

⁽²⁾ OJ L 128, 30. 4. 1998, p. 18.

⁽³⁾ OJ C 264, 30. 8. 1997, p. 2.

In the course of the investigation, it was found that Ibero Edelmühlhandel and Thyssen Schulte were, in fact, related to Community producers.

- (6) After the initiation of the proceeding the Indian producer Sindia Steels Ltd applied for newcomer treatment in the sense of Article 11(4) of Council Regulation (EC) No 384/96 (hereafter referred to as 'the Basic Regulation'). The Commission then sought and verified all information deemed necessary for the purposes of a preliminary determination and carried out investigations at the premises of this company.
- (7) The investigation of dumping covered the period from 1 October 1996 to 30 June 1997 (hereafter referred to as 'the investigation period' or 'IP'). The examination of injury covered the period from 1994 to the end of the IP.
- (8) It should be recalled that on 30 October 1997 the Commission initiated an anti-subsidy investigation on the same originating in India⁽¹⁾. This investigation is still in progress.

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

1. Product under consideration

- (9) The product concerned is stainless steel bars and rods, not further worked than cold-formed or cold-finished, containing by weight 2,5 % or more of nickel, of circular cross-section as well as of other cross-sections, currently classifiable within CN codes 7222 20 11, 7222 20 21, 7222 20 31 and 7222 20 81.
- (10) Stainless steel is characterised by a significant content of nickel, chromium and in some instances molybdenum. These alloys protect stainless steel against corrosion. SSB are used by a variety of industrial users, such as the automobile, building, mechanical engineering and chemical industries.
- (11) There exists a wide variety of types of SSB differentiated by alloy content, shape, tolerance and diameter. Despite the existence of these types of SSB, they all fall under the broad definition of SSB because they have the same basic physical, chemical and technical characteristics and the same uses and are distributed via the same distribution channels. They are consequently considered as

forming one single category of product for the purposes of this investigation.

2. Like product

- (12) The Commission found that SSB produced and sold in India as well as the SSB produced and sold in the Community were alike within the meaning of Article 1(4) of the Basic Regulation to the SSB exported from India to the Community because they had the same physical, chemical and technical characteristics and uses.

C. DUMPING

1. Normal value

- (13) In order to establish normal value, for each exporting producer it was first analysed whether the volume of its domestic sales of the product concerned was representative in accordance with Article 2(2) of the Basic Regulation, i.e. whether these sales represented more than 5 % of the sales volume of the product concerned exported to the Community.
- (14) It was then examined whether its total domestic sales of each product type constituted 5 % or more of the sales volume of the same type exported to the Community.

For those product types meeting the 5 % representativity test, it was assessed whether sufficient sales had been made in the ordinary course of trade in accordance with Article 2(4) of the Basic Regulation. Where, per product type, the volume of sales above unit cost was at least 80 % of the total domestic sales volume, normal value was established on the basis of the weighted average prices actually paid for all domestic sales. Where, per product type, the volume of profitable transactions was lower than 80 %, but not less than 10 % of the total domestic sales volume, normal value was established on the basis of the weighted average prices actually paid for the profitable domestic sales only.

Where, per product type, the volume of domestic sales was lower than 5 % of the volume destined for export to the Community, or where the volume of profitable domestic sales was less than 10 %, domestic sales of that product type were considered insufficient in the sense of Article 2(2) and (4) of the Basic Regulation and were therefore disregarded. In these cases, normal value was based on

⁽¹⁾ OJ C 328, 30. 10. 1997, p. 16.

the weighted average of the prices charged by other exporting producers in the country concerned for representative domestic sales of the corresponding product type made in the ordinary course of trade.

Where, per product type, there were no such representative domestic sales by other exporting producers in the country concerned, normal value was constructed in accordance with Article 2(3) and (6) of the Basic Regulation, i.e. on the basis of all costs of manufacturing incurred by the exporting producer concerned for the exported product type in question plus a reasonable amount for selling, general and administrative expenses (hereafter 'SG&A') and profit. The SG&A and profit were usually based on domestic sales of those product types of the like product made by the producer in question in representative quantities and in the ordinary course of trade. However, where the exporting producer concerned did not sell the like product on the domestic market in representative quantities or in the ordinary course of trade, the amount for SG&A and profit was established in accordance with Article 2(6)(a) of the Basic Regulation, i.e. on the basis of the weighted average of the actual amounts determined for other exporting producers subject to the investigation in respect of representative domestic sales of the product concerned made in the ordinary course of trade.

- (15) The manufacturing costs of one company which did not sell the product concerned on the domestic market were found to be unreliable. Consequently, in accordance with Article 18 of the Basic Regulation, for those product types for which normal value had to be constructed, manufacturing costs were based on the weighted average of all manufacturing costs incurred by other exporting producers for the same product type plus a reasonable amount for SG&A and profit. The amount for SG&A and profit was established in accordance with Article 2(6)(a) of the Basic Regulation as indicated above.

2. Export price

- (16) Where export sales to the Community were made directly so unrelated importers, in accordance with Article 2(8) of the Basic Regulation, export prices were established on the basis of the prices actually paid or payable by these independent customers.
- (17) Where export sales were made to importers in the Community which were related to an exporting producer, in accordance with the provisions of

Article 2(9) of the Basic Regulation, the export prices were constructed on the basis of the prices at which the imported products were first resold to independent buyers. Adjustments were made for all costs incurred between importation and resale, including a reasonable margin for SG&A and profit. The level of profit was determined on the basis of information on profits submitted by the co-operating unrelated importers of the products concerned in the Community where such information was considered reliable.

3. Comparison

- (18) For the purposes of a fair comparison, due allowance in the form of adjustments was made for differences which were claimed and demonstrated to affect price comparability. In accordance with Article 2(10) of the Basic Regulation, these adjustments were made in respect of import charges and indirect taxes, transport, insurance, handling and ancillary costs, packing, credit costs, commissions and currency conversions.
- (19) Some companies claimed an allowance for currency conversions pursuant to Article 2(10)(j) of the Basic Regulation on the grounds that the foreign currencies in which they invoiced their export sales had devalued significantly against the Indian rupee during the IP.

These companies claimed that the date of sale should be the date of the purchase order and that the exchange rate prevailing 60 days before the purchase order date should be used for the dumping calculation.

However, as the companies concerned did not submit any evidence to show that at the time of the purchase order, precautionary measures had been taken to cover them against the currency exchange risk, it was assumed that this risk was implicitly accepted. Consequently, the claim was provisionally rejected but the matter will be investigated further.

- (20) Some companies claimed an allowance for import duties due on imported raw materials. They based their claim on the 'Pass book scheme'. Under this scheme, when the finished goods incorporating the raw materials are exported, the import duties payable are compensated for in the form of import duty exemptions on future imports.

However, pursuant to Article 2(10)(b) of the Basic Regulation, this allowance was only granted where it was shown that the materials on which import duties were paid were physically incorporated in the product concerned sold on the domestic market and that the import duties were not collected or refunded in respect of the product exported to the Community.

- (21) One company claimed an adjustment for differences in levels of trade on the grounds that, while it sold for export solely to distributors, it sold to both distributors and end-users on the domestic market. It was alleged that the prices charged to domestic end-users were consistently higher than the prices charged to domestic distributors.

This request was not granted since the company could not demonstrate that there were consistent and distinct differences in prices for the alleged different levels of trade in the domestic market. In particular, it was found for some product types that the average price to domestic end-users was lower than the average price to domestic distributors.

4. Dumping margin

- (22) Pursuant to Article 2(11) of the Basic Regulation the dumping margins were established on the basis of a comparison between the weighted average normal value and the weighted average export prices at ex-factory level and at the same level of trade.

- (23) The dumping margins expressed as a percentage of the net free-at-Community-frontier price were as follows:

— Bhansali Brightbars Pvt Ltd/Bhansali Ferromet Pvt Ltd, Mumbai	16,7 %
— Facor (Ferro Alloys Corp. Ltd), Nagpur	10,9 %
— Grand Foundry Ltd, Mumbai	12,2 %
— Isibars Ltd, Mumbai	17,7 %
— Mukand Ltd, Mumbai	17,3 %
— Panchmahal Steel Ltd, Baroda	11,4 %
— Parekh Bright Bars Pvt. Ltd, Thane	15,5 %
— Raajratna Metal Industries Ltd, Ahmedabad	14,4 %
— Venus Wire Industries Ltd, Mumbai	15,4 %
— Viraj Alloys Ltd, Mumbai	10,9 %

- (24) In the course of the investigation it was established that Bhansali Brightbars and Bhansali Ferromet were related companies. Given the risk that anti-dumping measures could be circumvented by channelling exports to the Community through the company with the lower dumping margin if two different margins were established, it was

concluded that only one dumping margin, based on the weighted average of the dumping margin found for both, should be established for the two companies.

- (25) For any exporting producer concerned which neither replied to the Commission's questionnaire nor otherwise made itself known, the dumping margin was determined on the basis of the facts available in accordance with the provisions of Article 18(1) of the Basic Regulation.

A comparison of Eurostat figures with the data on the volume of exports to the Community of the cooperating exporting producers was made in order to establish the level of cooperation in the current investigation.

Since the level of cooperation was high, the Commission's services considered it appropriate to base the dumping margin for non-cooperating companies on the highest dumping margin found for the cooperating exporting producers in the country concerned since there was no reason to believe that a non-cooperating exporting producer had dumped at a level lower than the highest found.

This approach was considered necessary in order to avoid creating a bonus for non-cooperation and an opportunity for circumvention.

Accordingly, the dumping margin provisionally established for the non-cooperating exporting producers in India is 17,7 %, expressed as percentage of the free-at-Community frontier price.

- (26) With regard to the exporting producer mentioned in recital 6, it was established that all the conditions set out in Article 11(4) of the Basic Regulation for the initiation of a new exporter review were met. The Commission concluded that, in this particular case, the dumping margin applicable to this producer and to any company meeting the same conditions should be set at a level different to that applicable to non-cooperating exporting producers, which is at the highest level because of their non-cooperation and in order to prevent circumvention. In these circumstances it was considered appropriate that the weighted average dumping margin found for the cooperating Indian companies, i.e. 15,5 %, should apply to this company.

D. INJURY

1. Community industry

- (27) The aggregated production of the five Community producers of SSB that had supported the complaint and fully cooperated with the Commission (see

recital 5) accounts for 45 % of total Community production. These companies constitute the Community industry as defined in Articles 4(1) and 5(4) of the Basic Regulation.

2. General remarks

- (28) It will be recalled that the IP has a duration of only nine months. Therefore, for the purpose of comparison, the findings relating to the IP were extrapolated to 12 months in order to allow for a comparison on a yearly basis (hereinafter 'IP12').

3. Consumption in the Community

- (29) The apparent consumption of SSB in the Community during the period January 1994 to June 1997 was based on total production in the Community plus total imports minus total exports. In this respect, the Commission relied on data provided by the Community industry, the other producers located in the Community and Eurofer, as well as on Eurostat statistics.
- (30) During the period 1994 to June 1997 the total consumption in the Community expressed in tonnes amounted to 117 039 in 1994, 146 025 in 1995, 113 448 in 1996, and 148 457 in IP12.

4. Import volumes and market share of dumped imports

- (31) The Indian import volume in tonnes developed as follows: 7 597 tonnes in 1994, 11 170 tonnes in 1995, 10 329 tonnes in 1996 and 8 311 tonnes in IP12, which corresponds to an overall increase of 2 732 tonnes or 36 % between 1994 and 1996.
- (32) The Indian market share (based on Eurostat data) increased constantly from 6,5 % in 1994 to 7,6 % in 1995 and to 9,1 % in 1996. This corresponds to an increase of 40 % when comparing the years 1994 and 1996. During the IP the market share dropped but remained at the significant level of 5,6 %.

5. Prices of dumped imports from India and price undercutting

- (33) It has been established for the period from 1994 to the IP that, based on Eurostat figures, imports from India have been made consistently at prices which

undercut those of the Community industry. This analysis has been confirmed in detail for the IP.

- (34) In particular, in order to establish whether prices of the cooperating Indian exporters undercut the Community industries' sales prices, a detailed analysis was carried out for each of them for sales made during the IP. This was done by comparing, per product type, their weighted average export prices with the weighted average sales prices of the Community industry to unrelated parties. If exports were made through related companies the export prices were duly adjusted for costs between importation and sales to the first independent customer. For the purposes of comparison, the products were grouped into product types according to steel grade, shape, diameter and tolerance.
- (35) Adjustments to the Indian export prices were made where appropriate for transport costs and handling charges in order to arrive at the free-at-Community-frontier level, customs-cleared price.
- (36) An adjustment to the sales prices of the Community producers was made for differences in levels of trade since it was found that the Indian producers sold to traders only whereas the Community industry sold to both traders and users, granting significant discounts to traders. The adjustment was made by reducing the Community industry's sales prices to end-users reflecting the discounts granted. Furthermore, the Community industry's sales prices were adjusted where appropriate for transport costs.
- (37) The Indian exporting producers requested an adjustment for alleged quality differences, which could not be granted since the chemical composition of the product concerned is governed by international standards. The request was only made in a general manner, i.e. no company-specific information was provided by the Indian producers which, as a consequence, could not be properly verified.
- (38) Similarly, Indian requests for an adjustment concerning (1) different lead times between order and delivery and (2) different price-setting mechanisms (Indian producers sell at fixed prices whereas Community producers use a base price system and add a alloy surcharge for nickel, chromium and molybdenum) could not be granted since it was not demonstrated that they affected price comparability.

(39) Furthermore, a request for an adjustment for differences in payment terms made by two Indian exporting producers could not be accepted. The Indian exporting producers had stated that, contrary to the payment terms applied by the Community industry, they used payment terms requiring payment approximately 30 days before the goods were delivered. This statement is contradicted by the findings of the Commission, which established that the Indian producers concerned apply payment terms requesting payment 60 days after the shipping date. Since transport from India to the Community does not exceed, on average, 30 days, the Indian producers received payment not before, but after delivery, as was found for the Community industry.

(40) Finally, the Indian producers requested that India's exemption from the 4,2 % customs duty on the product concerned under the GSP regime be taken into account for the calculation of price undercutting and injury elimination (see recital 75). According to these producers the Indian export prices should be increased by 4,2 % 'as if' imports from India did not benefit from the GSP system. This argument was not accepted because the calculation of price undercutting is based on the actual prices paid on the market. Hypothetical duties can therefore not be considered. The relevant legislation, in particular Article 13 of Regulation (EC) No 3281/94, states that the granting of GSP treatment does not preclude to counteract injurious dumping.

(41) The comparison of the duly adjusted weighted average export prices with the weighted average sales prices of the Community industry showed that the Indian exporting producers had undercut the sales prices of the Community producers as follows:

— Bhansali Brightbars Pvt Ltd/Bhansali Ferromet Pvt Ltd, Mumbai	14,5 %
— Facor (Ferro Alloys Corp. Ltd), Nagpur	16,5 %
— Grand Foundry Ltd, Mumbai	13,3 %
— Isibars Ltd, Mumbai	19,5 %
— Mukand Ltd, Mumbai	17,9 %
— Panchmahal Steel Ltd, Baroda	13,9 %
— Parekh Bright Bars Pvt Ltd, Thane	15,5 %
— Raajratna Metal Industries Ltd, Ahmedabad	16,8 %
— Venus Wire Industries Ltd, Mumbai	13,2 %
— Viraj Alloys Ltd, Mumbai	19,8 %.

(42) For the Indian exporting producers Bhansali Brightbars and Bhansali Ferromet it was decided, for the reasons set out in recital 24, that only one undercutting margin, based on the weighted average of the undercutting margin found for both, should be established for the two companies.

(43) In the course of the investigation, certain Indian producers argued that the calculation of undercutting margins would be meaningless in the context of this investigation in view of the findings set out in a recent Commission Decision in competition matters (Case IV/35.814 — Alloy Surcharge)⁽¹⁾.

This Decision stated that Community producers of stainless steel, flat products, had modified 'in a concerted fashion the reference values used to calculate the alloy surcharge, a practice having the object and effect of restricting and distorting competition within the common market'.

It should be noted, however, that this Decision does not relate to the product subject to the anti-dumping investigation. SSB fall into the category stainless steel long products, as opposed to stainless steel flat products, the product concerned by the abovementioned Commission Decision.

The Indian companies confirmed this distinction, but alleged that a concerted practice also existed for SSB. Two of them lodged a formal complaint pursuant to Article 3 of Council Regulation No 17⁽²⁾. However, at this stage, no conclusive evidence was submitted or made available to the Commission which suggested that the producers of SSB had 'in a concerted manner agreed on a price setting mechanism of SSB'. In this context it is important to underline that the producers of stainless steel, flat products, and the producers of SSB are, to a large extent, not identical.

In addition, it was noted that, when comparing the sales prices of the Community industry, the sales prices for identical product types sold to comparable categories of customers varied substantially within the same time period. Moreover, it was noted that sales prices varied over different time periods (with a downward trend since 1995) resulting in different levels of profitability for the producers making up the Community industry over different periods. The Commission therefore concluded that, contrary to the allegation of the Indian producers, there was nothing at this stage of the investigation to indicate that the undercutting calculation was meaningless.

⁽¹⁾ Commission Decision of 21 January 1998 (OJ L 100, 1. 4. 1998, p. 55).

⁽²⁾ OJ 13, 21. 2. 1962, p. 204/62.

6. Situation of the Community industry

6.1. *Production volume, capacity and capacity utilisation*

(44) During the period 1994 to June 1997 the total production of the Community industry expressed in tonnes amounted to 60 800 in 1994, 65 459 in 1995, 53 070 in 1996, and 66 640 in IP12.

(45) It was concluded that the total production of the Community industry had fluctuated over the recent years in reaction to changes in demand and low-priced imports from India. While 1995 in terms of production can be described as a successful year for the Community industry due to very high demand, 1996 showed a significant drop in the level of production. This was due to a decrease in Community consumption in 1996 and to the Indian exporting producers selling their products at very low prices, thereby undercutting the sales prices of the Community industry. During the IP, the production of the Community industry increased again, benefiting from higher demand, but only achieved lower sales prices.

(46) As far as the development of capacity and capacity utilisation is concerned, the Community industry uses the same machines for the manufacture of other products. Therefore, it is difficult to assess the precise capacity and capacity utilisation rates for the product concerned. Hence, it was considered appropriate not to draw any conclusions on the basis of these two factors.

6.2. *Sales volume*

(47) The sales volume by the Community industry to unrelated parties in the Community (expressed in tonnes) was 31 659 in 1994, 33 264 in 1995, 22 988 in 1996, 21 081 in IP and 28 108 in IP12, whereas the sales volume to related parties was 12 977 in 1994, 13 675 in 1995, 11 930 in 1996, 13 092 in IP and 17 456 in IP12.

(48) It was concluded that the sales volume to unrelated parties in the Community as well as the combined volume to unrelated and related parties in the Community followed a similar trend as was observed for the volume of production. Sales volumes have fluctuated over the past few years and 1996 showed a particularly significant drop. This

trend was only reversed after significant price reductions during the IP with a higher sales volume in this period when compared with 1996.

(49) This development corresponds to a loss of more than 11 % of sales volumes to unrelated parties when comparing 1994 and IP12. In this respect it was also noted that the Community industry could not benefit from the overall growth in the market.

6.3. *Market share*

(50) While the market share of Indian imports increased significantly between 1994 and 1996 (see above), the same period showed a negative development in the market share of the Community industry. For sales to both related and unrelated parties it was noted that while the Community industry accounted for 38,1 % of the market in 1994, its market share amounted to 32,1 % in 1995 and 30,8 % in 1996. This corresponds to a loss of 19,2 %. The market share reached its lowest level in the IP with 30,7 %.

(51) As regards sales to unrelated parties only, it was established that the market share decreased significantly from 27 % in 1994 to 22,8 % in 1995 and to 20,1 % in 1996. Again, this corresponds to a loss of 25,6 %. The market share reached its lowest level in the IP with 18,9 %.

6.4. *Sales prices*

(52) The sales prices of the Community industry have followed a downward trend since 1995. In order to prevent further losses of market share the Community industry has lowered its prices by 21 % since 1995. Expressed in index form the sales prices decreased from 134 in 1995 to 126 in 1996 and to 106 in the IP (index 100 corresponds to 1994).

6.5. *Profitability*

(53) As regards profitability, the investigation showed that with one exception all the producers forming the Community industry were in a better financial situation in 1994 than during the IP. The profit margins of all companies dropped significantly, notably between 1995 and the IP, and one company in particular faced significant losses during the IP. The weighted-average profit margin during the IP was unsatisfactory for all but one producer due to the reduction in sales prices.

The index of the profit margin developed as follows: 100 in 1994, 312 in 1995, 151 in 1996 and 73 in the IP.

6.6. *Employment and stocks*

- (54) As regards employment, the Community industry's workforce remained almost stable at 602 in 1994 to 592 during the IP. In some instances redundancies could only be avoided by short-time working.
- (55) The stocks increased by more than 3 000 tonnes between 1994 and the IP and amounted to 10 923 tonnes by the end of the IP.

7. Conclusions

- (56) From the above it can be concluded that the Community industry is suffering material injury. The main injury factors are the significant price undercutting practised by the Indian exporting producers, the consequent depression of the Community industry's sales prices, the unsatisfactory profitability, the significant gain in market share by the Indian exporting producers from 1994 to 1996 and the corresponding loss of market share by the Community industry; the losses in sales volumes and the increase in stocks.

E. CAUSATION

1. Effect of the dumped imports

- (57) The rapid increase in the market share held by Indian imports (40 % between 1994 and 1996) and the substantial price undercutting found (up to 16,3 %) coincide with the deterioration of the situation of the Community industry, in particular its loss of market share, depressed prices and unsatisfactory profitability.
- (58) When faced with dumped imports originating in India, the Community industry had the choice, after the successful year of 1995, of either maintaining its prices or of following the dumped prices with negative consequences for profitability. In 1996, some Community producers tried to maintain their sales prices at a high level, while others reduced them. Both strategies resulted in a negative impact on profitability either directly (lower prices) or indirectly (lower sales volume resulting in higher overheads per tonne sold). During the IP all Community producers lowered their sales prices still further, which again had a negative impact on their profitability. This clearly shows the price sensitivity of the market and the important impact

of the price undercutting practised by the Indian exporting producers.

- (59) Certain Indian exporting producers submitted that they had not caused any material injury since they only sold to a limited number of traders whereas the Community producers also sold to users and traders which were not customers of the Indian producers. Accordingly, there would only be limited competition between the Indian and Community products affecting 35 % of the total Community market. This argument is contradicted by the transparency of the market reacting quickly to changes in prices and the possibility for the Indian producers to sell to other purchasers in the Community.

2. Other factors

- (60) The Commission also considered whether other factors such as the overall development of the market, the behaviour of the Community industry itself or imports from other countries could have caused the injury suffered by the Community industry.
- (61) Certain Indian producers alleged that the complainant Community industry was inefficient and drew the attention in particular to the low rate of capacity utilisation. In any event, as indicated above, it was not considered appropriate to use the capacity utilisation rate as a decisive injury factor. However, any decrease in capacity utilisation would occur at a time of a substantial decrease in sales of the Community industry coinciding with an increase in dumped imports.
- (62) In the course of the investigation it was also considered whether the situation of the producers in the Community which were not part of the Community industry as defined in recital 27 was any different from the situation of the Community industry. Due to a lack of verifiable information and taking into account the transparency of the SSB's market in the Community, in particular as regards prices, it is concluded that the other producers located in the Community are likely to have followed a similar trend to the cooperating producers.
- (63) Furthermore, it was found that imports from other countries had had no decisive impact on the Community industry. These imports were made either in negligible quantities and/or at higher prices. Only Russian imports appear, on average, to have been made at lower prices than those from India, but the quantities imported during the IP accounted only for 1,2 % of the Community market.

(64) Finally, the Indian producers have argued that the prices of hot-rolled bars, i.e. the major raw material for the production of SSB, and the prices of SSB have not followed the same downward trend over recent years. This allegedly has led to difficulties for non-integrated producers, as they were forced to purchase their raw materials at higher prices. The difficulties of the non-integrated producers could therefore not be attributed to the Indian imports. The latter was not substantiated and could not therefore be taken into consideration at this stage.

3. Conclusion

(65) In view of the coincidence in time between the level of price undercutting, the reduction in the sales price of the Community industry and the unsatisfactory profitability, as well as the significant market share gained by the Indian imports from 1994 to 1996 (a trend which could only be reversed after price decreases by the Community industry) and the corresponding loss of market share suffered by the Community industry, it was concluded that the dumped imports from India, taken in isolation, had caused material injury to the Community industry.

F. COMMUNITY INTEREST

(66) In accordance with Article 21 of the Basic Regulation, and in order to evaluate whether the adoption of anti-dumping measures would be against the interest of the Community as a whole, the Commission examined the impact of measures on the various interests involved.

(67) Measures cannot be applied where the Community institutions, on the basis of all information submitted, clearly conclude that it not in the interest of the Community to apply such measures.

(68) In order to investigate this issue, questionnaires were sent to 59 users of SSB but no substantiated replies were received. This was considered as meaning that the outcome of the investigation would probably not have a significant impact on users, either because SSB are not a significant cost factor for them or because their production of downstream products relating to SSB only accounts for a small proportion of total production. Anyhow, it was noted that any price increase resulting from the anti-dumping measures would be moderate given the high number of competitors inside and outside the Community.

(69) 14 suppliers of raw material to SSB Community producers were also contacted. Their replies indicated that the re-establishment of fair trade would lead to benefits to this upstream industry from the point of view of production, sales, employment and profitability.

(70) Finally, it has been argued that it could not be in the interest of the Community to impose measures taking into account the aforementioned alleged practices in the calculation of the alloy surcharge. In this respect reference is made to the comments made above. Furthermore, consideration was given to the fact that no user replied to the Commission's questionnaire, arguing that purchase prices of the Community industry for SSB were unjustifiably high.

(71) In short, there was no evidence to suggest that it was not in the interest of the Community to impose measures.

G. PROVISIONAL DUTY

(72) On the basis of the conclusions on dumping, injury, causal link and Community interest, the Commission considers it necessary to adopt provisional anti-dumping measures.

(73) For the purpose of determining the level of these measures, the Commission took account of the dumping margins found and the amount of duty necessary to eliminate the injury sustained by the Community industry.

(74) To that effect, the Commission considered that the prices of dumped imports should be increased to a non-injurious level. The necessary price increase was determined on the basis of a comparison of the weighted average import price used to establish price undercutting, as outlined in recital 34 et seq. with the weighted average cost of production of the Community industry and a reasonable return on sales of the product concerned. In this respect a profit rate of 5 % on turnover was used. The Commission considers this profit level sufficient given the nature of the product concerned.

(75) This comparison showed the following injury margins (expressed in relation to the free-at-Community-frontier price level):

— Bhansali Brightbars Pvt Ltd/Bhansali Ferromet Pvt Ltd, Mumbai	18,3 %
— Facor (Ferro Alloys Corp. Ltd), Nagpur	11,5 %
— Grand Foundry Ltd, Mumbai	16,7 %

— Isibars Ltd, Mumbai	25,0 %
— Mukand Ltd, Mumbai	24,5 %
— Panchmahal Steel Ltd, Baroda	17,6 %
— Parekh Bright Bars Pvt Ltd, Thane	15,5 %
— Raajratna Metal Industries Ltd, Ahmedabad	21,2 %
— Venus Wire Industries Ltd, Mumbai	16,5 %
— Viraj Alloys Ltd, Mumbai	23,5 %

(76) As regards the Indian producers Bhansali Brightbars and Bhansali Ferromet it was decided that only one injury margin, based on the weighted average of the margins for both, should be established for the two companies.

(77) For the newcomer Sindia Steels Ltd it was considered that, due to the lack of comparable data, the injury margin should be calculated using a weighted average of the injury margins of the cooperating Indian companies. This resulted in an injury margin of 22 %.

(78) In accordance with Article 7(2) of the Basic Regulation the duty rate should correspond to the dumping margin, unless the injury margin is lower. The following rates of duty therefore apply for the cooperating producers:

— Bhansali Brightbars Pvt Ltd/Bhansali Ferromet Pvt Ltd, Mumbai	16,7 %
— Facor (Ferro Alloys Corp. Ltd), Nagpur	10,9 %
— Grand Foundry Ltd, Mumbai	12,2 %
— Isibars Ltd, Mumbai	17,7 %
— Mukand Ltd, Mumbai	17,3 %
— Panchmahal Steel Ltd, Baroda	11,4 %
— Parekh Bright Bars Pvt. Ltd, Thane	15,5 %
— Raajratna Metal Industries Ltd, Ahmedabad	14,4 %

— Venus Wire Industries Ltd, Mumbai	15,4 %
— Viraj Alloys Ltd, Mumbai	10,9 %

For Sindia Steels Ltd the duty rate should be 15,5 %.

(79) In order to avoid granting a bonus for non-cooperation, it was considered appropriate to establish the duty rate for the non-cooperating companies at the level of the highest duty rate found, i.e. 17,7 %.

H. FINAL PROVISION

(80) In the interests of sound administration, a period should be fixed within which the interested parties which made themselves known within the time limit specified in the notice of initiation may make their views known in writing and request a hearing. Furthermore, it should be stated that the findings made for the purposes of this Regulation are provisional and may have to be reconsidered for the purposes of any definitive duty,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of stainless steel bars and rods not further worked than cold-formed or cold-finished, containing by weight 2,5 % or more of nickel, of circular cross-section as well as of other cross-sections, falling within CN codes 7222 20 11, 7222 20 21, 7222 20 31 and 7222 20 81 and originating in India.

2. The rate of duty applicable to the net free-at-Community-frontier price, before duty, shall be as follows:

Manufacturer	Rate of duty (%)	Taric additional code
Bhansali Bright Bars Pvt Ltd, / Bhansali Ferromet Pvt Ltd, Mumbai	16,7	8226
Facor (Ferro Alloys Corp. Ltd), Nagpur	10,9	8400
Grand Foundry Ltd, Mumbai	12,2	8401
Isibars Ltd, Mumbai	17,7	8402
Mukand Ltd, Mumbai	17,3	8403
Panchmahal Steel Ltd, Baroda	11,4	8404
Parekh Bright Bars Pvt Ltd, Thane	15,5	8406
Raajratna Metal Industries Ltd, Ahmedabad	14,4	8405

Manufacturer	Rate of duty (%)	Taric additional code
Sindia Steels Ltd, Nashik	15,5	8406
Venus Wire Industries Ltd, Mumbai	15,4	8407
Viraj Alloys Ltd/Viraj Impoexpo Ltd, Mumbai	10,9	8400
All other companies	17,7	8900

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

Without prejudice to Article 20 of Regulation (EC) No 384/96, the interested parties which made themselves known within the time limit specified in the notice of initiation may make known their views in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

Pursuant to Article 21(4) of Regulation (EC) No 384/96, the parties concerned may comment on the application of this Regulation within one month of the date of its entry into force.

Article 3

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

Article 1 of this Regulation shall apply for a period of six months.

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

Done at Brussels, 28 May 1998.

For the Commission

Leon BRITTAN

Vice-President

COMMISSION REGULATION (EC) No 1085/98
of 27 May 1998
on the supply of rice as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice⁽¹⁾, as amended by Regulation (EC) No 192/98⁽²⁾, and in particular Articles 8(b) and 13(5) thereof,

Having regard to Council Regulation (EC) No 1292/96 of 27 June 1996 on food-aid policy and food-aid management and special operations in support of food security⁽³⁾, and in particular Article 24(1)(b) thereof,

Whereas Regulation (EC) No 1292/96 lays down the list of countries and organisations eligible for Community aid 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 cereals to certain beneficiaries;

Whereas it is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EC) No 2519/97 of 16 December 1997 laying down general rules for the mobilisation of products to be supplied under Council Regulation (EC) No 1292/96 as Community food aid⁽⁴⁾; whereas it is necessary to specify the time limits and conditions of supply to determine the resultant costs;

Whereas Commission Regulation (EEC) No 2351/91⁽⁵⁾ lays down the detailed rules applicable on the purchase of rice held by public agencies for the supply of food aid;

Whereas, in view of the availability of rice in the Community and the existence of sufficient stocks, such

produce should be used to supply, under certain conditions, food aid to North Korea; whereas, also, to ensure the supply for the available appropriations for this operation, provision should be made to derogate from Article 5(1) of Regulation (EEC) No 2351/91, which fixes the purchase price to be paid by the tenderer;

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

HAS ADOPTED THIS REGULATION:

Article 1

Cereals shall be mobilised in the Community, as Community food aid for supply to the recipient listed in Annex I, in accordance with Regulation (EC) No 2519/97 and under the conditions set out in the Annexes.

The 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

By way of derogation from Article 5(1) of Regulation (EEC) No 2351/91, the purchase price to be paid for the rice held by the Greek and Spanish agencies for the supply of Community food aid to North Korea shall be ECU 75/tonne.

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, 27 May 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30. 12. 1995, p. 18.

⁽²⁾ OJ L 20, 27. 1. 1998, p. 16.

⁽³⁾ OJ L 166, 5. 7. 1996, p. 1.

⁽⁴⁾ OJ L 346, 17. 12. 1997, p. 23.

⁽⁵⁾ OJ L 214, 2. 8. 1991, p. 51.

ANNEX I

LOTS A, B, C and D

1. **Action Nos:** 8/98 (A); 9/98 (B); 10/98 (C); 11/98 (D)
2. **Beneficiary** ⁽²⁾: North Korea
3. **Beneficiary's representative:** Flood Damage Rehabilitation Committee, PO Box No 44, Pyongyang, Democratic People's Republic of Korea. Contact: Ri Si Hong, Director, (Tel.: (850 2) 382 70 00, fax: 381 46 60, telex: 5350KP/5351KP)
4. **Country of destination:** North Korea
5. **Product to be mobilized** ⁽¹⁾: milled rice (product code 1006 30 98 9900)
6. **Total quantity (tonnes net):** 30 000
7. **Number of lots:** four (A: 10 000 tonnes; B: 10 000 tonnes; C: 5 000 tonnes; D: 5 000 tonnes)
8. **Characteristics and quality of the product** ⁽³⁾ ⁽⁴⁾ ⁽¹⁰⁾: see OJ C 114, 29.4.1991, p. 1 (II.A (1) (f))
9. **Packaging** ⁽⁸⁾: see OJ C 267, 13.9.1996, p. 1 (1.0 A (1) (c), (2) (c) and B (3))
10. **Labelling or marking** ⁽⁶⁾ ⁽⁷⁾: see OJ C 114, 29.4.1991, p. 1 (II.A (3))
 - Language to be used for the markings: English and Korean
 - Supplementary markings: 'FOR FREE DISTRIBUTION'
11. **Method of mobilization of the product:** purchase from: see Annex II. The purchased price to be paid for the rice in question shall be ECU 75 per tonne
12. **Specified delivery stage:** free at port of landing — landed ⁽⁴⁾
13. **Alternative delivery stage:** free at port of shipment — fob stowed
14. (a) **Port of shipment:** —
(b) **Loading address:** —
15. **Port of landing:** A and C: Haeju; B and D: Nampo
16. **Place of destination:** —
 - port or warehouse of transit: —
 - overland transport route: —
17. **Period or deadline of supply at the specified stage** ⁽⁹⁾:
 - first deadline: A and B: 7 — 20.9.1998; C and D: 6.9.1998
 - second deadline: A and B: 21.9 — 4.10.1998; C and D: 20.9.1998
18. **Period or deadline of supply at the alternative stage:**
 - first deadline: A and B: 20.7 — 2.8.1998; C and D: 13 — 26.7.1998
 - second deadline: A and B: 3 — 16.8.1998; C and D: 27.7 — 9.8.1998
19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
 - first deadline: 11.6.1998
 - second deadline: 25.6.1998
20. **Amount of tendering guarantee:** ECU 5 per tonne
21. **Address for submission of tenders and tendering guarantees** ⁽¹⁾: Bureau de l'aide alimentaire, Attn Mr T. Vestergaard, Bâtiment Loi 130, bureau 7/46, Rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel (telex: 25670 AGREC B; fax: (32 2) 296 70 03 / 296 70 04 (exclusively))
22. **Export refund:** no refunds applicable

Notes:

- (¹) Supplementary information: André Debongnie (Tel.: (32 2) 295 14 65).
Torben Vestergaard (Tel.: (32 2) 299 30 50).
- (²) The supplier shall contact the beneficiary or its representative as soon as possible to establish which consignment documents are required.
- (³) The supplier 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.
- (⁴) In addition to the provisions of Article 14(3) of Regulation (EC) No 2519/97, vessels chartered shall not appear on any of the four most recent quarterly lists of detained vessels as published by the Paris Memorandum of Understanding on Port State Control (Council Directive 95/21/EC (OJ L 157, 7.7.1995, p. 1)).
- (⁵) The supplier shall supply to the beneficiary or its representative, on delivery, the following document:
— phytosanitary certificate.
- (⁶) Notwithstanding OJ C 114, point IIA (3) (c) is replaced by the following: 'the words "European Community"'.
(⁷) The marking in Korean must be made as follows on the reverse side of the packaging:

European Community: 구 주 공동 체

Rice: 쌀

For free distribution: 무 상 배 급 용

- (⁸) Since the goods may be rebagged, the supplier must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.
- (⁹) The final subparagraph of Article 14(14) of Regulation (EC) No 2519/97 applies.
- (¹⁰) Broken rice: 10 % maximum.
- (¹¹) Pursuant to Article 4(3) of Regulation (EC) No 2519/97, the rice to be delivered must be manufactured from goods purchased from the public agencies mentioned in the Annex II.
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ANEXO II — BILAG II — ANHANG II — ΠΑΡΑΡΤΗΜΑ II — ANNEX II — ANNEXE II — ALLEGATO II — BIJLAGE II —
ANEXO II — LIITE II — BILAGA II

Lote Parti Los Παρτίδα Lot Lot Lotto Partij Lote Erä Parti	Cantidad parciales (en toneladas de cáscara) Totalmængde (tons i uafskallet ris) Gesamtmenge (in Tonnen von Rohreis) Συνολική ποσότητα (σε τόνους ρυζιού paddy) Total quantity (in tonnes of paddy rice) Quantité totale (en tonnes de riz paddy) Quantità totale (in tonnellate di risone) Totale hoeveelheid (in ton padie) Quantidade total (em toneladas de arroz paddy) Kokonaismäärä (tonnia paddy- eli raakariisiä) Total kvantitet (ton i paddyris)	Cantidades parciales (en toneladas) Delmængde (tons) Teilmengen (in Tonnen) Μερικές ποσότητες (σε τόνους) Partial quantities (in tonnes) Quantités partielles (en tonnes) Quantitativi parziali (in tonnellate) Deelhoeveelheden (in ton) Quantidades parciais (em toneladas) Osittaismäärä (tonnia) Delkvantitet (ton)	Nombre, apellidos y dirección del almacenista Lagerholderens navn og adresse Name und Adresse des Lagerhalters Ονοματεπώνυμο και διεύθυνση του αποδεματοποιητή Name and address of storer Nom et adresse du stockeur Nome e indirizzo del detentore Naam en adres van de depothouder Nome e endereço do armazenista Varastojan nimi ja osoite Lagerhållarens namn och adress	Ritmo horario de carga (en toneladas) Læsekapacitet pr. time (tons) Verladekapazität (in Tonnen) Ωριαίος ρυθμός φορτώσεως (σε τόνους) Hourly loading rate (in tonnes) Rythme horaire de chargement (en tonnes) Ritmo orario di carico (in tonnellate) Laadtempo per uur (in ton) Ritmo de carregamento por hora (em toneladas) Lastausnopeus tunnissa (tonnia) Lastkapacitet per timma (ton)
A	18 000	12 259	Centro de Intervención de Marchena Delegación Provincial de Agricultura 41620 Marchena (Sevilla) Tel. (34) 95 484 39 00	300 8-15h (lun-ven / Mon-Fri)
		4 834	Centro de Intervención del Fega de las Cabezas de San Juan. Delegación Provincial de Agricultura 41730 Las Cabezas de San Juan (Sevilla) Tel. + fax: (34) 95 587 10 55	300 8-15h (lun-ven / Mon-Fri)
		907	Ctra. Maruanas S/N C.P. 14620 El Carpio (Córdoba) Tel.: (34) 95 18 02 19	150 8-15h (lun-ven / Mon-Fri)
B	18 000	16 096	'Omospondia' warehouse of Sindos, Thessaloniki Christoforos Pavlidis Agevee 'Agricultural' Tel.: (30 31) 79 62 84; fax: 79 62 83	300/8h (first 1 300 tons) 120/8h for the rest
		1 904	'Omospondia' warehouse of Epanomi, Thessaloniki M. Kourkouta & Co. Ltd Tel.: (30 392) 423 66; fax: 421 07	350/8h/silo
C	8 500	7 556	'Omospondia' warehouse of N. Halkidona, Thessaloniki Hellenic Cereal Co. Ltd Tel. + fax: (30 391) 237 05/232 05	300/8h/silo
		944	Warehouse of Epanomi - Thessaloniki M. Kourkouta & Co. Ltd Tel.: (30 392) 423 66; fax: 421 07	350/8h/silo
D	8 500	8 500	Warehouse of Croccio - Volos Christoforos Pavlidis Agevee 'Agricultural' Tel.: (30 422) 218 82; 218 85, fax: 219 28	450/8h/silo

COMMISSION REGULATION (EC) No 1086/98
of 28 May 1998
on the issuing of system B export licences for 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 2190/96 of 14 November 1996 on detailed rules for implementing Council Regulation (EEC) No 1035/72 as regards export refunds on fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 213/98 ⁽²⁾, and in particular Article 5(6) thereof,

Whereas Commission Regulation (EC) No 520/98 ⁽³⁾ fixes the indicative quantities laid down for the issue of export licences other than those requested in the context of food aid;

Whereas, in the light of information now available to the Commission, the indicative quantities have been exceeded in the case of tomatoes, shelled almonds, lemons and apples for destination group Y;

Whereas as a consequence, for system B licences applied for between 18 March and 19 May 1998, a rate of refund which is lower than the indicative rate should be fixed for

tomatoes, shelled almonds, lemons and apples for destination group Y,

HAS ADOPTED THIS REGULATION:

Article 1

The percentages for the issuing of system B export licences, as referred to in Article 5 of Regulation (EC) No 2190/96, and applied for between 18 March and 19 May 1998, by which the quantities applied for and the rates of refund applicable must be multiplied, shall be as fixed in the Annex hereto.

The above subparagraph shall not apply to licences applied for in connection with food-aid operations as provided for in Article 10(4) of the Agreement on Agriculture concluded during the Uruguay Round of multilateral trade negotiations.

Article 2

This Regulation shall enter into force on 29 May 1998.

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

Done at Brussels, 28 May 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 292, 15. 11. 1996, p. 12.

⁽²⁾ OJ L 22, 29. 1. 1998, p. 8.

⁽³⁾ OJ L 66, 6. 3. 1998, p. 8.

ANNEX

Percentages for the issuing of licences and rates of refund applicable to system B licences applied for between 18 March and 19 May 1998

Product	Destination or group of destinations	Percentage for the issuing of licences	Rate of refund (ECU/tonne net)
Tomatoes	F	100 %	11,0
Shelled almonds	F	100 %	33,5
Hazelnuts in shell	F	—	—
Shelled hazelnuts	F	100 %	114,0
Oranges	XYC	100 %	40,0
Lemons	F	100 %	19,8
Apples	X	100 %	24,0
	Y	100 %	6,0

COMMISSION REGULATION (EC) No 1087/98**of 28 May 1998****fixing certain indicative quantities for imports of bananas into the Community
for the third quarter of 1998****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organisation of the market in bananas ⁽¹⁾, as last amended by Regulation (EC) No 3290/94 ⁽²⁾, and in particular Article 20 thereof,

Whereas Article 9(1) of Commission Regulation (EEC) No 1442/93 of 10 June 1993 laying down detailed rules for the application of the arrangements for importing bananas into the Community ⁽³⁾, as last amended by Regulation (EC) No 1409/96 ⁽⁴⁾, provides for the fixing of indicative quantities expressed as a percentage of the quantities allocated to the various countries or groups of countries mentioned in Annex I to Commission Regulation (EC) No 478/95 ⁽⁵⁾, as amended by Regulation (EC) No 702/95 ⁽⁶⁾, for the purpose of issuing import licences for each quarter using data and forecasts relating to the Community market;

Whereas, on the basis of an analysis of the data relating on the one hand to the quantities of bananas marketed in the Community in 1997 and in particular to actual imports in particular during the third quarter, and on the other hand to the outlook for supply of the market and consumption within the Community during the third quarter of 1998, an indicative quantity should be fixed for each country of origin at 27 % of the quantity allocated to it in the tariff quota to ensure adequate supplies to the Community as a whole;

Whereas, on the basis of the same data, the authorized quantity referred to in Article 9(2) of Regulation (EEC) No 1442/93 which operators in categories A and B can apply for in respect of the third quarter of 1998 should be fixed;

Whereas the indicative quantities provided for in Article 14(1) of Regulation (EEC) No 1442/93 for the purposes of issuing import licences for traditional imports from ACP States should also be fixed;

Whereas it should be recalled that, as a result of the Court of Justice rulings of 10 March 1998 in Cases 122/95, 364/95 and 365/95, to be admissible Category A and C

import licences are no longer subject to the presentation of export licences for bananas originating in Costa Rica, Colombia or Nicaragua;

Whereas this Regulation must enter into force prior to the period for the submission of licence applications in respect of the third quarter of 1998;

Whereas the Management Committee for Bananas has not issued an opinion within the time limit laid down by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

For the Community as a whole for the third quarter of 1998, the indicative quantities provided for in Article 9(1) of Regulation (EEC) No 1442/93 for imports of bananas under the tariff quota provided for in Articles 18 and 19 of Regulation (EEC) No 404/93 shall be 27 % of the quantities laid down for each country or group of countries mentioned in Annex I to Regulation (EC) No 478/95.

Article 2

The authorized quantities for Category A and B operators for the third quarter of 1998 as provided for in Article 9(2) of Regulation (EEC) No 1442/93 shall amount to 29 % of the quantity allocated to each operator pursuant to the second paragraph of Article 6 of that Regulation.

Article 3

The indicative quantities provided for in Article 14(1) of Regulation (EEC) No 1442/93 for traditional ACP imports of bananas for the third quarter of 1998 shall be 30 % of the traditional quantities laid down in respect of each country in the Annex to Regulation (EEC) No 404/93.

Article 4

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

⁽¹⁾ OJ L 47, 25. 2. 1993, p. 1.

⁽²⁾ OJ L 349, 31. 12. 1994, p. 105.

⁽³⁾ OJ L 142, 12. 6. 1993, p. 6.

⁽⁴⁾ OJ L 181, 20. 7. 1996, p. 13.

⁽⁵⁾ OJ L 49, 4. 3. 1995, p. 13.

⁽⁶⁾ OJ L 71, 31. 3. 1995, p. 84.

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

Done at Brussels, 28 May 1998.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 1088/98**of 28 May 1998****fixing the rates of the refunds applicable to certain cereal and rice-products
exported in the form of goods not covered by Annex II to the Treaty**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals⁽¹⁾, as last amended by Commission Regulation (EC) No 923/96⁽²⁾, and in particular Article 13 (3) thereof,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organization of the market in rice⁽³⁾, as amended by Regulation (EC) No 192/98⁽⁴⁾, and in particular Article 13 (3) thereof,

Whereas Article 13 (1) of Regulation (EEC) No 1766/92 and Article 13 (1) of Regulation (EC) No 3072/95 provide that the difference between quotations of prices on the world market for the products listed in Article 1 of each of those Regulations and the prices within the Community may be covered by an export refund;

Whereas Commission Regulation (EC) No 1222/94 of 30 May 1994 laying down common implementing rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex II to the Treaty, and the criteria for fixing the amount of such refunds⁽⁵⁾, as last amended by Regulation (EC) No 1909/97⁽⁶⁾, specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in Annex B to Regulation (EEC) No 1766/92 or in Annex B to Regulation (EC) No 3072/95 as appropriate;

Whereas, in accordance with the first subparagraph of Article 4 (1) of Regulation (EC) No 1222/94, the rate of the refund per 100 kilograms for each of the basic products in question must be fixed for each month;

Whereas, now that a settlement has been reached between the European Community and the United States of America on Community exports of pasta products to the United States and has been approved by Council Decision 87/482/EEC⁽⁷⁾, it is necessary to differentiate the refund on goods falling within CN codes 1902 11 00 and 1902 19 according to their destination;

Whereas Article 4 (5) (b) of Regulation (EC) No 1222/94 provides that, in the absence of the proof referred to in Article 4 (5) (a) of that Regulation, a reduced rate of export refund has to be fixed, taking account of the amount of the production refund applicable, pursuant to Commission Regulation (EEC) No 1722/93⁽⁸⁾, as last amended by Regulation (EC) No 1516/95⁽⁹⁾, for the basic product in question, used during the assumed period of manufacture of the goods;

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

HAS ADOPTED THIS REGULATION:

Article 1

The rates of the refunds applicable to the basic products appearing in Annex A to Regulation (EC) No 1222/94 and listed either in Article 1 of Regulation (EEC) No 1766/92 or in Article 1 (1) of Regulation (EC) No 3072/95, exported in the form of goods listed in Annex B to Regulation (EEC) No 1766/92 or in Annex B to amended Regulation (EC) No 3072/95 respectively, are hereby fixed as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 29 May 1998.

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ L 329, 30. 12. 1995, p. 18.

⁽⁴⁾ OJ L 20, 27. 1. 1998, p. 16.

⁽⁵⁾ OJ L 136, 31. 5. 1994, p. 5.

⁽⁶⁾ OJ L 268, 1. 10. 1997, p. 20.

⁽⁷⁾ OJ L 275, 29. 9. 1987, p. 36.

⁽⁸⁾ OJ L 159, 1. 7. 1993, p. 112.

⁽⁹⁾ OJ L 147, 30. 6. 1995, p. 49.

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

Done at Brussels, 28 May 1998.

For the Commission
Martin BANGEMANN
Member of the Commission

ANNEX

to the Commission Regulation of 28 May 1998 fixing the rates of the refunds applicable to certain cereals and rice products exported in the form of goods not covered by Annex II to the Treaty

CN code	Description of products (1)	Rate of refund per 100 kg of basic product
1001 10 00	Durum wheat: — on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America — in other cases	— —
1001 90 99	Common wheat and meslin: — on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America — in other cases: — — where pursuant to Article 4 (5) of Regulation (EC) No 1222/94 (2) — — in other cases	1,286 0,798 1,978
1002 00 00	Rye	4,610
1003 00 90	Barley	4,783
1004 00 00	Oats	1,790
1005 90 00	Maize (corn) used in the form of: — starch: — — where pursuant to Article 4 (5) of Regulation (EC) No 1222/94 (2) — — in other cases — glucose, glucose syrup, maltodextrine, maltodextrine syrup of CN codes 1702 30 51, 1702 30 59, 1702 30 91, 1702 30 99, 1702 40 90, 1702 90 50, 1702 90 75, 1702 90 79, 2106 90 55 (3): — — where pursuant to Article 4 (5) of Regulation (EC) No 1222/94 (2) — — in other cases — other (including unprocessed) Potato starch of CN code 1108 13 00 similar to a product obtained from processed maize: — where pursuant to Article 4 (5) of Regulation (EC) No 1222/94 (2) — in other cases	2,117 3,592 1,714 3,189 3,592 2,117 3,592
1006 20	Husked rice: — round grain — medium grain — long grain	3,178 2,829 2,829
ex 1006 30	Wholly-milled rice: — round grain — medium grain — long grain	4,100 4,100 4,100
1006 40 00	Broken rice used in the form of: — starch of CN code 1108 19 10: — — where pursuant to Article 4 (5) of Regulation (EC) No 1222/94 (2) — — in other cases — other (including unprocessed)	1,148 2,700 2,700

CN code	Description of products ⁽¹⁾	Rate of refund per 100 kg of basic product
1007 00 90	Sorghum	4,783
1101 00	Wheat or meslin flour:	
	— on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America	1,581
	— in other cases	2,300
1102 10 00	Rye flour	4,750
1103 11 10	Groats and durum wheat meal:	
	— on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America	—
	— in other cases	—
1103 11 90	Common wheat groats and spelt:	
	— on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America	1,581
	— in other cases	2,433

⁽¹⁾ As far as agricultural products obtained from the processing of a basic product or/and assimilated products are concerned, the coefficients shown in Annex E of amended Commission Regulation (EC) No 1222/94 shall be applied (OJ L 136, 31. 5. 1994, p. 5).

⁽²⁾ The goods concerned are listed in Annex I of amended Regulation (EEC) No 1722/93 (OJ L 159, 1. 7. 1993, p. 112).

⁽³⁾ For syrups of CN codes NC 1702 30 99, 1702 40 90 and 1702 60 90, obtained from mixing glucose and fructose syrup, the export refund may be granted only for the glucose syrup.

COMMISSION REGULATION (EC) No 1089/98
of 28 May 1998
fixing the export refunds on milk and milk products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organisation of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EC) No 1587/96 ⁽²⁾, and in particular Article 17 (3) thereof,

Whereas Article 17 of Regulation (EEC) No 804/68 provides that the difference between prices in international trade for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund within the limits resulting from agreements concluded in accordance with Article 228 of the Treaty;

Whereas Regulation (EEC) No 804/68 provides that when the refunds on the products listed in Article 1 of the abovementioned Regulation, exported in the natural state, are being fixed account must be taken of:

- the existing situation and the future trend with regard to prices and availabilities of milk and milk products on the Community market and prices for milk and milk products in international trade,
- marketing costs and the most favourable transport charges from Community markets to ports or other points of export in the Community, as well as costs incurred in placing the goods on the market of the country of destination,
- the aims of the common organisation of the market in milk and milk products which are to ensure equilibrium and the natural development of prices and trade on this market,
- the limits resulting from agreements concluded in accordance with Article 228 of the Treaty, and
- the need to avoid disturbances on the Community market, and
- the economic aspect of the proposed exports;

Whereas Article 17 (5) of Regulation (EEC) No 804/68 provides that when prices within the Community are being determined account should be taken of the ruling prices which are most favourable for exportation, and that

when prices in international trade are being determined particular account should be taken of:

- (a) prices ruling on third country markets;
- (b) the most favourable prices in third countries of destination for third country imports;
- (c) producer prices recorded in exporting third countries, account being taken, where appropriate, of subsidies granted by those countries; and
- (d) free-at-Community-frontier offer prices;

Whereas Article 17 (3) of Regulation (EEC) No 804/68 provides that the world market situation or the specific requirements of certain markets may make it necessary to vary the refund on the products listed in Article 1 of the abovementioned Regulation according to destination;

Whereas Article 17 (3) of Regulation (EEC) No 804/68 provides that the list of products on which export refunds are granted and the amount of such refunds should be fixed at least once every four weeks; whereas the amount of the refund may, however, remain at the same level for more than four weeks;

Whereas, in accordance with Article 12 of Commission Regulation (EC) No 1466/95 of 27 June 1995 on specific detailed rules for the application of export refunds on milk and milk products ⁽³⁾, as last amended by Regulation (EC) No 897/98 ⁽⁴⁾, the refund granted for milk products containing added sugar is equal to the sum of the two components; whereas one is intended to take account of the quantity of milk products and is calculated by multiplying the basic amount by the milk products content in the product concerned; whereas the other is intended to take account of the quantity of added sucrose and is calculated by multiplying the sucrose content of the entire product by the basic amount of the refund valid on the day of exportation for the products listed in Article 1(1)(d) of Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organisation of the markets in the sugar sector ⁽⁵⁾, as last amended by Regulation (EC) No 1599/96 ⁽⁶⁾; whereas, however, this second component is applied only if the added sucrose has been produced using sugar beet or cane harvested in the Community;

⁽¹⁾ OJ L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 21.

⁽³⁾ OJ L 144, 28. 6. 1995, p. 22.

⁽⁴⁾ OJ L 126, 29. 4. 1998, p. 22.

⁽⁵⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽⁶⁾ OJ L 206, 16. 8. 1996, p. 43.

Whereas the level of refund for cheeses is calculated for products intended for direct consumption; whereas the cheese rinds and cheese wastes are not products intended for this purpose; whereas, to avoid any confusion in interpretation, it should be specified that there will be no refund for cheeses of a free-at-frontier value less than ECU 230,00 per 100 kilograms;

Whereas Commission Regulation (EEC) No 896/84 ⁽¹⁾, as last amended by Regulation (EEC) No 222/88 ⁽²⁾, laid down additional provisions concerning the granting of refunds on the change from one milk year to another; whereas those provisions provide for the possibility of varying refunds according to the date of manufacture of the products;

Whereas for the calculation of the refund for processed cheese provision must be made where casein or caseinates are added for that quantity not to be taken into account;

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

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The export refunds referred to in Article 17 of Regulation (EEC) No 804/68 on products exported in the natural state shall be as set out in the Annex.
2. There shall be no refunds for exports to destination No 400 for products falling within CN codes 0401, 0402, 0403, 0404, 0405 and 2309.
3. There shall be no refunds for exports to destinations No 022, 024, 028, 043, 044, 045, 046, 052, 404, 600, 800 and 804 for products falling within CN code 0406.

Article 2

This Regulation shall enter into force on 29 May 1998.

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

Done at Brussels, 28 May 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 91, 1. 4. 1984, p. 71.

⁽²⁾ OJ L 28, 1. 2. 1988, p. 1.

ANNEX

to the Commission Regulation of 28 May 1998 fixing the export refunds on milk and milk products

(in ECU/100 kg net weight unless otherwise indicated)

Product code	Destination (°)	Amount of refund	Product code	Destination (°)	Amount of refund
0401 10 10 9000	970	2,327	0402 21 91 9900	+	136,76
	***	—	0402 21 99 9100	+	103,34
0401 10 90 9000	970	2,327	0402 21 99 9200	+	104,05
	***	—	0402 21 99 9300	+	105,34
0401 20 11 9100	970	2,327	0402 21 99 9400	+	112,58
	***	—	0402 21 99 9500	+	115,09
0401 20 11 9500	970	3,597	0402 21 99 9600	+	124,73
	***	—	0402 21 99 9700	+	130,38
0401 20 19 9100	970	2,327	0402 21 99 9900	+	136,76
	***	—	0402 29 15 9200	+	0,6800
0401 20 19 9500	970	3,597	0402 29 15 9300	+	0,9054
	***	—	0402 29 15 9500	+	0,9538
0401 20 91 9100	970	4,551	0402 29 15 9900	+	1,0262
	***	—	0402 29 19 9200	+	0,6800
0401 20 91 9500	+	—	0402 29 19 9300	+	0,9054
0401 20 99 9100	970	4,551	0402 29 19 9500	+	0,9538
	***	—	0402 29 19 9900	+	1,0262
0401 20 99 9500	+	—	0402 29 91 9100	+	1,0334
0401 30 11 9100	+	—	0402 29 91 9500	+	1,1258
0401 30 11 9400	970	10,50	0402 29 99 9100	+	1,0334
	***	—	0402 29 99 9500	+	1,1258
0401 30 11 9700	970	15,77	0402 91 11 9110	+	—
	***	—	0402 91 11 9120	+	—
0401 30 19 9100	+	—	0402 91 11 9310	+	11,31
0401 30 19 9400	+	—	0402 91 11 9350	+	13,85
0401 30 19 9700	970	15,77	0402 91 11 9370	+	16,84
	***	—	0402 91 19 9110	+	—
0401 30 31 9100	+	38,32	0402 91 19 9120	+	—
0401 30 31 9400	+	59,85	0402 91 19 9310	+	11,31
0401 30 31 9700	+	66,00	0402 91 19 9350	+	13,85
0401 30 39 9100	+	38,32	0402 91 19 9370	+	16,84
0401 30 39 9400	+	59,85	0402 91 31 9100	+	—
0401 30 39 9700	+	66,00	0402 91 31 9300	+	19,91
0401 30 91 9100	+	75,22	0402 91 39 9100	+	—
0401 30 91 9400	+	110,55	0402 91 39 9300	+	19,91
0401 30 91 9700	+	129,01	0402 91 51 9000	+	—
0401 30 99 9100	+	75,22	0402 91 59 9000	+	—
0401 30 99 9400	+	110,55	0402 91 91 9000	+	63,94
0401 30 99 9700	+	129,01	0402 91 99 9000	+	63,94
0402 10 11 9000	+	68,00	0402 99 11 9110	+	—
0402 10 19 9000	+	68,00	0402 99 11 9130	+	—
0402 10 91 9000	+	0,6800	0402 99 11 9150	+	—
0402 10 99 9000	+	0,6800	0402 99 11 9310	+	0,2555
0402 21 11 9200	+	68,00	0402 99 11 9330	+	0,3067
0402 21 11 9300	+	90,54	0402 99 11 9350	+	0,4077
0402 21 11 9500	+	95,38	0402 99 19 9110	+	—
0402 21 11 9900	+	102,60	0402 99 19 9130	+	—
0402 21 17 9000	+	68,00	0402 99 19 9150	+	—
0402 21 19 9300	+	90,54	0402 99 19 9310	+	0,2555
0402 21 19 9500	+	95,38	0402 99 19 9330	+	0,3067
0402 21 19 9900	+	102,60	0402 99 19 9350	+	0,4077
0402 21 91 9100	+	103,34	0402 99 31 9110	+	—
0402 21 91 9200	+	104,05	0402 99 31 9150	+	0,4245
0402 21 91 9300	+	105,34	0402 99 31 9300	+	0,3832
0402 21 91 9400	+	112,58	0402 99 31 9500	+	0,6600
0402 21 91 9500	+	115,09	0402 99 39 9110	+	—
0402 21 91 9600	+	124,73	0402 99 39 9150	+	0,4245
0402 21 91 9700	+	130,38	0402 99 39 9300	+	0,3832

Product code	Destination (*)	Amount of refund	Product code	Destination (*)	Amount of refund
0402 99 39 9500	+	0,6600	0404 90 29 9160	+	130,38
0402 99 91 9000	+	0,7522	0404 90 29 9180	+	136,76
0402 99 99 9000	+	0,7522	0404 90 81 9100	+	0,6800
0403 10 11 9400	+	—	0404 90 81 9910	+	—
0403 10 11 9800	+	—	0404 90 81 9950	+	0,2555
0403 10 13 9800	+	—	0404 90 83 9110	+	0,6800
0403 10 19 9800	+	—	0404 90 83 9130	+	0,9054
0403 10 31 9400	+	—	0404 90 83 9150	+	0,9538
0403 10 31 9800	+	—	0404 90 83 9170	+	1,0262
0403 10 33 9800	+	—	0404 90 83 9911	+	—
0403 10 39 9800	+	—	0404 90 83 9913	+	—
0403 90 11 9000	+	66,85	0404 90 83 9915	+	—
0403 90 13 9200	+	66,85	0404 90 83 9917	+	—
0403 90 13 9300	+	89,73	0404 90 83 9919	+	—
0403 90 13 9500	+	94,53	0404 90 83 9931	+	0,2555
0403 90 13 9900	+	101,68	0404 90 83 9933	+	0,3067
0403 90 19 9000	+	102,44	0404 90 83 9935	+	0,4077
0403 90 31 9000	+	0,6685	0404 90 83 9937	+	0,4245
0403 90 33 9200	+	0,6685	0404 90 89 9130	+	1,0334
0403 90 33 9300	+	0,8973	0404 90 89 9150	+	1,1258
0403 90 33 9500	+	0,9453	0404 90 89 9930	+	0,4601
0403 90 33 9900	+	1,0168	0404 90 89 9950	+	0,6600
0403 90 39 9000	+	1,0244	0404 90 89 9990	+	0,7522
0403 90 51 9100	970	2,327	0405 10 11 9500	+	165,85
	***	—	0405 10 11 9700	+	170,00
0403 90 51 9300	+	—	0405 10 19 9500	+	165,85
0403 90 53 9000	+	—	0405 10 19 9700	+	170,00
0403 90 59 9110	+	—	0405 10 30 9100	+	165,85
0403 90 59 9140	+	—	0405 10 30 9300	+	170,00
0403 90 59 9170	970	15,77	0405 10 30 9500	+	165,85
	***	—	0405 10 30 9700	+	170,00
0403 90 59 9310	+	38,32	0405 10 50 9100	+	165,85
0403 90 59 9340	+	59,85	0405 10 50 9300	+	170,00
0403 90 59 9370	+	66,00	0405 10 50 9500	+	165,85
0403 90 59 9510	+	75,22	0405 10 50 9700	+	170,00
0403 90 59 9540	+	110,55	0405 10 90 9000	+	176,22
0403 90 59 9570	+	129,01	0405 20 90 9500	+	155,49
0403 90 61 9100	+	—	0405 20 90 9700	+	161,71
0403 90 61 9300	+	—	0405 90 10 9000	+	216,00
0403 90 63 9000	+	—	0405 90 90 9000	+	170,00
0403 90 69 9000	+	—	0406 10 20 9100	+	—
0404 90 21 9100	+	68,00	0406 10 20 9230	037	—
0404 90 21 9910	+	—		039	—
0404 90 21 9950	+	11,31		099	22,83
0404 90 23 9120	+	68,00		400	22,83
0404 90 23 9130	+	90,54		***	37,68
0404 90 23 9140	+	95,38		037	—
0404 90 23 9150	+	102,60	0406 10 20 9290	039	—
0404 90 23 9911	+	—		099	21,24
0404 90 23 9913	+	—		400	15,29
0404 90 23 9915	+	—		***	35,05
0404 90 23 9917	+	—		037	—
0404 90 23 9919	+	—		039	—
0404 90 23 9931	+	11,31		099	21,24
0404 90 23 9933	+	13,85		400	15,29
0404 90 23 9935	+	16,84		***	35,05
0404 90 23 9937	+	19,91	0406 10 20 9300	037	—
0404 90 23 9939	+	20,81		039	—
0404 90 29 9110	+	103,34		099	9,329
0404 90 29 9115	+	104,05		400	7,834
0404 90 29 9120	+	105,34		***	15,39
0404 90 29 9130	+	112,58			
0404 90 29 9135	+	115,09			
0404 90 29 9150	+	124,73			

Product code	Destination (*)	Amount of refund	Product code	Destination (*)	Amount of refund
0406 10 20 9610	037	—	0406 20 90 9990	+	—
	039	—	0406 30 31 9710	037	—
	099	30,98		039	—
	400	30,98		099	9,54
	***	51,11		400	8,346
0406 10 20 9620	037	—		***	17,88
	039	—	0406 30 31 9730	037	—
	099	31,42		039	—
	400	31,42		099	13,99
	***	51,83		400	12,25
0406 10 20 9630	037	—		***	26,24
	039	—	0406 30 31 9910	037	—
	099	35,06		039	—
	400	35,06		099	9,54
	***	57,86		400	8,346
0406 10 20 9640	037	—		***	17,88
	039	—	0406 30 31 9930	037	—
	099	51,54		039	—
	400	48,35		099	13,99
	***	85,03		400	12,25
0406 10 20 9650	037	—		***	26,24
	039	—	0406 30 31 9950	037	—
	099	42,95		039	—
	400	25,44		099	20,36
	***	70,86		400	17,81
0406 10 20 9660	+	—		***	38,17
0406 10 20 9830	037	—	0406 30 39 9500	037	—
	039	—		039	—
	099	15,93		099	13,99
	400	13,38		400	12,25
	***	26,28		***	26,24
0406 10 20 9850	037	—	0406 30 39 9700	037	—
	039	—		039	—
	099	19,31		099	20,36
	400	16,22		400	17,81
	***	31,87		***	38,17
0406 10 20 9870	+	—	0406 30 39 9930	037	—
0406 10 20 9900	+	—		039	—
0406 20 90 9100	+	—		099	20,36
0406 20 90 9913	037	—		400	17,81
	039	—		***	38,17
	099	35,62	0406 30 39 9950	037	—
	400	31,59		039	—
	***	58,77		099	23,02
0406 20 90 9915	037	—		400	21,14
	039	—		***	43,16
	099	47,01	0406 30 90 9000	037	—
	400	42,12		039	—
	***	77,56		099	24,15
0406 20 90 9917	037	—		400	21,14
	039	—		***	45,28
	099	49,94	0406 40 50 9000	037	—
	400	44,75		039	—
	***	82,41		099	54,55
0406 20 90 9919	037	—		400	32,98
	039	—		***	90,00
	099	55,82			
	400	50,02			
	***	92,10			

Product code	Destination (°)	Amount of refund	Product code	Destination (°)	Amount of refund
0406 40 90 9000	037	—	0406 90 33 9951	037	—
	039	—		039	—
	099	56,01		099	36,20
	400	32,98		400	20,01
	***	92,42		***	59,72
0406 90 13 9000	037	—	0406 90 35 9190	037	28,95
	039	—		039	28,95
	099	60,16		099	61,40
	400	60,16		400	61,40
	***	99,26		***	101,30
0406 90 15 9100	037	—	0406 90 35 9990	037	—
	039	—		039	—
	099	62,17		099	54,68
	400	62,17		400	40,19
	***	102,58		***	90,22
0406 90 17 9100	037	—	0406 90 37 9000	037	—
	039	—		039	—
	099	62,17		099	60,16
	400	62,17		400	60,16
	***	102,58		***	99,26
0406 90 21 9900	037	—	0406 90 61 9000	037	40,61
	039	—		039	40,61
	099	61,63		099	65,82
	400	44,53		400	57,27
	***	101,68		***	108,59
0406 90 23 9900	037	—	0406 90 63 9100	037	37,12
	039	—		039	37,12
	099	36,51		099	63,89
	400	18,57		400	63,89
	***	75,31		***	105,42
0406 90 25 9900	037	—	0406 90 63 9900	037	29,52
	039	—		039	29,52
	099	36,98		099	48,93
	400	21,16		400	48,93
	***	76,25		***	80,75
0406 90 27 9900	037	—	0406 90 69 9100	+	—
	039	—	0406 90 69 9910	037	—
	099	33,48		039	—
	400	18,57		099	48,93
	***	69,06		400	48,93
0406 90 31 9119	037	—		***	80,75
	039	—	0406 90 73 9900	037	—
	099	38,17		039	—
	400	25,56		099	52,63
	***	62,99		400	52,63
0406 90 33 9119	037	—		***	86,83
	039	—	0406 90 75 9900	037	—
	099	38,17		039	—
	400	25,56		099	51,97
	***	62,99		400	22,27
0406 90 33 9919	037	—		***	85,75
	039	—	0406 90 76 9300	037	—
	099	34,36		039	—
	400	20,33		099	34,88
	***	56,69		400	20,12
				***	71,94

Product code	Destination (*)	Amount of refund	Product code	Destination (*)	Amount of refund
0406 90 76 9400	037	—	0406 90 85 9999	+	—
	039	—	0406 90 86 9100	+	—
	099	40,07	0406 90 86 9200	037	—
	400	23,22		039	—
	***	82,65		099	29,74
0406 90 76 9500	037	—		400	27,65
	039	—		***	61,34
	099	38,60	0406 90 86 9300	037	—
	400	23,22		039	—
	***	79,62		099	30,78
0406 90 78 9100	037	—		400	30,30
	039	—		***	63,48
	099	32,73	0406 90 86 9400	037	—
	400	18,14		039	—
	***	67,50		099	34,58
0406 90 78 9300	037	—		400	34,28
	039	—		***	71,32
	099	40,07	0406 90 86 9900	037	—
	400	20,12		039	—
	***	82,65		099	43,80
0406 90 78 9500	037	—		400	40,24
	039	—		***	90,34
	099	40,07	0406 90 87 9100	+	—
	400	23,22	0406 90 87 9200	037	—
	***	82,65		039	—
0406 90 79 9900	037	—		099	24,78
	039	—		400	24,78
	099	30,31		***	51,11
	400	19,23	0406 90 87 9300	037	—
	***	62,51		039	—
0406 90 81 9900	037	—		099	28,27
	039	—		400	28,02
	099	53,71		***	58,31
	400	47,61	0406 90 87 9400	037	—
	***	88,63		039	—
0406 90 85 9910	037	28,95		099	30,66
	039	28,95		400	30,66
	099	59,27		***	63,25
	400	59,27	0406 90 87 9951	037	—
	***	97,79		039	—
0406 90 85 9991	037	—		099	42,19
	039	—		400	42,19
	099	54,68		***	87,04
	400	40,19	0406 90 87 9971	037	—
	***	90,22		039	—
0406 90 85 9995	037	—		099	42,07
	039	—		400	34,41
	099	51,97		***	86,78
	400	21,16	0406 90 87 9972	099	16,03
	***	85,75		400	13,67
				***	33,07

Product code	Destination (*)	Amount of refund	Product code	Destination (*)	Amount of refund
0406 90 87 9973	037	—	2309 10 19 9100	+	—
	039	—	2309 10 19 9200	+	—
	099	37,66	2309 10 19 9300	+	—
	400	24,08	2309 10 19 9400	+	—
	***	77,68	2309 10 19 9500	+	—
0406 90 87 9974	037	—	2309 10 19 9600	+	—
	039	—	2309 10 19 9700	+	—
	099	42,07	2309 10 19 9800	+	—
	400	24,08	2309 10 70 9010	+	—
	***	86,78	2309 10 70 9100	+	13,85
0406 90 87 9979	037	—	2309 10 70 9200	+	18,47
	039	—	2309 10 70 9300	+	23,09
	099	36,51	2309 10 70 9500	+	27,70
	400	24,08	2309 10 70 9600	+	32,32
	***	75,31	2309 10 70 9700	+	36,94
0406 90 88 9100	+	—	2309 10 70 9800	+	40,63
0406 90 88 9105	037	—	2309 90 35 9010	+	—
	039	—	2309 90 35 9100	+	—
	099	52,46	2309 90 35 9200	+	—
	400	30,30	2309 90 35 9300	+	—
	***	86,56	2309 90 35 9400	+	—
0406 90 88 9300	037	—	2309 90 35 9500	+	—
	039	—	2309 90 35 9700	+	—
	099	31,84	2309 90 39 9010	+	—
	400	30,30	2309 90 39 9100	+	—
	***	52,55	2309 90 39 9200	+	—
2309 10 15 9010	+	—	2309 90 39 9300	+	—
2309 10 15 9100	+	—	2309 90 39 9400	+	—
2309 10 15 9200	+	—	2309 90 39 9500	+	—
2309 10 15 9300	+	—	2309 90 39 9600	+	—
2309 10 15 9400	+	—	2309 90 39 9700	+	—
2309 10 15 9500	+	—	2309 90 39 9800	+	—
2309 10 15 9700	+	—	2309 90 70 9010	+	—
2309 10 19 9010	+	—	2309 90 70 9100	+	13,85
			2309 90 70 9200	+	18,47
			2309 90 70 9300	+	23,09
			2309 90 70 9500	+	27,70
			2309 90 70 9600	+	32,32
			2309 90 70 9700	+	36,94
			2309 90 70 9800	+	40,63

(*) The code numbers for the destinations are those set out in the Annex to Commission Regulation (EC) No 2317/97 (OJ L 321, 22.11.1997, p. 19). However:

— '099' covers all destination codes from 053 to 096 inclusive,

— '970' covers the exports referred to in Articles 34(1)(a) and (c) and 42(1)(a) and (b) of Commission Regulation (EEC) No 3665/87 (OJ L 351, 14.12.1987, p. 1).

For destinations other than those indicated for each 'product code', the amount of the refund applying is indicated by ***.

Where no destination ('+') is indicated, the amount of the refund is applicable for exports to any destination other than those referred to in Article 1(2) and (3).

NB: The product codes and the footnotes are defined in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1), as amended.

COMMISSION REGULATION (EC) No 1090/98
of 28 May 1998
concerning tenders notified in response to the invitation to tender for the import
of maize issued in Regulation (EC) No 1032/98

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

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals⁽¹⁾, as last amended by Commission Regulation (EC) No 923/96⁽²⁾, and in particular Article 12(1) thereof,

Whereas an invitation to tender for the maximum reduction in the duty on maize imported into Spain was opened pursuant to Commission Regulation (EC) No 1032/98⁽³⁾;

Whereas Article 5 of Commission Regulation (EC) No 1839/95⁽⁴⁾, as amended by Regulation (EC) No 1963/95⁽⁵⁾, allows the Commission to decide, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92 and on the basis of the tenders notified, to make no award;

Whereas on the basis of the criteria laid down in Articles 6 and 7 of Regulation (EC) No 1839/95 a maximum reduction in the duty should not be fixed;

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

HAS ADOPTED THIS REGULATION:

Article 1

No action shall be taken on the tenders notified from 22 to 28 May 1998 in response to the invitation to tender for the reduction in the duty on maize issued in Regulation (EC) No 1032/98.

Article 2

This Regulation shall enter into force on 29 May 1998.

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

Done at Brussels, 28 May 1998.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ L 148, 19. 5. 1998, p. 3.

⁽⁴⁾ OJ L 177, 28. 7. 1995, p. 4.

⁽⁵⁾ OJ L 189, 10. 8. 1995, p. 22.

COMMISSION REGULATION (EC) No 1091/98
of 28 May 1998

**fixing the maximum export refund on barley in connection with the invitation to
tender issued in Regulation (EC) No 1337/97**

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

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 923/96 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, as last amended by Regulation (EC) No 2052/97 ⁽⁴⁾, and in particular Article 7 thereof,

Whereas an invitation to tender for the refund and/or the tax for the export of barley to all third countries was opened pursuant to Commission Regulation (EC) No 1337/97 ⁽⁵⁾;

Whereas Article 7 of Regulation (EC) No 1501/95 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to fix a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No

1501/95; whereas in that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund, as well as to any tenderer whose bid relates to an export tax;

Whereas the application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed at the amount specified in Article 1;

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

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 22 to 28 May 1998, pursuant to the invitation to tender issued in Regulation (EC) No 1337/97, the maximum refund on exportation of barley shall be ECU 53,00 per tonne.

Article 2

This Regulation shall enter into force on 29 May 1998.

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

Done at Brussels, 28 May 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ L 147, 30. 6. 1995, p. 7.

⁽⁴⁾ OJ L 287, 21. 10. 1997, p. 14.

⁽⁵⁾ OJ L 184, 12. 7. 1997, p. 1.

COMMISSION REGULATION (EC) No 1092/98
of 28 May 1998

**fixing the maximum export refund on common wheat in connection with the
invitation to tender issued in Regulation (EC) No 1339/97**

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

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 923/96 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, as last amended by Regulation (EC) No 2052/97 ⁽⁴⁾, and in particular Article 7 thereof,

Whereas an invitation to tender for the refund and/or the tax for the export of common wheat to all third countries except Ceuta, Melilla and certain ACP States was opened pursuant to Commission Regulation (EC) No 1339/97 ⁽⁵⁾, as amended by Regulation (EC) No 507/98 ⁽⁶⁾;

Whereas Article 7 of Regulation (EC) No 1501/95 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to fix a maximum export refund taking account of

the criteria referred to in Article 1 of Regulation (EC) No 1501/95; whereas in that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund, as well as to any tenderer whose bid relates to an export tax;

Whereas the application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed at the amount specified in Article 1;

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

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 22 to 28 May 1998, pursuant to the invitation to tender issued in Regulation (EC) No 1339/97, the maximum refund on exportation of common wheat shall be ECU 25,95 per tonne.

Article 2

This Regulation shall enter into force on 29 May 1998.

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

Done at Brussels, 28 May 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ L 147, 30. 6. 1995, p. 7.

⁽⁴⁾ OJ L 287, 21. 10. 1997, p. 14.

⁽⁵⁾ OJ L 184, 12. 7. 1997, p. 7.

⁽⁶⁾ OJ L 63, 4. 3. 1998, p. 20.

COMMISSION REGULATION (EC) No 1093/98**of 28 May 1998****concerning tenders notified in response to the invitation to tender for the export
of oats issued in Regulation (EC) No 1773/97**

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

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 923/96 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, as last amended by Regulation (EC) No 2052/97 ⁽⁴⁾, and in particular Article 7 thereof,

Having regard to Commission Regulation (EC) No 1773/97 of 12 September 1997 on a special intervention measure for cereals in Finland and Sweden ⁽⁵⁾, as last amended by Regulation (EC) No 837/98 ⁽⁶⁾, and in particular Article 8 thereof,

Whereas an invitation to tender for the refund for the export of oats produced in Finland and Sweden for export from Finland or Sweden to all third countries was opened pursuant to Regulation (EC) No 1773/97;

Whereas Article 8 of Regulation (EC) No 1773/97 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to make no award;

Whereas on the basis of the criteria laid down in Article 1 of Regulation (EC) No 1501/95 a maximum refund should not be fixed;

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

HAS ADOPTED THIS REGULATION:

Article 1

No action shall be taken on the tenders notified from 22 to 28 April 1998 in response to the invitation to tender for the refund for the export of oats issued in Regulation (EC) No 1773/97.

Article 2

This Regulation shall enter into force on 29 May 1998.

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

Done at Brussels, 28 May 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ L 147, 30. 6. 1995, p. 7.

⁽⁴⁾ OJ L 287, 21. 10. 1997, p. 14.

⁽⁵⁾ OJ L 250, 13. 9. 1997, p. 1.

⁽⁶⁾ OJ L 119, 22. 4. 1998, p. 14.

COMMISSION REGULATION (EC) No 1094/98**of 28 May 1998****fixing the export refunds on products processed from cereals and rice**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals⁽¹⁾, as last amended by Commission Regulation (EC) No 923/96⁽²⁾, and in particular Article 13 (3) thereof,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organization of the market in rice⁽³⁾, as amended by Regulation (EC) No 192/98⁽⁴⁾, and in particular Article 13 (3) thereof,

Whereas Article 13 of Regulation (EEC) No 1766/92 and Article 13 of Regulation (EC) No 3072/95 provide that the difference between quotations or prices on the world market for the products listed in Article 1 of those Regulations and prices for those products within the Community may be covered by an export refund;

Whereas Article 13 of Regulation (EC) No 3072/95 provides that when refunds are being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of cereals, rice and broken rice on the Community market on the one hand and prices for cereals, rice, broken rice and cereal products on the world market on the other; whereas the same Articles provide that it is also important to ensure equilibrium and the natural development of prices and trade on the markets in cereals and rice and, furthermore, to take into account the economic aspect of the proposed exports, and the need to avoid disturbances on the Community market;

Whereas Article 4 of Commission Regulation (EC) No 1518/95⁽⁵⁾, as amended by Regulation (EC) No 2993/95⁽⁶⁾, on the import and export system for products processed from cereals and from rice defines the specific criteria to be taken into account when the refund on these products is being calculated;

Whereas the refund to be granted in respect of certain processed products should be graduated on the basis of the ash, crude fibre, tegument, protein, fat and starch content of the individual product concerned, this content being a particularly good indicator of the quantity of basic product actually incorporated in the processed product;

Whereas there is no need at present to fix an export refund for manioc, other tropical roots and tubers or flours obtained therefrom, given the economic aspect of potential exports and in particular the nature and origin of these products; whereas, for certain products processed from cereals, the insignificance of Community participation in world trade makes it unnecessary to fix an export refund at the present time;

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

Whereas the refund must be fixed once a month; whereas it may be altered in the intervening period;

Whereas certain processed maize products may undergo a heat treatment following which a refund might be granted that does not correspond to the quality of the product; whereas it should therefore be specified that on these products, containing pregelatinized starch, no export refund is to be granted;

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (1) (d) of Regulation (EEC) No 1766/92 and in Article 1 (1) (c) of Regulation (EC) No 3072/95 and subject to Regulation (EC) No 1518/95 are hereby fixed as shown in the Annex to this Regulation.

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ L 329, 30. 12. 1995, p. 18.

⁽⁴⁾ OJ L 20, 27. 1. 1998, p. 16.

⁽⁵⁾ OJ L 147, 30. 6. 1995, p. 55.

⁽⁶⁾ OJ L 312, 23. 12. 1995, p. 25.

Article 2

This Regulation shall enter into force on 29 May 1998.

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

Done at Brussels, 28 May 1998.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

to the Commission Regulation of 28 May 1998 fixing the export refunds on products processed from cereals and rice

<i>(ECU/tonne)</i>		<i>(ECU/tonne)</i>	
Product code	Refund	Product code	Refund
1102 20 10 9200 ⁽¹⁾	50,29	1104 23 10 9100	53,88
1102 20 10 9400 ⁽¹⁾	43,10	1104 23 10 9300	41,31
1102 20 90 9200 ⁽¹⁾	43,10	1104 29 11 9000	20,18
1102 90 10 9100	71,75	1104 29 51 9000	19,78
1102 90 10 9900	48,79	1104 29 55 9000	19,78
1102 90 30 9100	32,22	1104 30 10 9000	4,95
1103 12 00 9100	32,22	1104 30 90 9000	8,98
1103 13 10 9100 ⁽¹⁾	64,66	1107 10 11 9000	35,21
1103 13 10 9300 ⁽¹⁾	50,29	1107 10 91 9000	85,14
1103 13 10 9500 ⁽¹⁾	43,10	1108 11 00 9200	39,56
1103 13 90 9100 ⁽¹⁾	43,10	1108 11 00 9300	39,56
1103 19 10 9000	44,17	1108 12 00 9200	57,47
1103 19 30 9100	74,14	1108 12 00 9300	57,47
1103 21 00 9000	20,18	1108 13 00 9200	57,47
1103 29 20 9000	48,79	1108 13 00 9300	57,47
1104 11 90 9100	71,75	1108 19 10 9200	41,04
1104 12 90 9100	35,80	1108 19 10 9300	41,04
1104 12 90 9300	28,64	1109 00 00 9100	0,00
1104 19 10 9000	20,18	1702 30 51 9000 ⁽²⁾	66,64
1104 19 50 9110	57,47	1702 30 59 9000 ⁽²⁾	51,02
1104 19 50 9130	46,70	1702 30 91 9000	66,64
1104 21 10 9100	71,75	1702 30 99 9000	51,02
1104 21 30 9100	71,75	1702 40 90 9000	51,02
1104 21 50 9100	95,66	1702 90 50 9100	66,64
1104 21 50 9300	76,53	1702 90 50 9900	51,02
1104 22 20 9100	28,64	1702 90 75 9000	69,83
1104 22 30 9100	30,43	1702 90 79 9000	48,47
		2106 90 55 9000	51,02

⁽¹⁾ No refund shall be granted on products given a heat treatment resulting in pregelatinization of the starch.

⁽²⁾ Refunds are granted in accordance with Council Regulation (EEC) No 2730/75 (OJ L 281, 1. 11. 1975, p. 20), amended.

NB: The product codes and the footnotes are defined in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24. 12. 1987, p. 1), amended.

COMMISSION REGULATION (EC) No 1095/98

of 28 May 1998

fixing the export refunds on cereal-based compound feedingstuffs

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals⁽¹⁾, as last amended by Commission Regulation (EC) No 923/96⁽²⁾, and in particular Article 13 (3) thereof,

Whereas Article 13 of Regulation (EEC) No 1766/92 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Regulation (EC) No 1517/95 of 29 June 1995 laying down detailed rules for the application of Regulation (EEC) No 1766/92 as regards the arrangements for the export and import of compound feedingstuffs based on cereals and amending Regulation (EC) No 1162/95 laying down special detailed rules for the application of the system of import and export licences for cereals and rice⁽³⁾ in Article 2 lays down general rules for fixing the amount of such refunds;

Whereas that calculation must also take account of the cereal products content; whereas in the interest of simplification, the refund should be paid in respect of two categories of 'cereal products', namely for maize, the most commonly used cereal in exported compound feeds and maize products, and for 'other cereals', these being eligible cereal products excluding maize and maize products; whereas a refund should be granted in respect of

the quantity of cereal products present in the compound feedingstuff;

Whereas furthermore, the amount of the refund must also take into account the possibilities and conditions for the sale of those products on the world market, the need to avoid disturbances on the Community market and the economic aspect of the export;

Whereas, however, in fixing the rate of refund it would seem advisable to base it at this time on the difference in the cost of raw inputs widely used in compound feedingstuffs as the Community and world markets, allowing more accurate account to be taken of the commercial conditions under which such products are exported;

Whereas the refund must be fixed once a month; whereas it may be altered in the intervening period;

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

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the compound feedingstuffs covered by Regulation (EEC) No 1766/92 and subject to Regulation (EC) No 1517/95 are hereby fixed as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 29 May 1998.

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

Done at Brussels, 28 May 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ L 147, 30. 6. 1995, p. 51.

ANNEX

to the Commission Regulation of 28 May 1998 fixing the export refunds on cereal-based compound feedingstuffs

Product code benefitting from export refund ⁽¹⁾:

2309 10 11 9000, 2309 10 13 9000, 2309 10 31 9000,
2309 10 33 9000, 2309 10 51 9000, 2309 10 53 9000,
2309 90 31 9000, 2309 90 33 9000, 2309 90 41 9000,
2309 90 43 9000, 2309 90 51 9000, 2309 90 53 9000.

(ECU/tonne)

Cereal products ⁽²⁾	Amount of refund ⁽²⁾
Maize and maize products: CN codes 0709 90 60, 0712 90 19, 1005, 1102 20, 1103 13, 1103 29 40, 1104 19 50, 1104 23, 1904 10 10	35,92
Cereal products ⁽²⁾ excluding maize and maize products	33,81

⁽¹⁾ The product codes are defined in Sector 5 of the Annex to Commission Regulation (EEC) No 3846/87 (OJ L 366, 24. 12. 1987, p 1), amended.

⁽²⁾ For the purposes of the refund only the starch coming from cereal products is taken into account.

Cereal products means the products falling within subheadings 0709 90 60 and 0712 90 19, Chapter 10, and headings Nos 1101, 1102, 1103 and 1104 (excluding subheading 1104 30) and the cereals content of the products falling within subheadings 1904 10 10 and 1904 10 90 of the combined nomenclature. The cereals content in products under subheadings 1904 10 10 and 1904 10 90 of the combined nomenclature is considered to be equal to the weight of this final product.

No refund is paid for cereals where the origin of the starch cannot be clearly established by analysis.

COMMISSION REGULATION (EC) No 1096/98
of 28 May 1998
fixing production refunds on cereals and rice

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

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992, on the common organisation of the market in cereals⁽¹⁾, as last amended by Commission Regulation (EC) No 923/96⁽²⁾, and in particular Article 7 (3) thereof,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice⁽³⁾, as amended by Regulation (EC) No 192/98⁽⁴⁾, and in particular Article 7 (2) thereof,

Having regard to Commission Regulation (EEC) No 1722/93 of 30 June 1993 laying down detailed rules for the arrangements concerning production refunds in the cereals and rice sectors⁽⁵⁾, as last amended by Regulation (EC) No 1011/98⁽⁶⁾, and in particular Article 3 thereof,

Whereas Regulation (EEC) No 1722/93 establishes the conditions for granting the production refund; whereas the basis for the calculation is established in Article 3 of the said Regulation; whereas the refund thus calculated must be fixed once a month and may be altered if the price of maize and/or wheat changes significantly;

Whereas the production refunds to be fixed in this Regulation should be adjusted by the coefficients listed in the Annex II to Regulation (EEC) No 1722/93 to establish the exact amount payable;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The refund referred to in Article 3 (2) of Regulation (EEC) No 1722/93, expressed per tonne of starch extracted from maize, wheat, potatoes, rice or broken rice, shall be ECU 31,12 per tonne.

2. The refund referred to in Article 3 (3) of Regulation (EEC) No 1722/93, expressed per tonne of starch extracted from barley and oats, shall be ECU 31,12 per tonne.

Article 2

This Regulation shall enter into force on 29 May 1998.

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

Done at Brussels, 28 May 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ L 329, 30. 12. 1995, p. 18.

⁽⁴⁾ OJ L 20, 27. 1. 1998, p. 16.

⁽⁵⁾ OJ L 159, 1. 7. 1993, p. 112.

⁽⁶⁾ OJ L 145, 15. 5. 1998, p. 11.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 19 May 1998

on measures of financial assistance for innovative and job-creating small and medium-sized enterprises (SMEs) — the growth and employment initiative

(98/347/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 130(3) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Having regard to the opinion of the Committee of the Regions ⁽⁴⁾,

(1) Whereas the European Council, meeting in Amsterdam on 16 and 17 June 1997, in the context of measures for the alleviation of unemployment, invited the European Investment Bank (EIB) and the European Investment Fund (EIF), *inter alia*, to develop a facility to provide venture capital for high-technology projects of SMEs and by so doing, acknowledged, not only the link between SMEs, innovation and technology, and new jobs, but also the role of risk-capital in underpinning job-creation;

(2) Whereas the European Special Council on Employment, meeting in Luxembourg on 20 and

21 November 1997, welcomed the European Parliament's Growth and Employment Initiative, providing for the strengthening of budgetary resources earmarked for employment; whereas in its decision on the 1998 budget, the European Parliament in agreement with the Council created a new heading B5-5 (Labour market and technological innovation) for the financing with ECU 450 million over three years (1998 to 2000) of SMEs and of innovative actions and projects in the labour market; whereas, within this, ECU 30 million has been allocated in 1998 for innovative actions and projects in the labour market; whereas the European Council invited the Commission to make proposals, as soon as possible, for new financial instruments to support innovative and job-creating SMEs, as part of this initiative, so that the Council can adopt them speedily; whereas these new instruments must reinforce the European Technology Facility, financed by the European Investment Bank and administered by the European Investment Fund, by opening a 'risk capital window', supporting the creation of transnational joint ventures between SMEs within the European Union and establishing within the European Investment Fund a special guarantee fund to facilitate risk-taking by institutions providing finance for small and medium-sized enterprises;

(3) Whereas the EIB and EIF have already responded by creating the European Technology Facility (ETF), which will provide venture-capital for technology oriented SMEs by using established venture-capital funds as intermediaries;

⁽¹⁾ OJ C 108, 7. 4. 1998, p. 67.

⁽²⁾ OJ C 138, 4. 5. 1998.

⁽³⁾ Opinion delivered on 26 March 1998 (not yet published in the Official Journal).

⁽⁴⁾ Opinion delivered on 17 April 1998 (not yet published in the Official Journal).

- (4) Whereas, on 9 December 1996, the Council adopted Decision 97/15/EC on a third multiannual programme for small and medium enterprises (SMEs) in the European Union (1997 to 2000)⁽¹⁾; whereas this programme includes the objectives of improving access to loan and risk capital financing, facilitating the development of specific financial instruments and stimulating the development of capital markets for fast-growing SMEs;
- (5) Whereas, on 5 November 1997, the Commission adopted Decision 97/761/EC approving a support mechanism for the creation of transnational joint ventures for SMEs in the Community⁽²⁾, a financially limited initiative launched under the third multiannual programme for SMEs;
- (6) Whereas, on 15 December 1994, the Council adopted Decision 94/917/EC, adopting a specific programme for the dissemination and optimisation of the results of activities in the field of research and technological development, including demonstration (1994 to 1998)⁽³⁾ which provides for activities to improve the European environment for financing the exploitation, adaptation and dissemination of technology by appropriate Community schemes; whereas the Commission on 25 November 1996 adopted a communication on the 'First action plan for innovation in Europe — innovation for growth and employment' providing for innovation financing to be facilitated in Europe, especially by encouraging investment in risk capital and equity, particularly in start-up investment and innovative, high-growth firms which are a major source of new jobs, and by reinforcing European Investment Fund action in favour of innovation; whereas this Decision should be implemented in appropriate coordination with the abovementioned activities;
- (7) Whereas in the implementation on the financial assistance programme for SMEs under this programme, particular attention should be given to small enterprises with up to 100 employees, within the objectives of the programme;
- (8) Whereas the lack of venture capital constitutes a particular difficulty for new firms and SMEs looking to expand, especially those exploiting new technology and innovative ideas; whereas this segment of the venture-capital market is underdeveloped in Europe and entails the highest risks which potentially translate to high losses; whereas a determined public sector involvement will assist private sector operators to make onward investments to early stage and emerging SMEs;
- (9) Whereas SMEs frequently encounter difficulties in obtaining bank financing for the development of transnational joint ventures because of the higher risk for financial institutions; whereas the development of joint ventures between Community SMEs makes it possible to make better use of the opportunities of the internal market, to increase investment and trade and to have a positive effect on employment and economic growth; whereas advances and subsidies constitute the most suitable measure to overcome the financial obstacles for SMEs to create transnational joint ventures;
- (10) Whereas bank loans constitute an important source of external funding for SMEs; whereas the raising of debt finance is difficult for SMEs as banks are often reluctant to lend to them; whereas loans are often only available to SMEs against tangible security; whereas loan guarantees constitute a cost-effective instrument to facilitate access to loans; whereas both tangible and intangible investments should be eligible under the scheme; and whereas a significant leverage effect can be achieved with a guarantee instrument;
- (11) Whereas this Decision constitutes the legal basis for specific measures which are complementary with other Community measures and which cannot be better carried out at Member State level and therefore respect the principle of subsidiarity; whereas the Decision is limited to the minimum necessary to achieve its objectives and does not exceed what is necessary to this end and therefore respects the principle of proportionality;
- (12) Whereas the Commission should adapt the allocation to the different schemes over the three-year period to take account of their absorption and efficiency in terms of the quality of the prospects submitted, their impact on the access to financing by SMEs and their immediate and long term impact on creating sustainable jobs;
- (13) Whereas the definition of SMEs as set out in Commission Recommendation 96/280/EC of 3 April 1996 concerning the definition of small and medium-sized enterprises⁽⁴⁾ should be applied in the implementation of this Decision;

⁽¹⁾ OJ L 6, 10. 1. 1997, p. 25.

⁽²⁾ OJ L 310, 13. 11. 1997, p. 28.

⁽³⁾ OJ L 361, 31. 12. 1994, p. 101.

⁽⁴⁾ OJ L 107, 30. 4. 1996, p. 4.

- (14) Whereas the EIF was set up in June 1994 to contribute to the pursuit of Community objectives by stimulating investment in trans-European networks and small and medium-sized enterprises; whereas the Community has become a member of the EIF by virtue of Council Decision 94/375/EC⁽¹⁾; whereas the Fund is empowered to issue loan guarantees and to make equity investments according to its Statute;
- (15) Whereas the cooperation agreements between the Commission and the EIF mentioned in Articles 3 and 5 should take account of the need to secure wide dissemination of information concerning the schemes;
- (16) Whereas the EIF has indicated its willingness to participate in the implementation of the ETF start-up and the SME guarantee facility schemes under this Decision; whereas the EIF in the implementation of the ETF start-up facility should endeavour to ensure the maximum appropriate private sector venture capital involvement;
- (17) Whereas the intermediary financial institutions should be selected in an open and transparent manner;
- (18) Whereas the Joint European Venture (JEV) scheme will be administered by the Commission in accordance with its Decision 97/761/EC;
- (19) Whereas the measures financed by the EIB and the EIF do not fall under the provisions of the Treaty on State aid; whereas those measures, if they have effected on beneficiary SMEs comparable to those arising from State aid, have to observe the limits and conditions laid down for the compatibility of comparable State aid,

HAS DECIDED AS FOLLOWS:

Article 1

Objective of the programme

A programme of financial assistance for innovatory and job-creating small and medium-sized enterprises is hereby set up with the aim of stimulating job-creation by facilitating and strengthening the establishment and growth of innovative SMEs (hereinafter 'the programme') as defined in Commission Recommendation 96/280/EC, by supporting their investment activity through increased avail-

ability of finance. The programme shall be targeted at SMEs with growth and therefore employment creation potential.

Article 2

Description of the programme

The programme shall consist of three complementary facilities which shall be: a risk-capital scheme (ETF Start-up) managed by the European Investment Fund (EIF), a scheme for financial contributions supporting the creation of transnational joint-ventures by SMEs within the Community (Joint European Venture) managed by the Commission and a guarantee scheme (SME Guarantee Facility) managed by the EIF.

Article 3

The ETF start-up facility

1. The Community shall provide risk-capital participation in SMEs primarily at their establishment and early stages and/or innovative SMEs through investments in relevant specialised venture-capital funds, where appropriate in cooperation with other participatory mechanisms established in Member States, particularly in smaller or newly established funds, funds operating regionally or funds focused on specific industries or technologies, or venture-capital funds financing the exploitation of R&D results, e.g. funds linked to research centres and science parks, avoiding duplication of existing EIB and EIF interventions and reduction of the risk on these instruments.

2. The EIF shall select, make and manage the investments into the venture-capital funds, where appropriate working with national schemes. The detailed terms and conditions for implementing the ETF start-up facility, including its monitoring and control, shall be laid down in a cooperation agreement between the Commission and the EIF.

3. The cooperation agreement shall take account of the indicative outline set out in Annex I.

Article 4

Joint European Venture (JEV)

1. The Community shall provide financial contributions to SMEs for the setting-up of new transnational joint ventures within the European Union. The Community contribution is intended to cover a part of the expenses incurred in the conception and setting-up of transnational joint ventures. The maximum contribution per project shall be ECU 100 000 covering:

⁽¹⁾ OJ L 173, 7. 7. 1994, p. 12.

- (a) up to 50 % of the eligible expenses, with a maximum of ECU 50 000;
- (b) up to 10 % of the total amount of investment made in fixed assets. particular attention shall be given to small enterprises with up to 100 employees.

2. Eligible expenses for the purposes of point (a) of paragraph 1 shall be those essential expenses related to the conception and setting-up of a transnational joint venture defined in point 6 of Annex II and created by European SMEs.

3. Applications for contributions shall be channelled to the Commission through a network of finance intermediaries. In the implementation of the JEV, the indicative outline set out in Annex II shall be taken into account.

Article 5

The SME guarantee facility

1. The Community shall provide budgetary allocations for the purpose of covering the cost of guarantees and counter-guarantees issued by the EIF in order to promote an increase of loans to SMEs, by increasing the capacity of guarantee schemes operating in the Member States in the public or private sector, including mutual guarantee schemes; the scheme may also support any risk-sharing SME instruments the EIB or any other appropriate financial institutions may make available. Appropriate co-operation with Member States will be ensured by contacts between the EIF and national authorities before implementing the facility.

2. The budgetary allocation shall cover the full cost of the facility, including EIF's guarantee losses and any other eligible costs or expenses of the facility. The cost of the facility to the Community budget shall be capped so that it does not under any circumstances exceed the budgetary allocations made available to the EIF under this action; there shall be no contingent liability on the Community budget.

3. Priority shall be given to small enterprises with up to 100 employees. The guarantees issued by the EIF shall be partial guarantees; there shall always be a risk-sharing arrangement between the EIF and the financial intermediary. Whenever possible, in the implementation of this instrument, the EIF will work guarantee schemes set up primarily to help finance loans that the banking system would not readily provide without guarantee cover and to ensure that part of the risk is borne by the lender.

4. The detailed terms and conditions for implementing the SME guarantee facility, including its monitoring and

control, shall be laid down in a cooperation agreement between the Commission and the EIF.

5. The cooperation agreement shall take into account the indicative outline set out in Annex III.

Article 6

Management fees

The management fees paid to the EIF shall be determined in accordance with the accepted market practice and may be debited to the appropriations devoted to the initiative.

Article 7

Reporting and evaluation

1. The Commission shall report annually to the European Parliament and the Council on the implementation of this Decision and the different schemes under it, notably on this Decision's impact on the access to financing by SMEs, its immediate effects on the creation of employment, the prospects for the creation of employment in the long term and coherence between the financial allocation to the different schemes and the objectives of the programme.

2. The Commission shall within 48 months at most from the date of its adoption, provide an evaluation of the programme, notably as regards its overall utilisation, its immediate effects on the creation of employment and the prospects for the creation of employment in the long term.

Article 8

Final provision

Without prejudice to what is indicated in Annex I, point 5, Annex II, point 4 and Annex III, point 10, this programme shall come to an end on 31 December 2000.

Article 9

This Decision shall be published in the *Official Journal of the European Communities*. It shall take effect on the day of its publication.

Done at Brussels, 19 May 1998.

For the Council

The President

G. BROWN

ANNEX I

INDICATIVE OUTLINE OF THE IMPLEMENTATION OF THE ETF START-UP SCHEME

1. Introduction

The ETF start-up will be operated by the EIF on a trust basis. The EIF will invest the Community funds allocated for the scheme in relevant specialized venture-capital funds and/or where appropriate in co-operation with other participatory mechanisms established in Member States, particularly in smaller or newly established funds, funds operating regionally or funds focused on specific industries or technologies, or venture capital funds financing the exploitation of R&D results, e.g. funds linked to research centres and science parks which in turn provide risk capital for SMEs. The ETF start-up scheme will reinforce the European Technology Facility established by the EIB in cooperation with the EIF by adopting an investment policy involving a higher risk-profile, both as regards intermediary funds and their investment policies.

2. Intermediaries

The EIF will use its best efforts to target investments, throughout the Community, particularly in smaller or newly established funds, funds covering specific regions, whether assisted or not, or focusing on specific industries or technologies, or venture-capital funds linked to research centres and science parks. The intermediaries will be selected in conformity with best business and market practice in a fair and transparent manner in order to avoid any distortion of competition, having regard to the aim of working through a wide range of specialised funds.

3. Maximum investment

The maximum ETF start-up aggregate investment in an intermediary venture-capital fund will be 25 % of the total equity capital held by the relevant fund, or up to a maximum of 50 % in exceptional cases such as new funds which are likely to have a particularly strong catalytic role in the development of venture-capital markets for a specific technology or in a specific region. The Commission will explain in its annual report all individual cases where the EIF made any investment greater than 25 % of the total equity capital. No commitment in a single venture-capital fund will exceed ECU 10 million. The intermediary venture-capital funds will comply with established market practices with regard to portfolio diversification. The EIF will endeavour to ensure the maximum appropriate private sector venture capital involvement.

4. Investment *pari passu*

The investment made by the ETF start-up in the intermediary funds will rank *pari passu* with other equity investors.

5. Life of the facility

The ETF start-up scheme is established as a long-term facility that will usually take five to 12-year positions in venture-capital funds. The EIF will use its best efforts fully to commit the funds allocated to the facility not later than during the calendar year following the year in which the relevant budgetary payments are made. In any case, investments will not exceed 16 years from the time of signature of the cooperation agreement.

6. Realisation of investments

As most of the investments to be made under the ETF start-up scheme will be in unquoted, illiquid venture-capital funds, the realisation of those investments will be based on the distribution of the proceeds received by the intermediary funds from the sale of their investments in SMEs.

7. Reinvestment of proceeds from realised investments

Proceeds from realised investments may be reinvested during the first four years of operation of the scheme. The reinvestment period can be extended by up to three years, subject to a satisfactory evaluation of the facility 48 months after its adoption.

8. Trust account

A separate trust account will be set up within the EIF to hold budgetary funds underpinning the scheme. This account will be interest bearing; interest earned will be added to the resources of the facility. The investments made by the EIF under the ETF start-up scheme and EIF's management fees and other eligible expenses will be debited from, and the proceeds from realised investments will be credited to the trust account. After the fourth anniversary of the scheme or, where the reinvestment period of the scheme is extended, after the end of the extended reinvestment period, any balances on the trust account, other than funds committed and not yet drawn down/invested and funds reasonably required to cover eligible costs and expenses, such as EIF's management fee, will be returned to the Community budget.

9. Court of Auditors

Appropriate arrangements will be made to allow the Court of Auditors of the European Community to exercise its mission in order to verify the regularity of payments made.

ANNEX II

INDICATIVE OUTLINE OF THE IMPLEMENTATION OF THE JOINT EUROPEAN VENTURE SCHEME^e**1. Introduction**

The Joint European Venture scheme will provide financial contributions to support the establishment of transnational joint ventures between SMEs within the European Union. It is based on the limited initiative launched under the third multiannual programme for SMEs, adopted by Commission Decision 97/761/EC of 5 November 1997 approving a support mechanism for the creation of transitional joint ventures for SMEs in the Community.

2. Intermediaries

The scheme will be accessible to SMEs through intermediaries, which may be banks or other appropriate financial institutions. The network of financial intermediaries will comprise financial intermediaries selected in conformity with the abovementioned initiative of 5 November 1997, following a new call for expression of interest published in the *Official Journal of the European Communities*. The Commission will check the eligibility of the applications in the light of the programme objectives.

3. Application procedure

Applications for financial contributions under this scheme will be submitted by SMEs to one of the intermediaries. The intermediary will be entrusted with the evaluation of the application, and, in the event of a favourable opinion, passing it on to the Commission. The Commission will check the eligibility of the applications in the light of the objectives of the scheme, in particular the effect on employment.

4. Payment of financial contributions

The contributions, the total of which will not exceed ECU 100 000 will be paid to the SME, through the financial intermediary which will pass on all payments without delay and deductions.

Payments under the first tranche, up to ECU 50 000, to cover 50 % of eligible expenditure for the conception and preparation of the joint venture, will be made in two instalments. A reimbursable advance of 50 % (maximum ECU 25 000) will be paid as soon as the application has been accepted by the Commission. A second payment of 50 % (maximum ECU 25 000) will be made on presentation of supporting documents for all the expenditure incurred and on the basis of a detailed project evaluation report which permits an assessment of the feasibility of the joint venture as well as the investment envisaged. After acceptance of the documents by the Commission, the reimbursable advance will be converted into a grant.

Payment under the second tranche, covering up to 10 % of the investment, will be made after receipt by the Commission of satisfactory evidence of completion of the investment and commencement of the new activity.

Any SME benefiting from a payment under the second tranche (10 % of the investment) must undertake to submit to the Commission, for a period of five years, information on the activities of the joint venture set up and, in particular, on the number of jobs created.

5. External management cost

In the management of the programme, recourse will be made to external assistance specialized in monitoring projects. This assistance will be provided by external contractors selected following a call for expression of interest. A maximum of 5 % of the budgetary allocation will be reserved to cover the external management cost of the initiative.

6. Definition of a joint venture

The concept of a 'joint venture' will be interpreted broadly, that is including any form of consortium, partnership or joint venture in the strict sense, which should lead to a new legal entity, of an industrial, service, commercial or craft nature, subject to the following conditions being met:

- the project will create new economic activities, involving investment and employment creation within the Community. Transfers of existing economic activities are not eligible. Similarly, purchases of existing enterprises are not eligible,

- the partners will play an active part in the joint venture and assume an adequate measure of responsibility. Any joint venture in which one of the partners owns more than 75 % will be ineligible. Any change in the holdings in the joint venture within three years following the signing of the contract with the Commission must be submitted to the Commission for a review of its financial participation,
- the joint venture must be newly created by at least two SMEs from two different Member States.

7. Eligible expenses

Eligible expenses are those relating to the conception and setting-up of a joint venture: expenses incurred as part of the preparatory action (market surveys, preparation of the legal framework, environmental impact assessment, technical standards, business plan, etc.); expenses for external experts (lawyers, advisers, accountants); fees based on actual costs, transport costs, accommodation and subsistence expenses (in accordance with the provisions laid down within the framework of the Commission's contracts for the provision of services); expenses for internal experts (relating to travel abroad): daily allowance, transport costs and accommodation and subsistence expenses (in accordance with the provisions laid down within the framework of the Commission's contracts for the provision of services).

For the grant, covering up to 10 % of the investment made, an investment is considered to be any purchase or production of tangible or intangible assets which are accounted for as fixed assets in the balance sheet of the joint venture and valued in accordance with generally accepted accounting standards.

Financing costs and expenses relating to partner search are excluded.

Expenses under Article 4(1)(b) may only be granted if expenses under Article 4(1)(a) have been granted for substantive preparatory work towards a transnational joint venture, thereby ensuring that grants are awarded only to projects with a genuine business prospect. Approval of the investment subsidy will be conditional on satisfactory evidence of the completion of the investment and the commencement of the new activities.

8. Obligations of the beneficiaries

Appropriate arrangements will be made to allow the Court of Auditors of the European Community or the Commission to exercise their mission in order to verify the regularity of declarations made by beneficiaries in support of payment claims submitted by them as well as the corresponding payments made.

*ANNEX III***INDICATIVE OUTLINE OF IMPLEMENTATION OF THE SME GUARANTEE FACILITY****1. Introduction**

The SME guarantee facility will be operated by the EIF on a trust basis. Whilst the EIF will provide counter-guarantees or, where appropriate, co-guarantees for guarantee schemes operating in Member States, and direct guarantees in the case of the EIB or any other appropriate financial intermediary, its losses from the relevant guarantees will be converted by Community funds. This will permit the targeting of the scheme to SMEs with growth potential experiencing particular difficulty in raising finance because of the perceived high risk inherent in lending to them, such as small or newly established companies.

2. Intermediaries

Guarantee schemes operating in the Member States within the public or private sector, including mutual guarantee schemes, the EIB or any other appropriate financial institution in connection with any risk-taking SME facilities they may make available. Intermediaries will be selected in conformity with best business and market practice in a fair and transparent manner, having regard to: (a) the effect on the volume of debt finance made available to SMEs, and/or (b) the effect on access to debt finance by SMEs, and/or (c) the effect on risk-taking in SME lending by the intermediary concerned.

3. Eligible SME lending

The financial criteria governing the eligibility of SME lending for guarantees under the SME guarantee facility will be determined individually for each intermediary in the framework of the guarantee schemes they are already operating, with the aim of reaching as many SMEs as possible. These rules will reflect market conditions and practices in the relevant territory. The guarantees and counter-guarantees will mainly be available to cover lending to SMEs with less than 100 employees. Particular attention will be given to lending to finance intangible assets.

4. EIF-guarantees

The guarantees given by the EIF will relate to individual loans in a specific loan portfolio, which may be an existing loan portfolio, where that leads to the expansion of lending to SMEs, or a loan portfolio to be created within a specific period of time. The guarantees issued by the EIF will cover a part of the credit risk inherent in the underlying loan portfolio with the risk shared with the relevant financial intermediary.

5. EIF's capped maximum cumulative losses

The EIF's obligation to pay its share of loan losses to the intermediary will continue until the cumulative amount of payments made to cover losses from a specific loan portfolio, reduced by the cumulative amount of corresponding loss recoveries, reaches a pre-agreed amount, after which EIF's guarantee is automatically cancelled.

6. EIF *pari passu* with intermediary

The guarantees given by the EIF will usually rank *pari passu* with the guarantees or, where appropriate, with the loans given by the intermediary.

7. Trust account

A trust account will be set up within the EIF to hold the budgetary funds underpinning the scheme. This account will be interest bearing; interest earned will be added to the resources of the facility.

8. EIF's right to withdraw funds from the trust account

The EIF will have the right to debit the trust account for payments to meet its obligations for the maximum cumulative losses under the guarantee facility, and, subject to agreement by the Commission, any other eligible costs, for example its management fees, eligible legal fees and promotional expenses of the scheme.

9. Loss recoveries payable to the trust account

Any moneys recovered from loan losses for which payment has been made under guarantees called will be credited to the trust account.

10. Duration of the scheme

It is envisaged that the individual SME guarantees will have a maturity of five to 10 years. Provided that adequate funds are held in the trust account, the EIF will enter into new guarantee commitments up to the fourth anniversary of the adoption of the facility. Any amount outstanding on the trust account at the time of expiry on the outstanding guarantees will be repaid to the Community budget.

11. Court of Auditors

Appropriate arrangements will be made to allow the Court of Auditors of the European Community to exercise its mission in order to verify the regularity of payments made.

COUNCIL DECISION

of 19 May 1998

granting a Community guarantee to the European Investment Bank against losses under loans for projects in the former Yugoslav Republic of Macedonia and amending Decision 97/256/EC granting a Community guarantee to the European Investment Bank against losses under loans for projects outside the Community (Central and Eastern European countries, Mediterranean countries, Latin American and Asian countries and South Africa)

(98/348/EC)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty establishing the European Community, and in particular Article 235 thereof,

Article 1

Having regard to the proposal of the Commission⁽¹⁾,

Having regard to the opinion of the European Parliament⁽²⁾,

Whereas by its Decisions of 27 November 1997 the Council concluded a Cooperation Agreement between the European Community and the former Yugoslav Republic of Macedonia and a Transport Agreement between the same parties;

Whereas the said Cooperation Agreement includes a Protocol on financial cooperation which provides for the European Investment Bank (EIB) to grant loans from its own resources up to a ceiling of ECU 150 million until 31 December 2000;

Whereas Decision 97/256/EC⁽³⁾ grants the EIB a budget guarantee for lending from its own resources in specified regions outside the Community; whereas the budget guarantee should be extended to cover the Bank loans agreed in the Protocol on financial cooperation with the former Yugoslav Republic of Macedonia;

Whereas the Council is calling on the Bank to finance projects in that country according to the arrangements set out in the Protocol on financial cooperation by offering it the guarantee provided for in this Decision;

Whereas Decision 97/256/EC should therefore be amended;

Whereas the Treaty does not provide for the adoption of this Decision powers other than those of Article 235,

Decision 97/256/EC is hereby amended as follows:

1. in the title, '... Asian countries and South Africa.' shall be replaced by '... Asian countries, South Africa and the former Yugoslav Republic of Macedonia.';
2. in the first paragraph of Article 1(1), '... Asian countries, in the Republic of South Africa.' shall be replaced by '... Asian countries, in the Republic of South Africa and in the former Yugoslav Republic of Macedonia.';
3. in the second paragraph of Article 1(1):
 - (a) 'ECU 7 105 million,' shall be replaced by 'ECU 7 255 million,';
 - (b) the following fifth indent shall be added:
'— former Yugoslav Republic of Macedonia ECU 150 million,';
 - (c) in the final phrase of the second sentence, '... Asian countries, and on 1 July 1997 for the Republic of South Africa.' shall be replaced by '... Asian countries, on 1 July 1997 for the Republic of South Africa, and on 1 January 1998 for the former Yugoslav Republic of Macedonia.';
4. the following sixth indent shall be added to Article 1(2):
'— former Yugoslav Republic of Macedonia.'

Article 2

Corresponding amendments shall be made to the agreement concluded between the Commission and the EIB referred to in Article 5 of Decision 97/256/EC.

⁽¹⁾ OJ C 108, 7. 4. 1998, p. 1.

⁽²⁾ OJ C 152, 18. 5. 1998.

⁽³⁾ OJ L 102, 19. 4. 1997, p. 33.

Article 3

This Decision shall take effect on the day of its publication in the *Official Journal of the European Communities*.

Done at Brussels, 19 May 1998.

For the Council

The President

G. BROWN

COMMISSION

COMMISSION DECISION

of 27 May 1998

terminating the anti-dumping proceeding concerning imports of pure silk typewriter ribbon fabrics originating in the People's Republic of China

(98/349/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

subsequently imposed by Council Regulation (EEC) No 3200/90 ⁽¹⁾, still at a level of 24,6 %.

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽²⁾, as last amended by Regulation (EC) No 905/98 ⁽³⁾, 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 ⁽⁴⁾, and in particular Articles 14 and 15 thereof,

After consulting the Advisory Committee,

Whereas:

B. REQUEST FOR REVIEW

- (2) In August 1991, the exporter lodged a request for a review of the undertaking, alleging changed circumstances since the entry into force of the measures. The main grounds were as follows:
- (a) There was no longer significant Community production of pure silk typewriter ribbon fabrics, since the only Community producer had switched to producing mixed fabrics of polyester/silk.
- (b) The Community producer had not increased its selling prices since the entry into force of the undertaking, and was aiming to secure a monopoly of the Community market.
- (c) Since the exporter had not exported any pure silk typewriter ribbon fabrics to the Community since 1989, it could no longer be causing injury to the Community industry.

A. ANTI-DUMPING MEASURES IN FORCE

- (1) In July 1990, a provisional anti-dumping duty of 24,6 % was imposed on pure silk typewriter ribbon fabrics originating in the People's Republic of China, by Commission Regulation (EEC) No 1937/90 ⁽⁴⁾. By the same Regulation, the Commission accepted a price undertaking from the China National Silk Import and Export Corporation — Zhejiang Branch (the only known exporter in the People's Republic of China, hereinafter referred to as 'the exporter'). This exporter was thus exempted from the definitive anti-dumping duty which was

- (3) The Commission was satisfied that there was sufficient evidence of changed circumstances to justify the initiation of a review of the measures in force.

C. REVIEW INVESTIGATION

- (4) In January 1992, the Commission published a notice of initiation ⁽⁶⁾ of a review of Regulation (EEC) No 1937/90 accepting an undertaking with regard to imports of pure silk typewriter ribbon

⁽¹⁾ OJ L 56, 6. 3. 1996, p. 1.

⁽²⁾ OJ L 128, 30. 4. 1998, p. 18.

⁽³⁾ OJ L 209, 2. 8. 1988, p. 1.

⁽⁴⁾ OJ L 174, 7. 7. 1990, p. 27.

⁽⁵⁾ OJ L 306, 6. 11. 1990, p. 21.

⁽⁶⁾ OJ C 12, 18. 1. 1992, p. 5.

fabrics originating in the People's Republic of China, and of Regulation (EEC) No 3200/90 imposing a definitive anti-dumping duty on the above imports, and reopened the investigation in accordance with Article 14 of Regulation (EEC) No 2423/88.

The Commission officially advised the Community producer, the exporter and importers known to be concerned, as well as the representatives of the exporting country. All parties directly concerned were given the opportunity to make their views known in writing and to request a hearing within the time-limit set in the Notice of initiation.

(5) The following interested parties all completed the Commission's questionnaire and made their views known in writing:

- (a) *Complainant*: International Association of users of Yarn of man-made Fabrics and of Natural Silk (Aiuffass), on behalf of the sole Community producer.
- (b) *Community producer*: Spinnhütte GmbH Co. KG, Celle, Germany, hereinafter referred to as 'Spinnhütte' or 'Community producer'.
- (c) *Unrelated importer*: Delacamp GmbH & Co. KG, Hamburg, Germany.
- (d) *Exporter in the People's Republic of China*: China National Silk Import and Export Corporation, Zhejiang Branch.

Verification visits were carried out at the premises of the Community producer and the importer.

The Community producer and the exporter requested and were granted hearings.

The investigation of dumping covered the period from 1 January 1991 to 31 December 1991 (hereinafter referred to as 'the investigation period'). Originally, the examination of injury had covered the period from 1989 up to the end of the investigation period.

(6) In October 1993, in view of the length of the investigation and the different arguments put forward by the parties about the changed situation on the market for the product concerned, it was thought appropriate to update the data up to and including 1993.

Spinnhütte did not provide some essential information, such as a breakdown of sales and audit/management reports, despite the granting of various extensions of the deadline.

(7) As the initial measures would normally have expired on 6 November 1995, a Notice⁽¹⁾ was published in accordance with Article 15(4) of Regulation (EEC) No 2423/88, indicating that the anti-dumping measures would remain in force beyond the end of the five-year period, pending the outcome of the review.

D. PRODUCT CONCERNED/LIKE PRODUCT

Description of the product concerned

(8) The product concerned is the same as in the original investigation, namely plain woven silk fabric made out of raw silk of a weight of 40 g/m² or more, but not exceeding 50 g/m². This product (hereinafter referred to as 'silk typewriter ribbon fabrics') is used by the office supplies industry, and for the further manufacture of typewriter ribbon spools.

Spinnhütte requested that the definition of the like product be widened so as to extend the weight range of 40 to 50 grams per m² (g/m²) to a weight between 30 g/m² and 70 g/m². It was further proposed to extend the product definition to include a mixed silk/polyester product produced by Spinnhütte, which had been introduced on the market after the initiation of the original investigation.

In respect of the request for an extension of the definition of the product concerned, the following should be noted:

First, no evidence has been submitted suggesting that an extension of the weight criteria is justified. The fact that the Community industry has knowledge of offers or transactions marginally outside the relevant weight range only demonstrates the existence of a market for different products, and does not in itself justify extending the scope of measures to these; in any event, Spinnhütte did not produce any evidence of unfairly traded imports resulting from such offers.

Secondly, although the mixed product in question is said to be interchangeable and to compete directly with the silk typewriter ribbon fabrics concerned in this proceeding, it has to be noted that the basic physical characteristics of both products differ significantly. In any event, as will be shown in Parts E and F, the conclusion reached with respect to injury and recurrence of injury would not have been different had the mixed product been considered part of the product concerned in this investigation, given the decline in demand in the Community for typewriter ribbon fabrics in general.

⁽¹⁾ OJ C 291, 4. 11. 1995, p. 20.

E. INJURY

As there is only one producer in the Community, data is given in indexed form for reasons of confidentiality.

1. Community production, consumption, capacity utilization and employment

- (9) Over the period from 1989/90 to 1992/93, Spinnhütte's total production of typewriter ribbon fabrics, namely silk typewriter ribbon fabrics and mixed silk/polyester typewriter ribbon fabrics, fell by more than 60 %. As regards the 'like product', the fall in production over this period was much higher, at around 85 %.

In this context, it has to be noted that Spinnhütte in 1989 introduced a new typewriter ribbon fabric manufactured from a mixture of silk and polyester. In 1989, Spinnhütte hoped that this patented new product would come to represent 50 % of its production, thus gradually replacing the pure silk version, which is now of minor importance, given a severe fall in demand.

As to consumption, as there have been no imports of the product concerned and as there is only one supplier on the Community market, sales made by Spinnhütte represent total Community consumption of the like product.

In 1989, according to Spinnhütte, 30 % of its weaving mill capacity was engaged in the production of silk typewriter ribbons fabrics. It is estimated that only 10 % of capacity was used for the like product by the end of the period examined.

Over the period, total employment appeared to be stable at about 35 people.

2. Imports of the product concerned

- (10) According to the undertaking reports made by the Chinese producer, as confirmed by the relevant Eurostat figures, there have been no imports of the product concerned since 1989.

3. Spinnhütte's sales of the product concerned on the Community market

- (11) Spinnhütte's sales volumes, in m², of silk typewriter ribbon fabrics on the Community market declined between 1 January 1989 and 30 June 1993 by 72 %, while prices fell by 66 % over the same period.

4. Profitability

- (12) On the basis of the information available, and in the light of the fact that sales prices fell by less than volumes, together with a lowering of the price of raw silk, the Community producer has apparently been able, by the end of the period, to restore a satisfactory level of profitability on a per-unit level and to obtain a reasonable return on capital. On an indexed basis, with 1988/89 as 100, profitability had reached 112 in 1992/93.

5. Conclusion on injury

- (13) While the investigation has shown that the Community industry has experienced substantial economic difficulties in terms of decreases in production, sales and prices, it is clear that these developments are, in the absence of imports, due solely to reduced demand, arising from the general diversification away from the use of cloth typewriter ribbon to plastic ribbon and from typewriters to word-processors. In the face of such a basic shift, Spinnhütte could do little, except restructure its range of production (see below).

F. RECURRENCE OF INJURIOUS DUMPING

- (14) The absence of exports following the imposition of anti-dumping measures is not in itself a sufficient reason for their removal. It has to be examined whether removing the measures would lead to a foreseeable and imminent recurrence of injury caused by dumped imports from the People's Republic of China.

1. Recurrence of dumping

- (15) The Commission recalls that in this particular case, normal value had to be constructed on the basis of cost of production plus a reasonable profit calculated by reference to those incurred and realised by the Community producer.

In this respect, the investigation has shown that there has been a sharp decline in normal value as compared to the original investigation. The information available, and Spinnhütte's submission of 5 December 1995, show that the price of raw silk, the major cost element for the product concerned, has declined by 50 % since 1989/90, and that there have been favourable developments in manufacturing and other costs since that time. In addition, there are now increased opportunities for obtaining raw silk on the world market; the Community producer is no longer dependent on Chinese supplies of raw silk. Moreover, the provisional application of the Agreement between the Community and China, which was the subject

of Council Decision 95/155/EEC⁽¹⁾, should prevent situations whereby finished goods are exported at prices of about, or below, the price of the raw silk content.

A combination of these factors leads the Commission to the view that the decline of constructed normal value would tend to remove, or at least greatly reduce, the margin of dumping, although, as discussed below, it is not at all clear that, given the fall in demand, exports would resume if the present measures were to expire. Moreover, the sole Chinese producer capable of offering silk typewriter ribbon fabrics produces more than 35 other products in addition to silk typewriter ribbon fabric, and is not, therefore, likely to be interested in the product concerned which has been subject to sharply decreasing demand.

Further, according to information submitted by the Chinese producer, its total output is destined for the Chinese market, and any increased production to supply the Community market is unlikely; changing looms would not be profitable, given the better returns available from other silk products in the face of declining demand for the product concerned.

- (16) The Community producer recognized that there was no evidence on Chinese imports of the product concerned between November 1989 and 1 October 1995 — that is, since before the imposition of the anti-dumping measure in 1990 — although, it was maintained that the measures were being circumvented in various ways, for example by transshipment via third countries with misdeclaration of origin, misdescription of product, and manipulation of the weight limits covered by the definition of the product concerned.

Further, it was alleged that there were indications that the Chinese exporter was still interested in the Community market.

First, offers had apparently been made by another Chinese exporter for sales on the Community market of silk typewriter ribbon fabrics of Chinese origin. In addition, the reportedly poor financial results of the Chinese silk industry suggested that a recurrence of injurious dumping was likely if measures were to expire. Reference was also made to several other offers and transactions, at prices below the normal value of the Chinese product, entering the Community market via Switzerland.

Secondly, the Community producer contested the view that the total output of the sole Chinese producer of the like product was destined solely for the Chinese market, since it claimed to have

evidence that sales of the Chinese product were being made in the United States of America. In addition, overcapacity in the Chinese silk industry and the recent bilateral EC-China agreement, which did not cover the product concerned, were put forward as reasons why exports of silk typewriter fabrics would be of interest to the Chinese producer. Resumption of such exports would cause a recurrence of injurious dumping, and anti-dumping measures are the only means of protection against this. Finally, the request for a review proceeding made by the Chinese in August 1991, and the adjustment of the price undertaking in February 1994 at the request of the Chinese exporter, were adduced as evidence of continuing interest in the Community market.

- (17) The Commission examined these contentions, but cannot accept them.

As to circumvention, no evidence was produced to corroborate the allegations. In particular, as to the imports transited through Switzerland, it was established that these did not concern typewriter ribbon fabrics, since they did not conform to the necessary length requirements of 220 yards per roll, as is recognized by the Community producer.

As to the offers made by another Chinese exporter, it was found that these were not relevant; indeed, according to the complaint itself, the exporting company in question is not authorized to handle exports of the product concerned.

With respect to possible sales on the US market and the potential effects of overcapacity in the Chinese silk industry, the Commission recalls that its information indicates that the total output of the sole producer in China is intended for domestic sales. Notwithstanding these conflicting indications on export sales to third-country markets, however, the Commission maintains the view expressed above, namely that any increase in Chinese production of the like product for export to the Community, where the market has been in sharp decline, is unlikely, given the advanced stage of the product's life-cycle and the cost of switching production to the product concerned, when better returns are available on other silk products. Further, given its product mix, the Chinese producer would not seem to be dependent on the production and sale of typewriter ribbon fabrics.

As to the Chinese request for a review and the adaptation of the price undertaking, these, in isolation, cannot be evidence of a threat of a recurrence of injury, particularly in the absence of imports into the Community since 1989 — that is to say, before the introduction of measures.

⁽¹⁾ OJ L 104, 6. 5. 1995, p. 2.

2. Recurrence of injury

(18) It was claimed by the Community producer that anti-dumping measures were still necessary to prevent a recurrence of injury while the company, which is small, was completing an ongoing restructuring. Although production was being diversified away from silk typewriter ribbon fabrics, the transformation was said to be as yet incomplete, and the production of the like product remained essential for Spinnhütte's survival.

(19) In this context, it should first be noted that the purpose of any anti-dumping measure is not to facilitate the Community industry's restructuring process, but to eliminate the trade-distorting effects of injurious dumping and thus to enable the Community industry to compete on equal terms with the dumped imports.

Further, it should be recalled that no imports have taken place since November 1989, and therefore that no injury could have been caused to the Community industry by dumped imports of the product concerned since then.

Since the Community producer and the Chinese producer are the only two producers of silk typewriter ribbon fabrics in the world, the Community producer has been enjoying a monopoly position within the Community since 1989.

It is clear, therefore, that a recommencement of imports would, by increasing competition on the market, affect the position of Spinnhütte. However, as outlined above, it is unlikely that exports of the product concerned at dumped prices would re-start if the measures were repealed.

(20) Finally, as it believes that injurious dumping is likely to re-occur if the existing measures lapse, the Community producer requested that Regulation (EEC) No 3200/90 imposing a definitive duty be maintained, but that the measures be immediately suspended pursuant to Article 14(4) of Regulation (EC) No 384/96.

The Commission cannot agree to this request. As they were intended to address entirely different situations, the application of the provisions of Article 14(4) of Regulation (EC) No 384/96 is inappropriate in the circumstances of this proceeding.

G. CONCLUSION

(21) In view of the above, the Commission concludes that there is no evidence pointing to a current risk that the removal of anti-dumping measures would lead to a foreseeable and imminent recurrence of injury due to dumped imports from China. Indeed, it seems likely that the Community industry will continue to experience difficulties, not from Chinese imports, but from the substitute products and the growth in the demand for word processors and personal computers, which will inevitably continued to reduce sales of conventional typewriters using textile ribbons.

(22) It is considered, therefore, that, in the light, in particular, of the decline in demand for the product concerned, the apparent restoration of profitability, and the fact that a recurrence of injurious dumping is unlikely, the measures in force should be allowed to expire.

(23) The Commission informed interested parties, including the Community industry, of its conclusions. After being informed by the Commission of the above facts and conclusions, representatives of the Community industry made further representations, both in writing and orally, concerning the impact of the Chinese imports in question on the Community industry. However, no information or argument was provided which could, on examination, reverse the above conclusions.

(24) Member States did not raise any objections to the termination of the proceeding,

HAS DECIDED AS FOLLOWS:

Sole Article

The anti-dumping proceeding concerning imports of pure silk typewriter ribbon fabrics falling within CN codes ex 5007 10 00, ex 5007 20 11, ex 5007 20 19 and ex 5007 20 21 originating in the People's Republic of China is hereby terminated.

Done at Brussels, 27 May 1998.

For the Commission

Leon BRITTAN

Vice-President

NOTICE TO READERS

Legal acts whose publication is not obligatory are not given an official number forming an integral part of their title but, if published in the Official Journal, are allocated a publication number by the Office for Official Publications.

Since such acts are often notified or transmitted to the addressees bearing the number of the procedure under which they were adopted (number C(1998) . . .), it has been decided to establish a link between the publication numbers.

Accordingly, from 1 June the procedure numbers will be inserted after the title of the relevant acts of the Commission.