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Contents

I Acts whose publication is obligatory

- Commission Regulation (EC) No 2103/98 of 1 October 1998 establishing the standard import values for determining the entry price of certain fruit and vegetables 1
- Commission Regulation (EC) No 2104/98 of 1 October 1998 opening imports of quantities of quality common wheat, on the one hand, and of durum wheat, on the other hand, within the framework of tariff quotas provided for in Regulations (EC) No 529/97 and (EC) No 2228/96 3
- ★ Commission Regulation (EC) No 2105/98 of 1 October 1998 amending Regulation (EC) No 2628/97 as regards transitional provisions for the start-up period of the system for the identification and registration of bovine animals ⁽¹⁾ 4
- ★ Commission Regulation (EC) No 2106/98 of 1 October 1998 laying down special measures derogating from Regulations (EEC) No 3665/87 and (EEC) No 3719/88 as regards beef and veal 5
- ★ Commission Regulation (EC) No 2107/98 of 1 October 1998 imposing provisional anti-dumping duties on imports of polypropylene binder or baler twine originating in Poland, the Czech Republic, Hungary and Saudi Arabia and accepting undertakings offered by certain exporters in connection with those imports 7
- Commission Regulation (EC) No 2108/98 of 1 October 1998 fixing the export refunds on olive oil 21
- Commission Regulation (EC) No 2109/98 of 1 October 1998 fixing the maximum export refunds for olive oil for the 20th partial invitation to tender under the standing invitation to tender issued by Regulation (EC) No 1978/97 23

⁽¹⁾ Text with EEA relevance

Contents (continued)

Commission Regulation (EC) No 2110/98 of 1 October 1998 fixing the maximum export refund on barley in connection with the invitation to tender issued in Regulation (EC) No 1078/98	25
Commission Regulation (EC) No 2111/98 of 1 October 1998 concerning tenders notified in response to the invitation to tender for the export of rye issued in Regulation (EC) No 1746/98	26
Commission Regulation (EC) No 2112/98 of 1 October 1998 fixing the maximum export refund on common wheat in connection with the invitation to tender issued in Regulation (EC) No 1079/98	27
Commission Regulation (EC) No 2113/98 of 1 October 1998 concerning tenders notified in response to the invitation to tender for the export of oats issued in Regulation (EC) No 2007/98	28
Commission Regulation (EC) No 2114/98 of 1 October 1998 fixing the maximum export refund on common wheat in connection with the invitation to tender issued in Regulation (EC) No 2004/98	29
Commission Regulation (EC) No 2115/98 of 1 October 1998 fixing the maximum export refund on barley in connection with the invitation to tender issued in Regulation (EC) No 1564/98	30
Commission Regulation (EC) No 2116/98 of 1 October 1998 fixing the export refunds on cereals and on wheat or rye flour, groats and meal	31
Commission Regulation (EC) No 2117/98 of 1 October 1998 amending the import duties in the cereals sector	33
Commission Regulation (EC) No 2118/98 of 1 October 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	36

II *Acts whose publication is not obligatory*

Council

98/557/EC:

- * **Council Decision of 28 September 1998 authorising the Kingdom of Spain to extend until 7 March 1999 the Agreement on mutual fishery relations with the Republic of South Africa** 39

98/558/EC:

- * **Council Decision of 28 September 1998 authorising the Portuguese Republic to extend until 7 March 1999 the Agreement on mutual fishery relations with the Republic of South Africa** 40

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 2103/98
of 1 October 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 1498/98 ⁽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 2 October 1998.

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

Done at Brussels, 1 October 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ L 198, 15. 7. 1998, p. 4.

⁽³⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 1 October 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
0709 90 70	052	104,3
	999	104,3
0805 30 10	052	72,1
	388	98,6
	512	60,3
	524	70,9
	528	62,2
	999	72,8
	999	72,8
0806 10 10	052	88,9
	064	41,0
	400	208,9
	999	112,9
0808 10 20, 0808 10 50, 0808 10 90	060	36,0
	064	40,4
	388	48,7
	400	70,2
	442	43,2
	512	68,4
	528	82,0
	800	216,4
	804	77,5
	999	75,9
0808 20 50	052	88,8
	064	53,6
	528	81,6
	999	74,7

⁽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 2104/98
of 1 October 1998

opening imports of quantities of quality common wheat, on the one hand, and of durum wheat, on the other hand, within the framework of tariff quotas provided for in Regulations (EC) No 529/97 and (EC) No 2228/96

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1095/96 of 18 June 1996 on the implementation of the concessions set out in Schedule CXL drawn up in the wake of the conclusion of the GATT XXIV.6 negotiations⁽¹⁾, and in particular Article 1 thereof,

Whereas Commission Regulation (EC) No 529/97 of 21 March 1997 opening and administering a tariff quota of 300 000 tonnes of quality wheat and repealing Regulation (EC) No 1854/94⁽²⁾, as amended by Regulation (EC) No 850/97⁽³⁾; whereas, in view of the situation on the Community market for wheat, import licence applications should be called for under that quota for a given period, lays down provisions governing imports under that quota;

Whereas Commission Regulation (EC) No 2228/96 of 21 November 1996 opening and providing for the administration of a tariff quota of 50 000 tonnes of durum wheat falling within CN code 1001 10 00⁽⁴⁾ lays down provisions governing imports under that quota; whereas, in view of the situation on the Community market for wheat, import licence applications should be called for under that quota for a given period;

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

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

Done at Brussels, 1 October 1998.

Article 1

1. Import licence applications may be submitted for quality common wheat falling within CN code 1001 90 99 meeting the criteria laid down in Annex I to Regulation (EC) No 529/97, from the date of entry into force of this Regulation until the end of the 30th day thereafter.

2. A total of 200 000 tonnes of common wheat may be imported in accordance with this Article.

3. Regulation (EC) No 529/97 shall apply to such imports.

Article 2

1. Import licence applications for durum wheat falling within CN code 1001 10 00 with a minimum vitreous grain content of 73 % as provided for in Regulation (EC) No 2228/96 may be submitted from the date of entry into force of this Regulation, until the end of the 30th day thereafter.

2. A total of 50 000 tonnes may be imported in accordance with this Article.

3. Regulation (EC) No 2228/96 shall apply to such imports.

Article 3

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

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 146, 20. 6. 1996, p. 1.

⁽²⁾ OJ L 82, 22. 3. 1997, p. 44.

⁽³⁾ OJ L 122, 14. 5. 1997, p. 10.

⁽⁴⁾ OJ L 298, 22. 11. 1996, p. 8.

COMMISSION REGULATION (EC) No 2105/98

of 1 October 1998

amending Regulation (EC) No 2628/97 as regards transitional provisions for the start-up period of the system for the identification and registration of bovine animals

(Text with EEA relevance)

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

Having regard to Council Regulation (EC) No 820/97 of 21 April 1997 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products⁽¹⁾, and in particular Article 10(f) thereof,

Whereas Commission Regulation (EC) No 2628/97⁽²⁾ lays down detailed rules as regards transitional provisions for the start-up period of the system for the identification and registration of bovine animals;

Whereas in order to avoid difficulties in the domain of intra-Community trade in bovine animals it is necessary to clarify the applicable rules; whereas it is necessary to allow in certain Member States, for a transitional period until 1 March 1999 at the latest, the trade in bovine animals born after 1 January 1998 bearing ear-tags complying with Council Directive 92/102/EEC of 27 November 1992 on the identification and registration of animals⁽³⁾;

Whereas such a solution is justifiable since it serves the possibility for Member States to use their existing stock of ear-tags and avoids the practical difficulties of re-identifying quickly all bovine animals which may be subject to intra-Community trade;

Whereas Regulation (EC) No 2628/97 should be amended accordingly;

Whereas having regard to Article 4 of Regulation (EC) No 820/97, it is necessary for the measures provided for in this Regulation to take effect from 1 September 1998;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the European Agricultural Guidance and Guarantee Fund Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The following paragraph 6 is hereby added to Article 1 of Regulation (EC) No 2628/97:

‘6. Until 1 March 1999 at the latest, bovine animals which belong to the national herds of Belgium, France, Germany, Italy, Netherlands, Portugal and the United Kingdom (with the exception of Northern Ireland), are born after 1 January 1998, and bear two ear-tags as referred to in paragraph 1, may be subject to intra-Community trade provided that those ear-tags comply with Council Directive 92/102/EEC^(*) and form part of the national stocks notified in accordance with paragraph 3.

For the purposes of this paragraph, for Portugal and Germany the second ear-tag may comply with paragraph 4.

(*) OJ L 355, 5. 12. 1992, p. 32.’

Article 2

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

It shall apply with effect from 1 September 1998.

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

Done at Brussels, 1 October 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 117, 7. 5. 1997, p. 1.

⁽²⁾ OJ L 354, 30. 12. 1997, p. 17.

⁽³⁾ OJ L 355, 5. 12. 1992, p. 32.

COMMISSION REGULATION (EC) No 2106/98**of 1 October 1998****laying down special measures derogating from Regulations (EEC) No 3665/87 and (EEC) No 3719/88 as regards beef and veal**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organisation of the market in beef and veal ⁽¹⁾, as last amended by Regulation (EC) No 1633/98 ⁽²⁾, and in particular Articles 13(12) and 25 thereof,

Whereas Council Regulation (EEC) No 565/80 ⁽³⁾, as amended by Regulation (EEC) No 2026/83 ⁽⁴⁾, lays down general rules on the advance payment of export refunds in respect of agricultural products;

Whereas Commission Regulation (EEC) No 3665/87 ⁽⁵⁾, as last amended by Regulation (EC) No 604/98 ⁽⁶⁾, lays down common detailed rules for the application of the system of export refunds on agricultural products;

Whereas Commission Regulation (EEC) No 3719/88 ⁽⁷⁾, as last amended by Regulation (EC) No 1044/98 ⁽⁸⁾, lays down common detailed rules for the application of the system of import and export licences and advance-fixing certificates for agricultural products;

Whereas Commission Regulation (EC) No 1445/95 ⁽⁹⁾, as last amended by Regulation (EC) No 759/98 ⁽¹⁰⁾, lays down rules of application for import and export licences in the beef and veal sector;

Whereas the problems prevailing on the market in Russia since the second half of August 1998 have seriously damaged the economic interests of exporters; whereas the situation thus created has adversely affected export possibilities provided for in Regulations (EEC) No 565/80, (EEC) No 3665/87 and (EEC) No 3719/88;

Whereas it is accordingly necessary to limit such damaging consequences by adopting special measures and extending certain time limits laid down in the regulations applicable to refunds so that export operations

which have not been completed on account of the above-mentioned circumstances can be regularised;

Whereas, in the light of developments, this Regulation should enter into force immediately;

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

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation shall apply to the products listed in Article 1(1) of Regulation (EEC) No 805/68 for which export licences containing the indication 'Russia' in box 7 in accordance with Article 8(3) of Regulation (EC) No 1445/95 have been issued.

Article 2

On application by the holder, the validity of the export licences issued pursuant to Regulation (EC) No 1445/95 and applied for before 29 August 1998, excluding those whose validity lapsed before 17 August 1998, shall be extended by 60 days.

Article 3

The 20 % reduction referred to in the second indent of Article 20(3)(b) and the 15 % and 20 % increases referred to in Article 23(1) and the second subparagraph of Article 33(1) respectively of Regulation (EEC) No 3665/87 shall not apply to exports carried out under cover of licences applied for before 29 August 1998, provided that customs formalities for release for consumption in the third country are completed after that date.

Article 4

1. On application by the exporter and in respect of products for which customs export formalities were completed before 29 August 1998 or which were placed under any of the arrangements referred to in Articles 4 and 5 of Regulation (EEC) No 565/80 before that date, the 60-day time limit referred to in Article 30(1)(b)(i) of

⁽¹⁾ OJ L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ L 210, 28. 7. 1998, p. 17.

⁽³⁾ OJ L 62, 7. 3. 1980, p. 5.

⁽⁴⁾ OJ L 199, 22. 7. 1983, p. 12.

⁽⁵⁾ OJ L 351, 14. 12. 1987, p. 1.

⁽⁶⁾ OJ L 80, 18. 3. 1998, p. 19.

⁽⁷⁾ OJ L 331, 2. 12. 1988, p. 1.

⁽⁸⁾ OJ L 149, 20. 5. 1998, p. 11.

⁽⁹⁾ OJ L 143, 27. 6. 1995, p. 35.

⁽¹⁰⁾ OJ L 105, 4. 4. 1998, p. 7.

Regulation (EEC) No 3719/88 and in Articles 4(1) and 32(1) of Regulation (EEC) No 3665/87 shall be increased to 150 days.

2. Products for which customs export formalities were completed before 29 August 1998 may, before reaching their final destination, be re-introduced into the customs territory of the Community and placed under suspension arrangements in a free zone or free warehouse for 120 days without this calling payment of the refund into question.

Article 5

Each Thursday, Member States shall notify the quantities of products covered during the preceding week by each of the measures referred to above.

Article 6

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, 1 October 1998.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 2107/98
of 1 October 1998

imposing provisional anti-dumping duties on imports of polypropylene binder or baler twine originating in Poland, the Czech Republic, Hungary and Saudi Arabia and accepting undertakings offered by certain exporters in connection with those imports

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 Articles 7 and 8 thereof,

After consulting the Advisory Committee,

Whereas:

was considered sufficient to justify the opening of the proceedings.

It was subsequently considered appropriate, for both dumping and injury analysis purposes, to combine the two investigations (see recital 5).

(2) The Commission officially advised the exporting producers and importers/distributors known to it, the representatives of the exporting countries and the complainant Community producers of the initiation of the proceedings. Interested parties were given the opportunity to make their views known in writing and to request a hearing. All parties who so requested were granted a hearing.

A. PROCEDURE

(1) On 3 January 1998, the Commission announced, by a notice published in the *Official Journal of the European Communities*⁽³⁾, the initiation of an anti-dumping proceeding concerning imports of polypropylene binder or baler twine originating in Poland. On 28 February 1998⁽⁴⁾, the Commission similarly announced the initiation of an anti-dumping proceeding concerning imports of the same product originating in the Czech Republic, Hungary and Saudi Arabia.

The proceeding with respect to imports of polypropylene binder or baler twine originating in Poland was initiated subsequent to the lodging of a complaint by the Liaison Committee of European Union Twine, Cordage and Netting Industries (Eurocord) in November 1997.

The proceeding with respect to imports of the same product originating in the Czech Republic, Hungary and Saudi Arabia was initiated following a second complaint lodged by Eurocord in January 1998.

The complaints were lodged on behalf of Community producers representing a major proportion of the Community production of polypropylene binder or baler twine. The complaints contained evidence of dumping of the said product, and of material injury resulting therefrom, which

(3) The Commission sent questionnaires to all parties known to be concerned and received information from 10 complainant Community producers, seven exporting producers in Poland, two exporting producers in the Czech Republic, three exporting producers in Hungary and one exporting producer in Saudi Arabia. The Commission also received meaningful and complete replies from one unrelated importer in the Community and one unrelated importer located in Switzerland.

(4) The Commission sought and verified all the information it deemed necessary for the purpose of a preliminary determination of dumping, resulting injury and Community interest, and carried out verification visits at the premises of the following companies:

(a) *Complainant Community producers*

Austria:

— Teufelberger, Linz, Austria;

Belgium:

— Ostend Stores, Oostende, Belgium;

Portugal:

— Cordex, Esmoriz, Portugal,

— Cotesi, Carvalhos, Portugal,

— Exporplas, Cortegaca, Portugal,

— Sicor, Cortegaca, Portugal.

⁽¹⁾ OJ L 56, 6. 3. 1996, p. 1.

⁽²⁾ OJ L 128, 30. 4. 1998, p. 18.

⁽³⁾ OJ C 1, 3. 1. 1998, p. 10.

⁽⁴⁾ OJ C 65, 28. 2. 1998, p. 8.

(b) *Importers/distributors*

- W. B. V. Oelde, Oelde, Germany,
- Fybron, Luzern, Switzerland.

(c) *Exporting producers*

Poland:

- BZLP Bezałin, Bielsko-Biala,
- CZWC Chemitex, Sochaczew,
- Industrial Chemistry Research Institute, Warsaw,
- PAT Defalin sa, Swiebodzice,
- Terplast sp. zo.o, Sieradz;

Czech Republic:

- Lanex a.s., Bolatice,
- Juta a.s., Dvur Kralove nad Labem;

Hungary:

- Elso Magyar Kenderfono Rt, Szeged,
- Partium '70 Rt, Berettyoujfalu,
- Tiszai Vegyi Kombinat Rt, Tiszaujvaros;

Saudi Arabia:

- Saudi Yarn and Knitting Technology Factory (Synthec), a division of NAFA Enterprises Ltd, Riyadh.

- (5) With regard to both proceedings, the investigation of dumping covered the period 1 January to 31 December 1997 (hereinafter referred to as 'the investigation period') and the examination of injury covered the period from January 1994 to the end of the investigation period.

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT**1. The product concerned**

- (6) The product concerned is polypropylene binder or baler twine (hereinafter referred to as 'twines'). These twines are used in the agricultural sector, notably for binding bundles to be picked up by automatic balers or similar machines.

The product is manufactured in different thicknesses (runnages) and with different specifications in respect of, for example, knot and tensile strength, number of twists/turns per metre, colour, ultra-violet stabilisation and fibrillation. The investigation has shown that, notwithstanding the different thicknesses and specifications of the product concerned, all twines constitute a single product for the purposes of the investigation. The product concerned is currently classifiable within CN code ex 5607 41 00.

2. Like product

- (7) Polypropylene binder or baler twines produced and sold by the Community industry on the Community market were found to be alike to the imports from the exporting countries concerned in

their basic physical and technical characteristics and in their uses. The same is true with regard to the product manufactured and sold on the domestic market of the exporting countries concerned. All these products are, therefore, like products, as defined by Article 1(4) of Regulation (EC) No 384/96 (hereinafter referred to as 'the Basic Regulation').

- (8) One Hungarian exporter claimed that the products it sold to the Community market should not be likened to the products of the Community industry, as their end-use was different. However, since no evidence was provided to back up this assertion, the Commission sees no reason why these Hungarian products should be excluded from the scope of this proceeding.

C. DUMPING**1. Poland**(a) *Cooperation*

- (9) Cooperating exporting producers accounted for a relatively low proportion of total imports originating in Poland. Seven exporting producers located in Poland initially replied to the questionnaire. Of these seven replies, however, two were considered to be wholly inadequate for the purposes of the investigation, as the information provided did not permit an accurate determination either of normal values or of export prices. These companies were duly informed and were then given the opportunity to rectify the deficiencies in their responses, which they failed to do. The two companies concerned were therefore informed that they would be considered as non-cooperating, in accordance with Article 18 of the Basic Regulation.

(b) *Normal value*

- (10) To neutralise the effects of inflation on the calculations, normal value was established for periods of time as close as possible to the relevant export dates where the appropriate information was provided by the exporting producers concerned. In all cases, the most detailed information was used. Thus, for four companies, normal values were calculated on a monthly basis and for one company, on an annual basis. This approach also takes into account that the production of the product concerned is capital intensive and that average stocking periods are short.
- (11) On this basis, it was first determined whether domestic prices could be used in the determination of normal value, i.e. whether domestic sales of the product concerned had been made in sufficient quantities to independent customers in the ordinary course of trade.

- (12) For all five cooperating companies, sales of twines made on the domestic market were, overall, made in representative quantities, i.e. they constituted 5 % or more of the quantity exported to the Community. However, the individual types of the product concerned sold for export to the Community largely did not correspond to those sold on the domestic market. On a per-type basis, indeed, it was found that, for all companies, the quantity of the product types concerned sold domestically was less than 5 % of the quantity of the comparable types sold for export to the Community. In all cases, therefore, normal value was constructed, in accordance with Article 2(3) of the Basic Regulation.

Constructed normal values were calculated on the basis of the cost of production in Poland (including selling, general and administrative (SGA) expenses) plus a reasonable amount for profit. In all cases, each company's own SGA expenses were used. The rate of profit was calculated, in accordance with Article 2(6) of the Basic Regulation, using the actual rate of profit established for the sole cooperating producer located in Poland which had sufficient quantities of domestic sales of the like product in the ordinary course of trade.

(c) *Export price*

- (13) All sales of the product concerned on the Community market were made to independent customers in the Community. Export prices were therefore established on the basis of prices actually paid or payable for the product when sold for export to the Community, in accordance with Article 2(8) of the Basic Regulation.

(d) *Comparison*

- (14) In order to ensure a fair comparison between the normal value and the export price at the same level of trade, due allowance in the form of adjustments was made for differences in factors affecting prices and price comparability in accordance with Article 2(10) of the Basic Regulation. Adjustments were made for differences in discounts and rebates, transport, insurance, handling, loading and ancillary costs, packing costs, credit and commissions.

(e) *Dumping margin*

- (15) Weighted average normal value per type of the product concerned was compared with the weighted average export price on an ex-works basis and at the same level of trade, in accordance with Article 2(11) of the Basic Regulation.

The weighted average dumping margins provisionally determined for the five cooperating exporting producers, expressed as a percentage of the respec-

tive cif import prices at the Community border duty unpaid, are set out below:

— BZLP Beزالin:	20,1 %
— CZWC Chemitex:	22,7 %
— PAT Defalin sa:	16,3 %
— Industrial Chemistry Research Institute:	28,4 %
— Terplast sp zo.o:	27,9 %.

- (16) For those exporting producers located in Poland, which failed to cooperate with the investigation, dumping was determined on the basis of the facts available in accordance with Article 18(1) of the Basic Regulation. This was done in order not to reward non-cooperation and in order to avoid circumvention.

Since there was a relatively high proportion of total imports from Poland accounted for by non-cooperators, a residual dumping margin was calculated, based on the highest dumping margin found for a representative type exported by a cooperating exporting producer in Poland.

The residual dumping margin determined for Poland, expressed as a percentage of the cif import price at the Community border duty unpaid, is 40,9 %.

2. Czech Republic

(a) *Normal value*

- (17) It was first determined whether domestic prices could be used in the determination of normal value, i.e. whether domestic sales of the product concerned had been made in sufficient quantities to independent customers in the ordinary course of trade.

- (18) For one of the two Czech exporting producers, sales of twines made on the domestic market were, overall, made in representative quantities, i.e. 5 % or more of the quantity exported to the Community. However, as for Poland, the individual types of the product concerned sold for export to the Community by this exporting producer largely did not correspond to those sold on the domestic market. On a per-type basis, indeed, it was found that the quantity of the product types concerned sold domestically was less than 5 % of the quantity of the comparable types sold for export to the Community.

Since the domestic prices of the other Czech exporting producer could not be used, as provided for by Article 2(1) of the Basic Regulation (the product types manufactured by the two cooperating exporting producers were different),

normal value was constructed in accordance with Article 2(3) of the Basic Regulation.

Constructed normal value was calculated for this exporting producer on the basis of the verified cost of production (including the company's own SGA expenses) plus a reasonable amount for profit. The rate of profit was calculated, in accordance with Article 2(6) of the Basic Regulation, using the profit established for domestic sales of the like product made in the ordinary course of trade by the producer concerned.

For the second Czech exporting producer concerned, it was found that sales of twines on the domestic market during the investigation period were, overall and on a per-type basis, made in representative quantities and in the ordinary course of trade.

Normal value for this company was therefore established on the basis of the comparable prices paid or payable for domestic sales of the product concerned by independent customers in the ordinary course of trade, in accordance with Article 2(1) of the Basic Regulation.

(b) *Export price*

- (19) All sales of the product concerned on the Community market were made to independent customers in the Community. Export prices were therefore established on the basis of prices actually paid or payable for the product when sold for export to the Community, in accordance with Article 2(8) of the Basic Regulation.

(c) *Comparison*

- (20) In order to ensure a fair comparison between the normal value and the export price at the same level of trade, due allowance in the form of adjustments was made for differences in factors affecting prices and price comparability in accordance with Article 2(10) of the Basic Regulation. Adjustments were made for differences in discounts and rebates, transport, insurance, handling, loading and ancillary costs.

(d) *Dumping margin*

- (21) Weighted average normal value per type of the product concerned was compared with the weighted average export price on an ex-works basis and at the same level of trade, in accordance with Article 2(11) of the Basic Regulation.

The weighted average dumping margins provisionally determined for the two cooperating exporting producers, expressed as a percentage of the respective cif import prices at the Community border duty unpaid, are set out below:

— Lanex a.s.:	24,8 %
— Juta a.s.:	24,9 %.

- (22) The proportion of total imports from the Czech Republic accounted for by cooperating producers was high. A residual duty was therefore calculated, on the basis of the facts available in accordance with Article 18(1) of the Basic Regulation, using the highest dumping margin found for an individual cooperating company located in the Czech Republic.

The residual dumping margin determined for the Czech Republic, expressed as a percentage of the cif import price at the Community border duty unpaid, is 24,9 %.

3. Hungary

(a) *Normal value*

- (23) As for Poland (see recital 10), normal values were established for periods of time as close as possible to the relevant export dates, where the appropriate information was provided by the exporting producers concerned. For one company, normal values were thus calculated on a monthly basis and for two companies, on an annual basis.

- (24) It was first examined whether domestic prices could be used in the determination of normal value, i.e. whether domestic sales of the product concerned had been made in sufficient quantities to independent customers in the ordinary course of trade. Where this was not the case, normal value was constructed, in accordance with Article 2(3) of the Basic Regulation. The use of the prices of other exporting producers, as provided for by Article 2(1) of the Basic Regulation, was not considered appropriate as domestic sales of the product concerned were made in representative quantities in the ordinary course of trade by one company for very few product types only.

- (25) For all three cooperating Hungarian exporting producers, overall sales of twines on the domestic market exceeded the threshold of 5 % of export sales. As for Poland and the Czech Republic, however, the individual types of the product concerned sold to the Community largely did not correspond to those sold on the domestic market. At the level of individual product types the following was ascertained:

For one company, on a per-type basis, although domestic sales of a number of types exceeded the threshold of 5 % of export sales, none were made in the ordinary course of trade. Normal value was therefore constructed for all types exported in accordance with Article 2(3) of the Basic Regulation.

For the second company, on a per-type basis, the threshold of 5 % was exceeded for one type only. Fewer than 10 % of sales of this one type were, however, profitable. It was therefore determined that the product that had been exported to the Community had not been sold on the domestic market during the investigation period in sufficient quantities in the ordinary course of trade. Normal value was therefore constructed in accordance with Article 2(3) of the Basic Regulation.

For the remaining company, on a per-type basis, a number of product types were sold in representative quantities. For some of these types, however, fewer than 10 % of sales were profitable, i.e. they were not sold in the ordinary course of trade. For all product types which were either not sold in representative quantities or not in the ordinary course of trade, normal value was constructed. The remaining product types that had been exported to the Community had been sold on the domestic market in the ordinary course of trade in sufficient quantities and normal value was established on the basis of domestic selling prices of these types.

For all three cooperating exporting producers, constructed normal value was calculated, where appropriate, on the basis of the verified cost of production in Hungary (including SGA expenses) plus a reasonable amount for profit. In all cases, each company's own SGA expenses were used. The rate of profit was calculated, in accordance with Article 2(6) of the Basic Regulation, using the actual rate established for the sole cooperating Hungarian producer for which sufficient domestic sales of the like product were made in the ordinary course of trade.

(b) *Export price*

- (26) All sales of the product concerned on the Community market were made to independent customers in the Community. Export prices were established on the basis of prices actually paid or payable for the product when sold for export to the Community, in accordance with Article 2(8) of the Basic Regulation.

(c) *Comparison*

- (27) In order to ensure a fair comparison between the normal value and the export price at the same level of trade, due allowance in the form of adjustments was made for differences in factors affecting prices and price comparability in accordance with Article 2(10) of the Basic Regulation. In particular, adjustments were made to export prices and normal values for differences in discounts and rebates, transport, insurance, handling, loading and ancillary costs, credit and commissions, and for differences in level of trade, where warranted.

(d) *Dumping margin*

- (28) For two companies, weighted average normal value per type of the product concerned was compared with the weighted average export price on an ex-works basis and at the same level of trade, in accordance with Article 2(11) of the Basic Regulation. For the third company, weighted average normal values were compared to individual export prices, as a pattern of export prices which differed significantly among purchasers was apparent and as the weighted average would not reflect the full degree of dumping being practised.

The weighted average dumping margins provisionally determined for the three cooperating exporting producers, expressed as a percentage of the respective cif import prices at the Community border duty unpaid, are set out below:

— Elso Magyar Kenderfono Rt:	33,3 %
— Partium '70 Rt:	12,1 %
— Tiszai Vegyi Kombinat Rt:	26,4 %.

- (29) The proportion of total imports from Hungary accounted for by cooperating producers was high. A residual duty was therefore calculated, on the basis of the facts available in accordance with Article 18(1) of the Basic Regulation, using the highest dumping margin found for an individual cooperating company located in Hungary.

The residual dumping margin determined for Hungary, expressed as a percentage of the cif import price at the Community border duty unpaid, is 33,3 %.

4. Saudi Arabia

(a) *Normal value*

- (30) For the sole cooperating exporting producer, it was established that overall sales of twines on the domestic market exceeded the threshold of 5 % of export sales and were therefore made in representative quantities. This threshold was also

exceeded on an individual product type basis. It was further established that all domestic sales were made in the ordinary course of trade, pursuant to Article 2(4) of the Basic Regulation.

Normal value was therefore based for the Saudi Arabian exporting producer, as set out in Article 2(1) of the Basic Regulation, on the basis of the prices paid or payable for all domestic sales of the product concerned to independent customers in the Saudi Arabian market during the investigation period.

(b) *Export price*

- (31) All sales of the product concerned on the Community market were made to independent customers in the Community. Export prices were therefore established on the basis of prices actually paid or payable for the product when sold for export to the Community, in accordance with Article 2(8) of the Basic Regulation.

(c) *Comparison*

- (32) In order to ensure a fair comparison between the normal value and the export price at the same level of trade, due allowance in the form of adjustments was made for differences in factors affecting prices and price comparability in accordance with Article 2(10) of the Basic Regulation. Adjustments were made for differences in transport, insurance, handling, loading and ancillary costs, commissions and after-sales costs.

(d) *Dumping Margin*

- (33) Weighted average normal value per type of the product concerned was compared with the weighted average export price on an ex-works basis and at the same level of trade, in accordance with Article 2(11) of the Basic Regulation.

The weighted average dumping margin provisionally determined for the sole cooperating producer in Saudi Arabia, expressed as a percentage of the respective cif import prices at the Community border duty unpaid, is set out below:

— Saudi Yarn and Knitting Technology Factory (Synthec), a division of NAFA Enterprises Ltd: 36,8 %.

- (34) Since the cooperating producer accounted for almost all imports from Saudi Arabia, a residual duty was calculated, on the basis of the facts available in accordance with Article 18(1) of the Basic Regulation, using the dumping margin found for this producer.

The residual dumping margin determined for Saudi Arabia, expressed as a percentage of the cif import

price at the Community border duty unpaid, is 36,8 %.

D. DEFINITION OF THE COMMUNITY INDUSTRY

- (35) Ten complainant Community producers initially replied to the questionnaire. Two of these 10 companies, however, subsequently did not cooperate with the investigation. The investigation showed that the share of the total Community production held by the remaining eight Community producers during the investigation period amounted to more than 70 % of total Community production. Therefore, the cooperating Community producers constitute the Community industry within the meaning of Article 4(1) of the Basic Regulation. Hereinafter, the cooperating Community producers are referred to as the 'Community industry'.

E. INJURY

1. Consumption in the Community

- (36) Community consumption was based on the combined volume of sales made by the Community industry and by the remaining non-cooperating Community producers as well as on import volumes. As regards the latter, the data obtained from Eurostat were adjusted to take account of information supplied by the cooperating exporting producers and verified by the Commission. The volume of sales of the Community producers not cooperating in the proceeding was estimated, on the basis of the information available, at around 30 % of the total sales of all Community producers.

On the above basis, Community consumption increased slightly, from 40 230 tonnes in 1994 to 44 363 tonnes in 1995. In 1996 apparent consumption increased substantially to 52 798 tonnes, decreasing slightly thereafter, reaching 52 526 tonnes in the investigation period. This represents an overall increase of 31 % during the period considered.

2. Imports of twines from the exporting countries concerned into the Community

(a) *Cumulation*

- (37) The dumping margins established are not *de minimis*, and market shares of the countries concerned were not negligible. Imports from the countries all showed an upward trend. Moreover, it was found that the prices of these imports were all in the same range.

It should also be recalled that twines imported from the exporting countries concerned are entirely interchangeable among themselves and with twines produced and sold by the Community industry and are sold through the same sales channels in a market which is transparent. It was therefore concluded, in accordance with Article 3(4) of the Basic Regulation, that a cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between the imported products and between the imported products and the like Community product.

(b) Volume, value and market share of imports from the exporting countries concerned

- (38) The volume of imports from the four countries concerned increased from 5 263 tonnes in 1994 to 16 441 tonnes during the investigation period, representing an increase of more than 200 %.
- (39) In terms of market share based on total Community consumption, the market penetration of the dumped imports from the four countries concerned rose from 13 % in 1994 to 31 % during the investigation period in volume terms — an increase of 138 %.

(c) Prices of imports from the exporting countries concerned

- (40) Prices of the imports from Poland, the Czech Republic and Saudi Arabia increased from 1994 to the end of the investigation period. It should be noted that, in the vast majority of cases, these prices were found to be significantly lower than those of the Community industry over the whole period considered. As concerns Hungary, prices decreased slightly during the same period.

(d) Price undercutting of imports from the exporting countries concerned

- (41) For the determination of price undercutting regarding the exporting countries concerned, the Commission analysed data referring to the investigation period. Price undercutting was established on the basis of a comparison of the export price with prices charged by the Community industry at the same level of trade, i.e. traders/distributors, which purchase directly from the exporting producers and the Community industry, and for directly comparable types of twines and for the four Member States with the most important markets, i.e. Germany, France, Italy and the United Kingdom.

Following this methodology, the price comparison was made on the basis of a sales volume representing approximately 70 % of the total volume of sales of all types of twines made by the Community industry. The transactions of the types of twines selected also represented a large proportion of the total volume of imports from the exporting countries concerned. The sales prices of the Community industry considered were those to independent customers, adjusted where necessary to an ex-works level, i.e. excluding transport costs. Adjustments were made to the exporting producers' selling prices (cif Community frontier) to take account of customs duty paid. All prices were compared after excluding discounts and rebates.

The results of the comparison (which with the exception of one Hungarian producer was conducted on a weighted-average to weighted-average basis) showed that price undercutting margins, expressed as a percentage of the Community industry's average selling prices, ranged as follows: for Poland from 5,7 to 17,4 % with an overall weighted average of 14,6 %, for the Czech Republic from 16,1 to 19,2 % with an overall weighted average of 16,1 % and for Hungary from 17,8 % to 21,4 % with an overall weighted average of 18,2 %. Price undercutting for Saudi Arabia was 3,8 %.

3. Situation of the Community industry

(a) Production, capacity and capacity utilisation

- (42) Production of the Community industry increased during the period considered, rising from 25 767 tonnes in 1994 to 30 133 tonnes in the investigation period. This represents an overall increase of 17 %. Production increased at a lower rate than Community consumption, which increased by 31 % during the period considered.
- (43) As regards capacity, it should be noted that the production facilities for twines are also used in the production of other products not concerned by the present proceedings, e.g. ropes. As a consequence, an estimate based on turnover, of the capacity normally attributed to the production of the product concerned by the Community industry had to be made. On this basis, capacity increased from 38 732 tonnes in 1994 to 42 984 tonnes during the investigation period, which represents an increase of 11 %. This increase was in line with expectations of market growth. The rate of capacity utilisation increased slightly during the period considered, rising from 66,5 % in 1994 to 70 % in the investigation period.

(b) Sales volume of the Community industry

- (44) The volume of sales of the Community industry on the Community market increased during the period considered, with the sales levels at 21 953 tonnes in 1994 and 24 166 tonnes in the investigation period. This represents an overall increase of 10 %. This trend shows that the sales of the Community industry did not follow the trend in consumption, which increased by 31 % during the period considered.

(c) Market share

- (45) The development of sales volume compared to that of Community consumption shows that the market share held by the Community industry decreased during the period considered. The market share of the Community industry decreased from 54,6 % in 1994 to 50,4 % in 1995, 49,2 % in 1996 and 46 % during the investigation period. The overall loss of market share was 8 percentage points between 1994 and the investigation period.

(d) Stocks

- (46) Stocks significantly increased between 1994 and the investigation period by 44,4 %.

(e) Average sales price and price evolution

- (47) The weighted average prices of the product concerned sold by the Community industry on the Community market fluctuated over the period considered, overall increasing by 10 %.

(f) Profitability

- (48) The profitability of the Community industry, expressed as a percentage of net sales, decreased from a weighted average profit of 3,9 % in 1994 to 1,9 % in the investigation period, i.e. a decrease of 50 %. It should be noted, however, that the financial situation deteriorated particularly from 1995 onwards, falling from a profit of 13,5 % to a profit of 1,9 % in the investigation period.

(g) Investment

- (49) Yearly investments made by the Community industry increased overall, going from ECU 1,07 million in 1994 to ECU 1,22 million in the investigation period, with a peak in 1996 of ECU 3,27 million. Although this represents an overall increase of 14 % over the period considered, investments have significantly decreased between 1996 and the investigation period.

(h) Employment

- (50) Employment levels in the Community industry for the product concerned increased during the period considered. Employment rose from 557 in 1994 to 689 in 1995. Since 1995 employment in the

Community industry decreased to 639, i.e. by 7,2 %.

4. Conclusion on injury

- (51) The investigation has shown that the Community industry was subject to substantial price undercutting from the dumped imports, which significantly increased in terms of volume and market share. In addition, the Community industry suffered a significant loss of market share (8 percentage points) at a time when Community consumption increased by 31 %.

Furthermore, the Community industry showed a significant deterioration of its financial results, in particular from 1995 onwards. In the light of the foregoing analysis, the Commission has provisionally concluded that the Community industry has suffered material injury within the meaning of Article 3(1) of the Basic Regulation.

F. CAUSATION**1. Effect of the dumped imports**

- (52) In its examination of whether the material injury suffered by the Community industry had been caused by the dumped imports, the Commission found that the volume of dumped imports increased substantially between 1994 and the investigation period (210 %). It should be noted that, between 1994 and 1995, the volume of the dumped imports into the Community almost doubled and a further significant increase occurred between 1996 and the investigation period. This had the effect that the cumulated total market share of imports from the exporting countries concerned increased from 13,1 % in 1994 to 31 % in the investigation period, i.e. by 17,9 percentage points. In contrast, the Community industry's market share decreased by 8,6 percentage points between 1994 and the investigation period. Moreover, it should be noted that the Community industry lost 3,2 % in market share between 1996 and 1997 alone, which is the period during which the increase in imports from the exporting countries concerned became particularly relevant.

It is, furthermore, noted that the market for twine is price-sensitive and transparent. The Commission found that the product under investigation is to be considered as a commodity and that any downward pressure on prices tended to have an immediate impact on the market, in particular as the exporting producers and the Community industry sell their products to the same clients. In this context, the Commission found that the imports from the exporting countries concerned undercut the prices of the Community industry by between 3,8 and 21,4 % during the investigation period.

In addition, over the whole period considered the prices of imports from the countries under investigation were consistently and significantly lower than those of the Community industry. As a result of this, the Community industry had to adjust its prices to the market situation in order to avoid losing market share. Furthermore, the prices from the dumped imports were found to be the lowest in the market during the investigation period.

- (53) The situation of the Community industry was at its worst, with reference in particular to profitability and market share, during the investigation period, when the volume of imports from the exporting countries concerned into the Community was most significant.

Under the circumstances, it is concluded that the dumped imports of twines from the exporting countries concerned have caused material injury to the Community industry.

2. Other factors

(a) Other imports

- (54) The effect of imports other than those from the exporting countries concerned on the situation of the Community industry was also examined on the basis of figures reported by Eurostat.

Imports from other countries not subject to the present investigations amounted to 2 043 tonnes during the investigation period, representing a total market share of 4 %, decreasing from a level of 4,6 % in 1994. During the investigation period, these imports were mainly from Costa Rica, USA, Slovenia, Turkey and Switzerland and, with the exception of imports from Costa Rica in 1996, were usually made at prices higher than those of the exporting countries concerned.

As far as Costa Rica is concerned, prices of imports were found to be lower, in 1996, than those from the countries concerned and its market share amounted to 2,2 %. However, as its prices were higher in 1997, its market share decreased to 1,4 %.

In this context, it should be recalled that, during the investigation period, prices of the dumped imports were found to be the lowest on the market. Moreover, the volume of the dumped imports alone was substantial throughout the period considered and, during the investigation period, such imports were found to represent 89 % of total imports.

It follows from the above that imports from countries other than the four countries concerned cannot have broken the causal link between the

dumped imports and the material injury suffered by the Community industry.

(b) Development of consumption

- (55) Community consumption of twines increased in total by 31 % between 1994 and the investigation period, with a tendency to stabilise after 1996. The injury suffered by the Community industry cannot, therefore, be attributed to the trend in demand.

(c) Export activity of the Community industry

- (56) During the period under investigation the Community industry's exports of twines to third countries, in terms of volume, remained stable. The sales prices charged by the Community industry in the export market were substantially higher than those applied in the Community market. Sales prices increased by 22 % on the export market in comparison to 10 % on the Community market. Thus, the export activity of the Community industry did not contribute to the injury suffered by the Community industry.

(d) Competitiveness of the Community industry

- (57) It is recalled that, over the period considered, the Community industry made significant investments in replacement machinery in order to tie-up with developments in technology. These new machines enabled a leaner and more integrated production process to be put in place. The Community industry, moreover, continued its efforts in research and development and in quality control throughout the period considered. During the period under investigation the Community industry decreased its SGA costs by 8 %. The Community industry therefore improved its performance both in cost and in quality terms over the period considered.

(e) Changes in the prices of raw material

- (58) The Commission also considered whether the injury suffered by the Community industry could have been caused by fluctuations in the cost of raw materials during the period considered, during which significant fluctuations in the cost of raw materials were found. Both Community producers and the producers in the exporting countries concerned were subject to such fluctuations. Overall, the prices of polypropylene granulates, the main raw material used in the production of the product concerned, increased by 39 % between 1994 and the investigation period. Considering that this raw material accounts for approximately 55 % of the total cost of production, the average sales

price charged by the Community industry should have increased by 21,5 % over the period considered to cover the overall increase in raw material costs. This should be compared with an overall increase in the sales prices of the Community industry of 10 % and the significant undercutting margins found for imports from the exporting countries concerned, which made it impossible for the Community industry to pass on the full increase of raw material costs to their customers.

3. Conclusion

- (59) Given the fact that twine is a commodity-type product offered in a transparent market, and that the Community-produced and the imported product are sold through the same sales channels in the Community, the Commission considers that dumped imports of twines originating in the exporting countries concerned had a significant impact on the Community market.

Although it cannot be excluded that certain imports from other third countries and variations in the cost of raw materials may have had a slight adverse effect on the situation of the Community industry, this does not detract from the fact that imports of twines originating in the exporting countries concerned, taken in isolation, caused material injury to the Community industry.

This conclusion is drawn in particular from the loss of market share of the Community industry combined with a deterioration in profitability, coinciding with a significant increase in the volume and market share of dumped imports at prices that constantly undercut those of the Community industry, and which were indeed at levels found to be the lowest on the market during the investigation period.

G. COMMUNITY INTEREST

1. Introduction

- (60) It has been further examined whether, despite the conclusions on dumping and injury caused thereby, compelling reasons exist which would lead to the conclusion that it is not in the Community interest to impose anti-dumping measures in this particular case. For this purpose, and pursuant to Article 21(1) of the Basic Regulation, the Commission considered the impact of measures for all parties involved in the proceedings and also the consequences of not taking measures.

In order to assess the likely impact of measures, the Commission requested information from all interested parties known to it, including the Community industry, the importers/distributors and users of the product concerned. It is to be noted that the Commission received only limited

and generic replies. The parties examined in the context of the present Community interest analysis fall into the following categories: the Community industry, the importers/distributors and users. It should be noted that twines are sold in the Community in their finished state, therefore no downstream processing industry as such is concerned by these proceedings.

2. Interests of the Community industry

(a) *Nature and structure of the Community industry*

- (61) Community producers are spread over most Member States. A large concentration of companies is, however, to be found in Portugal. The Portuguese producers accounted for approximately 60 % of the production of the Community industry in the investigation period.

The Community industry is made up, for the most part, of family-owned small- to medium-sized companies. The Community industry essentially transforms the raw materials into twines through the following main production phases: an extrusion phase (the melting of the raw materials into useable film), a stranding phase (creating strands from the film) and a twisting or braiding phase (twisting or braiding the strands to make up the twine).

(b) *Viability of the Community industry*

- (62) Although the Community industry suffered financial shortfalls, this does not mean that it is not structurally viable. Indeed, the Community industry invested significantly throughout the period considered in new machinery, which enabled the introduction of more efficient production processes. The Community industry also invested in quality assurance and control and has undertaken important research and development efforts to introduce the production of new types of twines providing a higher added value and involving more advanced technologies. Finally, at the end of the investigation period the Community industry still held a significant market share, which demonstrates that the Community industry is a reliable supplier.

(c) *Likely effects of the imposition or non-imposition of measures*

- (63) If the pressure exerted by the dumped imports were allowed to continue further — in particular in light of the significant increase in the market share of these imports — the financial situation of the Community industry would continue to deteriorate. The Community industry would then not be able to finance its efforts in developing new products

and over the longer-term company closures could follow. In this respect, it is noted that, in the course of the investigation period, as a consequence of the price pressure existing on the Community market during the period considered, one of the complainant Community producers stopped producing. It is very likely that, without measures to correct the effects of dumped imports, this negative trend will continue. Thus, the existence of the Community industry and 600 jobs, concentrated mainly in Portugal, may ultimately be at risk.

- (64) The imposition of measures may allow the Community industry to regain part of the previously held market share. Furthermore, the imposition of measures should enable the Community industry to improve profitability. The imposition of anti-dumping measures would therefore be in the interest of the Community industry.

3. Interests of the importers/distributors

- (65) The distribution chain of the product concerned is characterised by a small number of importers/distributors who hold significant levels of stocks of the product concerned. The importers/distributors generally act as intermediaries between the users (agricultural cooperatives and bale contractors) and both the Community industry and the exporting producers. As the importers/distributors are generally free to determine the source of their supply (Community-produced or imported), the Commission does not see that they would be significantly affected by the imposition or non-imposition of measures. Moreover, no evidence was submitted to the Commission that this would not be the case.

4. Interests of the users

- (66) The users of the product concerned mainly consist of bale contractors or individual farmers. Given the price-sensitivity of the market, the Commission considers that the impact of the imposition of measures would in all likelihood take the form of a price increase. It should be noted that twines are only used for the production of bales and that the costs relating to twines are peripheral to the main costs incurred by the individual farmer or bale contractor, when compared to other costs such as the depreciation of the baler machines, fuel, insurance, labour or maintenance. According to the information available, the Commission considers that the product concerned represents only a negligible part of the overall costs of the individual farmer or bale contractor, which may explain the lack of cooperation by the users in the present proceedings. Any expected price increase as a result of the imposition of measures would, therefore, be marginal for the users.

5. Consequence for competition in the Community market

- (67) As far as the competitive environment in the Community market is concerned, the level and nature of the measures are not such as to exclude from the Community market those exporting producers under investigation and therefore the measures will allow the continued presence of these exporting producers in the market.

Thus, users will continue to benefit from a market driven by a high number of suppliers.

6. Conclusion

- (68) The rate of increase of imports from the exporting countries concerned during the period considered, and the exporting producers' behaviour on the Community market, i.e. constantly and significantly undercutting the prices of the Community industry, indicate that there is a likelihood, in the absence of measures, that this trend will continue and further aggravate the injury caused to the Community industry.

The imposition of measures can be expected to assist the Community industry to improve profitability, with consequent beneficial effects on the competitive conditions on the Community market and the reduction of the threat of further closures and reductions in employment. It is also expected that measures will enable the Community industry to take full advantage of the investments made in recent years to continue developing new products of higher technology for new and specialised applications. As regards the user industries, any expected price increase would have only a marginal impact. The Commission has concluded that, in the circumstances, there are no compelling reasons not to impose measures.

H. PROVISIONAL MEASURES

- (69) On the basis of the conclusions on dumping and injury set out above, the Commission considered the level of the provisional measures to be adopted. For this purpose, account has been taken of the dumping margins found and of the amount of duty necessary to eliminate the injury sustained by the Community industry.

1. Injury elimination level

- (70) For the purpose of establishing the level of the provisional measures to be imposed, the Commission considered that the prices of the dumped imports should be increased to a non-injurious

level. The necessary price increase or injury margin was determined on the basis of a comparison of the weighted average export prices for those product types used in the determination of price undercutting at the cif Community frontier level, with the actual weighted average cost of production of the Community industry plus a profit margin of 5 %. This profit margin was considered, for the purpose of a preliminary determination, to be the minimum profit level necessary to make this sector viable. It takes account of the fact that the product concerned is considered by the interested parties as a commodity.

The resulting amount necessary to remove the injury, or injury margin, was established for each of the exporting producers concerned as a result of this comparison and was expressed as a percentage of the CIF value of their exports to the Community.

2. Provisional duties

- (71) According to Article 7(2) of the Basic Regulation, the level of the provisional duty should be equal to the margin of dumping or the amount necessary to remove the injury, whichever is lower. For four exporting producers, the provisional duty is equal to the amount necessary to remove the injury, and for seven exporting producers, it is equal to the dumping margin. For the reasons set out in recitals 22, 29 and 34, the residual duty for the Czech Republic, Hungary and Saudi Arabia was set at the level of the highest margin found for a cooperating exporting producer in each country in question. For the reasons set out in recital 16, the residual duty for Poland was set at the level of the highest margin found for a representative type exported by a cooperating exporting producer in Poland.

3. Undertakings

- (72) Certain exporting producers concerned by the proceedings offered price undertakings to the Commission, in accordance with Article 8(1) of the Basic Regulation. The Commission considered that

the undertakings offered by the exporting producers concerned were acceptable.

- (73) The Commission points out that in the event of a breach or withdrawal of the undertaking, an anti-dumping duty may be imposed, pursuant to Article 8(9) and (10) of the Basic Regulation.
- (74) Furthermore, it should be noted that, in accordance with Article 8(6) of the Basic Regulation, the investigation of dumping, injury and Community interest will be completed, notwithstanding the acceptance of undertakings during the course of the investigation.

I. FINAL PROVISION

- (75) In the interest of sound administration, a period should be fixed within which the parties concerned may make their views known in writing and request a hearing.

Furthermore, it should be stated that all findings made for the purpose of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive duty, which the Commission may propose,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of polypropylene binder or baler twine, currently classifiable within CN code ex 5607 41 00 (TARIC code 5607 41 00*10), originating in Poland, the Czech Republic, Hungary and Saudi Arabia.

2. The rate of provisional duties applicable to the net free-at-Community-frontier price of imports of the product concerned produced by the following companies, before duty, shall be as follows:

Country	Company	Provisional duty (%)	TARIC additional code
Poland	BZLP BezaLin	20,1	8450
	CZWC Chemitex	22,7	8568
	PAT Defalin sa	16,3	8569
	Industrial Chemistry Research Institute	12,8	8578
	Terplast sp zo.o	7,7	8579
	Others	30,6	8900

Country	Company	Provisional duty (%)	TARIC additional code
Czech Republic	Lanex a.s.	24,8	8580
	Others	24,9	8900
Hungary	All companies	32,9	8900
Saudi Arabia	All companies	3,9	—

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

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

Article 2

1. Notwithstanding Article 1, the provisional duty shall not apply to imports of polypropylene binder or baler twine produced and directly exported or invoiced to an importing company in the Community by the companies specifically mentioned in paragraph 3, in respect of which the price undertakings offered are hereby accepted.

2. However, in the event of a breach of the undertaking during any given reporting period, i.e. quarter of a calendar year, all sales of that period shall be deemed to be not subject to the undertaking, and the rate of provisional duties applicable to the net free-at-Community-frontier price of imports of the product concerned, before duty, as set out in paragraph 3, shall apply. This shall not prejudice the right of the Community institutions to take any action warranted pursuant to Article 8(9) and (10) of Regulation (EC) No 384/96.

3. Imports made within the context of the undertakings offered and accepted shall be declared under the following TARIC additional codes:

Country	Company	Provisional duty to be imposed in the event of a breach of the undertaking (%)	TARIC additional code
Hungary	Partium '70 Rt.	12,1	8581
	Tiszai Vegyi Kombinat Rt.	26,4	8582
	Elso Magyar Kenderfono Rt.	32,9	8583

Article 3

Pursuant to Article 20(1) of Regulation (EC) No 384/96 and without prejudice to Article 20(2) and (3) of that Regulation 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 apply to be heard by the Commission within one month of the date of entry into force of this Regulation.

In accordance with the provisions of Article 21(4) of Regulation (EC) No 384/96, the parties concerned may provide comments on the application of this Regulation within one month of the date of its entry into force.

Article 4

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

Article 1 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, 1 October 1998.

For the Commission

Leon BRITTAN

Vice-President

COMMISSION REGULATION (EC) No 2108/98
of 1 October 1998
fixing the export refunds on olive oil

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats⁽¹⁾, as last amended by Regulation (EC) No 1638/98⁽²⁾, and in particular Article 3 (3) thereof,

Whereas Article 3 of Regulation No 136/66/EEC provides that, where prices within the Community are higher than world market prices, the difference between these prices may be covered by a refund when olive oil is exported to third countries;

Whereas the detailed rules for fixing and granting export refunds on olive oil are contained in Commission Regulation (EEC) No 616/72⁽³⁾, as last amended by Regulation (EEC) No 2962/77⁽⁴⁾;

Whereas Article 3 (3) of Regulation No 136/66/EEC provides that the refund must be the same for the whole Community;

Whereas, in accordance with Article 3 (4) of Regulation No 136/66/EEC, the refund for olive oil must be fixed in the light of the existing situation and outlook in relation to olive oil prices and availability on the Community market and olive oil prices on the world market; whereas, however, where the world market situation is such that the most favourable olive oil prices cannot be determined, account may be taken of the price of the main competing vegetable oils on the world market and the difference recorded between that price and the price of olive oil during a representative period; whereas the amount of the refund may not exceed the difference between the price of olive oil in the Community and that on the world market, adjusted, where appropriate, to take account of export costs for the products on the world market;

Whereas, in accordance with Article 3 (3) third indent, point (b) of Regulation No 136/66/EEC, it may be decided that the refund shall be fixed by tender; whereas the tendering procedure should cover the amount of the

refund and may be limited to certain countries of destination, quantities, qualities and presentations;

Whereas the second indent of Article 3 (3) of Regulation No 136/66/EEC provides that the refund on olive oil may be varied according to destination where the world market situation or the specific requirements of certain markets make this necessary;

Whereas the refund must be fixed at least once every month; whereas it may, if necessary, be altered in the intervening period;

Whereas it follows from applying these detailed rules to the present situation on the market in olive oil and in particular to olive oil prices within the Community and on the markets of third countries that the refund should be as set out in the Annex hereto;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽⁵⁾, as last amended by Regulation (EC) No 150/95⁽⁶⁾, are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93⁽⁷⁾, as last amended by Regulation (EC) No 961/98⁽⁸⁾;

Whereas the Management Committee for Oils and Fats has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (2) (c) of Regulation No 136/66/EEC shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 2 October 1998.

⁽¹⁾ OJ 172, 30. 9. 1966, p. 3025/66.

⁽²⁾ OJ L 210, 28. 7. 1998, p. 32.

⁽³⁾ OJ L 78, 31. 3. 1972, p. 1.

⁽⁴⁾ OJ L 348, 30. 12. 1977, p. 53.

⁽⁵⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁶⁾ OJ L 22, 31. 1. 1995, p. 1.

⁽⁷⁾ OJ L 108, 1. 5. 1993, p. 106.

⁽⁸⁾ OJ L 135, 8. 5. 1998, p. 5.

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

Done at Brussels, 1 October 1998.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

to the Commission Regulation of 1 October 1998 fixing the export refunds on olive oil
(ECU/100 kg)

Product code	Amount of refund ⁽¹⁾
1509 10 90 9100	0,00
1509 10 90 9900	0,00
1509 90 00 9100	0,00
1509 90 00 9900	0,00
1510 00 90 9100	0,00
1510 00 90 9900	0,00

⁽¹⁾ For destinations mentioned in Article 34 of amended Commission Regulation (EEC) No 3665/87 (OJ L 351, 14. 12. 1987, p 1), as well as for exports to third countries.

NB: The product codes and the footnotes are defined in amended Commission Regulation (EEC) No 3846/87.

**COMMISSION REGULATION (EC) No 2109/98
of 1 October 1998**

**fixing the maximum export refunds for olive oil for the 20th partial invitation to
tender under the standing invitation to tender issued by Regulation (EC) No
1978/97**

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

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organisation of the market in oils and fats⁽¹⁾, as last amended by Regulation (EC) No 1638/98⁽²⁾, and in particular Article 3 thereof,

Whereas Commission Regulation (EC) No 1978/97⁽³⁾ issued a standing invitation to tender with a view to determining the export refunds on olive oil;

Whereas Article 6 of Regulation (EC) No 1978/97 provides that maximum amounts are to be fixed for the export refunds in the light in particular of the current situation and foreseeable developments on the Community and world olive-oil markets and on the basis of the tenders received; whereas contracts are awarded to any tenderer who submits a tender at the level of the maximum refund or at a lower level;

Whereas, for the purposes of applying the abovementioned provisions, the maximum export refunds should be set at the levels specified in the Annex;

Whereas the Management Committee for Oils and Fats has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refunds for olive oil for the 20th partial invitation to tender under the standing invitation to tender issued by Regulation (EC) No 1978/97 are hereby fixed in the Annex, on the basis of the tenders submitted by 23 September 1998.

Article 2

This Regulation shall enter into force on 2 October 1998.

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

Done at Brussels, 1 October 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ 172, 30. 9. 1966, p. 3025/66.

⁽²⁾ OJ L 210, 28. 7. 1998, p. 32.

⁽³⁾ OJ L 278, 11. 10. 1997, p. 7.

ANNEX

to the Commission Regulation of 1 October 1998 fixing the maximum export refunds for olive oil for the 20th partial invitation to tender under the standing invitation to tender issued by Regulation (EC) No 1978/97

(ECU/100 kg)

Product code	Amount of refund
1509 10 90 9100	—
1509 10 90 9900	—
1509 90 00 9100	—
1509 90 00 9900	—
1510 00 90 9100	—
1510 00 90 9900	—

NB: The product codes and the footnotes are defined in amended Commission Regulation (EEC) No 3846/87.

COMMISSION REGULATION (EC) No 2110/98
of 1 October 1998

**fixing the maximum export refund on barley in connection with the invitation to
tender issued in Regulation (EC) No 1078/98**

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 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 2094/98 ⁽⁴⁾, and in particular Article 4 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 1078/98 ⁽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 25 September to 1 October 1998, pursuant to the invitation to tender issued in Regulation (EC) No 1078/98, the maximum refund on exportation of barley shall be ECU 66,00 per tonne.

Article 2

This Regulation shall enter into force on 2 October 1998.

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

Done at Brussels, 1 October 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 266, 1. 10. 1998, p. 61.

⁽⁵⁾ OJ L 154, 28. 5. 1998, p. 20.

COMMISSION REGULATION (EC) No 2111/98
of 1 October 1998
concerning tenders notified in response to the invitation to tender for the export
of rye issued in Regulation (EC) No 1746/98

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 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 2094/98 ⁽⁴⁾, and in particular Article 7 thereof,

Whereas an invitation to tender for the refund and/or the tax for the export of rye to all third countries was opened pursuant to Commission Regulation (EC) No 1746/98 ⁽⁵⁾;

Whereas Article 7 of Regulation (EC) No 1501/95 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 Article 1 of Regulation (EC) No 1501/95 a maximum refund or minimum tax 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 25 September to 1 October 1998 in response to the invitation to tender for the refund or the tax for the export of rye issued in Regulation (EC) No 1746/98.

Article 2

This Regulation shall enter into force on 2 October 1998.

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

Done at Brussels, 1 October 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 266, 1. 10. 1998, p. 61.

⁽⁵⁾ OJ L 219, 7. 8. 1998, p. 3.

COMMISSION REGULATION (EC) No 2112/98
of 1 October 1998

**fixing the maximum export refund on common wheat in connection with the
invitation to tender issued in Regulation (EC) No 1079/98**

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 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 2094/98 ⁽⁴⁾, and in particular Article 4 thereof,

Whereas an invitation to tender for the refund and/or the tax for the export of common wheat to all third countries with the exception of certain ACP States was opened pursuant to Commission Regulation (EC) No 1079/98 ⁽⁵⁾, as amended by Regulation (EC) No 2005/98 ⁽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 25 September to 1 October 1998, pursuant to the invitation to tender issued in Regulation (EC) No 1079/98, the maximum refund on exportation of common wheat shall be ECU 33,99 per tonne.

Article 2

This Regulation shall enter into force on 2 October 1998.

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

Done at Brussels, 1 October 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 266, 1. 10. 1998, p. 61.

⁽⁵⁾ OJ L 154, 28. 5. 1998, p. 24.

⁽⁶⁾ OJ L 258, 22. 9. 1998, p. 8.

COMMISSION REGULATION (EC) No 2113/98
of 1 October 1998

**concerning tenders notified in response to the invitation to tender for the export
of oats issued in Regulation (EC) No 2007/98**

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 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 2094/98 ⁽⁴⁾,

Having regard to Commission Regulation (EC) No 2007/98 of 21 September 1998 on a special intervention measure for cereals in Finland and Sweden ⁽⁵⁾, 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 2007/98;

Whereas Article 8 of Regulation (EC) No 2007/98 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 25 September to 1 October 1998 in response to the invitation to tender for the refund for the export of oats issued in Regulation (EC) No 2007/98.

Article 2

This Regulation shall enter into force on 2 October 1998.

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

Done at Brussels, 1 October 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 266, 1. 10. 1998, p. 61.

⁽⁵⁾ OJ L 258, 22. 9. 1998, p. 13.

COMMISSION REGULATION (EC) No 2114/98
of 1 October 1998

**fixing the maximum export refund on common wheat in connection with the
invitation to tender issued in Regulation (EC) No 2004/98**

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 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 2094/98 ⁽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 certain ACP States was opened pursuant to Commission Regulation (EC) No 2004/98 ⁽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 Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 25 September to 1 October 1998, pursuant to the invitation to tender issued in Regulation (EC) No 2004/98, the maximum refund on exportation of common wheat shall be ECU 39,95 per tonne.

Article 2

This Regulation shall enter into force on 2 October 1998.

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

Done at Brussels, 1 October 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 266, 1. 10. 1998, p. 61.

⁽⁵⁾ OJ L 258, 22. 9. 1998, p. 4.

COMMISSION REGULATION (EC) No 2115/98
of 1 October 1998

**fixing the maximum export refund on barley in connection with the invitation to
tender issued in Regulation (EC) No 1564/98**

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 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 2094/98 ⁽⁴⁾, and in particular Article 7 thereof,

Whereas an invitation to tender for the refund for the export of barley exported from Spain to all third countries was opened pursuant to Commission Regulation (EC) No 1564/98 ⁽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;

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 25 September to 1 October 1998, pursuant to the invitation to tender issued in Regulation (EC) No 1564/98, the maximum refund on exportation of barley shall be ECU 72,50 per tonne.

Article 2

This Regulation shall enter into force on 2 October 1998.

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

Done at Brussels, 1 October 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 266, 1. 10. 1998, p. 61.

⁽⁵⁾ OJ L 203, 21. 7. 1998, p. 6.

**COMMISSION REGULATION (EC) No 2116/98
of 1 October 1998**

fixing the export refunds on cereals and on wheat or rye flour, groats and meal

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 13 (2) 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 in the Community may be covered by an export refund;

Whereas the refunds must be fixed taking into account the factors referred to in Article 1 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under 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 2094/98⁽⁴⁾;

Whereas, as far as wheat and rye flour, groats and meal are concerned, when the refund on these products is being calculated, account must be taken of the quantities of cereals required for their manufacture; whereas these quantities were fixed in Regulation (EC) No 1501/95;

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 it follows from applying the detailed rules set out above to the present situation on the market in cereals, and in particular to quotations or prices for these products within the Community and on the world market, that the refunds should be as set out in the Annex hereto;

Whereas the Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (a), (b) and (c) of Regulation (EEC) No 1766/92, excluding malt, exported in the natural state, shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 2 October 1998.

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

Done at Brussels, 1 October 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 267, 1. 10. 1998, p. 61.

ANNEX

to the Commission Regulation of 1 October 1998 fixing the export refunds on cereals and on wheat or rye flour, groats and meal

(ECU / tonne)			(ECU / tonne)		
Product code	Destination ⁽¹⁾	Amount of refund	Product code	Destination ⁽¹⁾	Amount of refund
1001 10 00 9200	—	—	1101 00 11 9000	—	—
1001 10 00 9400	01	0	1101 00 15 9100	01	46,50
1001 90 91 9000	—	—	1101 00 15 9130	01	43,50
1001 90 99 9000	03	24,00	1101 00 15 9150	01	40,00
	02	0	1101 00 15 9170	01	37,00
1002 00 00 9000	03	50,00	1101 00 15 9180	01	34,75
	02	0	1101 00 15 9190	—	—
1003 00 10 9000	—	—	1101 00 90 9000	—	—
1003 00 90 9000	03	56,00	1102 10 00 9500	01	82,00
	02	0	1102 10 00 9700	—	—
1004 00 00 9200	—	—	1102 10 00 9900	—	—
1004 00 00 9400	—	—	1103 11 10 9200	01	0 ⁽²⁾
1005 10 90 9000	—	—	1103 11 10 9400	—	— ⁽²⁾
1005 90 00 9000	03	35,00	1103 11 10 9900	—	—
	02	0	1103 11 90 9200	01	0 ⁽²⁾
1007 00 90 9000	—	—	1103 11 90 9800	—	—
1008 20 00 9000	—	—			

⁽¹⁾ The destinations are identified as follows:

- 01 All third countries,
- 02 Other third countries,
- 03 Switzerland, Liechtenstein.

⁽²⁾ No refund is granted when this product contains compressed meal.

NB: The zones are those defined in amended Commission Regulation (EEC) No 2145/92 (OJ L 214, 30. 7. 1992, p. 20).

COMMISSION REGULATION (EC) No 2117/98
of 1 October 1998
amending the import duties in the cereals sector

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⁾,

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector⁽³⁾, as last amended by Regulation (EC) No 2092/97⁽⁴⁾, and in particular Article 2 (1) thereof,

Whereas the import duties in the cereals sector are fixed by Commission Regulation (EC) No 2084/98⁽⁵⁾;

Whereas Article 2, (1,) of Regulation (EC) No 1249/96 provides that if during the period of application, the average import duty calculated differs by ECU 5 per tonne from the duty fixed, a corresponding adjustment is to be made; whereas such a difference has arisen; whereas it is therefore necessary to adjust the import duties fixed in Regulation (EC) No 2084/98,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and II to Regulation (EC) No 2084/98 are hereby replaced by Annexes I and II to this Regulation.

Article 2

This Regulation shall enter into force on 2 October 1998.

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

Done at Brussels, 1 October 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 161, 29. 6. 1996, p. 125.

⁽⁴⁾ OJ L 292, 25. 10. 1997, p. 10.

⁽⁵⁾ OJ L 266, 1. 10. 1998, p. 14.

ANNEX I

Import duties for the products covered by Article 10(2) of Regulation (EEC) No 1766/92

CN code	Description	Import duty by land inland waterway or sea from Mediterranean, the Black Sea or Baltic Sea ports (ECU/tonne)	Import duty by air or by sea from other ports ⁽²⁾ (ECU/tonne)
1001 10 00	Durum wheat ⁽¹⁾	45,58	35,58
1001 90 91	Common wheat seed	57,22	47,22
1001 90 99	Common high quality wheat other than for sowing ⁽³⁾	57,22	47,22
	medium quality	85,46	75,46
	low quality	99,22	89,22
1002 00 00	Rye	104,90	94,90
1003 00 10	Barley, seed	104,90	94,90
1003 00 90	Barley, other ⁽³⁾	104,90	94,90
1005 10 90	Maize seed other than hybrid	108,69	98,69
1005 90 00	Maize other than seed ⁽³⁾	108,69	98,69
1007 00 90	Grain sorghum other than hybrids for sowing	104,90	94,90

⁽¹⁾ In the case of durum wheat not meeting the minimum quality requirements referred to in Annex I to Regulation (EC) No 1249/96, the duty applicable is that fixed for low-quality common wheat.

⁽²⁾ For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal (Article 2(4) of Regulation (EC) No 1249/96), the importer may benefit from a reduction in the duty of:

— ECU 3 per tonne, where the port of unloading is on the Mediterranean Sea, or

— ECU 2 per tonne, where the port of unloading is in Ireland, the United Kingdom, Denmark, Sweden, Finland or the Atlantic Coasts of the Iberian Peninsula.

⁽³⁾ The importer may benefit from a flat-rate reduction of ECU 14 or 8 per tonne, where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

ANNEX II

Factors for calculating duties

(for 15 September 1998)

1. Averages over the two-week period preceding the day of fixing:

Exchange quotations	Minneapolis	Kansas-City	Chicago	Chicago	Minneapolis	Minneapolis
Product (% proteins at 12 % humidity)	HRS2. 14 %	HRW2. 11,5 %	SRW2	YC3	HAD2	US barley 2
Quotation (ECU/tonne)	107,73	95,16	85,82	70,29	130,07 ⁽¹⁾	70,84 ⁽¹⁾
Gulf premium (ECU/tonne)	—	3,62	— 0,81	5,25	—	—
Great Lakes premium (ECU/tonne)	10,71	—	—	—	—	—

⁽¹⁾ Fob Duluth.

2. Freight/cost: Gulf of Mexico — Rotterdam: ECU 10,51 per tonne; Great Lakes — Rotterdam: ECU 18,99 per tonne.
3. Subsidy within the meaning of the third paragraph of Article 4 (2) of Regulation (EC) No 1249/96 : ECU 0,00 per tonne (HRW2)
: ECU 0,00 per tonne (SRW2).

COMMISSION REGULATION (EC) No 2118/98**of 1 October 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 1352/98⁽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 1011/98⁽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 2 October 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 184, 27. 6. 1998, p. 25.

⁽⁷⁾ OJ L 275, 29. 9. 1987, p. 36.

⁽⁸⁾ OJ L 159, 1. 7. 1993, p. 112.

⁽⁹⁾ OJ L 145, 15. 5. 1998, p. 11.

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

Done at Brussels, 1 October 1998.

For the Commission
Martin BANGEMANN
Member of the Commission

ANNEX

to the Commission Regulation of 1 October 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	2,239 0,645 3,445
1002 00 00	Rye	5,256
1003 00 90	Barley	5,944
1004 00 00	Oats	3,661
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	1,774 5,275 1,317 4,818 5,275 1,774 5,275
ex 1006 30	Wholly-milled rice: — round grain — medium grain — long grain	10,800 10,800 10,800
1006 40 00	Broken rice:	3,100
1007 00 90	Sorghum	5,944

⁽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.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 28 September 1998

**authorising the Kingdom of Spain to extend until 7 March 1999 the Agreement
on mutual fishery relations with the Republic of South Africa**

(98/557/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of Spain and Portugal, and in particular Article 167(3) thereof,

Having regard to the proposal from the Commission,

Whereas the Agreement on mutual fishery relations between the Government of the Kingdom of Spain and the Government of the Republic of South Africa, signed on 14 August 1979, entered into force on 8 March 1982 for an initial period of ten years; whereas the Agreement remains in force for an indeterminate period if it is not denounced by the giving of twelve months notice;

Whereas Article 167(2) of the 1985 Act of Accession lays down that the rights and obligations resulting from the fisheries agreements concluded by the Kingdom of Spain with third countries shall not be affected during the period for which the provisions of such agreements are provisionally maintained;

Whereas, pursuant to Article 167(3) of the said Act, the Council is to adopt, before the expiry of the fisheries agreements concluded by the Kingdom of Spain with third countries, decisions appropriate for the continuation of fishing activities resulting therefrom, including the possibility of prolonging for periods not exceeding one

year; whereas the abovementioned Agreement has been extended until 7 March 1998⁽¹⁾;

Whereas, in order to avoid fishing by the Community vessels concerned being interrupted, it appears appropriate to authorise the Kingdom of Spain to extend the Agreement in question until 7 March 1999,

HAS ADOPTED THIS DECISION:

Article 1

The Kingdom of Spain is hereby authorised to extend until 7 March 1999 the Agreement on mutual fishery relations with the Republic of South Africa which entered into force on 8 March 1982.

Article 2

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 28 September 1998.

For the Council

The President

W. MOLTERER

⁽¹⁾ OJ L 164, 21. 6. 1997, p. 37.

COUNCIL DECISION**of 28 September 1998****authorising the Portuguese Republic to extend until 7 March 1999 the Agreement
on mutual fishery relations with the Republic of South Africa**

(98/558/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of Spain and Portugal, and in particular Article 254(3) thereof,

Having regard to the proposal from the Commission,

Whereas the Agreement on mutual fishery relations between the Government of the Portuguese Republic and the Government of the Republic of South Africa, signed on 9 April 1979, entered into force on that day for an initial period of ten years; whereas the Agreement remains in force for an indeterminate period if it is not denounced by the giving of twelve months notice;

Whereas Article 354(2) of the 1985 Act of Accession lays down that the rights and obligations resulting from the fisheries agreements concluded by the Portuguese Republic with third countries shall not be affected during the period for which the provisions of such agreements are provisionally maintained;

Whereas, pursuant to Article 354(3) of the said Act, the Council is to adopt, before the expiry of the fisheries agreements concluded by the Portuguese Republic with third countries, decisions appropriate for the continuation of fishing activities resulting therefrom, including the possibility of prolonging for periods not exceeding one

year; whereas the abovementioned Agreement has been extended until 7 March 1998 ⁽¹⁾;

Whereas, in order to avoid fishing by the Community vessels concerned being interrupted, it appears appropriate to authorise the Portuguese Republic to extend the Agreement in question until 7 March 1999,

HAS ADOPTED THIS DECISION:

Article 1

The Portuguese Republic is hereby authorised to extend until 7 March 1999 the Agreement on mutual fishery relations with the Republic of South Africa which entered into force on 9 April 1979.

Article 2

This Decision is addressed to the Portuguese Republic.

Done at Brussels, 28 September 1998.

For the Council

The President

W. MOLTERER

⁽¹⁾ OJ L 164, 21. 6. 1997, p. 36.