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Price: EUR 19,50

⁽¹⁾ Text with EEA relevance

(Continued overleaf)

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I

(Acts whose publication is obligatory)

**COMMISSION REGULATION (EC) No 2557/1999
of 3 December 1999
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,

Whereas:

- (1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto;

- (2) 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 4 December 1999.

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

Done at Brussels, 3 December 1999.

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.

ANNEX

to the Commission Regulation of 3 December 1999 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	87,2
	204	73,4
	999	80,3
0707 00 05	052	94,9
	204	83,7
	999	89,3
0709 90 70	052	109,9
	204	141,9
	999	125,9
0805 10 10, 0805 10 30, 0805 10 50	388	35,1
	508	33,1
	999	34,1
0805 20 10	052	34,0
	204	59,4
	999	46,7
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	74,7
	999	74,7
	052	54,0
0805 30 10	528	77,3
	600	66,8
	999	66,0
	052	65,1
	400	79,3
0808 10 20, 0808 10 50, 0808 10 90	404	72,5
	999	72,3
	052	148,2
	064	62,7
	400	69,8
0808 20 50	720	178,5
	999	114,8

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2645/98 (OJ L 335, 10.12.1998, p. 22). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 2558/1999

of 2 December 1999

derogating temporarily from certain provisions on the issuing of export licences with advance fixing of the refund of the refund for agricultural products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, and in particular Articles 26, 31 and 42 thereof, and to the corresponding provisions of the other Regulations on the common organisation of markets in agricultural products,

Whereas:

(1) Article 10(1) of Commission Regulation (EC) No 174/1999 ⁽²⁾ of 26 January 1999 laying down special detailed rules as regards export licences and export refunds in the case of milk and milk products provides that export licenses are to be issued on the fifth working day following that on which applications are submitted, provided that no special measures are taken by the Commission in the meantime. Similar provisions are laid down in the corresponding Regulations applicable to beef and veal, pigmeat, poultrymeat, eggs, fruit and vegetables, products processed from fruit and vegetables, wine, cereals, rice, sugar, olive oil and agricultural products exported as goods not falling within Annex I of the Treaty.

(2) The year 2000 problem and in particular transition from 1999 to the year 2000 may provoke disturbance in the transmission of data from the Member States to the Commission in ways and on a scale that cannot be foreseen or dealt with in advance despite the efforts of the authorities involved. Smooth transmission of data relating to licences applied for and the quantities concerned is vital to the sound management of the agricultural markets and in particular for the adoption by the Commission of measures relating to the issuing of export licenses with advance fixing of the refund.

(3) In the event of disturbance in data transmission, the periods for reflection in force for the issuing of export licences with advance fixing of the refund during which the Commission must take its decisions could prove too

short and accordingly mean that the Commission would no longer be able to administer the licence arrangements properly. Those periods should therefore be extended in the case of licence applications submitted during the critical period in the transition to the year 2000, running from 27 December 1999 to 10 January 2000 inclusive.

(4) Should the Commission note that the abovementioned disturbance in data transmission does not arise or occurs, it should be able to re-establish the status quo as regards the periods for reflection in force before the entry into force of this Regulation as quickly as possible. Furthermore, should the Commission re-establish the status quo in the period between 27 December 1999 and 10 January 2000 only to discover a disturbance shortly thereafter, or should a disturbance occur after 10 January 2000, it must be able to reintroduce the extended periods for reflection referred to above. The Commission should therefore be authorised to take measures on its own to repeal or re-enact all or part of this Regulation.

(5) The measures provided for in this Regulation are in accordance with the opinions of all the Management Committees concerned,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation derogates temporarily from the periods for reflection for the issuing of export licences with advance fixing of the refund referred to in the following provisions:

- Article 10(1) of Regulation (EC) No 174/1999,
- Article 10(1) of Regulation (EC) No 1445/95 ⁽³⁾,
- Article 3(3) of Regulation (EC) No 1370/95 ⁽⁴⁾,
- Article 3(3) of Regulation (EC) No 1371/95 ⁽⁵⁾,
- Article 3(3) of Regulation (EC) No 1372/95 ⁽⁶⁾,
- Article 2(4) of Regulation (EC) No 2190/96 ⁽⁷⁾,
- Article 4(2) of Regulation (EC) No 1429/95 ⁽⁸⁾,
- Article 3(2) of Regulation (EC) No 1685/95 ⁽⁹⁾,
- Article 7(3) of Regulation (EC) No 1162/95 ⁽¹⁰⁾,
- Article 3(2) of Regulation (EC) No 2543/95 ⁽¹¹⁾,
- the second indent of Article 9(1) of Regulation (EC) No 1464/95 ⁽¹²⁾,
- Article 3(3) of Regulation (EC) No 1223/94 ⁽¹³⁾.

⁽³⁾ OJ L 143, 27.6.1995, p. 35.

⁽⁴⁾ OJ L 133, 17.6.1995, p. 9.

⁽⁵⁾ OJ L 133, 17.6.1995, p. 16.

⁽⁶⁾ OJ L 133, 17.6.1995, p. 26.

⁽⁷⁾ OJ L 292, 15.11.1996, p. 12.

⁽⁸⁾ OJ L 141, 24.6.1995, p. 28.

⁽⁹⁾ OJ L 161, 12.7.1995, p. 2.

⁽¹⁰⁾ OJ L 117, 24.5.1995, p. 2.

⁽¹¹⁾ OJ L 260, 31.10.1995, p. 33.

⁽¹²⁾ OJ L 144, 28.6.1995, p. 14.

⁽¹³⁾ OJ L 136, 31.5.1994, p. 33.

⁽¹⁾ OJ L 160, 26.6.1999, p. 48.

⁽²⁾ OJ L 20, 21.1.1999, p. 8.

Article 2

Notwithstanding the provisions referred to in Article 1, export licences with advance fixing of the refund applications for which are submitted from 27 December 1999 to 10 January 2000 shall be issued on the 10th working day following the day of submission, provided that no special measures are taken by the Commission in the meantime.

Article 3

The Commission shall take measures to repeal this Regulation and to re-establish the status quo in force before its application as soon as it notes that no disturbance has arisen in data

transmission connected with the transition from 1999 to the year 2000 or that there is no further disturbance. The Commission is also authorised to re-introduce the extended period of reflection referred to in Article 2 if it re-establishes the status quo between 27 December 1999 and 10 January 2000 only to discover a disturbance shortly thereafter, or if a disturbance occurs after 10 January 2000.

Article 4

This Regulation shall enter into force on the seventh 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, 2 December 1999.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 2559/1999
of 3 December 1999
prohibiting fishing for salmon by vessels flying the flag of Sweden

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy ⁽¹⁾, as last amended by Council Regulation (EC) No 2846/98 ⁽²⁾, and in particular Article 21(3) thereof,

Whereas:

- (1) Council Regulation (EC) No 48/1999 of 18 December 1998 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1999 and certain conditions under which they may be fished ⁽³⁾, as last amended by Commission Regulation (EC) No 16/1999 ⁽⁴⁾, lays down quotas for salmon for 1999;
- (2) In order to ensure compliance with the provisions relating to the quantity limits on catches of stocks subject to quotas, the Commission must fix the date by which catches made by vessels flying the flag of a Member State are deemed to have exhausted the quota allocated;
- (3) According to the information received by the Commission, catches of salmon in the waters of ICES, divisions III b, c and d (EC zone) by vessels flying the flag of

Sweden or registered in Sweden have exhausted the quota allocated for 1999. Sweden prohibited fishing for this stock from 1 November 1999. This date should be adopted in this Regulation also,

HAS ADOPTED THIS REGULATION:

Article 1

Catches of salmon in the waters of ICES, divisions III b, c and d (EC zone) by vessels flying the flag of Sweden or registered in Sweden are hereby deemed to have exhausted the quota allocated to Sweden for 1999.

Fishing for salmon in the waters of ICES, divisions III b, c and d (EC zone) by vessels flying the flag of Sweden or registered in Sweden is hereby prohibited, as are the retention on board, transshipment and landing of this stock caught by the above vessels after the date of application of this Regulation.

Article 2

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

It shall apply from 1 November 1999.

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

Done at Brussels, 3 December 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 261, 20.10.1993, p. 1.

⁽²⁾ OJ L 358, 31.12.1998, p. 5.

⁽³⁾ OJ L 13, 18.1.1999, p. 1.

⁽⁴⁾ OJ L 192, 24.7.1999, p. 14.

COMMISSION REGULATION (EC) No 2560/1999
of 3 December 1999
prohibiting fishing for herring by vessels flying the flag of Denmark

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy ⁽¹⁾, as last amended by Regulation (EC) No 2846/98 ⁽²⁾, and in particular Article 21(3) thereof,

Whereas:

- (1) Council Regulation (EC) No 48/1999 of 18 December 1998 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1999 and certain conditions under which they may be fished ⁽³⁾, as last amended by Commission Regulation (EC) No 16/1999 ⁽⁴⁾, lays down quotas for herring for 1999;
- (2) In order to ensure compliance with the provisions relating to the quantity limits on catches of stocks subject to quotas, the Commission must fix the date by which catches made by vessels flying the flag of a Member State are deemed to have exhausted the quota allocated;
- (3) According to the information received by the Commission, catches of herring in the waters of ICES, divisions IV c (excluding Blackwater stock) and VII d by vessels flying the flag of Denmark or registered in Denmark

have exhausted the quota allocated for 1999. Denmark has prohibited fishing for this stock from 15 November 1999. This date should be adopted in this Regulation also,

HAS ADOPTED THIS REGULATION:

Article 1

Catches of herring in the waters of ICES, divisions IV c (excluding Blackwater stock) and VII d by vessels flying the flag of Denmark or registered in Denmark are hereby deemed to have exhausted the quota allocated to Denmark for 1999.

Fishing for herring in the waters of ICES, divisions IV c (excluding Blackwater stock) and VII d by vessels flying the flag of Denmark or registered in Denmark is hereby prohibited, as are the retention on board, transshipment and landing of this stock caught by the above vessels after the date of application of this Regulation.

Article 2

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

It shall apply from 15 November 1999.

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

Done at Brussels, 3 December 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 261, 20.10.1993, p. 1.

⁽²⁾ OJ L 358, 31.12.1998, p. 5.

⁽³⁾ OJ L 13, 18.1.1999, p. 1.

⁽⁴⁾ OJ L 192, 24.7.1999, p. 14.

COMMISSION REGULATION (EC) No 2561/1999
of 3 December 1999
laying down the marketing standard for peas

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 1257/1999 ⁽²⁾, and in particular Article 2(2) thereof,

Whereas:

- (1) Peas are listed in Annex I to Regulation (EC) No 2200/96 as products for which standards are to be adopted. Regulation No 58 of the Commission ⁽³⁾ laying down common quality standards for certain products listed in Annex IB to Regulation No 23, as last amended by Regulation (EC) No 888/97 ⁽⁴⁾, has been the subject of multiple amendments and no longer ensures legal clarity.
- (2) The rules in question should therefore be recast and Annex I.3 to Regulation No 58 deleted. To that end, for reasons of transparency on the world market, account should be taken of the standard recommended for peas by the Working Party on standardisation of perishable produce and quality development of the United Nations Economic Commission for Europe (UN/ECE).
- (3) The effect of these standards must be to remove products of unsatisfactory quality from the market, gear production to satisfying consumer requirements and facilitate trade relations on the basis of fair competition, thereby helping to make production more profitable.
- (4) The standards are applicable at all stages of marketing. Transport over a great distance, storage for a certain length of time or the various handling operations to

which the products are subjected may bring about deterioration due to the biological development of the products or their tendency to perish. Account should be taken of such deterioration when applying the standards at the marketing stages which follow dispatch.

- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for fresh fruit and vegetables,

HAS ADOPTED THIS REGULATION:

Article 1

The marketing standards for peas falling within CN code 0708 10 shall be as set out in the Annex.

The standard shall apply at all stages of marketing under the conditions laid down in Regulation (EC) No 2200/96.

However, at stages following dispatch, the products may show, in relation to the provisions of the standards, a slight lack of freshness and turgidity, and slight deteriorations due to their development and their tendency to perish.

Article 2

Annex I.3 to Regulation No 58 is hereby deleted.

Article 3

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

It shall apply from the first day of the first month following the month of its entry into force.

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

Done at Brussels, 3 December 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 297, 21.11.1996, p. 1.

⁽²⁾ OJ L 160, 26.6.1999, p. 80.

⁽³⁾ OJ 56, 7.7.1962, p. 1606/62.

⁽⁴⁾ OJ L 126, 17.5.1997, p. 11.

ANNEX

STANDARD FOR PEAS

I. DEFINITION OF PRODUCE

This standard applies to shelling peas of varieties (cultivars) grown from *Pisum sativum* L. and peas intended for consumption in the pods or snow peas (mangetout peas) from *Pisum sativum* L. var. *macrocarpon* and sugar snap peas from *Pisum sativum* L. var. *saccharatum* to be supplied fresh to the consumer, peas for industrial processing being excluded.

II. PROVISIONS CONCERNING QUALITY

The purpose of the standard is to define the quality requirements for peas after preparation and packaging.

A. Minimum requirements

In all classes, subject to the special provisions for each class and the tolerances allowed,

(i) the pods must be:

- intact
- sound; produce affected by rotting or deterioration such as to make it unfit for consumption is excluded
- clean, practically free of any visible foreign matter (including parts of the flowers)
- free from hard filaments or films in mange-tout peas
- practically free from pests
- practically free from damage caused by pests
- free of abnormal external moisture
- free of any foreign smell and/or taste.

(ii) the peas must be:

- fresh
- sound, i.e., free of damage caused by pests or diseases
- normally developed.

The development and condition of peas must be such as to enable them:

- to withstand transport and handling, and
- to arrive in satisfactory condition at the place of destination.

B. Classification

Peas are classified in two classes defined below:

(i) Class I

Peas in this class must be of good quality.

The pods must be:

- characteristic of the variety in shape, size and colouring
- with peduncles attached
- free from damage by hail
- fresh and turgid
- without damage caused by heating.

For mange-tout peas the pods may have:

- very slight skin defects, injuries and bruises
- very slight defects of shape
- very slight defects of colouring.

For shelling peas:

the pods must be

- well filled, containing at least five seeds.

the peas must be:

- well formed
- tender
- succulent and sufficiently firm, i.e., when squeezed between two fingers they should become flat without disintegrating
- at least half the full-grown size but not full grown
- of the colour typical of the variety
- non-farinaceous
- undamaged.

For mange-tout peas, the peas if present must be small and underdeveloped.

(ii) *Class II*

This class includes peas which do not qualify for inclusion in the Class I but satisfy the minimum requirements specified above.

Shelling peas may be riper than those in Class I.

The following slight defects may be allowed provided the peas retain their essential characteristics as regards the quality, the keeping quality and presentation.

For mange-tout peas, the pods may have:

- slight skin defects, injuries and bruises
- slight defects in shape, including those due to the seed formation
- slight defect in colouring
- slight not-progressive skin defects caused by pests
- slight drying, excluding wilted and uncoloured pods.

For shelling peas, the pods may have:

- slight defect in colouring
- slight damage provided it is not progressive and there is no risk of the seeds being affected
- some loss of freshness, although wilted pods are excluded.

The pods must contain at least three seeds.

The peas may be:

- less well formed
- slightly less coloured
- slightly harder
- slightly damaged.

Over-mature peas are excluded.

III. PROVISIONS CONCERNING SIZING

Size is not compulsory for peas.

IV. PROVISIONS CONCERNING TOLERANCES

Tolerances in respect of quality shall be allowed in each package for produce not satisfying the requirements of the class indicated.

(i) *Class I*

10 % by weight of peas not satisfying the requirements of the class, but meeting those of Class II or, exceptionally, coming within the tolerances of that class.

(ii) *Class II*

10 % by weight of peas satisfying neither the requirements of the class nor the minimum requirements, with the exception of produce affected by rotting, progressive diseases or any other deterioration rendering it unfit for consumption.

V. PROVISIONS CONCERNING PRESENTATION

A. Uniformity

The contents of each package must be uniform and contain only peas of the same origin, variety and quality.

The visible part of the contents of the package must be representative of the entire contents.

B. Packaging

Peas must be packed in such a way as to protect the produce properly.

The materials used inside the package must be new, clean and of a quality such as to avoid causing any external or internal damage to the produce. The use of materials, particularly of paper or stamps bearing trade specifications is allowed provided the printing or labelling has been done with non-toxic ink or glue.

Packages must be free of all foreign matter.

VI. PROVISIONS CONCERNING MARKING

Each package must bear the following particulars, in letters grouped on the same side, legibly and indelibly marked, and visible from the outside:

A. Identification

— Packer and/or dispatcher: Name and address or officially issued or accepted code mark. However, where a code mark is used, the reference 'packer and/or dispatcher' (or equivalent abbreviations) has to be indicated in close proximity to the code mark.

B. Nature of produce

— 'Shelling peas', 'Snow peas', 'Sugar peas' or 'Mange-tout peas' if the contents are not visible from the outside.

C. Origin of produce

— Country of origin and, optionally, district where grown, or national, regional or local place name.

D. Commercial specifications

— Class

E. Official control mark (optional)

COMMISSION REGULATION (EC) No 2562/1999**of 3 December 1999****linking the authorisation of certain additives belonging to the group of antibiotics in feedingstuffs to persons responsible for putting them into circulation****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 70/524/EEC of 23 November 1970 concerning additives in feedingstuffs ⁽¹⁾, as last amended by Commission Regulation (EC) No 2439/1999 ⁽²⁾, and in particular Article 9h(3)(b) and Article 9i(3)(b), thereof,

Whereas:

- (1) because of the risk for human and animal health posed by the circulation in the Community of poor copies of zootechnical additives, Directive 70/524/EEC, as amended by Council Directive 96/51/EC ⁽³⁾, provides for the linking of the authorisation of certain classes of additives to the person responsible for putting them into circulation;
- (2) in particular Article 9h of Directive 70/524/EEC provides for the replacement of the provisional authorisations of additives included in Annex I after 31 December 1987 and belonging to the group of antibiotics and transferred to Chapter II of Annex B, by authorisations linked to the person responsible for putting them into circulation for a period of ten years;
- (3) in particular Article 9i of Directive 70/524/EEC provides for the replacement of the provisional authorisations of additives included in Annex II before 1 April 1998 and belonging to the group of antibiotics and transferred to Chapter III of Annex B by provisional authorisations linked to the person responsible for putting them into circulation;
- (4) the additives listed in the Annexes to this Regulation were the subject of new applications for authorisation by the person responsible for the dossier on the basis of which the former authorisations were given or by their successors. The applications relating to those additives were accompanied by the required monographs and identification notes;
- (5) the linking of the authorisation to a person responsible for putting the additive into circulation is based on a purely administrative procedure and did not entail a

fresh assessment of the additives. Although the authorisations under this Regulations are granted for a specified period, they may be withdrawn at any time in accordance with Article 9m and Article 11 of Directive 70/524/EEC. They may be withdrawn in particular in the light of the following: the Scientific Steering Committee has issued an opinion on antimicrobial resistance on 28 May 1999; a re-evaluation of the use of certain antibiotics as additives in feedingstuffs is currently being undertaken under Article 9g of Directive 70/524/EEC; the Kingdom of Sweden has prohibited the use on its territory of all antibiotics as additives in feedingstuffs on the basis of Article 11 of Directive 70/524/EEC. Moreover, the Commission is examining the data provided and the more general question of whether the use of antibiotics as additives in feedingstuffs meets the conditions set out in Article 3a of Directive 70/524/EEC for the authorisation of additives;

- (6) the measures provided for in this Regulation are in accordance with the opinion of the Standing Committee for Feedingstuffs,

HAS ADOPTED THIS REGULATION:

Article 1

The provisional authorisations of the additives listed in the Annex I to this Regulation are replaced by authorisations granted to the person responsible for putting the additive in circulation, inserted in the second column of the Annex I.

Article 2

The provisional authorisations of the additives listed in Annex II to this Regulation are replaced by provisional authorisations granted to the person responsible for putting the additive into circulation, inserted in the second column of Annex II.

Article 3

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

⁽¹⁾ OJ L 270, 14.12.1970, p. 1.

⁽²⁾ OJ L 297, 18.11.1999, p. 8.

⁽³⁾ OJ L 235, 17.9.1996, p. 39.

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

Done at Brussels, 3 December 1999.

For the Commission
David BYRNE
Member of the Commission

ANNEX I

Registration number of additive	Name and registration number of person responsible for putting additive into circulation	Additive (trade name)	Composition, chemical formula, description	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	Period of authorisation
E 712	Hoechst Roussel Vet GmbH	Flavophospholipol 80 g/kg (Flavomycin 80) Flavophospholipol 40 g/kg (Flavomycin 40)	Additive composition: Flavophospholipol: ≥80 g activity/kg Silicium dioxide: 50-150 g/kg Calcium carbonate: 0-400 g/kg Flavophospholipol: ≥40 g activity/kg Silicium dioxide: 20-120 g/kg Calcium carbonate: 200-750 g/kg Active substance: Flavophospholipol, CAS number: 11015-37-5, (moenomycin A: C ₆₉ H ₁₀₈ N ₅ O ₃₄ P), phosphoglycolipid produced by fermentation of <i>Streptomyces ghanaensis</i> (DSM 12218), composition of antibiotic factors: moenomycin A: 40-80 % moenomycin A _{1/2} : 0-20 % moenomycin C ₁ : 0-20 % moenomycin C ₃ : 5-25 % moenomycin C ₄ : 0-15 %	Rabbits	—	2	4	—	30.9.2009

Registration number of additive	Name and registration number of person responsible for putting additive into circulation	Additive (trade name)	Composition, chemical formula, description	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	Period of authorisation
						mg of active substance/kg of complete feedingsstuff			
E 716	Hoechst Roussel Vet GmbH	Salinomycin sodium 120 g/kg (Salocin 120 micro Granulate)	Additive composition: Salinomycin sodium: ≥120 g/kg Silicium dioxide: 10-100 g/kg Calcium carbonate: 350-700 g/kg Active substance: Salinomycin sodium, C ₄₂ H ₆₉ O ₁₁ Na, CAS number: 53003-10-4, sodium salt of polyether monocarboxylic acid produced by fermentation of <i>Streptomyces albus</i> (DSM 12217) Related impurities: < 42 mg elaiophyllin/kg salinomycin sodium < 40 g 17-epi-20-desoxy-salinomycin/kg salinomycin sodium	Piglets	4 months	30	60	Indicate in the instructions for use: 'Dangerous for equines' 'This feedingstuff contains an ionophore: simultaneous use with certain medicinal substances (e.g. tiamulin) can be contraindicated'	30.9.2009
				Pigs for fattening	6 months	15	30	Indicate in the instructions for use: 'Dangerous for equines' 'This feedingstuff contains an ionophore: simultaneous use with certain medicinal substances (e.g. tiamulin) can be contraindicated'	30.9.2009

Registration number of additive	Name and registration number of person responsible for putting additive into circulation	Additive (trade name)	Composition, chemical formula, description	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	Period of authorisation
						mg of active substance/kg of complete feedingstuff			
E 717	Eli Lilly and Company Ltd	Avilamycin 200 g/kg (Maxus G200, Maxus 200)	Additive composition: Avilamycin: 200 g activity/kg Soyabean oil or mineral oil: 5-30 g/kg Soyabean hulls qs 1 kg Avilamycin: 100 g activity/kg Soyabean oil or mineral oil: 5-30 g/kg Soyabean hulls qs 1 kg Active substance: Avilamycin, $C_{57-62}H_{82-90}Cl_{1-2}O_{31-32}$ CAS number of avilamycin A: 69787-79-7, CAS number of avilamycin B: 73240-30-9, mixture of oligosaccharides of the orthosomycin group produced by <i>Streptomyces viridochromogenes</i> (NRRL 2860), in granular form Factor composition: Avilamycin A: ≥ 60 % Avilamycin B: ≤ 18 % Avilamycins A + B: ≥ 70 % Other single avilamycins: ≤ 6 %	Piglets	4 months	20	40	—	30.9.2009
		Avilamycin 100 g/kg (Maxus G100, Maxus 100)		Pigs for fattening	6 months	10	20	—	30.9.2009
				Chickens for fattening	—	2.5	10	—	30.9.2009

ANNEX II

Registration number of additive	Name and registration number of person responsible for putting additive into circulation	Additive (trade name)	Composition, chemical formula, description	Species or category of animal	Maximum age	mg of active substance/kg of complete feedingstuff		Other provisions	Period of authorisation
						Minimum content	Maximum content		
33	Eli Lilly and Company Ltd	Avilamycin 200 g/kg (Maxus G200, Maxus 200) Avilamycin 100 g/kg (Maxus G100, Maxus 100)	Additive composition: Avilamycin: 200 g activity/kg Soyabean oil or mineral oil: 5-30 g/kg Soyabean hulls qs 1 kg Avilamycin: 100 g activity/kg Soyabean oil or mineral oil: 5-30 g/kg Soyabean hulls qs 1 kg Active substance: Avilamycin, $C_{57,62}H_{82,90}Cl_{1,2}O_{31,32}$ CAS number of avilamycin A: 69787-79-7, CAS number of avilamycin B: 73240-30-9, mixture of oligosaccharides of the orthosomycin group produced by <i>Streptomyces viridochromogenes</i> (NRRL 2860), in granular form Factor composition: Avilamycin A: $\geq 60\%$ Avilamycin B: $\leq 18\%$ Avilamycins A + B: $\geq 70\%$ Other single avilamycins: $\leq 6\%$	Turkeys	—	5	10	—	30.9.2000 ⁽¹⁾

⁽¹⁾ First authorisation: Commission Directive 97/72/EC (OJ L 351, 23.12.1997, p. 55).

COMMISSION REGULATION (EC) No 2563/1999

of 3 December 1999

imposing a provisional anti-dumping duty on imports of compact discs boxes originating in the People's Republic of China

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

After consulting the Advisory Committee,

Whereas:

Claims for market economy status were received from four exporting producers, and one exporting producer requested individual treatment only.

(5) The Commission sent questionnaires to all parties known to be concerned. Replies were received from eight Community producers, three Hong-Kong-based exporting producers with manufacturing facilities in the People's Republic of China and 10 unrelated importers in the Community.

(6) The Commission sought and verified all the information it deemed necessary for the purposes of a preliminary determination of dumping, injury and Community interest and carried out verifications at the premises of the following companies:

(a) Community producers

- La Française des Plastiques, Louvigné-de-Bais, France
- La Vendéenne des Plastiques, Chantonay, France
- NEPCO SA, Pont - L'Évêque, France
- Allainé, SA, Miribel, France
- Neoplastik Verpackungssysteme GmbH & Co., Braunschweig, Germany
- EPM BV, Helmond, Netherlands
- Estudios Gema SA, Barcelona, Spain
- White Knight Ltd, Eastbourne, United Kingdom

(b) Hong Kong exporting producers with manufacturing facilities in the People's Republic of China

- ACME Cassette Manufacturing Ltd, Hong Kong
- Golden Age A-V Products Ltd, Hong Kong
- Viva Magnetics Limited, Kong Kong

(c) Importers/users

- AVP Europe BV, Sittard, Netherlands
- EMI Compact Disc (Holland) BV, Beek, Netherlands
- H.V. T.R.S. BV, Uden, Netherlands

(7) The investigation of dumping covered the period from 1 March 1998 until 28 February 1999 (hereinafter referred to as 'the investigation period'). The examination of injury covered the period from January 1995 to the end of the investigation period.

A. PROCEDURE

- (1) On 5 March 1999, the Commission announced, by a notice (hereinafter referred to as 'the notice of initiation') published in the *Official Journal of the European Communities* ⁽³⁾, the initiation of an anti-dumping proceeding with regard to imports into the Community of compact discs boxes originating in the People's Republic of China.
- (2) This proceeding was initiated following a complaint lodged in January 1999 by the 'European Plastics Converters' (EuPC), on behalf of Community producers representing a major proportion of Community production of compact discs boxes. The complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.
- (3) The Commission officially advised the complainant Community producers, exporting producers and importers, suppliers and users known to be concerned as well as associations concerned and representatives of the exporting country, of the opening of the proceeding. Interested parties were given an opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation. All parties who so requested were granted a hearing.
- (4) In order to allow exporting producers in the People's Republic of China to submit a claim for market economy status or individual treatment if they so wished, the Commission sent market economy status/individual treatment claim forms to the Chinese exporting producers known to be concerned.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 128, 30.4.1998, p. 18.

⁽³⁾ OJ C 63, 5.3.1999, p. 5.

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

1. Product under consideration

- (8) The product under consideration is compact discs boxes (hereinafter also referred to as 'CD boxes'), i.e. the plastic boxes used for the conveyance or packing of all types of compact discs such as audio CDs, CD-Rs (CD-recordable), CD-ROMs (CD-read only memory) and DVDs (digital video disc). The boxes are made of polystyrene, and generally comprise a case (consisting of a base and a lid) and tray(s). They are made to contain one or more compact discs. The trays are placed in the base or in the lid of the cases and have a hub in the centre to hold the compact discs. Compact discs boxes are delivered either as cases and trays assembled together or as cases and trays separately, the latter due to requirements of industrial users. They are currently classifiable within CN code ex 3923 10 00. Separate trays, bases and lids are currently classifiable within CN code ex 3923 90 90.

2. Like product

- (9) The product exported to the Community from the People's Republic of China as well as the one domestically sold in the analogue country (see recitals 17 and 18 below) and the one manufactured and sold in the Community by the Community producers were found to have basically the same physical and technical characteristics as well as the same uses and are therefore to be considered as like products within the meaning of Article 1(4) of Regulation (EC) No 384/96 (hereinafter referred, to as the 'basic Regulation').

C. DUMPING

1. Normal value

(i) Market economy status

- (10) Article 2(7)(b) of the basic Regulation states that, in anti-dumping investigations concerning imports from the People's Republic of China, normal value shall be determined in accordance with Article 2(1) to (6) for those producers which can show they meet the criteria laid down in Article 2(7)(c), i.e. that market economy conditions prevail in respect of the manufacture and sale of the like product concerned.
- (11) As mentioned in recital 4 above, claims for market economy status were received from four exporting producers. One of these claims had to be rejected because the company concerned was not involved in the production of the product concerned. Another company withdrew its claim. For the two remaining companies (hereinafter referred to as 'company A' and 'company B') which had submitted a properly substantiated claim form on behalf of their respective China-based subsidiaries, the Commission sought and verified all the infor-

mation it deemed necessary for the purposes of a determination of market economy status and carried out verifications at their premises.

- (12) Company A is a Hong-Kong-based exporter of CD boxes performing management, marketing and sales functions, as well as purchases of raw materials and production machinery, with a manufacturing facility in the People's Republic of China. Manufacturing is being carried out under an inward processing arrangement.

The manufacturing facility did not have legal status as a company in the People's Republic of China. It was not entitled to sell on the domestic market in the People's Republic of China and was under an obligation to export its entire production. Furthermore, it did not have separately audited accounts. Its accounts were incorporated into the accounts of the parent company.

For these reasons, the Commission determined that company A's manufacturing facility in the People's Republic of China did not fulfil the criteria to demonstrate that market economy conditions prevail in respect of the manufacture and sale of the like product, as set out in Article 2(7)(c) of the basic Regulation.

- (13) Company B is a Hong-Kong-based exporter of CD boxes, with two manufacturing facilities (hereinafter referred to as 'factory (a)' and 'factory (b)') in the People's Republic of China. The findings of the Commission were that management, marketing and sales functions were performed by the Hong Kong parent company, manufacturing being carried out in both manufacturing facilities in the People's Republic of China under inward processing arrangements.

- (14) Factory (a)

Factory (a) is a limited liability company incorporated in the People's Republic of China as a wholly owned foreign subsidiary of company B. All decisions, pertaining to prices, inputs, technology, sales and investment were made by the parent company in Hong Kong without any interference from the Chinese authorities. The company had a set of independently audited accounts in line with international standards. No significant distortions relating to the former non-market economy system were found to affect its business operations. It was subject to the bankruptcy and property laws of the People's Republic of China since it had company status in the People's Republic of China. The Commission had some doubts as to whether the bankruptcy law of the People's Republic of China applicable to the company guaranteed the necessary degree of legal certainty and stability for the operation of the company but the investigation showed that the position of the company in this regard could on balance be accepted. Exchange rate conversions were made at the rate determined by the Bank of China, as applied by the local banks.

For the reasons mentioned above, the Commission determined that factory (a) fulfilled the criteria set out in Article 2(7)(c) of the basic Regulation.

(15) Factory (b).

The Commission found that the situation of factory (b) was similar to that of the manufacturing facility of company A. For this reason, since there would be a high risk that anti-dumping measures could be circumvented by channelling exports to the Community through the Chinese producer with the lower margin, the Commission services determined one dumping margin for factory (a) and factory (b).

- (16) The exporting producers concerned and the Community industry were given an opportunity to comment on the above findings. No comments of substance were received.

(ii) **Analogue country**

- (17) In view of the fact that normal value for the People's Republic of China has to be established pursuant to Article 2(7)(a) of the basic Regulation, in the notice of initiation of the proceeding, the Commission proposed Thailand as an appropriate market economy third country or analogue country for the purpose of establishing normal value. No objection to this proposal was raised by the exporting producers within the time limit specified in the notice of initiation. The only known Thai producer of the product concerned, however, declined to cooperate with the Commission.

- (18) As an alternative, the Commission proposed Canada as an analogue country. A Canadian producer related to one of the Chinese exporters expressed his willingness to cooperate. Canada is one of the few countries outside the Community and the People's Republic of China where CD boxes are produced and sold. Canada is also an open market where CD boxes are imported as well as exported. Parties to the investigation were informed that the Commission envisaged selecting Canada and were given the opportunity to comment. None of the parties concerned contested the envisaged selection and the Commission decided to use Canada as an analogue country.

(iii) **Determination of normal value**

- (19) For the producer (company B) which was granted market economy status in respect of one of its subsidiaries in the People's Republic of China (factory (a)), and in the absence of domestic sales in that country, normal value was constructed. Constructed normal value was calculated in accordance with Article 2(3) of the basic Regulation by adding to this subsidiary's cost of manufacturing a reasonable amount for selling, general and administrative (SG & A) expenses and for profit. The SG & A expenses and profit were calculated as a percentage of the cost of manufacturing in the analogue country on the basis of domestic sales made in Canada in the ordinary course of trade; this percentage was then

applied to the cost of manufacturing of the subsidiary concerned.

- (20) For the other exporting producers in the People's Republic of China, normal value was established on the basis of the domestic prices and costs of the Canadian producer for products comparable to those sold by the Chinese exporting producers to the Community. Sales of the like product were found to have been made in representative quantities since the total volume of the Canadian producer's overall domestic sales in the investigation period exceeded the threshold of 5 % of export sales to the Community laid down in Article 2(2) of the basic Regulation.

- (21) Canadian domestic sales of each type of product which was exported to the Community by the exporting producers in the People's Republic of China were considered representative if they met the same criterion. Three product types out of four produced on the Canadian market were found to meet this criterion.

- (22) In addition, in order to establish whether sales of these three types were made in sufficient quantities in the ordinary course of trade, the domestic selling price was compared to the full cost of production, i.e. the cost of manufacturing plus SG & A expenses. Where the weighted average sales price was equal to or higher than the weighted average unit cost of production, and where more than 80 % of sales for a particular product type were at or above unit cost, normal value was established as the weighted average price of all the transactions. It was found that this was the case for the three product types. Normal value for these three product types was therefore established on the basis of all domestic sales.

- (23) For the fourth product type produced on the Canadian domestic market, sales were not representative, i.e. did not meet the 5 % criterion. Normal value for this type was consequently constructed in accordance with Article 2(3) of the basic Regulation by adding to the producer's cost of manufacturing a reasonable amount for SG & A expenses and for profit. In accordance with Article 2(6) of the basic Regulation, the SG & A expenses and the amounts for profit were determined on the basis of data pertaining to sales of the like product made in the ordinary course of trade.

- (24) Only the above four product types, which represented, however, 93 % by value of the Chinese exports to the Community in the investigation period, were produced and sold in Canada. All remaining product types exported by the Chinese exporting producers to the Community were not sold on the Canadian market. Some of these product types were themselves combinations of product types produced and sold in Canada. For these, normal value was calculated by combining the normal values already obtained for the product types manufactured in Canada. For the remainder, the normal value of the closest resembling product type produced in Canada was used, adjusted as appropriate.

2. Export price

- (25) The cooperating companies which were not granted market economy status and another cooperating exporting producer that requested individual treatment only were subsequently examined with a view to determining whether they could be granted individual treatment.

The Commission found that all of them were manufacturing facilities of Hong-Kong companies operating under inward processing arrangements. All inputs (capital, machinery and raw materials) were provided by their respective Hong Kong parent company and all management and operational decisions were made by the latter. No interference from the Chinese State was apparent in the running of these plants, which could be considered as the manufacturing arms of the Hong Kong parent companies. It was therefore decided to grant individual treatment to these companies in respect of their sales to the Community of the product concerned originating in the People's Republic of China.

- (26) The export prices for all Chinese, exporting producers concerned were established on the basis of the prices paid or payable for the product concerned when sold to the first independent customer in the Community in accordance with Article 2(8) of the basic Regulation.
- (27) The company which was granted market economy status for one of its Chinese subsidiaries (company B), however, was partly selling the product concerned to the Community on a consignment basis, i.e. the goods were destined for a warehouse located in the Community and not invoiced until the customer took delivery of these at some later date. It was not possible to attribute these consignment sales to one or the other China-based subsidiary of the exporting producer concerned. The Commission therefore decided not to take these sales into consideration for the determination of the export price. This was considered reasonable since these consignment sales only constituted 6,5 % by value of the exporting producer's total sales to the Community in the investigation period, and their exclusion does not affect the representativeness of the findings concerning the export price. All of this exporting producer's other export sales were taken into account in order to establish its export prices to the Community in accordance with Article 2(8) of the basic Regulation.

3. Comparison

- (28) For the purposes of a fair comparison between the normal value and the export price at an ex-works level, due allowance in the form of adjustments was made for differences which were claimed and demonstrated to affect prices and price comparability. These adjustments were made, where appropriate, in respect of transport,

handling, packing, commissions and credit costs in accordance with Article 2(10) of the basic Regulation.

- (29) One exporting producer requested an allowance for the difference between the prices of the raw material in the People's Republic of China and in Canada. The difference in raw material prices, however, could not be taken into account in the comparison, since the possibility of obtaining the raw materials at a cheaper price cannot be considered a natural comparative advantage. Such an advantage would be, for example, the easier access to raw materials due to the location of the exporting producer. Furthermore, Article 2(7)(a) of the basic Regulation explicitly states that normal value has to be determined on the basis of the price or the constructed value in a market economy third country which, for the purposes of this investigation, is Canada. This request was therefore rejected.

4. Dumping margin

- (30) In accordance with Article 2(11) and (12) of the basic Regulation, the dumping margin for the exporting producers concerned was established on the basis of a comparison of weighted average normal values with weighted average export prices.
- (31) These margins were expressed as a percentage of the cif Community frontier price for the exporting producers concerned.

The individual dumping margins are:

— Donggang Acme Cassette Manufacturing Fty (exports by ACME)	10,4 %
— Chang An Tang Golden Age Magnetic Factory (exports by Golden Age)	8,3 %
— Oscar Magnetics Media and Hwa Ying Plastic Manufacturing Factory (exports by Viva Magnetics)	6,6 %

The Commission determined one dumping margin for Oscar Magnetics Media and Hwa Ying Plastic Manufacturing Factory, calculated as the weighted average of the dumping margins established for each of the two Chinese producers. This was done to preclude the possibility of channelling of exports through the Chinese producer with the lower margin.

- (32) For those Chinese exporters which failed to reply to the Commission's questionnaire, did not make themselves known or otherwise did not 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. The level of non-cooperation was difficult to establish because of the absence of Eurostat data due to CD boxes falling under 'ex' CN codes. but it is clear how ever that some exporting producers known to

the Commission deliberately did not cooperate with the investigation. A residual dumping margin was therefore based on the product type with the highest dumping margin produced by the company with the highest dumping margin, after ensuring that sales to the Community of this product type were representative for that company.

The residual dumping margin for the People's Republic of China, expressed as a percentage of the cif Community frontier price, is 20,1 %.

D. INJURY

1. Preliminary remark

- (33) Throughout the following sections, figures are based on verified company data from those companies cooperating with the Commission, statistics from Eurostat, as well as the estimations of market size contained in the complaint. It should be noted, in particular, that the Eurostat figures used in the following analysis cover a basket category and should be considered as indicative only.

2. Definition of the Community industry

- (34) The seven original complainant Community producers completed the Commission's questionnaire. They were joined by an eighth producer, Estudios Gema SA in Spain, which also submitted a questionnaire response. One further Community producer, Les Cartonneries de Thulin (Carthuplas) made itself known to the Commission and expressed its support of the complaint but did not provide a completed questionnaire response. Other Community producers neither supported nor opposed the complaint, and are therefore not considered part of the Community industry for the purposes of this investigation. Nevertheless, some of these other Community producers did provide information on their overall production and sales. On this basis, and taking into account the information in the complaint concerning other Community producers, the Community producers supporting the complaint and fully cooperating in the investigation represented 68 % of estimated total Community production of the product concerned in the investigation period. They therefore represent a major proportion of Community production, and thus constitute the Community industry, in accordance with Articles 4(1) and 5(4) of the basic Regulation.

Hereinafter, the expression 'Community industry' will refer only to the eight producers which actively cooperated by submitting completed questionnaire responses.

3. Community consumption

- (35) The estimates of total Community apparent consumption are based on the estimations of market size contained in the complaint, verified production and sales figures from cooperating producers, sales and production information received from other producers supporting the complaint but not cooperating in the investigation, and estimates for non-cooperating producers.

On this basis, total consumption in the Community increased from 1 716 million units in 1995 to 2 357 million units in 1997, before reaching 2 679 million units in the investigation period, an increase of 56 % over the whole period analysed.

4. Imports from the country concerned

(a) Development of volumes, values and market shares

- (36) The volume of imports from the People's Republic of China increased by 385 % over the whole period analysed from 142 million units in 1995 to 313 million units in 1997, before rising again to 546 million units in the investigation period. The corresponding value increased from ECU 15 344 000 in 1995 to ECU 25 476 000 in 1997, before rising again to ECU 42 900 000 in the investigation period, an increase of 276 % in percentage terms over the whole period analysed.

The market share of those imports increased throughout the period analysed from 8 % in 1995 to 13 % in 1997, before rising again to 20 % in the investigation period.

(b) Development of prices

- (37) Unit values, for imports from the People's Republic of China fell from ECU 0,073 in 1995 to ECU 0,058 in 1997, before falling again to ECU 0,054 in the investigation period. This represents a fall of 26 % in percentage terms over the whole period analysed.

(c) Prices comparison, price undercutting

- (38) Price undercutting was established on the basis of a comparison of the ex-factory prices of the Community industry at the same level of trade with prices of imports from the People's Republic of China at a cif level.

Throughout the comparison, to the greatest extent possible, the prices of the closest matching product types were compared. The export transactions used for the comparison represented a share of at least 96 % of the total exports of each exporting producer concerned, and the great majority of total exports from exporting producers in the People's Republic of China.

The weighted average level of price undercutting by Chinese exports on an average direct product type-to-type comparison was found to be 15 % during the investigation period.

5. Situation of the Community industry

(a) Production and capacity utilisation

- (39) Production of CD boxes is very capital intensive and production facilities typically operate 24 hours daily all year round. In such industries, economies of scale require high levels of output.
- (40) Production showed a 37 % increase over the whole period analysed, rising from 543 million units in 1995 to 697 million units in 1997, before reaching 751 million units in the investigation period. Production capacity increased from 653 million units in 1995 to 806 million units in 1997, before reaching 897 million units in the investigation period. The level of capacity utilisation remained relatively stable over the whole period examined, rising from 83 % in 1995 to 86 % in 1997, before falling to 84 % in the investigation period.

(b) Sales of the product concerned in the Community: volume and market share

- (41) The sales volume by the Community industry to unrelated, customers increased by 50 % over the whole period examined, rising from 465 million in 1995 to 656 million in 1997 to 696 million in the investigation period.

The Community industry's market share fluctuated between throughout the period analysed rising from 27 % in 1995 to 28 % in 1997, before falling to 26 % in the investigation period.

The composition of this sales volume is analysed further in recital 53.

(c) Sales of the product concerned in the Community: turn-over and prices

- (42) The Community industry's sales values rose from ECU 56 639 000 in 1995 to ECU 60 972 000 in 1997 to ECU 63 677 000 in the investigation period. It will be noted that while sales volumes rose by 50 % over this period, sales values rose by only 12 %.

The unit values of the Community industry's sales on the Community market declined from ECU 0,1218 in 1995 to ECU 0,0928 in 1997, a fall of 24 percentage points and had fallen again, albeit by a smaller magnitude, to ECU 0,0915 in the investigation period, giving an overall decline over the period examined of 25 %.

(d) Production costs

- (43) The information submitted by the Community industry shows that average production costs decreased by around 20-25 % between 1995 and the investigation period. These developments in unit costs are explained to a large extent by the worldwide fall in the price of

raw materials (polystyrene) over the period. Polystyrene represented around 60 % of the cost of manufacturing during the investigation period and was by far the most important cost-driver in CD-box manufacture. In 1995, its price in the Community was ECU 1,081 per kg, whereas it had fallen to ECU 0,796 per kg in 1997 and had fallen further to 0,711 per kg in the investigation period, i.e. a fall of 34 % over the whole period analysed.

Apart from the fall in price of polystyrene, the Community industry also adopted measures to improve its productivity, which increased over the whole period concerned. Measures to improve productivity included, for example, improving the design of the boxes with the aim of reducing the weight of each box.

(e) Profitability

- (44) Although the Community industry was profitable throughout the period under examination, overall profitability declined, from 6,1 % of turnover in 1996 to 3,8 % in the investigation period, giving an overall decline over the period examined of 37 %. This negative development was even more pronounced in the Community industry's sales of standard product types such as the jewel box over the period considered. These standard product types accounted for 93 % of the Community industry's total sales, and their profitability dropped steadily from + 3,85 % in 1996 to losses of 0,45 % in the investigation period. This development is analysed further in recital 53.

(f) Employment

- (45) Levels of employment in the Community industry have remained stable at around 277 throughout the period examined. The relatively low number of employees is explained by the fact that the injection-moulding production process used by the Community industry is very much more capital intensive than labour intensive.

(g) Labour productivity

- (46) The above employment levels were steady at a time when the Community industry was increasing its output. This implies that labour productivity was increasing throughout the period considered from 1,998 million units per employee in 1995 to 2,463 million units per employee in 1997 to 2,703 million units per employee in the investigation period, giving an overall increase over the period analysed of 35 %.

(h) **Investment**

- (47) Investment was reduced from ECU 6 million in 1995 to ECU 4,7 million in 1997, before rising slightly to ECU 4,8 million in the investigation period, an overall fall of 19 % over the whole period analysed. In relative terms, investment per unit of output produced and per unit of output sold also fell over the period examined from ECU 0,1058 in 1995 to ECU 0,0772 in 1997 to ECU 0,0760 in the investigation period.. an overall fall of 28 % over the whole period analysed.

6. Conclusion on injury

- (48) The development of certain injury indicators suggests a positive development over the period considered, but closer examination reveals the difficulties facing the Community industry. In an area where demand has been increasing steadily over the period considered (consumption within the Community grew by 56 % between 1995 and, the investigation period), the fact that certain injury indicators show a development favourable to the Community industry does not necessarily mean that the Community industry is not injured. In this context, it would not have been considered appropriate to place any emphasis on the positive developments of the Community industry's production capacity (+ 37 %), production volumes (+ 38 %), sales volume (+ 50 %) and sales value (+ 12 %) as well as the stable employment levels as they merely reflect the general development of the market overall and the fact that production capacity has to be used in this capital intensive industry.

What was considered relevant was a significant drop in the average prices of the Community industry's CD boxes, with the index dropping quickly from 100 in 1995 to 76 in 1997 and stabilising at 75 in the investigation period. Simultaneously, the profitability of the Community industry declined significantly, dropping by 37 % between 1996 and the investigation period. Moreover, at a level of 3,8 % on turnover, profitability falls far short of that considered reasonable for the Community industry to continue its production of the product concerned (see recital 71). This is also reflected in the almost 20 % decline in the level of investment between 1995 and the investigation period in a situation of strong growth in demand.

Although therefore the production and sales volumes remained constant or increased over the period analysed, this was achieved at the cost of a substantial deterioration in sales prices, causing a deterioration in financial performance to a level insufficient for investment in plant renewal and maintenance. Indeed, the Community industry made a remarkable effort, between 1995 and the investigation period, to improve its efficiency, increasing its output level roughly, in line with market growth with significant reductions in production costs

helped by a drop in input prices. Despite these developments, however, the Community industry's market share fell between 1998 and the investigation period, and their financial situation continued to worsen.

In the light of the above findings, it is concluded that the Community industry has suffered material injury within the meaning of Article 3 of the basic Regulation.

E. CAUSATION

1. Effect of the dumped imports

(a) **General**

- (49) The volume of imports from the People's Republic of China increased significantly by 385 % between 1995 and the investigation period, reaching a volume of 546 million units (equivalent to more than 70 % of the Community industry's volume of production). The aforementioned development of sales volume corresponded to as increase in market share from 8 % to 20 %. This surge in imports occurred while their prices were dropping. The index of import prices from the People's Republic of China fell from 100 in 1995 to 74 in the investigation period. Even at that level, and although the Community industry's prices fell to the same extent over the same period, they still substantially undercut (by 15 %) the prices of the Community industry in the investigation period. This clearly indicated the presence of a strong downward pressure on the prices of the Community industry from the dumped imports.
- (50) Between 1998 and the investigation period, there was a 2 percentage point drop to 26 % in the Community industry's market share. While this was happening, the industry's profits declined to 3,8 % on turnover during the investigation period.
- (51) While the Community industry, managed to increase its production capacity, volume of production and sales volume broadly in line with the strong increase in demand, it should be noted that its profitability deteriorated significantly. In this connection, the sharp fall in the price of polystyrene on the Community market over the period considered (see recital 43) should have been beneficial to the Community industry. However, the price-depressive pressure of the dumped products forced the Community industry to reduce its prices, thus eroding any benefits it should have gained from the fall in input costs.
- (52) All these factors indicate that the Community industry was forced to adopt a strategy of trying to match the price of the dumped imports so as to be able to maintain sales volumes. The result was the deterioration in profits to inadequate levels.

(b) **Standard product types**

- (53) Further insight on the impact of the dumped imports can be gained by examining the development of sales and profitability of those products which form the market standard, i.e. jewel boxes, standard 2-CD boxes, standard multi-boxes and CD-singles boxes, and which represent the area of maximum competition between the Community industry and the dumped imports.

The table below shows the development of sales of:

- standard product types,
- all product types.

	1995	1996	1997	1998	Investigation period
Community industry's sales of standard product types in European Community (1 000 units)	462 495	518 761	633 649	668 002	650 080
Indexed (1995 — 100)	100	112	137	144	141
% of all sales which are standard product types	99	98	96	94	93
Community industry's sales of all types in European Community (1 000 units)	464 932	530 323	656 781	711 793	695 878
Indexed (1995 — 100)	100	114	141	153	150

The Community industry's volume of sales of standard products accounted for 93 % of their total CD-box sales volume in the investigation period. It should be noted that practically 100 % of the exports in the investigation period from the People's Republic of China were standard products.

In this context, the development of the Community industry's profitability of sales of these standard products types over time, compared with the Community industry's overall profitability was as follows.

	1995	1996	1997	1998	Investigation period
Development of the Community industry's profitability of sales in the European Community					
Standard product types	m/a	3,85	3,11	0,81	– 0,45
All types (from recital 44)	m/a	6,1	5,4	5,0	3,8

These figures show that although financial performance was in continuous decline for all CD boxes, the return on sales of standard product types was consistently lower than the return on all CD boxes. The trend of profitability was downwards throughout the period from 1996 to the investigation period.

Moreover, by the investigation period, sales of standard product types were loss-making. In other words, 93 % of the Community industry's sales were loss-making. The Community industry was therefore able to achieve its overall profitability of 3,8 % on just 7 % of its sales volume.

However, it is precisely the types of the product concerned which fall under this 7 % which the Chinese exporting producers did not export to the Community during the investigation period. The Community industry's losses are incurred only on standard product types, and the People's Republic of China's exports to the Community consist solely of these types.

(c) Conclusion on the effect of dumped imports

- (54) As discussed above, the Chinese exports to the Community are almost exclusively in standard product types. These are the core business of the Community industry, accounting for 93 % of their sales in the Community during the investigation period. The Community industry's sales of these products were loss-making. In the face of the dumped imports from the People's Republic of China, the Community industry has been able to keep going as a viable business because of the profits it has been able to make on the 7 % of its business for which during the investigation period there were no direct equivalent Chinese imports, namely the production of non-standard CD boxes.

The Commission concludes from this analysis that a causal link exists between the material injury suffered by the Community industry and the dumped imports from the People's Republic of China.

- (55) The Community industry argues that the above situation is not a sustainable position in the longer run. Indeed, the only reason the Community industry is currently profitable in its non-standard CD-box manufacture is because it still has a significant output of standard products. The Commission considers that the Community industry needs the economies of scale which production of standard products brings in order to be able to make its non-standard products efficiently. If it is driven out of its core business of standard products by the dumped imports, it will lose these economies of scale and will therefore no longer be able to continue to produce non-standard products efficiently.

2. Other factors

(a) Other sources of supply to the Community market

- (56) As was mentioned at recital 33, Eurostat import statistics can only be considered as indicative. Furthermore, the level of cooperation from non-complainant Community producers was minimal. The Commission therefore treated these two sources of supply as one category. For the purposes of this analysis, these 'other sources of supply to the Community market' comprise imports from third countries other than the People's Republic of China, and production of other Community

producers who are not cooperating in the present investigation or supporting the complaint.

Estimates for these other sources of supply to the Community market are based on estimates of imports from other third countries and estimates of production of the product concerned by non-cooperating producers in the Community, some of which supplied the Commission with information on their production levels.

On this basis, the volumes from other sources of supply are estimated to have increased from 976 million units in 1995 to 1 183 million units in 1997 to 1 200 million units in the investigation period, an increase of 23 % over the whole period analysed. However, their share of the Community market fell from 57 % in 1995 to 50 % in 1997 to 45 % in the investigation period.

- (57) Other information available to the Commission indicates that the unit values of these other sources of supply to the Community market were higher than those of the Community industry throughout the period considered. In fact, the prices of both the Community industry and other sources were undercut by the prices of imports from the People's Republic of China.

This, combined with the fact that their share of the Community market was declining, makes it unlikely that these other sources of supply caused material injury to the Community industry during the period analysed.

(b) Community industry's sales outside the Community

- (58) Sales by the Community industry outside the Community were small in comparison with their sales on the Community market. Throughout the period, sales turnover outside the Community represented around 2 % of their total sales, and could not, therefore, have broken the causal link between the dumped imports subject to investigation and the injury of the Community industry.

(c) Conclusion on causation

- (59) The above examination shows that the Community industry had to match the prices of the dumped imports in order to maintain production volumes, sales and capacity utilisation in an attempt to keep unit production costs at a low level. In doing so, the Community industry's profits situation worsened considerably, particularly in its sales of standard CD boxes. The Commission considers therefore that a causal link exists between the dumped imports from the People's Republic of China and the material injury to the Community industry.

F. COMMUNITY INTEREST

1. General considerations

- (60) Pursuant to Article 21 of the basic Regulation, the Commission examined, first, the likely positive and negative effects of taking and of not taking measures, and second, whether it could be clearly concluded that it is not in the overall interest of the Community to apply measures in this particular case.

2. Impact of anti-dumping measures on the Community industry

- (61) The Community industry is a well-established industry producing CD boxes since the early 1980s. The companies are typically of medium size, and some are involved in the production of a range of injection-moulded and extruded plastic products such that their CD-box production forms a part of a range of products.
- (62) The Community industry has developed into an industrial sector servicing a growing demand for a product which continues to find applications in many varied fields, from the audio industry, the printed media industry to the computer industry. Throughout its history, the industry has invested in new technologies and manufacturing techniques which have increased its productive efficiency. The high quality of its output, produced efficiently, ensures its viability and competitiveness in the future in a market undistorted by unfair trading practices. The dramatic rise in labour efficiency outlined at recital 46 underlines the commitment the Community industry has shown in pursuing more efficient production in the face of unfair competition from the People's Republic of China.

The Community industry is almost fully utilising its productive capacity, providing a wide spectrum of high quality products with very rapid response times. Customer service is one area on which the Community industry has placed particular emphasis in order to compete with the dumped imports from the People's Republic of China.

- (63) However, the main problem being faced by the Community industry is inadequate profitability, arising from the need to reduce prices to match those of the dumped imports in order to try to maintain market share and volume of output. Despite this defensive strategy, the prices of the Chinese exports to the Community continued to undercut those of the Community industry by 15 %. This price-depressive pressure led weighted average profits on turnover to fall to 3,8 % overall by the end of the investigation period, despite a drop in the cost of raw materials and efforts to improve productive efficiency. The effect of the dumped imports was particularly noticeable in the market for

standard CD boxes, such as jewel boxes, where the Community industry's profitability worsened to such an extent that their sales of standard CD boxes were loss-making in the investigation period.

- (64) Under these circumstances, it is considered that if prices were to rise again following the removal of the trade-distorting effects of the dumped imports, the Community industry would be able to achieve a satisfactory profit rate and be equipped to address other challenges it faces on the compact discs packaging market.

3. Impact of anti-dumping measures on importers traders

- (65) The Commission sent questionnaires to ten importers in the Community. Seven questionnaire responses were returned within the deadline set.

In general, the importers argued that the imposition of anti-dumping measures would simply lead to price increases in the final compact discs product for the retail consumer. It was asserted that any cost increase brought about by the imposition of anti-dumping measures on imports from the People's Republic of China would simply be passed to the next downstream customer. It was also pointed out by some importers that the Community industry is unable to supply the needs of the major customers for optical media packaging.

- (66) The Commission does not share the opinions of the importers/traders. While the Community industry supplied an estimated 28 % of Community demand for the product concerned (and the Community producers supporting the complaint supplied around 35 % in total) and imports from the People's Republic of China accounted for 20 %, supplies from other sources, which include third country imports (see recital 56), accounted for a further 45 % of demand in the Community.

These figures indicate that, even if anti-dumping measures were to cause a fall in import volumes from the People's Republic of China, the Community's importers/traders will continue to have unrestricted access to third countries' supplies, or the Community industry's supplies, as well as supplies from other producers in the Community. Since sources of supply other than the People's Republic of China account for 80 % of demand for the product concerned in the Community, the Commission concludes that competition in supply from all sources will remain vigorous and effective after the imposition of anti-dumping measures. The inability of the Community industry to supply all of the Community users' needs is not expected to have a negative impact on importers/traders if anti-dumping measures are imposed on imports from the People's Republic of China.

4. Impact of anti-dumping measures on users

- (67) One of the importers which received a questionnaire is more appropriately to be considered as a user of the product concerned. This company cooperated to a limited extent in the investigation and did not provide a complete questionnaire response within the deadline set.

This company's Community interest submission centred on the alleged detrimental effects which anti-dumping measures would have on users, distributors, importers and the consumer. In particular, it alleged that anti-dumping measures would have the effect of depriving users of high-quality product from the People's Republic of China, forcing them to turn to lower quality end more expensive Community-made products. Furthermore, contrary to the arguments of the importers/traders (see recital 65), users claimed that competitive pressures in the downstream sectors of the industry were such that any price increase on CD boxes could not be easily passed on to consumers, thus reducing profit margins and threatening the commercial viability of the downstream companies concerned.

- (68) The Commission has examined these arguments.

The claim that Community-made CD boxes are of lower quality than those from the People's Republic of China is unfounded. The most important determinant of 'quality' for a CD-box is its suitability for use in the users' CD-packaging machinery without breaking and thus snagging the machinery. The Commission has received no evidence to support the allegation that the Community users' packaging machinery cannot use Community-made CD boxes. Indeed, around 60 % of this user's CD-box requirements are indeed supplied by Community-made CD-box manufacturers, and these boxes can be used in its packaging machinery interchangeably with Chinese products. In other words, as far as the user industry is concerned, there is, in general, no difference in quality between Chinese CD boxes exported to the Community and Community-made CD boxes.

In the absence of any figures on costs of production submitted by this user, the Commission had to base its conclusions on the information available which suggests that the proportion accounted for by CD boxes in the users' costs of production is estimated to be about 1 % on a weighted average basis. The CD boxes input, therefore, does not account for a major proportion of users' costs. Such proportions indicate that an average duty rate of approximately 10 % in respect of the People's Republic of China may have a maximum impact of a 0,1 % increase in the cost of production of Community CD-box users. It should also be borne in mind that the investigation showed that in value terms, roughly 20 %

of these users' CD-box purchases were from the People's Republic of China. The final impact on the sales prices of CD boxes therefore is expected to be less than 0,02 %, even assuming that any increase in cost caused by the duty is fully passed on. Any cost and price increase, therefore, is not expected to be disproportionate to the benefits expected to accrue to the Community industry from the removal of the injury caused by dumping.

The Commission consequently concludes that imposing anti-dumping measures will not threaten the commercial viability of users, or have a noticeable impact on the profit margins of these companies which, as pointed out in recital 66 will continue to have unrestricted access to other sources of supply.

5. Conclusion on Community interest

- (69) The dumped imports from the People's Republic of China have been found to have caused injury to the Community industry, and the Commission considers that, for the foregoing reasons, it is not against the overall interest of the Community to impose provisional anti-dumping measures.

The Commission will however continue to examine the Community interest aspects of this proceeding at the definitive stage of the investigation.

G. PROVISIONAL ANTI-DUMPING MEASURES

1. Injury elimination level

- (70) In assessing the injury elimination level, the Commission took account of the fact that the weighted average Community producers' price in the Community declined significantly over the period 1995 to the investigation period, in order to match the price levels of the dumped imports. This worsened the Community industry's profit situation.

- (71) When determining the profit margin, the Commission examined what amount the Community industry could reasonably be expected to make is the absence of injurious dumping. The investigation established that a profit margin of 6 % should provisionally be regarded as representing an appropriate minimum. This is a rather conservative estimate given the fact that this was the profit rate the Community industry achieved in 1996, i.e. during a period where the dumped imports from the People's Republic of China had not yet achieved the high market share held during the investigation period but were nevertheless already at significant levels (9 % market share).

- (72) The weighted average injury elimination price level for the Community industry was established using the Community industry's weighted average cost of production per unit on an ex-works basis plus the 6 % profit margin mentioned, above. This price was compared, on a direct product type-to-type basis, with the cif prices of the dumped imports, duty paid at the Community frontier, at the appropriate level of trade. An injury margin was established for each of the exporting producers concerned as a result of the comparison and this margin was expressed as a percentage of the cif value of their exports to the Community.

On this basis, the injury margins were higher than the dumping margins.

2. Provisional measures

- (73) In accordance with Article 7(2) of the basic Regulation, as the injury margins were higher than the dumping margins found for the cooperating Chinese exporters, the provisional anti-dumping duty should be set at the level of the latter.
- (74) Since CD boxes are often exported in disassembled form, the anti-dumping duty should apply to the assembled product as well as to the disassembled one.
- (75) The individual company provisional anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the country-wide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the country concerned and produced by the companies and thus by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.
- (76) Any claim requesting the application of these individual company provisional anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission⁽¹⁾ forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, that name change or that change in the

production and sales entities. The Commission, if appropriate, will, after consultation of the Advisory Committee, amend the Regulation accordingly by updating the list of companies benefiting from individual duty rates.

3. Final provision

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

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of compact discs boxes, including those for DVDs and similar products, of plastics, falling within CN code ex 3923 10 00 (TARIC code 3923 10 00*10) and originating in the People's Republic of China.

This duty also applies to imports of:

- compact-discs cases (consisting of a base and a lid assembled together), of plastics, falling within CN code ex 3923 10 00 (TARIC code 3923 10 00*10),
- trays, bases and lids of compact-discs boxes, of plastics, falling within CN code ex 3923 90 90 (TARIC code 3923 90 90*10), whether assembled or not.

2. The provisional rate of duty applicable to the net free-at-Community-frontier price, before duty, for products produced by the following exporting companies shall be as follows.

Companies	Rate of duty %	Taric additional code
Viva Magnetics Ltd, Hong Kong	6,6	A046
Golden Age A-V Products Ltd, Hong Kong	8,3	A047
ACME Cassette Manufacturing Ltd, Hong Kong	10,4	A048
All other exporting producers in the People's Republic of China	20,1	A999

⁽¹⁾ European Commission Directorate-General Trade Directorate CDM 24 - 8/38
Rue de la Loi/Wetstraat 200
B-1049 Brussels.

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

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

Article 2

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

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

Article 3

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

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

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

Done at Brussels, 3 December 1999.

For the Commission

Pascal LAMY

Member of the Commission

COMMISSION REGULATION (EC) No 2564/1999**of 3 December 1999****fixing the maximum export refund on wholly milled long grain rice in connection with the invitation to tender issued in Regulation (EC) No 2176/1999**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Regulation (EC) No 2072/98 ⁽²⁾, and in particular Article 13 (3) thereof,

(1) Whereas an invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2176/1999 ⁽³⁾;

(2) Whereas, Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 299/95 ⁽⁵⁾, allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund; whereas in fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account; whereas a contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund;

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

(4) 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 maximum export refund on wholly milled long grain rice falling within CN code 1006 30 67 to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 2176/1999 is hereby fixed on the basis of the tenders submitted from 26 November to 2 December 1999 at EUR/t 242,00.

Article 2

This Regulation shall enter into force on 4 December 1999.

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

Done at Brussels, 3 December 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 265, 30.9.1998, p. 4.

⁽³⁾ OJ L 267, 15.10.1999, p. 4.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 35, 15.2.1995, p. 8.

COMMISSION REGULATION (EC) No 2565/1999**of 3 December 1999****fixing the maximum export refund on wholly milled round grain rice in connection with the invitation to tender issued in Regulation (EC) No 2180/1999**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organization of the market in rice ⁽¹⁾, as last amended by Regulation (EC) No 2072/98 ⁽²⁾, and in particular Article 13 (3) thereof,

(1) Whereas an invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2180/1999 ⁽³⁾;

(2) Whereas Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 299/95 ⁽⁵⁾, allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund; whereas in fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account; whereas a contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund;

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

(4) 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 maximum export refund on wholly milled round grain rice to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 2180/1999 is hereby fixed on the basis of the tenders submitted from 26 November to 2 December 1999 at 124,00 EUR/t.

Article 2

This Regulation shall enter into force on 4 December 1999.

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

Done at Brussels, 3 December 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 265, 30.9.1998, p. 4.

⁽³⁾ OJ L 267, 15.10.1999, p. 16.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 35, 15.2.1995, p. 8.

COMMISSION REGULATION (EC) No 2566/1999**of 3 December 1999****fixing the maximum export refund on wholly milled round grain, medium grain and long grain A rice in connection with the invitation to tender issued in Regulation (EC) No 2179/1999**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Regulation (EC) No 2072/98 ⁽²⁾, and in particular Article 13(3) thereof,

- (1) Whereas an invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2179/1999 ⁽³⁾;
- (2) Whereas Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 299/95 ⁽⁵⁾, allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund; whereas in fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account; whereas a contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund;

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

(4) 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 maximum export refund on wholly milled grain, medium grain and long grain A rice to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 2179/1999 is hereby fixed on the basis of the tenders submitted from 26 November to 2 December 1999 at EUR/t 132,00.

Article 2

This Regulation shall enter into force on 4 December 1999.

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

Done at Brussels, 3 December 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 265, 30.9.1998, p. 4.

⁽³⁾ OJ L 267, 15.10.1999, p. 13.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 35, 15.2.1995, p. 8.

COMMISSION REGULATION (EC) No 2567/1999**of 3 December 1999****fixing the maximum export refund on wholly milled medium grain and long grain A rice in connection with the invitation to tender issued in Regulation (EC) No 2178/1999**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organization of the market in rice ⁽¹⁾, as last amended by Regulation (EC) No 2072/98 ⁽²⁾, and in particular Article 13 ⁽³⁾ thereof,

- (1) Whereas an invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2178/1999 ⁽³⁾;
- (2) Whereas Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 299/95 ⁽⁵⁾, allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund; whereas in fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account; whereas a contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund;

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

(4) 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 maximum export refund on wholly milled medium grain and long grain A rice to be exported to certain third countries pursuant to the invitation to tender issued in European Regulation (EC) No 2178/1999 is hereby fixed on the basis of the tenders submitted from 26 November to 2 December 1999 at 140,00 EUR/t.

Article 2

This Regulation shall enter into force on 4 December 1999.

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

Done at Brussels, 3 December 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 265, 30.9.1998, p. 4.

⁽³⁾ OJ L 267, 15.10.1999, p. 10.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 35, 15.2.1995, p. 8.

**COMMISSION REGULATION (EC) No 2568/1999
of 3 December 1999**

correcting Regulation (EC) No 2528/1999 fixing Community producer and import prices for carnations and roses with a view to the application of the arrangements governing imports of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and Gaza Strip

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan, Morocco and the West Bank and Gaza Strip ⁽¹⁾, as last amended by Regulation (EC) No 1300/97 ⁽²⁾, and in particular Article 5(2)(a) thereof,

Whereas checks have shown that the figures given for multi-florous (spray) carnations in the Annex to Commission Regula-

tion (EC) No 2528/1999 ⁽³⁾ are incorrect; whereas that Annex must therefore be corrected,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 2528/1999 is replaced by the Annex hereto.

Article 2

This Regulation shall enter into force on 4 December 1999.

It shall apply from 1 to 14 December 1999.

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

Done at Brussels, 3 December 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 382, 31.12.1987, p. 22.

⁽²⁾ OJ L 177, 5.7.1997, p. 1.

⁽³⁾ OJ L 306, 1.12.1999, p. 13.

ANNEX

(EUR/100 pieces)

Period from 1 to 14 December 1999				
Community producer price	Uniflorous (bloom) carnations	Multiflorous (spray) carnations	Large-flowered roses	Small-flowered roses
	14,38	9,17	32,98	13,65
Community import prices	Uniflorous (bloom) carnations	Multiflorous (spray) carnations	Large-flowered roses	Small-flowered roses
Israel	7,42	—	11,59	10,20
Morocco	11,51	12,60	—	—
Cyprus	—	—	—	—
Jordan	—	—	—	—
West Bank and Gaza Strip	—	—	—	—

COMMISSION REGULATION (EC) No 2569/1999**of 3 December 1999****repealing Regulation (EC) No 2529/1999 suspending the preferential customs duty and re-establishing the Common Customs Tariff duty on imports of multiflorous (spray) carnations originating in Morocco**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan, Morocco and the West Bank and Gaza Strip ⁽¹⁾, as last amended by Regulation (EC) No 1300/97 ⁽²⁾, and in particular Article 5(2)(b) thereof,

Whereas scrutiny of Commission Regulation (EC) No 2528/1999 of 30 November 1999 fixing Community producer and import prices for carnations and roses with a view to the application of the arrangements governing imports of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and Gaza Strip ⁽³⁾ has shown that the Annex is incorrect in the case of multiflorous (spray) carnations; whereas the correct version of the Annex is based on the figure in respect of multiflorous (spray) carnations imported from Morocco; whereas, accordingly, the preferential customs duties introduced by Council Regulation (EC) No 1981/94 of 25 July 1994 opening and providing for the administration of Community tariff quotas for various products

originating in Algeria, Cyprus, Egypt, Israel, Jordan, Malta, Morocco, the West Bank and Gaza Strip, Tunisia and Turkey, as well as the detailed rules for extending and adjusting these quotas ⁽⁴⁾, as last amended by Commission Regulation (EC) No 650/98 ⁽⁵⁾, should be maintained; whereas Commission Regulation (EC) No 2529/1999 ⁽⁶⁾ should therefore be repealed,

HAS ADOPTED THIS REGULATION:

Article 1

The preferential customs duty on imports of multiflorous (spray) carnations originating in Morocco is hereby restored with effect from 2 December 1999.

Article 2

Regulation (EC) No 2529/1999 is hereby repealed.

Article 3

This Regulation shall enter into force on 4 December 1999.

It shall apply from 2 December 1999.

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

Done at Brussels, 3 December 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 382, 31.12.1987, p. 22.

⁽²⁾ OJ L 177, 5.7.1997, p. 1.

⁽³⁾ OJ L 306, 1.12.1999, p. 13.

⁽⁴⁾ OJ L 199, 2.8.1994, p. 1.

⁽⁵⁾ OJ L 88, 24.3.1998, p. 8.

⁽⁶⁾ OJ L 326, 28.11.1997, p. 19.

COMMISSION REGULATION (EC) No 2570/1999**of 3 December 1999****on the sale by tender of beef held by certain intervention agencies and repealing Regulation (EC) No 1616/1999**

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 Article 7(3) thereof,

Whereas:

- (1) the application of intervention measures in respect of beef has created stocks in several Member States; whereas, in order to prevent an excessive prolongation of storage, part of these stocks should be sold by tender;
- (2) the sale should be made subject to the rules laid down by Commission Regulation (EEC) No 2173/79 ⁽³⁾, as last amended by Regulation (EC) No 2417/95 ⁽⁴⁾, subject to certain special exceptions which are necessary;
- (3) with a view to ensuring a regular and uniform tendering procedure, measures should be taken in addition to those laid down in Article 8(1) of Regulation (EEC) No 2173/79;
- (4) provision should be made for derogations from Article 8(2)(b) of Regulation (EEC) No 2173/79, in view of the administration difficulties which application of this point creates in the Member States concerned;
- (5) Regulation (EC) No 1616/1999 ⁽⁵⁾ should be repealed;
- (6) 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

1. The sale shall take place of:
 - approximately 4 000 tonnes of bone-in beef held by the German intervention agency,

- approximately 680 tonnes of bone-in beef held by the Spanish intervention agency,
- approximately 1 492 tonnes of boneless beef held by the United Kingdom intervention agency.

Detailed information concerning quantities is given in Annex I.

2. Subject to the provisions of this Regulation the products referred to in paragraph 1 shall be sold in accordance with Regulation (EEC) No 2173/79, in particular Titles II and III thereof.

Article 2

1. Notwithstanding Articles 6 and 7 of Regulation (EEC) No 2173/79, the provisions of and Annexes to this Regulation shall serve as a general notice of invitations to tender.

The intervention agencies concerned shall draw up a notice of invitation to tender which shall include the following:

- (a) the quantities of beef offered for sale; and
- (b) the deadline and place for submitting tenders.

2. Interested parties may obtain the details of the quantities available and the places where the products are stored from the addresses listed in Annex II to this Regulation. The intervention agencies shall, in addition, display the notice referred to in paragraph 1 at their head offices and may publish it in other ways.

3. For each product mentioned in Annex I the intervention agencies concerned shall sell first the meat which has been stored the longest.

4. Only tenders which reach the intervention agencies concerned by 12 noon on 13 December 1999 shall be considered.

5. Notwithstanding Article 8(1) of Regulation (EEC) No 2173/79, a tender must be submitted to the intervention agency concerned in a closed envelope, bearing the reference to the Regulation concerned. The closed envelope must not be opened by the intervention agency before the expiry of the tender deadline referred to in paragraph 4.

6. Notwithstanding Article 8(2)(b) of Regulation (EEC) No 2173/79, tenders shall not indicate in which cold store or stores the products are held.

⁽¹⁾ OJ L 148, 28.6.1968, p. 24.

⁽²⁾ OJ L 210, 28.7.1998, p. 17.

⁽³⁾ OJ L 251, 5.10.1979, p. 12.

⁽⁴⁾ OJ L 248, 14.10.1995, p. 39.

⁽⁵⁾ OJ L 192, 24.7.1999, p. 4.

7. Notwithstanding Article 18(1) of Regulation (EEC) No 2173/79 the time limit for taking over meat sold pursuant to this Regulation shall be three months from the day of the notification referred to in Article 11 of the same Regulation.

Article 3

1. Member States shall provide the Commission with information concerning the tenders received not later than the working day following the deadline set for the submission of tenders.

2. After the tenders received have been examined a minimum selling price shall be set for each product or the sale will not proceed.

Article 4

The security provided for in Article 15(1) of Regulation (EEC) No 2173/79 shall be EUR 120/t.

Article 5

Regulation (EC) No 1616/1999 is hereby repealed.

Article 6

This Regulation shall enter into force on the third 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, 3 December 1999.

For the Commission

Franz FISCHLER

Member of the Commission

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

Estado miembro	Productos ⁽¹⁾	Cantidad aproximada (toneladas)
Medlemsstat	Produkter ⁽¹⁾	Tilnærmet mængde (tons)
Mitgliedstaat	Erzeugnisse ⁽¹⁾	Ungefähre Mengen (Tonnen)
Κράτος μέλος	Προϊόντα ⁽¹⁾	Κατά προσέγγιση ποσότητα (τόνοι)
Member State	Products ⁽¹⁾	Approximate quantity (tonnes)
État membre	Produits ⁽¹⁾	Quantité approximative (tonnes)
Stato membro	Prodotti ⁽¹⁾	Quantità approssimativa (tonnellate)
Lidstaat	Producten ⁽¹⁾	Hoeveelheid bij benadering (ton)
Estado-Membro	Produtos ⁽¹⁾	Quantidade aproximada (toneladas)
Jäsenvaltio	Tuotteet ⁽¹⁾	Arvioitu määrä (tonneina)
Medlemsstat	Produkter ⁽¹⁾	Ungefärlig kvantitet (ton)

a) **Carne con hueso — Kød, ikke udbenet — Fleisch mit Knochen — Κρέατα με κόκαλα — Bone-in beef — Viande avec os — Carni non disossate — Vlees met been — Carne com osso — Luullinen naudanliha — Kött med ben**

DEUTSCHLAND	— Hinterviertel	4 000
ESPAÑA	— Cuartos traseros	680

b) **Carne deshuesada — Udbenet kød — Fleisch ohne Knochen — Κρέατα χωρίς κόκαλα — Boneless beef — Viande désossée — Carni senza osso — Vlees zonder been — Carne desossada — Luuton naudanliha — Benfritt kött**

UNITED KINGDOM	— Intervention fillet (INT 15)	9
	— Intervention striploin (INT 17)	370
	— Intervention rump (INT 16)	148
	— Intervention silverside (INT 14)	55
	— Intervention flank (INT 18)	110
	— Intervention forerib (INT 19)	120
	— Intervention shoulder (INT 22)	400
	— Intervention brisket (INT 23)	105
	— Intervention thick flank (INT 12)	25
	— Intervention forequarter (INT 24)	150

⁽¹⁾ Véanse los anexos V y VII del Reglamento (CEE) n° 2456/93 de la Comisión (DO L 225 de 4.9.1993, p. 4), cuya última modificación la constituye el Reglamento (CE) n° 2812/98 (DO L 349 de 24.12.1998, p. 47).

⁽²⁾ Se bilag V og VII til Kommissionens forordning (EØF) nr. 2456/93 (EFT L 225 af 4.9.1993, s. 4), senest ændret ved forordning (EF) nr. 2812/98 (EFT L 349 af 24.12.1998, s. 47).

⁽³⁾ Vgl. Anhänge V und VII der Verordnung (EWG) Nr. 2456/93 der Kommission (ABl. L 225 vom 4.9.1993, S. 4), zuletzt geändert durch die Verordnung (EG) Nr. 2812/98 (ABl. L 349 vom 24.12.1998, S. 47).

⁽⁴⁾ Βλέπε παραρτήματα V και VII του κανονισμού (ΕΟΚ) αριθ. 2456/93 της Επιτροπής (ΕΕ L 225 της 4.9.1993, σ. 4), όπως τροποποιήθηκε τελευταία από τον κανονισμό (ΕΚ) αριθ. 2812/98 (ΕΕ L 349 της 24.12.1998, σ. 47).

⁽⁵⁾ See Annexes V and VII to Commission Regulation (EEC) No 2456/93 (OJ L 225, 4.9.1993, p. 4), as last amended by Regulation (EC) No 2812/98 (OJ L 349, 24.12.1998, p. 47).

⁽⁶⁾ Voir annexes V et VII du règlement (CEE) n° 2456/93 de la Commission (JO L 225 du 4.9.1993, p. 4). Règlement modifié en dernier lieu par le règlement (CE) n° 2812/98 (JO L 349 du 24.12.1998, p. 47).

⁽⁷⁾ Cfr. allegati V e VII del regolamento (CEE) n. 2456/93 della Commissione (GU L 225 del 4.9.1993, pag. 4), modificato da ultimo dal regolamento (CE) n. 2812/98 (GU L 349 del 24.12.1998, pag. 47).

⁽⁸⁾ Zie de bijlagen V en VII bij Verordening (EEG) nr. 2456/93 van de Commissie (PB L 225 van 4.9.1993, blz. 4), laatstelijk gewijzigd bij Verordening (EG) nr. 2812/98 (PB L 349 van 24.12.1998, blz. 47).

⁽⁹⁾ Ver anexos V e VII do Regulamento (CEE) n.º 2456/93 da Comissão (JO L 225 de 4.9.1993, p. 4). Regulamento com a última redacção que lhe foi dada pelo Regulamento (CE) n.º 2812/98 (JO L 349 de 24.12.1998, p. 47).

⁽¹⁰⁾ Katso komission asetuksen (ETY) N:o 2456/93 (EYVL L 225, 4.9.1993, s. 4), sellaisena kuin se on viimeksi muutettuna asetuksella (EY) N:o 2812/98 (EYVL L 349, 24.12.1998, s. 47) liitteen V ja VII.

⁽¹¹⁾ Se bilagorna V och VII i kommissionens förordning (EEG) nr 2456/93 (EGT L 225, 4.9.1993, s. 4), senast ändrad genom förordning (EG) nr 2812/98 (EGT L 349, 24.12.1998, s. 47).

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

Direcciones de los organismos de intervención — Interventionsorganernes adresser — Anschriften der Interventionsstellen — Διευθύνσεις των οργανισμών παρεμβάσεως — Addresses of the intervention agencies — Adresses des organismes d'intervention — Indirizzi degli organismi d'intervento — Adressen van de interventiebureaus — Endereços dos organismos de intervenção — Interventioelinten osoitteet — Interventionsorganens adresser

BUNDESREPUBLIK DEUTSCHLAND

Bundesanstalt für Landwirtschaft und Ernährung (BLE)
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UNITED KINGDOM

Intervention Board Executive Agency
Kings House
33 Kings Road
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United Kingdom
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ESPAÑA

FEGA (Fondo Español de Garantía Agraria)
Beneficencia, 8
E-28005 Madrid
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COMMISSION DIRECTIVE 1999/91/EC
of 23 November 1999
amending Directive 90/128/EEC relating to plastic materials and articles intended to come into
contact with foodstuffs
(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 89/109/EEC of 21 December 1988 on the approximation of the laws of the Member States relating to materials and articles intended to come into contact with foodstuffs ⁽¹⁾ and in particular Article 3 thereof,

After consulting the Scientific Committee on Food,

Whereas:

- (1) Commission Directive 90/128/EEC ⁽²⁾, as last amended by Directive 96/11/EC ⁽³⁾, provides in Article 3(2) for the revision of Annex II thereto.
- (2) On the basis of the information available, certain monomers provisionally admitted at national level may be included in the Community list.
- (3) Other monomers have been requested for use following the adoption of Directive 90/128/EEC: the technical data supplied permit their inclusion in the Community list.
- (4) Annex III to Directive 90/128/EEC includes a list of additives, which should be amended so as to include other additives fully evaluated by the Scientific Committee on Food.
- (5) For certain substances, the restrictions already set out should be amended according to the information available.
- (6) The current total list of additives is an incomplete list inasmuch as it does not contain all the substances which are currently accepted in one or more Member States; accordingly, these substances continue to be regulated by national laws pending a decision on inclusion in the Community list.
- (7) This Directive establishes purity criteria for only a few substances, and therefore the other substances which may require purity criteria remain regulated in this respect by national laws pending a decision at Community level.
- (8) The measures contained in this Directive do not go beyond what is necessary to achieve the objectives already provided for in Directive 89/109/EEC.

- (9) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Foodstuffs,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 90/128/EEC is amended as follows:

1. the fourth indent of Article 3(5) is deleted;
2. Article 3a is replaced by the following:

'Article 3a

An incomplete list of additives which may be used for the manufacture of plastic materials and articles, together with the restrictions on their use, is set out in Annex III';

3. the following Articles 3b and 3c are inserted:

'Article 3b

Only the products obtained by means of bacterial fermentation listed in Annex IV may be used in contact with foodstuffs.

Article 3c

1. The specifications relating to some substances appearing in Annexes II, III and IV are laid down in Annex V.

2. The meaning of the numbers between brackets appearing in the Column "Restrictions and/or specifications" is explained in Annex VI;

4. Annex II is amended as shown in Annex I to this Directive;
5. Annex III is amended as shown in Annex II to this Directive;
6. the texts set out in Annex III to this Directive are added as Annexes IV, V and VI.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 31 December 2000. They shall immediately inform the Commission thereof.

Member States shall permit, as from 1 January 2002, the trade in and use of plastic materials and articles intended to come into contact with foodstuffs and complying with this Directive.

They shall prohibit, as from 1 January 2003, the manufacture and importation into the Community of plastic materials and articles intended to come into contact with foodstuffs and which do not comply with this Directive.

⁽¹⁾ OJ L 40, 11.2.1989, p. 38.

⁽²⁾ OJ L 75, 21.3.1990, p. 19.

⁽³⁾ OJ L 61, 12.3.1996, p. 26.

2. When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 23 November 1999.

For the Commission

Erkki LIIKANEN

Member of the Commission

ANNEX I

Annex II is amended as follows:

1. The fourth indent of paragraph 5 is replaced by the following:
 - Column 4 (Restrictions and/or specifications). These may include:
 - specific migration limit (SML),
 - maximum permitted quantity of the substance in the finished material or article (QM),
 - maximum permitted quantity of the substance in the finished material or article expressed as mg per 6 dm² of the surface in contact with foodstuffs (QMA),
 - any other restriction specifically mentioned,
 - any type of specifications related to the substance or to the polymer;
2. The title of column 4 is modified to 'Restrictions and/or specifications';
3. Sections A and B are amended as shown in Appendices 1 to 5.

Appendix 1

List of monomers and other starting substances inserted in Section A of Annex II to Directive 90/128/EEC

PM/REF No	CAS No	Name	Restrictions and/or specifications
(1)	(2)	(3)	(4)
12761	000693-57-2	12-Aminododecanoic acid	SML = 0,05 mg/kg
13180	000498-66-8	Bicyclo[2.2.1]hept-2-ene (= norbornene)	SML = 0,05 mg/kg
13210	001761-71-3	Bis(4-aminocyclohexyl)methane	SML = 0,05 mg/kg
14650	000079-38-9	Chlorotrifluoroethylene	QMA = 0,05 mg/6 dm ²
14841	000599-64-4	4-Cumylphenol	SML = 0,05 mg/kg
16694	013811-50-2	N,N'-Divinyl-2-imidazolidinone	QM = 5 mg/kg in FP
16704	000112-41-4	1-Dodecene	SML = 0,05 mg/kg
22331	025513-64-8	Mixture of (40 % w/w) 1,6-diamino-2,2,4-trimethylhexane and (60 % w/w) 1,6-diamino-2,4,4-trimethylhexane	QMA = 5 mg/6 dm ²
22550	000498-66-8	Norbornene	See "Bicyclo[2.2.1]hept-2-ene"
23175	000122-52-1	Phosphorous acid, triethyl ester	QM = ND (DL = 1 mg/kg in FP)
23547	009016-00-6 063148-62-9	Polydimethylsiloxane (MW > 6800)	In compliance with the specifications laid down in Annex V
25080	001120-36-1	1-Tetradecene	SML = 0,05 mg/kg
25385	000102-70-5	Triallylamine	In compliance with the specifications laid down in Annex V
25927	027955-94-8	1,1,1-Tris(4-hydroxyphenyl)ethane	QM = 0,5 mg/kg in FP. For use only in polycarbonates
26155	001072-63-5	1-Vinylimidazole	QM = 5 mg/kg in FP
26320	002768-02-7	Vinyltrimethoxysilane	QM = 5 mg/kg in FP
26360	007732-18-5	Water	In compliance with Directive 98/83/EC

Appendix 2

List of monomers and other starting substances in Section A of Annex II to Directive 90/128/EEC for which the content of the column "Restriction and/or specifications" is modified

PM/Ref No	CAS No	Name	Restrictions and/or specifications
(1)	(2)	(3)	(4)
10060	000075-07-0	Acetaldehyde	SML(T) = 6 mg/kg (2)
13510	001675-54-3	2,2-Bis(4-hydroxyphenyl)propane bis(2,3-epoxypropyl) ether (= BADGE)	SML(T) = 1 mg/kg (9) Authorised until 1 January 2005
14200	000105-60-2	Caprolactam	SML(T) = 15 mg/kg (5)
14230	002123-24-2	Caprolactam, sodium salt	SML(T) = 15 mg/kg (5) (expressed as caprolactam)
15760	000111-46-6	Diethyleneglycol	SML(T) = 30 mg/kg (3)
16990	000107-21-1	Ethyleneglycol	SML(T) = 30 mg/kg (3)
17160	000097-53-0	Eugenol	SML = ND (DL = 0,02 mg/kg, analytical tolerance included)
19540	000110-16-7	Maleic acid	SML(T) = 30 mg/kg (4)
19960	000108-31-6	Maleic anhydride	SML(T) = 30 mg/kg (4) (expressed as maleic acid)
25360	—	Trialkyl(C5-C15) acetic acid, 2,3-epoxypropyl ester	QM = 1 mg/kg in FP (expressed as epoxy group, molecular weight = 43)

Appendix 3

List of monomers and others starting substances deleted from Section B of Annex II to Directive 90/128/EEC

PM/Ref No	CAS No	Name	Restrictions and/or specifications
(1)	(2)	(3)	(4)
22428	051000-52-3	Neodecanoic acid, vinyl ester	

Appendix 4

List of monomers and other starting substances in Section B of Annex II to Directive 90/128/EEC for which the content of the column "Restrictions and/or specifications" is modified

PM/Ref No	CAS No	Name	Restrictions and/or specifications
(1)	(2)	(3)	(4)
16690	001321-74-0	Divinylbenzene	QM = 1 mg/kg in FP or SML = ND (DL = 0,02 mg/kg, analytical tolerance included)
20590	000106-91-2	Methacrylic acid, 2,3-epoxypropyl ester	QM(T) = 5 mg/kg in FP (expressed as epoxy group, molecular weight = 43)
22720	000140-66-9	4-tert-Octylphenol	See "4-(1,1,3,3-Tetramethylbutyl)phenol"
25185	000140-66-9	4-(1,1,3,3-Tetramethylbutyl)phenol (= 4-tert-Octylphenol)	SML = ND (DL = 0,01 mg/kg, analytical tolerance included)

Appendix 5

List of monomers and other starting substances transferred from Section B to Section A of Annex II to Directive 90/128/EEC

PM/Ref No	CAS No	Name	Restrictions and/or specifications
(1)	(2)	(3)	(4)
11000	050976-02-8	Acrylic acid, dicyclopentadienyl ester	QMA = 0,05 mg/6 dm ²
11245	002156-97-0	Acrylic acid, dodecyl ester	SML = 0,05 mg/kg (1)
12265	004074-90-2	Adipic acid, divinyl ester	QM = 5 mg/kg in FP. For use only as comonomer
13060	004422-95-1	1,3,5-Benzenetricarboxylic acid trichloride	QMA = 0,05 mg/6 dm ² (measured as 1,3,5-benzenetricarboxylic acid)
13780	002425-79-8	1,4-Butanediol bis(2,3-epoxypropyl) ether	QM = 1 mg/kg in FP (expressed as epoxy group, molecular weight = 43)
14020	000098-54-4	4-tert-Butylphenol	SML = 0,05 mg/kg
15130	000872-05-9	1-Decene	SML = 0,05 mg/kg
16360	000576-26-1	2,6-Dimethylphenol	SML = 0,05 mg/kg
16450	000646-06-0	1,3-Dioxolane	SML = 0,05 mg/kg
18220	068564-88-5	N-Heptylaminoundecanoic acid	SML = 0,05 mg/kg (1)
18820	000592-41-6	1-Hexene	SML = 3 mg/kg
19060	000109-53-5	Isobutyl vinyl ether	QM = 5 mg/kg in FP
19150	000121-91-5	Isophthalic acid	SML = 5 mg/kg
19990	000079-39-0	Methacrylamide	SML = ND (DL = 0,02 mg/kg, analytical tolerance included)
20050	000096-05-9	Methacrylic acid, allyl ester	SML = 0,05 mg/kg
20530	002867-47-2	Methacrylic acid, 2-(dimethylamino)ethyl ester	SML = ND (DL = 0,02 mg/kg, analytical tolerance included)
21730	000563-45-1	3-Methyl-1-butene	QMA = 0,006 mg/6 dm ² . For use only in polypropylene.
22937	001623-05-8	Perfluoropropyl perfluorovinyl ether	SML = 0,05 mg/kg
23770	000504-63-2	1,3-Propanediol	SML = 0,05 mg/kg
23920	000105-38-4	Propionic acid, vinyl ester	SML(T) = 6 mg/kg (2) (expressed as acetaldehyde)
24760	026914-43-2	Styrenesulphonic acid	SML = 0,05 mg/kg
26170	003195-78-6	N-Vinyl-N-methylacetamide	QM = 2 mg/kg in FP'

ANNEX II

Annex III is amended as follows:

- The fourth indent of paragraph 5 is replaced by the following:
 '— Column 4 (Restrictions and/or specifications). These may include:
 — specific migration limit (SML),
 — maximum permitted quantity of the substance in the finished material or article (QM),
 — maximum permitted quantity of the substance in the finished material or article expressed as mg per 6 dm² of the surface in contact with foodstuffs (QMA),
 — any other restriction specifically laid down,
 — any type of specification related to the substance or to the polymer;'
- The title of the column 4 is modified into 'Restrictions and/or specifications';
- 'Incomplete list of additives' is amended as shown in Appendices 1, 2 and 3.

'Appendix 1

List of additives inserted in Annex III to Directive 90/128/EEC

PM/REF No	CAS No	Name	Restrictions and/or specifications
(1)	(2)	(3)	(4)
30080	004180-12-5	Acetic acid, copper salt	SML(T) = 30 mg/kg (7) (expressed as copper)
30610	—	Acids, C2-C24, aliphatic, linear, monocarboxylic, from natural oils and fats, and their mono-, di- and triglycerol esters (branched fatty acids at naturally occurring levels are included)	
30612	—	Acids, C2-C24, aliphatic, linear, monocarboxylic, synthetic, and their mono-, di- and triglycerol esters	
31530	123968-25-2	Acrylic acid, 2,4-di-tert-pentyl-6-[1-(3,5-di-tert-pentyl-2-hydroxy-phenyl)ethyl]phenyl ester	SML = 5 mg/kg
33801	—	n-Alkyl(C10-C13)benzenesulphonic acid	SML = 30 mg/kg
34240	—	Alkyl(C10-C20)sulphonic acid, esters with phenols	SML = 6 mg/kg. Authorised until 1 January 2002
36640	000123-77-3	Azodicarbonamide	For use only as a blowing agent
37360	000100-52-7	Benzaldehyde	In compliance with note 10 in Annex VI
38320	005242-49-9	4-(2-Benzoxazoly)-4'-(5-methyl-2-benzoxazoly)stilbene	In compliance with the specifications laid down in Annex V

PM/REF No	CAS No	Name	Restrictions and/or specifications
(1)	(2)	(3)	(4)
38510	136504-96-6	1,2-Bis(3-aminopropyl)ethylenediamine, polymer with N-butyl-2,2,6,6-tetramethyl-4-piperidinamine and 2,4,6-trichloro-1,3,5-triazine	SML = 5 mg/kg
38515	001533-45-5	4,4-Bis(2-benzoxazolyl)stilbene	SML = 0,05 mg/kg (1)
38810	080693-00-1	Bis(2,6-di-tert-butyl-4-methylphenyl)pentaerythritol diphosphite	SML = 5 mg/kg (sum of phosphite and phosphate)
38879	135861-56-2	Bis(3,4-dimethylbenzylidene)sorbitol	
39200	006200-40-4	Bis(2-hydroxyethyl)-2-hydroxypropyl-3-(dodecyloxy)methylammonium chloride	SML = 1,8 mg/kg
39815	182121-12-6	9,9-Bis(metoxymethyl)fluorene	QMA = 0,05 mg/6 dm ²
40120	—	Bis(polyethyleneglycol)hydroxymethylphosphonate	SML = 0,6 mg/kg. Authorised until 1 January 2002
41680	000076-22-2	Camphor	In compliance with note 10 in Annex VI
42320	007492-68-4	Carbonic acid, copper salt	SML(T) = 30 mg/kg (7) expressed as copper)
43515	—	Chlorides of choline esters of coconut oil fatty acids	QMA = 0,9 mg/6 dm ²
45195	007787-70-4	Copper bromide	SML(T) = 30 mg/kg (7) (expressed as copper)
45200	001335-23-5	Copper iodide	SML(T) = 30 mg/kg (7) (expressed as copper) and SML = 1 mg/kg (expressed as iodine)
45450	068610-51-5	p-Cresol-dicyclopentadiene-isobutylene, copolymer	SML = 0,05 mg/kg (1)
46880	065140-91-2	3,5-Di-tert-butyl-4-hydroxybenzyl phosphonic acid, monoethyl ester, calcium salt	SML = 6 mg/kg
47680	000111-46-6	Diethyleneglycol	SML(T) = 30 mg (3)
48460	000075-37-6	1,1-Difluoroethane	
49485	134701-20-5	2,4-Dimethyl-6-(1-methylpentadecyl)phenol	SML = 1 mg/kg
51700	147315-50-2	2-(4,6-Dphenyl-1,3,5-triazin-2-yl)-5-(hexyloxy)phenol	SML = 0,05 mg/kg
53610	054453-03-1	Ethylenediaminetetraacetic acid, copper	SML(T) = 30 mg/kg (7) (expressed as copper)

PM/REF No	CAS No	Name	Restrictions and/or specifications
(1)	(2)	(3)	(4)
53650	000107-21-1	Ethyleneglycol	SML(T) = 30 mg/kg (3)
54300	118337-09-0	2,2'-Ethylidenebis(4,6-di-tert-butyl-phenyl) fluorophosphonite	SML = 6 mg/kg
54930	025359-91-5	Formaldehyde-1-naphthol, copolymer [=Poly(1-hydroxynaphthyl-methane)]	SML = 0,05 mg/kg
57800	018641-57-1	Glycerol tribehenate	
60480	003864-99-1	2-(2-Hidroxy-3,5-di-tert-butyl-phenyl)-5-chlorobenzotriazole	SML = 30 mg/kg
66560	004066-02-8	2,2'-Methylenebis(4-methyl-6-cyclo-hexylphenol)	SML(T) = 3 mg/kg (6)
66580	000077-62-3	2,2'-Methylenebis[4-methyl-6-(1-methylcyclo-hexyl)phenol]	SML(T) = 3 mg/kg (6)
66755	002682-20-4	2-Methyl-4-isothiazolin-3-one	SML = ND (LD = 0,02 mg/kg, analytical tolerance included)
67170	—	Mixture of (80 to 100 % w/w) 5,7-di-tert-butyl-3-(3,4-dimethylphenyl)-2(3H)-benzofuranone and (0 to 20 % w/w) 5,7-di-tert-butyl-3-(2,3-dimethylphenyl)-2(3H)-benzofuranone	SML = 5 mg/kg
67180	—	Mixture of (50 % w/w) phthalic acid, n-decyl n-octyl ester, (25 % w/w) phthalic acid di-n-decyl ester, and (25 % w/w) phthalic acid di-n-decyl ester, and (25 % w/w) phthalic acid di-n-octyl ester	SML = 5 mg/kg (1)
68145	080410-33-9	2,2',2''-Nitrilo[triethyl tris(3,3',5,5'-tetra-tert-butyl-1,1'-bi-phenyl-2,2'-diyl)phosphite]	SML = 5 mg/kg (sum of phosphite and phosphate)
71635	025151-96-6	Pentaerythritol dioleate	SML = 0,05 mg/kg. Not for use in polymers contacting foods for which simulant D is laid down in Directive 85/572/EEC
73720	000155-96-8	Phosphoric acid, trichloroethyl ester	SML = ND (LD = 0,02 mg/kg, analytical tolerance included)
74010	145650-60-8	Phosphorous acid, bis (2,4-di-tert-butyl-6-methylphenyl) ethyl ester	SML = 5 mg/kg (sum of phosphite and phosphate)
76721	009016-00-6 063148-62-9	Polydimethylsiloxane (MW > 6800)	In compliance with the specifications laid down in Annex V
76865	—	Polyesters of 1,2-propanediol and/or 1,3- and 1,4-butanediol and/or polypropyleneglycol with adipic acid, also end-capped with acetic acid or fatty acids C10-C18 or n-octanol and/or n-decanol	SML = 30 mg/kg

PM/REF No	CAS No	Name	Restrictions and/or specifications
(1)	(2)	(3)	(4)
77895	068439-49-6	Polyethyleneglycol(EO = 2-6) mono-alkyl(C16-C18) ether	SML = 0,05 mg/kg
81515	087189-25-1	Poly(zinc glycerolate)	
81760	—	Powders, flakes and fibres of brass, bronze, copper, stainless steel, tin and alloys of copper, tin and iron	SML(T) = 30 mg/kg (7) (expressed as copper); SML = 48 mg/kg (expressed as iron)
85360	000109-43-3	Sebacic acid, dibutyl ester	
85610	—	Silicates, natural, silanated (with the exception of asbestos)	
85840	053320-86-8	Silicic acid, lithium magnesium sodium salt	SML(T) = 0,6 mg/kg (8) (expressed as lithium)
86285	—	Silicon dioxide, silanated	
88640	008013-07-8	Soybean oil, epoxidised	In compliance with the specifications laid down in Annex V
89200	007617-31-4	Stearic acid, copper salt	SML(T) = 30 mg/kg (7) (expressed as copper)
89440	—	Stearic acid, esters with ethylene-glycol	SML(T) = 30 mg/kg (3)
92030	010124-44-4	Sulphuric acid, copper salt	SML(T) = 30 mg/kg (7) (expressed as copper)
92700	078301-43-6	2,2,4,4-Tetramethyl-20-(2,3-epoxypropyl)-7-oxa-3,20-diazadispiro[5.1.11.2]-heneicosan-21-one, polymer	SML = 5 mg/kg
92930	120218-34-0	Thiodiethanolbis(5-methoxycarbonyl-2,6-dimethyl-1,4-dihydropyridine-3-carboxylate)	SML = 6 mg/kg
94960	000077-99-6	1,1,1-Trimethylpropane	SML = 6 mg/kg
95725	110638-71-6	Vermiculite, reaction product with citric acid, lithium salt	SML(T) = 0,6 mg/kg (8) (expressed as lithium)
95855	007732-18-5	Water	In compliance with Directive 98/83/EC
95859	—	Waxes, refined, derived from petroleum based or synthetic hydrocarbon feedstocks	In compliance with the specifications laid down in Annex V
95883	—	White mineral oils, paraffinic, derived from petroleum based hydrocarbon feedstocks	In compliance with the specifications laid down in Annex V

*Appendix 2***List of additives in Annex III to Directive 90/128/EEC for which the content of column "CAS No" is modified**

PM/REF No	CAS No	Name	Restrictions and/or specifications
(1)	(2)	(3)	(4)
39890	087826-41-3 069158-41-4 054686-97-4 081541-12-0	Bis(methylbenzylidene)sorbitol	
68125	037244-96-5	Nepheline syenite	

*Appendix 3***List of additives in Annex III to Directive 90/128/EEC deleted**

PM/REF No	CAS No	Name	Restrictions and/or specifications
(1)	(2)	(3)	(4)
76720	009016-00-6 063148-62-9	Polydimethylsiloxane'	

ANNEX III

The following Annexes IV, V and VI are added:

'ANNEX IV

PRODUCTS OBTAINED BY MEANS OF BACTERIAL FERMENTATION

PM/Ref No	CAS No	Name	Restrictions and/or specifications
(1)	(2)	(3)	(4)
18888	80181-31-3	3-hydroxybutanoic acid-3-hydroxypentanoic acid, copolymer	SML = 0,05 mg/kg for crotonic acid (as impurity) and in compliance with the specifications laid down in Annex IV.

ANNEX V

SPECIFICATIONS

Part A: General specifications

(to be fixed later)

Part B: Other specifications

PM/Ref No	Other specifications
18888	3-HYDROXYBUTANOIC ACID-3-HYDROXYPENTANOIC ACID, COPOLYMER <i>Definition</i> These copolymers are produced by the controlled fermentation of <i>Alcaligenes eutrophus</i> using mixtures of glucose and propanoic acid as carbon sources. The organism used has not been genetically engineered and has been derived from a single wild-type organism <i>Alcaligenes eutrophus</i> strain H16 NCIMB 10442. Master stocks of the organism are stored as freeze-dried ampoules. A submaster/working stock is prepared from the master stock and stored in liquid nitrogen and used to prepare inocula for the fermenter. Fermenter samples will be examined daily both microscopically and for any changes in colonial morphology on a variety of agars at different temperatures. The copolymers are isolated from heat-treatment bacteria by controlled digestion of the other cellular components, washing and drying. These copolymers are normally offered as formulated, melt-formed granules containing additives such as nucleating agents, plasticisers, fillers, stabilisers and pigments which all conform to the general and individual specifications. — Chemical name Poly(3-D-hydroxybutanoate-co-3-D-hydroxypentanoate) — CAS No 80181-31-3 — Structural formula $ \begin{array}{c} \text{CH}_3 \quad \quad \text{O} \quad \quad \text{CH}_3 \\ \quad \quad \parallel \quad \quad \\ (-\text{O}-\text{CH}-\text{CH}_2-\text{C}-)_m - (-\text{O}-\text{CH}-\text{CH}_2-\text{C}-)_n \\ \quad \quad \quad \quad \quad \quad \quad \quad \quad \quad \parallel \quad \quad \quad \quad \quad \quad \quad \quad \parallel \\ \quad \quad \quad \quad \quad \quad \quad \quad \quad \quad \text{O} \quad \quad \quad \quad \quad \quad \quad \quad \text{O} \end{array} $ where $n/(m+n)$ greater than 0 and less or equal to 0,25

PM/Ref No	Other specifications
	— Average molecular weight Not less than 150 000 daltons (measured by gel permeation chromatography). — Assay Not less than 98 % poly(3-D-hydroxybutanoato-co-3-D-hydroxypentanoato) analysed after hydrolysis as a mixture of 3-D-hydroxybutanoic and 3-D-hydroxypentanoic acids. <i>Description</i> White to off-white powder after isolation <i>Characteristics</i> — Identification tests: — Solubility Soluble in chlorinated hydrocarbons such as chloroform or dichloromethane but practically insoluble in ethanol, aliphatic alkanes and water. — Migration The migration of crotonic acid should not exceed 0,05 mg/kg food. — Purity Prior to granulation the raw material copolymer powder must contain: — Nitrogen Not more than 2 500 mg/kg of plastic — Zinc Not more than 100 mg/kg of plastic — Copper Not more than 5 mg/kg of plastic — Lead Not more than 2 mg/kg of plastic — Arsenic Not more than 1 mg/kg of plastic — Chromium Not more than 1 mg/kg of plastic.
23547	POLYDIMETHYLSILOXANE (Mw > 6 800) Minimum viscosity 100×10^{-6} m ² /s (= 100 centistokes) at 25 °C
25385	TRIALLYLAMINE 40 mg/kg hydrogel at a ratio of 1 kg food to a maximum of 1,5 grams of hydrogel. For use only in hydrogels intended for non-direct food contact use.
38320	4-(2-BENZOXAZOLYL)-4'-(5-METHYL-2-BENZOXAZOLYL) STILBENE Not more than 0,05 % w/w (quantity of substance used/quantity of the formulation)
76721	POLYDIMETHYLSILOXANE (Mw > 6 800) Minimum viscosity 100×10^{-6} m ² /s (=100 centistokes) at 25 °C
88640	SOYBEAN OIL, EPOXIDISED Oxirane < 8 %, iodine number < 6
95859	WAXES, REFINED, DERIVED FROM PETROLEUM BASED OR SYNTHETIC HYDROCARBON FEED-STOCKS The product should have the following specifications: — Content of mineral hydrocarbons with carbon number less than 25: not more than 5 % (w/w) — Viscosity not less than 11×10^{-6} m ² /s (= 11 centistokes) at 100 °C — Average molecular weight not less than 500
95883	WHITE MINERAL OILS, PARAFFINIC DERIVED FROM PETROLEUM BASED HYDROCARBON FEEDSTOCKS The product should have the following specifications: — Content of mineral hydrocarbons with carbon number less than 25: not more than 5 % (w/w) — Viscosity not less than $8,5 \times 10^{-6}$ m ² /s (= 8,5 centistokes) at 100 °C — Average molecular weight not less than 480

ANNEX VI

NOTES RELATED TO THE COLUMN "RESTRICTIONS AND/OR SPECIFICATIONS"

- (1) Warning: there is a risk that the SML could be exceeded in fatty food simulants.
 - (2) SML(T) in this specific case means that the restriction shall not be exceeded by the sum of the migration of the following substances mentioned as PM/REF Nos: 10060 and 23920.
 - (3) SML(T) in this specific case means that the restriction shall not be exceeded by the sum of the migration of the following substances mentioned as PM/REF Nos: 15760, 16990, 47680, 53650, 89440.
 - (4) SML(T) in this specific case means that the restriction shall not be exceeded by the sum of the migration of the following substances mentioned as PM/REF Nos: 19540, 19960.
 - (5) SML(T) in this specific case means that the restriction shall not be exceeded by the sum of the migration of the following substances mentioned as PM/REF Nos: 14200, 14230.
 - (6) SML(T) in this specific case means that the restriction shall not be exceeded by the sum of the migration of the following substances mentioned as PM/REF Nos: 66560 and 66580.
 - (7) SML(T) in this specific case means that the restriction shall not be exceeded by the sum of the migration of the following substances mentioned as PM/REF Nos: 30080, 42320, 45195, 45200, 53610, 81760, 89200, 92030.
 - (8) SML(T) in this specific case means that the restriction shall not be exceeded by the sum of the migration of the following substances mentioned as PM/REF Nos: 85840 and 95725.
 - (9) SML(T) = in this specific case means that the restriction shall not be exceeded by the sum of the migration levels of the following substances:
 - (a) Badge (=2,2-bis(4-hydroxyphenyl)propane bis(2,3-epoxypropyl) ether:
 - (b) Badge.H₂O.
 - (d) Badge.HCl.
 - (e) Badge.2HCl
 - (f) Badge.H₂O.HClHowever in aqueous food simulants, the SML(T) should also include Badge.2H₂O (c) unless the material or article is labelled for use in contact only with those foods and/or beverages for which it has been demonstrated that the sum of the migration levels of the five abovementioned substances (a)(b)(d)(e)(f) cannot exceed 1 mg/kg.
 - (10) Warning: there is a risk that the migration of the substance deteriorates the organoleptic characteristics of the food in contact and then, that the finished product does not comply with the second indent of Article 2 of Directive 89/109/EEC.'
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II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 28 July 1999

on state aid granted by the Federal Republic of Germany to Everts Erfurt GmbH

(notified under document number C(1999) 3024)

(Only the German text is authentic)

(Text with EEA relevance)

(1999/787/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having given notice to the parties concerned to submit their comments in accordance with the aforementioned provisions and having regard to those comments,

Whereas:

I

(1) By letter of 23 July 1996, registered as incoming mail on 25 July, Germany notified the Commission under Article 88(3) of the EC Treaty of two guarantees to be granted by the *Land* of Thuringia to Everts Erfurt GmbH (Everts). The measure was entered in the Commission's register of state aid measures under No 593/96. The Commission asked a number of questions which were answered by letter of 19 September 1996, registered as incoming mail on the same day. The Commission put further questions by letter of 15 October 1996, and these were answered by letters of 26 November 1996, registered as incoming on 27 November 1996, and 3

December 1996, registered as incoming on 9 December. By letter of 12 December 1996, registered as incoming on the same day, Germany then notified a dormant equity holding which the *Land* held in the company. The Commission sought additional information by letter of 10 January 1997, and a reply was sent by letter of 7 February 1997, registered as incoming on the same day. At the time of the notification, one guarantee was withdrawn and the parent company was declared bankrupt. Further financing aimed at preventing the ensuing insolvency of the recipient was notified by letter of 14 May 1997, registered as incoming on 16 May 1997.

- (2) On 2 July 1997, on the basis of the information before it, the Commission decided to initiate the procedure laid down in Article 88(2) as it doubted whether the aid measures were compatible with the common market. Attached to the letter informing Germany that the procedure had been initiated were 12 questions which Germany was asked to answer.
- (3) The German authorities were informed of the decision to initiate proceedings and of the grounds for doing so by letter of 24 July 1997, ref. D/6183; this letter was published in the *Official Journal of the European Communities* ⁽¹⁾. The case was renumbered C 42/97. Interested parties were asked to submit any observations within a month of publication of the letter.
- (4) In response to the initiation of proceedings on 24 July, Germany submitted comments in two letters both dated 17 November, and both registered as incoming mail on 18 November, under Nos A/39220 and A/39221. Germany supplied further information by letters of 20 May 1998, registered as incoming on the same day, and 26 June 1998, registered as incoming on 1 July.

⁽¹⁾ OJ C 37, 4.2.1998, p. 8.

- (5) On 14 July 1998, on the basis of the information before it, the Commission decided to extend the proceedings initiated under Article 88(2) as it doubted the compatibility with the common market of two further aid measures.
- (6) The German authorities were informed of this decision and the reasons for it by letter of 17 August, ref. D/7102; this letter too was published in the *Official Journal of the European Communities* ⁽¹⁾. Interested parties were once again asked to submit any observations within a month of the date of publication.
- (7) Germany commented on the extension of the proceedings by letter of 9 September 1998, registered as incoming mail on the same day. Germany submitted further observations by letters of 11 August 1998, registered as incoming on 12 August 1998 of 29 January 1999, registered as incoming on 1 February, of 22 April 1999, registered as incoming on 23 April, and of 10 May 1999, registered as incoming on the same day. The Commission put further questions in a letter of 17 May 1999. Germany replied by letters of 31 May 1999, registered as incoming on 1 June 1999, of 10 June 1999, registered as incoming on 11 June 1999, and of 23 June 1999, registered as incoming on 8 July 1999.
- (8) No observations were received from third parties either when the proceedings were initiated or when they were extended.

II. THE AID

A. Everts

- (9) Everts manufactures and sells rubber and latex products. Of its turnover 95 % comes from the sale of condoms, with the remaining 5 % coming from babies' dummies, medical protective sheaths and other products. The firm previously belonged to the Treuhandanstalt privatisation agency and was taken over on 1 January 1991 by Wilhelm Everts KG, of Datteln (Everts Datteln). This privatisation was conducted by an open and unconditional bidding procedure leading to sale to the highest bidder. No state aid was granted in connection with the privatisation. Everts currently has 117 employees.
- (10) The years following privatisation were difficult for Everts. The first state aid was provided in 1994, in the form of a 90 % deficiency guarantee; the company's profitability improved thereafter, and it actually made a small profit in 1995. But 1995 also saw the first difficul-

ties in the manufacturing process, which caused London International to stop its orders for condoms. This resulted in a serious loss amounting to DEM 1.5 million and a compensation claim amounting to DEM 500 000. In addition, Everts's distribution network proved ill-adapted to the requirements of the market place.

- (11) In 1996 the parent company, Everts Datteln, filed for bankruptcy ⁽²⁾. Under the privatisation contract it was obliged to assume its subsidiary Everts's investment costs and other expenses from previous years. The bankruptcy meant that these claims, which amounted to DEM 8 312 million, could no longer be collected, so that Everts itself was now in considerable difficulty. The Sparkasse Erfurt savings bank, which was the main creditor at that time, and Everts Datteln decided to seek a new investor for Everts. The parent company sold for DEM 80 000 shares in Everts with a nominal value of DEM 3,3 million to the private trustee Dr Zimmermann & Partner Unternehmensberatungs GmbH (Zimmermann). Zimmermann was to undertake the task of finding a new investor. According to the information supplied by Germany Everts had to be hived off from the parent company as the bankruptcy of Everts Datteln would have led in turn to the bankruptcy of Everts the subsidiary. Zimmermann was prepared to take on the shares because the selling price of DEM 80 000 was far below the nominal value of DEM 3,3 million. Zimmermann did not receive any state guarantees or any other state aid towards the purchase. Until such time as a new investor was found, the banking liabilities were to remain with Sparkasse Erfurt.

- (12) A long time passed before a new investor appeared, and the firm's difficulties were not tackled during this period, so that performance continued to worsen in 1996 and the first half of 1997. In 1997 a buyer, Condomi, declared its willingness to take over Everts on condition that its old debts were repaid. In a concerted move on the part of Sparkasse Erfurt and the Land of Thuringia part of the debt amounting to DEM 7,35 million was waived ⁽³⁾ and in July 1997 Condomi took over the company. Everts was now renamed Condomi Erfurt Produktionsgesellschaft mbH. Immediately afterwards it received a loan of DEM 2,5 million from the Reconstruction Loan Corporation (*Kreditanstalt für Wiederaufbau — KfW*). Condomi proceeded to implement the 1995 restructuring plan. The company's results began to improve immediately in the second half of 1997. In 1998 it greatly expanded its sales and made a small profit.

⁽²⁾ In 1994 the production plant at Everts Datteln was destroyed by fire, with damage assessed at DEM 30 million. The company was underinsured and had to file for bankruptcy in 1996.

⁽³⁾ The waiver of debts owed to Sparkasse Erfurt was not made the subject of these proceedings either when the proceedings were initiated or when they were extended. Section III nevertheless considers whether this partial waiver constitutes state aid caught by Article 87(1).

⁽¹⁾ OJ C 377, 5.12.1998, p. 2.

B. The restructuring

- (13) Germany has submitted a list of the restructuring measures which were planned and implemented in connection with the granting of the first state aid in 1993 and 1994. In December 1995 these measures were incorporated into a coherent restructuring plan. The 1995 plan provided for the resolution of the quality difficulties and a comprehensive reorganisation of the sales side. The new investor Condomi took over this plan in July 1997 and implemented it by the end of the same year. In the course of restructuring the company received state aid on several occasions.
- (14) The proceedings were originally initiated in respect of the following state aid measures ⁽¹⁾:
1. the 90 % guarantee given in 1994 on loans totalling DEM 3,7 million;
 2. the dormant equity holding of DEM 2 million acquired in 1996 by the Thuringia Fund for the consolidation of firms in difficulty;
 3. a liquidity loan of DEM 700 000 granted by the Thuringia Fund for firms in difficulty ⁽²⁾.
- (15) The proceedings were extended to include the following measures:
1. a liquidity loan of DEM 900 000 granted in 1996 under the Thuringia small and medium-sized enterprises loan scheme;
 2. the loan of DEM 2,5 million granted in July 1997 by the KfW ⁽³⁾.

C. The market

- (16) At the beginning of the 1990s there was some overcapacity on the market in condoms, but the available information indicates that the situation improved in the mid-90s and that in recent years the market has been expanding. According to a report produced in June 1998 by the consultancy Global Strategic, the condom

market has recently been growing by 4 % a year. Everts had a production capacity of 66 million condoms a year in 1994 and 88 million between 1995 and 1997, the period of the main restructuring operation ⁽⁴⁾. Total sales on the European condom market amounted to about DEM 900 million in 1995. With sales of about DEM 10 million, Everts had a market share of 1,1 % in that year; more recent figures for the European market are not available.

- (17) The structure of the market in condoms in the Community is clearly oligopolistic: according to the information supplied by Germany, the London International group has a share of 30 % of sales in Germany, 80 % in the United Kingdom, 61 % in Italy, 31 % in France and 38 % in Spain. Mapa has a market share of 30 % in Germany, and Artsana has a 44 % share in Spain. In Italy two other large manufacturers have market shares of 20 % and 16 %. According to the OTC News market report of August 1997, the three main brands account for 56 % of the German market.
- (18) The recipient firm is located in Thuringia, a *Land* with an unemployment rate of 18 %. The region qualifies for state aid under Article 87(3)(a).

III. ASSESSMENT

A. The amount of state aid requiring approval

- (19) Evens received aid under several headings in connection with its restructuring (see Section II.B). After the proceedings had been initiated and then extended, it became clear that these were not measures taken under schemes that had already been approved, which meant that they had to be classified as one-off measures. Germany has not contested the Commission's understanding of this point, except in the case of the loan of DEM 2,5 million from the KfW. The question whether that loan is within the terms of an approved scheme is accordingly considered thoroughly below, in recitals 22, 23 and 24.
- (20) As regards the liquidity loan of DEM 900 000 from the SMEs loan scheme, the Commission has initiated proceedings in respect of the scheme as a whole ⁽⁵⁾. The present decision therefore does not consider whether the

⁽¹⁾ The schemes involved are the following:

1. Guidelines for the assumption of guarantees by the *Land* of Thuringia (*Richtlinie für die Übernahme von Bürgschaften und Garantien durch das Land Thüringen*; aid measure N 117/96);
2. Thuringia Fund for the Consolidation of firms in difficulty (*Thüringer Fonds zur Konsolidierung von Unternehmen in Schwierigkeiten*; aid measure NN 74/95);
3. Guidelines for the Thuringia Fund for firms in difficulty (*Richtlinie zum Thüringer Fonds für Unternehmen in Schwierigkeiten*; aid measure N 102/96).

⁽²⁾ This loan was never granted and is not considered further in this assessment.

⁽³⁾ 1. Thuringia small and medium-sized enterprises loan scheme (*Thüringer Darlehensprogramm für kleine und mittlere Unternehmen*): the German Government argued that this scheme was *de minimis* and did not need to be notified for approval;

2. aid under iwo KtW schemes: the liquidity assistance scheme (*Liquiditätshilfeprogramm*; aid measure NN 37/95), in conjunction with the eastern small and medium-sized enterprises scheme (*Mittelstandsprogramm-Ost*).

⁽⁴⁾ For a time Everts used a fifth machine with a capacity of 25 million condoms. This machine could not be operated at profit and was taken out of production in 1997.

⁽⁵⁾ Case C 87/98 (letter ref. SG(99) D/760, 1 february 1999).

loan was within the terms of the scheme: since it may be that the Commission will at a later stage find that the SMEs loan scheme is incompatible with the common market, the loan is here examined along with the other state aid measures in order to establish whether it itself qualifies for exemption ⁽¹⁾.

- (21) It has also to be considered whether the waiver of debts owed to Sparkasse Erfurt in 1997 constituted aid within the meaning of Article 87(1).

a) *The KfW loan*

- (22) At the time the proceedings were extended, it appeared that the loan of DEM 2,5 million from the KfW did not comply with the terms of the liquidity assistance scheme (aid measure NN 37/95) because, at the time the loan was granted, Everts was very probably a firm in difficulty. The scheme is intended to provide firms which do not possess sufficient liquidity with the resources they need to expand their business. By letter of 4 December 1995, however, Germany confirmed that aid would not be given under this scheme to 'firms in difficulty' within the meaning of the Community guidelines on state aid for rescuing and restructuring firms in difficulty (the guidelines) ⁽²⁾.
- (23) In response to the extension of proceedings Germany submitted that, at the time the KfW loan was granted, Everts was not a firm in difficulty as it had shortly before been taken over by the new investor, Condomi. In Germany's view, the fact that the firm had been taken over by a new investor meant that its status as a firm in difficulty had changed.
- (24) But there are several grounds for questioning this argument. On 30 June 1997 the old Everts showed a first-half loss of DEM 3 million. A month later it was taken over by the new investor, and the KfW loan was granted immediately afterwards. Everts's difficulties were due not only to heavy debts but also to unprofitable operation since in the first six months of 1997 it had operating losses of about DEM 2 million on sales of only DEM 3 million. In view of the takeover it was fair to assume that prospects for the future were brighter, but to say that the firm's difficulties were resolved simply by the presence of a new investor is not convincing. In the circumstances it has to be concluded that the KfW loan

served to help a firm in difficulty rather than to facilitate the expansion of its business by providing fresh liquidity. Thus the KfW loan was not granted under an approved aid scheme and must be assessed as a one-off measure, like all the other measures to assist Everts.

b) *The waiver of debts owed to Sparkasse Erfurt*

- (25) It has to be asked whether the waiver of debts owed to Sparkasse Erfurt in connection with the takeover of the firm by Condomi constituted state aid within the meaning of Article 87(1).
- (26) In the middle of 1997 Sparkasse Erfurt had claims on Everts amounting to DEM 15 135 325. When a new investor had been found, some of these claims were waived as part of a concerted operation: Sparkasse Erfurt waived claims of DEM 7,351 million, the *Land* guarantee was released, providing a sum of DEM 3,116 million, and repayment of the dormant equity holding of DEM 2 million was forgone. Sparkasse Erfurt is an institution governed by public law, so that this debt waiver might constitute state aid. Germany has expressly assured the Commission that forgoing a part of the loan represented a smaller loss to Sparkasse Erfurt than the bankruptcy of Everts would have done. By waiving part of its claim, Sparkasse Erfurt was able to secure repayment of a sum of DEM 7,784 million. In the event of bankruptcy the only realisable items would have been land charges with a value of between DEM 2 million and DEM 2,5 million ⁽³⁾ and the guarantee given by the *Land* of Thuringia, which amounted to DEM 3,116 million. The dormant equity holding of DEM 2 million belonging to the Thuringia Consolidation Fund was not available to repay the debt owed to Sparkasse Erfurt: the Consolidation Fund was willing to forgo this claim only as part of a concerted exercise in which all the other creditors also wrote off part of their claims in order to keep the firm alive. Between the time when the search for a new investor began in 1996 and the takeover by Condomi in mid-1997, Sparkasse Erfurt did not provide Everts with any further loans. It can be concluded that Sparkasse Erfurt acted as a private provider of capital would have done and that the debt waiver does not constitute state aid.

c) *The one-off aid measures to be considered in this decision*

- (27) The following measures constitute one-off aid measures which have to be considered in this decision; they amount to a total of DEM 9,1 million:
- (a) the 90 % guarantee given in 1994 on loans totalling DEM 3,7 million;
 - (b) the dormant equity holding of DEM 2 million acquired in 1996 by the Thuringia Fund for the consolidation of firms in difficulty;

⁽¹⁾ Everts has since repaid the liquidity loan with interest. But as Everts enjoyed a temporary advantage as a result of this loan, it does constitute state aid and must be considered in this decision.

⁽²⁾ OJ C 368, 23.12.1994, p. 12.

⁽³⁾ The charges on land owned by Everts and Everts Datteln which were held as security (*Grundschuld*) by Sparkasse Erfurt originally amounted to DEM 11,1605 million. But after the parent company's bankruptcy it emerged that the sites were worth less and that their value was not sufficient to satisfy all creditors. This meant that the securities held by Sparkasse Erfurt were worth less than originally believed and that Sparkasse Erfurt would have received only DEM 2.0 to 2.5 million.

(c) the loan of DEM 2,5 million granted in July 1997 by the KfW;

(d) the DEM 900 000 liquidity loan under the SMEs loan scheme.

- (28) The liquidity loan of DEM 700 000 which was to have been provided by the Thuringia Fund for firms in difficulty was not in fact granted; it therefore does not constitute state aid and is not considered further here.

B. The possible grounds for exemption

- (29) The fresh aid given by the BvS and the *Land* of Thuringia was notified as restructuring aid and, since the main purpose of the aid is to restructure a firm in difficulty, Article 87(3)(c) of the EC Treaty may apply: that provision states that aid may be considered compatible with the common market if it is intended 'to facilitate the development of certain economic activities or certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest'. Restructuring aid may be considered compatible with the common market where it satisfies the tests laid down in the guidelines.
- (30) If the Commission is to approve an aid measure under the guidelines, the restructuring plan must meet the following requirements.

Restoration of viability

- (31) The *sine qua non* of all restructuring plans is that they must restore the long-term viability and health of the firm within a reasonable timescale and on the basis of realistic assumptions as to its future operating conditions... aid for restructuring should therefore normally only need to be granted once.
- (32) The negative performance of the firm in the past was due mainly to the unforeseeable bankruptcy of its parent company. At present its financial position is very encouraging, as its sales have increased constantly and its profitability has improved (see table). These positive developments result in large part from the new investor's know-how on the distribution side and from improved product quality. In 1999 the firm once again expects a substantial increase in sales. In the circumstances this requirement of the guidelines can be considered satisfied.

(DEM)

Year	Sales	Annual results
1991	3 806 000	- 4 996 000
1992	5 130 000	- 2 648 000
1993	8 013 000	- 3 257 000
1994	10 196 000	- 2 066 000
1995	10 208 000	+ 50 000
1996	8 678 557	- 8 312 389
1997	7 049 303	+ 11 268 729 - 1 409 816 (operating result) ⁽¹⁾
1998	11 700 000	+ 200 500
1999 ⁽²⁾	13 750 000	+ 897 000

⁽¹⁾ The high profit shown here is the result of the waiver of debts owed to Sparkasse Erfurt and the release of the *Land* guarantee.

⁽²⁾ On 1 January 1999 orders had already been placed worth DEM 4,5 million.

Avoidance of undue distortion of competition

- (33) A further condition of aid for restructuring is that measures are taken to offset as far as possible adverse effects on competitors. Otherwise aid would be 'contrary to the common interest' and ineligible for exemption under Article 87(3)(c).
- (34) Everts is an SME with a small market share, and there is no excess capacity on the market. Accordingly, there is no reason to suppose that the aid will be used to conduct an aggressive market policy or that it distorts competition unduly. The market structure is rather problematic, and the presence of an additional competitor may have positive effects on competition. This requirement of the guidelines is thus satisfied too.

Aid in proportion to the restructuring costs and benefits

- (35) The amount and intensity of the aid must be limited to the strict minimum needed to enable restructuring to be undertaken and must be related to the benefits anticipated from the Community's point of view. Therefore, aid beneficiaries will normally be expected to make a significant contribution to the restructuring plan from their own resources or from external commercial financing.

(36) Since 1993 the two new investors have injected a total of DEM 5,2 million, of which DEM 1,5 million was provided by Condomi ⁽¹⁾. Sparkasse Erfurt provided loans amounting to DEM 15 135 325. It has been determined above that the waiver of DEM 7,35 million does not constitute state aid. The investors' contribution therefore amounts to 69 %, which is by no means insignificant. But even if the whole of the loan granted by Sparkasse Erfurt or just the waiver of DEM 7,351 million were to be classified as state aid, the investors' contribution would still amount to 17,6 % or 42,6 % respectively. If it is borne in mind that Evens is an SME, both of these figures can be considered 'significant'.

(37) The Commission concludes that this requirement of the guidelines is satisfied too.

Aid to be granted once only

(38) Aid was granted on three occasions, in 1994, 1996 and 1997: aid has here been granted repeatedly. But it must be borne in mind that the restructuring of Everts took place gradually and that the restructuring measures undertaken in 1994 were incorporated into the 1995 restructuring plan. On the basis of that plan, Everts would have been able to achieve profitability, something which is clear from the fact that the new investor Condomi carried out the main part of the same plan in 1997. The bankruptcy of Everts' then parent company Everts Datteln, a development outside Everts' own control, prevented the plan from being implemented immediately. Since the parent company could not meet its obligations to Evens, the whole restructuring plan was placed in jeopardy. With the dormant equity holding of 1996 and the KfW loan of 1997, the new investor Condomi was prepared to take over Everts and to carry out the restructuring plan. The repeated

granting of state aid is therefore justified by external factors.

(39) This requirement of the guidelines is accordingly satisfied too.

IV. CONCLUSION

(40) The Commission finds that Germany granted state aid of DEM 9,1 million, in violation of Article 88(3) of the EC Treaty. However, given that the restructuring plan led to the restoration of the recipient firm's long-term profitability and that Everts is an SME, and in view of the competitive circumstances on this market, the aid is to be considered compatible with the common market,

HAS ADOPTED THIS DECISION:

Article 1

The state aid granted by Germany to Everts Erfurt GmbH, which amounted to EUR 4 652 756,12 (DEM 9,1 million), is compatible with the common market within the meaning of Article 87(1) of the EC Treaty.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 28 July 1999.

For the Commission

Mario MONTI

Member of the Commission

⁽¹⁾ There are no coherent restructuring plans comprising the measures taken by both investors, which makes it difficult to establish their respective financial contributions, consisting of the investments financed by Everts Datteln and by Condomi respectively.

COMMISSION DECISION

of 3 December 1999

on protective measures with regard to contamination by dioxins of certain products of porcine and poultry origin intended for human or animal consumption

(notified under document number C(1999) 4220)

(Text with EEA relevance)

(1999/788/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market ⁽¹⁾ as last amended by Directive 92/118/EEC ⁽²⁾, and in particular Article 9(4) thereof,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animal and products with a view to the completion of the internal market ⁽³⁾ as last amended by Directive 92/118/EEC, and in particular Article 10(4) thereof,

Whereas:

- (1) On 27 May 1999, the Belgian authorities informed the Commission of a case of heavy contamination of compound feedingstuffs with dioxins. Those feedingstuffs had been distributed to a considerable number of poultry farms in Belgium (some 25 %) from 15 January 1999 onwards.
- (2) From 26 May 1999, the Belgian authorities placed restrictions on all the poultry holdings which had received those feedingstuffs. The Belgian authorities prohibited the slaughter of poultry from 1 June 1999. Products intended for human or animal consumption derived from animals reared in those farms before that date may still be on the market.
- (3) On 2 June 1999, the Belgian authorities informed the Commission that they had placed restrictions on some 500 pig holdings which may have received contaminated feedingstuffs. On 3 June 1999, they also informed the Commission that contaminated feedingstuffs had been distributed to a number of bovine holdings as well. The Belgian authorities adopted measures applying to pigs and bovine animals and derived products which were similar to those applied in the case of poultry and, in particular, they prohibited the slaughter of bovine animals and pigs from 3 June 1999.
- (4) It appears that those feedingstuffs, live animals which had been fed therewith and products derived from those animals have been traded to other Member States and

third countries. Other animal species may have been fed with those contaminated feedingstuffs. Investigation of the responsibility for this contamination is continuing. The Community inspection in Belgium on 8 to 11 June 1999 concluded that, on the basis of the available results of analyses, a massive contamination occurred over a limited time, rather than a recurring problem. The Belgian authorities have carried out a number of surveillance programmes on the feed sectors. The results of these programmes have not showed positive results linked to this dioxin contamination in feed ingredients and compound feedingstuffs produced after 2 April 1999.

- (5) From 20 September 1999, the Belgian authorities have prohibited the slaughter of pigs and poultry and the placing on the market of eggs unless they come from homogenous groups for which the results of analysis on representative samples from those animals or eggs have demonstrated that they are not contaminated with dioxins or polychlorinated biphenyls (PCBs). Furthermore, the Belgian authorities have instigated an analytical programme for the certification of all poultry and pig holdings. This programme is currently underway and will be completed as soon as possible. Action is taken by the Belgian authorities to destroy flocks or herds on holdings where contamination is confirmed by additional testing. In the meanwhile, from 15 October 1999, the Belgian authorities have prohibited the placing on the market of pigs and poultry for the purpose of breeding, production or slaughtering and hatching eggs and eggs for human consumption, unless they come from holdings certified by the Belgian authorities as not contaminated by dioxins or PCBs on the basis of the above analytical programme,
- (6) In the light of the foregoing, it is necessary to take measures to protect the health of consumers. The measures should apply to products derived from poultry and pigs reared in Belgium from 15 January 1999 onwards. The measures should not apply to products which have been shown by analyses not to be contaminated by dioxins or which have been derived from animals slaughtered after 20 September 1999 or from eggs laid after that date. Provision should be made for contaminated products to be destroyed in a manner that ensures

⁽¹⁾ OJ L 395, 30.12.1989, p. 13.

⁽²⁾ OJ L 62, 15.3.1993, p. 49.

⁽³⁾ OJ L 224, 18.8.1990, p. 20.

that they cannot enter the human food or animal feed chains. It is not yet appropriate to set an end-date for the application of the measures. In order to prevent deflections of trade, the measures should also apply to exports to third countries. All relevant information should be supplied to the Commission, the Member States and third countries, where appropriate by means of the rapid alert system set up by Council Directive 92/59/EEC of 29 June 1992 on general product safety ⁽¹⁾. For the purposes of intra-community trade and exports to third countries, a system of certificates should be established for consignments of Belgian origin. In view of the difficulties which have arisen in connection with the tracing system used in Belgium, it is appropriate to terminate the issue of certificates for trade or export to third countries on the basis of traceability. It is necessary that Belgium and Member States which received certain Belgian products establish a monitoring plan to evaluate the presence of contamination of dioxins/PCB in products of animal origin. Inspections should be carried out by the Commission in order to verify the implementation of this Decision.

- (7) The Belgian authorities are prepared to accept the return of those products from Member States in application of Article 7 of Directive 89/662/EEC. It is necessary to lay down strict and specific rules on the procedure to be followed when the products are returned to Belgium in order to ensure that they cannot re-enter the human food or animal feed chains before they are subjected to appropriate checks to verify their safety.
- (8) Article 15 of Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries ⁽²⁾ establishes specific rules for the re-importation of consignments of products of Community origin which have been refused by a third country. It is necessary to ensure that products returned from third countries to Belgium cannot re-enter the human food or animal feed chains before they are submitted to the appropriate checks to verify their safety.
- (9) Council Directive 1999/29/EC of 22 April 1999 on the undesirable substances and products in animal nutrition ⁽³⁾ provides that feed materials may only be put into circulation in the Community if they are sound, genuine and of merchantable quality.
- (10) The body of toxicological and epidemiological evidence available today has led the International Agency for Research on Cancer (IARC) of the World Health Organisation (WHO) to consider tetrachlorodibenzo-dioxin

(TCDD) a class 1 carcinogen (the highest class in the IARC ranking). The WHO has recommended that a Tolerable Daily Intake (TDI) of 1 to 4pg/Kg bw/day be respected for dioxins. No limits for dioxin contamination have been set for individual commodities and food products. Data on background levels of contamination do exist. In the absence of limits for dioxins at international, Community or national level, the data on background levels should be used as references. The analysis of dioxins requires sophisticated methods which are available only in a limited number of laboratories in the Member States.

- (11) On 11 June 1999 a Commission working group on PCBs as markers for dioxin contamination concluded that the levels of seven persistent PCBs in eggs and poultrymeat products can be used reliably as a surrogate for dioxins. Furthermore, it concluded that an action level of 200 ng PCB (sum of seven congeners)/g fat be used for poultry products. The Committee and the Commission working group stressed that those action levels were only intended to apply in the context of the present particular situation in Belgium and should not be taken as an endorsement of a permanent limit for PCBs in the products concerned.
- (12) It appears necessary to establish a provisional maximum level for PCBs in flesh pigment and derived products, pending the generation of data to allow a scientific evaluation.
- (13) On 28 and 29 June 1999 a Commission working group on the PCB/Dioxin contamination of the Belgian food supply considered the adequacy of a threshold of 2 % of fat below which foodstuffs would be excluded from the scope of the restrictions laid down. That working group concluded that, in the light of the above-mentioned opinion of the Scientific Committee for Food and considering the data available so far on PCBs and dioxins in Belgian products, it was reasonable to assume, in the case of egg products containing less than 10 % of egg fat, that their presence in amounts below 2 % was unlikely to increase PCB and dioxins intake significantly above background levels.
- (14) Article 9(4) of Directive 89/662/EEC and Article 10(4) of Directive 90/425/EEC authorise the Commission to adopt safeguard measures for animals and products specified in those Directives and, if the situation so requires, products derived from those products. Therefore, the measures provided for in this Decision can also cover incidentally other products which are not included in Annex I to the Treaty. The situation as regards contamination by dioxins justifies such measures.

⁽¹⁾ OJ L 228, 11.8.1992, p. 24.

⁽²⁾ OJ L 24, 30.1.1998, p. 9.

⁽³⁾ OJ L 115, 4.5.1999, p. 32.

- (15) Commission Decision 1999/640/EC of 23 September 1999 on protective measures with regard to contamination by dioxins of certain products of porcine and poultry origin intended for human or animal consumption should accordingly be repealed.
- (16) The measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

1. Belgium shall prohibit the placing on the market, including distribution to the final consumer, the trade and the export to third countries, of the products listed below which are intended for human or animal consumption and are derived from poultry of species referred to in Article 2(1) of Council Directive 71/118/EEC ⁽¹⁾ and pigs reared in Belgium from 15 January 1999:

- (a) fresh poultrymeat, as defined by Council Directive 71/118/EEC ⁽²⁾;
- (b) fresh meat, as defined by Council Directive 64/433/EEC ⁽³⁾;
- (c) mechanically recovered meat;
- (d) minced meat and meat preparation, as defined by Council Directive 94/65/EC ⁽⁴⁾;
- (e) meat products and other products of animal origin as defined by Council Directive 77/99/EEC ⁽⁵⁾; with the exclusion of stomachs, bladders and intestines, cleaned, salted or dried, and/or heated;
- (f) products intended for human consumption which contain other products of porcine or poultry origin as defined by Council Directive 77/99/EEC, which contain more than 2 % of animal fat;
- (g) eggs
- (h) egg products, as defined by Council Directive 89/437/EEG ⁽⁶⁾, with the exclusion of egg white;
- (i) products intended for human consumption which contain more than 2 % of eggs or more than 2 % of egg products containing more than 10 % of egg fat;
- (j) rendered fats, as referred to in Directive 92/118/EEC;
- (k) processed animal proteins, as referred to in Directive 92/118/EEC;
- (l) raw material for the manufacture of animal feedingstuffs as referred to by Council Directive 92/118/EEC;
- (m) compound feedingstuffs and pre-mixtures.

2. The prohibition set out in paragraph 1 shall not apply where:

- (a) the results of analysis demonstrate that the products are not contaminated with dioxins or, that they do not exceed the levels for PCB set out in Annex A,
- or

- (b) the products were derived from animals slaughtered after 20 September 1999 or from eggs laid after that date.

3. Belgium shall ensure that all the products referred to in paragraph 1 which do not fulfil the conditions laid down in paragraph 2 are destroyed by means approved by the competent authorities in a manner that ensures that they cannot enter the human food or animal feed chain.

4. Belgium shall inform immediately the Commission and the Member States, if appropriate by means of the rapid alert system under Directive 92/59/EEC, and third countries which have received the products covered by paragraph 3 of this Article;

5. Belgium shall monitor the level of dioxins in Belgian products of animal origin.

For this purpose, Belgium shall submit without delay a monitoring plan to the Commission.

6. Belgium shall keep the Commission and the Member States informed of the results of its investigation into the source of the contamination of feedingstuffs by dioxins.

Article 2

1. For the purpose of intra-Community trade and export to third countries, in addition to the appropriate commercial document or to the official certificate, each consignment of products of Belgian origin listed in Article 1(1) must be accompanied by an official certificate signed by the Belgian competent authority as laid down in Annex B.

2. The official certificate referred to in paragraph 1 shall be drawn up on the date of loading in the language or languages of the Member State of dispatch and in the official language of the Member State of destination and it shall consist of a single sheet.

Article 3

Member States which have received products of Belgian origin referred to in Article 1(3), shall without delay.

- (a) trace back all products of Belgian origin to which this Decision applies, and products listed in Article 1 (1) which are destined for human or animal consumption containing those products of Belgian origin;
- (b) ensure that the products referred to in point (a) are destroyed by a means approved by the competent authority in a manner that ensures that they cannot enter the human food or animal feed chain, unless it can be proved they are not contaminated with dioxins or, that they do not exceed the levels for PCB set out in Annex A;

⁽¹⁾ OJ L 253, 28.9.1999, p. 19.

⁽²⁾ OJ L 55, 8.3.1971, p. 23.

⁽³⁾ OJ L 121, 29.7.1964, p. 2012/64.

⁽⁴⁾ OJ L 368, 31.12.1994, p. 10.

⁽⁵⁾ OJ L 26, 31.1.1977, p. 85.

⁽⁶⁾ OJ L 212, 22.7.1989, p. 87.

- (c) inform immediately the Commission and the Member States, if appropriate by means of the rapid alert system under Directive 92/59/EEC, and third countries concerned of the findings of their investigation and of any actions taken;
- (d) monitor the level of PCBs and dioxins in products of animal origin.

For this purpose, the Member States concerned shall without delay submit a monitoring plan to the Commission.

Article 4

1. By way of derogation from Article 3(b) of this Decision, in accordance with Article 7 of Directive 89/662/EEC, Member States may return products of Belgian origin to which Article 1(1) of this Decision applies and which were derived from animals slaughtered before 20 September 1999 or from eggs laid before that date, to Belgium in cases where analyses of the products for dioxins or PCBs have not been carried out.
2. Paragraph 1 shall apply only if the following conditions are fulfilled:
 - (a) Belgium must have authorised in writing the return of the product indicating the exact address of the establishment to which the products must be returned;
 - (b) the product must be accompanied by an official certificate as laid down in Annex C and by a copy of the commercial document or the health certificate which accompanied the product from Belgium to the Member State concerned;
 - (c) the products must be transported in containers or vehicles sealed by the competent authority of the Member State concerned in such a manner that the seals will be broken whenever the container or the vehicle is opened;
 - (d) the products must be conveyed directly to the establishment referred to in point (a);
 - (e) Member States which return products to Belgium must inform by telefax the competent authority in charge of the establishment referred to in point (a) of the place of origin and of the place of destination of the returned product giving the details laid down in the Annex to Decision 91/637/EC⁽¹⁾. The words 'Product returned in accordance with Article 4 of Decision 1999/788/EC' must be contained in the telefax;
 - (f) Belgium must send confirmation by telefax of the arrival of each consignment to the competent authority of the Member State which returned the product;
 - (g) Belgium must ensure that the returned product is placed under restriction until its destruction by a means approved by the competent authority in a manner that ensures that it cannot enter the human food or animal feed chain or until the results of analysis demonstrate that the product is not

contaminated with dioxins or, that it does not exceed the levels for PCB set out in Annex A.

3. Belgium shall keep full records demonstrating compliance with paragraph 2.

Article 5

Belgium shall ensure that the products of Belgian origin which are re-imported into Belgium from third countries in accordance with the conditions laid down in Article 15 of Directive 97/78/EC are placed under restriction until:

- (a) their destruction by a means approved by the competent authority in a manner that ensures that they cannot enter the human food or animal feed chain;
- or
- (b) the results of analysis demonstrate that the products are not contaminated with dioxins or that they do not exceed the levels for PCB set out in Annex A to this Decision.

Belgium shall keep full records demonstrating compliance with this Article.

Article 6

Commission inspections may be carried out in order to verify the implementation of this Decision.

Article 7

Member States shall adopt the necessary measures to bring their trade rules into conformity with this Decision. They shall immediately inform the Commission thereof.

Article 8

This Decision may be reviewed in the light of the results of Commission inspections and of information received by Member States.

Article 9

Decision 1999/640/ECE is repealed.

Article 10

This Decision is addressed to the Member States.

Done at Brussels, 3 December 1999.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 343, 13.12.1991, p. 46.

ANNEX A

Maximum levels for PCB for certain products listed in Article 1(1)

Products	Maximum level PCB ⁽¹⁾
Eggs, egg products, fresh poultrymeat and derived products	200 ng/g fat
Fresh pig meat and derived products	200 ng/g fat ⁽²⁾

⁽¹⁾ Sum of the following PCBs (IUCPA): 28, 52, 101, 118, 138, 153, 180.

⁽²⁾ Provisional level.

ANNEX B

HEALTH CERTIFICATE

for products intended for human or animal consumption of Belgian origin derived from poultry and pigs listed in Article 1(1) of Decision 1999/788/EC

Country of destination

Reference No of this health certificate.....

Responsible Ministry ⁽¹⁾

- Ministère des affaires sociales, de la santé publique et de l'environnement/Ministerie van Sociale Zaken, Volksgezondheid en Leefmilieu
- Ministère des classes moyennes et de l'agriculture/Ministerie van Middenstand en Landbouw

Certifying department

I. Identification of the products ⁽¹⁾

- fresh meat, as defined by Council Directive 64/433/EEC,
- fresh poultrymeat, as defined by Council Directive 71/118/EEC,
- mechanically recovered meat,
- minced meat and meat preparations, as defined by Council Directive 94/65/EC,
- meat products and other products of animal origin as defined by Council Directive 77/99/EEC, with the exclusion of stomachs, bladders and intestines, cleaned, salted or dried, and/or heated,
- products intended for human consumption which contain other products of porcine or poultry origin as defined by Directive 77/99/EEC, which contain more than 2 % of animal fat,
- eggs,
- egg products, as defined by Council Directive 89/437/EEC, with the exclusion of egg white,
- products intended for human consumption which contain more than 2 % of eggs or more than 2 % of egg products containing more than 10 % of egg fat,
- rendered fats, as referred to in Council Directive 92/118/EEC,
- processed animal proteins, as referred to in Directive 92/118/EEC,
- raw material for the manufacture of animal feedingstuffs, as referred to in Directive 92/118/EEC,
- compound feedingstuffs and pre-mixtures.

The product was derived from: poultry/pigs ⁽¹⁾

Nature of packaging

Number of cuts or packages

Net weight

II. Origin of the products

Address and veterinary approval or registration No of the approved or registered establishment

.....

⁽¹⁾ Delete as appropriate.

III. Destination of the products

The product will be sent from
(place of loading)

to
(country and place of destination)

By the following means of transport

Name and address of consignor

Name and address of consignee

IV. Attestation

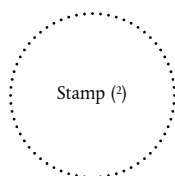
I, the undersigned official competent authority, declare that I am aware of the provisions laid down in Decision 1999/788/EC and certify that the product described above is in compliance with Decision 1999/788/EC and, in particular, that ⁽¹⁾:

— the results of analysis demonstrate that the product is not contaminated with dioxins or, that it does not exceed the levels for certain PCBs set out in Annex A to Decision 1999/788/EC,

or

— the product was derived from animal slaughtered/egg laid ⁽¹⁾ after 20 September 1999

Done at , on
(place) (date)



.....
(signature of the official competent authority) ⁽¹⁾

.....
(name in capital letters, qualification and title)

⁽¹⁾ Delete as appropriate.

⁽¹⁾ The signature and the stamp must be in a colour different to that of the printing.

ANNEX C

HEALTH CERTIFICATE

for products of Belgian origin covered by Decision 1999/788/EC intended to be returned to Belgium from Member States

Country of destination: **BELGIUM**

Reference No of this health certificate

Responsible Ministry

Certifying department

I. Identification of the product ⁽¹⁾:

- fresh meat, as defined by Council Directive 64/433/EEC,
- fresh poultrymeat, as defined by Council Directive 71/118/EEC,
- mechanically recovered meat,
- minced meat and meat preparations, as defined by Council Directive 94/65/EC,
- meat products and other products of animal origin as defined by Council Directive 77/99/EEC, with the exclusion of stomachs, bladders and intestines, cleaned, salted or dried, and/or heated,
- products intended for human consumption which contain other products of porcine or poultry origin as defined by Directive 77/99/EEC, which contain more than 2 % of animal fat,
- eggs,
- egg products, as defined by Council Directive 89/437/EEC, with the exclusion of egg white,
- products intended for human consumption which contain more than 2 % of eggs or more than 2 % of egg products containing more than 10 % of egg fat,
- rendered fats, as referred to in Directive 92/118/EEC,
- processed animal proteins, as referred to in Directive 92/118/EEC,
- raw material for the manufacture of animal feedingstuffs, as referred to in Directive 92/118/EEC,
- compound feedingstuffs and pre-mixtures.

The product was derived from: poultry/pigs ⁽¹⁾

Nature of packaging

Number of cuts or packages

Net weight

II. Origin of the products

Address and veterinary approval or registration No of the Belgian approved or registered establishment ⁽²⁾:

.....

⁽¹⁾ Delete as appropriate.

⁽²⁾ If applicable.

III. Destination of the products

The product will be sent from
(address of the place of loading)

to
(address of the place of destination)

By the following means of transport

No of the official seal

Name and address of consignor

Name and address of consignee

IV. Attestation

I, the undersigned official competent authority, certify:

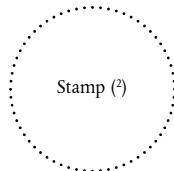
(a) that a declaration has been received from the consignee/holder/retailer ⁽¹⁾ of the product described above stating that the product was consigned from Belgium accompanied by the commercial document/certificate ⁽¹⁾ No a copy of which is attached to the present certificate;

(b) that the product is being returned to Belgium in conformity with Article 5 of Decision 1999/788/EC, and, in particular:

— the product has not been analysed for dioxins or PCBs,
and

— in all other respects the product still retains the same sanitary status which it had on arrival.

Done at on
(place) (date)



.....
(signature of the official competent authority) ⁽²⁾

.....
(name in capital letters, qualification and title)

⁽¹⁾ Delete as appropriate.

⁽²⁾ The signature and the stamp must be in a colour different to that of the printing.

COMMISSION DECISION
of 3 December 1999
concerning certain protection measures relating to African swine fever in Portugal

(notified under document number C(1999) 4224)

(Text with EEA relevance)

(1999/789/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty establishing the European Community,

Article 1

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market ⁽¹⁾, as last amended by Directive 92/118/EEC ⁽²⁾, and in particular, Article 10(4) thereof,

Having regard to council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market ⁽³⁾, as last amended by Directive 92/118/EEC, and in particular, Article 9(4) thereof,

Having regard to Council Directive 80/215/EEC of 22 January 1980 on animal health problems affecting intra-Community trade in meat products ⁽⁴⁾ as last amended by Directive 91/687/EEC ⁽⁵⁾, and in particular Article 7a(2) thereof,

- (1) Whereas an outbreak of african swine fever occurred in Portugal, region of Alentejo, municipality of Almodovar on 15 November 1999;
- (2) Whereas Portuguese authorities have put in place measures to eradicate the disease including slaughter and destruction of all the pigs in the outbreak and in the holdings located in a 3 km radius around the outbreak;
- (3) Whereas the disease situation is liable to endanger the herds in other areas of Portugal and of other Member States, in view of trade in live pigs, fresh pigmeat and certain meat-based products;
- (4) Whereas information provided by Portugal on the African swine fever situation has made it possible to identify geographically areas which present a particular risk; whereas the restrictions on trade can apply on a regional basis;
- (5) Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

1. Portugal shall not send to other Member States live pigs coming from a holding situated in those areas of the regions Alentejo and Algarve described in the Annex.

2. Portugal shall not send to other Member States live pigs originating from a holding situated in the regions Alentejo and Algarve outside those areas described in the Annex unless the animals:

- come from a holding where no live pigs have been introduced during the 30-day period immediately prior to the dispatch of the pigs in question,
- have been included in a pre-movement serological testing programme carried out within 10 days prior to transport where no antibodies to the African swine fever virus have been detected; the pre-movement testing programme for the consignment in question must be designed to give approximately 95 % confidence of detecting seropositive animals at a 5 % prevalence level,
- have undergone a clinical examination on the holding of origin within 24 hours prior to transport. All pigs on the holding of origin shall be examined and related facilities be inspected. The animals shall be identified by eartags at the holding of origin so that they can be traced back to the holding of origin,
- have been transported directly from the holding of origin to the holding or slaughterhouse of destination. The means of transport shall be cleaned and disinfected with an officially approved disinfectant before loading and shall be officially sealed.

3. Intra-Community movements of the animals referred to in paragraph 2 shall only be allowed following three days advance notification to the competent authority in the Member State of destination.

Article 2

1. Live pigs originating from a holding situated in the areas described in the Annex cannot be sent to other areas of Portugal unless the animals:

- come from a holding located at a distance of at least 10 km from the outbreak of African swine fever which occurred on 15 November 1999 and from any eventual following outbreak,

⁽¹⁾ OJ L 224, 18.8.1990, p. 29.

⁽²⁾ OJ L 62, 15.3.1993, p. 49.

⁽³⁾ OJ L 395, 30.12.1989, p. 13.

⁽⁴⁾ OJ L 47, 21.2.1980, p. 4.

⁽⁵⁾ OJ L 377, 31.12.1991, p. 161.

- are slaughtered at slaughterhouses in the regions of Alentejo and Algarve designated by the competent veterinary authorities,
 - come from a holding where no live pigs have been introduced during the 30-day period immediately prior to the dispatch of the pigs in question;
 - have been included in a pre-movement serological testing programme carried out within 10 days prior to transport where no antibodies to the African swine fever virus have been detected; the pre-movement testing programme for the consignment in question must be designed to give approximately 95 % confidence of detecting seropositive animals at a 5 % prevalence level,
 - have undergone a clinical examination on the holding of origin within 24 hours prior to transport. All pigs on the holding of origin shall be examined and related facilities must be inspected. The animals shall be identified by ear tags at the holding of origin so that they can be traced back to the holding of origin,
 - have been transported directly from the holding of origin to the designated slaughterhouse. the means of transport shall be cleaned and disinfected with an officially approved disinfectant before loading and immediately after unloading and shall be officially sealed.
2. Live pigs originating from a holding situated in the regions Alentejo and Algarve outside those areas described in the Annex cannot be moved to other regions of Portugal unless the animals:
- come from a holding where no live pigs have been introduced during the 30-day period immediately prior to the dispatch of the pigs in question,
 - have been included in a pre-movement serological testing programme carried out within 10 days prior to transport where no antibodies to the African swine fever virus have been detected; the pre-movement testing programme for the consignment in question must be designed to give approximately 95 % confidence of detecting seropositive animals at a 5 % prevalence level,
 - have undergone a clinical examination on the holding of origin within 24 hours prior to transport. All pigs on the holding of origin shall be examined and related facilities must be inspected. The animals shall be identified by ear tags at the holding of origin so that they can be traced back to the holding of origin,
 - have been transported directly from the holding of origin to the holding or slaughterhouse of destination. The means of transport shall be cleaned and disinfected with an offi-

cially approved disinfectant before loading and shall be officially sealed.

3. Live pigs sent to other areas of Portugal in accordance with paragraphs 1 and 2 must be accompanied during transport to the holding or slaughterhouse of destination by a health document issued by an official veterinarian.

Article 3

1. Portugal shall not send to other Member States fresh pigmeat and pigmeat products obtained from pigs originating from holdings situated in those areas described in the Annex.
2. The restrictions described in paragraph 1 shall not apply to meat products which have undergone one of the treatments laid down in Article 4(1)(a) of Directive 80/215/EEC.

Article 4

1. The health certificate provided for in Council Directive 64/432/EEC ⁽¹⁾, as last amended by Directive 98/99/EC ⁽²⁾ accompanying pigs sent from the regions Alentejo and Algarve in Portugal in accordance with Article 1(2) or from other regions of Portugal to other Member States must be completed with the following:

'Animals in accordance with Commission Decision 1999/789/EC concerning certain protection measures relating to African swine fever in Portugal.'

2. Fresh meat of pigs which come from holdings located in areas of Portugal not listed in the Annex consigned from the territory of Portugal to other Member States shall be accompanied by a certificate from an official veterinarian. The certificate shall bear the following words:

'Meat conforming to Commission Decision 1999/789/EC concerning certain protection measures relating to African swine fever in Portugal.'

3. Meat products of pigs which come from holdings located in areas of Portugal not listed in the Annex or that have undergone one of the treatments laid down in Article 4(1)(a) of Directive 80/215/EEC, consigned from the territory of Portugal to other Member States shall be accompanied by a certificate from an official veterinarian. the certificate shall bear the following words:

'Meat products conforming to Commission Decision 1999/789/EC concerning certain protection measures relating to African swine fever in Portugal.'

Article 5

Portugal will submit a programme for the surveillance of African swine fever in the regions Alentejo and Algarve to the Commission by 3 December 1999.

Article 6

This Decision is applicable until 31 January 2000.

⁽¹⁾ JO L 121, 29.7.1964, p. 1977/64.

⁽²⁾ OJ L 358, 31.12.1998, p. 107.

Article 7

The Member States shall amend the measures which they apply to trade so as to bring them into compliance with this Decision. They shall immediately inform the Commission thereof.

Article 8

This Decision is addressed to the Member States.

Done at Brussels, 3 December 1999.

For the Commission

David BYRNE

Member of the Commission

ANNEX

Municipalities in Alentejo

Barrancos
Mértola
Moura
Serpa
Aljustrel
Almodôvar
Alvito
Beja
Castro Verde
Cuba
Ferreira do Alentejo
Ourique
Vidigueira

Municipalities in Algarve

Loulé
Alcoutim
Silves
