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I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 1040/2000
of 16 May 2000
amending Regulation (EC) No 1255/1999 on the common organisation of the market in milk and
milk products**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 36 and 37 thereof,

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

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

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

Whereas:

- (1) Article 31 of Regulation (EC) No 1255/1999 ⁽⁴⁾ provides for refunds on certain products covered by the Regulation if they are exported as goods listed in Annex II thereto, based on the prices for those products in world trade and the difference between those prices and the prices in the Community, within the limits resulting from agreements concluded in accordance with Article 300 of the Treaty.
- (2) In several agricultural sectors, in particular cereals, sugar, rice and eggs, the Commission has been given responsibility for identifying the goods that can qualify for export refunds, including goods not falling within Annex I of the Treaty, in order to ensure the flexibility needed to make the most efficient use possible of the resources available; it is therefore appropriate to give the

Commission the same responsibility for identifying the goods eligible for refunds in the milk products sector,

HAS ADOPTED THIS REGULATION:

Article 1

Article 31(14) of Regulation (EC) No 1255/1999 shall be replaced by the following:

‘14. Detailed rules for the application of this Article, including the arrangements for redistributing unallocated or unused exportable quantities, and any amendments to Annex II shall be adopted by the Commission in accordance with the procedure laid down in Article 42. However, the detailed rules on the application of paragraphs 8, 10, 11 and 12 for products referred to in Article 1 and exported in the form of goods listed in Annex II to this Regulation shall be adopted in accordance with the procedure laid down in Article 16 of Regulation (EC) No 3448/93.’

Article 2

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, 16 May 2000.

For the Council

The President

L. CAPOULAS SANTOS

⁽¹⁾ OJ C 89 E, 28.3.2000, p. 31.

⁽²⁾ Opinion delivered on 3 May 2000 (not yet published in the Official Journal).

⁽³⁾ OJ C 75, 15.3.2000, p. 14.

⁽⁴⁾ OJ L 160, 26.6.1999, p. 48.

COMMISSION REGULATION (EC) No 1041/2000
of 18 May 2000
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 19 May 2000.

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

Done at Brussels, 18 May 2000.

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 18 May 2000 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	74,1
	068	60,8
	204	84,7
	999	73,2
0707 00 05	052	104,6
	068	68,3
	628	136,6
	999	103,2
0709 10 00	052	203,1
	999	203,1
0709 90 70	052	61,2
	628	96,2
	999	78,7
0805 10 10, 0805 10 30, 0805 10 50	052	60,4
	204	31,6
	212	41,6
	220	31,4
	388	50,7
	448	38,7
	600	47,0
	624	47,5
	999	43,6
0805 30 10	052	66,7
	388	62,4
	999	64,5
0808 10 20, 0808 10 50, 0808 10 90	388	81,5
	400	103,1
	404	95,5
	508	80,1
	512	85,5
	528	82,8
	720	102,7
	804	99,2
	999	91,3

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2543/1999 (OJ L 307, 2.12.1999, p. 46). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 1042/2000**of 18 May 2000****amending Regulation (EC) No 2342/1999 laying down detailed rules as regards premium schemes in the beef and veal sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal ⁽¹⁾, as amended by Commission Regulation (EC) No 907/2000 ⁽²⁾, and in particular Articles 4(8), 6(7), 11(5) and 12(3) and the second indent of Article 50 thereof,

Whereas:

- (1) In connection with the special premium granted on slaughter and the slaughter premium, the period of less than one month for slaughter, consignment or export after the retention period, as provided for respectively in Articles 9(1) and 37(1) of Commission Regulation (EC) No 2342/1999 of 28 October 1999 laying down detailed rules for the application of Council Regulation (EC) No 1254/1999 on the common organisation of the market in beef and veal as regards premium schemes ⁽³⁾, has proved insufficient, in particular having regard to certain veterinary requirements in the case of export. A lengthier period should accordingly be allowed in that event. Furthermore and for the sake of fairness, this measure should apply, on application by the producer, as from the time the new premium scheme was introduced.
- (2) Article 4 of Council Regulation (EEC) No 3950/92 of 28 December 1992 establishing an additional levy in the milk and milk products sector ⁽⁴⁾, as last amended by Commission Regulation (EC) No 749/2000 ⁽⁵⁾, and Article 16(3) of Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽⁶⁾ use the term 'available' to refer to the individual reference quantity of milk. However, Articles 17 and 31 of Regulation (EC) No 2342/1999 use the term 'allocated' to refer to the same concept. For the sake of legal clarity, the same term should always be used for the same concept. This question of terminology, which goes back to the introduction of the new premium scheme, needs to be settled.
- (3) Where the application of Article 6(2) of Regulation (EC) No 1254/1999, which allows applications for suckler-cow premiums to include up to 20 % heifers, to premium applications submitted by small producers gives a figure of less than one, such small producers are

barred from including replacement heifers in their premium applications. As recital 7 of that Regulation states, the measure is intended to limit the number of heifers to the normal ratio of replacement. To that end, Article 50 of that Regulation provides for the requisite measures to be taken to resolve specific practical problems. As a consequence, such small producers applying for suckler-cow premiums in respect of at least two animals should be able to qualify for the premium in respect of one replacement heifer and this should apply as from the new scheme's introduction in order to avoid discriminating between producers.

- (4) In accordance with Article 30 of Regulation (EC) No 2342/1999, the Member States may set periods and dates for the submission of special and suckler-cow premium applications and may limit the number of applications that each producer may submit per premium scheme and calendar year. This is justified on grounds of sound administration and with a view to monitoring premiums. Since these reasons are valid for the slaughter premium too, those provisions should also apply to the latter.
- (5) The individual reference quantity of milk defined in Article 16(3) of Regulation (EC) No 1255/1999, which is used to determine the number of cows eligible for the suckler — cow premium in mixed herds as provided for in Article 6(2)(b) of Regulation (EC) No 1254/1999 and the stocking density as referred to in Article 12 of that Regulation, relates to the reference quantity regarded as most faithfully reflecting the real number of dairy cows on the holding, i. e. the quantity available at 31 March or 1 April depending on whether the producer respectively releases or takes over that reference quantity. However, where the transfer of an individual reference quantity has an effect at the beginning of the following milk year only, i. e. on 1 April, that aim is only achieved by using the reference quantity as at 1 April for the calculation. As a result, the strict application of the abovementioned provisions leads, in the cases mentioned, to insurmountable difficulties. In such cases, provision should be made for special measures, in accordance with Article 50 of Regulation (EC) No 1254/1999, to avoid discriminating between producers. Such measures — which should be optional for the Member States concerned — will apply from 2001 until the date of actual application of direct payments in the milk and milk products sector, except as regards producers who are located in Member States that decide to implement the measure from the year 2000 and who are already

⁽¹⁾ OJ L 160, 26.6.1999, p. 21.

⁽²⁾ OJ L 105, 3.5.2000, p. 6.

⁽³⁾ OJ L 281, 4.11.1999, p. 30.

⁽⁴⁾ OJ L 405, 31.12.1992, p. 1.

⁽⁵⁾ OJ L 90, 12.4.2000, p. 4.

⁽⁶⁾ OJ L 160, 26.6.1999, p. 48.

applying for the measure to take effect, to whom it should apply as from the introduction of the new premium scheme.

- (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

Regulation (EC) No 2342/1999 is amended as follows.

1. The first sentence of Article 9(1) is replaced by the following:

‘Notwithstanding Article 5, the premium shall be paid to producers who have kept animals for a minimum retention period of two months ending less than one month before slaughter or consignment or ending less than two months before export.’

2. The word ‘allocated’ in Articles 17(1)(a) and 31(2)(a) and 31(3)(b) is replaced by ‘available’.

3. The following third paragraph is added to Article 17:

‘3. Where a premium application covers two to five animals after adjustment to the individual ceiling as provided for in Article 10(1) of Commission Regulation (EEC) No 3887/92 of 23 December 1992 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes (*), only one of those animals may be a heifer.

(*) OJ L 391, 31.12.1992, p. 36.’

4. The following is added to the end of the second subparagraph of Article 35(1):

‘Without prejudice to the time limit fixed above, the Member States may set periods and dates for the submission of aid applications and may determine the number of applications that each producer may submit per calendar year.’

5. Article 37(1) is replaced by the following:

‘1. The premium shall be paid to producers who have held the animals for a minimum retention period of two months ending less than one month before slaughter or ending less than two months before export.’

6. The following Article is added after Article 44:

‘Article 44a

Determination of the individual reference quantity of milk

Up to 31 December 2004, notwithstanding Articles 17(1)(a) and 31(2)(a), (a Member State may decide that) in the case of milk producers who release or take over all or part of individual reference quantities with effect on 31 March or 1 April respectively in accordance with Article 8(b) of Regulation (EEC) No 3950/92 or pursuant to national provisions adopted for the implementation of Article 7, Article 8(a), (d) and (e) or Article 8a of that Regulation, the date determining:

- the maximum individual reference quantity of milk available to qualify for the suckler-cow premium and the maximum number of suckler cows,
 - grants of additional payments per head for dairy cows, and
 - the stocking density,
- shall be 1 April.’

Article 2

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

It shall apply from the date of its entry into force. However:

- Article 1(6) shall apply from 1 January 2001,
- Article 1(1), (2), (3), (5) and, at the producer's request and where the Member State concerned decides to implement it, (6) shall apply from 1 January 2000.

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

Done at Brussels, 18 May 2000.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 1043/2000**of 18 May 2000****imposing a provisional anti-dumping duty on imports of glycine 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:

A. PROCEDURE

- (1) On 24 August 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 glycine originating in the People's Republic of China.
- (2) This proceeding was initiated following a complaint lodged in July 1999 by the European Chemical Industry Council (CEFIC), on behalf of the sole Community producer of glycine. 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 producer, 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 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 producers known to be concerned.

Claims for market economy status were received from four individual companies and one group consisting of two companies (hereinafter considered as one company).

- (5) The Commission sent questionnaires to all parties known to be concerned. Replies were received from the sole Community producer, the five Chinese companies

that submitted market economy status claims, three Chinese trading companies, one producer in the analogue country and two unrelated importers in the Community. In addition, six users in the Community replied to the questionnaire and provided information which was sufficiently complete and representative to use in the assessment of Community interest.

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

(a) Community producer

— Tessenderlo Chemie SA/NV, Brussels, Belgium

(b) Importers/users

— Scanchem UK Ltd, Macclesfield, United Kingdom,
 — Friskies Europe, New Malden, United Kingdom,
 — Aventis CropScience, Lyons, France,
 — BASF, Ludwigshafen, Germany

(c) Analogue country producer

— Nitrokemia 2000 Rt., Füzögyártelep, Hungary.

- (7) The investigation of dumping and injury covered the period from 1 July 1998 until 30 June 1999 (hereinafter referred to as 'the investigation period'). The examination of trends in the context of the injury analysis covered the period from January 1995 to the end of the investigation period (hereinafter referred to as 'the analysis period').

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT**1. Product under consideration**

- (8) The product under consideration is glycine (amino acetic acid). Glycine is produced in varying levels of purity and is used as a taste enhancer, a buffering agent, a chemical intermediate and a metal complexing agent. There are basically two grades of glycine, depending on the purity: the pharmaceutical or medical grade, and the regular grade. The regular grade can be sold, mainly for marketing purposes, under a variety of names such as technical, normal, pure, industry, food, feed grade, etc.

Glycine is obtained by chemical synthesis, using either (i) hydrogen cyanide (HCN) and formaldehyde or (ii) monochloroacetic acid (MCCA) and ammonia.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 128, 30.4.1998, p. 18.

⁽³⁾ OJ C 239, 24.8.1999, p. 4.

Certain Chinese companies argued that the different grades of glycine should be considered as separate products but this contention has been rejected. All grades of glycine should be considered as a single product because:

- they have the same basic chemical characteristics in that they share the same basic chemical composition, although they differ slightly in terms of purity (the range of purity starts from 97,5 % for the regular grade and up to nearly 100 % for the pharmaceutical grade; one major impurity being chloride ranging from 0,7 % to 0,007 %). The level of purity for a given grade of glycine is always expressed as a range. It has been found that for different grades of a given producer and for the same grade of different producers these ranges overlap indicating that there is no clear dividing line in terms of purity between the various grades,
- they share the same basic physical characteristics (glycine is a white free-flowing crystalline powder),
- with the exception of pharmaceutical or medical grade, which needs to be accompanied by a certificate of purity (to comply with pharmaceutical regulations), the possible uses of glycine determine the various 'names' of grades. As mentioned above, these names mainly serve marketing purposes for the product concerned but the product is basically the same.

Thus, although there are many different uses of glycine, it is clear that the different grades are almost identical in terms of physical and chemical characteristics and should therefore be treated as one single product.

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 and the one manufactured and sold in the Community by the Community producer were found to have the same basic physical and chemical characteristics as well as the same uses and are therefore 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

1.1. Market economy treatment

- (10) Pursuant to Article 2(7)(b) of the basic Regulation, Chinese producers may request that their normal value is determined in accordance with paragraphs 1 to 6 of the said Article, i.e. in accordance with the provisions which apply to market economy countries.

- (11) As mentioned in recital 4, five companies submitted claims for market economy status. The examination of their claims showed that none of the claimant companies met the criteria laid down in Article 2(7)(c) of the basic Regulation.

- (12) One claim was rejected because it was not submitted by the whole group involved in the production and sale of the product but only by one company within the group. Therefore, it was not possible to verify whether the group as a whole merited market economy status. Moreover, the claimant company was subject to restrictions in its buying and selling activities both domestically and for export, indicating that decisions were not taken in response to market signals reflecting supply and demand.

- (13) Another claim was rejected because the claimant was also subject to selling restrictions and its activities were influenced by State interference. Moreover, its accounts were incomplete and contained significant errors and, therefore, could not provide a basis for the establishment of normal value.

- (14) The other three claims were rejected because the companies concerned did not produce the product under consideration. They claimed that they purchased low purity glycine on which they performed a production process which, however, did not change either the chemical composition or the physical characteristics of the product under consideration. As such, they resembled traders of the product under consideration. As only producers can obtain market economy status their claims had to be rejected.

- (15) The Community industry was given the opportunity to comment on the above findings. Moreover, the applicant companies were also informed and given the opportunity to comment on the same findings.

1.2. Analogue country

- (16) In accordance with Article 2(7) of the basic Regulation an analogue market economy third country had to be selected for the establishment of normal value for the People's Republic of China. For this purpose, the Commission proposed India which was also the proposal made in the complaint. Within the time limit specified in the notice of initiation, the Chinese cooperating companies objected to this approach and suggested the use of Hungary. They underlined that the Indian domestic market of glycine was virtually non-existent and that it was strongly protected because of high import duties. In support of Hungary they alleged that it had a sufficiently large production capacity of glycine and was the fourth largest exporter to the Community of the product concerned.

- (17) In these circumstances, the Commission contacted producers in Hungary, India and the United States of America. The producers in India and the United States declined to cooperate in the investigation. A Hungarian producer expressed his willingness to cooperate. Hungary is one of the few countries outside the Community and the People's Republic of China where glycine is produced and sold. Hungary is also an open market where glycine is imported as well as exported. On this basis, the Commission decided to use Hungary as an analogue country.

1.3. Determination of normal value

- (18) Normal value was established on the basis of domestic prices of the Hungarian producer in accordance with Article 2(7)(a) of the basic Regulation. In this respect, it was found that domestic sales of the like product by the Hungarian producer during the investigation period were made in sufficient quantities and in the ordinary course of trade. Normal value was, therefore, established by grade on the basis of the weighted average prices actually paid or payable by independent customers in Hungary.

2. Export price

2.1. Individual treatment

- (19) All five companies that were not granted market economy status applied for individual treatment, i.e. the determination of an individual dumping margin on the basis of their individual export prices. The Commission verified whether these companies enjoyed, both in fact and in law, the necessary degree of independence from the State.
- (20) As already mentioned in recital 14, three of these companies were not producers of the product concerned. Since the granting of individual treatment applies only to producers, it is clear that these three companies do not qualify for individual treatment. For the other two companies the absence of interference by the State could not be excluded. One company was not licensed to export and all its exports were made through a trading company controlled by provincial State authorities. For the other company, one of its members was not licensed to export whereas the other was subject to quotas for its domestic and export sales. In addition, all these companies were wholly or majority State-owned. Consequently, it was concluded that all applicant companies did not meet the necessary requirements for individual treatment.

2.2. Determination of export price

- (21) Since Chinese companies which cooperated in the investigation made exports directly to independent customers in the Community, the export price was established in accordance with Article 2(8) of the basic

Regulation on the basis of the prices paid or payable for these exports.

3. Comparison

- (22) For the purposes of a fair comparison by grade between the normal value at fob Hungarian frontier level and the export price at fob Chinese frontier level, due allowance was made for differences which were claimed and demonstrated to affect price comparability. These adjustments were made in respect of transport and insurance costs in accordance with Article 2(10) of the basic Regulation.

4. Dumping margin

- (23) The comparison of normal values and export prices revealed the existence of dumping with regard to imports of the product concerned from all cooperating Chinese companies, the dumping margins being equal to the amount by which the normal value exceeded their export prices to the Community.
- (24) In the absence of individual treatment being granted to any of the companies concerned an overall weighted average dumping margin was calculated for the whole of the People's Republic of China. In this respect, the comparison of the data concerning exports to the Community provided by the cooperating Chinese companies and Eurostat import statistics indicated that these exports represented only 71,3 % of total Chinese imports into the Community during the investigation period. Thus, in calculating an overall dumping margin for the People's Republic of China, the Commission based the dumping margin for the volumes for which cooperation was not obtained on the facts available. In this respect, it was considered appropriate to set the dumping margin for these imports at the level of the highest dumping margin established for the cooperating exporter with representative export volumes.
- (25) On this basis, the provisional dumping margin for imports originating in the People's Republic of China expressed as a percentage of the cif price at Community frontier level, duty unpaid, was 45,9 %.

D. INJURY

1. Definition of the Community industry

- (26) The complainant (CEFIC) acts on behalf of the sole producer of the product concerned in the Community, this producer is, therefore, considered as the 'Community industry' within the meaning of Article 4(1) and Article 5(4) of the basic Regulation.

- (27) As there is only one Community producer, information concerning the Community industry and consumption is only shown in the form of percentage changes, while market shares for all market participants have been rounded.

2. Community consumption

- (28) Community apparent consumption was established on the basis of the sales volume of the Community industry and Eurostat information on the total imports of the product concerned into the Community.
- (29) From 1995 to 1997, consumption, in volume terms, increased by 12 %, then decreased to slightly below 1995 levels in the investigation period. The increase in consumption in 1997 was due mainly to the development in the use of glycine by the petfood industry. In 1998 and during the investigation period, most users slightly reduced their consumption of glycine.

3. Imports from the country concerned

3.1. Volume and market share

- (30) The import volume of glycine originating in the People's Republic of China rose from around 1 300 tonnes in 1995 to 2 500 tonnes in the investigation period, an increase of almost 100 %. Most of this increase took place between 1996 and 1997. Between 1997 and 1998, when Community consumption fell by 9 %, imports of glycine originating in the People's Republic of China increased by a further 4 %, but fell slightly between 1998 and the investigation period.
- (31) Nevertheless, during the investigation period, imports of glycine originating in the People's Republic of China reached a market share of significantly more than one third of total Community consumption, double their 1995 market share.
- (32) The People's Republic of China is by far the largest exporter of glycine to the Community market. Its share of total import volumes rose from 54 % in 1995 to 84 % during the investigation period.

3.2. Prices

(i) Price evolution

- (33) The weighted average import prices of glycine originating in the People's Republic of China decreased by 23 % from 1995 to the investigation period, to reach a level of EUR 2 292 per tonne.

(ii) Price undercutting

- (34) Price undercutting was established for the investigation period on the basis of a comparison of Chinese exporter's cif prices, at Community frontier, including post importation costs and customs' duties paid with the Community industry's ex-works prices, at the same level of trade and net of all rebates and deductions. The result of the comparison showed a weighted average price undercutting margin, expressed as a percentage of Community industry's prices, of 24,7 %.

4. Situation of the Community industry

4.1. Production, production capacity and capacity utilisation

- (35) Production over the period 1995 to the investigation period decreased by 17 %. Throughout the analysis period, approximately 5 % of the production of the Community producer was used internally by the company to make other products.
- (36) As production capacity was static, the capacity utilisation rate of the Community industry decreased from 58 % to 49 % over the analysis period.
- (37) The plant and equipment used by the Community industry is totally dedicated to glycine because it is linked to specific storage, recycling and water treatment machinery that has to comply with high safety and environmental standards. Therefore, it cannot be split or converted to other products. The current capacity level was set in the mid-1980s when a growing demand for glycine was expected.

4.2. Sales volume, unit prices and costs

- (38) The sales made by the Community industry to unrelated customers on the Community market during the period from 1995 to the investigation period decreased in volume by 17 %. Average net sales prices fell by 3 %.
- (39) Total unit costs fell by 9 % between 1995 and 1996, thanks mostly to higher production volumes. In 1997, and again in 1998, however, unit costs increased owing to severe contractions in volumes produced. During the investigation period, even though production continued to decrease slightly, the Community producer was able to reduce its unit costs mainly by improving usage of raw materials, by benefiting from lower prices of MCCA, the major raw material, and by reducing manufacturing overheads.

4.3. Market share

- (40) The Community industry's share of Community consumption decreased by 16 % from 1995 to the investigation period, to reach approximately half of the market. The loss of market share was mostly concentrated between 1996 and 1997; at that time Community consumption grew noticeably, but imports from the People's Republic of China grew even more rapidly and increased their market share. Afterwards, in 1998 and during the investigation period, the Community industry's market share remained fairly stable at its reduced level.

4.4. Profitability

- (41) In 1995, the Community industry made small losses on its sales of glycine, due to high R & D expenditure; in 1996 increasing sales led to a small profit. However, in 1997 and 1998, profitability deteriorated, due to decreasing sales, and losses were again registered. During the investigation period, due to lower unit costs, profitability improved to above break-even, but was still at a level inadequate to ensure the viability of glycine production.
- (42) In this context, certain Chinese exporters argued that the profit situation of the Community industry did not indicate injury. In support of this contention, they cited the profitable levels of prices for pharmaceutical glycine. This argument is not acceptable because, even though pharmaceutical glycine is sold by the Community industry at higher prices than regular glycine, the volumes sold, at less than 5 % of total sales, are so low that their impact on overall profitability is marginal. In any event, it should be noted that in accordance with Article 3(5) of the basic Regulation no one injury factor can give decisive guidance in the analysis of the situation of the Community industry.

4.5. Employment

- (43) The number of personnel directly employed by the Community producer in the production of glycine has decreased by 17 % from 1995 to the investigation period, to reach approximately 50 persons. Approximately 10 other persons, working on general services and maintenance, have also to be taken into consideration.

5. Conclusion on injury

- (44) A marked deterioration of the situation of the Community industry has been observed, in particular between 1996 and the investigation period, when quantities imported from the People's Republic of China increased by almost 100 % and doubled their share of

the Community market. During the investigation period, the imports concerned were made at prices significantly below those of the Community industry. From 1996 to the investigation period, the Community industry suffered a reduction in sales volumes, prices, market share and employment levels. Despite a reduction in total unit costs during the investigation period, the revenue generated by falling sales and falling prices was not sufficient to generate profits at levels which would ensure the viability of the Community industry.

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

E. CAUSATION

1. Introduction

- (46) In accordance with Article 3(6) and (7) of the basic Regulation, the Commission examined whether the material injury suffered by the Community industry had been caused by the dumped imports or whether other factors might have caused or contributed to that injury, in order to ensure that injury from other factors was not attributed to the dumped imports.

2. Effect of the dumped imports

- (47) Prices of imports from the People's Republic of China decreased by 23 % between 1995 and the investigation period, and were the lowest prices of all the significant operators on the Community market. Over the same period, imports from the People's Republic of China nearly doubled in volume and in market share.
- (48) There is a clear coincidence in time between the deteriorating situation of the Community industry, especially the loss of sales and market share, and the volume, prices and growth of dumped imports from the People's Republic of China. This was especially true in 1997 when these imports grew dramatically and prices fell by 8 % from their 1996 level. Several sales agents reported to the Community producer that their clients were being offered much lower prices by Chinese companies.
- (49) As Chinese prices continued to decrease after 1997, efforts made by the Community industry to reduce costs and lower prices did not bring a recovery in market share, sales volume or profitability, which had deteriorated particularly between 1996 and 1997 and remained at a low level until the investigation period.
- (50) It is clear that the dumped imports from the People's Republic of China have caused material injury to the Community industry.

3. Other factors

3.1. Imports from other countries

- (51) During the investigation period, imports into the Community from other countries originated mainly in Japan and India. The volumes imported were 10 to 20 times less than those imported from the People's Republic of China, and their shares of total imports were respectively 9 % and 4 %.
- (52) Imports from Japan have fallen by 50 % over the analysis period, while their prices were fairly stable and actually above those of the Community industry. These imports could not contribute to the injury suffered by the Community industry, as they lost market shares and did not contribute to the depression of prices.
- (53) Import volumes from India showed some erratic movements during the analysis period. Even though average import prices have decreased and are quite close to prices of glycine originating in the People's Republic of China, their market share was significantly smaller during the investigation period than in 1995, and, in any case, was so small compared to those originating from the People's Republic of China that they did not have a significant impact on the situation of the Community industry.

3.2. Development of consumption

- (54) In 1997, Community consumption of glycine was 12 % higher than in 1995. This increase was more than absorbed by imports from the People's Republic of China, as the Community industry's sales fell by 5 %, while imports from countries other than the People's Republic of China were down by nearly 20 %.
- (55) Consumption decreased significantly between 1997 and 1998 (– 7,4 %) and continued to fall up to the investigation period. However, this decrease only partially contributed to the deterioration of the situation of the Community industry as its sales during this time fell by more than consumption (– 10,5 %). In fact, between 1997 and 1998, the volume of dumped imports from the People's Republic of China, despite the negative development of consumption, continued to increase (+ 4 %) and to gain market share.

3.3. Overcapacity

- (56) As explained above, the plant and equipment used by the Community producer is entirely dedicated to glycine, and cannot be adjusted to variations in sales volume. In this respect, the inability to alter capacity can be seen as contributing to the material injury experienced by the

Community industry at a time of decreasing consumption. The Community market was, however, of a sufficient size to have allowed the Community industry to achieve capacity utilisation levels that are profitable, and indeed, in 1996, this was the case.

- (57) In fact, the primary cause of reduced utilisation levels, and thus overcapacity, is to be found in the pronounced effect of the dumped imports from the People's Republic of China on the sales volumes of the Community industry.

4. Conclusion on causation

- (58) The investigation has shown that the pricing behaviour of Chinese exporters led to a significant increase in their sales volumes on the Community market; they absorbed all of the increase in Community consumption in 1997, and also gained market share at the expense of all the other suppliers in the Community.
- (59) To resist the pressure imposed by the increased quantities of low-priced imports from the People's Republic of China, the Community industry was forced to decrease its prices while consumption declined from 1997 up to the investigation period. These imports caused reduced production and sales, and, in turn, reduced capacity utilisation and led to unsatisfactory financial results for the Community industry.
- (60) Other factors, such as a reduction in demand from 1998 to the investigation period, imports from India, and the dedicated production capacity also contributed to the negative situation of the Community industry. However, these effects were not such as to break the causal link between dumped imports and injury suffered by the Community industry.
- (61) It is, therefore, provisionally concluded that, considered in isolation, the dumped imports from the People's Republic of China have caused material injury to the Community industry.

F. COMMUNITY INTEREST

1. Preliminary remarks

- (62) In accordance with Article 21 of the basic Regulation, the Commission examined whether the imposition of anti-dumping measures would be against the interest of the Community as a whole. The determination of the Community interest was based on an appreciation of all interests involved, i.e. those of the Community industry, the importers and traders and the users of the product concerned.

- (63) The Commission sent questionnaires to the Community industry, to known or potential industrial users of the product concerned, i.e. to 12 individual companies or groups (in the sectors of petfood, agrochemicals and pharmaceuticals), and to 13 importers/traders. Questionnaire responses were received within the time limits set from one petfood manufacturer, two agrochemical companies, three pharmaceutical companies and two importers/traders.
- (64) The cooperating users represent approximately 40 % of the imports concerned and also approximately 40 % of Community consumption, while the importers/traders represent approximately 40 % of the imports concerned.
- (65) On this basis, it was examined whether, despite the conclusions on dumping, injury and causation, compelling reasons exist which would lead to the conclusion that it is not in the Community interest to impose measures in this particular case.

2. Interest of the Community industry

- (66) As mentioned above, the Community industry consists of a sole producer which suffered material injury caused by dumped imports originating in the People's Republic of China.
- (67) If measures are not imposed on imports originating in the People's Republic of China, it is probable that the Community producer will have to close its glycine production facility, taking into account its present very low profit margins and the financial losses suffered in 1997 and 1998. Indeed, without measures, the price-depressive effect of the dumped imports will continue to outweigh all the rationalisation efforts of the Community industry to achieve a satisfactory level of profitability.
- (68) On the other hand, imposition of measures would enable this industry to maintain and restore the level of its activities in the Community, thus securing the employment of at least 50 persons in a region affected by industrial decline (Limburg in Belgium), and the running of a plant capable of generating a turnover of approximately EUR 20 million a year.

3. Interest of importers/traders

- (69) Two importers replied to the Commission's questionnaire. Both opposed anti-dumping measures, which, they stated, would cause them to lose sales because the imported product would be priced out of the market. One of these companies would not be much affected because the product concerned only consisted a small part of its sales. The other, however, would clearly suffer, because the product concerned represented slightly more than a quarter of its turnover and was by far the largest item contributing to its profitability. This

importer argued that, not only would the jobs directly involved be threatened, but the whole company would be endangered if it were to stop importing glycine.

- (70) As the objective of anti-dumping measures is not to prevent imports, but to ensure that they are made at fair prices, it is considered that the risk of imports of the product concerned originating in the People's Republic of China ceasing completely if measures are introduced is very small, especially taking into account the effect of a price increase on the downstream industries described below. Nevertheless, import volumes may decrease after the imposition of measures, and it cannot be excluded that at least one importer will face some negative consequences as a result.

4. Interest of users

- (71) There are three major groups of users: the petfood, agrochemical and pharmaceutical industries.

4.1. Petfood industry

- (72) The petfood industry is estimated to represent more than 50 % of the Community consumption of glycine. It is a large industry with more than 10 000 employees.
- (73) The investigation has shown that glycine represented less than 1 % of manufacturing costs in this industry. The impact of any anti-dumping duty can, therefore, be deemed as marginal. Competition is, however, very strong in this industry, and it was claimed that other sources of cheap glycine, or even a cheaper substitute, would be sought. This claim was not substantiated, however.
- (74) Users in this industry also expressed concern that glycine might become too expensive if the sole Community producer benefited from a monopoly situation, particularly if duties were so high that Chinese producers were eliminated from the market, as happened on the US market after the imposition of anti-dumping duties there. However, the cooperating petfood producer did in fact recognise that it was important for competition on the Community market to have at least one Community producer. The Community producer's reliability and efficiency in terms of delivery was also acknowledged.
- (75) It was noted that the petfood industry has undergone dramatic restructuring in recent years, leading to the creation of two major players on the Community market with more than half of the market. The buying power of these companies is thus very important in terms of the product concerned, as they account for more than 50 % of the Community glycine market and use global sourcing to negotiate large annual contracts and, therefore, exercise downward pressure on prices.

- (76) On this basis, it is considered that the Community petfood industry would face only marginal increases in manufacturing costs if anti-dumping measures were imposed, because glycine represents a very small percentage of total costs. There would thus be little or no effect on employment or investment in this industry.

4.2. Agrochemical industry

- (77) The two cooperating companies in this industry represented approximately one quarter of the Community consumption of the product concerned. Total staff employed was less than 100 persons in the two companies considered together.

- (78) Both companies opposed the imposition of anti-dumping measures, stating that the product concerned represented a substantial share in terms of raw materials, and a little less than 10 % of their total manufacturing costs (thus significantly less than total costs). They pointed out that any increase in the price of glycine would affect their competitiveness.

- (79) One company is using glycine to produce a certain type of vitamin. It stated that the price of its product on the Community market was very low and this was due to competition from producers located in the People's Republic of China. The investigation, however, did not confirm this claim as the competition actually takes place between producers located in western Europe, and imports from the People's Republic of China are regarded as being very marginal. Furthermore, the investigation has shown that the situation on the vitamins market has apparently been made uncertain following investigations and judgments by US anti-trust authorities on an agreement restricting competition between the world's major vitamin-producers. Because the cooperating company in question is already making losses, it may decide to stop this activity. But, in the particular situation of the vitamin-market described above, it is difficult to conclude that the imposition of anti-dumping measures concerning one cost element would be the determining factor. This company also claimed that the Community industry could not deliver glycine in the required packaging format and with a certain necessary additive, but the investigation has not confirmed this claim.

- (80) The other company is producing a fungicide described as a mature product, the life expectancy of which depends on the need to reduce costs. This company explained that highly competitive substitutes exist on the fungicide market, and that it was in the Community interest to favour the competitiveness of industries making derivatives of glycine, because they bring more economic benefits and jobs than the Community industry producing glycine.

- (81) The Commission noted, however, that the profitability of producing this fungicide increased between 1995 and 1998 and that the company concerned was not able to give precise information on the possible impact of an increase in the cost of glycine owing to the imposition of duties. Furthermore, the glycine originating in the People's Republic of China used was imported under the inward-processing customs regime, and would not be affected by anti-dumping duties. The major problem alleged by this company related to the competition on the Community glycine market that would, the company claimed, be significantly reduced if anti-dumping duties were imposed (see recital 97).

- (82) It was concluded that the claims of these two user companies have not been confirmed by the results of the investigation. It has also been found that these companies would face only a limited increase in their manufacturing costs if measures were imposed.

4.3. Pharmaceutical industry

- (83) The pharmaceutical industry uses small quantities of glycine (less than 10 % of Community consumption). Pharmaceutical-grade glycine accompanied by a certificate of analysis is mostly used. Most of this glycine is purchased from the Community producer for quality reasons. It is a very small input in terms of volume and cost.

- (84) This industry made the point that they were keen to keep a reliable Community producer on the market, but they did not wish to see a monopoly situation develop on the Community market if imports originating in the People's Republic of China were completely discouraged by measures.

- (85) It was concluded that the impact on the pharmaceutical industry would be marginal if anti-dumping measures were imposed, as it imports little from the People's Republic of China, and glycine represents a very small share in the manufacturing costs of the downstream products.

5. Competition on the Community market and trade distorting effects

- (86) Interested parties presented several allegations in this connection:
- anti-dumping measures would leave the Community industry in a monopoly position, able to increase prices to an unjustifiable extent,
 - duties would not help the Community industry, as there are plentiful supplies of glycine on the world market that could replace glycine originating in the People's Republic of China,
 - the Community industry had tried to protect its position on the Community market through agreements with other major world producers of glycine.

(87) It was noted that the Community producer was indeed the sole producer of glycine in the Community between 1995 and the investigation period, but that imports from various countries represented almost half of Community consumption throughout the period, showing that a strong degree of competition existed. Further, there is no reason to doubt the stated intention of the Community producer that, if measures are imposed, it would improve its situation by increasing its sales volumes in order to raise capacity utilisation and reduce unit costs, rather than by increasing prices. In addition, the Commission does not consider that, in the circumstances of the present investigation, the introduction of anti-dumping measures would lead to the sole Community producer being able to exercise monopoly power on the Community market: the market would remain open to imports at fair prices. The loss of Community production due to injurious dumping, however, would leave exporting producers in the People's Republic of China in the position of being able to supply over 80 % of Community demand, owing to the large amount of spare capacity that exists in the People's Republic of China, leading to a quasi-monopoly situation.

(88) As to the replacement of imports from the People's Republic of China by glycine from other sources, this is unlikely to happen, due to the fact that glycine produced in the USA, in Japan or in Hungary is approximately as costly as the one produced in the Community. Imports originating in these countries are only expected to recover their position prior to the arrival of dumped imports on the Community market. As to the cheap glycine produced in India, it seems that it is not able at the moment to meet the requirements of Community users. Indeed imports from India were very small during the investigation period.

(89) The allegation concerning agreements with other major world producers was not supported by any evidence, and the investigation did not point to the existence of such agreements.

6. Conclusion on Community interest

(90) Inevitably, any price rise resulting from anti-dumping measures tends to increase the costs of the downstream industries. However, this increase is estimated by the Commission services to be marginal for the companies cooperating in this investigation, apart from one user producing a certain type of vitamin, which has separate concerns.

(91) The potential number of job losses which would result from closure of the Community industry or the Community user most concerned are roughly comparable. However, the vitamin industry is in fact emerging from a post cartel situation, and the outcome of this

investigation can, in any event, be considered as marginal in the restructuring this industry has to face.

(92) On balance, it cannot be clearly concluded that the imposition of anti-dumping measures is not in the Community interest, as it is considered that the benefit of removing the unfair elements of the dumped prices of glycine originating in the People's Republic of China by the imposition of anti-dumping measures outweighs the possible negative effects on downstream industries. This conclusion took into account, in particular, the fact that the cessation of glycine production by the Community industry is likely if measures are not imposed and, in the long term, this would be detrimental to the interests of users of the product under consideration.

(93) Given the above, it is provisionally concluded that there are no compelling reasons to consider that taking measures would be against the overall interest of the Community.

G. PROVISIONAL MEASURES

1. Injury elimination level

(94) In view of the conclusions reached with regard to dumping, injury, causation and Community interest, provisional measures should be adopted in order to prevent further injury being caused to the Community industry by the dumped imports.

(95) For the purpose of determining the level of these measures, account has been taken of the level of the dumping margin found, and of the amount necessary to eliminate the injury sustained by the Community industry. As the injury consists principally of a reduction in profitability from 1997 onwards and a loss of market share, the removal of such injury requires that the industry should be able to increase sales volume and revenues. To achieve this, prices of imports of the product concerned originating in the People's Republic of China should be increased to a non-injurious-level. To this end, the Commission determined a non-injurious price based on the production costs of the Community industry, together with a reasonable profit margin (6 %), this being considered necessary to ensure the viability of the industry and to represent a profit which this industry could expect in the absence of dumped imports. This non-injurious price was compared with the prices of the dumped imports used to establish undercutting. The differences between these prices (on a weighted average basis and expressed as a percentage at cif Community frontier level duties unpaid) showed an injury elimination level of 39,7 %.

(96) As the injury elimination level is lower than the dumping margin established, the provisional measures should be based on the former.

2. Form of the measures

- (97) Given that the investigation has shown that prices of glycine originating in the People's Republic of China were still decreasing after the investigation period, there is a risk of absorption of an *ad valorem* duty and therefore a specific amount duty of EUR 910 per tonne is considered the most appropriate measure.

3. Final provisions

- (98) 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 purposes of this Regulation are provisional and may have to be reconsidered for the purposes of any definitive duty,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of glycine falling within CN code 2922 49 10 originating in the People's Republic of China.
2. The amount of duty applicable is EUR 910 per tonne.
3. In cases where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs

value pursuant to Article 145 of Commission Regulation (EEC) No 2454/93 ⁽¹⁾, the amount of anti-dumping duty, calculated on the basis of the fixed amounts set out above, shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.

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

5. 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 provisional duty.

Article 2

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

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

Article 3

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

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

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

Done at Brussels, 18 May 2000.

For the Commission

Pascal LAMY

Member of the Commission

⁽¹⁾ OJ L 253, 11.10.1993, p. 1.

COMMISSION REGULATION (EC) No 1044/2000**of 18 May 2000****amending Regulation (EC) No 1555/96 on rules of application for additional import duties on fruit and vegetables**

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 33(4) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1555/96 ⁽³⁾, as last amended by Regulation (EC) No 2532/1999 ⁽⁴⁾, provides for surveillance of imports of the products listed in the Annex thereto. That surveillance is to be carried out in accordance with the rules on the surveillance of preferential imports laid down in Article 308d of Commission Regulation (EEC) No 2454/93 ⁽⁵⁾, as last amended by Regulation (EC) No 1662/1999 ⁽⁶⁾.
- (2) Article 5(4) of the Agreement on Agriculture ⁽⁷⁾, concluded during the Uruguay Round of multilateral trade negotiations lays down criteria for fixing the

trigger levels for additional duties. In accordance with those criteria and in the light of the latest data available for 1996, 1997 and 1998, the trigger level for additional duties on cherries should be amended.

- (3) 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 Annex to Regulation (EC) No 1555/96 is replaced by the Annex hereto.

Article 2

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, 18 May 2000.

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 L 193, 3.8.1996, p. 1.

⁽⁴⁾ OJ L 306, 1.12.1999, p. 21.

⁽⁵⁾ OJ L 253, 11.10.1993, p. 1.

⁽⁶⁾ OJ L 197, 29.7.1999, p. 25.

⁽⁷⁾ OJ L 336, 23.12.1994, p. 22.

ANNEX

‘ANNEX

Without prejudice to the rules for the interpretation of the Combined Nomenclature, the description of the products is deemed to be indicative only. The scope of the additional duties for the purposes of this Annex is determined by the scope of the CN codes as they exist at the time of the adoption of this Regulation. Where “ex” appears before the CN code, the scope of the additional duties is determined both by the scope of the CN code and the corresponding trigger period.

Serial No	CN code	Description	Trigger period	Trigger level (tonnes)
78.0015 78.0020	ex 0702 00 00	Tomatoes	— 1 October to 31 March — 1 April to 30 September	501 111 639 884
78.0065 78.0075	ex 0707 00 05	Cucumbers	— 1 May to 31 October — 1 November to 30 April	10 098 3 196
78.0085	ex 0709 10 00	Artichokes	— 1 November to 30 June	19 302
78.0100	0709 90 70	Courgettes	— 1 January to 31 December	9 879
78.0110	ex 0805 10 10 ex 0805 10 30 ex 0805 10 50	Oranges	— 1 December to 31 May	753 719
78.0120	ex 0805 20 10	Clementines	— 1 November to end of February	100 949
78.0130	ex 0805 20 30 ex 0805 20 50 ex 0805 20 70 ex 0805 20 90	Mandarins (including tangerines and satsumas); wilkings and similar citrus hybrids	— 1 November to end of February	93 803
78.0155 78.0160	ex 0805 30 10	Lemons	— 1 June to 31 December — 1 January to 31 May	169 508 111 446
78.0170	ex 0806 10 10	Table grapes	— 21 July to 20 November	190 422
78.0175 78.0180	ex 0808 10 20 ex 0808 10 50 ex 0808 10 90	Apples	— 1 January to 31 August — 1 September to 31 December	625 202 88 229
78.0220 78.0235	ex 0808 20 50	Pears	— 1 January to 30 April — 1 July to 31 December	184 455 161 019
78.0250	ex 0809 10 00	Apricots	— 1 June to 31 July	2 432
78.0260	ex 0809 20	Cherries	— 21 May to 10 August	20 048
78.0270	ex 0809 30	Peaches, including nectarines	— 11 June to 30 September	1 166
78.0280	ex 0809 40 05	Plums	— 11 June to 30 September	112 005'

COMMISSION REGULATION (EC) No 1045/2000**of 18 May 2000****fixing the guarantee threshold quantities that can be transferred to other groups of varieties in the raw tobacco sector for the 2000 harvest**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2075/92 of 30 June 1992 on the common organisation of the market in raw tobacco ⁽¹⁾, as last amended by Regulation (EC) No 660/1999 ⁽²⁾, and in particular Article 9(4) thereof,

Whereas:

- (1) Article 9 of Regulation (EEC) No 2075/92 introduces a system of quotas for the various groups of tobacco varieties. The individual quotas were allocated to the producers on the basis of the guarantee thresholds for the 2000 harvest fixed in Article 3 of Regulation (EC) No 660/1999. Article 9(4) of Regulation (EEC) No 2075/92 allows the Commission to authorise the Member States to transfer guarantee threshold quantities between groups of varieties. The transfers between groups of varieties contemplated do not give rise to any additional expenditure to the EAGGF and do not entail any increase in the overall guarantee threshold of each Member State.
- (2) This Regulation must apply as soon as possible and, at all events, well before the time limit for the conclusion of cultivation contracts laid down in Article 10(1) of

Commission Regulation (EC) No 2848/98 of 22 December 1998 laying down detailed rules for the application of Council Regulation (EEC) No 2075/92 as regards the premium scheme, production quotas and the specific aid to be granted to producer groups in the raw tobacco sector ⁽³⁾, as last amended by Regulation (EC) No 909/1999 ⁽⁴⁾.

- (3) The measures laid down in this Regulation are in accordance with the opinion of the Management Committee for Tobacco,

HAS ADOPTED THIS REGULATION:

Article 1

For the 2000 harvest, in accordance with Article 22(4) of Regulation (EC) No 2848/98, the Member States are hereby authorised to transfer quantities between groups of varieties as set out in the Annex hereto.

Article 2

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, 18 May 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 215, 30.7.1992, p. 70.
⁽²⁾ OJ L 83, 27.3.1999, p. 10.

⁽³⁾ OJ L 358, 31.12.1998, p. 17.
⁽⁴⁾ OJ L 105, 3.5.2000, p. 18.

ANNEX

**THRESHOLD GUARANTEE QUANTITIES THAT CAN BE TRANSFERRED BETWEEN GROUPS OF VARIETIES
BY THE MEMBER STATES**

Member State	Group of varieties from which transfer is made	Group of varieties to which transfer is made
Greece	1 270 t of Kaba Koulak classic (group VIII)	770 t of Basmás (group VI)
	318 t of Kaba Koulak classic (group VIII)	227 t of Katerini (group VII)
	569 t of Kaba Koulak classic (group VIII)	478 t of flue-cured (group I)
	15 t of sun-cured (group V)	12 t of flue-cured (group I)
	70 t of light air-cured (group II)	56 t of flue-cured (group I)
Spain	3 592,3 t of dark air-cured (group III)	3 592,3 t of light air-cured (group II)
	263,3 t of dark air-cured (group III)	210,6 t of flue-cured (group I)
Germany	53,1 t of dark air-cured (group III)	31,4 t of flue-cured (group I)
		14,1 t of light air-cured (group II)
Italy	1 000 t of Katerini (group VII)	270 t of fire-cured (group IV)
		220 t of sun-cured (group V)
		355 t of light air-cured (group II)
		155 t of flue-cured (group I)

**COMMISSION REGULATION (EC) No 1046/2000
of 18 May 2000**

**fixing the rates of the refunds applicable to certain cereal and rice-products exported in the form of
goods not covered by Annex I to the Treaty**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Commission Regulation (EC) No 1253/1999 ⁽²⁾, and in particular Article 13(3) thereof,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽³⁾, as amended by Regulation (EC) No 2072/98 ⁽⁴⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) Article 13(1) of Regulation (EEC) No 1766/92 and Article 13(1) of Regulation (EC) No 3072/95 provide that the difference between quotations of prices on the world market for the products listed in Article 1 of each of those Regulations and the prices within the Community may be covered by an export refund.
- (2) Commission Regulation (EC) No 1222/94 of 30 May 1994 laying down common implementing rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds ⁽⁵⁾, as last amended by Regulation (EC) No 701/2000 ⁽⁶⁾, specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in Annex B to Regulation (EEC) No 1766/92 or in Annex B to Regulation (EC) No 3072/95 as appropriate.
- (3) In accordance with the first subparagraph of Article 4(1) of Regulation (EC) No 1222/94, the rate of the refund per 100 kilograms for each of the basic products in question must be fixed for each month.
- (4) The commitments entered into with regard to refunds which may be granted for the export of agricultural products contained in goods not covered by Annex I to the Treaty may be jeopardised by the fixing in advance of high refund rates. Whereas it is therefore necessary to take precautionary measures in such situations without, however, preventing the conclusion of long-term

contracts. Whereas the fixing of a specific refund rate for the advance fixing of refunds is a measure which enables these various objectives to be met.

- (5) Now that a settlement has been reached between the European Community and the United States of America on Community exports of pasta products to the United States and has been approved by Council Decision 87/482/EEC ⁽⁷⁾, it is necessary to differentiate the refund on goods falling within CN codes 1902 11 00 and 1902 19 according to their destination.
- (6) Article 4(5)(b) of Regulation (EC) No 1222/94 provides that, in the absence of the proof referred to in Article 4(5)(a) of that Regulation, a reduced rate of export refund has to be fixed, taking account of the amount of the production refund applicable, pursuant to Commission Regulation (EEC) No 1722/93 ⁽⁸⁾, as last amended by Regulation (EC) No 87/1999 ⁽⁹⁾, for the basic product in question, used during the assumed period of manufacture of the goods.
- (7) It is necessary to ensure continuity of strict management taking account of expenditure forecasts and funds available in the budget.
- (8) The Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 19 May 2000.

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 160, 26.6.1999, p. 18.

⁽³⁾ OJ L 329, 30.12.1995, p. 18.

⁽⁴⁾ OJ L 265, 30.9.1998, p. 4.

⁽⁵⁾ OJ L 136, 31.5.1994, p. 5.

⁽⁶⁾ OJ L 83, 4.4.2000, p. 6.

⁽⁷⁾ OJ L 275, 29.9.1987, p. 36.

⁽⁸⁾ OJ L 159, 1.7.1993, p. 112.

⁽⁹⁾ OJ L 9, 15.1.1999, p. 8.

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

Done at Brussels, 18 May 2000.

For the Commission

Erkki LIIKANEN

Member of the Commission

ANNEX

to the Commission Regulation of 18 May 2000 fixing the rates of the refunds applicable to certain cereals and rice products exported in the form of goods not covered by Annex I to the Treaty

(EUR/100 kg)

CN code	Description of products ⁽¹⁾	Rate of refund per 100 kg of basic product	
		In case of advance fixing of refunds	Other
1001 10 00	Durum wheat: – on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America – in other cases	— —	— —
1001 90 99	Common wheat and meslin: – on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America – in other cases: – – where pursuant to Article 4 (5) of Regulation (EC) No 1222/94 ⁽²⁾ – – in other cases	1,142 0,911 1,757	1,142 0,911 1,757
1002 00 00	Rye	3,313	3,313
1003 00 90	Barley	1,652	1,652
1004 00 00	Oats	2,954	2,954
1005 90 00	Maize (corn) used in the form of: – starch: – – where pursuant to Article 4 (5) of Regulation (EC) No 1222/94 ⁽²⁾ – – in other cases – glucose, glucose syrup, maltodextrine, maltodextrine syrup of CN codes 1702 30 51, 1702 30 59, 1702 30 91, 1702 30 99, 1702 40 90, 1702 90 50, 1702 90 75, 1702 90 79, 2106 90 55 ⁽³⁾ : – – where pursuant to Article 4 (5) of Regulation (EC) No 1222/94 ⁽²⁾ – – in other cases – other (including unprocessed) Potato starch of CN code 1108 13 00 similar to a product obtained from processed maize: – where pursuant to Article 4 (5) of Regulation (EC) No 1222/94 ⁽²⁾ – in other cases	 2,288 3,345 1,891 2,948 3,345 2,288 3,345	 2,288 3,345 1,891 2,948 3,345 2,288 3,345
ex 1006 30	Wholly-milled rice: – round grain – medium grain – long grain	14,421 14,421 14,421	14,421 14,421 14,421
1006 40 00	Broken rice	3,152	3,152
1007 00 90	Sorghum	1,652	1,652

⁽¹⁾ As far as agricultural products obtained from the processing of a basic product or/and assimilated products are concerned, the coefficients shown in Annex E of amended Commission Regulation (EC) No 1222/94 shall be applied (OJ L 136, 31.5.1994, p. 5).

⁽²⁾ The goods concerned are listed in Annex I of amended Regulation (EEC) No 1722/93 (OJ L 159, 1.7.1993, p. 112).

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

COMMISSION REGULATION (EC) No 1047/2000**of 18 May 2000****on the issue of import licences for rice originating in the ACP States and the overseas countries and territories against applications submitted in the first five working days of May 2000 pursuant to Regulation (EC) No 2603/97**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 2603/97 of 16 December 1997 laying down the detailed rules of application for the import of rice from the ACP States and for the import of rice from the overseas countries and territories (OCT) ⁽¹⁾, as last amended by Regulation (EC) No 2731/1999 ⁽²⁾, and in particular Article 9(2) thereof,

Whereas:

- (1) Pursuant to Article 9(2) of Regulation (EC) No 2603/97, the Commission must decide within 10 days of the final date for notification by the Member States the extent to which applications can be granted and must fix the available quantities for the following tranche.
- (2) Examination of the quantities for which applications have been submitted shows that licences for the May 2000 tranche should be issued for the quantities applied

for reduced, where appropriate, by the percentages set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

1. Import licences for rice against applications submitted during the first five working days of May 2000 pursuant to Regulation (EC) No 2603/97 and notified to the Commission shall be issued for the quantities applied for reduced, where appropriate, by the percentages set out in the Annex hereto.
2. The available quantities for the following tranche are set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 19 May 2000.

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

Done at Brussels, 18 May 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 351, 23.12.1997, p. 22.

⁽²⁾ OJ L 328, 22.12.1999, p. 39.

ANNEX

Regulation (EC) No 2603/97

Reduction percentages to be applied to quantities applied for under the tranche for May 2000 and quantities available for the following tranche:

Origin	Reduction (%)	Quantity available for the tranche for September 2000 (t)
OCT (Article 6) — CN code 1006	—	—
ACP (Article 2(1)) — CN codes 1006 10 21 to 1006 10 98, 1006 20 and 1006 30	89,630	41,666
ACP (Article 3) — CN code 1006 40 00	96,381	—

**COMMISSION REGULATION (EC) No 1048/2000
of 18 May 2000**

**fixing the maximum export refund on common wheat in connection with the invitation to tender
issued in Regulation (EC) No 1707/1999**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1253/1999 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, as last amended by Regulation (EC) No 2513/98 ⁽⁴⁾, and in particular Article 4 thereof,

Whereas:

- (1) An invitation to tender for the refund and/or the tax for the export of common wheat to all third countries was opened pursuant to Commission Regulation (EC) No 1707/1999 ⁽⁵⁾, as amended by Regulation (EC) No 2011/1999 ⁽⁶⁾.
- (2) Article 7 of Regulation (EC) No 1501/95 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to fix

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

- (3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed at the amount specified in Article 1.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 12 to 18 May 2000, pursuant to the invitation to tender issued in Regulation (EC) No 1707/1999, the maximum refund on exportation of common wheat shall be EUR 9,98/t.

Article 2

This Regulation shall enter into force on 19 May 2000.

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

Done at Brussels, 18 May 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 160, 26.6.1999, p. 18.

⁽³⁾ OJ L 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 313, 21.11.1998, p. 16.

⁽⁵⁾ OJ L 201, 31.7.1999, p. 55.

⁽⁶⁾ OJ L 248, 21.9.1999, p. 23.

COMMISSION REGULATION (EC) No 1049/2000**of 18 May 2000****concerning tenders notified in response to the invitation to tender for the export of common wheat issued in Regulation (EC) No 2010/1999**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1253/1999 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, as last amended by Regulation (EC) No 2513/98 ⁽⁴⁾, and in particular Article 7 thereof,

Whereas:

- (1) An invitation to tender for the refund and/or the tax for the export of common wheat to certain ACP States was opened pursuant to Commission Regulation (EC) No 2010/1999 ⁽⁵⁾.
- (2) Article 7 of Regulation (EC) No 1501/95 allows the Commission to decide, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92

and on the basis of the tenders notified, to make no award.

- (3) On the basis of the criteria laid down in Article 1 of Regulation (EC) No 1501/95 a maximum refund or minimum tax should not be fixed.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

No action shall be taken on the tenders notified from 12 to 18 May 2000 in response to the invitation to tender for the refund or the tax for the export of common wheat issued in Regulation (EC) No 2010/1999.

Article 2

This Regulation shall enter into force on 19 May 2000.

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

Done at Brussels, 18 May 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 160, 26.6.1999, p. 18.

⁽³⁾ OJ L 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 313, 21.11.1998, p. 16.

⁽⁵⁾ OJ L 248, 21.9.1999, p. 19.

COMMISSION REGULATION (EC) No 1050/2000**of 18 May 2000****fixing the maximum export refund on barley in connection with the invitation to tender issued in Regulation (EC) No 1701/1999**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1253/1999 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, as last amended by Regulation (EC) No 2513/98 ⁽⁴⁾, and in particular Article 4 thereof,

Whereas:

- (1) An invitation to tender for the refund and/or the tax for the export of barley to all third countries except for the United States of America and Canada was opened pursuant to Commission Regulation (EC) No 1701/1999 ⁽⁵⁾, as amended by Regulation (EC) No 2322/1999 ⁽⁶⁾.
- (2) Article 7 of Regulation (EC) No 1501/95 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to fix

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

- (3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed at the amount specified in Article 1.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 12 to 18 May 2000, pursuant to the invitation to tender issued in Regulation (EC) No 1701/1999, the maximum refund on exportation of barley shall be EUR 10,75/t.

Article 2

This Regulation shall enter into force on 19 May 2000.

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

Done at Brussels, 18 May 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 160, 26.6.1999, p. 18.

⁽³⁾ OJ L 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 313, 21.11.1998, p. 16.

⁽⁵⁾ OJ L 201, 31.7.1999, p. 27.

⁽⁶⁾ OJ L 280, 30.10.1999, p. 77.

COMMISSION REGULATION (EC) No 1051/2000
of 18 May 2000
concerning tenders notified in response to the invitation to tender for the export of oats issued in
Regulation (EC) No 1897/1999

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1253/1999 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, as last amended by Regulation (EC) No 2513/98 ⁽⁴⁾,

Having regard to Commission Regulation (EC) No 1897/1999 of 2 September 1999 on a special intervention measure for cereals in Finland and Sweden ⁽⁵⁾, as last amended by Regulation (EC) No 2482/1999 ⁽⁶⁾, and in particular Article 8 thereof,

Whereas:

- (1) An invitation to tender for the refund for the export of oats produced in Finland and Sweden for export from Finland or Sweden to all third countries was opened pursuant to Regulation (EC) No 1897/1999.

- (2) Article 8 of Regulation (EC) No 1897/1999 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to make no award.

- (3) On the basis of the criteria laid down in Article 1 of Regulation (EC) No 1501/95 a maximum refund should not be fixed.

- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

No action shall be taken on the tenders notified from 12 to 18 May 2000 in response to the invitation to tender for the refund for the export of oats issued in Regulation (EC) No 1897/1999.

Article 2

This Regulation shall enter into force on 19 May 2000.

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

Done at Brussels, 18 May 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 160, 26.6.1999, p. 18.

⁽³⁾ OJ L 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 313, 21.11.1998, p. 16.

⁽⁵⁾ OJ L 233, 3.9.1999, p. 10.

⁽⁶⁾ OJ L 303, 26.11.1999, p. 3.

COMMISSION REGULATION (EC) No 1052/2000**of 18 May 2000****fixing the export refunds on products processed from cereals and rice**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals ⁽¹⁾, as last amended by Commission Regulation (EC) No 1253/1999 ⁽²⁾, and in particular Article 13(3) thereof,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organization of the market in rice ⁽³⁾, as last amended by Regulation (EC) No 2072/98 ⁽⁴⁾, and in particular Article 13(3) thereof,

Whereas:

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

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

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

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

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

(6) The world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination.

(7) The refund must be fixed once a month; whereas it may be altered in the intervening period.

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

(9) The Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

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

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 160, 26.6.1999, p. 18.

⁽³⁾ OJ L 329, 30.12.1995, p. 18.

⁽⁴⁾ OJ L 265, 30.9.1998, p. 4.

⁽⁵⁾ OJ L 147, 30.6.1995, p. 55.

⁽⁶⁾ OJ L 312, 23.12.1995, p. 25.

Article 2

This Regulation shall enter into force on 19 May 2000.

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

Done at Brussels, 18 May 2000.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

to the Commission Regulation of 18 May 2000 fixing the export refunds on products processed from cereals and rice

(EUR/tonne)		(EUR/tonne)	
Product code	Refund	Product code	Refund
1102 20 10 9200 ⁽¹⁾	49,04	1104 23 10 9100	52,55
1102 20 10 9400 ⁽¹⁾	42,04	1104 23 10 9300	40,28
1102 20 90 9200 ⁽¹⁾	42,04	1104 29 11 9000	18,77
1102 90 10 9100	25,95	1104 29 51 9000	18,40
1102 90 10 9900	17,65	1104 29 55 9000	18,40
1102 90 30 9100	55,67	1104 30 10 9000	4,60
1103 12 00 9100	55,67	1104 30 90 9000	8,76
1103 13 10 9100 ⁽¹⁾	63,05	1107 10 11 9000	32,75
1103 13 10 9300 ⁽¹⁾	49,04	1107 10 91 9000	30,79
1103 13 10 9500 ⁽¹⁾	42,04	1108 11 00 9200	36,80
1103 13 90 9100 ⁽¹⁾	42,04	1108 11 00 9300	36,80
1103 19 10 9000	34,69	1108 12 00 9200	56,05
1103 19 30 9100	26,82	1108 12 00 9300	56,05
1103 21 00 9000	18,77	1108 13 00 9200	56,05
1103 29 20 9000	17,65	1108 13 00 9300	56,05
1104 11 90 9100	25,95	1108 19 10 9200	50,16
1104 12 90 9100	61,86	1108 19 10 9300	50,16
1104 12 90 9300	49,49	1109 00 00 9100	0,00
1104 19 10 9000	18,77	1702 30 51 9000 ⁽²⁾	64,52
1104 19 50 9110	56,05	1702 30 59 9000 ⁽²⁾	49,40
1104 19 50 9130	45,54	1702 30 91 9000	64,52
1104 21 10 9100	25,95	1702 30 99 9000	49,40
1104 21 30 9100	25,95	1702 40 90 9000	49,40
1104 21 50 9100	34,60	1702 90 50 9100	64,52
1104 21 50 9300	27,68	1702 90 50 9900	49,40
1104 22 20 9100	49,49	1702 90 75 9000	67,61
1104 22 30 9100	52,58	1702 90 79 9000	46,93
		2106 90 55 9000	49,40

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

⁽²⁾ Refunds are granted in accordance with Council Regulation (EEC) No 2730/75 (OJ L 281, 1.11.1975, p. 20), amended.

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

COMMISSION REGULATION (EC) No 1053/2000
of 18 May 2000
fixing the export refunds on cereal-based compound feedingstuffs

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1253/1999 ⁽²⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) Article 13 of Regulation (EEC) No 1766/92 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund.
- (2) Regulation (EC) No 1517/95 of 29 June 1995 laying down detailed rules for the application of Regulation (EEC) No 1766/92 as regards the arrangements for the export and import of compound feedingstuffs based on cereals and amending Regulation (EC) No 1162/95 laying down special detailed rules for the application of the system of import and export licences for cereals and rice ⁽³⁾ in Article 2 lays down general rules for fixing the amount of such refunds.
- (3) That calculation must also take account of the cereal products content. In the interest of simplification, the refund should be paid in respect of two categories of 'cereal products', namely for maize, the most commonly used cereal in exported compound feeds and maize products, and for 'other cereals', these being eligible cereal products excluding maize and maize products. A

refund should be granted in respect of the quantity of cereal products present in the compound feedingstuff.

- (4) Furthermore, the amount of the refund must also take into account the possibilities and conditions for the sale of those products on the world market, the need to avoid disturbances on the Community market and the economic aspect of the export.
- (5) However, in fixing the rate of refund it would seem advisable to base it at this time on the difference in the cost of raw inputs widely used in compound feedingstuffs as the Community and world markets, allowing more accurate account to be taken of the commercial conditions under which such products are exported.
- (6) The refund must be fixed once a month; whereas it may be altered in the intervening period.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 19 May 2000.

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

Done at Brussels, 18 May 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 160, 26.6.1999, p. 18.

⁽³⁾ OJ L 147, 30.6.1995, p. 51.

ANNEX

to the Commission Regulation of 18 May 2000 fixing the export refunds on cereal-based compound feeding-stuffs

Product code benefiting from export refund ⁽¹⁾:

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

(EUR/t)

Cereal products ⁽²⁾	Amount of refund ⁽²⁾
Maize and maize products: CN codes 0709 90 60, 0712 90 19, 1005, 1102 20, 1103 13, 1103 29 40, 1104 19 50, 1104 23, 1904 10 10	35,03
Cereal products ⁽²⁾ excluding maize and maize products	17,85

⁽¹⁾ The product codes are defined in Sector 5 of the Annex to Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1), amended.

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

Cereal products means the products falling within subheadings 0709 90 60 and 0712 90 19, Chapter 10, and headings Nos 1101, 1102, 1103 and 1104 (unprocessed and not reconstituted excluding subheading 1104 30) and the cereals content of the products falling within subheadings 1904 10 10 and 1904 10 90 of the combined nomenclature. The cereals content in products under subheadings 1904 10 10 and 1904 10 90 of the combined nomenclature is considered to be equal to the weight of this final product. No refund is paid for cereals where the origin of the starch cannot be clearly established by analysis.

COMMISSION REGULATION (EC) No 1054/2000
of 18 May 2000
fixing production refunds on cereals and rice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992, on the common organisation of the market in cereals ⁽¹⁾, as last amended by Commission Regulation (EC) No 1253/1999 ⁽²⁾, and in particular Article 7 ⁽³⁾ thereof,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽³⁾, as last amended by Regulation (EC) No 2072/98 ⁽⁴⁾, and in particular Article 7(2) thereof,

Having regard to Commission Regulation (EEC) No 1722/93 of 30 June 1993 laying down detailed rules for the arrangements concerning production refunds in the cereals and rice sectors ⁽⁵⁾, as last amended by Regulation (EC) No 87/1999 ⁽⁶⁾, and in particular Article 3 thereof,

Whereas:

- (1) Regulation (EEC) No 1722/93 establishes the conditions for granting the production refund; whereas the basis for the calculation is established in Article 3 of the said Regulation; whereas the refund thus calculated must be

fixed once a month and may be altered if the price of maize and/or wheat changes significantly.

- (2) The production refunds to be fixed in this Regulation should be adjusted by the coefficients listed in the Annex II to Regulation (EEC) No 1722/93 to establish the exact amount payable.
- (3) The Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The refund referred to in Article 3(2) of Regulation (EEC) No 1722/93, expressed per tonne of starch extracted from maize, wheat, barley, oats, potatoes, rice or broken rice, shall be EUR 17,98/t.

Article 2

This Regulation shall enter into force on 19 May 2000.

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

Done at Brussels, 18 May 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 160, 26.6.1999, p. 18.

⁽³⁾ OJ L 329, 30.12.1995, p. 18.

⁽⁴⁾ OJ L 265, 30.9.1998, p. 4.

⁽⁵⁾ OJ L 159, 1.7.1993, p. 112.

⁽⁶⁾ OJ L 9, 15.1.1999, p. 8.

COMMISSION REGULATION (EC) No 1055/2000**of 18 May 2000****fixing the export refunds on cereals and on wheat or rye flour, groats and meal**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals⁽¹⁾, as last amended by Regulation (EC) No 1253/1999⁽²⁾, and in particular Article 13(2) thereof,

Whereas:

- (1) Article 13 of Regulation (EEC) No 1766/92 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products in the Community may be covered by an export refund.
- (2) The refunds must be fixed taking into account the factors referred to in Article 1 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals⁽³⁾, as last amended by Regulation (EC) No 2513/98⁽⁴⁾.
- (3) As far as wheat and rye flour, groats and meal are concerned, when the refund on these products is being calculated, account must be taken of the quantities of cereals required for their manufacture. These quantities were fixed in Regulation (EC) No 1501/95.

- (4) The world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination.
- (5) The refund must be fixed once a month. It may be altered in the intervening period.
- (6) It follows from applying the detailed rules set out above to the present situation on the market in cereals, and in particular to quotations or prices for these products within the Community and on the world market, that the refunds should be as set out in the Annex hereto.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 19 May 2000.

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

Done at Brussels, 18 May 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 160, 26.6.1999, p. 18.

⁽³⁾ OJ L 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 313, 21.11.1998, p. 16.

ANNEX

**to the Commission Regulation of 18 May 2000 fixing the export refunds on cereals and on wheat or rye flour,
groats and meal**

(EUR/t)			(EUR/t)		
Product code	Destination ⁽¹⁾	Amount of refund	Product code	Destination ⁽¹⁾	Amount of refund
1001 10 00 9200	—	—	1101 00 11 9000	—	—
1001 10 00 9400	01	0	1101 00 15 9100	01	13,70
1001 90 91 9000	—	—	1101 00 15 9130	01	12,80
1001 90 99 9000	01	0,00	1101 00 15 9150	01	11,80
1002 00 00 9000	03	55,00	1101 00 15 9170	01	10,90
	02	0	1101 00 15 9180	01	10,20
1003 00 10 9000	—	—	1101 00 15 9190	—	—
1003 00 90 9000	01	0,00	1101 00 90 9000	—	—
1004 00 00 9200	—	—	1102 10 00 9500	01	87,00
1004 00 00 9400	—	—	1102 10 00 9700	01	68,50
1005 10 90 9000	—	—	1102 10 00 9900	—	—
1005 90 00 9000	03	17,00	1103 11 10 9200	01	0 ⁽²⁾
	02	0	1103 11 10 9400	01	0 ⁽²⁾
1007 00 90 9000	—	—	1103 11 10 9900	—	—
1008 20 00 9000	—	—	1103 11 90 9200	01	0 ⁽²⁾
			1103 11 90 9800	—	—

⁽¹⁾ The destinations are identified as follows:

- 01 all third countries,
- 02 other third countries,
- 03 Switzerland, Liechtenstein.

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

NB: The zones are those defined in amended Commission Regulation (EEC) No 2145/92 (OJ L 214, 30.7.1992, p. 20).

COMMISSION REGULATION (EC) No 1056/2000
of 18 May 2000
fixing the export refunds on malt

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1253/1999 ⁽²⁾, and in particular the third subparagraph of Article 13(2) thereof,

Whereas:

- (1) Article 13 of Regulation (EEC) No 1766/92 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund.
- (2) The refunds must be fixed taking into account the factors referred to in Article 1 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, as last amended by Regulation (EC) No 2513/98 ⁽⁴⁾.
- (3) The refund applicable in the case of malts must be calculated with amount taken of the quantity of cereals required to manufacture the products in question. The

said quantities are laid down in Regulation (EC) No 1501/95.

- (4) The world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination.
- (5) The refund must be fixed once a month. It may be altered in the intervening period.
- (6) It follows from applying these rules to the present situation on markets in cereals, and in particular to quotations or prices for these products within the Community and on the world market, that the refunds should be as set out in the Annex hereto.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on malt listed in Article 1(1)(c) of Regulation (EEC) No 1766/92 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 19 May 2000.

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

Done at Brussels, 18 May 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 160, 26.6.1999, p. 18.

⁽³⁾ OJ L 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 313, 21.11.1998, p. 16.

ANNEX

to the Commission Regulation of 18 May 2000 fixing the export refunds on malt

(EUR/t)

Product code	Refund
1107 10 19 9000	12,50
1107 10 99 9000	13,00
1107 20 00 9000	15,50

COMMISSION REGULATION (EC) No 1057/2000
of 18 May 2000
fixing the corrective amount applicable to the refund on malt

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1253/1999 ⁽²⁾, and in particular Article 13(8),

Whereas:

- (1) Article 13(8) of Regulation (EEC) No 1766/92 provides that the export refund applicable to cereals on the day on which application for an export licence is made, adjusted for the threshold price in force during the month of exportation, must be applied on request to exports to be effected during the period of validity of the export licence. In this case, a corrective amount may be applied to the refund.
- (2) Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, as last amended by Regulation (EC) No 2513/98 ⁽⁴⁾, allows for the fixing of a corrective amount for the malt referred to

in Article 1(1)(c) of Regulation (EEC) No 1766/92. That corrective amount must be calculated taking account of the factors referred to in Article 1 of Regulation (EC) No 1501/95.

- (3) It follows from applying the provisions set out above that the corrective amount must be as set out in the Annex hereto.
- (4) 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 corrective amount referred to in Article 13(4) of Regulation (EEC) No 1766/92 which is applicable to export refunds fixed in advance in respect of malt shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 19 May 2000.

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

Done at Brussels, 18 May 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 160, 26.6.1999, p. 18.

⁽³⁾ OJ L 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 313, 21.11.1998, p. 16.

ANNEX

to the Commission Regulation of 18 May 2000 fixing the corrective amount applicable to the refund on malt

(EUR/t)

Product code	Current	1st period	2nd period	3rd period	4th period	5th period
1107 10 11 9000	0	0	0	0	0	0
1107 10 19 9000	0	-12,50	0	0	0	0
1107 10 91 9000	0	0	0	0	0	0
1107 10 99 9000	0	-13,00	0	0	0	0
1107 20 00 9000	0	-15,50	0	0	0	0

(EUR/t)

Product code	6th period	7th period	8th period	9th period	10th period	11th period
1107 10 11 9000	0	0	0	0	0	0
1107 10 19 9000	0	0	0	0	0	0
1107 10 91 9000	0	0	0	0	0	0
1107 10 99 9000	0	0	0	0	0	0
1107 20 00 9000	0	0	0	0	0	0

COMMISSION REGULATION (EC) No 1058/2000
of 18 May 2000
providing for the rejection of applications for export licences in relation to cereal products

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

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1253/1999 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1162/95 of 23 May 1995 laying down special detailed rules for the application of the system of import and export licences for cereals and rice ⁽³⁾, as last amended by Regulation (EC) No 1432/1999 ⁽⁴⁾, and in particular Article 7(3) thereof,

Whereas:

The quantity covered by applications for advance fixing of refunds for flour of common wheat and spelt could give rise to speculation. It has therefore been decided to reject all applica-

tions for export licences for this product made on 17 and 18 May 2000,

HAS ADOPTED THIS REGULATION:

Article 1

In accordance with Article 7(3) of Regulation (EC) No 1162/95, applications for export licences with advance fixing of refunds for products falling within CN code 1101 00 15 made on 17 and 18 May 2000 shall be rejected.

Article 2

This Regulation shall enter into force on 19 May 2000.

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

Done at Brussels, 18 May 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 160, 26.6.1999, p. 18.

⁽³⁾ OJ L 117, 24.5.1995, p. 2.

⁽⁴⁾ OJ L 166, 1.7.1999, p. 56.

DIRECTIVE 2000/18/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 17 April 2000
on minimum examination requirements for safety advisers for the transport of dangerous goods by
road, rail or inland waterway

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 75(1)(c) thereof,

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

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

After consulting the Committee of the Regions,

Acting in accordance with the procedure referred to in Article 251 of the Treaty ⁽³⁾,

- (1) Whereas the improvement of transport safety and the protection of the environment, especially within the context of the transport of dangerous goods by road, rail and inland waterway, are important issues, as is also the human element in the safe operation of these modes of transport.
- (2) Whereas under the terms of Council Directive 96/35/EC of 3 June 1996 on the appointment and vocational qualification of safety advisers for the transport of dangerous goods by road, rail and inland waterway ⁽⁴⁾, all undertakings the activities of which include the transport of dangerous goods, as well as the loading or unloading related to that type of transport, are obliged to appoint one or more safety advisers. The said Directive does not contain any detailed provisions aimed at the harmonisation of examination requirements for safety advisers or any provisions applicable to examination bodies.
- (3) Whereas Member States should set up a common minimum framework for the examination of safety advisers and the conditions for the examination bodies in order to guarantee a certain level of quality and to facilitate the mutual recognition of EC certificates of training.
- (4) Whereas the examination of safety advisers will as a minimum include a written test consisting of questions relating at least to the subjects listed in Annex II to Directive 96/35/EC and a case study whereby the candidates can demonstrate that they have the ability to carry out the tasks of a safety adviser.

- (5) Whereas Member States may provide that candidates who intend to work for undertakings whose activities are concerned only with specific dangerous goods will be examined only on subject matters related to their activities. In this case, the EC certificate of training should clearly indicate the limits of its validity.
- (6) Whereas the examination organised by the examination bodies will be subject to approval of the Member States' competent authorities. Member States will define the criteria applicable to examination bodies should be technically competent, reliable and independent.
- (7) Whereas Member States should assist one another in the implementation of this Directive,

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I

Scope and definitions

Article 1

1. This Directive lays down the minimum examination requirements for the examination needed to obtain the EC certificate of training as safety adviser for the transport of dangerous goods provided for in Directive 96/35/EC.

2. Member States shall take all necessary measures to ensure that safety advisers for the transport of dangerous goods are examined in such a way that they satisfy these minimum requirements.

Article 2

For the purposes of this Directive:

- (a) 'safety adviser for the transport of dangerous goods', hereinafter referred to as 'adviser', shall mean any person specified in Article 2(b) of Directive 96/35/EC;
- (b) 'dangerous goods' shall mean goods defined in Article 2 of Directive 94/55/EC ⁽⁵⁾ and Article 2 of Directive 96/49/EC ⁽⁶⁾;

⁽¹⁾ OJ C 148, 14.5.1998, p. 21, and OJ C 52, 23.2.1999, p. 16.

⁽²⁾ OJ C 407, 28.12.1998, p. 118.

⁽³⁾ Opinion of the European Parliament of 20 October 1998 (OJ C 341, 9.11.1998, p. 29), confirmed on 16 September 1999, Council Common Position of 29 March 1999 (OJ C 36, 8.2.2000, p. 1) and Decision of the European Parliament of 18 January 2000 (not yet published in the Official Journal). Council Decision of 28 March 2000.

⁽⁴⁾ OJ L 145, 19.6.1996, p. 10.

⁽⁵⁾ Council Directive 94/55/EC of 21 November 1994 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road (OJ L 319, 12.12.1994, p. 7). Directive amended by Commission Directive 96/86/EC (OJ L 335, 24.12.1996, p. 43 and OJ L 251, 15.9.1997, p. 1).

⁽⁶⁾ Council Directive 96/49/EC of 23 July 1996 on the harmonisation of the laws of the Member States with regard to transport of dangerous goods by rail (OJ L 235, 17.9.1996, p. 25). Directive amended by Commission Directive 96/87/EC (OJ L 335, 24.12.1996, p. 45).

- (c) 'undertaking' shall mean the undertakings specified in Article 2(a) of Directive 96/35/EC;
- (d) 'examination' shall mean the examination specified in Article 5(2) of Directive 96/35/EC;
- (e) 'examination body' shall mean any body designated by the competent authorities of the Member States to hold examinations;
- (f) 'EC certificate' shall mean the certificate established in accordance with the model given in Annex III to Directive 96/35/EC.

CHAPTER II

Examinations

Article 3

1. The competent authority or examining body shall organise a compulsory written examination which it may supplement with an oral examination to check whether candidates possess the necessary level of knowledge required to carry out the tasks of adviser in order to obtain the EC certificate.
2. The compulsory examination shall consist of a written test adapted to the mode(s) of transport in respect of which the EC certificate is issued.
3. (a) The candidate shall be given a questionnaire. It shall consist of at least 20 open questions relating, in accordance with Article 5(4) of Directive 96/35/EC, at least to the subjects listed in Annex II to the said Directive. However, use may be made of multiple choice questions. In that case, two multiple choice questions shall be equal to one open question.

Among those subjects, particular attention, appropriate to the mode of transport concerned, shall be given to the following topics:

- general prevention and safety measures,
- the classification of dangerous goods,
- general packaging requirements, including tanks, tank containers and rail tankers,
- danger markings and labels,
- references in transport documents,
- handling and stowage,
- the vocational training of crews,
- vehicle papers and transport certificates,
- safety instructions,
- transport equipment requirements.

- (b) Candidates shall carry out a case study in connection with Annex I to Directive 96/35/EC whereby they can demonstrate that they have the ability to carry out the tasks of adviser.

- (c) Member States may provide that candidates who intend to work for undertakings specialised in the transport of certain types of dangerous goods shall be tested, in accordance with Annex II of Directive 96/35/EC, only on matters related to their activities.

These types of goods shall be:

- class 1 (explosives),
- class 2 (gases),
- class 7 (radioactive material),
- classes 3, 4.1, 4.2, 4.3, 5.1, 5.2, 6.1, 6.2, 8 and 9 (solids and liquids),
- UN numbers 1202, 1203, 1223 (mineral oils).

The heading of the EC certificate must clearly indicate that it is valid only for types of dangerous goods referred to in this paragraph and on which the adviser has been examined in accordance with the requirements defined in (a) and (b).

4. The competent authority or examination body shall gradually establish a compendium of the questions which have been included in the examination.

CHAPTER III

Criteria applicable to examination bodies

Article 4

1. If Member States do not take direct charge of the organisation of the examination, they shall appoint the examination bodies on the basis of the following criteria:

- (a) competence of the examination body;
- (b) specification of the examination arrangements proposed by the examination body;
- (c) measures intended to ensure the impartiality of the examinations;
- (d) independence of the body as regards any natural or legal persons employing advisers.

2. The approved examination body shall be designated in writing. Such approval may be of limited duration.

Article 5

Member States shall assist one another in implementing this Directive.

Each Member State shall submit on a regular basis to the Commission the compendium of questions referred to in Article 3(4). The Commission shall inform the other Member States thereof.

CHAPTER IV

Final provisions*Article 6*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive within three months of its entry into force. They shall forthwith inform the Commission thereof.

When the Member States adopt these measures, they shall include a reference to this Directive or shall be accompanied by such a reference upon their official publication. The Member States shall lay down the manner in which such references shall be made.

2. The Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field governed by this Directive.

Article 7

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

Article 8

This Directive is addressed to the Member States.

Done at Luxembourg, 17 April 2000.

For the European Parliament

The President

N. FONTAINE

For the Council

The President

L. CAPOULAS SANTOS

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 8 May 2000

concerning the approval, on behalf of the Community, of the new Annex V to the Convention for the Protection of the Marine Environment of the North-East Atlantic on the protection and conservation of the ecosystems and biological diversity of the maritime area and the corresponding Appendix 3

(2000/340/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) in conjunction with the first sentence of Article 300(2) and the first subparagraph of Article 300(3) thereof,

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

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

Whereas:

- (1) The Community is a Contracting Party to the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR Convention) pursuant to Decision 98/249/EC ⁽³⁾.
- (2) The aim of the OSPAR Convention is to prevent and eliminate pollution and to protect the maritime area against the harmful effects of human activities; it entered into force on 25 March 1998.
- (3) The executive body of the OSPAR Convention (the OSPAR Commission) may adopt amendments to the Convention, including new Annexes and Appendices; it has adopted a new Annex which is Annex V on the protection and conservation of the ecosystems and biological diversity of the maritime area, the Appendix 3 which stems from it, and an Agreement on the meaning of certain concepts in the Annex V.
- (4) The preservation, the protection and the improvement of the quality of the environment, including the conservation of natural habitats and of wild flora and fauna

and the protection of biodiversity are an essential objective of general benefit which is being pursued by the Community as provided for in Article 174 of the Treaty; the new Annex V to the OSPAR Convention may contribute to the achievement of that objective.

- (5) The Community has adopted measures in the field covered by Annex V; it should enter into international commitments in this field.
- (6) The objectives of Annex V supplement the objectives of Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds ⁽⁴⁾ and of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora ⁽⁵⁾; those Directives already provide a Community framework for the protection of habitats and species in the geographical area in which they apply; the adoption of the Annex V by the Community does not prejudice the implementation of those Directives.
- (7) The Commission took part in negotiating Annex V, in accordance with the Council conclusions concerning negotiating directives for the Convention for the protection of the marine environment of the North-East Atlantic.
- (8) The Community should approve Annex V to the Convention for the Protection of the Marine Environment of the North East Atlantic (including the corresponding Appendix 3),

⁽¹⁾ OJ C 158, 4.6.1999, p. 1.

⁽²⁾ Opinion delivered on 27 October 1999 (not yet published in the Official Journal).

⁽³⁾ OJ L 104, 3.4.1998, p. 1.

⁽⁴⁾ OJ L 103, 25.4.1979, p. 1. Directive as last amended by Directive 97/49/EC (OJ L 223, 13.8.1997, p. 9).

⁽⁵⁾ OJ L 206, 22.7.1992, p. 7. Directive as last amended by Directive 97/62/EC (OJ L 305, 8.11.1997, p. 42).

HAS DECIDED AS FOLLOWS:

Sole Article

1. Annex V to the Convention for the Protection of the Marine Environment of the North-East Atlantic (including the corresponding Appendix 3) is hereby approved on behalf of the Community.

The text of the said Annex V is attached to this Decision.

2. The Commission is authorised to notify the approval referred to in paragraph 1 to the OSPAR Commission.

Done at Brussels, 8 May 2000.

For the Council

The President

E. FERRO RODRIGUES

ANNEX V

ON THE PROTECTION AND CONSERVATION OF THE ECOSYSTEMS AND BIOLOGICAL DIVERSITY OF THE MARITIME AREA*Article 1*

For the purposes of this Annex and of Appendix 3 the definitions of 'biological diversity', 'ecosystem' and 'habitat' are those contained in the Convention on Biological Diversity of 5 June 1992.

Article 2

In fulfilling their obligation under the Convention to take, individually and jointly, the necessary measures to protect the maritime area against the adverse effects of human activities so as to safeguard human health and to conserve marine ecosystems and, when practicable, restore marine areas which have been adversely affected, as well as their obligation under the Convention on Biological Diversity of 5 June 1992 to develop strategies, plans or programmes for the conservation and sustainable use of biological diversity, Contracting Parties shall:

- (a) take the necessary measures to protect and conserve the ecosystems and the biological diversity of the maritime area, and to restore, where practicable, marine areas which have been adversely affected; and
- (b) cooperate in adopting programmes and measures for those purposes for the control of the human activities identified by the application of the criteria in Appendix 3.

Article 3

1. For the purposes of this Annex, it shall, *inter alia*, be the duty of the Commission:
 - (a) to draw up programmes and measures for the control of the human activities identified by the application of the criteria in Appendix 3;
 - (b) in doing so:
 - (i) to collect and review information on such activities and their effects on ecosystems and biological diversity;
 - (ii) to develop means, consistent with international law, for instituting protective, conservation, restorative or precautionary measures related to specific areas or sites or related to particular species or habitats;
 - (iii) subject to Article 4 of this Annex, to consider aspects of national strategies and guidelines on the sustainable use of components of biological diversity of the maritime area as they affect the various regions and subregions of that area;
 - (iv) subject to Article 4 of this Annex, to aim for the application of an integrated ecosystem approach.
 - (c) also in doing so, to take account of programmes and measures adopted by Contracting Parties for the protection and conservation of ecosystems within waters under their sovereignty or jurisdiction.
2. In the adoption of such programmes and measures, due consideration shall be given to the question whether any particular programme or measure should apply to all, or a specified part, of the maritime area.

Article 4

1. In accordance with the penultimate recital of the Convention, no programme or measure concerning a question relating to the management of fisheries shall be adopted under this Annex. However where the Commission considers that action is desirable in relation to such a question, it shall draw that question to the attention of the authority or international body competent for that question. Where action within the competence of the Commission is desirable to complement or support action by those authorities or bodies, the Commission shall endeavour to cooperate with them.
 2. Where the Commission considers that action under this Annex is desirable in relation to a question concerning maritime transport, it shall draw that question to the attention of the International Maritime Organisation. The Contracting Parties who are members of the International Maritime Organisation shall endeavour to cooperate within that organisation in order to achieve an appropriate response, including in relevant cases that organisation's agreement to regional or local action, taking account of any guidelines developed by that organisation on the designation of special areas, the identification of particularly sensitive areas or other matters.
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*Appendix 3***Criteria for identifying human activities for the purpose of Annex V**

1. The criteria to be used, taking into account regional differences, for identifying human activities for the purposes of Annex V are:
 - (a) the extent, intensity and duration of the human activity under consideration;
 - (b) actual and potential adverse effects of the human activity on specific species, communities and habitats;
 - (c) actual and potential adverse effects of the human activity on specific ecological processes;
 - (d) irreversibility or durability of these effects.
 2. These criteria are not necessarily exhaustive or of equal importance for the consideration of a particular activity.
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COUNCIL DECISION
of 8 May 2000
appointing an Austrian alternate member of the Committee of the Regions

(2000/341/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 263 thereof,

Having regard to the Council Decision of 26 January 1998 ⁽¹⁾ appointing the members and alternate members of the Committee of the Regions,

Whereas a seat as an alternate member of the Committee of the Regions has become vacant following the resignation of Mr Siegfried Gasser, alternate member, notified to the Council on 15 March 2000,

Having regard to the proposal from the Austrian Government,

HAS DECIDED AS FOLLOWS:

Sole Article

Mr Manfred Dörler is hereby appointed an alternate member of the Committee of the Regions in place of Mr Siegfried Gasser for the remainder of his term of office, which runs until 25 January 2002.

Done at Brussels, 8 May 2000.

For the Council

The President

J. PINA MOURA

⁽¹⁾ OJ L 28, 4.2.1998, p. 19.