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I

(Acts whose publication is obligatory)

**REGULATION (EC) No 1624/2000 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 10 July 2000
amending Council Regulation (EEC) No 3330/91 on the statistics relating to the trading of goods
between Member States, with specific reference to a simplified application of the nomenclature of
products**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE
EUROPEAN UNION,

Having regard to the Treaty establishing the European
Community, and in particular Article 95 thereof,

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

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

Acting in accordance with the procedure laid down in Article
251 of the Treaty ⁽³⁾,

Whereas:

- (1) Under Council Regulation (EEC) No 3330/91 ⁽⁴⁾, the Community and its Member States compile statistics relating to the trading of goods between Member States ('Intrastat') during the transitional period which began on 1 January 1993 and will end on the date of change-over to a unified system of taxation in the Member State of origin.
- (2) The simplification of legislation for the internal market, as formulated in the SLIM (Simpler Legislation for the Internal Market) initiative, is intended to improve enterprises' competitiveness and job creation potential.
- (3) The simplification of the Intrastat system has been chosen as a SLIM pilot project, and specific proposals drawn up by the SLIM-Intrastat Working Party for reducing the burden on providers of statistical information have been the subject of a communication to the European Parliament and the Council and have been welcomed by them.

- (4) The simplified application of the product nomenclature is one such proposal, since information providers generally regard the classification of products as difficult.
- (5) It is important to simplify the combined nomenclature to be used on a uniform basis in both intra-Community and external trade, so as to make it easier to apply the system — in particular for small and medium-sized enterprises; in this context the results of the ongoing discussions conducted by the Commission with Member States and European trade and industry organisations in the SLIM framework should be taken into account, preserving the principle of one single nomenclature.
- (6) The use of simplification thresholds is an efficient tool to reduce the burdens of declaration on businesses, in particular the SMEs,

HAVE ADOPTED THIS REGULATION:

Article 1

In Article 28(5) of Regulation (EEC) No 3330/91 the first subparagraph shall be replaced by the following:

'5. Simplification thresholds shall exempt parties required to provide information from the full provisions of Article 23; these parties need only report in the declarations referred to in Article 13(1) a maximum of ten of the finest relevant subheadings of the combined nomenclature that are the most important in terms of value and shall regroup the other products in residual subheadings according to detailed arrangements to be determined by the Commission pursuant to Article 30. For each of the aforementioned subheadings, in addition to the code number referred to in the second indent of Article 21, the Member State of consignment or destination and the value of the goods need to be stated.'

⁽¹⁾ OJ C 245, 12.8.1997, p. 12 and C 164, 29.5.1998, p. 14.

⁽²⁾ OJ C 19, 21.1.1998, p. 52.

⁽³⁾ Opinion of the European Parliament of 1 April 1998 (OJ C 138, 4.5.1998, p. 92), confirmed on 27 October 1999, and Council Common Position of 28 February 2000 (OJ C 87, 24.3.2000, p. 11) and Decision of the European Parliament of 14 June 2000.

⁽⁴⁾ OJ L 316, 16.11.1991, p. 1. Regulation as last amended by Regulation (EC) No 1182/1999 (OJ L 144, 9.6.1999, p. 1).

Article 2

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

It shall apply from 1 January 2001.

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

Done at Brussels, 10 July 2000.

For the European Parliament

The President

N. FONTAINE

For the Council

The President

H. VÉDRINE

COMMISSION REGULATION (EC) No 1625/2000
of 25 July 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 26 July 2000.

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

Done at Brussels, 25 July 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 25 July 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
0707 00 05	628	136,5
	999	136,5
	052	68,0
0709 90 70	528	65,2
	999	66,6
	388	55,4
0805 30 10	524	92,4
	528	57,0
	999	68,3
0806 10 10	052	117,3
	220	170,1
	400	206,4
	508	140,4
	512	63,5
	600	90,4
	624	134,3
	999	131,8
0808 10 20, 0808 10 50, 0808 10 90	388	82,4
	400	98,1
	508	87,3
	512	81,0
	528	84,6
	720	72,7
	800	203,0
	804	93,0
	999	100,3
0808 20 50	388	85,9
	512	71,9
	528	78,0
	720	128,2
	804	62,9
	999	85,4
0809 10 00	052	140,1
	064	134,9
	066	109,3
	999	128,1
	052	362,3
	400	240,8
	404	574,4
	616	255,0
	999	358,1
0809 40 05	064	59,3
	624	171,3
	999	115,3

⁽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 1626/2000**of 24 July 2000****implementing Council Regulation (EC) No 577/98 on the organisation of a labour force sample survey in the Community as regards the 2001 to 2004 programme of ad hoc modules to the labour force survey**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 577/98 of 9 March 1998 on the organisation of a labour force sample survey in the Community ⁽¹⁾, as last amended by Commission Regulation (EC) No 1578/2000 ⁽²⁾, and in particular Article 4(2) thereof,

Whereas:

- (1) In accordance with Article 4(2) of Regulation (EC) No 577/98 a programme of ad hoc modules covering several years must be drawn up each year.
- (2) The measures provided for in this Regulation are in accordance with the opinion of the Statistical

Programme Committee established by Council Decision 89/382/EEC, Euratom ⁽³⁾,

HAS ADOPTED THIS REGULATION:

Article 1

A programme of ad hoc modules covering years 2001 to 2004 is laid down in the Annex to the present Regulation.

*Article 2*This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 24 July 2000.

For the Commission

Pedro SOLBES MIRA

Member of the Commission⁽¹⁾ OJ L 77, 14.3.1998, p. 3.⁽²⁾ OJ L 181, 20.7.2000, p. 39.⁽³⁾ OJ L 181, 28.6.1989, p. 47.

ANNEX

LABOUR FORCE SURVEY

Multiannual programme of ad hoc modules

1. Length and patterns of working time

List of variables: see Commission Regulation (EC) No 1578/2000 of 19 July 2000, implementing the Council Regulation (EC) No 577/98 on the organisation of a labour force sample survey in the Community as regards the ad hoc module 2001 on length and patterns of working time (OJ L 181, 20 July 2000, p. 39)

Reference period: second quarter of 2001

Member States and regions concerned: all

Sample: as for the standard modules; however, if the individual is the sample unit no information on the members of the household is requested

Transmission of the results: before 31 March 2002

2. Employment of disabled people

List of variables: to be defined before March 2001

Reference period: second quarter of 2002

Member States and regions concerned: to be defined

Sample: disabled persons; if the individual is the sample unit no information on the members of the household is requested

Transmission of the results: before 31 March 2003

3. Lifelong learning

List of variables: to be defined before March 2002

Reference period: second quarter of 2003

Member States and regions concerned: to be defined

Sample: as for the standard modules; however, if the individual is the sample unit no information on the members of the household is requested

Transmission of the results: before 31 March 2004

4. Transition from school to working life

List of variables: to be defined before March 2003

Reference period: second quarter of 2004

Member States and regions concerned: to be defined

Sample: persons who had left education in the last five/ten years (including persons who have left education for at least one year and re-entered education subsequently); if the individual is the sample unit no information on the members of the household is requested

Transmission of the results: before 31 March 2005

COMMISSION REGULATION (EC) No 1627/2000**of 24 July 2000****amending Regulation (EC) No 1661/1999 laying down detailed rules for the application of Council Regulation (EEC) No 737/90 on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power station**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 737/90 of 22 March 1990 on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power station⁽¹⁾, as last amended by Regulation (EC) No 616/2000⁽²⁾, and in particular Article 6 thereof,

Whereas:

- (1) According to Article 1(3)(b) of Commission Regulation (EC) No 1661/1999⁽³⁾ the products referred to in Annex I to that Regulation may only be declared for free circulation in the Member State of destination in a restricted number of customs offices.
- (2) Annex III to Regulation (EC) No 1661/1999 contains the list of customs offices in which products listed in Annex I may be declared for free circulation in the European Community.

(3) It is opportune, on the request of the competent authorities of France, to add a number of customs offices in the territory of France to this list.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Committee under Article 7 of Regulation (EEC) No 737/90,

HAS ADOPTED THIS REGULATION:

Article 1

Annex III to Regulation (EC) No 1661/1999 is replaced by the Annex to the present Regulation.

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, 24 July 2000.

For the Commission
Margot WALLSTRÖM
Member of the Commission

⁽¹⁾ OJ L 82, 29.3.1990, p. 1.

⁽²⁾ OJ L 75, 24.3.2000, p. 1.

⁽³⁾ OJ L 197, 29.7.1999, p. 17.

ANNEX

‘ANNEX III

LIST OF CUSTOMS OFFICES IN WHICH PRODUCTS LISTED IN ANNEX I MAY BE DECLARED FOR FREE CIRCULATION IN THE EUROPEAN COMMUNITY

Member State	Customs offices	
BELGIQUE/BELGIË	Anvers D.E. — voie maritime Bierset — (Grâce-Hollogne) D.E. — voies aérienne et/ou terrestre Bruxelles D.E. — voie aérienne Zaventem D. — voie aérienne	
DANMARK	Every port and airport in Denmark	
DEUTSCHLAND	Baden-Württemberg	HZA Lörrach — ZA Weil am Rhein-Autobahn HZA Stuttgart — ZA Flughafen
	Bayern	HZA München-Flughafen HZA Hof — ZA Schirnding-Landstraße HZA Weiden — ZA Furth im Wald-Schafberg HZA Weiden — ZA Waldhaus-Autobahn
	Berlin	HZA Berlin-Packhof — ZA Marzahn, Abfertigungsstelle Grossmarkthallen HZA Berlin-Packhof — ZA Tegel-Flughafen
	Brandenburg	HZA Frankfurt (Oder) — ZA Autobahn HZA Cottbus — ZA Forst-Autobahn
	Bremen	HZA Bremen-ZA Neustädter Hafen HZA Bremerhaven — ZA Container Terminal HZA Bremerhaven — ZA Rotersand
	Hamburg	HZA Hamburg-Freihafen — Abfertigungsstelle HZA Hamburg-Freihafen — ZA Ericus-Abfertigungsstelle Südbahnhof HZA Hamburg-Harburg — ZA Köhkleetdamm HZA Hamburg-Hamburg St. Annen-ZA Altona HZA Hamburg-Hamburg St. Annen-ZA Oberelbe HZA Hamburg-Waltershof — Abfertigungsstelle HZA Hamburg-Waltershof — ZA Flughafen
	Hessen	HZA Frankfurt am Main-Flughafen
	Mecklenburg-Vorpommern	HZA Neubrandenburg — ZA Pomellen — Grenzkontrollstelle Pomellen HZA Schwerin — ZA Rostock-Seehafen — Grenzkontrollstelle Rostock-Seehafen HZA Stralsund — ZA Mukran Grenzkontrollstelle Rügen/Mukran, Im Fährhafen
	Niedersachsen	HZA Lüneburg — Abfertigungsstelle HZA Göttingen — Abfertigungsstelle HZA Hannover — Abfertigungsstelle
	Nordrhein-Westfalen	HZA Dortmund — ZA Ost
	Rheinland-Pfalz	HZA Trier — ZA Idar-Oberstein, Grenzkontrollstelle Flughafen Hahn, Gebäude 401
	Sachsen	HZA Dresden — ZA Friedrichstadt, Grenzkontrollstelle Dresden/Friedrichstadt (für Eisenbahntransport) HZA Pirna — ZA Zinnwald, Grenzkontrollstelle Zinnwald (für Straßentransport) HZA Löbau — ZA Ludwigsdorf-Autobahn, Grenzkontrollstelle Ludwigsdorf (für Straßentransport)
	Schleswig-Holstein	HZA Kiel — ZA Wik, Grenzkontrollstelle Kiel Ostuferhafen HZA Lübeck — ZA Travemünde Grenzkontrollstelle

Member State	Customs offices
ΕΛΛΑΔΑ	Αθηνών, Πειραιά, Κρατικού Αερολιμένα Αθηνών, Θεσ/νίκης, Αερολιμένα Μίκρας, Βόλου, Πατρών, Ηρακλείου, Αερολιμένα Ηρακλείου Κρήτης, Καβάλας, Ιωαννίνων, Ναυπλίου
ESPAÑA	Algeciras (Puerto), Alicante (Aeropuerto, Puerto), Almería (Aeropuerto, Puerto), Barcelona (Aeropuerto, Puerto), Bilbao (Aeropuerto, Puerto), Cádiz (Puerto), Cartagena (Puerto), Gijón (Aeropuerto, Puerto), Huelva (Puerto), La Coruña-Santiago de Compostela (Aeropuerto, Puerto), Las Palmas de Gran Canaria (Aeropuerto, Puerto), Madrid-Barajas (Aeropuerto), Málaga (Aeropuerto, Puerto), Palma de Mallorca (Aeropuerto), Pasajes-Irún (Aeropuerto, Puerto), Santa Cruz de Tenerife (Aeropuerto, Puerto), Santander (Aeropuerto, Puerto), Sevilla (Aeropuerto, Puerto), Tarragona (Puerto), Valencia (Aeropuerto, Puerto), Vigo-Vilagareia (Aeropuerto), Marín (Puerto), Vitoria (Aeropuerto), Zaragoza (Aeropuerto)
FRANCE	Dunkerque (transport maritime) Lille (transport aérien et terrestre) Marseille (transport aérien, terrestre et maritime) Roissy (transport aérien et terrestre) St-Louis/Bâle (transport aérien et terrestre) Strasbourg (transport terrestre) Orly (transport aérien) Bordeaux (transport aérien) Lyon-Satolas (transport aérien) Nice-aéroport (transport aérien) Toulouse-Blagnac (transport aérien) Thionville (transport terrestre) Saint-Julien-en-Genevois (transport terrestre)
IRELAND	All customs offices
ITALIA	Ufficio di Sanità marittima ed aerea di Trieste Ufficio di Sanità aerea di Torino-Caselle Ufficio di Sanità aerea di Roma — Fiumicino Ufficio di Sanità marittima ed aerea di Venezia Ufficio di Sanità marittima ed aerea di Genova Ufficio di Sanità marittima di Livorno Ufficio di Sanità marittima ed aerea di Ancona Ufficio di Sanità marittima ed aerea di Brindisi Ufficio di Sanità aerea di Varese — Malpensa Ufficio di Sanità aerea di Bologna — Panicale Ufficio di Sanità marittima ed aerea di Bari Posto d'Ispezione frontiera di Chiasso
LUXEMBOURG	Bureau des Douanes et Accises Centre Douanier — Luxembourg Bureau des Douanes et Accises Luxembourg-Aéroport — Niederanven
NEDERLAND	All customs offices
ÖSTERREICH	Drasenhofen (Republik Tschechien) Berg (Slowakische Republik) Nickelsdorf (Republik Ungarn) Heiligenkreuz (Republik Ungarn) Spielfeld (Republik Slowenien) Tisis (Schweiz) Wien Flughafen Schwechat

Member State	Customs offices
PORTUGAL	Airports of Lisbon, Porto and Faro Ports of Lisbon and Leixões.
SUOMI-FINLAND	Helsinki, Vaalimaa, Niirala, Vartiuss, Raja-Jooseppi, Utsjoki, Kilpisjärvi
SVERIGE	Arlanda, Göteborg, Landvetter, Helsingborg, Karlskrona, Stockholm, Ystad, Wallhamn, Varberg
UNITED KINGDOM	Belfast International Airport, Port of Belfast, Port of Dover, Port of Falmouth, Port of Felixstowe, Gatwick Airport, Port of Hull, Port of Larne, Port of London, Port of Southampton

COMMISSION REGULATION (EC) No 1628/2000**of 24 July 2000**

correcting, for the third time, Regulation (EC) No 1802/95 amending the Regulations that fixed, prior to 1 February 1995, certain prices and amounts in the market in milk and milk products of which the value in ecus was adapted as a result of the abolition of the correcting factor for agricultural conversion rates

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1600/92 of 15 June 1992 concerning specific measures for the Azores and Madeira relating to certain agricultural products ⁽¹⁾, as last amended by Regulation (EC) No 1257/1999 ⁽²⁾, and in particular Article 10 thereof,

Whereas:

- (1) An error has been found in the Annex to Commission Regulation (EC) No 1802/95 ⁽³⁾, as last amended by Regulation (EC) No 904/96 ⁽⁴⁾. That error should be corrected.
- (2) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

In the Annex to Regulation (EC) No 1802/95, the amounts relating to Commission Regulation (EEC) No 2219/92 ⁽⁵⁾ are replaced by the following:

1	2	3	4	5
Regulation	References	Previous amount with switch-over	New amount without switch-over	New amount applicable from 1 September 1995
(EEC) No 2219/92	Article 3(b)	2,5	3,019	3
		5	6,04	6
		7,5	9,06	9

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, 24 July 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 173, 27.6.1992, p. 1.

⁽²⁾ OJ L 160, 26.6.1999, p. 80.

⁽³⁾ OJ L 174, 26.7.1995, p. 27.

⁽⁴⁾ OJ L 122, 22.5.1996, p. 4.

⁽⁵⁾ OJ L 218, 1.8.1992, p. 75.

COMMISSION REGULATION (EC) No 1629/2000**of 25 July 2000****imposing a provisional anti-dumping duty on imports of ammonium nitrate originating in Poland and Ukraine**

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 29 October 1999, the Commission announced, by a notice published in the *Official Journal of the European Communities* ⁽³⁾ (the 'notice of initiation'), the initiation of an anti-dumping proceeding with regard to imports into the Community of ammonium nitrate (AN), originating in Lithuania, Poland and Ukraine.
- (2) The proceeding was initiated following a complaint lodged by the European Fertiliser Manufacturers Association (EFMA) on behalf of companies representing a major proportion of total Community production. The complaint contained evidence of dumping of the product concerned and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.
- (3) The Commission officially advised the complainant Community producers, exporting producers and importers, suppliers and users known to be concerned, as well as associations concerned and representatives of the exporting countries, and the EU-Lithuania and EU-Poland Association Councils 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.
- (4) The Commission sent questionnaires to all parties known to be concerned. Replies were received from ten complainant Community producers, five exporting producers, one exporter, one importers' association and seven importers in the Community (of which three are related to the exporters).
- (5) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, injury and the Community interest and carried

out verifications at the premises of the following companies:

(a) Complainant Community producers

1. BASF AG, Limburgerhof, Germany
2. Fertiberia SA, Madrid, Spain
3. Grande Paroisse SA, Paris, France
4. Hydro Agri France, Nanterre, France
5. Hydro Agri UK Ltd, Immingham, United Kingdom
6. Hydro Agri Sluiskil BV, Sluiskil, the Netherlands
7. Kemira Ince Ltd, Chester, United Kingdom
8. Kemira SA, Wavre, Belgium
9. Sefanitro SA, Barakaldo, Spain
10. Terra Nitrogen (UK) Ltd, Stockton on Tees, United Kingdom

(b) Exporters/exporting producers from the countries concerned

1. JSC Achema, Jonava, Lithuania
2. Anwil SA, Wloclawek, Poland
3. CIECH SA, Warsaw, Poland
4. Zaklady Azotowe Pulawy SA, Pulawy, Poland

(c) Importers**(a) related to exporting producers**

1. Litfert SARL, St Malo, France
2. Scandinavian Chemicals and Fertilisers AB, Malmö, Sweden
3. Daltrade Ltd, London, United Kingdom

(b) unrelated to exporting producers

1. Helm Düngemittel GmbH, Hamburg, Germany
2. UNCAA, Paris, France

- (6) The investigation of dumping and injury covered the period from 1 April 1998 to 30 September 1999 ('the investigation period' or 'IP'). This period is longer than one year in order to cover two agricultural seasons and thereby obtain a more representative picture of the market, and in order to include possible changes in the market that occurred after the imposition of a specific duty in 1998, reinforcing the anti-dumping measures concerning imports of AN originating in Russia which had been imposed in 1995. The examination of trends relevant for the injury assessment covered the period from 1995 to the end of the IP.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 128, 30.4.1998, p. 18.

⁽³⁾ OJ C 311, 29.10.1999, p. 3.

B. PRODUCT CONCERNED AND LIKE PRODUCT**1. Product concerned**

- (7) The product concerned is ammonium nitrate, a solid nitrogen fertiliser commonly used in agriculture. It is manufactured from ammonia and nitric acid and the nitrogen content exceeds 28 % by weight. The product imported into the Community is usually sold in bags of 50 kg and 500 kg. The product concerned falls within CN codes 3102 30 90 (ammonium nitrate other than in aqueous solutions) and 3102 40 90 (mixtures of ammonium nitrate with calcium carbonate or other inorganic non-fertilising substances, with a nitrogen content exceeding 28 % by weight).

2. Like product

- (8) Ammonium nitrate is a pure commodity product and its chemical characteristics are comparable whatever the country of origin. There are two different types of ammonium nitrate: granular and prilled. Granular ammonium nitrate has a larger diameter and therefore has better spreading characteristics. The investigation has shown that all imports are prilled and that the majority of ammonium nitrate produced by the Community industry is granular. However, since granular and prilled ammonium nitrate have the same chemical characteristics and end use, and are perceived by users as being interchangeable, they are to be regarded as two different types of the same product.

Therefore, the product produced in the Community has been found to be a like product to that imported from the countries concerned, in accordance with Article 1(4) of Regulation (EC) No 384/96 (the Basic Regulation). Furthermore, the product exported to the Community from the countries concerned and those manufactured and sold on the respective Polish and Lithuanian markets are considered to be alike.

C. DUMPING**1. Lithuania****(a) Normal value**

- (9) The sole Lithuanian producer of AN cooperated with the investigation. It sold only one type of AN (i.e. prilled). Domestic sales were representative during the IP because they accounted for more than 5 % of export sales (Article 2(2) of the Basic Regulation).
- (10) More than 20 % of domestic sales of the product concerned were made at prices below unit manufacturing costs (fixed and variable) plus selling, general and administrative costs. Such domestic sales at a loss were treated, in accordance with Article 2(4) of the Basic Regulation, as not being in the ordinary course of trade. Normal value was therefore determined on the basis of

the weighted average prices of all sales that were not loss-making, because these remaining sales accounted for more than 10 % of all domestic sales.

(b) Export price

- (11) For those sales made to independent customers in the Community, the export price was established on the basis of the prices actually paid or payable for the product when sold for export to the Community, in accordance with Article 2(8) of the Basic Regulation. For sales made via related importers, the export price was constructed on the basis of resale prices to independent customers. Adjustments were made for all costs incurred between importation and resale by these importers and for the profit margin found in the investigation to have been attained by independent importers of the product concerned, in accordance with Article 2(9) of the Basic Regulation.

(c) Comparison

- (12) The normal value and export price were compared on an ex-works basis. For that purpose, adjustments were made for differences in transport, insurance, loading and ancillary costs, as provided for in Article 2(10) of the Basic Regulation.

(d) Dumping margin

- (13) In accordance with Articles 2(11) and (12) of the Basic Regulation, the dumping margin for the exporting producer concerned was established on the basis of a comparison of the weighted average normal value with the weighted average export price. The comparison showed that no dumping existed for exports of AN made by the company during the IP. The provisional dumping margin therefore is 0,0 %.

Since the sole cooperating Lithuanian producer accounted for all Lithuanian exports of the product concerned to the Community, the dumping margin provisionally established for this company is valid for the whole country.

2. Poland**(a) Cooperation**

- (14) The Commission sent questionnaires to five companies (one exporter and four exporting producers) mentioned in the complaint. One exporter and two exporting producers replied within the specified time limit, a third exporting producer declined to cooperate and a fourth did not reply. However, on the basis of Eurostat import data it was established that the cooperating exporting producers accounted for more than 90 % of total imports originating in Poland.

(b) *Normal value*

- (15) Both cooperating exporting producers sold only one type of AN (i.e. prilled). Domestic sales of both companies during the IP were representative because they accounted for more than 5 % of their respective export sales (Article 2(2) of the Basic Regulation).
- (16) More than 20 % of domestic sales of the product concerned were made by the two producers at prices below unit manufacturing costs (fixed and variable) plus selling, general and administrative costs. Such domestic sales at a loss were treated, in accordance with Article 2(4) of the Basic Regulation, as not being in the ordinary course of trade. Normal value for both producers was therefore determined on the basis of the weighted average prices of all sales that were not loss-making, because these remaining sales accounted for more than 10 % of all domestic sales.

(c) *Export price*

- (17) One of the Polish producers sold AN for export to the Community via two sales routes:
- directly, to independent importers in the Community, and
 - indirectly, via an exporter located in Poland.

For both direct and indirect exports, the export price was established on the basis of the prices actually paid or payable for the product when sold for export from Poland to the Community.

- (18) The second Polish producer only sold AN to independent importers in the Community. The export price was therefore established on the basis of the prices actually paid or payable, in accordance with Article 2(8) of the Basic Regulation.

(d) *Comparison*

- (19) The normal value and the export price were compared on an ex-works basis. For that purpose, adjustments were made for differences in commissions, transport, insurance, loading and ancillary costs, as provided for in Article 2(10) of the Basic Regulation.

(e) *Dumping margin*

- (20) In accordance with Articles 2(11) and (12) of the Basic Regulation, the dumping margin for each of the two exporting producers concerned was established on the basis of a comparison of the weighted average normal value with the weighted average export price.

The weighted average dumping margins provisionally determined for the two cooperating exporting producers, expressed as a percentage of the cif Community frontier price, are set out below:

— Anwil SA	32,9 %,
— Zakłady Azotowe Pulawy SA	25,4 %.

For those exporting producers which failed to reply to the Commission's questionnaire or did not otherwise make themselves known, dumping was determined on the basis of the facts available in accordance with Article 18 of the Basic Regulation. In view of the existence of at least one non-cooperating exporting producer, a residual dumping margin was calculated, based on the highest dumping margin established for representative transactions by one cooperating exporting producer in Poland. This was done in order not to reward non-cooperation and in order to avoid circumvention.

The residual dumping margin determined for Poland, expressed as a percentage of the cif Community frontier price, is 43,4 %.

3. **Ukraine**(a) *Cooperation*

- (21) The Commission sent questionnaires to the five companies mentioned in the complaint. Two replied to the questionnaire within the time limit stating that they had not exported to the Community at all during the IP. One replied outside the specified time limit and was informed that it would be treated as a non-cooperating party. No reply was received from the remaining two companies.

(b) *Analogue country*

- (22) Pursuant to Article 2(7)(a) of the Basic Regulation, normal value for Ukraine had to be established on the basis of the price or constructed value in a market economy third country. In the notice of initiation, Poland was proposed as a suitable analogue country.

No comments were received from any interested party. Moreover, the investigation showed that:

- there was a substantial domestic market in Poland for the product concerned, which is representative as compared to the exports of AN to the Community originating in Ukraine,
- there were at least two (cooperating) domestic producers of a significant size,
- there were significant imports into Poland of AN from third countries,
- the accounting data supplied by the cooperating companies was reliable.

In view of the above, the Commission provisionally concluded that Poland would be a reasonable choice of market economy third country, in accordance with Article 2(7)(a) of the Basic Regulation.

(c) *Normal value*

- (23) Normal value was established on the basis of the weighted average of the normal value established for the two cooperating exporting producers in Poland. For the explanation of how normal value was determined, see recitals (15) and (16) above.

(d) *Export price*

- (24) In the absence of information from the exporters, the provisional findings have been established on the basis of the facts available, in this case Eurostat figures and the information on sea freight costs contained in the complaint, in accordance with Article 18 of the Basic Regulation.

(e) *Comparison*

- (25) The normal value and the export price were compared on a fob (ex-exporting country frontier) basis. For that purpose, adjustments were made for differences in transport, insurance, loading and ancillary costs, in accordance with Article 2(10) of the Basic Regulation.

(f) *Dumping margin*

- (26) In accordance with Articles 2(11) and (12) of the Basic Regulation, the dumping margin was established on the basis of a comparison of the weighted average normal value with the weighted average export price. Expressed as a percentage of the cif Community frontier price, the provisional countrywide dumping margin for Ukraine is 67,4 %.

D. INJURY

- (27) The overall situation of the Community industry followed an upward trend between 1995 and 1996, but it started to deteriorate heavily thereafter. This development should be seen in the light of the effects of the anti-dumping measures introduced concerning imports of AN originating in Russia, which were put into place in August 1995 (minimum import price) and reinforced in March 1998 (specific duty of ECU 26,3/tonne).

1. Definition of the Community industry

- (28) Of the 11 complainant Community producers two were considered to be not cooperating due to the fact that the information submitted was insufficient. These producers were therefore not regarded as being part of the Community industry. The nine cooperating Community producers represent more than 85 % of the Community production of AN and therefore constitute the Community industry within the meaning of Article 4(1) and Article 5(4) of the Basic Regulation.

2. Community consumption

- (29) The apparent Community consumption was established on the basis of the sales volumes of the Community industry on the Community market, sales of the remaining Community producers on the Community market as contained in the complaint, information provided by the cooperating exporting producers and Eurostat import figures concerning the volume of imports.

On this basis, Community consumption decreased by 16,7 % between 1995 and the IP, and even more sharply between 1996 and the IP. Between 1998 and the IP it also went down significantly, but this has to be seen in the light of the fact that the data for the IP are annualised and that the AN market is characterised by a distinct seasonal pattern.

3. Imports from the countries concerned ⁽¹⁾*(a) Cumulative assessment of the effects of the imports concerned*

- (30) It has firstly been examined whether imports from all countries concerned should be assessed cumulatively, taking into account Article 3(4) of the Basic Regulation. In this respect, given the above findings concerning dumping of imports originating in Lithuania, these imports were not taken into consideration for the purpose of the injury and causality assessment as imports from the countries concerned, but have been assessed in the context of imports from other third countries. As to Poland and Ukraine, the dumping margins found are more than *de minimis*, volumes of imports are not negligible and the cumulative assessment was also considered appropriate in view of the similar conditions of competition both between the imported products and between the imported products and the like Community product. This is evidenced by the fact that the import volumes were substantial and that their market shares have increased steadily as from 1995. Moreover, their prices have considerably decreased since 1996. All exporting producers, additionally, undercut the sales prices of the Community industry, while using the same or similar channels of trade. For these reasons, it is provisionally concluded that imports originating in Poland and Ukraine should be assessed cumulatively.

(b) Volume and market share of dumped imports ⁽²⁾

- (31) The import volume of AN originating in the two countries concerned increased between 1995 and 1996. In 1997 it fell back to the 1995 level. Thereafter it increased again sharply. In the IP it was 176,5 % higher than in 1995, while Community consumption decreased by 16,7 % during the same period. The market share of the imports from the two countries concerned increased from 2,6 % in 1995 to 3,1 % in 1996, then fell back to the 1995 level in 1997 and subsequently increased sharply to 8,7 % in the IP. Compared to 1995 this was an increase of 235 %.

⁽¹⁾ For confidentiality reasons, given that in some of the countries concerned there is only one exporting producer, the figures contained in this Regulation relating to them will be indexed or only given approximately.

⁽²⁾ For the assessment of trends in volumes and market shares and in order to compare consistent data, only Eurostat data were used.

*(c) Prices of dumped imports**(i) Price evolution ⁽¹⁾*

- (32) The weighted average import prices of imports originating in the two countries concerned decreased by 23,9 % between 1995 and the IP. More specifically, while prices reached a peak in 1996, they decreased significantly throughout the period thereafter, by 31,4 %.

(ii) Undercutting

- (33) It was examined whether the exporting producers in the countries concerned undercut the prices of the Community industry during the IP. For this analysis, the cif prices of the exporting producers have been duly adjusted to a Community frontier ex quay custom duty paid level (DEQ) and compared, at the same level of trade, to Community producer's ex-works prices, both for bagged products. This was done as imports were always bagged, whereas the Community industry sold its products both in bagged and in bulk form. Thus, adjustments were made where appropriate.

In addition, the investigation has shown that granular products were on average sold at a higher price than prilled products, i.e. due to different spreading properties. Therefore, an allowance of EUR 5,8 per tonne was made for the undercutting calculations. This amount is the average price difference between granular and prilled AN sold by the Community industry during the investigation period.

Finally, in order to assess the level of price undercutting found it should be noted that the prices of the Community industry were found to be depressed during the IP as shown in recital 36 below.

The undercutting margins found on this basis per country, expressed as a percentage of the Community producers' prices, are as follows:

Country	Undercutting
Poland	2,1 %
Ukraine	12,5 %

4. Situation of the Community industry

(a) Production

- (34) The Community industry's production decreased by 4,7 % between 1995 and the IP, i.e. from 3 915 000 tonnes to 3 730 000 tonnes. A significant increase took place between 1995 and 1996. Thereafter, production decreased by 20,9 % between 1996 and the IP.

⁽¹⁾ In order to assess price trends and in order to compare coherent data, only Eurostat data were used, whereas for the calculation of price undercutting and injury margins during the IP, information provided by exporting producers was used where available.

(b) Capacity and capacity utilisation rates

- (35) It should be noted that capacity and capacity utilisation were not found to be meaningful indicators for this type of production since the development of these indicators was affected by the fact that also other products are produced on the same production equipment. Indeed, based on natural gas transformed into ammonia, various different products may be produced using the same production lines. The total production capacity of the Community industry was, except for 1996, by and large stable over the period under consideration. Capacity utilisation increased from 46 % in 1995 to 56 % in 1996 and subsequently fell back to slightly below the 1995 level in the IP.

(c) Sales in the Community

- (36) The sales volume of the Community industry decreased from 3 790 000 tonnes in 1995 to 3 396 000 tonnes in the IP, i.e. by 10,4 %. It should be noted that throughout the period between 1996 and the IP, they decreased by 19,9 %.

(d) Market share

- (37) The market share of the Community industry was stable between 1995 and 1997 and then increased. In the IP it was 71,9 % compared to 66,8 % in 1995. While overall consumption decreased since 1996, the Community industry and, to a much larger extent, the countries concerned were able to increase their market share. This development occurred at a time when antidumping measures were imposed on imports originating in Russia.

(e) Prices of the Community industry

- (38) The average net sales price of the Community industry decreased from ECU 120,5/tonne in 1995 to ECU 99,3/tonne in the IP, i.e. by 17,6 %. The fall was particularly marked between 1996 and the IP where the prices steadily decreased by 25,4 %.

(f) Profitability

- (39) The weighted average profitability of the Community industry deteriorated by 22 percentage points between 1995 and the IP, from 9,6 % to (-12,4 %). In parallel with the price development, the profitability was highest in 1996 and decreased steadily between that year and the IP, by 31 percentage points.

(g) Employment

- (40) Employment of the Community industry, while increasing between 1995 and 1996, decreased thereafter from 1 986 employees to 1 693 employees in the IP, a decrease of 14,8 %.

(h) *Investment*

- (41) The Community industry increased its investments between 1995 and the IP. These investments include investments relating to production steps preceding the actual production of AN and are therefore not directly related to the product concerned. The most important investments between 1995 and the IP were investments in production facilities for nitric acid, which is a raw material for the production of AN, but which may also be used for other purposes such as the production of UAN solutions.

5. Conclusion on injury

- (42) A deterioration of the situation of the Community industry has been found by reference to the period considered. While the antidumping measures on imports of AN originating in Russia led to a substantial decrease of these imports after 1996 with, at first, an improvement of its overall situation, the Community industry could subsequently not fully benefit from this development. Although it was able to take over roughly half the market share lost by Russia since 1997, the countries concerned took over the other half. Moreover, while sales of the Community industry decreased by 19,9 % between 1996 and the IP, imports originating in the countries concerned increased by 111 % during the same period. In addition, the investigation has shown that during the IP the imports concerned were made at prices undercutting those of the Community industry.

In terms of price development, the Community industry managed to increase its average prices between 1995 and 1996. However, its sales prices were depressed considerably thereafter. This had a significant negative impact on its profitability, which substantially deteriorated as from 1996 to reach a level of – 12,4 % during the IP.

The situation of the Community industry is thus found to have deteriorated to such an extent that it is provisionally concluded that the Community industry has suffered material injury in the IP.

F. CAUSATION

1. Introduction

- (43) Pursuant to Article 3(6) and (7) of the Basic Regulation, the Commission, in order to reach its conclusions on the causal link between the dumped imports and the injury suffered by the Community industry, examined the impact of all known factors and their consequences on the situation in that industry. Such analysis ensured that

any injury caused by factors other than dumped imports was not attributed to the dumped imports.

2. Effect of the dumped imports

- (44) AN is a commodity product with no significant difference in technical, physical and chemical characteristics and applications between the imported product and the one produced in the Community. Therefore, AN produced in the Community and AN imported from the countries concerned are in direct competition with each other mainly on the basis of the price, and this in a transparent and highly price sensitive market.
- (45) Between 1995 and the IP, imports from the countries concerned significantly increased in terms of volume (175 %) and market share (from 2,6 % to 8,7 %) and they undercut and depressed the prices of the Community industry. From 1996, this coincided with the deterioration of the situation of the Community industry in terms of sales and price reductions as well as deteriorating profitability.

In August 1995, the Council imposed definitive measures (minimum import price based variable duty) on imports of AN originating in Russia. After an investigation of the possible absorption of the measures, the variable duty was replaced by a specific duty of ECU 26,3/tonne in March 1998. The dumped imports from the countries concerned prevented the Community industry from benefiting from the anti-dumping measures imposed on imports from Russia. In terms of volume, the countries concerned took over half of the market share held previously by Russia while the Community industry gained market share only to a limited extent and its sales declined in absolute terms. Furthermore, the significant increase of the market share of the dumped imports between 1996 and the IP coincided with the downward trend in the situation of the Community industry, in particular in terms of prices and profits.

When faced with low-priced imports originating in the countries concerned, the Community industry had the possibility of either maintaining its prices with a risk of losing market share, or following the low prices of dumped imports. Both options would have had negative consequences on profitability. Indeed, as from 1997, the Community industry substantially lowered its sales prices. This had a detrimental impact on its profitability, which turned negative in 1998. This clearly illustrates the price sensitivity of the market and the important impact of the prices practised by the exporting producers of the countries concerned.

3. Effect of other factors

(a) Imports from other third countries

- (46) As the dumping margin for imports originating in Lithuania was found to be *de minimis*, these imports were considered as 'imports from other third countries'.

The import volume of AN from other third countries decreased from about 1 636 000 tonnes in 1995 to around 720 000 tonnes in the IP, i.e. by 56 %. The most important suppliers in this group of countries during the IP were Russia, Lithuania, Bulgaria and Egypt. The market share of the imports from third countries decreased from 28,8 % in 1995 to 15,2 % in the IP, i.e. a decrease of 13,6 percentage points. This decrease is to a large extent made up by the reduction of imports originating in Russia, even though the market share of imports originating in Lithuania showed another trend, going up from 3,2 % in 1995 to 5,4 % in 1997 and subsequently falling to 4,5 % in the IP.

Given the overall decrease in terms of volumes and market shares of the imports originating in other third countries, these imports overall cannot have contributed in a significant manner to the material injury suffered by the Community industry although it cannot be excluded that imports from individual countries have contributed to the injury suffered by the Community industry.

(b) Decrease in apparent consumption

- (47) As to the development of demand, apparent consumption of AN fell by 950 000 tonnes between 1995 and the (annualised) IP, i.e. by 16,7 %.

The fall was particularly marked between 1998 and the annualised IP. As stated above, the AN market is characterised by a distinct seasonal pattern. The major part of the sales take place between October and March of each year (high season), while during the rest of the year demand is relatively subdued (low season). As the investigation period of 18 months contains two low seasons and only one high season, the annualised apparent consumption would be understated.

In addition, it cannot be excluded that the decrease in demand (even if statistically overstated in the IP) is the consequence of certain substitution effects amongst different nitrogen fertilisers. It has been established in a recent case concerning UAN solutions that apparent consumption of UAN solutions increased in recent years (see Commission Regulation (EC) No 617/2000⁽¹⁾). This trend continued in the second half of 1999.

However, while the decline in demand certainly contributed to increased competition and exerted a certain downward pressure on prices, thereby contributing to the injury suffered by the Community industry, the latter did anticipate a fall in demand and is adapting to it,

which may be seen in the recent announcement of different plant closures. Also, in the absence of the price pressure from the dumped imports the decline in prices and profitability of the Community industry would have been much less marked.

(c) Further factors

- (48) It was also examined whether factors other than the abovementioned might have contributed to the injury suffered by the Community industry.

As to the development of supply, it has been argued that there is a worldwide overcapacity for nitrogen fertilisers which contributed to a fall in the prices of nitrogen fertilisers, thereby causing the injury suffered by the Community industry. However, the Community industry did not build up additional capacity during the period under investigation and did thus not contribute to any increase in worldwide overcapacity. As far as worldwide over-capacity is concerned this may well be the reason why the countries concerned exported to the Community, but this does not justify injurious dumping.

As to the development of unit production costs of the Community industry, they were relatively stable between 1995 and the IP and did therefore not have an influence on profitability.

In relation to the developments in technology and productivity of the Community industry, it has been established that the Community industry has carried out considerable investments in order not to lose competitiveness.

4. Conclusion on causation

- (49) In view of the above, it is provisionally concluded that while the decline in apparent consumption or certain third country imports certainly may have contributed to the injury suffered by the Community industry, in particular in terms of a reduction in production and sales volume, the dumped imports remain a significant factor especially as far as the price and profit development of the Community industry is concerned. In view of the coincidence in time between, on the one hand, the price decrease and undercutting established for the imports concerned, the significant market share gained by the dumped imports originating in the countries concerned and, on the other hand, the decline in sales suffered by the Community industry, as well as the reduction of its sales prices and the decline of its profitability, it is provisionally concluded that the dumped imports originating in the countries concerned have caused the material injury suffered by the Community industry. Thus, it was also concluded that the effect of factors other than the dumped imports were not such as to break the causal link between the dumped imports and the material injury suffered by the Community industry therefrom.

⁽¹⁾ OJ L 75, 24.3.2000, p. 3.

G. COMMUNITY INTEREST

1. Preliminary remark

- (50) In accordance with Article 21 of the Basic Regulation, it was 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 the various interests involved, i.e. those of the Community industry, the importers and traders and the users of the product concerned to the extent that the relevant parties submitted the information requested in this respect.

In order to assess the likely impact of the imposition or non-imposition of measures, information was requested from all interested parties. Questionnaires were sent to the Community industry, two other producers in the Community, 51 importers/traders, one importers' association and two associations of users of the product concerned. Five importers/traders (of which one related to an exporting producer) as well as the importers' association replied. As to the users' associations, none of them replied to the questionnaires or submitted any other information.

On this basis it was examined, whether, despite the conclusions on dumping, on the situation of the Community industry and on causation, compelling reasons existed which would lead to the conclusion that it was not in the Community interest to impose measures in this particular case.

2. Interest of the Community industry

- (51) The Community industry has proven to be a structurally viable industry, able to adapt to the changing conditions on the market. This has been shown in particular by the positive development of its situation at a time when effective competition had been restored after the imposition of anti-dumping measures concerning imports originating in Russia and by the industry's investment in state of the art production capacity. However, due to the pressure of the dumped imports on sales prices, it did not fully benefit from the imposition of anti-dumping measures on imports originating in Russia in particular since 1996.

One group of complainant companies has already announced the planned shutdown of approximately 1 million metric tonnes of nitrate capacity so far used to produce, *inter alia*, AN with corresponding job losses. Despite the structurally viable background mentioned above, it cannot be excluded that some companies in this industry would reduce further or even cease their manufacturing activities for the product concerned in

the Community if no measures against injurious dumping were taken. This conclusion is justified in view of the duration and extent of financial losses suffered due to dumped imports (between 1998 and the IP, the Community industry has suffered increasing losses). Indeed, without measures, the price-depressing effect of the dumped imports will continue to frustrate all efforts of the Community industry to regain a satisfactory margin of profit.

On the other hand, the imposition of measures would enable this industry to restore and maintain its activities in the Community.

3. Interest of importers/traders

- (52) Questionnaires and information were received from the European Fertiliser Import Association (EFIA) and four unrelated importers and two verification visits were carried out. Furthermore, the investigation has established that importers/traders as a rule do not only trade in AN but also, to a significant percentage, in other fertilisers. Thus, the effect of measures on their overall business would be limited. Nevertheless, it cannot be excluded that some importers would face negative consequences after the imposition of anti-dumping measures.

4. Interest of users

- (53) Users of the product concerned are farmers in the Community. Demand for nitrogen fertilisers appears to be relatively inelastic and farmers tend to buy from the cheapest source available. Farmers therefore have benefited from low prices for AN in the 1998 and 1999 seasons. However, the fact that there has been no co-operation from user associations justifies the provisional conclusion that anti-dumping measures, if any, will most likely not have a decisive impact on users. In the event of any anti-dumping measures being imposed, the cost of AN for farmers would very probably increase. However, fertilisers represent a small part of total production costs so that the possible negative effects on farmers in the Community are not considered to offset the positive effect of measures against injurious dumping for the Community industry.

5. Competition and trade distorting effects

- (54) With respect to the effects of possible measures on competition in the Community, some interested parties have argued that duties would lead to the disappearance of the exporting producers concerned from the Community market, thus considerably weakening competition, and to an increase of the prices for AN.

However, some of the exporting producers concerned will probably continue to sell their products albeit at non-injurious/non-dumped prices, as they were found to have an increasingly strong market position. The imposition of anti-dumping duties on those exporting producers for which higher dumping and injury margins were established is likely to lead to a drop in their sales volume and market share. Finally, it cannot be excluded that once prices reach a level at which the effects of injurious dumping are removed, imports from other third countries will also be reoriented towards the Community market. Therefore, it is likely that the Community industry will still have a significant number of competitors on the market and, as stated above, in view of the large number of producers in the Community, as well as the transparency of the market, users will continue to have the choice of different suppliers of the product concerned.

Thus, the imposition of anti-dumping duties is considered not to unduly limit the choice for users or weaken competition.

6. Conclusion on Community interest

- (55) Given the above reasons, it is provisionally concluded that there are no compelling reasons against the imposition of anti-dumping duties.

H. PROVISIONAL MEASURES

1. Injury elimination level

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

For establishing the level of duty, account has been taken of the level of the dumping margins found and of the amount of duty necessary to eliminate the injury suffered by the Community industry.

In order to establish the level of duty necessary to eliminate the injury caused by dumping, injury margins have been calculated. The necessary price increase was determined on the basis of a comparison, at the same level of trade, of the weighted average import price, with the non-injurious price of AN sold by the Community industry on the Community market.

The non-injurious price has been obtained by adding to the full unit cost of production a profit margin that may reasonably be reached in the absence of injurious dumping, taking account of the allowance with respect to the difference between granular and prilled AN already made for the undercutting calculations. The profit margin used for this calculation is 8 %.

The complainant had submitted that a profit margin of 10 to 15 % would be appropriate. It argued that in 1995 and in 1996 the Community industry had achieved profits of 9,6 % and 18,6 % respectively, and that there was a need to replace investment in the long term and to achieve an adequate return on equity for shareholders.

After consideration of the various submissions by the complainants on that issue, the provisional conclusion was reached that a profit margin of 8 % would provide the Community industry with a profitability level that it could have reasonably expected in the IP in the absence of the dumped imports. In this respect, the profit achieved in 1995 can be considered to represent a profit made in the absence of injurious dumping, as this is a year in which the Community industry could benefit from the effect of measures imposed on dumped imports of AN in Russia, albeit in an expanding market. The year 1996 was a year in which the upward profitable trend was confirmed, albeit with demand expanding even more, leading to an exceptionally good market situation with excellent results for all economic operators. As opposed to the 1995/1996 situation, the market was in a depressed state during the IP. In determining the profit that could reasonably, during the IP, have been achieved in the absence of injurious dumping, account was thus taken of the past situation experienced by the Community industry, but also of the overall market situation in the IP, leading to the conclusion that 8 % could be considered an appropriate non-injurious profit margin.

The difference resulting from the comparison between the weighted average import price and the non-injurious price of the Community industry was then expressed as a percentage of the total cif import value.

2. Provisional measures

- (57) The complainant submitted that there were indications of the emergence of new forms of AN, i.e. mixtures of AN with other products, whose only purpose is to circumvent possible anti-dumping measures concerning AN. The attention of the customs authorities is drawn to this issue.

In the light of the foregoing, it is considered that, in accordance with Article 7(2) of the Basic Regulation, a provisional anti-dumping duty should be imposed in respect of imports originating in Poland and Ukraine at the level of the injury margins found since these are lower than the dumping margins.

In order to ensure the efficiency of the measures and to discourage the price manipulation which has been observed in some previous proceedings involving the same general category of product, i.e. fertilisers, it is considered appropriate to impose the duties in the form of a specific amount per tonne.

As regards the basis for the residual duty to be applied to the non-cooperating exporting producers, the highest margins established for representative transactions by one cooperating producer were used.

On the basis of the above, the provisional duty amounts are as follows:

Country	Dumping margin %	Basis for AD duty %	Amount of duty (EUR/tonne)
POLAND			
Anwil SA	32,9	25,2	23,13
Zakłady Azotowe Pulawy SA	25,4	24,5	22,61
All other companies	43,4	30,5	26,91
UKRAINE	67,4	43,4	33,25

In view of the results of the investigation concerning Lithuania, and considering that the dumping margin is *de minimis*, no provisional measures should be imposed in respect of this country. The Commission will however continue to investigate this issue and consider any further evidence submitted in order to arrive at a definitive determination.

- (58) An offer of an undertaking was received from one of the Polish exporting producers. However, the offer could not be accepted because it would have meant exempting a significant volume of imports from provisional measures and would not, therefore, have been adequate to remove the injury caused to the Community industry.
- (59) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the country-wide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the country concerned and produced by the companies and thus by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.
- (60) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting-up of a new production or sales entities) should be addressed to the Commission ⁽¹⁾ forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with e.g. that name change or that change in the production and sales entities. The Commission, if appropriate, will, after consultation of the advisory committee, amend the Regulation accordingly by updating the list of companies benefiting from individual duty rates.

3. Final provision

- (61) 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,

⁽¹⁾ European Commission
Trade Directorate-General
Directorate C
DM 24-8/38
Rue de la Loi/Wetstraat 200
B-1049 Bruxelles/Brussel.

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of ammonium nitrate other than in aqueous solution and mixtures of ammonium nitrate with calcium carbonate or other inorganic non-fertilising substances, with a nitrogen content exceeding 28 % by weight, falling within CN codes 3102 30 90 and 3102 40 90 and originating in Poland and Ukraine.

2. The amount of duty shall be equal to the fixed amount in Euro per tonne of ammonium nitrate shown below for the products produced by the following companies:

Country	Company	Amount of duty (per tonne)	TARIC additional code
Poland			
	Anwil SA ul. Torunska 222, 87-805 Wloclawek Poland	23,13	A174
	Zakłady Azotowe Pulawy SA Al. Tysiąclecia P.P.13, 24-110 Pulawy Poland	22,61	A175
	All other companies	26,91	A900
Ukraine	All companies	33,25	

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 amounts set 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 the provisional duty.

Article 2

Without prejudice to Article 20 of Regulation (EC) No 384/96, interested parties may request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted, present their views in writing and request a hearing from 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 request a hearing concerning the analysis of the Community interest and 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 that of its publication in the *Official Journal of the European Communities*.

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

⁽¹⁾ OJ L 253, 11.10.1993, p. 40.

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

Done at Brussels, 25 July 2000.

For the Commission
Franz FISCHLER
Member of the Commission

COMMISSION REGULATION (EC) No 1630/2000
of 25 July 2000
amending Regulation (EEC) No 2131/93 laying down the procedure and conditions for the sale of
cereals held by intervention agencies

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 1510/2000 ⁽²⁾, and in particular Article 5 thereof,

Whereas:

- (1) Commission Regulation (EEC) No 2131/93 ⁽³⁾, as last amended by Regulation (EC) No 39/1999 ⁽⁴⁾, lays down the procedure and conditions for the sale of cereals held by intervention agencies.
- (2) That Regulation stipulates that in the case of sales on the Community market tenders must be drawn up by reference to the standard quality.
- (3) Council Regulation (EC) No 1253/1999 ⁽⁵⁾ abolished the standard quality. It must therefore be replaced by an equivalent description.
- (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

Article 13(1) of Regulation (EEC) No 2131/93 is replaced by the following:

‘1. In the case of sales on the Community market, tenders shall be drawn up by reference to a cereal quality which does not give rise to any price adjustment in the case of a tender for intervention.

Where the quality of the cereal differs from the quality referred to in the first subparagraph, the successful tender price shall be adjusted by applying the price increases or reductions determined pursuant to Articles 4 and 5 of Regulation (EEC) No 1766/92.’

Article 2

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

It shall apply with effect from 1 July 2000.

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

Done at Brussels, 25 July 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 174, 13.7.2000, p. 11.

⁽³⁾ OJ L 191, 31.7.1993, p. 76.

⁽⁴⁾ OJ L 5, 9.1.1999, p. 64.

⁽⁵⁾ OJ L 160, 26.6.1999, p. 18.

COMMISSION REGULATION (EC) No 1631/2000

of 25 July 2000

amending Regulation (EEC) No 2077/85 laying down detailed rules for the application of the system of production aid for tinned pineapple and fixing, for the 2000/2001 marketing year, the production aid for tinned pineapple and the minimum price to be paid to pineapple producers

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Article 1

Having regard to Council Regulation (EEC) No 525/77 of 14 March 1977 establishing a system of production aid for tinned pineapple ⁽¹⁾, as last amended by Regulation (EEC) No 1699/85 ⁽²⁾, and in particular Article 8 thereof,

Article 1 of Regulation (EEC) 2077/85 is replaced by the following:

‘Article 1

Whereas:

- (1) Commission Regulation (EEC) No 2077/85 of 25 July 1985 ⁽³⁾, as last amended by Regulation (EEC) No 2033/91 ⁽⁴⁾, lays down detailed rules for the application of the system of production aid established by Regulation (EC) No 525/77 and in particular the products eligible for aid.
- (2) As well as tinned whole pineapple and pieces of pineapple, the Community pineapple sector produces tinned pineapple ‘crush’ (small pieces or shreds of fruit), obtained by pressing the fruit and presented in the form of finely crushed pineapple. The products eligible for aid should therefore be defined more precisely and Regulation (EEC) No 2077/85 amended to this end.
- (3) Commission Regulation (EEC) No 1558/91 ⁽⁵⁾, to which Article 1(2) of Regulation (EEC) No 2077/85 refers, has been repealed and replaced by Commission Regulation (EC) No 504/97 of 19 March 1997 laying down detailed rules for the application of Council Regulation (EC) No 2201/96 as regards the system of production aid for products processed from fruit and vegetables ⁽⁶⁾, as last amended by Regulation (EC) No 1607/1999 ⁽⁷⁾. The corresponding references in Regulation (EC) No 504/97 should therefore be specified in the above Article.
- (4) The minimum price and the production aid for tinned pineapple should be fixed for the 2000/2001 marketing year on the basis of Articles 4 and 5 of Regulation (EEC) No 525/77 distinguishing between the two types of products defined in Article 1 of Regulation (EEC) No 2077/85.
- (5) The Management Committee for Products Processed from Fruit and Vegetables has not delivered an opinion within the time limit set by its Chairman,

1. For the purposes of the production aid system provided for in Regulation (EEC) No 525/77 “tinned pineapple” means pineapple, without peel and core, having undergone a heat treatment, packed in hermetically sealed containers with a covering liquid of sugar syrup and/or natural fruit juice, covered by CN codes ex 2008 20 51, ex 2008 20 59, ex 2008 20 71, ex 2008 20 79, ex 2008 20 91 and ex 2008 20 99, and

- (a) presented whole or in pieces, in which the drained net weight of the fruit accounts for at least 58 % of the net weight of the container, or
- (b) presented in finely crushed small pieces or shreds, in which the drained net weight of the fruit accounts for at least 73 % of the net weight of the container.

2. Article 1(2)(o) and (p) and Articles 3, 4 7(1), (2) and (4), 8, 9, 10, 11(1), 14, 15 and 16(2) to (7) of Regulation (EC) No 504/97 shall apply to this production aid system.’

Article 2

For the 2000/2001 marketing year:

- (a) the minimum price referred to in Article 4 of Regulation (EEC) No 525/77 to be paid to producers for pineapples shall be EUR 41,413 per 100 kg net from the producer,
- (b) the production aid for tinned pineapple referred to in Article 5 of that Regulation shall be EUR 111,925 per 100 kg net for products referred to in Article 1(1)(a) of Regulation (EEC) No 2077/85, and EUR 240,067 per 100 kg net for products referred to in Article 1(1)(b) of that Regulation.

Article 3

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

It shall apply from 1 June 2000.

⁽¹⁾ OJ L 73, 21.3.1977, p. 46.

⁽²⁾ OJ L 163, 22.6.1985, p. 12.

⁽³⁾ OJ L 196, 26.7.1985, p. 28.

⁽⁴⁾ OJ L 186, 12.7.1991, p. 32.

⁽⁵⁾ OJ L 144, 8.6.1991, p. 31.

⁽⁶⁾ OJ L 78, 20.3.1997, p. 14.

⁽⁷⁾ OJ L 190, 23.7.1999, p. 11.

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

Done at Brussels, 25 July 2000.

For the Commission
Franz FISCHLER
Member of the Commission

COMMISSION REGULATION (EC) No 1632/2000**of 25 July 2000****amending Regulation (EC) No 2362/98 laying down detailed rules for the implementation of
Council Regulation (EEC) No 404/93 regarding imports of bananas into the Community**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Article 1

Having regard to Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organisation of the market in bananas ⁽¹⁾, as last amended by Regulation (EC) No 1257/1999 ⁽²⁾, and in particular Article 20 thereof,

The following Article 26a is added to Regulation (EC) No 2362/98:

Whereas:

'Article 26a

- (1) Articles 27 and 28 of Commission Regulation (EC) No 3719/88 of 16 November 1988 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products ⁽³⁾, as last amended by Regulation (EC) No 1127/1999 ⁽⁴⁾, contain the provisions applicable to communication between the Member States and the Commission of information on licences and licence extracts and on irregularities and infringements relating to them.
- (2) The rules to be applied for the correct management of import arrangements in the banana sector should be specified and to that end Commission Regulation (EC) No 2362/98 ⁽⁵⁾, as amended by Regulation (EC) No 756/1999 ⁽⁶⁾, should be amended. Those rules should cover the keeping of documents and the forwarding of licence copies and licence extracts by the customs authorities of the Member States in which the procedures for release into free circulation are carried out and by the competent authorities of the Member States which issued the documents concerned. The rules should also specify the checks on the authenticity and regularity of documents and the conformity of their use by the competent authorities of the Member State issuing the licences and extracts.
- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Bananas,

1. The customs offices at which the import declarations are lodged with a view to the release into free circulation of bananas from the origins listed in Annex I, under the tariff quota and traditional ACP banana arrangements, shall:

- (a) keep a copy of each import licence and extract therefrom issued on acceptance of a declaration of release into free circulation, and
- (b) forward at the end of each fortnight a second copy of that import licence or extract therefrom to the Member State authorities listed in Annex II to this Regulation responsible for issuing the licences. Those authorities shall at the end of each fortnight forward a copy of the licences and extracts received to the competent authorities of the Member States listed in the abovementioned Annex which issued those documents.

2. Where there is doubt as to the authenticity of the licence, the extract, or any information in, or signatures on the documents presented, or as to the status of the operators completing the formalities for release into free circulation or for the account of whom those formalities are completed, and where irregularities are suspected, the customs offices at which those documents were presented shall immediately inform thereof by telecommunication the competent authorities of their Member State as indicated in paragraph 1. The latter shall immediately forward that information by telecommunication to the competent authorities which issued the documents and to the Commission, for the purposes of a thorough check.

The Commission shall forward to the Member States' customs authorities the list of operators registered in the Community for the import arrangements in question who may be holders or transferors of an import licence or extract therefrom.

⁽¹⁾ OJ L 47, 25.2.1993, p. 1.

⁽²⁾ OJ L 160, 26.6.1999, p. 80.

⁽³⁾ OJ L 331, 2.12.1988, p. 1.

⁽⁴⁾ OJ L 135, 29.5.1999, p. 48.

⁽⁵⁾ OJ L 293, 31.10.1998, p. 32.

⁽⁶⁾ OJ L 98, 15.4.1999, p. 10.

3. On the basis of the information received pursuant to paragraphs 1 and 2, the Member States' competent authorities listed in Annex II shall carry out the additional checks needed to guarantee the correct application of the tariff quota arrangements, in particular verification of the quantities imported under those arrangements, by means of a precise comparison of the licences and extracts issued with the licences and extracts used. To that end, they shall in particular verify the authenticity and conformity of the documents used and that the documents have been used by operators registered pursuant to the provisions of Title I.'

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, 25 July 2000.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 1633/2000**of 25 July 2000****amending Regulation (EEC) No 2825/93 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards the fixing and granting of adjusted refunds in respect of cereals exported in the form of certain spirit drinks**

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 1510/2000 ⁽²⁾, and in particular Article 13(5) thereof,

Whereas:

- (1) Article 6 of Commission Regulation (EC) No 1222/94 of 30 May 1994 laying down common detailed rules for the application of the system of 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 ⁽³⁾, as last amended by Regulation (EC) No 701/2000 ⁽⁴⁾, makes the grant of export refunds on the products referred to in Commission Regulation (EEC) No 2825/93 ⁽⁵⁾, as amended by Regulation (EC) No 3098/94 ⁽⁶⁾, conditional on production of a certificate which, under Article 6b of Regulation (EC) No 1222/94, is valid for a maximum of one budget period. The budget period is laid down in Article 1(1a) of Regulation (EC) No 1222/94 and runs from 1 October of one year to 30 September of the following year. Article 5 of Regulation (EEC) No 2825/93 provides that the coefficient applicable to the quantities of cereals placed under control and distilled is to apply from 1 July until 30 June of the following year. To

facilitate management of the activities of the distillers involved, those two periods should be harmonised and thus the period of validity for the coefficients brought into line with the period for the certificate. Article 5 of Regulation (EEC) No 2825/93 should be amended accordingly.

- (2) 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 second subparagraph of Article 5 of Regulation (EEC) No 2825/93 is replaced by the following:

'It shall apply from 1 October until 30 September of the following year. Notwithstanding the preceding sentence, for the period 2000/2001, it shall apply from 1 July 2000 until 30 September 2001.'

Article 2

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

It shall apply from 1 July 2000.

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

Done at Brussels, 25 July 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 174, 13.7.2000, p. 11.

⁽³⁾ OJ L 136, 31.5.1994, p. 5.

⁽⁴⁾ OJ L 83, 4.4.2000, p. 6.

⁽⁵⁾ OJ L 258, 16.10.1993, p. 6.

⁽⁶⁾ OJ L 328, 20.12.1994, p. 12.

COMMISSION REGULATION (EC) No 1634/2000**of 25 July 2000****fixing the coefficients applicable to cereals exported in the form of Scotch whisky for the period 2000/2001**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EEC) No 2825/93 of 15 October 1993 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards the fixing and granting of adjusted refunds in respect of cereals exported in the form of certain spirit drinks ⁽¹⁾, as last amended by Regulation (EC) No 1633/2000 ⁽²⁾, and in particular Article 5 thereof,

Whereas:

- (1) Article 4(1) of Regulation (EEC) No 2825/93 provides that the quantities of cereals eligible for the refund are to be the quantities placed under control and distilled, weighted by a coefficient to be fixed annually for each Member State concerned. That coefficient expresses the ratio between the total quantities exported and the total quantities marketed of the spirituous beverage concerned on the basis of the trend noted in those quantities during the number of years corresponding to the average ageing period of the spirituous beverage in question. In view of the information provided by the United Kingdom on the period 1 January to 31 December 1999, the average ageing period in 1999 was seven years for Scotch whisky. The coefficients for the

period 1 July 2000 to 30 September 2001 should be fixed.

- (2) Article 10 of Protocol 3 to the Agreement on the European Economic Area ⁽³⁾ precludes the grant of refunds for exports to Liechtenstein, Iceland and Norway. Therefore, pursuant to Article 7(2) of Regulation (EEC) No 2825/93, account should be taken of this in the calculation of the coefficient for 2000/2001.
- (3) 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 the period 1 July 2000 to 30 September 2001, the coefficients provided for in Article 4 of Regulation (EEC) No 2825/93 applying to cereals used in the United Kingdom for manufacturing Scotch whisky shall be as set out in the Annex.

Article 2

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

It shall apply with effect from 1 July 2000.

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

Done at Brussels, 25 July 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 258, 16.10.1993, p. 6.

⁽²⁾ See page 29 of this Official Journal.

⁽³⁾ OJ L 1, 3.1.1994, p. 1.

ANNEX

Coefficients applicable in the United Kingdom

Period of application	Coefficient applicable	
	to barley processed into malt used in the manufacture of malt whisky	to cereals used in the manufacture of grain whisky
1 July 2000 to 30 September 2001	0,489	0,448

COMMISSION REGULATION (EC) No 1635/2000
of 25 July 2000
fixing the coefficients applicable to cereals exported in the form of Spanish whisky for the period
2000/2001

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EEC) No 2825/93 of 15 October 1993 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards the fixing and granting of adjusted refunds in respect of cereals exported in the form of certain spirit drinks ⁽¹⁾, as last amended by Regulation (EC) No 1633/2000 ⁽²⁾, and in particular Article 5 thereof,

Whereas:

- (1) Article 4(1) of Regulation (EEC) No 2825/93 provides that the quantities of cereals eligible for the refund are to be the quantities placed under control and distilled, weighted by a coefficient to be fixed annually for each Member State concerned. That coefficient expresses the ratio between the total quantities exported and the total quantities marketed of the spirituous beverage concerned on the basis of the trend noted in those quantities during the number of years corresponding to the average ageing period of the spirituous beverage in question. In view of the information provided by Spain on the period 1 January to 31 December 1999, the average ageing period in 1999 was four years for

Spanish whisky. The coefficients for the period 1 July 2000 to 30 September 2001 should be fixed.

- (2) Article 10 of Protocol 3 to the Agreement on the European Economic Area ⁽³⁾ precludes the grant of refunds for exports to Liechtenstein, Iceland and Norway. Therefore, pursuant to Article 7(2) of Regulation (EEC) No 2825/93, account should be taken of this in the calculation of the coefficient for 2000/2001.
- (3) 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 the period 1 July 2000 to 30 September 2001, the coefficients provided for in Article 4 of Regulation (EEC) No 2825/93 applying to cereals used in Spain for manufacturing Spanish whisky shall be as set out in the Annex.

Article 2

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

It shall apply with effect from 1 July 2000.

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

Done at Brussels, 25 July 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 258, 16.10.1993, p. 6.

⁽²⁾ See page 29 of this Official Journal.

⁽³⁾ OJ L 1, 3.1.1994, p. 1.

ANNEX

Coefficients applicable in Spain

Period of application	Coefficient applicable to cereals used for the manufacture of Spanish whisky, category A
1 July 2000 to 30 September 2001	0,0326

COMMISSION REGULATION (EC) No 1636/2000**of 25 July 2000****fixing the coefficients applicable to cereals exported in the form of Irish whiskey for the period 2000/2001**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EEC) No 2825/93 of 15 October 1993 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards the fixing and granting of adjusted refunds in respect of cereals exported in the form of certain spirit drinks ⁽¹⁾, as last amended by Regulation (EC) No 1633/2000 ⁽²⁾, and in particular Article 5 thereof,

Whereas:

- (1) Article 4(1) of Regulation (EEC) No 2825/93 provides that the quantities of cereals eligible for the refund are to be the quantities placed under control and distilled, weighted by a coefficient to be fixed annually for each Member State concerned. That coefficient expresses the ratio between the total quantities exported and the total quantities marketed of the spirituous beverage concerned on the basis of the trend noted in those quantities during the number of years corresponding to the average ageing period of the spirituous beverage in question. In view of the information provided by Ireland on the period 1 January to 31 December 1999, the average ageing period in 1999 was five years for Irish

whiskey. The coefficients for the period 1 July 1999 to 30 September 2001 should be fixed.

- (2) Article 10 of Protocol 3 to the Agreement on the European Economic Area ⁽³⁾ precludes the grant of refunds for exports to Liechtenstein, Iceland and Norway. Therefore, pursuant to Article 7(2) of Regulation (EEC) No 2825/93, account should be taken of this in the calculation of the coefficient for 2000/2001.
- (3) 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 the period 1 July 2000 to 30 September 2001, the coefficients provided for in Article 4 of Regulation (EEC) No 2825/93 applying to cereals used in Ireland for manufacturing Irish whiskey shall be as set out in the Annex.

Article 2

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

It shall apply with effect from 1 July 2000.

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

Done at Brussels, 25 July 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 258, 16.10.1993, p. 6.

⁽²⁾ See page 29 of this Official Journal.

⁽³⁾ OJ L 1, 3.1.1994, p. 1.

ANNEX

Coefficients applicable in Ireland

Period of application	Coefficient applicable	
	to barley used for the manufacture of Irish whiskey, category B ⁽¹⁾	to cereals used for the manufacture of Irish whiskey, category A
1 July 2000 to 30 September 2001	0,224	0,435

⁽¹⁾ Including barley processed into malt.

COMMISSION REGULATION (EC) No 1637/2000**of 25 July 2000****fixing quantities for imports of bananas into the Community for the fourth quarter of 2000 under the tariff quotas or as part of the quantity of traditional ACP bananas**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organisation of the market in bananas ⁽¹⁾, as last amended by Regulation (EC) No 1257/1999 ⁽²⁾, and in particular Article 20 thereof,

Whereas:

(1) Article 14(1) of Commission Regulation (EC) No 2362/98 of 28 October 1998 laying down detailed rules for the implementation of Regulation (EEC) No 404/93 regarding imports of bananas into the Community ⁽³⁾, as amended by Regulation (EC) No 756/1999 ⁽⁴⁾, provides that, for each of the first three quarters of the year, an indicative quantity expressed as the same percentage of available quantities from each of the origins listed in Annex I thereto may be fixed for the purposes of issuing import licences.

(2) The quantities available for import for the fourth quarter of 2000 from the countries or groups of countries listed in Annex I to Regulation (EC) No 2362/98 should be determined, having regard, on the one hand, to the import licences issued for the first three quarters and, on the other, to the volume of tariff quotas and the quantity of traditional ACP bananas provided for in Article 18 of Regulation (EEC) No 404/93.

(3) Under Article 1 of Commission Regulation (EC) No 250/2000 of 1 February 2000 on imports of bananas under the tariff quotas and of traditional ACP bananas, and fixing the indicative quantities for the second quarter of 2000 ⁽⁵⁾, the quantities for which traditional operators, registered in respect of 1999, may submit applications for import licences for a given quarter of 2000 are determined on the basis of the reference quantity fixed for 1999 by the competent national authority and notified to them. In the case of newcomer operators, this maximum quantity is determined by applying the percentage set to the annual allocation determined by the competent national authority in

accordance with the Annex to Commission Regulation (EC) No 440/2000 ⁽⁶⁾, amended by Regulation (EC) No 1563/2000 ⁽⁷⁾, and notified to each operator concerned.

(4) This Regulation should enter into force without delay, before the start of the period for the submission of licence applications for the fourth quarter of 2000.

(5) The provisions adopted in this Regulation aim to ensure uninterrupted supplies to the market in the fourth quarter of 2000 and continued trade with supplying countries but are without prejudice to any measures that may subsequently be adopted, above all to comply with international commitments entered into by the Community within the World Trade Organisation (WTO), and cannot be invoked by operators as grounds for legitimate expectations regarding the extension of the import arrangements.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Bananas,

HAS ADOPTED THIS REGULATION:

Article 1

1. For the fourth quarter of 2000, the quantities available for import under the tariff quota arrangements for the import of bananas or as part of the quantity of traditional ACP bananas for each of the origins listed in Annex I to Regulation (EC) No 2362/98 shall be as set out in the Annex.

2. For the fourth quarter of 2000, applications for import licences,

(a) submitted by a traditional operator may not relate to a quantity exceeding the difference between the quantity allocated to the operator under Article 6(4) of Regulation (EC) No 2362/98 for 1999, pursuant to Article 1 of Regulation (EC) No 250/2000, and the sum of the quantities covered by import licences issued for the first three quarters of 2000;

⁽¹⁾ OJ L 47, 25.2.1993, p. 1.

⁽²⁾ OJ L 160, 26.6.1999, p. 80.

⁽³⁾ OJ L 293, 31.10.1998, p. 32.

⁽⁴⁾ OJ L 98, 13.4.1999, p. 10.

⁽⁵⁾ OJ L 26, 2.2.2000, p. 6.

⁽⁶⁾ OJ L 54, 26.2.2000, p. 27.

⁽⁷⁾ OJ L 180, 19.7.2000, p. 3.

- (b) submitted by a newcomer operator may not relate to a quantity exceeding the difference between the quantity allocated to the operator pursuant to Article 2(7) of Regulation (EC) No 250/2000 and the sum of the quantities covered by import licences issued for the first three quarters of 2000.

Import licence applications shall be accompanied by a copy of the import licence(s) issued to the operator for the preceding quarters of 2000.

Article 2

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

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

Done at Brussels, 25 July 2000.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

Quantities of bananas available, by origin listed in Annex I to Regulation (EC) No 2362/98, for the fourth quarter of 2000

(tonnes, net weight)	
Origin	Quantity
Ecuador	133 450,675
Costa Rica	131 158,964
Colombia	117 874,855
Panama	80 901,315
Other	48 248,679
Traditional ACP bananas	351 786,302

COMMISSION REGULATION (EC) No 1638/2000**of 25 July 2000****fixing for the 2000/2001 marketing year the amount of aid for the cultivation of grapes intended for the production of certain varieties of dried grapes**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organisation of the market in products processed from fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 2701/1999 ⁽²⁾, and in particular Article 7(5) thereof,

Whereas:

- (1) The second subparagraph of Article 7(1) of Regulation (EC) No 2201/96 establishes the criteria for fixing the aid for the cultivation of grapes intended for the production of dried grapes of the sultana and Muscatel varieties and currants.
- (2) The third subparagraph of Article 7(1) of that Regulation states that the amount of aid may be differentiated according to grape variety and other factors which may affect yields. In the case of sultanas an additional differentiation should be provided for, between areas affected by phylloxera and other areas.
- (3) Verification of the areas used to grow those grapes has revealed no overrun of the maximum guaranteed area fixed in Article 2(1) of Commission Regulation (EC) No 1621/1999 of 22 July 1999 laying down detailed rules for the application of Regulation (EC) No 2201/96 as regards the aid for the cultivation of grapes to produce certain varieties of dried grapes ⁽³⁾, as amended by Regulation (EC) No 2256/1999 ⁽⁴⁾.
- (4) The aid to be granted to producers replanting their vineyards in order to combat phylloxera under the

conditions provided for in Article 7(4) of Regulation (EC) No 2201/96 should be determined.

- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Products Processed from Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

Article 1

For the 2000/2001 marketing year:

- (a) the cultivation aid referred to in Article 7(1) of Regulation (EC) No 2201/96 shall be:
 - EUR 2 400 per hectare for areas under sultana grapes affected by phylloxera within the last five years,
 - EUR 3 290 per hectare for other areas under sultana grapes,
 - EUR 2 080 per hectare for areas under currant grapes,
 - EUR 880 per hectare for areas under Muscatel grapes.
- (b) the replanting aid referred to in Article 7(4) of Regulation (EC) No 2201/96 shall be EUR 3 917 per hectare. In this case point (a) shall not apply.

Article 2

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

It shall apply from 1 September 2000.

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

Done at Brussels, 25 July 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 297, 21.11.1996, p. 29.

⁽²⁾ OJ L 327, 21.12.1999, p. 5.

⁽³⁾ OJ L 192, 24.7.1999, p. 21.

⁽⁴⁾ OJ L 275, 26.10.1999, p. 13.

COMMISSION REGULATION (EC) No 1639/2000**of 25 July 2000****amending Annex I to Regulation (EC) No 2636/1999 on the communication of information on tobacco from 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 1336/2000 ⁽²⁾, and in particular Article 21 thereof,

Whereas:

(1) Annex I to Commission Regulation (EC) No 2636/1999 of 14 December 1999 on the communication of information on tobacco from the 2000 harvest onwards and repealing Regulation (EEC) No 1771/93 ⁽³⁾ lays down the information to be communicated to the Commission by the Member States by 31 July of the year of harvest concerned at the latest. This includes, under point 1.2 of that Annex, the quantity of tobacco (in tonnes) of the moisture content referred to in Annex IV to 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 ⁽⁴⁾, as last amended by Regulation (EC) No 1249/2000 ⁽⁵⁾, covered by the contracts.

(2) Article 9(5) of Regulation (EC) No 2848/98 lays down that, pursuant to Article 10(2) of Regulation (EEC) No 2075/92, the parties to a cultivation contract may, by means of a written amendment, increase the quantities initially specified in the contract. Under the Community rules currently in force, this may take place well beyond 31 July of the year of harvest. The Member States should therefore be allowed to amend the information requested up to 30 June of the year following that of harvest, in order to take account of the quantities of raw tobacco covered by amendments of contracts.

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

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 2636/1999 is replaced by the Annex to this Regulation.

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, 25 July 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 215, 30.7.1992, p. 70.

⁽²⁾ OJ L 154, 27.6.2000, p. 2.

⁽³⁾ OJ L 323, 15.12.1999, p. 4.

⁽⁴⁾ OJ L 358, 31.12.1998, p. 17.

⁽⁵⁾ OJ L 142, 16.6.2000, p. 3.

ANNEX

ANNEX I

Information to be communicated to the Commission by 31 July of the year of harvest concerned at the latest

Harvest: Declarant Member State:

Group of varieties:

	Member State of production (declarant)	Member State of production Name:	Member State of production Name:	Member State of production Name:
1. CULTIVATION CONTRACTS				
1.1. Number of cultivation contracts recorded				
1.2. Quantity of tobacco (in tonnes) of the moisture content referred to in Annex IV of Regulation (EC) No 2848/98 covered by the contracts ⁽¹⁾				
1.3. Total area covered by the contracts (in hectares)				
2. PRODUCERS				
2.1. Total number of producers				
2.2. Number of producers belonging to a producer group recognised pursuant to Regulation (EC) No 2848/98				
3. FIRST PROCESSING ENTERPRISES				
3.1. Number of first processing enterprises concluding cultivation contracts				
4. PRICES				
4.1. Maximum price per kilogram agreed in the cultivation contracts, in relevant currency excluding taxes and other levies. Indicate the reference quality	(in national currency)	(²)	(²)	(²)
4.2. Minimum price per kilogram agreed in the cultivation contracts, in relevant currency excluding taxes and other levies. Indicate the reference quantity				

⁽¹⁾ This information may be amended before 30 June of the year following that of harvest in order to take account of quantities covered by amendments of contracts carried out pursuant to Article 9(5) of Regulation (EC) No 2848/98.

⁽²⁾ For contracts between two Member States, specify the currency in which they were concluded.'

COMMISSION REGULATION (EC) No 1640/2000
of 25 July 2000
amending Regulation (EEC) No 3201/90 laying down detailed rules for the description and presentation of wines and grape musts

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 822/87 of 16 March 1987 on the common organisation of the market in wine ⁽¹⁾, as last amended by Regulation (EC) No 1677/99 ⁽²⁾, and in particular Article 72(5) thereof,

Whereas:

- (1) Council Regulation (EEC) No 2392/89 ⁽³⁾, as last amended by Regulation (EC) No 1427/96 ⁽⁴⁾, lays down general rules for the description and presentation of wines and grape musts.
- (2) Commission Regulation (EEC) No 3201/90 ⁽⁵⁾, as last amended by Regulation (EC) No 160/2000 ⁽⁶⁾, lays down detailed rules for the description and presentation of wines and grape musts.
- (3) German legislation recognises a series of supplementary traditional terms used for quality wines psr from that country. It should be possible for those terms to be used optionally on labels for those wines and so they should be included in Article 3(3)(a).
- (4) In view of an application from Chile, provision should be made for wines originating in that country to bear the name of a vine variety included in the list in Annex IV even though only 85 % of the wine in question is made from grapes of the vine variety whose name it

bears, on condition that that variety determines the character of the wine.

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3201/90 is hereby amended as follows:

1. In Article 3(3)(a), the following indent is added:

‘(a) for German quality wines psr.:

- “Selection”,
- “Selektion”,
- “Classic”,
- “Klassik”.’

2. In Article 13(2)(b), the following indent is added:

‘— Chile.’

Article 2

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

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

Done at Brussels, 25 July 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 84, 27.3.1987, p. 1.
⁽²⁾ OJ L 199, 30.7.1999, p. 8.
⁽³⁾ OJ L 232, 9.8.1989, p. 13.
⁽⁴⁾ OJ L 184, 24.7.1996, p. 3.
⁽⁵⁾ OJ L 309, 8.11.1990, p. 1.
⁽⁶⁾ OJ L 19, 25.1.2000, p. 19.

COMMISSION REGULATION (EC) No 1641/2000
of 25 July 2000
on the payment of a supplement to the advances on the compensatory aid in the banana sector for 2000

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organisation of the market in bananas ⁽¹⁾, as last amended by Regulation (EC) No 1257/1999 ⁽²⁾, and in particular Article 14 thereof,

Whereas:

- (1) Commission Regulation (EEC) No 1858/93 ⁽³⁾, as last amended by Regulation (EC) No 1467/1999 ⁽⁴⁾, lays down detailed rules for applying Regulation (EEC) No 404/93 as regards the aid scheme to compensate for loss of income from marketing in the banana sector. Article 4 of that Regulation lays down the conditions for paying the advances on the compensatory aid.
- (2) The unit amount of each advance on the aid to be determined subsequently for 2000 was set at EUR 17,81 per 100 kilograms in Commission Regulation (EC) No 1157/2000 of 30 May 2000 fixing the compensatory aid for bananas produced and marketed in the Community in 1999, the time limit for payment of the balance of the aid and the unit value of the advances for 2000 ⁽⁵⁾.
- (3) To take account of the difficult financial situation in which Community banana producers find themselves as a result of the marked deterioration of the Community market, provision should be made for the payment of a supplement to the advances paid for the quantities marketed in the Community from 1 January to 31 October 2000, without prejudice to the level of compensatory aid to be set subsequently under Article 12 of Regulation (EEC) No 404/93 and Regulation (EEC)

No 1858/93. This supplementary payment should be conditional on the lodging of a security in accordance with Regulation (EEC) No 1858/93.

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

HAS ADOPTED THIS REGULATION:

Article 1

Producer Member States shall pay a supplement to the advances on the compensatory aid provided for in Article 12 of Regulation (EEC) No 404/93, for 2000, of EUR 7,08 per 100 kilograms, for the quantities marketed in the Community from 1 January to 31 October 2000.

The supplement to the advances shall be paid for marketed quantities for which applications for advances on the compensatory aid have been made for 2000.

Applications for payment of the supplement to the advance shall be accompanied by proof that a security of EUR 3,54 per 100 kilograms has been lodged.

Payment shall be made within two months of this Regulation becoming applicable.

Article 2

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

It shall apply from 16 October 2000.

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

Done at Brussels, 25 July 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 47, 25.2.1993, p. 1.

⁽²⁾ OJ L 160, 26.6.1999, p. 80.

⁽³⁾ OJ L 170, 13.7.1993, p. 5.

⁽⁴⁾ OJ L 170, 6.7.1999, p. 7.

⁽⁵⁾ OJ L 130, 31.5.2000, p. 26.

COMMISSION REGULATION (EC) No 1642/2000

of 25 July 2000

fixing the actual production of olive oil and the unit amount of the production aid for the 1998/1999 marketing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organisation of the market in oils and fats ⁽¹⁾, as last amended by Regulation (EC) No 2702/1999 ⁽²⁾,

Having regard to Council Regulation (EEC) No 2261/84 of 17 July 1984 laying down general rules on the granting of aid for the production of olive oil and of aid to olive oil producer organisations ⁽³⁾, as last amended by Regulation (EC) No 1639/98 ⁽⁴⁾, and in particular Article 17a(2) thereof,

Whereas:

- (1) Article 5 of Regulation No 136/66/EEC provides that the unit production aid must be reduced in each Member State where actual production exceeds the guaranteed national quantity referred to in paragraph 3 of that Article. In assessing the extent of the overrun in Spain, Greece and Portugal, account should be taken of the estimates for the production of table olives processed into olive oil, expressed as olive-oil equivalent using the relevant coefficients referred to in Commission Decisions 98/605/EC ⁽⁵⁾, 98/619/EC ⁽⁶⁾ and 98/620/EC ⁽⁷⁾.
- (2) Article 17a of Regulation (EEC) No 2261/84 provides that in order to determine the unit amount of the production aid for olive oil that can be paid in advance, the estimated production for the marketing year concerned should be determined. That amount must be fixed at a level that avoids any risk of unwarranted payment to olive growers. The amount also applies to table olives, expressed as olive-oil equivalent. For the 1998/1999 marketing year, the estimated production and the unit amount of the production aid which can be paid in advance were fixed by Commission Regulation (EC) No 2181/1999 ⁽⁸⁾.
- (3) Pursuant to Article 17(a)(2) of Regulation (EEC) No 2261/84, the actual production for which entitlement to aid is recognised must be determined no later than eight months after the end of the marketing year. To that end, in accordance with Article 14(4) of Commission Regula-

tion (EC) No 2366/98 ⁽⁹⁾, as amended by Regulation (EC) No 1273/1999 ⁽¹⁰⁾, the Member States concerned must inform the Commission before 1 April following each marketing year of the quantity on which the aid is payable in each Member State. That information indicates that the quantity on which aid is payable for the 1998/1999 marketing year is 452 286 tonnes for Italy, 2 364 tonnes for France, 562 493 tonnes for Greece, 899 991 tonnes for Spain and 33 936 tonnes for Portugal.

- (4) Confirmation by the Member States that aid is payable on those quantities indicates that the controls referred to in Regulations (EEC) No 2261/84 and (EC) No 2366/98 have been carried out. However, the fixing of actual production on the basis of information from the Member States on the quantities on which aid is payable does not prejudice the conclusions which may be drawn from verification of the correctness of that information as part of the accounts clearance procedure.
- (5) Taking account of the actual production figures, the unit amount of the production aid laid down in the second indent of Article 17(a)(2) of Regulation (EEC) No 2261/84 payable on the eligible quantities of actual production should also be fixed.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Oils and Fats,

HAS ADOPTED THIS REGULATION:

Article 1

1. For the 1998/1999 marketing year, the actual production to be used to calculate the olive oil aid referred to in the first indent of Article 17(a)(2) of Regulation (EEC) No 2261/84 shall be:

- 899 991 tonnes for Spain,
- 2 364 tonnes for France,
- 562 493 tonnes for Greece,
- 452 286 tonnes for Italy, and
- 33 936 tonnes for Portugal.

⁽¹⁾ OJ L 72, 30.9.1966, p. 3025/66.

⁽²⁾ OJ L 327, 21.12.1999, p. 7.

⁽³⁾ OJ L 208, 3.8.1984, p. 3.

⁽⁴⁾ OJ L 210, 28.7.1998, p. 38.

⁽⁵⁾ OJ L 289, 28.10.1998, p. 39.

⁽⁶⁾ OJ L 295, 4.11.1998, p. 50.

⁽⁷⁾ OJ L 295, 4.11.1998, p. 54.

⁽⁸⁾ OJ L 267, 15.10.1999, p. 19.

⁽⁹⁾ OJ L 293, 31.10.1998, p. 50.

⁽¹⁰⁾ OJ L 151, 18.6.1999, p. 12.

2. For the 1998/1999 marketing year, the unit amount of the production aid referred to in the second indent of Article 17(a)(2) of Regulation (EEC) No 2261/84, payable on the eligible quantities of actual production, shall be:

- EUR 112,16 per 100 kilograms for Spain,
- EUR 130,40 per 100 kilograms for France,
- EUR 99,05 per 100 kilograms for Greece,
- EUR 130,40 per 100 kilograms for Italy, and
- EUR 130,40 per 100 kilograms for Portugal.

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, 25 July 2000.

For the Commission
Franz FISCHLER
Member of the Commission

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 17 July 2000

concerning the Community contribution to the International Fund 'Clearance of the Fairway of the Danube'

(2000/474/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament ⁽¹⁾,

Whereas:

- (1) The debris of bridges over the Danube, destroyed during the Kosovo conflict, as well as the risk of unexploded ordnance, is blocking navigation between km 1 235 and 1 258 of the Danube river; the consequent interruption of navigation on the Danube has had serious economic and environmental consequences throughout the region, and in particular on all riparian States.
- (2) The Danube Commission, as an inter-governmental institutional established by the 1948 Belgrade Convention, is responsible for navigation on the Danube; Member States of the Danube Commission, at their extraordinary session in Budapest on 25 January 2000, adopted a project proposal 'Clearance of the Fairway of the Danube' which the Danube Commission then presented to the Commission for consideration; this project proposal covers the restoration of a navigation channel by means of removal of debris and unexploded ordnance, followed by the restoration of the river bed of the Danube in the related area.
- (3) For the purpose of implementing this project, an 'International Fund for the Clearance of the Fairway of the Danube' has been established in Vienna by the Danube Commission. The International Fund will be administered by the Danube Commission in accordance with the

purpose of the Fund as stated in its Rules and in full compliance with the Community's relevant financial and procurement policies, as well as the sanctions regime applicable against the Federal Republic of Yugoslavia (FRY).

- (4) The Community agrees to make a contribution of up to 85 % of the total estimated cost of the project, to a maximum of EUR 22 million, the remainder to be met by the Danube Commission and its Member States.
- (5) The Community contribution will be paid into the International Fund. The Community contribution to the International Fund shall be administered by the Danube Commission in accordance with the principles of sound and efficient management.
- (6) The operations covered by this Decision fit into the framework of Community efforts to alleviate the consequences of the Kosovo conflict and are necessary to attain one of the objectives of the Community. The Treaty does not provide, for the action concerned, powers other than those laid down in Article 308,

HAS DECIDED AS FOLLOWS:

Article 1

1. The Community shall contribute to the International Fund to be established by the Danube Commission for the Clearance of the Fairway of the Danube, in accordance with the Rules of this Fund, an amount of up to a maximum of EUR 22 million, covering up to 85 % of the total estimated cost of the project, to be paid during 2000, for the implementation of the project 'Clearance of the Fairway of the Danube'.

⁽¹⁾ Opinion delivered on 5.7.2000 (not yet published in the Official Journal).

2. This contribution to the International Fund, to be made by means of an Exchange of Letters between the European Commission and the Danube Commission, shall be administered in accordance with the Financial Regulation ⁽¹⁾ of 21 December 1977 applicable to the general budget of the European Communities, with particular regard for the principles of sound and efficient management.

3. The Community contribution is subject to the condition that the Danube Commission, in managing the International Fund and implementing the project referred to in paragraph 1, fully complies with the Community's procurement rules and the Community's sanctions regime applicable against the FRY.

4. The Procurement Policies and Rules shall provide for participation in invitations to tender and contracts, open on equal terms to all natural and legal persons in the EU Member States and in the beneficiary states of the Community's 'OBNOVA' and 'PHARE' Regulations as well as Moldova, Russia and Ukraine. Without prejudice to paragraph 5, the Legal Representative of the International Fund may, in exceptional circumstances, where the goods and services required cannot be produced in these states on economically favourable terms, allow, on a case by case basis, participation in invitations to tender by, and conclude contracts with, nationals and companies of third countries.

5. The operation of the International Fund and the implementation of the project shall comply with the Community's sanctions regime against the FRY, and in particular with the prohibition against making funds available to the Governments of the FRY and of the Republic of Serbia, as defined in Council Regulation (EC) No 1294/1999 of 15 June 1999 concerning a freeze of Funds and a ban on investment in relation to the Federal Republic of Yugoslavia (FRY) ⁽²⁾.

Article 2

1. The Commission will forward all relevant information to the Court of Auditors and will request from the Danube Commission any supplementary information that the Court of

Auditors may wish to receive as regards the financial operation of the International Fund.

2. Insofar as Contribution by the Community are concerned, all financing Agreements or contracts concluded under the International Fund will provide for the Commission, OLAF, and the Court of Auditors to conduct on the spot checks according to the usual procedures laid down by the Commission under the rules in force, and in particular those of the Financial Regulation applicable to the general budget of the European Community.

3. In addition, insofar as Contribution to the International Fund by the Community are concerned, the Commission may carry out on-the-spot checks and inspections in order to protect the Community financial interests against fraud and irregularities in conformity with Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities ⁽³⁾ and Council Regulation (Euratom, EC) No 2988/95 of 18 December 1995 on the protection of the European Communities Financial interests ⁽⁴⁾.

Article 3

The Commission shall submit an annual progress report on the implementation of the international fund to the European Parliament and the Council.

Article 4

This Decision shall take effect on the day of its publication.

Done at Brussels, 17 July 2000.

For the Council

The President

L. FABIUS

⁽¹⁾ OJ L 356, 31.12.1977, p. 1. Financial Regulation as last amended by Council Regulation (EC, ECSC, Euratom), No 2548/98 of 23 November 1998 (OJ L 320, 28.11.1998, p. 1).

⁽²⁾ OJ L 153, 19.6.1999, p. 63. Regulation as last amended by Commission Regulation (EC) No 1147/2000 (OJ L 129, 30.5.2000, p. 15).

⁽³⁾ OJ L 292, 15.11.1996, p. 2.

⁽⁴⁾ OJ L 312, 23.12.1995, p. 1 and Corrigendum (OJ L 36, 10.2.1998, p. 16).

COMMISSION

COMMISSION DECISION

of 24 January 1999

relating to a proceeding under Article 81 of the EC Treaty and Article 53 of the EEA Agreement

(Case IV.F.1/36.718. CECED)

(notified under document number C(1999) 5064)

(Only the English text is authentic)

(Text with EEA relevance)

(2000/475/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Whereas:

Having regard to the Treaty establishing the European Community,

I. THE FACTS

Having regard to the Agreement on the European Economic Area,

A. THE PARTIES

Having regard to Council Regulation No 17 of 6 February 1962, First Regulation implementing Articles 85 and 86 of the EC Treaty ⁽¹⁾, as last amended by Regulation (EC) No 1216/1999 ⁽²⁾, and in particular Article 6 thereof,

- (1) The Conseil Européen de la Construction d'Appareils Domestiques (hereinafter: CECED) is an association under Belgian law, established since 1959 and based in Brussels. It comprises manufacturers of domestic appliances and national trade associations. Whilst being itself party to the agreement that it notified on behalf of the parties other than itself, CECED is entrusted with several tasks regarding its implementation.

Having regard to the notification of 22 October 1997 for negative clearance or exemption submitted by the Conseil Européen de la Construction d'Appareils Domestiques (CECED) pursuant to Articles 2 and 4 of Regulation No 17 on 22 October 1997,

- (2) CECED members include manufacturers who produce and sell a wide range of domestic appliances under various brands in various Member States. Parties to the agreement include national associations and manufacturers that are either directly party to the agreement or are committed through membership of a national association.

Having regard to the summary of the application published pursuant to Article 19(3) of Regulation No 17 and to Article 3 of Protocol 21 to the EEA Agreement ⁽³⁾,

Manufacturers that are a direct party to the agreement include Atag Kitchen Group BV, Bosch Siemens Hausgeräte GmbH, Brandt SA, Candy Elettrodomestici Srl, Electrolux Holdings Ltd, Merloni Elettrodomestici Spa, Miele & Cie GmbH&Co and Whirlpool Europe Srl.

After consultation with the Advisory Committee for Restrictive Practices and Dominant Positions,

Manufacturers that are a party through a National Trade Association include Antonio Merloni Spa, Dolmar SA, Fagor Electrodomésticos S.Coop. and Smeg SpA.

⁽¹⁾ OJ L 13, 21.2.1962, p. 204/62.

⁽²⁾ OJ L 148, 15.6.1999, p. 5.

⁽³⁾ OJ C 382, 9.12.1998, p. 6.

national trade associations that are a party include AMDEA (United Kingdom), ANFEL (Spain), FAPE (Spain) ANIE (Italy), EHA (Sweden), Fabrimetal (Belgium), FEEI (Austria), FEHA (Denmark), GIFAM (France), Vlehan (Netherlands), ZVEI (Germany), BESD (Turkey), FEA (Switzerland) and NEL (Norway).

B. RELEVANT MARKET AND POSITION OF THE PARTIES

1. Product market

- (3) The agreement concerns the market for private washing machines that are used by households to wash textiles for private use ('domestic washing machines'). No alternative method of washing such as hand-washing, laundries, dry cleaning and collectively owned machines can, to any significant extent, be substituted for washing machines in Western countries. Accordingly, no other broader product market that would include other appliances within a single product market can be delineated.
- (4) Washing machines can be segmented according to their load capacity, spinning speed, water and energy use, sophistication of programming, and so on. Nonetheless, owing to the similarity in their intended use from a demand standpoint, the various segments do not stand individually as separate product markets.

2. Geographic market

- (5) There are no noticeable technical and economic barriers to trade. Despite low transport costs and unsophisticated technology, imports into the EEA are not considerable and account for 5 to 7 % of final sales. Major producers hardly have more than three factories in the EEA, from which they supply throughout the whole market. Similar distribution channels are used in different Member States, including specialised chains and department stores, though to differing extents.
- (6) Although some brands are predominant in some Member States, the same major producers are present across the EEA. Moreover, the acquisition of a local brand is a widespread practice designed to enhance market penetration. Accordingly, potential competition from groups present in other Member States directly threatens those present in each national market.
- (7) The relevant market is therefore for domestic washing machines in the EEA ⁽⁴⁾.

3. Position of the parties, market situation

- (8) The manufacturers having signed the agreement hold around 90 % of the EEA market. Their market shares in 1996 were as follows: Electrolux (17,9 %), Bosch-Siemens (11,5 %), Whirlpool (10 %), Candy (9,2 %), Brandt (9 %), Merloni (9 %), Miele (4,8 %), Fagor (2,6 %),

Atag (0,3 %), Dolmar (0,1 %), Smeg (0,1 %), third party production from CECED members (16 %).

- (9) As with other traditional domestic appliances, saturation is apparent for washing machines. Equipment to household ratios in the Community are becoming stagnant, within a range from 96 % in Spain to 77 % in Sweden. Renewal of installed equipment and sociodemographic trends, like the number and size of households, are the main driving forces of demand.
- (10) The market is characterised by competition from several large competitors and considerable bargaining pressure from large distribution or buying groups ⁽⁵⁾. In previous years, sales of machines have been stable, whilst sales values have dramatically shrunk. Production capacities have been widely rationalised. On average, production capacities of up to 75 % are currently being achieved in the Community. Overall, the situation in the market, which is relatively fragmented, looks depressed compared with both the past and other fast growing markets for other domestic appliances. There are no indications that the situation is any different in the wider EEA market.

4. Energy efficiency in the relevant market

- (11) Pursuant to Article 2 and Annexes I to IV to Commission Directive 95/12/EC of 23 May 1995 implementing Council Directive 92/75/EEC with regard to energy labelling of household washing machines ⁽⁶⁾, as amended by Directive 96/89/EC ⁽⁷⁾, washing machines sold throughout the Community are classified and labelled according to their energy efficiency (kWh/Kg, or Kilo-watt-hours/kilograms of load) into seven categories from A to G ('energy categories'). Such categories are used in the agreement.
- (12) Electricity consumption is essential in the operation of washing machines. It also accounts for a major share of operating costs during their long lifetime (12 years on average in the Community). Through the EC energy label, consumers can easily assess the cost-effectiveness of a choice amongst different energy categories. In addition to economic factors, advertising campaigns often stress energy performance, thereby differentiating products, in a context where environmentally friendly products attract more and more consumers. Thus, energy-efficiency has an influence on purchasing decisions, and hence on competition between manufacturers.

⁽⁴⁾ This view is also consistent with Case IV.M.458 Electrolux-AEG, point 21, (OJ C 187, 9.7.1994, p. 14).

⁽⁵⁾ See footnote 4.

⁽⁶⁾ OJ L 136, 21.6.1995, p. 1.

⁽⁷⁾ OJ L 338, 28.12.1996, p. 85.

(13) In 1997, about 10 to 11 % of washing machines sold in the EEA belonged to classes D to G. For some important manufacturers, the share of such machines in their product range was higher than one-third. However, no party manufactures machines exclusively in categories D to G.

(14) According to CECED, between 1978 and 1994 the energy consumption of washing machines was reduced by 40 % per unit in the European market. Despite such improvements, consumption due to the operation of washing machines accounts on aggregate for 2 % of total electricity consumption in the Community. There is no indication that market factors other than energy prices have played a significant role in spontaneously bringing about such results for the industry as a whole.

(15) The most direct way of improving energy-efficiency, and thus of raising the energy category, is through a reduction in the amount of water used in the washing cycle. A further way is to reduce the amount of 'free water' at the bottom of the drum. Other improvements that contribute indirectly to energy efficiency are more accurate water-level sensors and more sensitive controls. Various upgrades of mechanical parts also result in an overall improvement in efficiency. These include replacement of induction motors with universal motors, upgrading of pressure switches, use of an adjustable thermostat or a more sophisticated timer, use of a lower-powered heating element and modification of the drum, tub and balancing of the machine. No further improvements which raise the energy efficiency of machines currently in category A are likely in the medium term, owing to technological constraints.

(16) The energy-efficiency of washing machines, itself positively correlated with spin speed, appears directly proportional to their price. Owing to the functional interdependence between different product characteristics, it is not possible to isolate completely the effects of upgrading energy efficiency, other parameters being constant. All technical means of improving energy-efficiency are translated into higher production and purchase costs. The approximate unit-cost increase of shifting to category C from categories G to D, including apportioned R&D costs and changes in the production process or components, is estimated in a range between EUR 6,3 and 60 per machine (1,2 and 11,5 % of average selling prices in the Community) at the production stage.

(17) However, the distribution of such costs is uneven, depending on the composition of production and sales in each Member State. For instance, according to information submitted by the parties, were all machines sold in the Community to reach a weighted average efficiency

of 0,23 kWh/Kg, the estimated price increase would be around 1 to 2 % in northern Europe and 8 to 14 % in southern Europe and the United Kingdom, where the share of categories between D and G is the highest.

C. THE AGREEMENT

(18) The agreement basically covers three sets of objectives: (i) production and imports of washing machines, (ii) monitoring and reporting, and (iii) promotion of technological development as well as consumer education. It includes the following provisions.

1. Production and imports

(19) The parties agree to cease producing and/or importing into the Community the following categories of machines:

- after 31 December 1997 (as a first step) machines belonging to categories E, F and G, excluding machines under category E with load capacity lower than 3 kg and vertical axis machines,
- after 31 December 1999 (as a second step) machines belonging to category D, excluding load capacity lower than 3 kg and machines with a spin speed lower than 600 rpm (revolutions per minute).

(20) Moreover, each party agrees to contribute to reaching a weighted average efficiency of 0,24 kWh/kg by 31 December 2000 for all the machines produced.

2. Monitoring and reporting

(21) CECED will establish and update a database, monitored by an independent consultant who will report annually to CECED and to the Commission on the fulfilment of the objectives by category class and in the terms of the overall target of 0,24 kWh/kg. The independent consultant will aggregate the individual data submitted by each manufacturer.

3. Consumer education and technological improvement

(22) The parties agree to improve the availability of information on the environmentally conscious use of washing machines (how to operate the machine with less energy, detergent, and water) and to promote a wider dissemination of energy-saving technology (hot-fill installations, improving load dependence) and techniques (use of low washing temperatures).

4. Effective date of implementation and new parties

- (23) According to CECED, from as early as 1996 onwards, the parties to the agreement had felt obliged to act in the spirit of the terms that were being negotiated between them. During its enquiry, the Commission has gathered data showing that, prior to the entry into force of the agreement, a number of manufacturers being party to the agreement effectively diminished or ceased their production of machines belonging to energy categories that would have been phased out, had the agreement been signed in 1996.
- (24) The agreement is open to new participants and remains valid until 31 December 2001. Since its entry into force, other manufacturers like Arçelik (Turkey) and Iar Sital Srl (Italy) have joined it. The initial market coverage is thereby extended to 95 % of the relevant market.

II. LEGAL ASSESSMENT

A. ARTICLE 81(1) OF THE EC TREATY AND ARTICLE 53(1) OF THE EEA AGREEMENT

- (25) Article 81(1) of the EC Treaty and Article 53(1) of the EEA Agreement prohibit all agreements or concerted practices between undertakings and associations of undertakings which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the common market or the EEA, and in particular those which control production or technical development.

1. Agreements and/or concerted practices between undertakings or associations of undertakings

- (26) CECED is an association of undertakings. Those of its members that are parties to the agreement are manufacturers or importers of domestic appliances, or associations of such manufacturers or importers.
- (27) The agreement which is the subject of this Decision is therefore an agreement between undertakings and associations of undertakings within the meaning of Article 81(1) of the EC Treaty and Article 53(1) of the EEA Agreement. The collective implementation of some of its provisions from 1996 onwards, in so far as the parties have felt obliged to act in the spirit of the terms that were being negotiated between them, is also an agreement or, at least, a concerted practice, within the meaning of those provisions.

2. The object or the effect of preventing, restricting or distorting competition

(a) Joint target

- (28) The agreement sets forth an obligation whereby the parties will use their best endeavours to contribute to a sector-wide target. This target is largely achieved by the fulfilment of the specific obligation to comply with a minimum efficiency standard. This general obligation is not accompanied, on the basis of the information

submitted in the notification, by quota allocations or by specification of the individual contribution of each manufacturer or importer to the attainment of the common target.

- (29) Consequently, this provision does not have as its object or effect the restriction of competition.

(b) Restriction of production and imports

Restrictive object

- (30) CECED members agree no longer to manufacture or to import washing machines that do not meet the criteria that they have agreed upon. The agreement sets a standard of energy efficiency, with which all the washing machines that the parties manufacture or import have to comply. By this obligation, the parties are no longer free to produce or to import machines under categories D to G, as they were free to do, and actually did, before the agreement.
- (31) Some manufacturers focused their production exclusively on categories A to C, and partly D, prior to the agreement. The agreement guarantees to them that other parties will not meet consumer demand for machines in categories D to G. Such a guarantee is important in a stagnant market with strong competitors and research of sales opportunities. The agreement therefore prevents manufacturers and importers from competing throughout the full range of energy categories, as they did before the agreement.
- (32) The agreement narrows down consumer choice, from category A to C, and partly D, compared to current A to G. It is unlikely that a range of energy efficiency as broad as that currently prevailing will reoccur in the affected market in the short term, because of technological constraints. Thus, the agreement prevents distributors, retailers and, ultimately, consumers from choosing amongst different categories of machines otherwise available. Technical diversity and consumer choice are thereby reduced.
- (33) Accordingly, the agreement, which restricts the parties' autonomy in producing or importing the machines of their choice, has the object of controlling one important product-characteristic on which there is competition in the relevant market, thereby restricting competition between the parties.
- (34) The agreement will inevitably raise the production costs of those manufacturers that used to produce machines which are no longer allowed. Estimates of costs for adapting washing machines to the new minimum standard would suggest that production and unit costs would increase appreciably, albeit not excessively, for those models which need upgrading. Therefore, in the short term, the agreement is likely to increase the price of those models, and hence the prices of some manufacturers' product ranges, thereby raising their costs and bringing their prices closer to those of competitors, thereby distorting price competition.

- (35) The agreement does not directly impose any reduction of output, since more efficient machines would, in principle, replace those being phased out. Limited effects on output, if any, may only arise indirectly through reduced demand, depending on price elasticity, which is low for washing machines, when viewed separately from other factors.
- (36) Nonetheless, the agreement will have the effect of reducing electricity demand, electricity being essential in the operation of washing machines. According to CECED, the agreement is likely to reduce electricity output by 7,5 TWh, out of the estimated 38 TWh (1995) attributed to washing machines in the Community once the machines already installed are totally replaced. Production capacities which have been devised to meet foreseeable demand, and hence electricity producers, are thereby affected and their output restricted, by up to 2 % of the total.
- (37) The agreement to prevent the parties from producing or importing categories of washing machines under energy labels D to G has thus the object of restricting or distorting competition within the meaning of Article 81(1) of the EC Treaty and Article 53(1) of the EEA Agreement.

(c) *Exchange of information*

- (38) The agreement compels the parties to submit data on annual sales of washing machines, broken down by category of energy-efficiency class. The information is exchanged through an independent notary, entrusted with the task of collating data confidentially submitted by each individual manufacturer on production and sales. Only aggregated data on sales made on the Community market in the previous year will be made available to competitors in an otherwise fragmented market.
- (39) The exchange of information, which is necessary to review the progress achieved and relevant to the functioning of the overall agreement, does not have the object or the effect of restricting competition.

(d) *Consumer information and dissemination of energy-saving technology*

- (40) The undertaking included in the agreement sets the general goal of improving consumer information on more economic patterns in the use of the appliances. The wider dissemination of energy-saving technology does not specify any particular expedients imposing restrictions on the parties.

- (41) Such undertakings are not restrictive of competition.

3. Appreciable effects on competition and trade between Member States

- (42) Electricity consumption is not negligible as a purchase criterion, and hence as a basis on which there is competition in the relevant market, of which the parties, as was noted in recital 24, jointly hold in excess of 95 %.
- (43) The agreement is also likely to have dissimilar geographic effects within the EEA. Since producers have only a few plants from which they currently supply throughout the EEA, the agreement will affect the composition of imports from one Member State to another, for those manufacturers who produced machines in classes D to G, before 1996.
- (44) Depending on the composition of sales, price increases due to up-grading current product ranges will be unevenly distributed amongst Member States. As a result, demand will be affected, in direct proportion to the share of machines being phased out in each national market. Such share is the highest in those five Member States where the efficiency of washing machines is below the Community average.
- (45) Following full implementation of the agreement by the year 2001, 1 718 models in energy classes G, F, E and D (i.e. just less than 63 %) would no longer be produced or imported, out of a total Community range of 2 730 models in 1995. In terms of unit sales, the number of machines that would no longer be allowed in the market accounted for 10 to 11 % of the Community total in 1997. As an order of magnitude, this is nearly the size of the Austrian, Swedish and Benelux markets altogether.
- (46) Accordingly, the agreement is likely to have an appreciable effect on competition and trade between Member States within the meaning of Article 81(1) of the EC Treaty and Article 53(1) of the EEA Agreement.

B. ARTICLE 81(3) OF THE EC TREATY AND ARTICLE 53(3) OF THE EEA AGREEMENT

1. Contribution to economic or technical progress and conferment of benefits on the consumer

- (47) The agreement is designed to reduce the potential energy consumption of new washing machines by at least 15 to 20 % (relative to 1994 data on models of washing machines). According to CECED, were models of phased-out machines to be replaced by an equivalent number of machines in categories A, B and C, currently available on the market, 7,5 TWh would be saved in 2015 out of the estimated 38 TWh consumed by the operation of washing machines in the Community in 1995.

(48) Washing machines which, other factors being constant, consume less electricity are objectively more technically efficient. Reduced electricity consumption indirectly leads to reduced pollution from electricity generation. The future operation of the total of installed machines providing the same service with less indirect pollution is more economically efficient than without the agreement.

(49) Such potential improvement in four years of implementation of the agreement is remarkable, compared to improvements in the past. Were energy efficiency to improve at the same rate as it did between 1978 and 1994 without any agreement, the attainment of a 20 % improvement would require eight years, instead of four. In addition to faster and more certain results, there is no evidence that changes in behaviour may nullify the improvement of the efficiency ratio ⁽⁸⁾.

(50) The agreement is also likely to focus future research and development on furthering energy efficiency beyond the current technological limits of category A, thereby allowing for increased product differentiation amongst producers in the long run ⁽⁹⁾.

(51) CECED estimates the pollution avoided at 3,5 million tons of carbon dioxide, 17 000 tons of sulphur dioxide and 6 000 tons of nitrous oxide per year in 2010, working on the basis of average emission values. Although such emissions are more efficiently tackled at the stage of electricity generation, the agreement is likely to deliver both individual and collective benefits for users and consumers.

(a) Individual economic benefits

(52) The level at which the minimum performance standard is set provides a fair return within reasonable pay-back periods to a typical consumer for higher initial purchase costs derived from the more stringent standard in fact set out by CECED. Savings on electricity bills allow recouping of increased costs of upgraded, more expensive machines within nine to 40 months, depending mainly on frequency of use and electricity prices.

(53) While the agreement will eliminate certain models which are in category D and below, it is not possible to determine in advance its effect on the average selling price of those models of washing machines which are not directly affected. Indeed, the restriction in one product-dimension, energy consumption, may increase competition on other product characteristics, including

price. Therefore, while the minimum price of washing machines is likely to increase, it cannot be ruled out that products in categories A and B may become available at a lower price. In a market characterised by strong competition amongst manufacturers and bargaining power from distributors, these benefits are likely to accrue to consumers.

(54) Were these competition-enhancing effects to take place, the narrowing of the price range and the increase in average selling prices would be less pronounced than would otherwise be foreseeable.

(b) Collective environmental benefits

(55) According to Article 174 of the EC Treaty, environmental damage should be rectified at source. The Community pursues the objective of a rational utilisation of natural resources, taking into account the potential benefits and costs of action. Agreements like CECED's must yield economic benefits outweighing their costs and be compatible with competition rules ⁽¹⁰⁾. Although electricity is not a scarce resource and consumption reductions do not tackle emissions at source, account can also be taken of the costs of pollution.

(56) The Commission reasonably estimates the saving in marginal damage from (avoided) carbon dioxide emissions (the so-called 'external costs') at EUR 41 to 61 per ton of carbon dioxide. On a European scale, avoided damage from sulphur dioxide amounts to EUR 4 000 to 7 000 per ton and EUR 3 000 to 5 000 per ton of nitrous oxide ⁽¹¹⁾. On the basis of reasonable assumptions, the benefits to society brought about by the CECED agreement appear to be more than seven times greater than the increased purchase costs of more energy-efficient washing machines. Such environmental results for society would adequately allow consumers a fair share of the benefits even if no benefits accrued to individual purchasers of machines.

(57) The expected contribution to furthering energy efficiency both within the current technological limits of categories A to C and beyond the limits of category A, the cost-benefit ratio of the standard and the return on investment for individual users point to the conclusion that the agreement is likely to contribute significantly to technical and economic progress whilst allowing users a fair share of the benefits.

⁽⁸⁾ Purchasers are interested in the service that washing machines provide. When frequency of use and hence absolute electricity consumption (total kg of clothes washed per kWh/kg), are constrained by operating costs, decreases in such costs stimulate an increase in use. Such increase may outweigh the reduction in relative consumption (i.e. kWh per kg of clothes washed).

⁽⁹⁾ This would allow the current energy categories under the EC energy label being reviewed in the light of technical progress.

⁽¹⁰⁾ Articles 3(1)(f) and 7 of EP and Council Decision 2179/98/EC of 24 September 1998 on the review of the European Community programme of policy and action in relation to the environment and sustainable development 'Towards sustainability' (OJ L 275, 10.10.1998, p. 1).

⁽¹¹⁾ These values reflect the current state of knowledge and may need to be reviewed in the light of future research.

2. Indispensability of the restrictions

(58) The agreement does not impose on the parties restrictions that are unrelated or unnecessary to the fulfilment of its objective benefits. The outright prohibition of some energy categories does not prescribe any specific technical means for the achievement of the minimum standard, to the exclusion of others, nor does it impose other limitations on any other aspect of the proper or commercial behaviour of the parties.

(59) Regarding the reduction of total electricity consumption through the operation of washing machines, the agreement opts for an approach based on individual product characteristics. The Commission has examined whether it would be possible to devise less restrictive alternatives that would be capable of delivering similar reductions based on other approaches. For instance, the parties could theoretically limit the agreement to the undertaking to contribute to an industry-wide target, information campaigns and a greater focus on fulfilling EU eco-label criteria.

(a) Industry-wide target

(60) The setting of a more stringent industry-wide target could in theory lead to more indirect pollution abatement whilst allowing manufacturers or importers more flexibility than the application of a mandatory minimum standard. Provided that each party complied with the common target, it would be free to decide on the share of different energy categories within its total product range, by compensating a minor proportion of machines below category C through a predominant proportion of top categories A and B.

(61) However, such a system would face difficulties that would jeopardise the attainment of the expected results. In the specific market context, purchasers that have bargaining power could focus their orders on machines below category C. Whilst the unilateral decision to cease production of such machines could remedy this, it would, in practice, be tantamount to applying the minimum standard. Only a joint agreement with distributors and retailers would help to overcome this problem. If at all workable, such an agreement would have higher transaction and monitoring costs and could be even more restrictive.

(b) Information campaigns

(62) Mere information campaigns, which are a separate part of the agreements, are also plainly less effective than a standard. As previously stated, the existing Community energy label already provides consumers with the necessary information on energy efficiency. However, evidence shows that, as external costs are not fully

reflected in consumer's calculations when contemplating a purchase, the provision of information is not sufficient to realise the agreement's environmental benefits to their fullest possible extent. Moreover, the information stressed in the agreement relates to the conditions on the use of the machine, which allow for further reduction of electricity consumption besides the technical efficiency ratio of the machine. Such campaigns are therefore complementary to the standard, rather than being a substitute for it.

(c) Eco label

(63) Commission Decision 96/461/EC⁽¹²⁾ of 11 July 1996 establishing ecological criteria for the award of the Community eco label to washing machines covers energy consumption (categories A and B being eligible), water and detergent use as well as consumer information. Some manufacturers have been awarded the eco label. However, it should be remembered that the eco label has as one of its main features its selective character. The label is only awarded to those products with the lowest environmental impact in a product range. It is an instrument that rewards the top environmental class. On the other hand, the CECED agreement aims at phasing out the least energy-efficient products (categories D to G). The eco label is therefore not intended to apply to products such as the ones envisaged in the agreement. The agreement and the eco label are complementary and reinforce each other. The parties to the agreement will always have the possibility, in addition to the agreement, of applying for the award of an eco label, as a supplementary way of enhancing the environmental benefits achieved by their washing machines.

3. No elimination of competition

(64) Major distributors agree that other factors like price, brand image, and technical performance may have more weight in purchase decisions than energy efficiency. Meanwhile, three energy categories, from A to C, and part of D, will still remain available to manufacturers, once the agreement is fully implemented.

(65) Moreover, whilst not imposing unnecessary restrictions *de jure*, the agreement does not *de facto* impose any particular means of improving energy efficiency. The technology needed to produce machines under categories A to C is available to all manufacturers. The parties have therefore a wide variety of technical choices, on which they can effectively compete, to meet the minimum energy efficiency standard.

⁽¹²⁾ OJ L 191, 1.8.1996, p. 56.

- (66) Though machines pertaining to categories D to F account for a significant volume of final sales, about 90 % of the market (1996) will fall outside the scope of the agreements. Since third parties remain free to produce and to import machines below such categories, the agreement does not appreciably raise barriers to entry into the EEA market.
- (67) Therefore, it can be concluded that the cumulative conditions of Articles 81(3) of the EC Treaty and 53(3) of the EEA Agreement are fulfilled.

4. Duration of the exemption

- (68) Pursuant to Article 8(1) of Regulation No 17, a decision in application of Article 81(3) is to be issued for a specific period. As notified, the obligations agreed by the parties remain binding upon them until 31 December 2001. It is therefore appropriate to define the duration of this exemption accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Pursuant to Article 81(3) of the EC Treaty and Article 53(3) of the EEA Agreement, the provisions of Article 81(1) of the EC Treaty and Article 53(1) of the EEA Agreement are hereby

declared inapplicable for the period from 22 October 1997 to 31 December 2001, to the agreement entered into on 24 September 1997 by the Conseil Européen de la Construction d'Appareils Domestiques and some of its members, regarding production and imports of domestic washing machines falling within energy categories D to G as defined by Directive 95/12/EC.

Article 2

This Decision is addressed to:

Conseil Européen de la Construction d'Appareils Domestiques (CECED)
Diamant Building
Boulevard A. Reyers/A. Reyerslaan 80
B-1030 Brussels

Done at Brussels, 24 January 1999.

For the Commission

Mario MONTI

Member of the Commission

COMMISSION DECISION

of 17 July 2000

authorising Member States to permit temporarily the marketing of seed of certain species not satisfying the requirements of Council Directive 66/401/EEC

(notified under document number C(2000) 1782)

(2000/476/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed ⁽¹⁾, as last amended by Directive 98/96/EC ⁽²⁾, and in particular Article 17 thereof,

Whereas:

- (1) In Sweden the quantity of available seed of spring varieties of field pea (*Pisum sativum*) suitable to the national climatic conditions and which satisfies the requirements of the said Directive in relation to the germination capacity is insufficient and is therefore not adequate to meet this country's needs.
- (2) It is not possible to cover this demand satisfactorily with seed from other Member States, or from third countries, satisfying all the requirements laid down in the Directive.
- (3) Sweden should therefore be authorised to permit for a period expiring on 30 June 2000, the marketing of seed of the field pea variety 'Carneval' subject to less stringent requirements.
- (4) Moreover, other Member States which are able to supply Sweden with seed of the abovementioned variety should be authorised to permit the marketing of such seed.
- (5) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DECISION:

Article 1

Sweden is authorised to permit, for a period expiring on 30 June 2000, the marketing in its territory of 50 tonnes of certified seed of spring varieties of field pea (*Pisum sativum*) of

the variety 'Carneval' which does not satisfy the requirements laid down in Directive 66/401/EEC, with regard to the minimum germination capacity, provided that the following requirements are satisfied:

- (a) the germination capacity is at least 72 %,
- (b) the official label shall state the germination ascertained in the report on official seed testing

Article 2

1. The Member States other than the applicant Member State are also authorised to permit, on the terms set out in Article 1 and for the purposes intended by the applicant Member State, the marketing in their territories of the seed authorised to be marketed under this Decision.

2. For the purpose of the application of paragraph 1, the Member States concerned shall assist each other administratively. The applicant Member State shall be notified by other Member States of their intention to permit the marketing of such seed before any authorisation may be granted. The applicant Member State may object only if the entire amount set out in this Decision has already been allocated.

Article 3

Member States shall immediately notify the Commission and the other Member States of the various quantities of seed labelled and permitted to be marketed in their territories pursuant to this Decision.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 17 July 2000.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ 125, 11.7.1966, p. 2298/66.

⁽²⁾ OJ L 25, 1.2.1999, p. 27.

COMMISSION DECISION
of 24 July 2000
for purchase by the Community of Bluetongue vaccine for emergency stock
(notified under document number C(2000) 2209)

(2000/477/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Decision 90/424/EEC of 26 June 1990 on expenditure in the veterinary field ⁽¹⁾, as last amended by Council Regulation (EC) No 1258/1999 ⁽²⁾, and in particular Article 6 and Article 8 thereof,

Whereas:

- (1) Bluetongue is an arthropod-borne viral disease of ruminants which can cause great economic losses to sheep production.
- (2) During 1998 and 1999 outbreaks of Bluetongue have been recorded in Greece.
- (3) During 1999 outbreaks of Bluetongue have been recorded in Bulgaria and in Turkey.
- (4) The serotypes reported by Greece have been serotypes 4, 9 and 16.
- (5) During 2000 outbreaks of Bluetongue have been reported in Tunisia.
- (6) The serotype 2 is the one present in Tunisia.
- (7) The use of vaccine can be an important tool in combating the spread of Bluetongue.
- (8) No Bluetongue vaccine is produced by the pharmaceutical industry based in the Member States.
- (9) The Onderstepoort laboratory in South Africa is the only laboratory which may produce an attenuated vaccine containing the serotypes existing in the Mediterranean region.
- (10) When vaccination is decided, in order not to introduce new serotypes in an ecosystem, it is considered as suitable to use, in an infected or under threat region, a vaccine containing serotypes already present or directly threatening the region, and to this end a bank of trivalent vaccine (4, 9, 16) has to be set up to face an emergency situation in the context of south-eastern threat.
- (11) It is also necessary to set up a bank of monovalent vaccine (serotype 2) to deal with the threat of southern Member States due to the situation in northern Africa.

- (12) The measures provided for in this Decision are in accordance with the opinion of the Standing Veterinary Committee,

HAS ADOPTED THIS DECISION:

Article 1

1. For emergency use the Community shall make arrangements for the purchase of 500 000 doses of trivalent bluetongue vaccine containing serotypes 4, 9 and 16 and 500 000 doses of monovalent Bluetongue vaccine (serotype 2).
2. The arrangements referred to in paragraph 1 shall include the storage of vaccines in such a manner that they can be dispatched without delay to the area designated for vaccination.

Article 2

The maximum cost of the measures referred to in Article 1 shall be up to EUR 160 000.

Article 3

1. To meet the objectives of Articles 1 and 2 the Commission shall conclude contracts without delay with the laboratory of Onderstepoort in South-Africa.
2. The Director General of the Directorate General for Health and Consumer Protection shall be authorised to sign the contracts on behalf of the European Commission.

Article 4

Decision 2000/292/EC ⁽³⁾ of 6 April 2000 is repealed.

Article 5

This Decision is addressed to all the Member States.

Done at Brussels, 24 July 2000.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 224, 18.8.1990, p. 19.

⁽²⁾ OJ L 160, 26.6.1999, p. 103.

⁽³⁾ OJ L 95, 15.4.2000, p. 39.