

Official Journal

of the European Communities

ISSN 0378-6978

L 332

Volume 43

28 December 2000

English edition

Legislation

Contents

I Acts whose publication is obligatory

- ★ **Decision No 2850/2000/EC of the European Parliament and of the Council of 20 December 2000 setting up a Community framework for cooperation in the field of accidental or deliberate marine pollution** 1
- ★ **Council Regulation (EC) No 2851/2000 of 22 December 2000 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreement with the Republic of Poland and repealing Regulation (EC) No 3066/95** 7
- ★ **Council Regulation (EC) No 2852/2000 of 22 December 2000 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of polyester staple fibres originating in India and the Republic of Korea** 17
- Commission Regulation (EC) No 2853/2000 of 27 December 2000 establishing the standard import values for determining the entry price of certain fruit and vegetables 32
- Commission Regulation (EC) No 2854/2000 of 27 December 2000 fixing the export refunds on milk and milk products 34
- ★ **Commission Regulation (EC) No 2855/2000 of 27 December 2000 concerning the classification of certain goods in the Combined Nomenclature** 41
- ★ **Commission Regulation (EC) No 2856/2000 of 27 December 2000 amending Regulation (EC) No 2508/97 laying down detailed rules for the application to milk and milk products of the schemes provided for in the Europe Agreements between the Community and the Republic of Hungary, the Republic of Poland, the Czech Republic, the Slovak Republic, Bulgaria, Romania and Slovenia, and the Agreements on free trade between the Community and the Baltic States** 49
- ★ **Commission Regulation (EC) No 2857/2000 of 27 December 2000 amending Regulations (EC) No 1279/98, (EC) No 1128/1999, (EC) No 1247/1999 and (EC) No 2335/2000 as a result of the new concessions made in respect of certain beef and veal products under certain tariff quotas** 55

Price: EUR 24,50

(Continued overleaf)

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

★ Commission Regulation (EC) No 2858/2000 of 27 December 2000 amending Regulation (EC) No 2125/95 opening and providing for the administration of tariff quotas for preserved mushrooms	59
★ Commission Regulation (EC) No 2859/2000 of 27 December 2000 opening crisis distillation as provided for in Article 30 of Regulation (EC) No 1493/1999 for certain wines in Italy	61
★ Commission Regulation (EC) No 2860/2000 of 27 December 2000 amending Regulation (EC) No 2316/1999 laying down detailed rules for the application of Council Regulation (EC) No 1251/1999 establishing a support system for producers of certain arable crops, to include flax and hemp grown for fibre, specifying the rules on set-aside areas and amending the base areas for Greece and Portugal	63
Commission Regulation (EC) No 2861/2000 of 27 December 2000 fixing Community producer and import prices for carnations and roses with a view to the application of the arrangements governing imports of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip	76
Commission Regulation (EC) No 2862/2000 of 27 December 2000 amending the import duties in the rice sector	78
★ Directive 2000/59/EC of the European Parliament and of the Council of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues	81
Statement from the Commission	90
★ Directive 2000/76/EC of the European Parliament and of the Council of 4 December 2000 on the incineration of waste	91

II Acts whose publication is not obligatory

Commission

2000/816/EC:

★ Commission Decision of 27 December 2000 concerning the non-inclusion of quintozone in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant-protection products containing this active substance ⁽¹⁾ (notified under document number C(2000) 4136)	112
---	-----

2000/817/EC:

★ Commission Decision of 27 December 2000 concerning the non-inclusion of permethrin in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing this active substance ⁽¹⁾ (notified under document number C(2000) 4140)	114
---	-----

2000/818/EC:

★ Commission Decision of 19 December 2000 accepting an undertaking offered in connection with the anti-dumping proceedings concerning imports of polyester staple fibres originating in India and the Republic of Korea (notified under document number C(2000) 3905)	116
--	-----

I

(Acts whose publication is obligatory)

**DECISION No 2850/2000/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 20 December 2000
setting up a Community framework for cooperation in the field of accidental or deliberate marine
pollution**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE
EUROPEAN UNION,

Having regard to the Treaty establishing the European
Community, and in particular Article 175(1) thereof,

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

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

Following consultation with the Committee of the Regions,

Acting in accordance with the procedure laid down in Article
251 of the Treaty ⁽³⁾, and in the light of the joint text approved
by the Conciliation Committee on 11 October 2000,

Whereas:

- (1) The actions taken by the Community in the field of
accidental marine pollution since 1978 have made it
possible progressively to develop cooperation between
the Member States within a Community action
programme. The resolution and decisions adopted since
1978 ⁽⁴⁾ constitute the basis for this cooperation.
- (2) Several regional agreements on accidental marine pollu-
tion, such as the Bonn Cooperation Agreement, already
facilitate mutual assistance and cooperation between
Member States in this field.
- (3) Regard should be had to the international conventions
and agreements applicable to European seas and mari-
time areas, such as the OSPAR Convention, the Barce-
lona Convention and the Helsinki Convention.

(4) The Community information system has served the
purpose of making available to the Member States the
data required for the control and reduction of pollution
caused by the spillage of hydrocarbons and other
harmful substances at sea in large quantities. The infor-
mation system will be simplified by the use of a modern
automatic data-processing system.

(5) A system for the rapid and efficient exchange of infor-
mation needs to be established.

(6) The Community task force and other actions within the
Community action programme have provided practical
assistance to operational authorities during marine
pollution emergencies and promoted cooperation and
preparedness for efficient response to accidents.

(7) The Community programme of policy and action in
relation to the environment and sustainable develop-
ment ⁽⁵⁾ presented by the Commission envisages that the
Community's activities will be stepped up in particular
in the field of environmental emergencies which
includes accidental or deliberate marine pollution.

(8) Directive 2000/59/EC of the European Parliament and of
the Council on port reception facilities for ship-
generated waste and cargo residues ⁽⁶⁾ is of fundamental
importance in the context of this Decision.

(9) Harmful substances means any hazardous or noxious
substance liable to raise concern if spilled into the
marine environment.

(10) Community cooperation in the field of accidental
marine pollution helps, by taking action against the
risks, to achieve the objectives of the Treaty by
promoting solidarity between Member States and contri-
buting, pursuant to Article 174 of the Treaty, to
preserving and protecting the environment and
protecting human health.

⁽¹⁾ OJ C 25, 30.1.1999, p. 20.

⁽²⁾ OJ C 169, 16.6.1999, p. 16.

⁽³⁾ Opinion of the European Parliament of 16 September 1999 (OJ C
54, 25.2.2000, p. 82), Council Common Position of 17 December
2000 (OJ C 87, 24.3.2000, p. 1) and Decision of the European
Parliament of 13 June 2000 (not yet published in the Official
Journal). Decision of the European Parliament of 30 November
2000 and Decision of the Council of 5 December 2000.

⁽⁴⁾ OJ C 162, 8.7.1978, p. 1,
OJ L 355, 10.12.1981, p. 52,
OJ L 77, 22.3.1986, p. 33 and
OJ L 158, 25.6.1988, p. 32.

⁽⁵⁾ OJ C 138, 17.5.1993, p. 5.

⁽⁶⁾ See page 81 of this Official Journal.

- (11) The establishment of a Community framework for cooperation providing support measures will help to develop cooperation in the field of accidental marine pollution even more efficiently. Such a framework for cooperation should be based to a large extent on experience already gained in this field since 1978.
- (12) A Community framework for cooperation will also increase transparency as well as consolidate and strengthen the different actions.
- (13) Accidental or deliberate pollution at sea includes pollution from offshore installations and illicit operational spills from vessels.
- (14) Action to provide information and prepare those responsible for and involved in dealing with accidental marine pollution in the Member States is important, increases the degree of preparedness for accidents and contributes to preventing the risks.
- (15) It is also important to undertake Community action to improve techniques and methods of response and rehabilitation after emergencies.
- (16) The provision of operational support in emergency situations to Member States and facilitating the dissemination of experience from such situations among Member States has proved to be of significant value.
- (17) Actions under this framework should also promote the polluter-pays principle which should be applied in accordance with the applicable national and international environmental and maritime law.
- (18) The measures necessary for implementing this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾.
- (19) This Decision lays down, for the entire duration of the cooperation framework, a financial framework constituting the prime reference, within the meaning of point 33 of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure ⁽²⁾, for the budgetary authority during the annual budgetary procedure.
- (20) The provisions of this Decision take over, in particular, the action programme set up through Council Resolution of 26 June 1978 and the Community information system established through Council Decision 86/85/EEC of 6 March 1986 establishing a Community information system for the control and reduction of pollution caused by the spillage of hydrocarbons and other harmful substances at sea or in major inland waters ⁽³⁾. That

Decision should be repealed from the date on which this Decision enters into force,

HAVE ADOPTED THIS DECISION:

Article 1

1. A Community framework for cooperation in the field of accidental or deliberate marine pollution (hereinafter called 'the framework for cooperation') is hereby established for the period 1 January 2000 to 31 December 2006.

2. The framework for cooperation is intended:

- (a) to support and supplement Member States' efforts at national, regional and local levels for the protection of the marine environment, coastlines and human health against the risks of accidental or deliberate pollution at sea, excluding continuous streams of pollution originating from land-based sources;

accidental marine pollution risks include releases of harmful substances into the marine environment, whatever their origin, both from ships and from the shoreline or estuaries, including those linked to the presence of dumped materials, such as munitions, but excluding authorised discharges and continuous streams of pollution originating from land-based sources;

- (b) to contribute to improving the capabilities of the Member States for response in case of incidents involving spills or imminent threats of spills of oil or other harmful substances at sea and also to contribute to the prevention of the risks. In accordance with the internal division of competences within Member States, they shall exchange information on dumped munitions with a view to facilitating risk identification and preparedness measures;
- (c) to strengthen the conditions for and facilitate efficient mutual assistance and cooperation between Member States in this field; and
- (d) to promote cooperation between Member States in order to provide for compensation for damage in accordance with the polluter-pays principle.

Article 2

Without prejudice to the division of responsibilities between Member States and the Commission, the Commission shall implement the actions under the framework for cooperation, as set out in Annexes I and II.

- (a) Within the framework for cooperation, a Community information system for the purpose of exchanging data on the preparedness for and response to accidental or deliberate marine pollution, is established. The system shall consist of at least the components set out in Annex I.

Types of actions under the framework for cooperation and financial arrangements for Community contribution are set out in Annex II.

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

⁽²⁾ OJ C 172, 18.6.1999, p. 1.

⁽³⁾ OJ L 77, 22.3.1986, p. 33. Decision as amended by Decision 88/346/EEC (OJ L 158, 25.6.1988, p. 32).

- (b) A three-year rolling plan to implement the framework for cooperation, to be reviewed annually, shall be adopted in accordance with the procedure laid down in Article 4(2) and on the basis, *inter alia*, of the information supplied by Member States to the Commission.

The Commission may, where necessary, arrange additional actions to those set out in Annex II. Such additional actions shall be assessed in the light of the priorities set and the financial resources available and shall be adopted in accordance with the procedure laid down in Article 4(2).

- (c) The financial framework for the implementation of this Decision for the period 2000 to 2006 is hereby set at EUR 7 million.

The budgetary resources allocated to the actions provided for in this Decision shall be entered into the annual appropriations of the general budget of the European Union. The available annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspectives.

Article 3

1. The rolling plan to implement the framework for cooperation shall contain the individual actions to be undertaken.
2. Individual actions shall be selected primarily on the basis of the following criteria:
 - (a) contributing to providing information and preparing those responsible for and involved in dealing with accidental or deliberate marine pollution, including where relevant port authorities, in the Member States, in order to increase the degree of preparedness and contribute to preventing the risks;
 - (b) contributing to improving techniques and methods of response and rehabilitation after emergencies and to improving techniques for the evaluation of damage caused to the marine and coastal environment;
 - (c) contributing to providing better public information to help clarify risks and relaying accidents information;
 - (d) contributing to strengthening the cooperation of relevant local bodies and nature protection bodies as regards risk prevention and response;
 - (e) contributing to providing operational support, by mobilising experts mainly belonging to the Community task force, in emergency situations to Member States and to

disseminating experience from such situations among Member States.

3. Each individual action shall be implemented in close cooperation with the competent authorities at national, regional and local levels in the Member States.

Article 4

1. The Commission shall be assisted by a committee.
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to Article 8 thereof.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.

Article 5

The Commission shall evaluate the implementation of the framework for cooperation at mid term and before its end, and report no later than 36 months after the entry into force of the Decision and thereafter six years after the entry into force of the Decision, to the European Parliament and to the Council. In its final report, the Commission shall, if appropriate, make proposals for new measures to continue this framework.

Article 6

Decision 86/85/EEC shall be repealed.

Article 7

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

Article 8

This Decision is addressed to the Member States.

Done at Brussels, 20 December 2000.

For the European Parliament

The President

N. FONTAINE

For the Council

The President

J.-C. GAYSSOT

ANNEX I

COMPONENTS OF THE COMMUNITY INFORMATION SYSTEM

The Community information system will use a modern automatic data processing system. On the Internet site, there will be general background information at Community level on a Community home page and, on national home pages, information related to the national intervention resources available.

Separately, a printed part of the system will be maintained in the form of a Community operational loose-leaf booklet with information on emergency management in each Member State.

1. The Commission will open a website for the purpose of a general access page of the system and a Community home page.
2. Each Member State, within six months from the date the Decision enters into force, will:
 - (a) appoint the authority or authorities responsible for the management of the national part of the system, and inform the Commission thereof;
 - (b) open or maintain a national home page, or interconnected national home pages. This national home page or one of the interconnected national home pages will be connected with the whole system through the Community general access page of the system;
 - (c) fill in its national home page(s) with the relevant information, namely:
 - (i) a description of national structures and of links between national authorities in the field of accidental or deliberate marine pollution, including focal points to be addressed in questions of emergency response;
 - (ii) general information on existing teams and equipment for emergency response and clean-up, in particular:
 - strike teams (seaborne) consisting of spill response vessels,
 - strike teams (land-based) to combat shoreline pollution and to organise temporary storage as well as to conduct actions for the rehabilitation of sensitive coastal areas,
 - expert teams to carry out environmental monitoring of pollution and/or the impact of the combating techniques used, including chemical dispersion,
 - other mechanical, chemical and biological means for combating pollution at sea and cleaning up coasts, including systems for lightening of oil tankers,
 - aircraft for aerial surveillance,
 - location of stockpiles,
 - emergency towage capacity,
 - emergency number(s) for public use;
 - (iii) conditions for offering assistance.

Upon request the focal points will provide additional information.

3. Each Member State will update its national home page(s), specified in point 2, as soon as changes have occurred.
4. Each Member State will provide the Commission with its information on operational emergency management to be included in the Community operational loose-leaf booklet, including operational procedures for mobilisation and operational contact points with their references, within six months from the date the Decision enters into force.
5. Each Member State will notify to the Commission at the earliest opportunity any change related to the information contained in the loose-leaf booklet.
6. The Commission will make available to each Member State a copy of the loose-leaf booklet and provide any updating to the Member States.

The models for the Community and national home pages and further guidance for the implementation of the Community information system will be adopted in accordance with the procedure laid down in Article 4(2).

ANNEX II

FINANCIAL ARRANGEMENTS FOR THE COMMUNITY CONTRIBUTION

Types of action	Financing arrangements
A. Actions in training and information	
1. <i>Courses and workshops</i> ⁽¹⁾ Organisation of courses and workshops for the national, regional and local officials in Member States and others involved to ensure that the competent services respond rapidly and efficiently.	Maximum Community financial contribution: 75 % of the total cost of the action with a ceiling of EUR 75 000 per action.
2. <i>Exchange of experts</i> Organisation of the secondment of experts to another Member State in order to allow the experts to gain experience or appraise different techniques used or to study the approaches taken within other emergency services or other relevant bodies such as non-governmental organisations with specialist expertise in accidental or deliberate marine pollution. Organisation of exchanges of Member States' experts, enabling them to present or follow short training courses or modules in another Member State.	Maximum Community financial contribution: 75 % of the experts' travel and subsistence expenses and 100 % of the costs of coordinating the system.
3. <i>Exercises</i> ⁽¹⁾ The exercises are intended to compare methods, to stimulate cooperation between Member States and to back up progress in and to coordinate the national emergency services.	Maximum Community financial contribution: 50 % of the costs of participation of observers from other Member States and for organising associated workshops, preparing the exercise, producing a final report, etc.
4. <i>Community Information System</i> Development and maintenance of a modern computerised information system to help the national authorities dealing with accidental or deliberate marine pollution by providing the information needed for emergency management.	100 % financing of the Commission part of the system.
B. Actions for improving techniques and methods of response and rehabilitation (pilot projects) ⁽¹⁾	
Projects designed to increase the Member States' capacity for response and rehabilitation. These projects are aimed mainly at improving means, techniques and procedures. Their scope shall interest all or several Member States, and could include projects for the implementation of new technologies related to accidental or deliberate marine pollution. Projects involving two or more Member States will be encouraged.	Maximum Community financial contribution: 50 % of the total cost of each project with a ceiling of EUR 150 000.
C. Support and Information actions	
1. <i>Environmental impact</i> Actions to support surveys of the environmental effects after an incident, evaluate the preventive and remedial measures taken and to largely disseminate their results and the experience acquired to the other Member States.	Maximum Community financial contribution: 50 % of the total cost of each action.

Types of action	Financing arrangements
2. <i>Conferences and events</i> ⁽¹⁾ Conferences and other marine pollution events open to a large audience, in particular when they involve several Member States.	Maximum Community financial contribution: 30 % of the total cost of the action with a ceiling of EUR 50 000.
3. <i>Other support actions</i> ⁽¹⁾ Actions for defining the state of the art, for the development of principles and guidance for important aspects of the accidental or deliberate marine pollution and for the evaluations of the framework for cooperation. Measures to encourage the exchange of information between the competent authorities on the risks linked to dumped munitions, on the areas concerned (including mapping) and on measures to be taken in response to an emergency.	100 % financing. 100 % financing.
4. <i>Information</i> Publications, exhibition material and other information to the public on the Community cooperation in the field of accidental or deliberate marine pollution.	100 % financing.
D. Mobilisation of expertise Action for mobilisation of experts belonging to the Community task force to intervene in the event of an emergency situation to reinforce the system set up by the authorities of a Member State or a third country facing the emergency and for provision of an expert on scene to coordinate observers from other Member States.	Community financial contribution: 100 % of the costs for the experts' missions.

⁽¹⁾ The only eligible actions are those interesting all Member States or a significant number of them.

**COUNCIL REGULATION (EC) No 2851/2000
of 22 December 2000**

establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreement with the Republic of Poland and repealing Regulation (EC) No 3066/95

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Poland, of the other part ⁽¹⁾, provides for certain concessions for certain agricultural products originating in Poland.
- (2) Improvements to the preferential agreements of the Europe Agreement with the Republic of Poland were provided for in Council Regulation (EC) No 3066/95 of 22 December 1995 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for the adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreements to take account of the Agreement on Agriculture concluded during the Uruguay Round Multilateral Trade Negotiations ⁽²⁾. The Protocol adjusting trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Poland, of the other part, to take into account the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union and the outcome of the Uruguay Round negotiations on agriculture including improvements to existing preferential agreements has not yet entered into force.
- (3) As a result of the conclusion of agreements with Bulgaria, the Czech Republic, Hungary, Romania and the Slovak Republic on further agricultural concessions, Regulation (EC) No 3066/95 has effectively been voided of its substance and should therefore be repealed.
- (4) In accordance with the directives adopted by the Council on 30 March 1999, the Commission and Poland concluded on 26 September 2000 negotiations on a new Additional Protocol to the Europe Agreement.
- (5) The new Additional Protocol, which provides for additional agricultural concessions, will be based on Article 20(5) of the Europe Agreement, establishing that the

Community and Poland are to examine in the Association Council, product by product on an orderly and reciprocal basis, the possibility of granting each other further concessions.

- (6) A swift implementation of the adjustments forms an essential part of the results of the negotiations for the conclusion of a new Additional Protocol to the Europe Agreement with the Republic of Poland.
- (7) It is therefore appropriate to provide for the adjustment, as an autonomous and transitional measure, of the agricultural concessions provided for in the Europe Agreement with the Republic of Poland.
- (8) The Republic of Poland will also undertake all the necessary legislative provisions, on an autonomous and transitional basis, in order to implement simultaneously the commitments made by the Republic of Poland as a result of the conclusion of the negotiations.
- (9) The measures necessary for the implementation of this Regulation should be in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽³⁾.
- (10) Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽⁴⁾ codified the management rules for tariff quotas designed to be used following the chronological order of dates of customs declarations,

HAS ADOPTED THIS REGULATION:

Article 1

1. The arrangements for import into the Community applicable to certain agricultural products originating in the Republic of Poland as set out in Annex A(a) and A(b) to this Regulation shall replace those referred to in Annexes VIIIa, VIIIb, Xa, Xb and Xc of the Europe Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Poland, of the other part.

⁽¹⁾ OJ L 348, 31.12.1993, p. 2.

⁽²⁾ OJ L 328, 30.12.1995, p. 31. Regulation as last amended by Regulation (EC) No 2435/98 (OJ L 303, 13.11.1998, p. 1).

⁽³⁾ OJ L 184, 17.7.1999, p. 23.

⁽⁴⁾ OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 1602/2000 (OJ L 188, 26.7.2000, p. 1).

2. On the entry into force of the Additional Protocol adjusting the Europe Agreement to take into account the outcome of the negotiations between the parties on new mutual agricultural concessions, the concessions provided for in that Protocol shall replace those referred to in Annex A(a) and A(b) to this Regulation.

3. Regulation (EC) No 3066/95 is hereby repealed.

4. The Commission shall adopt detailed rules for the application of this Regulation in accordance with the procedure laid down in Article 3(2).

Article 2

1. Tariff quotas with an order number above 09.5100 shall be administered by the Commission in accordance with Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93.

2. Quantities of goods subject to tariff quotas and released for free circulation as from 1 July 2000 under the concessions provided for in Annexes VIIIa, VIIIb, Xa, Xb and Xc to the Europe Agreement in accordance with the provisions of Regulation (EC) No 3066/95 shall be fully counted against the quantities provided for in Annex A(b) of this Regulation, except for quantities for which import licences have been issued before 1 July 2000.

3. Paragraph 2 shall not apply to the tariff quota with order number 09.5811.

Article 3

1. The Commission shall be assisted by the committee instituted by Article 23 of Council Regulation (EEC) No 1766/92 on the common organisation of the market of cereals⁽¹⁾ or, where appropriate, the committee instituted by the relevant provisions of the other Regulations on the common organisation of agricultural markets, hereafter referred to as the 'Committee'.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period provided for in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The Committee shall adopt its rules of procedure.

Article 4

This Regulation shall enter into force on the third 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, 22 December 2000.

For the Council
The President
C. PIERRET

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

ANNEX A(a)

Custom duties on imports applicable in the Community to products originating in Poland and listed below shall be abolished

CN code ⁽¹⁾	CN code ⁽¹⁾	CN code ⁽¹⁾	CN code ⁽¹⁾	CN code ⁽¹⁾
0101 20 10	0708	0810 40 90	1209 99 99	1515 90 60
0104 20 10	0709 20	0810 90 85	1211 90 30	1515 90 91
0106 00 10	0709 51 10	0811 90 11	1212 10 10	1515 90 99
0106 00 20	0709 51 30	0811 90 19	1212 10 99	1516 20 95
	0709 51 50	0811 90 31	1214 90 10	1516 20 96
0205 00 11	0709 51 90	0811 90 39		1516 20 98
0205 00 19	0709 52 00	0811 90 50	1302 19 05	1518 00 31
0205 00 90	0709 60 10	0811 90 70		1518 00 39
0208 10 11	0709 60 99	0811 90 85	1502 00 90	1522 00 91
0208 10 19	0709 90 40	0811 90 95	1503 00 19	
0208 20 00	0709 90 50	0812 10 00	1503 00 90	1602 31 11
0208 90 10	0710 21 00	0812 20 00	1504 10 10	1602 31 19
0208 90 50	0710 22 00	0812 90 40	1504 10 99	1602 31 30
0208 90 60	0710 29 00	0812 90 50	1504 20 10	1602 31 90
0208 90 80	0710 30 00	0812 90 60	1504 30 10	
0210 90 10	0710 80 59	0812 90 95	1508 10 90	2001 90 20
0210 90 79	0710 80 61	0813 10 00	1508 90 10	2001 90 50
	0710 80 69	0813 20 00	1508 90 90	2003 10 20
0407 00 90	0710 80 70	0813 30 00	1511 10 90	2003 10 30
0410 00 00	0710 80 85	0813 40 10	1511 90 11	2005 10 00
	0710 80 95	0813 40 30	1511 90 19	2005 20 20
0601 10 10	0710 80 95	0813 40 30	1511 90 91	2005 20 80
0601 10 20	0710 90 00	0813 40 95	1511 90 99	2005 40 00
0601 10 30	0711 10 00	0813 50 12	1513 11 10	2005 51 00
0601 10 40	0711 30 00	0813 50 15	1513 11 91	2005 59 00
0601 10 90	0711 90 10	0813 50 19	1513 11 99	2005 60 00
0601 20 30	0711 90 40	0813 50 39	1513 19 11	2005 90 10
0601 20 90	0711 90 60	0813 50 91	1513 19 19	2005 90 30
0602 10 90	0711 90 70	0813 50 99	1513 19 30	2005 90 50
0602 20 90	0712 20 00	0814 00 00	1513 19 91	2005 90 60
0602 30 00	0712 30 00		1513 19 99	2005 90 70
0602 40 10	0712 90 05	0901 12 00	1513 21 11	2005 90 75
0602 40 90	0712 90 50	0901 21 00	1513 21 19	2005 90 80
0602 90 10	0712 90 90	0901 22 00	1513 21 30	2008 80
0602 90 30	0713 50 00	0902 10 00	1513 21 90	2009 70 19
0602 90 41	0713 90 10	0904 12 00	1513 29 11	2009 70 30
0602 90 45	0713 90 90	0904 20 10	1513 29 19	2009 70 93
0602 90 49		0904 20 90	1513 29 30	2009 70 99
0602 90 51	0802 21 00	0907 00 00	1513 29 50	2009 80 19
0602 90 59	0802 22 00	0910 40 13	1513 29 91	2009 80 38
0602 90 70	0802 31 00	0910 40 19	1513 29 99	2009 80 69
0602 90 91	0802 32 00	0910 40 90	1515 19 10	2009 80 95
0602 90 99	0802 40 00	0910 91 90	1515 19 90	2009 80 96
0604 10 90	0802 90 85	0910 99 99	1515 21 10	2009 80 97
0604 91 21	0806 20 11		1515 21 90	2009 80 99
0604 91 29	0806 20 12	1106 10 00	1515 29 10	2009 90 19
0604 91 41	0802 20 18	1106 30 90	1515 29 90	2009 90 29
0604 91 49	0806 20 91		1515 30 90	2009 90 39
0604 91 90	0806 20 92	1208 10 00	1515 50 11	2302 50 00
0604 99 90	0806 20 98	1209 19 00	1515 50 19	2306 90 19
	0807 11 00	1209 21 00	1515 50 91	2308 90 90
0701 90 10	0807 19 00	1209 23 80	1515 50 99	2309 10 51
0703 10 90	0808 20 90	1209 29 50	1515 90 29	2309 10 90
0703 90 00	0809 40 90	1209 29 80	1515 90 39	2309 90 10
0704	0810 10	1209 30 00	1515 90 40	2309 90 31
0705	0810 40 30	1209 91 10	1515 90 51	2309 90 41
0706	0810 40 30	1209 91 90	1515 90 59	2309 90 51
0707 00 90	0810 40 50	1209 99 91		

⁽¹⁾ As defined in Commission Regulation (EC) No 2204/1999 of 12 October 1999, amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 278, 28.10.1999, p. 1).

ANNEX A(b)

Imports into the Community of the following products originating in Poland shall be subject to the concessions set out below

(MFN = Most Favoured Nation duty)

Order No	CN code	Description ⁽¹⁾	Applicable duty (% of MFN) ⁽²⁾	Quantity from 1.7.2000 to 30.6.2001 (tonnes)	Yearly increase as from 1.7.2001 (tonnes)	Specific provisions
09.4598	0102 90 05	Live bovine animals of a live weight not exceeding 80 kg	10	178 000 heads	0	⁽³⁾
09.4537	0102 90 21 0102 90 29 0102 90 41 0102 90 49	Live bovine animals of a live weight exceeding 80 kg but not exceeding 300 kg	10	153 000 heads	0	⁽³⁾
09.4563	ex 0102 90	Heifers and cows not for slaughter of the following mountain breeds: grey, brown, yellow, spotted Simmental and Pinzgau breed	6 % <i>ad valorem</i>	7 000 heads	0	⁽⁴⁾
09.4820	0103 92 19	Live swine, domestic species	20	1 750	0	
09.4575	0104 10 30 0104 10 80 0104 20 90	Live sheep or goats	free	9 200	0	⁽⁵⁾
	0204	Meat of sheep or goats				⁽⁵⁾
09.4824	0201 0202	Meat of bovines, fresh, chilled or frozen	free	16 000	1 600	⁽¹¹⁾
	1602 50	Other prepared or preserved meat, meat offal or blood: — of bovine animals				
09.4809	ex 0203	Meat of domestic swine, fresh, chilled or frozen	free	30 000	3 000	⁽⁶⁾ ⁽⁷⁾
	ex 0210	Meat of swine:				⁽⁷⁾
	0210 11	— Ham, shoulders and cuts thereof, with bone in				
	0210 12 0210 19	— Bellies and cuts thereof — Other				
	0206 80 91 0206 90 91	Edible offal of horses, asses, mules and hinnies	50	unlimited	—	
09.5811	ex 0207	Meat and edible offal, of the poultry of heading No 0105, excluding 0207 34, 0207 36 81, 0207 36 85	free	For 1.1.2001-30.6.2001: 18 000 Base quantity for the yearly increase: 36 000	3 600	⁽⁷⁾
09.4813	0402 10 19	Skimmed Milk Powder	free	10 000	1 000	
	0402 21 19	Whole Milk Powder				
	0402 21 99	Whole Milk Powder				

Order No	CN code	Description ⁽¹⁾	Applicable duty (% of MFN) ⁽²⁾	Quantity from 1.7.2000 to 30.6.2001 (tonnes)	Yearly increase as from 1.7.2001 (tonnes)	Specific provisions
09.4814	0405 10 11 0405 10 19 0405 10 30 0405 10 50 0405 10 90 0405 20 90	Butter and dairy spreads	free	6 000	600	⁽⁷⁾
09.4815	0406	Cheese and curd	free	9 000	900	⁽⁷⁾
09.4816	0407 00 11 0407 00 19 0407 00 30	Poultry eggs, in shell	20	1 875	0	
09.4825	0408 91 80 0408 99 80	Birds' eggs, dried Other whole eggs, not in shell	20	375	0	⁽⁸⁾
	0409 00 00	Natural honey	93	unlimited		
	0603 90 00	Cut flowers	35	unlimited		
09.5101 09.5103	0701 10 00 0701 90 90	Seed potatoes Potatoes	20 20	550 5 000	0 0	
09.5107 09.5109	0703 10 11 0703 10 19	Sets of onion Onions	free free	400 148 500	0 0	
09.5113	0703 20 00	Garlic	free	875	0	
	0707 00 05	Cucumbers	free	unlimited	—	⁽⁹⁾ ⁽¹²⁾
	0709 10 00	Globe artichokes	free	unlimited		⁽⁹⁾ ⁽¹²⁾
09.5527	0709 40 00	Celery, other than celeriac	free	125	0	
09.5563	0710 80 51	Sweet peppers, frozen	free	2 000	0	
	0711 40 00	Cucumbers and gherkins	80	unlimited		
09.5159	0808 10 20 0808 10 50 0808 10 90 0808 10 20 0808 10 50 0808 10 90	Apples Apples	20 100 % MFN 100 % MFN 100 % MFN	5 375 — — —	0 — — —	⁽⁹⁾ ⁽⁹⁾ ⁽⁹⁾ ⁽¹⁴⁾ ⁽¹⁴⁾ ⁽¹⁴⁾
09.5282	0808 20 10	Perry pears, in bulk, 1 August to 31 December	free	250	0	

Order No	CN code	Description ⁽¹⁾	Applicable duty (% of MFN) ⁽²⁾	Quantity from 1.7.2000 to 30.6.2001 (tonnes)	Yearly increase as from 1.7.2001 (tonnes)	Specific provisions
	0809 20	Cherries	free	unlimited		⁽⁹⁾ ⁽¹²⁾
	0809 40 05	Plums: — for processing, in immediate containers of a net capacity weight exceeding 250 kg ⁽¹⁵⁾ — other	free free	unlimited unlimited		 ⁽⁹⁾ ⁽¹³⁾
	0810 20 0810 30	Raspberries, blackberries, mulberries and loganberries Black-, white- or redcurrants and goose- berries	free	unlimited		⁽¹⁰⁾ ⁽¹⁰⁾
	0811 10 0811 20	Strawberries, frozen Raspberries, blackberries, mulberries, loganberries, black- white- or redcurrants and gooseberries, frozen	free	unlimited		⁽¹⁰⁾ ⁽¹⁰⁾
09.5167	0811 90 75 0811 90 80	Sour cherries (<i>Prunus cerasus</i>) Other cherries than sour cherries	free	30 250	0	
09.5573	0812 90 10	Apricots	free	1 250	0	
09.4831	1001 90	Wheat and meslin, other than durum wheat	free	for 1.1.2001- 30.6.2001: 200 000 Base quantity for the annual increase: 400 000	40 000	⁽⁷⁾
09.5814	1008 10 00	Buckwheat	20	5 500	0	
09.5815	1101 1102	Wheat or meslin flour Cereals flours other than of wheat or meslin	free	for 1.1.2001- 30.6.2001: 5 000 Base quantity for the annual increase: 10 000	1 000	⁽⁷⁾
09.4804	1108 13 00	Potato starch	20	9 375	0	
09.5579	1514 10 10	Crude rapeseed, colza or mustard oil, other than for human consumption	free	625	0	
09.4806	1601 10 ex 1602 1602 41 1602 42 1602 49	Sausages and similar products of meat, meat offal or blood; food preparations based on these products Other prepared or preserved meat, meat offal or blood, of swine: — Hams and cuts thereof — Shoulders and cuts thereof — Other, including mixtures	free	16 000	1 600	⁽⁷⁾

Order No	CN code	Description ⁽¹⁾	Applicable duty (% of MFN) ⁽²⁾	Quantity from 1.7.2000 to 30.6.2001 (tonnes)	Yearly increase as from 1.7.2001 (tonnes)	Specific provisions
	1602 20 11 1602 20 19	Goose or duck liver	69	unlimited	—	
09.5812	ex 1602 1602 32 1602 39	Other prepared or preserved meat, meat offal or blood, of poultry of heading No 0105: — Of fowls of the species <i>Gallus domesticus</i> — Other	free	for 1.1.2001- 30.6.2001: 500 Base quantity for the annual increase: 1 000	100	⁽⁷⁾
	ex 1602 90 31 ex 1602 90 31	Game Rabbit	47 82	unlimited unlimited	—	
09.5547	1703 90 00	Molasses, other than cane molasses	free	300 000	0	
	ex 2001 10 00	Cucumbers, prepared or preserved	free	unlimited	0	
09.5189	ex 2007 99 31 2007 99 33 2007 99 35	Sour cherry jam Strawberry jam Raspberry jam	20	1 875	0	⁽⁹⁾
	ex 2007 99 39	With a sugar content exceeding 30 % by weight. Fruit coming under CN codes 0801, 0803, 0804 (except figs and pine- apples), 0807 20 00, 0810 20 90, 0810 30 90, 0810 40 10, 0810 40 50, 0810 40 90, 0810 90	27	unlimited		⁽⁹⁾
	ex 2008 99 49	Prepared or preserved apples	free	unlimited		
	ex 2008 99 99	Fruit coming under CN codes 0803, 0804 (except figs), 0807 20 00, 0810 20 90, 0810 30 90, 0810 40 10, 0810 40 50, 0810 40 90, 0810 90	26	unlimited		
09.5285	ex 2009 80	Juice of fruit or vegetables, whether or not containing added sugar or other sweetening matter, excluding CN codes 2009 80 19, 2009 80 38, 2009 80 69, 2009 80 95, 2009 80 96, 2009 80 97 and 2009 80 99	free	500	0	
09.5813	ex 2302	Bran, sharps and other residues, except CN-code 2302 50 00	free	for 1.1.2001- 30.6.2001: 2 000 Base quantity for the annual increase: 4 000	400	⁽⁷⁾

-
- (¹) Notwithstanding the rules for the implementation of the Combined nomenclature, the wording of the description of the products is to be considered as having no more than indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the CN code. Where ex CN codes are indicated, the preferential scheme is to be determined by application to the CN code and corresponding description taken together.
- (²) In cases where a MFN minimum duty exists, the applicable minimum duty is equal to the MFN minimum duty multiplied by the percentage indicated in this column.
- (³) The quota for this product is opened for Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and the Slovak Republic. Where it appears likely that total Community imports of live bovine animals may exceed 500 000 heads in a given marketing year the Community may take the management measures needed to protect its market, notwithstanding any other rights given under the Agreement.
- (⁴) The quota for this product is opened for Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and the Slovak Republic.
- (⁵) The Community may take into account, in the framework of its legislation and when appropriate the supply needs of its market and the need to maintain its market balance.
- (⁶) Excluding tenderloin presented alone.
- (⁷) This concession is only applicable to products non-benefiting from any kind of export subsidies.
- (⁸) In dried egg equivalent (100 kg liquid egg = 25,7 kg of dried egg)
- (⁹) The reduction applies only to the *ad valorem* part of the duty.
- (¹⁰) Subject to minimum import price arrangements contained in the Annex to the present Annex.
- (¹¹) Co-efficient for conversion to fresh meat = 2,14, providing meat content is > 60 %.
- (¹²) In addition to the reduction of the *ad valorem* part of the duty, five additional stages (10 %, 12 %, 14 %, 16 % and 18 %) are herewith introduced which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature.
- (¹³) In addition to the reduction of the *ad valorem* part of the duty, three additional stages (10 %, 12 % and 14 %), are herewith introduced which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature.
- (¹⁴) For these CN-codes, the following concessions — applicable for apples imported within as well as outside the tariff quota — should be applied:
- Five additional stages (10 %, 12 %, 14 %, 16 % and 18 %) are herewith introduced for the period 1 January to 14 February, which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature.
 - Three additional stages (14 %, 16 % and 18 %) are herewith introduced for the period 15 February to 31 March, which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature.
 - Two additional stages (16 % and 18 %) are herewith introduced for the period 1 April to 15 July, which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature.
 - Five additional stages (10 %, 12 %, 14 %, 16 % and 18 %) are herewith introduced for the period 16 July to 31 December, which have to be used before the application of the full specific duty as mentioned in the Combined Nomenclature.
- (¹⁵) Entry under this subheading is subject to conditions laid down in the relevant Community provisions (see Articles 291 to 300 of Commission Regulation (EEC) No 2454/93 (OJ L 253, 11.10.1993, p. 71) and subsequent amendments).
-

Annex to Annex A(b)

Minimum import price arrangement for certain soft fruit for processing

1. Minimum import prices are fixed as follows for the following products for processing originating in Poland:

CN code	Description	Minimum import price (EUR/100 kg net)
ex 0810 20 10	Raspberries, fresh, intended for processing	63,1
ex 0810 30 10	Blackcurrants, fresh, intended for processing	38,5
ex 0810 30 30	Redcurrants, fresh, intended for processing	23,3
ex 0811 10 11	Frozen strawberries containing added sugar or other sweetening matter, with a sugar content exceeding 13 % by weight, whole fruit	75,0
ex 0811 10 11	Frozen strawberries containing added sugar or other sweetening matter, with a sugar content exceeding 13 % by weight, other	57,6
ex 0811 10 19	Frozen strawberries containing added sugar or other sweetening matter, with a sugar content not excluding 13 % by weight, whole fruit	75,0
ex 0811 10 19	Frozen strawberries containing added sugar or other sweetening matter, with a sugar content not exceeding 13 % by weight, other	57,6
ex 0811 10 90	Frozen strawberries, containing no added sugar or other sweetening matter: whole fruit	75,0
ex 0811 10 90	Frozen strawberries, containing no added sugar or other sweetening matter: other	57,6
ex 0811 20 19	Frozen raspberries, containing added sugar or other sweetening matter, with a sugar content not exceeding 13 % by weight: whole fruit	99,5
ex 0811 20 19	Frozen raspberries, containing added sugar or other sweetening matter, with a sugar content not exceeding 13 % by weight: other	79,6
ex 0811 20 31	Frozen raspberries, containing no added sugar or other sweetening matter: whole fruit	99,5
ex 0811 20 31	Frozen raspberries, containing no added sugar or other sweetening matter: other	79,6
ex 0811 20 39	Frozen blackcurrants, containing no added sugar or other sweetening matter: without stalk	62,8
ex 0811 20 39	Frozen blackcurrants, containing no added sugar or other sweetening matter: other	44,8
ex 0811 20 51	Frozen redcurrants, containing no added sugar or other sweetening matter: without stalk	39,0
ex 0811 20 51	Frozen redcurrants, containing no added sugar or other sweetening matter: other	29,5

- The minimum import prices, as set out in point 1, will be respected on a consignment by consignment basis. In the case of a customs declaration value being lower than the minimum import price, a countervailing duty will be charged equal to the difference between the minimum import price and the customs declaration value.
- If the import prices of a given product covered by this Annex show a trend suggesting that the prices could go below the level of the minimum import prices in the immediate future, the European Commission will inform the Polish authorities in order to enable them to correct the situation.
- At the request of either the Community or Poland, the Association Committee shall examine the functioning of the system or the revision of the level of the minimum import prices. If appropriate, the Association Committee shall take the necessary decisions.

5. To encourage and promote the development of trade and for the mutual benefit of all parties concerned, a consultation meeting will be organised three months before the beginning of each marketing year in the European Community. This consultation meeting will take place between the European Commission and the interested European producers' organisations for the products concerned, of the one part and the authorities', producers' and exporters' organisations of all the associated exporting countries, of the other part.

During this consultation meeting, the market situation for soft fruit including, in particular, forecasts for production, stock situation, price evolution and possible market development, as well as possibilities to adapt supply to demand, will be discussed.

**COUNCIL REGULATION (EC) No 2852/2000
of 22 December 2000**

**imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed
on imports of polyester staple fibres originating in India and the Republic of Korea**

THE COUNCIL OF THE EUROPEAN UNION,

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⁾ and in particular Article 9 thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

the finding in that investigation that there was no likelihood of a recurrence of dumping. In this respect, it should be noted that the finding that there was no likelihood of a recurrence of dumping was based on findings related to a twelve month investigation period ending in September 1997, i.e. two years before the initiation of the current proceeding. In addition, the Commission had examined the new evidence submitted in the complaint of August 1999 and considered this evidence sufficient to initiate the present investigation.

- (5) The Commission continued to seek and verify all information deemed necessary for its definitive findings.

A. PROCEDURE

1. Provisional measures

- (1) By Commission Regulation (EC) No 1472/2000⁽²⁾ ('the provisional Regulation') provisional anti-dumping duties were imposed on imports into the Community of polyester staple fibres ('PSF') falling within CN code 5503 20 00 and originating in India and the Republic of Korea.

2. Subsequent procedure

- (2) Following the imposition of provisional anti-dumping duties, several parties submitted comments in writing. In accordance with the provisions of Article 6(5) of Council Regulation (EC) No 384/96 ('the basic Regulation'), the parties which so requested were granted an opportunity to be heard. Parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of a definitive anti-dumping duty and the definitive collection, at the level of the definitive duty, of amounts secured by way of provisional duty. They were also granted a period within which to make representations subsequent to this disclosure.
- (3) The oral and written comments submitted within the deadlines set for that purpose by the interested parties were considered and, where deemed appropriate, duly taken into account for the definitive findings.
- (4) Certain interested parties claimed that the initiation standards applied by the Commission were improper and arbitrary. They further claimed that the initiation of a new proceeding against the Republic of Korea two months after the termination of a previous proceeding (see recital 7 of the provisional Regulation), contradicted

B. PRODUCT CONCERNED

- (6) A users' association claimed that the Notice of Initiation of the present proceeding did not cover PSF types for non-spinning applications, and that consequently these PSF types should have been excluded from the proceeding.
- (7) It should be noted that the Notice of Initiation, as well as the complaint, clearly reproduce the description of the relevant CN code which covers all types of PSF imported from the exporting producers of the countries concerned and produced by the Community industry irrespective of their use. The wording of the description of the relevant CN code was understood correctly by all interested parties to this proceeding except for the users' association mentioned, that repeated a claim that had already been rejected in an earlier investigation on imports of PSF from Australia, Indonesia and Thailand contained in Regulation (EC) No 1522/2000⁽³⁾.
- (8) Some interested parties also argued that, in any event, a differentiation should be made between PSF types used for spinning applications (also called woven, hereafter referred to as PSF-Sp) and PSF used for non-spinning applications (also called non-woven or fibrefill, hereafter referred to as PSF-NW) because of different specific basic physical characteristics, determining the end-use of the product. Accordingly, it was claimed that imported fibres should be subject to neutral laboratory certificates attesting these characteristics. Furthermore, it was alleged that interchangeability, if any, between PSF-Sp and PSF-NW was very limited and only concerned certain types of fibres originally intended for PSF-Sp which might be used as PSF-NW. PSF-NW therefore, if not excluded from investigation, should at least have been examined in a separate proceeding.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2238/2000 (OJ L 257, 11.10.2000, p. 2).

⁽²⁾ OJ L 166, 6.7.2000, p. 1. Regulation as amended by Regulation (EC) No 1899/2000 (OJ L 228, 8.9.2000, p. 24).

⁽³⁾ OJ L 175, 14.7.2000, p. 10.

- (9) Regarding the use of the product concerned, significant overlapping, substitution and competition between different types of PSF was found. The investigation has shown that there is no clear dividing line between the various types which would establish a unique link between physical product characteristics and the use of the product and that, consequently, the available evidence does not allow a product differentiation on this basis. In that respect, it is also underlined that the results of independent laboratory analysis cannot possibly determine definitely the ultimate use of the product. Consequently, the various types of PSF involved should be considered as forming one single product for the purposes of this proceeding.
- (10) Based on the foregoing, it is considered that the comments received regarding the definition of the product concerned, are not such as to invalidate the conclusions of recital 18 of the provisional Regulation. Consequently, these conclusions, which are in line with the conclusions reached for the same product in previous investigations, are hereby confirmed.

C. DUMPING

1. India

- (11) No claims were made concerning the decision not to sample Indian exporting producers and, therefore, the findings set out in recitals 20 to 25 of the provisional Regulation are hereby confirmed.

1.1. Normal value

- (12) Following the adoption of provisional measures, one exporting producer requested that the cost of production of certain second quality product types sold in the domestic market should be adjusted downwards for the ordinary course of trade test. This request cannot be accepted because the company reported identical costs of production for different qualities of each product type in its questionnaire response.
- (13) No other claims were made concerning the determination of the normal value. The conclusions set out in recital 46 of the provisional Regulation are hereby confirmed.

1.2. Export price

- (14) No claims were made concerning the determination of the export price. The conclusions set out in recital 47 of the provisional Regulation are hereby confirmed.

1.3. Comparison

- (15) Following the adoption of provisional measures, one exporting producer argued that the product types sold on the domestic market which were compared to those exported to the Community had different physical and technical characteristics and different end-uses. The company, therefore, requested an adjustment for physical characteristics and submitted new information to support its request. It was found that the new information submitted following the adoption of provisional measures concerned additional product characteristics which had never been requested by the Commission or identified by the company in its questionnaire response. At this stage of the investigation it was not possible to change the basis of product comparison which is set out in the specifications table of the Commission's questionnaire and concerns all cooperating exporting producers. In addition, the new information contradicted that previously received and, therefore, the request for an adjustment for physical characteristics was rejected.
- (16) Another exporting producer argued that differences due to the thickness of the fibres, expressed in denier or decitex, should be ignored and that consequently all product types should be treated as one. In this respect, in order to ensure a fair and meaningful comparison between the products sold in the domestic and export markets, products manufactured by all exporting producers are compared on a type-by-type basis as defined in the Commission's questionnaire. Consequently, the argument of limiting the comparison to one product type cannot be accepted.
- (17) One exporting producer submitted new information to support a duty drawback claim which had been rejected by the Commission at the provisional stage. This request cannot be accepted since this information, although requested in the questionnaire, had not been submitted in good time and thus could not be verified.
- (18) The same exporting producer further argued that since the claim for a duty drawback adjustment had already been proven in the context of a previous proceeding initiated some ten years ago (Council Regulation (EEC) No 54/93 ⁽¹⁾), it should not be reinvestigated. In this connection, it should be borne in mind that each anti-dumping proceeding is assessed on its own merits and is examined on the basis of its own factual and legal circumstances which may be different in each proceeding. As indicated in the previous recital, this exporting producer failed to provide evidence capable of supporting its claim in the framework of this investigation. In particular, it was not shown that any duty was borne during the IP by the like product destined for domestic consumption. The claim was therefore rejected.

⁽¹⁾ OJ L 9, 15.1.1993, p. 2. Regulation as last amended by Regulation (EC) No 907/97 (OJ L 131, 23.5.1997, p. 1).

(19) Within the context of the duty drawback issue, two exporting producers claimed that this adjustment should be granted automatically as soon as duties were refunded on the export side and that the question of whether these duties were incorporated on the domestic side was immaterial. Pursuant to Article 2(10)(b) of the basic Regulation, a duty adjustment is only granted provided two conditions are met cumulatively: first, it must be shown that import charges are borne by the like product and by materials physically incorporated therein when intended for consumption in the exporting country and second, these import charges are refunded or not collected when the product is exported to the Community. If one of the requirements is not fulfilled, the adjustment for duty drawback cannot be granted.

(20) One exporting producer claimed that certain import duties were incorporated in the product sold in the domestic market in excess of the amount granted by the Commission in the provisional findings. This additional claim was examined and it was found that import duties paid for certain materials incorporated in the product sold domestically were indeed in excess of the amount previously established. Therefore, the provisional calculations were revised accordingly.

(21) However, this exporting producer's new claim for a further adjustment on import duties for a material imported and paid for by a related company cannot be accepted since this claim was neither made in good time nor demonstrated to affect price comparability and in addition, the new information submitted in this respect was not verifiable at this stage of the investigation.

(22) One exporting producer claimed that as a result of the Indian Government's policy to encourage the setting up of plants in less developed areas, companies were exempted from the payment of sales tax owed to the government and it requested an adjustment to be granted to that effect. The information submitted shows that all sales invoices concerning products from these exempted factories state that no sales taxes are to be collected by the State and that the buyer is not entitled to claim any drawback, set off or refund of any sales tax. In these circumstances, since no sales tax is paid, no adjustment can be granted. However, in cases where sales invoices concerning products manufactured from other factories included sales taxes collected by the State, it was considered that an adjustment was warranted and the calculations were revised accordingly.

(23) One exporting producer contended that the payment of income tax related only to the profit generated on the domestic and not on the export market, thus affecting price comparability. In this respect, it should be noted that the income tax constitutes a charge levied on the company's profit, if any, and as such it is calculated retroactively at the end of each financial year. It cannot, therefore, be taken into account when the price is established. In addition, the company did not provide any

evidence demonstrating that the tax was included in the domestic invoices. This request was therefore rejected.

1.4. Dumping margin

(24) The comparison of the revised, where appropriate, weighted average normal value with the weighted average export price by product type on an ex-factory basis showed the existence of dumping for all investigated exporting producers. Since the level of cooperation was high, the dumping margin for all other companies is set at the level of the highest dumping margin established for a cooperating exporting producer.

(25) The definitive dumping margins as a percentage of the cif import price duty unpaid are as follows:

Indian Organic Chemicals Limited, Mumbai	23,3 %
JCT Limited, New Delhi	32,6 %
Reliance Industries Ltd, Mumbai	35,4 %
All other companies	35,4 %

2. The Republic of Korea

2.1. Normal value

(26) Following the adoption of provisional measures, three exporting producers argued that the exclusion of 'local export' sales from the domestic sales listings used to establish normal value was wrong or unreasonable.

(27) They argued that the exclusion was in contradiction with the provisions of Article 2 of the basic Regulation and with the Commission's normal practice and that it was inconsistent with the approach adopted by other WTO member countries. Two of these exporting producers also argued that the Commission did not explain the legal basis on which these sales were excluded.

(28) The exporting producers further indicated that in previous proceedings concerning the Republic of Korea (e.g. PSF expiry review in Council Regulation (EC) No 1728/1999 ⁽¹⁾ and stainless steel wires in Council Regulation (EC) No 1600/1999 ⁽²⁾ and Commission Decision No 1999/483/EC ⁽³⁾), the Commission had not objected to the exporting producers' categorisation of 'local export' sales within the domestic sales listing and in one cited instance had requested their inclusion in the domestic sales listing.

⁽¹⁾ OJ L 204, 4.8.1999, p. 3.

⁽²⁾ OJ L 189, 22.7.1999, p. 19.

⁽³⁾ OJ L 189, 22.7.1999, p. 50.

- (29) It is considered that the specific administrative arrangements applicable to the 'local export' sales, whereby they were not subject to domestic sales tax, were normally invoiced in USD and paid for by letters of credit and were subject to duty drawback arrangements, evidenced the fact that these sales were made through a specific export oriented sales channel with a particular market situation. The exporting producers concerned specifically identified these sales in their accounting records as being destined for incorporation in products for export. Given their particular market situation, it was concluded that such 'local export' sales were not made in the ordinary course of trade and therefore, that their inclusion in the normal value calculations would not permit a proper and fair comparison with the export price in accordance with Article 2 of the basic Regulation. The Commission does not accept that the past practice has been to expressly include such sales in the normal value calculations. Their inclusion in previous proceedings may reflect the fact that they were not specifically identified or that their inclusion was not considered to have a significant impact on the results. In this case however, for the reasons given above, 'local export' sales have been excluded from the domestic sales listing used to establish normal value.
- (30) One exporting producer argued that certain raw materials were purchased from a related supplier at an arm's length price, and therefore, the Commission was not justified in determining a higher market value purchase price and increasing the cost of production accordingly. They further argued that in any case the adjustment was excessive as it did not take account of technical and price differences between the raw material principally purchased from the related supplier and a similar raw material purchased from other suppliers.
- (31) It was found that the relationship with the supplier was such that the exporting producer would be in a position to exercise significant influence on the purchase price. Furthermore, as the average price for the raw material purchased from the related supplier was significantly lower than the average price of the same raw material purchased from unrelated suppliers and as the purchase price appeared to be at a loss for the supplier, the raw material prices were considered to be unreliable transfer prices. In these circumstances, the calculation methodology in determining an arm's length purchase price by increasing the price of the raw materials purchased from the related supplier in proportion to the weighted average difference in purchase price of the raw material which was purchased from the related supplier and from unrelated suppliers has been maintained.
- (32) One exporting producer argued that the normal value for one product type should have been based on domestic price rather than constructed value. This argument was accepted as it was found that sales of this product type were made in representative quantities and were nearly all profitable. The calculations were therefore adjusted accordingly.
- (33) One exporting producer argued that the Commission incorrectly rejected the net foreign exchange gain included in the selling, general and administrative expenses, used in determining the full cost of production, for use in establishing constructed normal value and in the ordinary course of trade test. It argued further that this should be reconsidered because part of the foreign currency translation gain was realised and furthermore, that a turnover basis was the most appropriate basis for the allocation of the net foreign exchange gain to different markets.
- (34) It was found that the exchange gain related mainly to translation gains on the re-statement of long-term foreign currency liabilities, rather than pertaining to production and sales in the ordinary course of trade in the domestic market during the investigation period (1 October 1998 to 30 September 1999 'IP'). Since such exchange gains or losses are not taken into account in anti-dumping investigations, whether realised or not, the argument was rejected.
- ## 2.2. Export price
- (35) One exporting producer argued that its related company in the Community only had a minor role in the sales process for sales to unrelated customers in the Community and therefore, it was not justifiable to deduct profit in constructing the export price. It also argued that there was no basis for establishing the level of the profit margin used. In accordance with Article 2(9) of the basic Regulation, the items for which adjustment should be made in order to construct the export price include a reasonable margin of profit. It is considered that the profit deducted in order to construct the export price was reasonable, as compared to information available from cooperating independent importers. The claim is, therefore, rejected.
- (36) No other claims were made concerning the determination of the export price. Therefore, the conclusions set out in recital 54 of the provisional Regulation are hereby confirmed.
- ## 2.3. Comparison
- (37) One exporting producer argued that they had mistakenly included the same adjustments, concerning credit costs, in different columns of the export sales listing and therefore, the Commission was double counting the deductions in establishing the export price for a fair comparison with the normal value. The credit costs reported by

the company in the response to the questionnaire in relation to the payment terms agreed in each transaction were examined and this claim was accepted where justified.

(38) One exporting producer argued that the basis of the Commission's calculation underestimated the amount of duty drawback, as it was based on duty paid on imports of raw materials physically incorporated in the like product rather than duty drawback received on exports of the product concerned to the Community, during the IP. It argued further that the Commission's calculation was unreasonably based on duty paid during the first eight months of the IP divided by the total import volume for the whole IP. The first argument was rejected as the amount paid during the IP was lower than the amount refunded as provided in Article 2(10)(b) of the basic Regulation. However, as requested by the company, the duty drawback per kilogram was recalculated based on the import volume for the first eight months.

(39) Another exporting producer argued that in calculating the duty drawback allowance per kilogram, the Commission should have divided the total import duties incorporated in purchases of certain imported raw materials by the quantity of imported raw materials only and not by the total quantity of raw materials purchased both locally and imported. It is considered that the duty drawback allowance to be deducted from the normal value should be based on the average duty incorporated in the cost of domestic sales, as the product sold domestically would incorporate raw materials purchased both domestically and imported. This argument is therefore rejected.

(40) Two exporting producers argued that the approach followed by the Commission in rejecting claimed credit cost adjustments under an open account system, because the payments could not be clearly linked to the invoices, was without legal basis. However, it was not possible to verify that payments made under the 'open account' system were made in accordance with any agreed payment terms. In these circumstances, there was no reason to assume that contractual payment terms were a factor taken into account in the determination of the prices charged and therefore the claims were rejected.

2.4. Dumping margin

(41) The comparison of the appropriately revised weighted average normal value with the weighted average export price by product type on an ex-factory basis showed the existence of dumping for all investigated exporting producers. Since the level of cooperation was high, the dumping margin for all other companies is set at the

level of the highest dumping margin established for a cooperating exporting producer.

(42) Following disclosure of the provisional findings, two exporting producers, Samyang Corporation and SK Chemicals Co. Ltd informed the Commission that they would merge their polyester business activities into one jointly-owned company, i.e. Huvis Corporation. These exporting producers provided additional information with regard to this change of circumstances on request by the Commission and as a result it was decided that a single dumping margin should be definitively established for Huvis Corporation. This dumping margin was therefore established as the weighted average of the revised dumping margins of the two exporting producers concerned. The dumping margin for the related trading company in Korea was set at the same level as for Huvis Corporation.

(43) The definitive dumping margins as a percentage of the cif import price duty unpaid are as follows:

Daehan Synthetic Fibre Co. Ltd, Seoul	0,9 % (<i>de minimis</i>)
Huvis Corporation, Seoul	4,8 %
Saehan Industries Inc, Seoul	20,2 %
SK Global Co. Ltd, Seoul	4,8 %
Sung Lim Co. Ltd, Seoul	0,05 % (<i>de minimis</i>)
All other companies	20,2 %

D. INJURY

1. Procedural issues

(44) It was claimed that by combining both the anti-dumping proceedings concerning the Republic of Korea and India, it was unfair to establish the same IP for the examination of possible injurious dumping caused by imports from these countries. With respect to the latter country, this meant omitting the last three months of 1999 and it was argued that, given the increase in oil prices, this would have an impact on the results of the examination of sales price, cost of production and profitability in the injury investigation.

(45) It should be recalled that, as stated in recital 8 of the provisional Regulation, the combination of the proceedings regarding India and the Republic of Korea was carried out for administrative reasons. The determination of the IP is covered by Article 6(1) of the basic Regulation, which *inter alia* stipulates that the IP shall normally cover a period of not less than six months immediately prior to the initiation of the proceeding. In the case of India, the initiation of the investigation occurred in December 1999. Thus the period by which the IP could

have been shifted was at most two months. It must also be recalled that imports from both countries can be cumulatively assessed since the criteria mentioned in Article 3(4) of the basic Regulation have been met (see recital 65 of the provisional Regulation). Finally, in order to take the underlying concerns into account, the influence of increased cost of raw materials for 1999 were analysed and compared to the IP.

(46) The investigation showed that prices of the main raw material used in PSF production, namely the terephthalic acid (PTA) and the monoethyleneglycol (MEG), increased both in 1999 and during the IP. It also showed that PSF sales prices in the Community in 1999 were 2,6 % higher than during the IP. Notwithstanding these findings, the Community industry was shown to be more profitable during the IP than in 1999.

(47) Some exporting producers claimed that the Commission had not verified the information submitted by the Community industry. In this respect, it is confirmed that substantial parts of the information submitted by the Community industry had already been verified during a related anti-dumping proceeding. All other information received from the Community industry has been examined for accuracy in accordance with Article 6(8) of the basic Regulation.

2. Definition of the Community industry

(48) Recital 63 of the provisional Regulation stated that the two Community producers related to Indonesian exporting producers were not found to be shielded from the effect of dumping, or to be unduly benefiting from dumping practices, or even participating in dumping practices. In this respect some exporting producers claimed that the two companies should be excluded from the assessment of the situation of the Community industry, by reference to other anti-dumping cases, namely magnetic disks in Commission Regulations (EC) No 534/94 and (EC) No 2426/95 ⁽¹⁾ and microwave ovens in Commission Regulation (EC) No 1645/95 ⁽²⁾.

(49) It is to be noted that any exclusion of Community producers from the definition of Community industry may only be warranted on the basis of the facts of each case. In this case no arguments were put forward regarding the facts of the case and no evidence was submitted to substantiate the claim for an exclusion of the two producers. On this basis, the above request is not founded and is therefore rejected.

(50) An additional request was made by some exporting producers to exclude another Community producer from the definition of the Community industry, given its relationship with an importer located outside the Community, although not in one of the countries concerned. It was alleged that the Community producer caused injury to the Community industry by importing PSF from its related importer.

(51) Firstly, the Commission found no evidence of imports of PSF from this importer over the period considered, namely from 1996 up to the IP. In addition, the fact that a Community producer is related to an importer located outside the Community cannot as such be a reason to exclude this producer from the definition of the Community industry. Given that no other arguments were put forward, the definition of the Community industry as contained in recital 60 of the provisional Regulation is confirmed.

3. Imports of PSF into the Community from the countries concerned

3.1. Cumulative assessment of imports

(52) Two Indian exporting producers claimed that a cumulative assessment of imports was unjustified because the growth as well as the absolute volume of Indian imports was insignificant when compared to Korean imports and to the sales volume of the Community industry. Also it was argued that the Indian exporting producers had to be considered as price followers and not as price leaders. Furthermore, on the basis of Eurostat data, Indian imports were lower than stated in the provisional Regulation.

(53) These arguments were analysed in the light of the provisions of Article 3(4) of the basic Regulation. In this respect, it is recalled that the margin of dumping found for India is above the *de minimis* level. In addition, the volume of imports originating in India is not negligible, being above *de minimis* level during the IP.

(54) In fact, the growth of imports over the period 1996 up to the IP is even more pronounced for Indian imports (around 600 % increase) than for Korean imports (around 300 % increase). As to the average price level of Indian imports, this was consistently below that of the Korean exporting producers prices and it declined more sharply over the period 1996 up to the IP. This does not suggest a behaviour of price followers. Finally, as concerns the discrepancy between Eurostat figures and the findings of the Commission, the Community institutions have based their findings on verified questionnaire replies given that higher imports were reported than those recorded in the Eurostat statistics. The claims of the Indian exporting producers are therefore rejected.

⁽¹⁾ OJ L 68, 11.3.1994, p. 5 and OJ L 249, 17.10.1995, p. 3.

⁽²⁾ OJ L 156, 7.7.1995, p. 5.

3.2. Imports from the Republic of Korea

- (55) An exporting producer claimed that certain non-dumped imports originating in the Republic of Korea should be excluded from the injury analysis.
- (56) In this respect, when the country-wide dumping margin (representing a weighted average margin including all the companies under investigation) has been found to be above the *de minimis* level, in accordance with Article 9(3) of the basic Regulation, it is the practice of the Commission to assess the effects of the dumped imports on a country-wide level.

3.3. Price undercutting and underselling

- (57) An exporting producer claimed that the calculation of injury margins based on families grouping various types of PSF was unjustified, given that further information on the characteristics of individual types of PSF was asked for in the questionnaires. He also claimed that the details of individual transactions were ignored, and that it was wrong to exclude negative undercutting/underselling from the overall result of the calculations.
- (58) On reexamination of the differences attributed to characteristics such as length, thickness, elongation, tenacity, crimp, shrinkage, lustre and spin finish, it is concluded that the product types within the defined families were sufficiently comparable. On this basis, it is confirmed that the undercutting and underselling exercises at the level of product families are meaningful. In addition, they provide a representative result in terms of number of transactions as laid down by Article 3(3) of the basic Regulation. Furthermore, it is considered that the information per transaction was indeed taken into account in the price comparison exercises. However, it is confirmed that no compensation was made for the amount which did not undercut/undersell Community industry prices in the final comparison at the level of product families. Since no further arguments were put forward, the above claims were rejected.
- (59) An exporting producer requested that an adjustment should be applied to its cif prices in the undercutting and underselling calculations because such adjustment was indicated in the complaint.
- (60) In this respect, it should be recalled that the Commission collected information by means of questionnaires and verified it by means of on-site inspection and it did not base itself on the figures mentioned in the complaint.

However, it was found that the customs duty was erroneously omitted in the underselling calculations regarding two Indian exporting producers. At the same time a request for changing the weighing method and a specific level of trade adjustment were also accepted. Consequently, the underselling margins for the two Indian exporting producers were revised accordingly.

- (61) The results of the undercutting calculations, taking into account the lowered undercutting found for another Indian exporting producer mentioned in recital 75, range between 0 % and 27,7 % for India and remain between 14,8 % and 56,7 % for the Republic of Korea. The weighted average undercutting margin was 19,9 % for India and 23,3 % for the Republic of Korea.

4. Economic situation of the Community industry

4.1. General

- (62) It was claimed by some exporting producers that, pursuant to the provisions of Article 3.4 of the WTO Anti-Dumping Agreement, the examination of the economic situation of the Community industry required an assessment of all relevant economic factors and indices having a bearing on the state of that industry.
- (63) This examination would include factors not commented upon in the provisional Regulation such as the impact of the magnitude of the margin of dumping, productivity, return on investment, cash flow, wages, growth and the ability to raise capital. In this respect, the following has been found.

4.1.1. The impact of the magnitude of the margin of dumping

- (64) As concerns the impact on the Community industry of the magnitude of the actual margin of dumping, given the volume and the prices of the imports from the countries concerned, this impact cannot be considered to be negligible.

4.1.2. Productivity

- (65) The productivity of the Community industry, calculated as the production of the product concerned per employee, shows an improvement from 92,1 tonnes in 1996 to 127,1 tonnes during the IP (+38 %). This improvement is mainly a consequence of the decline in employment described in recital 85 of the provisional Regulation.

4.1.3. Return on investment

- (66) Return on investment was calculated by relating the net profit before taxes and extra-ordinary items to the net book-value of investments related to the product concerned. The return on investment for the product concerned increased from 4,6 % in 1996 to 16,7 % in 1997 and 25,7 % in 1998. Subsequently, it fell back to 5,5 % during the IP. The evolution of this indicator is similar to the evolution of profitability described in recitals 81 to 83 of the provisional Regulation.

4.1.4. Cash flow

- (67) The cash flow of the Community industry for the product concerned increased considerably from 1996 to 1997 (+84 %) and from 1997 to 1998 (+28 %) as a consequence of the good results of these two years. From 1998 to the IP, cash flow dropped by 60 % to arrive at a level that was 6 % lower than in 1996. The improvement of cash flow in 1997 and 1998 is less pronounced than that of profitability. Moreover, for the IP, the cash flow is lower than in 1996, whereas net profit and profitability are higher.

4.1.5. Wages

- (68) Wages form a part of the analysis of the cost of production as described in recitals 79 and 80 of the provisional Regulation. The Community industry's wages increased by 10 % from 1996 to 1997, but significantly decreased from 1997 to 1998 and the IP, where the absolute level of wages was 24 % and 23 % respectively lower than in 1996.

4.1.6. Growth

- (69) The growth of the market of the product concerned was commented upon in recital 64 of the provisional Regulation. The (negative) growth of the market share of the Community industry was mentioned in recital 76 of the provisional Regulation.

4.1.7. Ability to raise capital

- (70) As far as the ability to raise capital is concerned, present cash flow is on average considered as being still sufficient to make the necessary replacement investments. The depressed situation of the market however has negatively affected the ability of the Community industry to attract additional external funding in the form of bank loans or increased involvement of shareholders for the initiation of new projects. Especially when other products are manufactured, the comparison of return on investment of PSF with that of those other products is unfavourable, causing difficulties in allocating budgets to the product concerned.

4.1.8. Conclusion

- (71) It is considered that in the provisional Regulation, all factors and indices which were decisive for a meaningful analysis of the state of the Community industry were analysed. The description of the indicators not commented upon in the Provisional Regulation as presented under recitals 65 to 70 here above, indeed reinforces the conclusions mentioned in the provisional Regulation.

4.1.9. Stocks

- (72) An exporting producer argued that the comparison made by the Commission in recital 77 of the provisional Regulation concerning the level of stocks at the end of 1998 and at the end of 1999 was irregular and in contravention of the basic Regulation. It was claimed that comparing the stocks at the end of the month of September (1999) with those at year-end (1998) was the only valid, unbiased and objective method to analyse the evolution of PSF stocks.
- (73) In this respect, attention is drawn to the seasonal nature of stockbuilding in the PSF industry. Indeed, stock levels fluctuate during the calendar year and, consequently, a comparison of stock levels between 1998 and the IP only makes sense if corresponding points in time during the year are considered. Therefore, the stock level at the end of 1998 (31 December) cannot be compared to the one at the end of the IP (30 September).

4.2. Cost of production

- (74) An exporting producer submitted that the cost of production for one Community industry producer was too high in comparison with the other producers in order to be used in determining the underselling margin.
- (75) The costs attributed to the product concerned by each company were verified by the Commission. As a result, no reasons were found to exclude any company from the underselling calculation on the basis of the absolute level of its cost of production.
- (76) Another exporting producer claimed that a producer that produces PSF from dimethyl terephthalate (DMT) and MEG instead of PTA and MEG should be excluded because this allegedly does not represent the cheapest production method.
- (77) On the basis of the reasoning set out in recital 75, neither the production process as such nor the cost of production pertaining to it can constitute criteria on the basis of which companies should be eliminated from the scope of the investigation.

4.3. Conclusion

- (78) Based on the foregoing, it is considered that the above arguments and claims are not such as to change the findings made in the provisional Regulation. Consequently, the contents of recitals 86 to 90 of the provisional Regulation and the conclusion that the Community industry suffered material injury during the IP are hereby confirmed.

E. CAUSATION

1. Effect of dumped imports

- (79) An exporting producer claimed that the only factor that explained the low profitability of the Community industry during the IP was raw material prices and not the effect of dumped imports. It was also claimed that the improvement in the Community industry's profitability from 2,30 % to 3,38 % over the period 1996 to the IP excluded injury caused by dumped imports over this period.
- (80) It is to be noted that the presence of dumped imports exercised a downward pressure on the sales prices prevailing in the Community market, thereby prohibiting sales prices to correctly reflect increases in raw material prices.
- (81) As to the low increase in profitability from 1996 to the IP, the investigation has shown that the improvement of profitability was mainly the result of the restructuring process undertaken by the Community industry. This also included the reduction in selling, general and administrative costs.
- (82) As indicated in recital 87 of the provisional Regulation regarding the conclusions on the economic situation of the Community industry, the low profitability achieved by the industry could not be considered satisfactory. On the contrary, it must be considered to be unduly low as a consequence of the price-suppressive effects of the dumped imports. Additional negative indicators were the decrease in sales volume, the loss of market share, the reduction of production capacity and employment, and the increase of stock levels.
- (83) Based on the foregoing the conclusion as set out in recital 87 of the provisional Regulation is hereby confirmed.
- (84) It was further claimed by an exporting producer that any injury suffered by the Community industry could not have been caused by imports from the Republic of Korea given that anti-dumping measures were already in place for most of the period from January 1996 to the end of

the IP. Definitive anti-dumping measures imposed on imports of PSF originating in the Republic of Korea were repealed in August 1999 by Regulation (EC) No 1728/99 ⁽¹⁾.

- (85) It must be recalled that the measures imposed on imports of PSF originating in the Republic of Korea were repealed because it was considered there was no likelihood of recurrence of dumping following the findings of an expiry review, the investigation period of which covered from 1 January 1996 to 30 September 1997. During the IP of the current proceeding however, dumping was established and the above argument is therefore not valid.

2. Other imports

- (86) An exporting producer claimed that the Commission should also have examined possible effects of imports from Poland, Turkey and the Czech Republic.
- (87) On the basis of Eurostat information it was determined that the price levels at which these imports entered the Community were significantly higher than the import prices of the countries under investigation (from 12,3 % to 30,5 % during the IP). Consequently there was no reason to classify these imports within the same import price range as the one for the countries under investigation nor to consider that any injury which may have been caused by them was such as to break the causal link between the injury found to be suffered and the dumping by exporting producers in the countries concerned.

3. Conclusion

- (88) Given the above, the conclusion that the dumped imports have caused material injury to the Community industry, as stated in recital 102 of the provisional Regulation, is hereby confirmed.

F. COMMUNITY INTEREST

1. Interest of the Community industry

- (89) Since no comments were received in this respect, the findings on the interest of the Community industry cited in recitals 104 to 106 of the provisional Regulation are hereby confirmed.

2. Impact on importers and users

- (90) It was claimed by a users' association and also, separately, by a user, member of this association, that certain PSF types were not on offer from Community producers and that consequently, users were forced to source outside the Community. Another user claimed that the Community producers could not satisfy the Community demand.

⁽¹⁾ OJ L 204, 4.8.1999, p. 3.

- (91) The investigation has established that although certain types of PSF were not produced by the Community industry during certain periods, this does not mean that the Community industry would not be in a position to produce those types. Indeed, only small adaptations, such as changing of a spinnerette and omission or addition of an additive, requiring low investment, would be needed. Rather, at particular moments in time, certain PSF types were not available because the Community producers could not deliver the quantities involved at the depressed price levels which users were willing to pay.
- (92) As concerns Community consumption, given the level of the duties proposed, imports from the countries concerned will continue to be able to enter the Community market albeit at non-dumped prices. As concerns the prices of the Community industry, although these are likely to increase, this increase should be limited given that imports from other third countries also exist. In view of the above the impact of the anti-dumping measures will not endanger sufficient choice and supply to the Community users.
- (93) Clarification has been requested for recital 109 of the provisional Regulation, mentioning that the proposed measures may have the impact of increasing the cost of production of users by 0,6 % to 1,2 %.
- (94) On the basis of information received by the few cooperating Community users, it was found that the impact of anti-dumping measures on PSF originating in India and the Republic of Korea on their cost of production would range from 0,6 % to 1,2 %. This finding was arrived at by taking into account the importance of PSF in the cost of production of these users' finished products, the average anti-dumping duty provisionally imposed on imports from the Republic of Korea and India and the market share of Korean and Indian imports compared to Community consumption during the IP.
- (95) It is clear that the situation in which a particular user finds itself is dependent on the degree to which it imports from the countries and exporting producers concerned, and on its own cost structure. The average impact quoted therefore depicts a company with a representative average behaviour of alternative sourcing, of which the Republic of Korea and India account for 14,7 %.
- (96) Following the publication of the Provisional Regulation, a number of Community users claimed that the imposition of anti-dumping duties would have negative effects on their competitiveness in the downstream products' markets and would ultimately endanger their survival. In their opinion, the imposition of anti-dumping duties would trigger price increases which users would need to reflect in their downstream products' prices. This development would in turn cause an increase in imports of lower-priced downstream products from other third

countries and from the countries concerned by this investigation and would oblige certain Community producers of downstream end-products incorporating PSF to relocate their production outside the Community.

- (97) However, the analysis of the maximum average impact of the proposed measures on users indicates that the imposition of anti-dumping measures is not likely to cause a significant increase in the import of cheap downstream products into the Community. This conclusion is also reached in the absence of any evidence from the users concerned substantiating their claim, and indeed such effects were not in evidence during the period of validity of past measures concerning PSF. Moreover, it should be noted that woven finished products (such as used in clothing and household furniture) fall under the quantitative restrictions of the textiles quota system.
- (98) As the examination of the above arguments submitted by the user companies does not lead to new conclusions, the considerations of recitals 109 and 111 of the provisional Regulation on the likely impact of the proposed measures on the users is hereby confirmed.

3. Conclusion

- (99) The new arguments received regarding the determination of the Community interest, are not considered to be such as to reverse the conclusion that no compelling reasons exist against the imposition of anti-dumping measures. The provisional findings are therefore confirmed.

G. DEFINITIVE DUTY

- (100) In view of the conclusions reached regarding dumping, injury, causation and Community interest, it is considered that definitive anti-dumping measures should be imposed in order to prevent further injury being caused to the Community industry by dumped imports from India and the Republic of Korea.

1. Injury elimination level

- (101) As explained in recital 116 of the provisional Regulation, a non-injurious level of prices was determined which would cover the Community industry's full cost of production and a reasonable profit which would be obtained in the absence of dumped imports from the countries concerned.
- (102) Some exporting producers argued that 6 % should be used as a reasonable profit, referring to cases on PSF and polyester textured filament yarn (PTY) preceding the investigation against Australia et al. However, in this latter proceeding, the reasonable profit had been determined at a level of 10 %, as was also the case for the current investigation. Other exporting producers argued that the reasonable profit should even be lower, such as 4 %, since the overall profitability of the Community industry was better now than at the time of those former proceedings relating to Belarus in Regulation (EC) No 1490/96 ⁽¹⁾ and Indonesia in Regulation (EC) No 2160/96 ⁽²⁾.

⁽¹⁾ OJ L 189, 30.7.1996, p. 13.

⁽²⁾ OJ L 289, 12.11.1996, p. 14. Regulation as amended by Regulation (EC) No 1822/98 (OJ L 236, 22.8.1998, p. 3).

- (103) It should be noted that the Commission indicated in recital 116 of the provisional Regulation that a margin of 10 % should be considered as the level of profit that could have been achieved in the absence of dumped imports.
- (104) The level of profit that is considered reasonable is determined on the basis of what the Community industry would be likely to obtain in the absence of injurious dumping. As the IP of previous investigations were different and the price depressive effects of dumping established in those cases, were of a different order, there is no reason to suppose that the Community industry would have achieved the same level of profit. Consequently, previous levels of profit are not necessarily appropriate in the present case. In this respect, reference is furthermore made to the reasoning as contained in recital 117 of the provisional Regulation.
- (105) Consequently, based on the foregoing, the conclusions as contained in recital 117 of the provisional Regulation are hereby confirmed.

2. Form and level of the duty

- (106) In accordance with Article 9(4) of the basic Regulation, the following anti-dumping duty rates correspond to the dumping margins when these are found to be lower than the injury margins. This is the case for all but one company.

Country	Company	Rate of duty
India	Indian Organic Chemicals Limited	14,7 %
	JCT Limited	32,6 %
	All other companies	35,4 %
The Republic of Korea	Daehan Synthetic Fibre Co. Ltd	0 %
	Huvis Corporation	4,8 %
	SK Global Co. Ltd	4,8 %
	Sung Lim Co. Ltd	0 %
	All other companies	20,2 %

- (107) The individual company anti-dumping duty rates 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 any 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'.
- (108) 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 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 any Regulation accordingly by updating the list of companies benefiting from individual duty rates.

⁽¹⁾ European Commission, Directorate-General Trade, Directorate B, TERV — 0/13, Rue de la Loi/Wetstraat 200, B-1049 Brussels/Belgium.

H. COLLECTION OF THE PROVISIONAL DUTY

- (109) In view of the magnitude of the dumping margins found for the exporting producers, and in light of the seriousness of the injury caused to the Community industry, it is considered necessary that the amounts secured by way of provisional anti-dumping duty under Commission Regulation (EC) No 124/2000 ⁽¹⁾ be definitively collected to the extent of the amount of definitive duties imposed if this amount is equal or lower than the amount of the provisional duty. Otherwise, only the amount of the provisional duty should be definitively collected. Amounts secured in excess of the rate of the definitive anti-dumping duty shall be released.
- (110) Following the merger of the polyester business activities of Samyang Corporation and SK Chemicals Co. Ltd into one jointly owned company i.e. Huvis Corporation, definitive collection of provisionally imposed duties should be made for these companies with reference to the definitively imposed duty for Huvis Corporation.

I. UNDERTAKING

- (111) Subsequent to the imposition of provisional anti-dumping measures, one exporting producer in India offered a price undertaking in accordance with Article 8(1) of the basic Regulation.
- (112) The Commission considers that the undertaking offered by Reliance Industries Limited can be accepted since it eliminates the injurious effect of the dumping. Moreover, the regular and detailed reports which the company undertook to provide to the Commission will allow effective monitoring and the structure of the company is such that the Commission considers that the risk of circumvention of the undertaking is minimised.

In order to ensure the effective respect and monitoring of the undertaking, when the request for release for free circulation pursuant to the undertaking is presented, exemption from the duty is conditional upon presentation of a commercial invoice containing the information listed in the Annex which is necessary for customs to ascertain that shipments correspond to the commercial document at the required level of detail. Where no such invoice is presented, or when it does not correspond to the product presented to customs, the appropriate rate of anti-dumping duty should be payable.

- (113) In the event of a suspected breach, breach or withdrawal of the undertaking an anti-dumping duty may be imposed, pursuant to Articles 8(9) and (10) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of synthetic staple fibres of polyesters, not carded, combed or otherwise processed for spinning, falling within CN code 5503 20 00 and originating in India and the Republic of Korea.

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

Country	Company	Rate of duty	TARIC additional code
India	Indian Organic Chemicals Limited, Bhupati Chambers 3rd floor, 13 Mathew Road, Mumbai — 400 004, India	14,7 %	A148
	JCT Limited, Thapar House, 124 Janpath, New Delhi — 110 001, India	32,6 %	A149
	All other companies	35,4 %	A999

⁽¹⁾ OJ L 16, 21.1.2000, p. 30.

Country	Company	Rate of duty	TARIC additional code
The Republic of Korea	Daehan Synthetic Fibre Co. Ltd, 162-1 Changchoong-dong Chung-gu, Seoul, Korea	0 %	A150
	Huvis Corporation, 77-1 Garak-dong, Songpaku, Seoul, Korea	4,8 %	A151
	SK Global Co. Ltd, 36-1, 2Ga, Ulchiro, Chung-Gu Seoul, Korea	4,8 %	A153
	Sung Lim Co. Ltd, Rum 502, Shinhan Building, Yuido-Dong Youngdungpo-Ku Seoul, Korea	0 %	A154
	All other companies	20,2 %	A999

3. Notwithstanding Article 1(1), the definitive duty shall not apply to imports released for free circulation in accordance with the provisions of Article 2.

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

Article 2

1. Goods produced by the following company and imported in accordance with paragraph 2 shall be exempted from the duty in Article 1:

Company	Country	TARIC additional code
Reliance Industries Limited, Marker Chamber IV, 3 rd Floor 222, Nariman Point, Mumbai 400 021	India	A212

2. Imports declared under TARIC additional code A212 shall be exempt from the anti-dumping duties imposed by Article 1 if they are produced and directly exported (i.e. invoiced and shipped) to a company acting as an importer in the Community by the company mentioned in paragraph 1, provided that the commercial invoice presented to the relevant customs authorities at the same time as the request for free circulation contains the information listed in the Annex.

3. Exemption from the duties shall further be conditional on the goods declared and presented to customs corresponding precisely to the description on the commercial invoice.

Article 3

1. The amounts secured by way of the provisional anti-dumping duty on imports originating in India and the Republic of Korea under Regulation (EC) No 1472/2000 shall be collected at the rate of the duty definitively imposed by this Regulation. Amounts secured in excess of the rate of definitive anti-dumping duty shall be released. In cases where the rate of the definitive duty imposed is higher than the rate of the provisional duty, only the amounts secured at the level of the provisional duty should be definitively collected.
2. With regard to Samyang Corporation and SK Chemicals Co. Ltd, the amounts secured by way of the provisional anti-dumping duty shall be collected at the level of the duty definitively imposed by this Regulation on Huvis Corporation. Amounts secured in excess of the rate of the definitive duty imposed on Huvis Corporation should be released.

Article 4

This Regulation shall enter into force on the 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, 22 December 2000.

For the Council
The President
C. PIERRET

ANNEX

Necessary information for the commercial invoices accompanying sales made subject to an undertaking

Elements to be indicated in the commercial invoice referred to in Article 2(2):

1. The invoice number.
 2. The TARIC additional code under which the goods on the invoice may be customs-cleared at Community borders (as specified in the Regulation).
 3. The exact description of the goods, including:
 - the product reporting code number (PRC) (as established in the undertaking offered by the producing exporter in question);
 - CN code;
 - quantity (to be given in kg).
 4. The description of the terms of the sale, including:
 - price per kg;
 - the applicable payment terms;
 - the applicable delivery terms;
 - total discounts and rebates.
 5. Name of the company acting as an importer to which the invoice is issued directly by the company.
 6. The name of the official of the company that has issued the undertaking invoice and the following signed declaration:

'I, the undersigned, certify that the sale for direct export to the European Community of the goods covered by this invoice is being made within the scope and under the terms of the undertaking offered by ... [company], and accepted by the European Commission through Decision 2000/818/EC. I declare that the information provided in this invoice is complete and correct.'
-

COMMISSION REGULATION (EC) No 2853/2000
of 27 December 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 28 December 2000.

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

Done at Brussels, 27 December 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 27 December 2000 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	93,2
	204	73,9
	624	82,3
	999	83,1
0707 00 05	628	146,6
	999	146,6
0709 90 70	052	87,3
	204	46,2
	999	66,8
0805 10 10, 0805 10 30, 0805 10 50	052	55,0
	204	47,8
	388	32,2
	999	45,0
0805 20 10	052	50,1
	204	75,3
	999	62,7
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	54,4
	999	54,4
0805 30 10	052	61,0
	600	66,7
	999	63,9
0808 10 20, 0808 10 50, 0808 10 90	060	36,9
	400	78,8
	404	89,4
	720	108,3
	999	78,4
0808 20 50	064	71,4
	400	94,9
	999	83,2

⁽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 2854/2000
of 27 December 2000
fixing the export refunds on milk and milk products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EC) No 1670/2000 ⁽²⁾, and in particular Article 31(3) thereof,

Whereas:

(1) Article 31 of Regulation (EC) No 1255/1999 provides that the difference between prices in international trade for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund within the limits resulting from agreements concluded in accordance with Article 300 of the Treaty.

(2) Regulation (EC) No 1255/1999 provides that when the refunds on the products listed in Article 1 of the above-mentioned Regulation, exported in the natural state, are being fixed, account must be taken of:

- the existing situation and the future trend with regard to prices and availabilities of milk and milk products on the Community market and prices for milk and milk products in international trade,
- marketing costs and the most favourable transport charges from Community markets to ports or other points of export in the Community, as well as costs incurred in placing the goods on the market of the country of destination,
- the aims of the common organisation of the market in milk and milk products which are to ensure equilibrium and the natural development of prices and trade on this market,
- the limits resulting from agreements concluded in accordance with Article 300 of the Treaty, and
- the need to avoid disturbances on the Community market, and
- the economic aspect of the proposed exports.

(3) Article 31(5) of Regulation (EC) No 1255/1999 provides that when prices within the Community are being determined account should be taken of the ruling prices which are most favourable for exportation, and that

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

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

(4) Article 31(3) of Regulation (EC) No 1255/1999 provides that the world market situation or the specific requirements of certain markets may make it necessary to vary the refund on the products listed in Article 1 of the abovementioned Regulation according to destination.

(5) Article 31(3) of Regulation (EC) No 1255/1999 provides that the list of products on which export refunds are granted and the amount of such refunds should be fixed at least once every four weeks; the amount of the refund may, however, remain at the same level for more than four weeks.

(6) In accordance with Article 16 of Commission Regulation (EC) No 174/1999 of 26 January 1999 on specific detailed rules for the application of Council Regulation (EC) No 804/68 as regards export licences and export refunds on milk and milk products ⁽³⁾, as last amended by Regulation (EC) No 2357/2000 ⁽⁴⁾; the refund granted for milk products containing added sugar is equal to the sum of the two components; one is intended to take account of the quantity of milk products and is calculated by multiplying the basic amount by the milk products content in the product concerned; the other is intended to take account of the quantity of added sucrose and is calculated by multiplying the sucrose content of the entire product by the basic amount of the refund valid on the day of exportation for the products listed in Article 1(1)(d) of Council Regulation (EC) No 2038/1999 of 13 September 1999 on the common organisation of the markets in the sugar sector ⁽⁵⁾, however, this second component is applied only if the added sucrose has been produced using sugar beet or cane harvested in the Community.

⁽¹⁾ OJ L 160, 26.6.1999, p. 48.

⁽²⁾ OJ L 193, 29.7.2000, p. 10.

⁽³⁾ OJ L 20, 27.1.1999, p. 8.

⁽⁴⁾ OJ L 272, 25.10.2000, p. 15.

⁽⁵⁾ OJ L 252, 25.9.1999, p. 1.

- (7) Commission Regulation (EEC) No 896/84 ⁽¹⁾, as last amended by Regulation (EEC) No 222/88 ⁽²⁾, laid down additional provisions concerning the granting of refunds on the change from one milk year to another; those provisions provide for the possibility of varying refunds according to the date of manufacture of the products.
- (8) For the calculation of the refund for processed cheese provision must be made where casein or caseinates are added for that quantity not to be taken into account.
- (9) It follows from applying the rules set out above to the present situation on the market in milk and in particular to quotations or prices for milk products within the Community and on the world market that the refund should be as set out in the Annex to this Regulation.

- (10) 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

The export refunds referred to in Article 31 of Regulation (EC) No 1255/1999 on products exported in the natural state shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 1 January 2001.

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

Done at Brussels, 27 December 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 91, 1.4.1984, p. 71.

⁽²⁾ OJ L 28, 1.2.1988, p. 1.

ANNEX

to the Commission Regulation of 27 December 2000 fixing the export refunds on milk and milk products

Product code	Destination	Unit of measurement	Amount of refund	Product code	Destination	Unit of measurement	Amount of refund
0401 10 10 9000	970	EUR/100 kg	2,327	0402 29 91 9000	A02	EUR/kg	0,6840
0401 10 90 9000	970	EUR/100 kg	2,327	0402 29 99 9100	A02	EUR/kg	0,6840
0401 20 11 9100	970	EUR/100 kg	2,327	0402 29 99 9500	A02	EUR/kg	0,7450
0401 20 11 9500	970	EUR/100 kg	3,597	0402 91 11 9370	A02	EUR/100 kg	9,30
0401 20 19 9100	970	EUR/100 kg	2,327	0402 91 19 9370	A02	EUR/100 kg	9,30
0401 20 19 9500	970	EUR/100 kg	3,597	0402 91 31 9300	A02	EUR/100 kg	11,00
0401 20 91 9000	970	EUR/100 kg	4,551	0402 91 39 9300	A02	EUR/100 kg	11,00
0401 20 99 9000	970	EUR/100 kg	4,551	0402 91 99 9000	A02	EUR/100 kg	41,60
0401 30 11 9400	970	EUR/100 kg	10,50	0402 99 11 9350	A02	EUR/kg	0,2370
0401 30 11 9700	970	EUR/100 kg	15,77	0402 99 19 9350	A02	EUR/kg	0,2370
0401 30 19 9700	970	EUR/100 kg	15,77	0402 99 31 9150	A02	EUR/kg	0,2470
0401 30 31 9100	A02	EUR/100 kg	38,32	0402 99 31 9300	A02	EUR/kg	0,2490
0401 30 31 9400	A02	EUR/100 kg	59,85	0402 99 31 9500	A02	EUR/kg	0,4290
0401 30 31 9700	A02	EUR/100 kg	66,00	0402 99 39 9150	A02	EUR/kg	0,2470
0401 30 39 9100	A02	EUR/100 kg	38,32	0403 90 11 9000	A02	EUR/100 kg	14,80
0401 30 39 9400	A02	EUR/100 kg	59,85	0403 90 13 9200	A02	EUR/100 kg	14,80
0401 30 39 9700	A02	EUR/100 kg	66,00	0403 90 13 9300	A02	EUR/100 kg	59,40
0401 30 91 9100	A02	EUR/100 kg	75,22	0403 90 13 9500	A02	EUR/100 kg	62,50
0401 30 91 9500	A02	EUR/100 kg	110,55	0403 90 13 9900	A02	EUR/100 kg	67,30
0401 30 99 9100	A02	EUR/100 kg	75,22	0403 90 19 9000	A02	EUR/100 kg	67,80
0401 30 99 9500	A02	EUR/100 kg	110,55	0403 90 33 9400	A02	EUR/kg	0,5940
0402 10 11 9000	A02	EUR/100 kg	15,00	0403 90 33 9900	A02	EUR/kg	0,6730
0402 10 19 9000	A02	EUR/100 kg	15,00	0403 90 51 9100	970	EUR/100 kg	2,327
0402 10 91 9000	A02	EUR/kg	0,1500	0403 90 59 9170	970	EUR/100 kg	15,77
0402 10 99 9000	A02	EUR/kg	0,1500	0403 90 59 9310	A02	EUR/100 kg	38,32
0402 21 11 9200	A02	EUR/100 kg	15,00	0403 90 59 9340	A02	EUR/100 kg	59,20
0402 21 11 9300	A02	EUR/100 kg	59,90	0403 90 59 9370	A02	EUR/100 kg	59,20
0402 21 11 9500	A02	EUR/100 kg	63,20	0403 90 59 9510	A02	EUR/100 kg	59,20
0402 21 11 9900	A02	EUR/100 kg	68,00	0404 90 21 9120	A02	EUR/100 kg	12,80
0402 21 17 9000	A02	EUR/100 kg	15,00	0404 90 21 9160	A02	EUR/100 kg	15,00
0402 21 19 9300	A02	EUR/100 kg	59,90	0404 90 23 9120	A02	EUR/100 kg	15,00
0402 21 19 9500	A02	EUR/100 kg	63,20	0404 90 23 9130	A02	EUR/100 kg	59,90
0402 21 19 9900	A02	EUR/100 kg	68,00	0404 90 23 9140	A02	EUR/100 kg	63,20
0402 21 91 9100	A02	EUR/100 kg	68,40	0404 90 23 9150	A02	EUR/100 kg	68,00
0402 21 91 9200	A02	EUR/100 kg	69,00	0404 90 29 9110	A02	EUR/100 kg	68,40
0402 21 91 9350	A02	EUR/100 kg	69,70	0404 90 29 9115	A02	EUR/100 kg	69,00
0402 21 91 9500	A02	EUR/100 kg	76,20	0404 90 29 9125	A02	EUR/100 kg	69,70
0402 21 99 9100	A02	EUR/100 kg	68,40	0404 90 29 9140	A02	EUR/100 kg	76,20
0402 21 99 9200	A02	EUR/100 kg	69,00	0404 90 81 9100	A02	EUR/kg	0,1500
0402 21 99 9300	A02	EUR/100 kg	69,70	0404 90 83 9110	A02	EUR/kg	0,1500
0402 21 99 9400	A02	EUR/100 kg	74,50	0404 90 83 9130	A02	EUR/kg	0,5990
0402 21 99 9500	A02	EUR/100 kg	76,20	0404 90 83 9150	A02	EUR/kg	0,6320
0402 21 99 9600	A02	EUR/100 kg	82,70	0404 90 83 9170	A02	EUR/kg	0,6800
0402 21 99 9700	A02	EUR/100 kg	86,30	0404 90 83 9936	A02	EUR/kg	0,2370
0402 21 99 9900	A02	EUR/100 kg	90,50	0405 10 11 9500	L05	EUR/100 kg	165,85
0402 29 15 9200	A02	EUR/kg	0,1500	0405 10 11 9700	L05	EUR/100 kg	170,00
0402 29 15 9300	A02	EUR/kg	0,5990	0405 10 19 9500	L05	EUR/100 kg	165,85
0402 29 15 9500	A02	EUR/kg	0,6320	0405 10 19 9700	L05	EUR/100 kg	170,00
0402 29 15 9900	A02	EUR/kg	0,6800	0405 10 30 9100	L05	EUR/100 kg	165,85
0402 29 19 9300	A02	EUR/kg	0,5990	0405 10 30 9300	L05	EUR/100 kg	170,00
0402 29 19 9500	A02	EUR/kg	0,6320	0405 10 30 9700	L05	EUR/100 kg	170,00
0402 29 19 9900	A02	EUR/kg	0,6800	0405 10 50 9300	L05	EUR/100 kg	170,00

Product code	Destination	Unit of measurement	Amount of refund	Product code	Destination	Unit of measurement	Amount of refund
0405 10 50 9500	L05	EUR/100 kg	165,85		L03	EUR/100 kg	—
0405 10 50 9700	L05	EUR/100 kg	170,00		A24	EUR/100 kg	31,87
0405 10 90 9000	L05	EUR/100 kg	176,22		L04	EUR/100 kg	31,87
0405 20 90 9500	L05	EUR/100 kg	155,49		400	EUR/100 kg	—
0405 20 90 9700	L05	EUR/100 kg	161,71		A01	EUR/100 kg	31,87
0405 90 10 9000	L05	EUR/100 kg	216,00	0406 10 20 9870	A00	EUR/100 kg	—
0405 90 90 9000	L05	EUR/100 kg	170,00	0406 10 20 9900	A00	EUR/100 kg	—
0406 10 20 9100	A00	EUR/100 kg	—	0406 20 90 9100	A00	EUR/100 kg	—
0406 10 20 9230	L02	EUR/100 kg	—	0406 20 90 9913	L02	EUR/100 kg	—
	L03	EUR/100 kg	—		L03	EUR/100 kg	—
	A24	EUR/100 kg	37,68		A24	EUR/100 kg	58,77
	L04	EUR/100 kg	37,68		L04	EUR/100 kg	58,77
	400	EUR/100 kg	—		400	EUR/100 kg	23,80
	A01	EUR/100 kg	37,68		A01	EUR/100 kg	58,77
0406 10 20 9290	L02	EUR/100 kg	—	0406 20 90 9915	L02	EUR/100 kg	—
	L03	EUR/100 kg	—		L03	EUR/100 kg	—
	A24	EUR/100 kg	35,05		A24	EUR/100 kg	77,56
	L04	EUR/100 kg	35,05		L04	EUR/100 kg	77,56
	400	EUR/100 kg	—		400	EUR/100 kg	31,70
	A01	EUR/100 kg	35,05		A01	EUR/100 kg	77,56
0406 10 20 9300	L02	EUR/100 kg	—	0406 20 90 9917	L02	EUR/100 kg	—
	L03	EUR/100 kg	—		L03	EUR/100 kg	—
	A24	EUR/100 kg	15,39		A24	EUR/100 kg	82,41
	L04	EUR/100 kg	15,39		L04	EUR/100 kg	82,41
	400	EUR/100 kg	—		400	EUR/100 kg	33,70
	A01	EUR/100 kg	15,39		A01	EUR/100 kg	82,41
0406 10 20 9610	L02	EUR/100 kg	—	0406 20 90 9919	L02	EUR/100 kg	—
	L03	EUR/100 kg	—		L03	EUR/100 kg	—
	A24	EUR/100 kg	51,11		A24	EUR/100 kg	92,10
	L04	EUR/100 kg	51,11		L04	EUR/100 kg	92,10
	400	EUR/100 kg	—		400	EUR/100 kg	37,60
	A01	EUR/100 kg	51,11		A01	EUR/100 kg	92,10
0406 10 20 9620	L02	EUR/100 kg	—	0406 20 90 9990	A00	EUR/100 kg	—
	L03	EUR/100 kg	—	0406 30 31 9710	L02	EUR/100 kg	—
	A24	EUR/100 kg	51,83		L03	EUR/100 kg	—
	L04	EUR/100 kg	51,83		A24	EUR/100 kg	14,50
	400	EUR/100 kg	—		L04	EUR/100 kg	7,74
	A01	EUR/100 kg	51,83		400	EUR/100 kg	—
0406 10 20 9630	L02	EUR/100 kg	—		A01	EUR/100 kg	14,50
	L03	EUR/100 kg	—	0406 30 31 9730	L02	EUR/100 kg	—
	A24	EUR/100 kg	57,86		L03	EUR/100 kg	—
	L04	EUR/100 kg	57,86		A24	EUR/100 kg	21,28
	400	EUR/100 kg	—		L04	EUR/100 kg	11,34
	A01	EUR/100 kg	57,86		400	EUR/100 kg	—
0406 10 20 9640	L02	EUR/100 kg	—		A01	EUR/100 kg	21,28
	L03	EUR/100 kg	—	0406 30 31 9910	L02	EUR/100 kg	—
	A24	EUR/100 kg	85,03		L03	EUR/100 kg	—
	L04	EUR/100 kg	85,03		A24	EUR/100 kg	14,50
	400	EUR/100 kg	—		L04	EUR/100 kg	7,74
	A01	EUR/100 kg	85,03		400	EUR/100 kg	—
0406 10 20 9650	L02	EUR/100 kg	—	0406 30 31 9930	A01	EUR/100 kg	14,50
	L03	EUR/100 kg	—		L02	EUR/100 kg	—
	A24	EUR/100 kg	70,86		L03	EUR/100 kg	—
	L04	EUR/100 kg	70,86		A24	EUR/100 kg	21,28
	400	EUR/100 kg	—		L04	EUR/100 kg	11,34
	A01	EUR/100 kg	70,86		400	EUR/100 kg	—
0406 10 20 9660	A00	EUR/100 kg	—		A01	EUR/100 kg	21,28
0406 10 20 9830	L02	EUR/100 kg	—	0406 30 31 9950	L02	EUR/100 kg	—
	L03	EUR/100 kg	—		L03	EUR/100 kg	—
	A24	EUR/100 kg	26,28		A24	EUR/100 kg	30,95
	L04	EUR/100 kg	26,28		L04	EUR/100 kg	16,51
	400	EUR/100 kg	—		400	EUR/100 kg	—
	A01	EUR/100 kg	26,28		A01	EUR/100 kg	30,95
0406 10 20 9850	L02	EUR/100 kg	—				

Product code	Destination	Unit of measurement	Amount of refund	Product code	Destination	Unit of measurement	Amount of refund
0406 30 39 9500	L02	EUR/100 kg	—	0406 90 23 9900	L04	EUR/100 kg	102,90
	L03	EUR/100 kg	—		400	EUR/100 kg	33,50
	A24	EUR/100 kg	21,28		A01	EUR/100 kg	117,54
	L04	EUR/100 kg	11,34		L02	EUR/100 kg	—
	400	EUR/100 kg	—		L03	EUR/100 kg	—
0406 30 39 9700	A01	EUR/100 kg	21,28	0406 90 25 9900	A24	EUR/100 kg	103,92
	L02	EUR/100 kg	—		L04	EUR/100 kg	90,36
	L03	EUR/100 kg	—		400	EUR/100 kg	—
	A24	EUR/100 kg	30,95		A01	EUR/100 kg	103,92
	L04	EUR/100 kg	16,51		L02	EUR/100 kg	—
0406 30 39 9930	400	EUR/100 kg	—	0406 90 27 9900	L03	EUR/100 kg	—
	A01	EUR/100 kg	30,95		A24	EUR/100 kg	102,80
	L02	EUR/100 kg	—		L04	EUR/100 kg	89,77
	L03	EUR/100 kg	—		400	EUR/100 kg	—
	A24	EUR/100 kg	30,95		A01	EUR/100 kg	102,80
0406 30 39 9950	L04	EUR/100 kg	16,51	0406 90 31 9119	L02	EUR/100 kg	—
	400	EUR/100 kg	—		L03	EUR/100 kg	—
	A01	EUR/100 kg	30,95		A24	EUR/100 kg	93,10
	L02	EUR/100 kg	—		L04	EUR/100 kg	81,30
	L03	EUR/100 kg	—		400	EUR/100 kg	—
0406 30 90 9000	A24	EUR/100 kg	35,00	0406 90 33 9119	A01	EUR/100 kg	93,10
	L04	EUR/100 kg	18,67		L02	EUR/100 kg	—
	400	EUR/100 kg	—		L03	EUR/100 kg	—
	A01	EUR/100 kg	35,00		A24	EUR/100 kg	85,71
	L02	EUR/100 kg	—		L04	EUR/100 kg	74,72
0406 40 50 9000	L03	EUR/100 kg	—	0406 90 33 9919	400	EUR/100 kg	19,20
	A24	EUR/100 kg	36,72		A01	EUR/100 kg	85,71
	L04	EUR/100 kg	19,58		L02	EUR/100 kg	—
	400	EUR/100 kg	—		L03	EUR/100 kg	—
	A01	EUR/100 kg	36,72		A24	EUR/100 kg	85,71
0406 40 90 9000	L04	EUR/100 kg	90,00	0406 90 33 9951	L04	EUR/100 kg	74,72
	L03	EUR/100 kg	—		400	EUR/100 kg	19,20
	A24	EUR/100 kg	90,00		A01	EUR/100 kg	85,71
	400	EUR/100 kg	—		L02	EUR/100 kg	—
	A01	EUR/100 kg	90,00		L03	EUR/100 kg	—
0406 90 13 9000	L02	EUR/100 kg	—	0406 90 35 9190	A24	EUR/100 kg	78,60
	L03	EUR/100 kg	—		L04	EUR/100 kg	68,29
	A24	EUR/100 kg	116,37		400	EUR/100 kg	—
	L04	EUR/100 kg	101,62		A01	EUR/100 kg	78,60
	400	EUR/100 kg	45,30		L02	EUR/100 kg	—
0406 90 15 9100	A01	EUR/100 kg	116,37	0406 90 35 9990	L03	EUR/100 kg	—
	L02	EUR/100 kg	—		A24	EUR/100 kg	78,66
	L03	EUR/100 kg	—		L04	EUR/100 kg	68,98
	A24	EUR/100 kg	120,25		400	EUR/100 kg	—
	L04	EUR/100 kg	105,01		A01	EUR/100 kg	78,66
0406 90 17 9100	400	EUR/100 kg	46,70	0406 90 37 9000	L02	EUR/100 kg	33,29
	A01	EUR/100 kg	120,25		L03	EUR/100 kg	—
	L02	EUR/100 kg	—		A24	EUR/100 kg	121,56
	L03	EUR/100 kg	—		L04	EUR/100 kg	105,71
	A24	EUR/100 kg	120,25		400	EUR/100 kg	30,20
0406 90 21 9900	L04	EUR/100 kg	105,01		A01	EUR/100 kg	121,56
	400	EUR/100 kg	46,70		L02	EUR/100 kg	—
	A01	EUR/100 kg	120,25		L03	EUR/100 kg	—
	L02	EUR/100 kg	—		A24	EUR/100 kg	116,37
	L03	EUR/100 kg	—		L04	EUR/100 kg	101,62
	A24	EUR/100 kg	117,54		400	EUR/100 kg	45,30
					A01	EUR/100 kg	116,37

Product code	Destination	Unit of measurement	Amount of refund	Product code	Destination	Unit of measurement	Amount of refund
0406 90 61 9000	L02	EUR/100 kg	47,01	0406 90 78 9500	400	EUR/100 kg	—
	L03	EUR/100 kg	—		A01	EUR/100 kg	105,98
	A24	EUR/100 kg	129,64		L02	EUR/100 kg	—
	L04	EUR/100 kg	112,00		L03	EUR/100 kg	—
	400	EUR/100 kg	43,00		A24	EUR/100 kg	104,35
0406 90 63 9100	A01	EUR/100 kg	129,64	0406 90 79 9900	L04	EUR/100 kg	91,91
	L02	EUR/100 kg	42,83		400	EUR/100 kg	—
	L03	EUR/100 kg	—		A01	EUR/100 kg	104,35
	A24	EUR/100 kg	128,55		L02	EUR/100 kg	—
	L04	EUR/100 kg	111,41		L03	EUR/100 kg	—
0406 90 63 9900	400	EUR/100 kg	48,10	0406 90 81 9900	A24	EUR/100 kg	86,27
	A01	EUR/100 kg	128,55		L04	EUR/100 kg	75,02
	L02	EUR/100 kg	34,22		400	EUR/100 kg	—
	L03	EUR/100 kg	—		A01	EUR/100 kg	86,27
	A24	EUR/100 kg	124,18		L02	EUR/100 kg	—
0406 90 69 9100	L04	EUR/100 kg	107,11	0406 90 85 9910	L03	EUR/100 kg	—
	400	EUR/100 kg	36,80		A24	EUR/100 kg	108,62
	A01	EUR/100 kg	124,18		L04	EUR/100 kg	94,85
	A00	EUR/100 kg	—		400	EUR/100 kg	35,80
	L02	EUR/100 kg	—		A01	EUR/100 kg	108,62
0406 90 69 9910	L03	EUR/100 kg	—	0406 90 85 9991	L02	EUR/100 kg	33,32
	A24	EUR/100 kg	124,18		L03	EUR/100 kg	—
	L04	EUR/100 kg	107,11		A24	EUR/100 kg	117,90
	400	EUR/100 kg	36,80		L04	EUR/100 kg	102,43
	A01	EUR/100 kg	124,18		400	EUR/100 kg	44,60
0406 90 73 9900	L02	EUR/100 kg	—	0406 90 85 9995	A01	EUR/100 kg	117,90
	L03	EUR/100 kg	—		L02	EUR/100 kg	—
	A24	EUR/100 kg	106,91		L03	EUR/100 kg	—
	L04	EUR/100 kg	93,28		A24	EUR/100 kg	117,90
	400	EUR/100 kg	39,60	0406 90 86 9100	L04	EUR/100 kg	102,43
0406 90 75 9900	A01	EUR/100 kg	106,91		400	EUR/100 kg	30,20
	L02	EUR/100 kg	—		A01	EUR/100 kg	117,90
	L03	EUR/100 kg	—		L02	EUR/100 kg	—
	A24	EUR/100 kg	108,07		L03	EUR/100 kg	—
0406 90 76 9300	L04	EUR/100 kg	93,90		A24	EUR/100 kg	108,07
	400	EUR/100 kg	16,70	0406 90 86 9200	L04	EUR/100 kg	93,90
	A01	EUR/100 kg	108,07		400	EUR/100 kg	—
	L02	EUR/100 kg	—		A01	EUR/100 kg	108,07
	L03	EUR/100 kg	—	0406 90 86 9300	A00	EUR/100 kg	—
0406 90 76 9400	A24	EUR/100 kg	96,98		A00	EUR/100 kg	—
	L04	EUR/100 kg	84,68		L02	EUR/100 kg	—
	400	EUR/100 kg	—		L03	EUR/100 kg	—
	A01	EUR/100 kg	96,98		A24	EUR/100 kg	102,23
0406 90 76 9500	L02	EUR/100 kg	—	0406 90 86 9400	L04	EUR/100 kg	86,17
	L03	EUR/100 kg	—		400	EUR/100 kg	20,80
	A24	EUR/100 kg	108,62		A01	EUR/100 kg	102,23
	L04	EUR/100 kg	94,85		L02	EUR/100 kg	—
	400	EUR/100 kg	17,40	0406 90 86 9900	L03	EUR/100 kg	—
0406 90 78 9100	A01	EUR/100 kg	108,62		A24	EUR/100 kg	103,32
	L02	EUR/100 kg	—		L04	EUR/100 kg	87,41
	L03	EUR/100 kg	—		400	EUR/100 kg	22,80
	A24	EUR/100 kg	102,45		A01	EUR/100 kg	103,32
0406 90 78 9300	L04	EUR/100 kg	90,24	0406 90 86 9900	L02	EUR/100 kg	—
	400	EUR/100 kg	17,40		L03	EUR/100 kg	—
	A01	EUR/100 kg	102,45		A24	EUR/100 kg	117,90
	L02	EUR/100 kg	—		L04	EUR/100 kg	102,43
	L03	EUR/100 kg	—		400	EUR/100 kg	30,20
0406 90 78 9900	A24	EUR/100 kg	105,98		A01	EUR/100 kg	117,90
	L04	EUR/100 kg	92,78				

Product code	Destination	Unit of measurement	Amount of refund	Product code	Destination	Unit of measurement	Amount of refund
0406 90 87 9100	A00	EUR/100 kg	—		400	EUR/100 kg	—
0406 90 87 9200	L02	EUR/100 kg	—		A01	EUR/100 kg	45,63
	L03	EUR/100 kg	—	0406 90 87 9973	L02	EUR/100 kg	—
	A24	EUR/100 kg	85,19		L03	EUR/100 kg	—
	L04	EUR/100 kg	71,81		A24	EUR/100 kg	104,74
	400	EUR/100 kg	18,60		L04	EUR/100 kg	91,46
	A01	EUR/100 kg	85,19		400	EUR/100 kg	18,10
0406 90 87 9300	L02	EUR/100 kg	—		A01	EUR/100 kg	104,74
	L03	EUR/100 kg	—	0406 90 87 9974	L02	EUR/100 kg	—
	A24	EUR/100 kg	94,89		L03	EUR/100 kg	—
	L04	EUR/100 kg	80,27		A24	EUR/100 kg	113,19
	400	EUR/100 kg	21,00		L04	EUR/100 kg	99,26
	A01	EUR/100 kg	94,89		400	EUR/100 kg	18,10
0406 90 87 9400	L02	EUR/100 kg	—		A01	EUR/100 kg	113,19
	L03	EUR/100 kg	—	0406 90 87 9975	L02	EUR/100 kg	—
	A24	EUR/100 kg	96,33		L03	EUR/100 kg	—
	L04	EUR/100 kg	82,36		A24	EUR/100 kg	114,45
	400	EUR/100 kg	23,00		L04	EUR/100 kg	101,25
	A01	EUR/100 kg	96,33		400	EUR/100 kg	24,00
0406 90 87 9951	L02	EUR/100 kg	—		A01	EUR/100 kg	114,45
	L03	EUR/100 kg	—	0406 90 87 9979	L02	EUR/100 kg	—
	A24	EUR/100 kg	106,68		L03	EUR/100 kg	—
	L04	EUR/100 kg	93,15		A24	EUR/100 kg	103,92
	400	EUR/100 kg	31,80		L04	EUR/100 kg	90,36
	A01	EUR/100 kg	106,68		400	EUR/100 kg	18,10
0406 90 87 9971	L02	EUR/100 kg	—		A01	EUR/100 kg	103,92
	L03	EUR/100 kg	—	0406 90 88 9100	A00	EUR/100 kg	—
	A24	EUR/100 kg	106,68	0406 90 88 9300	L02	EUR/100 kg	—
	L04	EUR/100 kg	93,15		L03	EUR/100 kg	—
	400	EUR/100 kg	25,80		A24	EUR/100 kg	83,50
	A01	EUR/100 kg	106,68		L04	EUR/100 kg	70,90
0406 90 87 9972	A24	EUR/100 kg	45,63		400	EUR/100 kg	22,80
	L03	EUR/100 kg	—		A01	EUR/100 kg	83,50
	L04	EUR/100 kg	39,68				

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1), as amended.

The numeric destination codes are set out in Commission Regulation (EC) No 2543/1999 (OJ L 307, 2.12.1999, p. 46).

The other destinations are defined as follows:

L02 Switzerland, Liechtenstein,

L03 Ceuta, Melilla, Iceland, Norway, Andorra, Gibraltar, Holy See (often referred to as Vatican City), Malta, Turkey, Estonia, Latvia, Lithuania, Poland, Czech Republic, Slovakia, Hungary, Romania, Bulgaria, Canada, Cyprus, Australia and New Zealand,

L04 Albania, Slovenia, Croatia, Bosnia and Herzegovina, Yugoslavia and the Former Yugoslav Republic of Macedonia,

L05 all destinations except Poland and the United States of America.

970 includes the exports referred to in Articles 36(1)(a) and (c) and 44(1)(a) and (b) of Commission Regulation (EC) No 800/1999 (OJ L 102, 17.4.1999, p. 11) and exports under contracts with armed forces stationed on the territory of a Member State which do not come under its flag.

COMMISSION REGULATION (EC) No 2855/2000
of 27 December 2000
concerning the classification of certain goods in the Combined Nomenclature

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff ⁽¹⁾, as last amended by Regulation (EC) No 2559/2000 ⁽²⁾, and in particular Article 9 thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to the said Regulation, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has set down the general rules for the interpretation of the Combined Nomenclature. Those rules also apply to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific Community provisions, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to the said general rules, the goods described in column 1 of the table annexed to the present Regulation must be classified under the CN codes indicated in column 2, by virtue of the reasons set out in column 3.
- (4) It is appropriate that, subject to the measures in force in the Community relating to double-checking systems and to prior and retrospective Community surveillance of textile products on importation into the Community, binding tariff information issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature and which does

not conform to the provisions of this Regulation, can continue to be invoked, under the provisions in Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽³⁾, as last amended by European Parliament and Council Regulation (EC) No 2700/2000 ⁽⁴⁾, for a period of 60 days by the holder.

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

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column 1 of the annexed table are classified within the Combined Nomenclature under the CN codes indicated in column 2 of the said table.

Article 2

Subject to the measures in force in the Community relating to double-checking systems and to prior and retrospective Community surveillance of textile products on importation into the Community, binding tariff information issued by the customs authorities of Member States which does not conform to the provisions of this Regulation can continue to be invoked under the provisions of Article 12(6) of Regulation (EEC) No 2913/92 for a period of 60 days.

Article 3

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 27 December 2000.

For the Commission

Frederik BOLKESTEIN

Member of the Commission

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ OJ L 293, 22.11.2000, p. 1.

⁽³⁾ OJ L 302, 19.10.1992, p. 1.

⁽⁴⁾ OJ L 311, 12.12.2000, p. 17.

ANNEX

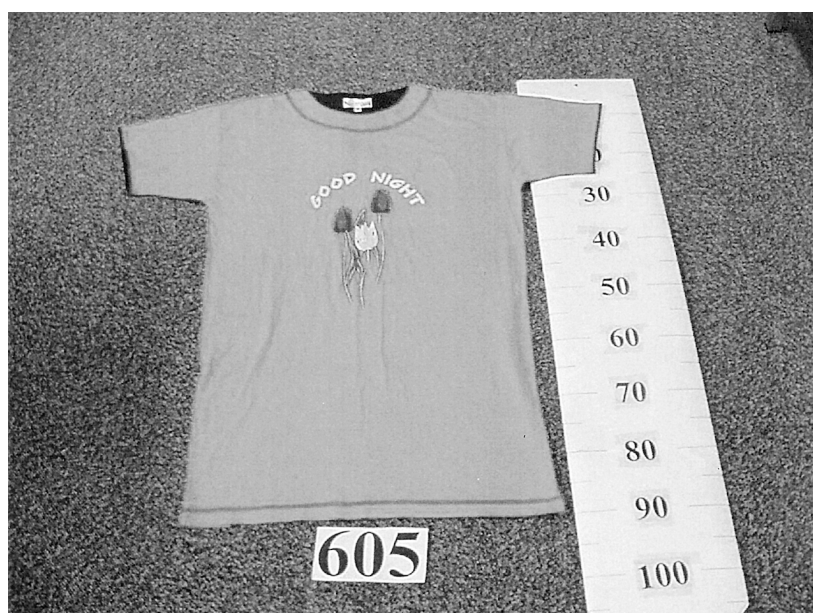
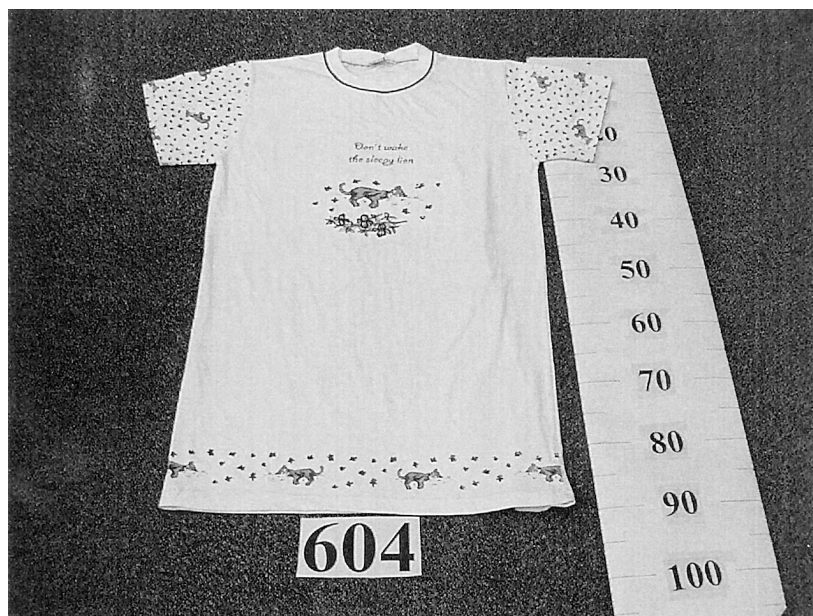
Description	CN code	Reasons
(1)	(2)	(3)
1. Toilet sets distributed by airlines to passengers (during their flight or at their destination if their baggage is not available), consisting of a rectangular fabric bag (approximately 25 × 16 × 12 cm) coated inside with plastics and containing small quantities, for limited use, of products such as: — 1 bottle (40 ml) of liquid soap, — 1 bottle (40 ml) of body milk, — 1 bottle (40 ml) of eau de Cologne, — 1 disposable razor with shaving cream and after-shave, put up in the same case, — 1 toothbrush, — 1 tube of toothpaste, — 1 shoe cleaner, — 1 sewing kit, — 3 paperboard nail files, — 1 comb, of plastics, — 10 cellulose-wadding handkerchiefs, — 1 clothes brush, — 1 shoehorn of plastics, — 1 pair of knitted slippers without soles, (100 % cotton) — 1 toilet glove, of terry towelling or similar terry fabrics (100 % cotton), — 1 pair of knitted unisex pyjamas, consisting of a short-sleeved T-shirt (50 % polyester/ 50 % acrylic) and 1 pair of shorts (100 % acrylic)	4202 92 91 3401 20 90 3304 99 00 3303 00 90 9605 00 00 9603 21 00 3306 10 00 3405 10 00 9605 00 00 6805 20 00 9615 11 00 4818 20 10 9603 90 91 3926 90 99 6115 92 00 6302 60 00 6109 90 30 6104 93 90	Classification is determined by General Notes 1 and 6 for the interpretation of the Combined Nomenclature and the wording of the relevant CN codes The articles do not form a travel set for personal toilet of heading 9605 nor do they form a set of General Rule 3b (separate classification of each of the articles)
2. Straight cut, lightweight, loose-fitting knitted garment (100 % cotton), of one colour, with the imprint 'Don't wake the sleepy lion' and other decorative motifs printed on the front and on the sleeves, going down to mid-thigh length (total length 90 cm). It has a round neckline with no opening, with an applied welt of knitted fabric, and short sleeves. The sleeve ends and the bottom of the garment are hemmed (dress) (See photograph No 604) (*)	6104 42 00	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 9 to Chapter 61 and the wording of CN codes 6104 and 6104 6104 42 00 See also the Combined Nomenclature Explanatory Notes to codes CN 6104 41 00 to 6104 49 00 Classification as a nightdress is excluded, because the garment in question, by reason of its objective characteristics, may be worn equally in bed and elsewhere and, therefore, is not intended to be worn exclusively or essentially as nightwear Because of the length of this garment, it cannot be classified under CN code 6109

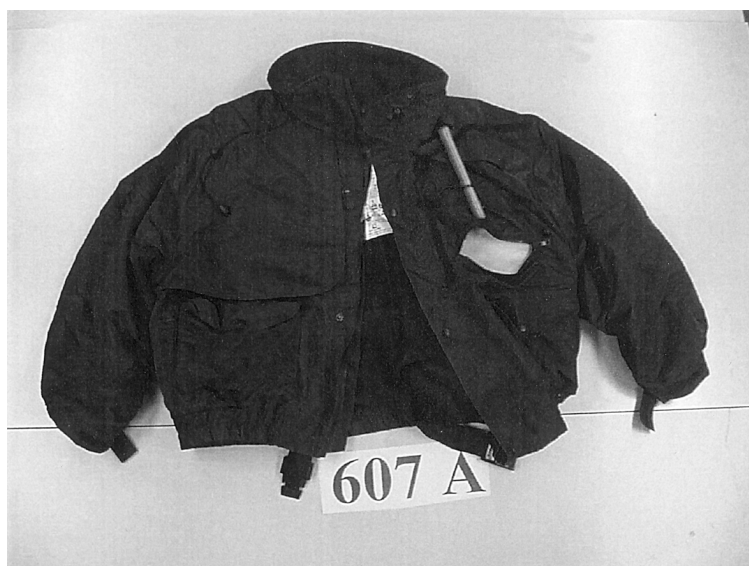
Description	CN code	Reasons
(1)	(2)	(3)
3. Straight cut, lightweight, loose-fitting knitted garment (100 % cotton), of one colour, with a decorative motif and the imprint 'Good Night' printed on the front, going down to mid-thigh length (total length 90 cm), and with short sleeves It has a round neckline with no opening, with a semi-circular insert at the back in a different colour. It also has an applied welt on knitted fabric at the sleeve ends made of a different colour but of the same material. the neckline and the bottom of the garment have decorative seams (dress) (See photograph No 605) (*)	6104 42 00	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 9 to Chapter 61 and the wording of CN codes 6104 and 6104 6104 42 00 See also the Combined Nomenclature Explanatory Notes to codes CN 6104 41 00 to 6104 49 00 Classification as a nightdress is excluded, because the garment in question, by reason of its objective characteristics, may be worn equally in bed and elsewhere and, therefore, is not intended to be worn exclusively or essentially as nightwear Because of the length of this garment, it cannot be classified under CN code 6109
4. Straight cut, striped, lightweight, loose-fitting knitted garment (60 % cotton, 40 % polyester), for a child whose height is greater than 86 cm (commercial size greater than 86), with the stitched inscription 'Sleep Wear' and other embroideries on the front. This garment goes down to the knees (total length 82 cm) It has a round neckline with an applied welt of knitted fabric with a partial opening with a button fastening right over left, and short sleeves The neckline, the sleeve ends and the bottom of the garment have an applied welt of knitted fabric with a decorative border. The bottom of the garment is curved and has side slits of approximately 10 cm long (dress for girls) (See photograph No 606) (*)	6104 42 00	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 2(A) to Section XI, Subheading note 2(A) to Section XI, Note 9 to Chapter 61 and the wording of CN codes 6104 and 6104 42 00 See also the Combined Nomenclature Explanatory Notes to codes CN 6104 41 00 to 6104 49 00 Classification as a nightdress is excluded, because the garment in question, by reason of its objective characteristics, may be worn equally in bed and elsewhere and, therefore, is not intended to be worn exclusively or essentially as nightwear Because of the length of this garment, it cannot be classified under CN code 6109

Description	CN code	Reasons
(1)	(2)	(3)
5. Set of three garments put up for retail sale made up of: (a) Single coloured woven garment of synthetic fibres (100 % polyamide), intended to cover the upper part of the body reaching down to the hips (total length: 67 cm), with a knitted lining The garment has a high-fitting collar, an integrated hood, a complete opening at the front with a zip fastening with a protective flap fastening left over right by means of press studs. It has long sleeves with elasticsation and a 'Velcro'-type tightening facility at the sleeve ends. It has a drawstring at the collar and elastic at the base of the garment It has two inside pockets above the waist fastened by zip fasteners and two outside pockets below the waist with protective flaps fastened by press studs. There are storm flaps on the front and on the back of the garment and a facility to retain a buoyancy device within the garment (Anorak) (See photograph No 607 A) (*) (b) Single coloured knitted garment of man-made fibres, intended to cover the upper part of the body reaching down to just below the waist (total length: 65 cm), with a partial lining at the front and the arms The garment has a high fitting collar, a complete opening at the front with a zip fastening, and long sleeves with elasticsation at the sleeve ends and a drawstring at the base of the garment. The garment also has two inside pockets at the front at waist level which are fastened by zip fasteners and is made up of cut and sewn panels (wind-jacket) (See photograph No 607 B) (*)	6201 93 00 6102 30 90	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 13 to Section XI, Notes 3(b) and 8 to Chapter 62 and the wording of CN codes 6201 and 6201 93 00 Taking into account that these garments do not have the same fabric construction, colour and composition or the same style, they cannot be classified as an 'ensemble' following the provisions of note 3(b) to Chapters 61 and 62 See also the explanatory notes to the Combined Nomenclature relating to CN codes 6201 91 00 to 6201 99 00 Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 13 to Section XI, Notes 3(b) and 9 to Chapter 61 and the wording of CN codes 6102, 6102 30 and 6102 30 90 Taking into account that these garments do not have the same fabric construction, colour and composition or the same style, they cannot be classified as an 'ensemble' following the provisions of note 3(b) to Chapters 61 and 62 See also the explanatory notes to the Combined Nomenclature relating to heading 6102

Description	CN code	Reasons
(1)	(2)	(3)
(c) A pair of single coloured woven trousers of synthetic fibres (100 % polyamide), intended to cover the lower part of the body reaching down to the ankles, with a woven lining and two interior pockets It has a partial opening at the front with a zip fastener and a press stud with a covering flap closing left over right The two legs of these trousers have zip fastenings over the whole length covered by a protective flap with 'velcro'-type fastening and can be tightened at the bottom by a 'velcro'-type strip (trousers) (See photograph No 607 C) (*)	6203 43 19	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 13 to Section XI, Notes 3(b) and 8 to Chapter 62 and the wording of CN codes 6203 6203 43 and 6203 43 19 Taking into account that these garments do not have the same fabric construction, colour and composition or the same style, they cannot be classified as an 'ensemble' following the provisions of note 3(b) to Chapters 61 and 62

(*) The photographs are purely for information.







COMMISSION REGULATION (EC) No 2856/2000**of 27 December 2000****amending Regulation (EC) No 2508/97 laying down detailed rules for the application to milk and milk products of the schemes provided for in the Europe Agreements between the Community and the Republic of Hungary, the Republic of Poland, the Czech Republic, the Slovak Republic, Bulgaria, Romania and Slovenia, and the Agreements on free trade between the Community and the Baltic States**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1349/2000 of 19 June 2000 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreement with Estonia ⁽¹⁾, as amended by Regulation (EC) No 2677/2000 ⁽²⁾, and in particular Article 1(3) thereof,

Having regard to Council Regulation (EC) No 1727/2000 of 31 July 2000 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreement with Hungary ⁽³⁾, and in particular Article 1(3) thereof,

Having regard to Council Regulation (EC) No 2290/2000 of 9 October 2000 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreement with Bulgaria ⁽⁴⁾, and in particular Article 1(3) thereof,

Having regard to Council Regulation (EC) No 2341/2000 of 17 October 2000 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreement with Latvia ⁽⁵⁾, and in particular Article 1(3) thereof,

Having regard to Council Regulation (EC) No 2433/2000 of 17 October 2000 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreement with the Czech Republic ⁽⁶⁾, and in particular Article 1(3) thereof,

Having regard to Council Regulation (EC) No 2434/2000 of 17 October 2000 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and

providing for an adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreement with the Slovak Republic ⁽⁷⁾, and in particular Article 1(3) thereof,

Having regard to Council Regulation (EC) No 2435/2000 of 17 October 2000 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreement with Romania ⁽⁸⁾, and in particular Article 1(3) thereof,

Having regard to Council Regulation (EC) No 2475/2000 of 7 November 2000 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreement with Slovenia ⁽⁹⁾, and in particular Article 1(3) thereof,

Having regard to Council Regulation (EC) No 2766/2000 of 14 December 2000 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreement with Lithuania ⁽¹⁰⁾, and in particular Article 1(3) thereof,

Having regard to Council Regulation (EC) No 2851/2000 of 22 December 2000 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreement with Poland ⁽¹¹⁾, and in particular Article 1(3) thereof,

Whereas:

- (1) Commission Regulation (EC) No 2508/97 ⁽¹²⁾, as last amended by Regulation (EC) No 1431/2000 ⁽¹³⁾ lays down, *inter alia*, detailed rules for the application to milk and milk products of the schemes provided for in the Europe Agreements between the Community and certain central and eastern European countries. It should be amended to implement the concessions provided for

⁽¹⁾ OJ L 155, 28.6.2000, p. 1.

⁽²⁾ OJ L 308, 8.12.2000, p. 7.

⁽³⁾ OJ L 198, 4.8.2000, p. 6.

⁽⁴⁾ OJ L 262, 17.10.2000, p. 1.

⁽⁵⁾ OJ L 271, 24.10.2000, p. 7.

⁽⁶⁾ OJ L 280, 4.11.2000, p. 1.

⁽⁷⁾ OJ L 280, 4.11.2000, p. 9.

⁽⁸⁾ OJ L 280, 4.11.2000, p. 17.

⁽⁹⁾ OJ L 286, 11.11.2000, p. 15.

⁽¹⁰⁾ OJ L 321, 19.12.2000, p. 8.

⁽¹¹⁾ See page 7 of this Official Journal.

⁽¹²⁾ OJ L 345, 16.12.1997, p. 31.

⁽¹³⁾ OJ L 161, 1.7.2000, p. 53.

with effect from 1 July 2000 by Regulations (EC) No 1349/2000, (EC) No 1727/2000, (EC) No 2290/2000, (EC) No 2341/2000, (EC) No 2433/2000, (EC) No 2434/2000, (EC) No 2435/2000 and (EC) No 2475/2000 and with effect from 1 January 2001 by Regulations (EC) No 2766/2000 and (EC) No 2851/2000 as regards milk products.

- (2) To give economic operators an opportunity to take note of the new rules, the licence application period should be extended by 10 days.
- (3) The quantities available for the first six months of 2001 should be published, and other technical amendments should be made.
- (4) Repayment of import duties on the products listed in Annex I to Regulation (EC) No 2508/97 as it existed before the entry into force of this Regulation and imported under licences used from 1 July 2000 falls within the scope of Articles 878 to 898 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code⁽¹⁾, as last amended by Regulation (EC) No 1602/2000⁽²⁾.
- (5) 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

Regulation (EC) No 2508/97 is hereby amended as follows:

1. Article 1(1) is replaced by the following:
 '1. This Regulation lays down detailed rules for the application to milk and milk products of the schemes provided for in the Europe Agreements with Poland, the Czech Republic, the Slovak Republic, Hungary, Romania, Bulgaria, Estonia, Latvia, Lithuania and Slovenia.'

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

Done at Brussels, 27 December 2000.

2. Article 2(1) is replaced by the following:

'1. For the purposes of this Regulation, "import year" shall mean the 12-month period from 1 July. However, for the scheme provided for in Article 21(2) of the Europe Agreement between the European Community and Slovenia, "import year" shall mean the calendar year.'

3. The final subparagraph of Article 2(2) is replaced by the following:

'However, the quantities available for the first six months of 2001 shall be those listed in Annex IV.'

4. The following subparagraph is added to Article 4(1):

'However, licence applications for the first six months of 2001 may be lodged during the first twenty days of January 2001.'

5. Article 8 is replaced by the following:

Article 8

The products to which the schemes provided for in Article 1(1) apply shall be released for free circulation on presentation of an EUR.1 certificate issued by the exporting country in accordance with Protocol 4 to the Agreements concluded between the Community and the country concerned, or of a declaration by the exporter in accordance with the said Protocol. However, for the Baltic States the EUR.1 certificate shall be issued by the exporting country in accordance with Protocol 3 to the Agreements concluded between the Community and the country concerned.'

6. Annex I to Regulation (EC) No 2508/97 is replaced by Annex I to this Regulation.

7. Annex I.A to Regulation (EC) No 2508/97 is replaced by Annex II to this Regulation.

Article 2

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

Point 6 of Article 1 shall apply from 1 July 2000. However, parts A, I and K of Annex I shall apply from 1 January 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 253, 11.10.1993, p. 1.

⁽²⁾ OJ L 188, 26.7.2000, p. 1.

ANNEX I

ANNEX I

A. Products originating in Poland

Serial number	CN code	Description ⁽¹⁾	Duty applicable (% of MFN)	Annual quantities (tonnes)	
				From 1.7.2000 to 30.6.2001	Annual increase from 1.7.2001
09.4813	0402 10 19 0402 21 19 0402 21 99	Skimmed milk powder Whole milk powder Whole milk powder	Free	10 000	1 000
09.4814	0405 10 11 0405 10 19 0405 10 30 0405 10 50 0405 10 90 0405 20 90	Butter and dairy spreads ⁽²⁾	Free	6 000	600
09.4815	0406	Cheese and curd ⁽²⁾	Free	9 000	900

B. Products originating in the Czech Republic

Serial number	CN code	Description ⁽¹⁾	Duty applicable (% of MFN)	Annual quantities (tonnes)	
				From 1.7.2000 to 30.6.2001	Annual increase from 1.7.2001
09.4611	0402 10 19 0402 21 19 0402 21 91	Skimmed milk powder Whole milk powder Whole milk powder	20	2 875	0
09.4612	0405 10 11 0405 10 19 0405 10 30 0405 10 50 0405 20 90	Butter	20	1 250	0
09.4613	0406	Cheese and curd ⁽²⁾	Free	5 100	765

C. Products originating in the Slovak Republic

Serial number	CN code	Description ⁽¹⁾	Duty applicable (% of MFN)	Annual quantities (tonnes)	
				From 1.7.2000 to 30.6.2001	Annual increase from 1.7.2001
09.4611	0402 10 19 0402 21 19 0402 21 91	Skimmed milk powder Whole milk powder Whole milk powder	20	1 500	0
09.4612	0405 10 11 0405 10 19 0405 10 30 0405 10 50 0405 20 90	Butter	20	750	0
09.4613	0406	Cheese and curd ⁽²⁾	Free	2 200	330

D. Products originating in Hungary

Serial number	CN code	Description ⁽¹⁾	Duty applicable (% of MFN)	Annual quantities (tonnes)	
				From 1.7.2000 to 30.6.2001	Annual increase from 1.7.2001
09.4731	0402 10	Milk and cream in powder or solid form, fat content < 1,5 %	Free	375	40
09.4733	0406	Cheese and curd ⁽²⁾	Free	3 500	350

E. Products originating in Romania

Serial number	CN code	Description ⁽¹⁾	Duty applicable (% of MFN)	Annual quantities (tonnes)	
				From 1.7.2000 to 30.6.2001	Annual increase from 1.7.2001
09.4758	0406	Cheese and curd ⁽²⁾	Free	2 000	200

F. Products originating in Bulgaria

Serial number	CN code	Description ⁽¹⁾	Duty applicable (% of MFN)	Annual quantities (tonnes)	
				From 1.7.2000 to 30.6.2001	Annual increase from 1.7.2001
09.4660	0406	Cheese and curd ⁽²⁾	Free	5 500	300

G. Products originating in Estonia

Serial number	CN code	Description ⁽¹⁾	Duty applicable (% of MFN)	Annual quantities (tonnes)	
				From 1.7.2000 to 30.6.2001	Annual increase from 1.7.2001
09.4578	0401 30	Cream, of a fat content, by weight, exceeding 6 %	Free	500	150
09.4546	0402 10 19 0402 21 19	Skimmed milk powder Whole milk powder	Free	10 000	3 000
09.4579	0403 10 11 0403 10 13 0403 10 19	Yoghurt, not flavoured	Free	300	90
09.4580	0403 90 59 0403 90 61 0403 90 63 0403 90 69	Milk and cream, fermented or acidified	Free	700	210
09.4547	0405 10 11 0405 10 19	Butter	Free	3 000	900
09.4581	ex 0406	Cheese, not including curd	Free	2 000	600
09.4582	ex 0406 10	Curd	Free	700	210

H. Products originating in Latvia

Serial number	CN code	Description ⁽¹⁾	Duty applicable (% of MFN)	Annual quantities (tonnes)	
				From 1.7.2000 to 30.6.2001	Annual increase from 1.7.2001
09.4549	0402 10 19 0402 21 19	Skimmed milk powder Whole milk powder	Free	4 000	400
09.4550	0402 29	Whole milk powder, sweetened	20	250	0
09.4551	0405 10	Butter	Free	1 875	190
09.4552	0406	Cheese and curd ⁽²⁾	Free	3 000	300

I. Products originating in Lithuania

Serial number	CN code	Description ⁽¹⁾	Duty applicable (% of MFN)	Quantity for the period from 1.1.2001 to 30.6.2001	Annual quantities (tonnes)	
					From 1.7.2000 to 30.6.2001	Annual increase from 1.7.2001
09.4554	0402 10 19 0402 21 19	Skimmed milk powder Whole milk powder	Free	2 500	5 500	500
09.4567	0402 99 11	Milk and cream, condensed, sweetened	20	300	300	—
09.4556	0405 10 11 0405 10 19	Butter	Free	875	1 925	175
09.4557	0406	Cheese and curd ⁽²⁾	Free	3 000	6 600	600

K. Products originating in Slovenia

Serial number	CN code	Description ⁽¹⁾	Duty applicable (% of MFN)	Annual quantities (tonnes)	
				From 1.7.2000 to 30.6.2001	Annual increase from 1.7.2001
09.4086	0402 10 0402 21	Skimmed milk powder Whole milk powder	20	1 400	1 500
09.4087	0403 10	Yoghurts	20	700	750
09.4088	0406 90	Other cheeses	20	420	450

⁽¹⁾ Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential scheme being determined, for the purposes of this Annex, by the coverage of the CN code. Where ex CN codes are indicated, the preferential scheme is to be determined by application to the CN code and corresponding description taken together.

⁽²⁾ This concession is applicable only to products not benefiting from any kind of export subsidy.

ANNEX II

‘ANNEX IV

Total quantity in tonnes available for 1 January to 30 June 2001

Country	Poland			Czech Republic			Slovak Republic			Hungary		Romania
CN codes and	0402 10 19 0402 21 19 0402 21 99	0405 10 11 0405 10 19 0405 10 30 0405 10 50 0405 10 90 0405 20 90	0406	0402 10 19 0402 21 19 0402 21 91	0405 10 11 0405 10 19 0405 10 30 0405 10 50 0405 20 90	0406	0402 10 19 0402 21 19 0402 21 91	0405 10 11 0405 10 19 0405 10 30 0405 10 50 0405 20 90	0406	0402 10	0406	0406
serial number	09.4813	09.4814	09.4815	09.4611	09.4612	09.4613	09.4611	09.4612	09.4613	09.4731	09.4733	09.4758
Available quantity	6 875	5 125	8 750	1 437,5	625	4 198,1	750	375	1 500,1	189,3	2 309,3	1 062,5

Country	Bulgaria	Slovenia			Republic of Estonia						
CN codes and	0406	0402 10 0402 21	0403 10	0406 90	0401 30	0402 10 19 0402 21 19	0403 10 11 0403 10 13 0403 10 19	0403 90 59 0403 90 61 0403 90 63 0403 90 69	0405 10 11 0405 10 19	ex 0406	ex 0406 10
serial number	09.4660	09.4086	09.4087	09.4088	09.4578	09.4546	09.4579	09.4580	09.4547	09.4581	09.4582
Available quantity	5 500	700	350	210	250	5 000	300	350	1 500	1 000	350

Country	Republic of Latvia				Republic of Lithuania			
CN codes and	0402 10 19 0402 21 19	0402 29	0405 10	0406	0402 10 19 0402 21 19	0402 99 11	0405 10 11 0405 10 19	0406
serial number	09.4549	09.4550	09.4551	09.4552	09.4554	09.4567	09.4556	09.4557
Available quantity	2 448,4	250	1 342,1	2 344	2 500	300	875	3 000'

**COMMISSION REGULATION (EC) No 2857/2000
of 27 December 2000**

amending Regulations (EC) No 1279/98, (EC) No 1128/1999, (EC) No 1247/1999 and (EC) No 2335/2000 as a result of the new concessions made in respect of certain beef and veal products under certain tariff quotas

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal ⁽¹⁾, and in particular Article 32(1) thereof,

Having regard to Council Regulation (EC) No 1727/2000 of 31 July 2000 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transition measure, of certain agricultural concessions provided for in the Europe Agreement with Hungary ⁽²⁾, and in particular Article 1(3) thereof,

Having regard to Council Regulation (EC) No 2290/2000 of 9 October 2000 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transition measure, of certain agricultural concessions provided for in the Europe Agreement with Bulgaria ⁽³⁾, and in particular Article 1(3) thereof,

Having regard to Council Regulation (EC) No 2433/2000 of 17 October 2000 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transition measure, of certain agricultural concessions provided for in the Europe Agreement with the Czech Republic ⁽⁴⁾, and in particular Article 1(3) thereof,

Having regard to Council Regulation (EC) No 2434/2000 of 17 October 2000 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transition measure, of certain agricultural concessions provided for in the Europe Agreement with the Slovak Republic ⁽⁵⁾, and in particular Article 1(3) thereof,

Having regard to Council Regulation (EC) No 2435/2000 of 17 October 2000 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transition measure, of certain agricultural concessions provided for in the Europe Agreement with Romania ⁽⁶⁾, and in particular Article 1(3) thereof,

Having regard to Council Regulation (EC) No 2851/2000 of 22 December 2000 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and

providing for an adjustment, as an autonomous and transition measure, of certain agricultural concessions provided for in the Europe Agreement with Poland and repealing Regulation (EC) No 3066/95 ⁽⁷⁾, and in particular Article 1(4) thereof,

Whereas:

- (1) Regulations (EC) No 1727/2000, (EC) No 2434/2000, (EC) No 2435/2000 and (EC) No 2851/2000 provide for new concessions in respect of imports of certain beef and veal products under the tariff quotas opened by the Europe Agreements with Hungary, Bulgaria, the Czech Republic, Slovakia, Romania and Poland. These new concessions relate to the nature and/or quality of the products and/or the preferential rate of customs duties. They take effect on 1 July 2000 in the case of Hungary, Slovakia and Romania and on 1 January 2001 in the case of Poland.
- (2) To enable the new concessions to be introduced, it is therefore necessary to amend the following Commission implementing Regulations:
 - Commission Regulation (EC) No 1279/98 of 19 June 1998 laying down detailed rules for applying the tariff quotas for beef and veal provided for in Council Regulation (EC) No 3066/95 for the Republic of Poland, the Republic of Hungary, the Czech Republic, the Slovak Republic, the Republic of Bulgaria and Romania ⁽⁸⁾,
 - Commission Regulation (EC) No 1128/1999 of 28 May 1999 laying down detailed rules of application for a tariff quota for calves weighing not more than 80 kilograms originating in certain third countries ⁽⁹⁾,
 - Commission Regulation (EC) No 1247/1999 of 16 June 1999 laying down detailed rules for the application of a tariff quota for live bovine animals weighing from 80 to 300 kilograms and originating in certain third countries ⁽¹⁰⁾,
 - Commission Regulation (EC) No 2335/2000 of 20 October 2000 determining the percentage of quantities which may be allowed in respect of import licence applications lodged in October 2000 under tariff quotas for beef and veal provided for in Regulation (EC) No 1279/98 for the Republic of Poland, the Republic of Hungary, the Czech Republic, Slovakia, Bulgaria and Romania ⁽¹¹⁾.

⁽¹⁾ OJ L 160, 26.6.1999, p. 21.

⁽²⁾ OJ L 198, 4.8.2000, p. 6.

⁽³⁾ OJ L 262, 17.10.2000, p. 1.

⁽⁴⁾ OJ L 280, 4.11.2000, p. 1.

⁽⁵⁾ OJ L 280, 4.11.2000, p. 9.

⁽⁶⁾ OJ L 280, 4.11.2000, p. 17.

⁽⁷⁾ See page 7 of this Official Journal.

⁽⁸⁾ OJ L 176, 20.6.1998, p. 12.

⁽⁹⁾ OJ L 135, 29.5.1999, p. 50.

⁽¹⁰⁾ OJ L 150, 17.6.1999, p. 18.

⁽¹¹⁾ OJ L 269, 21.10.2000, p. 17.

- (3) Repayment of import duties on products listed in Annex I to Regulation (EC) No 1279/98 as it existed before the entry into force of this Regulation and imported under licences used from 1 July 2000 falls within the scope of Articles 878 to 898 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽¹⁾, as last amended by Regulation (EC) No 2787/2000 ⁽²⁾.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1279/98 is amended as follows.

1. The title is replaced by the following:

‘Commission Regulation (EC) No 1279/98 of 19 June 1998 laying down detailed rules for applying the tariff quotas for beef and veal provided for in Council Regulations (EC) No 1727/2000, (EC) No 2290/2000, (EC) No 2433/2000, (EC) No 2434/2000, (EC) No 2435/2000 and (EC) No 2851/2000 for the Republic of Hungary, the Republic of Bulgaria, the Czech Republic, the Slovak Republic, Romania and the Republic of Poland’.

2. Article 1 is replaced by the following:

‘Article 1

Import licences must be presented for imports into the Community of the products listed in Annex I hereto under the quotas provided for in Regulations (EC) No 1727/2000, (EC) No 2290/2000, (EC) No 2433/2000, (EC) No 2434/2000, (EC) No 2435/2000 and (EC) No 2851/2000.

The quantities of products imported annually under those arrangements and the preferential rates of customs duty shall be as set out in Annex I hereto.’

3. The second subparagraph of Article 3(1)(c) is replaced by the following:

“Group of products” means products originating in only one of the countries listed in Annex I; a group of products shall cover the products corresponding to CN codes 0201 and 0202, or the products corresponding to CN codes 1602 50 31, 1602 50 39 and 1602 50 80 originating in Romania, or the products corresponding to CN code 1602 50 originating in Poland;’.

4. Article 3(2) is replaced by the following:

‘2. Notwithstanding Article 5 of Regulation (EC) No 1445/95, box 16 of licence applications and licences shall

show one of the CN groups contained in the same indent:

- 0201, 0202,
- 1602 50 31, 1602 50 39, 1602 50 80,
- 1602 50.’

5. Annex I is replaced by the Annex to this Regulation.

Article 2

Article 2(2) of Regulation (EC) No 1128/1999 is replaced by the following:

‘2. For the quantity referred to in paragraph 1 the rate of customs duty shall be:

- reduced by 80 % in the case of animals originating in Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Romania and Slovakia,
- reduced by 90 % in the case of animals originating in Poland.’

Article 3

Article 1(2) of Regulation (EC) No 1247/1999 is replaced by the following:

‘2. For the quantity referred to in paragraph 1 the rate of customs duty shall be:

- reduced by 80 % in the case of animals originating in Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Romania and Slovakia,
- reduced by 90 % in the case of animals originating in Poland.’

Article 4

Article 1(2) of Regulation (EC) No 2335/2000 is replaced by the following:

‘2. The quantities available for the period referred to in Article 2 of Regulation (EC) No 1279/98 running from 1 January to 31 March 2001 shall amount to:

- (a) beef and veal falling within CN codes 0201 and 0202:
 - 4 651,25 tonnes for meat originating in Hungary,
 - 2 425,00 tonnes for meat originating in the Czech Republic,
 - 2 625,00 tonnes for meat originating in Slovakia,
 - 187,50 tonnes for meat originating in Bulgaria;
- (b) 5 000 tonnes for beef and veal falling within CN codes 0201 and 0202 originating in Poland, or 2 336,448 tonnes for processed products falling within CN code 1602 50 originating in Poland;
- (c) 1 850 tonnes for beef and veal products falling within CN codes 0201, 0202, 1602 50 31, 1602 50 39 and 1602 50 80 originating in Romania.’

⁽¹⁾ OJ L 253, 11.10.1993, p. 1.

⁽²⁾ OJ L 330, 27.12.2000, p. 1.

Article 5

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

Article 1 shall apply from 1 July 2000 to imports of beef and veal products originating in Bulgaria, the Czech Republic, Hungary, Romania and Slovakia. Article 1 shall apply from 1 January 2001 to imports of beef and veal products originating in Poland.

Articles 2, 3 and 4 shall apply from 1 January 2001.

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

Done at Brussels, 27 December 2000.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

ANNEX I

The imports into the Community of the following products shall be entitled to the concessions described below*(MFN = duty applicable to most favoured nations)*

Country of origin	Serial No	CN code	Description	Rate of duty applicable (% of MFN)	Annual quantity from 1.7.2000 to 30.6.2001 (tonnes)	Annual increase from 1.7.2001 (tonnes)
Hungary	09.4707	0201 0202	Meat of bovine animals, fresh, chilled or frozen	20	11 375	1 140
Poland	09.4824	0201 0202 1602 50	Meat of bovine animals, fresh, chilled or frozen Other prepared or preserved meat, meat offal or blood: — bovine animals ⁽¹⁾	Free	16 000	1 600
Czech Republic	09.4623	0201 0202	Meat of bovine animals, fresh, chilled or frozen	20	3 500	0
Slovakia	09.4624	0201 0202	Meat of bovine animals, fresh, chilled or frozen	20	3 500	0
Romania	09.4753	0201 0202 1602 50 31 1602 50 39 1602 50 80	Meat of bovine animals, fresh, chilled or frozen Prepared or preserved meat of bovine animals	Free	2 500	250
Bulgaria	09.4651	0201 0202	Meat of bovine animals, fresh, chilled or frozen	20	250	0

⁽¹⁾ Coefficient for conversion into fresh meat = 2,14.

COMMISSION REGULATION (EC) No 2858/2000
of 27 December 2000
amending Regulation (EC) No 2125/95 opening and providing for the administration of tariff
quotas for preserved mushrooms

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulations (EC) No 2290/2000 ⁽¹⁾, (EC) No 2435/2000 ⁽²⁾ and 2851/2000 ⁽³⁾, establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for an adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreement with Bulgaria, Romania and Poland respectively, and in particular Articles 1(3) thereof,

Whereas:

- (1) Commission Regulation (EC) No 2125/95 ⁽⁴⁾, as last amended by Regulation (EC) No 2493/98 ⁽⁵⁾, provides for the administration of the quotas for preserved mushrooms allocated to Poland, Romania and Bulgaria in Annexes II, V and VI respectively to Council Regulation (EC) No 3066/95 of 22 December 1995 establishing certain concessions in the form of Community tariff quotas for certain agricultural products and providing for the adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreements to take account of the Agreement on Agriculture concluded during the Uruguay Round Multilateral Trade Negotiations ⁽⁶⁾, as last amended by Regulation (EC) No 2435/98 ⁽⁷⁾.
- (2) Regulation (EC) No 3066/95 was repealed by Regulation (EC) No 2851/2000 and replaced by Regulations (EC) No 2290/2000, (EC) No 2435/2000 and (EC) No 2851/2000 as regards Bulgaria, Romania and Poland respectively. The abovementioned tariff concessions for preserved mushrooms have been included as they stand in Regulations (EC) No 2290/2000 and (EC) No 2435/2000 as regards products originating in Bulgaria and Romania on the one hand, and they are granted subject to no limit on quantity by Regulation (EC) No 2851/2000 as regards products originating in Poland on the

other hand. Regulation (EC) No 2125/95 should accordingly be amended to strike out any reference to Poland, except the reference in Article 5 relating to licence applications by traditional importers, in order to adapt it to those new provisions.

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2125/95 is hereby amended as follows:

1. Article 1 is replaced by the following:

'Article 1

1. The tariff quotas for preserved mushrooms of the genus *Agaricus* covered by CN codes 0711 90 40, 2003 10 20 and 2003 10 30 set out in Annex I are hereby opened subject to the rules of application laid down herein.
2. The rate of duty applicable shall be 12 % *ad valorem* in the case of products covered by CN code 0711 90 40 (serial No 09.4062) and 23 % in the case of products covered by CN codes 2003 10 20 and 2003 10 30 (serial No 09.4063). However, a single rate of 8,4 % shall apply where the above products originate in Bulgaria (serial No 09.4725) or Romania (serial No 09.4726).'

2. The word 'Poland' is deleted from Article 2(2) and Article 4(1) and (5).
3. The word 'Poland' is deleted from Article 10(3).
4. Annex I is replaced by the Annex hereto.

Article 2

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

It shall apply from 1 January 2001.

⁽¹⁾ OJ L 262, 17.10.2000, p. 1.

⁽²⁾ OJ L 280, 4.11.2000, p. 17.

⁽³⁾ See page 7 of this Official Journal.

⁽⁴⁾ OJ L 212, 7.9.1995, p. 16.

⁽⁵⁾ OJ L 309, 19.11.1998, p. 38.

⁽⁶⁾ OJ L 328, 30.12.1995, p. 31.

⁽⁷⁾ OJ L 303, 13.11.1998, p. 1.

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

Done at Brussels, 27 December 2000.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

'ANNEX I

ALLOCATION AS REFERRED TO IN ARTICLE 2 IN TONNES (NET DRAINED WEIGHT)

Supplier countries	1 January to 31 December of each year
Bulgaria	1 750
Romania	500
China	22 750
Others	3 290
Reserve	1 000
Total	29 290'

COMMISSION REGULATION (EC) No 2859/2000**of 27 December 2000****opening crisis distillation as provided for in Article 30 of Regulation (EC) No 1493/1999 for certain wines in Italy**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine ⁽¹⁾, and in particular Articles 30 and 33 thereof,

Whereas:

- (1) Article 30 of Regulation (EC) No 1493/1999 provides for the possibility of opening crisis distillation in the event of exceptional market disturbance caused by major surpluses. Such measures may be limited to certain categories of wine and/or certain areas of production and may apply to quality wines psr at the request of the Member State.
- (2) By letter of 15 November 2000 the Italian Government requested that crisis distillation be triggered for wines produced by the fermentation of products suitable for producing Moscato d'Asti and Asti in Italy.
- (3) Around 600 000 hectolitres (80 million bottles) of wine produced by the fermentation of products suitable for producing Moscato d'Asti and Asti were produced in 1999, compared with around 700 000 hectolitres produced in 1997. Stocks amounted to around 415 000 hectolitres at the beginning of the 2000/01 marketing year, against less than 105 500 hectolitres in 1995. Sales have fallen from around 650 000 hectolitres in the first half of the 1990s to around 580 000 hectolitres in the second part of that decade. Between the first quarter of 1999 and the first quarter of 2000, exports fell by 5 million bottles, from 19,2 million to 14,35 million.
- (4) In view of the substantial surpluses of unsold must in refrigerated silos, these capacities are not available for the new harvest. There are no outlets for this surplus production.
- (5) Regional producers have taken structural measures to redirect production towards high-quality products. These are backed by promotional measures funded by para-fiscal charges, a reduction in per-hectare yields and the waiver of new planting rights and replanting rights.
- (6) Since the conditions laid down in Article 30(5) of Regulation (EC) No 1493/1999 are satisfied, crisis distillation covering a maximum of 120 000 million hectolitres should be triggered in this Italian wine-growing region

for a limited period with a view to maximum effectiveness. No ceiling should be set on the quantity that individual producers can have distilled because stocks may vary substantially from one producer to another and depend on sales to a greater extent than on the individual producer's annual output.

- (7) The mechanism to be introduced is provided for in Commission Regulation (EC) No 1623/2000 of 25 July 2000 laying down detailed rules for implementing Regulation (EC) No 1493/1999 on the common organisation of the market in wine with regard to market mechanisms ⁽²⁾, as amended by Regulation (EC) No 2409/2000 ⁽³⁾. As well as the Articles of this Regulation which refer to the distillation measures provided for in Article 30 of Regulation (EC) No 1493/1999, other provisions of Regulation (EC) No 1623/2000 shall apply, in particular those concerning the delivery of alcohol to intervention agencies and the payment of an advance.
- (8) The buying-in price to be paid by the distiller to the producer should provide a solution to the problems while allowing producers to take advantage of the possibility afforded by this measure. That price should not, however, be such that it adversely affects the application of distillation as provided for in Article 29 of Regulation (EC) No 1493/1999.
- (9) The product of crisis distillation must be raw alcohol or neutral alcohol for compulsory delivery to the intervention agency in order to avoid disturbing the market for potable alcohol, which is supplied largely by distillation under Article 29 of Regulation (EC) No 1493/1999.
- (10) 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

Crisis distillation as provided for in Article 30 of Regulation (EC) No 1493/1999 is hereby opened for a maximum of 120 000 hectolitres of wines produced by the fermentation of products suitable for producing Moscato d'Asti and Asti in Italy.

⁽¹⁾ OJ L 179, 14.7.1999, p. 1.

⁽²⁾ OJ L 194, 31.7.2000, p. 45.

⁽³⁾ OJ L 278, 31.10.2000, p. 3.

Article 2

As well as the provisions of Regulation (EC) No 1623/2000 which refer to Article 30 of Regulation (EC) No 1493/1999, the following provisions of Regulation (EC) No 1623/2000 shall also apply to the measure provided for herein:

- Article 62(5) with respect to the payment by the intervention agency of the price referred to in Article 6(2) of this Regulation,
- Articles 66 and 67 with respect to the advance referred to in Article 6(2) of this Regulation.

Article 3

Producers may conclude contracts as provided for in Article 65 of Regulation (EC) No 1623/2000 from 16 January 2001 to 28 February 2001. Such contracts shall entail the lodging of a security equal to EUR 5 per hectolitre. Such contracts may not be transferred.

Article 4

1. The Member State shall determine the rate of reduction to be applied to the abovementioned contracts where the overall quantity covered by contracts presented exceeds that laid down in Article 1.
2. The Member State shall adopt the administrative provisions needed to approve the abovementioned contracts by 15 March 2001, shall specify the rate of reduction applied and the quantity of wine accepted per contract and shall stipulate that the producer can cancel the contract where the quantity to be distilled is reduced. The Member State shall notify the Commission before 20 March 2001 of the quantities of such wine covered by contracts approved.
3. The wine shall be delivered to the distilleries by 30 June 2001 at the latest. The alcohol obtained may be delivered to the intervention agency by 30 November 2001 at the latest.

4. Securities shall be released in proportion to the quantities delivered where the producer provides proof of delivery to the distillery.

5. The security shall be forfeit where no delivery is made within the time limit laid down.

6. The Member State may limit the number of contracts that individual producers can conclude under the distillation operation in question.

Article 5

The minimum buying-in price for wine delivered for distillation under this Regulation shall be EUR 1,914 per % vol. per hectolitre.

Article 6

1. Distillers shall deliver the product obtained from distillation to the intervention agency. That product shall be of an alcoholic strength of at least 92 % vol.
2. The price to be paid to the distiller by the intervention agency for raw alcohol delivered shall be EUR 2,2812 per % vol. per hectolitre. The distiller may receive an advance on that amount in the form of aid amounting to EUR 1,1222 per % vol. per hectolitre. The aid shall in that case be deducted from the price actually paid.

Article 7

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 January 2001.

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

Done at Brussels, 27 December 2000.

For the Commission

Franz FISCHLER

Member of the Commission

**COMMISSION REGULATION (EC) No 2860/2000
of 27 December 2000**

amending Regulation (EC) No 2316/1999 laying down detailed rules for the application of Council Regulation (EC) No 1251/1999 establishing a support system for producers of certain arable crops, to include flax and hemp grown for fibre, specifying the rules on set-aside areas and amending the base areas for Greece and Portugal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1251/1999 of 17 May 1999 establishing a support system for producers of certain arable crops ⁽¹⁾, as amended by Regulation (EC) No 1672/2000 ⁽²⁾, and in particular Articles 9 and 12 thereof,

Whereas:

- (1) Regulation (EC) No 1672/2000 included flax and hemp grown for fibre in the support system for producers of certain arable crops established by Regulation (EC) No 1251/1999. Commission Regulation (EC) No 2316/1999 ⁽³⁾, as amended by Regulation (EC) No 1454/2000 ⁽⁴⁾, lays down detailed rules for the application of Regulation (EC) No 1251/1999 with respect to the conditions for granting area payments for certain arable crops. Regulation (EC) No 2316/1999 should therefore be amended to take into account the inclusion of flax and hemp.
- (2) Article 5a of Regulation (EC) No 1251/1999 lays down, on the one hand, that the tetrahydrocannabinol content of varieties used must not exceed 0,2 % and, on the other hand, that the Member States are to establish a system for verifying the tetrahydrocannabinol content of the hemp grown. To enable such checks to be implemented, special measures should be laid down in particular with respect to the continued cultivation of hemp until a certain date.
- (3) Article 5a subjects the area payment for flax and hemp grown for fibre to the conclusion of a contract or to a commitment as referred to in Article 2(1) of Council Regulation (EC) No 1673/2000 of 27 July 2000 on the common organisation of the markets in flax and hemp grown for fibre ⁽⁵⁾. Provision should be made for a copy of the contract or the commitment to be sent to the competent authorities of the Member responsible for the administration of payment applications.
- (4) It must be ensured that the varieties of flax and hemp grown for fibre are those listed in the Common Catalogue of Varieties of Agricultural Plant Species as fibre

plants and, in the case of flax in particular, as 'fibre flax'. Moreover, in the case of hemp, the tetrahydrocannabinol content of the authorised varieties may not exceed 0,2 %. A list of eligible varieties should therefore be drawn up. In the case of hemp, to facilitate the transition from the arrangements in force to those established by Regulation (EC) No 1251/1999, a list should also be drawn up of varieties of hemp temporarily authorised for the 2001/02 marketing year which must be subject to further analyses during that marketing year. To provide firmer guarantees in the case of hemp, the use of certified seed should also be required.

- (5) To allow checks on the seed used, the labels contained on packaging or, in the case of flax, any other equivalent document, should be transmitted to the competent authorities of the Member State.
- (6) To reinforce administrative checks on hemp, additional information should be requested and given in the 'area' aid applications as referred to in Article 4 of Commission Regulation (EEC) No 3887/92 of 23 December 1992 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes ⁽⁶⁾ as last amended by Regulation (EC) No 2801/1999 ⁽⁷⁾.
- (7) In accordance with the eighth indent of the first subparagraph of Article 9 of Regulation (EC) No 1251/1999, the method for determining tetrahydrocannabinol levels of hemp grown for fibre must be laid down and provision must be made for the results of analyses carried out in accordance with this method to be communicated to the Commission.
- (8) Article 5a(2) lays down that Member States shall check at least 30 % of the areas of hemp grown for fibre for which area payment applications have been made, and at least 20 % of areas if a Member State introduces a system of prior approval for such cultivation. The exact requirements relating to these checks should be specified.
- (9) Annex X to Regulation (EC) No 2316/1999 fixes 15 June as the latest date for sowing in specific cases. Since hemp is sometimes sown up to 15 June, hemp grown for fibre should be added to this Annex.

⁽¹⁾ OJ L 160, 26.6.1999, p. 1.

⁽²⁾ OJ L 193, 29.7.2000, p. 13.

⁽³⁾ OJ L 280, 30.10.1999, p. 43.

⁽⁴⁾ OJ L 163, 4.7.2000, p. 28.

⁽⁵⁾ OJ L 193, 29.7.2000, p. 16.

⁽⁶⁾ OJ L 391, 31.12.1992, p. 36.

⁽⁷⁾ OJ L 340, 31.12.1999, p. 29.

- (10) Regulation (EC) No 2316/1999 lays down that the minimum size of set-aside land may be reduced for environmental reasons. Provision should also be made for the possibility of adapting the minimum area of set-aside land as a result.
- (11) Under Council Regulation (EC) No 1017/94 of 26 April 1994 concerning the conversion of land currently under arable crops to extensive livestock farming in Portugal ⁽¹⁾, as amended by Regulation (EC) No 1461/95 ⁽²⁾, applications have been submitted for conversion of an area equivalent to 7 052 hectares. The base area given in Annex VI to Regulation (EC) No 2316/1999 should therefore be amended.
- (12) In response to an application by Greece, new base areas should be fixed in accordance with the Greek regionalisation plan without altering the total base area.
- (13) 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

Regulation (EC) No 2316/1999 is hereby amended as follows:

1. Article 3(1)(c) is replaced by the following:

- '(c) on which the crop is maintained until at least the beginning of flowering under conditions of normal growth in accordance with local standards. Crops of oilseeds, protein plants, linseed, fibre flax and durum wheat must also be cultivated under conditions of normal growth in accordance with local standards at least until 30 June prior to the marketing year in question, unless they are harvested at full maturity before that date. Protein plants may not be harvested until after the stage of lactic ripeness. In the case of hemp grown for fibre, to allow implementation of the checks provided for in Article 5a(2) of Regulation (EC) No 1251/1999, crops must also be cultivated under conditions of normal growth in accordance with local standards at least 10 days after the end of flowering. However, Member States may authorise the harvesting of hemp grown for fibre after the beginning of flowering but within 10 days of the end of flowering if the producer concerned has already been subject to the

checks provided for in Article 5a of Regulation (EC) No 1251/1999 or if all the checks required under Article 5a(2) of Regulation (EC) No 1251/1999 have been carried out.'

2. The following Article 7a is inserted:

'Article 7a

1. For the purposes of Article 5a(1) of Regulation (EC) No 1251/1999, the area payment for flax and hemp grown for fibre is subject to:

- (a) the submission of a copy of the contract or commitment referred to in Article 2(1) of Council Regulation (EC) No 1673/2000 (*) by 15 September at the latest after lodging the payment application referred to in Article 8(2) of Regulation (EC) No 1251/1999 or by an earlier date laid down by the Member State; and
- (b) the use of seed of the varieties listed in Annex XII on 15 May preceding the year in respect of which the area payment application is made. In the case of hemp grown for fibre, the seed must also be certified in accordance with Council Directive 69/208/EEC (**).

2. To allow checks on the fibre flax seed and certified seed of hemp grown for fibre used, the "area" aid application referred to in Article 4 of Regulation (EEC) No 3887/92 must be accompanied by the official labels introduced by Directive 69/208/EEC and in particular Article 10 thereof, or provisions adopted on the basis of that Article, on the packaging of the seed used or, in the case of flax grown for fibre, any other document recognised as equivalent by the Member State concerned, including the certification provided for in Article 14 of that Directive. Where sowing takes place after the deadline for submitting "area" aid applications, the labels or documents recognised as equivalent shall be submitted by 30 June at the latest following the submission of the application.

Where labels for seed of hemp grown for fibre also have to be submitted to other national authorities, the Member States may provide for those labels to be returned to the farmer once they have been submitted to the authorities responsible for "area" aid applications.

3. For the purposes of granting the area payment for hemp grown for fibre, the "area" aid application referred to in Article 4 of Commission Regulation (EEC) No 3887/92 must contain:

- (a) all information required for identifying parcels sown to hemp for each variety of hemp sown; and

⁽¹⁾ OJ L 112, 3.5.1994, p. 2.

⁽²⁾ OJ L 144, 28.6.1995, p. 4.

- (b) information on the quantities of seed used (kg per hectare).

The Member States may fix the minimum sowing rate compatible with good hemp-growing practice. This information shall be sent to the Commission by 15 May 2001 at the latest.

(*) OJ L 193, 29.7.2000, p. 16.

(**) OJ L 169, 10.7.1969, p. 3.

3. The following Article 7b is inserted:

'Article 7b

1. For the purposes of Article 5a(2) of Regulation (EC) No 1251/1999, the method to be used by the competent authorities of the Member State for determining tetrahydrocannabinol (THC) levels on a percentage of areas under hemp grown for fibre for which payment applications have been made is described in Annex XIII.

The Member States shall send the Commission, by 15 November of the marketing year in question at the latest a report on the THC content findings. The report shall indicate, for each variety:

- (a) for procedure A, indication of the point at which the sample was taken;
- (b) the number of tests carried out;
- (c) the results in terms of THC content, shown separately for each 0,1 %,
- (d) measures taken at national level.

Where the checks show, for a significant number of samples of a given variety, THC contents exceeding that laid down in the second subparagraph of Article 5a(1) of Regulation (EC) No 1251/1999, the Commission may, without prejudice to any other measures it might take, decide in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92 to use procedure B for the variety concerned in the course of the following marketing year.

The varieties of hemp grown for fibre listed in point 2(b) of Annex XII to this Regulation shall be subject to

procedure B during the 2001/02 marketing year in all Member States growing those varieties.

2. Checks on the THC content of the crops grown on at least 30 % of the areas of hemp grown for fibre for which area aid applications have been made must cover at least 30 % of the applications in question and all the varieties of seed used.

Member States shall notify the Commission, by 15 May 2001 at the latest, of the detailed rules and conditions linked to the system of prior approval of crops allowing the minimum percentage of areas of hemp grown for fibre for which area applications have been made on which the THC content is to be checked to be reduced from 30 % to 20 %. Any amendment of these detailed rules or conditions must be notified to the Commission. Where such a system is applied, checks must cover at least 20 % of the applications in question and all the varieties of seed used.

3. Applications to include a variety of hemp on the list given in Annex XII must be accompanied by a report giving the findings of analyses carried out in accordance with procedure B of the method described in Annex XIII and a description of the variety in question.'

4. The following sentence is added to the second subparagraph of Article 19(1)(c):

'In this case, the minimum area referred to in the above subparagraph may be 0.1 ha.'

- 5. Annex VI is replaced by Annex I to this Regulation.
- 6. Annex VII is replaced by Annex II to this Regulation.
- 7. Annex X is replaced by Annex III to this Regulation.
- 8. Annex XI is replaced by Annex IV to this Regulation.
- 9. A new Annex XII is inserted, containing the text shown at Annex V to this Regulation.
- 10. A new Annex XIII is inserted, containing the text shown at Annex VI to this Regulation.

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 from the 2001/02 marketing year.

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

Done at Brussels, 27 December 2000.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

ANNEX VI

(Article 8)

BASE AREAS

(1 000 ha)

Region	All crops	of which maize	of which silage grass
BELGIUM			
Total	489,5		
Zone I		97,0	
DENMARK	2 018,6		
GERMANY	10 159,4 ⁽³⁾	540,3 ⁽³⁾	
Schleswig-Holstein	506,2		
Hamburg	5,1		
Niedersachsen	1 424,7		
Bremen	1,8		
Nordrhein-Westfalen	948,5		
Rheinland-Pfalz	368,6		
Hessen	461,4		
Baden-Württemberg	735,5	122,1	
Bayern	1 776,0	418,2	
Saarland	36,6		
Berlin	2,9		
Brandenburg	889,6		
Mecklenburg-Vorpommern	968,2		
Sachsen	599,0		
Sachsen-Anhalt	880,9		
Thüringen	554,4		
GREECE	1 491,7	222,1	
SPAIN			
Regadío	1 371,1	403,4	
Secano	7 849,0		
FRANCE			
Total	13 582,1		
Base area for maize		613,8 ⁽²⁾	
Irrigated base area	1 209,7 ⁽²⁾		
IRELAND	345,6	0,2	
ITALY	5 801,2	1 200,0	

(1 000 ha)			
Region	All crops	of which maize	of which silage grass
LUXEMBOURG	42,8		
NETHERLANDS			
Regio I	226,5	44,4	
Regio II	215,2	163,9	
AUSTRIA	1 203,5		
PORTUGAL			
Açores	9,7		
Madeira			
— Regadio	0,31	0,29	
— Other	0,30		
Continental			
— Regadio	293,4	221,4	
— Other	704,1		
FINLAND	1 591,5		200,0
SWEDEN	1 737,1		130,0
UNITED KINGDOM			
England	3 794,6	33,2 ⁽¹⁾	
Scotland	551,6		
Northern Ireland	52,9	1,2 ⁽¹⁾	
Wales	61,4		

⁽¹⁾ With the exception of sweetcorn.

⁽²⁾ Including 284 000 ha irrigated maize.

⁽³⁾ Where Article 2(6) of Regulation (EC) No 1251/1999 is applied.'

ANNEX II

'ANNEX VII

(Article 10(4))

CALCULATION OF OVERRUN ON BASE AREA ON/.../....

Member State:		Product:	All crops	
Base area:			Irrigated	
Set-aside rate:			Non-irrigated	
			Maize	
			Other than maize	
			Silage grass	

Area actually found

small producers in accordance with Article 6(7) of Regulation (EC) No 1251/1999

Cereals	1		ha
Oilseeds	2		ha
Protein plants	3		ha
Linseed	4		ha
Flax grown for fibre	5		ha
Hemp grown for fibre	6		ha
Silage grass	7		ha
Voluntary set-aside	8		ha
TOTAL = 1 + 2 + 3 + 4 + 5 + 6 + 7 + 8	9		ha

other producers

Cereals	10		ha
Oilseeds	11		ha
Protein plants	12		ha
Linseed	13		ha
Flax grown for fibre	14		ha
Hemp grown for fibre	15		ha
Silage grass	16		ha
Total crops = 10 + 11 + 12 + 13 + 14 + 15 + 16	17		ha
Voluntary set-aside	18		ha
Compulsory set-aside	19		ha
Total set-aside = 18 + 19	20		ha
Total (crops + set-aside) = 17 + 20	21		ha

forage (cattle-sheep)

Total for products concerned 22 ha

Total for applications = 9 + 21 + 22 23 ha

BASE AREA 24 ha

Any balance from another base area 25 ha

Base area applicable = 24 + 25 26 ha

Overrun or deficit 27 ha

Overrun as percentage = (23/26 - 1) 28 %

ANNEX III

'ANNEX X

(Article 24, first paragraph)

Latest date for sowing: 15 June

Crop	Member State	Region
All crops	Finland	Whole territory
	Sweden	Whole territory
Sweetcorn Hemp grown for fibre	All Member States	Whole territory'

ANNEX IV

‘ANNEX XI

(Article 26(1))

INFORMATION TO BE COMMUNICATED TO THE COMMISSION

The information is to be presented in the form of a series of tables drawn up in accordance with the model described below:

- a first set of tables giving information at production region level within the meaning of Article 3 of Regulation (EC) No 1251/1999,
- a second set of tables giving information in respect of each base area region within the meaning of Annex VI to this Regulation,
- a single table containing a summary of the information for each Member State.

The tables are to be sent both as hard copy and in computerised form.

Formulae for areas: $5 = 1 + 2 + 3 + 4$

$$10 = 7 + 8 + 9$$

$$16 = 17 + 18$$

$$21 = 5 + 10 + 11 + 12 + 13 + 14 + 15 + 16 + 20$$

Notes:

Each table must quote the region in question.

The yield is that used for calculating area payments in accordance with Regulation (EC) No 1251/1999.

The distinction between “non-irrigated” and “irrigated” land should be made only in the case of regions containing both. In that case:

$$d = e + f$$

$$j = k + l$$

Line 1 relates only to durum wheat eligible for the supplement to the area payment provided for in Article 5(1) of Regulation (EC) No 1251/1999.

Line 2 relates only to durum wheat eligible for the special aid referred to in Article 5(4) of Regulation (EC) No 1251/1999.

Line 19 relates only to areas set aside or afforested under Articles 22, 23, 24 and 31 of Regulation (EC) No 1257/1999 and counting as arable land set aside under Article 6(8) of Regulation (EC) No 1251/1999.

Line 20 corresponds to the areas referred to in the second indent of Article 2(4) of Regulation (EC) No 1251/1999.

Information must also be forwarded in respect of producers not applying for the per hectare aid under the support system for certain arable crops (Regulation (EC) No 1251/1999). This information, to be given under “Other” in columns “m” and “n”, mainly relates to arable crops declared as fodder area for beef and sheepmeat premiums.

Line 23 concerns land set aside for the production of non-food crops and not qualifying for payments under the rules implementing Article 6(3) of Regulation (EC) No 1251/1999 (e.g. sugarbeet, Jerusalem artichokes and chicory roots).’

TABLE OF INFORMATION

Name of region:

Date:

Crop	No	Application > 92 tonnes						Application ≤ 92 tonnes						Other	
		Total number of applications =						Total number of applications =						Total number of applications =	
		Yield (t/ha)			Area (ha)			Yield (t/ha)			Area (ha)			Yield (t/ha)	Area (ha)
		Total	non-irrigated	irrigated	Total	non-irrigated	irrigated	Total	non-irrigated	irrigated	Total	non-irrigated	irrigated	Total	Total
		(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)
Durum wheat (Article 5(1))	1														
Durum wheat (Article 5(4))	2														
Maize (separate base area)	3														
Other cereals	4														
Total cereals	5														
of which silage	6														
Soya beans	7														
Colza/rapeseed	8														
Sunflower	9														
Total oilseeds	10														
Total protein plants	11														
Total linseed	12														
Total flax grown for fibre	13														
Total hemp grown for fibre	14														
Silage grass	15														
Total set-aside (Article 6)	16														
of which compulsory set-aside	17														
of which voluntary set-aside (Article 6(5))	18														
of which set-aside not paid under Article 6(8)	19														
Arable crops declared as fodder areas for premiums for bovine animals and sheep	20														
Total	21														
Non-food set aside	22														
of which non-paid	23														

ANNEX V

'ANNEX XII

(Article 7a(1))

VARIETIES OF FLAX AND HEMP GROWN FOR FIBRE ELIGIBLE FOR THE SUPPORT SYSTEM

1. **Flax grown for fibre**

Agatha
Angelin
Argos
Ariane
Aurore
Belinka
Diane
Diva
Electra
Elise
Escalina
Evelin
Exel
Hermes
Ilona
Laura
Liflax
Liviola
Marina
Marylin
Nike
Opaline
Venus
Veralin
Viking
Viola

2a. **Hemp grown for fibre**

Carmagnola
Cs
Dioica 88
Epsilon 68
Fedora 17
Fédrina 74
Felina 32
Felina 34 — Félina 34
Ferimon — Férimon
Fibranova
Fibrimon 24
Fibrimon 56
Futura
Futura 75
Santhica 23

2b. Hemp grown for fibre authorised in the 2001/02 marketing year

Beniko

Bialobrzeskie

Delta-405

Fasamo

Fedora 19

Juso 14

Kompolti

Uso 31'

ANNEX VI

'ANNEX XIII

(Article 7b(1))

COMMUNITY METHOD FOR THE QUANTITATIVE DETERMINATION OF Δ^9 -THC (TETRAHYDRO-CANNABINOL) CONTENT IN HEMP VARIETIES**1. Scope and area of application**

This method seeks to determine the Δ^9 -tetrahydrocannabinol (THC) content of varieties of hemp (*Cannabis sativa* L.). As appropriate, the method involves applying procedure A or B herein described.

The method is based on the quantitative determination of Δ^9 -THC by gas chromatography (GC) after extraction with a suitable solvent.

1.1. Procedure A

Procedure A is used for checks on production as provided for in Article 5a(2) of Regulation (EC) No 1251/1999.

1.2. Procedure B

Procedure B is used in cases as referred to in the third subparagraph of Article 7b(1) of this Regulation and for checking that the conditions laid down in the second subparagraph of Article 5a(1) of Regulation (EC) No 1251/1999 are fulfilled with a view to inclusion on the list of varieties of hemp eligible for aid from the 2001/02 marketing year.

2. Sampling**2.1. Samples**

- Procedure A: in a standing crop of a given variety of hemp, take a 30 cm part containing at least one female inflorescence of each plant selected. Sampling is to be carried out during the period running from 20 days after the start of flowering to 10 days after the end of flowering, during the day, following a systematic pattern to ensure that the sample is representative of the field but excluding the edges of the crop. Member States may authorise sampling to be carried out during the period from the start of flowering to 20 days after the start of flowering provided that, for each variety grown, other representative samples are taken in accordance with the above rules during the period from 20 days after the start of flowering to 10 days after the end of flowering;
- Procedure B: in a standing crop of a given variety of hemp, take the upper third of each plant selected. Sampling is to be carried out during the 10 days following the end of flowering, during the day, following a systematic pattern to ensure that the sample is representative of the field but excluding the edges of the crop. In the case of dioecious varieties, only female plants must be taken.

2.2. Sample size

- Procedure A: the sample is to comprise parts of 50 plants per field;
- Procedure B: the sample is to comprise parts of 200 plants per field.

Each sample is to be placed in a fabric or paper bag, without crushing it, and sent to the laboratory for analysis.

The Member State may provide for a second sample to be collected for counteranalysis, if required, to be kept either by the producer or by the body responsible for the analysis.

2.3. Drying and storage of the sample

Drying of the samples must begin as soon as possible and, in any case, within 48 hours using any method below 70 °C. Samples should be dried to a constant weight and to a moisture content of between 8 % and 13 %.

After drying, store the samples without crushing them at below 25 °C in a dark place.

3. Determination of THC content**3.1. Preparation of the test sample**

Remove stems and seeds over 2 mm in size from the dried samples.

Grind the dried samples to obtain a semi-fine powder (passing through a 1 mm mesh sieve).

The powder may be stored for 10 weeks at below 25 °C in a dark, dry place.

3.2. Reagents and extraction solution

Reagents

- Δ^9 -tetrahydrocannabinol, pure for chromatographic purposes,
- Squalane, pure for chromatographic purposes, as an internal standard.

Extraction solution

- 35 mg of squalane per 100 ml hexane.

3.3. Extraction of Δ^9 -THC

Weigh 100 mg of the powdered test sample, place in a centrifuge tube and add 5 ml of extraction solution containing the internal standard.

Place in an ultrasound bath and leave for 20 minutes. Centrifuge for five minutes at 3 000 r.p.m. and then remove the supernatant THC solution. Inject the solution into the chromatograph and carry out a quantitative analysis.

3.4. Gas chromatography

(a) Apparatus

- gas chromatograph with a flame ionisation detector and a split/splitless injector,
- column allowing good separation of cannabinoids, for example a glass capillary column 25-m long and 0,22 mm in diameter impregnated with a 5 % non-polar phenyl-methyl-siloxane phase.

(b) Calibration ranges

At least three points for procedure A and five points for procedure B, including points 0,04 and 0,50 mg/ml Δ^9 -THC in extraction solution.

(c) Experimental conditions

The following conditions are given as an example for the column referred to in (a):

- oven temperature: 260 °C
- injector temperature: 300 °C
- detector temperature: 300 °C.

(d) Volume injected: 1 μ l.

4. Results

The findings are to be expressed to two decimal places in grams of Δ^9 -THC per 100 grams of analytical sample dried to constant weight. A tolerance of 0,03 g per 100 g applies.

- Procedure A: one determination per test sample.

However, where the result obtained is above the limit laid down in the second subparagraph of Article 5a(1) of Regulation (EEC) No 1251/1999, a second determination must be carried out per analysis sample and the mean value of the two determinations will be taken as the result.

- Procedure B: the result corresponds to the mean value of two determinations per test sample.'
-

**COMMISSION REGULATION (EC) No 2861/2000
of 27 December 2000**

fixing Community producer and import prices for carnations and roses with a view to the application of the arrangements governing imports of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

Pursuant to Article 2 (2) and Article 3 of abovementioned Regulation (EEC) No 4088/87, Community import and producer prices are fixed each fortnight for uniflorous (bloom) carnations, multiflorous (spray) carnations, large-flowered roses and small-flowered roses and apply for two-weekly periods. Pursuant to Article 1b of Commission Regulation (EEC) No 700/88 of 17 March 1988 laying down detailed rules for the application of the arrangements for the import into the Community of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip ⁽³⁾, as last amended by Regulation (EC) No 2062/

97 ⁽⁴⁾, those prices are determined for fortnightly periods on the basis of weighted prices provided by the Member States. Those prices should be fixed immediately so the customs duties applicable can be determined. Whereas, to that end, provision should be made for this Regulation to enter into force immediately,

HAS ADOPTED THIS REGULATION:

Article 1

The Community producer and import prices for uniflorous (bloom) carnations, multiflorous (spray) carnations, large-flowered roses and small-flowered roses as referred to in Article 1b of Regulation (EEC) No 700/88 for a fortnightly period shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 28 December 2000.

It shall apply from 27 December 2000 to 9 January 2001.

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

Done at Brussels, 27 December 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 382, 31.12.1987, p. 22.

⁽²⁾ OJ L 177, 5.7.1997, p. 1.

⁽³⁾ OJ L 72, 18.3.1988, p. 16.

⁽⁴⁾ OJ L 289, 22.10.1997, p. 1.

ANNEX

to the Commission Regulation of 27 December 2000 fixing Community producer and import prices for carnations and roses with a view to the application of the arrangements governing imports of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip

(EUR/100 pieces)

Period: from 27 December 2000 to 9 January 2001

Community producer price	Uniflorous (bloom) carnations	Multiflorous (spray) carnations	Large-flowered roses	Small-flowered roses
	13,98	11,67	61,54	22,72
Community import prices	Uniflorous (bloom) carnations	Multiflorous (spray) carnations	Large-flowered roses	Small-flowered roses
Israel	16,19	6,21	19,66	18,33
Morocco	19,64	17,88	—	27,23
Cyprus	—	—	—	—
Jordan	—	—	—	—
West Bank and Gaza Strip	—	—	—	—

COMMISSION REGULATION (EC) No 2862/2000
of 27 December 2000
amending the import duties in the rice sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Regulation (EC) No 1667/2000 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1503/96 of 29 July 1996 laying down detailed rules for the application of Council Regulation (EC) No 3072/95 as regards import duties in the rice sector ⁽³⁾, as last amended by Regulation (EC) No 2831/98 ⁽⁴⁾, and in particular Article 4(1) thereof,

Whereas:

- (1) Import duties in the rice sector have been fixed by Commission Regulation (EC) No 2797/2000 ⁽⁵⁾.

- (2) Article 4(1) of Regulation (EC) No 1503/96 provides that if during the period of application, the average import duty calculated differs by EUR 10 per tonne from the duty fixed, a corresponding adjustment is to be made. Such a difference has arisen. It is therefore necessary to adjust the import duties fixed in Regulation (EC) No 2797/2000,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and II to Regulation (EC) No 2797/2000 are hereby replaced by Annexes I and II to this Regulation.

Article 2

This Regulation shall enter into force on 28 December 2000.

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

Done at Brussels, 27 December 2000.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 193, 29.7.2000, p. 3.

⁽³⁾ OJ L 189, 30.7.1996, p. 71.

⁽⁴⁾ OJ L 351, 29.12.1998, p. 25.

⁽⁵⁾ OJ L 324, 21.12.2000, p. 27.

ANNEX I

Import duties on rice and broken rice

(EUR/t)

CN code	Duties ⁽⁷⁾				
	Third countries (except ACP and Bangladesh) ⁽⁷⁾	ACP ⁽¹⁾ ⁽²⁾ ⁽³⁾	Bangladesh ⁽⁴⁾	Basmati India and Pakistan ⁽⁶⁾	Egypt ⁽⁸⁾
1006 10 21	(7)	69,51	101,16		158,25
1006 10 23	(7)	69,51	101,16		158,25
1006 10 25	(7)	69,51	101,16		158,25
1006 10 27	(7)	69,51	101,16		158,25
1006 10 92	(7)	69,51	101,16		158,25
1006 10 94	(7)	69,51	101,16		158,25
1006 10 96	(7)	69,51	101,16		158,25
1006 10 98	(7)	69,51	101,16		158,25
1006 20 11	264,00	88,06	127,66		198,00
1006 20 13	264,00	88,06	127,66		198,00
1006 20 15	264,00	88,06	127,66		198,00
1006 20 17	218,83	72,25	105,08	0,00	164,12
1006 20 92	264,00	88,06	127,66		198,00
1006 20 94	264,00	88,06	127,66		198,00
1006 20 96	264,00	88,06	127,66		198,00
1006 20 98	218,83	72,25	105,08	0,00	164,12
1006 30 21	(7)	133,21	193,09		312,00
1006 30 23	(7)	133,21	193,09		312,00
1006 30 25	(7)	133,21	193,09		312,00
1006 30 27	(7)	133,21	193,09		312,00
1006 30 42	(7)	133,21	193,09		312,00
1006 30 44	(7)	133,21	193,09		312,00
1006 30 46	(7)	133,21	193,09		312,00
1006 30 48	(7)	133,21	193,09		312,00
1006 30 61	(7)	133,21	193,09		312,00
1006 30 63	(7)	133,21	193,09		312,00
1006 30 65	(7)	133,21	193,09		312,00
1006 30 67	(7)	133,21	193,09		312,00
1006 30 92	(7)	133,21	193,09		312,00
1006 30 94	(7)	133,21	193,09		312,00
1006 30 96	(7)	133,21	193,09		312,00
1006 30 98	(7)	133,21	193,09		312,00
1006 40 00	(7)	41,18	(7)		96,00

⁽¹⁾ The duty on imports of rice originating in the ACP States is applicable, under the arrangements laid down in Council Regulation (EC) No 1706/98 (OJ L 215, 1.8.1998, p. 12) and amended Commission Regulation (EC) No 2603/97 (OJ L 351, 23.12.1997, p. 22).

⁽²⁾ In accordance with Regulation (EC) No 1706/98, the duties are not applied to products originating in the African, Caribbean and Pacific States and imported directly into the overseas department of Réunion.

⁽³⁾ The import levy on rice entering the overseas department of Réunion is specified in Article 11(3) of Regulation (EC) No 3072/95.

⁽⁴⁾ The duty on imports of rice not including broken rice (CN code 1006 40 00), originating in Bangladesh is applicable under the arrangements laid down in Council Regulation (EEC) No 3491/90 (OJ L 337, 4.12.1990, p. 1) and amended Commission Regulation (EEC) No 862/91 (OJ L 88, 9.4.1991, p. 7).

⁽⁵⁾ No import duty applies to products originating in the OCT pursuant to Article 101(1) of amended Council Decision 91/482/EEC (OJ L 263, 19.9.1991, p. 1).

⁽⁶⁾ For husked rice of the Basmati variety originating in India and Pakistan, a reduction of EUR/t 250 applies (Article 4a of amended Regulation (EC) No 1503/96).

⁽⁷⁾ Duties fixed in the Common Customs Tariff.

⁽⁸⁾ The duty on imports of rice originating in and coming from Egypt is applicable under the arrangements laid down in Council Regulation (EC) No 2184/96 (OJ L 292, 15.11.1996, p. 1) and Commission Regulation (EC) No 196/97 (OJ L 31, 1.2.1997, p. 53).

ANNEX II

Calculation of import duties for rice

	Paddy	Indica rice		Japonica rice		Broken rice
		Husked	Milled	Husked	Milled	
1. Import duty (EUR/tonne)	(¹)	218,83	416,00	264,00	416,00	(¹)
2. Elements of calculation:						
(a) Arag cif price (EUR/tonne)	—	318,20	259,18	252,42	298,63	—
(b) fob price (EUR/tonne)	—	—	—	220,20	266,41	—
(c) Sea freight (EUR/tonne)	—	—	—	32,22	32,22	—
(d) Source	—	USDA and operators	USDA and operators	Operators	Operators	—

(¹) Duties fixed in the Common Customs Tariff.

DIRECTIVE 2000/59/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 27 November 2000
on port reception facilities for ship-generated waste and cargo residues

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

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

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

Having regard to the Opinion of the Committee of the Regions ⁽³⁾,

Acting in accordance with the procedure referred to in Article 251 of the Treaty ⁽⁴⁾, and in the light of the joint text approved by the Conciliation Committee on 18 July 2000,

Whereas:

- (1) Community policy on the environment aims at a high level of protection. It is based on the precautionary principle and the principles that the polluter should pay and that preventive action should be taken.
- (2) One important field of Community action in maritime transport concerns the reduction of the pollution of the seas. This can be achieved through compliance with international conventions, codes and resolutions while maintaining the freedom of navigation as provided for by the United Nations Convention on the Law of the Sea and the freedom of providing services as provided for in Community law.
- (3) The Community is seriously concerned about the pollution of the seas and coastlines of the Member States caused by discharges of waste and cargo residues from ships, and in particular about the implementation of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (Marpol 73/78) which regulates what wastes can be discharged from ships into the marine environment and requires States Parties to ensure the provision of adequate reception facilities in ports. All Member States have ratified Marpol 73/78.
- (4) The protection of the marine environment can be enhanced by reducing discharges into the sea of ship-generated waste and cargo residues. This can be achieved

by improving the availability and use of reception facilities and by improving the enforcement regime. In its Resolution of 8 June 1993 on a common policy on safe seas ⁽⁵⁾, the Council included among its priority actions the development of availability and use of reception facilities within the Community.

- (5) Council Directive 95/21/EC of 19 June 1995 concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and ship-board living and working conditions (port State control) ⁽⁶⁾ provides that ships posing an unreasonable threat of harm to the marine environment may not proceed to sea.
- (6) Pollution of the seas by its very nature has transboundary implications. In view of the subsidiarity principle, action at Community level is the most effective way of ensuring common environmental standards for ships and ports throughout the Community.
- (7) In view of the proportionality principle, a Directive is the appropriate legal instrument, as it provides a framework for the Member States' uniform and compulsory application of environmental standards, while leaving each Member State the right to decide which implementation tools best fit its internal system.
- (8) Consistency with existing regional agreements, such as the 1974/1992 Convention on the Protection of the Marine Environment in the Baltic Sea Area, should be ensured.
- (9) In the interest of improving pollution prevention and avoiding distortion of competition, the environmental requirements should apply to all ships, irrespective of the flag they fly, and adequate reception facilities should be made available in all ports of the Community.
- (10) Adequate port reception facilities should meet the needs of users, from the largest merchant ship to the smallest recreational craft, and of the environment, without causing undue delay to the ships using them. The obligation to ensure the availability of adequate port reception facilities leaves the Member States with a high degree of freedom to arrange the reception of waste in the most suitable manner and permits them, *inter alia*, to provide fixed reception installations or to appoint service

⁽¹⁾ OJ C 271, 31.8.1998, p. 79 and

OJ C 148, 28.5.1999, p. 7.

⁽²⁾ OJ C 138, 18.5.1999, p. 12.

⁽³⁾ OJ C 198, 14.7.1999, p. 27.

⁽⁴⁾ Opinion of the European Parliament of 11 February 1999 (OJ C 150, 28.5.1999, p. 432), confirmed on 16 September 1999, Council Common Position of 8 November 1999 (OJ C 10, 13.1.2000, p. 14) and Decision of the European Parliament of 14 March 2000 (not yet published in the Official Journal). Decision of the European Parliament of 6 September 2000 and Decision of the Council of 14 September 2000.

⁽⁵⁾ OJ C 271, 7.10.1993, p. 1.

⁽⁶⁾ OJ L 157, 7.7.1995, p. 1. Directive as last amended by Directive 98/42/EC (OJ L 184, 27.6.1998, p. 40).

providers bringing to the ports mobile units for the reception of waste when needed. This obligation also implies the obligation to provide all services and/or other accompanying arrangements necessary for the proper and adequate use of these facilities.

- (11) Adequacy of facilities can be improved by up-to-date waste reception and handling plans established in consultation with the relevant parties.
- (12) The effectiveness of port reception facilities can be improved by requiring ships to notify their need to use reception facilities. Such notification would also provide information for effectively planned waste management. Waste from fishing vessels and from recreational craft authorised to carry no more than 12 passengers may be handled by the port reception facilities without prior notification.
- (13) Discharges of ship-generated waste at sea can be reduced by requiring all ships to deliver their waste to port reception facilities before leaving the port. In order to reconcile the interest of the smooth operation of maritime transport with the protection of the environment, exceptions to this requirement should be possible taking into account the sufficiency of the dedicated storage capacity on board, the possibility to deliver at another port without risk of discharge at sea and specific delivery requirements adopted in accordance with international law.
- (14) In view of the 'polluter pays' principle, the costs of port reception facilities, including the treatment and disposal of ship-generated waste, should be covered by ships. In the interest of protecting the environment, the fee system should encourage the delivery of ship-generated waste to ports instead of discharge into the sea. This can be facilitated by providing that all ships contribute to the costs for the reception and handling of ship-generated waste so as to reduce the economic incentives to discharge into the sea. In view of the subsidiarity principle, Member States should, in accordance with their national laws and current practices, retain the powers to establish whether and in what proportion the fees related to quantities actually delivered by the ships will be included in the cost recovery systems for using port reception facilities. Charges for using these facilities should be fair, non-discriminatory and transparent.
- (15) Ships producing reduced quantities of ship-generated waste should be treated more favourably in the cost recovery systems. Common criteria would facilitate the identification of such ships.
- (16) In order to avoid undue burden for the parties concerned, ships engaged in scheduled traffic with frequent and regular port calls may be exempted from certain obligations deriving from this Directive where there is sufficient evidence that there are arrangements

to ensure the delivery of the waste and the payment of fees.

- (17) Cargo residues should be delivered to port reception facilities in accordance with Marpol 73/78. Marpol 73/78 requires cargo residues to be delivered to port reception facilities to the extent necessary to comply with the tank cleaning requirements. Any fee for such delivery should be paid by the user of the reception facility, the user being normally specified in the contractual arrangements between the parties involved or in other local arrangements.
- (18) It is necessary to undertake targeted inspections in order to verify compliance with this Directive. The number of such inspections, as well as the penalties imposed, should be sufficient to deter non-compliance with this Directive. For reasons of efficiency and cost-effectiveness, such inspections may be undertaken within the framework of Directive 95/21/EC, when applicable.
- (19) Member States should ensure a proper administrative framework for the adequate functioning of the port reception facilities. Under Marpol 73/78, allegations of inadequate port reception facilities should be transmitted to the International Maritime Organisation (IMO). The same information could be simultaneously transmitted to the Commission for information purposes.
- (20) An information system for the identification of polluting or potentially polluting ships would facilitate the enforcement of this Directive and would be helpful in evaluating the implementation thereof. The SIRENAC information system established under the Paris Memorandum of Understanding on Port State Control provides a large amount of the additional information needed for that purpose.
- (21) It is necessary that a Committee consisting of representatives of the Member States assist the Commission in the effective application of this Directive. Since the measures necessary for implementing this Directive are measures of a general scope within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽¹⁾, such measures should be adopted in accordance with the regulatory procedure provided for in Article 5 of that Decision.
- (22) Certain provisions of this Directive may, without broadening its scope, be amended in accordance with that procedure in order to take into account Community or IMO measures which enter into force in the future so as to ensure their harmonised implementation,

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Purpose

The purpose of this Directive is to reduce the discharges of ship-generated waste and cargo residues into the sea, especially illegal discharges, from ships using ports in the Community, by improving the availability and use of port reception facilities for ship-generated waste and cargo residues, thereby enhancing the protection of the marine environment.

Article 2

Definitions

For the purpose of this Directive:

- (a) 'ship' shall mean a seagoing vessel of any type whatsoever operating in the marine environment and shall include hydrofoil boats, air-cushion vehicles, submersibles and floating craft;
- (b) 'Marpol 73/78' shall mean the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as in force at the date of adoption of this Directive;
- (c) 'ship-generated waste' shall mean all waste, including sewage, and residues other than cargo residues, which are generated during the service of a ship and fall under the scope of Annexes I, IV and V to Marpol 73/78 and cargo-associated waste as defined in the Guidelines for the implementation of Annex V to Marpol 73/78;
- (d) 'cargo residues' shall mean the remnants of any cargo material on board in cargo holds or tanks which remain after unloading procedures and cleaning operations are completed and shall include loading/unloading excesses and spillage;
- (e) 'port reception facilities' shall mean any facility, which is fixed, floating or mobile and capable of receiving ship-generated waste or cargo residues;
- (f) 'fishing vessel' shall mean any ship equipped or used commercially for catching fish or other living resources of the sea;
- (g) 'recreational craft' shall mean a ship of any type, regardless of the means of propulsion, intended for sports or leisure purposes;
- (h) 'port' shall mean a place or a geographical area made up of such improvement works and equipment as to permit, principally, the reception of ships, including fishing vessels and recreational craft.

Without prejudice to the definitions in points (c) and (d), 'ship-generated waste' and 'cargo residues' shall be considered

to be waste within the meaning of Article 1(a) of Council Directive 75/442/EEC of 15 July 1975 on waste ⁽¹⁾.

Article 3

Scope

This Directive shall apply to:

- (a) all ships, including fishing vessels and recreational craft, irrespective of their flag, calling at, or operating within, a port of a Member State, with the exception of any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, only on government non-commercial service; and
- (b) all ports of the Member States normally visited by ships falling under the scope of point (a).

Member States shall take measures to ensure that ships which are excluded from the scope of this Directive under point (a) of the preceding paragraph deliver their ship-generated waste and cargo residues in a manner consistent, in so far as is reasonable and practicable, with this Directive.

Article 4

Port reception facilities

1. Member States shall ensure the availability of port reception facilities adequate to meet the needs of the ships normally using the port without causing undue delay to ships.
2. To achieve adequacy, the reception facilities shall be capable of receiving the types and quantities of ship-generated waste and cargo residues from ships normally using that port, taking into account the operational needs of the users of the port, the size and the geographical location of the port, the type of ships calling at that port and the exemptions provided for under Article 9.
3. Member States shall establish procedures, in accordance with those agreed by the International Maritime Organization (IMO), for reporting to the port State alleged inadequacies of port reception facilities.

Article 5

Waste reception and handling plans

1. An appropriate waste reception and handling plan shall be developed and implemented for each port following consultations with the relevant parties, in particular with port users or their representatives, having regard to the requirements of Articles 4, 6, 7, 10 and 12. Detailed requirements for the development of such plans are set out in Annex I.

⁽¹⁾ OJ L 194, 25.7.1975, p. 39. Directive as last amended by Commission Decision 96/350/EC (OJ L 135, 6.6.1996, p. 32).

2. The waste reception and handling plans referred to in paragraph 1 may, where required for reasons of efficiency, be developed in a regional context with the appropriate involvement of each port, provided that the need for, and availability of, reception facilities are specified for each individual port.

3. Member States shall evaluate and approve the waste reception and handling plan, monitor its implementation and ensure its re-approval at least every three years and after significant changes in the operation of the port.

Article 6

Notification

1. The master of a ship, other than a fishing vessel or recreational craft authorised to carry no more than 12 passengers, bound for a port located in the Community shall complete truly and accurately the form in Annex II and notify that information to the authority or body designated for this purpose by the Member State in which that port is located:

- (a) at least 24 hours prior to arrival, if the port of call is known; or
- (b) as soon as the port of call is known, if this information is available less than 24 hours prior to arrival; or
- (c) at the latest upon departure from the previous port, if the duration of the voyage is less than 24 hours.

Member States may decide that the information will be notified to the operator of the port reception facility, who will forward it to the relevant authority.

2. The information referred to in paragraph 1 shall be kept on board at least until the next port of call and shall upon request be made available to the Member States' authorities.

Article 7

Delivery of ship-generated waste

1. The master of a ship calling at a Community port shall, before leaving the port, deliver all ship-generated waste to a port reception facility.

2. Notwithstanding paragraph 1, a ship may proceed to the next port of call without delivering the ship-generated waste, if it follows from the information given in accordance with Article 6 and Annex II, that there is sufficient dedicated storage capacity for all ship-generated waste that has been accumulated and will be accumulated during the intended voyage of the ship until the port of delivery.

If there are good reasons to believe that adequate facilities are not available at the intended port of delivery, or if this port is unknown, and that there is therefore a risk that the waste will be discharged at sea, the Member State shall take all necessary measures to prevent marine pollution, if necessary by requiring the ship to deliver its waste before departure from the port.

3. Paragraph 2 shall apply without prejudice to more stringent delivery requirements for ships adopted in accordance with international law.

Article 8

Fees for ship-generated waste

1. Member States shall ensure that the costs of port reception facilities for ship-generated waste, including the treatment and disposal of the waste, shall be covered through the collection of a fee from ships.

2. The cost recovery systems for using port reception facilities shall provide no incentive for ships to discharge their waste into the sea. To this end the following principles shall apply to ships other than fishing vessels and recreational craft authorised to carry no more than 12 passengers:

- (a) all ships calling at a port of a Member State shall contribute significantly to the costs referred to in paragraph 1, irrespective of actual use of the facilities. Arrangements to this effect may include incorporation of the fee in the port dues or a separate standard waste fee. The fees may be differentiated with respect to, *inter alia*, the category, type and size of the ship;
- (b) the part of the costs which is not covered by the fee referred to in subparagraph (a), if any, shall be covered on the basis of the types and quantities of ship-generated waste actually delivered by the ship;
- (c) fees may be reduced if the ship's environmental management, design, equipment and operation are such that the master of the ship can demonstrate that it produces reduced quantities of ship-generated waste.

3. In order to ensure that the fees are fair, transparent, non-discriminatory and reflect the costs of the facilities and services made available and, where appropriate, used, the amount of the fees and the basis on which they have been calculated should be made clear for the port users.

4. The Commission shall, within three years of the date referred to in Article 16(1), submit a report to the European Parliament and to the Council, evaluating the impact of the variety of cost recovery systems adopted in accordance with paragraph 2 on the marine environment and waste flow patterns. This report shall be drawn up in liaison with the competent authorities of the Member States and representatives of ports.

The Commission shall, if necessary in the light of this evaluation, submit a proposal to amend this Directive by the introduction of a system involving the payment of an appropriate percentage, of no less than one third, of the costs referred to in paragraph 1 by all ships calling at a port of a Member State irrespective of actual use of the facilities, or an alternative system with equivalent effects.

*Article 9***Exemptions**

1. When ships are engaged in scheduled traffic with frequent and regular port calls and there is sufficient evidence of an arrangement to ensure the delivery of ship-generated waste and payment of fees in a port along the ship's route, Member States of the ports involved may exempt these ships from the obligations in Article 6, Article 7(1) and Article 8.

2. Member States shall inform the Commission of exemptions granted in accordance with paragraph 1 on a regular basis, at least once a year.

*Article 10***Delivery of cargo residues**

The master of a ship calling at a Community port shall ensure that cargo residues are delivered to a port reception facility in accordance with the provisions of Marpol 73/78. Any fee for delivery of cargo residues shall be paid by the user of the reception facility.

*Article 11***Enforcement**

1. Member States shall ensure that any ship may be subject to an inspection in order to verify that it complies with Articles 7 and 10 and that a sufficient number of such inspections is carried out.

2. For inspections concerning ships other than fishing vessels and recreational craft authorised to carry no more than 12 passengers:

- (a) in selecting ships for inspection, Member States shall pay particular attention to:
 - ships which have not complied with the notification requirements in Article 6;
 - ships for which the examination of the information provided by the master in accordance with Article 6 has revealed other grounds to believe that the ship does not comply with this Directive;
- (b) such inspection may be undertaken within the framework of Directive 95/21/EC, when applicable; whatever the framework of the inspections, the 25 % inspection requirement set out in that Directive shall apply;
- (c) if the relevant authority is not satisfied with the results of this inspection, it shall ensure that the ship does not leave the port until it has delivered its ship-generated waste and cargo residues to a port reception facility in accordance with Articles 7 and 10;
- (d) when there is clear evidence that a ship has proceeded to sea without having complied with Articles 7 or 10, the competent authority of the next port of call shall be informed thereof and such a ship shall, without prejudice

to the application of the penalties referred to in Article 13, not be permitted to leave that port until a more detailed assessment of factors relating to the ship's compliance with this Directive, such as the accuracy of any information provided in accordance with Article 6, has taken place.

3. Member States shall establish control procedures, to the extent required, for fishing vessels and recreational craft authorised to carry no more than 12 passengers to ensure compliance with the applicable requirements of this Directive.

*Article 12***Accompanying measures**

1. Member States shall:

- (a) take all necessary measures to ensure that masters, providers of port reception facilities and other persons concerned are adequately informed of the requirements addressed to them under this Directive and that they comply with them;
- (b) designate appropriate authorities or bodies for performing functions under this Directive;
- (c) make provision for cooperation between their relevant authorities and commercial organisations to ensure the effective implementation of this Directive;
- (d) ensure that the information notified by masters in accordance with Article 6 be appropriately examined;
- (e) ensure that the formalities relating to the use of port reception facilities are simple and expeditious in order to create an incentive for the master to use port reception facilities and to avoid undue delays to ships;
- (f) ensure that the Commission is provided with a copy of the allegations of inadequate port reception facilities referred to in Article 4(3);
- (g) ensure that the treatment, recovery or disposal of ship-generated waste and cargo residues shall be carried out in accordance with Directive 75/442/EEC and other relevant Community waste legislation, in particular Council Directive 75/439/EEC of 16 June 1975 on the disposal of waste oils⁽¹⁾ and Council Directive 91/689/EEC of 12 December 1991 on hazardous waste⁽²⁾;
- (h) ensure in accordance with their national legislation that any party involved in the delivery or reception of ship-generated waste or cargo residues can claim compensation for damage caused by undue delay.

2. Delivery of ship-generated waste and cargo residues shall be considered as release for free circulation within the meaning of Article 79 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽³⁾. The customs authorities shall not require the lodging of a summary declaration in accordance with Article 45 of the Community Customs Code.

⁽¹⁾ OJ L 194, 25.7.1975, p. 23. Directive as last amended by Directive 91/692/EEC (OJ L 377, 31.12.1991, p. 48).

⁽²⁾ OJ L 377, 31.12.1991, p. 20. Directive as last amended by Directive 94/31/EEC (OJ L 168, 2.7.1994, p. 28).

⁽³⁾ OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 955/1999 (OJ L 119, 7.5.1999, p. 1).

3. Member States and the Commission shall co-operate in establishing an appropriate information and monitoring system, covering at least the whole of the Community, to:

- improve the identification of ships which have not delivered their ship-generated waste and cargo residues in accordance with this Directive,
- ascertain whether the goals set in Article 1 of the Directive have been met.

4. Member States and the Commission shall cooperate in establishing common criteria for identifying ships referred to in Article 8(2)(c).

Article 13

Penalties

Member States shall lay down a system of penalties for the breach of national provisions adopted pursuant to this Directive and shall take all the measures necessary to ensure that those penalties are applied. The penalties thus provided shall be effective, proportionate and dissuasive.

Article 14

Regulatory Committee

1. The Commission shall be assisted by the Committee set up pursuant to Article 12(1) of Directive 93/75/EEC⁽¹⁾, hereinafter referred to as 'the Committee'.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.

Article 15

Amendment procedure

The Annexes to this Directive, the definition in Article 2(b), references to Community instruments and references to IMO instruments may be amended in accordance with the procedure laid down in Article 14(2) in order to bring them into line with Community or IMO measures which have entered into force, insofar as such amendments do not broaden the scope of this Directive.

Furthermore, the Annexes to this Directive may be amended in accordance with that procedure when necessary to improve the regime established by this Directive, insofar as such amendments do not broaden the scope of this Directive.

Article 16

Implementation

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 28 December 2002 and forthwith inform the Commission thereof.

However, as far as sewage as referred to in Article 2(c) is concerned, the implementation of this Directive shall be suspended until 12 months after the entry into force of Annex IV to Marpol 73/78, while respecting the distinction made in this convention between new and existing ships.

2. When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such a reference shall be laid down by Member States.

Article 17

Evaluation

1. Member States shall submit to the Commission a status report concerning the implementation of this Directive every three years.

2. The Commission shall submit an evaluation report on the operation of the system as provided for in this Directive to the European Parliament and the Council, on the basis of the reports of the Member States as provided for in paragraph 1 together with proposals as necessary, concerning the implementation of this Directive.

Article 18

Entry into force

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

Article 19

Addressees

This Directive is addressed to the Member States.

Done at Brussels, 27 November 2000.

For the European Parliament

The President

N. FONTAINE

For the Council

The President

L. FABIUS

⁽¹⁾ OJ L 247, 5.10.1993, p. 19. Directive as last amended by Directive 98/74/EC (OJ L 276, 13.10.1998, p. 7).

ANNEX I

REQUIREMENTS FOR WASTE RECEPTION AND HANDLING PLANS IN PORTS

(as referred to in Article 5)

Plans shall cover all types of ship-generated waste and cargo residues originating from ships normally visiting the port and shall be developed according to the size of the port and the types of ships calling at that port.

The following elements shall be addressed in the plans:

- an assessment of the need for port reception facilities, in light of the need of the ships normally visiting the port;
- a description of the type and capacity of port reception facilities;
- a detailed description of the procedures for the reception and collection of ship-generated waste and cargo residues;
- description of the charging system;
- procedures for reporting alleged inadequacies of port reception facilities;
- procedures for ongoing consultations with port users, waste contractors, terminal operators and other interested parties; and
- type and quantities of ship-generated waste and cargo residues received and handled.

In addition, the plans should include:

- a summary of relevant legislation and formalities for delivery;
- identification of a person or persons to be responsible for the implementation of the plan;
- a description of the pre-treatment equipment and processes in the port, if any;
- a description of methods of recording actual use of the port reception facilities;
- a description of methods of recording amounts of ship-generated waste and cargo residues received; and
- a description of how the ship-generated waste and cargo residues are disposed of.

The procedures for reception, collection, storage, treatment and disposal should conform in all respects to an environmental management scheme suitable for the progressive reduction of the environmental impact of these activities. Such conformity is presumed if the procedures are in compliance with the Council Regulation (EEC) No 1836/93 of 29 June 1993 allowing voluntary participation by companies in the industrial sector in a Community eco-management and audit scheme ⁽¹⁾.

Information to be made available to all port users:

- brief reference to fundamental importance of proper delivery of ship-generated waste and cargo residues;
- location of port reception facilities applicable to each berth with diagram/map;
- list of ship-generated waste and cargo residues normally dealt with;
- list of contact points, the operators and the services offered;
- description of procedures for delivery;
- description of charging system; and
- procedures for reporting alleged inadequacies of port reception facilities.

⁽¹⁾ OJ L 168, 10.7.1993, p. 1.

ANNEX II

INFORMATION TO BE NOTIFIED BEFORE ENTRY INTO THE PORT OF

(Port of destination as referred to in Article 6 of Directive 2000/59/EC)

1. Name, call sign and, where appropriate, IMO identification number of the ship:
2. Flag State:
3. Estimated time of arrival (ETA):
4. Estimated time of departure (ETD):
5. Previous port of call:
6. Next port of call:
7. Last port and date when ship-generated waste was delivered:
8. Are you delivering
all ☐ some ☐ none ☐ (*)
of your waste into port reception facilities?
9. Type and amount of waste and residues to be delivered and/or remaining on board, and percentage of maximum storage capacity:

*If delivering all waste, complete second column as appropriate.**If delivering some or no waste, complete all columns.*

Type	Waste to be delivered m ³	Maximum dedicated storage capacity m ³	Amount of waste retained on board m ³	Port at which remaining waste will be delivered	Estimated amount of waste to be generated between notification and next port of call m ³
1. Waste oils					
Sludge					
Bilge water					
Others (specify)					
2. Garbage					
Food waste					
Plastic					
Other					
3. Cargo-associated waste ⁽¹⁾ (specify)					
4. Cargo residues ⁽¹⁾ (specify)					

⁽¹⁾ May be estimates.

(*) Tick appropriate box.

Notes:

1. This information may be used for port State control and other inspection purposes.
2. Member States will determine which bodies will receive copies of this notification.
3. This form is to be completed unless the ship is covered by an exemption in accordance with Article 9 of Directive 2000/59/EC.

I confirm that

the above details are accurate and correct and

there is sufficient dedicated onboard capacity to store all waste generated between notification and the next port at which waste will be delivered.

Date

Time

Signature

Statement from the Commission

The Commission interprets the word 'significantly' as a figure of the order of at least 30 % of the costs referred to in Article 8(1).

DIRECTIVE 2000/76/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 4 December 2000
on the incineration of waste

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

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

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

Having regard to the Opinion of the Committee of the Regions ⁽³⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽⁴⁾, and in the light of the joint text approved by the Conciliation Committee on 11 October 2000,

Whereas:

- (1) The fifth Environment Action Programme: Towards sustainability — A European Community programme of policy and action in relation to the environment and sustainable development, supplemented by Decision No 2179/98/EC on its review ⁽⁵⁾, sets as an objective that critical loads and levels of certain pollutants such as nitrogen oxides (NO_x), sulphur dioxide (SO₂), heavy metals and dioxins should not be exceeded, while in terms of air quality the objective is that all people should be effectively protected against recognised health risks from air pollution. That Programme further sets as an objective a 90 % reduction of dioxin emissions of identified sources by 2005 (1985 level) and at least 70 % reduction from all pathways of cadmium (Cd), mercury (Hg) and lead (Pb) emissions in 1995.
- (2) The Protocol on persistent organic pollutants signed by the Community within the framework of the United Nations Economic Commission for Europe (UN-ECE) Convention on long-range transboundary air pollution sets legally binding limit values for the emission of dioxins and furans of 0,1 ng/m; TE (Toxicity Equivalents) for installations burning more than 3 tonnes per hour of municipal solid waste, 0,5 ng/m; TE for installations burning more than 1 tonne per hour of medical

waste, and 0,2 ng/m; TE for installations burning more than 1 tonne per hour of hazardous waste.

- (3) The Protocol on Heavy Metals signed by the Community within the framework of the UN-ECE Convention on long-range transboundary air pollution sets legally binding limit values for the emission of particulate of 10 mg/m³ for hazardous and medical waste incineration and for the emission of mercury of 0,05 mg/m³ for hazardous waste incineration and 0,08 mg/m³ for municipal waste incineration.
- (4) The International Agency for Research on Cancer and the World Health Organisation indicate that some polycyclic aromatic hydrocarbons (PAHs) are carcinogenic. Therefore, Member States may set emission limit values for PAHs among other pollutants.
- (5) In accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the Treaty, there is a need to take action at the level of the Community. The precautionary principle provides the basis for further measures. This Directive confines itself to minimum requirements for incineration and co-incineration plants.
- (6) Further, Article 174 provides that Community policy on the environment is to contribute to protecting human health.
- (7) Therefore, a high level of environmental protection and human health protection requires the setting and maintaining of stringent operational conditions, technical requirements and emission limit values for plants incinerating or co-incinerating waste within the Community. The limit values set should prevent or limit as far as practicable negative effects on the environment and the resulting risks to human health.
- (8) The Communication from the Commission on the review of the Community Strategy for waste management assigns prevention of waste the first priority, followed by reuse and recovery and finally by safe disposal of waste; in its Resolution of 24 February 1997 on a Community Strategy for waste management ⁽⁶⁾, the Council reiterated its conviction that waste prevention should be the first priority of any rational waste policy in relation to minimising waste production and the hazardous properties of waste.

⁽¹⁾ OJ C 13, 17.1.1998, p. 6 and OJ C 372, 2.12.1998, p. 11.

⁽²⁾ OJ C 116, 28.4.1999, p. 40.

⁽³⁾ OJ C 198, 14.7.1999, p. 37.

⁽⁴⁾ Opinion of the European Parliament of 14 April 1999 (OJ C 219, 30.7.1999, p. 249), Council Common Position of 25 November 1999 (OJ C 25, 28.1.2000, p. 17) and Decision of the European Parliament of 15 March 2000 (not yet published in the Official Journal). Decision of the European Parliament of 16 November 2000 and Decision of the Council of 20 November 2000.

⁽⁵⁾ OJ C 138, 17.5.1993, p. 1 and OJ L 275, 10.10.1998, p. 1.

⁽⁶⁾ OJ C 76, 11.3.1997, p. 1.

- (9) In its Resolution of 24 February 1997 the Council also underlines the importance of Community criteria concerning the use of waste, the need for appropriate emission standards to apply to incineration facilities, the need for monitoring measures to be envisaged for existing incineration plants, and the need for the Commission to consider amending Community legislation in relation to the incineration of waste with energy recovery in order to avoid large-scale movements of waste for incineration or co-incineration in the Community.
- (10) It is necessary to set strict rules for all plants incinerating or co-incinerating waste in order to avoid transboundary movements to plants operating at lower costs due to less stringent environmental standards.
- (11) The Communication from the Commission/energy for the future: renewable sources of energy/White paper for a Community strategy and action plan takes into consideration in particular the use of biomass for energy purposes.
- (12) Council Directive 96/61/EC ⁽¹⁾ sets out an integrated approach to pollution prevention and control in which all the aspects of an installations environmental performance are considered in an integrated manner. Installations for the incineration of municipal waste with a capacity exceeding 3 tonnes per hour and installations for the disposal or recovery of hazardous waste with a capacity exceeding 10 tonnes per day are included within the scope of the said Directive.
- (13) Compliance with the emission limit values laid down by this Directive should be regarded as a necessary but not sufficient condition for compliance with the requirements of Directive 96/61/EC. Such compliance may involve more stringent emissions limit values for the pollutants envisaged by this Directive, emission limit values for other substances and other media, and other appropriate conditions.
- (14) Industrial experience in the implementation of techniques for the reduction of polluting emissions from incineration plants has been acquired over a period of ten years.
- (15) Council Directives 89/369/EEC ⁽²⁾ and 89/429/EEC ⁽³⁾ on the prevention and reduction of air pollution from municipal waste incineration plants have contributed to the reduction and control of atmospheric emissions from incineration plants. More stringent rules should now be adopted and those Directives should accordingly be repealed.
- (16) The distinction between hazardous and non-hazardous waste is based principally on the properties of waste prior to incineration or co-incineration but not on differences in emissions. The same emission limit values should apply to the incineration or co-incineration of hazardous and non-hazardous waste but different techniques and conditions of incineration or co-incineration and different monitoring measures upon reception of waste should be retained.
- (17) Member States should take into account Council Directive 1999/30/EC of 22 April 1999 relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air ⁽⁴⁾ when implementing this Directive.
- (18) The incineration of hazardous waste with a content of more than 1 % of halogenated organic substances, expressed as chlorine, has to comply with certain operational conditions in order to destroy as many organic pollutants such as dioxins as possible.
- (19) The incineration of waste which contains chlorine generates flue gas residues. Such residues should be managed in a way that minimises their amount and harmfulness.
- (20) There may be grounds to provide for specified exemptions to the emission limit values for some pollutants during a specified time limit and subject to specific conditions.
- (21) Criteria for certain sorted combustible fraction of non-hazardous waste not suitable for recycling, should be developed in order to allow the authorisation of the reduction of the frequency of periodical measurements.
- (22) A single text on the incineration of waste will improve legal clarity and enforceability. There should be a single directive for the incineration and co-incineration of hazardous and non-hazardous waste taking fully into account the substance and structure of Council Directive 94/67/EC of 16 December 1994 on the incineration of hazardous waste ⁽⁵⁾. Therefore Directive 94/67/EC should also be repealed.
- (23) Article 4 of Council Directive 75/442/EEC of 15 July 1975 on waste ⁽⁶⁾ requires Member States to take the necessary measures to ensure that waste is recovered or disposed of without endangering human health and without harming the environment. To this end, Articles 9 and 10 of that Directive provide that any plant or undertaking treating waste must obtain a permit from the competent authorities relating, *inter alia*, to the precautions to be taken.

⁽¹⁾ OJ L 257, 10.10.1996, p. 26.

⁽²⁾ OJ L 163, 14.6.1989, p. 32. Directive as last amended by the Accession Act of 1994.

⁽³⁾ OJ L 203, 15.7.1989, p. 50. Directive as last amended by the Accession Act of 1994.

⁽⁴⁾ OJ L 163, 29.6.1999, p. 41.

⁽⁵⁾ OJ L 365, 31.12.1994, p. 34.

⁽⁶⁾ OJ L 194, 25.7.1975, p. 39. Directive as last amended by Commission Decision 350/96/EC (OJ L 135, 6.6.1996, p. 32).

- (24) The requirements for recovering the heat generated by the incineration or co-incineration process and for minimising and recycling residues resulting from the operation of incineration or co-incineration plants will assist in meeting the objectives of Article 3 on the waste hierarchy of Directive 75/442/EEC.
- (25) Incineration and co-incineration plants treating only animal waste regulated by Directive 90/667/EEC ⁽¹⁾ are excluded from the scope of this Directive. The Commission intends to propose a revision to the requirements of Directive 90/667 with a view to providing for high environmental standards for the incineration and co-incineration of animal waste.
- (26) The permit for an incineration or co-incineration plant shall also comply with any applicable requirements laid down in Directives 91/271/EEC ⁽²⁾, 96/61/EC, 96/62/EC ⁽³⁾, 76/464/EEC ⁽⁴⁾, and 1999/31/EC ⁽⁵⁾.
- (27) The co-incineration of waste in plants not primarily intended to incinerate waste should not be allowed to cause higher emissions of polluting substances in that part of the exhaust gas volume resulting from such co-incineration than those permitted for dedicated incineration plants and should therefore be subject to appropriate limitations.
- (28) High-standard measurement techniques are required to monitor emissions to ensure compliance with the emission limit values for the pollutants.
- (29) The introduction of emission limit values for the discharge of waste water from the cleaning of exhaust gases from incineration and co-incineration plants will limit a transfer of pollutants from the air into water.
- (30) Provisions should be laid down for cases where the emission limit values are exceeded as well as for technically unavoidable stoppages, disturbances or failures of the purification devices or the measurement devices.
- (31) In order to ensure transparency of the permitting process throughout the Community the public should have access to information with a view to allowing it to be involved in decisions to be taken following applications for new permits and their subsequent updates. The

public should have access to reports on the functioning and monitoring of the plants burning more than three tonnes per hour in order to be informed of their potential effects on the environment and human health.

- (32) The Commission should present a report both to the European Parliament and the Council based on the experience of applying this Directive, the new scientific knowledge gained, the development of the state of technology, the progress achieved in emission control techniques, and on the experience made in waste management and operation of the plants and on the development of environmental requirements, with a view to proposing, as appropriate, to adapt the related provisions of this Directive.
- (33) The measures necessary for the implementation of this Directive are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁶⁾.
- (34) Member States should lay down rules on penalties applicable to infringements of the provisions of this Directive and ensure that they are implemented; those penalties should be effective, proportionate and dissuasive,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Objectives

The aim of this Directive is to prevent or to limit as far as practicable negative effects on the environment, in particular pollution by emissions into air, soil, surface water and groundwater, and the resulting risks to human health, from the incineration and co-incineration of waste.

This aim shall be met by means of stringent operational conditions and technical requirements, through setting emission limit values for waste incineration and co-incineration plants within the Community and also through meeting the requirements of Directive 75/442/EEC.

Article 2

Scope

1. This Directive covers incineration and co-incineration plants.

⁽¹⁾ Council Directive 90/667/EEC of 27 November 1990, laying down the veterinary rules for the disposal and processing of animal waste, for its placing on the market and for the prevention of pathogens in feedstuffs of animal or fish origin and amending Directive 90/425/EEC (OJ L 363, 27.12.1990, p. 51). Directive as last amended by the Accession Act of 1994.

⁽²⁾ Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment (OJ L 135, 30.5.1991, p. 40). Directive as amended by Directive 98/15/EC (OJ L 67, 7.3.1998, p. 29).

⁽³⁾ Council Directive 96/62/EC of 27 September 1996 on ambient air quality assessment and management (OJ L 296, 21.11.1996, p. 55).

⁽⁴⁾ Council Directive 76/464/EEC of 4 May 1976 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community (OJ L 129, 18.5.1976, p. 23). Directive as last amended by the Accession Act of 1994.

⁽⁵⁾ Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ L 182, 16.7.1999, p. 1).

⁽⁶⁾ OJ L 184, 17.7.1999, p. 23.

2. The following plants shall however be excluded from the scope of this Directive:

(a) Plants treating only the following wastes:

- (i) vegetable waste from agriculture and forestry,
- (ii) vegetable waste from the food processing industry, if the heat generated is recovered,
- (iii) fibrous vegetable waste from virgin pulp production and from production of paper from pulp, if it is co-incinerated at the place of production and the heat generated is recovered,
- (iv) wood waste with the exception of wood waste which may contain halogenated organic compounds or heavy metals as a result of treatment with wood-preserved or coating, and which includes in particular such wood waste originating from construction and demolition waste,
- (v) cork waste,
- (vi) radioactive waste,
- (vii) animal carcasses as regulated by Directive 90/667/EEC without prejudice to its future amendments,
- (viii) waste resulting from the exploration for, and the exploitation of, oil and gas resources from off-shore installations and incinerated on board the installation;

(b) Experimental plants used for research, development and testing in order to improve the incineration process and which treat less than 50 tonnes of waste per year.

(i) the mass content of polychlorinated aromatic hydrocarbons, e.g. polychlorinated biphenyls (PCB) or pentachlorinated phenol (PCP) amounts to concentrations not higher than those set out in the relevant Community legislation;

(ii) these wastes are not rendered hazardous by virtue of containing other constituents listed in Annex II to Directive 91/689/EEC in quantities or in concentrations which are inconsistent with the achievement of the objectives set out in Article 4 of Directive 75/442/EEC; and

(iii) the net calorific value amounts to at least 30 MJ per kilogramme,

(b) any combustible liquid wastes which cannot cause, in the flue gas directly resulting from their combustion, emissions other than those from gasoil as defined in Article 1(1) of Directive 93/12/EEC⁽³⁾ or a higher concentration of emissions than those resulting from the combustion of gasoil as so defined;

3. 'mixed municipal waste' means waste from households as well as commercial, industrial and institutional waste, which because of its nature and composition is similar to waste from households, but excluding fractions indicated in the Annex to Decision 94/3/EC⁽⁴⁾ under heading 20 01 that are collected separately at source and excluding the other wastes indicated under heading 20 02 of that Annex;

4. 'incineration plant' means any stationary or mobile technical unit and equipment dedicated to the thermal treatment of wastes with or without recovery of the combustion heat generated. This includes the incineration by oxidation of waste as well as other thermal treatment processes such as pyrolysis, gasification or plasma processes in so far as the substances resulting from the treatment are subsequently incinerated.

This definition covers the site and the entire incineration plant including all incineration lines, waste reception, storage, on site pretreatment facilities, waste-fuel and air-supply systems, boiler, facilities for the treatment of exhaust gases, on-site facilities for treatment or storage of residues and waste water, stack, devices and systems for controlling incineration operations, recording and monitoring incineration conditions;

5. 'co-incineration plant' means any stationary or mobile plant whose main purpose is the generation of energy or production of material products and:

- which uses wastes as a regular or additional fuel; or
- in which waste is thermally treated for the purpose of disposal.

Article 3

Definitions

For the purposes of this Directive:

1. 'waste' means any solid or liquid waste as defined in Article 1(a) of Directive 75/442/EEC;
2. 'hazardous waste' means any solid or liquid waste as defined in Article 1(4) of Council Directive 91/689/EEC of 12 December 1991 on hazardous waste⁽¹⁾.

For the following hazardous wastes, the specific requirements for hazardous waste in this Directive shall not apply:

- (a) combustible liquid wastes including waste oils as defined in Article 1 of Council Directive 75/439/EEC of 16 June 1975 on the disposal of waste oils⁽²⁾ provided that they meet the following criteria:

⁽¹⁾ OJ L 377, 31.12.1991, p. 20. Directive as amended by Directive 94/31/EC. (OJ L 168, 2.7.1994, p. 28).

⁽²⁾ OJ L 194, 25.7.1975, p. 23. Directive as last amended by the Accession Act of 1994.

⁽³⁾ Council Directive 93/12/EEC of 23 March 1993 relating to the sulphur content of certain liquid fuels (OJ L 74, 27.3.1993, p. 81). Directive as last amended by Directive 1999/32/EC (OJ L 121, 11.5.1999, p. 13).

⁽⁴⁾ Commission Decision 94/3/EC of 20 December 1993 establishing a list of wastes pursuant to Article 1a of Council Directive 75/442/EEC on waste (OJ L 5, 7.1.1994, p. 15).

If co-incineration takes place in such a way that the main purpose of the plant is not the generation of energy or production of material products but rather the thermal treatment of waste, the plant shall be regarded as an incineration plant within the meaning of point 4.

This definition covers the site and the entire plant including all co-incineration lines, waste reception, storage, on site pretreatment facilities, waste-, fuel- and air-supply systems, boiler, facilities for the treatment of exhaust gases, on-site facilities for treatment or storage of residues and waste water, stack devices and systems for controlling incineration operations, recording and monitoring incineration conditions;

6. 'existing co-incineration or co-incineration plant' means an incineration or co-incineration plant:

- (a) which is in operation and has a permit in accordance with existing Community legislation before 28 December 2002, or,
- (b) which is authorised or registered for incineration or co-incineration and has a permit issued before 28 December 2002 in accordance with existing Community legislation, provided that the plant is put into operation not later than 28 December 2003, or
- (c) which, in the view of the competent authority, is the subject of a full request for a permit, before 28 December 2002, provided that the plant is put into operation not later than 28 December 2004;

7. 'nominal capacity' means the sum of the incineration capacities of the furnaces of which an incineration plant is composed, as specified by the constructor and confirmed by the operator, with due account being taken, in particular, of the calorific value of the waste, expressed as the quantity of waste incinerated per hour;

8. 'emission' means the direct or indirect release of substances, vibrations, heat or noise from individual or diffuse sources in the plant into the air, water or soil;

9. 'emission limit values' means the mass, expressed in terms of certain specific parameters, concentration and/or level of an emission, which may not be exceeded during one or more periods of time;

10. 'dioxins and furans' means all polychlorinated dibenzo-p-dioxins and dibenzofurans listed in Annex I;

11. 'operator' means any natural or legal person who operates or controls the plant or, where this is provided for in national legislation, to whom decisive economic power over the technical functioning of the plant has been delegated;

12. 'permit' means a written decision (or several such decisions) delivered by the competent authority granting authorisation to operate a plant, subject to certain conditions which guarantee that the plant complies with all the

requirements of this Directive. A permit may cover one or more plants or parts of a plant on the same site operated by the same operator;

13. 'residue' means any liquid or solid material (including bottom ash and slag, fly ash and boiler dust, solid reaction products from gas treatment, sewage sludge from the treatment of waste waters, spent catalysts and spent activated carbon) defined as waste in Article 1(a) of Directive 75/442/EEC, which is generated by the incineration or co-incineration process, the exhaust gas or waste water treatment or other processes within the incineration or co-incineration plant.

Article 4

Application and permit

1. Without prejudice to Article 11 of Directive 75/442/EEC or to Article 3 of Directive 91/689/EEC, no incineration or co-incineration plant shall operate without a permit to carry out these activities.

2. Without prejudice to Directive 96/61/EC, the application for a permit for an incineration or co-incineration plant to the competent authority shall include a description of the measures which are envisaged to guarantee that:

- (a) the plant is designed, equipped and will be operated in such a manner that the requirements of this Directive are taking into account the categories of waste to be incinerated;
- (b) the heat generated during the incineration and co-incineration process is recovered as far as practicable e.g. through combined heat and power, the generating of process steam or district heating;
- (c) the residues will be minimised in their amount and harmfulness and recycled where appropriate;
- (d) the disposal of the residues which cannot be prevented, reduced or recycled will be carried out in conformity with national and Community legislation.

3. The permit shall be granted only if the application shows that the proposed measurement techniques for emissions into the air comply with Annex III and, as regards water, comply with Annex III paragraphs 1 and 2.

4. The permit granted by the competent authority for an incineration or co-incineration plant shall, in addition to complying with any applicable requirement laid down in Directives 91/271/EEC, 96/61/EC, 96/62/EC, 76/464/EEC and 1999/31/EC:

- (a) list explicitly the categories of waste which may be treated. The list shall use at least the categories of waste set up in the European Waste Catalogue (EWC), if possible, and contain information on the quantity of waste, where appropriate;

(b) include the total waste incinerating or co-incinerating capacity of the plant;

(c) specify the sampling and measurement procedures used to satisfy the obligations imposed for periodic measurements of each air and water pollutants.

5. The permit granted by the competent authority to an incineration or co-incineration plant using hazardous waste shall in addition to paragraph 4:

(a) list the quantities of the different categories of hazardous waste which may be treated;

(b) specify the minimum and maximum mass flows of those hazardous wastes, their lowest and maximum calorific values and their maximum contents of pollutants, e.g. PCB, PCP, chlorine, fluorine, sulphur, heavy metals.

6. Without prejudice to the provisions of the Treaty, Member States may list the categories of waste to be mentioned in the permit which can be co-incinerated in defined categories of co-incineration plants.

7. Without prejudice to Directive 96/61/EC, the competent authority shall periodically reconsider and, where necessary, update permit conditions.

8. Where the operator of an incineration or co-incineration plant for non-hazardous waste is envisaging a change of operation which would involve the incineration or co-incineration of hazardous waste, this shall be regarded as a substantial change within the meaning of Article 2(10)(b) of Directive 96/61/EC and Article 12(2) of that Directive shall apply.

9. If an incineration or co-incineration plant does not comply with the conditions of the permit, in particular with the emission limit values for air and water, the competent authority shall take action to enforce compliance.

Article 5

Delivery and reception of waste

1. The operator of the incineration or co-incineration plant shall take all necessary precautions concerning the delivery and reception of waste in order to prevent or to limit as far as practicable negative effects on the environment, in particular the pollution of air, soil, surface water and groundwater as well as odours and noise, and direct risks to human health. These

measures shall meet at least the requirements set out in paragraphs 3 and 4.

2. The operator shall determine the mass of each category of waste, if possible according to the EWC, prior to accepting the waste at the incineration or co-incineration plant.

3. Prior to accepting hazardous waste at the incineration or co-incineration plant, the operator shall have available information about the waste for the purpose of verifying, *inter alia*, compliance with the permit requirements specified in Article 4(5). This information shall cover:

(a) all the administrative information on the generating process contained in the documents mentioned in paragraph 4(a);

(b) the physical, and as far as practicable, chemical composition of the waste and all other information necessary to evaluate its suitability for the intended incineration process;

(c) the hazardous characteristics of the waste, the substances with which it cannot be mixed, and the precautions to be taken in handling the waste.

4. Prior to accepting hazardous waste at the incineration or co-incineration plant, at least the following reception procedures shall be carried out by the operator:

(a) the checking of those documents required by Directive 91/689/EEC and, where applicable, those required by Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision, and control of shipments of waste within, into and out of the European Community ⁽¹⁾ and by dangerous-goods transport regulations;

(b) the taking of representative samples, unless inappropriate, e.g. for infectious clinical waste, as far as possible before unloading, to verify conformity with the information provided for in paragraph 3 by carrying out controls and to enable the competent authorities to identify the nature of the wastes treated. These samples shall be kept for at least one month after the incineration.

5. The competent authorities may grant exemptions from paragraphs 2, 3 and 4 for industrial plants and undertakings incinerating or co-incinerating only their own waste at the place of generation of the waste provided that the requirements of this Directive are met.

Article 6

Operating conditions

1. Incineration plants shall be operated in order to achieve a level of incineration such that the slag and bottom ashes Total Organic Carbon (TOC) content is less than 3 % or their loss on ignition is less than 5 % of the dry weight of the material. If necessary appropriate techniques of waste pretreatment shall be used.

⁽¹⁾ OJ L 30, 6.2.1993, p. 1. Regulation as last amended by Commission Regulation (EC) No 2408/98 (OJ L 298, 7.11.1998, p. 19).

Incineration plants shall be designed, equipped, built and operated in such a way that the gas resulting from the process is raised, after the last injection of combustion air, in a controlled and homogeneous fashion and even under the most unfavourable conditions, to a temperature of 850 °C, as measured near the inner wall or at another representative point of the combustion chamber as authorised by the competent authority, for two seconds. If hazardous wastes with a content of more than 1 % of halogenated organic substances, expressed as chlorine, are incinerated, the temperature has to be raised to 1 100 °C for at least two seconds.

Each line of the incineration plant shall be equipped with at least one auxiliary burner. This burner must be switched on automatically when the temperature of the combustion gases after the last injection of combustion air falls below 850 °C or 1 100 °C as the case may be. It shall also be used during plant start-up and shut-down operations in order to ensure that the temperature of 850 °C or 1 100 °C as the case may be is maintained at all times during these operations and as long as unburned waste is in the combustion chamber.

During start-up and shut-down or when the temperature of the combustion gas falls below 850 °C or 1 100 °C as the case may be, the auxiliary burner shall not be fed with fuels which can cause higher emissions than those resulting from the burning of gasoil as defined in Article 1(1) of Council Directive 75/716/EEC, liquefied gas or natural gas.

2. Co-incineration plants shall be designed, equipped, built and operated in such a way that the gas resulting from the co-incineration of waste is raised in a controlled and homogeneous fashion and even under the most unfavourable conditions, to a temperature of 850 °C for two seconds. If hazardous wastes with a content of more than 1 % of halogenated organic substances, expressed as chlorine, are co-incinerated, the temperature has to be raised to 1 100 °C.

3. Incineration and co-incineration plants shall have and operate an automatic system to prevent waste feed:

- (a) at start-up, until the temperature of 850 °C or 1 100 °C as the case may be or the temperature specified according to paragraph 4 has been reached;
- (b) whenever the temperature of 850 °C or 1 100 °C as the case may be or the temperature specified according to paragraph 4 is not maintained;
- (c) whenever the continuous measurements required by this Directive show that any emission limit value is exceeded due to disturbances or failures of the purification devices.

4. Conditions different from those laid down in paragraph 1 and, as regards the temperature, paragraph 3 and specified in the permit for certain categories of waste or for certain thermal processes may be authorised by the competent authority,

provided the requirements of this Directive are met. Member States may lay down rules governing these authorisations. The change of the operational conditions shall not cause more residues or residues with a higher content of organic pollutants compared to those residues which could be expected under the conditions laid down in paragraph 1.

Conditions different from those laid down in paragraph 2 and, as regards the temperature, paragraph 3 and specified in the permit for certain categories of waste or for certain thermal processes may be authorised by the competent authority, provided the requirements of this Directive are met. Member States may lay down rules governing these authorisations. Such authorisation shall be conditional upon at least the provisions for emission limit values set out in Annex V for total organic carbon and CO being complied with.

In the case of co-incineration of their own waste at the place of its production in existing bark boilers within the pulp and paper industry, such authorisation shall be conditional upon at least the provisions for emission limit values set out in Annex V for total organic carbon being complied with.

All operating conditions determined under this paragraph and the results of verifications made shall be communicated by the Member State to the Commission as part of the information provided in accordance with the reporting requirements.

5. Incineration and co-incineration plants shall be designed, equipped, built and operated in such a way as to prevent emissions into the air giving rise to significant ground-level air pollution; in particular, exhaust gases shall be discharged in a controlled fashion and in conformity with relevant Community air quality standards by means of a stack the height of which is calculated in such a way as to safeguard human health and the environment.

6. Any heat generated by the incineration or the co-incineration process shall be recovered as far as practicable.

7. Infectious clinical waste should be placed straight in the furnace, without first being mixed with other categories of waste and without direct handling.

8. The management of the incineration or the co-incineration plant shall be in the hands of a natural person who is competent to manage the plant.

Article 7

Air emission limit values

1. Incineration plants shall be designed, equipped, built and operated in such a way that the emission limit values set out in Annex V are not exceeded in the exhaust gas.

2. Co-incineration plants shall be designed, equipped, built and operated in such a way that the emission limit values determined according to or set out in Annex II are not exceeded in the exhaust gas.

If in a co-incineration plant more than 40 % of the resulting heat release comes from hazardous waste, the emission limit values set out in Annex V shall apply.

3. The results of the measurements made to verify compliance with the emission limit values shall be standardised with respect to the conditions laid down in Article 11.

4. In the case of co-incineration of untreated mixed municipal waste, the limit values will be determined according to Annex V, and Annex II will not apply.

5. Without prejudice to the provisions of the Treaty, Member States may set emission limit values for polycyclic aromatic hydrocarbons or other pollutants.

Article 8

Water discharges from the cleaning of exhaust gases

1. Waste water from the cleaning of exhaust gases discharged from an incineration or co-incineration plant shall be subject to a permit granted by the competent authorities.

2. Discharges to the aquatic environment of waste water resulting from the cleaning of exhaust gases shall be limited as far as practicable, at least in accordance with the emission limit values set in Annex IV.

3. Subject to a specific provision in the permit, the waste water from the cleaning of exhaust gases may be discharged to the aquatic environment after separate treatment on condition that:

- (a) the requirements of relevant Community, national and local provisions are complied with in the form of emission limit values; and
- (b) the mass concentrations of the polluting substances referred to in Annex IV do not exceed the emission limit values laid down therein.

4. The emission limit values shall apply at the point where waste waters from the cleaning of exhaust gases containing the polluting substances referred to in Annex IV are discharged from the incineration or co-incineration plant.

Where the waste water from the cleaning of exhaust gases is treated on site collectively with other on-site sources of waste water, the operator shall take the measurements referred to in Article 11:

- (a) on the waste water stream from the exhaust gas cleaning processes prior to its input into the collective waste water treatment plant;

- (b) on the other waste water stream or streams prior to its or their input into the collective waste water treatment plant;

- (c) at the point of final waste water discharge, after the treatment, from the incineration plant or co-incineration plant.

The operator shall take appropriate mass balance calculations in order to determine the emission levels in the final waste water discharge that can be attributed to the waste water arising from the cleaning of exhaust gases in order to check compliance with the emission limit values set out in Annex IV for the waste water stream from the exhaust gas cleaning process.

Under no circumstances shall dilution of waste water take place for the purpose of complying with the emission limit values set in Annex IV.

5. When waste waters from the cleaning of exhaust gases containing the polluting substances referred to in Annex IV are treated outside the incineration or co-incineration plant at a treatment plant intended only for the treatment of this sort of waste water, the emission limit values of Annex IV are to be applied at the point where the waste waters leave the treatment plant. If this off-site treatment plant is not only dedicated to treat waste water from incineration, the operator shall take the appropriate mass balance calculations, as provided for under paragraph 4(a), (b) and (c), in order to determine the emission levels in the final waste water discharge that can be attributed to the waste water arising from the cleaning of exhaust gases in order to check compliance with the emission limit values set out in Annex IV for the waste water stream from the exhaust gas cleaning process.

Under no circumstances shall dilution of waste water take place for the purpose of complying with the emission limit values set in Annex IV.

6. The permit shall:

- (a) establish emission limit values for the polluting substances referred to in Annex IV, in accordance with paragraph 2 and in order to meet the requirements referred to in paragraph 3(a);
- (b) set operational control parameters for waste water at least for pH, temperature and flow.

7. Incineration and co-incineration plant sites, including associated storage areas for wastes, shall be designed and in such a way as to prevent the unauthorised and accidental release of any polluting substances into soil, surface water and groundwater in accordance with the provisions provided for in relevant Community legislation. Moreover, storage capacity shall be provided for contaminated rainwater run-off from the incineration or co-incineration plant site or for contaminated water arising from spillage or fire-fighting operations.

The storage capacity shall be adequate to ensure that such waters can be tested and treated before discharge where necessary.

8. Without prejudice to the provisions of the Treaty, Member States may set emission limit values for polycyclic aromatic hydrocarbons or other pollutants.

Article 9

Residues

Residues resulting from the operation of the incineration or co-incineration plant shall be minimised in their amount and harmfulness. Residues shall be recycled, where appropriate, directly in the plant or outside in accordance with relevant Community legislation.

Transport and intermediate storage of dry residues in the form of dust, such as boiler dust and dry residues from the treatment of combustion gases, shall take place in such a way as to prevent dispersal in the environment e.g. in closed containers.

Prior to determining the routes for the disposal or recycling of the residues from incineration and co-incineration plants, appropriate tests shall be carried out to establish the physical and chemical characteristics and the polluting potential of the different incineration residues. The analysis shall concern the total soluble fraction and heavy metals soluble fraction.

Article 10

Control and monitoring

1. Measurement equipment shall be installed and techniques used in order to monitor the parameters, conditions and mass concentrations relevant to the incineration or co-incineration process.

2. The measurement requirements shall be laid down in the permit or in the conditions attached to the permit issued by the competent authority.

3. The appropriate installation and the functioning of the automated monitoring equipment for emissions into air and water shall be subject to control and to an annual surveillance test. Calibration has to be done by means of parallel measurements with the reference methods at least every three years.

4. The location of the sampling or measurement points shall be laid down by the competent authority.

5. Periodic measurements of the emissions into the air and water shall be carried out in accordance with Annex III, points 1 and 2.

Article 11

Measurement requirements

1. Member States shall, either by specification in the conditions of the permit or by general binding rules, ensure that paragraphs 2 to 12 and 17, as regards air, and paragraphs 9 and 14 to 17, as regards water, are complied with.

2. The following measurements of air pollutants shall be carried out in accordance with Annex III at the incineration and co-incineration plant:

(a) continuous measurements of the following substances: NO_x , provided that emission limit values are set, CO, total dust, TOC, HCl, HF, SO_2 ;

(b) continuous measurements of the following process operation parameters: temperature near the inner wall or at another representative point of the combustion chamber as authorised by the competent authority, concentration of oxygen, pressure, temperature and water vapour content of the exhaust gas;

(c) at least two measurements per year of heavy metals, dioxins and furans; one measurement at least every three months shall however be carried out for the first 12 months of operation. Member States may fix measurement periods where they have set emission limit values for polycyclic aromatic hydrocarbons or other pollutants.

3. The residence time as well as the minimum temperature and the oxygen content of the exhaust gases shall be subject to appropriate verification, at least once when the incineration or co-incineration plant is brought into service and under the most unfavourable operating conditions anticipated.

4. The continuous measurement of HF may be omitted if treatment stages for HCl are used which ensure that the emission limit value for HCl is not being exceeded. In this case the emissions of HF shall be subject to periodic measurements as laid down in paragraph 2(c).

5. The continuous measurement of the water vapour content shall not be required if the sampled exhaust gas is dried before the emissions are analysed.

6. Periodic measurements as laid down in paragraph 2(c) of HCl, HF and SO_2 instead of continuous measuring may be authorised in the permit by the competent authority in incineration or co-incineration plants, if the operator can prove that the emissions of those pollutants can under no circumstances be higher than the prescribed emission limit values.

7. The reduction of the frequency of the periodic measurements for heavy metals from twice a year to once every two years and for dioxins and furans from twice a year to once every year may be authorised in the permit by the competent authority provided that the emissions resulting from co-incineration or incineration are below 50 % of the emission limit values determined according to Annex II or Annex V respectively and provided that criteria for the requirements to be met, developed in accordance with the procedure laid down in Article 17, are available. These criteria shall at least be based on the provisions of the second subparagraph, points (a) and (d).

Until 1 January 2005 the reduction of the frequency may be authorised even if no such criteria are available provided that:

- (a) the waste to be co-incinerated or incinerated consists only of certain sorted combustible fractions of non-hazardous waste not suitable for recycling and presenting certain characteristics, and which is further specified on the basis of the assessment referred to in subparagraph (d);
- (b) national quality criteria, which have been reported to the Commission, are available for these wastes;
- (c) co-incineration and incineration of these wastes is in line with the relevant waste management plans referred to in Article 7 of Directive 75/442/EEC;
- (d) the operator can prove to the competent authority that the emissions are under all circumstances significantly below the emission limit values set out in Annex II or Annex V for heavy metals, dioxins and furans; this assessment shall be based on information on the quality of the waste concerned and measurements of the emissions of the said pollutants;
- (e) the quality criteria and the new period for the periodic measurements are specified in the permit; and
- (f) all decisions on the frequency of measurements referred to in this paragraph, supplemented with information on the amount and quality of the waste concerned, shall be communicated on a yearly basis to the Commission.

8. The results of the measurements made to verify compliance with the emission limit values shall be standardised at the following conditions and for oxygen according to the formula as referred to in Annex VI:

- (a) Temperature 273 K, pressure 101,3 kPa, 11 % oxygen, dry gas, in exhaust gas of incineration plants;
- (b) Temperature 273 K, pressure 101,3 kPa, 3 % oxygen, dry gas, in exhaust gas of incineration of waste oil as defined in Directive 75/439/EEC;
- (c) when the wastes are incinerated or co-incinerated in an oxygen-enriched atmosphere, the results of the measurements can be standardised at an oxygen content laid down by the competent authority reflecting the special circumstances of the individual case;
- (d) in the case of co-incineration, the results of the measurements shall be standardised at a total oxygen content as calculated in Annex II.

When the emissions of pollutants are reduced by exhaust gas treatment in an incineration or co-incineration plant treating hazardous waste, the standardisation with respect to the oxygen contents provided for in the first subparagraph shall be done only if the oxygen content measured over the same period as for the pollutant concerned exceeds the relevant standard oxygen content.

9. All measurement results shall be recorded, processed and presented in an appropriate fashion in order to enable the competent authorities to verify compliance with the permitted operating conditions and emission limit values laid down in this Directive in accordance with procedures to be decided upon by those authorities.

10. The emission limit values for air shall be regarded as being complied with if:

- (a) — none of the daily average values exceeds any of the emission limit values set out in Annex V(a) or Annex II;
— 97 % of the daily average value over the year does not exceed the emission limit value set out in Annex V(e) first indent;
- (b) either none of the half-hourly average values exceeds any of the emission limit values set out in Annex V(b), column A or, where relevant, 97 % of the half-hourly average values over the year do not exceed any of the emission limit values set out in Annex V(b), column B;
- (c) none of the average values over the sample period set out for heavy metals and dioxins and furans exceeds the emission limit values set out in Annex V(c) and (d) or Annex II;
- (d) the provisions of Annex V(e), second indent or Annex II, are met.

11. The half-hourly average values and the 10-minute averages shall be determined within the effective operating time (excluding the start-up and shut-off periods if no waste is being incinerated) from the measured values after having subtracted the value of the confidence interval specified in point 3 of Annex III. The daily average values shall be determined from those validated average values.

To obtain a valid daily average value no more than five half-hourly average values in any day shall be discarded due to malfunction or maintenance of the continuous measurement system. No more than ten daily average values per year shall be discarded due to malfunction or maintenance of the continuous measurement system.

12. The average values over the sample period and the average values in the case of periodical measurements of HF, HCl and SO₂ shall be determined in accordance with the requirements of Article 10(2) and (4) and Annex III.

13. The Commission, acting in accordance with the procedure laid down in Article 17, shall decide, as soon as appropriate measurement techniques are available within the Community, the date from which continuous measurements of the air emission limit values for heavy metals, dioxins and furans shall be carried out in accordance with Annex III.

14. The following measurements shall be carried out at the point of waste water discharge:

- (a) continuous measurements of the parameters referred to in Article 8(6)(b);
- (b) spot sample daily measurements of total suspended solids; Member States may alternatively provide for measurements of a flow proportional representative sample over a period of 24 hours;
- (c) at least monthly measurements of a flow proportional representative sample of the discharge over a period of 24 hours of the polluting substances referred to in Article 8(3) with respect to items 2 to 10 in Annex IV;

(d) at least every six months measurements of dioxins and furans; however one measurement at least every three months shall be carried out for the first 12 months of operation. Member States may fix measurement periods where they have set emission limit values for polycyclic aromatic hydrocarbons or other pollutants.

15. The monitoring of the mass of pollutants in the treated waste water shall be done in conformity with Community legislation and laid down in the permit as well as the frequency of the measurements.

16. The emission limit values for water shall be regarded as being complied with if:

- (a) for total suspended solids (polluting substance number 1), 95 % and 100 % of the measured values do not exceed the respective emission limit values as set out in Annex IV;
- (b) for heavy metals (polluting substances number 2 to 10) no more than one measurement per year exceeds the emission limit values set out in Annex IV; or, if the Member State provides for more than 20 samples per year, no more than 5 % of these samples exceed the emission limit values set out in Annex IV;
- (c) for dioxins and furans (polluting substance 11), the twice-yearly measurements do not exceed the emission limit value set out in Annex IV.

17. Should the measurements taken show that the emission limit values for air or water laid down in this Directive have been exceeded, the competent authorities shall be informed without delay.

Article 12

Access to information and public participation

1. Without prejudice to Council Directive 90/313/EEC⁽¹⁾ and Directive 96/61/EC, applications for new permits for incineration and co-incineration plants shall be made available at one or more locations accessible to the public, such as local authority offices, for an appropriate period to enable it to comment on them before the competent authority reaches a decision. That decision, including at least a copy of the permit, and any subsequent updates, shall also be made available to the public.

2. For incineration or co-incineration plants with a nominal capacity of two tonnes or more per hour and notwithstanding Article 15(2) of Directive 96/61/EC, an annual report to be provided by the operator to the competent authority on the functioning and monitoring of the plant shall be made available to the public. This report shall, as a minimum requirement, give an account of the running of the process and the emissions into air and water compared with the emission standards in this Directive. A list of incineration or co-incineration plants with a nominal capacity of less than two tonnes per

hour shall be drawn up by the competent authority and shall be made available to the public.

Article 13

Abnormal operating conditions

1. The competent authority shall lay down in the permit the maximum permissible period of any technically unavoidable stoppages, disturbances, or failures of the purification devices or the measurement devices, during which the concentrations in the discharges into the air and the purified waste water of the regulated substances may exceed the prescribed emission limit values.

2. In the case of a breakdown, the operator shall reduce or close down operations as soon as practicable until normal operations can be restored.

3. Without prejudice to Article 6(3)(c), the incineration plant or co-incineration plant or incineration line shall under no circumstances continue to incinerate waste for a period of more than four hours uninterrupted where emission limit values are exceeded; moreover, the cumulative duration of operation in such conditions over one year shall be less than 60 hours. The 60-hour duration applies to those lines of the entire plant which are linked to one single flue gas cleaning device.

4. The total dust content of the emissions into the air of an incineration plant shall under no circumstances exceed 150 mg/m³ expressed as a half-hourly average; moreover the air emission limit values for CO and TOC shall not be exceeded. All other conditions referred to in Article 6 shall be complied with.

Article 14

Review clause

Without prejudice to Directive 96/61/EC, the Commission shall submit a report to the European Parliament and the Council before 31 December 2008 based on experience of the application of this Directive, in particular for new plants, and on the progress achieved in emission control techniques and experience in waste management. Furthermore, the report shall be based on the development of the state of technology, of experience in the operation of the plants, of environmental requirements. This report will include a specific section on the application of Annex II.1.1. and in particular on the economic and technical feasibility for existing cement kilns as referred to in the footnote to Annex II.1.1. of respecting the NO_x emission limit value for new cement kilns set out in that Annex. The report shall, as appropriate, be accompanied by proposals for revision of the related provisions of this Directive. However, the Commission shall, if appropriate, propose an amendment for Annex II.3 before the said report, if major waste streams are directed to types of co-incineration plants other than those dealt with in Annex II.1 and II.2.

⁽¹⁾ Council Directive 90/313/EEC of 7 June 1990 on the freedom of access to information on the environment (OJ L 158, 23.6.1990, p. 56). Directive as last amended by the Accession Act of 1994.

*Article 15***Reporting**

The reports on the implementation of this Directive shall be established in accordance with the procedure laid down in Article 5 of Council Directive 91/692/EEC. The first report shall cover at least the first full three-year period after 28 December 2002 and comply with the periods referred to in Article 17 of Directive 94/67/EC and in Article 16(3) of Directive 96/61/EC. To this effect, the Commission shall elaborate the appropriate questionnaire in due time.

*Article 16***Future adaptation of the directive**

The Commission shall, in accordance with the procedure laid down in Article 17(2), amend Articles 10, 11 and 13 and Annexes I and III in order to adapt them to technical progress or new findings concerning the health benefits of emission reductions.

*Article 17***Regulatory committee**

1. The Commission shall be assisted by a regulatory committee.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The committee shall adopt its own rules of procedure.

*Article 18***Repeal**

The following shall be repealed as from 28 December 2005:

- (a) Article 8(1) and the Annex to Directive 75/439/EEC;
- (b) Directive 89/369/EEC;
- (c) Directive 89/429/EEC;
- (d) Directive 94/67/EC.

*Article 19***Penalties**

The Member States shall determine penalties applicable to breaches of the national provisions adopted pursuant to this Directive. The penalties thus provided for shall be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission by 28 December 2002 at the latest and shall notify it without delay of any subsequent amendment affecting them.

*Article 20***Transitional provisions**

1. Without prejudice to the specific transitional provisions provided for in the Annexes to this Directive, the provisions of this Directive shall apply to existing plants as from 28 December 2005.

2. For new plants, i.e. plants not falling under the definition of 'existing incineration or co-incineration plant' in Article 3(6) or paragraph 3 of this Article, this Directive, instead of the Directives mentioned in Article 18, shall apply as from 28 December 2002.

3. Stationary or mobile plants whose purpose is the generation of energy or production of material products and which are in operation and have a permit in accordance with existing Community legislation where required and which start co-incinerating waste not later than 28 December 2004 are to be regarded as existing co-incineration plants.

*Article 21***Implementation**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 28 December 2002. They shall forthwith inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.

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

*Article 22***Entry into force**

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

*Article 23***Addressees**

This Directive is addressed to the Member States.

Done at Brussels, 4 December 2000.

For the European Parliament

The President

N. FONTAINE

For the Council

The President

F. VÉDRINE

ANNEX I

Equivalence factors for dibenzo-p-dioxins and dibenzofurans

For the determination of the total concentration (TE) of dioxins and furans, the mass concentrations of the following dibenzo-p-dioxins and dibenzofurans shall be multiplied by the following equivalence factors before summing:

		Toxic equivalence factor
2,3,7,8	— Tetrachlorodibenzodioxin (TCDD)	1
1,2,3,7,8	— Pentachlorodibenzodioxin (PeCDD)	0,5
1,2,3,4,7,8	— Hexachlorodibenzodioxin (HxCDD)	0,1
1,2,3,6,7,8	— Hexachlorodibenzodioxin (HxCDD)	0,1
1,2,3,7,8,9	— Hexachlorodibenzodioxin (HxCDD)	0,1
1,2,3,4,6,7,8	— Heptachlorodibenzodioxin (HpCDD)	0,01
	— Octachlorodibenzodioxin (OCDD)	0,001
2,3,7,8	— Tetrachlorodibenzofuran (TCDF)	0,1
2,3,4,7,8	— Pentachlorodibenzofuran (PeCDF)	0,5
1,2,3,7,8	— Pentachlorodibenzofuran (PeCDF)	0,05
1,2,3,4,7,8	— Hexachlorodibenzofuran (HxCDF)	0,1
1,2,3,6,7,8	— Hexachlorodibenzofuran (HxCDF)	0,1
1,2,3,7,8,9	— Hexachlorodibenzofuran (HxCDF)	0,1
2,3,4,6,7,8	— Hexachlorodibenzofuran (HxCDF)	0,1
1,2,3,4,6,7,8	— Heptachlorodibenzofuran (HpCDF)	0,01
1,2,3,4,7,8,9	— Heptachlorodibenzofuran (HpCDF)	0,01
	— Octachlorodibenzofuran (OCDF)	0,001

ANNEX II

DETERMINATION OF AIR EMISSION LIMIT VALUES FOR THE CO-INCINERATION OF WASTE

The following formula (mixing rule) is to be applied whenever a specific total emission limit value 'C' has not been set out in a table in this Annex.

The limit value for each relevant pollutant and carbon monoxide in the exhaust gas resulting from the co-incineration of waste shall be calculated as follows:

$$\frac{V_{\text{waste}} \times C_{\text{waste}} + V_{\text{proc}} \times C_{\text{proc}}}{V_{\text{waste}} + V_{\text{proc}}} = C$$

V_{waste} : exhaust gas volume resulting from the incineration of waste only determined from the waste with the lowest calorific value specified in the permit and standardised at the conditions given by this Directive.

If the resulting heat release from the incineration of hazardous waste amounts to less than 10 % of the total heat released in the plant, V_{waste} must be calculated from a (notional) quantity of waste that, being incinerated, would equal 10 % heat release, the total heat release being fixed.

C_{waste} : emission limit values set for incineration plants in Annex V for the relevant pollutants and carbon monoxide.

V_{proc} : exhaust gas volume resulting from the plant process including the combustion of the authorised fuels normally used in the plant (wastes excluded) determined on the basis of oxygen contents at which the emissions must be standardised as laid down in Community or national regulations. In the absence of regulations for this kind of plant, the real oxygen content in the exhaust gas without being thinned by addition of air unnecessary for the process must be used. The standardisation at the other conditions is given in this Directive.

C_{proc} : emission limit values as laid down in the tables of this annex for certain industrial sectors or in case of the absence of such a table or such values, emission limit values of the relevant pollutants and carbon monoxide in the flue gas of plants which comply with the national laws, regulations and administrative provisions for such plants while burning the normally authorised fuels (wastes excluded). In the absence of these measures the emission limit values laid down in the permit are used. In the absence of such permit values the real mass concentrations are used.

C: total emission limit values and oxygen content as laid down in the tables of this annex for certain industrial sectors and certain pollutants or in case of the absence of such a table or such values total emission limit values for CO and the relevant pollutants replacing the emission limit values as laid down in specific Annexes of this Directive. The total oxygen content to replace the oxygen content for the standardisation is calculated on the basis of the content above respecting the partial volumes.

Member States may lay down rules governing the exemptions provided for in this Annex.

II.1. Special provisions for cement kilns co-incinerating waste

Daily average values (for continuous measurements) Sample periods and other measurement requirements as in Article 7. All values in mg/m³ (Dioxins and furans ng/m³). Half-hourly average values shall only be needed in view of calculating the daily average values.

The results of the measurements made to verify compliance with the emission limit values shall be standardised at the following conditions: Temperature 273 K, pressure 101,3 kPa, 10 % oxygen, dry gas.

II.1.1. C — total emission limit values

Pollutant	C
Total dust	30
HCl	10
HF	1
NO _x for existing plants	800
NO _x for new plants	500 ⁽¹⁾

Pollutant	C
Cd + Tl	0,05
Hg	0,05
Sb + As + Pb + Cr + Co + Cu + Mn + Ni + V	0,5
Dioxins and furans	0,1

(¹) For the implementation of the NO_x emission limit values, cement kilns which are in operation and have a permit in accordance with existing Community legislation and which start co-incinerating waste after the date mentioned in Article 20(3) are not to be regarded as new plants.

Until 1 January 2008, exemptions for NO_x may be authorised by the competent authorities for existing wet process cement kilns or cement kilns which burn less than three tonnes of waste per hour, provided that the permit foresees a total emission limit value for NO_x of not more than 1200 mg/m³.

Until 1 January 2008, exemptions for dust may be authorised by the competent authority for cement kilns which burn less than three tonnes of waste per hour, provided that the permit foresees a total emission limit value of not more than 50 mg/m³.

II.1.2. C — total emission limit values for SO₂ and TOC

Pollutant	C
SO ₂	50
TOC	10

Exemptions may be authorised by the competent authority in cases where TOC and SO₂ do not result from the incineration of waste.

II.1.3. Emission limit value for CO

Emission limit values for CO can be set by the competent authority.

II.2. Special provisions for combustion plants co-incinerating waste

II.2.1. Daily average values

Without prejudice to Directive 88/609/EEC and in the case where, for large combustion plants, more stringent emission limit values are set according to future Community legislation, the latter shall replace, for the plants and pollutants concerned, the emission limit values as laid down in the following tables (C_{proc}). In that case, the following tables shall be adapted to these more stringent emission limit values in accordance with the procedure laid down in Article 17 without delay.

Half-hourly average values shall only be needed in view of calculating the daily average values.

C_{proc}:

C_{proc} for solid fuels expressed in mg/Nm³ (O₂ content 6 %):

Pollutants	< 50 MWth	50-100 MWth	100 to 300 MWth	> 300 MWth
SO ₂ general case		850	850 to 200 (linear decrease from 100 to 300 MWth)	200
indigenous fuels		or rate of desulphurisation ≥ 90 %	or rate of desulphurisation ≥ 92 %	or rate of desulphurisation ≥ 95 %
NO _x		400	300	200
Dust	50	50	30	30

Until 1 January 2007 and without prejudice to relevant Community legislation, the emission limit value for NO_x does not apply to plants only co-incinerating hazardous waste.

Until 1 January 2008, exemptions for NO_x and SO_2 may be authorised by the competent authorities for existing co-incineration plants between 100 and 300 MWth using fluidised bed technology and burning solid fuels provided that the permit foresees a C_{proc} value of not more than 350 mg/Nm³ for NO_x and not more than 850 to 400 mg/Nm³ (linear decrease from 100 to 300 MWth) for SO_2 .

C_{proc} for biomass expressed in mg/Nm³ (O_2 content 6 %):

'Biomass' means: products consisting of any whole or part of a vegetable matter from agriculture or forestry, which can be used for the purpose of recovering its energy content as well as wastes listed in Article 2(2)(a)(i) to (v).

Pollutants	< 50 MWth	50 to 100 MWth	100 to 300 MWth	> 300 MWth
SO_2		200	200	200
NO_x		350	300	300
Dust	50	50	30	30

Until 1 January 2008, exemptions for NO_x may be authorised by the competent authorities for existing co-incineration plants between 100 and 300 MWth using fluidised bed technology and burning biomass provided that the permit foresees a C_{proc} value of not more than 350 mg/Nm³.

C_{proc} for liquid fuels expressed in mg/Nm³ (O_2 content 3 %):

Pollutants	< 50 MWth	50 to 100 MWth	100 to 300 MWth	> 300 MWth
SO_2		850	850 to 200 (linear decrease from 100 to 300 MWth)	200
NO_x		400	300	200
Dust	50	50	30	30

II.2.2. C — total emission limit values

C expressed in mg/Nm³ (O_2 content 6 %). All average values over the sample period of a minimum of 30 minutes and a maximum of 8 hours:

Pollutant	C
Cd + Tl	0,05
Hg	0,05
Sb + As + Pb + Cr + Co + Cu + Mn + Ni + V	0,5

C expressed in ng/Nm³ (O_2 content 6 %). All average values measured over the sample period of a minimum of 6 hours and a maximum of 8 hours:

Pollutant	C
Dioxins and furans	0,1

II.3. Special provisions for industrial sectors not covered under II.1 or II.2 co-incinerating waste

II.3.1. C — total emission limit values:

C expressed in ng/Nm³. All average values measured over the sample period of a minimum of 6 hours and a maximum of 8 hours:

Pollutant	C
Dioxins and furans	0,1

C expressed in mg/Nm³. All average values over the sample period of a minimum of 30 minutes and a maximum of 8 hours:

Pollutant	C
Cd + Tl	0,05
Hg	0,05

ANNEX III

Measurement techniques

1. Measurements for the determination of concentrations of air and water polluting substances have to be carried out representatively.
2. Sampling and analysis of all pollutants including dioxins and furans as well as reference measurement methods to calibrate automated measurement systems shall be carried out as given by CEN-standards. If CEN standards are not available, ISO standards, national or international standards which will ensure the provision of data of an equivalent scientific quality shall apply.
3. At the daily emission limit value level, the values of the 95 % confidence intervals of a single measured result shall not exceed the following percentages of the emission limit values:

Carbon monoxide:	10 %
Sulphur dioxide:	20 %
Nitrogen dioxide:	20 %
Total dust:	30 %
Total organic carbon:	30 %
Hydrogen chloride:	40 %
Hydrogen fluoride:	40 %.

ANNEX IV

Emission limit values for discharges of waste water from the cleaning of exhaust gases

Polluting substances	Emission limit values expressed in mass concentrations for unfiltered samples	
	95 % 30 mg/l	100 % 45 mg/l
1. Total suspended solids as defined by Directive 91/271/EEC		
2. Mercury and its compounds, expressed as mercury (Hg)	0,03 mg/l	
3. Cadmium and its compounds, expressed as cadmium (Cd)	0,05 mg/l	
4. Thallium and its compounds, expressed as thallium (Tl)	0,05 mg/l	
5. Arsenic and its compounds, expressed as arsenic (As)	0,15 mg/l	
6. Lead and its compounds, expressed as lead (Pb)	0,2 mg/l	
7. Chromium and its compounds, expressed as chromium (Cr)	0,5 mg/l	
8. Copper and its compounds, expressed as copper (Cu)	0,5 mg/l	
9. Nickel and its compounds, expressed as nickel (Ni)	0,5 mg/l	
10. Zinc and its compounds, expressed as zinc (Zn)	1,5 mg/l	
11. Dioxins and furans, defined as the sum of the individual dioxins and furans evaluated in accordance with Annex I	0,3 mg/l	

Until 1 January 2008, exemptions for total suspended solids may be authorised by the competent authority for existing incineration plants provided the permit foresees that 80 % of the measured values do not exceed 30 mg/l and none of them exceed 45 mg/l.

ANNEX V

AIR EMISSION LIMIT VALUES

(a) Daily average values

Total dust	10 mg/m ³
Gaseous and vaporous organic substances, expressed as total organic carbon	10 mg/m ³
Hydrogen chloride (HCl)	10 mg/m ³
Hydrogen fluoride (HF)	1 mg/m ³
Sulphur dioxide (SO ₂)	50 mg/m ³
Nitrogen monoxide (NO) and nitrogen dioxide (NO ₂) expressed as nitrogen dioxide for existing incineration plants with a nominal capacity exceeding 6 tonnes per hour or new incineration plants	200 mg/m ³ (*)
Nitrogen monoxide (NO) and nitrogen dioxide (NO ₂), expressed as nitrogen dioxide for existing incineration plants with a nominal capacity of 6 tonnes per hour or less	400 mg/m ³ (*)

(*) Until 1 January 2007 and without prejudice to relevant (Community) legislation the emission limit value for NO_x does not apply to plants only incinerating hazardous waste.

Exemptions for NO_x may be authorised by the competent authority for existing incineration plants:

- with a nominal capacity of 6 tonnes per hour, provided that the permit foresees the daily average values do not exceed 500 mg/m³ and this until 1 January 2008,
- with a nominal capacity of >6 tonnes per hour but equal or less than 16 tonnes per hour, provided the permit foresees the daily average values do not exceed 400 mg/m³ and this until 1 January 2010,
- with a nominal capacity of >16 tonnes per hour but <25 tonnes per hour and which do not produce water discharges, provided that the permit foresees the daily average values do not exceed 400 mg/m³ and this until 1 January 2008.

Until 1 January 2008, exemptions for dust may be authorised by the competent authority for existing incinerating plants, provided that the permit foresees the daily average values do not exceed 20 mg/m³.

(b) Half-hourly average values

	(100 %) A	(97 %) B
Total dust	30 mg/m ³	10 mg/m ³
Gaseous and vaporous organic substances, expressed as total organic carbon	20 mg/m ³	10 mg/m ³
Hydrogen chloride (HCl)	60 mg/m ³	10 mg/m ³
Hydrogen fluoride (HF)	4 mg/m ³	2 mg/m ³
Sulphur dioxide (SO ₂)	200 mg/m ³	50 mg/m ³
Nitrogen monoxide (NO) and nitrogen dioxide (NO ₂), expressed as nitrogen dioxide for existing incineration plants with a nominal capacity exceeding 6 tonnes per hour or new incineration plants	400 mg/m ³ (*)	200 mg/m ³ (*)

(*) Until 1 January 2007 and without prejudice to relevant Community legislation the emission limit value for NO_x does not apply to plants only incinerating hazardous waste.

Until 1 January 2010, exemptions for NO_x may be authorised by the competent authority for existing incineration plants with a nominal capacity between 6 and 16 tonnes per hour, provided the half-hourly average value does not exceed 600 mg/m^3 for column A or 400 mg/m^3 for column B.

(c) **All average values over the sample period of a minimum of 30 minutes and a maximum of 8 hours**

Cadmium and its compounds, expressed as cadmium (Cd)	total 0,05 mg/m^3	total 0,1 mg/m^3 (*)
Thallium and its compounds, expressed as thallium (Tl)		
Mercury and its compounds, expressed as mercury (Hg)	0,05 mg/m^3	0,1 mg/m^3 (*)
Antimony and its compounds, expressed as antimony (Sb)	total 0,5 mg/m^3	total 1 mg/m^3 (*)
Arsenic and its compounds, expressed as arsenic (As)		
Lead and its compounds, expressed as lead (Pb)		
Chromium and its compounds, expressed as chromium (Cr)		
Cobalt and its compounds, expressed as cobalt (Co)		
Copper and its compounds, expressed as copper (Cu)		
Manganese and its compounds, expressed as manganese (Mn)		
Nickel and its compounds, expressed as nickel (Ni)		
Vanadium and its compounds, expressed as vanadium (V)		

(*) Until 1 January 2007 average values for existing plants for which the permit to operate has been granted before 31 December 1996, and which incinerate hazardous waste only.

These average values cover also gaseous and the vapour forms of the relevant heavy metal emissions as well as their compounds.

(d) **Average values shall be measured over a sample period of a minimum of 6 hours and a maximum of 8 hours. The emission limit value refers to the total concentration of dioxins and furans calculated using the concept of toxic equivalence in accordance with Annex I.**

Dioxins and furans	0,1 ng/m^3
--------------------	---------------------

(e) **The following emission limit values of carbon monoxide (CO) concentrations shall not be exceeded in the combustion gases (excluding the start-up and shut-down phase):**

- 50 milligrams/ m^3 of combustion gas determined as daily average value;
- 150 milligrams/ m^3 of combustion gas of at least 95 % of all measurements determined as 10-minute average values or 100 mg/m^3 of combustion gas of all measurements determined as half-hourly average values taken in any 24-hour period.

Exemptions may be authorised by the competent authority for incineration plants using fluidised bed technology, provided that the permit foresees an emission limit value for carbon monoxide (CO) of not more than 100 mg/m^3 as an hourly average value.

(f) **Member States may lay down rules governing the exemptions provided for in this Annex.**

ANNEX VI

Formula to calculate the emission concentration at the standard percentage oxygen concentration

$$E_s = \frac{21 - O_s}{21 - O_M} \times E_M$$

E_s = calculated emission concentration at the standard percentage oxygen concentration

E_M = measured emission concentration

O_s = standard oxygen concentration

O_M = measured oxygen concentration

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 27 December 2000

concerning the non-inclusion of quintozone in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant-protection products containing this active substance

(notified under document number C(2000) 4136)

(Text with EEA relevance)

(2000/816/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant-protection products on the market ⁽¹⁾, as last amended by Commission Directive 2000/68/EC ⁽²⁾, and in particular the fourth subparagraph of Article 8(2) thereof,

Having regard to Commission Regulation (EEC) No 3600/92 of 11 December 1992 laying down the detailed rules for the implementation of the first stage of the programme of work referred to in Article 8(2) of Council Directive 91/414/EEC concerning the placing of plant protection products on the market ⁽³⁾, as last amended by Commission Regulation (EC) No 2266/2000 ⁽⁴⁾, and in particular Article 7(3)(b) thereof,

Whereas:

(1) Article 8(2) of Directive 91/414/EEC provided for the Commission to carry out a programme of work for the examination of the active substances used in plant-protection products which were already on the market on 15 July 1993. Detailed rules for the carrying out of this programme were established in Commission Regulation (EEC) No 3600/92.

(2) Commission Regulation (EC) No 933/94 ⁽⁵⁾, as last amended by Regulation (EC) No 2230/95 ⁽⁶⁾ has designated the active substances which should be assessed in the framework of Regulation (EEC) No 3600/92, designated a Member State to act as rapporteur in respect of the assessment of each substance and identified the producers of each active substance who submitted a notification in due time in accordance with Article 4(2) of Regulation (EEC) No 3600/92.

(3) Quintozone is one of the 90 active substances designated in Regulation (EC) No 933/94.

(4) In accordance with Article 7(1)(c) of Regulation (EEC) No 3600/92, Greece, being the designated rapporteur Member State, submitted on 1 December 1997 to the Commission the report of its assessment of the information submitted by the notifiers in accordance with the provisions of Article 6(1) of this Regulation.

(5) On receipt of the report of the rapporteur Member State, the Commission undertook consultations with experts of the Member States as well as with the main notifier (Uniroyal Chemicals) as provided for in Article 7(3) of Regulation (EEC) No 3600/92.

(6) The assessment report prepared by Greece has been reviewed by the Member States and the Commission within the Standing Committee on Plant Health. This review was finalised on 13 July 2000 in the format of the Commission review report for quintozone, in accordance with Article 7(6) of Regulation (EEC) No 3600/92.

⁽¹⁾ OJ L 230, 19.8.1991, p. 1.

⁽²⁾ OJ L 276, 28.10.2000, p. 41.

⁽³⁾ OJ L 366, 15.12.1992, p. 10.

⁽⁴⁾ OJ L 259, 13.10.2000, p. 27.

⁽⁵⁾ OJ L 107, 28.4.1994, p. 8.

⁽⁶⁾ OJ L 225, 22.9.1995, p. 1.

- (7) Assessments made on the basis of the information submitted have not demonstrated that it may be expected that, under the proposed conditions of use, plant-protection products containing quintozone satisfy in general the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC, in particular with regard to the safety of operators and consumers potentially exposed to quintozone and with regard to the persistence of the substance in the environment and its possible impact on non-target organisms.
- (8) The main notifier informed the Commission and the rapporteur Member State that it no longer wished to participate in the programme of work for this active substance, and therefore further information will not be submitted.
- (9) Therefore it is not possible to include this active substance in Annex I to Directive 91/414/EEC.
- (10) Any period of grace for disposal, storage, placing on the market and use of existing stocks of plant-protection products containing quintozone allowed by Member States, in accordance with the provisions of Article 4(6) of Directive 91/414/EEC should be limited to a period no longer than 18 months to allow existing stocks to be used in no more than one further growing season.
- (11) This Decision does not prejudice any action the Commission may undertake at a later stage for this active substance within the framework of Council Directive 79/117/EEC ⁽¹⁾.
- (12) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DECISION:

Article 1

Quintozone is not included as active substance in Annex I to Directive 91/414/EEC.

Article 2

Member States shall ensure that:

1. authorisations for plant-protection products containing quintozone are withdrawn within a period of six months from the date of adoption of the present Decision;
2. from the date of adoption of the present Decision, no authorisations for plant-protection products containing quintozone will be granted or renewed under the derogation provided for in Article 8(2) of Directive 91/414/EEC.

Article 3

Any period of grace granted by a Member State in accordance with the provisions of Article 4(6) of Directive 91/414/EEC, shall be as short as possible and not longer than 18 months from the date of adoption of the present Decision.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 27 December 2000.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 33, 8.2.1979, p. 36.

COMMISSION DECISION

of 27 December 2000

concerning the non-inclusion of permethrin in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing this active substance

(notified under document number C(2000) 4140)

(Text with EEA relevance)

(2000/817/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant-protection products on the market ⁽¹⁾, as last amended by Commission Directive 2000/68/EC ⁽²⁾, and in particular the fourth subparagraph of Article 8(2) thereof,

Having regard to Commission Regulation (EEC) No 3600/92 of 11 December 1992 laying down the detailed rules for the implementation of the first stage of the programme of work referred to in Article 8(2) of Council Directive 91/414/EEC concerning the placing of plant protection products on the market ⁽³⁾, as last amended by Commission Regulation (EC) No 2266/2000 ⁽⁴⁾ and in particular Article 7(3a)b) thereof,

Whereas:

- (1) Article 8(2) of Directive 91/414/EEC provided for the Commission to carry out a programme of work for the examination of the active substances used in plant-protection products which were already on the market on 15 July 1993. Detailed rules for the carrying out of this programme were established in Commission Regulation (EEC) No 3600/92.
- (2) Commission Regulation (EC) No 933/94 ⁽⁵⁾ of 27 April 1994, as last amended by Regulation (EC) No 2230/95 ⁽⁶⁾ has designated the active substances which should be assessed in the framework of Regulation (EEC) No 3600/92, designated a Member State to act as rapporteur in respect of the assessment of each substance and identified the producers of each active substance who submitted a notification in due time in accordance with Article 4(2) of Regulation (EEC) No 3600/92.
- (3) Permethrin is one of the 90 active substances designated in Regulation (EC) No 933/94.
- (4) In accordance with Article 7(1)(c) of Regulation (EEC) No 3600/92, Ireland, being the designated rapporteur Member State, submitted on 10 June 1998 to the Commission the report of its assessment of the informa-

tion submitted by the notifiers in accordance with the provisions of Article 6(1) of this Regulation.

- (5) The assessment report prepared by Ireland was reviewed by the Member States and the Commission within the Standing Committee on Plant Health. This review was finalised on 13 July 2000 in the format of the Commission review report for permethrin, in accordance with Article 7(6) of Regulation (EEC) No 3600/92.
- (6) It has appeared from the assessments made that the submitted information is not sufficient to demonstrate that, under the proposed conditions of use, plant-protection products containing the active substance concerned satisfy the requirements laid down in Articles 5(1)(a) and (b) and 5(2)(b) of Directive 91/414/EEC.
- (7) All notifiers informed the Commission and the rapporteur Member State that they no longer wished to participate in the programme of work for this active substance. Therefore, the further information which would be required to demonstrate that permethrin fully complies with the requirements of Directive 91/414/EEC will not be submitted.
- (8) Therefore, it is not possible to include this active substance in Annex I to Directive 91/414/EEC.
- (9) Technical evidence has been provided indicating that limited further use of permethrin in forestry could be allowed whilst research is ongoing in order to find efficient alternatives providing that appropriate risk mitigation measures are taken.
- (10) Any period of grace for disposal, storage, placing on the market and use of existing stocks of plant-protection products containing permethrin allowed by Member States, in accordance with the provisions of Article 4(6) of Directive 91/414/EEC should be limited to a period no longer than 18 months to allow existing stocks to be used in no more than one further growing season.
- (11) This Decision does not prejudice any action the Commission may undertake at a later stage for this active substance within the framework of Council Directive 79/117/EEC ⁽⁷⁾.

⁽¹⁾ OJ L 230, 19.8.1991, p. 1.

⁽²⁾ OJ L 276, 28.10.2000, p. 41.

⁽³⁾ OJ L 366, 15.12.1992, p. 10.

⁽⁴⁾ OJ L 259, 13.10.2000, p. 27.

⁽⁵⁾ OJ L 107, 28.4.1994, p. 8.

⁽⁶⁾ OJ L 225, 22.9.1995, p. 1.

⁽⁷⁾ OJ L 33, 8.2.1979, p. 36.

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

HAS ADOPTED THIS DECISION:

Article 1

Permethrin is not included as an active substance in Annex I to Directive 91/414/EEC.

Article 2

The Member States shall ensure:

1. that authorisations for all uses of plant-protection products containing permethrin are withdrawn within a period of six months from the date of adoption of the present Decision except for the uses referred to in paragraph 2;
2. that the authorisations for uses of plant-protection products containing permethrin in young plants for forestry are withdrawn not later than on 25 July 2003;

3. that from the date of the present Decision no authorisations for plant-protection products containing permethrin will be granted or renewed under the derogation provided for in Article 8(2) of Directive 91/414/EEC, except for the uses referred to in paragraph 2.

Article 3

Any period of grace granted by a Member State in accordance with the provisions of Article 4(6) of Directive 91/414/EEC, shall be as short as possible and not longer than 18 months from the date of adoption of the present Decision. For the uses referred to in Article 2(2) the period of grace shall expire not later than on 31 December 2003.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 27 December 2000.

For the Commission

David BYRNE

Member of the Commission

COMMISSION DECISION

of 19 December 2000

accepting an undertaking offered in connection with the anti-dumping proceedings concerning imports of polyester staple fibres originating in India and the Republic of Korea

(notified under document number C(2000) 3905)

(2000/818/EC)

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 2238/2000 ⁽²⁾, (the 'basic Regulation'), and in particular Articles 8 and 9 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

- (1) By Regulation (EC) No 1472/2000 ⁽³⁾, the Commission imposed provisional anti-dumping duties on imports into the Community of polyester staple fibres ('PSF') originating in India and the Republic of Korea.
- (2) Following the adoption of the provisional anti-dumping measures, the Commission continued the investigation of dumping, injury and Community interest. The definitive findings and conclusions of the investigation are set out in Council Regulation (EC) No 2852/2000 ⁽⁴⁾ imposing definitive anti-dumping duties on imports of PSF originating in India and the Republic of Korea.
- (3) The investigation confirmed the provisional findings of injurious dumping relating to imports originating in India and the Republic of Korea.

B. UNDERTAKING

- (4) Subsequent to the adoption of provisional anti-dumping measures, one exporting producer in India that participated in the investigation offered an undertaking. According to this undertaking, the exporting producer in question has offered to sell to its unrelated customers in the Community at a minimum price.
- (5) The Commission considers that the undertaking offered by the Indian company, Reliance Industries Limited, can be accepted since it eliminates the injurious effects of dumping. Moreover, the regular and detailed reports which the company undertook to provide to the Commission will allow effective monitoring and the structure of the company is such that the Commission

considers that the risk of circumvention of the undertaking will be limited.

- (6) In order to ensure the effective respect and monitoring of the undertaking, when the request for release for free circulation pursuant to the undertaking is presented to the relevant customs authority, exemption from the duty should be conditional upon presentation of a commercial invoice containing the information listed in the Annex to Council Regulation (EC) No 2852/2000 which is necessary for customs to ascertain that shipments correspond to the commercial documents at the required level of detail. Where no such invoice is presented, or when it does not correspond to the product presented to customs, the appropriate rate of anti-dumping duty should instead be payable.
- (7) In the event of a suspected breach, breach or withdrawal of the undertaking an anti-dumping duty may be imposed, pursuant to Article 8(9) and (10) of the basic Regulation,

HAS ADOPTED THIS DECISION:

Article 1

The undertaking offered by Reliance Industries Limited, Mumbai India (TARIC additional code A212), in the framework of the anti-dumping proceedings concerning imports of polyester staple fibres originating in India and the Republic of Korea is hereby accepted.

Article 2

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

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

Done at Brussels, 19 December 2000.

For the Commission

Pascal LAMY

Member of the Commission

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 257, 11.10.2000, p. 2.

⁽³⁾ OJ L 166, 6.7.2000, p. 1.

⁽⁴⁾ See page 17 of this Official Journal.