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I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 298/2001
of 12 February 2001
amending Regulation (EC) No 2450/98 imposing a definitive countervailing duty on imports of
stainless steel bars originating in India**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community ⁽¹⁾, and in particular Articles 15 and 20 thereof,

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

Whereas:

A. PREVIOUS PROCEDURE

- (1) By Regulation (EC) No 2450/98 ⁽²⁾, the Council imposed a definitive countervailing duty on imports of stainless steel bars (hereafter referred to as 'the product concerned') falling within CN codes ex 7222 20 11, 7222 20 21, 7222 20 31 and 7222 20 81 originating in India. The measures took the form of *ad valorem* duties between 0 and 25,5 %, with a residual duty of 25,5 %.

B. CURRENT PROCEDURE

Request for review

- (2) Subsequent to the imposition of definitive measures, the Commission received a request for initiation of an accelerated review of Regulation (EC) No 2450/98, pursuant to Article 20 of Regulation (EC) No 2026/97 (hereinafter referred to as 'the basic Regulation'), from an Indian exporter, Hindustan Stainless, located in Bombay. The company claimed that it was not related to any other exporters of the product concerned in India, and that it had not exported the product concerned to the Community during the original period of investigation (1 July 1996 to 30 June 1997). The company stated that it intended to begin exporting to the European Union in the near future.

Initiation of an accelerated review

- (3) The Commission examined the evidence submitted by the Indian exporting producer concerned and considered it sufficient to justify the initiation of a review in accordance with the provisions of Article 20 of the basic Regulation. After consultation of the Advisory Committee and after the Community industry concerned had been given the opportunity to comment, the Commission initiated, by a notice in the Official Journal ⁽³⁾, an accelerated review of Regulation (EC) No 2450/98 with regard to the company concerned and commenced its investigation.

Product concerned

- (4) The product covered by the current review is the same product as that under consideration in Regulation (EC) No 2450/98.

Parties concerned

- (5) The Commission officially advised the company concerned and the Government of India of the initiation of the review. Furthermore, it gave other parties directly concerned the opportunity to make their views known in writing and to request a hearing.
- (6) The Commission sent a questionnaire to the company concerned and received a full reply within the deadlines. The Commission sought and verified all information it deemed necessary for the purpose of the investigation and carried out a verification visit at the premises of the company concerned.

Investigation period

- (7) The investigation of subsidisation covered the period 1 October 1998 to 30 September 1999 (hereinafter referred to as 'the investigation period').

⁽¹⁾ OJ L 288, 21.10.1997, p. 1.

⁽²⁾ OJ L 304, 14.11.1998, p. 1.

⁽³⁾ OJ C 311, 29.10.1999, p. 2.

Methodology

- (8) The same methodology as that used in the original investigation was applied in the current investigation.

C. SCOPE OF THE REVIEW

- (9) As no request for a review of the findings on injury was made in this investigation, this review was limited to subsidisation.
- (10) The Commission examined the same subsidy schemes which were analysed in the original investigation, along with the possible usage by Hindustan Stainless of any subsidy schemes established after the end of the original investigation period, together with any ad-hoc subsidies received after this date.
- (11) It was also examined whether the company under investigation could be considered as a newcomer for the purpose of Article 20 of the basic Regulation.

D. RESULT OF THE INVESTIGATION

New exporter qualification

- (12) The investigation confirmed that Hindustan Stainless had not exported the product concerned during the original period of investigation but had subsequently exported the product to other third countries and had also received requests for prices from companies in the European Union.
- (13) A number of family and economic links were established between Hindustan Stainless, Venus Wire Industries Ltd, and Venus Metal Corporation. Venus Wire Industries Ltd participated in the original investigation period and was given a countervailing duty of 16,1 %.
- (14) From the documents obtained on-the-spot and on the basis of information from the Venus Wire Industries Ltd questionnaire submitted in the original investigation, the following family links were established. Three directors of Venus Wire Industries Ltd, who are also partners in Venus Metal Corporation, are respectively the father and uncles of the sole owner of Hindustan Stainless.
- (15) The warehouse premises used by the company under investigation is rented from Venus Metal Corporation. The rental contract for the warehouse was signed in 1998 for one year and stipulates that payment has to be made quarterly in equal instalments. The contract was signed by the owner for Hindustan Stainless and by his uncle for Venus Metal Corporation.
- (16) Hindustan Stainless also rents two offices in Mumbai, which belong respectively to two directors of Venus Wire Industries Ltd and who are also uncles of the owner of the company under investigation. Similarly,

rent should also have been paid in four equal instalments.

- (17) The investigation established that no payment had been made by Hindustan Stainless either for the warehouse or for the offices. Subsequent to the verification, the company paid rent for the period 1998 to 1999 and provided evidence to the Commission of the same after the on-the-spot investigation
- (18) It was also established that a director of Venus Wire Industries Ltd, and the father of the owner of the company under investigation, was the guarantor for banking facilities used by Hindustan Stainless for an import of raw material.
- (19) Given the circumstances outlined in recitals 13 to 18, it is concluded that Hindustan Stainless cannot be considered as a new exporter, but rather is related to an exporter which received individual treatment during the original investigation (Venus Wire Industries Ltd), either directly or through Venus Metal Corporation. The request for newcomer status should, therefore, be rejected and Hindustan Stainless, as a related company, should be subject to the same countervailing duty rate as Venus Wire Industries Ltd.

E. DISCLOSURE OF FINDINGS

- (20) The company concerned was informed of the facts and considerations on the basis of which it is intended to propose the amendment of Regulation (EC) No 2450/98, and was given the opportunity to comment.
- (21) Following disclosure of the essential facts, the company under investigation accepted the family relationships but denied any financial assistance from either Venus Wire Industries Ltd or Venus Metal Corporation. The company pointed out that rent for the year 1998 had now been paid and submitted that the bank guarantee involved no monetary contribution.
- (22) It is accepted that the warehouse and office rentals for 1998 have now been paid, albeit a year late and only following the on-the-spot verification visit. However, the argument concerning the bank guarantee should be rejected. Without the guarantor, the interest rate payable may have been higher or the banking facility may not have been granted at all. Therefore the guarantee represents a benefit to Hindustan Stainless.
- (23) As there are close family relationships and economic links between Hindustan Stainless and three of the directors of Venus Wire Industries Ltd, the conclusion reached in recital 19 is confirmed.

F. AMENDMENT AND DURATION OF THE MEASURES BEING REVIEWED

- (24) Based on the findings made during the investigation, it is considered that imports into the Community of stainless steel bars produced and exported by the company concerned should be subject to the same rate of countervailing duty as Venus Wire Industries Ltd, i.e. 16,1 %, since they are related companies.
- (25) Regulation (EC) No 2450/98 should therefore be amended accordingly.
- (26) The review carried out does not affect the date on which Regulation (EC) No 2450/98 will expire under Article 18(1) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Article 1(2) of Council Regulation (EC) No 2450/98 is hereby amended by adding the following to the list of companies subject to measures:

Manufacturer	Rate of duty (%)	TARIC additional code
'Hindustan Stainless, Plot No 165, Road No 1, Kalamboli Warehousing Complex, Kalamboli, Taluka — Panvel, Dist — Raigad, India.	16,1	8407'

Article 2

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, 12 February 2001.

For the Council
The President
B. RINGHOLM

COUNCIL REGULATION (EC) No 299/2001**of 12 February 2001****imposing a definitive anti-dumping duty on imports of potassium permanganate originating in the People's Republic of China**

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 11(2) and (6) thereof,

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

Whereas:

1. PREVIOUS INVESTIGATIONS**1.1. Investigations concerning the People's Republic of China**

- (1) By Regulation (EEC) No 1531/88 ⁽²⁾ the Council imposed a definitive anti-dumping duty on imports of potassium permanganate originating in the People's Republic of China ('China'). The amount of the duty imposed was equal to either the amount by which the free-at-Community-frontier price per kilogram net, before duty, was less than ECU 2,25, or 20 % of that price, whichever was higher.
- (2) In 1994, following a review under Articles 14(1) and 15(3) of Regulation (EEC) No 2423/88 ⁽³⁾, the Council, by Regulation (EC) No 2819/94 ⁽⁴⁾, imposed a definitive anti-dumping duty on imports of potassium permanganate originating in China of ECU 1,26 per kg.

1.2. Investigations concerning other countries

- (3) An anti-dumping investigation on potassium permanganate imports originating in India and the Ukraine was initiated in April 1997. Definitive anti-dumping duties of 5,6 % and 36,2 % respectively were imposed on imports from these countries by Regulation (EC) No 1507/98 ⁽⁵⁾.

2. PRESENT INVESTIGATION**2.1. Request for review**

- (4) In April 1999, the Commission published a notice of impending expiry ⁽⁶⁾ of the anti-dumping measures in force on imports of potassium permanganate originating

in China. On 12 July 1999, the Conseil Européen des Fédérations de l'Industrie Chimique (CEFIC) submitted a request to review these measures pursuant to Article 11(2) of Regulation (EC) No 384/96, ('the basic Regulation').

- (5) The request was lodged on behalf of the sole Community producer, thus representing the totality of Community production of potassium permanganate. The request was based on the grounds that the expiry of the measures would be likely to result in the continuation or recurrence of dumping and injury to the Community industry.

2.2. Notice of initiation

- (6) Having determined, after consultation of the Advisory Committee, that sufficient evidence existed for the initiation of a review, the Commission initiated an investigation pursuant to Article 11(2) of the Basic Regulation ⁽⁷⁾.

2.3. Period of investigation

- (7) The investigation of a likelihood of a continuation and recurrence of dumping covered the period from 1 October 1998 to 30 September 1999 ('IP'). The examination of trends relevant in the context of the aforementioned recurrence of injury covered the period from 1995 up to the end of the IP ('the period considered').

2.4. Parties concerned by the investigation

- (8) The applicant Community producer, the exporters and exporting producers in China, the importers known to be concerned, and the representatives of the exporting country were officially advised of the initiation of the review. Questionnaires were sent to all these parties and to those who made themselves known within the time limit set in the notice of initiation. In addition, the cooperating producer in the United States, which was chosen as an analogue country, was advised and sent a questionnaire. Interested parties were given the opportunity to make their views known in writing.

- (9) The applicant Community producer replied to the questionnaire, as well as one importer. In addition, two independent resellers made their views known in writing.

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

⁽²⁾ OJ L 138, 3.6.1988, p. 1.

⁽³⁾ OJ L 209, 2.8.1988, p. 1.

⁽⁴⁾ OJ L 298, 19.11.1994, p. 32. Regulation as last amended by Regulation No 1170/95 (OJ L 118, 25.5.1995, p. 6).

⁽⁵⁾ OJ L 200, 16.7.1998, p. 4.

⁽⁶⁾ OJ C 117, 29.4.1999, p. 3.

⁽⁷⁾ OJ C 323, 11.11.1999, p. 5.

- (10) The producer in the analogue country also replied to the questionnaire.
- (11) With respect to the exporting country, no exporters or exporting producers cooperated in the investigation.

2.5. Verification of information received

- (12) All information deemed necessary was sought and verified for the purpose of deciding the likelihood of a continuation or recurrence of dumping and injury as well as a determination of the Community interest. A verification visit was carried out at the premises of the sole Community producer, Industrial Química del Nalón SA-IQN, Oviedo, Spain.
- (13) Interested parties were given the opportunity to request a hearing, but no such request was made.

3. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

3.1. Description of the product under consideration

- (14) The product under consideration is the same as in the previous investigations, i.e. potassium permanganate, which has the chemical formula KMnO_4 . Potassium permanganate falls within CN code 2841 61 00, and is a compound of manganese, potassium and oxygen whose manufacture requires two basic raw materials: caustic potash (KOH) and manganese dioxide or pyrolusite ore (MnO_2). The product is manufactured in three grades: technical (97 % to 98 % purity of KMnO_4 , in the form of crystalline powder), free flowing (containing an anti-caking agent) and pharmaceutical (minimum 99 % purity of KMnO_4 in the form of crystals). All grades show the same basic physical (crystalline) and chemical properties. It was therefore concluded that all grades should be considered as one product for the purpose of the investigation.
- (15) Potassium permanganate is a strong oxidising agent used for potable water treatment, for waste water treatment, in the manufacture of chemicals and pharmaceuticals, in aqua culture, in metal refining, for metal surface cleaning, as a disinfectant in agriculture and veterinary practices, for gas purification, process gas deodorisation, for bleaching and special treatments in the textile industry, in radioactive decontamination, in gas turbine cleaning and for submarine air purification.

3.2. Like product

- (16) Potassium permanganate produced and sold on the domestic market in the US and that exported to the Community from China as well as that produced and sold by the Community industry in the Community market had effectively identical physical characteristics and uses and were thus like Products within the meaning of Article 1(4) of the basic Regulation.

4. CONTINUATION OR RECURRENCE OF DUMPING

4.1. General issues

- (17) Eurostat statistics show a very low level of imports of potassium permanganate from China, of 30 tonnes in 1998 and 23 tonnes during the IP. However, Chinese export statistics (recital 44) show a much higher volume of 450 tonnes in 1998 and in the previous year. With regard to this disparity, and in view of the total lack of cooperation by Chinese exporters or exporting producers, there is a strong possibility of circumvention of the existing duties, by declaring the Chinese product as originating in a number of other countries.
- (18) In the context of the continuation of dumping, it was investigated whether dumping of exports from the country concerned to the Community was currently taking place. This was on the grounds that if dumping was taking place now, then it was reasonable to consider that it would continue in the future.
- (19) As to the examination of the likely recurrence of dumping should the current measures be repealed, it was investigated both whether future dumping was likely and also whether any such dumping would take place in significant quantities. The likelihood of future dumping was assessed in relation to exports from the country concerned to third countries and the question of volume was addressed by examining all relevant market developments, both domestic and export.
- (20) As the purpose of this type of review is to assess the likelihood of dumping should measures be removed, it was not considered necessary or appropriate to calculate dumping margins or allowances with the precision that would be necessary in an anti-dumping investigation carried out under Article 5 of the basic Regulation. Nevertheless, the investigation was carried out to a level of detail which would permit a finding as to whether significant dumping had occurred during the investigation period, irrespective of the precise price level of each export transaction, costs and allowances claimed or otherwise applied.
- (21) It was noted that the US administration recently decided to maintain their existing anti-dumping measures against imports of potassium permanganate originating in China. However, it was not considered necessary or appropriate to draw conclusions from this fact, other than that it renders far less attractive one important market to which some Chinese production capacity could be redirected (see recital 40).

4.2. Likelihood of a continuation of dumping

4.2.1. Analogue country

- (22) In the absence of any cooperation on the part of Chinese exporters, normal value for the exports from China had to be established in accordance with Article 2(7)(a) of the basic Regulation, i.e. based on information obtained in a market economy third country where the product was produced and sold.

- (23) In accordance with the Notice of Initiation, the applicant's suggestion to use the United States as an appropriate analogue country, as in the previous investigations, was accepted for a number of reasons:

The US is the largest world market for potassium permanganate and the second largest producer after China.

The US market is open to imports, which represent around a 10 % share of US consumption.

Potassium permanganate, from all sources, is a relatively homogeneous product.

In its major applications, potassium permanganate is subject to competition from other substitute chemicals.

- (24) Other countries (e.g. India, Czech Republic) were considered less appropriate as reference countries in view of the scale of production and conditions of competition prevailing in these markets. Also, Indian producers, who were approached as a potential reference country, indicated that they would not be able to cooperate.
- (25) Given the cooperation of the US producer, and the absence of comments from any other interested parties, the US remained the only appropriate and reasonable choice, as had already been the case in the 1988 and 1994 investigations.

4.2.2. Normal value

- (26) Firstly, it was examined whether the domestic sales made by the cooperating US producer were representative when compared to the imports into the Community concerned by the investigation. This was considered to be the case as they were made in significant quantities, measured against the average volume of exports recorded as sold into the Community by the exporting producers in China during the IP.
- (27) It was also established that the relevant sales could be considered as having been made in the ordinary course of trade, having compared the sales prices and costs of production for each grade of potassium permanganate sold by the US producer.
- (28) Normal value was thus established as the weighted average of the prices of all grades of potassium permanganate sold on the US domestic market in the first quarter of 1999 by the cooperating US producer. Although the data supplied by the US producer does not cover the full IP, these prices were in line with the weighted average sales prices for the years 1997 and 1998 which were also provided and can therefore be considered representative for the IP.

- (29) The figures submitted by the cooperating US producer were also verified where possible with other sources. Given the level of dumping found, and the fact that an exact calculation of these levels is not required as explained in recital 20, it was considered that the figures need not be further corroborated by an on-site verification.

4.2.3. Export price

- (30) As no exporting producers cooperated, the export price was determined on the basis of the facts available. In this case this was by reference to Eurostat, and to information provided by an importer not related to the Chinese exporters.
- (31) According to Eurostat, the weighted average value of imports from China on a cif European Community frontier basis, for all grades of potassium permanganate during the IP was 1 125 EUR/t. This is equivalent to approximately 960 EUR/t on a fob Chinese border basis.
- (32) Based on evidence provided by the applicant, the average import price from China on a cif European Community frontier basis was around 970 EUR/t which is equivalent to approximately 810 EUR/t on a fob Chinese border basis.
- (33) The only European importer which cooperated in the investigation provided price data which falls within the range of the above figures.
- (34) Chinese export statistics (recital 44) show a unit value of 886 EUR/t for the year of 1998, which is also in line with the said price levels.
- (35) In summary, information on export prices taken from several independent sources indicates that the export price ranges from approximately 800 to 1 000 EUR/t on a fob Chinese border basis.

4.3. Comparison

- (36) Comparisons were made between export prices on a FOB Chinese border basis and the United States normal value, which was adjusted accordingly by adding the average US inland freight from factory to port (fob US border).

4.4. Dumping margin

- (37) The analysis performed shows that exports to the Community have been dumped at a substantial margin during the IP. The dumping margins according to the different sources mentioned in recitals 30 to 35 range from 108 % to 174 %. These would correspond to specific duty rates of 1,308 and 1,543 EUR/kg respectively, a rate higher than the duty of 1,260 EUR/kg currently in force.

5. LIKELIHOOD OF THE RECURRENCE OF DUMPING

5.1. Likelihood of recurrence of significant volumes

- (38) China is the world's largest producer and exporter of potassium permanganate and currently has a high level of unused production capacity which has been brought on stream in the last few years. This excess capacity is equivalent to 5 or 6 times the volume of the Community market.
- (39) China has the potential to increase its exports to the Community market in very significant volumes, particularly as sales in the Chinese domestic market are not expected to increase in the foreseeable future.
- (40) Furthermore, in the USA, the world's largest market in terms of consumption of potassium permanganate, Chinese exports, which have been subject to anti-dumping duties since 1983, have virtually ceased. Following a review in 1999, the level of anti-dumping duty in the USA has recently been maintained at 128,94 %.

- (41) India, another important market, has also imposed a substantial anti-dumping duty (equivalent to 149 EUR/t) on Chinese origin imports, since 1995.
- (42) These factors, together with relatively stable world consumption, can only increase the attractiveness of the Community market, the largest in the world after the US and China itself.

5.2. Likelihood of recurrence of dumping

- (43) Taking into account all the sources of information available during the proceeding, it can be seen that Chinese producers have continued to dump the product concerned into the Community market in the period after the present measures were imposed.
- (44) Moreover, Chinese exports to third markets have also consistently been at very low and dumped prices, as confirmed by comparing the Chinese export statistics and the normal value determinations in this case:

Chinese exports of potassium permanganate	1996	1997	1998
World			
Quantity (t)	7 924	10 176	10 396
Unit value (EUR/t)	1 011	984	892
EC			
Quantity (t)	222	450	450
Unit value (EUR/t)	843	877	886

Source: Chinese export statistics

- (45) In these circumstances there is every reason to believe that any increased volumes exported from China to the Community would be at dumped prices.

5.3. Conclusion

- (46) The relatively stable consumption on the world market, the increase over the past five years of the level of unused capacities and the limited access to other key export markets indicate that there is a likelihood that the repeal of the current anti-dumping measures against imports of the product concerned from China would lead to a recurrence of significant volumes of dumped exports on to the Community market.
- (47) In particular, the examination of dumping with regard to sales to the European Community during the IP and of sales to third country markets outside the European Community, showed a pattern of continued dumping by the Chinese exporters as well as evidence that any increased volume of exports from China would be at dumped prices.

6. DEFINITION OF THE COMMUNITY INDUSTRY

- (48) The applicant (CEFIC) acts on behalf of the only Community producer of the product concerned. This producer (Industrial Química del Nalón SA-IQN) represents 100 % of potassium permanganate produced in the Community during the IP and constitutes, therefore, the 'Community industry' pursuant to Article 4(1) of the basic Regulation.

7. ANALYSIS OF THE SITUATION OF THE COMMUNITY INDUSTRY

7.1. Consumption

- (49) Consumption in the Community was calculated using verified data of sales provided by the Community industry and import volumes obtained via Eurostat. Consumption decreased by 18 % during the period 1995 to the end of the IP, although consumption in 1995 was unusually high due to a severe drought in Spain. Consumption during the IP was close to that of 1996, following dips during 1997 and 1998.

7.2. Volume and prices of imports from the country concerned

- (50) Data from Eurostat suggests that imports from China remained low throughout the period considered, due to the existence of anti-dumping measures. However, as outlined in recital 44, export statistics provided by the Chinese Government suggests much higher exports to the Community of 222 tonnes in 1996 and 450 tonnes in both 1997 and 1998. This represents a market share during the IP of 10 % ⁽¹⁾ which is well above *de minimis* levels. Even if the Eurostat figures were correct, and the volume of imports was very low during the IP, this is not relevant in the context of an expiry review as the low volume of imports is, at least in part, attributable to the measures already in force.
- (51) Due to the low level of confirmed Chinese origin potassium permanganate sold on the Community market and the total non-cooperation from the producers/exporters in the country concerned, it is difficult to make any accurate price comparisons. However, the data available leads to the conclusion that Chinese prices remain at a level significantly below those of the Community producer. Eurostat figures show that during the IP, Chinese (duty-free) prices undercut Community producer prices by an average of 38 %. Similar data for Taiwan shows only slightly lower undercutting by an average of 33 %.
- (52) The price of Chinese origin potassium permanganate is well below both the average market price and the price of the Community industry. Only in 1997 were prices close to those of the Community producer, but since then there has been a growing disparity. Having come into the Community market in 1997, Taiwanese prices have consistently undercut the Community producer by around 25 %. As there is apparently no production in Taiwan, there is reasonable cause to suspect that this product is of Chinese origin.

7.3. Imports from other third countries

7.3.1. Volumes and market share

- (53) Total imports from other third countries increased by 54 % between 1995 and the IP, although imports from the Ukraine and India have decreased considerably due to the imposition of anti-dumping duties against these countries by Regulation (EC) No 1507/98 ⁽²⁾. Conversely, imports from the USA, the Czech Republic, and Taiwan have increased markedly. In the case of the Czech Republic, exports to the Community account for

69 % of its total capacity, estimated at around 1 000 tonnes per annum. Taiwan, who had no exports to the Community until 1997 has seen a doubling of volume year on year since then.

7.3.2. Sales prices

- (54) The USA and the Czech Republic are the main importers into the Community against whom no anti-dumping measures are currently in place. The US prices are at a level close to, but slightly higher, than those of the Community producer. The Czech Republic prices are the lowest of all the main exporters to the Community. However, as explained in recital 53, the scope for further penetration of the market by Czech exporters is limited and at maximum would only represent a further 5 % increase in market share. There is no evidence that these imports are either causing injury to the Community industry, or that they are being made at dumped prices.

7.4. Situation of the Community industry

7.4.1. Market share and sales volume

- (55) The Community industry represents 100 % of Community production in the IP, as there is only one Community producer of potassium permanganate. Until 1998, when it went out of business, there was another Community producer, Chemie AG based in Germany. However, this company has not been considered in analysing the situation of the Community industry, except for the indicator on employment.
- (56) The volume of sales of the Community industry decreased by 21 %, during the period considered, whilst its market share fell by 2 %. However, consumption dropped by 18 % over the same period, so that the Community industry was able to maintain the majority of its market share in a declining market.
- (57) As already indicated in recital 49, 1995 was exceptional due to a severe drought in the south of Spain and the exhaustion of water supplies. This led directly to an increase in the consumption of potassium permanganate for the treatment of heavily polluted river water. As the Community industry was best placed to meet this exceptional demand, its sales volumes and market share were correspondingly improved. A more meaningful and representative analysis would be to take the period from 1996 to the IP. Over this period, whilst both the volume of sales and the Community industry's market share have increased, there has been a reduction in both indicators during the IP from highs in 1997 and 1998.

⁽¹⁾ The figure includes a margin of +/-5 % to protect the confidentiality of the Community producer.

⁽²⁾ OJ L 200, 16.7.1998, p. 4.

7.4.2. Production, capacity and capacity utilisation

- (58) Capacity utilisation of the Community industry increased by 15 % over the period considered. Capacity utilisation was low during 1997 due to the high stock levels at the end of 1996 (recital 65). Following the introduction of anti-dumping measures against India and Ukraine in 1998, the capacity utilisation during the IP returned to its 1996 level.

7.4.3. Cost of production

- (59) Unit costs per tonne of potassium permanganate increased by 5 % over the period considered. There was a peak in 1997 explained by the low production levels that year and the ensuing effect of fixed costs on the unit price.

7.4.4. Employment

- (60) Whilst the remaining Community producer maintained a stable employment situation throughout the period considered, it should be kept in mind that another Community producer completely shut down operations during the period considered, resulting in a loss of employment.

7.4.5. Production and productivity

- (61) Production and productivity increased by 16 % and 21 % respectively over the period considered.

7.4.6. Price development

- (62) An analysis of sales prices of the Community industry showed that sales prices increased by 12 % over the period considered. The largest increase occurred in 1998 when anti-dumping measures were imposed on imports of potassium permanganate from India and Ukraine. The unit price has been stable for the last two years.

7.4.7. Profits

- (63) During the period considered the Community industry showed a profit during 1995 followed by losses in 1996, 1997 and 1998. The Community industry returned to modest profitability during the IP. This is explained by the imposition of anti-dumping measures against India and the Ukraine in 1998, following which there was a marked recovery.

7.4.8. Export sales of Community industry

- (64) Export sales are mainly directed to USA, Norway and Switzerland. Except for a loss in 1995, the Community industry showed a profit on its export sales between 1996 and the IP.

7.4.9. Development of stocks

- (65) Stock levels were high at the end of 1996 due to increased production but since there was no repetition of the 1995 drought, they have been progressively reduced.

7.4.10. Conclusions on the situation of the Community industry

- (66) Most of the indicators suggest that the situation of the Community industry is improving. This is particularly noticeable from 1998 onwards, when anti-dumping measures were imposed against India and Ukraine. Over the period considered output and productivity have increased, prices have risen and the IP saw a return to modest profitability. The decrease in consumption and sales volumes during the period considered should be seen in the light of the fact that the 1995 base level was inflated due to a drought in Spain. However, both indicators have shown improvement during 1997 and 1998, with some fall-off during the IP. At the same time, the Community industry has maintained its market share.
- (67) During the period considered, the capacity of the Community industry did not change, whilst the utilisation of that capacity increased. However, the cost of production of potassium permanganate increased.
- (68) Taken together, the indicators point to a situation where anti-dumping measures against China, India, and Ukraine have allowed the Community industry to compete on a fair footing. Prices of US exports to the Community market, where there is no suggestion of injurious dumping, are at a level close to those of the Community producer, suggesting these prices can be considered as those achievable in a fair and open market. With the imposition of measures against China, India and Ukraine, price increases have been possible. This has resulted in profitable trading during the IP, the first profitable trading since 1995.

8. LIKELIHOOD OF RECURRENCE OF INJURY

8.1. Community industry

- (69) The situation of the Community industry is outlined in recitals 55 to 68.

8.2. Likely exports from China

- (70) Although limited, there is evidence to show that prices charged by Chinese exporters, particularly to Chile and Australia, are at levels that would significantly undercut the Community industry. The information available from Eurostat and the Chinese authorities shows potassium permanganate coming from China to the Community significantly undercutting Community industry prices during the IP.
- (71) There have been large capacity increases by Chinese manufacturers. This is against a background of no discernible future increases in domestic demand. Whilst China had only a small share of the Community market during the IP, its excess capacity alone could satisfy total Community consumption several times over.

8.3. Conclusion

- (72) It was concluded in recitals 46 and 47 that there was a likelihood of a return to the dumping in significant quantities of Chinese potassium permanganate onto the Community market were anti-dumping measure allowed to lapse. The likely volume and prices of these imports would almost certainly have a profound negative effect on the Community market.
- (73) With no ancillary increase in Community demand, the result would be to reduce significantly either the market share or the prices of the Community industry. In all probability, both would be affected resulting in a drop in profitability and ultimately in a threat to the future viability of the Community industry. It was therefore concluded that the removal of anti-dumping measure against potassium permanganate from China would be very likely to cause material injury to the Community industry.

9. COMMUNITY INTEREST

9.1. Introduction

- (74) Pursuant to Article 21 of the basic Regulation, it was examined whether a prolongation of the existing anti-dumping measures would be against the interest of the Community as a whole. The determination of the Community interest was based on an appreciation of all the various interests involved.
- (75) In order to assess the likely impact of continuation or non-continuation of the measures, information was requested from all interested parties mentioned above. Questionnaires were sent to the Community producer and all known unrelated importers of potassium permanganate. The Community producer as well as one importer replied to the questionnaire. Two independent resellers of potassium permanganate also made submissions.
- (76) It should be recalled that, in the previous investigation, the adoption of measures was considered not to be against the interest of the Community. Furthermore, it should be noted that the present investigation is a review, thus analysing a situation in which anti-dumping measures are already in place. Consequently, this allows the assessment of any undue negative impact the current anti-dumping measures may have had in the past on the parties concerned to be taken into account.
- (77) On this basis it was examined, whether, despite the conclusions on dumping, on the situation of the Community industry and the likely continuation and/or recurrence of injurious dumping, compelling reasons exist which would lead to the conclusion that it is not in the Community interest to maintain measures in this particular case.

9.2. Interests of Community industry

- (78) It is considered that without maintaining the anti-dumping measures established in the previous investigation, injurious dumping is likely to continue/recur and that the situation of the Community industry, which is still fragile, will deteriorate. The Community industry has shown that it is able to compete on the Community market against competitors which do not sell at dumped prices. The Community industry has also shown that it has been able to benefit from the anti-dumping measures in place.
- (79) During the period considered the Community industry showed that it is able to compete in the Community market, in the US market and in other third country markets where fair conditions prevail. In addition, the Community industry has shown that it is viable and indeed capable of benefiting from the anti-dumping measures in place. Improvements in productivity (recital 61) and capacity utilisation (recital 58), together with a return to profitability during the IP have shown that, in a market where measures exist to counteract injurious dumping, it is able to compete fully and effectively on the Community market.

- (80) However, if measures against injurious dumping expire, the Community market would be open to large volumes of dumped imports from China. The situation of the Community industry would deteriorate to the extent that its viability would be put at risk, with detrimental effects on employment, consumer choice, etc.

9.3. Interests of users and importers

- (81) Only one questionnaire response was received from an importer, two submissions from independent resellers, and no submissions were made by end users. The importer made no comments either supporting or opposing the continuation of measures, whilst the independent resellers were in favour of maintaining the existing measures.
- (82) Given this situation, the implications of an anti-dumping duty on the overall costs of the users and importers appear to be limited. Other imports which are in competition with the Community industry will ensure the maintenance of a high level of competition. Since the new applications for the product include drinking water and waste purification, and the customers in this case are not big industries but municipalities or public utilities, stability of supply is an important objective. Therefore it is in the interest of the users and, more particularly, the general public that the Community industry remains as a reliable supplier of this product and is not forced out of the market. The lack of response from importers and users suggests that the measures currently in force have not had a significant impact on their business.

9.4. Conclusion on Community interest

- (83) The expiry of measures would have a serious impact on the economic prospects of the Community industry, whereas importers would only be affected, if measures were extended, by continuing marginal increases in costs. After balancing the various interests involved, it is considered that maintaining the anti-dumping measures will allow the present situation of fair competition to continue, by eliminating the injurious effects of dumping practices. Therefore, there are no compelling reasons against the continuation of measures.

10. FINAL CONCLUSION

- (84) It follows that, as provided for by Article 11(2) of the basic Regulation, the anti-dumping measures currently in force with regard to imports of potassium permanganate originating in China should be maintained,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of potassium permanganate, falling within CN code 2841 61 00, originating in the People's Republic of China.
2. The amount of the duty applicable to the net, free-at-Community-frontier price, before customs clearance, shall be 1,26 EUR/kg.
3. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

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, 12 February 2001.

For the Council

The President

B. RINGHOLM

COUNCIL REGULATION (EC) No 300/2001**of 14 February 2001****establishing measures to be applied in 2001 for the recovery of the stock of cod in the Irish Sea (ICES division VIIa)**

THE COUNCIL OF THE EUROPEAN UNION,

Article 2

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

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

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

Whereas:

- (1) In November 1999, the International Council for the Exploration of the Sea (ICES) indicated that the stock of cod in the Irish Sea (ICES division VIIa) is at a serious risk of collapse.
- (2) The advice from ICES also indicated that the quantity of mature cod in the Irish Sea would remain at a very low level during 2000 and 2001.
- (3) Commission Regulation (EC) No 304/2000 of 9 February 2000 establishing measures for the recovery of the stock of cod in the Irish Sea (ICES division VIIa) ⁽³⁾ put in place measures to protect adult cod during the spawning season of 2000.
- (4) During the period of application of these measures, further scientific work has been completed and practical experience has been gained which imply that the conditions applied in 2000 should be modified to a certain extent for 2001.
- (5) In particular, two types of fishing which have been prohibited within an area of the Irish Sea should now be permitted.
- (6) Furthermore, these types of fishing should be subject to observation and to conditions whereby such activities will cease if the by-catch of cod becomes excessive,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down measures to protect mature cod during their spawning season of 2001 in the Irish Sea (ICES division VIIa as defined in Regulation (EC) No 3880/91 ⁽⁴⁾).

1. In the period from 15 February to 30 April 2001 it shall be prohibited to use any demersal trawl, seine or similar towed net, any gill net, trammel net, tangle net or similar static net or any fishing gear incorporating hooks within the part of ICES division VIIa limited by:

- the east coast of Ireland and Northern Ireland and
- the straight lines connecting the following geographical coordinates:
 - the point on the east coast of the Ards peninsula in Northern Ireland at 54° 30' N
 - 54° 30' N, 04° 50' W
 - 53° 15' N, 04° 50' W
 - the point on the east coast of Ireland at 53° 15' N.

2. By way of derogation from paragraph 1 and within the area and period referred to therein:

- (a) the use of demersal otter trawls shall be permitted provided that no other type of fishing gear is retained on board and that:
 - (i) such nets are of mesh size either within the range of 70 mm to 79 mm or 80 mm to 99 mm;
 - (ii) only nets of one of the permitted mesh size ranges mentioned in (i) are carried on board;
 - (iii) the nets incorporate no individual mesh, irrespective of its position within the net, of mesh size greater than 300 mm; and
 - (iv) they are deployed only within an area limited by the straight lines connecting the following geographical coordinates:

53° 30' N, 05° 30' W

53° 30' N, 05° 20' W

54° 20' N, 04° 50' W

54° 30' N, 05° 10' W

54° 30' N, 05° 20' W

54° 00' N, 05° 50' W

54° 00' N, 06° 10' W

53° 45' N, 06° 10' W

53° 45' N, 05° 30' W

53° 30' N, 05° 30' W.

⁽¹⁾ Proposal of 22.11.2000 (not yet published in the Official Journal).

⁽²⁾ Opinion of 13.2.2001 (not yet published in the Official Journal).

⁽³⁾ OJ L 35, 10.2.2000, p. 10. Regulation as last amended by Regulation (EC) No 660/2000 (OJ L 80, 31.3.2000, p. 14).

⁽⁴⁾ Council Regulation (EEC) No 3880/91 of 17 December 1991 on the submission of national catch statistics by Member States fishing in the Northeast Atlantic (OJ L 365, 31.12.1991, p. 1).

Furthermore, catches retained on board and taken by demersal otter trawls under these conditions shall not be landed unless their percentage composition complies with the conditions laid down in Annex I to Regulation (EC) No 850/98 ⁽¹⁾ with respect to towed gears of mesh size range 70 mm to 79 mm;

(b) the use of separator trawls shall be permitted provided that no other type of fishing gear is retained on board and that such nets:

- (i) comply with the conditions laid down in subparagraph (a) (i) to (iii),
- (ii) are constructed in conformity with the technical details provided for in the Annex to the present Regulation, and
- (iii) are deployed only within an area limited by the straight lines connecting the following geographical coordinates:
 - 53° 45' N, 06° 00' W
 - 53° 45' N, 05° 30' W
 - 53° 30' N, 05° 30' W
 - 53° 30' N, 06° 00' W
 - 53° 45' N, 06° 00' W.

Furthermore, whenever the total weight of cod retained on board a fishing vessel deploying under these conditions a separator trawl is greater than 18 % of the weight of the totality of marine organisms retained on board, that vessel shall immediately cease fishing in this area and shall not return to fish there until a period of at least 24 hours has elapsed;

- (c) the use of semi-pelagic trawls shall be permitted provided that no other type of fishing gear is retained on board and such nets:
 - (i) are of mesh size equal to or greater than 100 mm,
 - (ii) incorporate at least 500 individual meshes of mesh size at least 300 mm,
 - (iii) are deployed only in the period from 15 February to 24 March, and

(iv) are deployed only within the area limited by the straight lines connecting the following geographical coordinates:

- 54° 30' N, 05° 30' W
- 54° 30' N, 04° 50' W
- 53° 15' N, 04° 50' W
- 53° 15' N, 05° 30' W
- 54° 30' N, 05° 30' W.

Furthermore, whenever the total weight of cod retained on board a fishing vessel deploying under these conditions a semi-pelagic trawl is greater than 15 % of the weight of the totality of marine organisms retained on board, that vessel shall immediately cease fishing in this area and shall not return to fish there until a period of at least 24 hours has elapsed.

Article 3

The authorities of Member States shall ensure that, on at least 50 fishing voyages, observers shall be present on board fishing vessels deploying either semi-pelagic trawls or separator trawls under the conditions laid down in Article 2.

For fishing activities carried out under the conditions laid down in Article 2, the observers shall record:

- (a) total quantity by weight of all marine organisms caught by each operation of the fishing gear;
- (b) total quantity by weight of cod caught by each operation of the fishing gear;
- (c) absolute length, to the nearest centimetre below, of each cod caught;
- (d) total quantity of all marine organisms landed;
- (e) total quantity of cod landed;
- (f) absolute length, to the nearest centimetre below, of each cod landed.

Article 4

This Regulation shall enter into force on 15 February 2001.

It shall be published 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, 14 February 2001.

For the Council

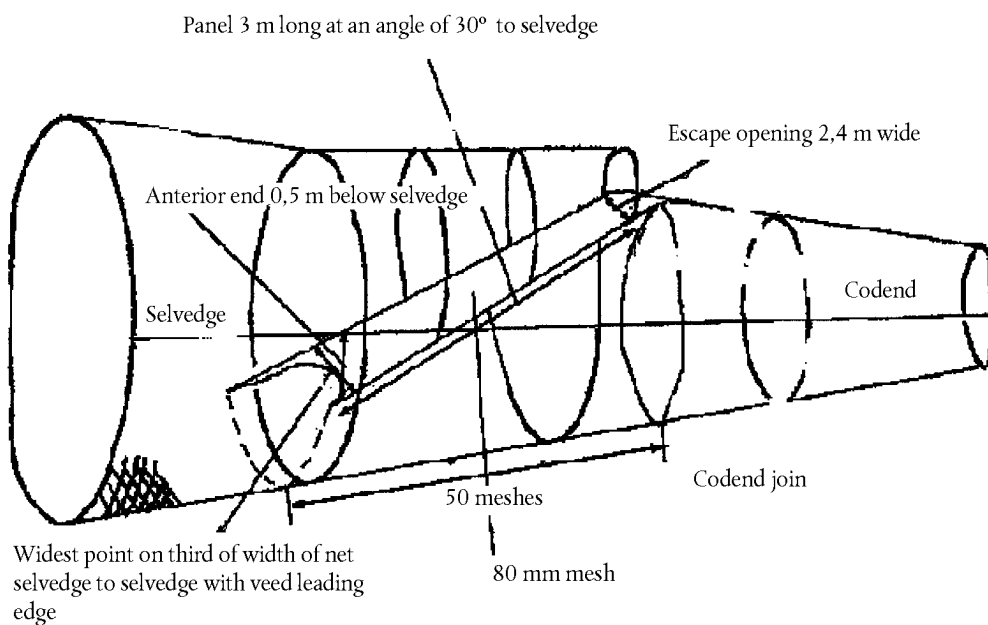
The President

A. LINDH

⁽¹⁾ Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms (OJ L 125, 27.4.1998, p. 1). Regulation as last amended by Regulation (EC) No 1298/2000 (OJ L 148, 22.6.2000, p. 1).

ANNEX

TECHNICAL DETAILS OF SEPARATOR TRAWL



COMMISSION REGULATION (EC) No 301/2001
of 14 February 2001
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 15 February 2001.

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

Done at Brussels, 14 February 2001.

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 14 February 2001 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	107,3
	204	42,4
	212	82,8
	999	77,5
0707 00 05	052	104,3
	068	80,3
	628	135,4
	999	106,7
0709 90 70	052	109,1
	204	74,3
	999	91,7
0805 10 10, 0805 10 30, 0805 10 50	052	61,2
	204	47,1
	212	36,6
	220	47,8
	624	48,5
	999	48,2
0805 20 10	204	86,3
	624	61,9
	999	74,1
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	73,7
	204	76,1
	600	89,0
	624	77,2
	999	79,0
	600	48,9
0805 30 10	999	48,9
	600	48,9
0808 10 20, 0808 10 50, 0808 10 90	400	75,3
	404	85,3
	720	78,9
	728	90,6
	999	82,5
	388	91,6
0808 20 50	400	99,7
	999	95,7
	388	91,6

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2032/2000 (OJ L 243, 28.9.2000, p. 14). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 302/2001**of 14 February 2001****fixing the maximum export refund for white sugar for the 27th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1531/2000**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2038/1999 of 13 September 1999 on the common organisation of the markets in the sugar sector ⁽¹⁾, as amended by Commission Regulation (EC) No 1527/2000 ⁽²⁾, and in particular the second subparagraph of Article 18(5) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1531/2000 of 13 July 2000 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar ⁽³⁾, requires partial invitations to tender to be issued for the export of this sugar.
- (2) Pursuant to Article 9(1) of Regulation (EC) No 1531/2000 a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community

and world markets in sugar, for the partial invitation to tender in question.

- (3) Following an examination of the tenders submitted in response to the 27th partial invitation to tender, the provisions set out in Article 1 should be adopted.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

For the 27th partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1531/2000 the maximum amount of the export refund is fixed at 44,732 EUR/100 kg.

Article 2

This Regulation shall enter into force on 15 February 2001.

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

Done at Brussels, 14 February 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 252, 25.9.1999, p. 1.

⁽²⁾ OJ L 175, 14.7.2000, p. 59.

⁽³⁾ OJ L 175, 14.7.2000, p. 69.

COMMISSION REGULATION (EC) No 303/2001**of 14 February 2001****fixing the representative prices and the additional import duties for molasses in the sugar sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2038/1999 of 13 September 1999 on the common organisation of the market in sugar ⁽¹⁾, as amended by Commission Regulation 1527/2000 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1422/95 of 23 June 1995 laying down detailed rules of application for imports of molasses in the sugar sector and amending Regulation (EEC) No 785/68 ⁽³⁾, and in particular Articles 1(2) and 3(1) thereof,

Whereas:

- (1) Regulation (EC) No 1422/95 stipulates that the cif import price for molasses, hereinafter referred to as the 'representative price', should be set in accordance with Commission Regulation (EEC) No 785/68 ⁽⁴⁾. That price should be fixed for the standard quality defined in Article 1 of the above Regulation.
- (2) The representative price for molasses is calculated at the frontier crossing point into the Community, in this case Amsterdam; that price must be based on the most favourable purchasing opportunities on the world market established on the basis of the quotations or prices on that market adjusted for any deviations from the standard quality. The standard quality for molasses is defined in Regulation (EEC) No 785/68.
- (3) When the most favourable purchasing opportunities on the world market are being established, account must be taken of all available information on offers on the world market, on the prices recorded on important third-country markets and on sales concluded in international trade of which the Commission is aware, either directly or through the Member States. Under Article 7 of Regulation (EEC) No 785/68, the Commission may for this purpose take an average of several prices as a basis, provided that this average is representative of actual market trends.
- (4) The information must be disregarded if the goods concerned are not of sound and fair marketable quality or if the price quoted in the offer relates only to a small

quantity that is not representative of the market. Offer prices which can be regarded as not representative of actual market trends must also be disregarded.

- (5) If information on molasses of the standard quality is to be comparable, prices must, depending on the quality of the molasses offered, be increased or reduced in the light of the results achieved by applying Article 6 of Regulation (EEC) No 785/68.
- (6) A representative price may be left unchanged by way of exception for a limited period if the offer price which served as a basis for the previous calculation of the representative price is not available to the Commission and if the offer prices which are available and which appear not to be sufficiently representative of actual market trends would entail sudden and considerable changes in the representative price.
- (7) Where there is a difference between the trigger price for the product in question and the representative price, additional import duties should be fixed under the conditions set out in Article 3 of Regulation (EC) No 1422/95. Should the import duties be suspended pursuant to Article 5 of Regulation (EC) No 1422/95, specific amounts for these duties should be fixed.
- (8) Application of these provisions will have the effect of fixing the representative prices and the additional import duties for the products in question as set out in the Annex to this Regulation.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and the additional duties applying to imports of the products referred to in Article 1 of Regulation (EC) No 1422/95 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 15 February 2001.

⁽¹⁾ OJ L 252, 25.9.1999, p. 1.

⁽²⁾ OJ L 175, 14.7.2000, p. 59.

⁽³⁾ OJ L 141, 24.6.1995, p. 12.

⁽⁴⁾ OJ L 145, 27.6.1968, p. 12.

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

Done at Brussels, 14 February 2001.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

to the Commission Regulation of 14 February 2001 fixing the representative prices and additional import duties to imports of molasses in the sugar sector

(in EUR)

CN code	Amount of the representative price in 100 kg net of the product in question	Amount of the additional duty in 100 kg net of the product in question	Amount of the duty to be applied to imports in 100 kg net of the product in question because of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 ⁽²⁾
1703 10 00 ⁽¹⁾	8,84	—	0
1703 90 00 ⁽¹⁾	10,78	—	0

⁽¹⁾ For the standard quality as defined in Article 1 of amended Regulation (EEC) No 785/68.

⁽²⁾ This amount replaces, in accordance with Article 5 of Regulation (EC) No 1422/95, the rate of the Common Customs Tariff duty fixed for these products.

COMMISSION REGULATION (EC) No 304/2001
of 14 February 2001
altering the export refunds on white sugar and raw sugar exported in the natural state

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2038/1999 of 13 September 1999 on the common organisation of the markets in the sugar sector ⁽¹⁾, as amended by Commission Regulation (EC) No 1527/2000 ⁽²⁾, and in particular the third subparagraph of Article 18(5) thereof,

Whereas:

- (1) The refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EC) No 254/2001 ⁽³⁾.
- (2) It follows from applying the detailed rules contained in Regulation (EC) No 254/2001 to the information known to the Commission that the export refunds at present in

force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1(1)(a) of Regulation (EC) No 2038/1999, undenatured and exported in the natural state, as fixed in the Annex to Regulation (EC) No 254/2001 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 15 February 2001.

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

Done at Brussels, 14 February 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 252, 25.9.1999, p. 1.

⁽²⁾ OJ L 175, 14.7.2000, p. 59.

⁽³⁾ OJ L 38, 8.2.2001, p. 6.

ANNEX

to the Commission Regulation of 14 February 2001 altering the export refunds on white sugar and raw sugar exported in its unaltered state

Product code	Destination	Unit of measurement	Amount of refund
1701 11 90 9100	A00	EUR/100 kg	37,85 ⁽¹⁾
1701 11 90 9910	A00	EUR/100 kg	33,35 ⁽¹⁾
1701 11 90 9950	A00	EUR/100 kg	⁽²⁾
1701 12 90 9100	A00	EUR/100 kg	37,85 ⁽¹⁾
1701 12 90 9910	A00	EUR/100 kg	33,35 ⁽¹⁾
1701 12 90 9950	A00	EUR/100 kg	⁽²⁾
1701 91 00 9000	A00	EUR/1 % of sucrose × net 100 kg of product	0,4115
1701 99 10 9100	A00	EUR/100 kg	41,15
1701 99 10 9910	A00	EUR/100 kg	41,71
1701 99 10 9950	A00	EUR/100 kg	41,71
1701 99 90 9100	A00	EUR/1 % of sucrose × net 100 kg of product	0,4115

⁽¹⁾ Applicable to raw sugar with a yield of 92 %; if the yield is other than 92 %, the refund applicable is calculated in accordance with the provisions of Article 19 (4) of Council Regulation (EC) No 2038/1999.

⁽²⁾ Fixing suspended by Commission Regulation (EEC) No 2689/85 (OJ L 255, 26.9.1985, p. 12), as amended by Regulation (EEC) No 3251/85 (OJ L 309, 21.11.1985, p. 14).

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 2032/2000 (OJ L 243, 28.9.2000, p. 14).

COMMISSION REGULATION (EC) No 305/2001**of 12 February 2001****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 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 three months 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

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 three months.

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, 12 February 2001.

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 of goods	Classification (CN code)	Reason
(1)	(2)	(3)
1. A square ceramic pot in a single-colour design (100 % common pottery), 15 cm high The pot has an enamelled surface on the inside and the outside. The pot has applied decorations in the form of abstract or realistic motifs on the outside	6913 90 10	Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the Combined Nomenclature, and the wording of CN codes 6913, 6913 90 and 6913 90 10 Due to the enamelled inside and the absence of an opening in the bottom, the product has water resistant capacities. Together with its general appearance the product is considered to be an ornamental article
2. A multi-coloured round ceramic pot (100 % common pottery), 38 cm high with a diameter of 38 cm The pot has a small opening in the bottom, an enamelled surface on the outside with applied decorations in the form of abstract or realistic motifs	6914 90 10	Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the Combined Nomenclature, and the wording of CN codes 6914, 6914 90 and 6914 90 10 The small opening in the bottom determines the utility value of the product as a container for plants
3. A product described as a baby-monitoring device, put up in a set for retail sale, consisting of — a transmitter for radio telephony, with a built-in microphone — a portable receiver for radio-telephony combined with a loudspeaker in a housing — two mains adaptors Both the transmitter and the receiver can operate using either batteries or mains adaptors The device serves to transmit noises made by a baby in the vicinity of the transmitter and is used to monitor babies within a range of roughly 300 metres	8527 90 98	Classification is determined by the provisions of General Rules, 1, 3(c) and 6 for the interpretation of the Combined Nomenclature, and the wording of CN codes 8527, 8527 90 and 8527 90 98 Neither the transmitter nor the receiver gives the product its essential character
4. Electronic-mechanical assembly consisting of two elements, presented together: (a) an electronic-mechanical assembly for a video recorder made up as a printed circuit including the following elements: — a decoder, processor and generator of red, green and blue signals for a cathode-ray tube — an audio signal processor — a chassis control system with a microcontroller — a VHS signal processor — a tape loading/unloading unit — an audio, video and control head unit — a metal support for attaching the second element (b) an electronic assembly for a television receiver including a switching-mode power supply, a deflection signal generating unit and a high voltage transformer A tuner is not incorporated in either of the assemblies These assemblies are made to be built into a television receiver combined with a video recorder with a tape of a width of 1,265 cm and a tape speed not exceeding 23,39 mm per second	8521 10 30 8529 90 72	Classification is determined by the provisions of General Rules 1, 2(a) and 6 for the interpretation of the Combined Nomenclature, Note 2(b) to Section XVI, and the wording of CN codes 8521, 8521 10, 8521 10 30, 8529, 8529 90 and 8529 90 72 The two elements together do not perform a clearly defined function within the meaning of Note 4 to Section XVI. The elements are therefore classified separately according to their own function

Description of goods	Classification (CN code)	Reason
(1)	(2)	(3)
5. An element consisting of glass with layers with a polarising effect ('Screen filter'), mounted in a frame. A cable, provided with a clip, is attached to the frame It has the following functions: — glare reduction — reflection reduction — UV radiation reduction — contrast enhancement — static charge reduction	9002 20 00	Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 1(d) to Chapter 70, Note 1(m) to Section XVI, and the wording of CN codes 9002 and 9002 20 00 The product is considered to be an optical element of Chapter 90. The cable for the reduction of the static charge does not affect the classification

COMMISSION REGULATION (EC) No 306/2001
of 12 February 2001
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 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 three months 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

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 three months.

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, 12 February 2001.

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 of goods	Classification (CN code)	Reasons
(1)	(2)	(3)
1. Mushrooms (genus <i>Agaricus</i>) fully cooked (irreversible inhibition of the polyphenol oxydase activity), preserved in brine (15 to 25 % by weight of salt) with added vinegar or acetic acid with a free, volatile acid content of 0,5 % by weight or more, expressed as acetic acid	2003 10 30	Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Additional Note 1 to Chapter 20 and by the wording of CN codes 2003, 2003 10 and 2003 10 30 The product, being fully cooked, cannot be classified in Chapter 7. Because of the salt content exceeding 2,5 % by weight, the product is excluded from CN code 2001 90 50 by virtue of Additional Note 1 to Chapter 20. Furthermore, the product cannot be regarded as provisionally preserved mushrooms of CN code 2003 10 20 because of the high salt content, the acetic acid and the cooking process involved which renders the product suitable for long-term storage
2. A product known as 'lemon tea', in powdered form, for the preparation of tea, with the following composition (percentage by weight): — sugar: 90,1 — tea extract: 2,5 and small quantities of malto-dextrin, citric acid, lemon flavouring and an anti-caking agent The product is intended to be consumed as a beverage after mixing with water	2101 20 92	Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the Combined Nomenclature, and by the wording of CN codes 2101, 2101 20 and 2101 20 92 The product is considered to be a preparation based on tea extract with added sugar in accordance with the HS Explanatory Note to heading 2101, first paragraph, point 3
3. Liquid product for the preparation of tea with the following analytical composition (percentage by weight): — sugar: 58,1 (94 % calculated on dry matter) — water: 38,8 — tea extract: 2,2 — trisodium citrate: 0,9 The product is intended to be consumed as a beverage after mixing with water	2101 20 92	Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the Combined Nomenclature, and by the wording of CN codes 2101, 2101 20 and 2101 20 92 The product is considered to be a preparation based on tea extract with added sugar in accordance with the HS Explanatory Note to heading 2101, first paragraph, point 3
4. A liquid fermented product with the following analytical composition (percentage by weight): — water: 81 — sucrose: 15 — lactose: 1,5 — protein: 1,2 — lactic acid: 0,6 — dextrose: 0,4 — total fat: 0,1 and small quantities of flavourings The product, put up in a 65-ml bottle, is used directly as a beverage	2202 90 91	Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 1 to Chapter 4 and by the wording of CN codes 2202, 2202 90 and 2202 90 91 Because of the low amounts of natural milk constituents and the high water content, the product can not be regarded as a product of Chapter 4. Being directly consumable as a beverage, the product is covered by heading 2202

COMMISSION REGULATION (EC) No 307/2001**of 14 February 2001****establishing unit values for the determination of the customs value of certain perishable goods**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽¹⁾, as last amended by Regulation (EC) No 2700/2000 of the European Parliament and of the Council ⁽²⁾,

Having regard to 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 ⁽³⁾, as last amended by Regulation (EC) No 1602/2000 ⁽⁴⁾, and in particular Article 173 (1) thereof,

Whereas:

- (1) Articles 173 to 177 of Regulation (EEC) No 2454/93 provide that the Commission shall periodically establish

unit values for the products referred to in the classification in Annex 26 to that Regulation.

- (2) The result of applying the rules and criteria laid down in the abovementioned Articles to the elements communicated to the Commission in accordance with Article 173 (2) of Regulation (EEC) No 2454/93 is that unit values set out in the Annex to this Regulation should be established in regard to the products in question,

HAS ADOPTED THIS REGULATION:

Article 1

The unit values provided for in Article 173 (1) of Regulation (EEC) No 2454/93 are hereby established as set out in the table in the Annex hereto.

Article 2

This Regulation shall enter into force on 16 February 2001.

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

Done at Brussels, 14 February 2001.

For the Commission

Erkki LIIKANEN

Member of the Commission

⁽¹⁾ OJ L 302, 19.10.1992, p. 1.

⁽²⁾ OJ L 311, 12.12.2000, p. 17.

⁽³⁾ OJ L 253, 11.10.1993, p. 1.

⁽⁴⁾ OJ L 188, 26.7.2000, p. 1.

ANNEX

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	EUR FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
1.10	New potatoes 0701 90 50	a) b) c)	35,39 210,41 315,36	486,95 232,13 1 427,54	69,21 27,87 22,58	264,03 68 520,53	12 058,43 77,98	5 888,05 7 094,64
1.30	Onions (other than seed) 0703 10 19	a) b) c)	9,89 58,81 88,15	136,11 64,88 399,02	19,35 7,79 6,31	73,80 19 152,61	3 370,53 21,80	1 645,81 1 983,07
1.40	Garlic 0703 20 00	a) b) c)	121,24 720,89 1 080,47	1 668,36 795,31 4 891,00	237,13 95,49 77,38	904,62 234 762,48	41 314,13 267,19	20 173,42 24 307,38
1.50	Leeks ex 0703 90 00	a) b) c)	48,40 287,80 431,35	666,05 317,51 1 952,61	94,67 38,12 30,89	361,15 93 723,21	16 493,66 106,67	8 053,75 9 704,13
1.60	Cauliflowers 0704 10 00	a) b) c)	55,28 328,68 492,63	760,67 362,61 2 229,99	108,12 43,54 35,28	412,45 107 037,01	18 836,66 121,82	9 197,82 11 082,64
1.80	White cabbages and red cabbages 0704 90 10	a) b) c)	11,98 71,23 106,76	164,84 78,58 483,26	23,43 9,43 7,65	89,38 23 195,74	4 082,05 26,40	1 993,24 2 401,69
1.90	Sprouting broccoli or calabrese (<i>Brassica oleracea</i> <i>L. convar. botrytis</i> (L.) Alef var. <i>italica</i> Plenck) ex 0704 90 90	a) b) c)	74,29 441,71 662,04	1 022,25 487,31 2 996,85	145,30 58,51 47,41	554,29 143 845,50	25 314,32 163,71	12 360,82 14 893,81
1.100	Chinese cabbage ex 0704 90 90	a) b) c)	56,91 338,38 507,16	783,12 373,31 2 295,79	111,31 44,82 36,32	424,62 110 195,45	19 392,49 125,42	9 469,23 11 409,67
1.110	Cabbage lettuce (head lettuce) 0705 11 00	a) b) c)	90,36 537,26 805,24	1 243,38 592,72 3 645,11	176,73 71,16 57,67	674,18 174 961,36	30 790,17 199,13	15 034,64 18 115,55
1.130	Carrots ex 0706 10 00	a) b) c)	47,29 281,20 421,46	650,79 310,23 1 907,86	92,50 37,25 30,18	352,87 91 574,92	16 115,60 104,22	7 869,14 9 481,70
1.140	Radishes ex 0706 90 90	a) b) c)	83,46 496,22 743,73	1 148,40 547,44 3 366,66	163,23 65,73 53,26	622,68 161 596,06	28 438,11 183,92	13 886,14 16 731,71
1.160	Peas (<i>Pisum sativum</i>) 0708 10 00	a) b) c)	256,15 1 523,02 2 282,71	3 524,75 1 680,26 10 333,20	500,99 201,74 163,48	1 911,19 495 981,95	87 284,24 564,49	42 620,32 51 354,13

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	EUR FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
1.170	Beans:							
1.170.1	Beans (<i>Vigna</i> spp., <i>Phaseolus</i> spp.) ex 0708 20 00	a) b) c)	168,05 999,20 1 497,61	2 312,46 1 102,36 6 779,25	328,68 132,35 107,25	1 253,86 325 396,37	57 264,13 370,34	27 961,70 33 691,64
1.170.2	Beans (<i>Phaseolus</i> spp., <i>vulgaris</i> var. <i>Compressus</i> Savi) ex 0708 20 00	a) b) c)	191,61 1 139,25 1 707,52	2 636,59 1 256,87 7 729,48	374,75 150,90 122,28	1 429,61 371 006,18	65 290,66 422,25	31 881,01 38 414,10
1.180	Broad beans ex 0708 90 00	a) b) c)	157,74 937,88 1 405,70	2 170,55 1 034,71 6 363,22	308,51 124,23 100,67	1 176,91 305 427,23	53 749,91 347,61	26 245,73 31 624,03
1.190	Globe artichokes 0709 10 00	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
1.200	Asparagus:							
1.200.1	— green ex 0709 20 00	a) b) c)	532,52 3 166,23 4 745,57	7 327,66 3 493,11 21 481,88	1 041,52 419,40 339,86	3 973,20 1 031 106,18	181 456,84 1 173,52	88 604,19 106 761,06
1.200.2	— other ex 0709 20 00	a) b) c)	397,04 2 360,71 3 538,25	5 463,43 2 604,43 16 016,67	776,55 312,70 253,39	2 962,38 768 782,06	135 292,33 874,97	66 062,36 79 599,93
1.210	Aubergines (eggplants) 0709 30 00	a) b) c)	155,70 925,78 1 387,56	2 142,54 1 021,35 6 281,10	304,53 122,63 99,37	1 161,73 301 485,56	53 056,24 343,13	25 907,02 31 215,91
1.220	Ribbed celery (<i>Apium graveolens</i> L., var. <i>dulce</i> (Mill.) Pers.) ex 0709 40 00	a) b) c)	79,81 474,51 711,19	1 098,16 523,50 3 219,38	156,09 62,85 50,93	595,44 154 526,54	27 194,00 175,87	13 278,65 15 999,73
1.230	Chantarelles 0709 51 30	a) b) c)	2 154,59 12 810,61 19 200,63	29 647,80 14 133,18 86 915,95	4 214,01 1 696,88 1 375,06	16 075,61 4 171 867,98	734 176,54 4 748,09	358 493,61 431 956,51
1.240	Sweet peppers 0709 60 10	a) b) c)	180,98 1 076,05 1 612,79	2 490,32 1 187,14 7 300,65	353,96 142,53 115,50	1 350,30 350 423,24	61 668,42 398,82	30 112,29 36 282,93
1.270	Sweet potatoes, whole, fresh (intended for human consumption) 0714 20 10	a) b) c)	62,89 373,91 560,41	865,34 412,51 2 536,84	123,00 49,53 40,13	469,20 121 765,63	21 428,64 138,58	10 463,47 12 607,65
2.10	Chestnuts (<i>Castanea</i> spp.), fresh ex 0802 40 00	a) b) c)	176,48 1 049,30 1 572,70	2 428,42 1 157,63 7 119,19	345,16 138,99 112,63	1 316,73 341 712,93	60 135,56 388,91	29 363,80 35 381,06
2.30	Pineapples, fresh ex 0804 30 00	a) b) c)	89,41 531,58 796,74	1 230,25 586,46 3 606,60	174,86 70,41 57,06	667,06 173 112,99	30 464,89 197,02	14 875,81 17 924,17

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	EUR FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
2.40	Avocados, fresh ex 0804 40 00	a) b) c)	162,21 964,48 1 445,57	2 232,11 1 064,05 6 543,68	317,26 127,75 103,52	1 210,29 314 089,13	55 274,25 357,47	26 990,06 32 520,89
2.50	Guavas and mangoes, fresh ex 0804 50 00	a) b) c)	100,85 599,64 898,74	1 387,76 661,55 4 068,37	197,25 79,43 64,36	752,47 195 277,09	34 365,39 222,25	16 780,39 20 219,05
2.60	Sweet oranges, fresh:							
2.60.1	— Sanguines and semi-sanguines 0805 10 10	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.60.2	— Navels, navelines, navelates, salustianas, vernas, Valencia lates, Maltese, shamoutis, ovalis, trovita and hamlins 0805 10 30	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.60.3	— Others 0805 10 50	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.70	Mandarins (including tangerines and satsumas), fresh; clementines, wilkings and similar citrus hybrids, fresh:							
2.70.1	— Clementines ex 0805 20 10	a) b) c)	92,68 551,05 825,92	1 275,30 607,94 3 738,70	181,27 72,99 59,15	691,49 179 453,31	31 580,68 204,24	15 420,64 18 580,65
2.70.2	— Monreales and satsumas ex 0805 20 30	a) b) c)	81,70 485,77 728,07	1 124,22 535,92 3 295,77	159,79 64,34 52,14	609,57 158 193,26	27 839,28 180,04	13 593,74 16 379,38
2.70.3	— Mandarines and wilkings ex 0805 20 50	a) b) c)	81,70 485,77 728,07	1 124,22 535,92 3 295,77	159,79 64,34 52,14	609,57 158 193,26	27 839,28 180,04	13 593,74 16 379,38
2.70.4	— Tangerines and others ex 0805 20 70 ex 0805 20 90	a) b) c)	92,68 551,05 825,92	1 275,30 607,94 3 738,70	181,27 72,99 59,15	691,49 179 453,31	31 580,68 204,24	15 420,64 18 580,65
2.85	Limes (<i>Citrus aurantifolia</i> , <i>Citrus latifolia</i>), fresh ex 0805 30 90 ex 0805 90 00	a) b) c)	132,74 789,21 1 182,87	1 826,48 870,69 5 354,53	259,61 104,54 84,71	990,35 257 011,38	45 229,55 292,51	22 085,30 26 611,04
2.90	Grapefruit, fresh:							
2.90.1	— white ex 0805 40 00	a) b) c)	44,84 266,59 399,56	616,96 294,11 1 808,70	87,69 35,31 28,61	334,53 86 815,38	15 278,00 98,81	7 460,15 8 988,89
2.90.2	— pink ex 0805 40 00	a) b) c)	50,13 298,09 446,77	689,86 328,86 2 022,41	98,05 39,48 32,00	374,06 97 073,54	17 083,26 110,48	8 341,65 10 051,02
2.100	Table grapes 0806 10 10	a) b) c)	197,09 1 171,86 1 756,40	2 712,06 1 292,85 7 950,72	385,48 155,22 125,78	1 470,53 381 625,84	67 159,54 434,34	32 793,57 39 513,66

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	EUR FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
2.110	Water melons 0807 11 00	a) b) c)	69,59 413,75 620,13	957,54 456,46 2 807,14	136,10 54,80 44,41	519,20 134 739,61	23 711,84 153,35	11 578,34 13 950,98
2.120	Melons (other than water melons):							
2.120.1	— Amarillo, cuper, honey dew (including cantalene), onteniente, piel de sapo (including verde liso), rochet, tendral, futuro ex 0807 19 00	a) b) c)	75,35 447,99 671,46	1 036,80 494,24 3 039,49	147,37 59,34 48,09	562,17 145 892,33	25 674,52 166,04	12 536,70 15 105,74
2.120.2	— other ex 0807 19 00	a) b) c)	145,36 864,26 1 295,36	2 000,17 953,49 5 863,73	284,30 114,48 92,77	1 084,53 281 452,33	49 530,74 320,33	24 185,54 29 141,66
2.140	Pears							
2.140.1	Pears — nashi (<i>Pyrus pyrifolia</i>), Pears — Ya (<i>Pyrus bretschneideri</i>) ex 0808 20 50	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.140.2	Other ex 0808 20 50	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.150	Apricots 0809 10 00	a) b) c)	111,65 663,87 995,01	1 536,40 732,41 4 504,14	218,38 87,94 71,26	833,07 216 193,84	38 046,37 246,05	18 577,80 22 384,78
2.160	Cherries 0809 20 95 0809 20 05	a) b) c)	264,51 1 572,72 2 357,20	3 639,76 1 735,08 10 670,38	517,34 208,32 168,81	1 973,55 512 166,46	90 132,43 582,91	44 011,08 53 029,87
2.170	Peaches 0809 30 90	a) b) c)	291,88 1 735,45 2 601,11	4 016,39 1 914,62 11 774,50	570,87 229,88 186,28	2 177,76 565 162,75	99 458,86 643,22	48 565,11 58 517,13
2.180	Nectarines ex 0809 30 10	a) b) c)	184,90 1 099,39 1 647,78	2 544,34 1 212,90 7 459,04	361,64 145,62 118,01	1 379,59 358 025,42	63 006,28 407,48	30 765,55 37 070,06
2.190	Plums 0809 40 05	a) b) c)	152,68 907,81 1 360,63	2 100,95 1 001,53 6 159,19	298,62 120,25 97,44	1 139,18 295 634,16	52 026,49 336,47	25 404,20 30 610,05
2.200	Strawberries 0810 10 00	a) b) c)	301,10 1 790,25 2 683,24	4 143,21 1 975,08 12 146,28	588,90 237,13 192,16	2 246,53 583 007,99	102 599,31 663,53	50 098,58 60 364,83
2.205	Raspberries 0810 20 10	a) b) c)	1 632,79 9 708,13 14 550,61	22 467,68 10 710,40 65 866,59	3 193,46 1 285,93 1 042,05	12 182,41 3 161 522,29	556 373,19 3 598,20	271 673,40 327 345,00
2.210	Fruit of the species <i>Vaccinium myrtillus</i> 0810 40 30	a) b) c)	1 409,95 8 383,20 12 564,80	19 401,39 9 248,69 56 877,39	2 757,63 1 110,43 899,83	10 519,81 2 730 051,05	480 441,72 3 107,13	234 596,56 282 670,34
2.220	Kiwi fruit (<i>Actinidia chinensis</i> Planch.) 0810 50 00	a) b) c)	85,34 507,41 760,51	1 174,30 559,79 3 442,61	166,91 67,21 54,46	636,73 165 241,28	29 079,60 188,06	14 199,38 17 109,13

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	EUR FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
2.230	Pomegranates ex 0810 90 85	a) b) c)	94,01 558,96 837,77	1 293,60 616,66 3 792,34	183,87 74,04 60,00	701,42 182 027,97	32 033,77 207,17	15 641,88 18 847,23
2.240	Khakis (including sharon fruit) ex 0810 90 85	a) b) c)	129,03 767,19 1 149,87	1 775,52 846,40 5 205,15	252,37 101,62 82,35	962,72 249 841,37	43 967,76 284,35	21 469,17 25 868,65
2.250	Lychees ex 0810 90 30	a) b) c)	155,57 925,00 1 386,40	2 140,75 1 020,50 6 275,85	304,28 122,52 99,29	1 160,76 301 233,85	53 011,94 342,84	25 885,39 31 189,85

COMMISSION REGULATION (EC) No 308/2001**of 14 February 2001****amending Regulation (EC) No 1921/95 laying down detailed rules for the application of the system of import licences for products processed from fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organisation of the markets in processed fruit and vegetable products ⁽¹⁾, as last amended by Regulation (EC) No 2699/2000 ⁽²⁾, and in particular Article 11(2) thereof,

Whereas:

- (1) The provisions of Commission Regulation (EC) No 1921/95 ⁽³⁾, as last amended by Regulation (EC) No 570/1999 ⁽⁴⁾, are designed to complement or alternatively derogate from the provisions of Commission Regulation (EEC) No 3719/88 ⁽⁵⁾ which was repealed and replaced by Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products ⁽⁶⁾.
- (2) Notwithstanding the second subparagraph of Article 14(3) and the fourth indent of Article 5(1) of Regulation (EEC) No 3719/88, paragraphs 2 and 3 of Article 3 of Regulation (EC) No 1921/95 respectively specify, with a view to administrative simplification, the quantity below which an import licence can be established without a security having to be lodged, and the quantity of products that can be imported without a licence.

- (3) Articles 5 and 14 of Regulation (EEC) No 3719/88 have been replaced by Articles 5 and 15 of Regulation (EC) No 1291/2000. The provisions in question have been adapted and simplified in such a way that the derogations provided for in Regulation (EC) No 1921/95 are now inconsistent with or superfluous to the common rules for the application of Regulation (EC) No 1291/2000. With a view to consistency and the simplification of procedures, the derogation should be deleted and the common rules laid down in Articles 5 and 15 of the above Regulation, which relate respectively to cases where an import licence or a security is not required, should be applied to processed fruit and vegetable products.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Products Processed from Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

Article 1

Paragraphs 2 and 3 of Article 3 of Regulation (EC) No 1921/95 are deleted.

Article 2

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

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

Done at Brussels, 14 February 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 297, 21.11.1996, p. 29.

⁽²⁾ OJ L 311, 12.12.2000, p. 9.

⁽³⁾ OJ L 185, 4.8.1995, p. 10.

⁽⁴⁾ OJ L 70, 17.3.1999, p. 14.

⁽⁵⁾ OJ L 331, 2.12.1988, p. 1.

⁽⁶⁾ OJ L 152, 24.6.2000, p. 1.

COMMISSION REGULATION (EC) No 309/2001
of 14 February 2001
fixing 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) Article 11 of Regulation (EC) No 3072/95 provides that the rates of duty in the Common Customs Tariff are to be charged on import of the products referred to in Article 1 of that Regulation; whereas, however, in the case of the products referred to in paragraph 2 of that Article, the import duty is to be equal to the intervention price valid for such products on importation and increased by a certain percentage according to whether it is husked or milled rice, minus the cif import price provided that duty does not exceed the rate of the Common Customs Tariff duties.
- (2) Pursuant to Article 12(3) of Regulation (EC) No 3072/95, the cif import prices are calculated on the basis of the representative prices for the product in question on the world market or on the Community import market for the product.

- (3) Regulation (EC) No 1503/96 lays down detailed rules for the application of Regulation (EC) No 3072/95 as regards import duties in the rice sector.
- (4) The import duties are applicable until new duties are fixed and enter into force; whereas they also remain in force in cases where no quotation is available from the source referred to in Article 5 of Regulation (EC) No 1503/96 during the two weeks preceding the next periodical fixing.
- (5) In order to allow the import duty system to function normally, the market rates recorded during a reference period should be used for calculating the duties.
- (6) Application of Regulation (EC) No 1503/96 results in import duties being fixed as set out in the Annexes to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The import duties in the rice sector referred to in Article 11(1) and (2) of Regulation (EC) No 3072/95 shall be those fixed in Annex I to this Regulation on the basis of the information given in Annex II.

Article 2

This Regulation shall enter into force on 15 February 2001.

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

Done at Brussels, 14 February 2001.

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.

ANNEX I

Import duties on rice and broken rice

(EUR/t)

CN code	Duties ⁽¹⁾				
	Third countries (except ACP and Bangladesh) ⁽²⁾	ACP ⁽¹⁾ ⁽²⁾ ⁽³⁾	Bangladesh ⁽⁴⁾	Basmati India and Pakistan ⁽⁵⁾	Egypt ⁽⁶⁾
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	222,16	73,42	106,74	0,00	166,62
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	222,16	73,42	106,74	0,00	166,62
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)	222,16	416,00	264,00	416,00	(¹)
2. Elements of calculation:						
(a) Arag cif price (EUR/tonne)	—	314,87	260,70	258,76	270,04	—
(b) fob price (EUR/tonne)	—	—	—	226,41	237,69	—
(c) Sea freight (EUR/tonne)	—	—	—	32,35	32,35	—
(d) Source	—	USDA and operators	USDA and operators	Operators	Operators	—

(¹) Duties fixed in the Common Customs Tariff.

COMMISSION REGULATION (EC) No 310/2001
of 14 February 2001
fixing the export refunds on olive oil

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organisation of the market in oils and fats ⁽¹⁾, as last amended by Regulation (EC) No 2826/2000 ⁽²⁾, and in particular Article 3(3) thereof,

Whereas:

- (1) Article 3 of Regulation No 136/66/EEC provides that, where prices within the Community are higher than world market prices, the difference between these prices may be covered by a refund when olive oil is exported to third countries.
- (2) The detailed rules for fixing and granting export refunds on olive oil are contained in Commission Regulation (EEC) No 616/72 ⁽³⁾, as last amended by Regulation (EEC) No 2962/77 ⁽⁴⁾.
- (3) Article 3(3) of Regulation No 136/66/EEC provides that the refund must be the same for the whole Community.
- (4) In accordance with Article 3(4) of Regulation No 136/66/EEC, the refund for olive oil must be fixed in the light of the existing situation and outlook in relation to olive oil prices and availability on the Community market and olive oil prices on the world market. However, where the world market situation is such that the most favourable olive oil prices cannot be determined, account may be taken of the price of the main competing vegetable oils on the world market and the difference recorded between that price and the price of olive oil during a representative period. The amount of the refund may not exceed the difference between the price of olive oil in the Community and that on the world market, adjusted, where appropriate, to take

account of export costs for the products on the world market.

- (5) In accordance with Article 3(3) third indent, point (b) of Regulation No 136/66/EEC, it may be decided that the refund shall be fixed by tender. The tendering procedure should cover the amount of the refund and may be limited to certain countries of destination, quantities, qualities and presentations.
- (6) The second indent of Article 3(3) of Regulation No 136/66/EEC provides that the refund on olive oil may be varied according to destination where the world market situation or the specific requirements of certain markets make this necessary.
- (7) The refund must be fixed at least once every month. It may, if necessary, be altered in the intervening period.
- (8) It follows from applying these detailed rules to the present situation on the market in olive oil and in particular to olive oil prices within the Community and on the markets of third countries that the refund should be as set out in the Annex hereto.
- (9) The Management Committee for Oils and Fats has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 15 February 2001.

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

Done at Brussels, 14 February 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ 172, 30.9.1966, p. 3025/66.

⁽²⁾ OJ L 328, 23.12.2000, p. 2.

⁽³⁾ OJ L 78, 31.3.1972, p. 1.

⁽⁴⁾ OJ L 348, 30.12.1977, p. 53.

ANNEX

to the Commission Regulation of 14 February 2001 fixing the export refunds on olive oil

Product code	Destination	Unit of measurement	Amount of refund
1509 10 90 9100	A00	EUR/100 kg	0,00
1509 10 90 9900	A00	EUR/100 kg	0,00
1509 90 00 9100	A00	EUR/100 kg	0,00
1509 90 00 9900	A00	EUR/100 kg	0,00
1510 00 90 9100	A00	EUR/100 kg	0,00
1510 00 90 9900	A00	EUR/100 kg	0,00

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 2032/2000 (OJ L 243, 28.9.2000, p. 14).

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 13 June 2000

on a measure taken by Germany in respect of Kali und Salz GmbH

(notified under document number C(2000) 1662)

(Only the German text is authentic)

(Text with EEA relevance)

(2001/120/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

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

Having given notice to interested parties to submit their comments in accordance with the aforementioned provisions⁽¹⁾, and having regard to those comments,

Whereas:

8 November 1999. Germany's reply was submitted by letter dated 2 December 1999, received on 3 December 1999.

- (4) By letter dated 11 April 2000, at the Commission's request, Germany submitted the contract for the sale of its remaining 49 % stake in Kali und Salz GmbH.

II. BACKGROUND

A. The undertaking

I. PROCEDURE

- (1) On 20 July 1998, Germany informed the Commission of the sale of its remaining 49 % stake in Kali und Salz GmbH to Kali und Salz Beteiligungs AG, which already owned 51 % of the shares. The Commission registered the sale of the shareholding as non-notified aid measure NN 27/99.
- (2) On 18 March 1999, the Commission decided to initiate the formal investigation procedure laid down in Article 88(2) of the EC Treaty in respect of the terms of the sale.
- (3) The Commission decision to initiate the procedure was published in the *Official Journal of the European Communities* ⁽²⁾. The Commission gave notice to interested parties to submit their comments. The Commission received comments from three interested parties. It forwarded them to Germany by letters dated 26 October 1999 and
- (5) Kali und Salz GmbH was set up by contract of 13 May 1993 as a joint venture between the west German company Kali und Salz Beteiligungs AG and the east German Mitteldeutsche Kali Aktiengesellschaft (MdK). Kali und Salz Beteiligungs AG, a subsidiary of the German chemical group BASF, took 51 % of the shares in the joint venture, and the Treuhandanstalt (the THA), the sole shareholder in MdK, took the remaining 49 %. The 49 % stake was taken over first by Beteiligungs-Management Gesellschaft Berlin mbH on 1 January 1995 and then by the Bundesanstalt für vereinigungsbedingte Sonderaufgaben (BvS), as legal successor to the THA, on 29 October 1997.
- (6) Kali und Salz GmbH is active in potash mining, the manufacture of industrial products of potash and rock salt, such as potassium fertilisers, and the production of by-products such as magnesium sulphate and kieserite. Kali und Salz GmbH currently employs some 8 000 people. Its annual production capacity amounts to 3,4

⁽¹⁾ OJ C 272, 25.9.1999, p. 7.

⁽²⁾ See footnote 1.

million tonnes of potash and 2,2 million tonnes of rock salt. It has production sites on both sides of the former east-west border. After the setting-up of the joint venture its headquarters were moved to Kassel in Hesse. Its plants are located in Thuringia, Saxony-Anhalt, Hesse and Lower Saxony.

B. Aid to Kali und Salz GmbH approved in 1993

- (7) By Decision 94/449/EC of 14 December 1993, the Commission approved aid of DEM 1 536,6 million in connection with the setting up of a joint venture between Kali und Salz Beteiligungs AG and MdK⁽¹⁾. Among other things the Commission approved compensation to be given by the THA for losses of up to DEM 135 million, a figure calculated on the basis of the expected negative cash flow during the period 1993 to 1997.
- (8) The negative cash flow considerably exceeded the original projections, and on 24 October 1996 Germany notified an increase in the loss compensation to be paid by the BvS, which was to rise from the approved DEM 135 million to some DEM 264,9 million, thus raising the total by about DEM 129,9 million. The Commission registered this measure as notified aid measure N 793/96.
- (9) By letter dated 16 December 1997, the Commission informed Germany of its decision to initiate the formal investigation procedure laid down in Article 88(2) of the EC Treaty with regard to the notified aid of DEM 129,9 million which Germany proposed to grant to Kali und Salz GmbH⁽²⁾.
- (10) By letter received on 20 July 1998, Germany informed the Commission that the BvS had succeeded in selling its 49 % holding in the joint venture, thus completing the privatisation. Kali und Salz Beteiligungs AG, which was the other partner and the major shareholder in the joint venture, had agreed to take the 49 % stake for a price of DEM 250 million.
- (11) In the same letter, Germany also informed the Commission that the additional DEM 129,9 million would not now be disbursed, and consequently withdrew the notification of that aid. The Commission accordingly closed the procedure.

C. The sale of the remaining 49 % of the shares

- (12) Under the contract setting-up the joint venture, if either party proposed disposing of its shareholding, the shares had first to be offered to the other party. Thus Kali und Salz Beteiligungs AG had first refusal on the remaining 49 % of the shares. The shares could not be offered to third parties for a price lower than that bid by Kali und

Salz Beteiligungs AG. Accordingly, the shares were first offered to Kali und Salz Beteiligungs AG.

- (13) In a second step, in order to inform all potential interested investors, the German authorities published notices in newspapers and specialised publications announcing their intention of selling the remaining 49 %. The investment bank Goldman Sachs was asked to identify other potential purchasers. Several companies operating in the industry were contacted. According to Germany, three potential investors showed an interest, but two withdrew immediately when they were informed they would be able to buy only a minority stake. The third was discouraged by the price asked by the BvS. According to Germany, none made an offer. As a result, the BvS entered into negotiation with Kali und Salz Beteiligungs AG.
- (14) At the outset the German authorities, advised by Goldman Sachs, requested a price of DEM 400 million, whereas Kali und Salz Beteiligungs AG bid [...] (*). Kali und Salz Beteiligungs AG's valuation was based on the price offered in 1997 by a Canadian company for Kali und Salz Beteiligungs AG's own original 51 % stake in Kali und Salz GmbH⁽³⁾. Both positions proceeded on the assumption that the State would compensate the accumulated negative cash flow of DEM 135 million recorded by Kali und Salz GmbH during the period 1993 to 1997, in line with what had been approved by the Commission in 1993.
- (15) Kali und Salz Beteiligungs AG's valuation explicitly referred to the uncertain prospects for the potash market, foreign exchange risks, and specific mining risks; Goldman Sachs's valuation clearly did not give these factors the same weight.
- (16) One day after the negotiations were formally concluded, a German competitor of Kali und Salz GmbH's indicated that there was a US group that would be interested in taking the shares. Germany states, however, that according to information provided by a research company the US group lacked the financial resources for the transaction. Research had established that the group was a financial holding company with a staff of two. It was classed in the higher risk group and given a payment score of 59 and no credit rating. On the basis of objective information, therefore, the BvS concluded that the group was not a suitable candidate.
- (17) The BvS and Kali und Salz Beteiligungs AG finally agreed on a price of DEM 250 million. However, Kali und Salz Beteiligungs AG also agreed that the BvS would reduce its compensation of losses to DEM 70 million instead of the DEM 135 million originally approved by the Commission in 1993.

(*) Business secret.

(3) In 1997 a Canadian firm sought to buy Kali und Salz Beteiligungs AG from BASF. The German merger authorities prohibited the takeover.

(1) OJ L 186, 21.7.1994, p. 38.

(2) OJ C 197, 23.6.1998, p. 7.

- (18) The Commission initiated the formal investigation procedure in respect of the disposal of the remaining 49 % of the shares in order to ensure that the price actually corresponded to a fair value for the shares, and did not contain an additional aid component.
- (19) As the sale of the holding was not to be the outcome of an open bidding procedure, the Commission doubted whether DEM 250 million was a fair price, and whether all interested parties had had a fair chance to make better offers so as to secure the shares.

III. COMMENTS FROM INTERESTED PARTIES

- (20) The Commission received comments from the United Kingdom, through its Permanent Representation to the European Union in Brussels, from the European Fertiliser Import Association, and from an international fertiliser producer. None of them made any reference to the exclusion of potential purchasers or to any alternative bid for the shares. They did not provide any evidence of an aid element in the sale.

IV. COMMENTS FROM GERMANY

- (21) In its response to the initiation of the formal investigation procedure and the comments from interested parties received by the Commission, Germany stated that the sale had received enough publicity, not only through Goldman Sachs, but also through national and local newspapers and specialised publications. According to Germany, the number of firms operating on the relevant market was relatively small, and the efforts to sell the holding were well known in the industry.
- (22) As regards the price paid, Germany pointed out first of all that in 1996 an offer of DEM 250 million had been made for 51 % of the shares held by Kali und Salz Beteiligungs AG. It thus considered that it had a market value indication of the price of the latter's minority shareholding.
- (23) Second, in addition to the purchase price, Kali und Salz Beteiligungs AG was forgoing DEM 65 million of the DEM 135 million approved by the Commission in 1993. This reduced the compensation to be paid by the BvS to only DEM 70 million including interest.

States wishing to dispose of public shareholdings are under no obligation to follow such a procedure.

- (25) In the absence of such a procedure the price may comprise elements of State aid, and where appropriate the Commission may verify whether the price represents fair value. In the present case, the price finally obtained was the outcome of a procedure in which the German authorities, in cooperation with their advisers, contacted all potential interested purchasers, and subsequently entered into intense negotiations with Kali und Salz Beteiligungs AG, which already owned 51 % of the shares. Under the final agreement Kali und Salz Beteiligungs AG was to pay DEM 250 million, but agreed that the BvS would reduce the compensation it was to pay for losses by DEM 65 million. These terms also saved the State interest amounting to DEM 8 million generated by the loss compensation of DEM 135 million outstanding up to that point, which had become legally enforceable at the beginning of 1998. This meant that the BvS had secured an additional financial advantage totalling DEM 73 million over and above the selling price.
- (26) The BvS ultimately obtained a net price of DEM 323 million for its remaining 49 % stake. Moreover, the German authorities' advisers concluded that the bid put forward by Kali und Salz Beteiligungs AG was the most advantageous offer that could be obtained at that time.
- (27) It should be stressed, finally, that according to the information available no potential investor was arbitrarily excluded from the sale, and none ever made an offer for the shareholding. The negotiations between the interested parties, all acting in their own economic interests, took place according to market principles.
- (28) In the formal investigation proceedings, therefore, the Commission has made a detailed assessment of the negotiations and the final terms of the sale, and concludes that there is no evidence of aid,

HAS ADOPTED THIS DECISION:

V. ASSESSMENT

Article 1

- (24) In line with the established case-law and Commission policy, the Commission considers that the price paid for a public shareholding does not contain a State aid component when the holding is sold by open, unconditional and non-discriminatory bidding. But Member

The sale by Germany to Kali und Salz Beteiligungs AG of a residual holding of 49 % in Kali und Salz GmbH does not constitute aid within the meaning of Article 87(1) of the Treaty.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 13 June 2000.

For the Commission

Mario MONTI

Member of the Commission

COMMISSION DECISION

of 30 January 2001

on the payment in euro by the United Kingdom of certain expenditure resulting from legal instruments relating to the common agricultural policy and repealing Decision 2000/328/EC

(notified under document number C(2001) 171)

(Only the English text is authentic)

(2001/121/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro ⁽¹⁾, and in particular Article 8 thereof,

Whereas:

(1) Article 8 of Regulation (EC) No 2799/98 requires non-participating Member States that contemplate paying expenditure resulting from legal instruments relating to the common agricultural policy in euro to take measures to ensure that the use of the euro does not provide a systematic advantage compared with the use of national currency.

(2) On 24 February 2000, the United Kingdom informed the Commission that it intended to make use of Article 8 of Regulation (EC) No 2799/98 and communicated the measures it contemplated taking to preventing any systematic advantage resulting from the use of the euro rather than the pound sterling. That communication was received on 29 February 2000. A new version of the Annex to the abovementioned communication was forwarded on 17 March 2000 and received on 21 March 2000.

(3) The measures communicated were approved in Commission Decision 2000/328/EC of 17 April 2000 on the payment in euro by the United Kingdom of certain expenditure resulting from legal instruments relating to the common agricultural policy ⁽²⁾.

(4) On 28 November 2000, the United Kingdom informed the Commission of its intention to amend the above-mentioned measures. That communication was received on the same date.

(5) The measures planned by the United Kingdom can be summarised as follows:

- operators will be paid the amounts in euro laid down in Community legislation; operators will bear

the full exchange-rate risk arising from subsequent conversion into sterling,

- operators must make a standing commitment; they must apply three months in advance to be paid in euro; they are then bound for a minimum of one year; three months advance notice must also be given to withdraw from the arrangement; new payments in euro are then only possible after a one-year waiting period,
- operators may opt for payment in euro for all or any of the measures listed in the Annex to this Decision.

(6) Initially the United Kingdom intends limiting payments in euro to market support measures that are entirely financed by the EAGGF as listed in the Annex to the communication.

(7) Article 12(4) of Commission Regulation (EC) No 2808/98 of 22 December 1998 laying down detailed rules for the application of the agrimonetary system for the euro in agriculture ⁽³⁾, as last amended by Regulation (EC) No 2452/2000 ⁽⁴⁾, states that the Commission has two months in which to approve the measures communicated.

(8) The measures that the United Kingdom contemplates taking are in line with the objective, namely to prevent a systematic advantage resulting from the use of the euro rather than the national currency.

(9) For that reason, the Commission Decision of 17 April 2000 on the payment in euro by the United Kingdom of certain expenditure resulting from legal instruments relating to the common agricultural policy must be replaced by this Decision,

HAS ADOPTED THIS DECISION:

Article 1

The measures communicated by the United Kingdom concerning the payment in euro of expenditure resulting from the legal instruments relating to the common agricultural policy listed in the Annex hereto are hereby approved.

⁽¹⁾ OJ L 349, 24.12.1998, p. 1.

⁽²⁾ OJ L 114, 13.5.2000, p. 33.

⁽³⁾ OJ L 349, 24.12.1998, p. 1.

⁽⁴⁾ OJ L 282, 8.11.2000, p. 9.

Article 2

Commission Decision 2000/328/EC is repealed.

Article 3

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 30 January 2001.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

MARKET SUPPORT MEASURES EXPRESSED AND PAYABLE IN EURO

Scheme	Commission Regulation
Export refunds	(EC) No 800/1999
Buying-in of beef	(EEC) No 2456/93
Private storage aid for beef	(EEC) No 3445/90
Private storage aid for pigmeat	(EEC) No 3444/90
Private storage aid for sheepmeat	(EEC) No 3446/90
Buying-in of butter	(EC) No 2771/1999
Private storage aid for butter and cream	(EC) No 2771/1999
Aid for butter supplied to non-profit-making organisations	(EEC) No 2191/81
Aid for butter manufacturing	(EC) No 2571/97
Aid for concentrated butter for cooking	(EEC) No 429/90
Aid for skimmed milk used in the manufacture of casein and caseinates	(EEC) No 2921/90
Aid for school milk	(EC) No 3392/93
Buying-in of skimmed-milk powder	(EC) No 322/96
Aid for skimmed-milk powder used for animal feed	(EC) No 2799/1999
Buying-in of cereals	(EEC) No 689/92
Starch end-user refund	(EEC) No 1722/93
Whisky refunds	(EEC) No 2825/93
Aid for dehydrated fodder	(EC) No 785/95
Aid for the use of grape must	(EEC) No 2598/88
Aid for sugar in the chemical industry	(EEC) No 1729/78
Aid for refining preferential raw cane sugar	(EEC) No 3816/88
Consumption aid for apples	(EC) No 481/1999 and (EEC) No 2282/90
Dairy promotion and market expansion scheme	(EC) No 481/1999 and (EC) No 3582/93
Promotion of quality beef	(EC) No 481/1999 and (EEC) No 1318/93
Promotion of plants and floricultural products	(EC) No 481/1999 and (EC) No 779/1999

COMMISSION DECISION

of 30 January 2001

on authorising the placing on the market of a dextran preparation produced by *Leuconostoc mesenteroides* as a novel food ingredient in bakery products under Regulation (EC) No 258/97 of the European Parliament and of the Council

(notified under document number C(2001) 174)

(Only the Dutch text is authentic)

(2001/122/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 258/97 ⁽¹⁾ of the European Parliament and of the Council of 27 January 1997, and in particular Article 7 thereof,

Having regard to the request by Puracor to the competent authorities of Belgium of 9 April 1999 for placing a dextran preparation produced by the bacterium *Leuconostoc mesenteroides* on the market as a novel food ingredient,

Having regard to the initial assessment report drawn up by the competent authorities of Belgium, which the Commission forwarded to all Member States on 28 July 1999.

Whereas:

- (1) Within the 60 days period laid down in Article 6(4) of the Regulation, reasoned objections were raised in accordance with that provision. In accordance with Article 7 of the Regulation, a Decision is therefore to be taken in accordance with the procedure laid down in Article 13 of the Regulation.
- (2) The Scientific Committee for Food has been consulted on this matter in accordance with Article 11 of the Regulation. On 18 October 2000, the Scientific Committee for Food delivered its opinion that the dextran preparation produced by the bacterium *Leuconostoc mesenteroides* that is the subject of this application is safe for human consumption, up to 5 % in bakery products.
- (3) Like gluten, soybean flour, malted flour or inactivated sourdough, dextran is an ingredient in bakery products.
- (4) Dextran is highly digestible and has similar nutritional properties as starch.

(5) On this basis, it is established that the products comply with the criteria laid down in Article 3(1) of the Regulation.

(6) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee for Foodstuffs,

HAS ADOPTED THIS DECISION:

Article 1

The dextran preparation produced by the bacterium *Leuconostoc mesenteroides*, as specified in the Annex, may be placed on the market in the Community as a novel food ingredient in bakery products, under the condition that no more than 5 % by weight of the final bakery product is made up of the dextran preparation.

Article 2

Without prejudice to the other requirements of Community law concerning the labelling of foodstuffs that the word 'dextran' will be mentioned in the list of ingredients of the bakery product containing it.

Article 3

This Decision is addressed to Puracor nv/sa, Industrialaan 25, B-1702 Groot Bijgaarden.

Done at Brussels, 30 January 2001.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 43, 14.2.1997, p. 1.

ANNEX

Specifications of a dextran preparation produced by the bacterium, *Leuconostoc mesenteroides*

1. Powdered form:

Carbohydrates	60 % with:
(Dextran: 50 %	
Mannitol: 0,5 %	
Fructose: 0,3 %	
Leucrose: 9,2 %)	
Protein	6,5 %
Lipid	0,5 %
Lactid acid	10 %
Ethanol	traces
Ash	13 %
Moisture	10 %

2. Liquid form:

Carbohydrate	12 % with:
(Dextran: 6,9 %	
Mannitol: 1,1 %	
Fructose: 1,9 %	
Leucrose: 2,2 %)	
Protein	2 %
Lipid	0,1 %
Lactid acid	2 %
Ethanol	0,5 %
Ash	3,4 %
Moisture	80 %

CORRIGENDA**Corrigendum to Commission Regulation (EC) No 2855/2000 of 27 December 2000 concerning the classification of certain goods in the Combined Nomenclature**

(Official Journal of the European Communities L 332 of 28 December 2000)

On page 42, under column 2 (CN code):

for: '6104 93 90'

read: '6104 63 90'.
