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Legislation

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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1676/2001

of 13 August 2001

imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of polyethylene terephthalate film originating in India and the Republic of Korea

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾, (the 'basic Regulation') and in particular Article 9 thereof,

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

Whereas:

— Emtec Magnetics GmbH, Ludwigshafen, Germany
— Rogers Induflex NV LEX NV, Gent, Belgium
— Leonhard Kurz GmbH & Co., Fürth, Germany
— Eurofoil, Blaenavon, U.K.

(6) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-dumping duties and the definitive collection of amounts secured by way of provisional duties. They were also granted a period within which they could make representations subsequent to this disclosure.

(7) The oral and written comments submitted by the parties were considered, and, where appropriate, the provisional findings have been modified accordingly.

A. PROVISIONAL MEASURES

(1) The Commission, by Regulation (EC) No 367/2001⁽²⁾ (the 'provisional Regulation') imposed a provisional anti-dumping duty on imports of polyethylene terephthalate ('PET') film falling within ex CN code 3920 62 19 and ex CN code 3920 62 90 and originating in India and the Republic of Korea ('Korea').

(2) It is recalled that the investigation period of dumping and injury covered the period from 1 April 1999 to 31 March 2000 ('IP'). The examination of trends relevant for the injury analysis covered the period from 1 January 1996 to 31 March 2000 ('period under consideration').

B. SUBSEQUENT PROCEDURE

(3) Following the imposition of provisional measures on imports of PET film originating in India and Korea, several interested parties submitted comments in writing. The parties who so requested were also granted an opportunity to be heard orally.

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

(5) Additional verification visits were carried out at the premises of the following users:

C. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(a) *Arguments of the parties*

(8) Some exporting producers re-iterated the argument that metallised PET film should be excluded from the product scope of the current proceeding on the grounds that metallised PET film cannot be considered alike to base PET film since it had different basic physical and technical characteristics, required different production equipment and processes, being consequently more expensive to produce and thus sold at a higher price. These parties also argued that the use of metallised PET film is different from that of base PET film and is also classifiable under CN codes other than CN codes ex 3920 62 19 and 3920 62 90, namely within CN code 3921.

(b) *Findings of the investigation*

(9) The investigation showed that the metallisation process consisting of the addition of metal, such as aluminium, by a vapour deposition process, does not alter the basic physical, technical and chemical characteristics of PET film. Moreover, base and metallised PET film are in many applications interchangeable and may have the same, or similar, uses. Therefore the provisional findings

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

⁽²⁾ OJ L 55, 24.2.2001, p. 16.

set out in recital 19 of the provisional Regulation, namely that metallised PET film and base PET film constitute one single product and are classifiable under the CN codes covered by the proceeding, i.e. ex 3920 62 19 and 3920 62 90, are confirmed.

- (10) It should be noted that the fact that an additional production step is required for the production of metallised PET film, with resulting higher cost of production and sales price, is not an element which could justify per se the exclusion of a certain type of PET film from the product scope of the proceeding.
- (11) Finally, the investigation showed that metallised PET film has to be distinguished from film, which is reinforced, laminated, supported or similarly combined with other materials. These processes modify the basic physical, chemical and technical characteristics of PET film to such an extent that the resulting product cannot be considered to be the product concerned. In addition, it should be noted that only when PET film is combined with other materials in such a way, is the final product classifiable under CN code 3921.
- (12) In the absence of further comments other than those mentioned above, the product description as set out in recitals 9 to 22 of the provisional Regulation is confirmed.

2. Like product

- (13) In the absence of any comments, the definition of the like product as described in recital 23 of the provisional Regulation is confirmed.

D. DUMPING

1. General methodology

(a) Normal value, export price and comparison

- (14) In the absence of any comments under these headings, the provisional findings as set out in recitals 28 to 34 of the provisional Regulation are confirmed.

(b) Dumping margins

- (15) The general methodology for establishing the dumping margins for the companies investigated, as described in recital 35 of the provisional Regulation, is confirmed.
- (16) The general methodology for establishing the dumping margins for the cooperating companies not included in the sample, as described in recital 36 of the provisional Regulation, is confirmed. When the dumping margin for the cooperating companies not included in the sample was established, any zero and *de minimis* margins were disregarded.

- (17) The general methodology for establishing the dumping margins for those exporting producers, which neither replied to the questionnaire nor otherwise made themselves known, as described in recitals 37 and 38 of the provisional Regulation, is confirmed. However, in the case of Korea, as only one out of the three sampled exporting producers was found to have practised dumping, the residual dumping margin was set at the weighted average dumping margin of a representative number of models with the highest dumping margins exported by that exporting producer.
- (18) It should be noted that in cases where an exporting producer exported more than one product type to the Community, the weighted average overall dumping margin was determined by computing the dumping found on each type without zeroing 'negative dumping' found on individual types.

2. India

(a) Normal value and export price

- (19) In the absence of further comments, the findings of recitals 39 to 42 of the provisional Regulation are confirmed.

(b) Comparison

(i) Level of trade

- (20) One Indian exporting producer reiterated its claim for an adjustment for differences in the level of trade between sales of the product concerned to traders on the domestic and export markets (recital 47 of the provisional Regulation).
- (21) It was also submitted, following disclosure of the essential facts and considerations on the basis of which provisional measures were adopted, that two levels of trade (end-users and traders) existed in both (domestic and export) markets and that a selective comparison should be made: that is, export prices to traders should be compared with normal values based on sales to traders and export prices to end-users compared with normal values based on sales to end-users.
- (22) However, the information submitted in the questionnaire reply and subsequently verified already indicated that there were no consistent and distinct differences in functions and prices for the different levels of trade for comparable models when sold in the domestic market of the exporting country. Consequently the findings set out in recitals 46 and 47 of the provisional Regulation are confirmed and the claim for a selective comparison is rejected.

(ii) Other allowances

(23) The Indian exporting producers claimed that the adjustment requested pursuant to Article 2(10)(k) 'other factors' and/or Article 2(10)(b) 'Import charges and indirect taxes' (depending on the exporter) of the basic Regulation on the export price for the benefits received under the Duty Entitlement Passbook ('DEPB') scheme on a post-export basis should have been granted. They claimed that the income received from the DEPB resulted in a lower export price and that therefore, the Commission should have added this income to the export price to ensure a fair comparison with the normal value, as domestic sales do not benefit from such income. Moreover, the Indian exporters claimed that the deduction, in accordance with Article 14(1) of the basic Regulation, of the export subsidies accounted for by the existing countervailing duty from the anti-dumping duty was legally not justified as the countervailing duties were determined on the basis of a different investigation period.

(24) Article 2(10) of the basic Regulation contemplates only the possibility of adjustments that affect price comparability. In the questionnaire replies and during the on-spot verifications, the DEPB benefit was always accounted for as 'other income' and not as a 'negative cost' attributed to the cost of raw materials of the exported goods. Therefore, already on the basis of the company's accounting records, there is no explicit link between pricing of the exported goods and the DEPB income received.

(25) The provision of Article 14(1) of the basic Regulation which reflects Article VI of the GATT Agreement shows that such subsidisation can, albeit indirectly, be addressed in an anti-dumping investigation and any regulation imposing an anti-dumping duty provided that the product is not subject to both anti-dumping and countervailing duties for the purpose of dealing with one and the same situation arising from dumping or from export subsidisation. The rationale behind Article 14(1) of the basic Regulation is indeed to avoid any duplication of duties intended to counteract the same situation arising from dumping or export subsidisation, and therefore, countervailing duties resulting from export subsidies have to be deducted regardless of the investigation period on the basis of which they were determined. It is noted, as explained under recitals 78 and 79 below, that an adjustment under Article 14(1) of the basic Regulation has been made. For all these reasons, the above request had to be rejected.

(c) Dumping margin

(26) In the absence of any comments or new information, the methodology set out in recitals 51 to 53 of the provisional Regulation is confirmed.

(27) The definitive dumping margins, expressed as a percentage of the cif import price at the Community border, are:

Ester Industries Limited	64,5 %
Flex Industries Limited	42,9 %
Garware Polyester Limited	65,3 %
Jindal Polyester Limited	0 %
Dumping margin for cooperating companies not part of the sample	57,70 %
Residual dumping margin for non-cooperating companies	65,3 %

3. Korea

(a) Normal value

(28) Two Korean cooperating exporting producers argued that so-called local export sales (i.e. domestic sales foreseen for the export market after further processing and/or packaging) had been excluded from the calculation of normal value with no legal basis for doing so. However, it is evident that Korean authorities permit such sales to be made without the addition of any local sales tax (VAT); the vendor is also able to transfer to the purchaser the right to claim duty drawback and the sales are usually made in a foreign currency. It is therefore evident from the way that such sales are structured in Korea that they are made for export and do not permit a proper comparison. Thus the approach followed for provisional determinations is maintained.

(29) In view of the above, the findings as described in recital 57 of the provisional Regulation are confirmed.

(b) Export price

(30) Two of the exporting producers had related importers in the Community and both indicated that they considered that the profit margin allocated to those importers (5,5 %) was unreasonably high given that the functions performed by the importers was limited to the re-invoicing of sales, without playing an active role in the sale itself. It was suggested that these related importers did not generate profit per se, but merely received commission on sales made. Nonetheless, the commission rate indicated cannot be taken as necessarily being accurate as the parties are related. The fact that the related importers may be remunerated on a fixed commission basis does not necessarily bear any relation to the functions performed by those importers. Furthermore, neither of the claimants submitted any specific data which indicated that the margin used was not in line with prevailing market conditions.

(31) In view of the above, the provisional findings as described in recital 58 of the provisional Regulation are confirmed.

(c) *Comparison*

weighted average to transaction approach to a weighted average to weighted average approach.

(i) *Exchange rates fluctuation*

- (32) Following a request by the Korean exporting producers the adjustment for a sustained movement in exchange rates was re-examined. Following this re-examination, the average exchange rate was that of two months before the actual invoice date.

(ii) *Duty drawback*

- (33) All of the Korean cooperating exporting producers considered that the methodology used in allocating duty drawback to domestic sales was unreasonable, in particular because the raw materials concerned are used for manufacturing products other than PET film. The Commission therefore reconsidered the issue and decided to adopt a revised two-step approach.

- (34) Firstly, the quantities of raw materials purchased and used solely for PET film production, (whether intended for domestic or export sales) were calculated using the nationally approved coefficients and expressed as percentages of the totals of raw materials purchased. These percentages were then applied to each of the individual supplies of raw materials. Thus each raw material was allocated to both domestic and export sales in which the raw material was used, (both product concerned and other products), in the appropriate proportion. The allocation started with supplies carrying the lowest duty rates, as explained in the provisional Regulation. The result led to increased amounts of duty drawback allowable for two exporting producers.

With the above exceptions concerning duty drawback and exchange rate conversion, the provisional findings as described in recitals 59 to 65 of the provisional Regulation are confirmed.

(d) *Dumping margin*

- (35) The findings of recitals 66 and 67 of the provisional Regulation are confirmed with the exception of one cooperating exporting producer who objected to the use of the comparison of a weighted-average normal value to individual export transactions to determine its dumping margin on the basis that the mere variation of export prices by customer, region or time period does not justify the use of the weighted average to transaction method for the determination of the dumping margin. The issue was re-examined and it was found that there was a pattern of export prices which differs among customers, the effect of which on the degree of dumping being practised by the exporter was not significant. The methodology for establishing the dumping margins for the companies investigated as described in recitals 66 and 67 of the provisional Regulation was therefore revised in respect of this exporting producer from a

- (36) The definitive dumping margins, expressed as a percentage of the cif import price at the Community border are:

Kolon Industries Limited	0,0 %
SKC Industries Limited	7,5 %
Toray Saehan Industries	0,0 %
Dumping margin for cooperating companies not part of the sample	7,5 %
Residual dumping margin for non-cooperating companies	13,4 %

E. COMMUNITY INDUSTRY

- (37) Certain Indian exporting producers argued that the definition of the Community industry and, consequently, the injury analysis, should not have been limited to the three cooperating complainant Community producers, but should have been extended to all the Community producers, including Fapack, which participated in lodging the complaint but only provided some basic information, and three other Community producers, which are not complainants and are not related to any exporting producers and which, as well, only submitted some basic information.

- (38) It is confirmed that, as mentioned in recital 73 of the provisional Regulation, all these seven operators are indeed Community producers and thus constitute the Community production within the meaning of Article 4(1) of the basic Regulation. However, as described in recital 70 of the provisional Regulation, the latter four Community producers only submitted some basic information but did not reply fully to the questionnaire intended for Community producers. Therefore, this information could not be used for the purposes of the assessment of the situation of the Community industry. These Community producers were accordingly not included in the definition of the Community industry. The argument had therefore to be rejected.

- (39) One interested party contested the finding that the Community industry accounted for more than 70 % of the total Community production of PET film. This element has been re-examined by the Commission, and a clerical error was found. The Community industry actually accounts for 60 % of the total Community production.

- (40) Certain interested parties claimed that if indeed metallised PET film remains included in the definition of the product concerned, certain producers of metallised PET film should also be regarded as Community producers forming part of the Community industry.

- (41) The investigation showed that the companies in question do not produce base PET film, but in fact purchase base PET film from different sources and then perform the additional metallisation process. This additional processing step undertaken by them is however not in itself sufficient to justify considering them as Community producers of PET film. Indeed, they are simply processors of a product without changing its basic physical, technical and chemical characteristics

F. INJURY

1. Community consumption

- (42) In the absence of any new information, the provisional findings concerning the Community consumption as described in recitals 76 to 79 of the provisional Regulation are confirmed.

2. Imports concerned

(a) Preliminary remark

- (43) Certain exporting producers raised the argument that the imports attributable to exporting producers found not to have dumped should be excluded for the analysis of the injury aspect. However, even if such imports were to be excluded from the analysis, the conclusions as to the existence of material injury caused by dumped imports would remain unchanged. Indeed, the price undercutting would remain significant, as well as the increase in volume and market shares and the remaining imports found to be dumped would still represent more than 13 % of the Community market. The decrease observed in the sales prices would also remain significant.

(b) Cumulative assessment of the effects of the imports concerned

- (44) Certain Indian exporting producers argued that imports of PET film originating in India should not be cumulated with those originating in Korea in view of the differences existing in the conditions of competition. The claim was based on the grounds that the import volume, the market shares and prices developed differently during the period 1997 to IP.
- (45) As regards the conditions of competition between Korean and Indian imports, when taking into account the totality of the period under consideration, i.e. between 1996 and the IP, and not, as suggested, the period 1997 to the IP, the volume of imports, market shares and import prices in fact developed in a similar way. It is also confirmed that import volumes from both countries were substantial during the investigation

period. Moreover, significant price undercutting was found for both imports originating in India and Korea, which were sold via the same sales channels and with similar commercial conditions. The argument has therefore to be rejected. Given the above, the findings of recital 85 of the provisional Regulation, setting out that that imports originating the countries concerned should be assessed cumulatively, are hereby confirmed.

(c) Volume, market shares and prices of the imports concerned

- (46) In the absence of any new information as regards the volume and prices of imports from the countries concerned, the provisional findings are confirmed.

(d) Price undercutting

- (47) As regards the price undercutting margins, certain Indian exporting producers questioned the fact that the Commission services did not consider, in the calculation of the weighted average export prices, the countervailing duties imposed on imports of PET film originating in India in 1999. They also reiterated their request for a level of trade adjustment, since Indian exporters mostly sell to wholesalers while the Community industry nearly always sells directly to users of PET film.
- (48) The calculations of price undercutting margins were revised by adding to the export prices the countervailing duties, where applicable. As regards the level of trade adjustment, the further analysis confirmed firstly, that, as described in recital 93 of the provisional Regulation, the selling price to wholesalers or to users does not depend on the type of customer but rather on the purchased volumes, and secondly, that the two levels of trade are not clearly separated and that there is no clear price difference between them. Moreover, it is confirmed that the Community industry also sells the product concerned to distributors and wholesalers and not only to users, contrary to what was claimed by some interested parties. Several companies were indeed found to be supplied by both exporting producers from the countries concerned and the Community industry.
- (49) Before the above background, price undercutting margins were reviewed on the basis of the evidence submitted by interested parties and amended where appropriate. The revised weighted average price undercutting margins found per country, expressed as a percentage of the Community industry prices, are as follows:
- Korea: from 14,9 % to 36,8 %, on weighted average 20,6 %
 - India: from 34,5 % to 44,8 %, on weighted average by 37,5 %.

3. Situation of the Community industry

- (50) Several interested parties questioned the conclusion reached in the provisional Regulation that the Community industry suffered material injury on the grounds that some factors have developed positively between 1996 and the IP (i.e. production capacity, production, sales volume, productivity, stocks and wages).
- (51) In this respect, it should be noted that not all the factors enumerated in Article 3(5) of the basic Regulation have to indicate a negative development in order to conclude that the Community industry is suffering material injury. In the current case, the Community industry lost market shares and, due to the price depressing effect of imports from the countries concerned, it had to significantly lower its sales prices, leading to a severe deterioration of its financial situation.
- (52) A Korean exporting producer questioned that the Community industry suffered material injury on the grounds that it is viable and competitive, as set in recital 159 of the provisional Regulation and that it still held an important position on the Community market during the IP.
- (53) The fact that the Community industry is viable and competitive does not preclude the finding of material injury. Indeed, the finding, that the Community industry is viable and competitive had been made in the context of the Community interest analysis which, *inter alia*, examined the effect of taking or not-taking anti-dumping measures on the various operators in the Community. All this does not invalidate the conclusion that the Community industry suffered material injury as evidenced by a number of factors including the significant loss of market share during the period under consideration. The argument has therefore to be rejected.
- (54) A Korean exporting producer alleged that the increase of the production capacity by the Community industry, that took place between 1998 and 1999, is in contradiction with the fact that its investments remained limited during the same period. It should be noted in that respect that investments related to the production capacity increase took place during the years 1997 and 1998, as set out in recital 108 of the provisional Regulation. As however the new capacity installed was only operational in 1998 and 1999, the increase in production capacity and the investments did not take place in the same period.
- (55) Certain Indian exporters claimed that limiting the analysis of the Community industry's sales to the domestic sales, in terms of volumes and prices, does not comply with the provision of Article 3(4) of the WTO

Anti-dumping Agreements on the grounds that the Agreement refers to total sales, thus including exports.

- (56) In this respect, it should be noted that the injury assessment was undertaken in line with the relevant provisions of the basic Regulation and consistent practice of the Community institutions. In addition, it should be noted that Article 3(4), in conjunction with Article 3(1) and (2), of the WTO Anti-dumping Agreement, clearly refers to the evaluation of the impact of dumped imports on prices in the domestic market and on the situation of the domestic industry. It also follows from the purpose of this type of investigation where, *inter alia*, the effect of dumped imports from one or more countries into the Community are at issue (and not the effect of dumped imports into third country markets) that injury of the Community industry must be found to exist on the domestic market only and that the situation with respect to exports or on export markets is therefore irrelevant in the context of the injury assessment. The argument has therefore to be rejected. However, and in line with consistent practice, the Community industry's export performance has been examined in the context of the question of causal link between the dumped imports and the injurious situation, as set in recital 144 of the provisional Regulation.
- (57) On the basis of the above, the provisional findings as regards the material injury suffered by the Community industry during the IP are confirmed.

G. CAUSATION

- (58) Some interested parties claimed that the assessment of the causal link was flawed since the deterioration of certain injury factors, i.e. profitability, cash flow, return on investments and ability to raise capital, should be considered as being linked to autonomous cyclical developments and to the massive investments made by the Community industry during the period considered rather than to the impact of the imports concerned.
- (59) Firstly, there is no indication that the Community industry suffers from a cyclical downturn. Secondly, the further analysis of the financial situation of the Community industry confirmed that its deterioration was mainly due to the decrease of its unit sales prices. Moreover, since during the whole period under consideration the unit cost of production decreased, the deterioration cannot be attributed to higher cost of production related to the new investments.
- (60) In the light of the above and in the absence of any new information, the provisional findings as described in recitals 119 to 123 of the provisional Regulation are confirmed.

H. COMMUNITY INTEREST

1. Unrelated importers and traders

- (61) One unrelated importer argued that, contrary to what was set out in recital 188 of the provisional Regulation, the imposition of countervailing duties reduced the availability of Indian PET film on the Community market and that the level of the anti-dumping duties as set out in this Regulation will make it unable to source PET film from its traditional Indian suppliers. It further argued that the PET film produced by the Community industry outside the Community is imported by the Community industry itself, and that, due to this relationship, this would eliminate any other real alternative sources of supply.
- (62) In this respect, Eurostat data showed that between the year 1999 (the provisional countervailing duties were imposed in August 1999) and the year 2000, imports from India increased by 11 %. As to the level of the anti-dumping duties proposed, it cannot be excluded that they will result in an increase of the import prices. However, given the different levels of measures proposed, it can be expected at the same time that some of the exporting producers concerned will continue to sell on the Community market, albeit at non-dumped prices. Regarding the existence of alternative sources of supply, it appears that, during the year 1999, the Community industry's purchases of PET film originating in the US and Japan, the two major exporting countries which are not the countries concerned by this proceeding, represented around 35 % of the total imports from these countries. It is therefore confirmed that other alternative sources of supply are available.

2. Users of PET film in the Community

- (63) It should be noted that out of the 23 users that cooperated at the provisional stage of the proceeding, and purchasing slightly over 40 % of the total imports from the countries concerned, only one expressed its concerns after the imposition of the provisional duties. This low degree of reactions might suggest that the measures would not have such an important impact on the users concerned.
- (64) Four other users, which made themselves known after the imposition of the provisional measures, argued that the imposition of duties could limit their choice of suppliers and possibly create a shortage of PET film in the Community market. Those users also claimed that a price increase of PET film has occurred in the Community market since provisional duties were imposed, with a negative effect on their competitiveness on the world market.

- (65) It should be recalled in this respect that, as found at the provisional stage, investigated users purchased on average around 58 % of their PET film consumption from the Community industry, around 28 % from the countries concerned and around 14 % in other third countries. Furthermore, a significant number of actors will remain active on the Community market, i.e. the Community industry and other Community producers, an economic operator in the Community, at least some of exporting producers in the countries concerned and in other third countries. Therefore, even if it cannot be excluded that some exporting producers in the countries concerned will decrease their level of exports to the Community further to the anti-dumping measures imposed, it is unlikely that a shortage on the Community market will occur. On the other hand, should measures not be imposed, the possible disappearance of the Community industry's manufacturing activities for PET film would, as set out in recital 185 of the provisional Regulation, create severe supply constraints.
- (66) As to the level of prices, it should be noted that users have until recently benefited from artificially low prices due to unfair trade practices. Sales prices in the Community market decreased by an average of 40 % between 1996 and the IP. Even if a price increase for PET film in the Community cannot be excluded, it is expected that it will be moderate. This is reinforced in particular by the level of duties imposed for certain exporting producers concerned and the presence of a certain number of actors, which will compete with each other on the Community market.
- (67) Moreover, the further analysis and verification visits to users confirmed that PET film, as raw material for different finished products, is frequently not a significant cost item, that products incorporating PET film only account for a small proportion of their total production and, finally, that users also source their products in the Community and other third countries not concerned by the proceeding. It can however not be excluded that, for certain users for which PET film represents a crucial raw material, the anti-dumping duties will have an important impact on the total cost of production. Nevertheless, this does not alter the average overall results of the investigation. The finding of recital 183 of the provisional Regulation that the imposition of duties will probably not have, on average, a significant impact on the users of PET film, is therefore confirmed.

3. Conclusion on the Community interest

- (68) In the absence of any new information regarding the Community interest, the findings as described in recitals 156 to 191 of the provisional Regulation are confirmed.

I. DEFINITIVE ANTI-DUMPING MEASURES

1. Injury elimination level

(69) Based on the methodology explained in recitals 193 to 195 of the provisional Regulation, and taking into account the arguments and modifications mentioned above in relation to price undercutting calculations, an injury elimination level has been established for the purposes of establishing the level of measures to be definitively imposed. However, regarding the non consideration of the countervailing duties, it should be noted that, as explained in recital 198 of the provisional Regulation, export subsidies are deducted from the proposed anti-dumping duties pursuant to Article 14(1) of the basic Regulation after having applied the lesser duty rule, and there is accordingly no need to consider them at the level of the injury margin calculation.

(70) Certain Indian exporting producers argued that the injury margins have been incorrectly calculated. It has been claimed that the injury margin should be expressed as a percentage of the total cif turnover and not be limited to the cif turnover of the comparable models. They based their arguments on the conclusions of the WTO Appellate body in the bed linen case ⁽¹⁾.

(71) Firstly, it should be noted that these conclusions have been drawn in the context of dumping calculations and are not relevant in the context of injury calculations. Secondly, it is consistent practice to express the injury amount as a percentage of the cif turnover of those models which were used in order to establish the said injury amount. The approach proposed by the Indian exporting producers in question would in fact result in the use of figures which are not comparable. For all these reasons, the claim had to be rejected.

(72) The Community industry submitted that a profit margin of 13 % on turnover would be more appropriate than the 6 % profit margin that was used for the provisional injury margin calculation. It argued that a company's own capital resources should at least earn a return on net assets which equals bank loan rates. It was further claimed that this level of profit was reached in 1996, when conditions of fair competition prevailed.

(73) In this respect, it should be noted that the profit margin that is to be used for the determination of the non injurious price should be understood as the profitability level that could reasonably be reached in the absence of injurious dumping. However, it is not important in this case to define a conclusive percentage given that the injury margins are already on the basis of a 6 % profit

margin higher than the dumping margins. The argument has therefore no practical impact.

(74) Given the above, and in the absence of new evidence, the methodology used for establishing the injury elimination level as described in recitals 193 to 195 of the provisional Regulation is confirmed.

2. Form and level of the duties

(75) The investigation showed that the imports of the product have also taken place under CN codes other than those covered by this proceeding, i.e. CN codes ex 3920 62 19 and 3920 62 90. The attention of the customs authorities is accordingly drawn to this misclassification.

(76) In the light of the foregoing and in accordance with Article 9(4) of the basic Regulation, a definitive anti-dumping duty should be imposed at the level of the dumping margins found, since they were in all cases lower than the injury margins.

(77) As regards the residual duty to be applied to the non cooperating exporting producers of the respective countries, as the level of cooperation was considered significant in both countries, for India the residual duty should be fixed on the basis of the highest duty rate established for the sampled cooperating producers. For Korea, as only one of the three sampled exporting producers was found to have practised dumping the residual duty should be set, in application of the lesser duty rule, at the weighted average dumping margin of a representative number of models with the highest dumping margins exported by that exporting producer.

(78) As recalled in recitals 50 and 198 of the provisional Regulation, Article 14(1) of the basic Regulation makes it mandatory that no product be subject to both anti-dumping and countervailing duties for the purpose of dealing with the same situation arising from dumping or export subsidisation. In this context, the fact that the countervailing duties were established on a different IP and that the amount of export subsidy in the anti-subsidy IP and the anti-dumping IP are different, is irrelevant. The rationale behind Article 14(1) of the basic Regulation is indeed to avoid any duplication of duties intended to counteract the same situation arising from dumping or export subsidisation, and therefore, countervailing duties resulting from export subsidies have to be deducted regardless of the investigation period on the basis of which they were determined. It is also noted that no request for a review of the countervailing measures has been received. Therefore, the provisional findings as described in recitals 50 and 198 of the provisional Regulation are confirmed.

⁽¹⁾ European Communities — Anti-dumping duties on imports of cotton-type bed linen from India, WT/DS/AB/R, 1.3.2001.

- (79) Consequently, as regards anti-dumping duties for India, the countervailing duty in force that corresponds to export subsidies was deducted from the anti-dumping duty to be applied. For any non-cooperating companies, the deduction corresponds to the export subsidy of the cooperating company on the basis of which the residual dumping margin (and thus the residual duty) was established.
- (80) On the basis of the above, and taking into account the findings of the previous anti-subsidy investigation, the proposed definitive duty rates, expressed on the cif Community border price, customs duty unpaid, are as follows:

India

Company	Export subsidy margin	Total subsidy margin	Dumping margin	CVD duty	AD duty	Total duty rate
Ester Industries Ltd	12,0 %	12,0 %	64,5 %	12,0 %	52,5 %	64,5 %
Flex Industries Ltd	12,5 %	12,5 %	42,9 %	12,5 %	30,4 %	42,9 %
Garware Polyester Ltd	2,7 %	3,8 %	65,3 %	3,8 %	62,6 %	66,4 %
Jindal Polyester Ltd	7,0 %	7,0 %	0 %	7,0 %	0 %	7,0 %
MTZ Polyesters Ltd	8,7 %	8,7 %	57,7 %	8,7 %	49,0 %	57,7 %
Polyplex Corp. Ltd	19,1 %	19,1 %	57,7 %	19,1 %	38,6 %	57,7 %
All other companies	12,0 % ⁽¹⁾	19,1 %	65,3 %	19,1 %	53,3 %	72,4 %

⁽¹⁾ For the purpose of calculating the final anti-dumping duty, the export subsidy margin of the company on the basis of which the dumping margin for the non-cooperating companies is based was taken into consideration.

Korea

Company	AD duty
HS Industries	7,5 %
Hyosung Corp	7,5 %
Kohap Corp.	7,5 %
Kolon Industries Limited	0,0 %
SKC Industries Limited	7,5 %
Toray Saehan Industries	0,0 %
All other companies	13,4 %

- (81) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the country-wide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the country concerned and produced by the companies and thus by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.
- (82) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales

entities) should be addressed to the Commission ⁽¹⁾ forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with e.g. that name change or that change in the production and sales entities. The Commission will, if appropriate, after consultation of the Advisory Committee, amend the Regulation accordingly by updating the list of companies benefiting from individual duty rates.

3. Collection of provisional duties

- (83) In view of the magnitude of the dumping margins found and in the light of the level of the injury caused to the Community industry, it is considered necessary that the amounts secured by way of the provisional anti-dumping duty, imposed by the provisional Regulation, should be definitively collected at the rate of the duty definitively imposed. Where the definitive duties are higher than the provisional duties, only the amounts secured at the level of the provisional duties should be definitively collected.

4. Undertakings

- (84) Subsequent to the imposition of provisional anti-dumping measures, a number of exporting producers in India offered price undertakings in accordance with Article 8(1) of the basic Regulation. By doing so, they have agreed to sell the product concerned at or above price levels which eliminate the injurious effects of dumping. The companies will also provide the Commission with regular and detailed information concerning their exports to the Community, meaning that the undertakings can be monitored effectively by the Commission. Furthermore, the sales structure of these exporting producers is such that the Commission considers that the risk of circumventing the agreed undertaking is limited.
- (85) In view of this, the offers of undertakings are therefore considered acceptable and the companies concerned have been informed of the essential facts, considerations and obligations upon which acceptance is based.
- (86) To further enable the Commission to effectively monitor the compliance of the companies with their undertakings, when the request for release for free circulation is presented to the relevant customs authority, exemption from the anti-dumping duty shall be conditional on the presentation of a commercial invoice containing at least the elements listed in the Annex. This level of information is also necessary to enable customs authorities to ascertain with sufficient precision that shipments correspond to the commercial documents. Where no such invoice is presented, or when it does not correspond to the product presented to customs, the appropriate rate of anti-dumping duty will instead be payable.
- (87) It should be noted that in the event of a breach or withdrawal of the undertaking or a suspected breach, an anti-dumping duty may be imposed, pursuant to Article 8(9) and (10) of the basic Regulation.

5. Duration of measures

- (88) The anti-dumping measures would be in force until 2006, whereas the existing countervailing duties against India are bound to expire in 2004. In the event of the expiry (or change) of the countervailing measures, the level of the anti-dumping duties should be revised, since they currently take account of the fact that countervailing duties are already in place,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of polyethylene terephthalate ('PET') film falling within CN codes ex 3920 62 19 and ex 3920 62 90 (TARIC codes: 3920 62 19*10, 3920 62 19*15, 3920 62 19*25, 3920 62 19*30, 3920 62 19*35, 3920 62 19*40, 3920 62 19*45, 3920 62 19*50, 3920 62 19*55, 3920 62 19*60, 3920 62 19*62, 3920 62 19*64, 3920 62 19*65, 3920 62 19*70, 3920 62 19*75, 3920 62 19*80, 3920 62 19*81, 3920 62 19*85, 3920 62 19*87, 3920 62 19*89, 3920 62 19*91, 3920 62 90*30 and 3920 62 90*91) and originating in India and the Republic of Korea.

⁽¹⁾ European Commission
DG Trade
Directorate B
TERV 0/10
Rue de la Loi/Wetstraat 20
B-1049 Brussels/Belgium.

2. The rate of the definitive anti-dumping duty applicable to the net, free-at-Community-frontier price, before duty, shall be as follows for products originating in:

Country	Company	Definitive duty (%)	TARIC additional code
India	Ester Industries Limited 75-76, Amrit Nagar, Behind South Extension Part — I, New Delhi — 110 003 India	52,5	A026
India	Flex Industries Limited A-1, Sector 60, Noida 201 301 (U.P.) India	30,4	A027
India	Garware Polyester Limited Garware House 50-A, Swami Nityanand Marg Vile Parle (East) Mumbai 400 057 India	62,6	A028
India	Jindal Polyester Limited 115-117, Indra Prakash Building 21, Barakhamba Road New Delhi 110 001 India	0	A030
India	MTZ Polyesters Limited Saranath Centre, Upvan Area, Upper Govind Nagar, Malad (E) Mumbai 400 097 India	49,0	A031
India	Polyplex Corporation Limited B-37, Sector-1, Noida 201 301 Dist. Gautam Budh Nagar Uttar Pradesh India	38,6	A032
India	All other companies	53,3	A999
Korea	Kolon Industries Inc. Kolon Tower, 1-23, Byulyang-dong Kwacheon-city, Kyunggi-do Korea	0,0	A244
Korea	SKC Co., Ltd. SKC Bldg., 23-10, Youido-Dong Yongdungpo-Gu Seoul 150-010 Korea	7,5	A224
Korea	Toray Saehan Inc. 17F, LG Mapo B/D 275 Kongdug-Dong Mapo-Gu Seoul 121-721 Korea	0,0	A222
Korea	HS Industries Co., Ltd Kangnam Building, 8 th floor 1321, Seocho-Dong Seocho-Ku Seoul Korea	7,5	A226

Country	Company	Definitive duty (%)	TARIC additional code
Korea	Hyosung Corporation 450, Kongduk-Dong Mapo-Ku Seoul Korea	7,5	A225
Korea	Kohap Corp. No. 89-4, Kyungun-Dong Chongro-Ku Seoul Korea	7,5	A223
Korea	All other companies	13,4	A999

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

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

Article 2

1. Imports under one of the following TARIC additional codes which are produced and directly exported (i.e. shipped and invoiced) by a company named below to a company in the Community acting as an importer shall be exempt from the anti-dumping duties imposed by Article 1 provided that they are imported in conformity with paragraph 2.

Country	Company	TARIC additional code
India	Ester Industries Limited 75-76, Amrit Nagar, Behind South Extension Part — I, New Delhi — 110 003 India	A026
India	Flex Industries Limited A-1, Sector 60, Noida 201 301 (U.P.) India	A027
India	Garware Polyester Limited Garware House 50-A, Swami Nityanand Marg Vile Parle (East) Mumbai 400 057 India	A028
India	MTZ Polyesters Limited Saranath Centre, Upvan Area Govind Nagar, Malad (E) Mumbai 400 097 India	A031
India	Polyplex Corporation Limited B-37, Sector-1, Noida 201 301 Dist. Gautam Budh Nagar Uttar Pradesh India	A032

2. Imports mentioned in paragraph 1 shall be exempt from the duty on condition that:
- (a) a commercial invoice containing at least the elements of the necessary information listed in the Annex is presented to Member States customs authorities upon presentation of the declaration for release into free circulation; and
 - (b) the goods declared and presented to customs correspond precisely to the description on the commercial invoice.

Article 3

The amounts secured by way of provisional anti-dumping duties pursuant to the provisional Regulation shall be collected at the rate of the duty definitively imposed. Amounts secured in excess of the definitive rate of anti-dumping duties shall be released. Where the definitive duties are higher than the provisional duties, only the amounts secured at the level of the provisional duties shall be definitively collected.

Article 4

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

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

Done at Brussels, 13 August 2001.

For the Council

The President

L. MICHEL

ANNEX

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

1. The heading 'COMMERCIAL INVOICE ACCOMPANYING GOODS SUBJECT TO AN UNDERTAKING'
 2. The name of the company mentioned in Article 2(1) which issues the commercial invoice
 3. The commercial invoice number
 4. The date of issue of the commercial invoice
 5. The TARIC additional code under which the goods on the invoice are to be customs cleared at the Community frontier
 6. The exact description of the goods, including:
 - the product code number (PCN),
 - the technical specification of the goods including the thickness (μm), whether or not the goods have had coating/surface treatment after the process (e.g. corona, chemical, metallisation or no coating or surface treatment after the process), the mechanical properties (e.g. balanced or tensilised), clarity/opacity (e.g. clear film with haze < 2 %, hazy film with haze between 2 and 40 %, white film with haze > 40 %, coloured),
 - the company product code number (CPC) (if applicable),
 - CN code,
 - quantity (to be given in kg).
 7. The description of the terms of the sale, including:
 - price per kg,
 - the applicable payment terms,
 - the applicable delivery terms,
 - total discounts and rebates.
 8. Name of the company acting as an importer to which the invoice is issued directly by the company.
 9. The name of the official of the company that has issued the invoice and the following signed declaration:

'I, the undersigned, certify that the sale for direct export to the European Community of the goods covered by this invoice is being made within the scope and under the terms of the undertaking offered by [company], and accepted by the European Commission through Decision 2001/645/EC. I declare that the information provided in this invoice is complete and correct.'
-

COUNCIL REGULATION (EC) No 1677/2001

of 13 August 2001

amending Regulation (EC) No 772/1999 imposing definitive anti-dumping and countervailing duties on imports of farmed Atlantic salmon originating in Norway

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 8 thereof,

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 ⁽²⁾, and in particular Article 13 thereof,

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

Whereas:

A. PREVIOUS PROCEDURE

- (1) On 31 August 1996, by means of two separate notices published in the *Official Journal of the European Communities*, the Commission announced the initiation of an anti-dumping proceeding ⁽³⁾ and an anti-subsidy proceeding ⁽⁴⁾ in respect of imports of farmed Atlantic salmon originating in Norway.
- (2) These proceedings resulted in anti-dumping and countervailing duties being imposed by Council Regulations (EC) No 1890/97 ⁽⁵⁾ and 1891/97 ⁽⁶⁾ in September 1997 in order to eliminate the injurious effects of dumping and subsidisation.
- (3) In parallel to this, by Decision 97/634/EC ⁽⁷⁾, the Commission accepted undertakings from 190 Norwegian exporters and imports of farmed Atlantic salmon originating in Norway ('the product concerned') exported to the Community by these companies were exempted from the said anti-dumping and countervailing duties.

- (4) The form of the duties was later reviewed and Regulations (EC) No 1890/97 and (EC) No 1891/97 were replaced by Regulation (EC) No 772/1999 ⁽⁸⁾.

B. FAILURE TO COMPLY WITH THE UNDERTAKING

- (5) The undertakings offered by the Norwegian companies oblige them, *inter alia*, to provide the Commission with detailed quarterly reports of their sales to the Community of the product concerned. These reports should be received by the Commission no later than 30 days after the end of the quarter in question.
- (6) For the fourth quarter of 2000, two Norwegian companies, Marstein Seafood AS (UT No 1/93, TARIC additional code 8197) and Westmarine AS (UT No 1/192, TARIC additional code 8625), failed to present their sales reports within the prescribed time limit, offering no explanation whatsoever for this failure. The Commission's findings in this respect are set out more fully in Commission Decision 2001/644/EC of 20 July 2001 amending Decision 97/634/EC accepting undertakings offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of farmed Atlantic salmon originating in Norway ⁽⁹⁾.
- (7) As breaches of the undertakings have been found to have occurred, acceptance of the undertakings has been withdrawn by the Commission. Definitive anti-dumping and anti-subsidy duties should therefore be imposed forthwith against the two companies concerned.

C. NEW EXPORTERS AND CHANGES OF NAME

- (8) Two Norwegian companies, Atlantis AS and Cape Fish AS, claimed that they are 'new exporters' within the meaning of Article 2 of Regulation (EC) No 772/1999 in conjunction with Article 11(4) of Regulation (EC) No 384/96 and Article 20 of Regulation (EC) No 2026/97, and have offered undertakings. Having investigated the matter, it was established that the applicants fulfilled the conditions for being considered as new exporters and, accordingly, the undertakings offered have been accepted by the Commission. The exemption to the anti-dumping and countervailing duties should therefore be extended to these companies.

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

⁽²⁾ OJ L 288, 21.10.1997, p. 1.

⁽³⁾ OJ C 253, 31.8.1996, p. 18.

⁽⁴⁾ OJ C 253, 31.8.1996, p. 20.

⁽⁵⁾ OJ L 267, 30.9.1997, p. 1. Regulation repealed by Regulation (EC) No 772/1999 (OJ L 101, 16.4.1999, p. 1).

⁽⁶⁾ OJ L 267, 30.9.1997, p. 19. Regulation repealed by Regulation (EC) No 772/1999.

⁽⁷⁾ OJ L 267, 30.9.1997, p. 81. Decision as last amended by Commission Decision 2001/544/EC (OJ L 195, 19.7.2001, p. 50).

⁽⁸⁾ OJ L 101, 16.4.1999, p. 1. Regulation as last amended by Regulation (EC) No 1469/2001 (OJ L 195, 19.7.2001, p. 1).

⁽⁹⁾ See page 49 of this Official Journal.

- (9) A Norwegian exporter with an undertaking advised the Commission that the group of companies to which it belongs had been re-organised and that another company within the group was now responsible for exports to the Community. The company therefore requested that its name be replaced on the list of companies from which undertakings are accepted in the Annex to Decision 97/634/EC and on the list of companies which benefit from an exemption to the anti-dumping and countervailing duties in the Annex to Regulation (EC) No 772/1999.
- (10) Two other exporters advised the Commission that their names had changed and also requested that the lists of companies mentioned in the previous recital be amended.
- (11) Having verified the nature of these requests, the Commission considered them all to be acceptable since the changes do not entail any substantive changes requiring a re-assessment of dumping, nor do they affect any of the considerations on which the acceptance of the undertaking was based. The Commission's findings in this respect are set out more fully in Commission Decision 2001/644/EC.

**D. AMENDMENT OF THE ANNEX TO REGULATION (EC)
No 772/1999**

- (12) In view of all the above, the Annex to Regulation (EC) No 772/1999 which lists the companies exempted from the anti-dumping and countervailing duties should be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 772/1999 shall be replaced by the Annex hereto.

Article 2

1. (a) Definitive countervailing and anti-dumping duties are hereby imposed on imports of farmed (other than wild) Atlantic salmon falling within CN codes ex 0302 12 00 (TARIC codes: 0302 12 00*21, 0302 12 00*22, 0302 12 00*23 and 0302 12 00*29), ex 0303 22 00 (TARIC codes: 0303 22 00*21, 0303 22 00*22, 0303 22 00*23 and 0303 22 00*29), ex 0304 10 13 (TARIC codes: 0304 10 13*21 and 0304 10 13*29) and ex 0304 20 13 (TARIC codes: 0304 20 13*21 and 0304 20 13*29) originating in Norway and exported by Marstein Seafood AS or Westmarine AS.
- (b) These duties shall not apply to wild Atlantic salmon (TARIC codes: 0302 12 00*11, 0304 10 13*11, 0303 22 00*11 and 0304 20 13*11). For the purpose of this Regulation, wild salmon shall be that in respect of which the competent authorities of the Member States of landing are satisfied, by means of all customs and transport documents to be provided by interested parties, that it was caught at sea.
2. (a) The rate of the countervailing duty applicable to the net free-at-Community frontier price, before duty, shall be 3,8 %.
- (b) The rate of the anti-dumping duty applicable to the net free-at-Community frontier price, before duty, shall be EUR 0,32 per kilogram net product weight. However, if the free-at-Community-frontier price, including the countervailing and anti-dumping duties, is less than the relevant minimum price set out in paragraph 3, the anti-dumping duty to be collected shall be the difference between that minimum price and the free-at-Community-frontier price, including the countervailing duty.

3. For the purpose of paragraph 2, the following minimum prices shall apply per kilogram net product weight:

Presentation of salmon	Minimum price euro/kg net product weight	TARIC code
Whole fish, fresh or chilled	2,925	0302 12 00*21
Gutted, head-on, fresh or chilled	3,25	0302 12 00*22
Gutted, headless, fresh or chilled	3,65	0302 12 00*23
Other, fresh or chilled, including 'steaks'	3,65	0302 12 00*29
Whole fish, frozen	2,925	0303 22 00*21
Gutted, head-on, frozen	3,25	0303 22 00*22

Presentation of salmon	Minimum price euro/kg net product weight	TARIC code
Gutted, headless, frozen	3,65	0303 22 00*23
Other, frozen, including 'steaks'	3,65	0303 22 00*29
Whole fish fillets, more than 300 gr each, fresh or chilled	5,19	0304 10 13*21
Other fish fillets or fillet portions, 300 gr or less each, fresh or chilled	6,55	0304 10 13*29
Whole fish fillets, more than 300 gr each, frozen	5,19	0304 20 13*21
Other fish fillets or fillet portions, weighing 300 gr or less each, frozen	6,55	0304 20 13*29

Article 3

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, 13 August 2001.

For the Council
The President
L. MICHEL

ANNEX

List of companies from which undertakings are accepted and thus exempted from the definitive anti-dumping and countervailing duties

UT No	Company name	TARIC additional code
3	Rosfjord Seafood A/S	8325
7	Aqua Export A/S	8100
8	Aqua Partner A/S	8101
11	Arctic Group International	8109
13	Artic Superior A/S	8111
15	A/S Aalesundfisk	8113
16	Austevoll Eiendom AS	8114
17	A/S Keco	8115
20	A/S Refsnes Fiskeindustri	8118
21	A/S West Fish Ltd	8119
22	Astor A/S	8120
24	Atlantic Seafood A/S	8122
26	Borkowski & Rosnes A/S	8124
27	Brødrene Aasjord A/S	8125
31	Christiansen Partner A/S	8129
32	Clipper Seafood A/S	8130
33	Coast Seafood A/S	8131
35	Daffjord Laks A/S	8133
39	Domstein Fish A/S	8136
41	Ecco Fisk & Delikatesse	8138
42	Edvard Johnsen A/S	8139
43	Fjord Seafood ASA	8140
44	Euronor A/S	8141
46	Fiskeforsyningen A/S	8143
47	Fjord Aqua Group A/S	8144
48	Fjord Trading Ltd A/S	8145
50	Fossen A/S	8147
51	Fresh Atlantic A/S	8148
52	Fresh Marine Company A/S	8149

UT No	Company name	TARIC additional code
58	Grieg Seafood A/S	8300
61	Hallvard Lerøy A/S	8303
62	Fjord Seafood Måløy A/S	8304
66	Marine Harvest Norway AS	8159
67	Hydrotech-gruppen A/S	8428
72	Inter Sea A/S	8174
76	Joh. H. Pettersen A/S	8178
77	Johan J. Helland A/S	8179
79	Karsten J. Ellingsen A/S	8181
80	Kr Kleiven & Co. A/S	8182
82	Labeyrie Norge A/S	8184
83	Lafjord Group A/S	8185
85	Leica Fiskeprodukter	8187
87	Lofoten Seafood Export A/S	8188
92	Marine Seafood A/S	8196
96	Memo Food A/S	8200
98	Misundfisk A/S	8202
100	Naco Trading A/S	8206
101	Fjord Seafood Midt-Norge A/S	8207
104	Nergård A/S	8210
105	Nils Williksen A/S	8211
107	Nisja Trading A/S	8213
108	Nor-Food A/S	8214
111	Nordic Group ASA	8217
112	Nordreisa Laks A/S	8218
113	Norexport A/S	8223
114	Norfi Produkter A/S	8227
115	Norfood Group A/S	8228
116	Norfra Eksport A/S	8229
119	Norsk Akvakultur A/S	8232
120	Norsk Sjømat A/S	8233
121	Northern Seafood A/S	8307

UT No	Company name	TARIC additional code
122	Nortrade A/S	8308
123	Norway Royal Salmon Sales A/S	8309
124	Norway Royal Salmon A/S	8312
126	Frionor A/S	8314
128	Norwell A/S	8316
137	Pan Fish Sales A/S	8242
140	Polar Salmon AS	8247
141	Prilam Norvège A/S	8248
142	Pundslett Fisk	8251
144	Olsen Seafood AS	8254
145	Marine Harvest Rogaland AS	8256
146	Rørvik Fisk- og fiskematforretning A/S	8257
147	Saga Lax Norge A/S	8258
148	Prima Nor A/S	8259
151	Sangoltgruppa A/S	8262
153	Scanfood A/S	8264
154	Sea Eagle Group A/S	8265
155	Sea Star International A/S	8266
156	Sea-Bell A/S	8267
157	Seaco A/S	8268
158	Seacom A/S	8269
160	Seafood Farmers of Norway Ltd A/S	8271
161	Seanor A/S	8272
162	Sekkingstad A/S	8273
164	Sirena Norway A/S	8275
165	Kinn Salmon A/S	8276
167	Fjord Seafood Sales AS	8278
168	SMP Marine Produkter A/S	8279
172	Stjermelaks A/S	8283
174	Stolt Sea Farm A/S	8285
175	Storm Company A/S	8286
176	Superior A/S	8287

UT No	Company name	TARIC additional code
178	Terra Seafood A/S	8289
180	Timar Seafood A/S	8294
182	Torris Products Ltd A/S	8298
183	Troll Salmon A/S	8317
188	Vikenco A/S	8322
189	Wannebo International A/S	8323
190	West Fish Norwegian Salmon A/S	8324
191	Nor-Fa Fish AS	8102
193	Uhrenholt Seafood Norway A/S	A033
194	Mesan Holding AS	A034
195	Polaris Seafood A/S	A035
196	Scanfish A/S	A036
197	Normarine A/S	A049
198	Oskar Einar Rydbeck	A050
199	Emborg Foods Norge A/S	A157
200	Helle Mat A/S	A158
201	Norsea Food A/S	A159
202	Salmon Company Fjord Norway A/S	A160
203	Stella Polaris A/S	A161
204	First Salmon AS	A205
205	Norlaks A/S	A206
206	Atlantis AS	A257
207	Cape Fish AS	A258

COUNCIL REGULATION (EC) No 1678/2001**of 13 August 2001****amending Regulation (EC) No 2334/97 imposing a definitive anti-dumping duty on certain imports of flat pallets of wood originating in the Republic of Poland and collecting definitively the provisional duty imposed**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 4(1) and (2) thereof,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾, and in particular Article 9(4) thereof,

Having regard to Regulation (EC) No 2334/97 ⁽²⁾, and in particular Article 4(1) and (2) thereof,

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

Whereas:

- it is not related to any of the producers or exporters in Poland which are subject to the anti-dumping duties imposed by that Regulation,
- it has actually exported to the Community the goods concerned after the investigation period, or it has entered into any irrevocable contractual obligation to export a significant quantity to the Community,

then that Regulation can be amended by granting that party the duty rate applicable to cooperating producers who were not in the sample, i.e. 6,3 %.

- (3) Article 4(2) of Regulation (EC) No 2334/97 provides furthermore that any party which met the criteria set out in Article 4(1) thereof can also be exempted from the payment of the anti-dumping duty if an undertaking with regard to the so-called EUR-pallet is accepted from such party.

- (4) The Council, by Regulations (EC) No 2079/98 ⁽³⁾, (EC) No 2048/1999 ⁽⁴⁾ and (EC) No 1521/2000 ⁽⁵⁾ amended Annexes I and II of Regulation (EC) No 2334/97.

A. PREVIOUS PROCEDURE

- (1) The Council, by Regulation (EC) No 2334/97, imposed definitive anti-dumping duties on certain imports of flat pallets of wood falling within CN code ex 4415 20 20 originating in the Republic of Poland and accepted undertakings offered from certain producers in connection with these imports. Sampling was applied to Polish producers/exporters and individual duties ranging from 4,0 % to 10,6 % were imposed on the companies in the sample, while on other cooperating companies not included in the sample a weighted average duty of 6,3 % was imposed. A duty of 10,6 % was imposed on companies which either did not make themselves known or did not cooperate in the investigation. The producers from whom undertakings were accepted were exempted from anti-dumping duties with regard to imports of one specific pallet type, the EUR-pallet, which is the only pallet type covered by the undertakings.

- (2) Article 4(1) of Regulation (EC) No 2334/97 stipulates that any party which provides sufficient evidence to the Commission that:

- it did not export to the Community or produce wooden pallets described in Article 1(1) of that Regulation during the investigation period,

- (5) 14 new Polish exporting producers having requested the same treatment as the companies which cooperated in the original investigation but were not included in the sample, have provided, on request, evidence showing that they meet the requirements set out in Article 4(1) of Regulation (EC) No 2334/97. The evidence provided by these applicant companies is considered sufficient to allow Regulation (EC) No 2334/97 to be amended by adding these 14 exporting producers to Annex I to the said Regulation. Annex I specifies the exporting producers which are subject to the weighted average duty of 6,3 %.

- (6) Five of the 14 Polish exporting producers which will receive the weighted average duty of 6,3 %, have also offered undertakings with regard to the EUR-pallet which were accepted by Commission Decision 2001/643/EC ⁽⁶⁾. Consequently, these five companies should be added to Annex II to Regulation (EC) No 2334/97, which contains a list of companies from which the Commission has accepted undertakings with regard to imports of the EUR-pallet and to which the duty does not, therefore, apply in this respect.

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

⁽²⁾ OJ L 324, 27.11.1997, p. 1, Regulation as last amended by Regulation (EC) No 1521/2000 (OJ L 175, 14.7.2000, p. 1).

⁽³⁾ OJ L 266, 1.10.1998, p. 1.

⁽⁴⁾ OJ L 255, 30.9.1999, p. 1.

⁽⁵⁾ OJ L 175, 14.7.2000, p. 1.

⁽⁶⁾ See page 44 of this Official Journal.

B. WITHDRAWAL OF UNDERTAKING

- (7) The following five Polish exporting producers, from which the Commission accepted the undertaking, have violated the undertaking by not complying with their reporting obligations as laid down in the undertaking:

Internationale Paletten Company Sp., Lebork (TARIC additional code 8575),

P.P.U.H. 'Drewmax' Sp.zo.o., Krakow (TARIC additional code 8577),

S.U.T.R. 'Rol Trak', Prochowice (TARIC additional code 8714),

Sliwka Lucyna, Klodzko (TARIC additional code 8445),

Produkcja — Skup Elementow i Palet, Stanislaw Gorecki, Czajkow (TARIC additional code 8483), and

one Polish producer, MACED Sklad Palet, J. Macionga, Miastko (TARIC additional code 8539), stated that it no longer produced the product concerned.

Therefore, the Commission informed these six companies that it is intended to remove their names from the list of companies from which an undertaking was accepted. These companies did not object to this course of action.

C. CHANGE OF ADDRESSES AND COMPANY NAMES

- (8) The following five Polish exporting producers, subject to a weighted average anti-dumping duty, have informed the Commission services that their addresses have changed:

P.P.H. 'GKT' S.C., Bilgoraj,

P.P.U.H. 'Alwa' Sp.zo.o., Slawno,

Z.P.H.U. Drewnex Mamos, Luczak, Mamos s.j., Cekow, Drewpal sp.j., Blizanow,

P.P.H. 'Astra' Sp.zo.o, Nawojowa.

- (9) The following two Polish exporting producers have informed the Commission services that their names have changed:

P.P.H.U. 'Eurex' BIS, Godynice,

B.H. 'MARINO', Drawsko Pomorskie.

The Commission is satisfied that the change of name in no way affects the original findings and therefore concludes that the change of name should not prejudice the right of the company to benefit from the individual duty rates applied to the company under its previous name.

- (10) Hence, Annexes I and II to Regulation (EC) No 2334/97 must be changed accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and II to Regulation (EC) No 2334/97 shall be replaced by Annexes I and II respectively to this Regulation.

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, 13 August 2001.

For the Council

The President

L. MICHEL

ANNEX I

ANNEX I

Manufacturer

1	"Baumann Palety" Sp. z o.o., Barczewo
2	"DAST" GmbH, Poznan
3	Drew-Pol Export-Import, Wodarz Norbert, Murow
4	E. Dziurny — C. Nowak S.C., Snietnica
5	F.P.H. "Tina" S.C., Katowice
6	F.P.H. Tadeusz Fisher, Maly Gleboczek
7	F.P.U.H. "Rol-Mar", Adam Piatek, Klodzko
8	Z.P.H.U. Mirosław Przybyłek, Klonowa
9	Internationale Paletten Company Sp., Lebork
10	"Kross-Pol" Sp.zo.o., Kolobrzeg
11	P.P.U.H. "Drewmax" Sp.zo.o. (formerly P.P.H. "Drewnex"), Krakow
12	P.P.H. "GKT" S.C., Bilgoraj
13	P.P.H. "Pamadex", Ligota
14	P.P.H. "Unikat", Aleksandrow IV 697
15	P.P.H.U. "Adapol" S.C., Wolomin
16	P.P.U.H. "Alwa" Sp.zo.o., Slawno
17	P.P.U.H. "SMS" — St. Mrozowicz, Suleczyno
18	P.T.H. "Mirex", Kolobrzeg
19	P.W. "Peteco" Sp.zo.o., Warszawa
20	Parafia Rzymsko-Katolicka, B. Niepokalaneg Dzialalnose Gospodaroza, Nowy Sacz
21	Produkcja Palet "A. Adamus", Kuznia Grabowska
22	Produkcja Skup Palet Drewnanych, Stanislaw Lachowicz, Majdan Sieniawski 170
23	Przedsiębiorstwo "Amesko", Andrzej Skora, Trzebnica
24	P.H.U. "Justyna", Gubin
25	P.H.U. "Akropol", Krakow
26	P.H.U. Produkcyjne "Lech", Lech Szwez, Zary
27	Przedsiębiorstwo Obrobki Drewna "Palet-Pol" Sp.zo.o., Dabrowka WLKP
28	P.P.H. Zygmunt Skibinski, Kowal
29	P.P.H.U. "AWA" Sp.zo.o., Nowy Sacz

30	Przedsiębiorstwo Wielobranzowe, Zdziolaw Milocki, Ostroda
31	"Scanproduct" SA., Czarny Dunajec
32	S.C. "Bed", Dariusz Zuk, Krasienin
33	S.U.T.R. "Rol Trak", Prochowice
34	Stolarstwo Export-Import, Tadeusz Swirski, Długopole Zdroj
35	Torunskie Przedsiębiorstwo Przemysłu Drzewnego w Toruniu, Adam Wisniewski, Torun
36	"Transdrewneks" Sp.zo.o., Grudziadz-Owczarki
37	W.Z.P.U.M. "Euro-Tech", Rakszawa
38	Wytwarzanie Skrzyn i Opakowan Drewnianych, Malgorzata i Ryszard Nowak, Piaszyna
39	Zakład Produkcyjny Bohuszek, Ryszard Bohuszek, Osno
40	Z.P.H. "Maw" S.C., Andrzej Kulej, Lubomierz
41	Zakład Usługowo-Handlowy "Rolmex", E. Cackowski, Lipno
42	Zakład Wielobranzowy Produkcyjno Usługowy, Ryszard Potoniec, Muszyna
43	Zakład Przerobu Drewna S.C., Drawsko Pomorskie
44	Zphu "Drewex" SC., Agnieszka Pawlaczyk, Skwierzyna
45	Z.P.H.U. "Sek-Pol" Sp.zo.o., Tarnobrzeg
46	"Euro-Mega-Plus" Sp.zo.o., Kielce
47	"C.M.C." Sp.zo.o., Andrychów, Inwald
48	Wyrob, Sprzedaz, Skup Palet, Josef Kolodziejczyk, Aleksandrow IV 704
49	Firma Produkcyjno Transportowa Marian Gerka, Brodnica
50	Z.P.H.U. "Drewnex" Mamos, Luczak, Mamos s.j., Cekow
51	Import-Export "Elko" Sp.zo.o., Kalisz
52	P.P.H.U. "Probox", Import-Export, Kalisz
53	Drewpal sp.j., Blizanow
54	Zaman S.C., Radom
55	"Marimpex", Pulawy
56	"AVEN" Sp.zo.o., Kostrzyn
57	P.P.H.U. "Eurex" BIS, Godynice
58	P.H. "Drewex" S.C., Lebork
59	MACED Skład Palet, J. Macionga, Miastko
60	ENKEL S.C., Pulawy
61	PAL-PACK Sp.zo.o., Wierzchowo
62	Produkcja Stolarska Posrednictwo Export-Import, W.i.T. HENSOLDT, Lebork
63	Biuro Usługowo-Handlowe, Wieslaw Rzeznicek, Lebork

64	P.P.U.H. "DREWPOL", Braszewice
65	PTN Krukłanki Sp.zo.o., Krukłanki
66	WEDAM S.C., Stezyca
67	Import-Export Jan Sibinski, Czajkow
68	Zakład Produkcyjny "Tarta", Lubsko
69	Firma "Krausdrew", Cewice
70	"Lidal" S.C., Miastko
71	Zakład Przerobu Drewna Import-Export, Stanisław Kociolek, Ładek Zdrój
72	P.P.H.U. "Alk", Bierzwnik
73	"Empol" S.C., Jastrzębniki 37
74	Zakład Produkcji Drzewnej Nr. 1, Export-Import, Julian Bartkowski, Sanok
75	P.P.H. "Drewex", Czarnków
76	"ZAP" Przedsiębiorstwo Handlowe-Uslugowe Sp.C., Wschowa
77	P.P.H.U. "Opal", Zygmunt Podgorski, Bukowsko 41
78	"Algepa-Pol" Sp.zo.o., Lubsko
79	P.P.H. "A-Produkt" S.C., Resko
80	PPH "Paletex" Sibinski Jarosław, Czajkow
81	Euro-Handels Sp.zo.o., Szczecin
82	Firma "KIKO" S.C., Poznań
83	"Enkel" Waldemar Wnuk, Puławy
84	Sliwka Lucyna, Kłodzko
85	Firma Borkowski S.C. Export-Import, Grabów n. Prośna
86	Produkcja — Skup Elementów i Palet, Stanisław Gorecki, Czajkow
87	"Prodpalet" Handel, Bolesławiec
88	Z.P.H.U. "Drexport" S.C., Olecko, Osiedle Lesk
89	"Bilusa" Sp.zo.o., Kłodawa
90	Paweł Bilko "Pablo", Kłodawa
91	Z.P.W. "Gober" Sp.zo.o., Gorzów Wlkp.
92	Kisiel Małgorzata "Drew-Pal", Dobra Now
93	P.W. "Remag", Złocieniec
94	P.P.U.H. PAL-POL S.C., Prabuty
95	Firma "A.C.S." S.C., Kamień
96	B.H. "MARINO", Drawsko Pomorskie

97	P.T.P.U.H. "ROB-POL", Milkow
98	Z.H.U.P. Agromal, Sieradz
99	"SMT" Sp. z o.o., Miastko
100	Firma Transdrewneks Gadzala Antoni, Torun
101	Artur Rochmankowski, Trzcinsko-Zdroj
102	"Depo" Sp. z o.o., Ilowa
103	B.P.R. Sp. z o.o., Warszawa
104	"DREWNO" Sp. z o.o., Kostrzyn
105	P.P.H. "Astra" Sp. z o.o., Nawojowa
106	"D & M & D" Sp. z o.o., Blizanow
107	P.P.H. "Vector", Kalisz
108	"Palko" Sp. z o.o., Sedziszow
109	P.P.H. Pol-Wood S.C., Rzekun
110	PPH "YANSAM", Zlocieniec
111	P.P.H.U. "ELMA" S.C., Sobieseki
112	PPH SWENDEX S.C., Lublin
113	P.P.H.U. ROMAX Import-Eksport, Wroclaw
114	Z.P.H.U. "BESTPOL" Sp. z o.o., Lututow
115	P.P.H.U. Zbigniew Marek, Andrichow
116	Pomorski Serwis Paletowy Sp. z o.o., Kobylnica
117	"EMI" S.C., Bilgoraj
118	P.P.H.U. "Wal-Trans" Waldemar Latka, Jelenia Gora
119	P.P.D.B. "Lesnik" S.C., Krosno
120	"EUROPAL" S.C., Brzeziny
121	P.P.U.H. "CENTROPAL" EKSPORT-IMPORT, Czajkow
122	Energomontaz Polnoc Serwis Sp. z o.o., Swierze Gorne
123	P.P.H.U. Jerzy Florczyk, Ruciane Nida
124	Paletten-Systeme Sp. z o.o., Grabow n.Prosna
125	ARBOR S.C., Trzebnica
126	P.P.H. "BOM'S" S-ka z o.o., Suwalki
127	P.P.H.U. Futex. Stargard Szczecinski
128	PALDREW Henryk Bednarski, Czarne
129	P.P.H.U. "Marco-Drew" S.C., Stargard Szczecinski
130	"Tilia", Szczecin
131	"Tartak — Domaszkow", Domaszkow

ANNEX II

ANNEX II

Manufacturer

		TARIC additional code
1	"Baumann Palety" Sp. z o.o., Barczewo	8570
2	E. Dziurny — C. Nowak S.C., Snietnica	8571
3	F.P.H. "Tina" S.C., Katowice	8572
4	Firma "Sabelmar" S.C., Konczyce Male	8573
5	Z.P.H.U. Mirosław Przybyłek, Klonowa	8574
6	"Kross-Pol" Sp.zo.o., Kolobrzeg	8576
7	P.P.H. "GKT" S.C., Bilgoraj	8584
8	P.P.H. "Unikat", Aleksandrow IV 697	8586
9	P.P.H.U. "Adapol" S.C., Wolomin	8587
10	P.P.H.U. "Alpa" Sp.zo.o., Dobrzyca	8588
11	P.P.U.H. "Alwa" Sp.zo.o., Sławno	8589
12	P.P.H.U. "Palimex" Sp.zo.o., Włoszakowice	8590
13	P.P.U.H. "SMS" — St. Mrozowicz, Suleczyno	8591
14	P.T.H. "Mirex", Kolobrzeg	8597
15	P.W. "Intur-KFS" Sp.zo.o., Inowrocław	8662
16	P.W. "Peteco" Sp.zo.o., Warszawa	8690
17	"Paletex" Produkcja Palet, Roman Panasiuk, Warszawa	8691
18	Produkcja Palet "A. Adamus", Kuznia Grabowska	8692
19	P.P.H. Zygmunt Skibinski, Kowal	8693
20	"Scanproduct" SA., Czarny Dujanec	8715
21	"Transdrewneks" Sp.zo.o., Grudziadz-Owczarki	8716
22	W.Z.P.U.M. "Euro-Tech", Rakszawa	8725
23	Z.P.H. "Palettenwerk" — K. Kozik, Jordanow	8726
24	Zakład Przerobu Drewna S.C., Drawsko Pomorskie	8745
25	Z.P.H.U. "Sek-Pol" Sp.zo.o., Tarnobrzeg	8526
26	"Euro-Mega-Plus" Sp.zo.o., Kielce	8527
27	"C.M.C." Sp.zo.o., Andrychow, Inwald	8528
28	Wyrob, Sprzedaz, Skup Palet, Josef Kolodziejczyk, Aleksandrow IV 704	8529

		TARIC additional code
29	Firma Produkcyjno Transportowa Marian Gerka, Brodnica	8530
30	Z.P.H.U. "Drewnex" Mamos, Luczak, Mamos s.j., Cekow	8531
31	Import-Export "Elko" Sp.zo.o., Kalisz	8532
32	P.P.H.U. "Probox", Import-Export, Kalisz	8533
33	Drewpal sp.j., Blizanow	8534
34	Zaman S.C., Radom	8535
35	"Marimpex", Pulawy	8537
36	"AVEN" Sp.zo.o., Kostrzyn	8558
37	P.P.H.U. "Eurex" BIS, Godynice	8538
38	ENKEL S.C., Pulawy	8540
39	Produkcja Stolarska Posrednictwo Export-Import, W.i.T. HENSOLDT, Lebork	8541
40	P.P.U.H. "DREWPOL", Braszewice	8834
41	PTN Krukanki Sp.zo.o., Krukanki	8556
42	WEDAM S.C., Stezyca	8557
43	Import-Export Jan Sibinski, Czajkow	8559
44	P.P.H.U. "Alk", Bierzwnik	8561
45	"Empol" S.C., Jastrzebniki 37	8560
46	Euro-Handels Sp.zo.o., Szczecin	8440
47	PPH "Paletex" Sibinski Jaroslaw, Czajkow	8441
48	Firma "KIKO" S.C., Poznan	8443
49	"Enkel" Waldemar Wnuk, Pulawy	8444
50	Firma Borkowski S.C. Export-Import, Grabow n. Prosna	8446
51	"Bilusa" Sp.zo.o., Kłodawa	8484
52	P.P.U.H. PAL-POL S.C., Prabuty	8485
53	Firma "A.C.S." S.C., Kamien	8486
54	"SMT" Sp.zo.o., Miastko	8562
55	Firma Transdrewneks Gadzala Antoni, Torun	8563
56	"Palko" Sp.zo.o., Sedziszow	8565
57	"D & M & D" Sp.zo.o., Blizanow	8566
58	P.P.H. "Vector", Kalisz	8567
59	P.P.H.U. "ELMA" S.C., Sobieseki	A109
60	PPH SWENDEX S.C., Lublin	A110

		TARIC additional code
61	P.P.H.U. Zbigniew Marek, Andrichow	A113
62	Pomorski Serwis Paletowy Sp. z o.o., Kobylnica	A114
63	"EMI" S.C., Bilgoraj	A124
64	P.P.H.U. ROMAX Import-Eksport, Wroclaw	A133
65	P.P.D.B. "Lesnik" S.C., Krosno	A259
66	"EUROPAL" S.C., Brzeziny	A260
67	P.P.U.H. "CENTROPAL" EKSPORT-IMPORT, Czajkow	A261
68	Energomontaz Polnoc Serwis Sp. z o.o., Swierze Gorne	A262
69	P.P.H. "BOM'S" S-ka z o.o., Suwalki	A263'

COMMISSION REGULATION (EC) No 1679/2001
of 22 August 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 23 August 2001.

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

Done at Brussels, 22 August 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 22 August 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
0709 90 70	052	74,9
	999	74,9
0805 30 10	388	68,3
	524	66,7
	528	69,5
	999	68,2
0806 10 10	052	84,0
	400	174,5
	999	129,3
	999	129,3
0808 10 20, 0808 10 50, 0808 10 90	388	88,1
	400	93,3
	512	93,7
	528	90,4
	800	161,3
	804	83,6
	999	101,7
	999	101,7
0808 20 50	052	107,2
	388	58,3
	512	63,3
	528	50,8
	999	69,9
0809 30 10, 0809 30 90	052	104,6
	999	104,6
0809 40 05	052	77,8
	064	60,3
	066	67,2
	094	47,2
	999	63,1

⁽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 1680/2001**of 22 August 2001****amending Annexes I and II to Council Regulation (EEC) No 2377/90 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

therefore also always be established for muscle or fat tissues.

Having regard to the Treaty establishing the European Community,

(5) In the case of veterinary medicinal products intended for use in laying birds, lactating animals or honey bees, maximum residue limits must also be established for eggs, milk or honey.

Having regard to Council Regulation (EEC) No 2377/90 of 26 June 1990 laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin ⁽¹⁾, as last amended by Commission Regulation (EC) No 1553/2001 ⁽²⁾ and in particular Articles 6, 7 and 8 thereof,

(6) Mebendazole should be inserted into Annex I to Regulation (EEC) No 2377/90.

(7) Tosylchloramide sodium should be inserted into Annex II to Regulation (EEC) No 2377/90.

Whereas:

(8) An adequate period should be allowed before the entry into force of this Regulation in order to allow Member States to make any adjustment which may be necessary to the authorisations to place the veterinary medicinal products concerned on the market which have been granted in accordance with Council Directive 81/851/EEC ⁽³⁾, as last amended by Commission Directive 2000/37/EC ⁽⁴⁾, to take account of the provisions of this Regulation.

(1) In accordance with Regulation (EEC) No 2377/90, maximum residue limits must be established progressively for all pharmacologically active substances which are used within the Community in veterinary medicinal products intended for administration to food-producing animals.

(9) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Veterinary Medicinal Products,

(2) Maximum residue limits should be established only after the examination within the Committee for Veterinary Medicinal Products of all the relevant information concerning the safety of residues of the substance concerned for the consumer of foodstuffs of animal origin and the impact of residues on the industrial processing of foodstuffs.

HAS ADOPTED THE FOLLOWING REGULATION:

(3) In establishing maximum residue limits for residues of veterinary medicinal products in foodstuffs of animal origin, it is necessary to specify the animal species in which residues may be present, the levels which may be present in each of the relevant meat tissues obtained from the treated animal (target tissue) and the nature of the residue which is relevant for the monitoring of residues (marker residue).

Article 1

Annexes I and II to Regulation (EEC) No 2377/90 are hereby amended as set out in the Annex hereto.

(4) For the control of residues, as provided for in appropriate Community legislation, maximum residue limits should usually be established for the target tissues of liver or kidney. However, the liver and kidney are frequently removed from carcasses moving in international trade, and maximum residue limits should

Article 2

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

It shall apply from the 60th day following its publication.

⁽¹⁾ OJ L 224, 18.8.1990, p. 1.

⁽²⁾ OJ L 205, 31.7.2001, p. 16.

⁽³⁾ OJ L 317, 6.11.1981, p. 1.

⁽⁴⁾ OJ L 139, 10.6.2000, p. 25.

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

Done at Brussels, 22 August 2001.

For the Commission
Erkki LIIKANEN
Member of the Commission

ANNEX

A. Annex I to Regulation (EEC) No 2377/90 is amended as follows:

2. Antiparasitic agents

2.1. Agents acting against endoparasites

2.1.3. Benzimidazoles and pro-benzimidazoles

Pharmacologically active substance(s)	Marker residue	Animal species	MRLs	Target tissues	Other provisions
Mebendazole	Sum of mebendazole methyl (5-(1-hydroxy, 1-phenyl) methyl-1H-benzimidazol-2-yl) carbamate and (2-amino-1H-benzimidazol-5-yl) phenylmethanone, expressed as mebendazole equivalents	Ovine, caprine, equidae	60 µg/kg 60 µg/kg 400 µg/kg 60 µg/kg	Muscle Fat Liver Kidney	Not for use in animals from which milk is produced for human consumption'

B. Annex II to Regulation (EEC) No 2377/90 is amended as follows:

2. Organic compounds

Pharmacologically active substance(s)	Animal species	Other provisions
Tosylchloramide sodium	Bovine	For topical use only'

COMMISSION REGULATION (EC) No 1681/2001**of 22 August 2001**

amending Regulation (EC) No 174/1999 laying down special detailed rules for the application of Council Regulation (EEC) No 804/68 as regards export licences and export refunds in the case of milk and milk products and Regulation (EC) No 1498/1999 laying down rules for the implementation of Council Regulation (EEC) No 804/68 as regards communications between the Member States and the Commission in the milk and milk products sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

be extended to cases where a refund for the milk content has not been fixed.

Having regard to the Treaty establishing the European Community,

(4) The full licences for exports without a refund to the United States under the supplementary quota arising from the Agreement on Agriculture included in the Uruguay Round GATT Agreements⁽⁷⁾ (hereinafter referred to as the 'Agreement on Agriculture') do not require a security to be lodged. In order to best ensure that this quota is actually filled and that the licences issued to this end are really used, provision should be made for the lodgement of a security.

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products⁽¹⁾, as last amended by Regulation (EC) No 1670/2000⁽²⁾, and in particular Article 26(3), Article 30, Article 31(14) and Article 40 thereof,

(5) In order to simplify the securities for the provisional licences referred to in Article 20, the security for the provisional licence should be adjusted and the operation of the security for the full licence should be described in detail.

Whereas:

(6) The Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its Chairman,

(1) Article 1 of Commission Regulation (EC) No 174/1999 of 26 January 1999 laying down detailed rules for the application of Council Regulation (EEC) No 804/68 as regards export licences and export refunds in the case of milk and milk products⁽³⁾, as last amended by Regulation (EC) No 1370/2001⁽⁴⁾, lays down, as a general rule, that all exports of milk products for which a refund is requested are to be subject to the presentation of an export licence. For the efficient management of the domestic market in skimmed-milk powder — a product that may be subject to intervention measures — export licences for that product should be made compulsory and provision should be made for the notification of this information by the Member States to the Commission. Commission Regulation (EC) No 1498/1999 of 8 July 1999 laying down rules for the application of Council Regulation (EEC) No 804/68 as regards communications between Member States and the Commission in the milk and milk products sector⁽⁵⁾, as last amended by Regulation (EC) No 732/2001⁽⁶⁾, should therefore be amended.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 174/1999 is amended as follows:

(2) A drafting error in Article 9 of Regulation (EC) No 174/1999 should be corrected.

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

'However, the first subparagraph notwithstanding, an export licence must be presented for all exports of the products referred to in Annex I, Number II.'

(3) The sucrose component of milk products is not taken into account when the basic amount of the refund for the milk content is fixed at zero. This provision should

2. Article 9(a) is replaced by the following:

'(a) 5 % for products covered by CN code 0405;'

3. The second subparagraph of Article 16(3) is replaced by the following:

'However, the sucrose component shall not be taken into account where the basic amount of the refund for the milk product content referred to in the second subparagraph of paragraph 2 is zero or is not fixed.'

⁽¹⁾ OJ L 160, 26.6.1999, p. 48.

⁽²⁾ OJ L 193, 29.7.2000, p. 10.

⁽³⁾ OJ L 20, 27.1.1999, p. 8.

⁽⁴⁾ OJ L 183, 6.7.2001, p. 18.

⁽⁵⁾ OJ L 174, 9.7.1999, p. 3.

⁽⁶⁾ OJ L 102, 12.4.2001, p. 34.

⁽⁷⁾ OJ L 336, 23.12.1994, p. 1.

4. In the second subparagraph of Article 20(2), 'EUR 9' is replaced by 'EUR 6'.

5. Article 20(10) is replaced by the following:

'10. Before the end of the year for which the provisional licences are issued, the interested party shall apply for the full licence, even in the case of part quantities, which shall be issued forthwith, on condition that the security referred to in paragraph 2 is increased to the total amount laid down in Article 9 for the quantities for which the licences are allocated. The following words shall be entered in section 20 of the application for the full licence and in the licence itself:

"For export to the United States of America: Article 20 of Regulation (EC) No 174/1999."

Licences issued under this Article shall be valid only for the exports referred to in paragraph 1.

The security for the full licence shall be released only on presentation of the proof referred to in Article 35(5) of Commission Regulation (EC) No 1291/2000 (*).

(*) OJ L 152, 24.6.2000, p. 1.'

Article 2

The first point of Article 9 of Regulation (EC) No 1498/1999 shall be replaced by the following:

'1. By 6 p.m. on each working day, with the exception of quantities covered by export licence applications either under Article 18 and Article 19(5) of Regulation (EC) No 174/1999 or for supplies of food aid within the meaning of Article 10(4) of the Agreement on Agriculture concluded under the Uruguay Round:

(a) the quantities, broken down by code of the export refund nomenclature for milk products and by destination code, covered by applications submitted that day for licences:

(i) as referred to in Article 1 of Regulation (EC) No 174/1999, with the exception of those referred to in Article 17 of that Regulation (IDES computer code 1);

(ii) as referred to in Article 17 of Regulation (EC) No 174/1999 (IDES computer code 1);

where appropriate, the fact that none has been applied for;

(b) the quantities, broken down by application and by code of the export refund nomenclature for milk products and by destination code, covered by applications for provisional licences as referred to in Article 8 of Regulation (EC) No 174/1999 submitted on that day, indicating the closing date for submitting tenders and the quantity of products covered by the invitation to tender or, in the case of an invitation to tender opened by the armed forces within the meaning of Article 36(1)(c) of Commission Regulation (EC) No 800/1999 ⁽¹⁾ not specifying the quantity, the approximate quantity broken down as specified above (IDES computer code 2);

(c) the quantities, broken down by code of the export refund nomenclature for milk products and by destination code, for which the provisional licences referred to in Article 8 of Regulation (EC) No 174/1999 were definitively issued or cancelled that day, indicating the body issuing the invitation to tender, the date of the provisional licence and the quantity it covers.

(d) where appropriate, the revised quantity of products covered by the invitation to tender referred to in (b) above.'

Article 3

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

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

Done at Brussels, 22 August 2001.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 1682/2001
of 22 August 2001
amending the import duties in the cereals sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals⁽¹⁾, as last amended by Regulation (EC) No 1666/2000⁽²⁾,

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector⁽³⁾, as last amended by Regulation (EC) No 2235/2000⁽⁴⁾, and in particular Article 2(1) thereof,

Whereas:

- (1) The import duties in the cereals sector are fixed by Commission Regulation (EC) No 1656/2001⁽⁵⁾, as amended by Regulation (EC) No 1663/2001⁽⁶⁾.

- (2) Article 2(1) of Regulation (EC) No 1249/96 provides that if during the period of application, the average import duty calculated differs by EUR 5 per tonne from the duty fixed, a corresponding adjustment is to be made. Such a difference has arisen. It is therefore necessary to adjust the import duties fixed in Regulation (EC) No 1656/2001,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and II to Regulation (EC) No 1656/2001 are hereby replaced by Annexes I and II to this Regulation.

Article 2

This Regulation shall enter into force on 23 August 2001.

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

Done at Brussels, 22 August 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 193, 29.7.2000, p. 1.

⁽³⁾ OJ L 161, 29.6.1996, p. 125.

⁽⁴⁾ OJ L 256, 10.10.2000, p. 13.

⁽⁵⁾ OJ L 220, 15.8.2001, p. 19.

⁽⁶⁾ OJ L 221, 17.8.2001, p. 15.

ANNEX I

Import duties for the products covered by Article 10(2) of Regulation (EEC) No 1766/92

CN code	Description	Import duty by land inland waterway or sea from Mediterranean, the Black Sea or Baltic Sea ports (EUR/tonne)	Import duty by air or by sea from other ports ⁽²⁾ (EUR/tonne)
1001 10 00	Durum wheat high quality	0,00	0,00
	medium quality ⁽¹⁾	0,00	0,00
1001 90 91	Common wheat seed	0,00	0,00
1001 90 99	Common high quality wheat other than for sowing ⁽³⁾	0,00	0,00
	medium quality	10,19	0,19
	low quality	26,45	16,45
1002 00 00	Rye	22,15	12,15
1003 00 10	Barley, seed	22,15	12,15
1003 00 90	Barley, other ⁽³⁾	22,15	12,15
1005 10 90	Maize seed other than hybrid	65,44	55,44
1005 90 00	Maize other than seed ⁽³⁾	65,44	55,44
1007 00 90	Grain sorghum other than hybrids for sowing	46,86	36,86

⁽¹⁾ In the case of durum wheat not meeting the minimum quality requirements for durum wheat of medium quality, referred to in Annex I to Regulation (EC) No 1249/96, the duty applicable is that fixed for low-quality common wheat.

⁽²⁾ For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal (Article 2(4) of Regulation (EC) No 1249/96), the importer may benefit from a reduction in the duty of:

— EUR 3 per tonne, where the port of unloading is on the Mediterranean Sea, or

— EUR 2 per tonne, where the port of unloading is in Ireland, the United Kingdom, Denmark, Sweden, Finland or the Atlantic Coasts of the Iberian Peninsula.

⁽³⁾ The importer may benefit from a flat-rate reduction of EUR 24 or 8 per tonne, where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

ANNEX II

Factors for calculating duties

(period from 14 August to 21 August 2001)

1. Averages over the two-week period preceding the day of fixing:

Exchange quotations	Minneapolis	Kansas City	Chicago	Chicago	Minneapolis	Minneapolis	Minneapolis
Product (% proteins at 12 % humidity)	HRS2. 14 %	HRW2. 11,5 %	SRW2	YC3	HAD2	Medium quality (*)	US barley 2
Quotation (EUR/t)	129,68	120,31	112,40	96,78	199,66 (**)	189,66 (**)	113,67 (**)
Gulf premium (EUR/t)	—	17,17	8,16	9,50	—	—	—
Great Lakes premium (EUR/t)	18,98	—	—	—	—	—	—

(*) A discount of 10 EUR/t (Article 4(1) of Regulation (EC) No 1249/96).

(**) Fob Duluth.

2. Freight/cost: Gulf of Mexico — Rotterdam: 19,36 EUR/t; Great Lakes — Rotterdam: 31,21 EUR/t.

3. Subsidy within the meaning of the third paragraph of Article 4(2) of Regulation (EC) No 1249/96: 0,00 EUR/t (HRW2)
0,00 EUR/t (SRW2).

COMMISSION DIRECTIVE 2001/63/EC**of 17 August 2001****adapting to technical progress Directive 97/68/EC of the European Parliament and of the Council on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 97/68/EC of the European Parliament and of the Council of 16 December 1997 on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery ⁽¹⁾, and in particular Article 14 thereof,

Whereas:

- (1) The scope of Economic Commission for Europe (ECE) Regulation No 96 on emissions from compression ignition engines to be installed in agricultural and forestry tractors has been extended to cover also other types of non-road mobile machinery.
- (2) The European Community is a contracting party to the said ECE Regulation.
- (3) It is necessary to align the technical requirements in that Regulation with the corresponding requirements in Directive 97/68/EC.
- (4) The measures provided for in this Directive are in accordance with the opinion of the Committee for Adaptation to Technical Progress established by Council Directive 92/53/EEC ⁽²⁾.
- (5) Directive 97/68/EC should be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annexes III and IV to Directive 97/68/EC are hereby amended in accordance with the Annex to this Directive.

Article 2

This Directive shall not invalidate any approval granted prior to the date mentioned in Article 3 pursuant to Directive 97/68/EC nor prevent extensions to such approvals under the terms of the Directive under which they were originally granted.

Article 3

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 30 June 2002 at the latest. They shall forthwith inform the Commission thereof.

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

Article 4

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

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 17 August 2001.

For the Commission

Margot WALLSTRÖM

Member of the Commission

⁽¹⁾ OJ L 59, 27.2.1998, p. 1.

⁽²⁾ OJ L 225, 10.8.1992, p. 1.

ANNEX

Amendments to Annexes III and IV to Directive 97/68/EC

1. Annex III is amended as follows:

(1) in paragraph 2.2.2, the formula shall be replaced by the following:

$$0,96 \leq f_a \leq 1,06$$

(2) in Appendix 2, paragraph 1.2.1, third indent 'CO' shall be replaced by 'CO₂';

(3) in Appendix 2, paragraph 1.9.2.2 is replaced by the following:

1.9.2.2. Water quench check

This check applies to wet gas concentration measurements only. Calculation of water quench must consider dilution of the NO span gas with water vapour and scaling of water vapour concentration of the mixture to that expected during testing. A NO span gas having a concentration of 80 to 100 % of full scale to the normal operating range shall be passed through the (H)CLD and the NO value recorded as D. The NO gas shall then be bubbled through water at room temperature and passed through the (H)CLD and the NO value recorded as C. The water temperature shall be determined and recorded as F. The mixture's saturation vapour pressure that corresponds to the bubbler water temperature (F) shall be determined and recorded as G. The water vapour concentration (in %) of the mixture shall be calculated as follows:

$$H = 100 \times \left(\frac{G}{P_b} \right)$$

and recorded as H. The expected diluted NO span gas (in water vapour) concentration shall be calculated as follows:

$$De = D \times \left(1 - \frac{H}{100} \right)$$

and recorded as De. For diesel exhaust, the maximum exhaust water vapour concentration (in %) expected during testing shall be estimated, under the assumption of a fuel atom H/C ration of 1,8 to 1, from the maximum CO₂ concentration in the exhaust gas or from the undiluted CO₂ span gas concentration (A, as measured in section 1.9.2.1) as follows:

$$Hm = 0,9 \times A$$

and recorded as Hm.

The water quench shall be calculated as follows:

$$\% \text{ H}_2\text{O Quench} = 100 \times \left(\frac{De - C}{De} \right) \times \left(\frac{Hm}{H} \right)$$

and must not be greater than 3 % of full scale.

De: expected diluted NO concentration (ppm)

C: diluted NO concentration (ppm)

Hm: maximum water vapour concentration (%)

H: actual water vapour concentration (%)

NB: It is important that the NO span gas contains minimal NO₂ concentration for this check, since absorption of NO₂ in water has not been accounted for in the quench calculations.'

(4) in Appendix 3, paragraph 1.4.4, the second formula for single filter particulate mass flow background correction is deleted and the first formula is amended as follows;

$$PT_{mass} = \left[\frac{M_f}{M_{SAM}} - \left(\frac{M_d}{M_{DIL}} \times \left(\sum_{i=1}^{i=n} \left(1 - \frac{1}{DF_i} \right) \times WF_i \right) \right) \right] \times \frac{\overline{G_{EDFW}}}{1\,000}$$

2. Annex IV is amended as follows:

- (1) the table, second column, line 17 (row 'Neutralisation (strong acid) number') is replaced by the following:
'Maximum 0,20 mg KOH/g'

- (2) Note 9, second sentence is changed as follows:

'For the purpose of the initial approval of an engine with no exhaust gas after treatment on the request of the applicant a 0,05 % mass nominal sulphur level (minimum 0,03 % mass) is permissible, in which case the measured particulate level must be corrected upward to the average value that is nominally specified for fuel sulphur content (0,15 % mass) per the equation below:'.

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 30 July 2001

accepting undertakings in connection with the anti-dumping proceeding concerning imports of flat pallets of wood originating in the Republic of Poland

(notified under document number C(2001) 2390)

(2001/643/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾, as last amended by Regulation (EC) No 2238/2000 ⁽²⁾, and in particular Article 8(1) thereof,

Having regard to Commission Regulation (EC) No 1023/97 of 6 June 1997 imposing a provisional anti-dumping duty on certain imports of flat pallets of wood originating in Poland and accepting undertakings offered from certain exporters in connection with those imports ⁽³⁾, as amended by Regulations (EC) No 1632/97 ⁽⁴⁾ and (EC) No 1633/97 ⁽⁵⁾, and in particular Article 2 thereof,

After consulting the Advisory Committee,

Whereas:

A. PREVIOUS PROCEDURE

- (1) The Commission, by Regulation (EC) No 1023/97 (hereinafter referred to as 'the provisional Regulation'), imposed provisional anti-dumping duties on certain imports of flat pallets of wood falling within CN code ex 4415 20 20 originating in the Republic of Poland and accepted undertakings offered from certain exporting producers. These undertakings concerned only one pallet type, i.e. the EUR pallet.
- (2) Since sampling was used in the investigation, requests for reviews under Article 11(4) of Regulation (EC) No 384/96 could not be accepted. However, in order to

ensure equal treatment between new exporters and the cooperating companies not included in the sample during the original investigation, the provisional Regulation was amended. Article 2 of Regulation (EC) No 1632/97 stipulated that new Polish exporting producers could have undertakings accepted with regard to exports of EUR pallets, provided they satisfied the criteria set out therein.

- (3) By Regulation (EC) No 2334/97 ⁽⁶⁾, as last amended by Regulation (EC) No 1521/2000 ⁽⁷⁾, the Council imposed a definitive anti-dumping duty on certain imports of flat pallets of wood originating in the Republic of Poland.

B. NEW EXPORTERS' REQUEST

- (4) Following the adoption of Regulation (EC) No 2334/97, the following five further new Polish exporting producers have requested that Article 2 of Regulation (EC) No 1632/97 is applied to them and they offered undertakings with regard to the EUR pallets:

- P.P.D.B. 'Lesnik' S.C., Krosno,
- 'Europol' S.C., Brzeziny,
- P.P.U.H. 'Centropol' Eksport-Import, Czajkow,
- Energomontaz Polnoc Serwis Sp.zo.o., Swierze Gorne,
- P.P.H. 'BOM'S' S-ka zo.o., Suwalki.

They have also provided sufficient evidence pursuant to the aforementioned Article of this regulation showing that they are genuine new exporting producers. In application of Article 2 of Regulation (EC) No 1632/97, the undertakings offered by these five Polish exporting producers with regard to the EUR pallet should therefore be accepted.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 257, 11.10.2000, p. 2.

⁽³⁾ OJ L 150, 7.6.1997, p. 4.

⁽⁴⁾ OJ L 225, 15.8.1997, p. 11.

⁽⁵⁾ OJ L 225, 15.8.1997, p. 13.

⁽⁶⁾ OJ L 324, 27.11.1997, p. 1.

⁽⁷⁾ OJ L 175, 14.7.2000, p. 1.

C. WITHDRAWAL OF UNDERTAKING

- (5) The following five Polish exporting producers, from which the Commission accepted the undertaking, have violated the undertaking by not complying with their reporting obligations as laid down in the undertaking:
- Internationale Paletten Company Sp., Lebork (TARIC additional code 8575),
 - P.P.U.H. 'Drewmax' Sp.zo.o., Krakow (TARIC additional code 8577),
 - S.U.T.R. 'Rol Trak', Prochowice (TARIC additional code 8714),
 - Sliwka Lucyna, Klodzko (TARIC additional code 8445) and
 - Produkcja — Skup Elementow i Palet, Stanislaw Gorecki, Czajkow (TARIC additional code 8483).
- (6) One Polish producer, MACED Sklad Palet, J. Macionga, Miastko (TARIC additional code 8539), stated that they no longer produce the product concerned.
- (7) Therefore, the Commission informed these six companies that it is intended to remove their names from the list of companies from which an undertaking was accepted. These companies did not object to this course of action.

D. COMPANIES SUBJECT TO THE UNDERTAKING

- (8) For the sake of clarity all the companies subject to the undertaking are listed in the Annex to this Decision,

HAS ADOPTED THIS DECISION:

Article 1

The undertakings offered with regard to the EUR pallet by:

- P.P.D.B. 'Lesnik' S.C., Krosno,
- 'EUROPAL' S.C., Brzeziny,
- P.P.U.H. 'Centropal' Eksport-Import, Czajkow,

- Energomontaz Polnoc Serwis Sp.zo.o., Swierze Gorne,
- P.P.H. 'BOM'S' S-ka zo.o., Suwalki;

in connection with the anti-dumping proceeding concerning imports of flat pallets of wood originating in Poland and falling within CN code ex 4415 20 20 are hereby accepted.

Article 2

The undertakings accepted with regard to the EUR pallet by:

- Internationale Paletten Company Sp., Lebork (TARIC additional code 8575),
- P.P.U.H. 'Drewmax' Sp.zo.o. (formerly P.P.H. 'Drewnex'), Krakow (TARIC additional code 8577),
- S.U.T.R. 'Rol Trak', Prochowice (TARIC additional code 8714),
- MACED Sklad Palet, J. Macionga, Miastko (TARIC additional code 8539),
- Sliwka Lucyna, Klodzko (TARIC additional code 8445),
- Produkcja — Skup Elementow i Palet, Stanislaw Gorecki, Czajkow (TARIC additional code 8483);

in connection with the anti-dumping proceeding concerning imports of flat pallets of wood originating in Poland and falling within CN code ex 4415 20 20 are hereby repealed.

Article 3

Articles 1 and 2 shall take effect on the day following publication of this Decision in the *Official Journal of the European Communities*.

Done at Brussels, 30 July 2001.

For the Commission

Pascal LAMY

Member of the Commission

ANNEX

Manufacturer

		TARIC additional code
1	'Baumann Palety' Sp.zo.o., Barczewo	8570
2	E. Dziurny — C. Nowak S.C., Snietnica	8571
3	F.P.H. 'Tina' S.C., Katowice	8572
4	Firma 'Sabelmar' S.C., Konczyce Male	8573
5	Z.P.H.U. Mirosław Przybyłek, Klonowa	8574
6	'Kross-Pol' Sp.zo.o., Kolobrzeg	8576
7	P.P.H. 'GKT' S.C., Bilgoraj	8584
8	P.P.H. 'Unikat', Aleksandrow IV 697	8586
9	P.P.H.U. 'Adapol' S.C., Wolomin	8587
10	P.P.H.U. 'Alpa' Sp.zo.o., Dobrzyca	8588
11	P.P.U.H. 'Alwa' Sp.zo.o., Sławno	8589
12	P.P.H.U. 'Palimex' Sp.zo.o., Włoszakowice	8590
13	P.P.U.H. 'SMS' — St. Mrozowicz, Suleczyno	8591
14	P.T.H. 'Mirex', Kolobrzeg	8597
15	P.W. 'Intur-KFS' Sp.zo.o., Inowrocław	8662
16	P.W. 'Peteco' Sp.zo.o., Warszawa	8690
17	'Paletex' Produkcja Palet, Roman Panasiuk, Warszawa	8691
18	Produkcja Palet 'A. Adamus', Kuznia Grabowska	8692
19	P.P.H. Zygmunt Skibinski, Kowal	8693
20	'Scanproduct' S.A., Czarny Dujanec	8715
21	'Transdrewneks' Sp.zo.o., Grudziadz-Owczarki	8716
22	W.Z.P.U.M. 'Euro-Tech', Rakszawa	8725
23	Z.P.H. 'Palettenwerk' — K. Kozik, Jordanow	8726
24	Zakład Przerobu Drewna S.C., Drawsko Pomorskie	8745
25	Z.P.H.U. 'Sek-Pol' Sp.zo.o., Tarnobrzeg	8526
26	'Euro-Mega-Plus' Sp.zo.o., Kielce	8527
27	'C.M.C.' Sp.zo.o., Andrychow, Inwald	8528
28	Wyrob, Sprzedaz, Skup Palet, Josef Kolodziejczyk, Aleksandrow IV 704	8529
29	Firma Produkcyjno Transportowa Marian Gerka, Brodnica	8530

		TARIC additional code
30	Z.P.H.U. 'Drewnex' Mamos, Luczak, Mamos s.j., Cekow	8531
31	Import-Export 'Elko' Sp.zo.o., Kalisz	8532
32	P.P.H.U. 'Probox', Import-Export, Kalisz	8533
33	Drewpal sp.j., Blizanow	8534
34	Zaman S.C., Radom	8535
35	'Marimpex', Pulawy	8537
36	'AVEN' Sp.zo.o., Kostrzyn	8558
37	P.P.H.U. 'Eurex' BIS, Godynice	8538
38	ENKEL S.C., Pulawy	8540
39	Produkcja Stolarska Posrednictwo Export-Import, W.i.T. HENSOLDT, Lebork	8541
40	P.P.U.H. 'DREWPOL', Braszewice	8834
41	PTN Krukłanki Sp.zo.o., Krukłanki	8556
42	WEDAM S.C., Stezyca	8557
43	Import-Export Jan Sibinski, Czajkow	8559
44	P.P.H.U. 'Alk', Bierzwnik	8561
45	'Empol' S.C., Jastrzebniki 37	8560
46	Euro-Handels Sp.zo.o., Szczecin	8440
47	P.P.H. 'Paletex' Sibinski Jaroslaw, Czajkow	8441
48	Firma 'KIKO' S.C., Poznan	8443
49	'Enkel' Waldemar Wnuk, Pulawy	8444
50	Firma Borkowski S.C. Export-Import, Grabow n. Prosna	8446
51	'Bilusa' Sp.zo.o., Kłodawa	8484
52	P.P.U.H. PAL-POL S.C., Prabuty	8485
53	Firma 'A.C.S.' S.C., Kamien	8486
54	'SMT' Sp.zo.o., Miastko	8562
55	Firma Transdrewneks Gadzala Antoni, Torun	8563
56	'Palko' Sp.zo.o., Sedziszow	8565
57	'D & M & D' Sp.zo.o., Blizanow	8566
58	P.P.H. 'Vector', Kalisz	8567
59	P.P.H.U. 'ELMA' S.C., Sobieski	A109
60	P.P.H. SWENDEX S.C., Lublin	A110
61	P.P.H.U. Zbigniew Marek, Andrichow	A113

		TARIC additional code
62	Pomorski Serwis Paletowy Sp.zo.o., Kobylnica	A114
63	'EMI' S.C., Bilgoraj	A124
64	P.P.H.U. ROMAX Import-Eksport, Wrocław	A133
65	P.P.D.B. 'Lesnik' S.C., Krosno	A259
66	'EUROPAL' S.C., Brzeziny	A260
67	P.P.U.H. 'CENTROPAL' EKSPORT-IMPORT, Czajków	A261
68	Energomontaz Polnoc Serwis Sp.zo.o., Swierze Górne	A262
69	P.P.H. 'BOM'S' S-ka zo.o., Suwałki	A263

COMMISSION DECISION

of 20 July 2001

amending Decision 97/634/EC accepting undertakings offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of farmed Atlantic salmon originating in Norway

(notified under document number C(2001) 2215)

(2001/644/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾, as last amended by Regulation (EC) No 2238/2000 ⁽²⁾, and in particular Article 8 thereof,

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 ⁽³⁾, and in particular Article 13 thereof,

After consulting the Advisory Committee,

Whereas:

Norway ('the product concerned') exported to the Community by these companies were exempted from the said anti-dumping and countervailing duties.

- (4) The form of the duties was later reviewed and Regulations (EC) No 1890/97 and 1891/97 were replaced by Regulation (EC) No 772/1999 ⁽¹⁰⁾, as last amended by Council Regulation (EC) No 1677/2001 ⁽¹¹⁾.

B. BREACHES OF THE UNDERTAKING

- (5) The undertakings offered by the Norwegian companies oblige them, *inter alia*, to provide the Commission with regular and detailed information in a quarterly report of all sales transactions of farmed Atlantic salmon sold by them (or any of their related importers in the Community), to unrelated customers in the Community.

A. PREVIOUS PROCEDURE

- (1) On 31 August 1996, by means of two separate notices published in the *Official Journal of the European Communities*, the Commission announced the initiation of an anti-dumping proceeding ⁽⁴⁾ and an anti-subsidy proceeding ⁽⁵⁾ in respect of imports of farmed Atlantic salmon originating in Norway.
- (2) These proceedings resulted in anti-dumping and countervailing duties being imposed by Council Regulations (EC) No 1890/97 ⁽⁶⁾ and (EC) No 1891/97 ⁽⁷⁾ in September 1997, in order to eliminate the injurious effects of dumping and subsidisation.
- (3) In parallel to this, by Decision 97/634/EC ⁽⁸⁾, as last amended by Decision 2000/744/EC ⁽⁹⁾, the Commission accepted undertakings from 190 Norwegian exporters and imports of farmed Atlantic salmon originating in

- (6) The text of the undertakings also provides that failure to submit a such quarterly report within 30 days of the end of the quarter in question would, except in case of *force majeure*, be construed as a violation of the undertaking.
- (7) For the fourth quarter of 2000, two Norwegian companies, Marstein Seafood AS (UT No 1/93, TARIC additional code 8197) and Westmarine AS (UT No 1/192, TARIC additional code 8625), failed to present their sales reports. The companies were given in writing an opportunity to inform the Commission of any reasons which may have prevented their reports from being received within the due deadline and to request hearings, however, neither of them reacted.
- (8) As breaches of the undertakings appeared to have occurred, the companies were then informed in writing of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive duties against them. The companies were also given a further opportunity to submit comments, however, as before, neither of them reacted.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 257, 11.10.2000, p. 2.

⁽³⁾ OJ L 288, 21.10.1997, p. 1.

⁽⁴⁾ OJ C 253, 31.8.1996, p. 18.

⁽⁵⁾ OJ C 253, 31.8.1996, p. 20.

⁽⁶⁾ OJ L 267, 30.9.1997, p. 1.

⁽⁷⁾ OJ L 267, 30.9.1997, p. 19.

⁽⁸⁾ OJ L 267, 30.9.1997, p. 81.

⁽⁹⁾ OJ L 301, 30.11.2000, p. 82.

⁽¹⁰⁾ OJ L 101, 16.4.1999, p. 1.

⁽¹¹⁾ See page 15 of this Official Journal.

- (9) In view of the above and in the absence of any reasons showing that the non-receipt of the reports in question was caused by reasons beyond their control, it is considered necessary to withdraw acceptance of the undertakings offered by Marstein Seafood AS and Westmarine AS and to impose definitive anti-dumping and countervailing duties against them. Accordingly, the names of these companies should be deleted from the Annex to Decision 97/634/EC which lists the companies from which undertakings are accepted.

C. NEW EXPORTERS

- (10) Since the original imposition of definitive anti-dumping and countervailing duties, certain Norwegian companies have made themselves known to the Commission, claiming to be new exporters, and requested, in accordance with Article 2 of Regulation (EC) No 772/1999 in conjunction with Article 11(4) of Regulation (EC) No 384/96 and Article 20 of Regulation (EC) No 2026/97, that the exemption to the duties be extended to them.
- (11) In this regard, two such exporters, Atlantis AS and Cape Fish AS demonstrated that they had not exported the product concerned to the Community during the investigation period which led to the current anti-dumping and countervailing duties.
- (12) The companies also showed that they are not related to any of the companies in Norway which are subject to anti-dumping and countervailing duties. In addition, they provided evidence that they had entered into irrevocable contractual obligations to export a significant amount of the product concerned to the Community.
- (13) The companies have offered undertakings which are identical to those previously accepted from other Norwegian companies exporting farmed Atlantic salmon originating in Norway. By doing so, both of them have agreed to respect the minimum import prices laid down therein and to provide the Commission with regular and detailed information concerning their exports to the Community.
- (14) Since the undertakings offered by the companies concerned can be monitored effectively by the Commission, and they eliminate the injurious effects of dumping and subsidisation, the offers are considered acceptable. Atlantis AS and Cape Fish AS have been informed of the essential facts, considerations and obligations upon which this acceptance is based.
- (15) The names of Atlantis AS and Cape Fish AS should therefore be added to the list of companies from which undertakings are accepted in the Annex to Decision 97/634/EC.

D. CHANGES OF NAME

- (16) One Norwegian exporter with an undertaking, Mesan Seafood AS (UT No 1/194, TARIC additional code A034), advised the Commission that the group of companies to which it belonged had been reorganised that another company within the group, Mesan Holding AS, was now responsible for exports to the Community. The company therefore requested that its name be replaced by that of Mesan Holding AS on the list of companies from which undertakings are accepted in the Annex to Decision 97/634/EC.
- (17) Two other exporters, Rolf Olsen Seafood AS (UT No 1/144, TARIC additional code 8254) and Fjord Domstein A/S (UT No 1/167, TARIC additional code 8278) advised the Commission that their names had changed to Olsen Seafood AS and Fjord Seafood Sales AS respectively and requested that the list of companies from which undertakings are accepted be amended accordingly.
- (18) Having verified the nature of the requests, the Commission considers that they are all acceptable since the modifications do not entail any substantive changes which would affect the reassessment of dumping or subsidisation, nor do they affect any of the considerations on which the acceptance of the undertaking was based.
- (19) Consequently, the names of Mesan Seafood AS, Rolf Olsen Seafood AS and Fjord Domstein A/S should be changed to Mesan Holding AS, Olsen Seafood AS and Fjord Seafood Sales AS respectively on the list of companies from which undertakings are accepted in the Annex to Decision 97/634/EC.

E. AMENDMENT OF THE ANNEX TO DECISION 97/634/EC

- (20) In view of the above changes, the list of companies from which undertakings are accepted in the Annex to Decision 97/634/EC should be amended accordingly.
- (21) The Advisory Committee has been consulted on all of the above changes and has raised no objections.
- (22) For the sake of clarity, an updated version of the Annex to that Decision is published herewith, showing all the exporters whose undertakings are currently in force.
- (23) In parallel to this Decision, the Council, by Regulation (EC) No 1677/2001 has also withdrawn the exemption from the anti-dumping and countervailing duties granted to Marstein Seafood AS and Westmarine AS, granted exemption to those duties to Atlantis AS and Cape Fish AS, and changed the names of Mesan Seafood AS, Rolf Olsen Seafood AS and Fjord Domstein A/S to Mesan Holding AS, Olsen Seafood AS and Fjord Seafood Sales AS respectively, by amending the Annex to Regulation (EC) No 772/1999,

HAS DECIDED AS FOLLOWS:

Article 1

The Annex to Decision 97/634/EC is replaced by the Annex hereto.

Article 2

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

Done at Brussels, 20 July 2001.

For the Commission

Pascal LAMY

Member of the Commission

ANNEX

LIST OF COMPANIES FROM WHICH UNDERTAKINGS ARE ACCEPTED

UT No	Company name	TARIC additional code
3	Rosfjord Seafood A/S	8325
7	Aqua Export A/S	8100
8	Aqua Partner A/S	8101
11	Arctic Group International	8109
13	Artic Superior A/S	8111
15	A/S Aalesundfisk	8113
16	Austevoll Eiendom AS	8114
17	A/S Keco	8115
20	A/S Refsnes Fiskeindustri	8118
21	A/S West Fish Ltd	8119
22	Astor A/S	8120
24	Atlantic Seafood A/S	8122
26	Borkowski & Rosnes A/S	8124
27	Brødrene Aasjord A/S	8125
31	Christiansen Partner A/S	8129
32	Clipper Seafood A/S	8130
33	Coast Seafood A/S	8131
35	Dafjord Laks A/S	8133
39	Domstein Fish A/S	8136
41	Ecco Fisk & Delikatesse	8138
42	Edvard Johnsen A/S	8139
43	Fjord Seafood ASA	8140
44	Euronor A/S	8141
46	Fiskeforsyningen A/S	8143
47	Fjord Aqua Group A/S	8144
48	Fjord Trading Ltd A/S	8145
50	Fossen A/S	8147
51	Fresh Atlantic A/S	8148
52	Fresh Marine Company A/S	8149

UT No	Company name	TARIC additional code
58	Grieg Seafood A/S	8300
61	Hallvard Lerøy A/S	8303
62	Fjord Seafood Måløy A/S	8304
66	Marine Harvest Norway AS	8159
67	Hydrotech-gruppen A/S	8428
72	Inter Sea A/S	8174
76	Joh. H. Pettersen A/S	8178
77	Johan J. Helland A/S	8179
79	Karsten J. Ellingsen A/S	8181
80	Kr Kleiven & Co. A/S	8182
82	Labeyrie Norge A/S	8184
83	Lafjord Group A/S	8185
85	Leica Fiskeprodukter	8187
87	Lofoten Seafood Export A/S	8188
92	Marine Seafood A/S	8196
96	Memo Food A/S	8200
98	Misundfisk A/S	8202
100	Naco Trading A/S	8206
101	Fjord Seafood Midt-Norge A/S	8207
104	Nergård A/S	8210
105	Nils Williksen A/S	8211
107	Nisja Trading A/S	8213
108	Nor-Food A/S	8214
111	Nordic Group ASA	8217
112	Nordreisa Laks A/S	8218
113	Norexport A/S	8223
114	Norfi Produkter A/S	8227
115	Norfood Group A/S	8228
116	Norfra Eksport A/S	8229
119	Norsk Akvakultur A/S	8232
120	Norsk Sjømat A/S	8233
121	Northern Seafood A/S	8307

UT No	Company name	TARIC additional code
122	Nortrade A/S	8308
123	Norway Royal Salmon Sales A/S	8309
124	Norway Royal Salmon A/S	8312
126	Frionor A/S	8314
128	Norwell A/S	8316
137	Pan Fish Sales A/S	8242
140	Polar Salmon AS	8247
141	Prilam Norvège A/S	8248
142	Pundslett Fisk	8251
144	Olsen Seafood AS	8254
145	Marine Harvest Rogaland AS	8256
146	Rørvik Fisk- og fiskematforretning A/S	8257
147	Saga Lax Norge A/S	8258
148	Prima Nor A/S	8259
151	Sangoltgruppa A/S	8262
153	Scanfood A/S	8264
154	Sea Eagle Group A/S	8265
155	Sea Star International A/S	8266
156	Sea-Bell A/S	8267
157	Seaco A/S	8268
158	Seacom A/S	8269
160	Seafood Farmers of Norway Ltd A/S	8271
161	Seanor A/S	8272
162	Sekkingstad A/S	8273
164	Sirena Norway A/S	8275
165	Kinn Salmon A/S	8276
167	Fjord Seafood Sales AS	8278
168	SMP Marine Produkter A/S	8279
172	Stjermelaks A/S	8283
174	Stolt Sea Farm A/S	8285
175	Storm Company A/S	8286
176	Superior A/S	8287

UT No	Company name	TARIC additional code
178	Terra Seafood A/S	8289
180	Timar Seafood A/S	8294
182	Torris Products Ltd A/S	8298
183	Troll Salmon A/S	8317
188	Vikenco A/S	8322
189	Wannebo International A/S	8323
190	West Fish Norwegian Salmon A/S	8324
191	Nor-Fa Fish AS	8102
193	Uhrenholt Seafood Norway A/S	A033
194	Mesan Holding AS	A034
195	Polaris Seafood A/S	A035
196	Scanfish A/S	A036
197	Normarine A/S	A049
198	Oskar Einar Rydbeck	A050
199	Emborg Foods Norge A/S	A157
200	Helle Mat A/S	A158
201	Norsea Food A/S	A159
202	Salmon Company Fjord Norway A/S	A160
203	Stella Polaris A/S	A161
204	First Salmon AS	A205
205	Norlaks A/S	A206
206	Atlantis AS	A257
207	Cape Fish AS	A258

COMMISSION DECISION

of 22 August 2001

accepting undertakings offered in connection with the anti-dumping proceeding concerning imports of polyethylene terephthalate film originating in India and the Republic of Korea

(notified under document number C(2001) 2561)

(2001/645/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾, as last amended by Regulation (EC) No 2238/2000 ⁽²⁾, and in particular Articles 8 and 9 thereof,

After consulting the Advisory Committee,

Whereas:

concerned at or above price levels which eliminate the injurious effects of dumping,

(5) The companies will also provide the Commission with regular and detailed information concerning their exports to the Community, meaning that the undertakings can be monitored effectively by the Commission. Furthermore, the sales structure of these exporting producers is such that the Commission considers that the risk of circumventing the agreed undertaking is limited.

(6) In view of this, the offers of undertakings are considered acceptable.

(7) To further enable the Commission to effectively monitor the compliance of the companies with their undertakings, when the request for release for free circulation pursuant to the undertakings is presented to the relevant customs authority, exemption from the duty shall be conditional on the presentation of a commercial invoice issued by the exporting producers from whom the undertaking is accepted and containing at least the elements listed in the Annex to Regulation (EC) No 1676/2001. This level of information is also necessary to enable customs authorities to ascertain with sufficient precision that shipments correspond to the commercial documents. Where no such invoice is presented, or when it does not correspond to the product presented to customs, the appropriate rate of anti-dumping duty will instead be payable.

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

A. PROCEDURE

(1) By Regulation (EC) No 367/2001 ⁽³⁾, the Commission imposed provisional anti-dumping duties on imports into the Community of polyethylene terephthalate film originating in India and the Republic of Korea.

(2) Following the adoption of the provisional anti-dumping measures, the Commission continued the investigation of dumping, injury and Community interest. The definitive findings and conclusions of the investigation are set out in Council Regulation (EC) No 1676/2001 of 13 August 2001 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of polyethylene terephthalate film originating in India and the Republic of Korea ⁽⁴⁾.

(3) The investigation confirmed the provisional findings of injurious dumping relating to imports originating in India and the Republic of Korea.

B. UNDERTAKINGS

(4) Subsequent to the adoption of provisional anti-dumping measures, five cooperating exporting producers in India, offered price undertakings in accordance with Article 8(1) of Regulation (EC) No 384/96 (the basic Regulation). By doing so, they have agreed to sell the product

HAS ADOPTED THIS DECISION:

Article 1

The undertakings offered by the producers mentioned below, in the framework of the anti-dumping proceeding concerning imports of polyethylene terephthalate film originating in India and the Republic of Korea, are hereby accepted.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 257, 11.10.2000, p. 2.

⁽³⁾ OJ L 55, 24.2.2001, p. 16.

⁽⁴⁾ See page 1 of this Official Journal.

Country	Company	TARIC Additional Code
India	Ester Industries Limited, 75-76, Amrit Nagar, Behind South Extension Part — I New Dehli — 110 003 India	A026
India	Flex Industries Limited, A-1, Sector 60, NOIDA 201 301 (UP) India	A027
India	Garware Polyester Limited, Garware House, 50-A, Swami Nityanand Marg Vile Parle (East) Mumbai 400 057 — India	A028
India	MTZ Polyesters Limited, Sarnath Centre, Upvan Area Govind Nagar, Malad (E), Mumbai 400 097 — India	A031

Country	Company	TARIC Additional Code
India	Polyplex Corporation Limited, B-37, Sector-1 Noida-201 301 Dist. Gautam Budh Nagar Uttar Pradesh — India	A032

Article 2

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

Done at Brussels, 22 August 2001.

For the Commission

Pascal LAMY

Member of the Commission