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Contents

I Acts whose publication is obligatory

- ★ **Council Regulation (EC) No 976/2002 of 4 June 2002 imposing a definitive anti-dumping duty on imports of certain ring binder mechanisms (RBM) originating in Indonesia and terminating the anti-dumping proceeding in respect of imports of certain RBM originating in India** 1
- ★ **Council Regulation (EC) No 977/2002 of 4 June 2002 imposing a definitive countervailing duty on imports of certain ring-binder mechanisms (RBMs) originating in Indonesia and terminating the anti-subsidy proceeding in respect of imports of certain RBMs originating in India** 17
- Commission Regulation (EC) No 978/2002 of 7 June 2002 establishing the standard import values for determining the entry price of certain fruit and vegetables 34
- ★ **Commission Decision No 979/2002/ECSC of 3 June 2002 amending Commission Decision No 1758/2000/ECSC imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of non-alloy steel originating in the People's Republic of China, India and Romania, and withdrawing an undertaking with regard to certain exporters in Romania** 36
- ★ **Commission Regulation (EC) No 980/2002 of 4 June 2002 amending Regulation (EC) No 2082/2000, adopting Eurocontrol standards ⁽¹⁾** 38
- Commission Regulation (EC) No 981/2002 of 7 June 2002 amending Regulation (EC) No 537/2002 opening an invitation to tender for the reduction in the duty on maize imported into Portugal from third countries 44
- ★ **Commission Regulation (EC) No 982/2002 of 7 June 2002 laying down the marketing standards for cultivated mushrooms** 45
- Commission Regulation (EC) No 983/2002 of 7 June 2002 fixing the maximum export refund on wholly milled round grain rice in connection with the invitation to tender issued in Regulation (EC) No 2007/2001 50

Price: EUR 18

⁽¹⁾ Text with EEA relevance

(Continued overleaf)

EN

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

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

Commission Regulation (EC) No 984/2002 of 7 June 2002 fixing the maximum export refund on wholly milled medium grain and long grain A rice to be exported to certain European third countries, in connection with the invitation to tender issued in Regulation (EC) No 2008/2001	51
Commission Regulation (EC) No 985/2002 of 7 June 2002 fixing the maximum export refund on wholly milled round grain, medium grain and long grain A rice to be exported to certain third countries in connection with the invitation to tender issued in Regulation (EC) No 2009/2001	52
Commission Regulation (EC) No 986/2002 of 7 June 2002 fixing the maximum export refund on wholly milled long grain rice in connection with the invitation to tender issued in Regulation (EC) No 2010/2001	53
Commission Regulation (EC) No 987/2002 of 7 June 2002 concerning tenders submitted in response to the invitation to tender for the export of husked long grain rice to the island of Réunion referred to in Regulation (EC) No 2011/2001	54
II Acts whose publication is not obligatory	
Council	
2002/415/EC:	
★ Decision No 1/2002 of the ACP-EC Council of Ministers of 31 May 2002 extending Decision No 1/2000 regarding transitional measures	55
Commission	
2002/416/EC:	
★ Commission Decision of 6 June 2002 amending for the 10th time Decision 2000/284/EC establishing the list of approved semen collection centres for imports of equine semen from third countries ⁽¹⁾ (notified under document number C(2002) 2041)	56
2002/417/EC:	
★ Commission Decision of 3 June 2002 adjusting the weightings applicable from 1 August, 1 September, 1 October, 1 November and 1 December 2001 to the remuneration of officials of the European Communities serving in third countries	68
Corrigenda	
★ Corrigendum to Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market (OJ L 123 of 24.4.1998)	71

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 976/2002

of 4 June 2002

imposing a definitive anti-dumping duty on imports of certain ring binder mechanisms (RBM) originating in Indonesia and terminating the anti-dumping proceeding in respect of imports of certain RBM originating in India

THE COUNCIL OF THE EUROPEAN UNION,

2. Present proceeding

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

A. PROCEDURE

1. Previous proceeding concerning imports of ring binder mechanisms originating in the People's Republic of China and Malaysia

- (1) In January 1997, by Regulation (EC) No 119/97 ⁽²⁾, the Council imposed definitive anti-dumping duties on imports of ring binder mechanisms (RBMs) originating in the People's Republic of China (the PRC) and Malaysia.
- (2) In September 2000, following the initiation of a review pursuant to Article 12 of Council Regulation (EC) No 384/96 (the basic Regulation), the Council, by Regulation (EC) No 2100/2000 ⁽³⁾, amended the definitive anti-dumping duties on imports of RBMs originating in the PRC.
- (3) In January 2002, the Commission initiated a review pursuant to Article 11(2) of the basic Regulation of anti-dumping measures applicable to imports of RBMs originating in the PRC ⁽⁴⁾. No request for a review was received concerning the measures applicable to Malaysia, which consequently expired in January 2002.

- (4) On 18 May 2001, the Commission announced by a notice (Notice of Initiation) published in the *Official Journal of the European Communities* ⁽⁵⁾ the initiation of an anti-dumping proceeding with regard to imports into the Community of certain RBMs originating in India and Indonesia.

- (5) The proceeding was initiated as a result of a complaint lodged on 3 April 2001 by the following Community producers: Koloman Handler AG (Koloman), Austria, and Krause Ringbuchtechnik GmbH & Co. KG (Krause), Germany (the complainants) representing a major proportion, in this case about 90 %, of the Community production of RBMs. The complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

- (6) The initiation of a parallel anti-subsidy proceeding concerning imports of the same product originating in the same countries was announced by a notice published in the *Official Journal of the European Communities* ⁽⁶⁾ on the same date.

- (7) The Commission officially advised the exporting producers, exporters and importers known to be concerned, the representatives of the exporting countries concerned, the complainants and all known other Community producers and users, about the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the Notice of Initiation.

- (8) One exporting producer in each of the countries concerned made its views known in writing. All parties who so requested within the above time limit and indicated that there were particular reasons why they should be heard were granted a hearing.

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

⁽²⁾ OJ L 22, 24.1.1997, p. 1.

⁽³⁾ OJ L 250, 5.10.2000, p. 1.

⁽⁴⁾ OJ C 21, 24.1.2002, p. 25.

⁽⁵⁾ OJ C 147, 18.5.2001, p. 2.

⁽⁶⁾ OJ C 147, 18.5.2001, p. 4.

- (9) The Commission sent questionnaires to all parties known to be concerned and to all other companies which made themselves known within the deadlines set out in the Notice of Initiation. Replies were received from one of the two complainant Community producers, one exporting producer in India, as well as from its related exporter outside the Community, and from one user and two unrelated importers in the Community. The Commission sought and verified all the information it deemed necessary for the purpose of a determination of dumping, injury, causation and Community interest. Verification visits were carried out at the premises of the following companies:

(a) *Community producers*

— Koloman Handler AG, Austria

(b) *Exporting producers in India*

— ToCheungLee Stationery Mfg Co. Pvt. Ltd, Tiruvallure

(c) *Related exporters outside the Community in Hong Kong*

— ToCheungLee (BVI) Limited/World Wide Stationery Mfg Co. Ltd (ultimate holding company)

(d) *Unrelated importers*

— Bensons International Systems Ltd, United Kingdom

— Bensons International Systems BV, The Netherlands

(e) *User*

— Esselte, United Kingdom.

- (10) The investigation of dumping and injury covered the period from 1 April 2000 to 31 March 2001 (investigation period or IP). For the purposes of analysing trends relevant for the assessment of injury, the Commission has examined data relating to the period 1 January 1998 up to the end of the IP (period considered).

3. Provisional measures

- (11) Given the need to further examine certain aspects of injury, causation and Community interest, in particular in view of the ongoing restructuring of the complainants, no provisional anti-dumping measures were imposed on RBMs originating in India and Indonesia.

4. Subsequent procedure

- (12) All parties were informed of the decision not to impose provisional measures. The Commission continued to seek and verify all information deemed necessary for definitive findings. In particular, further on-the-spot investigations were carried out at the premises of a user

of RBMs in the Community and of two unrelated importers in the Community.

- (13) 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. They were also granted a period within which they could make representations subsequent to this disclosure. The oral and written comments submitted by the parties were considered and, where appropriate, the findings have been modified accordingly.

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

- (14) The product concerned is certain ring binder mechanisms (the product concerned). These are currently classifiable within CN code ex 8305 10 00. Lever-arch mechanisms, falling within the same CN code, are not included in the scope of this investigation.
- (15) RBMs consist of two rectangular steel sheets or wires with at least four half-rings made of steel wire fixed on them and which are kept together by a steel cover. They can be opened either by pulling the half-rings or with a small steel-made trigger mechanism fixed to the RBM. The rings can have different shapes, the most popular ones being round, rectangular or D-shaped.
- (16) RBMs are used to file different kinds of documents or papers. They are used, *inter alia*, by producers of ring binders, software and technical manuals, photo and stamp albums, catalogues and brochures.
- (17) Several hundred different models of RBMs were sold during the IP in the Community. The models varied by size, shape and number of rings, the size of the base plate and the system to open the rings (pull open or opening trigger). In the absence of a clear dividing line in the range of RBMs and given that all of them have the same basic physical and technical characteristics, and that the models of RBMs can, within certain ranges, replace each other, the Commission established that all RBMs constitute one single product for the purpose of the present proceeding.

2. Like product

- (18) The Commission found that the RBMs produced and sold on the domestic market in India and those exported to the Community from India had the same basic physical and technical characteristics and uses.
- (19) The Commission also found that there was no difference in the basic physical and technical characteristics and uses between the RBMs imported into the Community originating in India and the RBMs produced by the Community industry and sold on the Community market.

- (20) In view of the lack of cooperation from any Indonesian producer, the Commission relied on facts available in accordance with Article 18 of the basic Regulation. In this regard and in the absence of any other information available for the country, the Commission considered it appropriate to make use of the information submitted in the complaint, according to which the RBMs produced and sold in Indonesia or exported to the Community and the RBMs produced by the complainant Community producers and sold on the Community market are alike.
- (21) It was therefore concluded that the RBMs produced and sold by the Community industry on the Community market, the RBMs originating in India and Indonesia exported to the Community and the RBMs produced and sold on the domestic market in India and Indonesia were all like products within the meaning of Article 1(4) of the basic Regulation.
- (22) During the IP the product concerned was subject to a conventional customs duty of 2,7 % in 2000 and 2,7 % in 2001. Under the GSP regime the product concerned imported from India and Indonesia benefited from a reduction amounting to 100 % of the conventional customs duty payable in 2000 and 2001. As a result, the duty applied was 0 % in 2000 and 0 % in 2001.

C. DUMPING

1. India

- (23) One company replied to the questionnaire for exporting producers. A company outside the Community related to this exporting producer also replied to the questionnaire. On the basis of import data reported by Eurostat, this exporting producer accounted for all Indian exports to the Community.

(a) Normal value

- (24) For the purpose of determining normal value, it was first established whether the total domestic sales of RBMs of the sole cooperating Indian exporting producer were representative in comparison with its total export sales to the Community. In accordance with Article 2(2) of the basic Regulation, domestic sales were not considered representative since the total domestic sales volume of the exporting producer was less than 5 % of its total export sales volume to the Community.
- (25) In the absence of representative domestic sales, or sales by any other exporting producer in the domestic market, or other sales in the same general category of products by the exporting producer, normal value had to be constructed in accordance with Article 2(3) of the basic Regulation on the basis of the cost of manufacturing

plus a reasonable amount for selling, general and administrative (SG and A) costs and for profits.

- (26) The company's own SG and A costs and profit on domestic sales of the product concerned were added to the manufacturing costs of the exported models. In accordance with Article 2(5) of the basic Regulation, SG and A costs declared by the exporting producer were adjusted to reflect its audited financial statements.
- (27) Following disclosure of the essential facts and considerations on the basis of which it was intended to impose definitive measures, the cooperating Indian exporting producer argued that, in the absence of representative domestic sales, its own SG and A and profit margin on domestic sales could not be used for the construction of normal value and that the profit margin was not reasonable in comparison to the profit margin, used for the injury elimination level calculation, used in previous investigations and actually attained on export sales.
- (28) As regards SG and A, the argument put forward by the Indian exporting producer was not supported by evidence that the company's own SG and A would have been significantly different had the domestic sales been more than 5 % of exports. Accordingly, this claim was rejected.

- (29) As regards profit, the situation was reviewed in light of new data obtained for the Indian domestic market. Based on this new data, it was determined that a reasonable profit margin, not exceeding the profit normally realised by other exporters or producers on sales of the same general category of products in the domestic market of the country of origin, India, would not exceed 5 %. The calculation was accordingly revised on this basis.

(b) Export price

- (30) All export sales to the Community were made to independent importers in the Community and the export price was established pursuant to Article 2(8) of the basic Regulation by reference to the prices actually paid or payable.

(c) Comparison

- (31) For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting price comparability in accordance with Article 2(10) of the basic Regulation.
- (32) Sales to the Community were made through a related company in Hong Kong. This company carried out the functions of a trader and an adjustment was made to the export price from this company in Hong Kong by deducting a commission from the export price to take account of the functions performed by it.

- (33) Allowances for differences in transport, insurance, packing and credit costs have also been made where applicable and justified.

(d) *Dumping margin*

- (34) As provided by Article 2(11) of the basic Regulation, the weighted average normal value of each model of the product concerned exported to the Community was compared to the weighted average export price at ex-factory level for the same model and at the same level of trade.
- (35) The comparison showed that no dumping existed for exports of RBM made by the cooperating exporting producer during the IP. The definitive dumping margin expressed as a percentage of the CIF import price at the Community frontier duty unpaid is as follows:
- ToCheungLee Stationery Mfg Co. Pvt. Ltd: 0,0 %.
- (36) Since the cooperating exporting producer accounted for all Indian exports to the Community of the product concerned, it was decided to set the residual dumping margin at the level of the dumping margin found for this cooperating exporting producer, i.e. 0,0 %.

2. Indonesia

- (37) The sole known exporting producer in Indonesia and its related importer did not reply to the questionnaire. In accordance with Article 18 of the basic Regulation, this company was duly informed that should it not cooperate findings for it would be based on the facts available. Despite this, the company still did not cooperate with the investigation. In accordance with Article 16(1) of the basic Regulation no verification visit was carried out at the premises of this exporting producer.

(a) *Normal value and export price*

- (38) Using facts available and in the absence of any other reliable information available for the country, it was considered appropriate to base the determination on the information submitted in the complaint. In accordance with Article 18(5) of the basic Regulation; this information was checked, where practicable, by reference to information from other independent sources.
- (39) Normal value was constructed for five different types of RBMs in Indonesia on the basis of the cost of manufacturing plus a reasonable amount for SG and A costs and for profit.
- (40) The export price was determined on the basis of the price to the first unrelated buyer in the Community for each of the five types. Adjustments for SG and A costs and a reasonable profit were made based on information contained in the complaint.

- (41) The sole known exporting producer in Indonesia argued that the normal value established on the basis of the complaint was not representative of their true normal value and furthermore, that under Article 18(5) the Commission is required to check the information in the complaint against independent sources including published price lists, official statistics or other independent official information.

- (42) As mentioned above, this exporting producer did not provide any data for the establishment of normal value. It was attempted, as much as possible, to find alternative sources of information and to cross-check the complaint data through internet searches, examination of data from an independent importer and analysis of data from Eurostat. In this respect, the complaint included five specific models with a diverse range of prices for normal value and compared those prices with the equivalent export prices for the same models. A comparison of each individual normal value or a simple average of the normal values from the complaint with the weighted average export price from Eurostat would not have provided a meaningful basis for a finding. Consequently, no alternative data was obtained with regard to normal value or export price which was considered more reliable than that in the complaint.

(b) *Comparison*

- (43) Adjustments for transport and distribution costs were made where applicable in order to allow a fair comparison. The adjustments were equally based on information contained in the complaint which was verified.

(c) *Dumping margin*

- (44) As provided by Article 2(11) of the basic Regulation, the normal values of each type considered, of the product concerned exported to the Community, were compared to the export prices at ex-factory level for each comparable type.
- (45) The comparison showed the existence of dumping in respect of Indonesia. The dumping margin expressed as a percentage of the CIF import price at the Community frontier duty unpaid for all Indonesian exporting producers is as follows:
- (46) All exporters: 144,0 %.

D. INJURY

1. Preliminary remark

- (47) Given that only one Indian exporting producer cooperated in the investigation and that the Community industry comprises only one company, specific data relating to these companies have been indexed or put in the form of a range in order to preserve the confidentiality of the data submitted in accordance with Article 19 of the basic Regulation.

2. Community production

- (48) It was established that, in addition to the two complainant Community producers' output, production was also taking place in Italy and Spain. Although the Italian company involved did not supply complete data to the Commission, the information received confirmed that, during the IP, it represented a share of around 10 % of total Community production. As regards the Spanish company, which did not supply complete data to the Commission, it was found that in 2001 it produced negligible volumes of the product concerned, while it imported a major portion of its sales from one of the countries concerned. It was concluded therefore that it should be considered as an importer rather than a producer.
- (49) It was also found that a company located in the United Kingdom had formerly been involved in the production of a certain type of RBMs. This company confirmed in writing that its production of the product concerned ceased some years ago. No other producers in the Community are known.
- (50) Based on the above, the production of the complainants and the other Community producer located in Italy constitute the total Community production within the meaning of Article 4(1) of the basic Regulation.

3. Definition of the Community industry

(a) Community industry

- (51) Of the two complainant producers one did not reply to the questionnaire (Krause) and was considered to be non cooperating. This producer, even though supporting the complaint, was therefore not regarded as being part of the Community industry. Regarding the other producer (Koloman), it was found that this company not only produced the like product in the Community during the IP, but also produced parts of it in Hungary. In addition to its Community production, Koloman traded the Hungarian products in the Community and also used parts produced in Hungary for its Community production. Moreover, part of the production of the cooperating Community producer was relocated at the beginning of the year 2000 by means of transfer of certain machinery from Austria to Hungary. However, despite the foregoing, the core activity of this company remained in the Community i.e. head office, warehousing, sales office, production of a significant amount of the product range, as well as significant technical and marketing know-how. The imported sales completed the product range of the like product and did not therefore affect the Koloman's status as Community producer. As to the production of parts in Hungary and their subsequent incorporation into the finished product, the investigation established that these incorporated parts represented only a minor proportion of the cost of production of the finished products and thus, of the

added value. Consequently, the status of the producer as Community producer is not affected by these imports.

- (52) The investigation confirmed that the sole cooperating Community producer represented more than 25 % of the Community production of RBMs, thus fulfilling the requirements of Article 5(4) of the basic Regulation. It was therefore deemed to constitute the Community industry within the meaning of Article 4(1) of the same Regulation and will be hereinafter referred to as 'the Community industry'.

(b) Events occurring after the investigation period

- (53) In November 2001, i.e. after the end of the IP, the cooperating Community producer Koloman went into receivership and as a result of a liquidation procedure, was taken over by an Austrian company, whose parent company, located in the United Kingdom, also acquired the Hungarian affiliate of Koloman.
- (54) The acquirers confirmed to the Commission their ongoing support of the complaint.

(c) Community consumption

- (55) The apparent Community consumption was established on the basis of the sales volumes of the Community industry on the Community market, the sales of the other Community producers on the Community market as reported in the complaint, duly adjusted as concerns the IP, information provided by the cooperating exporting producer and Eurostat import data. Account was taken of the fact that CN code 8305 10 00 also covers products not included in the scope of this proceeding. However, with regard to Indonesia, given the lack of cooperation of Indonesian exporters, best facts available were used, i.e. Eurostat data. In this respect, based on the complaint as best evidence available, all imports under the abovementioned CN code were considered to constitute the product concerned. The non cooperating Indonesian exporter claimed that its exports to the Community market were around 15 % lower than the import volumes used. However, this claim could not be verified and the difference was such that it could be explained by the ratio used to convert Eurostat statistics, which are in tonnes, to units. On this basis, Community consumption increased by 5 % between 1998 and the IP. In more detail, it remained relatively stable between 1998 and 1999 and then steadily increased until the end of the IP when it was found to be around 348 million units.

4. Imports from the country concerned

- (56) It is recalled that the proceeding against India is terminated. Therefore, only imports from Indonesia are being analysed as imports from the remaining country concerned.

(a) Volume of dumped imports

- (57) Even if import volume originating in Indonesia decreased between 1998 and 2000 and then slightly rose again between 2000 and the IP, it should be noted that while imports from the country concerned only started in 1997, they were already significant in 1998 and were at a level of 32 million pieces in the IP.

(b) Market share of dumped imports

- (58) The market shares held by Indonesian imports were found to be between 8 % and 13 % having decreased by around 2 percentage points since 1998.

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

- (59) The weighted average import prices of imports originating in Indonesia decreased by 5 % between 1998 and the IP, i.e. from ECU 105 per thousand units to EUR 99 per thousand units. The decrease was particularly marked between 1998 and 1999 when prices fell by 3 % and between 2000 and the IP when they fell by 2 %.

(ii) Undercutting

- (60) Given the lack of cooperation from Indonesian exporters, the price comparison was made on the basis of Eurostat data duly adjusted for customs duties and post importation costs and compared, at the same level of trade, to Community producers' ex-works prices.
- (61) On that basis, the price undercutting was reviewed and amended when necessary on the basis of information provided during the additional verification visits. Imports from Indonesia were found to undercut Community industry prices between 30 % and 40 %. It should also be noted that there was price suppression since the Community industry was not profitable.

5. Situation of the Community industry*(a) Production*

- (62) The Community industry's production followed a downward trend over the period, decreasing by 25 % between 1998 and the IP. A significant decrease took place between 1998 and 1999 (– 15 %). A further significant decrease occurred also between 1999 and 2000 and subsequently production volume remained stable until the end of the IP.

(b) Capacity and capacity utilisation rates

- (63) The production capacity followed the same trend as the production and decreased by 26 % between 1998 and the IP.
- (64) On this basis, the capacity utilisation rate remained stable over the period considered.

(c) Stocks

- (65) The Community industry's end-of-year stocks decreased by 12 % between 1998 and the IP.

(d) Sales in the Community

- (66) Despite an increase in Community consumption, the sales volume of the Community industry fell significantly between 1998 and the IP, by 25 %. A decrease occurred between 1998 and 1999 (– 10 %), and an even more pronounced one between 1999 and 2000, (– 15 %).

(e) Market share

- (67) The market share of the Community industry decreased by more than 4 percentage points between 1998 and the IP, thus following the same trend as the volume sold.

(f) Prices

- (68) The average net sales price of the Community industry decreased by 4 % between 1998 and the IP. Such a decrease was particularly marked between 1998 and 1999 (6 %), i.e. when the import prices of the country concerned significantly decreased, as explained in recital 59.

(g) Profitability

- (69) The weighted average profitability of the Community industry deteriorated by 10 percentage points between 1998 and the IP became a loss as from 2000. As a result of this unfavourable development and as mentioned in recital 53, the Community industry had to go into receivership.

(h) Cash flow and ability to raise capital

- (70) The development of the cash flow generated by the Community industry in relation to sales of RBMs is very similar to that of the profitability, i.e. a significant decrease between 1998 and the IP.
- (71) The investigation established that the Community industry's ability to raise capital became more difficult at this time owing to its financial situation and in particular to its deteriorated profitability.

(i) *Employment, wages, and productivity*

- (72) Employment of the Community industry related to the production of RBMs decreased by 30 % between 1998 and the IP. The total amount of wages as a whole followed a similar trend, falling by 27 % during the same period, thus leading to an increase of the average wage by 5 % between 1998 and the IP. Productivity of the Community industry's workforce, measured as production volume per person employed increased by 8 % between 1998 and the IP.

(j) *Investment and return on investment*

- (73) The level of investments decreased by 39 % between 1998 and the IP. The decrease was particularly marked between 1999 and 2000. The investigation showed that most of this capital expenditure was related to replacing or maintaining existing facilities.
- (74) The return on investment, expressed as the relation between the net profits of the Community industry and the net book value of its investments, followed very closely the profitability trend and became negative in 2000.

(k) *Growth*

- (75) While Community consumption increased by 5 % between 1998 and the IP, the sales volume of the Community industry decreased by around 25 % and the volume of imports concerned remained significant. The Community industry was therefore unable to benefit from the slight increase of the demand on the Community market.

(l) *Magnitude of the dumping margin*

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

(m) *Recovery from the effect of past dumping*

- (77) The Community industry is still in the process of recovering from the effect of the past dumped imports of RBMs originating in the PRC and Malaysia. As mentioned, Regulation (EC) No 119/97 imposing definitive measures was amended by Council Regulation (EC) No 2100/2000 to take account of the findings of an anti-absorption procedure against the PRC. Moreover, while measures against Malaysia lapsed in January 2002, a review has been opened with respect to Chinese imports of RBMs.

6. Relocation of part of the production

- (78) In order to verify that the deterioration of situation of the Community industry was not due to a change in the pattern of the Community production, it was also examined whether the relocation of part of the production mentioned in recital 51 (by means of transfer of machinery from Austria to Hungary), which took place at the beginning of the year 2000, had an effect on the situation of the Community industry. It happened that while the decreasing trend of certain injury indicators was aggravated by this relocation (i.e. production, production capacity and sales volume), the trend of the capacity utilisation and of the average sales prices improved, leading to a limitation of losses. For instance, it was assessed that around 60 % of the decrease in the production is linked to the relocation, and around 80 % of the sales volume decrease, while without this relocation, the price decrease would have been three times higher and the profitability would have lost 7 additional percentage points. Given the above, it was concluded that the deterioration of the situation of the Community industry was not due to a change in the pattern of the Community production.
- (79) It has been argued that the core activity of the Community industry is no longer in the Community since the relocation to Hungary allegedly entailed a 60 % decline in its Community production, and a 80 % decline in its Community produced sales.

- (80) As already explained in recital 78, the relocation did not entail such a decrease in the Community industry's production, but only a decrease of 15 % of its Community production and 20 % of its Community produced sales. Therefore, the conclusion stated in recital 51 regarding the core activity of the Community industry is confirmed.

7. Conclusion on injury

- (81) A deterioration of the situation of the Community industry (after having taken account of the relocation as outlined in recital 78) has been found by reference to the period considered.

- (82) While the anti-dumping measures on imports of RBMs originating in the PRC and Malaysia led to a substantial decrease of imports originating in these countries after 1998, the Community industry could not fully benefit from this development. As from the year 1998, most injury indicators, i.e. production, sales volumes, prices, market share, profitability, return on investment, cash flow and employment developed negatively. In particular the decrease in the sales prices of the Community industry had a negative effect on its profitability.

- (83) Moreover, while sales of the Community industry decreased between 1998 and the IP, imports originating in Indonesia were substantial. The investigation has shown that during the IP the Indonesian imports were made at prices undercutting those of the Community industry between 30 % and 40 %. In addition, there was price suppression.
- (84) The situation of the Community industry is thus found to have deteriorated to such an extent that it is concluded that the Community industry has suffered material injury.
- (85) It is recalled that after the IP, the poor financial situation led the Community industry to go into receivership.
- (89) It has been argued by an Indonesian exporter that Indonesian exports could not have caused injury since they decreased between 1999 and 2000 and held a *de minimis* market share. The same company alleged that imports from Indonesia could not have any real impact on the Community industry since the Community production was five or six times higher than the volume of Indonesian imports.
- (90) It is however recalled that although Indonesian imports decreased between 1998 and 2000, they slightly increased between 2000 and the IP without reaching the level of 1998. In addition, as already explained in recital 58, between 1998 and the IP, Indonesian imports held a market share situated between 8 % and 13 % which is substantial and clearly above *de minimis*. Finally, it is also recalled that the Community industry is clearly defined in recital 52 and that its level of production is far below that which has been alleged by the Indonesian company.

E. CAUSATION

1. Introduction

- (86) In accordance with Article 3(6) and (7) of the basic Regulation, it was examined whether the imports originating in Indonesia in view of their volume and their effect on prices in RBM Community market, have caused injury to the Community industry to a degree that enables it to be classified as material. Known factors other than the dumped imports, which could at the same time be injuring the Community industry, were also examined to ensure that possible injury caused by these other factors was not attributed to the dumped imports from Indonesia.

2. Effect of the dumped imports

- (87) The volume of the dumped imports decreased by 14 % between 1998 and the IP, and its corresponding share of the Community market by 2 percentage points during the same period. However, they remained significant and always held a market share which ranged between 8 % and 13 % between 1998 and the IP. These imports also significantly undercut the prices of the Community industry. The market share of the Community industry went down by more than 4 percentage points. At the same time, average prices of the Community decreased by 4 %. The actual decline in prices was in fact even higher as outlined in recital 78.
- (88) During the same period, between 1998 and the IP, the situation of the Community industry deteriorated as illustrated by the decrease of sales volume and market share, the price decrease and the substantial deterioration of its profitability, which turned to losses. Thus, the Community industry could not significantly benefit from the imposition of the abovementioned measures against the PRC and Malaysia.

- (91) It can therefore be concluded that the dumped imports originating in Indonesia have undermined the effects of the anti-dumping measures adopted in 1997 against the PRC and Malaysia and amended in 2000 as regards the PRC, and that they have been a substantive cause of the negative developments as summarised in the preceding paragraphs.

3. Effect of other factors

(a) Imports from other third countries

- (92) Consideration was given to whether factors, other than the dumped imports from Indonesia, might have led to or contributed to the injury suffered by the Community industry and especially whether imports from countries other than Indonesia may have contributed to this situation.
- (93) The import volume from other third countries increased by 17 % between 1998 and the IP while their market share increased by more than 5 percentage points during the same period. This increase is to a large extent due to the increase in imports originating in India, Hungary and Thailand, whereas in the meantime, imports originating in the PRC and Malaysia significantly decreased owing to the anti-dumping measures imposed in 1997.
- (94) The average unit price of imports from third countries decreased by 16 % between 1998 and the IP. Prices from almost all third countries decreased during this period except prices of imports from the PRC, which due to the effect of the anti-dumping measures increased significantly although reaching the same level as the Hungarian prices only in the IP.

(i) India

- (95) It was firstly examined whether imports originating in India might have contributed to the injury suffered by the Community industry. However, although imports from India increased significantly between 1998 and the IP, they were found to be undercut by the imports from Indonesia whose prices were found to be in a range of 2 % to 30 % lower than prices of Indian imports between 1998 and the IP. In addition, it should be noted that when Indian imports started in 1998, prices of Indian imports were found to be more than 40 % higher than prices of Indonesian imports for a comparable volume of RBMs. Since then, Indian import prices decreased steadily but have always been above Indonesian prices and were still found to be more than 5 % higher than Indonesian prices during the IP. It is therefore concluded that, although Indian imports have had a negative impact on the situation of the Community industry, the negative impact of the dumped imports from Indonesia taken in isolation was nonetheless substantial. Indeed, Indonesia was an influential and important player in the Community. Their volume of exports to the Community was lower than that of Indian exports but still substantial. Indonesian exports undercut the Community industry's prices even more than Indian exports. It is also noted that the aforementioned analysis was seriously impeded by the fact that Indonesia did not cooperate and, therefore, no information was available in terms of product types on market segments represented by exports from Indonesia.

(ii) The People's Republic of China

- (96) Consideration was also given to whether the absorption of the anti-dumping measures imposed in 1997 on imports from the PRC might have led to or contributed to the injury suffered by the Community industry. In this respect, it is noteworthy that although the absorption of the duty on imports from the PRC have undermined the effect of the measures imposed in 1997 with regard to the sales prices, those measures still led to a significant reduction of the volumes imported from the PRC as soon as 1998. In addition, it should be noted that while imports from Indonesia only began in 1997, they had already reached around the same level as the imports from the PRC by 1998. Since then, imports from the PRC dramatically decreased while Indonesian imports decreased by a much lesser extent until the IP when these latter imports were still more than three times higher than imports from the PRC. Therefore, given that the import volumes from the PRC were far below the import volumes from Indonesia during the IP, it was concluded that these imports did not have as serious an impact on the Community industry as

compared to the effect of the dumped imports from Indonesia.

(iii) Hungary

- (97) In order to determine whether imports from Hungary, in isolation, caused injury to the Community industry, the level of imports and prices on the Community market were examined.
- (98) The analysis as regards Hungarian imports between 1998 and the IP was based on data provided in the questionnaire reply of the Community producer, whose plant in Hungary represents the sole Hungarian producer.
- (99) During the period considered, imports of RBMs originating in Hungary increased in volume. As to their prices charged by the Community industry on the Community market for its products imported from Hungary, while these decreased during the period considered, they remained the highest amongst the import prices from the other third countries and were undercut by imports from Indonesia.
- (100) The Hungarian production of RBMs of the Community industry was analysed and compared to the Austrian production. It was found that there was very little overlap between the models produced in Austria and Hungary.
- (101) Given this small percentage of models manufactured both in Austria and in Hungary, it was concluded that the Hungarian products completed the product range of the Community industry enabling it to offer a wider choice of models to customers and that they did not negatively affect the situation of the Community industry.
- (102) On the basis of the above, it was concluded that imports from Hungary did not materially contribute to deteriorate the situation of the Community industry.

(iv) Thailand

- (103) Given that, as already mentioned in Council Regulation (EC) No 2100/2000, 'some of the goods of Chinese origin were declared to national customs authorities as being of Thai origin and thus avoided payment of the anti-dumping duties normally due', it was also considered appropriate to evaluate the impact of imports consigned from Thailand.
- (104) In this respect, imports from Thailand significantly increased during the period considered since they started in 1998 with around one million units and rose to more than 23 million units in the IP. In addition, it was established on the basis of Eurostat data, that sales' prices of Thai imports were generally below the prices of Indonesian imports.

- (105) However, although Thai prices were found to be around 20 % lower than the prices of the Indonesian imports, it is recalled these latter are more than one third higher than import volumes from Thailand. Therefore, given that the volumes imported from Thailand are still substantially below the volumes imported from Indonesia, it was concluded that these imports could not have had a significant impact as compared to the effect of the dumped imports from Indonesia.
- (106) The analysis in respect of Thailand has been questioned by an Indonesian exporter, who did not cooperate. In this respect, it argued that the level of imports from Indonesia is comparably lower and that prices are higher when compared to Thai imports. It is however recalled that although Thai prices were lower than the prices of the imports from Indonesia, the volumes imported from Indonesia were more than 30 % higher than imports from Thailand. Therefore, the conclusion drawn in recital 105 is confirmed.
- (b) *Further factors*
- (107) It was also examined whether factors other than the abovementioned might have contributed to the injury suffered by the Community industry.
- (108) It has been contended by the cooperating importers that RBM business is extremely price sensitive and therefore producers must sell large volumes to be competitive. It was also argued by the same parties that the Community industry relies only on the Community market, instead of the world market, which would allow it to be more cost efficient. On this matter, it is recalled that the ratio of sales of the Community industry inside and outside of the Community did not significantly change between 1998 and the IP. Nevertheless, even though the Community industry was strongly oriented towards the Community market, its export sales permitted the Community industry to be profitable in 1998 at a time when imports from Indonesia were significant.
- (109) One user argued that the injury was caused by the strong competition in the office supplies industry. This competition allegedly led the users/distributors of the product concerned to exert a price pressure on the Community industry thus leading to a price decrease. In this respect, it is underlined that the dumped imports must have significantly worsened the price pressure exerted by the users in the Community, thus causing injury to the Community industry.
- (110) Moreover, it was examined whether the price depression could be attributable to the normal course of the RBM business, since prices from almost all sources of supply decreased between 1998 and the IP.
- (111) In this respect, it is recalled that the general price decrease should be seen in the light of continued unfair practices, firstly from the PRC and Malaysia, secondly from Indonesia, which have influenced the Community market.
- (112) In addition, as mentioned in recital 108, the RBM market is extremely price sensitive. Therefore, given that prices of the Indonesian imports were found to be dumped and lower than the average unit price of all other imports of RBMs between 1998 and the IP, it is to be concluded that imports from Indonesia, which held between 8 % and 13 % of the Community market during the IP, have had a price depressive impact on this market.
- (113) Finally, it was analysed if the price behaviour of Krause, the non-cooperating Community producer, could have contributed to the injury suffered by the Community industry. The additional examination of data referring to Krause showed that this Community producer itself suffered a deterioration of its situation during the period considered, particularly as concerns sales price and profitability. It appears therefore that it has not contributed to the injury suffered by the Community industry, and that, it has been equally negatively affected by the imports from Indonesia, being forced to decrease its prices, like the Community industry.
- (114) For all the reasons explained above, it was concluded that the price depression on the Community market should not be seen as representing a normal development of trade, but rather as the consequence of unfair commercial practices of Indonesia.
- (115) It was contended by the Indonesian authorities that the Indonesian exports were limited to supplying an Italian producer of ring binders to complement its product range.
- (116) However, this assertion was found to be in contradiction with the statement made by the non-cooperating Indonesian exporter who argued that the sole market where the Indonesian producer has significant market share is the United Kingdom. This is also confirmed by Eurostat.
- (117) This latter producer alleged that these Indonesian exports could not cause injury since its main market is the United Kingdom where the Community industry does not have any significant activities. However, in addition to the fact that this assumption is in contradiction with the allegation made by the Indonesian authorities, it is also recalled that the injury analysis is made on a Community basis and not on a regional basis.

4. Conclusion on causation

- (118) In view of the above, it is concluded that the material injury suffered by the Community industry, which is characterised by a negative development of production, sales volumes, prices, market share, profitability, return on investment, cash flow and employment duly adjusted to take account of the relocation to Hungary, was caused by the dumped imports concerned. Indeed, the combined effect on the Community industry's situation of imports from India, Thailand and the PRC as well as the partial relocation of Community production was only limited.
- (119) It was also contended by an Indonesian exporter who did not cooperate, that there is a contradiction between the conclusion stated in recital 118 and the fact that there is sufficient evidence to open an expiry review on the PRC.
- (120) In this respect, it should be recalled that the scope of an expiry review is to analyse the situation of the Community market in the perspective of the likelihood of continuation or recurrence of dumping and injury should the measures in force be removed. Consequently, the fact that the deterioration of the Community industry has been attributed during this investigation period to Indonesia, does not affect the analysis of the future behaviour in the Community market of Chinese exporters and its likely effect on the situation of the Community industry. It is also recalled that the Chinese market share was at a very low level during the last two years of the period considered.
- (121) Given the analysis, which has properly distinguished and separated the effects of all the known factors on the situation of the Community industry from the injurious effects of the dumped imports, it is hereby concluded that these other factors as such do not reverse the fact that the material injury found must be attributed to the dumped imports.

F. COMMUNITY INTEREST

1. Preliminary remark

- (122) It was examined whether, compelling reasons existed that could lead to the conclusion that it is not in the Community interest to adopt measures in this particular case. For this purpose, and in accordance with Article 21(1) of the basic Regulation, the impact of possible measures on all parties involved in this proceeding and also the consequences of not taking measures were considered on the basis of all evidence submitted.

- (123) In order to assess the likely impact of the imposition or non-imposition of measures, information was requested from all interested parties. Questionnaires were sent to the two complainant Community producers, two other companies known as producers in the Community, nine unrelated importers, 49 users and one users' association. One complainant Community producer (Koloman), two unrelated importers as well as one user related to those importers replied to the questionnaire. Another user made a submission without replying to the questionnaire.
- (124) These replies and submissions formed the basis for the Community interest analysis.

2. Interest of the Community industry

(a) Preliminary remark

- (125) Several producers of RBMs in the Community stopped manufacturing the product concerned within the last few years. As to the companies left, the investigation established that, as mentioned in recital 49, a company located in the United Kingdom also stopped its production some years ago. As to the company located in Italy, it was found that it did not represent a significant proportion of the production of RBMs in the Community and imported a significant part of its sales. As to the Spanish company it found that it should be considered as an importer rather than a producer since it produced negligible volumes of the product concerned, while imported more than 90 % of its sales from Indonesia. It is concluded, therefore, that the two complainants are the only Community producers of RBMs with a significant production left.
- (126) It should be recalled that the two complainant Community producers were heavily injured already in the past by imports of RBMs originating in the PRC and Malaysia which, as described in Regulation (EC) No 119/97, led, *inter alia*, to a 28 % decrease of their workforce between 1992 and October 1995. As shown under recital 72, a further reduction of the Community industry's workforce of 30 % occurred between 1998 and the IP.
- (127) In view of the material injury suffered by the Community industry, it is concluded that, should the Community industry not recover from the unfair dumping practices, it is likely that the production in the Community will cease completely and that the users will be significantly dependant on imports.

(b) *Financial situation of the Community industry*

- (128) The financial situation of the Community industry developed so negatively during the period considered, that after the IP the Community industry went into receivership, as mentioned in recital 53. It should be noted that the Community industry's loss-making situation resulted from its difficulty to compete with the low-priced dumped imports. However, the fact that the cooperating Community producer has been taken over, shows that the production of RBMs in the Community is in the process of being restructured and that a strong effort is being made to keep this industry viable and to render it profitable.

(c) *Possible effects of the imposition/non-imposition of measures on the Community industry*

- (129) Following the imposition of measures, the restoration of fair market conditions would enable the Community industry to recover lost market share and, by increasing capacity utilisation, to decrease unit production costs and to increase profitability. Furthermore, the measures are expected to have a positive effect on the level of the Community industry's prices. In conclusion, it is expected that the increase in production and sales volume, on the one hand, and the further decrease in unit costs, on the other hand, eventually combined with a moderate price increase, will allow the Community industry to improve its financial situation.
- (130) To the contrary, should anti-dumping measures not be imposed, it is likely that the Community industry would have to further lower its prices and/or continue to lose market share. In both scenarios, the financial situation of the Community industry is likely to worsen. As a further consequence, it is likely that the Community production would, within a short period of time, definitively cease.
- (131) Moreover, given that the Community industry does not only produce the product concerned but also other products accounting for about one third of its turnover, it is very likely that the closure of production lines manufacturing RBMs would affect the viability of the whole factory and lead to closure of all production lines with a consequent wider negative effect on employment and investment.

(d) *Possible relocation of the Community industry production*

- (132) It was examined whether any measures could be considered as not being in the interest of the Community given the relocation of part of the Community industry production to a third country. The possibility of any further relocation was also examined.
- (133) First of all, as explained in recital 78, it is recalled that the relocation, which took place in 2000, permitted the Community industry to limit its losses. In this respect, it was a strategic decision taken to thwart the effect of the dumped practices. In addition, it is likely that this reloca-

tion, by improving the financial situation of the Community industry, had the indirect effect to make it more attractive for the new investor that recently took it over.

- (134) As to the risk of any additional relocation, the Commission received satisfactory confirmation that such relocation is not foreseen by the Community industry. In addition, there is no reason to consider that such a move is likely since the restructuring effort combined with the imposition of anti-dumping duty should enable the Community industry to enjoy a profitable situation once again.

3. Interest of importers

- (135) Certain importers, who, however, did not purchase RBMs from Indonesia, submitted that switching sources of supply could involve additional costs or transitional problems. More particularly, the importers underlined that owing to the anti-dumping measures imposed in 1997, they had already been forced to change their source of supply.
- (136) However, it is recalled that the purpose of anti-dumping measures is not to force importers or users to change their source of supply but to restore fair competition on the Community market. In addition, these importers also recognised that a number of other third countries could easily produce RBMs and they foresaw no difficulties in sourcing from a country not covered by anti-dumping measures. Moreover, they could also trade Community producers' products. Therefore any problems resulting from a possible switching of supply are likely to be temporary and unlikely to offset the positive effect on the Community industry of anti-dumping measures against injurious dumping.

4. Interest of users and consumers

(a) *Users*

- (137) It has been alleged both by the cooperating unrelated importers and user (ring binder producer) that the imposition of anti-dumping measures would have a serious adverse impact on the financial situation of the users.
- (138) In this respect, the likely effect on users' cost of production of the anti-dumping measures imposed on Indonesia was assessed. In this respect an estimation was undertaken of what would be the impact of the measures proposed against Indonesia on a user having as sole source of supply imports from Indonesia (worst case scenario). On this basis the impact of the measures proposed against Indonesia would be evaluated as an increase in the cost of production of around 4 %. As already explained, this is an entirely hypothetical scenario since no user cooperated which only sourced the product concerned from Indonesia.

- (139) In view of the above findings, it was concluded that the impact of anti-dumping duties on users would be negligible. In more general terms, given the lack of cooperation from other users, it is likely that the cost impact on all other users would be similarly negligible.
- (140) The cooperating user claimed that, as happened in the past three years, when it had to relocate part of its production outside the Community and to close three plants following the imposition of anti-dumping measures on RBMs originating in the PRC and Malaysia, anti-dumping measures on imports originating in Indonesia, by increasing the prices of one of the items of its cost of production, could entail a further move of its ring binder production outside of the Community and/or closure of the relevant plants. This would risk to affect its whole activity, i.e. also the manufacturing of other products, whose plants would be delocalised as well, with significant job losses in the Community.
- (141) As a general remark, it should be noted that the risk of relocation of the downstream industry owing to the anti-dumping measures is tempered by the fact that part of the binder market is business to business oriented and that it is fundamental that users are close to their customers, have a flexible production ready to meet the demand and a sound knowledge of the market. The investigation showed in fact that the main criteria customers of ring binders producers take into account in their choice are price, quality and service, as well as speedy delivery. In addition, as already explained in recitals 137 to 138, the financial impact of the anti-dumping measures on the downstream industry was found negligible. Finally, the fact that only one binder producer fully cooperated with the investigation, tends to confirm the conclusion that anti-dumping measures will not have a decisive impact on users.
- (142) In addition, certain interested parties pointed out that the relocation of several users that have occurred in the past years was due to the high cost of production in the Community. This confirms that any relocation should be seen in the wider context of the overall cost structure in which, as already explained, anti-dumping measures represent a negligible portion.
- (143) As regards the specific situation of the cooperating user, the investigation showed that, although this user relocated part of its production outside the Community between 1998 and the IP, i.e. after the imposition of anti-dumping measures against the PRC and Malaysia, this user in fact changed its source of supply after the imposition of anti-dumping measures against the PRC and Malaysia, purchasing RBMs from the cooperating importers which in turn, as from 1998, started to import from India to the detriment of the PRC. It seems therefore difficult to establish a link between the move of the ring binder production of that user outside the Community and the imposition of anti-dumping duties on imports from the PRC and Malaysia. Moreover, as already shown in recital 139 anti-dumping duties have a negligible impact on the users' cost of production.
- (144) It was found that the relocation described above should rather be seen as the consequence of the external-oriented strategy of this user which acquired a number of companies during the last years. This strategy eventually led to a consolidation and a restructuring of the different entities of the group, certain amongst which have been closed. The relocation of some plants outside the Community should be seen as part of this strategy, which aims to strengthen the position of that user over the Community market and to develop its presence in Eastern Europe.
- (145) Before the above background, and in view of the negligible impact the level of the duties imposed is likely to have on the user concerned, it appears unlikely that the anti-dumping measures against Indonesia would, as such, entail a further move of its ring binder production outside of the Community.
- (146) As regards the closure of plants and the risk of further closures linked to the imposition of anti-dumping measures against Indonesia, it was found that the cooperating user closed three plants in the past three years, when measures on the PRC and Malaysia were in force. In view of the negligible impact the measures would have on the cost of production and on the financial situation of the user in question, as explained under recital 144, it is unlikely that the measures on the PRC and Malaysia led, on their own, to the closure of these plants and that the anti-dumping measures on imports from Indonesia would cause a closure of other plants.
- (b) *Consumers*
- (147) It should be mentioned that the product concerned is not sold at retail level and that no consumers' association made themselves known and participated in this investigation.
- (148) The cooperating user also argued that anti-dumping measures would increase the price paid by the final customer of ring binders, i.e. consumers. However, in view of the above explanation regarding the impact on ring binder producers, any increase in the final sales price to consumers of ring binders is likely not to be significant.

(149) In addition, the investigation showed that the cooperating user sells its products mainly to distributors. In the worst scenario, should the cost increase that the users might suffer be passed on in full until the final consumer, this would entail a price increase of a maximum of 4 % for the final consumer. However, this is unlikely to occur since general experience shows that each step in the distribution chain is likely to support part of its costs increase in order to stay competitive on its market.

(150) On the basis of the above, the impact on users of RBMs and consumers of ring binders was considered not to constitute a compelling reason against the imposition of anti-dumping measures, as the possible negative effect is unlikely to offset the positive effect on the Community industry of anti-dumping measures against injurious dumping.

(c) Impact on competition

(151) It was also examined whether the imposition of anti-dumping measures on imports from Indonesia could lead to a situation where the Community industry could benefit from a dominant position on the Community market, in particular in view of the anti-dumping measures imposed in 1997 on imports from the PRC and Malaysia and in view of the restructuring of the Community industry.

(152) First of all, it is recalled that the Community industry held, during the IP, a market share which only ranged between 10 % and 15 %. The two complainant Community producers taken together would have held, during the IP, a market share ranging between 32 % and 37 %. Even in the event of including Koloman's imports in the market share held by both complainants together, this market share would have ranged from 47 % to 52 % of the Community market in the IP. In addition, it is recalled that, although the Commission initiated a review of the measures against the PRC, this review does not concern imports from Malaysia. Also RBMs can still be imported from India. Therefore it is considered very unlikely that the imposition of anti-dumping measures against Indonesia would lead to any negative effect on competition of the Community industry on the Community market. Finally, it is recalled that the imposition of anti-dumping measures on imports from the PRC and Malaysia likewise did not lead to any kind of dominance for the Community industry, even if no other sources of supply but these two countries existed at the time.

(153) On the other hand, as already explained in recital 130, it is likely that without measures to correct the effects of dumped imports, Community production will, within a short period of time, no longer be viable and therefore cease. It would certainly not be in the interest of the

users that the Community industry cease its production of the product concerned. Indeed, on the one hand, the sole user that cooperated purchased between 20 % and 50 % of its RBMs from the Community industry between 1998 and the IP. On the other hand, should the Community industry definitely cease the production of RBMs, users would be significantly dependent on imports.

(154) Should measures be imposed, several alternative sources of supply still exist. RBMs are being or can be purchased from the Community industry, the other Community producers, India and Hong Kong. In addition, imports from Malaysia are likely to recommence since measures against this country recently expired. Moreover, the investigation has shown that the imposition of anti-dumping measures on imports from the PRC and Malaysia did not entail any shortage of the product concerned. Finally, it is recalled that the impact of the measures on users was found to be negligible, and that the product concerned will therefore quite likely still be imported from Indonesia.

5. Conclusion on Community interest

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

G. DEFINITIVE MEASURES

1. Injury elimination level

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

(157) In accordance with Article 9(4) of the basic Regulation, the Commission examined what level of duty would be adequate to remove the injury to the Community industry caused by dumping. For that purpose, it was considered that a price level based on the Community producers' cost of production together with a reasonable profit margin should be calculated.

(158) Here, it was found that a profit margin of 5 % of turnover could be regarded as a reasonable minimum, taking into account the need for long-term investment and, more particularly, the profit margin which the Community industry could have been expected to obtain in the absence of injurious dumping.

(159) Given the lack of cooperation, it was considered that the injury elimination level should cover the difference between this calculated price and the CIF prices adjusted as explained in recital 60.

- (160) The injury elimination level found was 42,30 % for imports from Indonesia.

2. Definitive anti-dumping measures

- (161) In the light of the foregoing and in accordance with Article 9(4) of the basic Regulation, it is considered that definitive anti-dumping duties should normally be imposed at the level of the injury margin for Indonesia.
- (162) However, with regard to the parallel anti-subsidy proceeding, in accordance with Article 24(1) of Council Regulation (EC) No 2026/97 ⁽¹⁾ (the basic anti-subsidy Regulation) and Article 14(1) of the basic Regulation, no product shall be subject to both anti-dumping and countervailing duties for the purposes of dealing with one and the same situation arising from dumping and from export subsidisation. In the present investigation, it was found that anti-dumping duties should be imposed on imports of the product concerned originating in Indonesia and therefore, it is necessary to determine whether, and to what extent, the subsidy and the dumping margins arise from the same situation.
- (163) In the parallel anti-subsidy proceeding, with regard to Indonesia, countervailing duties corresponding to the amount of subsidies, which were found to be 10 %, were imposed in accordance with Article 15(1) of the basic anti-subsidy Regulation. Some of those investigated in Indonesia constituted export subsidies within the meaning of Article 3(4)(a) of the basic anti-subsidy Regulation. As such, these subsidies could only affect the export price of the Indonesian exporting producers, thus leading to increased margin of dumping. In other words, the dumping margin established for the Indonesian producers are partly due to the existence of export subsidies. However, it is noted that the injury margin was considerably lower than the dumping margin even if the latter was adjusted to take account of the export subsidy. In these circumstances it is not considered appropriate that both countervailing and anti-dumping duties could be imposed to the full extent of the relevant subsidy and dumping margins established. Therefore, the combined duty level should not exceed the injury margin. Given that a part of the injury margin amounting to 42,3 %, will be covered by the imposition of the countervailing duty which amounts to 10 %, the anti-dumping duty should not exceed the remaining injury margin of 32,3 %.

Company	Export subsidy margin	Total subsidy margin	Injury margin	Countervailing duty	Anti-dumping duty	Total duty rate
Indonesia: all companies	5 %	10 %	42,3 %	10 %	32,3 %	42,3 %

- (164) It has been argued that Article 14(1) of the basic Regulation would have been violated since no product shall be 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. It is however recalled that as explained in recitals 162 and 163 the duties have been adjusted in conformity with Article 14(1) of the basic Regulation. The argument was therefore rejected.
- (165) In order to meet the deadline set out in Article 6(9) of the basic Regulation, the present Regulation should enter into force on the day of its publication,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of certain ring binder mechanisms, falling within CN code ex 8305 10 00 (TARIC codes 8305 10 00*10 and 8305 10 00*20) and originating in Indonesia. For the purpose of this Regulation, ring binder mechanisms shall consist of two rectangular steel sheets or wires with at least four half rings made of steel wire fixed on it and which are kept together by a steel cover. They can be opened either by pulling the half rings or with a small steel-made trigger mechanism fixed to the ring binder mechanism.

⁽¹⁾ OJ L 288, 21.10.1997, p. 1.

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	Definitive duty (%)
Indonesia	32,3

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

4. The proceeding concerning imports of certain ring binder mechanisms originating in India shall be terminated.

Article 2

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

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

Done at Luxembourg, 4 June 2002.

For the Council

The President

R. DE RATO Y FIGAREDO

COUNCIL REGULATION (EC) No 977/2002

of 4 June 2002

imposing a definitive countervailing duty on imports of certain ring-binder mechanisms (RBMs) originating in Indonesia and terminating the anti-subsidy proceeding in respect of imports of certain RBMs originating in India

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

A. PROCEDURE

1. Present investigation

- (1) On 18 May 2001, the Commission announced by a notice (hereinafter referred to as 'notice of initiation') published in the *Official Journal of the European Communities* ⁽²⁾ the initiation of an anti-subsidy proceeding with regard to imports into the Community of certain ring binder mechanisms (hereinafter referred to as 'RBM') originating in India and Indonesia and commenced an investigation.
- (2) The proceeding was initiated as a result of a complaint lodged on 3 April 2001 by the following Community producers: Koloman Handler AG ('Koloman'), Austria, and Krause Ringbuchtechnik GmbH & Co. KG ('Krause'), Germany, (the 'complainants'), representing a major proportion, in this case about 90 %, of the Community production of RBMs. The complaint contained evidence of subsidisation of the said product, and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.
- (3) The initiation of a parallel anti-dumping proceeding concerning imports of the same product originating in the same countries was announced by a notice published in the *Official Journal of the European Communities* ⁽³⁾, on the same date.
- (4) Prior to the initiation of the proceeding and in accordance with Article 10(9) of Regulation (EC) No 2026/97 (hereinafter referred to as the 'basic Regulation'), the Commission notified the Governments of India and Indonesia that it had received a properly documented

complaint alleging that subsidised imports of RBMs originating in India and Indonesia are causing material injury to the Community industry. Both Governments were invited for consultations with the aim of clarifying the situation as regards the contents of the complaint and arriving at a mutually agreed solution. Consultations with both Governments were held with the Commission in Brussels. Due note was taken of the comments made by these Governments in regard to the allegations contained in the complaint regarding subsidised imports and material injury being suffered by the Community industry, and a certain number of the alleged schemes were subsequently not included in the investigation.

- (5) The Commission officially advised the Community producers, exporting producers, importers and users known to be concerned, the representatives of the exporting countries and the complainant of the initiation of the proceeding. The parties concerned had the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.
- (6) The Commission sent questionnaires to all parties known to be concerned and to all other companies which made themselves known within the deadlines set out in the notice of initiation. Replies were received from the Government of India, one Community producer, one exporting producer in India, as well as from its related exporter outside the Community and from two importers in the Community as well as from one user related to the importers.

The Commission sought and verified all the information it deemed necessary for the purpose of a determination of subsidisation, injury, causation and Community interest. Verification visits were carried out at the premises of the Government of India and the following companies:

- (a) *Community producers*
 - Koloman Handler AG, Austria
- (b) *Exporting producers in India*
 - ToCheungLee Stationery Mfg Co. Pvt. Ltd, Tiruvallore
- (c) *Related exporters outside the Community in Hong Kong*
 - ToCheungLee (BVI) Limited/World Wide Stationery Mfg. Co. Ltd. (ultimate holding company)

⁽¹⁾ OJ L 288, 21.10.1997, p. 1.

⁽²⁾ OJ C 147, 18.5.2001, p. 4.

⁽³⁾ OJ C 147, 18.5.2001, p. 2.

(d) *Unrelated importers*

- Bensons International Systems Ltd, United Kingdom
- Bensons International Systems BV, The Netherlands

(e) *User*

- Esselte, United Kingdom

- (7) The investigation of subsidisation and injury covered the period from 1 April 2000 to 31 March 2001 ('investigation period' or 'IP'). For the purposes of analysing trends relevant for the assessment of injury, the Commission has examined data relating to the period 1 January 1998 up to the end of the IP ('period considered').

2. Provisional measures

- (8) Given the need to further examine certain aspects of injury, causation and Community interest, in particular in view of the ongoing restructuring of the complainants, no provisional countervailing measures were imposed on RBMs originating in India and Indonesia.

3. Subsequent procedure

- (9) All parties were informed of the decision not to impose provisional measures. The Commission continued to seek and verify all information deemed necessary for definitive findings. In particular, further on-the-spot investigations were carried out at the premises of a user of RBMs in the Community and of two unrelated importers in the Community.
- (10) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive countervailing duties. They were also granted a period within which they could make representations subsequent to this disclosure. The oral and written comments submitted by the parties were considered and, where appropriate, the findings have been modified accordingly.

B. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

- (11) The product concerned is certain ring-binder mechanisms (the product concerned). These are currently classifiable within CN code ex 8305 10 00. Lever-arch mechanisms, falling within the same CN code, are not included in the scope of this investigation.

- (12) RBMs consist of two rectangular steel sheets or wires with at least four half-rings made of steel wire fixed on them and which are kept together by a steel cover. They can be opened either by pulling the half-rings or with a small steel-made trigger mechanism fixed to the RBM. The rings can have different shapes, the most popular ones being round, rectangular or D-shaped.

- (13) RBMs are used to file different kinds of documents or papers. They are used, *inter alia*, by producers of ring-binders, software and technical manuals, photo and stamp albums, catalogues and brochures.

- (14) Several hundred different models of RBMs were sold during the IP in the Community. The models varied by size, shape and number of rings, the size of the base plate and the system to open the rings (pull open or opening trigger). In the absence of a clear dividing line in the range of RBMs and given that all of them have the same basic physical and technical characteristics, and that the models of RBMs can, within certain ranges, replace each other, the Commission established that all RBMs constitute one single product for the purpose of the present proceeding.

2. Like product

- (15) The Commission found that the RBMs produced and sold on the domestic market in India and those exported to the Community from India had the same basic physical and technical characteristics and uses.
- (16) The Commission also found that there was no difference in the basic physical and technical characteristics and uses between the RBMs imported into the Community originating in India and the RBMs produced by the Community industry and sold on the Community market.
- (17) In view of the lack of cooperation from any Indonesian producer, the Commission relied on facts available in accordance with Article 28 of the basic Regulation. In this regard, and in the absence of any other information available for the country, the Commission considered it appropriate to make use of the information submitted in the complaint, according to which the RBMs produced and sold in Indonesia or exported to the Community and the RBMs produced by the complainant Community producers and sold on the Community market are alike.

- (18) It was therefore concluded that the RBMs produced and sold by the Community industry on the Community market, the RBMs originating in India and Indonesia exported to the Community and the RBMs produced and sold on the domestic market in India and Indonesia were all like products within the meaning of Article 1(5) of the basic Regulation.

- (19) During the IP the product concerned was subject to a conventional customs duty of 2,7 % in 2000 and 2001. However, under the GSP regime, the product concerned imported from India and Indonesia benefited from a reduction amounting to 100 % of the conventional customs duty payable in 2000 and 2001. As a result, the duty applied was 0 % in 2000 and 0 % in 2001.

C. SUBSIDIES

1. India

(a) Introduction

- (20) On the basis of the information contained in the complaint and the replies to the Commission's questionnaire, the Commission investigated the following schemes that allegedly involve the granting of export subsidies:

- export processing zones/export oriented units (EPZ/EOU)
- duty entitlement passbook scheme (DEPB)
- export promotion capital goods scheme (EPCG)
- income tax exemption scheme (ITE).

- (21) The first three schemes are based on the Foreign Trade (Development and Regulation) Act 1992 (effective from 7 August 1992). The Foreign Trade Act authorises the Government of India to issue notifications regarding export and import policy. These are summarised in 'export and import policy' documents which are issued every five years and updated annually. The document relevant to the investigation period of this case covers the policies for the years 1997 to 2002.

- (22) The last scheme, the income tax scheme, is based on the Income Tax Act of 1961 which is amended yearly by the Finance Act.

- (23) One company replied to the questionnaire for exporting producers. A company outside the Community related to this exporting producer also replied to the questionnaire. On the basis of import data reported by Eurostat, the exporting producer in India accounted for all Indian exports to the Community.

(b) Export processing zones (EPZ)/export oriented units (EOU)

(i) Legal basis

- (24) An instrument under the export and import policy involving export related incentives is the export processing zones (hereinafter 'EPZ')/export oriented units (hereinafter 'EOU') scheme which was introduced in 1965. During the IP the scheme was regulated by

Customs Notification No 53/97, 133/94 and 126/94. Details of the schemes are contained in Chapter 9 of the 1997/2002 export and import policies as well as the relevant handbook of procedures.

(ii) Eligibility

- (25) In principle, companies undertaking to export their entire production of goods may be set up under the EPZ/EOU scheme. Once this status is granted, those companies can avail themselves of certain benefits. There are seven identified EPZs in India. EOUs can be located anywhere in India. They are bonded units under the surveillance of customs officials in accordance with Section 65 of the Customs Act. Although EOU/EPZ are generally obliged to export their entire production, the Government of India allows those units to sell a part of their production on the domestic market under certain conditions. The cooperating exporting producer has been granted the status of EOU.

(iii) Practical implementation

- (26) Companies requesting EOU status or setting up in an EPZ must apply to the relevant authorities. Such application must include details for a period covering the next five years, of, inter alia, planned production quantities, projected value of exports, import requirements and indigenous requirements. If the authorities accept the company's application, the terms and conditions attached to the acceptance will be communicated to the company. Companies in EPZs and EOUs can be involved in the production of any product. The agreement is valid for a five-year period and may be renewed for further periods.

- (27) EPZ/EOU units are entitled to the following benefits:

- (i) exemption from import duties on all types of goods (including capital goods, raw materials and consumables) required for the manufacture, production, processing or in connection therewith, provided they are not prohibited items in the negative list of imports;

- (ii) exemption from excise duty on goods procured from indigenous sources;

- (iii) exemption of income, on which income tax is normally due in accordance with Section 10A or 10B of the Income Tax Act, for a 10 year-period;

- (iv) reimbursement of central sales tax paid on goods procured locally;

- (v) 100 % foreign equity ownership;
- (vi) facility to sell a part of production in the domestic market.
- (28) The importer should maintain in the specified format, a proper account of all imports concerned and of the consumption and utilisation of all imported materials and of the exports made. These should be submitted periodically, as may be required, to the development commissioner.
- (29) The importer must also ensure minimum net foreign exchange earnings as a percentage of exports and export performance as stipulated in the Policy. The entire operations of an EOU/EPZ are to be done in customs bonded premises.
- (iv) Conclusion on EPZ/EOU
- (30) In the present proceeding, the EOU scheme was used for imports of capital goods, raw materials and consumables, as well as for the procurement of goods on the domestic market. Therefore, the Commission only examined the countervailability of these concessions.
- (31) In this regard, the EOU/EPZ scheme involves the granting of subsidies as the concessions granted under the scheme constitute financial contributions by the Government of India, since government revenues otherwise due are forgone and a benefit is conferred on the recipient.
- (32) The suspension of the collection of duties on capital goods has the same effect as an exemption since, as long as the export requirements are fulfilled, it is solely within the discretion of the company if and when to de-bond the capital goods.
- (33) This subsidy is contingent in law upon export performance within the meaning of Article 3(4)(a) of the basic Regulation, since it cannot be obtained without the company accepting an export obligation, and is therefore deemed to be specific and countervailable.
- (v) Calculation of the subsidy amount
- Suspension of import duty on purchases of capital goods:
- (34) The Indian exporting producer used the EOU scheme in order to obtain a suspension of the import duties normally payable on capital goods.
- (35) The benefit to the company has been calculated on the basis of the amount of unpaid customs duty due on imported capital goods by spreading this amount across a period of seven years, which reflects the depreciation period for capital goods actually imported by the company and which is considered to reflect the normal depreciation of such assets in the industry concerned. The amount so calculated which is attributable to the investigation period has been adjusted by adding interest during the investigation period in order to establish the full benefit to the recipient under this scheme. Given the nature of this scheme, which is equivalent to a one-time grant, the commercial interest rate during the investigation period in India, i.e. 10 %, was considered appropriate. This amount has then been allocated over total exports during the investigation period.
- (36) On this basis, the company received benefits under this scheme at a rate of 2,42 %.
- Exemption from customs duties due on imports of raw materials and consumables:
- (37) The Indian exporting producer used the EOU scheme in order to obtain an exemption from customs duties due on imports of raw materials and consumables.
- (38) During the verification visit, the nature and quantities of these imported materials were verified. The company was able, for all raw materials being imported during the IP, to demonstrate a clear link to the quantities of the exported finished products and it could be established that no imports in excess of imported quantities of inputs actually used in the exported products had taken place.
- (39) These imports therefore fall within the exception to item (I) of the illustrative list of export subsidies contained in Annex I of the Basic Regulation since all the goods which were imported free of duty were incorporated into the exported product and no excess remissions of import duty have occurred.
- Exemption from excise duty on goods procured from indigenous sources:
- (40) The Indian exporting producer used the EOU scheme in order to obtain an exemption from excise duty on goods procured from indigenous sources.
- (41) However, the excise duty paid on purchases by a non-EOU unit (i.e. any company operating without any special status) is credited as drawback (under CENVAT/MODVAT) and is utilised towards payment of excise duty on domestic sales. Thus by exempting excise duty on purchases by an EOU unit no additional revenue is forgone by the Government of India. Consequently, no additional benefit accrues to the EOU.

Reimbursement of central sales tax paid on goods procured locally:

- (42) The Indian exporting producer used the EOU scheme in order to obtain the reimbursement of central sales tax paid on goods procured locally. This reimbursement involves the granting of subsidies, since government revenues otherwise due are forgone and a benefit is conferred on the recipient.
- (43) The benefit was calculated on the basis of the amount of central sales tax refundable for local purchases during the investigation period. In this respect, it could be established that the Indian exporting producer procured practically all of its local purchases in the State within which it is located (Tamil Nadu) and that central sales tax applies only to inter-state transactions. The amount of central sales tax refundable to this company was therefore limited to 0,01 %.

(c) *Income tax exemption scheme (ITE)*

(i) *Legal basis*

- (44) The income tax exemption scheme is based on the Income Tax Act 1961, which sets out the basis for the collection of taxes as well as various exemptions/deductions which can be claimed. Among the exemptions which can be claimed are those covered by Sections 10A, 10B and 80HHC of the Act, which provide an income tax exemption on profits obtained from export sales.

(ii) *Eligibility*

- (45) Exemption under Section 10A can be claimed by firms located in free trade zones, exemption under Section 10B can be claimed by export oriented units and exemption under Section 80HHC can be claimed by any firm which exports goods.

(iii) *Practical implementation*

- (46) The claim for deduction of export profits is submitted alongside the usual annual income tax declaration.

(iv) *Conclusion on the ITE*

- (47) Under the ITE scheme, the Government of India confers a financial contribution to the company by forgoing government revenue in the form of direct taxes which would otherwise be due. This financial contribution confers a benefit upon the recipient by reducing its income tax liability.
- (48) This income tax exemption scheme is contingent in law upon export performance within the meaning of Article 3(4)(a) of the basic Regulation, since only profits earned through export activities can be deducted from the

taxable income, and is therefore deemed to be specific and countervailable.

(v) *Calculation of the subsidy amount*

- (49) The Indian exporting producer, being an EOU, was eligible for income tax exemption under Section 10B of the Income Tax Act, and introduced a claim for deduction during the IP. The benefit was calculated by applying the notional tax rate which would have been applied on the profits if no deduction would have been made.
- (50) On this basis, the company obtained benefits under this scheme at a rate of 0,15 %.

(d) *Other subsidy schemes*

- (51) The investigation has determined that the exporting producer did not use any of the other investigated schemes. It is therefore not necessary to assess their countervailability.

(e) *Amount of countervailable subsidies*

- (52) The amount of countervailable subsidies in accordance with the provisions of the basic Regulation, expressed *ad valorem*, for the investigated exporter is 2,5 %. This rate is below the de minimis level, and, under these circumstances, the subsidy margin for India has to be considered negligible.

2. Indonesia

(a) *Introduction*

- (53) Further to the consultations referred to in recital 4, the Commission services decided to limit the investigation to two schemes (BKPM and Cakung EPZ). Accordingly, a questionnaire was sent to the Government of Indonesia requesting the relevant information. However, the Government of Indonesia subsequently did not provide any reply to the questionnaire. Therefore, no verification visit to the Government of Indonesia was carried out. The sole known exporting producer in Indonesia did not reply to the questionnaire, despite an extension of the deadline for submitting the reply. In view of the above non-cooperation, this company was duly informed that definitive findings for it would be based on the facts available pursuant to Article 28(1) of the basic Regulation, with the consequence, in accordance with Article 28(6) of the basic Regulation, that the result may be less favourable for it than if it had cooperated. In accordance with Article 26(1) of the basic Regulation, no verification visit was carried out at the premises of this exporting producer.

(54) Consequently, in accordance with Article 28 of the basic Regulation, subsidisation and export price have to be determined on the basis of facts available. The Commission considered it appropriate to base its findings on the information submitted in the complaint as well as information available from a previous anti-subsidy proceeding concerning Indonesia ⁽¹⁾. In accordance with Article 28(5), this information was also checked, where possible, against data from independent sources.

(b) *BKPM Schemes*

(55) It appears from the complaint that this exporting producer availed itself of benefits available from the Investment Coordinating Board (BKPM), which is a government agency in charge of planning and promotion of investment.

(56) The previous investigation cited above has shown that the BKPM may approve both foreign (PMA) and domestic (PMDN) investments. Companies that are approved as PMA or PMDN companies will be granted exemption or relief from import duty and levies on the importation of capital goods, namely machinery, equipment, spare parts and auxiliary equipment, as well as on the importation of raw materials.

(57) The BKPM schemes constitute a subsidy as the financial contribution by the Government of Indonesia in the form of unpaid duties confers a direct benefit upon the recipient.

(58) The schemes do not qualify as drawback schemes in accordance with the provisions of Annexes I to III to the basic Regulation, since capital goods are not consumed in the production process and there is no obligation to export the finished product containing the raw materials.

(59) The BKPM schemes are not contingent in law upon export performance or the use of domestic goods over imported goods.

(60) The criteria for eligibility are set by BKPM and appear to be updated frequently. The BKPM schemes explicitly limit access to the subsidy to certain enterprises which are not operating in certain sectors. Also, the granting authorities can exercise a certain discretion during the approval process, and eligibility is not automatic.

(61) The BKPM schemes are therefore not in line with Article 3(2)(b) of the basic Regulation, which stipulates that the granting authority must establish objective criteria which are neutral, do not favour certain enterprises over others, and which are economic in nature and horizontal in application. Hence, these programmes are considered to be specific under Article 3(2)(a) of the basic Regulation since they explicitly limit access to the subsidy to certain

enterprises. The fact that the exporting producer and the Indonesian Government did not cooperate made it impossible to determine precisely to what extent this producer has availed itself of the scheme.

(c) *Indonesian bonded zones — Cakung EPZ*

(62) The address of the non-cooperating exporting producer indicates that its facilities are located in the Cakung export processing zone, which is an area designated as 'Nusantara bonded zone'. The company confirmed this information. Companies located in such a zone are eligible for certain benefits that are normally not available to companies located outside these zones, notably an exemption from import duty on goods to be used in the production of exported finished products.

(63) The exporting producer, in choosing not to cooperate, did not provide any evidence that he did not use the benefits available within such a zone. In order not to reward non-cooperation, and given that it has been established that the exporting producer is indeed located in an EPZ, the Council is entitled to assume that such benefits have been used.

(64) In accordance with findings in previous investigations, a duty drawback scheme operating within such zones constitutes a financial contribution by the Government, since revenues otherwise due are forgone and a benefit is conferred on the recipient.

(65) Such a drawback scheme constitutes a subsidy which is contingent in law upon export performance within the meaning of Article 3(4)(a) of the basic Regulation, since it cannot be obtained without the company accepting an export obligation, and is therefore deemed to be specific and countervailable.

(66) The fact that the exporting producer did not cooperate made it impossible to determine whether imports under this scheme would qualify for any exception as specified in the Annexes to the basic Regulation, since it could not be established that imported goods are indeed incorporated into the exported product and that no excess remissions have occurred.

(d) *Conclusion on subsidies*

(67) On the basis of facts available in accordance with Article 28 of the basic Regulation, there is evidence of the existence of countervailing subsidies which are available to the non-cooperating exporting producer, and a reasonable indication that such subsidies have been used. For the purpose of measures, it will be assumed, in accordance with the previous investigation, that one part (50 %) are domestic subsidies and the other part (50 %) constitute export subsidies, since only one of the two schemes, the EPZ, was considered as an export subsidy.

⁽¹⁾ Council Regulation (EC) No 978/2000 (OJ L 113, 12.5.2000, p. 1).

- (68) It is considered that the absence of cooperation is the result of the use and benefit by this producer of the countervailable subsidies at a level above the *de minimis* level for Indonesia. Accordingly, and in order to avoid granting a bonus for non-cooperation, in view of the information contained in the complaint as well as the findings of the previous investigation the definitive subsidy margin expressed as a percentage of the cif import price at the Community frontier duty unpaid applicable for all Indonesian exporting producers is as follows:

all exporters: 10,0 %.

D. INJURY

1. Preliminary remark

- (69) Given that only one Indian exporting producer cooperated in the investigation and that the Community industry comprises only one company, specific data relating to these companies have been indexed or put in the form of a range in order to preserve the confidentiality of the data submitted in accordance with Article 29 of the basic Regulation.

2. Community production

- (70) It was established that, in addition to the two complainant Community producers' output, production was also taking place in Italy and Spain. Although the Italian company involved did not supply complete data to the Commission, the information received confirmed that, during the IP, it represented a share of around 10 % of total Community production. As regards the Spanish company, which did not supply complete data to the Commission, it was found that in 2001 it produced negligible volumes of the product concerned, while it imported a major portion of its sales from one of the countries concerned. It was concluded therefore that it should be considered as an importer rather than a producer.
- (71) It was also found that a company located in the UK had formerly been involved in the production of a certain type of RBM. This company confirmed in writing that its production of the product concerned ceased some years ago. No other producers in the Community are known.
- (72) Based on the above, the production of the complainants and the other Community producer located in Italy constitute the total Community production within the meaning of Article 9(1) of the basic Regulation.

3. Definition of the Community industry

(a) Community industry

- (73) Of the two complainant producers one did not reply to the questionnaire (Krause) and was considered to be non-cooperating. This producer, even though supporting the complaint, was therefore not regarded as being part of the Community industry. Regarding the other

producer (Koloman), it was found that this company not only produced the like product in the Community during the IP, but also produced parts of it in Hungary. In addition to its Community production, Koloman traded the Hungarian products in the Community and also used parts produced in Hungary for its Community production. Moreover, part of the production of the cooperating Community producer was relocated at the beginning of the year 2000 by means of transfer of certain machinery from Austria to Hungary. However, despite the foregoing, the core activity of this company remained in the Community, i.e. head office, warehousing, sales office, production of a significant amount of the product range, as well as significant technical and marketing know-how. The imported sales completed the product range of the like product and did not therefore affect the Koloman's status as Community producer. As to the production of parts in Hungary and their subsequent incorporation into the finished product, the investigation established that these incorporated parts represented only a minor proportion of the cost of production of the finished products and thus, of the added value. Consequently, the status of the producer as Community producer is not affected by these imports.

- (74) The investigation confirmed that the sole cooperating Community producer represented more than 25 % of the Community production of RBMs, thus fulfilling the requirements of Article 10(8) of the basic Regulation. It was therefore deemed to constitute the Community industry within the meaning of Article 9(1) of the same Regulation and will be hereinafter referred to as 'the Community industry'.

(b) Events occurring after the investigation period

- (75) In November 2001, i.e. after the end of the IP, the cooperating Community producer Koloman went into receivership and as a result of a liquidation procedure, was taken over by an Austrian company, whose parent company, located in the UK, also acquired the Hungarian affiliate of Koloman.
- (76) The acquirers confirmed to the Commission their ongoing support of the complaint.

(c) Community consumption

- (77) The apparent Community consumption was established on the basis of the sales volumes of the Community industry on the Community market, the sales of the other Community producers on the Community market as reported in the complaint, duly adjusted as concerns the IP, information provided by the cooperating exporting producer and Eurostat import data. Account was taken of the fact that CN code 8305 10 00 also covers products not included in the scope of this proceeding. However, with regard to Indonesia, given

the lack of cooperation of Indonesian exporters, best facts available were used, i.e. Eurostat data. In this respect, based on the complaint as best evidence available, all imports under the abovementioned CN code were considered to constitute the product concerned. The non-cooperating Indonesian exporter claimed that its exports to the Community market were around 15 % lower than the import volumes used. However, this claim could not be verified and the difference was such that it could be explained by the ratio used to convert Eurostat statistics, which are in tonnes, to units. On this basis, Community consumption increased by 5 % between 1998 and the IP. In more detail, it remained relatively stable between 1998 and 1999 and then steadily increased until the end of the IP when it was found to be around 348 million units.

4. Imports from the country concerned

- (78) It is recalled that the proceeding against India is terminated. Therefore, only imports from Indonesia are being analysed as imports from the remaining country concerned.

(a) Volume of subsidised imports

- (79) Even if imports volume originating in Indonesia decreased between 1998 and 2000 and then slightly rose again between 2000 and the IP, it should be noted that while imports from the country concerned only started in 1997, they were already significant in 1998 and were at a level of 32 million pieces in the IP.

(b) Market share of subsidised imports

- (80) The market shares held by Indonesian imports were found to be between 8 % and 13 %, having decreased by around two percentage points since 1998.

(c) Prices of subsidised imports

(i) Price evolution

- (81) The weighted average import prices of imports originating in Indonesia decreased by - 5 % between 1998 and the IP, i.e. from ECU 105 per thousand units to EUR 99 per thousand units. The decrease was particularly marked between 1998 and 1999 when prices fell by 3 % and between 2000 and the IP when they fell by 2 %.

(ii) Undercutting

- (82) Given the lack of cooperation from Indonesian exporters, the price comparison was made on the basis of Eurostat data duly adjusted for customs duties and post importation costs and compared, at the same level of trade, to Community producers' ex-works prices.

- (83) On that basis, the price undercutting was reviewed and amended when necessary on the basis of information provided during the additional verification visits. Imports from Indonesia were found to undercut Community industry prices between 30 % and 40 %. It should also be noted that there was price suppression since the Community industry was not profitable.

5. Situation of the Community industry

(a) Production

- (84) The Community industry's production followed a downward trend over the period, decreasing by 25 % between 1998 and the IP. A significant decrease took place between 1998 and 1999 (- 15 %). A further significant decrease occurred also between 1999 and 2000 and subsequently production volume remained stable until the end of the IP.

(b) Capacity and capacity utilisation rates

- (85) The production capacity followed the same trend as the production and decreased by 26 % between 1998 and the IP.
- (86) On this basis, the capacity utilisation rate remained stable over the period considered.

(c) Stocks

- (87) The Community industry's end-of-year stocks decreased by 12 % between 1998 and the IP.

(d) Sales in the Community

- (88) Despite an increase in Community consumption, the sales volume of the Community industry fell significantly between 1998 and the IP, by 25 %. A decrease occurred between 1998 and 1999 (- 10 %), and an even more pronounced one between 1999 and 2000, (- 15 %).

(e) Market share

- (89) The market share of the Community industry decreased by more than four percentage points between 1998 and the IP, thus following the same trend as the volume sold.

(f) Prices

- (90) The average net sales price of the Community industry decreased by 4 % between 1998 and the IP. Such a decrease was particularly marked between 1998 and 1999 (- 6 %), i.e. when the import prices of the country concerned significantly decreased, as explained in recital 81.

(g) Profitability

- (91) The weighted average profitability of the Community industry deteriorated by 10 percentage points between 1998 and the IP and became a loss as from 2000. As a result of this unfavorable development and as mentioned in recital 75, the Community industry had to go into receivership.

(h) Cash flow and ability to raise capital

- (92) The development of the cash flow generated by the Community industry in relation to sales of RBMs is very similar to that of the profitability, i.e. a significant decrease between 1998 and the IP.
- (93) The investigation established that the Community industry's ability to raise capital became more difficult at this time owing to its financial situation and in particular to its deteriorated profitability.

(i) Employment, wages, and productivity

- (94) Employment of the Community industry related to the production of RBMs decreased by 30 % between 1998 and the IP. The total amount of wages as a whole followed a similar trend, falling by 27 % during the same period, thus leading to an increase of the average wage by 5 % between 1998 and the IP. Productivity of the Community industry's workforce, measured as production volume per person employed, increased by 8 % between 1998 and the IP.

(j) Investment and return on investment

- (95) The level of investments decreased by 39 % between 1998 and the IP. The decrease was particularly marked between 1999 and 2000. The investigation showed that most of this capital expenditure was related to replacing or maintaining existing facilities.
- (96) The return on investment, expressed as the relation between the net profits of the Community industry and the net book value of its investments, followed very closely the profitability trend and became negative in 2000.

(k) Growth

- (97) While Community consumption increased by 5 % between 1998 and the IP, the sales volume of the Community industry decreased by around 25 % and the volume of imports concerned remained significant. The Community industry was therefore unable to benefit from the slight increase of the demand on the Community market.

6. Relocation of part of the production

- (98) In order to verify that the deterioration of the situation of the Community industry was not due to a change in the pattern of the Community production, it was also examined whether the relocation of part of the production mentioned in recital 73 (by means of transfer of

machinery from Austria to Hungary), which took place at the beginning of the year 2000, had an effect on the situation of the Community industry. It happened that while the decreasing trend of certain injury indicators was aggravated by this relocation (i.e. production, production capacity and sales volume), the trend of the capacity utilisation and of the average sales prices improved, leading to a limitation of losses. For instance, it was assessed that around 60 % of the decrease in the production was linked to the relocation, and around 80 % of the sales volume decrease, while without this relocation, the price decrease would have been three times higher and the profitability would have lost seven additional percentage points. Given the above, it was concluded that the deterioration of the situation of the Community industry was not due to a change in the pattern of the Community production.

- (99) It has been argued that the core activity of the Community industry is no longer in the Community since the relocation to Hungary allegedly entailed a 60 % decline in its Community production and an 80 % decline in its Community produced sales.
- (100) As already explained in recital 98, the relocation did not entail such a decrease in the Community industry's production, but only a decrease of 15 % of its Community production and 20 % of its Community produced sales. Therefore, the conclusion stated in recital 73 regarding the core activity of the Community industry is confirmed.

7. Conclusion on injury

- (101) A deterioration of the situation of the Community industry (after having taken account of the relocation as outlined in recital 98) has been found by reference to the period considered.
- (102) While the anti-dumping measures on imports of RBMs originating in the People's Republic of China ('the PRC') and Malaysia led to a substantial decrease of imports originating in these countries after 1998, the Community industry could not fully benefit from this development. As from the year 1998, most injury indicators, i.e. production, sales volumes, prices, market share, profitability, return on investment, cash flow and employment, developed negatively. In particular the decrease in the sales prices of the Community industry had a negative effect on its profitability.
- (103) Moreover, while sales of the Community industry decreased between 1998 and the IP, imports originating in Indonesia were substantial. The investigation has shown that during the IP the Indonesian imports were made at prices undercutting those of the Community industry between 30 % and 40 %. In addition, there was price suppression.

- (104) The situation of the Community industry is thus found to have deteriorated to such an extent that it is concluded that the Community industry has suffered material injury.
- (105) It is recalled that after the IP, the poor financial situation led the Community industry to go into receivership.

E. CAUSATION

1. Introduction

- (106) In accordance with Article 8(6) and (7) of the basic Regulation, it was examined whether the imports originating in Indonesia in view of their volume and their effect on prices in RBM Community market, have caused injury to the Community industry to a degree that enables it to be classified as material. Known factors other than the subsidised imports, which could at the same time be injuring the Community industry, were also examined to ensure that possible injury caused by these other factors was not attributed to the subsidised imports from Indonesia.

2. Effect of the subsidised imports

- (107) The volume of the subsidised imports decreased by 14 % between 1998 and the IP, and its corresponding share of the Community market by two percentage points during the same period. However, they remained significant and always held a market share which ranged between 8 % and 13 % between 1998 and the IP. These imports also significantly undercut the prices of the Community industry. The market share of the Community industry decreased by more than four percentage points. At the same time, average prices of the Community went down by 4 %. The actual decline in prices was in fact even higher as outlined in recital 98.
- (108) During the same period, between 1998 and the IP, the situation of the Community industry deteriorated as illustrated by the decrease of sales volume and market share, the price decrease and the substantial deterioration of its profitability, which turned to losses. Thus, the Community industry could not significantly benefit from the imposition of the abovementioned measures against the PRC and Malaysia.
- (109) It has been argued by an Indonesian exporter that Indonesian exports could not have caused injury since they decreased between 1999 and 2000 and held a *de minimis* market share. The same company alleged that imports from Indonesia could not have any real impact on the Community industry since the Community production was five or six times higher than the volume of Indonesian imports.

- (110) It is however recalled that although Indonesian imports decreased between 1998 and 2000, they slightly increased between 2000 and the IP without reaching the level of 1998. In addition, as already explained in recital 80, between 1998 and the IP, Indonesian imports held a market share situated between 8 % and 13 % which is substantial and clearly above *de minimis*. Finally, it is also recalled that the Community industry is clearly defined in recital 74 and that its level of production is far below that which has been alleged by the Indonesian company.

- (111) It can therefore be concluded that the subsidised imports originating in Indonesia have undermined the effects of the anti-dumping measures adopted in 1997 against the PRC and Malaysia and amended in 2000 as regards the PRC, and that they have been a substantive cause of the negative developments as summarised in the preceding paragraphs.

3. Effect of other factors

(a) Imports from other third countries

- (112) Consideration was given to whether factors other than the subsidised imports from Indonesia, might have led to or contributed to the injury suffered by the Community industry and especially whether imports from countries other than Indonesia may have contributed to this situation.
- (113) The import volume from other third countries increased by 17 % between 1998 and the IP while their market share increased by more than five percentage points during the same period. This increase is to a large extent due to the increase in imports originating in India, Hungary and Thailand, whereas in the meantime, imports originating in the PRC and Malaysia significantly decreased owing to the anti-dumping measures imposed in 1997.
- (114) The average unit price of imports from third countries decreased by 16 % between 1998 and the IP. Prices from almost all third countries decreased during this period except prices of imports from the PRC, which due to the effect of the anti-dumping measures increased significantly although reaching the same level as the Hungarian prices only in the IP.

(i) India

- (115) It was firstly examined whether imports originating in India might have contributed to the injury suffered by the Community industry. However, although imports from India increased significantly between 1998 and the IP, they were found to be undercut by the imports from Indonesia whose prices were found to be in a range of 2 % to 30 % lower than prices of Indian imports between 1998 and the IP. In addition, it should be noted that when Indian imports started in 1998, prices of Indian imports were found to be more than 40 % higher

than prices of Indonesian imports for a comparable volume of RBMs. Since then, Indian import prices decreased steadily but have always been above Indonesian prices and were still found to be more than 5 % higher than Indonesian prices during the IP. It is therefore concluded that, although Indian imports have had a negative impact on the situation of the Community industry, the negative impact of the subsidised imports from Indonesia taken in isolation was nonetheless substantial. Indeed, Indonesia was an influential and important player in the Community. Their volume of exports to the Community was lower than that of Indian exports but still substantial. Indonesian exports undercut the Community industry's prices even more than Indian exports. It is also noted that the aforementioned analysis was seriously impeded by the fact that Indonesia did not cooperate and, therefore, no information was available in terms of product types and market segments represented by exports from Indonesia.

(ii) The People's Republic of China

- (116) Consideration was also given to whether the absorption of the anti-dumping measures imposed in 1997 on imports from the PRC might have led to or contributed to the injury suffered by the Community industry. In this respect, it is noteworthy that although the absorption of the duty on imports from the PRC have undermined the effect of the measures imposed in 1997 with regard to the sales prices, those measures still led to a significant reduction of the volumes imported from the PRC as soon as 1998. In addition, it should be noted that while imports from Indonesia only began in 1997, they had already reached around the same level as the imports from the PRC by 1998. Since then, imports from the PRC dramatically decreased while Indonesian imports decreased by a much lesser extent until the IP when these latter imports were still more than three times higher than imports from the PRC. Therefore, given that the import volumes from the PRC were far below the import volumes from Indonesia during the IP, it was concluded that these imports did not have as serious an impact on the Community industry as compared to the effect of the subsidised imports from Indonesia.

(iii) Hungary

- (117) In order to determine whether imports from Hungary, in isolation, caused injury to the Community industry, the level of imports and prices on the Community market were examined.
- (118) The analysis as regards Hungarian imports between 1998 and the IP was based on data provided in the questionnaire reply of the Community producer, whose plant in Hungary represents the sole Hungarian producer.

- (119) During the period considered, imports of RBMs originating in Hungary increased in volume. As to their prices charged by the Community industry on the Community market for its products imported from Hungary, while these decreased during the period considered, they remained the highest amongst the import prices from the other third countries and were undercut by imports from Indonesia.

- (120) The Hungarian production of RBMs of the Community industry was analysed and compared to the Austrian production. It was found that there was very little overlap between the models produced in Austria and Hungary.

- (121) Given this small percentage of models manufactured both in Austria and in Hungary, it was concluded that the Hungarian products completed the product range of the Community industry enabling it to offer a wider choice of models to customers and that they did not affect negatively the situation of the Community industry.

- (122) On the basis of the above, it was concluded that imports from Hungary did not materially contribute to the deterioration of the situation of the Community industry.

(iv) Thailand

- (123) Given that, as already mentioned in Regulation (EC) No 2100/2000 ⁽¹⁾, 'some of the goods of Chinese origin were declared to national customs authorities as being of Thai origin and thus avoided payment of the anti-dumping duties normally due', it was also considered appropriate to evaluate the impact of imports consigned from Thailand.

- (124) In this respect, imports from Thailand significantly increased during the period considered since they started in 1998 with around one million units and rose to more than 23 million units in the IP. In addition, it was established on the basis of Eurostat data, that sales prices of Thai imports were generally below the prices of Indonesian imports.

- (125) However, although Thai prices were found to be around 20 % lower than the prices of the Indonesian imports, it is recalled these latter are more than one third higher than import volumes from Thailand. Therefore, given that the volumes imported from Thailand are still substantially below the volumes imported from Indonesia, it was concluded that these imports could not have had a significant impact as compared to the effect of the subsidised imports from Indonesia.

⁽¹⁾ OJ L 250, 5.10.2000, p. 1.

(126) The analysis in respect of Thailand has been questioned by an Indonesian exporter, which did not cooperate. In this respect, it argued that the level of imports from Indonesia is comparably lower and that prices are higher when compared to Thai imports. It is however recalled that although Thai prices were lower than the prices of the imports from Indonesia, the volumes imported from Indonesia were more than 30 % higher than imports from Thailand. Therefore, the conclusion drawn in recital 125 is confirmed.

(b) *Further factors*

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

(128) It has been contended by the cooperating importers that RBM business is extremely price sensitive and therefore producers must sell large volumes to be competitive. It was also argued by the same parties that the Community industry relies only on the Community market, instead of the world market, which would allow it to be more cost-efficient. On this matter, it is recalled that the ratio of sales of the Community industry inside and outside of the Community did not significantly change between 1998 and the IP. Nevertheless, even though the Community industry was strongly oriented towards the Community market, its export sales permitted the Community industry to be profitable in 1998 at a time when imports from Indonesia were significant.

(129) One user argued that the injury was caused by the strong competition in the office supplies industry. This competition allegedly led the users/distributors of the product concerned to exert a price pressure on the Community industry thus leading to a price decrease. In this respect, it is underlined that the subsidised imports must have significantly worsened the price pressure exerted by the users in the Community, thus causing injury to the Community industry.

(130) Moreover, it was examined whether the price depression could be attributable to the normal course of the RBM business, since prices from almost all sources of supply decreased between 1998 and the IP.

(131) In this respect, it is recalled that the general price decrease should be seen in the light of continued unfair practices, firstly from the PRC and Malaysia, secondly from Indonesia, which have influenced the Community market.

(132) In addition, as mentioned in recital 128, the RBM market is extremely price sensitive. Therefore, given that prices of the Indonesian imports were found to be subsidised and lower than the average unit price of all other imports of RBMs between 1998 and the IP, it is to be

concluded that imports from Indonesia, which held between 8 % and 13 % of the Community market during the IP, have had a price depressive impact on this market.

(133) Finally, it was analysed if the price behaviour of Krause, the non-cooperating Community producer, could have contributed to the injury suffered by the Community industry. The additional examination of data referring to Krause showed that this Community producer itself suffered a deterioration of its situation during the period considered, particularly as concerns sales price and profitability. It appears therefore that it has not contributed to the injury suffered by the Community industry, and that it has been equally negatively affected by the imports from Indonesia, being forced to decrease its prices, like the Community industry.

(134) For all the reasons explained above, it was concluded that the price depression on the Community market should not be seen as representing a normal development of trade, but rather as the consequence of unfair commercial practices of Indonesia.

(135) It was contended by the Indonesian authorities that the Indonesian exports were limited to supplying an Italian producer of ring-binders to complement its product range.

(136) However, this assertion was found to be in contradiction with the statement made by the non-cooperating Indonesian exporter who argued that the sole market where the Indonesian producer has significant market share is the United Kingdom. This is also confirmed by Eurostat.

(137) This latter producer alleged that these Indonesian exports could not cause injury since its main market is the UK where the Community industry does not have any significant activities. However, in addition to the fact that this assumption is in contradiction with the allegation made by the Indonesian authorities, it is also recalled that the injury analysis is made on a Community basis and not on a regional basis.

4. Conclusion on causation

(138) In view of the above, it is concluded that the material injury suffered by the Community industry, which is characterised by a negative development of production, sales volumes, prices, market share, profitability, return on investment, cash flow and employment duly adjusted to take account of the relocation to Hungary, was caused by the subsidised imports concerned. Indeed, the combined effect on the Community industry's situation of imports from India, Thailand and the PRC as well as the partial relocation of Community production was only limited.

- (139) It was also contended by an Indonesian exporter which did not cooperate, that there is a contradiction between the conclusion stated in recital 138 and the fact that there is sufficient evidence to open an expiry review on the PRC.
- (140) In this respect, it should be recalled that the scope of an expiry review is to analyse the situation of the Community market in the perspective of the likelihood of continuation or recurrence of dumping and injury should the measures in force be removed. Consequently, the fact that the deterioration of the Community industry has been attributed during this investigation period to Indonesia does not affect the analysis of the future behaviour in the Community market of Chinese exporters and its likely effect on the situation of the Community industry. It is also recalled that the Chinese market share was at a very low level during the last two years of the period considered.
- (141) Given the analysis, which has properly distinguished and separated the effects of all the known factors on the situation of the Community industry from the injurious effects of the subsidised imports, it is hereby concluded that these other factors as such do not reverse the fact that the material injury found must be attributed to the subsidised imports.

F. COMMUNITY INTEREST

1. Preliminary remark

- (142) It was examined whether compelling reasons existed that could lead to the conclusion that it is not in the Community interest to adopt measures in this particular case. For this purpose, and in accordance with Article 31(1) of the basic Regulation, the impact of possible measures on all parties involved in this proceeding and also the consequences of not taking measures were considered on the basis of all evidence submitted.
- (143) In order to assess the likely impact of the imposition or non-imposition of measures, information was requested from all interested parties. Questionnaires were sent to the two complainant Community producers, two other companies known as producers in the Community, nine unrelated importers, 49 users and one users' association. One complainant Community producer (Koloman), two unrelated importers as well as one user related to those

importers replied to the questionnaire. Another user made a submission without replying to the questionnaire.

- (144) These replies and submissions formed the basis for the Community interest analysis.

2. Interest of the Community industry

(a) Preliminary remark

- (145) Several producers of RBMs in the Community stopped manufacturing the product concerned within the last few years. As to the companies left, the investigation established that, as mentioned in recital 71, a company located in the UK also stopped its production some years ago. As to the company located in Italy, it was found that it did not represent a significant proportion of the production of RBMs in the Community and imported a significant part of its sales. As to the Spanish company it found that it should be considered as an importer rather than a producer since it produced negligible volumes of the product concerned, while it imported more than 90 % of its sales from Indonesia. It is concluded, therefore, that the two complainants are the only Community producers of RBMs with a significant production left.
- (146) It should be recalled that the two complainant Community producers were heavily injured already in the past by imports of RBMs originating in the PRC and Malaysia which, as described in Regulation (EC) No 119/97 ⁽¹⁾, led, *inter alia*, to a 28 % decrease of their workforce between 1992 and October 1995. As shown under recital 94, a further reduction of the Community industry's workforce of 30 % occurred between 1998 and the IP.
- (147) In view of the material injury suffered by the Community industry, it is concluded that, should the Community industry not recover from the unfair subsidisation practices, it is likely that the production in the Community will cease completely and that the users will be significantly dependant on imports.

(b) Financial situation of the Community industry

- (148) The financial situation of the Community industry developed so negatively during the period considered that after the IP the Community industry went into receivership, as mentioned in recital 75. It should be noted that the Community industry's loss-making situation resulted from its difficulty to compete with the low-priced subsidised imports. However, the fact that the cooperating Community producer has been taken over shows that the production of RBMs in the Community is in the process of being restructured and that a strong effort is being made to keep this industry viable and to render it profitable.

⁽¹⁾ OJ L 22, 24.1.1997, p. 1.

(c) *Possible effects of the imposition/non-imposition of measures on the Community industry*

(149) Following the imposition of measures, the restoration of fair market conditions would enable the Community industry to recover lost market share and, by increasing capacity utilisation, to decrease unit production costs and to increase profitability. Furthermore, the measures are expected to have a positive effect on the level of the Community industry's prices. In conclusion, it is expected that the increase in production and sales volume, on the one hand, and the further decrease in unit costs, on the other hand, eventually combined with a moderate price increase, will allow the Community industry to improve its financial situation.

(150) To the contrary, should countervailing measures not be imposed, it is likely that the Community industry would have to further lower its prices and/or continue to lose market share. In both scenarios, the financial situation of the Community industry is likely to worsen. As a further consequence, it is likely that the Community production would, within a short period of time, definitively cease.

(151) Moreover, given that the Community industry does not only produce the product concerned but also other products accounting for about one third of its turnover, it is very likely that the closure of production lines manufacturing RBMs would affect the viability of the whole factory and lead to closure of all production lines with a consequent wider negative effect on employment and investment.

(d) *Possible relocation of the Community industry production*

(152) It was examined whether any measures could be considered as not being in the interest of the Community given the relocation of part of the Community industry production to a third country. The possibility of any further relocation was also examined.

(153) First of all, as explained in recital 98, it is recalled that the relocation, which took place in 2000, permitted the Community industry to limit its losses. In this respect, it was a strategic decision taken to thwart the effect of the subsidised practices. In addition, it is likely that this relocation, by improving the financial situation of the Community industry, had the indirect effect to make it more attractive for the new investor that recently took it over.

(154) As to the risk of any additional relocation, the Commission received satisfactory confirmation that such relocation is not foreseen by the Community industry. In addition, there is no reason to consider that such a move is likely since the restructuring effort combined with the

imposition of countervailing duty should enable the Community industry to enjoy a profitable situation once again.

3. Interest of importers

(155) Certain importers, which however did not purchase RBMs from Indonesia, submitted that switching sources of supply could involve additional costs or transitional problems. More particularly, the importers underlined that owing to the anti-dumping measures imposed in 1997, they had already been forced to change their source of supply.

(156) However, it is recalled that the purpose of countervailing measures is not to force importers or users to change their source of supply but to restore fair competition on the Community market. In addition, these importers also recognised that a number of other third countries could easily produce RBMs and they foresaw no difficulties in sourcing from a country not covered by countervailing measures. Moreover, they could also trade Community producers' products. Therefore any problems resulting from a possible switching of supply are likely to be temporary and unlikely to offset the positive effect on the Community industry of countervailing measures against injurious subsidies.

4. Interest of users and consumers

(a) Users

(157) It has been alleged both by the cooperating unrelated importers and user (ring-binder producer) that the imposition of countervailing measures would have a serious adverse impact on the financial situation of the users.

(158) In this respect, the likely effect on users' cost of production of the countervailing measures imposed on Indonesia was assessed. In this respect an estimation was undertaken of what would be the impact of the measures proposed against Indonesia on a user having as sole source of supply imports from Indonesia (worst case scenario). On this basis the impact of the measures proposed against Indonesia would be evaluated as an increase in the cost of production of around 1,3 %. As already explained, this is an entirely hypothetical scenario since no user cooperated which only sourced the product concerned from Indonesia.

(159) In view of the above findings, it was concluded that the impact of countervailing duties on users would be negligible. In more general terms, given the lack of cooperation from other users, it is likely that the cost impact on all other users would be similarly negligible.

- (160) The cooperating user claimed that, as happened in the past three years, when it had to relocate part of its production outside the Community and to close three plants following the imposition of anti-dumping measures on RBMs originating in the PRC and Malaysia, countervailing measures on imports originating in Indonesia, by increasing the prices of one of the items of its cost of production, could entail a further move of its ring-binder production outside of the Community and/or closure of the relevant plants. This would risk affecting its whole activity, i.e. also the manufacturing of other products, whose plants would be delocalised as well, with significant job losses in the Community.
- (161) As a general remark, it should be noted that the risk of relocation of the downstream industry owing to the countervailing measures is tempered by the fact that part of the binder market is business to business oriented and that it is fundamental that users are close to their customers, have a flexible production ready to meet the demand and a sound knowledge of the market. The investigation showed in fact that the main criteria customers of ring-binder producer take into account in their choice are price, quality and service, as well as speedy delivery. In addition, as already explained in recitals 157 to 158, the financial impact of the countervailing measures on the downstream industry was found to be negligible. Finally, the fact that only one binder producer fully cooperated with the investigation, tends to confirm the conclusion that countervailing measures will not have a decisive impact on users.
- (162) In addition, certain interested parties pointed out that the relocation of several users that have occurred in the past years was due to the high cost of production in the Community. This confirms that any relocation should be seen in the wider context of the overall cost structure in which, as already explained, countervailing measures represent a negligible portion.
- (163) As regards the specific situation of the cooperating user, the investigation showed that, although this user relocated part of its production outside the Community between 1998 and the IP, i.e. after the imposition of anti-dumping measures against the PRC and Malaysia, this user in fact changed its source of supply after the imposition of anti-dumping measures against the PRC and Malaysia, purchasing RBMs from the cooperating importers which in turn, as from 1998, started to import from India to the detriment of the PRC. It seems therefore difficult to establish a link between the move of the ring-binder production of that user outside the Community and the imposition of anti-dumping duties on imports from the PRC and Malaysia. Moreover, as already shown in recital 159, countervailing duties have a negligible impact on the users' cost of production.
- (164) It was found that the relocation described above should rather be seen as the consequence of the external-oriented strategy of this user which acquired a number of companies during the last years. This strategy eventually led to a consolidation and a restructuring of the different entities of the group, certain amongst which have been closed. The relocation of some plants outside the Community should be seen as part of this strategy, which aims to strengthen the position of that user over the Community market and to develop its presence in Eastern Europe.
- (165) Before the above background, and in view of the negligible impact the level of the duties imposed is likely to have on the user concerned, it appears unlikely that the countervailing measures against Indonesia would, as such, entail a further move of its ring-binder production outside of the Community.
- (166) As regards the closure of plants and the risk of further closures linked to the imposition of countervailing measures against Indonesia, it was found that the cooperating user closed three plants in the past three years, when measures on the PRC and Malaysia were in force. In view of the negligible impact the measures would have on the cost of production and on the financial situation of the user in question, as explained under recital 164, it is unlikely that the measures on the PRC and Malaysia led, on their own, to the closure of these plants and that the countervailing measures on imports from Indonesia would cause a closure of other plants.
- (b) *Consumers*
- (167) It should be mentioned that the product concerned is not sold at retail level and that no consumers' association made themselves known and participated to this investigation.
- (168) The cooperating user also argued that countervailing measures would increase the price paid by the final customer of ring-binders, i.e. consumers. However, in view of the above explanation regarding the impact on ring-binder producers, any increase in the final sales price to consumers of ring-binders is likely not to be significant.

- (169) In addition, the investigation showed that the cooperating user sells its products mainly to distributors. In the worst scenario, should the cost increase that the users might suffer be passed on in full until the final consumer, this would entail a price increase of a maximum of 4 % for the final consumer. However, this is unlikely to occur since general experience shows that each step in the distribution chain is likely to support part of its costs increase in order to stay competitive on its market.
- (170) On the basis of the above, the impact on users of RBMs and consumers of ring-binders was considered not to constitute a compelling reason against the imposition of countervailing measures, as the possible negative effect is unlikely to offset the positive effect on the Community industry of countervailing measures against injurious subsidies.

(c) Impact on competition

- (171) It was also examined whether the imposition of countervailing measures on imports from Indonesia could lead to a situation where the Community industry could benefit from dominant position on the Community market, in particular in view of the anti-dumping measures imposed in 1997 on imports from the PRC and Malaysia and in view of the restructuring of the Community industry.
- (172) First of all, it is recalled that the Community industry held, during the IP, a market share which only ranged between 10 % and 15 %. The two complainant Community producers taken together would have held, during the IP, a market share ranging between 32 % and 37 %. Even in the event of including Koloman's imports in the market share held by both complainants together, this market share would have ranged from 47 % to 52 % of the Community market in the IP. In addition, it is recalled that, although the Commission initiated a review of the measures against the PRC, this review does not concern imports from Malaysia. Also RBMs can still be imported from India. Therefore it is considered very unlikely that the imposition of countervailing measures against Indonesia would lead to any negative effect on competition of the Community industry on the Community market. Finally, it is recalled that the imposition of anti-dumping measures on imports from the PRC and Malaysia likewise did not lead to any kind of dominance for the Community industry, even if no other sources of supply but these two countries existed at the time.
- (173) On the other hand, as already explained in recital 150, it is likely that without measures to correct the effects of subsidised imports, Community production will, within a short period of time, no longer be viable and therefore cease. It would certainly not be in the interest of the users that the Community industry would cease its production of the product concerned. Indeed, on the

one hand, the sole user that cooperated purchased between 20 % and 50 % of its RBMs from the Community industry between 1998 and the IP. On the other hand, should the Community industry definitely cease the production of RBMs, users would be significantly dependent on imports.

- (174) Should measures be imposed, several alternative sources of supply still exist. RBMs are being or can be purchased from the Community industry, the other Community producers, India and Hong Kong. In addition, imports from Malaysia are likely to recommence since measures against this country recently expired. Moreover, the investigation has shown that the imposition of anti-dumping measures on imports from the PRC and Malaysia did not entail any shortage of the product concerned. Finally, it is recalled that the impact of the measures on users was found to be negligible, and that the product concerned will therefore quite likely still be imported from Indonesia.

5. Conclusion on Community interest

- (175) Given the above reasons, it is concluded that there are no compelling reasons against the imposition of countervailing duties.

G. DEFINITIVE MEASURES

1. Injury elimination level

- (176) In view of the conclusions reached with regard to subsidisation, injury, causation and Community interest, definitive countervailing measures should be imposed at a level sufficient to eliminate the injury caused to the Community industry by the subsidised imports.
- (177) In accordance with Article 15(1) of the basic Regulation, the Commission examined what level of duty would be adequate to remove the injury to the Community industry caused by subsidisation. For that purpose, it was considered that a price level based on the Community producers' cost of production together with a reasonable profit margin should be calculated.
- (178) Here it was found that a profit margin of 5 % of turnover could be regarded as a reasonable minimum, taking into account the need for long-term investment and, more particularly, the amount which the Community industry could have been expected to obtain in the absence of injurious subsidisation.
- (179) Given the lack of cooperation, it was considered that the injury elimination level should, cover the difference between this calculated price and the cif prices adjusted as explained in recital 82.
- (180) The injury elimination levels found was 42,30 % for imports from Indonesia.

2. Definitive countervailing measures

- (181) In light of the foregoing and in accordance with Article 15(1) of the basic Regulation, the countervailing duty rate should correspond to the subsidy margin, which was lower than the injury margin. The following rate of duty therefore applies:

Indonesia (all companies): 10,0 %

- (182) In order to meet the deadline set out in Article 11(9) of the basic Regulation, the present Regulation should enter into force on the day of its publication,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive countervailing duty is hereby imposed on imports of certain ring-binder mechanisms, falling within CN code ex 8305 10 00 (TARIC codes 8305 10 00 10 and 8305 10 00 20) and originating in Indonesia. For the purpose of this Regulation, ring-binder mechanisms shall consist of two rectangular steel sheets or wires with at least four half-rings made of steel wire fixed on it and which are kept together by a

steel cover. They can be opened either by pulling the half-rings or with a small steel-made trigger mechanism fixed to the ring-binder mechanism.

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

Country	Definitive duty (%)
Indonesia	10,0

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

4. The proceeding concerning imports of certain ring-binder mechanisms originating in India is hereby terminated.

Article 2

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

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

Done at Luxembourg, 4 June 2002.

For the Council

The President

R. DE RATO Y FIGAREDO

COMMISSION REGULATION (EC) No 978/2002
of 7 June 2002
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 8 June 2002.

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

Done at Brussels, 7 June 2002.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

⁽¹⁾ OJ L 337, 24.12.1994, p. 66.

⁽²⁾ OJ L 198, 15.7.1998, p. 4.

ANNEX

to the Commission Regulation of 7 June 2002 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	35,8
	999	35,8
0707 00 05	052	95,2
	220	143,3
	628	156,8
	999	131,8
0709 90 70	052	81,1
	999	81,1
0805 50 10	052	71,2
	388	64,0
	528	58,8
	999	64,7
0808 10 20, 0808 10 50, 0808 10 90	388	88,7
	400	113,3
	404	115,0
	508	85,8
	512	83,1
	524	71,6
	528	76,8
	720	120,4
	804	105,3
	999	95,6
0809 10 00	052	166,2
	624	247,3
	999	206,8
0809 20 95	052	355,8
	400	273,0
	999	314,4

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2020/2001 (OJ L 273, 16.10.2001, p. 6). Code '999' stands for 'of other origin'.

COMMISSION DECISION No 979/2002/ECSC

of 3 June 2002

amending Commission Decision No 1758/2000/ECSC imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of non-alloy steel originating in the People's Republic of China, India and Romania, and withdrawing an undertaking with regard to certain exporters in Romania

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Commission Decision No 2277/96/ECSC of 28 November 1996 on protection against dumped imports from countries not members of the European Coal and Steel Community ⁽¹⁾ (the Basic Decision) as last amended by Decision No 435/2001/ECSC, ⁽²⁾ and in particular Articles 8 and 9 thereof,

After consulting the Advisory Committee,

Whereas:

A. PREVIOUS PROCEDURE

- (1) Following an investigation initiated by means of a notice published in the *Official Journal of the European Communities*, ⁽³⁾ the Commission, by Decision No 1758/2000/ECSC, ⁽⁴⁾ imposed definitive anti-dumping duties on imports of certain hot-rolled flat products of non-alloy steel originating in the People's Republic of China, India and Romania, accepted an undertaking with regard to certain exporters in India and Romania and collected definitively the provisional duties imposed.
- (2) The undertaking of the Romanian companies constitutes a joint undertaking, signed by Sidex SA, the exporting producer, and co-signed by 10 traders, selling only the product concerned being produced by Sidex SA.

B. VOLUNTARY WITHDRAWAL OF THE UNDERTAKING

- (3) The Commission has been informed that the Romanian company Sidex SA has been acquired by the LNM Group and changed its name into Ispat Sidex SA. Ispat-Sidex SA advised the Commission that it wishes to withdraw the undertaking formerly signed by Sidex SA. Due to the collective character of the undertaking, this entails the withdrawal of the undertaking in respect of the co-signatories as well. Accordingly, the name of Sidex SA should be deleted from the list of companies whose products are exempted from the anti-dumping duty pursuant to Article 1(3) of Decision No 1758/2000/ECSC and the names of Sidex SA and its co-signatories Sidex Trading SRL, Metalexportimport SA, Metanef SA, Metagrimex Business Group SA, Uzinsider SA, Uzinxport SA, Shiral Trading Impex SRL, Metaltrade International '97 SRL, Romilexim Trading Limited SRL and Metal SA should be deleted from the list of companies from which undertakings were accepted in Article 2(1) of Decision No 1758/2000/ECSC,

HAS ADOPTED THIS DECISION:

Article 1

The undertakings offered by the following companies and accepted by Decision No 1758/2000/ECSC in connection with this anti-dumping proceeding are hereby withdrawn:

Country	Company	TARIC additional code
Romania	Sidex SA, Galati	A069
	Sidex Trading SRL, Galati	A179
	Metalexportimport SA, Bucurest	A179
	Metanef SA, Bucurest	A179
	Metagrimex Business Group SA, Bucurest	A179
	Uzinsider SA, Bucurest	A179
	Uzinxport SA, Bucurest	A179
	Shiral Trading Impex SRL, Bucurest	A179
	Metaltrade International '97 SRL, Bucurest	A179
	Romilexim Trading Limited SRL, Bucurest	A179
	Metal SA, Galati	A179'

⁽¹⁾ OJ L 308, 29.11.1996, p. 11.

⁽²⁾ OJ L 63, 3.3.2001, p. 14.

⁽³⁾ OJ C 133, 13.5.1999, p. 17.

⁽⁴⁾ OJ L 202, 10.8.2000, p. 21.

Article 2

Article 1(3) of Decision No 1758/2000/ECSC is replaced by the following:

'3. The duties shall not apply to imports of the product concerned, manufactured by Steel Authority of India Ltd and originating in India, when the goods are directly exported (i.e. shipped and invoiced) by that company to the importer in the Community and provided that the conditions of Article 2(2) are fulfilled.'

Article 3

In Article 2(1) of Decision No 1758/2000/ECSC, the table is replaced by the following:

Country	Company	TARIC additional code
India	Steel Authority of India Ltd, New Delhi	A178'

Article 4

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

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

Done at Brussels, 3 June 2002.

For the Commission

Pascal LAMY

Member of the Commission

COMMISSION REGULATION (EC) No 980/2002
of 4 June 2002
amending Regulation (EC) No 2082/2000, adopting Eurocontrol standards
(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 93/65/EEC of 19 July 1993, on the definition and use of compatible technical specifications for the procurement of air traffic management equipment and systems ⁽¹⁾, as last amended by Commission Directive 97/15/EC ⁽²⁾, and in particular Article 3 thereof,

Whereas:

- (1) Directive 97/15/EC adopting Eurocontrol standards and amending Directive 93/65/EEC on the definition and use of compatible technical specification for the procurement of air traffic management equipment and systems, as amended by Regulation (EC) No 2082/2000 ⁽³⁾, adopted the Eurocontrol standard for On-Line Data Interchange (OLDI), edition 1.0 and the Eurocontrol standard for Air Traffic Services Data Exchange Presentation (ADEXP), edition 1.0.
- (2) Regulation (EC) No 2082/2000 adopted two more recent versions of those two Eurocontrol standards, namely OLDI edition 2.2 and ADEXP edition 2.0, as well as a new Eurocontrol standard named Flight Data Exchange — Interface Control Document (FDE-ICD).
- (3) Eurocontrol has since adopted amendments to OLDI edition 2.2 and ADEXP edition 2.0.

- (4) These amendments to the Eurocontrol standards fall within the scope of Directive 93/65/EEC and contribute to the harmonisation of Member States' air traffic management national systems, particularly concerning the transfer of flights between air traffic control centres (OLDI) and the air traffic flow management (ADEXP).
- (5) These amendments include in particular an indication of equipment capabilities of the flight and are necessary to facilitate smooth and safe introduction of several programs aiming at capacity increases.
- (6) Regulation (EC) No 2082/2000 should therefore be amended accordingly.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Committee instituted by Article 6(1) of Directive 93/65/EEC,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and II to Regulation (EC) No 2082/2000 are amended in accordance with the Annex of this Regulation:

Article 2

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

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

Done at Brussels, 4 June 2002.

For the Commission
Loyola DE PALACIO
Vice-President

⁽¹⁾ OJ L 187, 29.7.1993, p. 52.

⁽²⁾ OJ L 95, 10.4.1997, p. 16.

⁽³⁾ OJ L 254, 9.10.2000, p. 1.

ANNEX

Annexes I and II are amended as follows:

1. Annex I is amended as follows:

(a) Point 6.2.2 is replaced by the following:

'6.2.2. *Message contents*

The ABI message shall contain the following items of data:

- message type,
- message number,
- aircraft identification,
- SSR mode and code (if available),
- departure aerodrome,
- estimate data,
- destination aerodrome,
- aircraft number and type,
- type of flight,
- equipment capability and status,
- route (optional),
- other flight plan data (optional).

NOTE: *Data insertion rules, formats and field contents are specified at Annex A.*

(b) Points 6.2.5.1 and 6.2.5.2 are replaced by the following:

'6.2.5.1. I C A O

(ABIE/L001-AMM253/A7012-LMML-BNE/1221F350-EGBB-9/B757/M-15/N0480F390 UB4 BNE
UB4 BPK UB3 HON-80/N-81/W/EQ Y/NO)

6.2.5.2. A D E X P

TITLE ABI -REFDATA -SENDER -FAC E -RECVR -FAC L -SEQNUM 001 -ARCID AMM253
-SSRCODE A7012 - ADEP LMML -COORDATA -PTID BNE -TO 1221 -TFL F350 -ADES EGBB
-ARCTYP B757 -FLTYP N -BEGIN EQCST -EQPT W/EQ -EQPT Y/NO -END EQCST-ROUTE
N0480F390 UB4 BNE UB4 BPK UB3 HON).

(c) Point 6.3.2 is replaced by the following:

'6.3.2. *Message contents*

The ACT message shall contain the following items of data:

- message type,
- message number,
- aircraft identification,
- SSR mode and code,
- departure aerodrome,
- estimate data,
- destination aerodrome,
- aircraft number and type,
- type of flight,
- equipment capability and status,
- route (optional),
- other flight plan data (optional).

NOTE: *Data insertion rules, formats and field contents are specified at Annex A.*

(d) Points 6.3.5.1 and 6.3.5.2 are replaced by the following:

'6.3.5.1. I C A O

(ACTE/L005-AMM253/A7012-LMML-BNE/1226F350-EGBB-9/B757/M-15/N0480F390 UB4 BNE UB4 BPK UB3 HON-80/N-81/W/EQ Y/NO)

6.3.5.2. A D E X P

-TITLE ACT -REFDATA -SENDER -FAC E -RECVR -FAC L -SEQNUM 005 -ARCID AMM253 -SSRCODE A7012 -ADEP LMML -COORDATA -PTID BNE -TO 1226 -TFL F350 -ADES EGGB -ARCTYP B757 -FLTYP N-BEGIN EQCST-EQPT W/EQ -EQPT Y/NO -END EQCST-ROUTE N0480F390 UB4 BNE UB4 BPK UB3 HON'.

(e) Point 7.3.2. is replaced by the following:

'7.3.2. Message contents

The REV message shall contain the following items of data:

- message type,
- message number,
- aircraft identification,
- departure aerodrome,
- estimate data and/or coordination point,
- destination aerodrome,
- message reference (optional),
- SSR mode and code (optional),
- route (optional),
- equipment capability and status (optional).

NOTE: Data insertion rules, formats and field contents are specified at Annex A.'

(f) Points 7.3.3.1.2., 7.3.3.1.3. and 7.3.3.1.4. are replaced by the following:

'7.3.3.1.2. The following elements shall be subject to revisions:

- ETO at the COP,
- transfer level(s),
- SSR code,
- equipment capability and status.

7.3.3.1.3. A REV message shall be sent when:

- the ETO at the COP differs from that in the previous message by more than a value bilaterally agreed, rounded to the nearest integer value,
- there is any change to the transfer level(s), SSR code or equipment capability and status.

7.3.3.1.4. Where bilaterally agreed, a REV message shall be sent when there is any change in the following:

- COP,
- route.

NOTE: Operational rules may require that modifications effected after ACT be subject to prior coordination between the units concerned.'

(g) Points 7.3.3.2.1. and 7.3.3.2.2. are replaced by the following:

'7.3.3.2.1. I C A O format

All revision messages include field types 3, 7, 13, 14 and 16. The following rules apply:

- a change to the ETO at the COP or transfer level(s) shall be incorporated by the inclusion of the revised data in field 14,
- a change to the SSR code shall be included as elements (b) and (c) of field 7,

All other modifications are included in field 22 format after the initial five fields. The following rules apply:

- fields included in field 22 format can be in any order relative to each other,

- changes to the COP shall be incorporated as field 14 data in field 22 format (see Appendix B — Special route processing requirements),
- route changes shall be incorporated as field 15 data in field 22 format. Rules for the coordination of such changes, including direct routings, are specified in Annex B Special Route Processing Requirements,
- equipment Capability and Status; only the capability or capabilities being changed shall be included. A message changing a capability that results in the need to include data concerning an additional capability as specified in Annex A paragraph A.30 shall include the additional capability.

7.3.3.2.2. A D E X P format

All revision messages in ADEXP format shall include the following primary fields: TITLE REFDATA ARCID ADEP ADES. The following rules apply:

- a change to the ETO at the COP or transfer level(s) shall be incorporated by the inclusion of the revised data in primary field COORDATA,
- the primary field COP shall be included unless a change to the ETA or transfer level(s) requires the use of primary field COORDATA. It shall contain the COP through which the flight is currently co-ordinated or, if the COP is being amended, the COP through which the flight had previously been coordinated,
- changes to the COP shall be incorporated using primary field COORDATA (see Appendix B — Special route processing requirements). Such messages shall also include primary field COP as stated above,
- changes to the route shall be incorporated using primary field ROUTE. Rules for the coordination of such changes, including direct routings, are specified in Annex B — Special route processing requirements,
- a change to the SSR Code shall be indicated by the inclusion of primary field SSRCODE,
- a change to equipment capability and status shall utilise primary field EQCST; only the capability or capabilities being changed shall be included. A message changing a capability that results in the need to include data concerning an additional capability as specified in Annex A paragraph A.30 shall include the additional capability.'

(h) Points 7.3.5.1 and 7.3.5.2 are replaced by the following:

7.3.5.1. I C A O

- (a) (REVE/L002-AMM253-LMML-BNE/1226F310-EGBB)
- (b) (REVE/L010-AMM253/A2317-LMML-BNE/1226F310-EGBB)
- (c) (REVE/L019-AMM253-LMML-BNE/1237F350-EGBB-81/W/NO)
- (d) (REVBC/P873-BAF4486-EBMB-NEBUL/2201F250-LERT-81/W/NO U/EQ)

7.3.5.2. A D E X P

- (a) -TITLE REV -REFDATA -SENDER -FAC E -RECVR -FAC L -SEQNUM 002 -ARCID AMM253 -ADEP LMML -COORDATA -PTID BNE -TO 1226 -TEL F310 -ADES EGBB
- (b) -TITLE REV -REFDATA -SENDER -FAC E -RECVR -FAC L -SEQNUM 010 -ARCID AMM253 -ADEP LMML -COP BNE -ADES EGBB -SSRCODE A2317
- (c) -TITLE REV -REFDATA -SENDER -FAC E -RECVR -FAC L -SEQNUM 019 -ARCID AMM253 -ADEP LMML -COP BNE -ADES EGBB -BEGIN EQCST -EQPT W/NO -END EQCST
- (d) -TITLE REV -REFDATA -SENDER -FAC BC -RECVR -FAC P -SEQNUM 873 -ARCID BAF4486 -ADEP EBMB -COP NEBUL -ADES LERT -BEGIN EQCST -EQPT Y/NO -EQPT U/EQ -END EQCST'.

(i) Annex A is amended as follows:

- In the list of contents the following points A.29 and A.30 are added:
 - 'A.29. Type of flight
 - A.30. Equipment capability and status'
- The following point A.2.2.a is inserted:
 - 'A.2.2.a In some instances a pseudo ICAO field type number is used where a suitable ICAO field does not exist. Such numbers contain two digit values equal to or greater than 80.'

— Point A.14. is replaced by the following:

'A.14. This field allows the option of including in specified messages flight plan data not normally included as part of the coordination procedure and not described elsewhere in this Appendix. The inclusion of the following items as described in Reference 1, Appendix 2, Field types 8 and 18 are permitted:

- flight rules,
- registration markings,
- name of the operator,
- reason for special handling by ATS,
- type,
- performance,
- name of departure, destination, alternate aerodromes
- plain language remarks.

A.14.1. I C A O

Field type 8, element (a) Flight rules in field type 22 format.

One or more of the following field type 18 elements in field type 22 format:

REG, OPR, STS, TYP, PER, DEP, DEST, ALTN, RALT, RMK.

A.14.2. ADEXP

Primary fields: "fltrul", "depz", "destz", "opr", "per", "reg", "rmk", "altrnt1", "altrnt2", "sts", and "typz".

— The following points A.29. and A.30. are added:

'A.29. **Type of flight**

This item shall be as filed in the flight plan or equivalent data originating from an alternative source. The letter X shall be inserted if the type of flight is omitted in the flight plan or it is not known for any other reason.

A.29.1. I C A O

The type of flight shall be inserted as a single letter in field type 22 format utilising the pseudo field type number 80.

A.29.2. A D E X P

Primary field "flttyp".

A.30. **Equipment capability and status**

This item indicates the capability and status of equipment that is either a pre-requisite for flight in certain airspaces or on specified routes or has a significant effect on the provision of ATC service. The presence of a capability is identified in the flight plan but may be found to be incorrect or to have changed during the flight. The equipment capability and status specifies the current status.

The status of the following items shall be included:

- RVSM capability,
- 8.33 kHz RTF equipage.

The status of the following shall be included for State flights as specified in the type of flight in the flight plan for which 8.33 kHz RTF equipment is not known to be available for use:

- UHF equipage.

A.30.1. I C A O

The data shall be inserted in field type 22 format utilising the pseudo field number 81.

Two elements shall be inserted for each capability:

- the equipment capability expressed as a single letter as specified in field type 10 "Equipment" in the ICAO flight plan (see Appendix 3 of Reference 1), followed immediately by,

- element separator — oblique stroke (/), followed immediately by,
- status expressed as two letters.

The status shall be expressed by the use of following indicators as applicable to the flight:

- (a) EQ meaning the flight is equipped and the equipment is available for use by the flight;
- (b) NO meaning the flight is not equipped or for any reason the equipment cannot be used by the flight;
- (c) UN meaning compliance with the capability is unknown.

The first capability group shall be inserted directly after the oblique stroke following the field number. Subsequent groups shall be separated by a space character. The order of equipment capabilities is not significant.

A.30.2. A D E X P

Primary field "EQCST"

2. In Annex II Annex A is amended as follows:

(a) In point A.2. the following entries are added:

Auxiliary term	Syntax	Semantic	Used in primary field	Used in subfield	Used in auxiliary
'eqptcode	1 {ALPHANUM} 2	Code which identifies an equipment capability. May be identical to equipment code		eqpt	
eqptstatus	2 {ALPHA} 2	Two letter status value describing the status of the aircraft capability.		eqpt'	

(b) In point A.3. the following entry is added:

ADEXP primary	Kind	Syntax	Semantic
'eqcst	b	' ' "BEGIN" "EQCST" 1 {eqpt} ' ' "END" "EQCST"	List of equipment capability codes each followed by a status value which specifies the current status of the capability'

(c) In point A.4. the following entry is added:

Subfield	Kind	Syntax	Semantic	Used in primary field	Used in subfield
'eqpt	b	' ' "EQPT" eqptcode ! ' ' ! eqptstatus	Equipment capability code followed by a status value which specifies the current status of the capability	eqcst'	

COMMISSION REGULATION (EC) No 981/2002**of 7 June 2002****amending Regulation (EC) No 537/2002 opening an invitation to tender for the reduction in the duty on maize imported into Portugal from third countries**

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⁾, and in particular Article 12(1) thereof,

Whereas:

- (1) Pursuant to the Agreement on Agriculture concluded during the Uruguay Round of multilateral trade negotiations, the Community has undertaken to import a certain quantity of maize into Portugal.
- (2) Commission Regulation (EC) No 1839/95 of 26 July 1995 laying down detailed rules for the application of tariff quotas for imports of maize and sorghum into Spain and imports of maize into Portugal ⁽³⁾, as last amended by Regulation (EC) No 2235/2000 ⁽⁴⁾, lays down the rules governing the administration of those special arrangements. This Regulation lays down the special additional detailed rules necessary for implementing the invitation to tender, in particular those relating to the lodging and release of the security to be lodged by operators to ensure compliance with their obligations and, in particular, the obligation to process or use the imported product on the Portuguese market.

(3) Commission Regulation (EC) No 537/2002 ⁽⁵⁾, as amended by Regulation (EC) No 775/2002 ⁽⁶⁾, opened an invitation to tender for the reduction in the duty on maize imported into Portugal from third countries. The last partial invitation to tender pursuant to Regulation (EC) No 537/2002 should be postponed.

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

HAS ADOPTED THIS REGULATION:

Article 1

Article 1(2) of Regulation (EC) No 537/2002 is replaced by the following:

‘2. The invitation to tender shall be open until 27 June 2002. During that period, weekly invitations shall be issued with quantities and closing dates as shown in the notice of invitation to tender.’

Article 2

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

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

Done at Brussels, 7 June 2002.

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 177, 28.7.1995, p. 4.

⁽⁴⁾ OJ L 256, 10.10.2000, p. 13.

⁽⁵⁾ OJ L 82, 26.3.2002, p. 3.

⁽⁶⁾ OJ L 123, 9.5.2002, p. 21.

COMMISSION REGULATION (EC) No 982/2002**of 7 June 2002****laying down the marketing standards for cultivated mushrooms**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 545/2002 ⁽²⁾, and in particular Article 2(2),

Whereas:

- (1) Cultivated mushrooms are among the products listed in Annex I to Regulation (EC) No 2200/96 for which standards must be adopted. To that end, and in the interest of preserving transparency on the world market, account should be taken of the standard for cultivated mushrooms recommended by the Working Party on Standardisation of Perishable Produce and Quality Development of the United Nations Economic Commission for Europe (UNECE).
- (2) Application of these standards should remove products of unsatisfactory quality from the market, bring production into line with consumer requirements and facilitate trade based on fair competition, thereby helping to improve profitability.
- (3) The standards are applicable at all marketing stages. Long-distance transport, storage over a certain period and the various processes the products undergo may cause some degree of deterioration owing to the biological development of the products or their perishable nature. Account should be taken of such deterioration when applying the standard at the marketing stages following dispatch.

(4) As products in the 'Extra' class have to be particularly carefully sorted and packaged, only lack of freshness and turgidity is to be taken into account in their case.

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

HAS ADOPTED THIS REGULATION:

Article 1

The marketing standard for cultivated mushrooms of genus *Agaricus* falling within CN code 0709 51 00 shall be as set out in the Annex.

The standard shall apply at all marketing stages under the conditions laid down in Regulation (EC) No 2200/96.

However, at stages following dispatch, products may show, in relation to the requirements of the standard, a slight lack of freshness and turgidity; products graded in classes other than the 'Extra' class may show in addition slight deteriorations due to their development and their tendency to perish.

Article 2

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

It shall apply from 1 January 2003.

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

Done at Brussels, 7 June 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 297, 21.11.1996, p. 1.

⁽²⁾ OJ L 84, 28.3.2002, p. 1.

ANNEX

STANDARD FOR CULTIVATED MUSHROOMS (*AGARICUS*)

1. DEFINITION OF PRODUCE

This standard applies to the carpophores (fruiting bodies) of strains grown from the genus *Agaricus* (syn. *Psalliota*), to be supplied fresh to the consumer, mushrooms for industrial processing being excluded.

Mushrooms are classified into the following commercial types, whereas these first of all are classified into two groups:

- uncut mushrooms, which have the lower part of the stalk uncut,
- cut mushrooms, which have the lower part of the stalk cut. The cut must be clean and approximately perpendicular to the longitudinal axis;

in both groups a distinction is made between successive stages of development:

- closed mushrooms (or equivalent denomination), i.e. mushrooms with the cap completely closed,
- veiled mushrooms, i.e. mushrooms, the cap of which is connected to the stalk by the veil,
- open mushrooms, i.e. mushrooms with an open cap (open cap or flat; a slight downturn of the edges of the cap is required),
- flat mushrooms, i.e. mushrooms which are fully open (but the edges of the cap are neither too cupped nor inverted);

mushrooms are further classified into two colour groups:

- 'white'
- 'brown' or 'chestnut'.

2. PROVISIONS CONCERNING QUALITY

The purpose of the standard is to define the quality requirements of mushrooms after preparation and packaging.

A. Minimum requirements

In all classes, subject to the special provisions for each class and the tolerances allowed, the mushrooms must be:

- intact; cut mushrooms complying with the definition are regarded as intact,
- sound, produce affected by rotting, severe browning in the stalk or deterioration such as to make it unfit for consumption is excluded,
- clean, practically free of any visible foreign matter, other than casing material,
- fresh in appearance, account should be taken of the typical gill colour of the strain and/or commercial type,
- practically free from pests,
- practically free from damage caused by pests,
- free of abnormal external moisture,
- free of any foreign smell and/or taste;

the development and condition of the mushrooms must be such as to enable them:

- to withstand transport and handling, and
- to arrive in satisfactory condition at the place of destination.

B. Classification

The mushrooms are classified in three classes defined below:

(i) 'Extra' Class

Mushrooms in this class must be of superior quality. In shape, appearance, development and colouring they must be characteristic of the commercial type. They must be well formed.

They must be free from defects with the exception of very slight superficial defects provided these do not affect the general appearance of the produce, the quality, the keeping quality and presentation in the package.

The mushrooms must be practically free of casing material; uncut mushrooms may also have traces of casing material on the foot.

(ii) Class I

Mushrooms in this class must be of good quality. In shape, appearance, development and colouring they must be characteristic of the commercial type.

the following slight defects, however, may be allowed provided these do not affect the general appearance of the produce, the quality, the keeping quality and presentation in the package:

- slight defect in shape,
- slight defect in colouring,
- slight superficial blemishes provided they are not progressive,
- slight superficial bruising,
- slight traces of casing material; uncut mushrooms may also have some casing material on the foot.

(iii) Class II

This class includes mushrooms which do not qualify for inclusion in the higher classes but satisfy the minimum requirements specified above.

The following defects may be allowed provided the mushrooms retain their essential characteristics as regards the quality, the keeping quality and presentation:

- defect in shape,
- defect in colouring,
- slight blemishes,
- slight bruising,
- hollow stalks,
- traces of casing material; uncut mushrooms may also have some casing material on the foot.

3. PROVISIONS CONCERNING SIZING

Size is determined by the maximum diameter of the cap and the length of the stalk, according to the following specifications.

Minimum size

The minimum cap diameter must be at least 15 mm for closed cap, veiled and open mushrooms and 20 mm for flat mushrooms.

Length of stalk

The length of the stalk is measured:

- from the gills under the cap for open and flat mushrooms,
- from the veil for closed and veiled mushrooms.

Sizing is compulsory for mushrooms in 'Extra' Class according to following table, mushrooms of Classes I and II having to meet the specified size ranges if the terms 'small', 'medium' or 'large' are indicated:

Closed, veiled and open mushrooms			
Diameter of cap		Maximum length of stalk	
Size	Size limits	Cut mushrooms	Uncut mushrooms
Small	15-45 mm	1/2 of cap diameter	2/3 of cap diameter
Medium	30-65 mm		
Large	50 mm and over		

Flat mushrooms			
Diameter of cap		Maximum length of stalk	
Size	Size limits	Cut mushrooms	Uncut mushrooms
Small	20-55 mm	2/3 of cap diameter	
Large	50 mm and over		

4. PROVISIONS CONCERNING TOLERANCES

Tolerances in respect of quality and size shall be allowed in each package for produce not satisfying the requirements of the class indicated.

A. **Quality tolerances**

(i) 'Extra' Class

5 % by number or weight of mushrooms not satisfying the requirements of the class, but meeting those of Class I or, exceptionally, coming within the tolerances of that class.

(ii) Class I

10 % by number or weight of mushrooms not satisfying the requirements of the class, but meeting those of Class II or, exceptionally, coming within the tolerances of that class.

(iii) Class II

10 % by number or weight of mushrooms with their stalk missing and 10 % by number or weight of mushrooms satisfying neither the requirements of the class nor the minimum requirements, for other reasons, with the exception of produce affected by rotting or any other deterioration rendering it unfit for consumption.

B. **Special tolerances for the stage of development**

(i) 'Extra' Class

5 % in total by number or weight of mushrooms of the previous stage of development and of mushrooms of the next stage of development are allowed.

(ii) Class I

10 % in total by number or weight of mushrooms of the previous stage of development and of mushrooms of the next stage of development are allowed.

(iii) Class II

Mushrooms of different stages of development can be mixed in each package. However, when the stage of development is indicated, a maximum of 25 % in total by number or weight of mushrooms of the previous stage of development and of mushrooms of the next stage of development are allowed.

C. **Size tolerances**

For all classes: 10 % by number or weight of mushrooms not conforming to the sizes indicated.

5. PROVISIONS CONCERNING PRESENTATION

A. **Uniformity**

The contents of each package must be uniform and contain only mushrooms of the same origin, commercial type, stage of development (subject to provisions under IV(B) above), quality, and size (if sized).

Sales packages of a net weight not exceeding 1 kilo may contain mixtures of mushrooms of different colours, provided they are uniform in quality, stage of development and size (if sized) and, for each colour concerned, in origin.

The visible part of the contents of the package must be representative of the entire contents.

B. **Packaging**

The mushrooms must be packed in such a way as to protect the produce properly.

The materials used inside the package must be new, clean and of a quality such as to avoid causing any external or internal changes to the produce. The use of materials, particularly of paper or stamps bearing trade specifications is allowed, provided the printing or labelling has been done with non-toxic ink or glue.

Packages must be free of all foreign matter including excessive casing material.

6. PROVISIONS CONCERNING MARKING

Each package must bear the following particulars, in letters grouped on the same side, legibly and indelibly marked, and visible from the outside:

A. Identification

Packer and/or dispatcher: name and address or officially issued or accepted code mark. However, in the case where a code mark is used, the reference 'packer and/or dispatcher' (or equivalent abbreviations) has to be indicated in close connection with the code mark.

B. Nature of produce

- If the contents are not visible from the outside:
 - cultivated mushrooms,
 - 'cut' or 'uncut',
 - colour if not 'white';
- Stage of development (optional),
- In the case of sales packages containing a mixture of mushrooms of different colours, names of the different colours.

C. Origin of produce

- Country of origin and, optionally, district where grown, or national, regional or local place name,
- In the case of sales packages containing a mixture of mushrooms of different colours of different origins, the indication of each country of origin shall appear close to the name of the colours concerned.

D. Commercial specifications

- Class,
- Sized (if sized) expressed as minimum and maximum cap diameters or by the term 'small', 'medium' or 'large',
- Net weight.

E. Official control mark (optional)

COMMISSION REGULATION (EC) No 983/2002**of 7 June 2002****fixing the maximum export refund on wholly milled round grain rice in connection with the invitation to tender issued in Regulation (EC) No 2007/2001**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Commission Regulation (EC) No 411/2002 ⁽²⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) An invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2007/2001 ⁽³⁾.
- (2) Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 299/95 ⁽⁵⁾, allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund. In fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund.

(3) The application of the abovementioned criteria to the current market situation for the rice in question results in the maximum export refund being fixed at the amount specified in Article 1.

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

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refund on wholly milled round grain rice to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 2007/2001 is hereby fixed on the basis of the tenders submitted from 31 May to 6 June 2002 at 110,00 EUR/t.

Article 2

This Regulation shall enter into force on 8 June 2002.

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

Done at Brussels, 7 June 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 62, 5.3.2002, p. 27.

⁽³⁾ OJ L 272, 13.10.2001, p. 13.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 35, 15.2.1995, p. 8.

COMMISSION REGULATION (EC) No 984/2002**of 7 June 2002****fixing the maximum export refund on wholly milled medium grain and long grain A rice to be exported to certain European third countries, in connection with the invitation to tender issued in Regulation (EC) No 2008/2001**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organization of the market in rice ⁽¹⁾, as last amended by Commission Regulation (EC) No 411/2002 ⁽²⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) An invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2008/2001 ⁽³⁾.
- (2) Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 299/95 ⁽⁵⁾, allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund. In fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund.

(3) The application of the abovementioned criteria to the current market situation for the rice in question results in the maximum export refund being fixed at the amount specified in Article 1.

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

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refund on wholly milled medium grain and long grain A rice to be exported to certain European third countries pursuant to the invitation to tender issued in Regulation (EC) No 2008/2001 is hereby fixed on the basis of the tenders submitted from 31 May to 6 June 2002 at 99,00 EUR/t.

Article 2

This Regulation shall enter into force on 8 June 2002.

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

Done at Brussels, 7 June 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 62, 5.3.2002, p. 27.

⁽³⁾ OJ L 272, 13.10.2001, p. 15.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 35, 15.2.1995, p. 8.

COMMISSION REGULATION (EC) No 985/2002**of 7 June 2002****fixing the maximum export refund on wholly milled round grain, medium grain and long grain A rice to be exported to certain third countries in connection with the invitation to tender issued in Regulation (EC) No 2009/2001**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Commission Regulation (EC) No 411/2002 ⁽²⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) An invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2009/2001 ⁽³⁾.
- (2) Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 299/95 ⁽⁵⁾, allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund. In fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund.

(3) The application of the abovementioned criteria to the current market situation for the rice in question results in the maximum export refund being fixed at the amount specified in Article 1.

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

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refund on wholly milled grain, medium grain and long grain A rice to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 2009/2001 is hereby fixed on the basis of the tenders submitted from 31 May to 6 June 2002 at 80,00 EUR/t.

Article 2

This Regulation shall enter into force on 8 June 2002.

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

Done at Brussels, 7 June 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 62, 5.3.2002, p. 27.

⁽³⁾ OJ L 272, 13.10.2001, p. 17.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 35, 15.2.1995, p. 8.

COMMISSION REGULATION (EC) No 986/2002**of 7 June 2002****fixing the maximum export refund on wholly milled long grain rice in connection with the invitation to tender issued in Regulation (EC) No 2010/2001**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Commission Regulation (EC) No 411/2002 ⁽²⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) An invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2010/2001 ⁽³⁾.
- (2) Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 299/95 ⁽⁵⁾, allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund. In fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund.

(3) The application of the abovementioned criteria to the current market situation for the rice in question results in the maximum export refund being fixed at the amount specified in Article 1.

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

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refund on wholly milled long grain rice to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 2010/2001 is hereby fixed on the basis of the tenders submitted from 31 May to 6 June 2002 at 150,00 EUR/t.

Article 2

This Regulation shall enter into force on 8 June 2002.

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

Done at Brussels, 7 June 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 62, 5.3.2002, p. 27.

⁽³⁾ OJ L 272, 13.10.2001, p. 19.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 35, 15.2.1995, p. 8.

COMMISSION REGULATION (EC) No 987/2002**of 7 June 2002****concerning tenders submitted in response to the invitation to tender for the export of husked long grain rice to the island of Réunion referred to in Regulation (EC) No 2011/2001**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Commission Regulation (EC) No 411/2002 ⁽²⁾, and in particular Article 10(1) thereof,

Having regard to Commission Regulation (EEC) No 2692/89 of 6 September 1989 laying down detailed rules for exports of rice to Réunion ⁽³⁾, as amended by Regulation (EC) No 1453/1999 ⁽⁴⁾, and in particular Article 9(1) thereof,

Whereas:

- (1) Commission Regulation (EC) No 2011/2001 ⁽⁵⁾ opens an invitation to tender for the subsidy on rice exported to Réunion.
- (2) Article 9 of Regulation (EEC) No 2692/89 allows the Commission to decide, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, to make no award.

(3) On the basis of the criteria laid down in Articles 2 and 3 of Regulation (EEC) No 2692/89, a maximum subsidy should not be fixed.

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

HAS ADOPTED THIS REGULATION:

Article 1

No action shall be taken on the tenders submitted from 3 to 6 June 2002 in response to the invitation to tender referred to in Regulation (EC) No 2011/2001 for the subsidy on exports to Réunion of husked long grain rice falling within CN code 1006 20 98.

Article 2

This Regulation shall enter into force on 8 June 2002.

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

Done at Brussels, 7 June 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30.12.1995, p. 18.

⁽²⁾ OJ L 62, 5.3.2002, p. 27.

⁽³⁾ OJ L 261, 7.9.1989, p. 8.

⁽⁴⁾ OJ L 167, 2.7.1999, p. 19.

⁽⁵⁾ OJ L 272, 13.10.2001, p. 21.

II

(Acts whose publication is not obligatory)

COUNCIL

DECISION No 1/2002 OF THE ACP-EC COUNCIL OF MINISTERS
of 31 May 2002
extending Decision No 1/2000 regarding transitional measures
(2002/415/EC)

THE ACP-EC COUNCIL OF MINISTERS,

Having regard to Article 7 of Decision No 1/2000 of the ACP-EC Council of Ministers of 27 July 2000 regarding transitional measures valid from 2 August 2000 until the entry into force of the ACP-EC Partnership Agreement ⁽¹⁾,

Whereas:

- (1) The new ACP-EC Partnership Agreement, hereinafter referred to as 'the Agreement', was signed in Cotonou on 23 June 2000. The Agreement will not enter into force until the requirements set out in Article 93(3) thereof have been fulfilled.
- (2) The ACP-EC Council of Ministers adopted transitional measures by Decision No 1/2000.
- (3) In accordance with Article 7 of Decision No 1/2000, the Decision shall apply until the Agreement enters into force but no longer than 1 June 2002. Given that the Agreement will not have entered into force by that date, the Council of Ministers should decide to extend the application of Decision No 1/2000 until the Agreement enters into force,

HAS DECIDED AS FOLLOWS:

Article 1

Article 7 of Decision No 1/2000 of the ACP-EC Council of Ministers shall be replaced by the following:

'Article 7

Entry into force and validity of this Decision

This Decision shall enter into force on 2 August 2000. It shall apply until the Agreement enters into force.'

Article 2

This Decision shall enter into force on the day of its adoption.

Done at Brussels, 31 May 2002.

For the ACP-EC Council of Ministers

The Chairman

M. L. KPAKOL

⁽¹⁾ OJ L 195, 1.8.2000, p. 46.

COMMISSION

COMMISSION DECISION

of 6 June 2002

amending for the 10th time Decision 2000/284/EC establishing the list of approved semen collection centres for imports of equine semen from third countries

(notified under document number C(2002) 2041)

(Text with EEA relevance)

(2002/416/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 92/65/EEC of 13 July 1992, laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A (I) to Directive 90/425/EEC ⁽¹⁾, as last amended by Commission Decision 2001/298/EC ⁽²⁾, and in particular Articles 17(3)(b) thereof,

Whereas:

- (1) Commission Decision 2000/284/EC ⁽³⁾, as last amended by Decision 2002/339/EC ⁽⁴⁾, established the list of approved semen collection centres for imports of equine semen from third countries.
- (2) The competent authorities of New Zealand officially informed the Commission of the approval in accordance with the provisions of Directive 92/65/EEC of an equine semen collection centre.
- (3) It is appropriate to amend the list in the light of new information received from the third country concerned, and to highlight the amendments in the Annex for clarity.

- (4) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Decision 2000/284/EC is replaced by the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 6 June 2002.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 268, 14.9.1992, p. 54.

⁽²⁾ OJ L 102, 12.4.2001, p. 63.

⁽³⁾ OJ L 94, 14.4.2000, p. 35.

⁽⁴⁾ OJ L 116, 3.5.2002, p. 63.

- 1 Versión — Udgave — Fassung vom — Έκδοση — Version — Version — Versione — Versie — Versão — Tilanne — Version
- 2 Código ISO — ISO-kode — ISO-Code — Κωδικός ISO — ISO-code — Code ISO — Codice ISO — ISO-code — Código ISO — ISO-koodi — ISO-kod
- 3 Tercer país — Tredjeland — Drittland — Τρίτη χώρα — Third country — Pays tiers — Paese terzo — Derde land — País terceiro — Kolmas maa — Tredje land
- 4 Nombre del centro autorizado — Den godkendte stations navn — Name der zugelassenen Besamungsstation — Όνομα του εγκεκριμένου κέντρου — Name of approved centre — Nom du centre agréé — Nome del centro riconosciuto — Naam van het erkende centrum — Nome do centro aprovado — Hyväksytyn aseman nimi — Tjurstationens namn
- 5 Dirección del centro autorizado — Den godkendte stations adresse — Anschrift der zugelassenen Besamungsstation — Διεύθυνση του εγκεκριμένου κέντρου — Address of approved centre — Adresse du centre agréé — Indirizzo del centro riconosciuto — Adres van het erkende centrum — Endereço aprovado — Hyväksytyn aseman osoite — Tjurstationens adress
- 6 Autoridad competente en materia de autorización — Godkendelsesmyndighed — Zulassungsbehörde — Εγκρίνουσα αρχή — Approving authority — Autorité d'agrément — Autorità che rilascia il riconoscimento — Autoriteit die de erkenning heeft verleend — Autoridade de aprovação — Hyväksyntäviranomainen — Godkännandemyndighet
- 7 Número de autorización — Godkendelsesnummer — Registriernummer — Αριθμός έγκρισης — Approval number — Numéro d'agrément — Numero di riconoscimento — Registratienummer — Número de aprovação — Hyväksyntänumero — Godkännandennummer
- 8 Fecha de la autorización — Godkendelsesdato — Zulassungsdatum — Ημερομηνία έγκρισης — Approval date — Date d'agrément — Data di approvazione — Datum van erkenning — Data da aprovação — Hyväksyntäpäivä — Datum för godkännandet

1: 10.5.2002

2	3	4	5	6	7	8
AE	UNITED ARAB EMIRATES ^(b)					
AR	ARGENTINA	Haras El Atalaya	91 Cuartel 17 Arrecifes Buenos Aires	SENASA	I-E14 (Integral-Equino 14)	27.3.1998
AU	AUSTRALIA	Alabar Bloodstock Corporation	Koyuga (Near Echuca) Victoria 3622			
AU		Beef Breeding Services, Qld DPI	Grindle Rd, Wacol Qld 4076			
AU		Kinnordy Stud Mr H. Schmorl	MS 465, Cambooya Qld 4358			
AU		Equine Artificial Breeding Services 'Lumeah'	Miriam Bentley Hume Highway Mullengandra NSW 2644	AQIS	NSW-AB-H-01	21.2.2001

1: 10.5.2002						
2	3	4	5	6	7	8
BB	BARBADOS ^(b)					
BG	BULGARIA					
BH	BAHRAIN ^(b)					
BM	BERMUDA ^(b)					
BO	BOLIVIA ^(b)					
BR	BRAZIL					
BY	BELARUS					
CA	CANADA	Ferme Canaco	89 Rang St. André St. Bernard de Lacolle Co. St. Jean, Quebec, J0J 1V0	CFIA	4-EQ-01	23.2.2000
CA		Amstrong Brothers	14709 Hurontario Street Inglewood, Ontario, L0N 1K0	CFIA	5-EQ-01	12.2.1997
CA		Zorgwijk Stables Ltd	508 Mt. Pleasant Road, R.R.2 Brantford, Ontario, N3T 5L5	CFIA	5-EQ-02	6.4.1999
CA		Tara Hills Stud	13700 Mast Road, R.R.4 Port Perry, Ontario, L9L 1B5	CFIA	5-EQ-03	26.1.2000
CA		Taylorlane Farm	R.R.2 Orton, Ontario, L0N 1N0	CFIA	5-EQ-04	13.1.2000
CA		Earl Lennox	R.R.2 Orton, Ontario, L0N 1N0	CFIA	5-EQ-05	15.3.2000
CA		Rideau Field Farm	756 Heritage Drive, R.R.4 Merrickville, Ontario, K0G 1N0	CFIA	5-EQ-06	4.5.1998

1: 10.5.2002						
2	3	4	5	6	7	8
CA		Glengate Farms	P.O. Box 220, 8343 Walker's Line Campbellville, Ontario, L0P 1B0	CFIA	5-EQ-07	31.1.1995
CA		Gencor The Genetic Corporation	R.R.5 Guelph Ontario, N1H 6J2	CFIA	5-EQ-08	10.1.1997
CA		Jou Veterinary Service	2409 Alps Road, R.R.1 Ayr Ontario, N0B 1E0	CFIA	5-EQ-09	30.10.2000
CA		AE Breeding Farm Dr Mike Zajac	19619 McGowan Road Mount Albert Ontario, L0G 1M0	CFIA	5-EQ-10	2.3.2000
CA		Equine Reproduction Services	Box 877, Turner Valley Alberta, T0L 2A0	CFIA	7-EQ-01	20.11.2000
CA		Meadowview Ilene Poole	23052 Twp Rd 521 Sherwood Park Alberta, T8B 1G6	CFIA	7-EQ-01	1.2.2002
CH	SWITZERLAND	Eidgenössisches Gestüt/Haras fédéral/Istituto Federale dell'allevamento equino Avenches	CH-1580 Avenches	Bundesamt für Veterinärwesen	CH-AI-4E	13.2.1997
CH		Besamungsstation Pferde, Gestüt Hanaya	Expohof CH-8165 Schleinikon	Bundesamt für Veterinärwesen	CH-AI-8E	6.5.1999
CL	CHILE					
CU	CUBA ^(b)					
CY	CYPRUS					
CZ	CZECH REPUBLIC					
DZ	ALGERIA					
EE	ESTONIA					
EG	EGYPT ^(b)					

1: 10.5.2002						
2	3	4	5	6	7	8
FK	FALKLAND ISLANDS					
GL	GREENLAND					
HK	HONG KONG ^(b)					
HR	CROATIA					
HU	HUNGARY					
IL	ISRAEL					
IS	ICELAND	Gunnarsholt	Saedingastod Gunnarsholti 851 Hella	Iceland Veterinary Services	H001	20.12.1999
JO	JORDAN ^(b)					
JP	JAPAN ^(b)					
KG	KYRGYZSTAN ^(b)					
KR	REPUBLIC OF KOREA ^(b)					
KW	KUWAIT ^(b)					
LB	LEBANON ^(b)					
LI	LITHUANIA					
LV	LATVIA					
LY	LIBYA ^(b)					
MA	MOROCCO					
MK ^(a)	FORMER YUGOSLAV REPUBLIC OF MACEDONIA					

1: 10.5.2002						
2	3	4	5	6	7	8
MO	MACAO ^(b)					
MT	MALTA					
MU	MAURITIUS					
MY	MALAYSIA (PENINSULA) ^(b)					
MX	MÉXICO	CEPROSEM Club Hípico 'La Silla'	Monterrey Nuevo León	SAGARPA	02-19-05-96-E	2.8.2001
NZ	NEW ZEALAND	Animal Breeding Services Ltd	3680 State Highway 3 RD2, Hamilton	MAF	NZSEQ1-001	27.3.2002
OM	OMAN ^(b)					
PE	PERU ^(b)					
PL	POLAND					
PM	ST. PIERRE AND MIQUELON					
PY	PARAGUAY					
QA	QATAR ^(b)					
RO	ROMANIA					
RU	RUSSIA					
SA	SAUDI ARABIA ^(b)					
SG	SINGAPORE ^(b)					
SI	SLOVENIA					
SK	SLOVAK REPUBLIC					
SY	SYRIA ^(b)					
TH	THAILAND ^(b)					
TN	TUNISIA					

1: 10.5.2002						
2	3	4	5	6	7	8
UA	UKRAINE					
US	USA	The Old Place	PO box 90 Mt. Holly, AR 71758	APHIS	00AR001-EQS	19.7.2000
US		OS CEDROS, USA	8700 East Black Mountain Road Scottsdale, AZ 85262	APHIS	02AZ001-EQS	7.1.2002
US		Steve Cruse>Show Horses	29251 N. Hayden Road Scottsdale, AZ 85262	APHIS	02AZ002-EQS	28.1.2002
US		Kellog Arabian Horse Center	3801 W. Temple Ave Pomona, CA 71758	APHIS	97CA002-EQS	22.5.1997
US		Mariana Farm	Valley Center, CA 92082	APHIS	98CA001-EQS	14.11.1997
US		Advanced Equine Reproduction	1145 Arroyo Mesa Road Solvang, CA 93463	APHIS	98CA002-EQS	12.8.1997
US		Pacific International Genetics	14300 Jackson Road Sloughhouse, CA 95683	APHIS	98CA003-EQS	23.1.1998
US		Alamo Pintado Equine Clinic	2501 Santa Barbara Ave Los Olivos, CA 93441	APHIS	98CA004-EQS	23.2.1998
US		Anaheim Hills Saddle Club	6352 E. Nohl Ranch Road Anaheim, CA 92807	APHIS	98CA005-EQS	23.3.1998
US		Valley Oak Ranch	10940 26 Mile Road Oakdale, CA 95361	APHIS	99CA006-EQS	2.4.1999
US		Jeff Oswood Stallion Station	21860 Ave. 160 Porterville, CA 93257	APHIS	99CA007-EQS	8.4.1999
US		Magness Racing Ventures	4050 Casey Ave Santa Ynez, CA 93460	APHIS	00CA008-EQS	10.12.1999
US		Crawford Stallion Services	34520 DePortola Temecula, CA 92592	APHIS	00CA010-EQS	20.1.2000
US		Exclusively Equine Reproduction	28753 Valley Center Road Temecula, CA 92082	APHIS	00CA011-EQS	2.3.2000

1: 10.5.2002						
2	3	4	5	6	7	8
US		Santa Lucia Farms	1924 W. Hwy 154 Santa Ynez, CA 93460	APHIS	01CA012-EQSE	16.2.2001
US		Specifically Equine Veterinary Service	910 W. Hwy 246 Buellton, CA 93427	APHIS	01CA013-EQS	20.5.1997
US		Bishop Lane Farms	5525 Volkerts Road Sabastopol, CA 95472	APHIS	01CA014-EQSE	19.3.2001
US		Hunter Stallion Station	10163 Badger Creek Lane Wilton, CA 95693	APHIS	02CA016-EQS	14.2.2002
US		Colorado State University Equine Reproduction Center	3194 Rampart Road Fort Collins, CO 80523	APHIS	02CO001-EQS	13.2.2002
US		Candlewood Equine	2 Beaver Pond Lane Bridgewater, CT 06752	APHIS	00CT001-EQS	1.3.2000
US		Windbank Farm	1620 Choptank Road Middletown, DE 19075	APHIS	01DE001-EQS	7.6.2001
US		Peterson & Smith Reproduction Center	15107 S.E. 47th Ave Summerfield, FL 34491	APHIS	00FL001-EQS	10.1.2000
US		Silver Maple Farm	6621 Daniels Road Naples, FL 34109	APHIS	00FL002-EQS	26.1.2000
US		University of Florida College of Veterinary Medicine	2015 SW 16th Avenue Gainesville, FL 32601	APHIS	01FL003-EQS	15.5.2001
US		Double L Quarter Horse	1881 E. Berry Road Cedar Rapids, IA 52403	APHIS	96IA001-EQS	2.1.1996
US		Jim Dudley Quarter Horses	Rt. 1, Box 137 Latimer, IA 50452	APHIS	98IA002-EQS	26.5.1998
US		Grandview Farms	123 West 200 South Huntington, IN 46750	APHIS	99IN001-EQS	16.12.1999
US		Ed Mulick	4333 Straightline Pike Richmond, IN 47374	APHIS	00IN002-EQS	13.3.2000
US		Gumz Farms Quarter Horses	7491 S 100 W North Judson, IN 46366	APHIS	00IN003-EQS	3.7.2000

1: 10.5.2002						
2	3	4	5	6	7	8
US		White River Equine Centre	707 Edith Ave Noblesville, IN 46060	APHIS	01IN004-EQS	15.3.2001
US		Meadowbrook Farms	3400S. 143rd Street East Wichita, KS 67232	APHIS	01KS001-EQS	28.2.2001
US		Kentuckiana Farm	PO box 11743 Lexington, KY 40577	APHIS	97KY001-EQS	16.10.1997
US		Castleton Farm	2469 Iron Works Pike PO box 11889 Lexington, KY 40511	APHIS	98KY002-EQS	13.8.1998
US		Autumn Lane Farm	371 Etter Lane Georgetown, KY 40324	APHIS	01KY001-EQS	19.10.2001
US		Hamilton Farm	66 Woodland Mead PO box 2639 South Hamilton, MA 01982	APHIS	98MA001-EQS	30.3.1998
US		Select Breeders Service, Inc.	1088 Nesbitt Road Colora, MD 21917	APHIS	98MD001-EQS	3.11.1997
US		Imperial Egyptian Stud	2642 Mt. Carmel Road Parkton, MD 21120	APHIS	00MD002-EQS	18.7.2000
US		Harris Paints	27720 Possum Hill Road Federalsburg, MD 21632	APHIS	00MD003-EQS	25.9.2000
US		Midwest Station II	16917 70th St. NE Elk River, MN 55330	APHIS	00MN001-EQS	16.5.2000
US		Anoka Equine Veterinary Services	16445 NE 70th St. Elk River, MN 55330	APHIS	01MN001-EQS	17.12.2001
US		Schemel Stables Collection Facility	986 PCR, Co. Road 810 Perryville, MO 63775	APHIS	99MO001-EQS	15.12.1999
US		Equine Reproduction Facility	137 Speaks Road Advance, NC 27006	APHIS	97NC001-EQS	21.8.1997
US		Walnridge Farm, Inc.	Hornerstown-Arneytown Road Cream Ridge, NJ 08514	APHIS	96NJ003-EQS	14.8.1996

1: 10.5.2002						
2	3	4	5	6	7	8
US		Cedar Lane Farm	40 Lambertville Headquarters Road Lambertville, NJ 08530	APHIS	96NJ004-EQS	4.9.1996
US		Peretti's Farm	Route 526, Box 410 Cream Ridge, NJ 08514	APHIS	97NJ005-EQS	17.3.1997
US		Kentuckiana Farm of NJ	18 Archertown Road New Egypt, NJ 08533	APHIS	99NJ006-EQS	30.7.1999
US		Southwind Farm	29 Burd Road Pennington, NJ 08534	APHIS	00NJ007-EQS	13.7.2000
US		Blue Chip Farm	807 Hogagherburgh Road Wallkill, NY 12589	APHIS	96NY001-EQS	31.8.2000
US		Sunny Gables Farm	282 Rt. 416 Montgomery, NY 12549	APHIS	00NY002-EQS	24.7.2000
US		Autumn Lane Farm	7901 Panhandle Road Newark, OH 43056	APHIS	99OH001-EQS	19.5.1999
US		Good Version	5224 Dearth Road Springboro, OH 45062	APHIS	01OH001-EQS	3.8.2001
US		Paws UP Quarter Horses	Route 1, Box 43-1 Purcell, OK 73080	APHIS	00OK002-EQS	11.4.2000
US		Bryant Ranch	11777 NW Oak Ridge Road Yamhill, OR 97148	APHIS	98OR001-EQS	19.2.1998
US		Honalee Equine Semen Collection Facility	14005 SW Tooze Road Sherwood, OR 97140	APHIS	99OR001-EQS	26.10.1999
US		Kosmos Horse Breeders	372 Littlestown Road Littlestown, PA 17340	APHIS	97PA001-EQS	19.3.1997
US		Hanover Shoe Farm	Route 194 South PO box 339 Hanover, PA 17331	APHIS	97PA002-EQS	28.3.1997
US		Nandi Veterinary Associates	3244 West Sieling Road New Freedom, PA 17349	APHIS	97PA003-EQS	22.9.1997
US		Cryo-Star International	223 Old Philadelphia Pike Douglassville, PA 19518	APHIS	01PA005-EQS	29.5.2001

1: 10.5.2002						
2	3	4	5	6	7	8
US		Hempt Farms	250 Hempt Road Mechanicsburg, PA 17050	APHIS	01PA006-EQS	16.8.2001
US		Babcock Ranch Semen Collection Center	Rt. 2, Box 357 Gainsville, TX 76240	APHIS	97TX001-EQS	2.6.1997
US		Select Breeders	Rt. 3, Box 196 Aubrey, TX 76227	APHIS	97TX002-EQS	1.2.1997
US		Floyd Moore Ranch	Route 2, Box 293 Huntsville, TX 77340	APHIS	98TX003-EQS	12.5.1998
US		Bluebonnet Farm	746 FM 529 Bellville, TX 77418	APHIS	00TX007-EQS	25.1.2000
US		Alpha Equine Breeding Center	2301 Boyd Road Granbury, TX 76049	APHIS	00TX008-EQS	28.2.2000
US		Joe Landers Breeding Facility	4322 Tintop Road Weatherford, TX 76087	APHIS	00TX010-EQS	11.4.2000
US		Willow Tree Farm	10334 Strittmatter Pilot Point, TX 76258	APHIS	00TX011-EQS	28.4.2000
US		Green Valley Farm	3952 PR 2718 Aubrey, TX 76227	APHIS	00TX012-EQS	28.4.2000
US		6666 Ranch	PO box 130 Guthrie, TX 79236	APHIS	00TX013-EQS	17.10.2000
US		Michael Byatt Arabians	7716 Red Bird Road New Ulm, TX 78950	APHIS	00TX014-EQSE	9.11.2000
US		DLR Ranch	5301 FM 1885 Weatherford, TX 76088	APHIS	01TX015A-EQSE	7.2.2001
US		RB Quarter Horse	1346 Prarie Grove Road Valley View, TX 76272	APHIS	01TX017-EQS	22.10.2001
US		LKA, Inc.	360 Leea Lane Weatherford, TX 76087	APHIS	01TX018-EQS	6.11.2001
US		Roanoke AI Labs, Inc.	8535 Martin Creek Road Roanoke, VA 20401	APHIS	96VA001-EQS	14.11.1996

1: 10.5.2002

2	3	4	5	6	7	8
US		Commonwealth Equine Reproduction Center	16078 Rockets Mill Road Doswell, VA 23047	APHIS	00VA002-EQS	9.8.2000
US		Hass Quarter Horses	W9821 Hwy 29 Shawano, WI 54166	APHIS	97WI001-EQS	29.5.1997
US		Battle Hill Farm	HC 40, Box 9 Lewisburg, WV 24901	APHIS	01WV001	13.11.2001
US		Snowy Range Ranch	251 Mandel Lane Laramie, WY 82070	APHIS	01WY001-EQS	1.2.2001
UY	URUGUAY					
ZA	SOUTH AFRICA ^(b)					

^(a) Código provisional que no afecta a la denominación definitiva del país que será asignada cuando concluyan las negociaciones en curso en las Naciones Unidas — Foreløbig kode, som ikke foregriber den endelige betegnelse af landet, der skal tildeles, når de igangværende forhandlinger i FN er afsluttet — Provisorischer Code, der in nichts der endgültigen Bezeichnung des Landes vorgreift, die bei Schlussfolgerung der momentan laufenden Verhandlungen in diesem Zusammenhang im Rahmen der Vereinten Nationen genehmigt wird — Προσωρινός κωδικός που δεν επηρεάζει τον οριστικό τίτλο της χώρας που θα δοθεί μετά την περάτωση των διαπραγματεύσεων που πραγματοποιούνται επί του παρόντος στα Ηνωμένα Έθνη — Provisional code that does not affect the definitive denomination of the country to be attributed after the conclusion of the negotiations currently taking place in the United Nations — Code provisoire ne préjugeant pas de la dénomination définitive du pays qui sera arrêtée à l'issue des négociations en cours dans le cadre des Nations unies — Codice provvisorio senza effetti sulla denominazione definitiva del paese che sarà attribuita dopo la conclusione dei negoziati in corso presso le Nazioni Unite — Voorlopige code die geen gevolgen heeft voor de definitieve benaming die aan het land wordt gegeven op grond van de onderhandelingen die momenteel in het kader van de Verenigde Naties worden gevoerd — Código provisório que não afecta a denominação definitiva do país a ser atribuída após a conclusão das negociações actualmente em curso nas Nações Unidas — Väliaikainen koodi, joka ei vaikuta maan lopulliseen nimeen, joka annetaan tällä hetkellä Yhdistyneissä Kansakunnissa meneillään olevien neuvottelujen päätteeksi — Provisorisk kod som inte påverkar det slutgiltiga landsnamnet som skall anges när de pågående förhandlingarna i Förenta nationerna slutförts.

^(b) Sólo esperma procedente de caballos registrados — Kun sæd fra registrerede heste — Nur Samen von registrierten Pferden — Μόνο σπέρμα που συλλέχθηκε από καταγεγραμμένους ίππους — Only semen collected from registered horses — Sperme provenant uniquement de chevaux enregistrés — Solamente sperma raccolto da cavalli registrati — Enkel sperma verzameld van geregistreerde paarden — Apenas sémen colhido de cavalos registrados — Ainoastaan rekisteröidyistä hevosista kerätty siemenneste — Bara sperma insamlad från registrerade hästar.

COMMISSION DECISION

of 3 June 2002

adjusting the weightings applicable from 1 August, 1 September, 1 October, 1 November and 1 December 2001 to the remuneration of officials of the European Communities serving in third countries

(2002/417/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Staff Regulations of officials of the European Communities and the conditions of employment of other servants of the Communities laid down by Regulation (EEC, Euratom, ECSC) No 259/68 ⁽¹⁾, as last amended by Regulation (EC, ECSC, Euratom) No 2581/2001 ⁽²⁾, and in particular the second paragraph of Article 13 of Annex X thereto,

Whereas:

- (1) Pursuant to the first paragraph of Article 13 of Annex X to the Staff Regulations, Council Regulation (EC, ECSC, Euratom) No 302/2002 ⁽³⁾ laid down the weightings to be applied from 1 July 2001 to the remuneration of officials serving in third countries, payable in the currency of their country of employment.
- (2) The Commission has made a number of adjustments to these weightings ⁽⁴⁾ in recent months, pursuant to the second paragraph of Article 13 of Annex X to the Staff Regulations.
- (3) Some of these weightings should be adjusted with effect from 1 August, 1 September, 1 October, 1 November and 1 December 2001 given that the statistics available to the Commission show that in certain third countries the variation in the cost of living measured on the basis

of the weighting and the corresponding exchange rate has exceeded 5 % since weightings were last laid down or adjusted,

HAS DECIDED AS FOLLOWS:

Sole Article

With effect from 1 August, 1 September, 1 October, 1 November and 1 December 2001 the weightings applicable to the remuneration of officials serving in third countries payable in the currency of their country of employment are adjusted as shown in the Annex.

The exchange rates for the calculation of such remuneration shall be those used for implementation of the general budget of the European Communities for the month preceding the dates referred to in the first paragraph.

Done at Brussels, 3 June 2002.

For the Commission

Christopher PATTEN

Member of the Commission

⁽¹⁾ OJ L 56, 4.3.1968, p. 1.

⁽²⁾ OJ L 345, 29.12.2001, p. 1.

⁽³⁾ OJ L 47, 19.2.2002, p. 4.

⁽⁴⁾ OJ L 321, 6.12.2001, p. 31.

ANNEX

Place of employment	Weightings August 2001
Angola	129,2
Lesoto	62,3
Niger	87,2
Romania	53,6
Swaziland	59,9
Turkey	69,9
Zimbabwe	67,1

Place of employment	Weightings September 2001
Angola	124,4
Costa Rica	101,7
Ethiopia	75,8
Mozambique	79,9
Zimbabwe	69,3

Place of employment	Weightings October 2001
Angola	123,7
Haiti	93,8
Indonesia	67,4
Malawi	106,2
Namibia	60,2
Papua New Guinea	71,1
Turkey	62,8
Yugoslavia	61,9
Zimbabwe	73,0

Place of employment	Weightings November 2001
Angola	121,0
Dominican Republic	90,3
Eritrea	45,5
Ghana	89,7
Malta	100,0
Nigeria (Lagos)	99,2
Romania	52,4
Suriname	81,1
Venezuela	111,5
Zambia	67,3
Zimbabwe	79,4

Place of employment	Weightings December 2001
Angola	121,2
Benin	88,1
Botswana	60,5
Egypt	81,1
Guatemala	90,7
Índia	62,1
Mozambique	82,6
Trindade and Tobago	89,7
Turkey	74,3
Zimbabwe	85,5

CORRIGENDA**Corrigendum to Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998
concerning the placing of biocidal products on the market**

(Official Journal of the European Communities L 123 of 24 April 1998)

On page 41, Annex IV A, Section VII, under 7.4 'Carcinogenicity study':

for: 'May be combined with studies in 6.3. One rodent and one other mammal',

read: 'May be combined with studies in 7.3. One rodent and one other mammal'.
