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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 427/2003**of 3 March 2003**

on a transitional product-specific safeguard mechanism for imports originating in the People's Republic of China and amending Regulation (EC) No 519/94 on common rules for imports from certain third countries

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Whereas:

- (1) By Regulation (EC) No 3285/94 ⁽¹⁾ the Council adopted common rules for imports which contain provisions on safeguard measures.
- (2) By Regulation (EC) No 519/94 ⁽²⁾ the Council adopted common rules for imports from certain third countries which also contain provisions on safeguard measures.
- (3) The Protocol on the Accession of the People's Republic of China (hereinafter referred to as 'China') to the World Trade Organisation (hereinafter referred to as 'the Protocol') provides for product-specific transitional safeguard measures (hereinafter referred to as 'safeguard measures') and product-specific transitional trade diversion measures (hereinafter referred to as 'trade diversion measures').
- (4) The Protocol entered into force on 11 December 2001.
- (5) In view of the considerable difference between the provisions on safeguard measures contained in the Protocol on the one hand and in Council Regulation (EC) No 519/94 and Council Regulation (EC) No 3285/94 on the other hand, it is necessary to have a specific Regulation for safeguard measures and trade diversion measures on certain imports originating in China.
- (6) According to the Protocol, safeguard measures may be imposed when products of Chinese origin are being imported into the Community in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the Community industry.
- (7) Market disruption shall exist whenever imports of a product are increasing rapidly so as to be a significant cause of material injury or threat of material injury to the Community industry.
- (8) It seems necessary to illustrate which factors have to be taken into consideration for the determination of market disruption.
- (9) The Protocol provides for the imposition of trade diversion measures in situations where an action by China or another member of the World Trade Organisation (hereinafter referred to as 'WTO') taken to prevent or remedy market disruption in that WTO member's market causes or threatens to cause an increase in imports of a product originating in China into the Community.
- (10) It is appropriate to lay down guidance as to the factors which may be relevant for determining whether trade diversion has taken place.
- (11) It is advisable to define the term 'Community industry'.
- (12) It is upon a request by a Member State or the Commission that a safeguard or trade diversion investigation is initiated; it is necessary to limit the possibility of initiating an investigation concerning safeguard measures on the same subject matter before the lapse of one year after the completion of a previous investigation; there should be no such limitation concerning trade diversion measures.

⁽¹⁾ OJ L 349, 31.12.1994, p. 53; Regulation as last amended by Regulation (EC) No 2474/2000 (OJ L 286, 11.11.2000, p. 1).

⁽²⁾ OJ L 67, 10.03.1994, p. 89; Regulation as last amended by Regulation (EC) No 1138/98 (OJ L 159, 3.6.1998, p. 1).

- (13) It is necessary to lay down the manner in which interested parties should be given notice of the information which the Community authorities require, and should have ample opportunity to present all relevant evidence and to defend their interests; it is also desirable to set out clearly the rules and procedures to be followed during the investigation, in particular the rules whereby interested parties are to make themselves known, present their views and submit information within specified time limits, if such views and information are to be taken into account; it is also appropriate to set out the conditions under which an interested party may have access to, and comment on, information presented by other interested parties.
- (14) It is necessary to lay down the conditions under which provisional measures may exceptionally be imposed, including that such measures may be imposed by the Commission and only for a period of 200 days.
- (15) The Protocol requires that definitive measures may only be imposed 60 days after the receipt of a request for consultations by China and if such consultations have not led to a mutually satisfactory solution.
- (16) It seems advisable to foresee — under certain conditions and provided that the operation of the internal market is not disrupted — the possibility of imposing measures limited to one or several Member States.
- (17) It seems appropriate to provide that safeguard measures are to lapse after four years unless a review indicates that they should be maintained.
- (18) It is advisable to provide for interim reviews, in cases where a Member State or the Commission request to examine the effects of a safeguard or trade diversion measure and the necessity to maintain the measure.
- (19) It is necessary to provide for a review of a trade diversion measure when the WTO member taking an action to address market disruption notified the WTO Committee on Safeguards of any modification of the action.
- (20) It is expedient to permit the suspension of safeguard and trade diversion measures where there is a temporary change in market conditions which makes the continued imposition of measures temporarily inappropriate.
- (21) In order to ensure proper enforcement of measures, it is necessary that Member States monitor, and report to the Commission, the import trade of products subject to investigation or subject to measures and also the amount of duties collected under this Regulation, where applicable.
- (22) It is also necessary to provide for consultation of an Advisory Committee at regular and specified stages of the investigation. That Committee should consist of representatives of Member States with a representative of the Commission as chairman. Pursuant to recital 12 of Council Decision 1999/468/EC⁽¹⁾, the Advisory Committee does not fall under the scope of application of the abovementioned Council Decision.
- (23) It is expedient to provide for verification visits to check information submitted on trends in import volumes and market disruption, such visits being, however, conditional on proper replies to questionnaires being received.
- (24) Provision should be made for the treatment of confidential information so that business or governmental secrets are not divulged.
- (25) It is essential that provision be made for proper disclosure of essential facts and considerations to parties which qualify for such treatment and that such disclosure be made, with due regard to the decision-making process in the Community, within a time period which permits parties to defend their interests.
- (26) It is prudent to provide for an administrative system under which arguments can be presented as to whether measures are in the Community interest, including the interests of consumers, and to lay down the time periods within which such information has to be presented as well as the disclosure rights of the parties concerned.
- (27) The Report of the Working Parties on the Accession of China to the WTO (hereinafter referred to as 'the Report') provides for a gradual phasing out of the non-textile quotas which the Community maintains vis-à-vis some products of Chinese origin.
- (28) It is therefore appropriate to repeal Annex II to Regulation (EC) No 519/94 to reflect this phasing out.
- (29) It is appropriate to increase the quantities already allocated through import licences for 2002 and 2003 in order to take into account the increase foreseen in the phasing-out timetable.
- (30) It is appropriate to remove from surveillance measures those Chinese products currently covered and listed in Annex III to Regulation (EC) No 519/94, which should be repealed.

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

- (31) It is appropriate to remove from Annex I to Regulation (EC) No 519/94 those countries who have become members of the WTO and to delegate to the Commission the responsibility for updating the Annex.
- (32) It is appropriate, in view of the continued existence of quotas with regard to certain products of Chinese origin, to exclude the application of the provisions concerning safeguard and trade diversion measures for such products during the period of application of these quotas.
- (33) The Protocol provides for the expiry of the section related to safeguard and trade diversion measures 12 years after the entry into force of the Protocol; it is therefore necessary to determine that any measures taken under this Regulation shall expire at the latest on 11 December 2013,

HAS ADOPTED THIS REGULATION:

TITLE I

TRANSITIONAL	PRODUCT-SPECIFIC MECHANISM	SAFEGUARD
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Article 1

Principles

1. In cases where products of Chinese origin are being imported into the Community in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the Community industry, a safeguard measure may be imposed in accordance with the following provisions.
2. If an action by China or another member of the WTO to prevent or remedy market disruption in that WTO member's market causes or threatens to cause significant trade diversions into the Community, a trade diversion measure may be imposed in accordance with the following provisions.

Article 2

Determination of market disruption

1. Market disruption shall exist whenever imports of a product, like or directly competitive with a product produced by the Community industry, are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat of material injury to the Community industry.
2. In determining if market disruption exists, only objective factors shall be considered, including:
 - (a) the volume of imports under investigation;
 - (b) the effect of such imports on prices for like or directly competitive products in the Community; and

- (c) the effect of such imports on the Community industry producing like or directly competitive products.

Article 3

Determination of significant trade diversion

1. Significant trade diversion shall exist when an action by China or another WTO member taken to prevent or remedy market disruption in that WTO member's market causes or threatens to cause an increase in imports of a product from China into the Community.
2. Objective criteria have to be applied in determining whether actions to prevent or remedy market disruption cause or threaten to cause significant diversion of trade. Among the factors to be examined are:
 - (a) the actual or imminent increase in market share of imports from China into the Community;
 - (b) the nature or extent of the action taken or proposed by China or other WTO members;
 - (c) the actual or imminent increase in the volume of imports from China due to the action taken or proposed;
 - (d) conditions of demand and supply in the Community market for the products at issue; and
 - (e) the extent of exports from China to the WTO member(s) applying a provisional or definitive safeguard measure.

Article 4

Definition of Community industry

For the purposes of this Regulation, the term 'Community industry' shall be interpreted as referring to the Community producers as a whole of the like or directly competitive products operating within the territory of the Community or those of them whose collective output of the like or directly competitive products constitutes a major proportion of the total Community production of those products.

Article 5

Initiation of proceedings

1. An investigation shall be initiated upon request of a Member State or on the Commission's own initiative if it is apparent to the Commission that there is sufficient evidence to justify the initiation of an investigation.
2. The Commission shall be informed by the Member States should trends in imports appear to call for safeguard or trade diversion measures. This information shall contain the evidence available, as determined on the basis of the criteria laid down in Articles 1, 2 and 3, as appropriate. The Commission shall immediately pass this information on to all the Member States.

3. Prior to the initiation of an investigation the Commission shall notify China of its intention to initiate an investigation. The notification may be accompanied by an invitation for consultations with the aim of clarifying the situation as to matters referred to in Articles 1, 2 and 3, as appropriate, and arriving at a mutually satisfactory solution.

4. Where, after consultation of Member States, it is apparent that there is sufficient evidence to justify initiating a proceeding and any consultations under paragraph 3 have not led to a mutually satisfactory solution, the Commission shall publish a notice in the *Official Journal of the European Union*.

5. The notice of initiation of the proceedings shall announce the initiation of an investigation, the scope of the investigation, indicate the product concerned, give a summary of the information received and provide that all relevant information is to be communicated to the Commission; it shall state the periods within which interested parties may make themselves known, present their views in writing and submit information, if such views and information are to be taken into account during the investigation; it shall also state the period within which interested parties may apply to be heard by the Commission in accordance with Article 6(4).

6. Except for good cause, no investigation concerning safeguard measures as defined in Article 1(1) on the same subject matter shall be initiated less than one year after the completion of a previous investigation.

7. An investigation shall not hinder the procedures of customs clearance.

Article 6

The investigation

1. Following the initiation of the proceeding, the Commission shall commence an investigation. Such investigation shall cover both the existence of increased imports and market disruption or the existence of trade diversion. The existence of increased imports and market disruption shall be investigated simultaneously. For the purpose of a representative finding, an investigation period shall be selected. Information relating to a period subsequent to the investigation period shall, normally, not be taken into account.

2. The Commission shall seek all information it deems to be necessary to make a determination with regard to the criteria laid down in Articles 1, 2 and 3, as appropriate, and where it considers it appropriate, endeavour to verify this information.

3. The Commission may request Member States to supply information, and Member States shall take whatever steps are necessary in order to give effect to such requests. Where this information is of general interest or where its transmission has been requested by a Member State, the Commission shall forward it to the Member States, provided it is not confidential, in which case a non-confidential summary shall be forwarded.

4. The interested parties which have made themselves known in accordance with Article 5(5) and the government of China shall be heard if they have, within the period prescribed in the notice published in the *Official Journal of the European Union*, made a written request for a hearing showing that they are an interested party actually likely to be affected by the result of the proceeding and that there are particular reasons why they should be heard.

5. Opportunities shall, on request, be provided for interested parties, which have made themselves known in accordance with Article 5(5), and the Government of China to meet those parties with adverse interests, so that opposing views may be presented and rebuttal arguments offered. Provision of such opportunities must take account of the need to preserve confidentiality and of the convenience to the parties. There shall be no obligation on any party to attend a meeting, and failure to do so shall not be prejudicial to that party's case. Oral information provided under this paragraph shall be taken into account by the Commission in so far as it is subsequently confirmed in writing.

6. The interested parties which have made themselves known in accordance with Article 5(5) and the Government of China, may, upon written request, inspect all information made available to the Commission by any party to an investigation, as distinct from internal documents prepared by the authorities of the Community or its Member States, which is relevant to the presentation of their cases and not confidential within the meaning of Article 17, and that it is used in the investigation. Such parties may respond to such information and their comments shall be taken into consideration, wherever they are sufficiently substantiated in the response.

7. For proceedings initiated pursuant to Article 5(4) an investigation shall, whenever possible, be concluded within nine months from the initiation of the investigation. In exceptional circumstances, this time limit may be extended by a further maximum period of two months; the Commission shall then publish a notice in the *Official Journal of the European Union* setting forth the duration of the extension and a summary of the reasons therefor.

Article 7

Imposition of provisional safeguard measures

1. Provisional safeguard measures shall be applied in critical circumstances where delay would cause damage which it would be difficult to repair, after a preliminary determination that imports have caused or threatened to cause market disruption to the Community industry and if the Community interest calls for intervention. The Commission shall take such provisional measures after consultation with Member States or, in cases of extreme urgency, after informing the Member States. In this latter case, consultation shall take place 10 days, at the latest, after notification of the Member States of the action taken by the Commission.

2. Where a Member State requests immediate intervention by the Commission and where the conditions in paragraph 1 are met, the Commission shall, within a maximum of five working days of receipt of the request, take a decision.

3. The Commission shall forthwith inform the Council and the Member States of any decision taken under paragraphs 1 and 2. The Council, acting by a qualified majority, may decide differently within three months of having been informed by the Commission pursuant to this paragraph.

4. Provisional safeguard measures can, *inter alia*, take the form of customs duties and quantitative restrictions of imports originating in China.

5. The duration of the provisional measures shall not exceed 200 days.

6. Should the provisional safeguard measure be repealed because the conditions contained in Articles 1, 2 or 3, as appropriate, were not met, any duties collected as a result of the provisional measures shall be automatically refunded. The procedure laid down in Article 235 et seq. of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽¹⁾ shall apply.

Article 8

Termination without measures

Where, after consultation with Member States, safeguard or trade diversion measures are unnecessary and there is no objection raised within the Advisory Committee, the investigation or proceeding shall be terminated by Commission decision. In all other cases, the Commission shall submit to the Council forthwith a report on the results of the consultation, together with a proposal for a Council regulation that the proceeding be terminated. The proceeding shall be deemed terminated if, within one month, the Council, acting by a qualified majority, has not decided otherwise.

Article 9

Imposition of definitive measures

1. Where the facts as finally established show that the conditions laid down in Articles 1, 2 and 3, as appropriate, are met, and the Community interest calls for intervention in accordance with Article 19, the Commission shall request consultations with the Government of China with a view to seeking a mutually satisfactory solution.

2. If the consultations referred to in paragraph 1 of this Article do not lead to a mutually satisfactory solution within 60 days of the receipt of a request for consultations, a definitive safeguard or trade diversion measure shall be imposed after consultation with Member States.

3. Where the imposition of a measure by the Commission has been requested by a Member State, the Commission shall take a decision within a maximum of five working days of receipt of such a request.

4. Any decision taken by the Commission pursuant to this Article shall be communicated to the Council and to Member States. Any Member State may, within one month following the day of such communication, refer the decision to the Council.

5. If a Member State refers the Commission's decision to the Council, the Council, acting by a qualified majority, may confirm, amend or revoke the decision.

If, within three months of the referral of the matter to the Council, the Council has not taken a decision, the decision taken by the Commission shall be deemed revoked.

6. Where the interests of the Community so require, the Council, acting by a qualified majority on a proposal from the Commission drawn up in accordance with the terms of this title, may adopt the appropriate measures.

7. Definitive measures can, *inter alia*, take the form of customs duties and quantitative restrictions of imports originating in China.

Article 10

Regional measures

Where it emerges, primarily on the basis of the factors referred to in Articles 2 and 3, respectively, that the conditions laid down for the adoption of measures pursuant to Articles 7 and 9 are met in one or more Member States, the Commission, after having examined alternative solutions, may exceptionally authorise the application of safeguard measures limited to the Member State concerned if it considers that such measures applied at that level are more appropriate than measures applied throughout the Community. These measures must be temporary and must not disrupt the operation of the internal market. The measures shall be adopted in accordance with the provisions laid down in Articles 7 and 9 respectively.

Article 11

Duration

1. A safeguard measure shall remain in force only for such period of time as may be necessary to prevent or remedy the market disruption. The period shall not exceed four years unless it is extended under Article 12(1).

2. A trade diversion measure shall be terminated not later than 30 days after the expiration of the action taken by the WTO member involved against imports from China.

⁽¹⁾ OJ L 302, 19.10.1992, p. 1; Regulation as last amended by Regulation (EC) No 2700/2000 of the European Parliament and of the Council (OJ L 311, 12.12.2000, p. 17).

Article 12

Review of safeguard measures

1. The initial period of duration of a safeguard measure may be extended provided it is determined that:

- the safeguard measure continues to be necessary to prevent or remedy market disruption,
- and there is evidence that Community producers are adjusting.

2. Extensions shall be adopted in accordance with the procedures of this Regulation applying to investigations and using the same procedures as the initial measures. A measure so extended shall not be more restrictive than it was at the end of the initial period.

3. While any safeguard measure is in operation, consultations shall be held within the Advisory Committee, either at the request of a Member State or on the initiative of the Commission, in order to examine the effects of the measure and to ascertain whether its application is still necessary.

4. Where, as a result of the consultations referred to in paragraph 3, the Commission considers that any safeguard measure should be revoked or amended, it shall proceed as follows:

- (a) where the measure was enacted by the Council, the Commission shall propose to the Council that it be revoked or amended. The Council shall act by a qualified majority;
- (b) in all other cases, the Commission shall revoke or amend the safeguard measures.

Article 13

Review of trade diversion measures

1. Trade diversion measures shall be reviewed when the WTO member who had taken an action on the basis of which a trade diversion measure was imposed under this Regulation has notified the WTO Committee on Safeguards of any modification of that action.

2. Paragraphs 3 and 4 of Article 12 apply *mutatis mutandis* to trade diversion measures.

Article 14

General provisions

1. Provisional or definitive measures shall be imposed by regulation. If the measures take the form of duties, they shall be collected by Member States in the form, at the rate specified and according to the other criteria laid down in the regulation imposing such measures. Such duties shall also be collected independently of the customs duties, taxes and other charges otherwise imposed on imports.

2. Regulations imposing provisional or definitive measures, and regulations or decisions terminating or suspending investigations or proceedings, shall be published in the *Official Journal*

of the European Union. Such regulations or decisions shall contain in particular and with due regard to the protection of confidential information, a description of the product and a summary of the facts and considerations relevant to determinations of increased imports and market disruption. In each case, a copy of the regulation or decision shall be sent to known interested parties and the Government of China. The provisions of this paragraph shall apply *mutatis mutandis* to reviews.

3. Special provisions, in particular with regard to the common definition of the concept of origin, as contained in Regulation (EEC) No 2913/92, may be adopted pursuant to this Regulation.

4. In the Community interest, measures imposed pursuant to this Regulation may, after consultation of the Advisory Committee, be suspended by a decision of the Commission for a period of nine months. The suspension may be extended for a further period, not exceeding one year, if the Council so decides, acting by simple majority on a proposal from the Commission. Measures may only be suspended where market conditions have temporarily changed to an extent that market disruption would be unlikely to resume as a result of the suspension. Measures may, at any time and after consultation, be reinstated if the reason for suspension is no longer applicable.

5. Member States shall report to the Commission every month on the import trade of products subject to investigation and to measures, and on the amount of duties collected pursuant to this Regulation.

Article 15

Consultations

1. Any consultations provided for in this Regulation except those provided for in Article 5(3) and Article 9(1) shall take place within an Advisory Committee, which shall consist of representatives of each Member State, with a representative of the Commission as chairman. Consultations shall be held immediately on request by a Member State or on the initiative of the Commission, and in any event within a period of time which allows the time limits set by this Regulation to be adhered to.

2. The Committee shall meet when convened by its chairman. He/she shall provide the Member States, as promptly as possible, with all relevant information.

3. Where necessary, consultation may be in writing only; in that event, the Commission shall notify the Member States and shall specify a period within which they shall be entitled to express their opinions or to request an oral consultation which the chairman shall arrange, provided that such oral consultation can be held within a period of time which allows the time limits set by this Regulation to be adhered to.

*Article 16***Verification visits**

1. The Commission shall, where it considers it appropriate, carry out visits to examine the records of exporters, producers, importers and representative associations of exporters, producers or importers and the Community industry, to verify information provided on the existence of increased imports and market disruption or trade diversion. In the absence of a proper and timely reply a verification visit may not be carried out.

2. The Commission may carry out investigations in third countries, provided that it obtains the agreement of the parties concerned, that it notifies the government of the country in question and that the latter does not object to the investigation. As soon as the agreement of the parties concerned has been obtained, the Commission should notify the country of origin and/or export of the names and addresses of the parties to be visited and the dates agreed.

3. The parties concerned shall be advised of the nature of the information to be verified during verification visits and of any further information which needs to be provided during such visits, though this should not preclude requests made during the verification for further details to be provided in the light of information obtained.

4. In investigations carried out pursuant to paragraphs 1, 2 and 3, the Commission shall be assisted by officials of those Member States which so request.

*Article 17***Confidentiality**

1. Any information which is by nature confidential, (for example, because its disclosure would be of significant competitive advantage to a competitor or would have a significantly adverse effect upon a person supplying the information or upon a person from whom he/she has acquired the information) or which is provided on a confidential basis by parties to an investigation shall, if good cause is shown, be treated as such by the Community authorities.

2. Interested parties providing confidential information shall be required to furnish non-confidential summaries thereof. Those summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. In exceptional circumstances, such parties may indicate that such information is not susceptible of summary. In such exceptional circumstances, a statement of the reasons why summarisation is not possible must be provided.

3. If it is considered that a request for confidentiality is not warranted and if the supplier of the information is either unwilling to make the information available or to authorise its disclosure in generalised or summary form, such information

may be disregarded unless it can be satisfactorily demonstrated from appropriate sources that the information is correct. Requests for confidentiality shall not be rejected arbitrarily.

4. This Article shall not preclude the disclosure of general information by the Community authorities and in particular of the reasons on which decisions taken pursuant to this Regulation are based, nor disclosure of the evidence relied on by the Community authorities in so far as is necessary to explain those reasons in court proceedings. Such disclosure must take into account the legitimate interests of the parties concerned that their business or governmental secrets should not be divulged.

5. The Commission, the Council and the Member States, or the officials of any of these, shall not reveal any information received pursuant to this Regulation for which confidential treatment has been requested by its supplier, without specific permission from the supplier. Exchanges of information between the Commission, the Council and Member States, or any information relating to consultations made pursuant to Article 12, or consultations described in Article 5(3) and Article 9(1), or any internal documents prepared by the authorities of the Community or its Member States, shall not be divulged to the public or any party to the proceeding except as specifically provided for in this Regulation.

6. Information received pursuant to this Regulation shall be used only for the purpose for which it was requested.

*Article 18***Disclosure**

1. The interested parties and the Government of China may request disclosure of the details underlying the essential facts and considerations on the basis of which provisional measures have been imposed. Requests for such disclosure shall be made in writing immediately following the imposition of provisional measures, and the disclosure shall be made in writing as soon as possible thereafter.

2. The parties mentioned in paragraph 1 may request final disclosure of the essential facts and considerations on the basis of which it is intended to recommend the imposition of definitive safeguard or trade diversion measures, or the termination of an investigation or proceedings without the imposition of measures, particular attention being paid to the disclosure of any facts or considerations which are different from those used for any provisional measures.

3. Requests for final disclosure shall be addressed to the Commission in writing and be received, in cases where a provisional measure has been applied, not later than one month after publication of the imposition of that measure. Where a provisional measure has not been applied, parties shall be provided with an opportunity to request final disclosure within time limits set by the Commission.

4. Final disclosure shall be given in writing. It shall be made, due regard being had to the protection of confidential information, as soon as possible and, normally, not later than one month prior to a definitive decision or the submission by the Commission of any proposal for final action pursuant to Articles 8 and 9. Where the Commission is not in a position to disclose certain facts or considerations at that time, these shall be disclosed as soon as possible thereafter. Disclosure shall not prejudice any subsequent decision which may be taken by the Commission or the Council but where such decision is based on any different facts and considerations, these shall be disclosed as soon as possible.

5. Representations made after final disclosure is given shall be taken into consideration only if received within a period to be set by the Commission in each case, which shall be at least 10 days, due consideration being given to the urgency of the matter.

Article 19

Community interest

1. A determination as to whether the Community interest calls for intervention shall be based on an appreciation of all the various interests taken as a whole, including the interests of the domestic industry and users and consumers; and a determination pursuant to this Article shall only be made where all parties have been given the opportunity to make their views known pursuant to paragraph 2. Measures may not be applied where the authorities, on the basis of all the information submitted, can clearly conclude that it is not in the Community interest to apply such measures.

2. In order to provide a sound basis on which the authorities can take account of all views and information in the decision as to whether or not the imposition of measures is in the Community interest, the importers and their representative associations, representative users and representative consumer organisations may, within the time limits specified in the notice of initiation of the investigation, make themselves known and provide information to the Commission. Such information, or appropriate summaries thereof, shall be made available to the other parties specified in this paragraph, and they shall be entitled to respond to such information.

3. The parties which have acted in conformity with paragraph 2 may request a hearing. Such requests shall be granted when they are submitted within the time limits set in paragraph 2, and when they set out the reasons, in terms of the Community interest, why the parties should be heard.

4. The parties which have acted in conformity with paragraph 2 may provide comments on the application of any provisional measures imposed. Such comments shall be received within one month of the application of such measures if they are to be taken into account and they, or appropriate summaries thereof, shall be made available to other parties who shall be entitled to respond to such comments.

5. The Commission shall examine the information which is properly submitted and the extent to which it is representative, and the results of such analysis, together with an opinion on its merits, shall be transmitted to the Advisory Committee. The balance of views expressed in the Committee shall be taken into account by the Commission in any proposal made pursuant to Article 9.

6. The parties which have acted in conformity with paragraph 2 may request the facts and considerations on which final decisions are likely to be taken to be made available to them. Such information shall be made available to the extent possible and without prejudice to any subsequent decision taken by the Commission or the Council.

7. Information shall only be taken into account where it is supported by actual evidence which substantiates its validity.

TITLE II

QUOTAS FOR CERTAIN PRODUCTS ORIGINATING IN CHINA

Article 20

Principles and phasing-out of quotas

1. Imports into the Community of products originating in China shall take place freely, except for a limited number of products originating in China which, owing to the sensitivity of certain sectors of the Community industry, are subject to quantitative quotas at Community level.

2. These quotas will be applicable until 2005, at the annual levels provided in the table of Annex I. This new Annex replaces Annex II to Regulation (EC) No 519/94.

Article 21

Attribution of import licences

1. The allocation method for the additional quantities for the years 2002 and 2003 resulting from the quota increases provided for in Annex II and an appropriate period of the time for their utilisation shall be established by a Commission Regulation.

2. For the subsequent years, the procedures established by Council Regulation (EC) No 520/94 of 7 March 1994 establishing a Community procedure for administering quantitative quotas⁽¹⁾ will be applicable to the allocation of import licences for the quotas referred to in Annex I.

⁽¹⁾ OJ L 66, 10.3.1994, p. 1; Regulation as last amended by Regulation (EC) No 138/96 (OJ L 21, 27.1.1996, p. 6).

TITLE III

GENERAL AND FINAL PROVISIONS

Article 22

Repeal and amendment of certain provisions

1. Article 1(2) second indent, Article 1(3), Annex II listing the quotas for certain products originating in China, Annex III listing the products from China subject to surveillance measures and the references to Annex III in Article 1(4) and Article 4(3)(a) of Regulation (EC) No 519/94 are hereby repealed.

2. Albania, Georgia, China, Kyrgyzstan, Moldova and Mongolia shall be removed from Annex I to Council Regulation (EC) No 519/94.

3. The Commission may, after consultation of the Committee established under Article 4 of Regulation (EC) No 519/94, amend Annex I to Regulation (EC) 519/94 by Commission regulation, in order to remove countries from the list of third countries contained in this Annex when they become members of the WTO.

Article 23

Final provisions

1. This Regulation shall be without prejudice to the operation of the instruments establishing the common organisation of agricultural markets or of Community or national administrative provisions derived therefrom or of the specific instruments applicable to goods resulting from the processing of agricultural products; it shall operate by way of complement to those instruments.

2. The provisions of Title I shall not apply to those products in respect of which such instruments as referred to in paragraph 1 provide for the application of quantitative import restrictions.

3. The provisions of Title I shall not apply to products subject to quotas set out in Annex I while such quotas are in force.

4. Measures imposed under this Regulation shall at the latest expire on 11 December 2013.

Article 24

Entry into force

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*. Title I shall expire on 11 December 2013.

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

Done at Brussels, 3 March 2003.

For the Council

The President

A.-A. TSOCHATZOPOULOS

ANNEX I

Phasing-out timetable of industrial (non-textile) quotas on imports originating in China

Product description	HS/CN code	2003	2004	2005
Footwear	ex 6402 99 ⁽¹⁾	47 480 959	54 603 102	Removal
	6403 51 6403 59	3 712 459	4 269 328	Removal
	ex 6403 91 ⁽¹⁾ ex 6403 99 ⁽¹⁾	14 698 530	16 903 310	Removal
	ex 6404 11 ⁽²⁾	22 106 953	25 422 996	Removal
	6404 19 10	38 683 955	44 486 548	Removal
Tableware kitchenware of porcelain or china	6911 10	73 139	84 110	Removal
Ceramic tableware, kitchenware, other than of porcelain or china	6912 00	55 334	63 634	Removal

⁽¹⁾ Excluding footwear involving special technology: shoes which have a cif price per pair of not less than EUR 9 for use in sporting activities, with a single- or multi-layer moulded sole, not injected, manufactured from synthetic materials specially designed to absorb the impact of vertical or lateral movements and with technical features such as hermetic pads containing gas or fluid, mechanical components which absorb or neutralise impact or materials such as low-density polymers.

⁽²⁾ Excluding:

- a) footwear which is designed for a sporting activity and has, or has provision for the attachment of, spikes, sprigs, stops, clips, bats or the like, with a non-injected sole;
- b) footwear involving special technology: shoes which have a cif price per pair of not less than EUR 9 for use in sporting activities, with a single- or multi-layer moulded sole, not injected, manufactured from synthetic materials specially designed to absorb the impact of vertical or lateral movements and with technical features such as hermetic pads containing gas or fluid, mechanical components which absorb or neutralise impact or materials such as low-density polymers.

ANNEX II

Increase in the quotas for 2002 and 2003

Product description	HS/CN code	2002	2003
Footwear	ex 6402 99 ⁽¹⁾	10,25 %	21,28 %
	6403 51 6403 59	15,5 %	32,83 %
	ex 6403 91 ⁽¹⁾ ex 6403 99 ⁽¹⁾	10,25 %	21,28 %
	ex 6404 11 ⁽²⁾	10,25 %	21,28 %
	6404 19 10	10,25 %	21,28 %
Tableware, kitchenware of porcelain or china	6911 10	32,25 %	52,09 %
Ceramic tableware, kitchenware, other than of porcelain or china	6912 00	32,25 %	52,09 %

⁽¹⁾ Excluding footwear involving special technology: shoes which have a cif price per pair of not less than EUR 9 for use in sporting activities, with a single- or multi-layer moulded sole, not injected, manufactured from synthetic materials specially designed to absorb the impact of vertical or lateral movements and with technical features such as hermetic pads containing gas or fluid, mechanical components which absorb or neutralise impact or materials such as low-density polymers.

⁽²⁾ Excluding:

- a) footwear which is designed for a sporting activity and has, or has provision for the attachment of, spikes, sprigs, stops, clips, bats or the like, with a non-injected sole;
- b) footwear involving special technology: shoes which have a cif price per pair of not less than EUR 9 for use in sporting activities, with a single- or multi-layer moulded sole, not injected, manufactured from synthetic materials specially designed to absorb the impact of vertical or lateral movements and with technical features such as hermetic pads containing gas or fluid, mechanical components which absorb or neutralise impact or materials such as low-density polymers.

COMMISSION REGULATION (EC) No 428/2003**of 12 February 2003****establishing the allocation method for the additional quantities resulting from the quota increase brought in by Council Regulation (EC) No 427/2003 to the 2002 and 2003 Community quantitative quotas on certain products originating in the People's Republic of China**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 520/94 of 7 March 1994 establishing a Community procedure for administering quantitative quotas ⁽¹⁾, as last amended by Regulation (EC) No 138/96 ⁽²⁾, and in particular Articles 9 and 13 thereof,

Having regard to Commission Regulation (EC) No 1394/2001 of 9 July 2001 establishing administrative procedures for the 2002 quantitative quotas for certain products originating in the People's Republic of China ⁽³⁾,

Having regard to Commission Regulation (EC) No 1498/2002 of 21 August 2002 establishing administrative procedures for the 2003 quantitative quotas for certain products originating in the People's Republic of China ⁽⁴⁾,

Whereas:

- (1) By Regulation (EC) No 1995/2001 ⁽⁵⁾ the Commission laid down the quantities to be allocated to importers from the 2002 quantitative quotas on certain products originating in the People's Republic of China.
- (2) By Regulation (EC) No 2077/2002 ⁽⁶⁾ the Commission laid down the quantities to be allocated to importers from the 2003 quantitative quotas on certain products originating in the People's Republic of China.
- (3) Article 21(1) of Council Regulation (EC) No 427/2003 of 3 March 2003 amending Council Regulation (EC) No 519/94 on common rules for imports from certain countries ⁽⁷⁾ provides that the allocation method for the additional quantities for the years 2002 and 2003 resulting from the quota increases provided for in Annex II of the same Regulation and an appropriate period of time for their utilisation shall be established by the Commission.
- (4) Accordingly, simple administrative procedures should be established to enable Community importers to import the additional quantities brought in by Regulation (EC) No 427/2003.

- (5) The measures provided for in this Regulation are in accordance with the opinion of the Committee for managing quotas set up by Article 22 of Regulation (EC) No 520/94,

HAS ADOPTED THIS REGULATION:

Article 1

Any importer having held an import licence issued for 2002 pursuant to Regulation (EC) No 1995/2001 for products falling within HS/CN codes ex 6402 99, ex 6403 91, ex 6403 99, ex 6404 11 and 6404 19 10 is entitled to import an additional quantity of 10,25 % to the quantity indicated in its import licence. Any importer having held an import licence issued for 2002 pursuant to Regulation (EC) No 1995/2001 for products falling within HS/CN codes 6403 51 and 6403 59 is entitled to import an additional quantity of 15,5 % to the quantity indicated in its import licence. Any importer having held an import licence issued for 2002 pursuant to Regulation (EC) No 1995/2001 for products falling within HS/CN codes 6911 10 and 6912 00 is entitled to import an additional quantity of 32,25 % to the quantity indicated in its import licence.

Article 2

The competent authority shall issue an additional licence for the additional quantities mentioned in Article 1.

The additional licence shall be valid until 31 December 2003 and issued free of charge and certified by the competent authority.

Article 3

Any importer holding an import licence issued for 2003 pursuant to Regulation (EC) No 2077/2002 for products falling within HS/CN codes ex 6402 99, ex 6403 91, ex 6403 99, ex 6404 11 and 6404 19 10 is entitled to import an additional quantity of 21,28 % to the quantity indicated in its import licence. Any importer holding an import licence issued for 2003 pursuant to Regulation (EC) No 2077/2002 for products

⁽¹⁾ OJ L 66, 10.3.1994, p. 1.

⁽²⁾ OJ L 21, 27.1.1996, p. 6.

⁽³⁾ OJ L 187, 10.7.2001, p. 31.

⁽⁴⁾ OJ L 225, 22.8.2002, p. 15.

⁽⁵⁾ OJ L 271, 12.10.2001, p. 18.

⁽⁶⁾ OJ L 319, 23.11.2002, p. 12.

⁽⁷⁾ See page 1 of this Official Journal.

falling within HS/CN codes 6403 51 and 6403 59 is entitled to import an additional quantity of 32,83 % to the quantity indicated in its import licence. Any importer holding an import licence issued for 2003 pursuant to Regulation (EC) No 2077/2002 for products falling within HS/CN codes 6911 10 and 6912 00 is entitled to import an additional quantity of 52,09 % to the quantity indicated in its import licence.

Article 4

For the purpose of Article 3:

- any licence holder shall produce its import licence to the competent authority that issued it. The competent authority shall enter a reference on the licence indicating that the additional quantity has been allocated to the holder of the licence,
- alternatively, any licence holder shall produce its import licence to the competent authority that issued it and the competent authority shall cancel the licence and issue a

new licence. The quantities mentioned in that new licence will in this case include the ones cancelled, increased by the additional quantity foreseen in Article 3. The products that have already been put into free circulation will be deducted,

- alternatively, the competent authority shall issue an additional licence for the additional quantities mentioned in Article 3.

The reference to the existing licence and the issuing of new licences shall be effected free of charge and certified by the competent authority.

Article 5

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

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

Done at Brussels, 12 February 2003.

For the Commission

Pascal LAMY

Member of the Commission

COMMISSION REGULATION (EC) No 429/2003
of 7 March 2003
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 1947/2002 ⁽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 March 2003.

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

Done at Brussels, 7 March 2003.

For the Commission
J. M. SILVA RODRÍGUEZ
Agriculture Director-General

⁽¹⁾ OJ L 337, 24.12.1994, p. 66.

⁽²⁾ OJ L 299, 1.11.2002, p. 17.

ANNEX

to the Commission Regulation of 7 March 2003 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	154,9
	204	68,5
	212	125,1
	624	138,6
	999	121,8
0707 00 05	052	135,5
	068	135,6
	204	74,2
	220	209,9
0709 10 00	999	138,8
0709 90 70	220	86,6
	999	86,6
0805 10 10, 0805 10 30, 0805 10 50	052	162,4
	204	103,0
	999	132,7
0805 50 10	052	75,5
	204	42,3
	212	52,8
	220	41,6
	624	60,1
0808 10 20, 0808 10 50, 0808 10 90	999	54,5
	052	58,6
	600	60,8
0808 20 50	999	59,7
	039	111,1
	388	103,3
	400	92,6
	404	102,6
	512	81,4
	524	82,5
	528	97,0
	720	125,3
	728	107,5
0808 20 50	999	100,4
	388	76,1
	512	71,3
	528	66,1
	999	71,2

⁽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 REGULATION (EC) No 430/2003

of 7 March 2003

fixing the export refunds on white sugar and raw sugar without further processing

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

- (5) The refund must be fixed every two weeks. It may be altered in the intervening period.

Having regard to the Treaty establishing the European Community,

- (6) The first subparagraph of Article 27(5) of Regulation (EC) No 1260/2001 provides that refunds on the products referred to in Article 1 of that Regulation may vary according to destination, where the world market situation or the specific requirements of certain markets make this necessary.

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector ⁽¹⁾, as amended by Commission Regulation (EC) No 680/2002 ⁽²⁾, and in particular the second subparagraph of Article 27(5) thereof,

- (7) The significant and rapid increase in preferential imports of sugar from the western Balkan countries since the start of 2001 and in exports of sugar to those countries from the Community seems to be highly artificial in nature.

Whereas:

- (1) Article 27 of Regulation (EC) No 1260/2001 provides that the difference between quotations or prices on the world market for the products listed in Article 1(1)(a) of that Regulation and the prices for those products within the Community may be covered by an export refund.

- (8) In order to prevent any abuses associated with the re-importation into the Community of sugar sector products that have qualified for export refunds, refunds for the products covered by this Regulation should not be fixed for all the countries of the western Balkans.

- (2) Regulation (EC) No 1260/2001 provides that when refunds on white sugar and raw sugar, non-denatured and exported without further processing, are being fixed, account must be taken of the situation on the Community and world markets in sugar, and in particular of the price and cost factors set out in Article 28 of that Regulation. The same Article provides that the economic aspect of the proposed exports should also be taken into account.

- (9) In view of the above and of the present situation on the market in sugar, and in particular of the quotations or prices for sugar within the Community and on the world market, refunds should be fixed at the appropriate amounts.

- (10) The Management Committee for Sugar has not delivered an opinion within the time limit set by its chairman,

- (3) The refund on raw sugar must be fixed in respect of the standard quality. The latter is defined in Annex I, point II, to Regulation (EC) No 1260/2001. Furthermore, this refund should be fixed in accordance with Article 28(4) of Regulation (EC) No 1260/2001. Candy sugar is defined in Commission Regulation (EC) No 2135/95 of 7 September 1995 laying down detailed rules of application for the grant of export refunds in the sugar sector ⁽³⁾. The refund thus calculated for sugar containing added flavour or colouring matter must apply to their sucrose content and, accordingly, be fixed per 1 % of the said content.

HAS ADOPTED THIS REGULATION:

Article 1

The refunds to be granted on exports of the products listed in Article 1(1)(a) of Regulation (EC) No 1260/2001, non-denatured and without further processing, are hereby fixed in accordance with the Annex to this Regulation.

- (4) In special cases, the amount of the refund may be fixed by other legal instruments.

Article 2

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

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 104, 20.4.2002, p. 26.

⁽³⁾ OJ L 214, 8.9.1995, p. 16.

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

Done at Brussels, 7 March 2003.

For the Commission
 Franz FISCHLER
 Member of the Commission

ANNEX

REFUNDS ON WHITE SUGAR AND RAW SUGAR EXPORTED WITHOUT FURTHER PROCESSING

Product code	Destination	Unit of measurement	Amount of refund
1701 11 90 9100	S00	EUR/100 kg	40,25 ⁽¹⁾
1701 11 90 9910	S00	EUR/100 kg	40,25 ⁽¹⁾
1701 12 90 9100	S00	EUR/100 kg	40,25 ⁽¹⁾
1701 12 90 9910	S00	EUR/100 kg	40,25 ⁽¹⁾
1701 91 00 9000	S00	EUR/1 % of sucrose × 100 kg product net	0,4375
1701 99 10 9100	S00	EUR/100 kg	43,75
1701 99 10 9910	S00	EUR/100 kg	43,75
1701 99 10 9950	S00	EUR/100 kg	43,75
1701 99 90 9100	S00	EUR/1 % of sucrose × 100 kg of net product	0,4375

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

The numeric destination codes are set out in Commission Regulation (EC) No 2020/2001 (OJ L 273, 16.10.2001, p. 6).

The other destinations are:

S00: all destinations (third countries, other territories, victualling and destinations treated as exports from the Community) with the exception of Albania, Croatia, Bosnia and Herzegovina, Serbia and Montenegro (including Kosovo, as defined in UN Security Council Resolution 1244 of 10 June 1999) and the former Yugoslav Republic of Macedonia, save for sugar incorporated in the products referred to in Article 1(2)(b) of Council Regulation (EC) No 2201/96 (OJ L 297, 21.11.1996, p. 29).

⁽¹⁾ This amount is applicable to raw sugar with a yield of 92 %. Where the yield for exported raw sugar differs from 92 %, the refund amount applicable shall be calculated in accordance with Article 28(4) of Regulation (EC) No 1260/2001.

COMMISSION REGULATION (EC) No 431/2003**of 7 March 2003****fixing the export refunds on syrups and certain other sugar products exported without further processing**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector ⁽¹⁾, as amended by Commission Regulation (EC) No 680/2002 ⁽²⁾, and in particular the second subparagraph of Article 27(5) thereof,

Whereas:

- (1) Under Article 27 of Regulation (EC) No 1260/2001, the difference between world market quotations or prices for the products listed in Article 1(1)(d) of that Regulation and prices in the Community may be covered by export refunds.
- (2) Under Article 3 of Commission Regulation (EC) No 2135/95 of 7 September 1995 laying down detailed rules of application for the grant of export refunds in the sugar sector ⁽³⁾, the export refund on 100 kilograms of the products listed in Article 1(1)(d) of Regulation (EC) No 1260/2001 is equal to the basic amount multiplied by the sucrose content plus, where applicable, other sugars calculated in sucrose equivalent. The sucrose content of the product in question is determined in accordance with Article 3 of Commission Regulation (EC) No 2135/95.
- (3) Under Article 30(3) of Regulation (EC) No 1260/2001, the basic amount of the refund on sorbose exported without further processing is equal to the basic amount of the refund less one-hundredth of the production refund in force, set in accordance with Commission Regulation (EC) No 1265/2001 of 27 June 2001 laying down detailed rules for the application of Regulation (EC) No 1260/2001 as regards granting the production refund on certain sugar products used in the chemical industry ⁽⁴⁾, to the products listed in the Annex to that Regulation.
- (4) Under Article 30(2) of Regulation (EC) No 1260/2001, the basic amount of the refund on the other products listed in Article 1(1)(d) of that Regulation exported without further processing must be equal to one-hundredth of an amount obtained by taking account, on the one hand, of the difference between the intervention price for white sugar for the non-deficit Community areas for the month for which the basic amount is fixed

and the quotations or prices for white sugar recorded on the world market and, on the other, of the need to strike a balance between the use of Community basic products in the manufacture of processed goods for export to third countries and the use of third country products brought in under inward-processing arrangements.

- (5) Under Article 30(4) of Regulation (EC) No 1260/2001, the application of the basic amount may be restricted to specific products listed in Article 1(1)(d) of that Regulation.
- (6) Under Article 27(2) of Regulation (EC) No 1260/2001 refunds may be granted for export without further processing of the products listed in Article 1(1)(f), (g) and (h) of that Regulation. The refund must be fixed per 100 kilograms of dry matter taking particular account of the refund for products falling within CN code 1702 30 91 and for the products listed in Article 1(1)(d) of Regulation (EC) No 1260/2001 and of the economic aspects of the planned exports. In the case of the products listed in Article 1(1)(f) and (g) of that Regulation, the refund is granted only to products complying with the conditions in Article 5 of Regulation (EC) No 2135/95, and in the case of the products listed in Article 1(1)(h), the refund is granted only to products complying with the conditions in Article 6 of Regulation (EC) No 2135/95.
- (7) The above refunds must be fixed every month. They may be altered in the intervening period.
- (8) Under the first subparagraph of Article 27(5) of Regulation (EC) No 1260/2001, the situation on the world market or the specific requirements of certain markets may make it necessary to vary the refund for the products listed in Article 1 of that Regulation, depending on their destination.
- (9) The significant and rapid increase in preferential imports of sugar from the countries of the western Balkans since the start of 2001 and in exports of Community sugar to those countries appears to be highly artificial in nature.
- (10) To prevent any abuse through reimportation into the European Union of sugar products in receipt of an export refund, no refund should be fixed for the countries of the western Balkans for the products listed in this Regulation.

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 104, 20.4.2002, p. 26.

⁽³⁾ OJ L 214, 8.9.1995, p. 16.

⁽⁴⁾ OJ L 178, 30.6.2001, p. 63.

- (11) In light of the above, the refunds for the products in question should be set at the appropriate rates.
- (12) The Management Committee for Sugar has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1(1)(d)(f)(g) and (h) of Regulation (EC) No 1260/2001, exported without further processing, shall be as set out in the Annex hereto.

Article 2

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

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

Done at Brussels, 7 March 2003.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

EXPORT REFUNDS ON SYRUPS AND CERTAIN OTHER SUGAR PRODUCTS EXPORTED WITHOUT FURTHER PROCESSING

Product code	Destination	Unit of measurement	Amount of refund
1702 40 10 9100	S00	EUR/100 kg dry matter	43,75 ⁽¹⁾
1702 60 10 9000	S00	EUR/100 kg dry matter	43,75 ⁽¹⁾
1702 60 80 9100	S00	EUR/100 kg dry matter	83,13 ⁽²⁾
1702 60 95 9000	S00	EUR/1 % sucrose × 100 kg of product net	0,4375 ⁽³⁾
1702 90 30 9000	S00	EUR/100 kg dry matter	43,75 ⁽¹⁾
1702 90 60 9000	S00	EUR/1 % sucrose × 100 kg of product net	0,4375 ⁽³⁾
1702 90 71 9000	S00	EUR/1 % sucrose × 100 kg of product net	0,4375 ⁽³⁾
1702 90 99 9900	S00	EUR/1 % sucrose × 100 kg of product net	0,4375 ⁽³⁾ ⁽⁴⁾
2106 90 30 9000	S00	EUR/100 kg dry matter	43,75 ⁽¹⁾
2106 90 59 9000	S00	EUR/1 % sucrose × 100 kg of product net	0,4375 ⁽³⁾

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

The numeric destination codes are set out in Commission Regulation (EC) No 2020/2001 (OJ L 273, 16.10.2001, p. 6).

The other destinations are defined as follows:

S00: all destinations (third countries, other territories, victualling and destinations treated as exports from the Community) with the exception of Albania, Croatia, Bosnia and Herzegovina, Serbia and Montenegro (including Kosovo as defined by the United Nations Security Council Resolution 1244 of 10 June 1999) and the Former Yugoslav Republic of Macedonia, except for sugar incorporated into the products referred to in Article 1(2)(b) of Council Regulation (EC) No 2201/96 (OJ L 297, 21.11.1996, p. 29).

⁽¹⁾ Applicable only to products referred to in Article 5 of Regulation (EC) No 2135/95.

⁽²⁾ Applicable only to products referred to in Article 6 of Regulation (EC) No 2135/95.

⁽³⁾ The basic amount is not applicable to syrups which are less than 85 % pure (Regulation (EC) No 2135/95). Sucrose content is determined in accordance with Article 3 of Regulation (EC) No 2135/95.

⁽⁴⁾ The basic amount is not applicable to the product defined under point 2 of the Annex to Commission Regulation (EEC) No 3513/92 (OJ 355, 5.12.1992, p. 12).

**COMMISSION REGULATION (EC) No 432/2003
of 7 March 2003**

amending Commission Regulation (EC) No 1331/2002 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar for the 2002/2003 marketing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector ⁽¹⁾, as amended by Commission Regulation (EC) No 680/2002 ⁽²⁾, and in particular Article 22(2), Article 27(5) and (15) and Article 33(3) thereof,

Whereas:

- (1) Article 1 of Commission Regulation (EC) No 1331/2002 ⁽³⁾ opens a standing invitation to tender to determine levies and/or refunds on exports of white sugar for all destinations.
- (2) Under the first subparagraph of Article 27(5) of Regulation (EC) No 1260/2001, the situation on the world market or the specific requirements of certain markets may make it necessary to vary the refund for the products referred to in Article 1 of that Regulation, depending on their destination.
- (3) The significant and rapid increase in preferential imports of sugar from the countries of the western Balkans since the start of 2001 and in exports of Community sugar to those countries appears to be highly artificial in nature.
- (4) To prevent any abuse through reimportation into the European Union of sugar products in receipt of an export refund, no refund or levy should be fixed for the countries of the western Balkans for the products listed in Regulation (EC) No 1331/2002.
- (5) Regulation (EC) No 1331/2002 should be amended accordingly.

(6) In view of the dates for the invitations to tender, this Regulation must enter into force immediately.

(7) The Management Committee for Sugar has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Article 1(1) of Regulation (EC) No 1331/2002 is hereby replaced by:

‘1. A standing invitation to tender shall be issued in order to determine export levies and/or export refunds on white sugar covered by CN code 1701 99 10 for all destinations except for Albania, Croatia, Bosnia and Herzegovina, Serbia and Montenegro (*) and the Former Yugoslav Republic of Macedonia. During the period of this validity of this invitation to tender, partial invitations to tender shall be issued.

(*) Including Kosovo, as defined by United Nations Security Council Resolution 1244 of 10 June 1999.’

Article 2

Member States shall amend their invitations to tender so that they comply with Article 1 above.

Article 3

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

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

Done at Brussels, 7 March 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 104, 20.4.2002, p. 26.

⁽³⁾ OJ L 195, 24.7.2002, p. 6.

COMMISSION REGULATION (EC) No 433/2003**of 7 March 2003****fixing the maximum export refund on wholly milled long grain B rice to certain third countries in connection with the invitation to tender issued in Regulation (EC) No 1898/2002**

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 1898/2002 ⁽³⁾.(2) Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 1948/2002 ⁽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 B rice to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 1898/2002 is hereby fixed on the basis of the tenders submitted from 3 to 6 March 2003 at 287,00 EUR/t.

Article 2

This Regulation shall enter into force on 8 March 2003.

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

Done at Brussels, 7 March 2003.

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 287, 25.10.2002, p. 11.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 299, 1.11.2002, p. 18.

COMMISSION REGULATION (EC) No 434/2003**of 7 March 2003****concerning tenders submitted in response to the invitation to tender for the export of husked long grain B rice to the island of Réunion referred to in Regulation (EC) No 1895/2002**

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 1895/2002 ⁽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 March 2003 in response to the invitation to tender referred to in Regulation (EC) No 1895/2002 for the subsidy on exports to Réunion of husked long grain B rice falling within CN code 1006 20 98.

Article 2

This Regulation shall enter into force on 8 March 2003.

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

Done at Brussels, 7 March 2003.

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 299, 1.11.2002, p. 18.

COMMISSION REGULATION (EC) No 435/2003**of 7 March 2003****fixing the maximum export refund on wholly milled round grain rice to certain third countries in connection with the invitation to tender issued in Regulation (EC) No 1896/2002**

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 1896/2002 ⁽³⁾.(2) Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 1948/2002 ⁽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 1896/2002 is hereby fixed on the basis of the tenders submitted from 3 to 6 March 2003 at 160,00 EUR/t.

Article 2

This Regulation shall enter into force on 8 March 2003.

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

Done at Brussels, 7 March 2003.

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 287, 25.10.2002, p. 5.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 299, 1.11.2002, p. 18.

COMMISSION REGULATION (EC) No 436/2003**of 7 March 2003****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 1897/2002**

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 1897/2002 ⁽³⁾.
- (2) Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 1948/2002 ⁽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 1897/2002 is hereby fixed on the basis of the tenders submitted from 3 to 6 March 2003 at 165,00 EUR/t.

Article 2

This Regulation shall enter into force on 8 March 2003.

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

Done at Brussels, 7 March 2003.

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 287, 25.10.2002, p. 8.

⁽⁴⁾ OJ L 61, 7.3.1975, p. 25.

⁽⁵⁾ OJ L 299, 1.11.2002, p. 18.

II

(Acts whose publication is not obligatory)

EUROPEAN PARLIAMENT

**DECISION OF THE EUROPEAN PARLIAMENT
of 15 January 2003
appointing the European Ombudsman (*)**

(2003/158/EC, Euratom)

THE EUROPEAN PARLIAMENT,

Having regard to the Treaty establishing the European Community, and in particular Article 21, second paragraph, and Article 195 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 107d thereof,

Having regard to its decision of 9 March 1994 on the regulations and general conditions governing the performance of the Ombudsman's duties ⁽¹⁾, as amended by its decision of 14 March 2002 ⁽²⁾,

Having regard to Rule 177 of its Rules of Procedure,

Having regard to the call for nominations ⁽³⁾,

Having regard to its votes of 14 and 15 January 2003,

HAS DECIDED AS FOLLOWS:

Mr Nikiforos DIAMANDOUROS has been appointed European Ombudsman with effect from 1 April 2003.

Done at Strasbourg, 15 January 2003.

For the European Parliament
The President
P. COX

(*) This decision annuls and replaces Decision 2002/103/EC, Euratom of the European Parliament (OJ L 43, 18.2.2003, p. 43).

⁽¹⁾ OJ L 113, 4.5.1994, p. 15.

⁽²⁾ OJ L 92, 9.4.2002, p. 13.

⁽³⁾ OJ C 213, 7.9.2002, p. 10.

COUNCIL

COUNCIL DECISION

of 19 December 2002

concerning the conclusion of the Partnership Agreement between the African Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000

(2003/159/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Article 310 thereof in conjunction with Article 300(2), first subparagraph, second sentence, and Article 300(3), second paragraph,

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

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

Whereas:

- (1) Pursuant to Article 96 of the Partnership Agreement between the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 (hereinafter referred to as 'the Partnership Agreement') ⁽³⁾, the Party which considers that another Party has failed to fulfil an obligation in respect of one of the essential elements referred to in Article 9 may invite the other Party to hold consultations and, in certain circumstances, take appropriate measures, including where necessary, the partial or full suspension of application of the Partnership Agreement to the party concerned.
- (2) Pursuant to Article 97 of the Partnership Agreement, the Party which considers that a serious case of corruption has occurred may invite the other Party to hold consultations and, in certain circumstances, take appropriate measures, including where necessary, the partial or full suspension of application of the Partnership Agreement to the Party concerned.
- (3) An effective procedure should be adopted when it is intended to take appropriate measures under Article 96 or Article 97 of the Partnership Agreement.
- (4) The position of the Community on requests for derogations from the rules of origin set out in Protocol 1 to the ACP-EC Partnership Agreement is established by the Commission in accordance with the provisions of Council Decision 2000/399/EC ⁽⁴⁾.

- (5) The Partnership Agreement should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Partnership Agreement between the African Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000, together with the Annexes and Protocols attached thereto and the declarations made by the Community unilaterally or jointly with other parties that are attached to the Final Act, are hereby approved on behalf of the Community.

The texts of the Partnership Agreement, Annexes, Protocols and the Final Act are attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to deposit the instrument of approval as required by Article 93(2) of the Partnership Agreement on behalf of the Community.

Article 3

1. Where, at the initiative of the Commission or a Member State, the Council considers that an ACP State has failed to fulfil an obligation concerning one of the essential elements referred to in Article 9 of the Partnership Agreement, or in serious cases of corruption, the ACP State concerned shall be invited, unless there is special urgency, to hold consultations in accordance with Articles 96 and 97 of the Partnership Agreement.

The Council shall act by a qualified majority.

In the consultations, the Community shall be represented by the Presidency of the Council and the Commission.

⁽¹⁾ OJ C 240 E, 28.8.2001, p. 5.

⁽²⁾ Assent given on 17 January 2002 (not yet published in the Official Journal).

⁽³⁾ OJ L 317, 15.12.2000, p. 3.

⁽⁴⁾ OJ L 151, 24.6.2000, p. 16.

2. If, on expiry of the deadlines set in Articles 96 and 97 for the consultations, and despite all efforts, no solution has been found, or immediately in a case of urgency or refusal to hold consultations, the Council may, pursuant to those Articles, decide, by a qualified majority on a proposal from the Commission, to take appropriate measures including partial suspension.

The Council shall act unanimously in case of a full suspension of application of the Partnership Agreement in relation to the ACP State concerned.

These measures shall remain in force until such time as the Council has used the applicable procedure as set out in the first subparagraph to take a decision amending or revoking the measures adopted previously, or where applicable, for the period indicated in the Decision.

For that purpose the Council shall proceed to review regularly and at least every six months the above measures.

The President of the Council shall notify the measures thus adopted to the ACP State concerned and to the Council of Ministers, before they enter into force.

The Council's decision shall be published in the *Official Journal of the European Union*. Where the measures are adopted immediately, notification thereof shall be addressed to the ACP State and to the Council of Ministers at the same time as an invitation to hold consultations.

3. The European Parliament shall be immediately and fully informed on any decision taken under paragraphs 1 and 2.

Article 4

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 19 December 2002.

For the Council

The President

L. ESPERSEN

COMMISSION

COMMISSION DECISION

of 7 March 2003

amending Regulation (EC) No 2037/2000 of the European Parliament and of the Council with regard to the use of halon 1301 and halon 1211

(notified under document number C(2003) 691)

(2003/160/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 2037/2000 of the European Parliament and of the Council of 29 June 2000, on substances that deplete the ozone layer⁽¹⁾, as last amended by Regulation (EC) No 2039/2000⁽²⁾, and in particular Article 4(4)(iv) thereof,

Whereas:

- (1) The Commission has come, during the course of the review provided for in Article 4(4)(iv) of Regulation (EC) No 2037/2000, and after consultation with the military and other stakeholders, to the following findings with regard to the use of halon 1301 and halon 1211.
- (2) Halon 1301 is currently used for fuel tank inerting in F-16 fighter aircraft. At present there are no alternatives available that have the ability to extinguish a fire and suppress an explosion in a volume-to-weight ratio acceptable for fuel tank inerting in a fighter aircraft. An alternative installed and operational on F-16 fighter aircraft is unlikely to be available in the foreseeable future and certainly not before 31 December 2003, when all non-exempted uses must be decommissioned pursuant to Article 4(4)(v) of Regulation (EC) No 2037/2000. This use of halon 1301 should therefore be added to the list of exempted halon uses in Annex VII in Regulation (EC) No 2037/2000.
- (3) Both halon 1301 and halon 1211 are currently used in military land vehicles and naval vessels for the protection of spaces occupied by personnel and engine compartments. However, only the use of halon 1301 is covered by the exemption provided for in Regulation (EC) No 2037/2000. The conversion of that military equipment from the use of halon 1211 to the use of halon 1301 would be costly and counterproductive with

regard to the protection of the ozone layer, since halon 1301 has an ozone-depleting potential more than three-times higher than halon 1211. Moreover, diversion of financial resources to convert equipment to the use of halon 1301 would most likely delay the development of alternatives with no ozone-depleting potential. The use of halon 1211 for the protection of spaces occupied by personnel and engine compartments in military land vehicles and naval vessels should therefore be added to the list of exempted halon uses in Annex VII in Regulation (EC) No 2037/2000.

- (4) Regulation (EC) No 2037/2000 should therefore be amended accordingly.
- (5) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 18(1) of Regulation (EC) No 2037/2000,

HAS ADOPTED THIS DECISION:

Article 1

Annex VII to Regulation (EC) No 2037/2000 is replaced by the text in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 7 March 2003.

For the Commission

Margot WALLSTRÖM

Member of the Commission

⁽¹⁾ OJ L 244, 29.9.2000, p. 1.

⁽²⁾ OJ L 244, 29.9.2000, p. 26.

ANNEX

Annex VII to Regulation (EC) No 2037/2000 is replaced by the following:

‘ANNEX VII

Critical uses of halon

Use of halon 1301:

- in aircraft for the protection of crew compartments, engine nacelles, cargo bays and dry bays, and fuel tank inerting,
- in military land vehicles and naval vessels for the protection of spaces occupied by personnel and engine compartments,
- for the making inert of occupied spaces where flammable liquid and/or gas release could occur in the military and oil, gas and petrochemical sector, and in existing cargo ships,
- for the making inert of existing manned communication and command centres of the armed forces or others, essential for national security,
- for the making inert of spaces where there may be a risk of dispersion of radioactive matter,
- in the Channel Tunnel and associated installations and rolling stock.

Use of halon 1211:

- in military land vehicles and naval vessels for the protection of spaces occupied by personnel and engine compartments,
 - in hand-held fire extinguishers and fixed extinguisher equipment for engines for use on board aircraft,
 - in aircraft for the protection of crew compartments, engine nacelles, cargo bays and dry bays,
 - in fire extinguishers essential to personal safety used for initial extinguishing by fire brigades,
 - in military and police fire extinguishers for use on persons.’
-

COMMISSION DECISION**of 7 March 2003****fixing for the year 2003 an indicative allocation between the Member States of the financing under the Community Tobacco Fund of the measures referred to in Articles 13 and 14 of Regulation (EC) No 2182/2002***(notified under document number C(2003) 704)**(2003/161/EC)*

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2075/92 of 30 June 1992 on the common organisation of the market in raw tobacco ⁽¹⁾, as last amended by Regulation (EC) No 546/2002 ⁽²⁾, and in particular Article 14a thereof,

Whereas:

- (1) Articles 13 and 14 of Commission Regulation (EC) No 2182/2002 of 6 December 2002 laying down detailed rules for the application of Council Regulation (EEC) No 2075/92 with regard to the Community Tobacco Fund ⁽³⁾, provide for measures to promote a switch of tobacco production. Those measures are to be financed by the Community Tobacco Fund set up by Article 13 of Regulation (EEC) No 2075/92.
- (2) The total amount available to the Community Tobacco Fund for 2003 is EUR 19 million, half of which should be used to finance specific measures to help tobacco growers to switch to other crops or to other economic activities that create employment, and to fund related studies.
- (3) It is therefore necessary to fix the allocation to the Member States concerned of the available amount in accordance with Article 17(2) of Regulation (EC) No 2182/2002.

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

HAS ADOPTED THIS DECISION:

Article 1

For the year 2003, the indicative allocations between the Member States of the financing under the Community Tobacco Fund of the measures referred to in Articles 13 and 14 of Regulation (EC) No 2182/2002 shall be as set out in the Annex.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 7 March 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 215, 30.7.1992, p. 70.

⁽²⁾ OJ L 84, 28.3.2002, p. 4.

⁽³⁾ OJ L 331, 7.12.2002, p. 16.

ANNEX

The indicative allocations to Member States of the financing under the Community Tobacco Fund for the year 2003

(Euro)

Member State	Indicative allocation for 2003	
Basis	90 % on the quantities irrevocably bought back under the quotas	10 % on the national guarantee threshold
	Value	Value
Italy	4 858 080	360 415
Greece	3 366 035	346 290
Spain	0	117 466
Portugal	195 277	16 838
France	0	71 418
Germany	0	31 657
Belgium	59 197	4 400
Austria	71 411	1 518
Total	8 550 000	950 000