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I

(Acts whose publication is obligatory)

**COMMISSION REGULATION (EC) No 458/2003
of 13 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 14 March 2003.

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

Done at Brussels, 13 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 13 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	94,8
	204	59,6
	212	125,1
	624	129,4
	999	102,2
0707 00 05	052	98,9
	068	69,0
	204	92,7
	220	186,1
	999	111,7
0709 10 00	220	169,3
	999	169,3
0709 90 70	052	119,8
	204	97,5
	999	108,7
0805 10 10, 0805 10 30, 0805 10 50	052	76,6
	204	45,2
	212	46,1
	220	46,6
	624	64,9
0808 10 20, 0808 10 50, 0808 10 90	999	55,9
	039	109,6
	388	118,4
	400	109,3
	404	105,9
	508	90,0
	512	83,3
	524	72,6
	528	86,1
	720	119,2
0808 20 50	728	94,0
	999	98,8
	204	46,1
	388	72,4
	512	92,1
	528	61,2
	999	68,0

⁽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 459/2003**of 13 March 2003****fixing the representative prices and the additional import duties for molasses in the sugar sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the market in sugar ⁽¹⁾, as amended by Commission Regulation (EC) No 680/2002 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1422/95 of 23 June 1995 laying down detailed rules of application for imports of molasses in the sugar sector and amending Regulation (EEC) No 785/68 ⁽³⁾, as amended by Regulation (EC) No 79/2003 ⁽⁴⁾, and in particular Article 1(2) and Article 3(1) thereof,

Whereas:

- (1) Regulation (EC) No 1422/95 stipulates that the cif import price for molasses, hereinafter referred to as the 'representative price', should be set in accordance with Commission Regulation (EEC) No 785/68 ⁽⁵⁾. That price should be fixed for the standard quality defined in Article 1 of the above Regulation.
- (2) The representative price for molasses is calculated at the frontier crossing point into the Community, in this case Amsterdam; that price must be based on the most favourable purchasing opportunities on the world market established on the basis of the quotations or prices on that market adjusted for any deviations from the standard quality. The standard quality for molasses is defined in Regulation (EEC) No 785/68.
- (3) When the most favourable purchasing opportunities on the world market are being established, account must be taken of all available information on offers on the world market, on the prices recorded on important third-country markets and on sales concluded in international trade of which the Commission is aware, either directly or through the Member States. Under Article 7 of Regulation (EEC) No 785/68, the Commission may for this purpose take an average of several prices as a basis, provided that this average is representative of actual market trends.
- (4) The information must be disregarded if the goods concerned are not of sound and fair marketable quality or if the price quoted in the offer relates only to a small

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 14 March 2003.

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 104, 20.4.2002, p. 26.

⁽³⁾ OJ L 141, 24.6.1995, p. 12.

⁽⁴⁾ OJ L 13, 18.1.2003, p. 4.

⁽⁵⁾ OJ L 145, 27.6.1968, p. 12.

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

Done at Brussels, 13 March 2003.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

ANNEX

to the Commission Regulation of 13 March 2003 fixing the representative prices and additional import duties to imports of molasses in the sugar sector

(in EUR)

CN code	Amount of the representative price in 100 kg net of the product in question	Amount of the additional duty in 100 kg net of the product in question	Amount of the duty to be applied to imports in 100 kg net of the product in question because of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 ⁽²⁾
1703 10 00 ⁽¹⁾	8,21	—	0
1703 90 00 ⁽¹⁾	10,16	—	0

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

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

COMMISSION REGULATION (EC) No 460/2003

of 13 March 2003

fixing the export refunds on white sugar and raw sugar 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) 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.

(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.

(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.

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

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

(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.

(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.

(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.

(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 measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

The 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.

Article 2

This Regulation shall enter into force on 14 March 2003.

⁽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, 13 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	41,05 ⁽¹⁾
1701 12 90 9100	S00	EUR/100 kg	40,25 ⁽¹⁾
1701 12 90 9910	S00	EUR/100 kg	41,05 ⁽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	44,62
1701 99 10 9950	S00	EUR/100 kg	44,62
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 1779/2002 (OJ L 269, 5.10.2002, 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 461/2003
of 13 March 2003**

fixing the maximum export refund for white sugar to certain third countries for the 25th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1331/2002

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 27(5) thereof,

Whereas:

(1) Commission Regulation (EC) No 1331/2002 of 23 July 2002 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar ⁽³⁾, as amended by Regulation (EC) No 432/2003 ⁽⁴⁾, for the 2002/2003 marketing year, requires partial invitations to tender to be issued for the export of this sugar to certain third countries.

(2) Pursuant to Article 9(1) of Regulation (EC) No 1331/2002 a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question.

(3) Following an examination of the tenders submitted in response to the 25th partial invitation to tender, the provisions set out in Article 1 should be adopted.

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 25th partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1331/2002 the maximum amount of the export refund to certain third countries is fixed at 47,670 EUR/100 kg.

Article 2

This Regulation shall enter into force on 14 March 2003.

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

Done at Brussels, 13 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.

⁽⁴⁾ OJ L 65, 8.3.2003, p. 21.

**COMMISSION REGULATION (EC) No 462/2003
of 13 March 2003**

**laying down detailed rules for the application of the arrangements applicable to imports of certain
pigmeat products originating in the ACP States and repealing Regulation (EC) No 2562/98**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organisation of the market in pigmeat ⁽¹⁾, as last amended by Regulation (EC) No 1365/2000 ⁽²⁾, and in particular Articles 8 and 22 thereof,

Having regard to Council Regulation (EC) No 2286/2002 of 10 December 2002 on the arrangements applicable to agricultural products and goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States (ACP States) and repealing Regulation (EEC) No 1706/98 ⁽³⁾, and in particular Article 5 thereof,

Whereas:

- (1) Regulation (EC) No 2286/2002 implements the amendments to the arrangements for imports from the ACP States made as a result of the ACP-EC Partnership Agreement signed in Cotonou on 23 June 2000 ⁽⁴⁾. Article 1(3) of that Regulation introduces, for the products in Annex I thereto, general arrangements for reducing customs duties and specific arrangements for reducing customs duties, within the framework of the tariff quotas, for certain products in Annex II thereto.
- (2) As a result of these new import arrangements, detailed rules of application should be laid down for the issue of import licences for products qualifying for reduced duties. Commission Regulation (EC) No 2562/98 of 27 November 1998 laying down detailed rules for the application of the arrangements applicable to imports of certain pigmeat products originating in the ACP States and repealing Regulation (EEC) No 904/90 ⁽⁵⁾, as amended by Regulation (EC) No 1006/2001 ⁽⁶⁾, should therefore be repealed.
- (3) For the purposes of managing the tariff import quotas, the general rules laid down by Commission Regulation (EC) No 1291/2000 of 9 June 2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products ⁽⁷⁾, as amended by Regulation (EC) No 2299/2001 ⁽⁸⁾, should be applied where this Regulation does not lay down specific rules.

- (4) In order to ensure proper administration of the quotas, a security should be required for applications for import licences and certain conditions should be laid down as regards applicants themselves. The quotas should also be staggered over the year and the term of validity of licences should be specified.
- (5) To allow optimum management of the tariff quota, this Regulation should apply from 1 January 2003.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Pigmeat,

HAS ADOPTED THIS REGULATION:

Article 1

All imports into the Community within the framework of Regulation (EC) No 2286/2002 of products covered by CN codes listed in Annex I to this Regulation shall qualify for reduced customs duties on presentation of an import licence.

Licences shall be issued under the conditions laid down in this Regulation and within the limit of the quotas laid down in Annex II to Regulation (EC) No 2286/2002.

Article 2

The annual tariff quota of 500 tonnes referred to in Part B of Annex I shall be staggered as follows:

- 25 % in the period 1 January to 31 March,
- 25 % in the period 1 April to 30 June,
- 25 % in the period 1 July to 30 September,
- 25 % in the period 1 October to 31 December.

⁽¹⁾ OJ L 282, 1.11.1975, p. 1.

⁽²⁾ OJ L 156, 29.6.2000, p. 5.

⁽³⁾ OJ L 348, 21.12.2002, p. 5.

⁽⁴⁾ OJ L 317, 15.12.2000, p. 3.

⁽⁵⁾ OJ L 320, 28.11.1998, p. 34.

⁽⁶⁾ OJ L 140, 24.5.2001, p. 13.

⁽⁷⁾ OJ L 152, 24.6.2000, p. 1.

⁽⁸⁾ OJ L 308, 27.11.2001, p. 19.

Article 3

1. Applicants for import licences for products referred to in Annex I shall be natural or legal persons who, at the time when applications are submitted, can prove to the satisfaction of the competent authorities of the Member States that they have been active in trade with third countries in the pigmeat sector for at least the preceding 12 months.

However, retail establishments or restaurants selling their products to final consumers shall be excluded from the reduction in customs duties.

2. Import licence applications may mention only one of the quota numbers referred to in Annex I. They may involve several products covered by different CN codes. In such cases, all the CN codes shall be indicated in Section 16 and their description in Section 15 of licence applications and licences.

Applications must be for a minimum of one tonne and a maximum of 100 % of the quantity available for the quota concerned and the period specified in Article 2.

Article 4

1. Section 8 of licence applications and licences shall indicate the country of origin; licences shall entail an obligation to import from the country indicated.

2. Section 20 of licence applications and licences shall carry one of the following entries:

- Producto ACP — Reglamentos (CE) n° 2286/2002 y (CE) n° 462/2003
- AVS-produkt — forordning (EF) nr. 2286/2002 og (EF) nr. 462/2003
- AKP-Erzeugnis — Verordnungen (EG) Nr. 2286/2002 und (EG) Nr. 462/2003
- Προϊόν ΑΚΕ — Κανονισμοί (ΕΚ) αριθ. 2286/2002 και (ΕΚ) αριθ. 462/2003
- ACP product — Regulations (EC) No 2286/2002 and (EC) No 462/2003
- Produit ACP — règlements (CE) n° 2286/2002 et (CE) n° 462/2003
- Prodotto ACP — regolamenti (CE) n. 2286/2002 e (CE) n. 462/2003
- ACS-product — Verordeningen (EG) nr. 2286/2002 en (EG) nr. 462/2003
- Produto ACP — Regulamentos (CE) n.º 2286/2002 e (CE) n.º 462/2003
- AKT-tuote — asetukset (EY) N:o 2286/2002 ja (EY) N:o 462/2003
- AVS-produkt — förordningarna (EG) nr 2286/2002 och (EG) nr 462/2003.

3. Section 24 of licences shall carry one of the following entries:

- Reducción del derecho de aduana en virtud del Reglamento (CE) n° 462/2003
- Toldnedsættelse, jf. forordning (EF) nr. 462/2003
- Ermäßigung des Zollsatzes gemäß der Verordnung (EG) Nr. 462/2003
- Μείωση του δασμού όπως προβλέπεται στον κανονισμό (ΕΚ) αριθ. 462/2003
- Customs duty reduction as provided for in Regulation (EC) No 462/2003
- Réduction du droit de douane comme prévu au règlement (CE) n° 462/2003
- Riduzione del dazio doganale a norma del regolamento (CE) n. 462/2003
- Douanerecht verlaagd overeenkomstig Verordening (EG) nr. 462/2003
- Redução do direito aduaneiro conforme previsto no Regulamento (CE) n.º 462/2003
- Tullialennus, josta on säädetty asetuksessa (EY) N:o 462/2003
- Nedsättning av tullavgiften enligt förordning (EG) nr 462/2003.

Article 5

1. Licence applications may only be lodged during the first seven days of the month preceding each period specified in Article 2.

2. Applications shall be invalid if applicants do not declare in writing that they have not lodged and will not lodge, for the period in question, other applications for products of the same quota in the Member State where the application is lodged or another Member State. If an applicant lodges more than one application for products of one quota none of the applications shall be valid.

3. The Member States shall notify the Commission on the third working day following the end of the application submission period of applications lodged for each of the products of the group in question. Such notification shall comprise a list of applicants and of quantities applied for by quota.

All notifications, including 'nil' returns, shall be made by fax or by electronic means on the working day stipulated, using the model shown in Annex II in cases where no applications have been made, and the models shown in Annexes II and III in cases where applications have been made.

4. The Commission shall decide to what extent quantities may be awarded in respect of applications.

If quantities in respect of which licences have been applied for exceed the quantities available, the Commission shall fix a single percentage reducing the quantities applied for.

If the overall quantity covered by applications is less than the quantity available, the Commission shall calculate the quantity remaining, which shall be added to the quantity available in respect of the following period in the same year.

5. Licences shall be issued as soon as possible subject to the Commission's decision regarding acceptance of the applications.

6. The Member States shall communicate to the Commission, before the end of the fourth month following each annual period specified in Article 2, the quantities actually imported under this Regulation in that period.

All notifications, including notifications that there have been no imports, shall be made using the model shown in Annex IV.

Article 6

1. Import licences shall be valid for 150 days from the date of actual issue in accordance with Article 23(2) of Regulation (EC) No 1291/2000.

However, licences shall not be valid beyond 31 December of the year of issue.

2. Import licences issued pursuant to this Regulation shall not be transferable.

Article 7

A security of EUR 20 per 100 kilograms shall be lodged for import licence applications for all products.

Article 8

Import under the arrangements for a reduction in customs duties provided for in this Regulation may take place only if the origin of the products concerned is certified by the competent authorities of the exporting countries in accordance with the rules of origin applicable to the products in question pursuant to Protocol 1 to the ACP-EC Partnership Agreement signed in Cotonou on 23 June 2000.

Article 9

Unless this Regulation provides otherwise, Regulation (EC) No 1291/2000 shall apply.

Article 10

Regulation (EC) No 2562/98 is hereby repealed.

Article 11

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

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, 13 March 2003.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

A. Products referred to in Article 1(3) and Annex I to Regulation (EC) No 2286/2002 qualifying for a reduced out-of-quota-duty-rate

CN code	Reduction in customs duty (%)
0103 91 10	16
0103 92 11	
0103 92 19	
1501 00 11	
1501 00 19	
1602 10 00	
1602 20 90	
1602 41 10	
1602 42 10	
1602 49	
1602 90 10	
1602 90 51	
1902 20 30	

B. Products referred to in Article 1(3) and Annex II to Regulation (EC) No 2286/2002 qualifying for a reduction in customs duty under a quota

Order No	Quota No	CN-code	Reduction in customs duty (%)	Annual quantity (tonnes)
09.4029	Q7	0203 11 10	50	500
		0203 12 11		
		0203 12 19		
		0203 19 11		
		0203 19 13		
		0203 19 15		
		ex 0203 19 55 ⁽¹⁾		
		0203 19 59		
		0203 21 10		
		0203 22 11		
		0203 22 19		
		0203 29 11		
		0203 29 13		
		0203 29 15		
		ex 0203 29 55 ⁽¹⁾		
		0203 29 59		
		0209 00 11		
		0209 00 19		
		0209 00 30		
		0210 11 11 to 0210 11 39		
		0210 12 11		
		0210 12 19		
		0210 19 10 to 0210 19 89		
		0210 99 41		
		0210 99 49		

⁽¹⁾ Except filet mignon presented alone.

Order No	Quota No	CN code	Reduction in customs duty (%)	Annual quantity (tonnes)
09.4028	Q8	1601 00	65	500

ANNEX II

Regulation (EC) No 462/2003 — ACP imports

COMMISSION OF THE EUROPEAN COMMUNITIES — DG AGRI/D/2 — Pigmeat		
Application for import licences	Date	Period
Member State:		
Sender:		
Contact:		
Tel.:		
Fax:		
To: DG AGRI/D/2 — Fax No: (32 2) 296 62 79 or AGRI-D2@cec.eu.int		
Quota No	Quantity applied for	
Q7		
Q8		

ANNEX III

Regulation (EC) No 462/2003 — ACP imports

COMMISSION OF THE EUROPEAN COMMUNITIES — DG AGRI/D/2 — Pigmeat		
Application for import licences	Date	Period
Member State:		

(tonnes)

Quota No	CN code	Applicant (name and address)	Quantity	Country of origin
Q7				
		Total		

(tonnes)

Quota No	CN code	Applicant (name and address)	Quantity	Country of origin
Q8				
		Total		

ANNEX IV

Communication of quantities actually imported

Member State:

Application of Article of Regulation

Quantities of products actually imported

To: DG AGRI/D/2 — Fax No: (32-2) 296 62 79 or AGRI-d2@cec.eu.int

Quota No	Quantity actually imported	Country of origin

COMMISSION REGULATION (EC) No 463/2003
of 13 March 2003
on the issuing of system A3 export licences in the fruit and vegetables sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 1961/2001 of 8 October 2001 laying down detailed rules for implementing Council Regulation (EC) No 2200/96 as regards export refunds on fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 1176/2002 ⁽²⁾, and in particular Article 4(4) thereof,

Whereas:

- (1) Commission Regulation (EC) No 284/2003 ⁽³⁾ opens an invitation to tender setting the indicative refund rates and indicative quantities for system A3 export licences, which may be issued, other than those tendered for as part of food aid.
- (2) In the light of the tenders submitted, the maximum refund rates and the percentages of quantities to be awarded for tenders quoting those maximum rates should be set.

(3) In the case of tomatoes, the maximum rate necessary to award licences for the indicative quantity up to the quantities tendered for is more than one-and-a-half times the indicative refund rate,

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

HAS ADOPTED THIS REGULATION:

Article 1

In the case of tomatoes, the maximum refund rates and the percentages for reducing the quantities awarded under the invitation to tender opened by Regulation (EC) No 284/2003 shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 16 March 2003.

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

Done at Brussels, 13 March 2003.

For the Commission

J. M. SILVA RODRÍGUEZ
Agriculture Director-General

⁽¹⁾ OJ L 268, 9.10.2001, p. 8.

⁽²⁾ OJ L 170, 29.6.2002, p. 69.

⁽³⁾ OJ L 42, 15.2.2003, p. 25.

ANNEX

Product	Maximum refund rate (EUR/t net)	Percentage awarded of quantities tendered for quoting the maximum refund rate
Tomatoes	20	100 %

COMMISSION REGULATION (EC) No 464/2003
of 13 March 2003
on the issuing of system A3 export licences in the fruit and vegetables sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 1961/2001 of 8 October 2001 laying down detailed rules for implementing Council Regulation (EC) No 2200/96 as regards export refunds on fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 1176/2002 ⁽²⁾, and in particular Article 4(4) thereof,

Whereas:

- (1) Commission Regulation (EC) No 284/2003 ⁽³⁾ opens an invitation to tender setting the indicative refund rates and indicative quantities for system A3 export licences, which may be issued, other than those tendered for as part of food aid.
- (2) In the light of the tenders submitted, the maximum refund rates and the percentages of quantities to be awarded for tenders quoting those maximum rates should be set.

- (3) In the case of oranges, lemons and apples, the maximum rate necessary to award licences for the indicative quantity up to the quantities tendered for is not more than one-and-a-half times the indicative refund rate,

HAS ADOPTED THIS REGULATION:

Article 1

In the case of oranges, lemons and apples, the maximum refund rates and the percentages for reducing the quantities awarded under the invitation to tender opened by Regulation (EC) No 284/2003 shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 16 March 2003.

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

Done at Brussels, 13 March 2003.

For the Commission

J. M. SILVA RODRÍGUEZ
Agriculture Director-General

⁽¹⁾ OJ L 268, 9.10.2001, p. 8.

⁽²⁾ OJ L 170, 29.6.2002, p. 69.

⁽³⁾ OJ L 42, 15.2.2003, p. 25.

ANNEX

Product	Maximum refund rate (EUR/t net)	Percentage awarded of quantities tendered for quoting the maximum refund rate
Oranges	20	73 %
Lemons	14	53 %
Apples	10	67 %

**COMMISSION REGULATION (EC) No 465/2003
of 13 March 2003**

**amending representative prices and additional duties for the import of certain products in the
sugar sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 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⁾,

Having regard to Commission Regulation (EC) No 1423/95 of 23 June 1995 laying down detailed implementing rules for the import of products in the sugar sector other than molasses ⁽³⁾, as last amended by Regulation (EC) No 624/98 ⁽⁴⁾, and in particular the second subparagraph of Article 1(2), and Article 3(1) thereof,

Whereas:

- (1) The amounts of the representative prices and additional duties applicable to the import of white sugar, raw sugar and certain syrups are fixed by Commission Regulation (EC) No 1153/2002 ⁽⁵⁾, as last amended by Regulation (EC) No 412/2003 ⁽⁶⁾.

- (2) It follows from applying the general and detailed fixing rules contained in Regulation (EC) No 1423/95 to the information known to the Commission that the representative prices and additional duties at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties on imports of the products referred to in Article 1 of Regulation (EC) No 1423/95 shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 14 March 2003.

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

Done at Brussels, 13 March 2003.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 104, 20.4.2002, p. 26.

⁽³⁾ OJ L 141, 24.6.1995, p. 16.

⁽⁴⁾ OJ L 85, 20.3.1998, p. 5.

⁽⁵⁾ OJ L 170, 29.6.2002, p. 27.

⁽⁶⁾ OJ L 62, 6.3.2003, p. 19.

ANNEX

to the Commission Regulation of 13 March 2003 altering representative prices and the amounts of additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 99

(EUR)		
CN code	Amount of representative prices per 100 kg net of product concerned	Amount of additional duty per 100 kg net of product concerned
1701 11 10 ⁽¹⁾	18,63	6,99
1701 11 90 ⁽¹⁾	18,63	12,91
1701 12 10 ⁽¹⁾	18,63	6,80
1701 12 90 ⁽¹⁾	18,63	12,39
1701 91 00 ⁽²⁾	21,83	15,13
1701 99 10 ⁽²⁾	21,83	9,80
1701 99 90 ⁽²⁾	21,83	9,80
1702 90 99 ⁽³⁾	0,22	0,42

⁽¹⁾ For the standard quality as defined in Annex I, point II, to Council Regulation (EC) No 1260/2001 (OJ L 178, 30.6.2001, p. 1).

⁽²⁾ For the standard quality as defined in Annex I, point I, to Council Regulation (EC) No 1260/2001 (OJ L 178, 30.6.2001, p. 1).

⁽³⁾ By 1 % sucrose content.

COMMISSION REGULATION (EC) No 466/2003
of 13 March 2003
fixing the export refunds on milk and milk products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, as last amended by Commission Regulation (EC) No 509/2002 ⁽²⁾, and in particular Article 31(3) thereof,

Whereas:

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

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

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

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

which are most favourable for exportation, and that when prices in international trade are being determined particular account should be taken of:

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

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

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

(6) In accordance with Article 16 of Commission Regulation (EC) No 174/1999 of 26 January 1999 on specific detailed rules for the application of Council Regulation (EC) No 804/68 as regards export licences and export refunds on milk and milk products ⁽³⁾, as last amended by Regulation (EC) No 186/2003 ⁽⁴⁾, the refund granted for milk products containing added sugar is equal to the sum of the two components; one is intended to take account of the quantity of milk products and is calculated by multiplying the basic amount by the milk products content in the product concerned; the other is intended to take account of the quantity of added sucrose and is calculated by multiplying the sucrose content of the entire product by the basic amount of the refund valid on the day of exportation for the products listed in Article 1(1)(d) of Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector ⁽⁵⁾, as amended by Commission Regulation (EC) No 680/2002 ⁽⁶⁾, however, this second component is applied only if the added sucrose has been produced using sugar beet or cane harvested in the Community.

⁽¹⁾ OJ L 160, 26.6.1999, p. 48.

⁽²⁾ OJ L 79, 22.3.2002, p. 15.

⁽³⁾ OJ L 20, 27.1.1999, p. 8.

⁽⁴⁾ OJ L 27, 1.2.2003, p. 11.

⁽⁵⁾ OJ L 178, 30.6.2001, p. 1.

⁽⁶⁾ OJ L 104, 20.4.2002, p. 26.

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 14 March 2003.

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

Done at Brussels, 13 March 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 91, 1.4.1984, p. 71.

⁽²⁾ OJ L 28, 1.2.1988, p. 1.

ANNEX

to the Commission Regulation of 13 March 2003 fixing the export refunds on milk and milk products

Product code	Destination	Unit of measurement	Amount of refund	Product code	Destination	Unit of measurement	Amount of refund
0401 10 10 9000	970	EUR/100 kg	1,991	0402 91 39 9300	L06	EUR/100 kg	8,058
0401 10 90 9000	970	EUR/100 kg	1,991	0402 91 99 9000	L06	EUR/100 kg	39,54
0401 20 11 9100	970	EUR/100 kg	0,000	0402 99 11 9350	L06	EUR/kg	0,1734
0401 20 11 9500	970	EUR/100 kg	3,076	0402 99 19 9350	L06	EUR/kg	0,1734
0401 20 19 9100	970	EUR/100 kg	0,000	0402 99 31 9150	L06	EUR/kg	0,1816
0401 20 19 9500	970	EUR/100 kg	3,076	0402 99 31 9300	L06	EUR/kg	0,2366
0401 20 91 9000	970	EUR/100 kg	3,893	0402 99 31 9500	L06	EUR/kg	0,0000
0401 20 99 9000	970	EUR/100 kg	0,000	0402 99 39 9150	L06	EUR/kg	0,1816
0401 30 11 9400	970	EUR/100 kg	8,983	0403 90 11 9000	L06	EUR/100 kg	50,29
0401 30 11 9700	970	EUR/100 kg	13,49	0403 90 13 9200	L06	EUR/100 kg	50,29
0401 30 19 9700	970	EUR/100 kg	0,00	0403 90 13 9300	L06	EUR/100 kg	82,87
0401 30 31 9100	L06	EUR/100 kg	32,77	0403 90 13 9500	L06	EUR/100 kg	86,49
0401 30 31 9400	L06	EUR/100 kg	51,19	0403 90 13 9900	L06	EUR/100 kg	92,17
0401 30 31 9700	L06	EUR/100 kg	56,46	0403 90 19 9000	L06	EUR/100 kg	92,74
0401 30 39 9100	L06	EUR/100 kg	32,77	0403 90 33 9400	L06	EUR/kg	0,8287
0401 30 39 9400	L06	EUR/100 kg	51,19	0403 90 33 9900	L06	EUR/kg	0,9217
0401 30 39 9700	L06	EUR/100 kg	56,46	0403 90 51 9100	970	EUR/100 kg	1,991
0401 30 91 9100	L06	EUR/100 kg	64,34	0403 90 59 9170	970	EUR/100 kg	13,49
0401 30 91 9500	L06	EUR/100 kg	0,00	0403 90 59 9310	L06	EUR/100 kg	32,77
0401 30 99 9100	L06	EUR/100 kg	64,34	0403 90 59 9340	L06	EUR/100 kg	47,95
0401 30 99 9500	L06	EUR/100 kg	94,56	0403 90 59 9370	L06	EUR/100 kg	47,95
0402 10 11 9000	L06	EUR/100 kg	51,00	0403 90 59 9510	L06	EUR/100 kg	47,95
0402 10 19 9000	L06	EUR/100 kg	51,00	0404 90 21 9120	L06	EUR/100 kg	43,50
0402 10 91 9000	L06	EUR/kg	0,5100	0404 90 21 9160	L06	EUR/100 kg	51,00
0402 10 99 9000	L06	EUR/kg	0,5100	0404 90 23 9120	L06	EUR/100 kg	51,00
0402 21 11 9200	L06	EUR/100 kg	51,00	0404 90 23 9130	L06	EUR/100 kg	83,62
0402 21 11 9300	L06	EUR/100 kg	83,62	0404 90 23 9140	L06	EUR/100 kg	87,27
0402 21 11 9500	L06	EUR/100 kg	87,27	0404 90 23 9150	L06	EUR/100 kg	93,00
0402 21 11 9900	L06	EUR/100 kg	93,00	0404 90 29 9110	L06	EUR/100 kg	93,58
0402 21 17 9000	L06	EUR/100 kg	51,00	0404 90 29 9115	L06	EUR/100 kg	94,13
0402 21 19 9300	L06	EUR/100 kg	83,62	0404 90 29 9125	L06	EUR/100 kg	95,10
0402 21 19 9500	L06	EUR/100 kg	87,27	0404 90 29 9140	L06	EUR/100 kg	102,21
0402 21 19 9900	L06	EUR/100 kg	93,00	0404 90 81 9100	L06	EUR/kg	0,5100
0402 21 91 9100	L06	EUR/100 kg	93,58	0404 90 83 9110	L06	EUR/kg	0,5100
0402 21 91 9200	L06	EUR/100 kg	94,13	0404 90 83 9130	L06	EUR/kg	0,8362
0402 21 91 9350	L06	EUR/100 kg	95,10	0404 90 83 9150	L06	EUR/kg	0,8727
0402 21 91 9500	L06	EUR/100 kg	102,21	0404 90 83 9170	L06	EUR/kg	0,9300
0402 21 99 9100	L06	EUR/100 kg	93,58	0404 90 83 9936	L06	EUR/kg	0,1734
0402 21 99 9200	L06	EUR/100 kg	94,13	0405 10 11 9500	L05	EUR/100 kg	180,49
0402 21 99 9300	L06	EUR/100 kg	95,10	0405 10 11 9700	L05	EUR/100 kg	185,00
0402 21 99 9400	L06	EUR/100 kg	100,37	0405 10 19 9500	L05	EUR/100 kg	180,49
0402 21 99 9500	L06	EUR/100 kg	102,21	0405 10 19 9700	L05	EUR/100 kg	185,00
0402 21 99 9600	L06	EUR/100 kg	109,41	0405 10 30 9100	L05	EUR/100 kg	180,49
0402 21 99 9700	L06	EUR/100 kg	113,49	0405 10 30 9300	L05	EUR/100 kg	185,00
0402 21 99 9900	L06	EUR/100 kg	118,21	0405 10 30 9700	L05	EUR/100 kg	185,00
0402 29 15 9200	L06	EUR/kg	0,5100	0405 10 50 9300	L05	EUR/100 kg	185,00
0402 29 15 9300	L06	EUR/kg	0,8362	0405 10 50 9500	L05	EUR/100 kg	180,49
0402 29 15 9500	L06	EUR/kg	0,8727	0405 10 50 9700	L05	EUR/100 kg	185,00
0402 29 15 9900	L06	EUR/kg	0,9300	0405 10 90 9000	L05	EUR/100 kg	191,78
0402 29 19 9300	L06	EUR/kg	0,8362	0405 20 90 9500	L05	EUR/100 kg	169,22
0402 29 19 9500	L06	EUR/kg	0,8727	0405 20 90 9700	L05	EUR/100 kg	175,98
0402 29 19 9900	L06	EUR/kg	0,9300	0405 90 10 9000	L05	EUR/100 kg	235,07
0402 29 91 9000	L06	EUR/kg	0,9358	0405 90 90 9000	L05	EUR/100 kg	185,00
0402 29 99 9100	L06	EUR/kg	0,9358	0406 10 20 9100	A00	EUR/100 kg	—
0402 29 99 9500	L06	EUR/kg	1,0037	0406 10 20 9230	L03	EUR/100 kg	—
0402 91 11 9370	L06	EUR/100 kg	6,804		L04	EUR/100 kg	31,53
0402 91 19 9370	L06	EUR/100 kg	6,804		400	EUR/100 kg	—
0402 91 31 9300	L06	EUR/100 kg	8,058		A01	EUR/100 kg	39,41

Product code	Destination	Unit of measurement	Amount of refund	Product code	Destination	Unit of measurement	Amount of refund
0406 10 20 9290	L03	EUR/100 kg	—	0406 30 31 9910	L03	EUR/100 kg	—
	L04	EUR/100 kg	29,33		L04	EUR/100 kg	6,48
	400	EUR/100 kg	—		400	EUR/100 kg	—
	A01	EUR/100 kg	36,66		A01	EUR/100 kg	15,17
0406 10 20 9300	L03	EUR/100 kg	—	0406 30 31 9930	L03	EUR/100 kg	—
	L04	EUR/100 kg	12,87		L04	EUR/100 kg	9,50
	400	EUR/100 kg	—		400	EUR/100 kg	—
	A01	EUR/100 kg	16,09		A01	EUR/100 kg	22,26
0406 10 20 9610	L03	EUR/100 kg	—	0406 30 31 9950	L03	EUR/100 kg	—
	L04	EUR/100 kg	42,77		L04	EUR/100 kg	13,81
	400	EUR/100 kg	—		400	EUR/100 kg	—
	A01	EUR/100 kg	53,46		A01	EUR/100 kg	32,38
0406 10 20 9620	L03	EUR/100 kg	—	0406 30 39 9500	L03	EUR/100 kg	—
	L04	EUR/100 kg	43,38		L04	EUR/100 kg	9,50
	400	EUR/100 kg	—		400	EUR/100 kg	—
	A01	EUR/100 kg	54,22		A01	EUR/100 kg	22,26
0406 10 20 9630	L03	EUR/100 kg	—	0406 30 39 9700	L03	EUR/100 kg	—
	L04	EUR/100 kg	48,42		L04	EUR/100 kg	13,81
	400	EUR/100 kg	—		400	EUR/100 kg	—
	A01	EUR/100 kg	60,52		A01	EUR/100 kg	32,38
0406 10 20 9640	L03	EUR/100 kg	—	0406 30 39 9930	L03	EUR/100 kg	—
	L04	EUR/100 kg	71,15		L04	EUR/100 kg	13,81
	400	EUR/100 kg	—		400	EUR/100 kg	—
	A01	EUR/100 kg	88,94		A01	EUR/100 kg	32,38
0406 10 20 9650	L03	EUR/100 kg	—	0406 30 39 9950	L03	EUR/100 kg	—
	L04	EUR/100 kg	59,29		L04	EUR/100 kg	15,62
	400	EUR/100 kg	—		400	EUR/100 kg	—
	A01	EUR/100 kg	74,11		A01	EUR/100 kg	36,60
0406 10 20 9660	A00	EUR/100 kg	—	0406 30 90 9000	L03	EUR/100 kg	—
0406 10 20 9830	L03	EUR/100 kg	—		L04	EUR/100 kg	16,38
	L04	EUR/100 kg	21,99		400	EUR/100 kg	—
	400	EUR/100 kg	—		A01	EUR/100 kg	38,40
0406 10 20 9850	A01	EUR/100 kg	27,49	0406 40 50 9000	L03	EUR/100 kg	—
	L03	EUR/100 kg	—		L04	EUR/100 kg	75,31
	L04	EUR/100 kg	26,66		400	EUR/100 kg	—
	400	EUR/100 kg	—		A01	EUR/100 kg	94,14
0406 10 20 9870	A01	EUR/100 kg	33,33	0406 40 90 9000	L03	EUR/100 kg	—
	A00	EUR/100 kg	—		L04	EUR/100 kg	77,33
	0406 10 20 9900	A00	EUR/100 kg		400	EUR/100 kg	—
	A00	EUR/100 kg	—		A01	EUR/100 kg	96,66
0406 20 90 9100	A00	EUR/100 kg	—	0406 90 13 9000	L03	EUR/100 kg	—
	0406 20 90 9913	L03	EUR/100 kg		L04	EUR/100 kg	85,03
	L04	EUR/100 kg	49,17		400	EUR/100 kg	34,20
	400	EUR/100 kg	17,96		A01	EUR/100 kg	121,71
0406 20 90 9915	A01	EUR/100 kg	61,46	0406 90 15 9100	L03	EUR/100 kg	—
	L03	EUR/100 kg	—		L04	EUR/100 kg	87,87
	L04	EUR/100 kg	64,90		400	EUR/100 kg	35,25
	400	EUR/100 kg	23,93		A01	EUR/100 kg	125,77
0406 20 90 9917	A01	EUR/100 kg	81,13	0406 90 17 9100	L03	EUR/100 kg	—
	L03	EUR/100 kg	—		L04	EUR/100 kg	87,87
	L04	EUR/100 kg	68,96		400	EUR/100 kg	35,25
	400	EUR/100 kg	25,44		A01	EUR/100 kg	125,77
0406 20 90 9919	A01	EUR/100 kg	86,20	0406 90 21 9900	L03	EUR/100 kg	—
	L03	EUR/100 kg	—		L04	EUR/100 kg	86,10
	L04	EUR/100 kg	77,06		400	EUR/100 kg	25,29
	400	EUR/100 kg	28,38		A01	EUR/100 kg	122,94
0406 20 90 9990	A01	EUR/100 kg	96,33	0406 90 23 9900	L03	EUR/100 kg	—
	A00	EUR/100 kg	—		L04	EUR/100 kg	75,61
	0406 30 31 9710	L03	EUR/100 kg		400	EUR/100 kg	—
	L04	EUR/100 kg	6,48		A01	EUR/100 kg	108,69
0406 30 31 9730	400	EUR/100 kg	—	0406 90 25 9900	L03	EUR/100 kg	—
	A01	EUR/100 kg	15,17		L04	EUR/100 kg	75,11
	L03	EUR/100 kg	—		400	EUR/100 kg	—
	L04	EUR/100 kg	9,50		A01	EUR/100 kg	107,52
	400	EUR/100 kg	—				
	A01	EUR/100 kg	22,26				

Product code	Destination	Unit of measurement	Amount of refund	Product code	Destination	Unit of measurement	Amount of refund
0406 90 27 9900	L03	EUR/100 kg	—	0406 90 78 9100	L04	EUR/100 kg	75,50
	L04	EUR/100 kg	68,03		400	EUR/100 kg	13,13
	400	EUR/100 kg	—		A01	EUR/100 kg	107,15
	A01	EUR/100 kg	97,38		L03	EUR/100 kg	—
0406 90 31 9119	L03	EUR/100 kg	—	0406 90 78 9300	L04	EUR/100 kg	73,22
	L04	EUR/100 kg	62,52		400	EUR/100 kg	—
	400	EUR/100 kg	14,50		A01	EUR/100 kg	106,96
	A01	EUR/100 kg	89,64		L03	EUR/100 kg	—
0406 90 33 9119	L03	EUR/100 kg	—	0406 90 78 9500	L04	EUR/100 kg	77,63
	L04	EUR/100 kg	62,52		400	EUR/100 kg	—
	400	EUR/100 kg	14,50		A01	EUR/100 kg	110,84
	A01	EUR/100 kg	89,64		L03	EUR/100 kg	—
0406 90 33 9919	L03	EUR/100 kg	—	0406 90 79 9900	L04	EUR/100 kg	76,90
	L04	EUR/100 kg	57,14		400	EUR/100 kg	—
	400	EUR/100 kg	—		A01	EUR/100 kg	109,15
	A01	EUR/100 kg	82,21		L03	EUR/100 kg	—
0406 90 33 9951	L03	EUR/100 kg	—	0406 90 81 9900	L04	EUR/100 kg	62,78
	L04	EUR/100 kg	57,71		400	EUR/100 kg	—
	400	EUR/100 kg	—		A01	EUR/100 kg	90,23
	A01	EUR/100 kg	82,27		L03	EUR/100 kg	—
0406 90 35 9190	L03	EUR/100 kg	—	0406 90 85 9930	L04	EUR/100 kg	79,36
	L04	EUR/100 kg	88,45		400	EUR/100 kg	27,02
	400	EUR/100 kg	34,88		A01	EUR/100 kg	113,61
	A01	EUR/100 kg	127,15		L03	EUR/100 kg	—
0406 90 35 9990	L03	EUR/100 kg	—	0406 90 85 9970	L04	EUR/100 kg	85,71
	L04	EUR/100 kg	88,45		400	EUR/100 kg	33,67
	400	EUR/100 kg	22,80		A01	EUR/100 kg	123,32
	A01	EUR/100 kg	127,15		L03	EUR/100 kg	—
0406 90 37 9000	L03	EUR/100 kg	—	0406 90 85 9999	L04	EUR/100 kg	78,58
	L04	EUR/100 kg	85,03		400	EUR/100 kg	29,46
	400	EUR/100 kg	34,20		A01	EUR/100 kg	113,03
	A01	EUR/100 kg	121,71		A00	EUR/100 kg	—
0406 90 61 9000	L03	EUR/100 kg	—	0406 90 86 9100	A00	EUR/100 kg	—
	L04	EUR/100 kg	93,71		L03	EUR/100 kg	—
	400	EUR/100 kg	32,46		L04	EUR/100 kg	72,10
	A01	EUR/100 kg	135,59		400	EUR/100 kg	17,68
0406 90 63 9100	L03	EUR/100 kg	—	0406 90 86 9200	A01	EUR/100 kg	106,94
	L04	EUR/100 kg	93,22		L03	EUR/100 kg	—
	400	EUR/100 kg	36,31		L04	EUR/100 kg	73,14
	A01	EUR/100 kg	134,46		400	EUR/100 kg	19,38
0406 90 63 9900	L03	EUR/100 kg	—	0406 90 86 9400	A01	EUR/100 kg	108,06
	L04	EUR/100 kg	89,62		L03	EUR/100 kg	—
	400	EUR/100 kg	27,77		L04	EUR/100 kg	77,70
	A01	EUR/100 kg	129,88		400	EUR/100 kg	21,93
0406 90 69 9100	A00	EUR/100 kg	—	0406 90 86 9900	A01	EUR/100 kg	113,61
	L03	EUR/100 kg	—		L03	EUR/100 kg	—
	L04	EUR/100 kg	89,62		L04	EUR/100 kg	85,71
	400	EUR/100 kg	27,77		400	EUR/100 kg	25,67
0406 90 73 9900	A01	EUR/100 kg	129,88	0406 90 87 9100	A01	EUR/100 kg	123,32
	L03	EUR/100 kg	—		A00	EUR/100 kg	—
	L04	EUR/100 kg	78,05		L03	EUR/100 kg	—
	400	EUR/100 kg	29,89		L04	EUR/100 kg	60,09
0406 90 75 9900	A01	EUR/100 kg	111,82	0406 90 87 9200	400	EUR/100 kg	15,81
	L03	EUR/100 kg	—		A01	EUR/100 kg	89,10
	L04	EUR/100 kg	78,58		L03	EUR/100 kg	—
	400	EUR/100 kg	12,61		L04	EUR/100 kg	67,16
0406 90 76 9300	A01	EUR/100 kg	113,03	0406 90 87 9400	400	EUR/100 kg	17,85
	L03	EUR/100 kg	—		A01	EUR/100 kg	99,25
	L04	EUR/100 kg	70,86		L03	EUR/100 kg	—
	400	EUR/100 kg	—		L04	EUR/100 kg	68,92
0406 90 76 9400	A01	EUR/100 kg	101,43	0406 90 87 9951	400	EUR/100 kg	19,55
	L03	EUR/100 kg	—		A01	EUR/100 kg	100,75
	L04	EUR/100 kg	79,36		L03	EUR/100 kg	—
	400	EUR/100 kg	13,13		L04	EUR/100 kg	77,94
0406 90 76 9500	A01	EUR/100 kg	113,61		400	EUR/100 kg	27,03
	L03	EUR/100 kg	—		A01	EUR/100 kg	111,58

Product code	Destination	Unit of measurement	Amount of refund	Product code	Destination	Unit of measurement	Amount of refund
0406 90 87 9971	L03	EUR/100 kg	—	0406 90 87 9975	400	EUR/100 kg	15,39
	L04	EUR/100 kg	77,94		A01	EUR/100 kg	118,38
	400	EUR/100 kg	21,93		L03	EUR/100 kg	—
	A01	EUR/100 kg	111,58		L04	EUR/100 kg	84,72
0406 90 87 9972	L03	EUR/100 kg	—	0406 90 87 9979	400	EUR/100 kg	20,40
	L04	EUR/100 kg	33,21		A01	EUR/100 kg	119,70
	400	EUR/100 kg	—		L03	EUR/100 kg	—
	A01	EUR/100 kg	47,73		L04	EUR/100 kg	75,61
0406 90 87 9973	L03	EUR/100 kg	—	0406 90 88 9100	400	EUR/100 kg	15,39
	L04	EUR/100 kg	76,53		A01	EUR/100 kg	108,69
	400	EUR/100 kg	15,39		A00	EUR/100 kg	—
	A01	EUR/100 kg	109,55		L03	EUR/100 kg	—
0406 90 87 9974	L03	EUR/100 kg	—	0406 90 88 9300	L04	EUR/100 kg	59,33
	L04	EUR/100 kg	83,06		400	EUR/100 kg	19,38
					A01	EUR/100 kg	87,34

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

The numeric destination codes are set out in Commission Regulation (EC) No 1779/2002 (OJ L 269, 5.10.2002, p. 6).

The other destinations are defined as follows:

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

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

L05 all destinations except Poland, Estonia, Latvia, Lithuania, Hungary and the United States of America.

L06 all destinations except Estonia, Latvia, Lithuania, Hungary and the United States of America.

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

**COMMISSION REGULATION (EC) No 467/2003
of 13 March 2003**

**concerning tenders notified in response to the invitation to tender for the export of barley issued
in Regulation (EC) No 901/2002**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, as last amended by Regulation (EC) No 1163/2002 ⁽⁴⁾, as amended by Regulation (EC) No 1324/2002 ⁽⁵⁾, and in particular Article 4 thereof,

Whereas:

- (1) An invitation to tender for the refund for the export of barley to all third countries except the United States of America, Canada, Estonia and Latvia was opened pursuant to Commission Regulation (EC) No 901/2002 ⁽⁶⁾, as amended by Regulation (EC) No 1230/2002 ⁽⁷⁾.

- (2) Article 7 of Regulation (EC) No 1501/95, allows the Commission to decide, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92 and on the basis of the tenders notified, to make no award.
- (3) On the basis of the criteria laid down in Article 1 of Regulation (EC) No 1501/95 a maximum refund 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 notified from 7 to 13 March 2003 in response to the invitation to tender for the refund for the export of barley issued in Regulation (EC) No 901/2002.

Article 2

This Regulation shall enter into force on 14 March 2003.

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

Done at Brussels, 13 March 2003.

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 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 170, 29.6.2002, p. 46.

⁽⁵⁾ OJ L 194, 23.7.2002, p. 26.

⁽⁶⁾ OJ L 127, 9.5.2002, p. 11.

⁽⁷⁾ OJ L 180, 10.7.2002, p. 3.

COMMISSION REGULATION (EC) No 468/2003
of 13 March 2003
concerning tenders notified in response to the invitation to tender for the export of oats issued in
Regulation (EC) No 1582/2002

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals⁽³⁾, as last amended by Regulation (EC) No 1163/2002⁽⁴⁾, as amended by Regulation (EC) No 1324/2002⁽⁵⁾, and in particular Article 4 thereof,

Having regard to Commission Regulation (EC) No 1582/2002 of 5 September 2002 on a special intervention measure for cereals in Finland and Sweden⁽⁶⁾, as amended by Regulation (EC) No 2329/2002⁽⁷⁾, and in particular Article 8 thereof,

Whereas:

- (1) An invitation to tender for the refund for the export of oats produced in Finland and Sweden for export from Finland and Sweden to all third countries, with the exception of Bulgaria, Estonia, Hungary, Latvia, Lithuania, the Czech Republic, Slovakia and Slovenia was opened pursuant to Regulation (EC) No 1582/2002.

- (2) According to Article 8 of Regulation (EC) No 1582/2002 the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, decide to make no award.
- (3) On the basis of the criteria laid down in Article 1 of Regulation (EC) No 1501/95, a maximum refund 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 notified from 7 to 13 March 2003 in response to the invitation to tender for the refund for the export of oats issued in Regulation (EC) No 1582/2002.

Article 2

This Regulation shall enter into force on 14 March 2003.

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

Done at Brussels, 13 March 2003.

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 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 170, 29.6.2002, p. 46.

⁽⁵⁾ OJ L 194, 23.7.2002, p. 26.

⁽⁶⁾ OJ L 239, 6.9.2002, p. 3.

⁽⁷⁾ OJ L 349, 24.12.2002, p. 17.

**COMMISSION REGULATION (EC) No 469/2003
of 13 March 2003**

**fixing the maximum export refund on common wheat in connection with the invitation to tender
issued in Regulation (EC) No 899/2002**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, as last amended by Regulation (EC) No 1163/2002 ⁽⁴⁾, as amended by Regulation (EC) No 1324/2002 ⁽⁵⁾, and in particular Article 4 thereof,

Whereas:

- (1) An invitation to tender for the refund on exportation of common wheat to all third countries with the exclusion of Poland, Estonia, Lithuania and Latvia was opened pursuant to Commission Regulation (EC) No 899/2002 ⁽⁶⁾, as last amended by Regulation (EC) No 2331/2002 ⁽⁷⁾.
- (2) Article 7 of Regulation (EC) No 1501/95 provides that the Commission may, on the basis of the tenders notified, in accordance with the procedure laid down in

Article 23 of Regulation (EEC) No 1766/92, decide to fix a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95. In that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund.

- (3) The application of the abovementioned criteria to the current market situation for the cereal 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

For tenders notified from 7 to 13 March 2003, pursuant to the invitation to tender issued in Regulation (EC) No 899/2002, the maximum refund on exportation of common wheat shall be EUR 13,00/t.

Article 2

This Regulation shall enter into force on 14 March 2003.

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

Done at Brussels, 13 March 2003.

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 147, 30.6.1995, p. 7.

⁽⁴⁾ OJ L 170, 29.6.2002, p. 46.

⁽⁵⁾ OJ L 194, 23.7.2002, p. 26.

⁽⁶⁾ OJ L 142, 31.5.2002, p. 11.

⁽⁷⁾ OJ L 349, 24.12.2002, p. 19.

**COMMISSION REGULATION (EC) No 470/2003
of 13 March 2003**

**fixing the maximum reduction in the duty on maize imported in connection with the invitation to
tender issued in Regulation (EC) No 256/2003**

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) An invitation to tender for the maximum reduction in the duty on maize imported into Spain from third countries was opened pursuant to Commission Regulation (EC) No 256/2003⁽³⁾.

(2) Pursuant to Article 5 of Commission Regulation (EC) No 1839/95⁽⁴⁾, as last amended by Regulation (EC) No 2235/2000⁽⁵⁾, the Commission, acting under the procedure laid down in Article 23 of Regulation (EEC) No 1766/92, may decide to fix maximum reduction in the import duty. In fixing this maximum the criteria provided for in Articles 6 and 7 of Regulation (EC) No 1839/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum reduction in the duty.

(3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum reduction in the import duty 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

For tenders notified from 7 to 13 March 2003, pursuant to the invitation to tender issued in Regulation (EC) No 256/2003, the maximum reduction in the duty on maize imported shall be 37,94 EUR/t and be valid for a total maximum quantity of 69 050 t.

Article 2

This Regulation shall enter into force on 14 March 2003.

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

Done at Brussels, 13 March 2003.

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 36, 12.2.2003, p. 10.

⁽⁴⁾ OJ L 177, 28.7.1995, p. 4.

⁽⁵⁾ OJ L 256, 10.10.2000, p. 13.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 6 March 2003

establishing a Tripartite Social Summit for Growth and Employment

(2003/174/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 202 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The social partners are associated in the implementation of the coordinated employment strategy established by the Luxembourg European Council of 20 and 21 November 1997 within the Standing Committee on Employment established by Council Decision 70/532/EEC of the Council of 14 December 1970 setting up the Standing Committee on Employment of the European Communities ⁽¹⁾.
- (2) The Cologne European Council of 3 and 4 June 1999 set up a macroeconomic dialogue with the participation of representatives from the Council, the Commission, the European Central Bank and the social partners.
- (3) The Lisbon European Council of 23 and 24 March 2000 set a new strategic goal for the next decade and agreed that achievement of that goal required an overall strategy designed to integrate structural reforms, a coordinated European employment strategy, social protection and macroeconomic policies in the context of coordination of the general economic policies of the Member States. In its Communication 'The European social dialogue, a force for innovation and change', the Commission stressed that the Tripartite Social Summit could contribute to the debate on these topics.
- (4) In their joint contribution to the Laeken European Council of 14 and 15 December 2001, the social partners pointed out that the Standing Committee on

Employment had not led to such an integration of concertation and that it did not meet the need for coherence and synergy between the various processes in which they were involved. They therefore proposed that it should be abolished and that a new form of tripartite consultation should be established.

- (5) In that joint contribution, the social partners proposed to formalise their meetings with the Troika at the level of Heads of State or Government and the Commission which, in the context of the Luxembourg process, have been held since 1997 on the eve of European Councils. Since December 2000, these meetings have been known as Social Summits and they are attended by the President of the Commission and the Troika of Heads of State or Government together with the Ministers for Labour and Social Affairs and the social partners represented by the Union of Industrial Employers' Confederations of Europe (UNICE), the European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest (CEEPE), the European Association of Craft, Small and Medium-sized Enterprises (UEAPME), the European Trade Union Confederation (ETUC), Eurocadres and the Confédération européenne des cadres (CEC).
- (6) The Laeken European Council took note of the social partners' willingness to develop and improve coordination of concertation on the various aspects of the Lisbon strategy. It agreed that such a Social Summit would in future be held before each spring European Council. This was confirmed by the Barcelona European Council of 15 and 16 March 2002.
- (7) This Decision is without prejudice to the organisation and operation of the social dialogue in the various Member States.

⁽¹⁾ OJ L 273, 17.12.1970, p. 25. Decision as last amended by Decision 1999/207/EC (OJ L 72, 18.3.1999, p. 33).

- (8) In the context of enlargement and development of an autonomous social dialogue, the widest possible representativity as well as the legitimacy and effectiveness of the consultation of social partners are of the highest importance. To that end, it is necessary to take into account the Commission study on the representativeness of the social partners and the revised list of organisations involved in all dimensions of social dialogue at European level, and that list should be updated,

HAS DECIDED AS FOLLOWS:

Article 1

Establishment

A Tripartite Social Summit for Growth and Employment (hereinafter referred to as 'the Summit') is hereby established.

Article 2

Task

The task of the Summit shall be to ensure, in compliance with the Treaty and with due regard for the powers of the institutions and bodies of the Community, that there is a continuous concertation between the Council, the Commission and the social partners. It will enable the social partners at European level to contribute, in the context of their social dialogue, to the various components of the integrated economic and social strategy, including the sustainable development dimension as launched at the Lisbon European Council in March 2000 and supplemented by the Göteborg European Council in June 2001. For that purpose, it shall draw on the upstream work of and discussions between the Council, the Commission and the social partners in the different concertation forums on economic, social and employment matters.

Article 3

Membership

1. The Summit shall consist of the Council Presidency and the two subsequent Presidencies, the Commission and the social partners, represented at the highest level.

The ministers from those three Presidencies and the Commissioner, responsible for Labour and Social Affairs shall also be present.

Depending on the agenda, other ministers from these three Presidencies and other Commissioners may also be invited to take part.

2. The social partners' representatives shall be divided into two delegations of equal size comprising 10 workers' representatives and 10 employers' representatives, taking into account the need to ensure a balanced participation between men and women.

Each delegation shall consist of representatives of European cross-industry organisations either representing general interests or more specific interests of supervisory and managerial staff and small and medium-sized businesses at European level.

The technical coordination shall be provided for the workers' delegation by the European Trade Union Confederation (ETUC) and for the employers' delegation by the Union of Industrial and Employers' Confederations of Europe (UNICE). The ETUC and UNICE shall ensure that the views expressed by the specific and sectoral organisations are fully taken into account in their contributions and shall, where appropriate, include representatives from some of those organisations in their delegations.

Article 4

Preparation

1. The agenda for the Summit shall be determined jointly by the Council Presidency, the Commission and the workers' and employers' cross-industry organisations taking part in the work of the Summit during preparatory meetings.

2. The matters on the agenda shall be discussed by the Council meeting in its Employment, Social Policy, Health and Consumer Affairs configuration.

3. The Summit secretariat shall be provided by the Commission. In particular the latter shall ensure the punctual distribution of documents. For the purposes of preparing and organising meetings, the Summit secretariat shall arrange appropriate contacts with the ETUC and UNICE, which shall be responsible for the coordination of their respective delegations.

Article 5

Operation

1. The Summit shall meet at least once a year. A meeting shall be held before the spring European Council.

2. The Summit shall be chaired jointly by the President of the Council and the President of the Commission.

3. The meetings of the Summit shall be convened by the joint chairmen on their own initiative, in consultation with the social partners.

Article 6

Information

The joint chairmen shall draw up a summary of the Summit's discussions in order to inform the relevant Council configurations and the general public.

*Article 7***Repeal**

Decision 1999/207/EC is hereby repealed from the date of the first meeting of the Summit.

*Article 8***Entry into force**

This Decision shall enter into force on 6 March 2003.

Done at Brussels, 6 March 2003.

For the Council

The President

D. REPPAS

COUNCIL DECISION

of 7 March 2003

on the use of interest from the European Development Fund to finance the cost of implementing the internal system of management for individual consultants working in the ACP States and the Overseas Countries and Territories

(2003/175/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Third ACP-EEC Convention signed at Lomé on 8 December 1984,

Having regard to the Fourth ACP Convention ⁽¹⁾ signed at Lomé on 15 December 1989, as amended by the Agreement signed in Mauritius on 4 November 1995 ⁽²⁾,

Having regard to the Internal Agreement of 19 February 1985 on the financing and administration of Community aid ⁽³⁾, hereinafter referred to as the 'Internal Agreement for the 6th EDF', and in particular Article 9(2) thereof,

Having regard to the Internal Agreement of 16 July 1990 on the financing and administration of Community aid under the Fourth ACP-EC Convention ⁽⁴⁾, hereinafter referred to as the 'Internal Agreement on the 7th EDF', and in particular Article 9(2) thereof,

Having regard to the Internal Agreement of 20 December 1995 between the Representatives of the Governments of the Member States, meeting within the Council, on the financing and administration of Community aid under the Second Financial Protocol to the fourth ACP-EC Convention ⁽⁵⁾, hereinafter referred to as the 'Internal Agreement for the 8th EDF', and in particular Article 9(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Since 1 January 2003, the Commission no longer entrusts the management of individual consultants working in the ACP States and the Overseas Countries and Territories to external private-law bodies.

- (2) The financial resources required should be drawn from the interest generated on funds deposited under the different European Development Funds (EDFs) and which are in the EDF's cash accounts, in accordance with the Internal Agreements applicable to the 6th, 7th and 8th EDFs,

HAS DECIDED AS FOLLOWS:

Article 1

The sum of EUR 2 700 000 shall be deducted from the interest on the funds deposited under the various Funds in the cash accounts of the European Development Fund to finance the costs of internalising the management system for individual consultants working in the ACP States and Overseas Countries and Territories for a period of four years following the date of the adoption of this Decision.

Article 2

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

Done at Brussels, 7 March 2003.

For the Council

The President

N. CHRISTODOULAKIS

⁽¹⁾ OJ L 229, 17.8.1991, p. 3.

⁽²⁾ OJ L 156, 29.5.1998, p. 3.

⁽³⁾ OJ L 86, 31.3.1986, p. 210.

⁽⁴⁾ OJ L 229, 17.8.1991, p. 288.

⁽⁵⁾ OJ L 156, 29.5.1998, p. 108.

COMMISSION

COMMISSION DECISION

of 19 July 2000

declaring a concentration to be compatible with the common market and the functioning of the EEA Agreement

(Case COMP/M.1882 — *Pirelli/BICC*)

(notified under document number C(2000) 2156)

(Only the English text is authentic)

(Text with EEA relevance)

(2003/176/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Agreement on the European Economic Area and in particular Article 57(2)(a) thereof,

Having regard to Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings ⁽¹⁾, as last amended by Regulation (EC) No 1310/97 ⁽²⁾, and in particular Article 8(2) thereof,

Having regard to the Commission's decision of 17 April 2000 to initiate proceedings in this case,

Having regard to the opinion of the Advisory Committee on Concentrations ⁽³⁾,

Whereas:

(1) On 14 March 2000, the Commission received a notification pursuant to Article 4 of Regulation (EEC) No 4064/89 (the Merger Regulation) of a proposed concentration whereby *Pirelli Cavi e Sistemi SpA* (*Pirelli*) acquires control within the meaning of Article 3(1)(b) of the Merger Regulation of part of the business of *BICC General* (the target '*BICC*' companies) in the field of general wiring and power cables in the United Kingdom, Italy, Asia and Africa, by way of purchase of all the shares in these companies.

(2) After preliminary examination of the notification, the Commission concluded that the proposed concentration could create or strengthen a dominant position as a result of which effective competition would be significantly impeded in the common market or in a substantial part of it, and as such raised serious doubts as to its compatibility with the common market.

(3) On 17 April 2000 the Commission decided, in accordance with Article 6(1)(c) of the Merger Regulation to initiate proceedings in this case.

I. THE PARTIES

(4) *Pirelli* is a company established under Italian law belonging to the *Pirelli Group*. *Pirelli* is the group's operating company for its production activities in respect of cables and cable systems.

(5) *BICC* is a company based in the United Kingdom which is active worldwide in the development, design and manufacture of cable products, copper, aluminium and fibre optic wire products. In 1998 *BICC* put its worldwide energy cable business up for sale. In May 1999 the entire business, including the companies subject to the proposed acquisition by *Pirelli*, was acquired by the firm General of the United States of America.

⁽¹⁾ OJ L 395, 30.12.1989, p. 1 (corrected version in OJ L 257, 21.9.1990, p. 13).

⁽²⁾ OJ C 180, 9.7.1997, p. 1.

⁽³⁾ OJ C 59, 14.3.2003, p. 25.

II. THE OPERATION

- (6) The parties concluded a share purchase agreement on 9 February 2000 according to which Pirelli will acquire four manufacturing plants in the United Kingdom (situated in Leigh, Prescott, Wrexham and Erith) and two plants in Italy (Settimo Torinese and Ascoli Piceno). According to this agreement Pirelli will acquire 100 % of the shares in the following companies currently owned by BICC:

'BICC General UK Cables Limited' (United Kingdom),
'Industrial Cables' (United Kingdom),
'Compounds' (United Kingdom),
'BICC Rod Rollers Ltd' (United Kingdom),
'Supertension and Subsea Systems' (United Kingdom),
'BICC General Ceat Cavi Srl Settimo Torinese' (Italy) and
'BICC General Cavi Srl Ascoli'.

- (7) BICC will retain three manufacturing plants in Spain (BICC General Cables Barcelona) and one in Portugal (BICC Celcat) as well as one manufacturing plant in the UK (BICC Pyrotenax) producing mineral insulated fire resistant wiring cables and thermo-electric heating and measuring cables.

III. CONCENTRATION

- (8) The operation includes the acquisition of the production units, distribution and technology units but also of the intellectual property rights owned by BICC⁽¹⁾ or conceived in a country where one of the target companies is located. According to the share purchase agreement Pirelli will acquire sole control of the target companies.
- (9) The operation therefore constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

IV. COMMUNITY DIMENSION

- (10) The undertakings concerned have a combined aggregate worldwide turnover of more than EUR 5 000 million⁽²⁾ (Pirelli [...] (*) BICC: EUR [...] * million). They each have an aggregate Community-wide turnover in excess of EUR 250 million (Pirelli: EUR [...] * million; BICC: EUR [...] * million), and neither of the undertakings concerned

⁽¹⁾ With the exception of the intellectual property rights owned by BICC General Pyrotenax Cables Limited.

⁽²⁾ Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Notice on the calculation of turnover (OJ C 66, 2.3.1998, p. 25). To the extent that figures include turnover for the period before 1 January 1999, they are calculated on the basis of average ECU exchange rates and translated into EUR on a one-for-one basis.

^(*) Parts of this text have been edited to ensure that confidential information is not disclosed; those parts are enclosed in square brackets and marked with an asterisk.

achieves more than two-thirds of its aggregate Community-wide turnover within one and the same Member State. The notified operation therefore has a Community dimension within the meaning of Article 1(2) of the Merger Regulation. It does not constitute a cooperation case under the EEA Agreement.

V. ASSESSMENT UNDER ARTICLE 2 OF THE MERGER REGULATION

A. Relevant product markets

- (11) The products concerned by the operation are general wiring, the production of copper rod and insulated power cables of low, medium, high and extra-high voltage ranges. Power cables are, for example, used for underground and submarine electricity lines. By contrast, bare wire, as typically used in overhead transmission lines, belongs to a separate product market not concerned by the operation.

Production and sale of general wiring

- (12) General wiring covers a variety of low-voltage cables, used for example for building and industrial applications and for power and signal supply of mobile devices as used in railways or petrochemical installations. General wiring products are usually sold through electric wholesalers and cable distributors or directly to installers and original equipment manufacturers (OEMs). The parties do not consider a further segmentation of the market to be relevant. The market test confirmed this view. Therefore, for the purposes of this Decision, the relevant product market is the overall market for general wiring⁽³⁾.

Production and sale of copper rod

- (13) Copper rod is one of the principal raw materials used in the manufacture of some power cables, winding wires, general cables and metallic communications cables (electric grade copper rod). Before being converted into cables, copper rod must be converted into a solid conductor element or into copper wire. The parties maintain that virtually all cable manufacturers have their own facilities for transforming copper rod into copper wire and conductor elements. The Commission's investigation has confirmed this view. Therefore, the relevant product market, for the purposes of this Decision, is the production and sale of copper rod.

⁽³⁾ See also Case IV/M.1271 — Pirelli/Siemens, paragraph 8 (OJ C 336, 4.11.1998, p. 11).

Production and sale of energy power cables

- (14) Power cables can be distinguished, among other criteria, according to their voltage level: extra-high voltage (EHV) and high voltage (HV) power cables are used for the transmission of electric power. Low voltage (LV) and medium voltage (MV) power cables are employed mainly for the distribution of electricity. The parties maintain that the relevant product market for power cables is the overall power cable market including LV (up to 1 kV), MV (1 to 33 or 1 to 45 kV), HV (33/45 to 132 kV) and EHV (275 kV, 400 kV) power cables⁽¹⁾. The parties argue that the distinction according to voltage levels is made for historical reasons and is no longer meaningful. The Commission, by contrast, has established that LV and MV, on the one hand, and HV and EHV power cables, on the other, belong to different product markets.

Power cables of lower (LV, MV) and higher (HV, EHV) voltage ranges

- (15) On the demand side, the parties claim that cables of MV and HV may, to some extent, be found in similar applications within a distribution system: customers could choose between connecting directly to the transmission network or connecting at a series of intermediate points to the existing distribution network, when supplying electricity to an area of significant consumption for the first time (for example a business park or a large housing estate). The market test has revealed that, theoretically, several MV connections could be substituted for one HV connection. However, due to increased energy losses and extra costs resulting from the additional equipment required (substations, etc.), this is generally regarded as unattractive and therefore not a viable option for the customer. Furthermore, customers explained they were not free in their choice of a certain voltage level since this choice would be determined by the configuration of the existing grid⁽²⁾.
- (16) In the parties' view this limited demand-side substitutability does not justify a segmentation of markets according to voltage ranges. The parties argue that according to the concept of 'indirect and direct chains of substitution', as referred to in paragraphs 57 and 58 of the Commission Notice on the definition of relevant market⁽³⁾, power cables of all voltage ranges could be regarded as substitutable from the demand-side, thereby leading to the definition of one single market for energy power cables.
- (17) There is no evidence to support this market definition. The concept of 'chains of substitution' refers *inter alia* to

a situation where two or more products can be regarded as belonging to the same product market, without being direct substitutes for each other, because their pricing might be constrained by another product, which is a substitute for the first products. In the present case, prices of HV or EHV power cables do not constrain prices in the lower voltage ranges (LV, MV) and vice versa. There are, to a lesser extent, differences in price and intended use even between cables within one and the same voltage range, for example between cables of 3 kV and 30 kV, (both part of the MV segment). However, this does not warrant a distinction between power cables within one voltage range since the characteristics of demand do not substantially differ for these cables. There are, by contrast, a number of differences in the structure of demand for LV and MV on the one hand, and HV and EHV power cables on the other hand, which are likely to have an impact on the competitive conditions prevailing in these markets.

- (18) First, there are differences in the customer base of HV/EHV and MV/LV power cables. EHV and HV cables are used for the transmission of power and are mainly purchased by the large national grid operators such as ENEL in Italy (80 % of domestic demand), whereas MV and LV cables are predominantly used in the distribution of electricity. They are purchased by national utilities, but also by regional and local utilities as well as industry (for example, railways, manufacturing enterprises etc.). Regional utilities (municipalities in Italy or in the United Kingdom, for example) to a certain extent also purchase HV power cables but their share of the total demand is minimal compared to the national transmission grid operators, who often continue to operate as (regulated) monopolies.
- (19) Furthermore, there are differences in the frequency of transaction between the lower and higher voltage ranges and in the process by which the customer selects its suppliers. HV and EHV cables, unlike LV and MV cables, are usually purchased by the customer on a project by project basis, thereby defining the type of cable required for a specific project. Customers order complete installation with cable terminations, design and construction, often including accessories, installation, supervision and systems integration. In the lower voltage ranges, power cables and accessories are ordered separately. LV and MV power cables are standardised products and manufactured to stock. Suppliers have pointed out that deliveries are made weekly or even daily on requirements, which is also why LV and MV are often purchased through distributors, wholesalers or, with multi-year purchase agreements, directly from the manufacturer.
- (20) On the supply side, the parties submit that there is substitutability in the supply of power cables of different voltage ranges. In their view, most cable suppliers are able to offer and sell the various product types without significant switching costs and lead times. Supply-side

⁽¹⁾ The voltage levels mentioned are the most commonly used voltage levels; however, there are also other levels used by different customers.

⁽²⁾ The price differential between LV and MV cables amounts to approximately 45 to 60 %, between MV and HV it is approximately 79 %.

⁽³⁾ OJ C 372, 9.12.1997, p. 5.

substitution, the parties maintain, does not require significant adjustment of existing tangible and intangible assets, major investment or set-up time.

- (21) Two factors are of particular relevance in determining whether power cables of different voltages are indeed supply-side substitutable. First, the time and costs required to set up a new production line and distribution channels in a new voltage range and secondly, the costs involved in switching between voltage ranges within an existing production facility.
- (22) The main European suppliers of cables in the EHV and HV ranges include the five large manufacturers ABB, Alcatel, NKT, Pirelli and BICC. LV and/or MV power cables are produced by the five large firms but also by a significant number of smaller 'second-tier' manufacturers, such as Draka (specialising in LV and MV power cables) and Carena Cavi, Ariston Cavi, Triveneta, Tratos, AEI etc. These smaller firms tend to cover more limited product and/or geographic markets, particularly in the lower voltage ranges for the supply of regional utilities. Some of the suppliers active in the LV and MV voltage ranges have the technical capability to manufacture HV/EHV products, but have not yet gained significant market shares (for example, the Greek company Fulgor).
- (23) With respect to the barriers faced by a power cable producer who intends to enter a new voltage range, the results of the market test suggest that producers of EHV and HV usually have the know-how to provide the lower voltage ranges but that such a switch might not be envisaged for economic reasons (for example, investment in the necessary equipment and machinery). All suppliers stressed that producers of LV and MV power cables could not easily switch to the production of higher voltage cables, which is more know-how intensive. Rather, the switch between the individual voltage ranges required considerable investments in terms of time and capital.
- (24) Pirelli provides the following estimates of time and costs required to switch between different voltage ranges. The costs of switching from LV to the production of MV power cables is estimated by Pirelli at approximately EUR 7,2 million and to take 14 months (for an up-grade with new equipment). A switch from MV to HV, would cost approximately EUR 10 to 12 million, and would take on average 16 months. Finally, a switch from HV to EHV power cables would involve costs of between EUR 13 million and EUR 17 million and could be achieved within 18 months.
- (25) Based on these estimates, technical switching costs and times would already be significant. Moreover, many suppliers pointed out that, in addition to pure technical production resources, a successful entry into the HV and EHV power cable markets required considerable know-how and customer goodwill, especially as far as the main customers, namely the energy utilities, are concerned. The potential entrant has to pass a number of pre-qualification tests to become an eligible supplier in the higher voltage ranges.
- (26) Some suppliers suggested that switching from lower to higher voltage ranges, including installation of the production line and completion of the necessary tests could take as long as two years. This aspect has been confirmed by a number of customers, who require each new supplier of HV and EHV cables to build competence in installation and systems integration. In addition, to successfully market EHV cables, a track record of successful reference projects is crucial. Manufacturers would usually have to move progressively up the voltage ranges to build up sufficient customer goodwill.
- (27) Regarding the costs of switching between the different voltage ranges within an existing production facility, manufacturers stated that a polymeric insulation extrusion line was normally designed to efficiently produce a specific range of cable types. Production of cable types outside this range is often technically possible, but leads to a loss of efficiency and, hence, higher unit costs resulting from suboptimal line speed, under-utilisation of assets etc. (for example, if an HV line is used for production of MV/LV cables)⁽¹⁾. In addition, each switch between different cable types on the same line involves retooling and increased scrap rates. One competitor estimated that a factory dedicated to a small number of different cable types could operate up to 10 % more efficiently, due to lower scrap rates and retooling costs, than a less specialised plant.
- (28) Upgrading production from lower to higher voltage levels therefore involves significant time and cost. Switching production between different voltages on existing machinery, can lead to significant increases in unit production cost. Supply-side substitutability is therefore relatively low.
- XLPE and fluid-filled power cables
- (29) Two different basic technologies are currently used in the production of energy power cables, 'fluid-filled' or 'oil-filled' technology and cross-linked polyethylene

⁽¹⁾ For the production of HV and EHV cables, for example, the standards of cleanliness are much higher, requiring the producer to adapt the production process accordingly.

extrusion (XLPE) technology. The first involves a process based on the use of insulating laminar paper wrapped around the conductor and impregnated with a dielectric fluid. It was generally used for all types of cables until the early 1970's, when it started to be gradually replaced by the newer XLPE-technology, beginning with lower voltages. XLPE technology is based on extruded insulation achieved with the help of cross-linked polyethylene. The oil-filled technology involved significant process know-how not widely available to competitors. Production equipment was partly developed in-house by the major cable manufacturers. The XLPE technology, by contrast, is reported to be more widely available with most equipment being supplied by external machinery makers. It is thus significantly more accessible by potential new entrants. Equipment used in the production of oil-filled cables cannot be used for XLPE production, and vice versa. It can therefore be concluded that the two technologies are not substitutable from the supply-side.

- (30) From the demand-side, however, there is strong evidence that fluid-filled power cables and XLPE cables are substitutes. The XLPE technology was initially used only in the LV and MV ranges but has, since the early 1990's, become increasingly common also for HV and EHV applications. Compared to oil-filled cables, XLPE cables are simpler to install, require less maintenance and are more environmentally friendly (no risk of leakage). As a result, the share of fluid-filled cables in EHV in Europe is decreasing rapidly. In 1999, oil-filled cables accounted for 38 % of the total EHV power cable market. According to the parties' estimates, the technology's market share will fall to 20 % in 2000 and less than 10 % in 2001. All competitors have confirmed this decline in customer demand for oil-filled cables. The technology is considered increasingly obsolete.

- (31) For LV, MV and HV power cables, virtually all customers thus regard XLPE and oil-filled cables as substitutes. In the EHV market, two customers stated that they did not consider XLPE and oil-filled power cables as readily substitutable. These customers argued that the long-term reliability of XLPE products had not yet been sufficiently proven and that specific features of their grids (diameter of existing ducts) made a switch costly at present. The market test, however, has shown that most of the European utilities who still use oil-filled cables in EHV plan to switch to XLPE technology in future projects. Electricité de France (EDF), the French utility, for example, already began to use XLPE-power cables in EHV in the mid-1980's. According to the majority of customers and suppliers, there remain no technical obstacles either to the use of XLPE-power cables at EHV, or to the installation of such cables into an existing network of fluid-filled cables. ENEL, the Italian electricity provider, for example, who in the past used oil-filled or EPR-insulated power cables for EHV, will purchase XLPE-EHV power cables in the period of 2000 to 2002. Regional utilities have stated similar views (for example,

Edison and AEM Torino in Italy, Scottish and Southern Energy plc.). Where specific obstacles to the use of XLPE exist (for example, due to XLPE cables' larger conductor size), they can be assumed to be transitory.

Conclusion

- (32) The Commission concludes that the production and sale of LV/MV power cables on the one hand and HV/EHV power cables on the other hand, are distinct markets: First, there is no demand-side substitutability between these products. Secondly, switching costs and time from production of lower to higher voltages are significant. Thirdly, the limited supply-side substitutability does not have an impact equivalent to the (missing) demand-substitution effect. Switching to higher voltage ranges with existing machinery but outside efficient range is possible, but at significantly increased production cost. Finally, a distinction between LV and MV on the one hand and the higher voltage ranges (HV/EHV) on the other hand is required due to the different competitive conditions governing the supply and demand of these products⁽¹⁾. However, the Commission considers that there is not enough evidence to maintain that fluid-filled power cables of extra-high voltages form a distinct product market from EHV power cables manufactured with the use of other techniques (mainly XLPE), given that all producers and a large majority of customers in Europe consider these cable types as substitutes.

B. Relevant geographical markets

Production and sale of general wiring

- (33) The parties submit that the market for general wiring is a Community-wide market due to the harmonisation of cable specifications and the presence of multinational operators, whose commercial policy is established at Community level. The market investigation in the present case has confirmed this view. Therefore, for the purposes of this Decision, the market for general wiring is considered to be a Community-wide market.

⁽¹⁾ Based on similar considerations, a study on power cables and conductors (Databank, Cavi e conduttori isolati; June 1999; Reference ISTAT 31.3, Codice B.d.I. 059.341) applies a distinction between high technology power cables (cavi ad alta tecnologia) and standard power cables (cavi e conduttori standard). HV power cables (from > 36 kV) and EHV power cables (up to 500 to 600 kV) belong to the first group, LV and MV power cables to the second.

Production and sale of copper rod

- (34) The parties submit that the relevant geographic market for copper rod is at least Community-wide since copper rod is a standardised commodity product, which is widely traded throughout Europe at comparable prices. Furthermore, the parties hold that transport costs do not constitute a barrier to the import of copper rod. The Commission's investigation has confirmed this assessment.

Production and sale of power cables

- (35) The parties maintain that power cable markets have progressively evolved to become Community-wide markets. According to this view, there are no barriers to market entry on the supply-side. Harmonisation of technical standards for power cables has, according to the parties, removed all remaining obstacles for Community-based suppliers to participate in tenders in all Member States. From a demand side perspective, power cable markets are bidding markets, where customers increasingly source power cables at a European level on the basis of the procedures provided for in the Community public procurement directives. These elements, together with the low impact of transportation costs, the parties argue, are reflected by the increasing level of imports and exports of power cables between Member States. The Commission's investigation has confirmed that the markets for power cables are indeed Community-wide.

Harmonisation of product standards has advanced significantly

- (36) In its Decision concerning Alcatel/AEG Kabel⁽¹⁾ the Commission found that cable markets in the Community are at a transitional stage, shifting from national markets to one that is Community-wide. However, at that time, it concluded that the transition was not yet completed due to a number of factors including the existence of different cable specifications hindering imports, complicated and lengthy approval requirements for suppliers to meet national standards and the related adaptation costs. In its Decision concerning Pirelli/Siemens⁽²⁾, the Commission recognised that there is a tendency towards harmonisation of technical standards across Europe, but the question of the national or European dimension of geographic markets was left open.
- (37) In the present case the Commission has found that, according to the European Committee for Electro-technical Standardisation (Cenelec), most LV and MV power

cables are covered by European standards (EN's), except for specialist niche applications, for which no European standards exist. For ENs transposition into a corresponding national standard is compulsory. For HD (harmonised documents) transposition is voluntary. Cenelec reports that 90 % of ENs and HDs are implemented at the national level less than one year after adoption. Most utilities have reported that they apply EN's, international standards (IEC's), or national standards compliant with European standards.

- (38) For LV and MV cables, a mix of IEC and Cenelec standards prevails in each Member State. In addition, the individual utility customer usually applies a set of different product specifications (ENEL for instance applies 24 different specifications for LV and MV power cables) related to product quality, raw material and product safety. These specifications are stipulated by the different utilities to fit their respective cable networks (joints, accessories, switching gear)⁽³⁾.

- (39) There are no indications that the different specifications constitute significant barriers-to-entry for potential competitors. Apart from the parties, there are a number of European cable suppliers, such as ABB, Alcatel, NKT, Sagem or the remaining BICC facilities in Spain and Portugal⁽⁴⁾, who possess the technical capability, production capacity and certifications required to supply the major European electricity utilities, which they have put to use in a large number of tenders outside their traditional home markets. All these first-tier manufacturers, with the possible addition of some smaller manufacturers, are able to supply cables to specifications required for LV/MV power cables throughout the Community.

- (40) In the HV/EHV market, by contrast, there are no set product standards. For each project, utility customers specify their own design standards, based on national, IEC and Cenelec standards. Hence, cables are custom-designed for each high or extra-high voltage project and national standards do not normally constitute a barrier-to-entry. In order to become a qualified supplier of HV/EHV power cables, the supplier usually has to meet comprehensive test requirements, which, according to customers, can take between 12 and 18 months. However, the main suppliers of HV/EHV cables, including Pirelli, BICC, Alcatel, ABB, NKT, but also some second-tier manufacturers, are already qualified suppliers to most European power utilities. All of these companies could meet the necessary certification requirements for any tendered project, given that utilities are usually obliged to indicate their estimated purchases one year in advance.

⁽¹⁾ Case No IV M165-AEG/Alcatel Kabel (OJ C 6; 10.1.1992).

⁽²⁾ Case No IV/M1271-Pirelli/Siemens, (OJ C 336, 4.11.1998, p. 11).

⁽³⁾ Utilities but also suppliers have reported that the number of specifications will be reduced in the future, due the need to increase efficiency and reduce production costs.

⁽⁴⁾ There is no non-compete clause between the new entity and BICC.

- (41) In view of the foregoing, it can be concluded that different product standards are largely harmonised at a European level and existing national specifications are not any longer obstacles to market entry.

Price differences are due to the individual characteristics of each tender

- (42) The Commission's investigation has revealed that a comparison of price levels across different countries for individual products is not meaningful because prices for power cables depend strongly on quantities purchased in each transaction and the specifications stipulated in each individual tender. Batch-sizes can vary widely between the different customers. For example, framework contracts in the LV/MV market can cover several thousand kilometres of cable, while other contracts may relate to relatively short cable links. In addition, the individual customers typically require different cable designs even for identical voltages, for example single or multiple core cable types, different kinds of conductors (round or sectoral), or different types of screens. These differences, combined with varying contract sizes, lead to price differentials between Member States, although they do not constitute barriers-to-entry⁽¹⁾.

Utilities can purchase Community-wide

- (43) Traditionally, that is to say prior to deregulation, the electricity market was marked by monopoly suppliers purchasing largely from domestic cable suppliers. Under the public procurement directives, in particular Council Directive 93/38/EEC of 14 June 1993 coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors⁽²⁾, as last amended by Commission Directive 2001/78/EC⁽³⁾, contracting entities are required to ensure that there is no discrimination between suppliers, contractors or service providers from different Member States. Under the public procurement directives, utilities are legally required to tender their cable requirements on a European basis through publication in the *Official Journal of the European Union*.
- (44) However, the contract award notices examined in the course of the Commission's investigation reveal that, although contracts are tendered Community-wide, in the majority of cases the successful bidder(s) continue to be

national suppliers with a long-established supplier relationship with the utility customer. That is, utilities' incumbent suppliers have defended their traditional national strongholds despite the opening-up of procurement procedures.

- (45) ABB, for instance, has an HV/EHV market share of [50 to 60]* % in Sweden, [45 to 55]* % in Norway and [5 to 15]* % in Germany and is not present in any other Member State. SAT-Sagem has [10 to 20]* % in France, [below 5]* % in Belgium and is not present in any other Member State. NKT has [35 to 45]* % in Denmark and [5 to 15]* % in Germany through acquisition of Felten & Guillaume⁽⁴⁾. Fulgor has a [45 to 55]* % market share in Greece and only a minor presence in other Member States. These market shares have changed only marginally over the past three years. Only Pirelli, BICC and Alcatel have significant market shares in all large Member States: Pirelli has [40 to 50]* % in Italy, [40 to 50]* % in France, [40 to 50]* % in Spain, [35 to 45]* % in Germany and [30 to 40]* % in the United Kingdom. BICC has [45 to 55]* % in the United Kingdom, [15 to 25]* % in Germany, [25 to 35]* % in Italy, [35 to 45]* % in Portugal and [50 to 60]* % in Spain. Alcatel has [25 to 35]* % in France, [35 to 45]* % in Belgium and [20 to 30]* % in Italy. These companies, especially the two market leaders Pirelli and BICC, however, largely base these market positions on local production facilities and/or acquisition of local players. In the LV and MV segment, very similar trends can be observed.

- (46) This significant asymmetry of market shares across Europe could suggest that markets might still be national in scope. However, the market investigation conducted by the Commission did not support this initial assumption.

- (47) Over-capacity combined with the threat of losing out to foreign competitors at present enables utilities to achieve highly competitive bids from their incumbent domestic suppliers. Nevertheless, cross-border bids are increasingly frequent and a number of European cable manufacturers regularly participate in tenders across various Member States. For example in the United Kingdom, the import ratio in 1999 was 32 %. Several non-domestic suppliers such as NKT, Studer, Fulgor, Alcatel, Wessel or Tratos have submitted bids for LV/MV power cables. In Italy, the import ratio is lower (approximately 9 % of consumption) but has been increasing significantly over the past three years (from 5 % in 1997, 6,4 % in 1998 to 9 to 10 % in 1999/2000)⁽⁵⁾. In Italy, several non-domestic suppliers like for example, ABB, NKT and Sagem have recently participated in ENEL-tenders for HV and EHV power cables. In the United Kingdom, Alcatel, who recently became qualified supplier for EHV cables to NGC, have participated in NGC tenders, amongst them the high-voltage project in Northern Yorkshire.

⁽¹⁾ Price comparisons have been conducted on a hollow basis, i.e. stripping out fluctuations in the copper price.

⁽²⁾ OJ L 199, 9.8.1993, p. 84.

⁽³⁾ OJ L 285, 29.10.2001, p. 1.

⁽⁴⁾ NKT also has a minor presence in Finland (5 %) and in Belgium (7 %).

⁽⁵⁾ Trade statistics given by CRU.

- (48) Hence, liberalisation and Community procurement legislation have not yet led to a substantial change in national market shares, mainly because low price levels currently make further aggressive undercutting unattractive. Competitive pressure is nevertheless exerted by foreign suppliers, because utilities would face no obstacles in switching to foreign suppliers if local prices rose above competitive levels. The switch would be facilitated by the fact that most large energy utilities are sophisticated customers with significant buyer power, which could easily turn to foreign firms. The utilities, which were addressed in Italy, the United Kingdom, Germany and France have confirmed that they would not hesitate to move orders to foreign suppliers, if domestic manufacturers attempted to raise prices by an appreciable extent (by 5 to 10 %). In addition, utilities have actually achieved substantial price reductions by confronting their incumbents with alternative bids from foreign competitors.
- (49) At the same time, deregulation has increased utilities' incentives to bargain more aggressively with their cable suppliers. Most countries either have or are planning to introduce regulatory systems, whereby efficiency gains above a set level accrue to the utilities. For example, in the United Kingdom, RPI-X price controls, which are reassessed every five years, ensure that a minimum level of efficiency gains is passed on to the consumer, while setting strong incentives for utilities to perform. The RPI-X price controls on the various parts of the electricity industry require the average price (or revenue) to decrease in real terms by a specified annual rate X. The price controls reflect the anticipated levels of future operating costs and capital expenditure that might be incurred and are set to provide an adequate return to shareholders consistent with efficient performance.

Increasing intra-Community trade flows

- (50) The parties argue that due to deregulation of electricity markets, the absence of entry barriers and low transport costs all over western Europe, imports as well as exports have increased in recent years. According to the parties, 20,8 % of the total western European consumption was imported while 27 % of total production was exported in 1999.
- (51) The Commission's inquiry has revealed that, in general, imports of power cables are increasing within the Community. This trend partly reflects the strategy of most first-tier cable manufacturers to improve efficiency by consolidating production of specific cable types in dedicated plants on a European basis. This strategy of European realignment of production capacity is currently pursued by all first-tier cable manufacturers (i.e. Pirelli, BICC, Alcatel, ABB, NKT). For example, Alcatel supplies large quantities of cables from its French production plants to other countries, while NKT and ABB have created international production hubs in Copenhagen and Karlskrona, respectively, from where they supply cables to several European countries. Hence, supply of power cables increasingly takes place through European production networks, rather than domestic sources.
- (52) Import ratios differ between Member States. Whereas in the United Kingdom one third of consumption was imported in 1999, imports account for only approximately 9 % of consumption in Italy (although they are increasing). In Germany, 21,9 % of consumption is imported, in France 23,9 % and in the Nordic countries 17,4 %. However, the lower level of imports in certain Member States is not due to the existence of entry barriers but reflects differences in the speed and extent to which deregulation and privatisation has taken place.
- (53) Furthermore, the inquiry has revealed that local production capacity is not a prerequisite for successful market entry since transportation costs are relatively low ⁽¹⁾: on average, intra-Community transportation costs are estimated at between 3 and 7 % of production cost ⁽²⁾. As such, they lie in the same range as in other industries with well-established European production systems.
- (54) Similarly, the market investigation has revealed that a local presence is not necessary for a supplier to meet customers' just-in-time delivery requirements for LV/MV power cables, which the customer may need within one to two weeks from the order. These requirements can be met by imports of these products, which can usually be carried out within one to two weeks. If necessary, local storage facilities can be established at relatively short notice and moderate cost. For HV/EHV power cables, just-in-time delivery requirements do not arise. A local presence for reasons of maintenance or installation does not seem essential. In the case of LV/MV cables, installation and maintenance is done by the customers. In the case of HV/EHV power cables installation or maintenance ⁽³⁾ is usually performed by the large suppliers with the help of local contractors. This view was supported both by customers and competitors covered by the Commission's investigation.

⁽¹⁾ Due to the higher product value of EHV and HV power cables, transportation costs are relatively lower than for LV and MV power cables.

⁽²⁾ According to most customers, transportation costs mainly represent a barrier-to-entry for imports of low-value added (i.e. LV/MV) cables from outside Europe, where they can account for approximately 10 to 15 % of product value.

⁽³⁾ Periodic maintenance is usually not required for HV/EHV voltage power cables.

Conclusion

- (55) To summarise, the gradual liberalisation of electricity markets has led the markets for production and sale of power cables (LV/MV and HV/EHV) to evolve as Community-wide, even if this is not yet reflected in current market shares. The demand side is dominated by large sophisticated customers with significant buyer power, which can be used strategically (for example, to encourage foreign firm entry). Barriers-to-entry are low. The Commission therefore concludes that the relevant geographical market is Community-wide.

C. Competitive assessment

General wiring

- (56) The market shares achieved by Pirelli, the target companies and their main competitors within the Community in 1997, 1998 and 1999, according to the notification, are set out in the table below:

Competitor/ Product	1997	1998	1999/2000
Pirelli	[below 10%]*	[5 to 15%]*	[10 to 20%]*
BICC/The target companies	[below 10%]*	[below 5%]*	[below 5%]*
Pirelli/BICC	/	/	[10 to 20%]*
Alcatel	[10 to 20%]*	[10 to 20%]*	[10 to 20%]*
Delta	[below 5%]*	[1 to 10%]*	[1 to 10%]*
Triveneta	[below 5%]*	[below 5%]*	[below 5%]*
Draka	[below 5%]*	[below 5%]*	[below 5%]*
BICC General ⁽¹⁾	[below 5%]*	[below 5%]*	[below 5%]*
ABB	[below 5%]*	[below 5%]*	[below 5%]*
General Cavi	[below 5%]*	[below 5%]*	[below 5%]*

⁽¹⁾ The remaining business in Spain and Portugal.

- (57) As shown in the table in paragraph 56, the parties will have a combined market share of [10 to 20%]*, with only a small distance to Alcatel, which holds [10 to

20%]*. The market for general wiring is a rather fragmented market with numerous suppliers competing against the merged entity. The proposed concentration will only marginally increase Pirelli's current market share in general wiring and will not lead to the creation of a dominant position for Pirelli/BICC. In general wiring, there are no significant entry barriers since the manufacturing process does not require complex know-how, and customer loyalty is reported to be low. An important proportion of the production of general wiring products is sold through independent distributors (which are not affiliated to cable producers) which themselves have significant market positions in several Member States. Important distributors include, for example, Rexel, Sonepar or Edmundson in France and Belgium or Newey & Eyre, Rexel and Sonepar in the United Kingdom. The market investigation has confirmed that the proposed concentration will not give rise to competitive concerns in the field of general wiring.

Production and sale of copper rod

- (58) At the Community level, Pirelli's and BICC's sales of copper rod each account for approximately 5 % of total market in 1999, their combined shares being 10 %, while Alcatel has 13,7 %. ⁽¹⁾ Pirelli/BICC ⁽²⁾ and Alcatel would be the only power cable producers vertically integrated towards the production of copper rod, selling about 25 % of the total EEA copper rod production. Independent manufacturers sell 75 % of the supply. The proposed concentration will not lead to the creation of a dominant position in the market for copper rod as a result of which competition would be significantly impeded in the common market since competitors of Pirelli/BICC and/or Alcatel can source copper rod from independent suppliers.

Power cables

Recent developments in the power cable industry

- (59) Power cable markets traditionally used to be closed markets, where national suppliers ⁽³⁾ covered most of the national electricity utilities' requirements without facing significant competition from foreign competitors. In the

⁽¹⁾ Figures given in the notification.

⁽²⁾ Through its joint venture with AEI.

⁽³⁾ Suppliers with domestic production capacity, not necessarily domestically owned ones.

absence of competitive pressure, the public utilities tended to favour domestic suppliers. They were only moderately price-sensitive, with a tendency, in some countries, to 'over-engineer' their networks. Power cables, in addition, typically account for only a minor share of a utility's capital expenditure (low single-digit percentages) and as such did not initially constitute a priority target for cost reduction. Especially in high-voltage transmission, most European utilities' electricity grids predominantly use overhead lines, a market not concerned by the operation ⁽¹⁾.

(60) Following the gradual liberalisation of the electricity markets and introduction of the Community public procurement regime, the cable industry's competitive environment has started to change. Demand is decreasing as a result of the restructuring of the utilities (for example, privatisation, separation of transmission, distribution and maintenance) and the high level of market saturation (most Member States have a fairly developed electricity system). Many utilities have reduced their investment budgets due to a tightened regulatory regime, leading to significant industry-wide over-capacity (of approximately 30 to 50 %).

(61) Due to these and other factors ⁽²⁾, cable suppliers have found themselves confronted over the past three years with rapidly declining prices (by up to 60 %) and decreasing profit margins. Prices have not always moved uniformly in the different Member States, but they appear to have generally declined between 1996 and 1999 by 16 % to 24 % in LV and by 7 % to 36 % in MV in the larger Member States (France, Italy, the United Kingdom and Spain), apart from Germany ⁽³⁾. In the HV/EHV segment, specific features of each individual project and the small overall number of transactions blur any price trend or cross-country comparison. Nevertheless, customers have reported significant price decreases of up to 60 % in this market. The fact, however, that prices have not always declined uniformly across different European countries does not indicate that markets are national, but rather reflects the different speeds at which electricity markets have been deregulated and, hence, the point at which national utilities have become more price-sensitive.

(62) At present, price levels are at a historical low. This market environment has led several cable manufacturers to exit the market and many of the remaining ones to merge with competitors, thereby reducing over-capacity

and gaining efficiencies through better capacity utilisation and consolidating production of specific cable types in dedicated plants on a European basis.

(63) Hence, the present operation has to be seen in the context of the general consolidation and restructuring trend in the cable industry. The underlying business rationale of the proposed take-over for Pirelli/BICC is to rationalise production capacity, including the possibility of plant closures. While the operation is likely to reduce industry capacity, the parties' market power after the operation will be constrained by several other viable suppliers as well as utilities' significant buyer power, which should prevent prices from increasing above competitive levels.

Market shares

(64) The table below sets out market shares in the HV/EHV market in the Community in 1997, 1998 and 1999 to 2000, as given in the notification.

Competitor	1997	1998	1999 to 2000
Pirelli	[20 to 30]* %	[20 to 30]* %	[30 to 40]* %
BICC (the target companies)			[5 to 15]* %
Pirelli/BICC	/	/	[45 to 55]* %
Alcatel	[10 to 20]* %	[10 to 20]* %	[10 to 20]* %
ABB	[1 to 10]* %	[1 to 10]* %	[1 to 10]* %
BICC ⁽¹⁾	[15 to 25]* %	[15 to 25]* %	[1 to 10]* %
NKT	[below 5]* %	[below 5]* %	[below 5]* %
SAT/Sagem	[below 5]* %	[below 5]* %	[below 5]* %

⁽¹⁾ The business remaining with BICC, that is, essentially, BICC's production plants in Spain and Portugal.

⁽¹⁾ In Europe approximately 0,7 % of 400 kV lines, 2 % of 220 kV lines and 5 % of 45 to 220 kV lines use underground cables.

⁽²⁾ Including the decision of the Bundeskartellamt breaking up the power cable cartel in Germany in 1996; B 7-31301-A-105/96.

⁽³⁾ In Germany, a large cable cartel was broken up in 1996. As a result, prices for HV/EHV cables have dropped by up to 60 % in the past three years, while LV and MV rates have recovered from their lows in the wake of the collapse of the 1996 cable cartel.

(65) Pirelli/BICC have a combined market share of [45 to 55]* %, while the next player, Alcatel, has only [10 to 20]* %. The operation will combine the largest and the third largest manufacturer of HV/EHV power cables.

- (66) The table below sets out the market shares in the LV/MV market in the Community in 1997, 1998 and 1999 to 2000, as given in the notification.

	1997		1998		1999/2000	
	LV	MV	LV	MV	LV	MV
Pirelli	[5 to 15%]*	[10 to 20%]*	[5 to 15%]*	[10 to 20%]*	[20 to 30%]*	[25 to 35%]*
BICC (the target companies)					[1 to 10%]*	[1 to 10%]*
Pirelli/BICC					[25 to 35%]*	[30 to 40%]*
Alcatel	[15 to 25%]*	[15 to 25%]*	[15 to 25%]*	[15 to 25%]*	[15 to 25%]*	[15 to 25%]*
Draka	[5 to 15%]*	[1 to 10%]*	[1 to 10%]*	[1 to 10%]*	[5 to 15%]*	[5 to 15%]*
SAT-Sagem	[1 to 10%]*	[1 to 10%]*	[1 to 10%]*	[1 to 10%]*	[1 to 10%]*	[below 5%]*
BICC ⁽¹⁾	[1 to 10%]*	[5 to 15%]*	[5 to 15%]*	[5 to 15%]*	[below 5%]*	[1 to 10%]*
NKT	[below 5%]*	[below 5%]*	[below 5%]*	[below 5%]*	[below 5%]*	[below 5%]*
ABB	[below 5%]*	[below 5%]*	[below 5%]*	[below 5%]*	[below 5%]*	[below 5%]*

⁽¹⁾ The business remaining with BICC, that is, essentially, BICC's production plants in Spain and Portugal.

- (67) Pirelli/BICC's combined market share amounts to [25 to 35 %]*. In the LV segment Pirelli/BICC together with Alcatel account for approximately [45 to 55 %]* of the market, whilst in the MV segment they account for [50 to 60 %]*.

- (68) Due to Pirelli/BICC's high combined market shares in both the LV/MV and the HV/EHV market, the Commission has investigated the following possibilities:

- (a) creation of single dominance of Pirelli/BICC in the HV/EHV market;
- (b) creation of collective dominance of Pirelli/BICC and Alcatel in the HV/EHV market;
- (c) creation of collective dominance of Pirelli/BICC and Alcatel in the LV/MV market.

Possible creation of single dominance in the HV/EHV market

Impact of the market share increment resulting from the operation

- (69) In the HV/EHV market, the combined entity would be market leader with [45 to 55 %]* market share at the

European level with a considerable distance to the second-largest firm, Alcatel with [10 to 20 %]*.

- (70) To properly assess the parties' market position, it has to be borne in mind that in several Member States the demand for high-voltage power cables consists mainly of the respective national grid operators, such as National Grid Company (NGC) in the United Kingdom, ENEL in Italy and EDF in France, who account for up to 90 % of domestic demand. Hence, the prevailing market structure is not least a result of these dominant customers' purchasing policies. These utilities may move purchases to alternative suppliers in order to maintain a desired number of sources.

- (71) As a result, it is unlikely that Pirelli/BICC's current combined Community market share will be sustained by the merged entity. Several competitors of Pirelli and BICC stated that they anticipated new opportunities to arise for foreign suppliers because utilities currently using Pirelli and BICC as their main suppliers are likely to diversify their supplier-base ⁽¹⁾. Due to the current situation of over-capacity, all of the main European cable manufacturers have significant spare capacity and would therefore be able to fill additional orders.

- (72) At present, depressed price levels enable utilities to obtain highly competitive bids from their traditional suppliers. Market shares have thus remained relatively stable over the past years. Competitive pressure is nevertheless exerted by foreign competitors. Utilities have achieved considerable price reductions (by up to 40 %)

⁽¹⁾ ENEL and EDF, for example, according to internal guidelines usually tend to have at least 3 suppliers for power cables of all voltage ranges. Some German utility customers tend to have at least two suppliers for each cable type in the HV/EHV ranges for safety reasons.

by confronting incumbent suppliers with lower bids from foreign competitors (for example, ABB and Brugg in Italy, Alcatel and Fulgor in the United Kingdom, NKT in Germany).

After the operation customers will still have at least four alternative suppliers

(73) Apart from the parties, there are a number of large European cable suppliers such as ABB, Alcatel, NKT, Brugg (and possibly Sagem and BICC General ⁽¹⁾), which possess the technical capabilities, production capacity and quality certifications to supply the major European utilities with know-how intensive HV/EHV voltage cables in large quantities. As such, they are credible bidders in any major European tender for HV/EHV power cables. In addition, smaller companies like Fulgor ([below 5 %] market share at a Community level), which has recently been added to ENEL's list of pre-qualified suppliers for HV and EHV power cables, have the technical capabilities to supply HV/EHV, provided customers guarantee sufficient orders to justify the necessary investment. As shown in recitals 36 to 40, technical and administrative barriers to entry are relatively low. Where specific type qualifications are required, they can be obtained within a reasonable time period, if the customer provides assistance. All of the first-tier manufacturers could supply power cables of HV/EHV using XLPE technology. In addition, all market participants agreed that transport costs are moderate (between 3 % and 5 % of the product price) and that import levels are increasing.

(74) The competitors' relatively low Community market shares (compared with Pirelli/BICC) do not adequately reflect their competitive strength and production capacity, because the low prevailing price levels have led these manufacturers to focus on overseas markets (for example ABB) or traditional home markets (for example Alcatel). However, when price levels recover, these companies can be expected to bid more actively in Europe.

(75) In addition, customers have confirmed that existing contractual relationships with their incumbent suppliers do not represent an obstacle to switching suppliers at short notice. Due to their strong bargaining position, several utility customers have, in the past, renegotiated framework-contracts when they felt that market prices had decreased during the contract term.

(76) Finally, due to their substantial purchasing power, utilities have the possibility to attract additional cable suppliers through strategic allocation of orders and, thus, to broaden their supplier base, if necessary. Fulgor, for example, was encouraged by a British utility to enter the United Kingdom market. The company has the technical capability to manufacture XLPE power cables of EHV up to 420 kV and may in the future become a first-tier manufacturer in terms of Community market share, product range and geographical market penetration. The same principle potentially applies to other second-tier manufacturers, such as AEI or Tratos.

The utility customers have significant buyer and bargaining power, which they exercise in a bidding process

(77) The major utilities ENEL and NGC as well as EDF and the main German electricity utilities, but also regional utilities, are able to exercise considerable buyer power. Virtually all demand for HV/EHV cables stems from these customer groups. They purchase large volumes of power cables and account for a significant share of Pirelli and BICC's turnover. ENEL represents around [70 to 80 %]* of the Italian demand for HV/EHV power cables and represents between 80 % and 100 % of BICC's and [70 to 80 %]* of Pirelli's sales of power cables to utilities in Italy. NGC represents between 80 % and 100 % of BICC's sales in the United Kingdom and has a very important share of BICC's Community-wide sales.

(78) According to Directive 93/38/EEC, public undertakings (contracting entities) are obliged to regularly publish in the *Official Journal of the European Union* all the contracts which they intend to award over the following 12 months (obligatory call for competition) ⁽²⁾. They must also publish contract award notices which must indicate, *inter alia*, the products concerned, the award procedure, the tenders received and the name and address of the successful suppliers. In the procedure, contracting entities are required to ensure that there is no discrimination between different suppliers or service providers. Many contracting entities have established a system of qualification for suppliers, mostly using European standards as a reference. The criteria for this qualification system have to be made available to interested suppliers. Contracting entities requiring certificates for attesting conformity of the supplier to certain quality assurance standards have to use the relevant EN standards series and have to recognise equivalent certificates from bodies established in other Member States.

⁽¹⁾ BICC's remaining facilities in Spain and Portugal.

⁽²⁾ This applies to contracts with an estimated value of no less than EUR 400 000.

- (79) However, the existence of bidding markets by themselves does not automatically ensure effective competition in highly concentrated markets. The application and impact of the public procurement directives has to be examined in each individual case. In the HV/EHV power cable market, tenders take place infrequently, while the value of each individual contracts usually is very significant. Contracts are typically awarded to a single successful bidder (so-called 'winner-take-all'-principle). Strong incentives therefore exist for all competitors to bid aggressively for each contract.

Conclusion

- (80) In summary, there is insufficient evidence to conclude that the operation would result in the creation of a dominant position of Pirelli/BICC in the market for the supply of HV/EHV power cables in the Community, because there remain at least four first-tier competitors as credible bidders and because the demand side is dominated by large sophisticated customers, purchasing power cables in a bidding process.

Possible creation of a collective dominant position of Pirelli/BICC together with Alcatel in the HV/EHV market

- (81) In the HV/EHV market, the two leading firms, Pirelli/BICC and Alcatel, would achieve a combined market share of [55 to 65 %]*. Given the considerable lead of Pirelli/BICC and Alcatel over the next largest competitors and the high degree of existing market concentration, the creation of a collective dominant position of Pirelli/BICC and Alcatel in the HV/EHV market could a priori not be excluded. A collective dominant position could be exploited, in particular, by bidding less aggressively against each other than under competitive conditions or by tacitly dividing up markets along geographic lines (for example traditional home markets). The market investigation has, however, revealed that the underlying transaction structure of the HV/EHV market does not foster conscious parallel behaviour.
- (82) Bidding transactions in the HV/EHV market take place infrequently (there are generally no more than a few HV/EHV contracts placed per year in each country, even less in smaller countries), while the value of each individual contract is very significant. Contracts are typically awarded to a single successful bidder (winner-take-all-principle). Strong incentives therefore exist for all competitors to bid aggressively for each contract. The bidding structure (infrequent, high-value contracts) prevailing in the HV/EHV market makes conscious parallel behaviour unattractive, because the benefits of winning each current contract is likely to outweigh potential future gains from collusion.

- (83) In addition, the benefits of collusive strategies would be asymmetric, because both the value of individual tenders and the size of the competitors' respective traditional geographic strongholds vary significantly. In addition, Pirelli/BICC and Alcatel's existing market shares are asymmetric. Furthermore, prices for HV/EHV power cables are not transparent since they include an important element of services (for example installation and maintenance), accessories (for example joints and switches) and civil works, which can amount to more than two-thirds of total project value (especially for inter-urban underground cable links).

- (84) Finally, large utilities, the main customers of HV/EHV power cables typically purchase large quantities. In some Member States, one single monopoly grid operator accounts for almost all HV/EHV purchases. By virtue of their substantial purchasing power, these customers have the possibility to actively develop new supply sources through strategic allocation of orders to selected cable producers. Smaller manufacturers can thus be encouraged to submit bids, provided they are offered sufficient quantities at viable prices to justify the necessary investment.

Conclusion

- (85) No conclusive evidence was found that the operation would lead to the creation of collective dominance of Pirelli/BICC together with Alcatel in the HV/EHV market, since the market structure does not appear to lend itself to conscious parallel behaviour among bidders and customers can be expected to exercise their considerable buyer power.

Possible creation of collective dominant position of Pirelli/BICC together with Alcatel in the LV/MV market

- (86) In LV/MV power cables, Pirelli/BICC, together with the second largest firm, Alcatel, would account for [50 to 60 %]* of the market. Pirelli/BICC and Alcatel collectively would be market leaders with some distance to the next largest competitors. The market investigation has, however, not provided evidence supporting the creation of a collective dominant position of Pirelli/BICC and Alcatel in the supply of LV/MV power cables.
- (87) Compared to HV/EHV, Pirelli/BICC and Alcatel's market shares are more symmetric ([25 to 35 %]* and [15 to 25 %]*, respectively), but their combined market share is lower ([50 to 60 %]*). Barriers-to-entry to the LV/MV market are lower than in HV/EHV, because the products are less know-how intensive. In the LV/MV market, Pirelli/BICC's main competitors include the large manufacturers Alcatel, NKT, Draka, Sagem, Brugg in addition to a number of smaller firms such as Fulgor, Waskonig, AEI, Tratos, Carena, Triveneta and others, who are active in more limited geographic and/or product markets.

(88) Competitive pressure in the LV/MV market is therefore exercised not only by the remaining first-tier manufacturers, but also by a large number of second-tier firms. Apart from the second-tier manufacturers mentioned in recital 87, who typically hold established market positions as suppliers to regional utilities and, as members of bidding consortia, to national grid operators, customers have stated that even hitherto less known (third-tier) manufacturers could be eligible for LV/MV contracts, if prices available from existing suppliers were to rise. Given the existence of this large competitive fringe, it appears unlikely that Pirelli/BICC and Alcatel would be able to use their combined market share to impose price increases in the LV/MV market.

(89) In contrast to tenders in HV/EHV power cables, LV/MV transactions tend to take place more frequently and the average batch value is lower. Given the lower average batch value and higher frequency of bidding occasions the individual supplier could be tempted to abstain from aggressive bidding rather than risk a decline in prices and retaliation by rival suppliers.

(90) However, the Commission's inquiry in the present case has concluded that utilities have various possibilities to thwart attempts of conscious parallel behaviour among bidders. For example, customers can use framework contracts, which aggregate a utility's demand over a period of time (up to two years) and hence, create less frequent more valuable transactions, in order to increase bidders' incentives to compete aggressively. In addition, utilities frequently use a 'bids-for-allocations' process to exercise gradual pressure on large suppliers by reducing their allocation. By offering a higher allocation to smaller (second-tier) players, and thus reducing existing suppliers' volumes, pressure can be exerted on suppliers with a significant fixed cost base. Both strategies are employed by ENEL in Italy and other large utility customers.

(91) Furthermore, the results of the market investigation indicate that price transparency for LV/MV products is rather low due to the absence of meaningful list prices and varying customer-defined product specifications. Collusive strategies are thus further complicated.

(92) Finally, LV/MV power cables are also purchased by a number of smaller regional utilities active in the distribution of electricity. Their more limited buyer power, compared to the national grid operators, is balanced by their ability to source cable requirements from the large number of fringe firms, in addition to the first-tier manufacturers. These smaller firms, such as Tratos, Carena and Triveneta in Italy and AEI in the United Kingdom, are all able to cover the smaller quantities demanded by regional utilities.

Conclusion

(93) The risk that the transaction might create a position of oligopolistic dominance by Pirelli/BICC and Alcatel in the market for LV/MV power cables appears small, because of the low barriers to entry, a large competitive fringe, the two leading firms' asymmetric market shares and low price transparency.

VI. CONCLUSION

(94) The combination of Pirelli/BICC's activities in the United Kingdom and in Italy will remove (or at least weaken significantly) one of the main competitors in an already concentrated market. The merged entity will be the leading cable manufacturer on the EEA level. The operation continues a restructuring process in the cable industry, which has been triggered by the gradual liberalisation of the electricity sector and has led several cable suppliers to exit the market (Siemens, KWO Kabel, Delta). Given the high level of market concentration, the Commission had to carefully evaluate the impact of the operation in the context of the ongoing structural change in the electricity industry. Further consolidation amongst the market leaders would have to be viewed extremely critically.

(95) In the present case, the Commission has found no conclusive evidence that the merger would create or strengthen a dominant position of Pirelli/BICC or a oligopolistic dominant position of for Pirelli/BICC together with Alcatel in the markets for LV/MV and HV/EHV power cables in the Community, as a result of which competition would be significantly impeded in the common market. After the proposed transaction, there would appear to be a sufficient number of credible European bidders left to maintain prices at competitive levels. Demand is characterised by large sophisticated customers with substantial buyer power, which enables them to encourage further market entry through strategic contract allocation, if necessary.

(96) In view of the fact that no fewer than four first-tier competitors in addition to a number of second-tier manufacturers would continue to exist after the operation, the likely continued participation of these suppliers in the calls for tenders constituting the competitive process in the relevant markets, and the considerable scope for customers to structure these bidding processes in a way conducive to effective competition, it can accordingly be accepted that the proposed transaction will not create or strengthen a dominant position as a result of which effective competition would be significantly impeded in a substantial part of the common

market. The transaction is therefore to be declared compatible with the common market, pursuant to Article 8(2) of the Merger Regulation and with the EEA Agreement, pursuant to Article 57 thereof,

Article 2

This Decision is addressed to:

Pirelli Cavi e Sistemi SpA
Viale Sarca, 222
I-20126 Milano

HAS ADOPTED THIS DECISION:

Article 1

Done at Brussels, 19 July 2000.

The operation whereby Pirelli Cavi e Sistemi SpA acquires control of part of the business of BICC General is hereby declared compatible with the common market and with the functioning of the EEA Agreement.

For the Commission

Mario MONTI

Member of the Commission

COMMISSION DECISION**of 12 March 2003****amending Decision 1999/465/EC establishing the officially enzootic-bovine-leukosis-free status of bovine herds of certain Member States or regions of Member States***(notified under document number C(2003) 739)***(Text with EEA relevance)**

(2003/177/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 64/432/EEC on health problems affecting intra-Community trade in bovine animals and swine ⁽¹⁾, as last amended by Commission Regulation (EC) No 1226/2002 ⁽²⁾, and in particular Annex D.I (E) thereof,

Whereas:

- (1) Commission Decision 1999/465/EC ⁽³⁾, as amended by Commission Decision 2001/28/EC ⁽⁴⁾ granted, as regards bovine herds, the officially enzootic-bovine-leukosis-free status to certain Member States and regions thereof.
- (2) The competent authorities of Italy submitted to the Commission documentation demonstrating compliance with all of the conditions provided for in Annex D.I (E) of Directive 64/432/EEC, as regards the Region of Emilia-Romagna.
- (3) It appears therefore appropriate to consider the region of Emilia-Romagna officially enzootic-bovine-leukosis-free in accordance with the provisions of Directive 64/432/EEC.

- (4) Decision 1999/465/EC should therefore be amended accordingly.

- (5) 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

Annex II to Decision 1999/465/EC is replaced by the text in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 12 March 2003.

For the Commission

David BYRNE

Member of the Commission⁽¹⁾ OJ L 121, 29.7.1964, p. 1977/64.⁽²⁾ OJ L 179, 9.7.2002, p. 13.⁽³⁾ OJ L 181, 16.7.1999, p. 32.⁽⁴⁾ OJ L 6, 11.1.2001, p. 21.

ANNEX

'ANNEX II

REGIONS OF MEMBER STATES DECLARED OFFICIALLY FREE OF ENZOOTIC BOVINE LEUKOSIS

Great Britain (United Kingdom)

Northern Ireland (United Kingdom)

Province Bolzano (Italy)

Province Trento (Italy)

Region Val d'Aosta (Italy)

Region Emilia Romagna (Italy).'
