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Legislation

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2003/197/EC:

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I

(Acts whose publication is obligatory)

**COMMISSION REGULATION (EC) No 504/2003
of 20 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 21 March 2003.

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

Done at Brussels, 20 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 20 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	94,3
	060	137,3
	204	53,9
	212	122,4
	624	101,8
	999	101,9
0707 00 05	052	118,8
	096	84,2
	204	89,8
	999	97,6
0709 10 00	220	190,1
	999	190,1
0709 90 70	052	109,0
	204	119,4
	999	114,2
0805 10 10, 0805 10 30, 0805 10 50	052	71,4
	204	49,5
	212	47,9
	220	42,5
	624	67,5
	999	55,8
0805 50 10	052	46,0
	999	46,0
0808 10 20, 0808 10 50, 0808 10 90	039	111,1
	388	96,9
	400	110,4
	404	98,8
	508	77,6
	512	81,0
	524	80,5
	528	88,2
	720	83,0
	728	96,2
	999	92,4
0808 20 50	388	70,1
	512	61,5
	528	57,9
	999	63,2

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

**COMMISSION REGULATION (EC) No 505/2003
of 20 March 2003**

determining the extent to which applications lodged in March 2003 for import licences for certain pigmeat products under the regime provided for by the Agreements concluded by the Community with the Republic of Poland, the Republic of Hungary, the Czech Republic, Slovakia, Bulgaria and Romania can be accepted

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 1898/97 of 29 September 1997 laying down detailed rules for the application in the pigmeat sector of the arrangements provided for by Council Regulations (EC) No 1727/2000, (EC) No 2290/2000, (EC) No 2433/2000, (EC) No 2434/2000, (EC) No 2435/2000 and (EC) No 2851/2000 and repealing Regulations (EEC) No 2698/93 and (EC) No 1590/94 ⁽¹⁾, as last amended by Regulation (EC) No 1877/2002 ⁽²⁾, and in particular Article 4(5) thereof,

Whereas:

- (1) The applications for import licences lodged for the second quarter of 2003 are, in the case of some products, for quantities less than or equal to the quantities available and can therefore be met in full, but in the case of other products the said applications are for quantities greater than the quantities available and must therefore be reduced by a fixed percentage to ensure a fair distribution.

- (2) It is appropriate to draw the attention of operators to the fact that licences may only be used for products which comply with all veterinary rules currently in force in the Community,

HAS ADOPTED THIS REGULATION:

Article 1

1. Applications for import licences for the period 1 April to 30 June 2003 submitted pursuant to Regulation (EC) No 1898/97 shall be met as referred to in the Annex.
2. Licences may only be used for products which comply with all veterinary rules currently in force in the Community.

Article 2

This Regulation shall enter into force on 1 April 2003.

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

Done at Brussels, 20 March 2003.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

⁽¹⁾ OJ L 267, 30.9.1997, p. 58.

⁽²⁾ OJ L 248, 22.10.2002, p. 9.

ANNEX

Group No	Percentage of acceptance of import licences submitted for the period 1 April to 30 June 2003
1	100,0
2	55,0
3	100,0
4	100,0
H1	100,0
7	100,0
8	100,0
9	100,0
T1	100,0
T2	100,0
T3	100,0
S1	100,0
S2	100,0
B1	100,0
15	100,0
16	100,0
17	100,0

**COMMISSION REGULATION (EC) No 506/2003
of 20 March 2003**

determining the extent to which applications lodged in March 2003 for import licences for certain pigmeat sector products under the regime provided for by Council Regulation (EC) No 774/94 opening and providing for the administration of certain Community tariff quotas for pigmeat and certain other agricultural products can be accepted

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 1432/94 of 22 June 1994 laying down detailed rules for the application in the pigmeat sector of the import arrangements provided for in Council Regulation (EC) No 774/94 opening and providing for the administration of certain Community tariff quotas for pigmeat and certain other agricultural products ⁽¹⁾, as last amended by Regulation (EC) No 1006/2001 ⁽²⁾, and in particular Article 4(4) thereof,

Whereas:

- (1) The applications for import licences lodged for the second quarter of 2003 are for quantities less than the quantities available and can therefore be met in full.
- (2) The quantity available for the following period should be determined.

- (3) It is appropriate to draw the attention of operators to the fact that licences may only be used for products which comply with all veterinary rules currently in force in the Community,

HAS ADOPTED THIS REGULATION:

Article 1

1. Applications for import licences for the period 1 April to 30 June 2003 submitted pursuant to Regulation (EC) No 1432/94 shall be met as referred to in Annex I.
2. For the period 1 July to 30 September 2003, applications may be lodged pursuant to Regulation (EC) No 1432/94 for import licences for a total quantity as referred to in Annex II.
3. Licences may only be used for products which comply with all veterinary rules currently in force in the Community.

Article 2

This Regulation shall enter into force on 1 April 2003.

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

Done at Brussels, 20 March 2003.

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

⁽¹⁾ OJ L 156, 23.6.1994, p. 14.

⁽²⁾ OJ L 140, 24.5.2001, p. 13.

ANNEX I

Group No	Percentage of acceptance of import licences submitted for the period 1 April to 30 June 2003
1	100,00

ANNEX II

(t)

Group	Total quantity available for the period 1 July to 30 September 2003
1	5 078,0

**COMMISSION REGULATION (EC) No 507/2003
of 20 March 2003**

determining the extent to which applications lodged in March 2003 for import licences under the regime provided for by tariff quotas for certain products in the pigmeat sector for the period 1 April to 30 June 2003 can be accepted

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 1486/95 of 28 June 1995 opening and providing for the administration of tariff quotas for certain products in the pigmeat sector ⁽¹⁾, as last amended by Regulation (EC) No 1006/2001 ⁽²⁾, and in particular Article 5(5) thereof,

Whereas:

The applications for import licences lodged for the second quarter of 2003 are for quantities less than the quantities available and can therefore be met in full,

Article 1

Applications for import licences for the period 1 April to 30 June 2003 submitted pursuant to Regulation (EC) No 1486/95 shall be met as referred to in the Annex.

Article 2

This Regulation shall enter into force on 1 April 2003.

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

Done at Brussels, 20 March 2003.

For the Commission

J. M. SILVA RODRÍGUEZ
Agriculture Director-General

⁽¹⁾ OJ L 145, 29.6.1995, p. 58.

⁽²⁾ OJ L 140, 24.5.2001, p. 13.

ANNEX

Group No	Percentage of acceptance of import licences submitted for the period 1 April to 30 June 2003
G2	100
G3	100
G4	100
G5	100
G6	100
G7	100

**COMMISSION REGULATION (EC) No 508/2003
of 20 March 2003**

**determining the extent to which applications lodged in March 2003 for import licences for certain
pigmeat products under the regime provided for by the Agreement concluded by the Community
with Slovenia can be accepted**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 571/97 of 26 March 1997 laying down detailed rules for the application in the pigmeat sector of the arrangements provided for in the Interim Agreement between the Community and Slovenia ⁽¹⁾, as last amended by Regulation (EC) No 1006/2001 ⁽²⁾, and in particular Article 4(4) thereof,

Whereas:

- (1) The applications for import licences lodged for the second quarter of 2003 are for quantities less than the quantities available and can therefore be met in full.
- (2) The surplus to be added to the quantity available for the following period should be determined.
- (3) It is appropriate to draw the attention of operators to the fact that licences may only be used for products which comply with all veterinary rules currently in force in the Community,

Article 1

1. Applications for import licences for the period 1 April to 30 June 2003 submitted pursuant to Regulation (EC) No 571/97 shall be met as referred to in Annex I.
2. For the period 1 July to 30 September 2003, applications may be lodged pursuant to Regulation (EC) No 571/97 for import licences for a total quantity as referred to in Annex II.
3. Licences may only be used for products which comply with all veterinary rules currently in force in the Community.

Article 2

This Regulation shall enter into force on 1 April 2003.

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

Done at Brussels, 20 March 2003.

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

⁽¹⁾ OJ L 85, 27.3.1997, p. 56.

⁽²⁾ OJ L 140, 24.5.2001, p. 13.

ANNEX I

Group No	Percentage of acceptance of import licences submitted for the period 1 April to 30 June 2003
23	100,00
24	100,00
25	100,00
26	100,00

ANNEX II

(t)	
Group No	Total quantity available for the period 1 July to 30 September 2003
23	287,8
24	107,8
25	95,8
26	609,8

**COMMISSION REGULATION (EC) No 509/2003
of 20 March 2003**

applying a reduction coefficient to refund certificates for goods not covered by Annex I to the Treaty, as provided for by Article 8(5) of Regulation (EC) No 1520/2000

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3448/93 of 6 December 1993 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products ⁽¹⁾, as last amended by Regulation (EC) No 2580/2000 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying down common detailed rules for the application of the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty and the criteria for fixing the amount of such refunds ⁽³⁾, as last amended by Regulation (EC) No 1052/2002 ⁽⁴⁾, and in particular Article 8(5),

Whereas:

- (1) The total amount of applications for refund certificates valid from 1 April 2003 exceeds the maximum referred to in Article 8(4) of Regulation (EC) No 1520/2000.

- (2) A reduction coefficient shall be calculated on the basis of Article 8(3) and (4) of Regulation (EC) No 1520/2000. Such coefficient should therefore be applied to amounts requested in the form of refund certificates valid from 1 April 2003 as established in Article 8(6) of Regulation (EC) No 1520/2000,

HAS ADOPTED THIS REGULATION:

Article 1

The amounts for applications of refund certificates valid from 1 April 2003 are subject to a reduction coefficient of 0,853.

Article 2

This Regulation shall enter into force on 21 March 2003.

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

Done at Brussels, 20 March 2003.

For the Commission

Erkki LIIKANEN

Member of the Commission

⁽¹⁾ OJ L 318, 20.12.1993, p. 18.

⁽²⁾ OJ L 298, 25.11.2000, p. 5.

⁽³⁾ OJ L 177, 15.7.2000, p. 1.

⁽⁴⁾ OJ L 160, 18.6.2002, p. 16.

**COMMISSION REGULATION (EC) No 510/2003
of 20 March 2003**

imposing provisional anti-dumping duties on imports of paracresol originating in the People's Republic of China

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾ (basic Regulation), as last amended by Regulation (EC) No 1972/2002 ⁽²⁾, and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

- (1) On 27 June 2002, the Commission announced by a notice (Notice of Initiation) published in the *Official Journal of the European Communities* ⁽³⁾, the initiation of an anti-dumping proceeding with regard to imports into the Community of paracresol originating in the People's Republic of China (PRC).
- (2) The anti-dumping proceeding was initiated following a complaint lodged on 13 May 2002 by Degussa Knottingley Ltd, the sole producer in the Community representing therefore 100 % of the Community production of paracresol. The complaint contained evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.
- (3) The Commission officially advised the exporting producers and importers/traders known to be concerned as well as their associations, the representatives of the exporting countries concerned, users, and the complainant Community producers of the initiation of the proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the Notice of Initiation.
- (4) A number of parties made their views known in writing. All parties who so requested within the time limit and showed that there were particular reasons why they should be heard were granted the opportunity to be heard orally.
- (5) In view of the large number of Chinese exporting producers listed in the complaint, the Commission indicated that it might be necessary to apply sampling in accordance with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, all

exporting producers were requested to make themselves known to the Commission and to provide, as specified in the Notice of Initiation, basic information on their activities related to the product concerned during the investigation period (1 April 2001 to 31 March 2002).

- (6) After examination of the information submitted by exporting producers and due to the low number of replies to the sampling questions, it was decided that sampling was not necessary.
- (7) In order to allow exporting producers in the PRC to submit a claim for market economy treatment (MET) or individual treatment (IT), if they so wished, the Commission sent claim forms to the Chinese exporting producers known to be concerned. Claims for MET and IT were received from two exporting producers.
- (8) The Commission sent questionnaires to parties known to be concerned and to all the other companies that made themselves known within the deadlines set out in the Notice of Initiation. Replies were received from the complaining Community producer, two exporting producers, one producer in the analogue country and seven users.
- (9) The Commission sought and verified all the information it deemed necessary for the purpose of a preliminary determination of dumping, resulting injury and Community interest. Verification visits were carried out at the premises of the following companies:
 - (a) *Exporting producers*
 - Nanjing Jingmei Chemical Co, Ltd, People's Republic of China,
 - Shandong Reipu Chemicals Co, Ltd, People's Republic of China;
 - (b) *Analogue country producer*
 - Merisol USA LLC, United States of America;
 - (c) *Community producers*
 - Degussa Knottingley Ltd, United Kingdom;
 - (d) *Users*
 - BASF, Ludwigshafen, Germany.

- (10) The investigation of dumping and injury covered the period from 1 April 2001 to 31 March 2002 (investigation period or IP). The examination of trends in the context of the injury analysis covered the period from 1 January 1998 to the end of the IP (period under consideration).

⁽¹⁾ OJ L 56, 6.3.1996, p. 1.

⁽²⁾ OJ L 305, 7.11.2002, p. 1.

⁽³⁾ OJ C 153, 27.6.2002, p. 7.

B. PRODUCT CONCERNED AND LIKE PRODUCT**1. Product concerned**

- (11) The product concerned is paracresol with a minimum para-isomer purity of 97 %, calculated on a net dry basis, currently classifiable within the CN code ex 2907 12 00.
- (12) Paracresol is a colourless to pale yellow toxic organic chemical used as an intermediary chemical in the production of anti-oxidants and fine chemicals such as anisic aldehyde, sun screens, UV stabilisers etc. The product concerned exists in different purities between 97 % and 99,9 % which all share the same basic physical and chemical characteristics and uses. They all share the same basic molecule (C_7H_8O) with the methyl function in the same position and the same impurities (such as orthocresol, metacresol etc.).

2. Like product

- (13) One exporting producer and one user submitted that paracresol produced in the Community could not be considered comparable to that produced and exported to the Community from the PRC on the grounds of the difference in purity between these two products. The user claimed to have encountered problems due to the impurity profile of the paracresol produced by the Community industry. However, the investigation has shown that all paracresol is alike, as it has the same basic physical and chemical characteristics and essentially the same uses. This was confirmed both by the on-the-spot investigation of the Community producer and the majority of the users.
- (14) It was found that the paracresol manufactured in the PRC and sold domestically, as well as that exported to the Community, the product sold on the domestic market of the analogue country (United States of America — USA) and manufactured and sold in the Community by the Community industry have basically the same physical and chemical characteristics and the same uses. Therefore these products are considered to be alike within the meaning of Article 1(4) of the basic Regulation.

C. DUMPING**1. Normal value****(a) Market economy treatment**

- (15) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in the PRC, normal value shall be determined in accordance with paragraphs 1 to 6 of Article 2 for those exporting producers which can show that they meet the

criteria laid down in Article 2(7)(c) of that Regulation, i.e. that market economy conditions prevail in respect of the manufacture and sale of the product concerned.

- (16) Claims for MET were received from two exporting producers:
- Nanjing Jingmei Chemical Co, Ltd, Nanjing, a Sino-Taiwanese joint venture,
 - Shandong Reipu Chemicals Co, Ltd, Qihe County, a fully Chinese limited liability company.
- (17) The claims were analysed on the basis of the five criteria required by Article 2(7)(c) of the basic Regulation. Both companies fulfilled the required criteria because business decisions are made in response to the market and without significant State interference. They have one clear set of basic accounting records which are independently audited in line with international accounting standards and are applied for all purposes. The production costs and the financial situation are not subject to significant distortions carried over from the former non-market economy system. Legal certainty and stability of the operations are assured as both companies are subject to bankruptcy and property laws and exchange rate conversions are carried out at the market rate.
- (18) The Community industry was given the opportunity to comment and particularly questioned whether the raw material prices were market prices. The subsequent investigation showed that prices for the main raw materials of the two Chinese exporters were in line with world market prices and also with the purchase prices of the Community industry. The Advisory Committee was consulted and did not object to the Commission's conclusions.

(b) Analogue country

- (19) Pursuant to Article 2(7)(a) of the basic Regulation, normal value for the exporting producers which are not granted market economy treatment has to be established on the basis of the prices or constructed value of the analogue country for the products comparable to those sold by the Chinese exporting producers.
- (20) In the Notice of Initiation of this proceeding, the Commission proposed Japan as an appropriate market economy third country for the purpose of establishing normal value for the PRC.
- (21) One exporting producer opposed this proposal and proposed India as an analogue country with the main argument that the cost structure of the Indian producer was similar to the cost structure of the Chinese producers. The Community industry objected to India as an analogue country on the basis that domestic sales to unrelated customers made by Indian producers were allegedly not representative.

(22) The Commission contacted all known producers of paracresol outside the European Community and the PRC (one producer each in India, Japan and the USA). The producers in Japan and India refused to cooperate in the proceeding. In addition, the vast majority of the production in India was for captive use. The USA producer's sales were representative as domestic sales accounted for more than 5 % of the exports of the product concerned originating in the PRC to the Community and there are no substantial import restrictions. Consequently, the Commission decided to use the USA as an appropriate analogue country.

(c) Determination of normal value for cooperating exporting producers granted MET

(23) In accordance with Article 2(2) of the basic Regulation, the Commission first examined whether the domestic sales of paracresol were representative, i.e. whether the total volume of such sales represented at least 5 % of the total export sales volume to the Community. The investigation showed that domestic sales were representative.

(24) The Commission subsequently examined whether the domestic sales of the company could be considered as being made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing the proportion of domestic sales to independent customers not sold at a loss on the domestic market during the IP.

(25) As less than 10 % of the domestic sales of the like product during the IP of both Chinese exporting producers concerned were profitable, normal value had to be constructed in accordance with Article 2(3) of the basic Regulation. Normal value was constructed on the basis of each exporting producer's own cost of manufacturing plus a reasonable amount for selling, general and administrative (SG&A) costs and for profit. Its own SG&A costs could be used because the domestic sales of the like product made by the exporting producer were representative as defined in Article 2(2) of the basic Regulation, i.e. the domestic sales of each company accounted for more than 5 % of the exports of the product concerned by the respective company. For the profit margin, in accordance with Article 2(6)(b) of the basic Regulation, the profit margin of the same general category of products in the domestic market was used. This profit margin could be used as a number of products sold fall into the same general category of products because they are basic organic chemicals (such as sodium sulphite etc.).

(d) Determination of normal value in the analogue country

(26) In order to establish whether sales in the USA market of the products comparable to those sold by the Chinese exporting producers to the Community were made in the ordinary course of trade, the domestic selling price was compared to the full cost of production (i.e. the cost of manufacturing plus SG&A expenses). Since less than 20 % of the sales volume of the type sold on the domestic market was sold at a loss and since the weighted average cost of production was lower than the weighted average selling price, normal value was established as the weighted average price of all transactions.

(27) As a result, normal value was established as the weighted average domestic sales price to unrelated customers by the cooperating producer in the USA.

2. Export price

(28) The export prices for the cooperating exporting producers were established on the basis of the prices paid or payable for the product concerned when sold to the first independent customer in the Community in accordance with Article 2(8) of the basic Regulation.

(29) Due to a lack of cooperation, the export prices for the remaining exporting producers were established in accordance with Article 18 of the basic Regulation. Export prices were calculated based on the average weighted export price of the cooperating producers for the product type sold by the producer in the analogue country as no other sources were available. Eurostat figures could not be used because the product concerned is only part of a CN code which also covers other products with a different price structure.

3. Comparison

(30) As far as the cooperating exporting producers are concerned, for the purposes of ensuring a fair comparison between the normal value and the export price at an ex-works level, due allowance in the form of adjustments was made for differences that were claimed and demonstrated to affect prices and price comparability in accordance with Article 2(10) of the basic Regulation. Adjustments were made in respect of transport, insurance and handling, packing, credit costs and commissions where applicable and justified.

(31) The comparison for non-cooperating producers was based on a comparison of the average export price of the cooperating producers as defined in recital 29 with the normal value in the analogue country as defined in recital 27.

4. Dumping margin

- (32) In accordance with Article 2(11) and (12) of the basic Regulation, the dumping margin was established on the basis of a comparison of the weighted average normal value with the weighted average export prices, as determined above. The provisional dumping margin was expressed as a percentage of the cif Community frontier price, duty unpaid.
- (33) The margins are:
- | | |
|--|---------|
| — Nanjing Jingmei Chemical Co, Ltd, Nanjing: | 23,8 %; |
| — Shandong Reipu Chemicals Co, Ltd, Qihe County: | 9,4 %; |
| — Country-wide dumping margin: | 40,7 %. |

D. INJURY

1. Definition of the Community industry

- (34) The sole cooperating Community producer accounted for 100 % of the Community production of paracresol during the IP.
- (35) One user and one exporting producer claimed that paracresol was also being manufactured by one of the users for captive consumption. However, the investigation showed that this user did not produce paracresol, but a mixture of isomers. This mixture of isomers is further processed without separation of the paracresol. This mixture does not fall under the definition of the product as set out above in recital 11. Therefore, for the purpose of the investigation, the user concerned is not considered to be a producer of the product concerned.
- (36) The sole Community producer is therefore deemed to constitute the Community industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation.
- (37) As the Community industry is thus constituted of only one producer, all figures relating to the latter had to be indexed for reasons of confidentiality.

2. Determination of the relevant Community market

- (38) For the purpose of establishing whether or not the Community industry suffered injury and of determining consumption and the various economic indicators related to the situation of the Community industry, it was examined whether and to what extent the subsequent use of the Community industry's production of the product concerned had to be taken into account in the analysis.
- (39) Paracresol is used as an intermediate material for other chemical products (mainly anti-oxidants and fine chemicals such as sunscreens) within the same group of companies, or is sold as such to a third party, related or not. The former possibility is referred to as captive use.

- (40) For the purposes of the investigation, captive use was defined as occurring when production was delivered within the same group of companies for further downstream processing. In situations of captive use, sales were made at transfer prices not set according to market conditions or were made to a company which did not have a free choice of supplier. Consequently, captive use had to be analysed at the level of produced quantities and the proportion of total sales it represented. All other situations were considered as free market sales.

- (41) In order to provide as complete a picture as possible of the situation of the Community industry, data have been obtained and analysed for all paracresol activity and it was determined whether paracresol was destined for captive use or destined for the free market. Paracresol destined for captive use was found not to be directly affected by imports. By contrast, production destined for free market sales was found to be in direct competition with imports, because these sales were made under normal market conditions, implying free choice of supplier. For this reason, attention was focused on the free market. While, where justified, data on free market sales and captive use were combined, the analysis was split between free market and captive deliveries so far as possible.

- (42) On the basis of the investigation, it was found that certain economic indicators related to the Community industry could reasonably be examined by referring to the whole activity. Indeed, production (for both captive use and free market sales), capacity utilisation, investments, stocks, employment and productivity depend upon the whole activity, whether the product is transferred downstream within a group of companies for further processing or whether it is sold on the free market.

- (43) The other economic indicators related to the Community industry were analysed and evaluated referring to the situation prevailing on the free market, in particular where measurable market conditions exist and where transactions are made under normal market conditions implying free choice of supplier: sales volume and sales prices on the Community market, export volume and prices. To this effect, consumption and market shares were determined on the basis of the volume of free market sales and imports.

3. Community consumption

- (44) The apparent Community consumption was established on the basis of the sales volumes of the Community industry on the Community market, excluding captive use, and import figures concerning the volume of imports from both the country concerned and other third countries.

(45) As mentioned above, it was found that not only paracresol, but also other products are imported into the Community under CN code ex 2907 12 00. In addition, no other public statistics or studies are available on the consumption of paracresol. Therefore, estimates of the imports had to be based on the replies to the questionnaire by the cooperating users, which were found to import almost all of the paracresol, and on the verified information provided by the Chinese exporting producers.

(46) On this basis, Community consumption increased by around 45 % between 1998 and the IP from 8 780 tonnes to 12 770 tonnes. Between 1998 and 2000 consumption rose by 62 %, followed by a drop of 11 % between 2000 and the IP. A steep increase occurred in particular from 1999 to 2000.

4. Imports from the country concerned

(a) Volume and market share

(47) During the period under consideration, the import volume of paracresol originating in the country concerned increased from 40 tonnes in 1998 to 240 tonnes in 2000 and subsequently to 4 035 tonnes during the IP.

(48) The market share of the imports originating in the country concerned increased from less than 1 % in 1998 to more than 30 % in the IP.

(b) Prices of the dumped imports

(49) The Commission has examined whether the exporting producers in the country concerned undercut the prices of the Community industry during the IP. In order to bring prices on to a comparable basis, the exporting producers' prices have been duly adjusted to a cif level, whereas the Community producer's prices have been adjusted to an ex-works level.

(50) The undercutting margins found on this basis, expressed as a percentage of the Community producers' prices, are as follows:

Country: PRC	Price U/C
Average undercutting margin	31 %
Undercutting margins of cooperating exporting producers only	Between 29 % and 33 %

(51) These undercutting margins did not show the full effect of the imports on prices in the Community market as prices were depressed, which is demonstrated by the lack of profitability of the Community industry, which became loss-making from the year 2001.

5. Situation of the Community industry

5.1. Analysis of the factors pertinent to the entire activity, including captive sales

(a) Production

(52) The Community industry's production increased by 1 % between 1998 and the IP. There was an increase until 2000 of 28 % followed by a decrease until the end of the period under consideration of 21 %.

(b) Capacity and capacity utilisation rates

(53) The total production capacity of the Community industry also increased between 1998 and the IP, by 17 %. This was related to the modernisation of the production facilities. The capacity utilisation decreased by 14 % during the same period and reached its lowest point in the IP, after peaking in 2000.

(c) Investment

(54) The Community industry continued to make considerable investments in its production facilities throughout the period under consideration and even significantly increased its yearly spending on new investments between 1998 and the IP by around 80 %. This development relates mainly to investments in environmental protection and to investments in new machinery and equipment, carried out in order to increase capacity (both in 1998 and the IP) and to improve efficiency and productivity.

(d) Inventories

(55) Stocks of finished product decreased by 60 % between 1998 and the IP and remained low throughout the IP. During the IP these stocks represented less than 1 % of all sales. However, it should be noted that during the IP the amount of unfinished products increased considerably and was unusually high.

(e) Employment, productivity and wages

(56) Employment in the Community industry decreased by 6 % between 1998 and the IP. Wages increased from 1998 to the IP by around 18 %. Average productivity on the basis of tonnes produced per employee increased slightly over the period under consideration.

5.2. Analysis of the factors pertinent for the free-market activity

(a) Sales

- (57) Between 1998 and the IP the sales volume on the Community market of the product concerned produced in the Community increased by 23 %. Once more, there was an increase up to 2000 (of 52 %), followed by a decrease between 2000 and the IP (of 19 %).

(b) Market share

- (58) Between 1998 and the IP, the Community industry lost about 9 percentage points of its market share on the Community market (it was about 51 % during the IP), while in the same period overall consumption rose by around 45 % and the market share of the imports originating in the country concerned increased from less than 1 % to more than 30 %.

(c) Growth

- (59) As mentioned above, while Community consumption increased by around 45 % between 1998 and the investigation period, the sales volume of the Community industry increased by 23 % and the volume of imports concerned went up by a factor of 100. Thus, the growing trend of the market was not followed by a corresponding increase in the Community industry's sales. On the contrary, its market share decreased by about 9 percentage points between 1998 and the investigation period, whereas the market share of imports concerned increased from less than 1 % to more than 30 % during the same period.

(d) Prices

- (60) The Community producers' average net sales price of the product concerned produced and sold in the Community increased by 10 % between 1998 and the IP. The increase took place almost entirely in 2001. In this respect, it should be pointed out that in the year 2001 the price of one of the main raw materials, caustic soda, more than doubled.

(e) Profitability, return on investment, cash flow and ability to raise capital

- (61) The weighted average profitability, expressed as profits/losses in relation to the net sales value of the products produced and sold in the Community, deteriorated between 1998 and the IP. Profitability was highest in 1999 (more than 10 %) and started to decrease sharply in 2000 to drop below zero in 2001 and the IP, when it was between minus 5 % and minus 10 %. It was found that one US competitor carried out an aggressive pricing campaign during the year 2000, which eventually led to its own disappearance from the market. As a conse-

quence, an increase in the price of raw materials in that year could only be passed on to the customers to a limited extent. In this context, it should be pointed out that the price of the main raw materials, toluene and caustic soda, increased by more than 50 % during the period under consideration. In 2001, imports from the country concerned started to enter the Community in large volumes and at low prices, leading to further and an even greater reduction of the profitability of the Community industry.

- (62) A similar deterioration occurred in the return on investment, expressed as profits/losses in relation to the net book value of investments.

- (63) The cash flow generated by the product produced and sold in the Community decreased sharply between 1998 and the IP. After peaking in 1999, it became negative during the IP.

- (64) The Community industry was not found to be experiencing difficulties in raising capital by means of bank loans and financing from the parent company.

(f) Magnitude of dumping margin

- (65) Given the volume and the prices of the dumped imports from the country concerned, the impact of the actual margins of dumping cannot be considered negligible.

6. Conclusion on injury

- (66) Community consumption expanded by around 45 % from 1998 to the IP. However, the Community industry could not benefit fully from this development since its sales only increased by half the proportion of the increase in Community consumption while, in particular from 2000, imports originating in the country concerned increased dramatically.

- (67) In terms of price development, the Community industry was able to increase its sales prices moderately between 1998 and the IP. However, that price increase was not even sufficient to cover the price increases of the main raw materials. During the same period, the prices of Chinese imports decreased by 30 %. In addition, during the IP, the imports concerned were made at prices clearly undercutting those of the Community industry which was operating at a loss-making level from 2001 onwards.

- (68) A deterioration has been found in the situation of the Community industry during the period covering 2001 and the IP, in particular in terms of reduced production, capacity utilization, sales, market share, profitability, return on investment and cash flow. In addition, significant price undercutting as well as a serious deterioration in profitability and return on investment occurred.

- (69) One exporting producer suggested that the Community industry did not suffer injury. This argument was based on the increase in production, capacity, sales, sales prices and the decreasing stocks experienced by the Community industry. As far as this point is concerned, following the sharp increase in demand for the product concerned between 1998 and 2000, the Community industry was indeed able to increase its production, sales and sales prices. However, although sales have risen, they did not increase to the extent that could have been expected given the growth in the market. Moreover, the rise in sales prices was clearly insufficient since, *inter alia*, the raw material prices increased even more and the Community industry was loss-making in the IP (and as well in 2001).
- (70) The situation of the Community industry is thus found to have deteriorated to such an extent that it is provisionally concluded that the Community industry has suffered material injury within the meaning of Article 3(6) of the basic Regulation.

E. CAUSATION

1. Introduction

- (71) According to Article 3(6) and (7) of the basic Regulation, the Commission has examined whether the dumped imports of paracresol originating in the country concerned have caused injury to the Community industry to a such degree that it may be classified as material. Known factors, other than the dumped imports, which could at the same time be injuring the Community industry, were also examined to ensure that possible injury caused by these other factors was not attributed to the dumped imports.

2. Effect of the dumped imports

- (72) Over the period under consideration, dumped imports from the country concerned increased significantly in terms of volume (from 40 tonnes to 4 035 tonnes) and market share (from less than 1 % to more than 30 %). The dramatic increase in the imports from the PRC happened during the IP (from 240 tonnes in 2000 to 4 035 tonnes in the IP), while its import prices already decreased substantially from 2000 until the IP, by 46 %.
- (73) This coincided with a loss of market share of the Community industry of 9 percentage points and, even more importantly, with an insufficient increase in the prices of the Community industry. Indeed, the prices of the Community industry (which were depressed because it was loss-making) were significantly undercut during the IP by those of the dumped imports. At the same time, the cost of the main raw materials, especially caustic soda, increased considerably.

- (74) The above should be seen in the light of the fact that price is one of the main criteria for customers when purchasing paracresol. Moreover, it should be noted that from 1998 to 2000, i.e. when the dumped imports were not yet penetrating the Community market at significant levels, the Community industry was still profitable.

3. Effect of other factors

(a) Imports from other third countries

- (75) The investigation showed that Japan and the USA were the only other third countries from which the product concerned was imported into the Community at a level exceeding *de minimis*. During the period under consideration, the import volume of paracresol from these third countries decreased substantially, by 35 %, together with their market share, which went down by around 22 percentage points, to around 17 % in the IP. From 2000 to 2001, imports from these countries decreased by more than 50 %, from 5 953 tonnes to 2 566 tonnes. Thus, their decrease was almost simultaneous with the increase in Chinese imports.
- (76) It should be noted that during the period under consideration, a major US competitor disappeared from the market. This company carried out an aggressive pricing policy during the year 2000, which prevented the Community industry from benefiting from the increase in sales and raising its profit margin. This company was subsequently forced to close down its plant in 2001.
- (77) In view of the above, it was provisionally concluded that these imports did not break the causal link between the dumping and the material injury caused by the Chinese imports. On the contrary, their position on the Community market also developed negatively, as that of the Community industry did. Moreover, the investigation has clearly shown that the dumped imports originating in China did not merely take over the market shares lost by Japan and the USA, but far exceeded the market share lost by these countries.

(b) Further factors

- (78) The Commission also examined whether any other factors might have contributed to the injury suffered by the Community industry, having regard, in particular, to a possible contraction in demand, developments in technology and productivity of the Community industry, its export performance and its captive sales of the product concerned.
- (79) As to the development of demand, given that the apparent consumption of paracresol increased considerably during the period under consideration, the material injury suffered by the Community industry cannot be attributed to a contraction in demand on the Community market.

(80) In relation to the developments in technology and the productivity of the Community industry, the Community industry has maintained and even increased sales levels between 1998 and the IP. It also carried out considerable investments and modernised its production facilities, thereby increasing its productivity in order to limit its competitive losses. It was therefore provisionally concluded that these developments did not represent a cause of the material injury.

(81) One exporting producer, as well as a user, submitted that part of the injury was caused by the Community industry's investment in production capacity and that this was also the cause of the reduction in capacity utilisation. In this respect it should be noted that the capacity utilisation in fact increased directly after the expansion of production capacity in 1998/1999. The latest increase in production capacity was only completed after the IP, which means that it did not have an impact on the capacity utilisation during the IP.

(82) The same exporting producer also referred to the decreasing exports by the complainant as an indication of its insufficient competitiveness. Concerning the export performance, the Community industry has been forced to decrease its sales in third country markets, where it was likewise in competition with the Chinese exporting producers, by 59 % between 1998 and the IP. However, export sales accounted for only between 5 % and 10 % of the total sales of the Community industry during the IP. The export activity cannot therefore be the explanation for the injury suffered by the Community industry.

(83) It was also investigated whether or not the Community industry undermined its free market sales by shifting its attention to deliveries for captive use. However, it was found that sales for captive use as a proportion of total sales decreased from 36 % to 29 % over the period considered. In addition, these sales were made at prices which were roughly in line with prices charged on the free market. It is therefore considered that the development of captive use did not in any significant way contribute to the material injury suffered by the Community industry.

4. Conclusion on causation

(84) The above analysis has demonstrated that there was a substantial increase in volume and market share of the imports originating in the country concerned, especially from the year 2001 onwards, together with a considerable decrease in their sales prices and a high level of price undercutting during the IP. This increase in market share of the low-priced Chinese imports coincided with a significant drop in market share of the Community industry, which, together with the downward pressure on prices, resulted, *inter alia*, in substantial losses to the Community industry during the IP. In addition, an examination of the other factors which could have injured the Community industry revealed that none of these could have had a significant negative impact on this industry.

(85) In view of the above, it is provisionally concluded that the dumped imports caused the material injury suffered by the Community industry.

F. COMMUNITY INTEREST

1. Preliminary remark

(86) In accordance with Article 21 of the basic Regulation, the Commission examined the issue of Community interest. The determination of Community interest was based on an appreciation of all the various interests involved, i.e. those of the Community industry, the importers/traders and the users/consumers of the product concerned, to the extent that the relevant parties submitted the information requested in this respect.

(87) On this basis it was examined whether, despite the conclusions on dumping, injury and causation, compelling reasons existed which would lead to the conclusion that it is not in the Community interest to impose anti-dumping measures in this particular case.

2. Investigation

(88) In order to assess the likely impact of the imposition or non-imposition of measures, the Commission requested information from all interested parties. The Commission sent questionnaires to the Community industry, two importers and 17 users. The Community producer and seven users replied.

(89) Questionnaire replies were received within the time limits from the following seven users of the product concerned:

- BASF AG, Ludwigshafen, Germany,
- Bayer AG, Leverkusen, Germany,
- Ciba Spezialitätenchemie Lampertheim GmbH, Lampertheim, Germany,
- Eliokem SAS, Courtaboeuf, France,
- Great Lakes Chemical (Europe) GmbH, Frauenfeld, Switzerland (with factories using paracresol in France and Germany),
- Raschig GmbH, Ludwigshafen, Germany,
- Rütgers Chemicals AG, Castrop-Rauxel, Germany.

(90) It should be mentioned that Raschig GmbH sold its business which incorporated paracresol to the complainant after the IP and is therefore no longer a user or an interested party.

3. Community industry

(91) The Community industry has proven to be a structurally viable industry, able to adapt to the changing conditions of the market. It achieved healthy profit margins from 1998 to 2000, when the impact of dumped imports had not yet been felt on the market. It also made considerable investments and continued to export.

(92) It is considered that the imposition of measures will restore fair competition in the market. If measures are taken the Community industry will be able to regain at least part of its lost market share with a consequent positive impact on profitability.

(93) As mentioned above, the Community industry suffered material injury caused by dumped imports originating in the country concerned. If measures are not imposed, a further deterioration in the situation of the Community industry is probable. This would entail a further loss of employment. The deflationary effect of the dumped imports would continue to frustrate all efforts by the Community industry in particular to regain a profitable level. Not taking measures would jeopardise the long-term presence of the industry and the possibility cannot be excluded that the sole Community producer might have to shut down as a result of the competition from dumped imports if measures are not imposed.

4. Importers/traders

(94) No questionnaire replies were received from importers or traders. In this context, it should be noted that all the main users purchase paracresol directly from the producers.

(95) On the basis of the limited role of importers and their non-cooperation in the proceeding, it is provisionally concluded that anti-dumping measures will not have any significant negative impact on importers.

5. Users/consumers

(96) Seven questionnaire replies were received from users. One verification visit was carried out. The seven cooperating users represented 98 % of total imports of paracresol from the cooperating Chinese exporting producers during the IP. The number of effective staff in these companies directly related to the paracresol business was close to 200.

(97) Users of the product concerned are companies active in the chemical industry. The main applications for paracresol are anti-oxidants, fine chemicals and intermediate products. In general, the user companies tend to look for a combination of reliable supply and the cheapest source available and they have therefore benefited from low prices for paracresol in recent years. All cooperating users except Raschig GmbH have therefore taken position against the imposition of anti-dumping duties, for fear of losing a cheap source of supply, which would harm their competitiveness in the downstream market, both vis-à-vis Asian competitors and the complainant.

(98) Producers of anti-oxidants are principally concerned about competition from the complainant, which is a major player in this market, and fear that the complainant could use the anti-dumping measures on paracresol

to reinforce its position and possibly dominate supply and price developments in the anti-oxidants market. With respect to producers of fine chemicals, such as anisic aldehyde and sunscreens, the main concern is competition from producers in Asia, which would continue to benefit from access to cheap paracresol from the PRC.

(99) However, duties will not result in a significant reduction of competition or a shortage of supply. Instead, it is to be expected that imports from China will remain available at competitive prices, as the duties proposed for the cooperating Chinese exporting producers are below the levels of undercutting found. In addition, alternative sources of supply from other third countries with no duties are also available. For this reason, it is also expected that the Community industry will react to any anti-dumping measures by increasing its production and its sales (instead of increasing prices) in order to benefit from increased economies of scale which in turn would allow them to restore profitability. On the basis of all this, it is concluded that users will continue to be able to buy paracresol at competitive prices and it is expected that the impact on the competitiveness of the users vis-à-vis Asian competitors and the complainant will be limited.

(100) On the basis of the above, it was provisionally concluded that the effect of the anti-dumping measures, if any, will most likely not have a decisive impact on users.

6. Competition and trade distorting effects

(101) With respect to the effects of possible measures on competition in the Community, the cooperating exporting producers concerned, given their strong market positions, will probably continue to sell their products, albeit at non-dumped prices. Indeed, the relatively low duty rates for the two cooperating Chinese exporting producers should allow them to operate under fair market conditions in the Community. Thus, given the overall range of duties imposed, it is likely that there will still be a sufficient number of major competitors on the Community market, including the producers in the country concerned, Japan and the USA. Therefore, users and consumers will continue to have the choice of different suppliers of the product concerned. If, on the other hand, no measures were to be imposed, the future of the sole Community producer would be at stake. Its disappearance would effectively reduce competition on the Community market.

7. Conclusion on Community interest

(102) Given the above reasons, it is provisionally concluded that there are no compelling reasons not to impose anti-dumping duties in the present case.

G. PROVISIONAL ANTI-DUMPING MEASURES

1. Injury elimination level

- (103) In view of the conclusions reached with regard to dumping, injury, causation and Community interest, provisional anti-dumping measures should be taken in order to prevent further injury being caused to the Community industry by the dumped imports.
- (104) In establishing the level of duty, account has been taken of the level of the dumping margins found and of the amount of duty necessary to eliminate the injury suffered by the Community industry.
- (105) In order to establish the level of duty needed to remove the injury caused by dumping, injury margins have been calculated. The necessary price increase was determined on the basis of a comparison, at the same level of trade, of the weighted average export price with the corresponding non-injurious price of paracresol sold by the Community industry on the Community market.
- (106) The non-injurious price has been obtained by calculating the full cost of production and by adding a profit margin that may reasonably be reached in the absence of injurious dumping. In view of the financial situation of the Community industry in previous years (1998-2000) and taking into account the need for long-term investments, a profit margin of 10 % has been considered appropriate.
- (107) The difference resulting from the comparison between the weighted average export price, as established for the undercutting calculations, and the non-injurious price of the Community industry was then expressed as a percentage of the total cif import value.

2. Provisional measures

- (108) In the light of the foregoing, it is considered that, in accordance with Article 7(2) of the basic Regulation, provisional anti-dumping duties should be imposed in respect of imports originating in the PRC at the level of the lowest margins, in accordance with the lesser duty rule. In this case, all duty rates should accordingly be set at the level of the dumping margins found.
- (109) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the countrywide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the country concerned and produced by the companies and thus by the specific legal entities mentioned. Imported products produced by any other company not specifically mentioned in the operative part of this Regulation with its name and

address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.

- (110) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission⁽¹⁾ forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for example, that name change or that change in the production and sales entities. The Commission, if appropriate, will, after consultation of the Advisory Committee, amend the Regulation accordingly by updating the list of companies benefiting from individual duty rates.

H. FINAL PROVISION

- (111) In the interests of sound administration, a period should be fixed within which the interested parties which made themselves known within the time limit specified in the Notice of Initiation may make their views known in writing and request a hearing. Furthermore, it should be stated that the findings concerning the imposition of duties made for the purposes of this Regulation are provisional and may have to be reconsidered for the purposes of any definitive measures,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of paracresol with a minimum para-isomer purity of 97 %, calculated on a net dry basis, falling within CN code ex 2907 12 00 (TARIC code 2907 12 00 91), originating in the People's Republic of China.

2. The rate of duty applicable to the net free-at-Community-frontier price, before duty, for products produced by the following manufacturers shall be as follows:

Manufacturer	Rate of duty	TARIC additional code
Nanjing Jingmei Chemical Co, Ltd, Jingqiao Town, Lishui County, Nanjing 211224, People's Republic of China	23,8 %	A 434
Shandong Reipu Chemicals Co, Ltd, Chenming West Road, Qihe County, Shandong, People's Republic of China	9,4 %	A 435
All other companies	40,7 %	A 999

⁽¹⁾ European Commission
Directorate-General for Trade
Direction B
Office J-79 5/16
B-1049 Brussels.

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

4. The release for free circulation in the Community of the product referred to in paragraph 1 shall be subject to the provisions of a security, equivalent to the amount of the provisional duty.

Article 2

1. Without prejudice to Article 20 of Regulation (EC) No 384/96, the interested parties may make their views known in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

2. Pursuant to Article 21(4) of Regulation (EC) No 384/96, the parties concerned may comment on the application of this Regulation within one month of its entry into force.

Article 3

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

Article 1 of this Regulation shall apply for a period of six months.

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

Done at Brussels, 20 March 2003.

For the Commission

Pascal LAMY

Member of the Commission

COMMISSION REGULATION (EC) No 511/2003
of 20 March 2003
fixing the export refunds on olive oil

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organisation of the market in oils and fats ⁽¹⁾, as last amended by Regulation (EC) No 1513/2001 ⁽²⁾, and in particular Article 3(3) thereof,

Whereas:

- (1) Article 3 of Regulation No 136/66/EEC provides that, where prices within the Community are higher than world market prices, the difference between these prices may be covered by a refund when olive oil is exported to third countries.
- (2) The detailed rules for fixing and granting export refunds on olive oil are contained in Commission Regulation (EEC) No 616/72 ⁽³⁾, as last amended by Regulation (EEC) No 2962/77 ⁽⁴⁾.
- (3) Article 3(3) of Regulation No 136/66/EEC provides that the refund must be the same for the whole Community.
- (4) In accordance with Article 3(4) of Regulation No 136/66/EEC, the refund for olive oil must be fixed in the light of the existing situation and outlook in relation to olive oil prices and availability on the Community market and olive oil prices on the world market. However, where the world market situation is such that the most favourable olive oil prices cannot be determined, account may be taken of the price of the main competing vegetable oils on the world market and the difference recorded between that price and the price of olive oil during a representative period. The amount of the refund may not exceed the difference between the price of olive oil in the Community and that on the world market, adjusted, where appropriate, to take account of export costs for the products on the world market.
- (5) In accordance with Article 3(3) third indent, point (b) of Regulation No 136/66/EEC, it may be decided that the refund shall be fixed by tender. The tendering procedure should cover the amount of the refund and may be limited to certain countries of destination, quantities, qualities and presentations.
- (6) The second indent of Article 3(3) of Regulation No 136/66/EEC provides that the refund on olive oil may be varied according to destination where the world market situation or the specific requirements of certain markets make this necessary.
- (7) The refund must be fixed at least once every month. It may, if necessary, be altered in the intervening period.
- (8) It follows from applying these detailed rules to the present situation on the market in olive oil and in particular to olive oil prices within the Community and on the markets of third countries that the refund should be as set out in the Annex hereto.
- (9) The Management Committee for Oils and Fats has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 21 March 2003.

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

Done at Brussels, 20 March 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 72, 30.9.1966, p. 3025/66.

⁽²⁾ OJ L 201, 26.7.2001, p. 4.

⁽³⁾ OJ L 78, 31.3.1972, p. 1.

⁽⁴⁾ OJ L 348, 30.12.1977, p. 53.

ANNEX

to the Commission Regulation of 20 March 2003 fixing the export refunds on olive oil

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

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

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

COMMISSION REGULATION (EC) No 512/2003
of 20 March 2003
on the issuing of export licences for wine-sector products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 883/2001 of 24 April 2001, laying down detailed rules for implementing Council Regulation (EC) No 1493/1999 as regards trade with third countries in products in the wine sector⁽¹⁾, as last amended by Regulation (EC) No 2380/2002⁽²⁾, and in particular Article 7 and Article 9(3) thereof,

Whereas:

- (1) Article 63(7) of Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine⁽³⁾, as last amended by Regulation (EC) No 2585/2001⁽⁴⁾, limits the grant of export refunds for wine-sector products to the volumes and expenditure contained in the Agreement on Agriculture concluded during the Uruguay Round multilateral trade negotiations.
- (2) Article 9 of Regulation (EC) No 883/2001 lays down the conditions under which the Commission may take specific measures to prevent an overrun of the quantity laid down or the budget available under the said Agreement.
- (3) On the basis of information on export licence applications available to the Commission on 19 March 2003, the quantity still available for the period until 30 April

2003, for destination zone 3: eastern Europe, referred to in Article 9(5) of Regulation (EC) No 883/2001, could be exceeded unless the issue of export licences with advance fixing of the refund is restricted. Therefore, a single percentage for the acceptance of applications submitted from 16 to 18 March 2003 should be applied and the submission of applications and the issue of licences suspended for this zone until 1 May 2003,

HAS ADOPTED THIS REGULATION:

Article 1

1. Export licences with advance fixing of the refund for wine-sector products for which applications are submitted from 16 to 18 March 2003 under Regulation (EC) No 883/2001 shall be issued in concurrence with 7,15 % of the quantities requested for zone 3: eastern Europe.

2. The issue of export licences for wine-sector products referred to in paragraph 1 for which applications are submitted from 19 March 2003 and the submission of export licence applications from 21 March 2003 for destination zone 3: eastern Europe shall be suspended until 1 May 2003.

Article 2

This Regulation shall enter into force on 21 March 2003.

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

Done at Brussels, 20 March 2003.

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

⁽¹⁾ OJ L 128, 10.5.2001, p. 1.

⁽²⁾ OJ L 358, 31.12.2002, p. 117.

⁽³⁾ OJ L 179, 14.7.1999, p. 1.

⁽⁴⁾ OJ L 345, 29.12.2001, p. 10.

COMMISSION REGULATION (EC) No 513/2003**of 20 March 2003****fixing the export refunds on cereals and on wheat or rye flour, groats and meal**

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 13(2) thereof,

Whereas:

- (1) Article 13 of Regulation (EEC) No 1766/92 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products in the Community may be covered by an export refund.
- (2) The refunds must be fixed taking into account the factors referred to in Article 1 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules under 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⁾.
- (3) As far as wheat and rye flour, groats and meal are concerned, when the refund on these products is being calculated, account must be taken of the quantities of cereals required for their manufacture. These quantities were fixed in Regulation (EC) No 1501/95.

- (4) The world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination.
- (5) The refund must be fixed once a month. It may be altered in the intervening period.
- (6) It follows from applying the detailed rules set out above to the present situation on the market in cereals, and in particular to quotations or prices for these products within the Community and on the world market, that the refunds should be as set out in the Annex hereto.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1(a), (b) and (c) of Regulation (EEC) No 1766/92, excluding malt, exported in the natural state, shall be as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 21 March 2003.

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

Done at Brussels, 20 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.

ANNEX

to the Commission Regulation of 20 March 2003 fixing the export refunds on cereals and on wheat or rye flour, groats and meal

Product code	Destination	Unit of measurement	Amount of refunds	Product code	Destination	Unit of measurement	Amount of refunds
1001 10 00 9200	—	EUR/t	—	1101 00 15 9130	C09	EUR/t	15,75
1001 10 00 9400	—	EUR/t	—	1101 00 15 9150	C09	EUR/t	14,50
1001 90 91 9000	—	EUR/t	—	1101 00 15 9170	C09	EUR/t	13,50
1001 90 99 9000	C05	EUR/t	0	1101 00 15 9180	C09	EUR/t	12,50
1002 00 00 9000	C06	EUR/t	0	1101 00 15 9190	—	EUR/t	—
1003 00 10 9000	—	EUR/t	—	1101 00 90 9000	—	EUR/t	—
1003 00 90 9000	C07	EUR/t	0	1102 10 00 9500	C10	EUR/t	35,60
1004 00 00 9200	—	EUR/t	—	1102 10 00 9700	C10	EUR/t	28,00
1004 00 00 9400	C06	EUR/t	0	1102 10 00 9900	—	EUR/t	—
1005 10 90 9000	—	EUR/t	—	1103 11 10 9200	C11	EUR/t	0 ⁽¹⁾
1005 90 00 9000	C08	EUR/t	0	1103 11 10 9400	C11	EUR/t	0 ⁽¹⁾
1007 00 90 9000	—	EUR/t	—	1103 11 10 9900	—	EUR/t	—
1008 20 00 9000	—	EUR/t	—	1103 11 90 9200	C11	EUR/t	0 ⁽¹⁾
1101 00 11 9000	—	EUR/t	—	1103 11 90 9800	—	EUR/t	—
1101 00 15 9100	C09	EUR/t	16,75				

⁽¹⁾ No refund is granted when this product contains compressed meal.

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

The other destinations are as follows:

C05 All destinations except for Bulgaria, Estonia, Hungary, Latvia, Lithuania, Poland, the Czech Republic, Romania, Slovakia and Slovenia.

C06 All destinations except for Bulgaria, Estonia, Hungary, Latvia, Lithuania, the Czech Republic, Slovakia and Slovenia.

C07 All destinations except for Bulgaria, Estonia, Hungary, Latvia, the Czech Republic, Slovakia and Slovenia.

C08 All destinations except for Bulgaria, Estonia, Hungary, the Czech Republic, Romania, Slovakia and Slovenia.

C09 All destinations except for Estonia, Hungary, Latvia, Lithuania, Poland and Romania.

C10 All destinations except for Bulgaria, Estonia, Hungary, Latvia, Lithuania, Poland and Slovenia.

C11 All destinations except for Estonia, Hungary, Latvia, Lithuania and Romania.

COMMISSION REGULATION (EC) No 514/2003
of 20 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 14 to 20 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 21 March 2003.

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

Done at Brussels, 20 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 515/2003
of 20 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 14 to 20 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 21 March 2003.

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

Done at Brussels, 20 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 516/2003
of 20 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 14 to 20 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 12,85/t.

Article 2

This Regulation shall enter into force on 21 March 2003.

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

Done at Brussels, 20 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 517/2003
of 20 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 14 to 20 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 37,97 EUR/t and be valid for a total maximum quantity of 115 600 t.

Article 2

This Regulation shall enter into force on 21 March 2003.

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

Done at Brussels, 20 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.

COMMISSION REGULATION (EC) No 518/2003
of 20 March 2003
determining the world market price for unginned cotton

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Protocol 4 on cotton, annexed to the Act of Accession of Greece, as last amended by Council Regulation (EC) No 1050/2001 ⁽¹⁾,

Having regard to Council Regulation (EC) No 1051/2001 of 22 May 2001 on production aid for cotton ⁽²⁾, and in particular Article 4 thereof,

Whereas:

- (1) In accordance with Article 4 of Regulation (EC) No 1051/2001, a world market price for unginned cotton is to be determined periodically from the price for ginned cotton recorded on the world market and by reference to the historical relationship between the price recorded for ginned cotton and that calculated for unginned cotton. That historical relationship has been established in Article 2(2) of Commission Regulation (EC) No 1591/2001 of 2 August 2001 ⁽³⁾, as amended by Regulation (EC) No 1486/2002 ⁽⁴⁾. Where the world market price cannot be determined in this way, it is to be based on the most recent price determined.
- (2) In accordance with Article 5 of Regulation (EC) No 1051/2001, the world market price for unginned cotton is to be determined in respect of a product of specific characteristics and by reference to the most favourable

offers and quotations on the world market among those considered representative of the real market trend. To that end, an average is to be calculated of offers and quotations recorded on one or more European exchanges for a product delivered cif to a port in the Community and coming from the various supplier countries considered the most representative in terms of international trade. However, there is provision for adjusting the criteria for determining the world market price for ginned cotton to reflect differences justified by the quality of the product delivered and the offers and quotations concerned. Those adjustments are specified in Article 3(2) of Regulation (EC) No 1591/2001.

- (3) The application of the above criteria gives the world market price for unginned cotton determined herein-after,

HAS ADOPTED THIS REGULATION:

Article 1

The world price for unginned cotton as referred to in Article 4 of Regulation (EC) No 1051/2001 is hereby determined as equalling EUR 29,575/100 kg.

Article 2

This Regulation shall enter into force on 21 March 2003.

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

Done at Brussels, 20 March 2003.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

⁽¹⁾ OJ L 148, 1.6.2001, p. 1.

⁽²⁾ OJ L 148, 1.6.2001, p. 3.

⁽³⁾ OJ L 210, 3.8.2001, p. 10.

⁽⁴⁾ OJ L 223, 20.8.2002, p. 3.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 21 October 2002

on the signing, on behalf of the Community, and provisional application of an Agreement in the form of an Exchange of Letters between the European Community and the Former Yugoslav Republic of Macedonia concerning the system of ecopoints to be applied to transit traffic of the Former Yugoslav Republic of Macedonia through Austria

(2003/197/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 71(1), in conjunction with the first sentence of the first subparagraph of Article 300(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Commission has negotiated an Agreement in the form of an Exchange of Letters between the European Community and the Former Yugoslav Republic of Macedonia concerning the system of ecopoints to be applied to transit traffic of the Former Yugoslav Republic of Macedonia through Austria.
- (2) Subject to its possible conclusion at a later date, the Agreement initialled on 25 January 2001 should be signed.
- (3) Provision should be made for the provisional application of the Agreement from 1 January 2002,

HAS DECIDED AS FOLLOWS:

Article 1

The signing of the Agreement in the form of an Exchange of Letters between the European Community and the Former Yugoslav Republic of Macedonia concerning the system of ecopoints to be applied to transit traffic of the Former Yugoslav

Republic of Macedonia through Austria, is hereby approved on behalf of the Community, subject to the Council Decision concerning the conclusion of the said Agreement.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the Community subject to its conclusion.

Article 3

Subject to reciprocity, the Agreement referred to in Article 1 shall be applied on a provisional basis from 1 January 2002, pending the completion of the procedures for its formal conclusion.

Article 4

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

Done at Luxembourg, 21 October 2002.

For the Council

The President

P. S. MØLLER

AGREEMENT

in the form of an Exchange of Letters between the European Community and the Former Yugoslav Republic of Macedonia concerning the system of ecopoints to be applied to transit traffic of the Former Yugoslav Republic of Macedonia through Austria as from 1 January 1999

A. Letter from the European Community

Brussels, 29 October 2002

Sir,

I have the honour to inform you that, following negotiations between the Delegation of the Former Yugoslav Republic of Macedonia and the Delegation of the European Community, in accordance with the provisions of Article 12(3)(b) of the Agreement between the European Community and the Former Yugoslav Republic of Macedonia in the field of transport, the following has been agreed:

1. Ecopoints (transit rights) for heavy goods vehicles from the Former Yugoslav Republic of Macedonia transiting through Austria are allocated in the following way:

for 1999: 57 401 ecopoints;

for 2000: 55 079 ecopoints;

for 2001: 53 641 ecopoints;

for 2002: 49 549 ecopoints;

for 2003: 44 240 ecopoints.

Additional ecopoints are allocated for users from the Former Yugoslav Republic of Macedonia of the 'Rollende Landstraße' up to a maximum of 50 % of the total number of ecopoints for the year, as follows:

for 1999: 28 700 ecopoints;

for 2000: 27 540 ecopoints;

for 2001: 26 820 ecopoints;

for 2002: 24 775 ecopoints;

for 2003: 22 120 ecopoints.

Ecopoints for Rollende Landstraße (RoLa) users shall be allocated to the Former Yugoslav Republic of Macedonia authorities, on the basis of ecopoints for two road journeys for every two round trips made on RoLa.

The Austrian company for combined transport, Ökombi, will regularly provide each month monthly information to the Ministry of Transport and Communications of the Former Yugoslav Republic of Macedonia concerning Former Yugoslav Republic of Macedonia users of combined transport in transit through Austria.

The ecopoints system will be implemented from 1 January 2002.

Transit journeys made in the circumstances listed in Annex A or under ECMT authorisations shall be exempt from the ecopoints system.

2. The driver of a heavy goods vehicle from the Former Yugoslav Republic of Macedonia on the territory of Austria shall carry, and shall make available for inspection at the request of the supervisory authorities, either:
 - (a) a duly completed standard form or an Austrian certificate confirming payment of the ecopoints for the journey in question, modelled on Annex B, hereinafter referred to as 'the ecocard', or
 - (b) an electronic device, fitted to the motor vehicle which enables the automatic debiting of ecopoints, hereinafter referred to as 'the ecotag', or

- (c) appropriate documentation to demonstrate that an ecopoint-free transit journey, as defined in Annex A or under ECMT authorisation is being made, or
- (d) appropriate documentation to demonstrate that a non-transit journey is being made, and when the vehicle is fitted with an ecotag, the ecotag is set for this purpose.

The competent Austrian authorities shall issue the ecocard against payment of the cost of production and distribution of ecopoints and ecocards.

3. Ecotags shall be manufactured, programmed and installed in accordance with the general technical specifications laid down in Annex C. The Ministry of Transport and Communications of the Former Yugoslav Republic of Macedonia is authorised to approve, programme and install the ecotags.

The ecotag shall be programmed to contain information on the country of registration and the NO_x value of the motor vehicle, as stated in the conformity of production (COP) document, as defined in paragraph 4.

The ecotag shall be affixed to the windscreen of the motor vehicle. It shall be positioned in accordance with Annex D. It shall be non-transferable.

4. The driver of a heavy goods vehicle from the Former Yugoslav Republic of Macedonia registered on or after 1 October 1990 shall also carry, and produce upon request, a COP document, modelled on Annex E, as evidence of the NO_x emissions of that vehicle. Heavy goods vehicles first registered before 1 October 1990 or in respect of which no document is produced shall be assumed to have a COP value of 15,8 g/kWh.
5. The Ministry of Transport and Communications of the Former Yugoslav Republic of Macedonia is authorised to issue the documents and ecotags referred to in paragraphs 2 to 4.
6. Unless the vehicle is using an ecotag, the requisite number of ecopoints shall be affixed to the ecocard and cancelled. The ecopoints shall be cancelled by signing in such a way that the signature extends over both the ecopoints and the form to which they have been affixed. A rubber stamp may be used instead of a signature.

An ecocard, bearing the requisite number of ecopoints shall be handed to the supervisory authorities of Austria, who will hand back a copy with the proof of payment.

If the vehicle is fitted with an ecotag, upon confirmation of its undertaking a transit journey requiring ecopoints, a number of ecopoints, equivalent to the NO_x emission information stored in the ecotag of the vehicle, shall be deducted from the total of ecopoints allocated to the Former Yugoslav Republic of Macedonia. This shall be done by infrastructure provided and operated by the Austrian authorities.

For vehicles fitted with ecotags that are making bilateral journeys they must set the ecotag to demonstrate that a non-transit journey is being made prior to entering Austrian territory.

In the case where an ecocard is used and where a tractor unit is switched during a transit journey, the proof of payment on entry shall remain valid and be retained. Where the COP value of the new tractor unit exceeds that indicated on the form, additional ecopoints, affixed to a new card, shall be cancelled on leaving the country.

7. Continuous journeys which involve crossing the Austrian frontier once by train, whether by conventional rail transport or in a combined transport operation, and crossing the frontier by road before or after crossing by rail, shall be regarded not as transit of goods by road through Austria but as bilateral journeys.

Continuous transit journeys through Austria using the following rail terminals shall be deemed as bilateral journeys:

Fürnitz, Villach Süd, Sillian, Innsbruck/Hall, Brennersee, Graz.

8. Ecopoints shall be valid between 1 January of the year for which they are attributed and 31 January of the following year.
9. Infringements of this Agreement by a driver of a heavy goods vehicle from the Former Yugoslav Republic of Macedonia, or an undertaking, shall be prosecuted in accordance with the national legislation in force.

The Commission and the competent authorities of Austria and the Former Yugoslav Republic of Macedonia shall, each within the limits of their jurisdiction, provide each other with administrative assistance in investigating and prosecuting these infringements, in particular by ensuring that ecocards and ecotags are correctly used and handled.

Controls may be carried out at a point other than the border, at the discretion of the European Community Member State, with due regard to the principle of non-discrimination.

10. The Austrian supervisory authorities may, having due regard to the principles of proportionality, take appropriate measures if a vehicle is fitted with an ecotag and at least one of the following situations occur:
- (a) the vehicle or the operator of the vehicle has repeatedly committed infringements;
 - (b) there are insufficient ecopoints remaining in the allocation of the Former Yugoslav Republic of Macedonia;
 - (c) the ecotag has been tampered with or has been changed by a party other than those authorised in paragraph 3;
 - (d) the Former Yugoslav Republic of Macedonia has not allocated sufficient ecopoints for the vehicle to make a transit journey;
 - (e) the vehicle does not have appropriate documentation in accordance with points (c) or (d) of paragraph 2 to justify why the ecotag has been set to demonstrate that a non-transit journey is being made on Austrian territory;
 - (f) when the ecotag specified in Annex C is not loaded with sufficient ecopoints to make a transit journey.

The Austrian supervisory authorities may, having due regard to the principle of proportionality, take appropriate measures if a vehicle is not fitted with an ecotag and at least one of the following situations occurs:

- (a) an ecocard is not presented to the supervisory authorities in accordance with the provisions of this Agreement;
 - (b) an ecocard is presented which is incomplete or incorrect, or where the ecopoints are not correctly affixed;
 - (c) the vehicle does not possess the appropriate documentation to justify that it does not need ecopoints.
11. The printed ecopoints which are intended for affixing to ecocards shall be made available each year before 1 November of the preceding year.
12. In the case of vehicles registered before 1 October 1990 which have had a change of engine since this date, the COP value of the new engine shall apply. In such a case the certificate issued by the appropriate authority shall mention the change of engine and give details of the new COP value for NO_x emissions.
13. A transit journey shall be exempt from the payment of ecopoints if the following three conditions are met:
- (i) the sole purpose of the journey is to deliver a brand new vehicle, or vehicle combination, from the manufacturers to a destination in another State;
 - (ii) no goods are transported on the journey;
 - (iii) the vehicle or vehicle combination has appropriate international registration papers and export licence plates.
14. A transit journey shall be exempt from the payment of ecopoints if it is the unladen leg of a journey exempt from ecopoints as listed in Annex A and the vehicle carries suitable documentation to demonstrate this. Such suitable documentation shall be either:
- a bill of lading, or
 - a completed ecocard to which no ecopoints have been attached, or
 - a completed ecocard with ecopoints, which are subsequently reinstated.

15. Any problems arising from the management of this regime of ecopoints shall be submitted to the Community/the Former Yugoslav Republic of Macedonia Transport Committee provided for in Article 22 of the Transport Agreement which shall assess the situation and recommend appropriate actions. Any measure to be taken shall be implemented immediately, shall be proportional and of non-discriminatory nature.

I should be obliged if you would confirm the agreement of your Government to the contents of this letter.

Please accept, Sir, the assurance of my highest consideration.

On behalf of the Council of the European Union



ANNEX A

Journeys for which no ecopoints are required

1. The occasional transport of goods to and from airports when flights are diverted.
 2. The carriage of baggage in trailers attached to passenger vehicles, and the carriage of baggage to and from airports by vehicles of all kinds.
 3. The carriage of postal consignments.
 4. The carriage of damaged vehicles or vehicles in need of repair.
 5. The carriage of waste and sewage.
 6. The carriage of animal carcasses for disposal.
 7. The carriage of bees and fish spawn.
 8. The transport of corpses.
 9. The carriage of works of art for exhibition or commercial purposes.
 10. The occasional carriage of goods for advertising or educational purposes.
 11. The carriage of goods by removal firms possessing the appropriate personnel and equipment.
 12. The carriage of equipment, accessories and animals to and from theatrical, musical, cinema, sporting or circus events, exhibitions or fairs, or to and from radio, cinema or television recordings.
 13. The carriage of spare parts for ships and aircraft.
 14. The empty journey of a goods vehicle sent to replace a vehicle that has broken down in transit and the continuation of the journey by the replacement vehicle using the authorisation issued for the first vehicle.
 15. The carriage of emergency medical aid (particularly in the case of natural disasters).
 16. The carriage of valuable goods (e.g. precious metals) in special vehicles escorted by the police or another security service.
-

ANNEX B



	Raum zum Aufkleben der Ökopunkte-Marken																																										
00019789	Space for affixing Ecopoint stamps	Spazio per l'apposizione degli Ecopunti		<table border="1"> <tr><td>0</td><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td><td>9</td></tr> <tr><td>A</td><td>B</td><td>C</td><td>D</td><td>E</td><td>F</td><td>G</td><td>H</td><td>I</td><td>J</td><td>K</td><td>L</td><td>M</td></tr> <tr><td>N</td><td>O</td><td>P</td><td>Q</td><td>R</td><td>S</td><td>T</td><td>U</td><td>V</td><td>W</td><td>X</td><td>Y</td><td>Z</td></tr> </table>	0	1	2	3	4	5	6	7	8	9	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y	Z			
0	1	2	3	4	5	6	7	8	9																																		
A	B	C	D	E	F	G	H	I	J	K	L	M																															
N	O	P	Q	R	S	T	U	V	W	X	Y	Z																															

St. Dr. Lager-Nr. 181. – Streng verrechenbar. – Österreichische Staatsdruckerei, Verlag, 926206 dt/o 5 4 3 2 1



Für nationale Kennzeichnung/National identification mark/
Segno di riconoscimento nazionale



00019789

Erläuterungen siehe Rückseite der Bestätigung

For explanation see back of confirmation (Bestätigung)

Spiegazioni sul verso della conferma (Bestätigung)

③ Datum der Einreise (Tag, Monat, Jahr) 		⑦ Monat und Jahr der 1. Zulassung 		⑧ COP-Wert (mit 1 Dezimale) 		⑨ Anzahl der Ökopunkte 	
④ Angaben zum LKW/Zugfahrzeug ⑤ Nationalität ⑥ Amtliches Kennzeichen 		⑪ Fuhr-gewerbe ☒		⑫ Werk-verkehr ☒		⑬ Angaben zum Anhänger/Sattelaufleger ⑭ Nationalität ⑮ Amtliches Kennzeichen 	
⑬ Angaben zum Transport (nur bei beladenem Fahrzeug) ⑭ Gewicht der Ladung in Tonnen (mit 1 Dezimale) 		⑮ beladen ☒		⑯ leer ☒		⑰ Ökopunkte ohne besonderen Aufdruck: ☒ Besonders gekennzeichnete österreichische Ökopunkte: ⑱ mit Aufdruck ☒ ⑲ mit Aufdruck ☒	
⑰ (Abgangs-) Ladeland 	⑱ (Abgangs-) Ladeort (Postleitzahl) 	⑲ (Ziel-) Entladeland 	⑳ (Ziel-) Entladeort (Postleitzahl) 	㉑ Grenzübergangsstellen ㉒ beim Eintritt ㉓ beim Austritt			

Beleg wird maschinell eingelesen

Machine-read information

Ricevuto alla lettura tramite computer

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00019789

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㉔ Unterschrift und Name des Ausstellers

 Straßengüterverkehr Ökokarte Bestätigung	Für nationale Kennzeichnung/National identification mark/ Segno di riconoscimento nazionale
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Diese Bestätigung gilt für österreichische Transportunternehmen als Genehmigung für den internationalen Straßengüterverkehr mit der Bundesrepublik Deutschland einschließlich Transitverkehr, wenn das Feld Nr. 24 einen Kontrollvermerk der zuständigen österreichischen Organe enthält. Bei Verwendung als Genehmigung ist Folgendes zu beachten:

1. Gültig zwei Monate ab Datum der Einreise.
2. Diese Genehmigung ist im Fahrzeug mitzuführen und den zuständigen Kontrollbeamten auf Verlangen vorzuzeigen.
3. Sie gilt nicht für den Binnenverkehr.
4. Diese Genehmigung ist nicht übertragbar.

00019789	Hinfahrt	Rückfahrt

Erläuterungen siehe Rückseite
For explanation see over
Spiegazioni sul verso

③ Datum der Einreise (Tag, Monat, Jahr) 	②⑦ Name und Firma sowie vollständige Anschrift des Verkehrsunternehmers
--	--

④ Angaben zum LKW/Zugfahrzeug ⑤ Nationalität ⑥ Amtliches Kennzeichen 	⑦ Monat und Jahr der 1. Zulassung 	⑧ COP-Wert (mit 1 Dezimale) ⑨ Anzahl der Ökopunkte
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⑩ Angaben zum Anhänger/Sattelaufleger ⑤ Nationalität ⑥ Amtliches Kennzeichen 	⑪ Fuhr-gewerbe X	⑫ Werk-verkehr X	⑲ Ökopunkte ohne besonderen Aufdruck: X Besonders gekennzeichnete österreichische Ökopunkte: ⑲ mit Aufdruck ① X ⑲ mit Aufdruck ① X
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⑬ Angaben zum Transport (nur bei beladenem Fahrzeug) ⑭ Gewicht der Ladung in Tonnen (mit 1 Dezimale) 	⑮ beladen ⑯ leer X X	⑰ (Abgangs-) Ladeland ⑱ (Ziel-) Entladeort
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⑰ (Abgangs-) Ladeland 	⑱ (Ziel-) Entladeort (Postleitzahl) 	⑲ (Abgangs-) Ladeort (Postleitzahl) 	⑳ (Ziel-) Entladeort (Postleitzahl) 	⑳ Grenzübergangsstellen ⑳ beim Eintritt ⑳ beim Austritt
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00000000
 Österreichische Ökopunkte
 mit Aufdruck
 ①
 abgegeben ⑳

00019789
 Österreichische Ökopunkte
 mit Aufdruck
 ①
 abgegeben ⑳

Ökopunkte
 ohne besonderen Aufdruck
 abgegeben ⑳

⑳ Kontrollvermerk der zuständigen Organe
 ⑳ Datum/Stempel/Unterschrift

Österreichische Zollämter
(Grenzübergangsstellen)**Austrian Border Customs Offices**
(Frontier posts)**Uffici doganali Austriaci**
(Uffici doganali in frontiera)

840	Achenkirch	547	Felsenhütt	837	Leutasch	660	Saalbrücke
545	Achleiten	947	Gaißau	445	Loibltunnel	346	Schachendorf
552	Angerhäuser	230	Gmünd	942	Lustenau	538	Schärding
455	Arnoldstein	233	Gmünd-Neunagelberg	940	Lustenau-Schmitterbrücke	838	Scharnitz
735	Bad Radkersburg	235	Grametten	941	Lustenau-Wiesenrain	830	Schattwald
965	Balderschwang	700	Graz-Hauptbahnhof	938	Mäder	848	Schlechding
841	Bayrischzell	777	Graz-Ostbahnhof	460	Naßfeld	655	Schwarzbach
270	Berg	645	Großgmain	862	Nauders	554	Schwarzenberg
435	Bleiburg-Grablach	946	Höchst	870	Nauders-Martinsbruck	440	Seeburgsattel
355	Bonisdorf	956	Hörbranz	539	Neuhaus	734	Sicheldorf
533	Braunau	958	Hörbranz-Oberhochsteg	548	Neustift	856	Sillian
860	Brenner-Straße	955	Hörbranz-Unterhochsteg	333	Nickelsdorf	534	Simbach
859	Brennerpaß	544	Haibach	844	Niederndorf	745	Spielfeld
531	Burghausen	640	Hangenstein	549	Oberkappel	872	Spieß
532	Burghausen-Alte Brücke	350	Heiligenkreuz	536	Obernberg	964	Springen
341	Deutschkreutz	939	Hohenems	665	Oberndorf	630	Steinpaß
260	Drasenhofen	960	Hohenweiler	963	Oberreute	537	Suben
635	Dürnbach	962	Hub	542	Passau-Mariahilf	832	Vils
835	Ehrwald	470	Karawankentunnel/Einfuhr	543	Passau-Saming	839	Vorderriß
845	Erl	471	Karawankentunnel/Ausfuhr	540	Passau-Voglau	650	Walserberg-Autobahn
530	Ettenau	843	Kiefersfelden	871	Pfunds	550	Wegscheid
831	Fallmühle	250	Kleinhaugsdorf	833	Pinswang	961	Weienried
935	Feldkirch-Bangs	340	Klingenbach	465	Plöckenpaß	558	Weigetschlag
936	Feldkirch-Meiningen	937	Koblach	770	Radlpaß	847	Wildbichl
934	Feldkirch-Nofels	255	Laa an der Thaya	345	Rattersdorf-Liebing	560	Wullowitz
932	Feldkirch-Tisis	760	Langeegg	849	Reit im Winkl	450	Wurzenpaß
933	Feldkirch-Tosters	431	Lavamünd	834	Reutte/Plansee		

Internationale (Europäische) Kennzeichen / International (European) distinguishing signs / Targa Internazionale (Europea)

AL	Albanien	F	Frankreich	LV	Lettland	PL	Polen	YU	Serbien
B	Belgien	GBZ	Gibraltar	FL	Liechtenstein	P	Portugal	SL	Slowenien
BIH	Bosnien-Herzegowina	GR	Griechenland	LT	Litauen	RO	Rumänien	E	Spanien
BG	Bulgarien	GB	Großbritannien	LU	Luxemburg	SU	Russland	CS	Tschechien
D	Deutschland	IRL	Irland	M	Malta	A	Österreich	TR	Türkei
DK	Dänemark	IS	Island	NL	Niederlande	S	Schweden	H	Ungarn
EW	Estland	I	Italien	N	Norwegen	CH	Schweiz	CY	Zypern
SF	Finnland	CRO	Kroatien						

1	Ecocard	1	Ecocarta		
2	Federal Ministry for public economy and transport	2	Ministero federale dell'economia pubblica e del traffico		
3	Date of entry (day, month, year)	3	Data d'ingresso (Giorno, Mese, Anno)		
4	Details of HGV/articulated vehicle tractor unit	4	Dati sull'autocarro o sulla motrice di autoarticolato		
5	Nationality	5	Nazionalità		
6	Vehicle registration number	6	Targa del veicolo		
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8	COP value (to one decimal place)	8	Valore COP (con una cifra decimale)		
9	Number of ecopoints	9	Numero di Ecopunti		
10	Details about trailer/semi-trailer	10	Dettagli di rimorchio/rimorchio da trattore		
11	Transport for hire or reward	11	Trasporto merci in conto terzi		
12	Transport on own account	12	Trasporto in conto proprio		
13	Details of transport (for laden vehicles only)	13	Dati relativi al trasporto (solo per veicoli carichi)		
14	Weight of load in tonnes (to one decimal place)	14	Peso lordo in tonnellate (con una cifra decimale)		
15	laden	15	carico	16	vuoto
17	Country of loading	17	Paese di carico		
18	Place of loading (postcode)	18	Località di carico (codice postale)		
19	Country of unloading	19	Paese di scarico		
20	Place of unloading (postcode)	20	Località di scarico (codice postale)		
21	Border Customs Office	21	Ufficio doganale in frontiera		
22	of entry	22	d'ingresso	23	d'uscita
24	Mark indicating that check has been carried out by the appropriate authority	24	Segno indicante che il controllo è stato fatto dalle autorità competenti		
25	Date/Stamp/Signature	25	Data/Timbro/Firma		
26	Signature and name of person filling in this form	26	Firma e nome del compilatore		
27	Name, firm and complete address of the haulier	27	Cognome, nome della ditta e indirizzo completo dell'imprenditore di trasporti		
28	Ecopoints without special imprint	28	Ecopunti senza testo a stampa speciale	29	con testo a stampa

Die Ökokarte ist ausschließlich unter folgender Adresse zu beziehen:

The ecocard is available only at the following address:

L'Ecocarta è da ricevere solamente al seguente indirizzo:

Österreichische Staatsdruckerei

Rennweg 12 a

Postfach 129

A-1037 Wien

Telefon (0222) 797 89 226

Telefax (0222) 797 89 419

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D	Deutschland	IRL	Irland	M	Malta	A	Österreich	TR	Türkei
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SF	Finnland	CRO	Kroatien						

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6	Vehicle registration number	6	Targa del veicolo
7	Month and year of first registration	7	Mese e anno di prima immatricolazione
8	COP value (to one decimal place)	8	Valore COP (con una cifra decimale)
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27	Name, firm and complete address of the haulier	27	Cognome, nome della ditta e indirizzo completo dell'imprenditore di trasporti
28	Ecopoints without special imprint	28	Ecopunti senza testo a stampa speciale
29	with imprint	29	con testo a stampa

Die Ökokarte ist ausschließlich unter folgender Adresse zu beziehen:

The Ecocard is available only at the following address:

L'Ecocarta è da ricevere solamente al seguente indirizzo:

Österreichische Staatsdruckerei

Rennweg 12 a Telefon (0222) 797 89 226
Postfach 129 Telefax (0222) 797 89 419
A-1037 Wien

ANNEX C

General technical specifications of the ecotag*Short-range communication beacon — vehicle*

(Pre)standards and technical reports relevant to DSRC

The following requirements provided by CEN/TC 278 with regard to short-range communication between the vehicles and the roadside infrastructure are to be met:

- (a) prENV278/No 62 'DSRC physical layer using microwave at 5,8 GHz';
- (b) prENV278/No 64 'DSRC data link layer';
- (c) prENV278/No 65 'DSRC application layer'.

Type test

The supplier of the ecotag must provide type-test certificates for the appliances from an accredited test institute conforming compliance with all the limit values specified in the current I-ETS 300674.

Operating conditions

The ecotag for the automatic ecopoint system must guarantee the required functionality under the following operating conditions:

- ambient conditions: temperature from – 25 °C to + 70 °C,
- weather conditions: all eventualities,
- traffic: several lanes, moving,
- speed range: from 'stop-and-go' to 120 km/h.

The above operating conditions are minimum requirements pending the adoption of (pre)standards relevant to DSRC.

The ecotag may react only to microwave signals specific to its own applications.

Ecotag

Identification

Each ecotag must have a unique identification number. In addition to the number of digits necessary to make it distinguishable, this number must also contain a check sum for integrity verification.

Installation

The ecotag should be designed for installation behind the windscreen of the lorry or traction unit. It shall be installed so as to be completely non-detachable from the vehicle.

Transit declaration

The ecotag must have an input facility for declaring a journey exempt from the payment of ecopoints.

The facility must be clearly visible on the ecotag for control purposes; alternatively, it must be possible to set the ecotag at a defined initial position. At all events, it must be ensured that only the status at the time of entry is taken into account for evaluation in the system.

External marking

Every ecotag must also be clearly identifiable on visual inspection. To this end, the abovementioned unique identification number must be indelibly applied to the surface of the appliance.

A non-detachable, indelible marking to the ecotag in the form of prepared stickers shall be affixed to the ecotag. This marking must show the number of ecopoints for the individual vehicle (5, 6, ... 16).

These special stickers must be tamper-proof; they must have mechanical strength and be light- and temperature-resistant. They must have a high adhesive strength and any attempt to remove them must result in their destruction.

Integrity

The casing must be constructed in such way that any manipulation of the internal components is excluded and any interference can subsequently be detected.

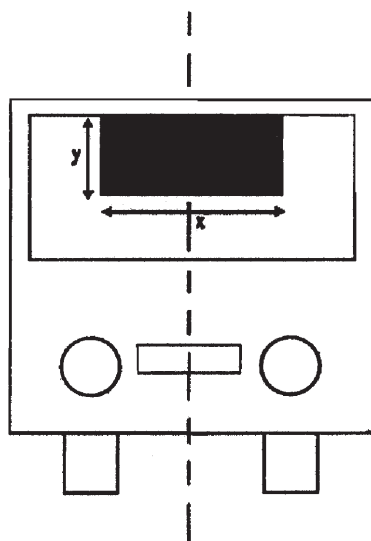
Memory

The ecotag must have sufficient memory capacity for the following data:

- identification number,
- vehicle data:
 - COP value,
- transaction data:
 - identification of the border post,
 - date/time,
 - status of journey declaration,
 - blocking (blacklisting) information,
- status data:
 - manipulation,
 - battery status,
 - status of latest communication.

There must be a reserve of memory of at least 30 %.

ANNEX D

Installation requirements for ecotag

The ecotag shall be located on the interior side of the windscreen within the marked area (illustrated above) where the dimensions are as follows:

$x = 100 \text{ cm}$

$y = 80 \text{ cm.}$

ANNEX E

COP DOCUMENT		Fortlaufende Dokumentnummer: 1) Document serial number: Numero di serie del documento:
2) Nationalität: Nationality: Nazionalità:		3) Amtliches Kennzeichen: Vehicle registration number: Targa del veicolo:
4) Datum der Erstzulassung: Date of first registration: Data della prima immatricolazione:		4a) Motor wurde getauscht am: Motor was changed at: Motore cambiato il:
5) EWG-Betriebserlaubnisnummer: Type approval number: Numero CEE della licenza per l'esercizio: oder/or/o Motorcodierungsnummer: Engine serial number: Numero di serie del motore:	(nach 88/77/EWG 91/542/EWG oder/or/o ECE R 49)	
6) Fahrzeugidentifizierungsnummer: Chassis number: Chassis numero:		
7) NO _x Emission: NO _x Emission: Emissione di NO _x :		8) COP-Wert (Tyengenehmigung + 10 %): COP Value (Type approval + 10 %): Valore COP (Omologazione + 10 %):
9) Anzahl Ökopunkte: Number of Ecopoints: Numero di Ecopunti:		
10) Behördenstempel: Official stamp: Timbro ufficiale:		
11) Herstellerbestätigung (nach Bedarf): Manufacturer confirmation (if necessary): Attestazione del produttore (a seconda del fabbisogno):		

Der Lenker eines Lkw im Gütertransitverkehr durch Österreich hat dieses Dokument mitzuführen und den Kontrollorganen zur Kontrolle vorzuweisen. Wird das Dokument nicht vorgewiesen, sind für die Fahrt 16 Ökopunkte auf die Ökokarte aufzukleben und zu entwerfen.

The driver of an HGV in transit through Austria must carry this document with him/her and present it to control authorities for inspection. If the document is not presented for inspection then 16 Ecopoints are to be affixed to the Ecocard and cancelled.

Il conducente di un camion in transito attraverso l'Austria deve avere con sé questo documento e deve presentarlo alle Autorità competenti per il controllo. In caso di mancata presentazione del documento, 16 Ecopunti verranno applicati sull'Ecocarta e annullati.

B. Letter from the Former Yugoslav Republic of Macedonia

Skopje, 12 December 2002

Sir,

I have the honour to refer to your letter No SGS2/8274 of 29 October 2002, in which you inform me that, following negotiations between the delegation of the Republic of Macedonia and the delegation of the European Community, in accordance with the provisions of Article 12(3)(b) of the Agreement between the Republic of Macedonia and the European Community in the field of transport, the following has been agreed:

1. Ecopoints (transit rights) for heavy goods vehicles from the Republic of Macedonia transiting through Austria are allocated in the following way:

for 1999 57 401 ecopoints;

for 2000 55 079 ecopoints;

for 2001 53 641 ecopoints;

for 2002 49 549 ecopoints;

for 2003 44 240 ecopoints.

Additional ecopoints are allocated for users from the Republic of Macedonia of the "Rollende Landstraße" up to a maximum of 50 % of the total number of ecopoints for the year, as follows:

for 1999 28 700 ecopoints;

for 2000 27 540 ecopoints;

for 2001 26 820 ecopoints;

for 2002 24 775 ecopoints;

for 2003 22 120 ecopoints.

Ecopoints for Rollende Landstraße users shall be allocated to the Republic of Macedonian authorities, on the basis of ecopoints for two road journeys for every two round trips made on RoLa.

The Austrian company for combined transport, Ökombi, will regularly provide, each month, monthly information to the Ministry of Transport and Communications of the Republic of Macedonia concerning Republic of Macedonia users of combined transport in transit through Austria.

The ecopoints system will be implemented from 1 January 2002.

Transit journeys made in the circumstances listed in Annex A or under ECMT authorisations shall be exempt from the ecopoints system.

2. The driver of a heavy goods vehicle from the Republic of Macedonia on the territory of Austria shall carry, and shall make available for inspection at the request of the supervisory authorities, either:
 - (a) a duly completed standard form or an Austrian certificate confirming payment of the ecopoints for the journey in question, modelled on Annex B, hereinafter referred to as "the ecocard", or
 - (b) an electronic device, fitted to the motor vehicle which enables the automatic debiting of ecopoints, hereinafter referred to as "the ecotag", or
 - (c) appropriate documentation to demonstrate that an ecopoint-free transit journey, as defined in Annex A or under ECMT authorisation is being made, or
 - (d) appropriate documentation to demonstrate that a non-transit journey is being made, and when the vehicle is fitted with an ecotag, the ecotag is set for this purpose.

The competent Austrian authorities shall issue the ecocard against payment of the cost of production and distribution of ecopoints and ecocards.

3. Ecotags shall be manufactured, programmed and installed in accordance with the general technical specifications laid down in Annex C. The Ministry of Transport and Communications of the Republic of Macedonia is authorised to approve, programme and install the ecotags.

The ecotag shall be programmed to contain information on the country of registration and the NO_x value of the motor vehicle, as stated in the conformity of production (COP) document, as defined in paragraph 4.

The ecotag shall be affixed to the windscreen of the motor vehicle. It shall be positioned in accordance with Annex D. It shall be non-transferable.

4. The driver of a heavy goods vehicle from the Republic of Macedonia registered on or after 1 October 1990 shall also carry, and produce upon request, a COP document, modelled on Annex E, as evidence of the NO_x emissions of that vehicle. Heavy goods vehicles first registered before 1 October 1990 or in respect of which no document is produced shall be assumed to have a COP value of 15,8 g/kWh.
5. The Ministry of Transport and Communications of the Republic of Macedonia is authorised to issue the documents and ecotags referred to in paragraphs 2 to 4.
6. Unless the vehicle is using an ecotag, the requisite number of ecopoints shall be affixed to the ecocard and cancelled. The ecopoints shall be cancelled by signing in such a way that the signature extends over both the ecopoints and the form to which they have been affixed. A rubber stamp may be used instead of a signature.

An ecocard, bearing the requisite number of ecopoints shall be handed to the supervisory authorities of Austria, who will hand back a copy with the proof of payment.

If the vehicle is fitted with an ecotag, upon confirmation of its undertaking a transit journey requiring ecopoints, a number of ecopoints, equivalent to the NO_x emission information stored in the ecotag of the vehicle, shall be deducted from the total of ecopoints allocated to the Republic of Macedonia. This shall be done by infrastructure provided and operated by the Austrian authorities.

For vehicles fitted with ecotags that are making bilateral journeys they must set the ecotag to demonstrate that a non-transit journey is being made prior to entering Austrian territory.

In the case where an ecocard is used and where a tractor unit is switched during a transit journey, the proof of payment on entry shall remain valid and be retained. Where the COP value of the new tractor unit exceeds that indicated on the form, additional ecopoints, affixed to a new card, shall be cancelled on leaving the country.

7. Continuous journeys which involve crossing the Austrian frontier once by train, whether by conventional rail transport or in a combined transport operation, and crossing the frontier by road before or after crossing by rail, shall be regarded not as transit of goods by road through Austria but as bilateral journeys.

Continuous transit journeys through Austria using the following rail terminals shall be deemed as bilateral journeys:

Fürnitz, Villach Süd, Sillian, Innsbruck/Hall, Brennersee, Graz.

8. Ecopoints shall be valid between 1 January of the year for which they are attributed and 31 January of the following year.
9. Infringements of this Agreement by a driver of a heavy goods vehicle from the Republic of Macedonia, or an undertaking, shall be prosecuted in accordance with the national legislation in force.

The Commission and the competent authorities of Austria and the Republic of Macedonia shall, each within the limits of their jurisdiction, provide each other with administrative assistance in investigating and prosecuting these infringements, in particular by ensuring that ecocards and ecotags are correctly used and handled.

Controls may be carried out at a point other than the border, at the discretion of the European Community Member State, with due regard to the principle of non-discrimination.

10. The Austrian supervisory authorities may, having due regard to the principles of proportionality, take appropriate measures if a vehicle is fitted with an ecotag and at least one of the following situations occur:
- (a) the vehicle or the operator of the vehicle has repeatedly committed infringements;
 - (b) there are insufficient ecopoints remaining in the allocation of the Republic of Macedonia;
 - (c) the ecotag has been tampered with or has been changed by a party other than those authorised in paragraph 3;
 - (d) the Republic of Macedonia has not allocated sufficient ecopoints for the vehicle to make a transit journey;
 - (e) the vehicle does not have appropriate documentation in accordance with points (c) or (d) of paragraph 2 to justify why the ecotag has been set to demonstrate that a non-transit journey is being made on Austrian territory;
 - (f) when the ecotag specified in Annex C is not loaded with sufficient ecopoints to make a transit journey.

The Austrian supervisory authorities may, having due regard to the principle of proportionality, take appropriate measures if a vehicle is not fitted with an ecotag and at least one of the following situations occurs:

- (a) an ecocard is not presented to the supervisory authorities in accordance with the provisions of this Agreement;
 - (b) an ecocard is presented which is incomplete or incorrect, or where the ecopoints are not correctly affixed;
 - (c) the vehicle does not possess the appropriate documentation to justify that it does not need ecopoints.
11. The printed ecopoints which are intended for affixing to ecocards shall be made available each year before 1 November of the preceding year.
12. In the case of vehicles registered before 1 October 1990 which have had a change of engine since this date, the COP value of the new engine shall apply. In such a case the certificate issued by the appropriate authority shall mention the change of engine and give details of the new COP value for NO_x emissions.
13. A transit journey shall be exempt from the payment of ecopoints if the following three conditions are met:
- (i) the sole purpose of the journey is to deliver a brand new vehicle, or vehicle combination, from the manufacturers to a destination in another State;
 - (ii) no goods are transported on the journey;
 - (iii) the vehicle or vehicle combination has appropriate international registration papers and export licence plates.
14. A transit journey shall be exempt from the payment of ecopoints if it is the unladen leg of a journey exempt from ecopoints as listed in Annex A and the vehicle carries suitable documentation to demonstrate this. Such suitable documentation shall be either:
- a bill of lading, or
 - a completed ecocard to which no ecopoints have been attached, or
 - a completed ecocard with ecopoints, which are subsequently reinstated.
15. Any problems arising from the management of this regime of ecopoints shall be submitted to the Community/the Republic of Macedonia Transport Committee provided for in Article 22 of the Transport Agreement which shall assess the situation and recommend appropriate actions. Any measure to be taken shall be implemented immediately, shall be proportional and of non-discriminatory nature.

I should be obliged if you would confirm the agreement of your Government to the contents of this letter.'

I have the honour to confirm that my Government agrees with the contents of your letter. Your letter and this letter shall constitute signing of this agreement between the Republic of Macedonia and the European Community.

However, I declare that the Republic of Macedonia does not accept the denomination used for my country in your letter having in view that the constitutional name for my country is the Republic of Macedonia.

Please accept, Sir, the assurance of my highest consideration.

*On behalf of the Government of the Republic of
Macedonia*

A handwritten signature in black ink, appearing to be 'Z. Zhelev', written in a cursive style.

C. Letter from the European Community

Brussels, 5 March 2003

Sir,

I have the honour to acknowledge receipt of your letter dated 12 December 2002.

The European Community notes that the Exchange of Letters between the President of the Council of the European Union and the Minister of Transport and Communications of your country, agreeing, in accordance with the provisions of Article 12(3)(b) of the Agreement in the field of transport signed on 29 April 1997, the method of calculation and the detailed rules and procedures for the management and control of the ecopoints between the Contracting Parties, and in line with the provisions of Article 11 and Article 14(2) of Protocol 9 to the 1994 Act of Accession of Austria, Finland and Sweden to the European Union regulating the ecopoints system applying in the Community, has been completed.

This cannot be construed as acceptance or recognition by the European Union, in any shape or form, of any name other than 'Former Yugoslav Republic of Macedonia'.

Please accept, Sir, the assurance of my highest consideration.

On behalf of the Council of the European Union

