

Official Journal

of the European Union

ISSN 1725-2555

L 40

Volume 47

12 February 2004

English edition

Legislation

Contents

I Acts whose publication is obligatory

- ★ **Council Regulation (EC) No 234/2004 of 10 February 2004 concerning certain restrictive measures in respect of Liberia and repealing Regulation (EC) No 1030/2003** 1
- ★ **Council Regulation (EC) No 235/2004 of 10 February 2004 amending Regulation (EC) No 2320/97 imposing definitive anti-dumping duties on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in, *inter alia*, Romania in so far as it concerns imports into the European Community of products manufactured by Petrotub SA and Republica SA** 11
- ★ **Council Regulation (EC) No 236/2004 of 10 February 2004 amending Regulation (EC) No 1339/2002 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of sulphanilic acid originating in the People's Republic of China and India** 17
- ★ **Council Regulation (EC) No 237/2004 of 10 February 2004 terminating the anti-dumping proceeding concerning imports of sacks and bags made of polyethylene or polypropylene originating in the People's Republic of China, India, Indonesia and Thailand** 21
- Commission Regulation (EC) No 238/2004 of 11 February 2004 opening an invitation to tender for the reduction in the duty on sorghum imported into Spain from third countries 23
- Commission Regulation (EC) No 239/2004 of 11 February 2004 establishing the standard import values for determining the entry price of certain fruit and vegetables 25
- ★ **Commission Regulation (EC) No 240/2004 of 10 February 2004 establishing unit values for the determination of the customs value of certain perishable goods** 27

II Acts whose publication is not obligatory

Commission

2004/136/EC:

- ★ **Commission Decision of 4 February 2004 excluding from Community financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF) (notified under document number C(2004) 194)** 31

Acts adopted pursuant to Title V of the Treaty on European Union

- ★ **Council Common Position 2004/137/CFSP of 10 February 2004 concerning restrictive measures against Liberia and repealing Common Position 2001/357/CFSP** 35

Corrigenda

- Corrigendum to Commission Regulation (EC) No 2231/2003 of 23 December 2003 opening tariff quotas for the year 2004 for imports into the European Community of certain products originating in the Czech Republic and the Slovak Republic (OJ L 339 of 24.12.2003) 37

I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 234/2004
of 10 February 2004
concerning certain restrictive measures in respect of Liberia and repealing Regulation (EC) No
1030/2003**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 60 and 301 thereof,

Having regard to Council Common Position 2004/137/CFSP of 10 February 2004 concerning restrictive measures against Liberia and repealing Common Position 2001/357/CFSP ⁽¹⁾,

Having regard to the proposal from the Commission,

Whereas:

(1) In its Resolution 1521 (2003) of 22 December 2003, the UN Security Council, acting under Chapter VII of the Charter of the United Nations, and noting the changed circumstances in Liberia, in particular the departure of former President Charles Taylor and the formation of the National Transitional Government of Liberia, decided to modify certain of the restrictive measures imposed against Liberia by United Nations Security Council Resolutions 1343 (2001) of 7 March 2001 and 1478 (2003) of 6 May 2003.

(2) Common Position 2004/137/CFSP provides for the implementation of the measures set out in UN Security Council Resolution 1521 (2003), including a ban on technical assistance related to military activities and imports of rough diamonds from and of round logs and timber products originating in Liberia.

(3) Common Position 2004/137/CFSP also provides for a ban on services related to military activities, and on financial assistance related to military activities, which is not cited in UN Security Council Resolution 1521 (2003).

(4) Some of the measures provided for by Resolutions 1343 (2001) and 1478 (2003) were implemented by Council Regulation (EC) No 1030/2003 of 16 June 2003 concerning certain restrictive measures in respect of Liberia ⁽²⁾. The amendments to those measures fall within the scope of the Treaty and, therefore, in order to avoid any distortion of competition, Community legislation is necessary to implement the relevant decisions of the Security Council as far as the Community is concerned. For the purpose of this Regulation, the territory of the Community is deemed to encompass the territories of the Member States to which the Treaty is applicable, under the conditions laid down in that Treaty.

(5) For the sake of clarity, a single text containing all the relevant provisions as amended should be adopted, replacing Regulation (EC) No 1030/2003, which should be repealed.

(6) In order to ensure that the measures provided for in this Regulation are effective, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

For the purposes of this Regulation, the following definition shall apply:

‘technical assistance’ means any technical support related to repairs, development, manufacture, assembly, testing, maintenance, or any other technical service, and may take forms such as instruction, advice, training, transmission of working knowledge or skills or consulting services. Technical assistance includes verbal forms of assistance.

⁽¹⁾ See page 35 of this Official Journal.

⁽²⁾ OJ L 150, 18.6.2003, p. 1. Regulation as last amended by Commission Regulation (EC) No 2061/2003 (OJ L 308, 25.11.2003, p. 5).

Article 2

It shall be prohibited:

- (a) to grant, sell, supply or transfer technical assistance related to military activities and to the provision, manufacture, maintenance and use of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned, directly or indirectly to any person, entity or body in, or for use in, Liberia;
- (b) to provide financing or financial assistance related to military activities, including in particular grants, loans and export credit insurance, for any sale, supply, transfer or export of arms and related materiel, directly or indirectly to any person, entity or body in, or for use in, Liberia;
- (c) to participate, knowingly and intentionally, in activities the object or effect of which is, directly or indirectly, to promote the transactions referred to in paragraphs (a) and (b).

Article 3

1. By way of derogation from Article 2, the competent authority, as listed in Annex I, of the Member State where the service provider is established, may authorise the provision of:

- (a) technical assistance, financing and financial assistance related to arms and related materiel, where such assistance or services are intended solely for support of and use by the United Nations Mission in Liberia, or of
- (b) financing and financial assistance related to:
 - (i) arms and related materiel intended solely for support of and use in an international training and reform programme for the Liberian armed forces and police, or to
 - (ii) non-lethal military equipment intended solely for humanitarian or protective use.

2. No authorisations shall be granted for activities that have already taken place.

Article 4

1. Where such activities have been approved in advance by the Committee established by paragraph 21 of UN Security Council Resolution 1521 (2003), and by way of derogation from Article 2 of this Regulation, the competent authority, as listed in Annex I, of the Member State where the service provider is established, may authorise the provision of technical assistance related to:

- (a) arms and related materiel intended solely for support of and use in an international training and reform programme for the Liberian armed forces and police, or to

- (b) non-lethal military equipment intended solely for humanitarian or protective use,

Such approval shall be obtained through the competent authority, as listed in Annex I, of the Member State where the service provider is established.

2. No authorisations shall be granted for activities that have already taken place.

Article 5

Article 2 shall not apply to protective clothing, including flak jackets and military helmets, temporarily exported to Liberia by United Nations personnel, personnel of the European Union, the Community or its Member States, representatives of the media and humanitarian and development workers and associated personnel, for their personal use only.

Article 6

1. The direct or indirect import into the Community of all rough diamonds from Liberia, as defined in Annex II, whether originating there or not, shall be prohibited.

2. The import into the Community of all round logs and timber products originating in Liberia, as defined in Annex III, shall be prohibited.

3. The participation, knowingly and intentionally, in activities the object or effect of which is, directly or indirectly, to promote the transactions referred to in paragraphs 1 and 2, shall also be prohibited.

Article 7

Without prejudice to the rights and obligations of the Member States under the Charter of the United Nations, the Commission shall maintain all necessary contacts with the Committee established by paragraph 21 of UN Security Council Resolution 1521 (2003) for the purposes of effective implementation of this Regulation.

Article 8

Member States shall immediately inform each other and the Commission of the measures taken under this Regulation and shall supply each other with any other relevant information at their disposal in connection with this Regulation, in particular information in respect of violation and enforcement problems and judgements handed down by national courts.

Article 9

The Commission shall be empowered to:

- (a) amend Annex I on the basis of information supplied by Member States;
- (b) amend Annexes II and III in order to bring them into line with changes that may be made to the Combined Nomenclature.

Article 10

This Regulation shall apply notwithstanding any rights conferred, or obligations imposed, by any international agreement signed or any contract entered into or any licence or permit granted before 13 February 2004.

Article 11

1. The Member States shall lay down the rules on sanctions applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The sanctions provided for must be effective, proportionate and dissuasive.

2. The Member States shall notify these rules to the Commission without delay after the entry into force of the Regulation and shall notify it of any subsequent amendment.

Article 12

This Regulation shall apply:

- (a) within the territory of the Community, including its airspace;
- (b) on board any aircraft or any vessel under the jurisdiction of a Member State;
- (c) to any person elsewhere who is a national of a Member State;
- (d) to any legal person, group or entity which is incorporated or constituted under the law of a Member State;
- (e) to any legal person, group or entity doing business within the Community.

Article 13

Regulation (EC) No 1030/2003 is hereby repealed.

Article 14

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

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

Done at Brussels, 10 February 2004.

For the Council
The President
C. McCREEVY

ANNEX I

List of competent authorities referred to in Articles 3 and 4

BELGIUM

Service public fédéral des affaires étrangères, commerce extérieur et coopération au développement
Egmont 1
Rue des Petits Carmes 19
B-1000 Bruxelles

Federale Overheidsdienst Buitenlandse Zaken, Buitenlandse Handel en Ontwikkelingssamenwerking
Egmont 1
Karmelietenstraat 19
B-1000 Brussel

Direction générale des affaires bilatérales
Service 'Afrique du sud du Sahara'
Téléphone (32-2) 501 88 75
Télécopieur (32-2) 501 38 26

Directoraat-generaal Bilaterale zaken
Dienst Afrika ten zuiden van de Sahara
Tel. (32-2) 501 88 75
Fax (32-2) 501 38 26

Service public fédéral de l'économie, des PME, des classes moyennes et de l'énergie
ARE 4^e division, service des licences
Avenue du Général Leman 60
B-1040 Bruxelles
Téléphone (32-2) 206 58 16/27
Télécopieur (32-2) 230 83 22

Federale Overheidsdienst Economie, KMO, Middenstand en Energie
BEB, afdeling 4, Dienst vergunningen
Generaal Lemanlaan 60
B-1040 Brussel
Tel. (32-2) 206 58 16/27
Fax (32-2) 230 83 22

Brussels Hoofdstedelijk Gewest — Région de Bruxelles-Capitale (Region Brüssel-Hauptstadt):

Kabinet van de minister van Financiën, Begroting, Openbaar Ambt en Externe Betrekkingen van de Brusselse Hoofdstedelijke regering
Kunstlaan 9
B-1210 Brussel

Cabinet du ministre des finances, du budget, de la fonction publique et des relations extérieures du gouvernement de la Région de Bruxelles-Capitale
Avenue des Arts 9
B-1210 Bruxelles
Téléphone (32-2) 209 28 25
Télécopieur (32-2) 209 28 12

Région wallonne (Wallonische Region):

Cabinet du ministre-président du gouvernement wallon
Rue Mazy 25-27
B-5100 Jambes-Namur
Téléphone (32-81) 33 12 11
Télécopieur (32-81) 33 13 13

Vlaams Gewest (Flämische Region):

Administratie Buitenlands Beleid
Boudewijnlaan 30
B-1000 Brussel
Tel. (32-2) 553 59 28
Fax (32-2) 553 60 37

DENMARK

Erhvervs- og Boligstyrelsen
Dahlerups Pakhus
Langelinie Allé 17
DK-2100 København Ø
Tlf. (45) 35 46 60 00
Fax (45) 35 46 60 01

Udenrigsministeriet
Asiatisk Plads 2
DK-1448 København K
Tlf. (45) 33 92 00 00
Fax (45) 32 54 05 33

Justitsministeriet
Slotsholmsgade 10
DK-1216 København K
Tlf. (45) 33 92 33 40
Fax (45) 33 93 35 10

GERMANY

Concerning financing and financial assistance:

Deutsche Bundesbank
Servicezentrum Finanzsanktionen
Postfach
D-80281 München
Tel.: (49-89) 28 89 38 00
Fax: (49-89) 35 01 63 38 00

Concerning technical assistance and other services:

Bundesamt für Wirtschaft und Ausfuhrkontrolle (BAFA)
Frankfurter Straße 29-35
D-65760 Eschborn
Tel.: (49) 619 69 08-0
Fax: (49) 619 69 08-800

GREECE

A. *Freezing of Assets*

Ministry of Economy and Finance
General Directory of Economic Policy
5 Nikis Str.
GR-101 80 Athens
Tel. (30) 210 333 27 86
Fax (30) 210 333 28 10

A. ΔΕΣΜΕΥΣΗ ΚΕΦΑΛΑΙΩΝ

Υπουργείο Οικονομίας και Οικονομικών
Γενική Διεύθυνση Οικονομικής Πολιτικής
Νίκης 5
GR-101 80 Αθήνα
Τηλ. (30) 210 333 27 86
Φαξ (30) 210 333 28 10

B. *Import- Export restrictions*

Ministry of Economy and Finance
General Directorate for Policy Planning and Management
Kornaroy Str. 1
GR-105 63 Athens
Tel. (30) 210 328 64 01-3
Fax (30) 210 328 64 04

B. ΠΕΡΙΟΡΙΣΜΟΙ ΕΙΣΑΓΩΓΩΝ — ΕΞΑΓΩΓΩΝ

Υπουργείο Οικονομίας και Οικονομικών
Γενική Διεύθυνση Σχεδιασμού και Διαχείρισης Πολιτικής
Κορνάρου 1
GR-105 63 Αθήνα
Τηλ. (30) 210 328 64 01-3
Φαξ (30) 210 328 64 04

SPAIN

Ministerio de Economía
Dirección General de Comercio e Inversiones
Paseo de la Castellana, 162
E-28046 Madrid
Tel.: (34) 913 49 38 60
Fax: (34) 914 57 28 63

FRANCE

Ministère de l'économie, des finances et de l'industrie
Direction générale des douanes et des droits indirects
Cellule embargo — Bureau E2
Téléphone (33) 144 74 48 93
Télécopieur (33) 144 74 48 97

Ministère des affaires étrangères
Direction des Nations unies et des organisations internationales
Téléphone (33) 143 17 59 68
Télécopieur (33) 143 17 46 91

IRELAND

Department of Enterprise, Trade and Employment
Licensing Unit
Earlsfort Centre
Lower Hatch Street
Dublin 2
Ireland
Tel.: (353) 1 631 2121
Fax: (353) 1 631 2562

ITALY

Ministero degli Affari esteri
DGAS.-Uff. I
Roma
Tel. (39) 06 36 91 4492/2988/5805
Fax (39) 06 36 91 5446

Ministero del Commercio estero
Gabinetto
Roma
Tel. (39) 06 59 93 23 10
Fax (39) 06 59 64 74 94

Ministero dei Trasporti
Gabinetto
Roma
Tel. (39) 06 44 26 71 16/84 90 40 94
Fax (39) 06 44 26 71 14

LUXEMBOURG

Ministère des affaires étrangères
Office des licences
21, rue Philippe II
L-2340 Luxembourg
Téléphone (352) 478 23 70
Télécopieur (352) 46 61 38

NETHERLANDS

Ministerie van Economische Zaken

Directoraat-generaal Buitenlandse Economische Betrekkingen
Directie Handelspolitiek en Investeringsbeleid
Bezuidenhoutseweg 153
2594 AG Den Haag
Nederland
Tel. (31) 70 379 7658
Fax (31) 70 379 7392

AUSTRIA

Bundesministerium für Wirtschaft und Arbeit
Abteilung C/2/2
Stubenring 1
A-1010 Wien
Tel.: (43-1) 711 00
Fax: (43-1) 711 00-83 86

PORTUGAL

Ministério dos Negócios Estrangeiros
Direcção-Geral dos Assuntos Multilaterais
Largo Rilvas
P-1350-179 Lisboa
Tel.: (351-21) 394 60 72
Fax: (351-21) 394 60 73

FINLAND

Ulkoasiainministeriö/Utrikesministeriet
PL/PB 176
FIN-00161 Helsinki/Helsingfors
P./Tfn (358-9) 16 05 59 00
Faksi/Fax (358-9) 16 05 57 07

Puolustusministeriö/Försvarsministeriet
Eteläinen Makasiinikatu 8/Södra Magasinsgatan 8
FIN-00131 Helsinki/Helsingfors
PL/PB 31
P./Tfn (358-9) 16 08 81 28
Faksi/Fax (358-9) 16 08 81 11

SWEDEN

Inspektionen för strategiska produkter (ISP)
Box 70 252
107 22 Stockholm
Tfn (46-8) 406 31 00
Fax (46-8) 20 31 00

Regeringskansliet

Utrikesdepartementet/Rättssekretariatet för EU-frågor
Fredsgatan 6
103 39 Stockholm
Tfn (46-8) 405 10 00
Fax (46-8) 723 11 76

UNITED KINGDOM

Sanctions Licensing Unit
Export Control Organisation Department of Trade and Industry
4 Abbey Orchard Street
London SW1P 2HT
United Kingdom
Tel.: (44) 20 7215 0594
Fax: (44) 20 7215 0593

ANNEX II

Rough diamonds referred to in Article 6(1)

CN code	Product description
7102 10 00	Unsorted diamonds, unworked and not mounted or set
7102 21 00	Industrial diamonds, unworked or simply sawn, cleaved or bruted
7102 31 00	Non-industrial diamonds, unworked or simply sawn, cleaved or bruted
7105 10 00	Dust and powder of diamonds

ANNEX III

Round logs and timber products referred to in Article 6(2)

CN code	Product description
4401	Fuel wood, in logs, in billets, in twigs, in faggots or in similar forms; wood in chips or particles; sawdust and wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms
4402	Wood charcoal (including shell or nut charcoal), whether or not agglomerated
4403	Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared
4404	Hoopwood; split poles; piles, pickets and stakes of wood, pointed but not sawn lengthwise; wooden sticks, roughly trimmed but not turned, bent or otherwise worked, suitable for the manufacture of walking-sticks, umbrellas, tool handles or the like; chipwood and the like
4405	Wood wool; wood flour
4406	Railway or tramway sleepers (cross-ties) of wood
4407	Wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm
4408	Sheets for veneering (including those obtained by slicing laminated wood), for plywood or for other similar laminated wood and other wood, sawn lengthwise, sliced or peeled, whether or not planed, sanded, spliced or end-jointed, of a thickness not exceeding 6 mm
4409	Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, moulded, rounded or the like) along any of its edges, ends or faces, whether or not planed, sanded or end-jointed
4410	Particle board and similar board (for example, oriented strand board and waferboard) of wood or other ligneous materials, whether or not agglomerated with resins or other organic binding substances
4411	Fibreboard of wood or other ligneous materials, whether or not bonded with resins or other organic substances
4412	Plywood, veneered panels and similar laminated wood
4413	Densified wood, in blocks, plates, strips or profile shapes
4414	Wooden frames for paintings, photographs, mirrors or similar objects
4415	Packing cases, boxes, crates, drums and similar packings, of wood; cable-drums of wood; pallets, box pallets and other load boards, of wood; pallet collars of wood
4416	Casks, barrels, vats, tubs and other coopers' products and parts thereof, of wood, including staves
4417	Tools, tool bodies, tool handles, broom or brush bodies and handles, of wood; boot or shoe lasts and trees, of wood
4418	Builders' joinery and carpentry of wood, including cellular wood panels, assembled parquet panels, shingles and shakes
4419	Tableware and kitchenware, of wood
4420	Wood marquetry and inlaid wood; caskets and cases for jewellery or cutlery, and similar articles, of wood; statuettes and other ornaments, of wood; wooden articles of furniture not falling in Chapter 94 CN
4421	Other articles of wood
4701	Mechanical wood pulp
4702	Chemical wood pulp, dissolving grades
4703	Chemical wood pulp, soda or sulphate, other than dissolving grades
4704	Chemical wood pulp, sulphite, other than dissolving grades

CN code	Product description
4705	Wood pulp obtained by a combination of mechanical and chemical pulping processes
9401 61	Other seats, with wooden frames
9401 69	Other seats, with wooden frames, which are not upholstered
9401 90 30	Parts of seats of a kind used for aircraft, of wood
9403 30	Wooden furniture of a kind used in offices
9403 40	Wooden furniture of a kind used in the kitchen
9403 50	Wooden furniture of a kind used in the bedroom
9403 60	Other wooden furniture
9406 00 20	Prefabricated buildings of wood
ex 9705	Wooden collectors' pieces
ex 9706	Wooden antiques

**COUNCIL REGULATION (EC) No 235/2004
of 10 February 2004**

amending Regulation (EC) No 2320/97 imposing definitive anti-dumping duties on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in, *inter alia*, Romania in so far as it concerns imports into the European Community of products manufactured by Petrotub SA and Republica SA

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 233 and 253 thereof,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community (the basic Regulation) ⁽¹⁾, in particular Article 2(1) and (11) thereof,

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

Whereas:

A. PROCEDURE

- (1) On 9 January 2003, the Court of Justice of the European Communities (ECJ) in its judgment in case C-76/00 P (the Judgment) set aside the previous judgment of the Court of First Instance of the European Communities of 15 December 1999 in joined cases T-33/98 and T-34/98 (*Petrotub and Republica v Council*) ⁽²⁾. By its Judgment, the ECJ effectively annulled Council Regulation (EC) No 2320/97 of 17 November 1997 imposing definitive anti-dumping duties on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Hungary, Poland, Russia, the Czech Republic, Romania and the Slovak Republic ⁽³⁾ (definitive anti-dumping Regulation or the contested Regulation), in so far as it concerned imports into the Community manufactured by Petrotub SA and Republica SA.
- (2) It is recognised by the Courts ⁽⁴⁾ that, in cases where a proceeding consists of several administrative steps, the annulment of one of these steps does not annul the complete proceeding. The anti-dumping proceeding is an example of such a multi-step proceeding. Consequently, the annulment of parts of the definitive anti-dumping Regulation does not imply the annulment of the entire procedure prior to the adoption of the Regulation in question. On the other hand, according to Article 233 of the Treaty, the Community institutions

are obliged to comply with the Judgment of the Court of Justice. Accordingly, the Community institutions, in so complying with the Judgment, have the possibility to remedy the aspects of the contested Regulation which led to its annulment, while leaving unchanged the uncontested parts which are not affected by the Judgment ⁽⁵⁾.

- (3) Following the Judgment, a notice was published concerning anti-dumping measures on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in Romania ⁽⁶⁾, announcing that Petrotub SA and Republica SA were no longer subject to the anti-dumping measures imposed by the definitive anti-dumping Regulation.
- (4) This Regulation seeks to correct, with respect to Petrotub SA and Republica SA, the aspects of the contested Regulation found to be inconsistent with Community law in the Judgment, and which thus led to the annulment of the contested Regulation. All other findings made in the contested Regulation, which were not contested within the time limits for a challenge and thus were not considered by the Courts and did not lead to the annulment of the contested Regulation, remain valid.

B. PRODUCTS UNDER CONSIDERATION

- (5) The categories of products under consideration are the same as the ones considered in the definitive anti-dumping Regulation i.e.:
 - (a) seamless pipes, of iron or non-alloy steel, of a kind used for oil and gas pipelines, of an external diameter not exceeding 406,4 mm; and
 - (b) seamless tubes of circular cross-section, of iron or non-alloy steel, cold-drawn or cold-rolled, other than precision tubes; and
 - (c) other tubes of circular cross-section, of iron or non-alloy steel, other than threaded or threadable, of an external diameter not exceeding 406,4 mm manufactured by Petrotub SA and Republica SA and currently classifiable within CN codes ex 7304 10 10, ex 7304 10 30, 7304 31 99, 7304 39 91 and 7304 39 93. These CN codes are given only for information.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 1972/2002 (OJ L 305, 7.11.2002, p. 1).

⁽²⁾ [1999] ECR II-3837.

⁽³⁾ OJ L 322, 25.11.1997, p. 1. Regulation as amended by Regulation (EC) No 190/2000 (OJ L 23, 28.1.2000, p. 1).

⁽⁴⁾ *IPS v Council* [1998] ECR II-3939.

⁽⁵⁾ Case C-458/98 P *IPS v Council* [2000] ECR I-08147.

⁽⁶⁾ OJ C 30, 8.2.2003, p. 14.

C. NEW ASSESSMENT OF THE FINDINGS BASED ON THE JUDGMENT OF THE ECJ

1. Preliminary remark

(6) In this Regulation, the aspects of the Judgment that are addressed are the calculation of the dumping margin of Petrotub SA and the determination of the normal value of Republica SA.

(7) Petrotub's dumping margin was, as described in recital 22 of the definitive anti-dumping Regulation, calculated on the basis of a comparison of the weighted average normal value established for Petrotub SA with the prices of all its individual exports. This was considered necessary in order to reflect the full degree of dumping being practised and because a pattern of Petrotub's export prices which differed significantly among different purchasers, regions or time periods had been established.

According to the Judgment, this method, which is set out in the second sentence of Article 2(11) of the basic Regulation, can only be used if, in addition to a finding of an export pattern which differs significantly among different purchasers, regions or time periods, it is explained why the two first methods specified in the first sentence of Article 2(11) (which are also called 'symmetrical methods') do not allow for these differences in the pattern of export prices to be taken appropriately into account and thus to reflect the full degree of dumping being practised. However, in the definitive anti-dumping Regulation the Council, duly having mentioned in recital 22 that there was a pattern which differed significantly among different purchasers, regions or time periods, only concluded that the first of the two symmetrical methods (the average-to-average method) did not reflect the full degree of dumping being practised in that context, without addressing the second symmetrical method (the transaction-to-transaction method). Thus, this Regulation reassesses and corrects the results of the investigation leading to the imposition of the definitive anti-dumping duty on imports from Petrotub SA by assessing the applicability of the second symmetrical method in the light of the requirements contained in the Judgment. This second symmetrical method foresees a comparison of individual normal values and individual export prices to the Community on a transaction-to-transaction basis.

(8) Secondly, in the definitive anti-dumping Regulation, sales made by Republica SA using debt compensation were considered as having been made in the ordinary course of trade. In paragraph 86 of its Judgment, the ECJ held that this conclusion was not accompanied by an appropriate statement of reasons, as the mere statement in recital 19 of the definitive anti-dumping Regulation, that it had been found that 'sales made using compensation were indeed made in the ordinary course of trade' did not contain any explanatory element of such a kind as to enlighten the parties concerned about the reasons which led the Council to come to its conclusions. This Regulation therefore now provides the necessary statement of reasons, in accordance with Article 253 of the Treaty.

(9) Since the information necessary, in order to remedy the shortcomings found by the ECJ in the definitive anti-dumping Regulation and which led to its annulment, was available to the Commission at the time of adopting the definitive anti-dumping Regulation and still is so now, no further investigation was necessary with respect to Petrotub SA, Republica SA or other parties. The required motivation can therefore be based on the existing information, collected in the framework of the investigation which led to the imposition of definitive measures.

2. Dumping margin of Petrotub SA

(10) According to Article 2(11) of the basic Regulation the second symmetrical method bases the calculation of the dumping margin on a comparison of individual normal values of the different types of the product concerned with the corresponding individual export prices on a transaction-to-transaction basis.

(11) This method can only be applied if a number of conditions are met. A transaction by transaction comparison excludes by definition the use of averages (be it on the domestic sales side or on the export sales side). To be comparable, transactions can only be used if made on the same day, on both the domestic and the export side. Any deviation from this principle by using prices of transactions not made on the same day would be arbitrary. Only domestic and export sales relating to the same or a comparable product type can be used for a transaction by transaction comparison, otherwise the comparison cannot be valid. Domestic sales can only be used if they are in the ordinary course of trade. Domestic sales must be made in the ordinary course of trade in a quantity amounting to at least 5 % of the volume of the export transactions, in accordance with Article 2(2) of the basic Regulation. The identification of sales not made in the ordinary course of trade at the level of the transaction was made in accordance with Article 2(2) of the basic Regulation. Under the second symmetrical method, export prices cannot be compared to constructed normal values. Finally, it is considered that this method can only be representative if a sufficiently large volume of export transactions and domestic sales transactions are covered.

(12) On this basis it was examined whether the transaction-to-transaction calculation could be applied. It was found that the volume of export transactions, which could be compared, amounted to 66,6 %. However, only 9,5 % of the volume of domestic sales, which were made in the ordinary course of trade, could be used to determine normal value. In other words, the overwhelming majority of domestic sales would not have been taken into consideration in the dumping calculation. This low use of transaction data is therefore not a sufficiently representative basis with regard to the determination of normal value, which is the benchmark for any dumping analysis of export transactions. On this basis the transaction-to-transaction method was not upheld as an appropriate method to calculate the dumping margin in this case.

- (13) Therefore, given that the use of the second symmetrical method would not have provided representative results, this method would also not have enabled to take into account the significant differences in the pattern of export prices. Consequently, the third method, namely the comparison of weighted average normal values to individual export prices (asymmetrical method), had to be applied, as in the presence of a pattern of export prices, it was found that neither the first nor the second symmetrical method would have enabled these differences to be taken into account.

3. Normal value of Republica SA

- (14) As explained in recital 8, the ECJ found that the Council did not satisfy the requirements of the obligation to state reasons when in recital 19, fifth paragraph of the contested Regulation, it merely stated that sales made using compensation were made in the ordinary course of trade. This reasoning is therefore now set out below.

- (15) During the investigation, which led to the imposition of definitive anti-dumping duties, Republica SA claimed that a substantial volume of its domestic sales was made on the basis of debt compensatory arrangements. It was alleged that sales prices of the product concerned delivered on the basis of such a compensatory arrangement could not be negotiated, because Republica SA was forced to take suppliers in the compensatory circuit with the result that sales prices to those suppliers were considerably lower than normal prices and therefore not comparable to normal market prices. Republica SA argued that sales on the basis of compensatory arrangements should therefore have been disregarded from the domestic sales for the calculation of normal value, as they could not be considered to have been made in the ordinary course of business.

- (16) It should be underlined that the payment by compensatory agreement as described in recital 15 of this Regulation should be distinguished from the existence of compensatory arrangements in the sense of Article 2(1) of the basic Regulation. Whereas payment by compensatory arrangement, as described by Republica SA in its submission and in recital 15 of this Regulation, was found to be effectively a settlement of bills where receivables and payables were compensated without affecting the price conditions of the goods delivered, a compensatory arrangement, within the meaning of Article 2(1) of the basic Regulation, refers to an agreement, where goods and/or services are swapped between supplier and client and where the invoiced price is based on the difference of the value of such goods and/or services, thus not reflecting the real value of the goods delivered.

- (17) During the on-site investigation at Republica's premises it was found that certain domestic sales, which were wrongly reported as having been made subject to stand-

ard cash payment terms, were found in fact to have been settled by means of compensation in a compensatory agreement. The form of compensation that took place was made by the netting of receivables and payables for the same amounts between Republica SA and its client acting, as the case may be, at the same time as supplier of some other goods or services. Sometimes one or more third parties were involved, e.g. in the case where Republica SA sells to a client which uses the receivable it has on a third party to settle its debt towards Republica SA. This type of settlement of transactions by compensatory agreement is common in economies with low liquidity and the investigation showed that it did not influence the original price setting of the transactions. Moreover, it was found that when Republica SA insisted on cash payments from its clients (e.g. when it needed cash in order to pay its personnel), sales prices were actually set lower than in the case of payment under a compensatory agreement, in order to reward the client for this cash payment. It was concluded that Republica's payment by compensation did not fall under the concept of compensatory agreement as described in Article 2(1) of the basic Regulation, as it was found that the compensatory agreements to which Republica SA was a party did not influence the sales prices quoted.

- (18) It can therefore be concluded that the argument raised by Republica SA in respect of sales settled by means of compensation and the influence on domestic sales prices does not reflect reality and therefore also that sales made by Republica SA under compensatory arrangements were made in the ordinary course of trade.

4. Conclusion

- (19) The use of the second symmetrical method for the determination of the dumping margin of Petrotub SA is not warranted because the volume of domestic sales, which could be used to determine normal value, is not sufficiently representative to make the comparison under this method. Therefore, this method cannot take into account significant differences in the pattern of export prices, i.e. cannot reflect the full degree of dumping. Accordingly, as neither the first nor the second symmetrical method would, albeit for different reasons, reflect the full degree of dumping being practised, the third method provided for in Article 2(11) of the basic Regulation had to be applied. Consequently, its application and the results of its application as detailed in recitals 22 and 23 of the contested Regulation are confirmed.

- (20) For the reasons outlined in recitals 16 and 17 sales made by Republica SA using debt compensation were found to be made in the ordinary course of trade.

- (21) As a consequence, the dumping margins determined in the framework of Regulation (EC) No 2320/97 are hereby confirmed.

D. DISCLOSURE

- (22) The parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the re-imposition of a definitive anti-dumping duty. They were also granted a period within which they could make representations subsequent to this disclosure.
- (23) The oral and written arguments submitted by the parties were considered and, where appropriate, were taken into account.

E. UNDERTAKINGS

- (24) Two Romanian exporting producers have offered price undertakings in accordance with Article 8(1) of the basic Regulation. The price undertakings offered contain the same stipulations as the one that ceased to be valid on 9 January 2003 as a consequence of the ECJ Judgment. The Commission considers that the undertakings offered are acceptable and sufficient to shield the Community Industry from the injurious effect of dumping.
- (25) The companies will also provide the Commission with regular and detailed information concerning their exports to the Community, meaning that the undertakings can be monitored effectively by the Commission.
- (26) In order to ensure the effective respect and monitoring of the undertakings, when the request for release for free circulation pursuant to the undertaking is presented to the relevant customs authority, exemption from the duty should be conditional upon presentation of a valid, original production certificate containing the information listed in the Annex to this Regulation. This production certificate must be presented within three months of its date of issue and the quantities presented to customs for import into the Community free of anti-dumping duty shall not exceed those stipulated on the certificate. Where no such production certificate is presented, when it does not correspond to the product concerned or when the quantities stipulated on the certificate are exceeded, the appropriate amount of anti-dumping duty should instead be payable.
- (27) In the event of suspected breach, actual breach or withdrawal of the undertaking by either party to it, an anti-dumping duty may be imposed, pursuant to Article 8(9) and (10) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. The conclusions of Regulation (EC) No 2320/97 with regard to the Romanian exporting producers Petrotub SA and Republica SA are hereby confirmed. Definitive anti-dumping duties are hereby imposed on the following imports originating in Romania and manufactured by Petrotub SA and Republica SA:

- (a) seamless pipes, of iron or non-alloy steel, of a kind used for oil and gas pipelines, of an external diameter not exceeding 406,4 mm (currently falling within CN codes ex 7304 10 10 and ex 7304 10 30 — TARIC codes 7304 10 10 10 and 7304 10 30 10);
- (b) seamless tubes of circular cross-section, of iron or non-alloy steel, cold-drawn or cold-rolled, other than precision tubes (currently falling within CN code 7304 31 99);
- (c) other tubes of circular cross-section, of iron or non-alloy steel, other than threaded or threadable, of an external diameter not exceeding 406,4 mm (currently falling within CN codes 7304 39 91 and 7304 39 93).

2. The rate of definitive anti-dumping duties applicable to the net free-at-Community-frontier prices before duty, shall be as follows:

Country	Manufacturer	Rate of duty	TARIC additional code
Romania	Petrotub SA	9,8 %	8468
	Republica SA	9,8 %	8469

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

Article 2

1. Imports shall be exempt from the anti-dumping duties imposed by Article 1 provided that they are produced and sold for export to the Community by the companies listed in paragraph 4 which have offered undertakings accepted by the Commission and provided that the conditions of paragraphs 2, 3 and 4 are met.

2. When the declaration for release for free circulation is presented, exemption from the duty shall be conditional upon presentation to the competent Member States' customs services of a valid, original production certificate issued by one of the companies listed in paragraph 4. The production certificate shall conform to the requirements for such certificates set out in the undertaking accepted by the Commission, the main elements of which are listed in the Annex.

3. The production certificate referred to in paragraph 2 must be presented within three months of its date of issue. The quantities presented to the Member States' customs services for import into the Community free of the anti-dumping duty shall not exceed those stipulated on the certificate. When the quantities stipulated on the certificate are exceeded, the excess shall be subject to the duty, and be declared under the relevant TARIC additional code of Article 1(2).

4. Imports accompanied by a production certificate shall be declared under the following TARIC additional code:

Country	Manufacturer	TARIC additional code
Romania	Petrotub SA	8514
	Republica SA	8515

Article 3

Member States' reports to the Commission pursuant to Article 14(6) of Regulation (EC) No 384/96, shall indicate for each release for free circulation, the year and month of import, the CN, TARIC and TARIC additional codes, the type of measure, the country of origin, the quantity, the value, the anti-dumping duty, the Member State of import and, where appropriate, the serial number of the production certificate.

Article 4

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

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

Done at Brussels, 10 February 2004.

For the Council

The President

C. MCCREEVY

ANNEX

MAIN ELEMENTS OF THE PRODUCTION CERTIFICATE ⁽¹⁾ REFERRED TO IN ARTICLE 2(2)

- (a) The number of the certificate
- (b) Identification showing whether the certificate is an original
- (c) The date of expiry of the certificate
- (d) The following text:

‘Production certificate issued by (name of the Company) pursuant to Article 2(2) of Council Regulation (EC) No 2320/97 for the export to the European Community within TARIC additional code ... of certain seamless steel pipes and tubes.’
- (e) The name and full address of the Company, and possible identification number such as national registration number for incorporated companies
- (f) The name and full address of the customer of the Company in the Community importing the goods or the name and full address of the unrelated trader outside of the Community exporting the goods
- (g) The number of the Company invoice to which the production certificate relates
- (h) The exact description of the goods, including:
 - a product description sufficient to identify the products, which will be identical to the product description on the invoice
 - CN code
 - quantity (in metric tonnes)
- (i) The name of the official of the Company responsible for the issue of the certificate and the following signed declaration:

‘I, the undersigned, certify that the sale for export to the European Community of the goods covered by this certificate is being made within the scope and under the terms of the undertaking by (name of the Company), and within the permitted volume for anti-dumping duty-free imports into the Community set out in the undertaking accepted by the Commission pursuant to Decision 97/790/EC. I declare that the information provided in this certificate is complete and correct.’
- (j) Space for use by the competent authorities of the Community.

⁽¹⁾ Under the undertaking offered and accepted by the Commission, each box on the certificate will be in four languages, the language of the country of the producer, English, French and German.

**COUNCIL REGULATION (EC) No 236/2004
of 10 February 2004**

amending Regulation (EC) No 1339/2002 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of sulphanilic acid originating in the People's Republic of China and India

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾ (the basic Regulation), and in particular Article 12(3) thereof,

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

Whereas:

A. PROCEDURE

1. Original measures

- (1) In July 2002, the Council imposed a definitive anti-dumping duty (the original measure) on imports of sulphanilic acid originating, *inter alia*, in the People's Republic of China by Regulation (EC) No 1339/2002⁽²⁾. The country-wide duty rate applicable to the net, free-at-Community frontier price, is 21 %.

2. Request for an anti-absorption reinvestigation

- (2) On 12 May 2003, a request for a reinvestigation of the measure referred to in recital 1 was lodged pursuant to Article 12 of the basic Regulation. The request was submitted by Sorochimie and Quimigal (the applicants), two producers representing 100 % of the Community production of sulphanilic acid.
- (3) The applicants submitted sufficient information showing that the anti-dumping duty imposed on sulphanilic acid originating in the People's Republic of China has not led to sufficient movement in the prices in the Community. In fact, the evidence contained in the request showed that export prices and prices delivered (duty unpaid) to final customers in the Community fell significantly following the imposition of the anti-dumping measures, suggesting an increase in dumping which impeded the intended remedial effects of the anti-dumping measures in force.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 1972/2002 (OJ L 305, 7.11.2002, p. 1).

⁽²⁾ OJ L 196, 25.7.2002, p. 11.

3. The anti-absorption reinvestigation

- (4) On 26 June 2003, the Commission announced by a notice published in the *Official Journal of the European Union*⁽³⁾ the initiation of a reinvestigation, pursuant to Article 12 of the basic Regulation, of the anti-dumping measures applicable to imports of sulphanilic acid originating in the People's Republic of China.
- (5) The Commission officially advised the producers/exporters known to be concerned, the representatives of the exporting country, importers and users of the initiation of the reinvestigation. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation. The Commission sent questionnaires to all parties known to be concerned.
- (6) Two complete questionnaire replies were received from a Chinese exporter, Sinochem Hebei import and export corporation (Sinochem), and from a user importing directly the product concerned from the People's Republic of China, 3V Sigma, Italy (3V Sigma). It has to be noted, that the investigation which led to the imposition of the original measures (the original investigation) established that sulphanilic acid is imported into the Community directly by the final users of this product.
- (7) Three other importers/users declared that they would not reply to the questionnaire because they had only imported very marginal quantities of the product concerned during the investigation period. A fourth importer/user submitted some information but stopped cooperating in the course of the investigation.
- (8) The investigation period of this reinvestigation (new IP) ran from 1 April 2002 to 31 March 2003. The new IP was used to determine the current level of export prices and the level of the prices delivered to the final customer in the Community. In establishing whether the prices in the Community had moved sufficiently, the price levels charged during the new IP were compared to those charged during the original investigation period (original IP) which had covered the period from 1 July 2000 to 30 June 2001.

⁽³⁾ OJ C 149, 26.6.2003, p. 14.

- (9) Because of duly justified exceptional circumstances (i.e. the consequences of the SARS epidemic in the People's Republic of China), the cooperating parties requested and were granted extensions to submit their replies. For this reason, the reinvestigation slightly exceeded the normal period of six months provided for in Article 12(4) of the basic Regulation.

B. PRODUCT UNDER CONSIDERATION

- (10) The product concerned by the request and for which the reinvestigation was initiated is the same as in the original investigation, i.e. sulphanilic acid, normally classified within CN code ex 2921 42 10 (TARIC code 2921 42 10 60). Sulphanilic acid is a chemical product used as raw material in the production of optical brighteners, concrete additives, food colorants and speciality dyes.

C. THE REINVESTIGATION

- (11) The purpose of this reinvestigation is, first, to establish whether or not there was a sufficient movement in prices in the Community of sulphanilic acid originating in China further to the imposition of the aforementioned anti-dumping measures. As a second step, where it is concluded that absorption took place, the dumping margin is recalculated. In accordance with Article 12 of the basic Regulation, importers/users and exporters are provided with an opportunity to submit evidence that could justify a lack of movement in prices in the Community following the imposition of measures for reasons other than absorption of the anti-dumping duty.

1. Movement of prices in the Community

1.1. General

- (12) As mentioned above, the pattern of trade for sulphanilic acid originating in the People's Republic of China is characterised by the absence of intermediaries such as traders importing the product in the Community for resale. Users in the Community, which are generally large chemical companies, directly import the product concerned from the People's Republic of China, for their own internal consumption.
- (13) Therefore, in the absence of any resale price in the market, the Community price level during the new IP of the product concerned originating in the People's Republic of China was determined by adding to the cif price in euro at the Community border both the conventional and the anti-dumping duties payable. The cif price in euro at the Community border was established on the basis of information submitted by the aforementioned cooperating Chinese exporting producer and importer/

user in the Community. Together, these companies reported data amounting to 1 430 tonnes of sulphanilic acid during the new IP, a level exceeding slightly the statistical information available from Eurostat.

- (14) The movement of prices in the Community was assessed by comparing, for the same delivery conditions, the average price, including duties, referred to in recital 13, of the new IP with that determined in the original IP, plus the duties. The comparison showed that the average price in the Community of sulphanilic acid originating in the People's Republic of China had decreased by 18,1 %.
- (15) It should be noted that the average conventional duty rate applicable to imports of sulphanilic acid originating in the People's Republic of China declined from 8,5 to 7,4 % between the two IPs. Taking this effect out, the decrease in cif prices in euro between the two IPs was 17,4 %.

1.2. Claims made by interested parties

1.2.1. Exchange rate variation

- (16) Several interested parties noted that sulphanilic acid imported from the People's Republic of China is invoiced in US dollars. They indicated that the decrease of export prices and prices in the Community of sulphanilic acid would largely be the result of the USD/EUR exchange rate variation observed between the original IP and the new IP. The claim was verified and it was indeed found that the US dollar had depreciated against the euro by 11,4 % between the original IP and the new IP. Therefore, the claim was accepted. However, even when the comparison is carried out by taking into account the effect of the abovementioned depreciation of the US dollar against the euro, a decrease in the level of prices in the Community by 9,3 % is still observed between the original IP and the new IP.

1.2.2. Transportation costs

- (17) A cooperating party alleged that the decrease in transport costs between the People's Republic of China and the Community could explain part of the possible decrease in prices of the product concerned. This claim was verified on the basis of the actual transport costs reported by the cooperating parties themselves. When comparing these transport costs with the ones determined in the framework of the original investigation, it appears that transport costs have marginally increased, and not decreased, between the two IPs. Therefore, the claim was rejected.

1.2.3. Raw material price

- (18) Cooperating parties claimed that any possible decrease in the prices of sulphanilic acid would be the consequence of a corresponding decline between the original IP and the new IP in the price of aniline, a key raw material representing some 60 % of the cost of production of sulphanilic acid. It was alleged that the price of aniline would have decreased by some 5 % over the abovementioned period.
- (19) This type of claim refers to costs of production, and can only be taken into account in the context of a re-examination of normal value. However, pursuant to Article 12(5) of the basic Regulation, alleged changes in normal value shall only be taken into account where complete information on revised normal values is made available to the Commission. This was not the case. For this reason alone, the claim could already be rejected. However, in order to establish a complete picture of all the elements possibly at stake, the abovementioned allegation was nevertheless examined. To this end, exhaustive information on aniline prices during the new IP was obtained from the same source that had been used in order to determine the normal value in the original investigation, i.e. a cooperating company in the analogue country, namely India. On this basis, it was found that aniline prices had increased, not decreased, by around 6 % between the two IPs. Therefore, even if the claim had been correctly presented in the context of a request for a revision of normal value pursuant to Article 12(5) of the basic Regulation, it would have been considered to be unfounded.

1.3. Conclusion

- (20) It was therefore concluded that absorption of the anti-dumping duty had taken place, as the decrease observed in the prices in the Community of sulphanilic acid originating in the People's Republic of China could not be fully justified even after taking into consideration the above described claim concerning exchange rate fluctuations.

2. Reassessment of the export prices

- (21) Since it was established that absorption had taken place and that the lack of movement in the prices in the Community was due to a fall in the export prices it was considered appropriate to use the export prices of the new IP, for the purpose of recalculating the appropriate dumping margins in accordance with the last sentence of Article 12(2) of the basic Regulation.

3. Normal value

- (22) Article 12(5) of the basic Regulation provides for the possibility of taking alleged changes in normal value into account, where complete information is made available to the Commission within given time limits. As indicated

under recital 19, no interested party formally requested a revision of the normal value. Therefore, the normal value as established in the original investigation was used in recalculating the dumping margins.

4. Recalculation of the dumping margin taking account of the export prices observed during the new IP

- (23) As required under Article 12 of the basic Regulation, the country-wide dumping margin for the People's Republic of China was recalculated by comparing the average fob price established in the current investigation with the average fob normal value as established in the original investigation. The difference was then expressed as a percentage of the cif value determined in the reinvestigation.
- (24) The recalculated dumping margin was found to have increased to 33,7 %, in comparison with 21 % as established in the course of the original investigation.

5. New level of the measure

- (25) The original measures were based on the dumping margin. A new injury margin has been calculated as a difference between the new export price determined as explained under recital 21 and the non-injurious Community price computed in the original investigation, expressed as a percentage of the same denominator as used in the above dumping determination. The lowest of the two margins is still the dumping margin. In application of the lesser duty rule, the revised, country-wide duty applicable to imports in the Community of sulphanilic acid originating in the People's Republic of China should correspond to the level of the revised dumping margin, i.e. 33,7 %.

HAS ADOPTED THIS REGULATION:

Article 1

Article 1(2) of Regulation (EC) No 1339/2002 shall be replaced by the following:

‘2. The rate of definitive anti-dumping duty applicable, before duty, to the net free-at-Community frontier price of the products described in paragraph 1, shall be as follows:

Country	Definitive duty (%)
The People's Republic of China	33,7
India	18,3'

Article 2

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

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

Done at Brussels, 10 February 2004.

For the Council

The President

C. MCCREEVY

**COUNCIL REGULATION (EC) No 237/2004
of 10 February 2004**

terminating the anti-dumping proceeding concerning imports of sacks and bags made of polyethylene or polypropylene originating in the People's Republic of China, India, Indonesia and Thailand

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾, and in particular Article 9 and Article 11(2) thereof,

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

Whereas:

A. PROCEDURE

- (1) Following the publication of a notice of impending expiry of the anti-dumping measures in force on imports of sacks and bags originating in the People's Republic of China, India, Indonesia and Thailand ⁽²⁾, the Commission received on 8 July 2002 a request to review these measures pursuant to Article 11(2) of Council Regulation (EC) No 384/96 (the Basic Regulation).
- (2) The request was lodged by the European Association for Textile Polyolefins (EATP) on behalf of Community producers representing 32,03 % of the total Community production of sacks and bags made of polyethylene or polypropylene.
- (3) The request contained prima facie evidence showing that there would be a continuation or recurrence of injurious dumping should measures be allowed to lapse, which was considered sufficient to justify the initiation of an expiry review.
- (4) Accordingly, the Commission, after consultation of the Advisory Committee, initiated by a notice published in the *Official Journal of the European Communities* ⁽³⁾ an expiry review of the anti-dumping measures applicable to imports into the Community of sacks and bags made of polyethylene or polypropylene, currently classifiable within CN codes 6305 32 81, 6305 33 91, ex 3923 21 00, ex 3923 29 10 and ex 3923 29 90 originating in the People's Republic of China, India, Indonesia and Thailand.

- (5) The Commission officially advised the exporting producers, importers known to be concerned, the representatives of the exporting country, the representative users and the Community producers. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.

B. WITHDRAWAL OF THE REQUEST AND TERMINATION OF THE PROCEEDING

- (6) By a letter dated 22 October 2003 to the Commission, the EATP formally withdrew its request for an expiry review concerning imports of sacks and bags made of polyethylene or polypropylene originating in the People's Republic of China, India, Indonesia and Thailand.
- (7) According to Article 9(1) and Article 11(2) of the Basic Regulation, a proceeding may be terminated where the request for a review is withdrawn, unless such termination would not be in the Community interest.
- (8) It was considered that the present proceeding should be terminated since the investigation had not brought to light any considerations showing that such termination would not be in the Community interest. Interested parties were informed accordingly and were given the opportunity to comment. However, no comments were received from any party. Consequently, there is no indication that the termination of the measures would not be in the Community interest.
- (9) It was therefore concluded that the anti-dumping proceeding concerning imports into the Community of sacks and bags made of polyethylene or polypropylene originating in the People's Republic of China, India, Indonesia and Thailand should be terminated and that the existing measures should be repealed,

HAS ADOPTED THIS REGULATION:

Article 1

The anti-dumping measures concerning imports of sacks and bags made of polyethylene or polypropylene, currently classifiable within CN codes 6305 32 81, 6305 33 91, ex 3923 21 00 (TARIC code: 3923 21 00*10), ex 3923 29 10 (TARIC code: 3923 29 10*10) and ex 3923 29 90 (TARIC code: 3923 29 90*10) and originating in the People's Republic of China, India, Indonesia and Thailand, are hereby repealed and the proceeding concerning these imports is terminated.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 1972/2002 (OJ L 305, 7.11.2002, p. 1).

⁽²⁾ OJ C 10, 12.1.2002, p. 2 and OJ C 16, 19.1.2002, p. 2.

⁽³⁾ OJ C 243, 9.10.2002, p. 10.

Article 2

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

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

Done at Brussels, 10 February 2004.

For the Council
The President
C. McCREEVY

COMMISSION REGULATION (EC) No 238/2004**of 11 February 2004****opening an invitation to tender for the reduction in the duty on sorghum imported into Spain from third countries**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

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

HAS ADOPTED THIS REGULATION:

Whereas:

Article 1

(1) Under the Agreement on Agriculture ⁽²⁾ concluded during the Uruguay Round of multilateral trade negotiations, the Community has undertaken to import a quantity of sorghum into Spain.

1. An invitation to tender is hereby opened for the reduction in the import duty referred to in Article 10(2) of Regulation (EEC) No 1766/92 on sorghum to be imported into Spain.

(2) Commission Regulation (EC) No 1839/95 of 26 July 1995 laying down detailed rules for the application of tariff quotas for imports of maize and sorghum into Spain and imports of maize into Portugal ⁽³⁾, lays down the special detailed rules necessary for implementing invitations to tender.

2. Regulation (EC) No 1839/95 shall apply save as otherwise provided for in this Regulation.

(3) In the light of current market needs in Spain, an invitation to tender for the reduction in the duty on imports of sorghum should be opened.

3. Under this invitation to tender, the reduction in the import duty on grain sorghum provided for in Annex II to Regulation (EC) No 2886/2002 shall not apply.

(4) Council Regulation (EC) No 2286/2002 of 10 December 2002 on the arrangements applicable to agricultural products and goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States (ACP States) and repealing Regulation (EC) No 1706/98 ⁽⁴⁾ provides in particular for a reduction of 60 % in the import duty applicable to grain sorghum up to a quota of 100 000 tonnes per calendar year and of 50 % in excess of that quota. If that benefit is combined with the benefit resulting from the invitations to tender for the reduction in the import duty, this is likely to disturb the Spanish market for cereals. Such combined benefits should therefore be ruled out.

Article 2

The invitation to tender shall be open until 23 December 2004. During that period, weekly invitations shall be issued with quantities and closing dates as shown in the notice of invitation to tender.

Article 3

Import licences issued under these invitations to tender shall be valid 50 days from the date they are issued within the meaning of Article 10(4) of Regulation (EC) No 1839/95.

Article 4

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

⁽¹⁾ OJ L 181, 1.7.1992, p. 21. Regulation as last amended by Commission Regulation (EC) No 1104/2003 (OJ L 158, 27.6.2003, p. 1).

⁽²⁾ OJ L 336, 23.12.1994, p. 22.

⁽³⁾ OJ L 177, 28.7.1995, p. 4. Regulation as last amended by Regulation (EC) No 2235/2000 (OJ L 256, 10.10.2000, p. 13).

⁽⁴⁾ OJ L 348, 21.12.2002, p. 5.

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

Done at Brussels, 11 February 2004.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 239/2004
of 11 February 2004
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⁾, 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 12 February 2004.

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

Done at Brussels, 11 February 2004.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

⁽¹⁾ OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 1947/2002 (OJ L 299, 1.11.2002, p. 17).

ANNEX

to the Commission Regulation of 11 February 2004 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	108,5
	204	46,7
	212	120,5
	999	91,9
0707 00 05	052	175,4
	204	29,7
	999	102,6
0709 10 00	204	13,5
	220	80,1
	999	46,8
0709 90 70	052	91,4
	204	36,3
	999	63,9
0805 10 10, 0805 10 30, 0805 10 50	052	44,8
	204	47,7
	212	42,4
	220	32,5
	400	44,5
	624	73,3
	999	47,5
0805 20 10	204	93,7
	999	93,7
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	76,1
	204	103,8
	220	73,6
	400	58,9
	464	73,8
	600	76,6
	624	66,1
	999	75,6
0805 50 10	052	66,2
	600	58,8
	999	62,5
0808 10 20, 0808 10 50, 0808 10 90	060	47,9
	400	110,6
	404	94,9
	528	95,0
	720	71,8
	999	84,0
0808 20 50	060	69,5
	388	100,5
	400	86,3
	528	85,1
	720	34,6
	999	75,2

⁽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 240/2004
of 10 February 2004
establishing unit values for the determination of the customs value of certain perishable goods

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽¹⁾, as last amended by Regulation (EC) No 2700/2000 of the European Parliament and of the Council ⁽²⁾,

Having regard to Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽³⁾, as last amended by Regulation (EC) No 2286/2003 ⁽⁴⁾, and in particular Article 173(1) thereof,

Whereas:

- (1) Articles 173 to 177 of Regulation (EEC) No 2454/93 provide that the Commission shall periodically establish unit values for the products referred to in the classification in Annex 26 to that Regulation.

- (2) The result of applying the rules and criteria laid down in the abovementioned Articles to the elements communicated to the Commission in accordance with Article 173(2) of Regulation (EEC) No 2454/93 is that unit values set out in the Annex to this Regulation should be established in regard to the products in question,

HAS ADOPTED THIS REGULATION:

Article 1

The unit values provided for in Article 173(1) of Regulation (EEC) No 2454/93 are hereby established as set out in the table in the Annex hereto.

Article 2

This Regulation shall enter into force on 13 February 2004.

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

Done at Brussels, 10 February 2004.

For the Commission

Erkki LIIKANEN

Member of the Commission

⁽¹⁾ OJ L 302, 19.10.1992, p. 1.

⁽²⁾ OJ L 311, 12.12.2000, p. 17.

⁽³⁾ OJ L 253, 11.10.1993, p. 1.

⁽⁴⁾ OJ L 343, 31.12.2003, p. 1.

ANNEX

Code	Description	Amount of unit values per 100 kg			
	Species, varieties, CN code	EUR	DKK	SEK	GBP
1.10	New potatoes 0701 90 50	43,95	327,45	400,72	30,02
1.30	Onions (other than seed) 0703 10 19	24,87	185,30	226,76	16,99
1.40	Garlic 0703 20 00	167,81	1 250,25	1 529,99	114,64
1.50	Leeks ex 0703 90 00	74,71	556,63	681,17	51,04
1.80	White cabbages and red cabbages 0704 90 10	96,31	717,52	878,07	65,79
1.90	Sprouting broccoli or calabrese (<i>Brassica oleracea</i> L. convar. <i>botrytis</i> (L.) <i>Alef</i> var. <i>italica</i> Plenck) ex 0704 90 90	61,43	457,68	560,09	41,97
1.100	Chinese cabbage ex 0704 90 90	60,64	451,80	552,89	41,43
1.130	Carrots ex 0706 10 00	38,66	288,04	352,48	26,41
1.140	Radishes ex 0706 90 90	57,35	427,28	522,89	39,18
1.160	Peas (<i>Pisum sativum</i>) 0708 10 00	305,61	2 276,98	2 786,44	208,78
1.170	Beans:				
1.170.1	— Beans (<i>Vigna</i> spp., <i>Phaseolus</i> spp.) ex 0708 20 00	153,35	1 142,53	1 398,17	104,76
1.170.2	— Beans (<i>Phaseolus</i> ssp. <i>vulgaris</i> var. <i>Compressus</i> Savi) ex 0708 20 00	133,00	990,92	1 212,63	90,86
1.200	Asparagus:				
1.200.1	— green ex 0709 20 00	298,51	2 224,05	2 721,66	203,93
1.200.2	— other 0709 20 00	240,14	1 789,16	2 189,48	164,05
1.210	Aubergines (eggplants) 0709 30 00	166,72	1 242,15	1 520,08	113,90
1.220	Ribbed celery (<i>Apium graveolens</i> L., var. <i>dulce</i> (Mill.) Pers.) ex 0709 40 00	76,84	572,48	700,57	52,49
1.230	Chantarelles 0709 59 10	994,91	7 412,58	9 071,09	679,67
1.240	Sweet peppers 0709 60 10	189,79	1 414,03	1 730,41	129,66
1.270	Sweet potatoes, whole, fresh (intended for human consumption) 0714 20 10	88,20	657,11	804,13	60,25
2.30	Pineapples, fresh ex 0804 30 00	105,84	788,58	965,02	72,31

Code	Description	Amount of unit values per 100 kg			
	Species, varieties, CN code	EUR	DKK	SEK	GBP
2.40	Avocados, fresh ex 0804 40 00	112,31	836,79	1 024,02	76,73
2.50	Guavas and mangoes, fresh ex 0804 50 00	—	—	—	—
2.60	Sweet oranges, fresh:				
2.60.1	— Sanguines and semi-sanguines 0805 10 10	—	—	—	—
2.60.2	— Navels, navelines, navelates, salustianas, vernas, Valencia lates, Maltese, shamoutis, ovalis, trovita and hamlins 0805 10 30	—	—	—	—
2.60.3	— Others 0805 10 50	—	—	—	—
2.70	Mandarins (including tangerines and satsumas), fresh; clementines, wilkings and similar citrus hybrids, fresh:				
2.70.1	— Clementines ex 0805 20 10	—	—	—	—
2.70.2	— Monreales and satsumas ex 0805 20 30	—	—	—	—
2.70.3	— Mandarines and wilkings ex 0805 20 50	—	—	—	—
2.70.4	— Tangerines and others ex 0805 20 70 ex 0805 20 90	—	—	—	—
2.85	Limes (<i>Citrus aurantifolia</i> , <i>Citrus latifolia</i>), fresh 0805 50 90	92,53	689,38	843,62	63,21
2.90	Grapefruit, fresh:				
2.90.1	— white ex 0805 40 00	48,77	363,40	444,71	33,32
2.90.2	— pink ex 0805 40 00	53,71	400,18	489,72	36,69
2.100	Table grapes 0806 10 10	191,54	1 427,09	1 746,39	130,85
2.110	Water melons 0807 11 00	49,68	370,14	452,96	33,94
2.120	Melons (other than water melons):				
2.120.1	— Amarillo, cuper, honey dew (including cantalene), onteniente, piel de sapo (including verde liso), rochet, tendral, futuro ex 0807 19 00	47,53	354,16	433,39	32,47
2.120.2	— Other ex 0807 19 00	114,82	855,45	1 046,86	78,44
2.140	Pears				
2.140.1	— Pears — nashi (<i>Pyrus pyrifolia</i>), Pears — Ya (<i>Pyrus bretschneideri</i>) ex 0808 20 50	—	—	—	—
2.140.2	— Other ex 0808 20 50	—	—	—	—
2.150	Apricots 0809 10 00	107,76	802,88	982,52	73,62
2.160	Cherries 0809 20 95 0809 20 05	408,66	3 044,72	3 725,95	279,18

Code	Description	Amount of unit values per 100 kg			
	Species, varieties, CN code	EUR	DKK	SEK	GBP
2.170	Peaches 0809 30 90	155,76	1 160,50	1 420,16	106,41
2.180	Nectarines ex 0809 30 10	155,79	1 160,68	1 420,38	106,42
2.190	Plums 0809 40 05	132,69	988,64	1 209,84	90,65
2.200	Strawberries 0810 10 00	265,31	1 976,73	2 419,01	181,25
2.205	Raspberries 0810 20 10	304,95	2 272,03	2 780,38	208,33
2.210	Fruit of the species <i>Vaccinium myrtillus</i> 0810 40 30	1 265,61	9 429,43	11 539,20	864,60
2.220	Kiwi fruit (<i>Actinidia chinensis</i> Planch.) 0810 50 00	145,75	1 085,91	1 328,88	99,57
2.230	Pomegranates ex 0810 90 95	133,60	995,39	1 218,10	91,27
2.240	Khakis (including sharon fruit) ex 0810 90 95	225,58	1 680,70	2 056,74	154,11
2.250	Lychees ex 0810 90 30	—	—	—	—

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 4 February 2004

excluding from Community financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF)

(notified under document number C(2004) 194)

(Only the Spanish, Danish, German, Greek, English, French, Italian, Dutch, Finnish and Swedish texts are authentic)

(2004/136/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy ⁽¹⁾, and in particular Article 5(2)(c) thereof,

Having regard to Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy ⁽²⁾, and in particular Article 7(4) thereof,

Having consulted the Fund Committee,

Whereas:

(1) Article 5 of Regulation (EEC) No 729/70, Article 7 of Regulation (EC) No 1258/1999 and Article 8(1) and (2) of Commission Regulation (EC) No 1663/95 of 7 July 1995 laying down detailed rules for the application of Council Regulation (EEC) No 729/70 regarding the procedure for the clearance of the accounts of the EAGGF Guarantee Section ⁽³⁾ provide that the Commission is to carry out the necessary checks, forward its findings to the Member States, consider any comments from the latter, enter into bilateral discussions with a view to reaching an agreement with the Member States concerned and formally communicate its conclusions to them, referring to Commission Decision 94/442/EC of 1 July 1994 setting up a conciliation procedure in the

context of the clearance of the accounts of the European Agricultural Guidance and Guarantee Fund (EAGGF) Guarantee Section ⁽⁴⁾.

(2) The Member States have had an opportunity to request that a conciliation procedure be initiated. That procedure has been applied in some cases and the reports issued on the outcome have been examined by the Commission.

(3) Under Articles 2 and 3 of Regulation (EEC) No 729/70 and Article 2 of Regulation (EC) No 1258/1999, only refunds on exports to third countries and intervention to stabilise agricultural markets, respectively granted and undertaken according to Community rules within the framework of the common organisation of the agricultural markets, may be financed.

(4) In the light of the checks carried out, the outcome of the bilateral discussions and the conciliation procedures, part of the expenditure declared by the Member States does not fulfil these requirements and cannot, therefore, be financed under the EAGGF Guarantee Section.

(5) The amounts that are not recognised as being chargeable to the EAGGF Guarantee Section should be indicated. Those amounts do not relate to expenditure incurred more than 24 months before the Commission's written notification of the results of the checks to the Member States.

⁽¹⁾ OJ L 94, 28.4.1970, p. 13. Regulation as last amended by Regulation (EC) No 1287/95 (OJ L 125, 8.6.1995, p. 1).

⁽²⁾ OJ L 160, 26.6.1999, p. 103.

⁽³⁾ OJ L 158, 8.7.1995, p. 6. Regulation as last amended by Regulation (EC) No 2025/2001 (OJ L 274, 17.10.2001, p. 3).

⁽⁴⁾ OJ L 182, 16.7.1994, p. 45. Decision as last amended by Decision 2001/535/EC (OJ L 193, 17.7.2001, p. 25).

- (6) As regards the cases covered by this Decision, the assessment of the amounts to be excluded on grounds of non-compliance with Community rules was notified by the Commission to the Member States in a summary report on the subject.
- (7) This Decision is without prejudice to any financial conclusions that the Commission may draw from the judgments of the Court of Justice in cases pending on 30 October 2003 and relating to its content,

from Community financing because it does not comply with Community rules.

Article 2

This Decision is addressed to the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Finland and the United Kingdom of Great Britain and Northern Ireland.

HAS ADOPTED THIS DECISION:

Done at Brussels, 4 February 2004.

Article 1

The expenditure itemised in the Annex hereto that has been incurred by the Member States' accredited paying agencies and declared under the EAGGF Guarantee Section shall be excluded

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

Total corrections

Sector	Member State	Budget item	Reason	National currency	Expenditure to be excluded from funding	Deductions already made	Financial consequence of this decision	Financial year
Arable crops	BE	1040-1062	Flat-rate correction of 2 % for shortcomings in the ancillary controls	EUR	9 322 809,00		9 322 809,00	2000-2002
	Total BE				9 322 809,00	0,00	9 322 809,00	
Wine/tobacco	DE	164	Correction for non-compliance with the regulations on definitively abandoning vineyards	EUR	118 262,17		118 262,17	2001-2002
Arable crops	DE	1040-1062,1310	Flat-rate correction of 5 % for shortcomings in on-the-spot controls	EUR	7 378 659,00		7 378 659,00	2000-2002
	Total DE				7 496 921,17	0,00	7 496 921,17	
Livestock premiums	DK	2540, 2320	Flat-rate correction of 2 % for shortcoming in on-the-spot controls	DKK	46 131,00		46 131,00	2000-2001
	Total DK				46 131,00	0,00	46 131,00	
Fruit and vegetables	ES	1511	Correction for irregular grant of supplementary quotas and 10 % correction for shortcomings in the quality controls of the end products	EUR	8 704 853,00		8 704 853,00	1999-2002
Fruit and vegetables	ES	1515	Correction for non-compliance with the delivery schedule + shortcomings in risk analysis and controls (2 % and 5 %)	EUR	2 968 762,07		2 968 762,07	1998-2001
Olive oil	ES	1211, 1220	Part cancellation of Decision 97/608/EC of 30 July 1997 by the Court of Justice	EUR	- 444 180,44		- 444 180,44	1993
Financial audit	ES	2120, 2125	Amendment of the corrected amount in Decision 2003/364/EC of 15 May 2003	EUR	- 13 305,64		- 13 305,64	2002
	Total ES				11 216 128,99	0,00	11 216 128,99	
Arable crops	FI	1040-1060	Flat-rate correction of 5 % for shortcomings in the key controls	EUR	4 084 623,00		4 084 623,00	2000-2002
	Total FI				4 084 623,00	0,00	4 084 623,00	

Sector	Member State	Budget item	Reason	National currency	Expenditure to be excluded from funding	Deductions already made	Financial consequence of this decision	Financial year
Fruit and vegetables	FR	1511	Correction for irregular grant of supplementary quotas (aid for the processing of tomatoes)	EUR	215 061,00		215 061,00	2001
Livestock premiums	FR	2120-2128	Flat-rate corrections of 2 % and 5 % for shortcomings in the key and ancillary controls	EUR	90 911 142,65		90 911 142,65	2001-2002
	Total FR				91 126 203,65	0,00	91 126 203,65	
Fruit and vegetables	GR	1502	Flat-rate correction of 2 % for failings in the system for implementing controls	EUR	110 084,53		110 084,53	1999-2001
Milk/milk products	GR	2071	Partial cancellation of Decision 2001/137/EC of 5 February 2001 by the Court of Justice	EUR	– 142 099,50		– 142 099,50	1996
	Total GR				– 32 014,97	0,00	– 32 014,97	
Fruit and vegetables	IT	1515	Correction of 0,33 % for irregular application of the penalties in respect of the financial compensation for citrus processing	EUR	328 716,42		328 716,42	1999-2000
Public storage	IT	1013	Adjustment of the corrected amount in Decision 2002/881/EC of 5 November 2002	EUR	– 6 986,94		– 6 986,94	1998
Public storage	IT	1621-1624	Flat-rate correction of 10 % for non-compliance with Article 13(1) of Regulation (EC) No 3105/88 and Regulation (EC) No 2148/96: alcohol	EUR	6 551 550,45		6 551 550,45	2000-2001
Private storage	IT	2050	Correction for non-compliance with Article 8 of Regulation (EC) No 1255/1999: cheese	EUR	12 925 851,12		12 925 851,12	1999-2001
Rural development	IT	4051, 4072	Flat-rate corrections of 2 % and 5 % for failings in the management and control systems	EUR	226 559,00		226 559,00	2001-2002
	Total IT				20 025 690,05	0,00	20 025 690,05	
Financial audit	UK	3700	Correction of an amount already reimbursed: case of an irregularity — Decision 2003/481/EC of 27 June 2003	GBP	– 50 563,38		– 50 563,38	1995
	Total UK				– 50 563,38	0,00	– 50 563,38	

(Acts adopted pursuant to Title V of the Treaty on European Union)

COUNCIL COMMON POSITION 2004/137/CFSP
of 10 February 2004
concerning restrictive measures against Liberia and repealing Common Position 2001/357/CFSP

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS COMMON POSITION:

Having regard to the Treaty on European Union, and in particular Article 15 thereof,

Article 1

Whereas:

- (1) On 7 May 2001 the Council adopted Common Position 2001/357/CFSP⁽¹⁾ concerning restrictive measures against Liberia, so as to implement UN Security Council Resolution 1343 (2001).
 - (2) Common Position 2001/357/CFSP, as extended by Council Common Position 2002/457/CFSP⁽²⁾, was amended by Council Common Positions 2003/365/CFSP⁽³⁾, 2003/666/CFSP⁽⁴⁾ and 2003/771/CFSP⁽⁵⁾ so as to implement subsequent related UN Security Council Resolutions (UNSCRs).
 - (3) On 22 December 2003, the UN Security Council adopted Resolution 1521 (2003), which revised the Security Council's determination for action under Chapter VII by terminating the measures set out in UNSCR 1343 (2001) and related resolutions, and setting out revised measures to be imposed against Liberia.
 - (4) In order to implement these measures, financing or financial assistance related to military activities, which are not cited in UNSCR 1521 (2003), should also be prohibited.
 - (5) Action by the Community is needed in order to implement certain measures,
1. (a) Under the conditions set out in UNSCR 1521 (2003), the sale, supply, transfer or export of arms and related material of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned, to Liberia by nationals of Member States or from the territories of Member States or using their flag vessels or aircraft is prohibited, whether or not originating in their territories.
(b) It is also prohibited:
 - to grant, sell, supply or transfer technical assistance, brokering services and other services related to military activities and to the provision, manufacture, maintenance and use of items in subparagraph (a), directly or indirectly to any person, entity or body in, or for use in, Liberia,
 - to provide financing or financial assistance related to military activities, including in particular grants, loans and export credit insurance, for any sale, supply, transfer or export of items in subparagraph (a), directly or indirectly to any person, entity or body in, or for use in Liberia.
 2. Paragraph 1 shall not apply to:
 - (a) arms and related material and technical training and assistance intended solely for support of or use by the United Nations Mission in Liberia;
 - (b) arms and related material and technical training and assistance intended solely for support of or use in an international training and reform programme for the Liberian armed forces and police, as approved in advance by the Committee established by paragraph 21 of UNSCR 1521 (2003) (the Committee);

⁽¹⁾ OJ L 126, 8.5.2001 p. 1. Common Position as last amended by Common Position 2003/771/CFSP (OJ L 278, 29.10.2003, p. 50).

⁽²⁾ OJ L 155, 14.6.2002, p. 62.

⁽³⁾ OJ L 124, 20.5.2003, p. 49.

⁽⁴⁾ OJ L 235, 23.9.2003, p. 28.

⁽⁵⁾ OJ L 278, 29.10.2003, p. 50.

- (c) non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance or training, as approved in advance by the Committee;
- (d) protective clothing, including flak jackets and military helmets, temporarily exported to Liberia by United Nations personnel, representatives of the media and humanitarian and development workers and associated personnel, for their personal use only.

3. The supply, sale or transfer of arms and related material or the provision of services, referred to in paragraph 2(a), (b) and (c), shall be subject to an authorisation granted by the competent authorities of the Member States. Member States shall consider deliveries under paragraph 2(a), (b) and (c) on a case-by-case basis, taking full account of the criteria set out in the European Union code of conduct on arms exports. Member States shall require adequate safeguards against misuse of authorisation granted pursuant to this paragraph and, where appropriate, make provisions for repatriation of the delivered arms and related material.

4. For the purposes of this Common Position, 'technical assistance' shall mean any technical support related to repairs, development, manufacture, assembly, testing, maintenance or any other technical service, and may take forms such as instruction, advice, training, transmission of working knowledge or skills or consulting services. Technical assistance includes verbal forms of assistance.

Article 2

1. Under the conditions set out in UNSCR 1521 (2003), Member States shall take the necessary measures to prevent entry into, or transit through, their territories of the all individuals, designated by the Committee, who:

- (a) constitute a threat to the peace process in Liberia or are engaged in activities aimed at undermining peace and stability in Liberia and the subregion including those senior members of former President Charles Taylor's Government and their spouses and members of Liberia's former armed forces who retain links to former President Charles Taylor;
- (b) are in violation of the prohibition on the sale, supply, transfer or export of arms and related material of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned, or of the prohibition on the provision of technical training or assistance related to the provision, manufacture, maintenance or use of such items;
- (c) provide financial or military support to armed rebel groups in Liberia or in countries in the region or are associated with entities so doing.

2. Nothing in paragraph 1 shall oblige a State to refuse entry into its territory to its own nationals.

3. The measures in paragraph 1 shall continue to apply to the individuals already designated pursuant to paragraph 7(a) of UNSCR 1343 (2001), pending the designation of individuals by the Committee.

4. Paragraph 1 shall not apply where the Committee determines that such travel is justified on the grounds of humanitarian need, including religious obligation, or where the Committee concludes that an exemption would otherwise further the objectives of the UN Security Council's resolutions for the creation of peace, stability and democracy in Liberia and lasting peace in the subregion.

Article 3

The direct or indirect import of all rough diamonds from Liberia to the Community, whether or not such diamonds originated in Liberia, shall be prohibited under the conditions set out in UNSCR 1521 (2003).

Article 4

The import into the Community of all round logs and timber products originating in Liberia shall be prohibited, under the conditions set out in UNSCR 1521 (2003).

Article 5

This Common Position shall apply until 22 December 2004 unless the Council decides otherwise in accordance with any future relevant UN Security Council resolution.

Article 6

Common Position 2001/357/CFSP is hereby repealed.

Article 7

This Common Position shall take effect on the date of its adoption.

It shall be applicable from 22 December 2003.

Article 8

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

Done at Brussels, 10 February 2004.

For the Council

The President

C. MCCREEVY

CORRIGENDA**Corrigendum to Commission Regulation (EC) No 2231/2003 of 23 December 2003 opening tariff quotas for the year 2004 for imports into the European Community of certain products originating in the Czech Republic and Slovak Republic**

(Official Journal of the European Union L 339 of 24 December 2003)

On page 18, ex 1806 20 80 (TARIC code 1806 20 80 90):

- for:* 'Chocolate and other food preparations containing cocoa, other preparations in blocks, slaps or bars weighing more than 2 kg or in liquid, paste, powder, granular or other bulk form in containers or immediate packings of a content exceeding 2 kg, chocolate flavour coating, containing less than 70 % by weight of sucrose (including invert sugar expressed as sucrose)',
- read:* 'Chocolate and other food preparations containing cocoa, other preparations in blocks, slaps or bars weighing more than 2 kg or in liquid, paste, powder, granular or other bulk form in containers or immediate packings of a content exceeding 2 kg, chocolate flavour coating, containing 70 % or more by weight of sucrose (including invert sugar expressed as sucrose)'.
-