

Official Journal

of the European Union

L 311

English edition

Legislation

Volume 47

8 October 2004

Contents

I Acts whose publication is obligatory

- ★ **Council Regulation (EC) No 1736/2004 of 4 October 2004 imposing a definitive anti-dumping duty on imports of synthetic fibre ropes originating in India** 1
- Commission Regulation (EC) No 1737/2004 of 7 October 2004 establishing the standard import values for determining the entry price of certain fruit and vegetables 10
- Commission Regulation (EC) No 1738/2004 of 7 October 2004 fixing the representative prices and the additional import duties for molasses in the sugar sector applicable from 8 October 2004 12
- Commission Regulation (EC) No 1739/2004 of 7 October 2004 fixing the export refunds on white sugar and raw sugar exported in its unaltered state 14
- Commission Regulation (EC) No 1740/2004 of 7 October 2004 fixing the maximum export refund for white sugar to certain third countries for the 8th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1327/2004 16
- ★ **Commission Regulation (EC) No 1741/2004 of 7 October 2004 amending Regulation (EC) No 1291/2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products** 17
- ★ **Commission Regulation (EC) No 1742/2004 of 7 October 2004 amending Regulation (EEC) No 2235/92 laying down detailed rules for the application of the aid for the consumption of fresh milk products in the Canary Islands** 18
- ★ **Commission Regulation (EC) No 1743/2004 of 7 October 2004 opening and providing for the administration of an autonomous tariff quota for garlic from 1 September 2004** 19
- ★ **Commission Regulation (EC) No 1744/2004 of 7 October 2004 amending Regulation (EC) No 1490/2002 as regards the replacement of a rapporteur Member State ⁽¹⁾** 23
- ★ **Commission Regulation (EC) No 1745/2004 of 6 October 2004 prohibiting fishing for plaice by vessels flying the flag of Belgium** 24

⁽¹⁾ Text with EEA relevance

(Continued overleaf)

- ★ **Commission Regulation (EC) No 1746/2004 of 6 October 2004 repealing Regulation (EC) No 1502/2004 prohibiting fishing for plaice by vessels flying the flag of Belgium** 25

Commission Regulation (EC) No 1747/2004 of 7 October 2004 concerning tenders notified in response to the invitation to tender for the export of oats issued in Regulation (EC) No 1565/2004 26

II *Acts whose publication is not obligatory*

Council

2004/680/EC:

- ★ **Council Decision of 24 September 2004 concluding consultations with Guinea-Bissau under Article 96 of the ACP-EC Partnership Agreement** 27

2004/681/EC:

- ★ **Council Decision of 24 September 2004 amending Decision 2001/131/EC concluding the consultation procedure with Haiti under Article 96 of the ACP-EC Partnership Agreement** 30

Commission

2004/682/EC:

- ★ **Commission Decision of 9 September 2004 on the allocation of additional days absent from port to Denmark and the United Kingdom in accordance with Annex V to Council Regulation (EC) No 2287/2003 (notified under document number C(2004) 3407)** 32

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1736/2004**of 4 October 2004****imposing a definitive anti-dumping duty on imports of synthetic fibre ropes originating in India**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 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 11(2) thereof,

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

Whereas:

A. PREVIOUS INVESTIGATION

- (1) By Regulation (EC) No 1312/98⁽²⁾, the Council imposed definitive anti-dumping measures on imports of synthetic fibre ropes (SFR) originating in India.

B. PRESENT INVESTIGATION

- (2) Following the publication of a notice of impending expiry⁽³⁾ of the anti-dumping measures in force, the Commission received a request for an expiry review lodged by the Liaison Committee of EU Twine, Cordage and Netting industries (Eurocord) on behalf of ten producers, together representing a major proportion (53 %) of the total Community production of synthetic fibre ropes. The request alleged that injurious dumping of imports originating in India would be likely to recur if the measures expired.

- (3) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of a review, the Commission initiated an investigation⁽⁴⁾ pursuant to Article 11(2) of the basic Regulation.

- (4) The investigation into the likelihood of a continuation or recurrence of dumping covered the period from 1 July 2002 to 30 June 2003 (IP). The examination of trends relevant for the assessment of a likelihood of a continuation or recurrence of injury covered the period from 1 January 2000 up to the end of the IP (the period considered).

- (5) The Commission officially advised the applicant Community producers, the other Community producers, the exporters and exporting producers in India, importers/traders, users and suppliers of raw materials which were known to be concerned, of the initiation of the review.

- (6) The Commission requested information from all the abovementioned parties and from those other parties who made themselves known within the time limit set in the notice of initiation. The Commission also gave the parties directly concerned the opportunity to make their views known in writing and to request a hearing.

- (7) In particular, the Commission sent questionnaires to all parties known to be concerned, i.e. to four exporting producers located in India, six unrelated importers/traders located in the EU, 11 suppliers of raw materials in the EU and 23 users in the EU. No answer to the questionnaire was received from these interested parties.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

⁽²⁾ OJ L 183, 26.6.1998, p. 1.

⁽³⁾ OJ C 240, 5.10.2002, p. 2.

⁽⁴⁾ OJ C 149, 26.6.2003, p. 12.

- (8) In addition, the Commission sent questionnaires to five Community industry companies, which had been chosen as a representative sample of the Community producers supporting the request for this expiry review, and information was also requested from 11 non-complainant Community producers. All the five sampled companies replied to the questionnaire, whereas none of the non-complainant producers replied.
- (9) The Commission sought and verified all the information it deemed necessary for the purpose of the determination of the likelihood of continuation or recurrence of dumping and injury and for the determination of the Community interest. Verification visits were carried out at the premises of the following Community producers:
- Bexco NV (Belgium),
 - Companhia Industrial de Cerdas Artificiais, SA — Cerfil (Portugal),
 - Companhia Industrial Têxtil, SA — Cordex (Portugal),
 - Companhia de Têxteis Sintéticos, SA — Cotesi (Portugal),
 - Cordoaria Oliveira, SA (Portugal).

C. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

- (10) The product concerned is the same as that in the investigation which led to the imposition of the measures currently in force on imports of synthetic fibre ropes from India (the original investigation) and is defined as follows: twine, cordage, ropes and cables, whether or not plaited or braided and whether or not impregnated, coated, covered or sheathed with rubber or plastics, of polyethylene or polypropylene, other than binder and baler twine, measuring more than 50 000 decitex (5 g/m), as well as of other synthetic fibres of nylon or other polyamides or of polyesters, measuring more than 50 000 decitex (5 g/m). It is currently classifiable within CN codes 5607 49 11, 5607 49 19, 5607 50 11 and 5607 50 19. The product concerned is used for a wide variety of naval and industrial applications, in particular for shipping (especially for mooring purposes), and the fishing industry.
- #### 2. Like product
- (11) As shown in the previous investigation, and as confirmed in the present investigation, it has been established that the product concerned and the synthetic fibre ropes produced and sold by the Indian exporting producers on their domestic market as well as those produced and sold by the Community producers in the Community are in all respects identical and share

therefore the same basic physical and chemical characteristics. Therefore they are considered to be like products within the meaning of Article 1(4) of the basic Regulation.

- (12) One interested party has claimed that synthetic fibre ropes produced and sold by Indian exporting producers and those manufactured by the Community producers are not identical in all respects, as some quality differences exist between the two types of products.
- (13) The fact that the product concerned imported from India has some quality differences compared to the product manufactured by the Community industry does not exclude the products from being considered as 'like', in so far as they share the same basic physical, technical and chemical characteristics or closely resemble each other.
- (14) Furthermore, in the current investigation, and in the investigation which led to the imposition of the measures in force, it was found that synthetic fibre ropes manufactured by the Community industry and those susceptible of being exported from India are in competition with each other. The argument is therefore rejected.

D. LIKELIHOOD OF RECURRENCE OF DUMPING

- (15) In accordance with Article 11(2) of the basic Regulation, it was examined whether the expiry of measures would be likely to lead to a recurrence of dumping. In the absence of cooperation from any of the Indian exporting producers, this examination had to be based on information available to the Commission from other sources.

1. Preliminary remarks

- (16) Of the four Indian exporting producers named in the request for an expiry review, one stated at the beginning of the investigation that it had not exported the product concerned to the Community during the IP. The Commission services advised the company that it should nevertheless supply the remaining information requested in the questionnaire, which the company declined to do. Another company also stated that it had no exports to the Community during the IP, but only after the deadline for submission of the questionnaire reply had elapsed. A third company stated that it had not exported to the Community during the IP, and furthermore that it had ceased activity and therefore could not reply to the questionnaire. All companies in question were duly advised that failure to cooperate may result in the finding being based on facts available in accordance with Article 18 of the basic Regulation.

- (17) Given that none of the Indian exporting producers replied to the questionnaire of the Commission services, use was made, in accordance with the provisions of Article 18 of the basic Regulation, of the facts available, including those submitted by the Community industry in its request for an expiry review.
- (18) Imports of the product concerned from India dropped to insignificant levels subsequent to the imposition of anti-dumping duties in 1998. During the IP, these imports were less than 20 tonnes per year, i.e. less than 0,1 % of Community consumption.
- (19) In the absence of significant exports to the Community market, it was examined how imports of SFR from India would develop should the measures be allowed to expire. This analysis covered both export prices and volume.

2. Dumping of imports during the investigation period

- (20) It is recalled that, in the original investigation, dumping margins of 53,0 % for the cooperating company and 82,0 % for the remaining exporting producers were established. The elimination of such levels of dumping would therefore have required a substantial increase in export prices, or a diminution of the normal value, in the period since the original measures were imposed.
- (21) The normal values in the original investigation were, for the most part, based on the domestic prices in the Indian market, as reported by the cooperating company. The information contained in the request for an expiry review indicates that those prices have decreased by between 10 % and 20 % in the five years subsequent to the original investigation. It is therefore concluded that, in the absence of cooperation by Indian exporters of the product concerned, normal value has also decreased by similar percentages in the five years subsequent to the original investigation.
- (22) According to Indian export statistics, the average prices for Indian exports to all countries, of the two product groupings concerned, i.e. those classifiable under CN subheadings 5607 49 and 5607 50, declined respectively by 46 % and 51 % between 1997/98 and 2002/2003. Similar price declines over this period can be observed for each of the main markets for the Indian exports, such as Norway and the United States of America, when taken separately. Those declines are more pronounced than that of the normal value, as mentioned in recital 21, and therefore any dumping practices at the time of the

original investigation are unlikely to have been reversed. In addition, Indian normal value of some types of the product concerned during the IP was higher than prices on the EU market during that period. It is likely, therefore, that in the event of resumption of exports by Indian exporters to the EU, these exports would be priced below the normal value, i.e. at dumped prices, at least for some types of the product concerned.

- (23) More detailed calculations per tariff code, submitted by the Community industry for Indian exports to the United States of America and Norway, during the IP, take into consideration the differences in prices and normal values between different types of synthetic fibre ropes. These calculations indicate that Indian exports to third countries are still dumped at margins between 53,4 % and 222,2 %.
- (24) In the absence of exports and of cooperation by Indian exporters of the product concerned in the investigation, the level of dumping during the IP has not been established. However, on the basis of the significant decrease in Indian export prices to other third countries in the five years subsequent to the original investigation combined with a smaller decrease in domestic prices over the same period, it is considered that the level of dumping of the product concerned to the Community during the IP would likely have been at a higher level than that found in the original investigation.

3. Development of imports should measures be repealed

- (a) *Export sales to other countries (volume and prices) and prices on the Indian market*
- (25) Overall, the Indian exports to other countries have increased during the five years since the original investigation. According to Indian export statistics, the volume of exports of the products classifiable under CN subheadings 5607 49 and 5607 50, the majority of which consist of the product concerned, increased by 104 % between 1997/98 and 2002/2003.
- (26) The observed export prices from India to third country export markets are 17 % to 61 % lower than the Community industry prices. This suggests that Indian exporters would have a potentially large incentive to shift their exports to the Community market, should the measures be allowed to lapse.

(b) *Spare capacity and investments*

- (27) As for production capacity, the one exporting producer who cooperated in the original investigation appears to have only slightly increased its capacity over the last five years. There is publicly available information, however, that indicates that some of the other major producers in India have increased their capacity more significantly, or intend to do so in the near future. In the request for an expiry review, the Community industry estimates that the total capacity of the Indian producers is above 110 000 tonnes, well above the current production level of about 40 000 tonnes and representing about 275 % of Community consumption. In the absence of cooperation from the Indian producers and more reliable information, this would indicate that a large excess capacity is available indicating a likelihood of a resumption of exports to the Community should measures lapse.
- (28) No information was available to the Commission on recent or planned investments by Indian exporters with a bearing on production capacity.

(c) *Circumvention/absorption practices in the past*

- (29) It is argued by the Community industry that, at the same time as the exports of the products subject to measures, under CN heading 5607 (Twine, cordage, rope or cables...) came to a halt, exports of products under CN heading 5609 (Articles of ... twine, cordage, rope or cables...) increased sharply, from 200 tonnes to 800 tonnes between 1997 and 2002, while their average price decreased from EUR 2,51 to EUR 1,58 per tonne. Articles exported under CN heading 5609 are produced by the same industry as, and can be very similar to, the products subject to measures, to the point of raising problems of customs classification and inspection. This issue has been raised with the European Commission, the national customs authorities of Italy and those of the United Kingdom by the Community industry. As a result, some cases of wrong classification have been confirmed and steps have been taken by the EU Customs Administrations in order to avoid possible resulting circumventions of the existing anti-dumping measures.
- (30) Independently of the alleged circumvention, this behaviour can be taken as indication that the Indian export producers have a significant interest in entering the Community market.

4. Conclusion on the likelihood of a recurrence of dumping

- (31) The facts available to the Commission in the absence of cooperation from Indian exporting producers indicates that exports to third countries are still made at dumped prices, with dumping margins at higher levels than those found in the original investigation. The fact

that average export prices have decreased faster than normal values, indicates that the dumping behaviour of Indian exporters has not ceased after 1997 but, if anything, has been accentuated on third country markets.

- (32) The indications that Indian producers that keep a strategic interest in the European market, together with the huge spare capacity available, make it likely that they would resume exports to the Community in significant quantities should the measures lapse. Taking into account the facts available on the pricing behaviour of the Indian exporters on third country markets, on the decrease of normal value and the fact that the normal value of certain types of the product concerned is higher than prices on the EU market, it is highly probable that a resumption of exports would be at dumped prices. It is therefore concluded that the expiry of measures is likely to lead to a recurrence of dumped exports.

E. DEFINITION OF THE COMMUNITY INDUSTRY AND SAMPLING

- (33) Ten Community producers on whose behalf the request for an expiry review was lodged by Eurocord cooperated in the investigation. During the course of the investigation, it became apparent that data provided by one Community producer were unreliable and the company was declared as non-cooperating according to Article 18(1) of the basic Regulation. Consequently this Community producer was excluded from the definition of the Community industry. The nine remaining companies account for 53 % of the Community production of SFR in the IP and therefore constitute the Community industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation.
- (34) In view of the large number of Community producers supporting the request for an expiry review, and in conformity with Article 17 of the basic Regulation, the Commission decided to carry out its investigation on the basis of a sample of Community producers. The sample was selected on the basis of the largest representative production and sales volume that could reasonably be investigated within the time available.
- (35) As previously mentioned in recital 8, five companies were initially selected for the sample, based on their production and sales volumes as submitted after initiation. For the reasons mentioned in recital 33, one Community producer which was disregarded as part of the Community industry had also to be taken out of the sample. The remaining four sampled companies cover 66 % of production and 62 % of sales of the Community industry composed of the nine complaining companies as indicated in recital 33. The final sample consisted of the following companies, all located in Portugal:

— Companhia Industrial de Cerdas Artificiais, SA — (Cerfil),

— Companhia Industrial Têxtil, SA — (Cordex),

— Companhia de Têxteis Sintéticos, SA — (Cotesi),

— Cordoaria Oliveira, SA.

- (36) In the previous investigation the sample which was also established on the basis of production and sales volumes consisted of eight companies. With the exception of Cerfil, all the abovementioned companies formed part of the sample in the previous investigation.

F. SITUATION ON THE COMMUNITY MARKET

1. Consumption in the Community market

- (37) Apparent Community consumption of SFR was established on the basis of sales volumes of the Community industry and of other Community producers on the Community market plus imports from India and other third countries into the Community, as based on Eurostat.
- (38) Between 2000 and the IP, the apparent Community consumption decreased by 9,4 % from 39 825 tonnes in 2000 to 36 093 tonnes in the IP. One of the main reasons for the drop in consumption relates to a decline in demand for SFR by the fishing net industry which is a result of a reduction of fishing quotas in the Community. These fishing quotas have gradually been reduced in the period considered from approximately 4,99 million tonnes in 2000 to 4,12 million tonnes in 2003, i.e. by almost 17,4 %.

2. Imports from India

- (39) After measures have been imposed in 1998, imports originating in India declined substantially and they were negligible throughout the period considered, with a market share below 0,1 %.

3. Imports from other third countries

- (40) Imports from other third countries have increased throughout the period considered, by 44 % (i.e. from 8 280 tonnes in 2000 to 11 893 in the IP). This represents an increase in market share from 20,8 % in 2000 to 33,0 % in the IP. The most important exporting countries in the IP were the acceding countries Czech

Republic, Poland, Hungary, followed by the People's Republic of China and Tunisia. Average prices from the mentioned countries declined from EUR 3,3/kg to EUR 2,8/kg over the period considered.

4. Economic situation of the Community industry

Preliminary remarks

- (41) Since the original investigation, several complaining companies have completely stopped their activities and closed down, e.g. Ostend Stores (Belgium), Brindon Marine (UK), Irish Ropes (Ireland), Lima (Portugal) and Carlmark (Sweden).
- (42) All injury indicators listed by Article 3(5) of the basic Regulation have been analysed in respect of the sampled companies. In addition, some of these injury indicators (i.e. production, sales, market shares, employment and productivity), have also been analysed in respect of the Community industry and not only in respect of the four sampled companies.

Data relating to the Community industry as a whole

- (43) In line with the decline in Community consumption, the sales volume of the Community industry on the Community market decreased over the period considered, although not by the same magnitude. Whereas Community consumption went down by 9,4 %, the sales volume of the Community industry declined from 16 587 tonnes in 2000 to 15 457 tonnes in the IP, i.e. by 6,8 %.
- (44) Production of the like product by the Community industry decreased during the period considered, by 3,9 %, from 18 782 tonnes in 2000 to 18 053 tonnes in the IP.
- (45) Given the fact that the decline in consumption in the Community was more pronounced than the decline in sales of the Community industry between the years 2000 and the IP, the market shares of the Community industry improved slightly, from 41,6 % in 2000 to 42,8 % in the IP.
- (46) The employment situation of the Community industry deteriorated during the period considered, as there were 1 076 persons employed in 2000 compared to 992 persons in the IP. However, at the same time productivity, measured as production per year per employee, improved from 17 454 kg to 18 194 kg during the same period.

Data relating to the sampled Community producers

(a) *Production, production capacity and capacity utilisation*

- (47) Whereas the production capacity remained stable over the period considered, the production volume of the sampled companies decreased slightly by 1,7 % from 12 136 tonnes in 2000 to 11 928 tonnes in the IP leading to a slight decline in the capacity utilisation from 87 % in 2000 to 85 % in the IP.

(b) *Stocks*

- (48) Regarding stocks, SFR producers keep, in general, the levels of their stocks below 10 % of the production volume as most of the production is made upon demand. Nevertheless, during the period considered, average stocks showed a negative tendency, increasing by 18 %, from 853 tonnes in 2000 to 1 007 tonnes in the IP.

(c) *Sales volume and market share*

- (49) Sales volumes declined by 7,5 %, from 10 484 tonnes in 2000 to 9 699 tonnes in the IP. However, as in the case of the Community industry as a whole, the market share of the sampled companies improved, rising slightly from 26,3 % in 2000 to 26,9 % in the IP.

(d) *Sales prices, factors affecting Community prices and profitability*

- (50) Average prices of the like product sold in the Community remained unchanged at EUR 2,2/kg throughout the period considered. Notwithstanding the stable price level, the pre-tax profit margin dropped significantly, from 9,8 % of turnover in 2000 to 0,7 % in the IP, mainly as a result of increased average costs.
- (51) The main factors which caused these stagnating prices were, on the one hand, the deteriorated demand situation and, on the other hand, the impossibility, due to strong competition on the market, to raise the price level to the level before measures were put in place in 1998 when injurious dumping from India occurred.

(e) *Investments and ability to raise capital*

- (52) Despite the negative development of the above injury indicators, investments increased, from EUR 809 432 in 2000 to EUR 1 768 029 in the IP, i.e. by 118,4 %. The sampled companies did not report any difficulties in accessing new capital.

(f) *Return on investments*

- (53) In line with the negative profitability trend, the return on investments deteriorated from 12 % in 2000 to 3 % in the IP.

(g) *Cash flow*

- (54) Among the characteristics of this industry are its capital intensiveness and consequent high depreciation amounts which have a direct impact on cash flow. Throughout the period considered cash flows remained positive, albeit declining from EUR 4,66 million in 2000 to EUR 2,23 million in the IP.

(h) *Employment, productivity and labour costs*

- (55) As shown in the analysis of the Community industry as a whole, the employment situation also deteriorated in the case of the four sampled companies. Employment declined by 7,1 %, from 747 employees in 2000 to 694 in the IP. Productivity per employee improved by 5,8 % during the period considered. The improvement in productivity has to be seen as a result of the investments made in high technology rope-making machines during the period considered.
- (56) While the number of employees in the sampled companies diminished between the year 2000 and the IP, total labour costs developed in the opposite direction by increasing from EUR 4,49 million to EUR 4,84 million, i.e. by 7,8 %.

Magnitude of the dumping margin

- (57) Due to the fact that imports of the product concerned from India during the IP were negligible, no dumping margin could be established.

Recovery from past dumping

- (58) It was analysed whether the Community industry is still in the process of recovering from the effects of past dumping. It was concluded that in view of the various negative economic indicators examined relating to the Community industry as a whole and to the sampled Community producers, it is likely that the situation of Community industry, albeit partly improving, has still not fully recovered from the injurious effects of past dumping.

Conclusion on the situation on the Community market

- (59) Despite the fact that effective anti-dumping duties against imports from India are in place, the Community industry finds itself in a still vulnerable situation, albeit some indicators show an improvement in comparison with the original definitive findings (i.e. profitability) and some others show a significant positive evolution (i.e. market share, investments and productivity).

- (60) With the exception of market shares and investments, which increased, and production capacity, average prices and the ability to raise capital, which remained stable, all other injury indicators showed a negative development. Those factors which have been analysed for both the whole Community industry and for the sampled companies show similar trends.
- (61) The negative development of the industry described above cannot, in view of the effective duties in place, be attributed to the imports from India. Instead the cause of the weak financial situation of the Community industry can be attributed to (i) the declining demand situation resulting mainly from the reduction of the European fishing fleet and the decrease of fishing quotas, (ii) the remarkable increase of imports from and market shares of countries other than India (mainly from acceding countries) with a corresponding loss of sales volumes by the Community industry, (iii) prices which have never reached the pre-dumping levels due to the strong competition on the market resulting from the increase in imports from countries other than India and (iv) the downward trend in the economy as a whole as from the year 2001.
- (62) On the other hand, it was found that the profitability of the Community industry followed a less favourable trend during the period considered in the original investigation (i.e. from January 1993 to May 1997) than during the period considered in this review. This indicates a relative improvement of the situation of the Community industry after duties have been imposed.
- (63) As far as the viability of the Community industry in general is concerned, one important element are investments. Investments have more than doubled during the period considered indicating that the industry still considers itself as viable. Furthermore, the improved productivity and the increase in market share of the Community industry demonstrates that despite the fierce competition exerted by other third countries, the Community industry managed not only to maintain, but also to slightly strengthen its position on the Community market.
- (65) As already indicated, in case the anti-dumping measures expired, dumping would resume for imports of the product concerned from India. In particular, in case anti-dumping measures expired there are clear indications that the volume of dumped imports into the Community would considerably increase due to the huge spare capacity held by Indian producers. As explained in recital 27, Indian exporting producers hold a spare capacity of approximately 70 000 tonnes, i.e. almost twice the size of the Community market in the IP (36 093 tonnes).
- (66) An analysis of exports made at allegedly dumped prices by Indian exporters to third countries (United States of America and Norway) shows clear indications that the price of Indian exports, if they resumed into the Community, would undercut the Community industry's prices. Indeed, pursuant to official trade statistics in the United States of America and Norway, the weighted average export price of the product concerned was EUR 1,73/kg in the case of exports to the United States of America and EUR 1,70/kg in the case of exports to Norway. These average prices would undercut the Community industry's average price for the like product by 21 % and 22 %, respectively.
- (67) The Community industry is still in a difficult situation, in particular as regards its profitability which markedly improved just after the imposition of the measures under consideration, but significantly deteriorated again thereafter, due to causes already explained in recital 51.
- (68) On the basis of the above, it is concluded that in case the measures are allowed to expire, there is a likelihood of a recurrence of injury from renewed imports of the product concerned from India.

H. COMMUNITY INTEREST

1. Preliminary remarks

G. LIKELIHOOD OF RECURRENCE OF INJURY

- (64) With regard to the likely effect on the situation of the Community industry of the expiry of the measures in force, a number of factors were taken into account in line with the elements summarised in recitals 31 and 32.
- (69) In accordance with Article 21 of the basic Regulation, it was examined whether a prolongation of the existing anti-dumping measures would be against the interest of the Community as a whole. This analysis was based on an examination of all the various interests involved, i.e. those of the Community industry, other Community producers, the importers/traders as well as the users and raw material suppliers of the product concerned.

(70) It should be recalled that, in the previous investigation, the adoption of measures was considered not to be against the interest of the Community. The present review therefore permits an analysis as to whether, following the introduction of the measures, the Community interest has been adversely affected by the introduction of these measures.

(71) On this basis, it was examined whether, despite the likelihood of a recurrence of injurious dumping should measures expire, compelling reasons exist which would lead to conclude that it is not in the Community interest to maintain existing measures in this particular case.

2. Interests of the Community industry

(72) In spite of the negative evolution of the financial situation of the Community industry during the period considered, this latter is structurally viable as it was able to maintain its substantial market share. Furthermore, the Community industry considers itself as viable as demonstrated by the sharp increase in its investments during the period considered. In view of the conclusions on the situation of the Community industry set out at recitals 59 to 61, especially in terms of the industry's extremely low level of profitability, and pursuant to arguments mentioned under section G, it is considered that in the absence of measures, the Community industry is likely to experience a worsening of its financial situation. Given the expected volumes and prices of imports of the product concerned from India subsequent to an expiry of the measures, the Community industry would be put at further risk, creating a decline in its market shares, depressing its prices and provoking an evolution of its profitability akin to the negative levels found during the period considered in the original investigation. Hence, it is concluded that the maintenance of existing measures would not be against the interest of the Community industry.

3. Interest of other producers

(73) The Commission requested information from 11 non-complainant producers in the Community. No answer to the questionnaire was received.

(74) Taking into account the likely quantities and prices of the product concerned which would be exported from India to the Community if measures expired, non-complainant producers of the like product would also see their market share and economic situation deteriorated.

(75) In these circumstances, and in the absence of any contrary indications, it is concluded that the continuation of measures would not negatively affect the non-complainant Community producers.

4. Interest of unrelated importers/traders and suppliers of raw materials

(76) The Commission sent questionnaires to six unrelated importers/traders and to 11 suppliers of raw materials.

(77) Only one of the six unrelated importers/traders, whose purchases of the product concerned during the IP represented 0,07 % of the Community consumption, submitted some arguments against the continuation of the duties. However, this company did not provide any information or evidence relating to the impact that the imposition of the measures in force has had on its business nor did it properly assess to what extent the continuation of the duties would prejudice its position as importer. The other five unrelated importers did not submit any comment or information.

(78) On the other hand, one supplier of raw materials expressly supported the continuation of the measures.

(79) In these circumstances, it is concluded that the continuation of measures would not negatively affect the unrelated importers/traders and the suppliers of raw materials.

5. Interest of users

(80) The Commission sent questionnaires to 23 users of the product concerned, mainly consisting of fishing and shipping industries. No user submitted a complete questionnaire reply. One user objected to the continuation of the measures, but did not further substantiate its position.

(81) Due to the almost total absence of cooperation by users, and to the fact that the impact of duties is negligible compared to the main costs incurred by the users' industry (i.e. depreciation of the vessels, fuel, insurance, labour and maintenance), it is concluded that the continuation of measures will not have a negative impact on such users.

6. Conclusion

(82) The effects of the continuation of measures can be expected to assist the Community industry to improve profitability, with consequent beneficial effects on the competitive conditions on the Community market and the reduction of the threat of further closures and reductions in employment. The beneficial effects are also expected to assist the Community producers to take full advantage of the investments made in recent years, to continue developing new products of higher technology for new and specialised applications.

- (83) Given the above conclusions on the impact of the continuation of the measures on the different players on the Community market, it is concluded that the continuation of measures is not against the Community interest.

I. ANTI-DUMPING MEASURES

- (84) All parties concerned were informed of the essential facts and considerations on the basis of which it is intended to recommend the maintenance of existing measures in their present form. They were also granted a period to make representations subsequent to this disclosure, but none made representations which would have justified altering the above findings.
- (85) It follows from the above that, as provided for by Article 11(2) of the basic Regulation, the anti-dumping duties imposed by Regulation (EC) No 1312/98 should be maintained,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of twine, cordage, ropes and cables, whether or not plaited or braided and whether or not impregnated, coated, covered or sheathed with rubber or plastics, of polyethylene or polypropylene, other than binder and baler twine,

measuring more than 50 000 decitex (5 g/m), as well as of other synthetic fibres of nylon or other polyamides or of polyesters, measuring more than 50 000 decitex (5 g/m) originating in India and classifiable within CN codes 5607 49 11, 5607 49 19, 5607 50 11 and 5607 50 19.

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

Products manufactured by

— Garware Wall Ropes Ltd: 53,0 % (additional TARIC code 8755),

— other manufacturers: 82,0 % (additional TARIC code 8900).

Article 2

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

Article 3

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 Luxembourg, 4 October 2004.

For the Council

The President

A. J. DE GEUS

COMMISSION REGULATION (EC) No 1737/2004**of 7 October 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 8 October 2004.

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

Done at Brussels, 7 October 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 Commission Regulation of 7 October 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	60,7
	999	60,7
0707 00 05	052	79,2
	999	79,2
0709 90 70	052	84,9
	999	84,9
0805 50 10	052	63,5
	388	65,4
	524	40,6
	528	43,5
	999	53,3
0806 10 10	052	85,0
	624	85,8
	999	85,4
0808 10 20, 0808 10 50, 0808 10 90	052	85,9
	388	92,7
	400	91,8
	508	97,6
	512	110,5
	800	155,5
	804	89,4
0808 20 50	999	103,3
	052	98,2
	388	83,7
	999	91,0

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 1738/2004**of 7 October 2004****fixing the representative prices and the additional import duties for molasses in the sugar sector
applicable from 8 October 2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the market in sugar ⁽¹⁾, and in particular Article 24(4) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1422/95 of 23 June 1995 laying down detailed rules of application for imports of molasses in the sugar sector and amending Regulation (EEC) No 785/68 ⁽²⁾, stipulates that the cif import price for molasses established in accordance with Commission Regulation (EEC) No 785/68 ⁽³⁾, is to be considered the representative price. That price is fixed for the standard quality defined in Article 1 of Regulation (EEC) No 785/68.
- (2) For the purpose of fixing the representative prices, account must be taken of all the information provided for in Article 3 of Regulation (EEC) No 785/68, except in the cases provided for in Article 4 of that Regulation and those prices should be fixed, where appropriate, in accordance with the method provided for in Article 7 of that Regulation.
- (3) Prices not referring to the standard quality should be adjusted upwards or downwards, according to the

quality of the molasses offered, in accordance with Article 6 of Regulation (EEC) No 785/68.

- (4) Where there is a difference between the trigger price for the product concerned and the representative price, additional import duties should be fixed under the terms laid down in Article 3 of Regulation (EC) No 1422/95. Should the import duties be suspended pursuant to Article 5 of Regulation (EC) No 1422/95, specific amounts for these duties should be fixed.
- (5) The representative prices and additional import duties for the products concerned should be fixed in accordance with Articles 1(2) and 3(1) of Regulation (EC) No 1422/95.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 8 October 2004.

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

Done at Brussels, 7 October 2004.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

⁽¹⁾ OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

⁽²⁾ OJ L 141, 24.6.1995, p. 12. Regulation as amended by Regulation (EC) No 79/2003 (OJ L 13, 18.1.2003, p. 4).

⁽³⁾ OJ L 145, 27.6.1968, p. 12. Regulation as amended by Regulation (EC) No 1422/95 (OJ L 141, 24.6.1995, p. 12).

ANNEX

Representative prices and additional duties for imports of molasses in the sugar sector applicable from 8 October 2004

(EUR)

CN code	Amount of the representative price in 100 kg net of the product in question	Amount of the additional duty in 100 kg net of the product in question	Amount of the duty to be applied to imports in 100 kg net of the product in question because of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 ⁽¹⁾
1703 10 00 ⁽²⁾	8,65	—	0
1703 90 00 ⁽²⁾	10,10	—	0

⁽¹⁾ This amount replaces, in accordance with Article 5 of Regulation (EC) No 1422/95, the rate of the Common Customs Tariff duty fixed for these products.

⁽²⁾ For the standard quality as defined in Article 1 of amended Regulation (EEC) No 785/68.

COMMISSION REGULATION (EC) No 1739/2004**of 7 October 2004****fixing the export refunds on white sugar and raw sugar exported in its unaltered state**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) Article 27 of Regulation (EC) No 1260/2001 provides that the difference between quotations or prices on the world market for the products listed in Article 1(1)(a) of that Regulation and prices for those products within the Community may be covered by an export refund.
- (2) Regulation (EC) No 1260/2001 provides that when refunds on white and raw sugar, undenatured and exported in its unaltered state, are being fixed account must be taken of the situation on the Community and world markets in sugar and in particular of the price and cost factors set out in Article 28 of that Regulation. The same Article provides that the economic aspect of the proposed exports should also be taken into account.
- (3) The refund on raw sugar must be fixed in respect of the standard quality. The latter is defined in Annex I, point II, to Regulation (EC) No 1260/2001. Furthermore, this refund should be fixed in accordance with Article 28(4) of that Regulation. Candy sugar is defined in Commission Regulation (EC) No 2135/95 of 7 September 1995 laying down detailed rules of application for the grant of export refunds in the sugar sector⁽²⁾. The refund thus calculated for sugar containing added flavouring or colouring matter must apply to their sucrose content and, accordingly, be fixed per 1 % of the said content.
- (4) In special cases, the amount of the refund may be fixed by other legal instruments.

- (5) The refund must be fixed every two weeks. It may be altered in the intervening period.
- (6) The first subparagraph of Article 27(5) of Regulation (EC) No 1260/2001 provides that refunds on the products referred to in Article 1 of that Regulation may vary according to destination, where the world market situation or the specific requirements of certain markets make this necessary.
- (7) The significant and rapid increase in preferential imports of sugar from the western Balkan countries since the start of 2001 and in exports of sugar to those countries from the Community seems to be highly artificial.
- (8) To prevent any abuse through the re-import into the Community of sugar products in receipt of an export refund, no refund should be set for all the countries of the western Balkans for the products covered by this Regulation.
- (9) In view of the above and of the present situation on the market in sugar, and in particular of the quotations or prices for sugar within the Community and on the world market, refunds should be set at the appropriate amounts.
- (10) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1(1)(a) of Regulation (EC) No 1260/2001, undenatured and exported in the natural state, are hereby fixed to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 8 October 2004.

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

Done at Brussels, 7 October 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

⁽²⁾ OJ L 214, 8.9.1995, p. 16.

ANNEX

**REFUNDS ON WHITE SUGAR AND RAW SUGAR EXPORTED WITHOUT FURTHER PROCESSING
APPLICABLE FROM 8 OCTOBER 2004**

Product code	Destination	Unit of measurement	Amount of refund
1701 11 90 9100	S00	EUR/100 kg	38,89 ⁽¹⁾
1701 11 90 9910	S00	EUR/100 kg	38,85 ⁽¹⁾
1701 12 90 9100	S00	EUR/100 kg	38,89 ⁽¹⁾
1701 12 90 9910	S00	EUR/100 kg	38,85 ⁽¹⁾
1701 91 00 9000	S00	EUR/1 % of sucrose × 100 kg product net	0,4228
1701 99 10 9100	S00	EUR/100 kg	42,28
1701 99 10 9910	S00	EUR/100 kg	42,24
1701 99 10 9950	S00	EUR/100 kg	42,24
1701 99 90 9100	S00	EUR/1 % of sucrose × 100 kg of net product	0,4228

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

The numeric destination codes are set out in Commission Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11).

The other destinations are:

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

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

COMMISSION REGULATION (EC) No 1740/2004**of 7 October 2004****fixing the maximum export refund for white sugar to certain third countries for the 8th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1327/2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector⁽¹⁾ and in particular the second indent of Article 27(5) thereof,

Whereas:

(1) Commission Regulation (EC) No 1327/2004 of 19 July 2004^{3rd} on a standing invitation to tender to determine levies and/or refunds on exports of white sugar⁽²⁾, for the 2004/2005 marketing year, requires partial invitations to tender to be issued for the export of this sugar to certain third countries.

(2) Pursuant to Article 9(1) of Regulation (EC) No 1327/2004 a maximum export refund shall be fixed,

as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question.

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 8th partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1327/2004 the maximum amount of the export refund shall be 45,375 EUR/100 kg.

Article 2

This Regulation shall enter into force on 8 October 2004.

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

Done at Brussels, 7 October 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

⁽²⁾ OJ L 246, 20.7.2004, p. 23.

COMMISSION REGULATION (EC) No 1741/2004**of 7 October 2004****amending Regulation (EC) No 1291/2000 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, and in particular Article 26(3) thereof, and the corresponding provisions of the other Regulations on the common organisation of the markets in agricultural products,

Whereas:

- (1) When import licences are used to determine the preferential import duty under tariff quotas, there is a danger that forged licences may be used, in particular in cases where there is a large difference between the full duty and the reduced or zero duty. To reduce this danger of fraud, there should be a mechanism for verifying the authenticity of the licences submitted.
- (2) Commission Regulation (EC) No 1291/2000 ⁽²⁾ should therefore be amended accordingly.

- (3) The measures provided for in this Regulation are in accordance with the opinions of all Management Committees concerned,

HAS ADOPTED THIS REGULATION:

Article 1

The following paragraph 5 is added to Article 50 of Regulation (EC) No 1291/2000:

‘5. The customs office accepting the declaration of release for free circulation shall keep a copy of the licence or extract presented giving entitlement to a preferential arrangement. On the basis of a risk analysis, copies of at least 1 % of licences presented, and at least two licences per year and per customs office, shall be sent to the issuing bodies indicated on the licences so that their authenticity can be verified. This subparagraph shall not apply to electronic licences or licences for which another means of verification is laid down by Community rules.’

Article 2

This Regulation shall enter into force on the first day of the third month 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, 7 October 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).

⁽²⁾ OJ L 152, 24.6.2000, p. 1. Regulation as last amended by Regulation (EC) No 636/2004 (OJ L 100, 6.4.2004, p. 25).

COMMISSION REGULATION (EC) No 1742/2004**of 7 October 2004****amending Regulation (EEC) No 2235/92 laying down detailed rules for the application of the aid for the consumption of fresh milk products in the Canary Islands**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1454/2001 of 28 June 2001 introducing specific measures for certain agricultural products for the Canary Islands and repealing Regulation (EEC) No 1601/92 (Poseican)⁽¹⁾, and in particular Article 8(2) thereof,

Whereas:

- (1) Article 1(1) of Commission Regulation (EEC) No 2235/92⁽²⁾ provides that the aid for the human consumption of fresh cows' milk products produced in the Canary Islands shall be paid, subject to the limit of 44 000 tonnes of whole milk, for a period of twelve months.
- (2) The latest assessment provided for by the Spanish authorities indicates that the consumption limit of 44 000

tonnes is likely to be exceeded in the near future. Consequently, this limit should be increased to 50 000 tonnes.

- (3) Regulation (EEC) No 2235/92 should therefore be amended accordingly.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 1(1) of Regulation (EEC) No 2235/92, '44 000 tonnes' is hereby replaced by '50 000 tonnes'.

Article 2

This Regulation shall enter into force on the seventh 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, 7 October 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 198, 21.7.2001, p. 45. Regulation as last amended by Regulation (EC) No 1782/2003 (OJ L 270, 21.10.2003, p. 1).

⁽²⁾ OJ L 218, 1.8.1992, p. 105. Regulation as last amended by Regulation (EC) No 1400/98 (OJ L 187, 1.7.1998, p. 54).

COMMISSION REGULATION (EC) No 1743/2004**of 7 October 2004****opening and providing for the administration of an autonomous tariff quota for garlic from
1 September 2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

providing for the administration of an autonomous quota for garlic ⁽³⁾.

Having regard to the Treaty establishing the European Community,

(4) The new quota must be transitional and may not prejudice the outcome of the negotiations under way in the context of the World Trade Organisation (WTO) as a result of the accession of new members.

Having regard to the Treaty of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia,

(5) The Management Committee for fresh Fruit and Vegetables has not delivered an opinion within the time limit set by its chairman,

Having regard to the Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, and in particular the first paragraph of Article 41 thereof,

HAS ADOPTED THIS REGULATION:

Whereas:

Article 1

(1) Commission Regulation (EC) No 565/2002 ⁽¹⁾ establishes the method for managing tariff quotas and introduces a system of certificates of origin for garlic imported from third countries.

1. An autonomous tariff quota of 4 400 tonnes, (bearing serial number 09.4108), hereinafter the 'autonomous quota', shall be opened from 1 September 2004 for Community imports of fresh or chilled garlic falling within CN code 0703 20 00.

(2) Commission Regulation (EC) No 228/2004 of 3 February 2004 laying down transitional measures applicable to Regulation (EC) No 565/2002 by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia ⁽²⁾ adopts measures allowing importers from these countries to benefit from Regulation (EC) No 565/2002. The aim of these measures is to make a distinction between traditional importers and new importers in the new Member States, and to adapt the concept of the reference quantity so that these importers can benefit from this system.

2. The *ad valorem* duty applicable to products imported under the autonomous quota shall be 9,6 %.

Article 2

Regulations (EC) No 565/2002 and (EC) No 228/2004 shall apply to the management of the autonomous quota, subject to the provisions of this Regulation.

However, Articles 1, 5(5) and 6(1) of Regulation (EC) No 565/2002 shall not apply to the management of the autonomous quota.

Article 3

Import licences issued under the autonomous quota, hereinafter 'licences', shall be valid until 31 March 2005.

Box 24 of the licences shall show one of the entries listed in Annex I.

(3) To ensure uninterrupted supplies to the enlarged Community market while taking account of the economic supply conditions in the new Member States prior to accession, an autonomous and temporary import tariff quota should be opened for fresh or chilled garlic falling within CN code 0703 20 00. This new quota is in addition to the one opened by Commission Regulation (EC) No 1077/2004 of 7 June 2004 opening and

⁽¹⁾ OJ L 86, 3.4.2002, p. 11. Regulation as last amended by Regulation (EC) No 537/2004 (OJ L 86, 24.3.2004, p. 9).

⁽²⁾ OJ L 39, 11.2.2004, p. 10.

⁽³⁾ OJ L 203, 8.6.2004, p. 7.

Article 4

1. Importers may submit licence applications to the competent authorities of the Member States in the five working days following the date of entry into force of this Regulation.

Box 20 of the licences shall show one of the entries listed in Annex II.

2. Licence applications submitted by a single importer may not relate to a quantity exceeding 10 % of the autonomous quota.

Article 5

The autonomous quota shall be allocated as follows:

- 70 % to traditional importers,
- 30 % to new importers.

If the quantity allocated to one of the categories of importers is not used in full, the balance may be allocated to the other category.

Article 6

1. The Member States shall notify the Commission, on the seventh working day following the entry into force of this Regulation, of the quantities for which licence applications have been made.

2. Licences shall be issued on the twelfth working day following the entry into force of this Regulation, unless the Commission has taken special measures under paragraph 3 of this Article.

3. If the Commission finds, on the basis of the information notified under paragraph 1 of this Article, that licence applications exceed the quantities available for a category of importers under Article 5 of this Regulation, it shall adopt, by means of a regulation, a single reduction percentage for the applications in question.

Article 7

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

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

Done at Brussels, 7 October 2004.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

ENTRIES REFERRED TO IN ARTICLE 3

- *in Spanish*: Certificado expedido en virtud del Reglamento (CE) n.º 1743/2004 y válido únicamente hasta el 31 de marzo de 2005.
 - *in Czech*: licence vydaná na základě nařízení (ES) č. 1743/2004 a platná pouze do 31. března 2005.
 - *in Danish*: licens udstedt i henhold til forordning (EF) nr. 1743/2004 og kun gyldig til den 31. marts 2005.
 - *in German*: Lizenz gemäß der Verordnung (EG) Nr. 1743/2004 erteilt und nur bis zum 31. März 2005 gültig.
 - *in Estonian*: litsents on välja antud määruse (EÜ) nr 1743/2004 alusel ja kehtib ainult 31. märtsini 2005.
 - *in Greek*: Το πιστοποιητικό εκδόθηκε βάσει του κανονισμού (ΕΚ) αριθ. 1743/2004 και ισχύει μόνο μέχρι τις 31 Μαρτίου 2005.
 - *in English*: licence issued under Regulation (EC) No 1743/2004 and valid only until 31 March 2005.
 - *in French*: certificat émis au titre du règlement (CE) n.º 1743/2004 et valable seulement jusqu'au 31 mars 2005.
 - *in Italian*: domanda di titolo presentata ai sensi del regolamento (CE) n. 1743/2004 e valida soltanto fino al 31 marzo 2005.
 - *in Latvian*: atļauja, kas izdota saskaņā ar Regulu (EK) Nr. 1743/2004 un ir derīga tikai līdz 2005. gada 31. martam.
 - *in Lithuanian*: licencija, išduota pagal Reglamento (EB) Nr. 1743/2004 nuostatas, galiojanti tik iki 2005 m. kovo 31 d.
 - *in Hungarian*: a 1743/2004/EK rendelet alkalmazásában kiállított, 2005. március 31-ig érvényes engedély.
 - *in Dutch*: overeenkomstig Verordening (EG) nr. 1743/2004 afgegeven certificaat dat slechts tot en met 31 maart 2005 geldig is.
 - *in Polish*: pozwolenie wydane zgodnie z rozporządzeniem (WE) nr 1743/2004 i ważne wyłącznie do 31 marca 2005 r.
 - *in Portuguese*: certificado emitido a título do Regulamento (CE) n.º 1743/2004 e eficaz somente até 31 de Março de 2005.
 - *in Slovak*: licencia vydaná na základe nariadenia (ES) č. 1743/2004 a platná len do 31. marca 2005.
 - *in Slovene*: dovoljenje, izdano v skladu z Uredbo (ES) št. 1743/2004 in veljavno samo do 31. marca 2005.
 - *in Finnish*: asetuksen (EY) N:o 1743/2004 mukaisesti annettu todistus, joka on voimassa ainoastaan 31 päivään maaliskuuta 2005.
 - *in Swedish*: Licens utfärdad i enlighet med förordning (EG) nr 1743/2004, giltig endast till och med den 31 mars 2005.
-

ANNEX II

ENTRIES REFERRED TO IN ARTICLE 4(1)

- in Spanish: Solicitud de certificado presentada al amparo del Reglamento (CE) n° 1743/2004.
 - in Czech: žádost o licenci podaná na základě nařízení (ES) č. 1743/2004.
 - in Danish: licensansøgning i henhold til forordning (EF) nr. 1743/2004.
 - in German: Lizenzantrag gemäß der Verordnung (EG) Nr. 1743/2004.
 - in Estonian: määruse (EÜ) nr 1743/2004 kohaselt esitatud litsentsitaotlus.
 - in Greek: Αίτηση χορήγησης πιστοποιητικού υποβληθείσα βάσει του κανονισμού (ΕΚ) αριθ. 1743/2004.
 - in English: licence application made under Regulation (EC) No 1743/2004.
 - in French: demande de certificat faite au titre du règlement (CE) n° 1743/2004.
 - in Italian: domanda di titolo presentata ai sensi del regolamento (CE) n. 1743/2004.
 - in Latvian: prasymas išduoti licenciā pagal Reglamentu (EB) Nr. 1743/2004.
 - in Lithuanian: atlaugas pieteikums saskaņā ar Regulu (EK) Nr. 1743/2004.
 - in Hungarian: a 1743/2004/EK rendeletnek megfelelően kiállított engedélykérelem.
 - in Dutch: overeenkomstig Verordening (EG) nr. 1743/2004 ingediende certificaataanvraag.
 - in Polish: wniosek o pozwolenie przedłożony zgodnie z rozporządzeniem (WE) nr 1743/2004
 - in Portuguese: pedido de certificado apresentado a título do Regulamento (CE) n.º 1743/2004.
 - in Slovak: žiadosť o licenciu na základe nariadenia (ES) č. 1743/2004.
 - in Slovene: zahtevek za dovoljenje, vložen v skladu z Uredbo (ES) št. 1743/2004
 - in Finnish: asetuksen (EY) N:o 1743/2004 mukainen todistushakemus.
 - in Swedish: Licensansökan enligt förordning (EG) nr 1743/2004.
-

COMMISSION REGULATION (EC) No 1744/2004**of 7 October 2004****amending Regulation (EC) No 1490/2002 as regards the replacement of a rapporteur Member State****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market⁽¹⁾, and in particular the second subparagraph of Article 8(2) thereof,

Whereas:

- (1) In accordance with Directive 91/414/EEC, the Commission is to undertake a programme of work for the gradual examination of the active substances on the market two years after the date of notification of that Directive.
- (2) The third stage of the work programme is provided for in Commission Regulations (EC) No 451/2000⁽²⁾ and (EC) No 1490/2002⁽³⁾.
- (3) Article 10(3) of Regulation (EC) No 1490/2002 refers to the possibility to reassign a substance to another Member State, if the rapporteur Member State is unable to comply with the time limit for the submission of the draft assessment report to the European Food Safety Authority.
- (4) France has informed the Commission that it will be unable to submit the draft assessment report for the substance Teflubenzuron within the time period provided for in Article 10(1) of that Regulation. The

United Kingdom has indicated its willingness to become rapporteur Member State for this active substance. Sufficient time has to be provided for the new rapporteur Member State to prepare a draft assessment report and consequently this substance should be moved from part A to part B of Annex I.

- (5) Regulation (EC) No 1490/2002 should therefore be amended accordingly.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 1490/2002 is amended as follows:

1. In part A, the entry for Teflubenzuron is deleted
2. In part B the following entry is inserted in alphabetical order:
'Teflubenzuron – United Kingdom – BAS-BE'.

Article 2

This Regulation shall enter into force on the seventh 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, 7 October 2004.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2004/71/EC (OJ L 127, 29.4.2004, p. 104).

⁽²⁾ OJ L 55, 29.2.2000, p. 25. Regulation as last amended by Regulation (EC) No 1044/2003 (OJ L 151, 19.6.2003, p. 32).

⁽³⁾ OJ L 224, 21.8.2002, p. 23. Regulation as amended by Regulation (EC) No 1044/2003.

COMMISSION REGULATION (EC) No 1745/2004
of 6 October 2004
prohibiting fishing for plaice by vessels flying the flag of Belgium

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy⁽¹⁾, and in particular Article 21(3) thereof,

Whereas:

- (1) Council Regulation (EC) No 2287/2003 of 19 December 2003 fixing for 2004 the fishing opportunities and associated fishing conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where limitations in catch are required, lays down quotas for plaice for 2004⁽²⁾.
- (2) In order to ensure compliance with the provisions relating to the quantity limits on catches of stocks subject to quotas, the Commission must fix the date by which catches made by vessels flying the flag of a Member State are deemed to have exhausted the quota allocated.
- (3) According to the information received by the Commission, catches of plaice in the waters of ICES

division VIIa by vessels flying the flag of Belgium or registered in Belgium have exhausted the quota for 2004. Belgium has prohibited fishing for this stock from 1 September 2004. This date should be adopted in this Regulation also,

HAS ADOPTED THIS REGULATION:

Article 1

Catches of plaice in the waters of ICES division VIIa by vessels flying the flag of Belgium or registered in Belgium are hereby deemed to have exhausted the quota allocated to Belgium for 2004.

Fishing for plaice in the waters of ICES division VIIa by vessels flying the flag of Belgium or registered in Belgium is hereby prohibited, as are the retention on board, transshipment and landing of this stock caught by the above vessels after the date of application of this Regulation.

Article 2

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

It shall apply from 1 September 2004.

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

Done at Brussels, 6 October 2004.

For the Commission

Jörgen HOLMQUIST

Director-General for Fisheries

⁽¹⁾ OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 1954/2003 (OJ L 289, 7.11.2003, p. 1).

⁽²⁾ OJ L 344, 31.12.2003, p. 1.

COMMISSION REGULATION (EC) No 1746/2004**of 6 October 2004****repealing Regulation (EC) No 1502/2004 prohibiting fishing for plaice by vessels flying the flag of Belgium**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy⁽¹⁾, and in particular Article 21(3) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1502/2004⁽²⁾ prohibits fishing for plaice in the waters of ICES subarea VII f, g by vessels flying the flag of Belgium or registered in Belgium.
- (2) Following a transfer of fishing opportunities, the quota available for Belgium is no longer exhausted. Consequently, fishing for plaice in the waters of ICES sub-

area VII f, g by vessels flying the flag of Belgium or registered in Belgium should be authorised. Regulation (EC) No 1502/2004 should therefore be repealed,

HAS ADOPTED THIS REGULATION:

Article 1

Commission Regulation (EC) No 1502/2004 is hereby repealed.

Article 2

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

It shall apply from 1 October 2004.

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

Done at Brussels, 6 October 2004.

For the Commission

Jörgen HOLMQUIST

Director-General for Fisheries

⁽¹⁾ OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 1954/2003 (OJ L 289, 7.11.2003, p. 1).

⁽²⁾ OJ L 275, 25.8.2004, p. 13.

COMMISSION REGULATION (EC) No 1747/2004**of 7 October 2004****concerning tenders notified in response to the invitation to tender for the export of oats issued in Regulation (EC) No 1565/2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals⁽¹⁾, and in particular Article 7 thereof,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals⁽²⁾, and in particular Article 7 thereof,

Having regard to Commission Regulation (EC) No 1565/2004 of 3 September 2004 on a special intervention measure for cereals in Finland and Sweden for the 2004/2005 marketing year⁽³⁾,

Whereas:

- (1) An invitation to tender for the refund for the export of oats produced in Finland and Sweden for export from

Finland and Sweden to all third countries, with the exception of Bulgaria, Norway, Romania and Switzerland was opened pursuant to Regulation (EC) No 1565/2004.

- (2) On the basis of the criteria laid down in Article 1 of Regulation (EC) No 1501/95, a maximum refund should not be fixed.
- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

No action shall be taken on the tenders notified from 1 to 7 October 2004 in response to the invitation to tender for the refund for the export of oats issued in Regulation (EC) No 1565/2004.

Article 2

This Regulation shall enter into force on 8 October 2004.

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

Done at Brussels, 7 October 2004.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 147, 30.6.1995, p. 7. Regulation as last amended by Regulation (EC) No 1431/2003 (OJ L 203, 12.8.2003, p. 16).

⁽³⁾ OJ L 285, 4.9.2004, p. 3.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 24 September 2004

concluding consultations with Guinea-Bissau under Article 96 of the ACP-EC Partnership Agreement

(2004/680/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Partnership agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 (ACP-EC Partnership Agreement)⁽¹⁾, and in particular Article 96 thereof,

Having regard to the Internal Agreement between the representatives of the governments of the Member States, meeting within the Council, on measures to be taken and procedures to be followed for the implementation of the ACP-EC Partnership Agreement⁽²⁾, and in particular Article 3 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The essential elements cited in Article 9 of the ACP-EC Partnership Agreement were violated by the military coup of 14 September 2003 in Guinea-Bissau, as condemned by the European Union in a statement of 18 September 2003.
- (2) Pursuant to Article 96 of the ACP-EC Partnership Agreement, consultations were held on 19 January 2004 with the ACP countries and Guinea-Bissau, at which Guinea-Bissau's authorities gave specific undertakings aimed at remedying the problems set out by the European Union and to be implemented during a period of intensive dialogue lasting three months.

- (3) At the end of this period, a number of practical measures regarding essential elements of the ACP-EC Partnership Agreement were found to have resulted from the above undertakings; nevertheless, certain important measures specially concerning consolidation of public finances have still not been adequately implemented in practice,

HAS DECIDED AS FOLLOWS:

Article 1

Consultations with the Republic of Guinea-Bissau pursuant to Article 96 of the ACP-EC Partnership Agreement are hereby concluded.

Article 2

The measures specified in the attached draft letter are hereby adopted as appropriate steps within the meaning of Article 96(2)(c) of the ACP-EC Partnership Agreement.

Article 3

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

It shall apply until 11 October 2005.

Done at Brussels, 24 September 2004.

For the Council

The President

L. J. BRINKHORST

⁽¹⁾ OJ L 317, 15.12.2000, p. 3.

⁽²⁾ OJ L 317, 15.12.2000, p. 376.

ANNEX

Draft letter

Sir,

The European Union places great importance on the provisions of Article 9 of the ACP-EC Partnership Agreement. The ACP-EC partnership is founded on respect for human rights, democratic principles and the rule of law; these are essential elements of the above agreement, and thus form the basis for relations between us.

In this spirit the European Union, in its statement of 18 September 2003, roundly condemned the military coup of 14 September 2003.

The Council of the European Union therefore decided on 19 December 2003 to invite Guinea-Bissau's authorities to enter into consultations with a view to a thorough examination of the situation and finding ways of remedying it.

These consultations took place in Brussels on 19 January 2004 in a positive atmosphere. Several fundamental questions were addressed, and the Prime Minister of the transitional government was able to present the point of view of Guinea-Bissau's authorities and their analysis of the situation. The European Union took note of the Prime Minister's commitments to:

- confirm the transition programme of the government of the Republic of Guinea-Bissau, and in particular its plans for a general election,
- adopt measures to consolidate public finances,
- confirm progress towards a return to an independent judiciary and the restoration of civilian control over the armed forces.

It was also agreed that an intensive dialogue would be held in Guinea-Bissau over a period of three months on the various points raised, and that the situation would be assessed at the end of this period.

This regular and intensive dialogue has been held in Guinea-Bissau. It focused on a series of measures intended to fulfil the undertakings given.

A number of significant measures have been taken by the authorities of Guinea-Bissau. In particular, we note that:

- a fair, free and transparent general election was held on 28 and 30 March 2004,
- progress has been made towards a return to an independent judiciary with the appointment of a public prosecutor and the election of the supreme court president,
- an emergency economic programme was adopted,
- a census of government employees is being carried out.

These initiatives are definitely signs of the country's social and political stabilisation. There nevertheless remain issues of concern, especially with regard to the consolidation of public finances, and in particular public accounting, the collection of customs revenue and the payment of the majority of government employees.

The European Union attaches particular importance to the following measures to consolidate public finances:

- continuing implementation of the emergency economic programme adopted by the transitional government,
- the continuation of the current census of government employees,
- the adoption of corrective measures in the matter of public finances, including audits of the financial control system, public procurement and government revenue,
- the repayment of Community budgetary support following the 2003 audit into the use of resources,
- the submission of the conclusions of the government auditors' 2003 report on government revenue,
- the continuation of administrative and judicial proceedings against officials of the government preceding the transition period who committed irregularities or fraud.

In the wake of the consultations, it was decided by way of appropriate measures within the meaning of Article 96(2)(c) of the ACP-EC Partnership Agreement, to normalise relations and continue cooperation while monitoring progress made in the areas of public finances, the return to an independent judiciary, the restoration of civilian control over the armed forces and the pursuit of the electoral timetable with the presidential elections. Conditions should be provided in time to ensure that the Presidential elections are transparent and genuinely democratic. The European Union shall regularly monitor progress made in the above areas.

The European Union is ready to further a close political dialogue with your democratically elected government and to help consolidate democracy in your country.

I have the honour to be, Sir, yours faithfully,

For the Council

For the Commission

COUNCIL DECISION
of 24 September 2004
amending Decision 2001/131/EC concluding the consultation procedure with Haiti under Article 96
of the ACP-EC Partnership Agreement

(2004/681/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 ⁽¹⁾ (the ACP-EC Partnership Agreement), and in particular Article 96 thereof,

Having regard to the Internal Agreement between the representatives of the governments of the Member States, meeting within the Council, on measures to be taken and procedures to be followed for the implementation of the ACP-EC Partnership Agreement ⁽²⁾, and in particular Article 3 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) On the basis of Decision 2001/131/EC ⁽³⁾, the provision of financial aid to Haiti is partially suspended as 'appropriate measures' pursuant to Article 96(2)(c) of the ACP-EC Partnership Agreement.
- (2) Decision 2003/916/EC expires on 31 December 2004 and requires a review of the measures within six months.
- (3) On 12 May 2004 discussions have taken place between the Commission and the Interim Prime Minister of Haiti to take stock of the political agenda of the Interim Government in relation to the restoration of full democratic and constitutional rule, including the election timetable, with due respect for human rights and fundamental freedom.

- (4) By letter of 25 May 2004, the Interim Prime Minister of Haiti confirmed the specific commitments of the Haitian Interim Government to comply with the essential elements of Article 9 of the ACP-EC Partnership Agreement, particularly as regards the human rights situation, democratic principles and the rule of law in view of the return of the country to full constitutional and democratic rule,

HAS DECIDED AS FOLLOWS:

Article 1

Decision 2001/131/EC is hereby amended as follows:

1. In the second and third paragraphs of Article 3, the date of 31 December 2004 shall be replaced by '31 December 2005'.
2. The Annex shall be replaced by the text appearing in the Annex to this Decision.

Article 2

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

Done at Brussels, 24 September 2004.

For the Council
The President

L. J. BRINKHORST

⁽¹⁾ OJ L 317, 15.12.2000, p. 3. Agreement as amended by Decision No 1/2003 (OJ L 141, 7.6.2003, p. 25).

⁽²⁾ OJ L 317, 15.12.2000, p. 376.

⁽³⁾ OJ L 48, 17.2.2001, p. 31. Decision as last amended by Decision 2003/916/EC (OJ L 345, 31.12.2003, p. 156).

ANNEX

'ANNEX

Letter to be addressed to the Government of Haiti

Dear Sir,

The European Union attaches great importance to the provisions of Article 9 of the ACP-EC Partnership Agreement. The ACP-EC Partnership is founded on respect for human rights, democratic principles and the rule of law. These are essential elements of the above Agreement and thus form the basis for relations between us.

In this respect, the European Union has followed closely the recent transition in Haiti, especially as regards the designation of the new Interim Government of Haiti, which was sworn in on 17 March 2004 following an extensive consultation process based on the CARICOM/OAS plan.

On 12 May 2004, discussions took place in Brussels between you and the Commission of the European Communities with a view to examining the political agenda of the Interim Government in relation to the restoration of democratic and constitutional rule. The European Union took note of your commitments particularly as regards the improvements of the human rights situation, the establishment of democratic principles including the holding of free and fair elections, the rule of law and good governance, as stated in your letter of 25 May 2004 to the Commission. Those commitments should lead in due course to greater political stability in Haiti. The European Union strongly urges the Interim Government to translate these commitments rapidly into concrete actions to ensure that the democratisation process becomes an integral part of the Haitian political, economic and social life, thereby ensuring compliance with Article 9 of the ACP-EC Partnership Agreement.

In the light of these elements, the Council of the European Union reviewed its decision of 22 December 2003 and decided to review the appropriate measures referred to in Article 96(2)(c) of the ACP-EC Partnership Agreement as follows:

1. the redirection of the remaining funds under the eighth European Development Fund (EDF) to programmes that are of direct benefit to the Haitian people, to strengthen civil society and the private sector, and to support democratisation, the strengthening of the rule of law and the electoral process, will be continued and can also include actions determined as short and medium term priorities in the Interim Cooperation Framework (ICF) established in close cooperation between the Interim Government, civil society and major donors, particularly institutional support;
2. the allocation of resources under the ninth EDF will be notified upon publication of this Decision in the *Official Journal of the European Union*;
3. discussions on the programming of the ninth EDF resources will start immediately with the National Authorising Officer in view of the preparation of the Country Strategy Paper (CSP) and the National Indicative Programme (NIP). The strategy will take account of the results of the ICF;
4. B-envelope could be used in advance of the signature of the 9th EDF CSP/NIP, according to real needs;
5. the signature of the NIP is foreseen following national elections respecting the OAS Resolution 822 and accepted as free and fair by the competent Haitian institutions and by the International Community. It is noted that national elections are expected by mid-2005 at the latest;
6. contribution to regional projects, operations of a humanitarian nature and trade cooperation are not affected.

All the above measures shall be reviewed regularly and at least within six months.

It is essential for the success of the cooperation to ensure a strengthened absorptive capacity for aid, which is currently lacking, through good governance and aid management capacity building measures. The modalities of implementation will be those adapted to the country's capacity for adequate management of public finances.

The European Union will follow closely further developments in the democratisation process, in particular in relation to the achievement of the commitments of the Interim Government and the steps towards local, national and presidential elections. The Union reiterates its readiness to continue enhanced political dialogue with the Haitian Interim Government under Article 8 of the ACP-EC Partnership Agreement.

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

For the Commission
For the Council
The President'

COMMISSION

COMMISSION DECISION

of 9 September 2004

on the allocation of additional days absent from port to Denmark and the United Kingdom in accordance with Annex V to Council Regulation (EC) No 2287/2003

(notified under document number C(2004) 3407)

(Only the Danish and English texts are authentic)

(2004/682/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

basis of the achieved results of decommissioning programmes since 1 January 2002 for fishing vessels affected by the provisions of that Annex.

Having regard to the Treaty establishing the European Community,

(3) Denmark and United Kingdom have submitted data on the decommissioning in 2002 and 2003 of fishing vessels carrying on board demersal trawls, seines or similar towed gears of mesh size equal to or greater than 100 mm except beam trawls.

Having regard to Council Regulation (EC) No 2287/2003 of 19 December 2003 fixing for 2004 the fishing opportunities and associated conditions for certain fish stocks and groups of stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required⁽¹⁾, and in particular paragraph 6(c) of Annex V,

(4) The United Kingdom has submitted data on the decommissioning in 2002 and 2003 of fishing vessels carrying on board beam trawls of mesh size equal to or greater than 80 mm.

Whereas:

(5) In the view of the data submitted, an additional number of days should be allocated to Denmark and the United Kingdom for fishing vessels carrying on board such fishing gears defined in paragraph 4(a) and (b) of Annex V to Regulation (EC) No 2287/2003,

(1) Paragraph 6(a) of Annex V to Regulation (EC) No 2287/2003 specifies the number of days on which certain Community fishing vessels may be absent from port in the geographical areas defined in paragraph 2 of that Annex from 1 February 2004 to 31 December 2004.

HAS ADOPTED THIS DECISION:

Article 1

The following additional days, in relation to those set out in point 6(a) of Annex V to Regulation (EC) No 2287/2003, shall be allocated in each calendar month for vessels carrying on board demersal trawls, seines or similar towed gears of mesh size equal to or greater than 100 mm except beam trawls as follows:

(2) Paragraph 6(c) of that Annex enables the Commission to allocate an additional number of days on which a vessel may be absent from port while carrying on board any of the gears defined in paragraph 4 of that Annex on the

(a) Denmark: three days,

(b) United Kingdom: five days.

⁽¹⁾ OJ L 344, 31.12.2003, p. 1. Regulation as last amended by Commission Regulation (EC) No 1645/2004 (OJ L 296, 21.9.2004, p. 3).

Article 2

Two additional days, in relation to those set out in point 6(a) of Annex V to Regulation (EC) No 2287/2003, shall be allocated to the United Kingdom in each calendar for vessels carrying on board beam trawls of mesh size equal or greater than 80 mm.

Article 3

This Decision is addressed to the Kingdom of Denmark and the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 9 September 2004.

For the Commission

Franz FISCHLER

Member of the Commission
