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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 778/2005**of 23 May 2005****imposing a definitive anti-dumping duty on imports of magnesium oxide originating in the People's Republic of China**

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. MEASURES IN FORCE

- (1) Following an expiry review, the Council imposed by Regulation (EC) No 1334/1999 ⁽²⁾ definitive anti-dumping measures on imports of magnesium oxide (product concerned) originating in the People's Republic of China (the PRC). These measures took the form of a minimum import price. Following an interim review, by Regulation (EC) No 985/2003 ⁽³⁾, the Council amended the form of the anti-dumping measures in force by maintaining the minimum price but subject to specific conditions and imposing an ad valorem duty of 27,1 % in all other cases.
- (2) It should be noted that the original measures were imposed by Council Regulation (EC) No 1473/93 ⁽⁴⁾ (original investigation).

B. PRESENT INVESTIGATION

- (3) Following the publication of a notice of the impending expiry of the anti-dumping measures in force on imports of magnesium oxide originating in the PRC ⁽⁵⁾, the Commission's services received a request for an expiry review pursuant to Article 11(2) of the basic Regulation. The request was lodged on 9 March 2004 by Eurométaux (the applicant) on behalf of producers representing a major proportion, in this case, 96 % of the total Community production of magnesium oxide. The request alleged that the expiry of measures would be likely to result in a continuation or recurrence of dumping and injury to the Community industry.
- (4) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of a review, the Commission's services announced the initiation of an expiry review ⁽⁶⁾, pursuant to Article 11(2) of the basic Regulation and commenced an investigation.

⁽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 159, 25.6.1999, p. 1. Regulation as amended by Regulation (EC) No 985/2003 (OJ L 143, 11.6.2003, p. 1).

⁽³⁾ OJ L 143, 11.6.2003, p. 1.

⁽⁴⁾ OJ L 145, 17.6.1993, p. 1.

⁽⁵⁾ OJ C 230, 26.9.2003, p. 2.

⁽⁶⁾ OJ C 138, 18.5.2004, p. 2.

- (5) The Commission's services officially advised the applicant Community producers, the other Community producer supporting the complaint, the exporting producers in the PRC, importers/traders, user industries known to be concerned, as well as the representatives of the Chinese Government of the initiation of the review. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.
- (6) The Commission's services sent questionnaires to all parties known to be concerned and to those who requested a questionnaire within the time limit set out in the notice of initiation.
- (7) In view of the apparent high number of exporting producers in the PRC and importers of the product concerned, sampling was envisaged in the notice of initiation, in accordance with Article 17 of the basic Regulation. In order to be able to decide whether sampling would be necessary and, if so, to select a sample, the Commission's services sent out sampling questionnaires asking specific information on average sales volume and prices of each exporting producer and importer concerned. No reply was received from any exporting producer or importer. Therefore, it was decided that sampling was not necessary.
- (8) In addition, questionnaires were sent to all the producers in the United States of America (USA), Australia and India (potential analogue countries), which were known to the Commission's services.
- (9) Replies to the questionnaire were received from the four applicant Community producers and one producer in the analogue country, namely the USA.
- (10) The Commission's services sought and verified all the information 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 companies:

Community producers

- Grecian Magnesite S.A., Athens, Greece
- Magnesitas Navarras, S.A., Pamplona, Spain
- Magnesitas de Rubian, S.A., Sarria (Lugo), Spain
- Styromag GmbH, St Katharein an der Laming, Austria

Producer in the analogue country

- Premier Chemicals, LLC, King of Prussia, Pennsylvania, USA

- (11) The investigation regarding the likelihood of a continuation or recurrence of dumping and injury covered the period from 1 April 2003 to 31 March 2004 (the IP). The examination of the 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).

C. PRODUCT CONCERNED AND LIKE PRODUCT

- (12) The product concerned is the same as that in the previous investigations which led to the imposition of measures currently in force, i.e. magnesium oxide, namely natural caustic calcined magnesite, falling within CN code ex 2519 90 90 (Taric code 2519 90 90*10).

- (13) Magnesium oxide is processed from naturally occurring magnesium carbonate or magnesite. In order to produce magnesium oxide, magnesite has to be mined, crushed, sorted and then burned in a kiln at temperatures of 700 to 1 000 °C. The result is magnesium oxide with various magnesium oxide contents or grades. The main impurities in magnesium oxide are SiO₂, Fe₂O₃, Al₂O₃, CaO and B₂O₃ (silicon oxide, iron oxide, aluminium oxide, calcium oxide and boron oxide respectively). Magnesium oxide is mainly used in agriculture for animal feeding or as a fertiliser and for industrial applications in the construction industry for flooring and insulating boards as well as in the pulp, paper, chemicals, pharmaceuticals, flame retardants, abrasives producing industries and environmental protection.
- (14) As established in the previous investigations, this review investigation has confirmed that the products exported by the PRC and those manufactured and sold by the Community producers on the Community market and by the producer in the analogue country on the domestic market of the analogue country have the same basic physical and chemical characteristics and end uses and are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

D. LIKELIHOOD OF A CONTINUATION OF DUMPING

- (15) In accordance with Article 11(2) of the basic Regulation, it was examined whether the expiry of the measures would be likely to lead to a continuation of dumping.

Preliminary remarks

- (16) In the absence of cooperation either from any of the Chinese exporting producers or from any importer in the Community, this examination had to be based on information available to the Commission's services from other sources. In this respect and in accordance with the provisions of Article 18 of the basic Regulation, Eurostat data with 8-digit CN code and 10-digit Taric code, checked with other sources, were used.
- (17) It is noted that the relevant Eurostat data with 8-digit CN code includes other products than the product concerned, while the data for the period considered with 10-digit Taric code did not include the 10 acceding countries.
- (18) Therefore, Eurostat data with 10-digit Taric code was used for the 15 Member States which composed the European Union before enlargement, while Eurostat data with 8-digit CN code was used for the 10 new Member States. In addition, Eurostat data with 8-digit CN code used for the ten new Member States was adjusted by deducting the percentage difference existing between the data with 8-digit CN code and 10-digit Taric code reported by the 10 new Member States in the six month period after enlargement in order to exclude products other than the product concerned.
- (19) Based on the adjusted Taric data, it was found that during the IP 115 225 tonnes of magnesium oxide were imported from the PRC into the Community, i.e. approximately 29 % of the Community consumption.
- (20) During the IP of the previous expiry review, the import volume of Chinese magnesium oxide into the Community amounted to 110 592 tonnes, i.e. approximately 31 % of Community consumption.
- (21) It should be noted that, as the Community expanded to the 25 Member States, export volumes and export market shares of the previous and the current expiry reviews cannot be compared.

Dumping during the IP

- (22) In accordance with Article 11(9) of the basic Regulation, the Commission's services used the same methodology as in the original investigation. It is recalled that in the original investigation, a dumping margin of 27,1 % was established.

Analogue country

- (23) Since the PRC is an economy in transition, normal value had to be based on information obtained in an appropriate third-country market economy in accordance with Article 2(7) of the basic Regulation.
- (24) Since in the previous expiry review India was selected as an analogue country for the purposes of establishing normal value, a request for cooperation was sent to Indian producers. Furthermore, a request for cooperation was also addressed to all known producers in Australia and the USA, which had been suggested as possible analogue countries in the request for the expiry review.
- (25) One Indian producer agreed to cooperate, but did not reply to the questionnaire. One Australian producer replied but declared itself not to be in the position to assist the Commission's services with the requested information. Only one USA producer agreed to provide the information requested.
- (26) With respect to the USA, it was found that competition is sufficiently strong in the US market. Indeed, there are no anti-dumping duties imposed on imports of magnesium oxide, considerable volumes of the product concerned are imported from different third countries and there are two competing local producers. The production process of the cooperating USA producer is similar to that of the Chinese producers. The domestic sales of the USA producer represent a significant amount (around 83 %) of the total Community imports from the PRC during the IP.
- (27) It is therefore concluded that the USA constituted an appropriate analogue country for the purpose of establishing normal value.

Normal value

- (28) In accordance with Article 2(4) of the basic Regulation, it was considered whether domestic sales of the producer in the USA could, in view of the prices charged, be seen to be made in the ordinary course of trade. For this purpose, the full cost of production per unit during the IP was compared to the average unit price of the sales transactions made during the same period. It was found that all sales were made at a profit. The investigation also revealed that all sales of the cooperating producer in the USA were made to independent customers. As a result, the prices paid or payable by independent customers on the USA domestic market in the ordinary course of trade were used to determine the normal value in accordance with Article 2(1) of the basic Regulation.

Export price

- (29) As already mentioned, in the absence of any other more reliable information, the export price was based on the Eurostat data. It was found that data on prices in Eurostat are recorded on a CIF European Community frontier basis. These prices were brought to a FOB basis by deducting ocean freight and insurance cost. The necessary information on these costs has been submitted by the Community industry and used in the calculations, in the absence of any other more reliable information.

Comparison

- (30) For the purposes of ensuring a fair comparison between the normal value and the export price at an ex-works level, due allowance in the form of adjustments was made for differences that were claimed and demonstrated to affect prices and price comparability in accordance with Article 2(10) of the basic Regulation. In this regard, adjustments were made in respect of ocean and inland freight.

Dumping margin

- (31) In accordance with Article 2(11) of the basic Regulation, the dumping margin was established on the basis of a comparison of the weighted average normal value with the weighted average export prices, as determined above. This comparison showed the existence of dumping. The dumping margin, expressed as a percentage of the CIF Community frontier price, duty unpaid, was 100,73 %, which is well above the level found in the previous investigation (41,9 %).

Likelihood of continuation of dumping

- (32) Further to the analysis of the existence of dumping during the IP, the likelihood of the continuation of dumping was also examined. In the absence of cooperation from exporting producers and given that little public information is available about the Chinese magnesium oxide industry, the conclusions below rely mainly on facts available, namely the market research information based on Japan Trade Statistics, the US bureau of the Census and China customs data submitted by the complainant.

Chinese production capacity

- (33) According to the expiry review request, Chinese producers have substantial spare production capacity as they have the largest magnesite ore resource in the world, estimated at 1 300 000 tonnes. The total Chinese production capacity for the product concerned is estimated at between 800 000 and 1 000 000 tonnes per year, whereas the Chinese domestic consumption is estimated at some 250 000 tonnes and exports of around 550 000 tonnes per year. Therefore, the Chinese production could be rapidly increased further if warranted by market conditions.

Exports to third countries

- (34) On the basis of the same source, it was established that total worldwide exports of Chinese magnesium oxide increased by 17 %, from 465 900 tonnes in 1999 to 545 600 tonnes in 2003. Export prices to other world markets such as Japan or the USA are around 38 % below those to the Community, so exporters would have an incentive to increase exports to the Community rather than to third countries should the existing measures be repealed.
- (35) Moreover, in 2003, prices of Chinese exports to Japan fell by approximately 13 %, i.e. from USD 109,4 per tonne in 2000 to USD 95 per tonne in 2003. Also prices to the USA fell by approximately 8 % in the same period, i.e. from USD 133 per tonne in 2000 to USD 122 per tonne in 2003.
- (36) This clearly shows that, if the measures were repealed, the Chinese exporters would have an incentive to target the Community market in the light of their substantial spare production capacity and of the higher price level in the Community compared to third countries.

Export prices to the Community

- (37) It should also be noted that the generally prevailing price level for the product concerned in the Community makes the Community market a very attractive one. This is a further incentive for increasing exports to the Community by increasing production. Moreover, as said above, export prices to third countries were found to be lower than those to the Community. However, the attractive and relatively high prices on the Community market are not likely to be maintained in the long term. If measures were lifted, the numerous Chinese exporters would be specifically interested in the Community market in order to increase their shares. Such an increased competition, however, might lead to lower prices. Consequently, it is very likely that all operators present on the Community market would have to reduce their prices accordingly.

Conclusion

- (38) The investigation shows that the PRC has continued its dumping practices during the IP at a far higher level than previously. Given the fact that the PRC has considerable spare production capacity and that Chinese exports to third countries are made at even lower prices than those to the Community, there is a strong likelihood that Chinese exporting producers would substantially increase their dumped exports of the product concerned to the Community if existing measures were repealed.

E. DEFINITION OF THE COMMUNITY INDUSTRY

- (39) The four complainant Community producers replied to the questionnaires and fully cooperated in the investigation. During the IP, they represented 96 % of the Community production.
- (40) On this basis, the four complainant Community producers constitute the Community industry within the meaning of Article 4(1) and Article 5(4) of the basic Regulation.

F. SITUATION OF THE COMMUNITY MARKET**Community consumption**

- (41) Community consumption was based on the combined volume of sales made by the Community industry in the Community, imports from the PRC and imports from other third countries.

Table 1 — Community consumption (sales volumes)

Community consumption	2000	2001	2002	2003	IP	IP/2000
Tonnes	423 791	448 234	456 197	398 038	392 416	
Index	100	106	108	94	93	- 7
Y/Y trend %		6	2	- 14	- 1	

Source: Eurostat data.

- (42) EU consumption of magnesium oxide increased between 2000 and 2002 and peaked in the year 2002 at around 456 197 tonnes before falling back again in 2003 and the IP to end at 392 416 tonnes. In total there was a 7 % decrease over the whole period considered, but a 6 % increase between 2000 and 2001.
- (43) A fluctuation in the consumption of the product concerned reaching 10 % positive or negative year-to-year change is not indicative of a long term trend. The Community industry maintains that the overall magnesium oxide market is relatively steady and this slight fluctuation is within the normal range of consumption over the long term.

Imports from the PRC

Volume, market share and prices

- (44) Volumes imported from the PRC followed the same trend as Community consumption. They increased by on average 8 % until 2002, and started to decrease afterwards. Overall, during the period considered imports from the PRC decreased by 18 %, from 140 171 tonnes to 115 225 tonnes.

Table 2 — Imports from the PRC

Import volumes from the PRC	2000	2001	2002	2003	IP	IP/2000
Tonnes	140 171	150 403	163 116	126 387	115 225	
Index	100	107	116	90	82	– 18
Y/Y trend		7	9	– 26	– 8	

Source: Eurostat data.

- (45) The market share of the Chinese imports increased to 36 % in 2002 in line with the increase in the Community consumption. Since 2003 it started to decrease slightly, still reaching 29 % during the IP.

Table 3 — Market share of Chinese imports

Market share of Chinese imports	2000	2001	2002	2003	IP	IP/2000
Percentage of market	33	34	36	32	29	
Index	100	103	109	97	88	– 12

Source: Eurostat data.

- (46) Average import price from the PRC continually decreased by a total of 24 % during the period considered.

Table 4 — Average import price of Chinese imports

Average import price of Chinese imports	2000	2001	2002	2003	IP	IP/2000
EUR/tonne	174	164	149	135	133	
Index	100	94	86	78	76	– 24

Source: Eurostat data.

Price evolution of the imports and undercutting

- (47) The average price of imports of the product concerned from the PRC during the IP was EUR 133 per tonne CIF at the EC frontier as reported in Taric. For the purpose of analysing price undercutting, the average sales prices (ex-works) of the Community industry were compared to the Chinese import prices during the IP, duly adjusted for post import cost, customs and anti-dumping duty. On this basis, no undercutting was found.

Economic situation of the Community industry

Production, production capacity and capacity utilisation

Table 5 — Production

Production	2000	2001	2002	2003	IP	IP/2000
Index	100	104	102	97	95	- 5
Y/Y trend		4	- 2	- 5	- 2	

Source: Verified questionnaire replies of the Community industry

- (48) The Community industry's production first increased by 4 % between 2000 and 2001 following to some extent the trend of the Community consumption. However, it then continuously decreased for a total decrease of 5 % over the period considered. During the IP the Community industry's production of magnesium oxide represented around 55 % of Community consumption.

Table 6 — Production capacity

Production capacity	2000	2001	2002	2003	IP	IP/2000
Index	100	100	100	100	100	0
Y/Y trend		0	0	0	0	

Source: Verified questionnaire replies of the Community industry

- (49) Production capacity remained stable over the period considered.

Table 7 — Capacity utilisation

Capacity utilisation	2000	2001	2002	2003	IP	IP/2000
Index	100	104	102	97	95	- 5

Source: Verified questionnaire replies of the Community industry

- (50) The above table shows that during the period considered capacity utilisation followed the same trend as production. After an increase between 2000 and 2001, it continuously decreased. Over the period considered, the decrease amounted to 5 percentage points.

Sales volume and sales prices

Table 8 — Sales volume on the Community market (in tonnes)

Sales volume on the Community market	2000	2001	2002	2003	IP	IP/2000
To unrelated parties						
Index	100	98	94	87	89	- 11
To related parties						
Index	100	149	150	150	157	57
To related and unrelated parties						
Index	100	104	101	95	97	- 3

Source: Verified questionnaire replies of the Community industry

- (51) The Community industry's sales to unrelated customers on the Community market decreased by 11 % between 2000 and the IP. Sales to related companies increased by 57 % between 2000 and the IP. These sales concerned only one company and were made to subsidiaries belonging to the same group. They represented around 17 % of all sales of magnesium oxide during the period considered.
- (52) The overall sales volume on the Community market decreased by 3 % between 2000 and the IP.

Table 9 — Community industry sales prices of magnesium oxide

Community industry sales price to unrelated parties	2000	2001	2002	2003	IP	IP/2000
Index	100	108	110	109	109	9
Y/Y trend		8	2	- 1	- 1	

Source: Verified questionnaire replies of the Community industry

- (53) In the period 2000 to the IP, the average sales prices of magnesium oxide charged by the Community industry on the Community market increased by 9 %. The sales prices peaked in the year 2002, slightly falling again in 2003 and the IP.

Market share

Table 10 — Market share

Market share of Community industry	2000	2001	2002	2003	IP	IP/2000
Percentage of market	62	61	59	63	65	
Index	100	98	95	102	105	5

Source: Eurostat data and verified questionnaire replies of the Community industry

- (54) The market share held by the Community industry increased from 62 % in 2000 to 65 % in the IP. A major increase took place between 2002 and 2003 (7 % of the market).
- (55) It seems that Community industry has managed to gain market shares due to its competitive prices compared to other third countries.

Stocks

Table 11 — Stocks

Stocks	2000	2001	2002	2003	IP	IP/2000
Index	100	107	94	101	81	- 19
Y/Y trend		7	- 13	7	- 20	

Source: Verified questionnaire replies of the Community industry

- (56) The above table shows that during the period considered stocks were reduced by 19 %. During the period from 2000 to 2003 stocks were around 43 000 tonnes, while in the IP, they fell to just over 35 000 tonnes.
- (57) Stocks, which had represented around 16 % of the Community industry's EU sales volume in 2000, fell to around 14 % of EU sales during the IP.

Profitability and cash flow

- (58) During the period considered profitability expressed as a percentage of net sales value to unrelated parties developed as follows:

Table 12 — Profitability

Profitability	2000	2001	2002	2003	IP	IP/2000
Index	100	113	538	13	200	100

Source: Verified questionnaire replies of the Community industry

- (59) After a loss in 2000, the Community industry's sales have started being profitable until the end of the IP. In 2002 profit peaked up to 4,3 % but fell to 0,1 % in 2003 and to 1,6 % in the IP. A decrease in 2003 was due to the decrease in sales volumes and a pressure of the prices exerted by the Chinese exporters which have not allowed the Community industry to increase its prices at the level sufficient to achieve a reasonable profit margin.
- (60) It is noted that, when taking into account sales to related parties, profitability would be slightly lower, but the trend would not change.

Table 13 — Cash flow

Cash flow	2000	2001	2002	2003	IP	IP/2000
Index	100	128	160	82	134	34
Y/Y trend		28	33	- 79	52	

Source: Verified questionnaire replies of the Community industry

- (61) Cash flow improved by 34 % during the period considered, and followed a similar trend as that for profitability.

Investments, return on investments, ability to raise capital

Table 14 — Investments

Investments	2000	2001	2002	2003	IP	IP/2000
Index	100	92	76	74	81	- 19
Y/Y trend		- 8	- 16	- 2	6	

Source: Verified questionnaire replies of the Community industry

- (62) Investments decreased by around 19 % from 2000 to the IP. Nevertheless, in the current IP investments were 24 % higher than in the IP of the previous investigation in which the investments peaked at ECU 4 219 thousand. The investments mainly concerned the improvement and further rationalisation of the production process in order to economise costs and conform to environmental requirements.

Table 15 — Return on investments

Return on investments	2000	2001	2002	2003	IP	IP/2000
Index	100	129	700	14	231	131

Source: Verified questionnaire replies of the Community industry

- (63) After being negative in 2000, return on investments increased by around 11,6 percentage points during the period considered, and followed a similar trend as that for profitability.
- (64) The Community industry remained able to raise capital during the period considered.

Employment, productivity and wages

Table 16 — Employment

Employment	2000	2001	2002	2003	IP	IP/2000
Index	100	99	90	85	80	– 20
Y/Y trend		– 1	– 9	– 5	– 5	

Source: Verified questionnaire replies of the Community industry

- (65) The above table shows that employment decreased by 20 % during the period considered. The main decrease occurred in the period from 2001 to the IP.
- (66) Given that production decreased at a lower rate than employment, productivity increased by 19 % over the same period, as shown in the table below:

Table 17 — Productivity

Productivity	2000	2001	2002	2003	IP	IP/2000
Index	100	105	113	115	119	19
Y/Y trend		5	8	2	4	

Source: Verified questionnaire replies of the Community industry

- (67) During the period considered the wages of the employees of the Community industry decreased by around 4 %.

Table 18 — Wages

Wages	2000	2001	2002	2003	IP	IP/2000
Index	100	104	99	100	96	– 4
Y/Y trend		4	– 4	0	– 3	

Source: Verified questionnaire replies of the Community industry

Effect of other factors*Export activity of the Community industry*

- (68) The investigation showed that the export activity of the Community industry developed as follows:

Table 19 — Community industry exports

Community industry exports	2000	2001	2002	2003	IP	IP/2000
Tonnes	9 240	9 206	15 671	9 962	10 022	
Index	100	100	170	108	108	8
Y/Y trend		0	70	- 62	1	

Source: Verified questionnaire replies of the Community industry

- (69) The Community industry exports of magnesium oxide increased by 8 % over the period considered, mainly in 2002. However, an increase in the export volumes might have had little influence on the situation of the Community industry as these exports amounted on average to around 4 % of the total sales of the Community industry.

Import volumes and prices from other third countries

- (70) Import volumes of magnesium oxide into the Community from countries other than the PRC, together with their average prices, developed as follows:

Table 20 — Imports into the Community from other third countries (volume)

Tonnes	2000	2001	2002	2003	IP
Turkey	2 704	3 116	7 010	2 105	1 373
USA	849	1 518	326	704	897
Israel	2 417	2 558	2 714	3 156	2 725
Mexico	703	781	627	856	755
Japan	1 949	1 658	2 081	627	455
Australia	1 115	749	42	341	301
Norway	459	198	72	117	149
Other third countries	56	1 462	679	109	516
Total	10 252	12 041	13 550	8 016	7 172

Source: Eurostat data

Table 21 — Imports into the Community from other third countries (average price)

Euro	2000	2001	2002	2003	IP
Turkey	128	147	154	169	195
USA	1 475	509	1 431	796	795
Israel	964	712	607	611	667
Mexico	458	718	870	591	617
Japan	1 164	1 173	1 044	713	458
Australia	609	495	466	407	431
Norway	284	0	495	295	270
Other third countries	0	528	740	200	191

Source: Eurostat data

Table 22 — Market share of imports into the Community from other third countries

Market share of imports into the Community from other third countries	2000	2001	2002	2003	IP	IP/2000
Percentage of market	2	2	3	2	1	– 1
Index	100	117	129	80	73	

Source: Eurostat data

- (71) The total import volumes of magnesium oxide from third countries other than the PRC decreased during the period considered from 10 252 tonnes in 2000 to 7 172 tonnes in the IP. For calculating market shares of the imports from other third countries, a slight adjustment was made by excluding the volume of imports sold on the Community market and purchased by one of the Community producers from its subsidiary in Turkey. The market share of these imports fell from around 2 % to 1 % over this period. The major exporters to the Community have been Turkey, Israel, Australia and the USA.
- (72) The average import prices from other third countries were significantly higher than those of the Community industry during the IP. It should be noted, however, that Eurostat data with 10-digit Taric code also include prices of synthetic magnesium oxide with a much higher purity than the product concerned and therefore higher prices. While no precise information is available as to the proportion between synthetic magnesium oxide and the product concerned in the product mix, subject to the Eurostat data with 10-digit Taric code, it can be reasonably assumed that the overall price level of magnesium oxide from third countries was higher than that of the Community industry during the IP.

Conclusion

- (73) As explained above, consumption of the product concerned decreased slightly during the period considered. As in the previous expiry review, it is considered, however, that Community consumption did not have a major influence on the situation in the Community industry during the period considered as explained in recital 42 on the Community consumption.

- (74) The measures in force have led to a partial recovery of the Community industry since 2000. Economic factors such as market shares, profitability, return on investment, cash flow, productivity and closing stocks showed a positive development. The Community industry's sales have been profitable from 2001 (0,9 %) to the IP (1,6 %). However, due to the pressure exerted by the Chinese exporters, Community industry has not been able to achieve sufficient profit, necessary to ensure its viability in the future. As regards the downward trend in production (– 5 %), capacity utilisation (– 5 %) and sales in the Community market (– 3 %), it was more or less in line with the decrease in the consumption. However, this has been at the expense of employment (– 20 %), and investments (– 19 %). It is noted that the sales made by one Community producer to related parties did not change the overall picture of the situation of the Community industry. It can therefore be concluded that, although the situation of the Community industry has improved, it remains vulnerable, *inter alia*, as a result of the continued dumped imports from the PRC. The efforts of the Community industry to improve its competitiveness have therefore not been entirely successful.
- (75) On the other hand, it should also be noted that volumes and market share of Chinese imports have decreased over the period considered. Furthermore, it was found that Chinese imports had not undercut the prices of the Community industry. Under these circumstances and, in particular, in view of the limited improvement of the situation of the Community industry, the decrease of Chinese imports and market share and the absence of undercutting, the continuation of injury caused by dumped imports could not be established. Therefore, it was examined whether there would be recurrence of injury if the measures lapsed.

Likelihood of recurrence of injury

- (76) 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 in line with the elements summarised in the recitals above.
- (77) As already indicated, if the anti-dumping measures were allowed to expire, it is very likely that imports at dumped prices of the product concerned from the PRC would increase considerably in view of the large spare production capacity held by the PRC resulting from the fact that it has the largest magnesite ore resources in the world.
- (78) The comparison between imports from the PRC and other third countries into the Community has shown important differences in prices. Import prices from other third countries were high during the period considered while Chinese import prices, which are dumped, have continuously decreased. Furthermore, the fact that Chinese export prices to the other main markets for magnesium oxide were 38 % below the export prices to the Community shows clearly that Community industry would face more pressure from increased volumes of dumped exports of the product concerned from the PRC, bearing in mind that these exports have already exerted a downward pressure on the Community prices during the period considered.
- (79) In the light of the above, it is concluded that allowing the measures to lapse would in all likelihood result in a recurrence of injury to the Community industry.

G. COMMUNITY INTEREST

Preliminary remark

- (80) In accordance with Article 21 of the basic Regulation, it was examined whether maintaining the existing anti-dumping measures would be against the interest of the Community as a whole. The determination of Community interest was based on an appreciation of all the various interests involved, i.e. those of the Community industry, the importers/traders as well as the users and suppliers of the product concerned.

- (81) It should be recalled that in the previous review, the re-imposition of the measures was considered not to be against the interest of the Community. Furthermore, as the present investigation is also an expiry review, it allows an analysis of any undue negative impact on the parties concerned by the current anti-dumping measures.
- (82) On this basis, it was examined whether, despite the conclusion on the likelihood of a continuation of injurious dumping, compelling reasons existed which would lead to the conclusion that it is not in the Community interest to maintain measures in this particular case.

Interests of the Community industry

- (83) It is recalled that it has been established that there is a likelihood of continuation of dumping of the product concerned originating in the PRC and that there is a risk of recurrence of injury to the Community industry arising from such imports. Moreover, it was found that the Community industry is still in a fragile situation. Continuation of the measures should help them to fully recover and avoid further injury. Therefore, it is in the interest of the Community industry to maintain measures against dumped imports from the PRC.

Interests of unrelated importers/traders

- (84) The Commission's services sent out questionnaires to 23 importers/traders named in the complaint. No answers were received.
- (85) In these circumstances, it was concluded that the measures in force did not greatly affect importers or traders and therefore the continuation of measures would not significantly affect these parties. This is also in line with the findings made in previous investigations.

Interests of users

- (86) The Commission's services sent out questionnaires to four users. No answers were received.
- (87) Given the lack of response to the questionnaires and of verifiable data in support of an expiry of the measures in force, as in the previous expiry review, it is concluded that the continuation of the duties would not have a significant effect on users.

H. CONCLUSION

- (88) The investigation has shown that exporters in the PRC have continued their dumping practices during the IP. It has also been demonstrated that the Community market is an attractive market for Chinese exporters, given the level of prices charged to other export markets and bearing in mind significant spare capacity in the PRC. Therefore, if measures were repealed, it is likely that huge quantities of dumped imports would enter the Community market.
- (89) The situation of the Community industry, reflected in the reduced production, sales and employment and insufficient profit during the period considered, would most likely be aggravated if measures were repealed as increased volumes of dumped imports from the PRC would start to flow onto the Community market.

- (90) Regarding the Community interest, it is concluded that there are no compelling reasons not to impose anti-dumping measures against imports of the product concerned originating in the PRC.
- (91) It is therefore considered appropriate to maintain the current anti-dumping measures against imports of magnesium oxide originating in the PRC.
- (92) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend that the existing measures be maintained. They were also granted a period to make representations subsequent to disclosure. No comments were received which were such as to change the above conclusions.
- (93) It follows from the above that, as provided for by Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of magnesium oxide originating in the PRC, imposed by Council Regulation (EC) No 1334/1999, as last amended by Regulation (EC) No 985/2003, should be maintained,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of magnesium oxide falling within CN code ex 2519 90 90 (Taric code 2519 90 90*10) and originating in the People's Republic of China.
2. The amount of the anti-dumping duty shall be:
 - (a) the difference between the minimum import price of EUR 112 per tonne and the net, free-at-Community frontier price, before duty, in all cases where the latter is:
 - less than the minimum import price, and
 - established on the basis of an invoice issued by an exporter located in the People's Republic of China directly to an unrelated party in the Community (TARIC additional code A420);
 - (b) zero, if the net, free-at-Community-frontier price, before duty, is established on the basis of an invoice issued by an exporter located in the People's Republic of China directly to an unrelated party in the Community and equal to or higher than the minimum import price of EUR 112 per tonne (TARIC additional code A420);
 - (c) equal to an ad valorem duty of 27,1 % in all other cases not falling under subparagraph (a) and (b) (TARIC additional code A999).

In cases where the anti-dumping duty is established according to subparagraph 2(a) of Article 1 and where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value pursuant to Article 145 of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽¹⁾, the minimum import price set out above shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable. The duty payable will then be equal to the difference between the reduced minimum import price and the reduced net, free-at-Community-frontier price, before customs clearance.

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

Article 2

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

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

Done at Brussels, 23 May 2005.

For the Council
The President
J. ASSELBORN

⁽¹⁾ OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 2286/2003 (OJ L 343, 31.12.2003, p. 1).

COUNCIL REGULATION (EC) No 779/2005**of 23 May 2005****terminating the partial interim review of the anti-dumping measures applicable to imports of silicon carbide originating in Ukraine**

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⁾ ('basic Regulation'), and in particular Article 11(3) thereof,

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

Whereas:

A. PROCEDURE**1. Measures in force**

- (1) By Regulation (EC) No 821/94 ⁽²⁾, following an expiry review, the Council imposed a definitive anti-dumping duty on imports of silicon carbide originating *inter alia* in Ukraine ('the measures'). By Regulation (EC) No 1100/2000 ⁽³⁾, following an expiry review, requested by the European Chemical Industry Council ('CEPIC') the Council maintained the measures at their original level. By Regulation (EC) No 991/2004 ⁽⁴⁾ the Council amended Regulation (EC) No 1100/2000 as a consequence of the enlargement of the European Union by the accession of 10 new Member States on 1 May 2004 (the 'EU 10') in order to provide, in the event of an undertaking being accepted by the Commission, for the possibility to exempt imports to the Community made under the terms of such undertaking from the anti-dumping duties imposed by Regulation (EC) No 1100/2000. By Decisions 2004/498/EC ⁽⁵⁾ and 2004/782/EC ⁽⁶⁾, the Commission accepted the undertakings offered by the Ukrainian exporting producer Open Joint Stock Company 'Zaporozhsky Abrasivny Combinat' ('ZAC').

- (2) The actual rate of the duty applicable to the net, free-at-Community-frontier price, before duty, is 24 % for imports of silicon carbide originating in Ukraine.

2. Current investigation

- (3) The Commission received a request lodged by ZAC ('the applicant') for a partial interim review pursuant to Article 11(3) of the basic Regulation.
- (4) The request was based on the *prima facie* evidence, provided by the applicant, that the circumstances on the basis of which measures were established have changed and that these changes are of lasting nature. The applicant alleged, *inter alia*, that the circumstances with regard to market economy status ('MES') had changed significantly. In particular, the applicant argued that it now fulfilled the requirements to be granted MES pursuant to Article 2(7)(b) of the basic Regulation. Furthermore, the applicant provided evidence showing that a comparison of normal value based on its own cost/domestic prices and its export prices to the USA as a third country market comparable to the EU, would lead to a reduction of dumping significantly below the level of the current measure. Accordingly, the applicant alleged that the continued imposition of the measure at its current level was no longer necessary to offset dumping.
- (5) The Commission, after consulting the Advisory Committee, initiated on 7 January 2004 by notice published in the *Official Journal of the European Union* ⁽⁷⁾ a partial interim review limited in scope to the examination of dumping and MES as far as ZAC is concerned.
- (6) The Commission sent a questionnaire and a claim form for MES pursuant to Article 2(7) of the basic Regulation to the applicant.
- (7) The Commission sought and verified all the information it deemed necessary for the determination of dumping and MES. A verification visit was carried out at the premises of the applicant.

⁽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 94, 13.4.1994, p. 21. Regulation as amended by Regulation (EC) No 1786/97 (OJ L 254, 17.9.1997, p. 6).

⁽³⁾ OJ L 125, 26.5.2000, p. 3.

⁽⁴⁾ OJ L 182, 19.5.2004, p. 18.

⁽⁵⁾ OJ L 183, 20.5.2004, p. 88.

⁽⁶⁾ OJ L 344, 20.11.2004, p. 37.

⁽⁷⁾ OJ C 3, 7.1.2004, p. 4.

3. Parties concerned by the investigation

- (9) The Commission officially advised the exporting producer, the representatives of the exporting country and the Community producers of the initiation of the review. Interested parties were given the opportunity to make their views known in writing, to submit information and to provide supporting evidence and to request a hearing within the time limit set out in the notice of initiation. All interested parties who so requested and showed that there were reasons why they should be heard were granted a hearing.
- (10) In this regard, the following interested parties made their views known:
- (a) *Community producers Association:*
- European Chemical Industry Council (CEFIC)
- (b) *Community producer:*
- Best-Business, Kunštát na Moravě, Czech Republic
- (c) *Exporting producer:*
- Zaporozhsky Abrasivny Combinat, Zaporozhye, Ukraine
- (d) *Producers in analogue countries:*
- Volzhsky Abrasive, Volshsky, Volgograd Region, Russia
- Saint-Gobain Materiais Cerâmicos Ltda, Barbacena, Brazil.

B. PRODUCT CONCERNED

- (11) The product concerned by this proceeding is silicon carbide, falling within CN code 2849 20 00 (hereinafter referred to as 'silicon carbide' or the 'product concerned'). No evidence was found suggesting that circumstances with regard to the product concerned had significantly changed since the imposition of the measures.

C. RESULT OF THE INVESTIGATION

1. Preliminary remark

- (12) In accordance with Article 11(3) of the basic Regulation, the purpose of this type of review is to determine the

need for the continued imposition of measures at their current level. In carrying out a partial interim review the Commission may, *inter alia*, consider whether the circumstances with regard to dumping have changed significantly. The Commission investigated all claims put forward by the applicant and the circumstances which could have changed significantly since the imposition of the measures: MES individual treatment ('IT'), the choice of an analogue country and the export prices of the applicant.

2. Market Economy Status (MES)

- (13) The applicant requested MES pursuant to Article 2(7)(b) of the basic Regulation and submitted the claim form for market economy status within the deadline set out in the notice of initiation.
- (14) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in Ukraine, normal value shall be determined in accordance with paragraphs 1 to 6 of the said Article for those producers which were found to meet all five criteria laid down in Article 2(7)(c) of the basic Regulation.
- (15) The investigation revealed that not all criteria were met by the applicant:

MES CRITERIA				
Article 2(7)(c) indent 1	Article 2(7)(c) indent 2	Article 2(7)(c) indent 3	Article 2(7)(c) indent 4	Article 2(7)(c) indent 5
Not met	Not met	Not met	Met	Met

Source: verified MES claim form reply of the applicant

- (16) The investigation showed that ZAC was in the process of privatization supervised by the Ukrainian State. In the framework of the privatisation, ZAC's majority shareholder and private investor concluded a contract with a state organisation. Until the end of the IP, ZAC had several obligations imposed by the contract, in particular concerning its workforce and activities. The fulfilment of these obligations was subject to yearly State inspections and failure to fulfil these obligations was subject to sanctions. It was found that the conditions imposed in the contract go beyond what a private investor under normal market economy conditions would accept. Therefore, it is concluded that the company decisions of ZAC regarding labour, output and sales were not made in response to market signals reflecting supply and demand. Rather the decisions were taken with significant State interference in this regard.

(17) Further it was also found that the accounts and the audit of the accounts were not reliable. Indeed, ZAC could modify key data in the accounting program (dates and values for a closed accounting period) and it has not been possible to track certain financial operations in the accounts of ZAC. These serious drawbacks were not reported in the audit report. Therefore it is concluded, that ZAC does not have one clear set of basic accounting records which are independently audited in line with international accounting standards and which are applied for all purposes.

(18) Finally it was found, that by placing defence objects of military nature belonging to the State on the balance sheet and by depreciation of these objects, the patrimonial state, production costs and financial situation of ZAC are subject to significant distortions carried over from the former non-market economy system. Also, the production costs are distorted through the acceptance by ZAC of an interest free loan granted by an investor during the process of privatization.

(19) On this basis it was concluded that not all criteria set out in Article 2(7)(c) of the basic Regulation were met and that market economy conditions do not prevail for the applicant.

(20) The Commission informed the applicant and the Community industry in detail of the abovementioned determinations and granted them the possibility to comment. The Community industry supported the Commission's determinations. The comments submitted by the applicant were not such as to warrant any change in the MES determination.

3. Individual treatment (IT)

(21) Further to Article 2(7)(a) of the basic Regulation, a country-wide duty is established for countries falling under Article 2(7), except in those cases where companies are able to demonstrate on the basis of properly substantiated claims, that all criteria laid down in Article 9(5) of the basic Regulation are met.

(22) The applicant also claimed IT leading to the establishment of a specific individual anti-dumping duty in the event it was not granted MES. However, the investigation did not point towards the existence of other producers of the product concerned in Ukraine but showed that the applicant is the only known producer of the product concerned in Ukraine. In such a case it is considered that the question of IT does not arise because the specific individual dumping margin would be identical to the country-wide dumping margin.

4. Analogue country

(23) According to Article 2(7) of the basic Regulation, for non-market-economy countries and, to the extent that MES could not be granted, for countries in transition, normal value shall be determined on the basis of the price or constructed value in an analogue country. The applicant claimed that the analogue country used in the original investigation, Brazil, was not appropriate and that in the current interim review, Russia should be chosen as the most, if not the only appropriate analogue country for establishing normal value for Ukraine.

(24) The arguments put forward by the applicant in favour of Russia were the facts that allegedly (i) Russia's access to raw materials, energy resources and other major inputs, the technology used in production and the scale of production are comparable to Ukraine (ii) Russia's domestic sales are representative, as the total domestic sales volume exceed 5 % of the total export sales volume of Ukraine (iii) the competitive situation in Russia is comparable to Ukraine.

(25) The Commission considered the proposal of the applicant. It was considered first of all that exports of the product concerned originating in Russia were found to be dumped in the original investigation. Such a situation alone implies already an anomaly in the relationship between normal value and export price and puts into question the suitability of Russia as an analogue country. Notwithstanding this observation and following the explicit request of the applicant, the Commission services invited the Russian exporting producer to cooperate in this proceeding. However, the Russian company has not cooperated.

(26) For these reasons it was found that Russia could not be chosen as an appropriate analogue country for establishing normal value for Ukraine. Furthermore, no evidence was found suggesting that circumstances with regard to the analogue country in the original investigation had changed in favour of the applicant.

5. Export price

(27) According to Article 2(8) of the basic Regulation, the export price shall be the price actually paid or payable for the product when sold for export from the exporting country to the Community. In cases where there is no export price, the export price may be constructed according to Article 2(9) of the basic Regulation on the basis of the price at which the imported products are first resold to an independent buyer, or, if the products are not resold to an independent buyer, or are not resold in the condition in which they were imported, on any reasonable basis.

- (28) The applicant claimed a change of circumstances with regard to its export prices and argued that in the absence of representative exports to the Community, export prices to a substitute non-EU market comparable to the Community should be used as a reasonable basis to establish a dumping margin. To this end, the applicant proposed the USA or EU10 as a reference country.
- (29) The Commission considered the proposals of the applicant, as indeed, in very exceptional circumstances it could be envisaged to use export prices to third countries as a basis for comparison with normal value. However, in this case it was found that the export quantities of the applicant to the USA during the IP were not even representative, so that the question whether it was appropriate to use the export prices to the USA did not arise. Hence the claim to base the dumping calculation on export prices to the USA was rejected. Furthermore, no evidence was found suggesting that the isolated use of export prices to EU10 would be in favour of the applicant. Finally, it is confirmed that no representative sales were found to exist during the IP to the Community.

6. Conclusion

- (30) Given the above, MES could not be granted to the applicant. The question of IT does not arise in this case. In addition, all other examined claims regarding

the choice of an analogue country and the export prices of the applicant put forward by the applicant were rejected. On this basis, it is considered that the circumstances with regard to dumping have not changed significantly compared to the situation prevailing during the investigation period used in the investigation which led to the imposition of the measures. Therefore, it is concluded that the partial interim review of the anti-dumping measures applicable to imports into the Community of silicon carbide originating in Ukraine should be terminated without amending or repealing the measures in force,

HAS ADOPTED THIS REGULATION:

Article 1

1. The partial interim review of the anti-dumping duty on imports of silicon carbide originating in Ukraine is hereby terminated.

2. The definitive anti-dumping duty imposed by Regulation (EC) No 1100/2000 shall be maintained.

Article 2

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

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

Done at Brussels, 23 May 2005.

For the Council
The President
J. ASSELBORN

COMMISSION REGULATION (EC) No 780/2005**of 24 May 2005****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 25 May 2005.

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

Done at Brussels, 24 May 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

⁽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 24 May 2005 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	85,0
	204	84,2
	212	97,2
	999	88,8
0707 00 05	052	88,0
	204	30,3
	999	59,2
0709 90 70	052	88,1
	624	50,3
	999	69,2
0805 10 20	052	48,3
	204	39,0
	212	108,2
	220	47,9
	388	54,6
	400	48,8
	528	45,4
	624	60,9
0805 50 10	999	56,6
	052	107,2
	388	62,1
	400	69,6
	528	64,3
	624	61,9
0808 10 80	999	73,0
	388	96,0
	400	101,0
	404	78,7
	508	59,6
	512	67,8
	524	72,2
	528	67,7
	720	61,8
0809 20 95	804	97,5
	999	78,0
	400	385,0
	999	385,0

⁽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 781/2005**of 24 May 2005****amending Regulation (EC) No 622/2003 laying down measures for the implementation of the common basic standards on aviation security****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 2320/2002 of the European Parliament and the Council of 16 December 2002 establishing common rules in the field of civil aviation security ⁽¹⁾ and in particular Article 4(2) thereof,

Whereas:

- (1) The Commission is required, by virtue of Regulation (EC) No 2320/2002, to adopt measures for the implementation of common basic standards for aviation security throughout the European Community. Commission Regulation (EC) No 622/2003 of 4 April 2003 laying down measures for the implementation of the common basic standards on aviation security ⁽²⁾ was the first act containing such measures.
- (2) There is a need for measures giving precision to the common basic standards.
- (3) In accordance with Regulation (EC) No 2320/2002 and in order to prevent unlawful acts, the measures laid down in the Annex to Regulation (EC) No 622/2003 should be secret and should not be published. The same rule necessarily applies to any amending act.

(4) Regulation (EC) No 622/2003 should be amended accordingly.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Civil Aviation Security,

HAS ADOPTED THIS REGULATION:

*Article 1***Objective**

The Annex to Regulation (EC) No 622/2003 is amended as set out in the Annex to this Regulation.

Article 3 of that Regulation shall apply as regards the confidential nature of this Annex.

*Article 2***Entry into Force**

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

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

Done at Brussels, 24 May 2005.

For the Commission

Jacques BARROT

Vice-President

⁽¹⁾ OJ L 355, 30.12.2002, p. 1.

⁽²⁾ OJ L 89, 5.4.2003, p. 9. Regulation as amended by Regulation (EC) No 68/2004 (OJ L 10, 16.1.2004, p. 14).

ANNEX

In accordance with Article 1 the Annex is secret and shall not be published in the *Official Journal of the European Union*.

COMMISSION REGULATION (EC) No 782/2005
of 24 May 2005
setting out the format for the transmission of results on waste statistics
(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Article 1

Having regard to Regulation (EC) No 2150/2002 of the European Parliament and of the Council of 25 November 2002 on waste statistics ⁽¹⁾ and in particular Article 6(e) thereof,

The appropriate format for the transmission of results on waste statistics to the Commission (Eurostat) shall be as set out in the Annex to this Regulation.

Whereas:

Member States shall use this format for the data on the 2004 reference year and subsequent years.

(1) By virtue of Article 6 of Regulation (EC) No 2150/2002, the Commission is required to adopt the measures necessary for implementing that Regulation.

Article 2

(2) In accordance with Article 6(e) of Regulation (EC) No 2150/2002, the Commission should set out the appropriate format for the transmission of results by Member States.

Member States shall transmit to the Commission (Eurostat) the data and metadata required by Regulation (EC) No 2150/2002 in electronic form, in accordance with an interchange standard proposed by the Commission (Eurostat).

(3) The measures provided for in this Regulation are in accordance with the opinion of the Statistical Programme Committee established by Council Decision 89/382/EEC, Euratom ⁽²⁾,

Article 3

This Regulation shall enter into force on the twentieth 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, 24 May 2005.

For the Commission

Joaquín ALMUNIA

Member of the Commission

⁽¹⁾ OJ L 332, 9.12.2002, p. 1. Regulation as last amended by Commission Regulation (EC) No 574/2004 (OJ L 90, 27.3.2004, p. 15).

⁽²⁾ OJ L 181, 28.6.1989, p. 47.

ANNEX

FORMAT FOR THE TRANSMISSION OF RESULTS ON WASTE STATISTICS

The data are to be transmitted in a system independent way. The data shall be transmitted in conformity with an interchange standard proposed by the Commission (Eurostat).

The data sets

The domain covered by Regulation (EC) No 2150/2002 on waste statistics consists in five sets of information:

- Generation of waste (GENER)
- Incineration (INCIN)
- Operations which may lead to recovery (RECOV)
- Disposal (DISPO)
- Number and capacity of recovery and disposal facilities; coverage of waste collection scheme by NUTS 2 region (REGIO).

For each set a file has to be transmitted. The file name consists in six parts:

Domain	5	Value: WASTE
Set	5	GENER, INCIN, RECOV, DISPO, REGIO
Periodicity	2	Value: A2
Country code	2	Two letter country code (see list A)
Year	4	Reference Year (first reference year 2004)
Period	4	Value: 0000 (zero, zero, zero, zero) for annual data

The parts of the file name are separated by an underscore. A text based format will be used. For example, the set on the generation of waste from Belgium in 2004 will have the name WASTE_GENER_A2_BE_2004_0000.

Missing values

There will be no missing values in the classifying variables (waste category, economic activity, NUTS 2 region, type of waste treatment facility). Records should be provided for each combination of the classifying variables. All records where the combination does not occur should be sent with a value set to 0 (zero). Any records for which data are not available should nevertheless be provided with the value coded appropriately as missing (coded with the letter 'M'). Missing values will have to be explained in the quality report; they might for instance be the result of the methods used. It is important to distinguish between real zeros and missing values, as no aggregates can be calculated with missing data. If a combination is not possible on logical grounds the cell should be supplied with code 'L'; this is the case, for instance, for industrial effluent sludges generated by households. To facilitate consistency checks and correction of errors also the totals should be transmitted.

Confidentiality

Confidential data should be transmitted, properly flagged as confidential. What should be regarded as confidential is based on the national confidentiality policy. In general information could be confidential if the identity of the supplier of information could be disclosed. This is the case if the information is based on one or two respondents, or if one or two respondents dominate the data. Data from public authorities are generally not regarded as confidential.

Also secondary confidentiality should be indicated. Secondary confidentiality should be applied in such a way that (sub)totals remain available for publication. The Commission (Eurostat) will use the confidential information to calculate (EU) aggregates without disclosing information confidential at the country level.

Measures

The fields required are alpha-numeric, i.e. they should not contain separators or decimal symbols, except for the data value. The amounts of waste are expressed in 1 000 tonnes per year, with three decimal positions. The comma is to be used as decimal symbol. The estimation method will not always allow the three digits precision. In that case the value should be delivered with the significant digits only. For all the waste categories the amount is based on (normal) wet waste, for the generation of sludge (waste items 11, 12, 40) the amount is also calculated in 1 000 tonnes of dry matter. Also in the waste treatment sets sludge has to be measured in both (normal) wet waste and in dry matter. This will only be applied where sludge is a separate item; this is for common sludges (item 12) in the incineration and disposal set.

The number of waste treatment facilities is expressed as an integer. Several measures are used to describe the waste treatment capacity dependent on the type of recovery or disposal operation (see list I). To enhance comparability the delivery of incineration capacity in 1 000 tonnes is preferred. Countries that can also supply incineration capacity in terajoules (10^{12} joules) are invited to do so. Countries that can not supply incineration capacity in terajoules should report the value as missing (use code 'M'). Recovery capacity is measured in 1 000 tonnes. Disposal capacity has to be reported either in cubic metres or in tonnes depending on the type of disposal. Only values measured in 1 000 tonnes are supplied as a real number with 3 decimal positions, all other values are to be supplied as integers.

The coverage of the collection scheme for mixed household and similar waste should be reported either as the percentage of the population or as a percentage of the dwellings.

Revisions

The sets should be sent in separate files containing all the records. For instance, the set on generation of waste contains 51 waste categories by 21 NACE groups measured in wet waste and 3 waste categories by 21 NACE groups measured in dry matter. The set contains 1 134 records.

Also revised data should be sent in a complete set, with the revised cells properly flagged (R). Provisional data are flagged with update flag P. Provisional data always require a revision. Both provisional and revised data require an explanation in the quality report.

Set 1: Generation of waste

Field	Maximum length	Values
Domain	8	Value: WASTE
Set	6	Value: GENER (the set consists in 51×21 records measured in wet waste and 3×21 measured in dry matter per country)
Country code	2	Two letter country code (see list A)
Year	4	Reference year (first reference year 2004)
Waste item	2	Code referring to EWC-Stat version 3 (see list B)
Activity item	2	Code referring to NACE (see list C)
Wet/Dry	1	For all waste categories amount in (normal) wet waste (code W); for sludge (waste item 11, 12, 40) also amount in dry matter (code D)
Waste generated	12	Amount in 1 000 tonnes per year. The amount is given as a real with three decimal places. The comma should be used as decimal symbol. For example: 19,876. This field should always contain a value. If the combination did not occur the value will be 0 (zero). Missing data are to be coded as 'M'. The logical impossibility of a combination is indicated with 'L'
Update flag	1	To indicate provisional data (P) or revised data (R), empty otherwise
Confidentiality flag	1	Indicates confidential data (see list D)

Set 2: Incineration

Field	Maximum length	Values
Domain	8	Value: WASTE
Set	6	Value: INCIN (the set consists in 17×2 records measured in wet waste and 1×2 measured in dry matter per NUTS 1 region)
Country code	2	Two letter country code (see list A)
Year	4	Reference Year (first reference year 2004)
NUTS 1 code	3	Regional code according to NUTS classification in Regulation (EC) No 1059/2003 of the European Parliament and of the Council ⁽¹⁾ ; the national total should be provided using the code TT
Waste item	2	Code referring to EWC-Stat version 3 (see list E)
Recovery or disposal operation	1	Code referring to the Annexes of Council Directive 75/442/EEC ⁽²⁾ (see list F); only operation 1 and 2 apply in this set
Wet/Dry	1	For all waste categories amount in (normal) wet waste (code W); for sludge (waste item 12) also amount in dry matter (code D)
Waste incinerated	12	Amount in 1 000 tonnes per year. The amount is given as a real with three decimal places. The comma should be used as decimal symbol. For example: 19,876. This field should always contain a value. If the combination did not occur the value will be 0 (zero). Missing data are to be coded as 'M'. The logical impossibility of a combination is indicated with 'L'
Update flag	1	To indicate provisional data (P) or revised data (R), empty otherwise
Confidentiality flag	1	Indicates confidential data (see list D)

⁽¹⁾ OJ L 154, 21.6.2003, p. 1

⁽²⁾ OJ L 194, 25.7.1975, p. 39. Directive as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

Set 3: Operations which may lead to recovery (excluding energy recovery)

Field	Maximum length	Values
Domain	8	Value: WASTE
Set	6	Value: RECOV (the set consists in 20 records per NUTS 1 region)
Country code	2	Two letter country code (see list A)
Year	4	Reference year (first reference year 2004)
NUTS 1 code	3	Regional code according to NUTS classification in Regulation (EC) no 1059/2003; the national total should be provided using the code TT
Waste item	2	Code referring to EWC-Stat version 3 (see list G)
Recovery or disposal operation	1	Code referring to the Annexes of Directive 75/442/EEC (see list F); only operation 3 applies in this set
Wet/Dry	1	For all waste categories amount in (normal) wet waste (code W)
Waste recovered	12	Amount in 1 000 tonnes per year. The amount is given as a real with three decimal places. The comma should be used as decimal symbol. For example: 19,876. This field should always contain a value. If the combination did not occur the value will be 0 (zero). Missing data are to be coded as 'M'. The logical impossibility of a combination is indicated with 'L'
Update flag	1	To indicate provisional data (P) or revised data (R), empty otherwise
Confidentiality flag	1	Indicates confidential data (see list D)

Set 4: Disposal (other than incineration)

Field	Maximum length	Values
Domain	8	Value: WASTE
Set	6	Value: DISPO (the set consists in 19×2 records measured in wet waste and 1×2 measured in dry matter per NUTS 1 region)
Country code	2	Two letter country code (see list A)
Year	4	Reference year (first reference year 2004)
NUTS 1 code	3	Regional code according to NUTS classification in Regulation (EC) No 1059/2003; the national total should be provided using the code TT
Waste item	2	Code referring to EWC-Stat version 3 (see list H)
Recovery or disposal operation	1	Code referring to the Annexes of Directive 75/442/EEC (see list F); only operations 4 and 5 apply in this set
Wet/Dry	1	For all waste categories amount in (normal) wet waste (code W); for sludge (waste item 12) also amount in dry matter (code D)
Waste disposed	12	Amount in 1 000 tonnes per year. The amount is given as a real with three decimal places. The comma should be used as decimal symbol. For example: 19,876. This field should always contain a value. If the combination did not occur the value will be 0 (zero). Missing data are to be coded as 'M'. The logical impossibility of a combination is indicated with 'L'
Update flag	1	To indicate provisional data (P) or revised data (R), empty otherwise
Confidentiality flag	1	Indicates confidential data (see list D)

Set 5: Number and capacity of recovery and disposal facilities and population served by collection scheme per region

Field	Maximum length	Values
Domain	8	Value: WASTE
Set	6	Value: REGIO (the set consists in 14 records per NUTS 2 region)
Country code	2	Two letter country code (see list A)
Year	4	Reference year (first reference year 2004)
NUTS 2 code	4	Regional code according to NUTS classification in Regulation (EC) No 1059/2003; the national total should be provided using the code TT
Recovery or disposal operation	1	Code referring to the Annexes of Directive 75/442/EEC (see list F); empty for the population served by the collection scheme
Variable	1	Number of facilities (N), capacity (C) or population served by the collection scheme (P)
Measure	1	Code for the capacity measure dependent on the type of recovery or disposal operation (see list I); for the number of facilities code N, for the population served by the collection scheme either P (population) or D (dwellings)
Value	12	All values, the number of facilities, the percentage of population or dwellings covered by the collection scheme and the capacity are expressed as integer. This field should always contain a value. If the combination did not occur the value will be 0 (zero). Missing data are to be coded as 'M'. The logical impossibility of a combination is indicated with 'L'
Update flag	1	To indicate provisional data (P) or revised data (R), empty otherwise
Confidentiality flag	1	Indicates confidential data (see list D)

List A — Country codes

Belgium	BE
Czech Republic	CZ
Denmark	DK
Germany	DE
Estonia	EE
Greece	EL
Spain	ES
France	FR
Ireland	IE
Italy	IT
Cyprus	CY
Latvia	LV
Lithuania	LT
Luxembourg	LU
Hungary	HU
Malta	MT
The Netherlands	NL
Austria	AT
Poland	PL
Portugal	PT
Slovenia	SI
Slovak Republic	SK
Finland	FI
Sweden	SE
United Kingdom	UK
Bulgaria	BG
Croatia	HR
Romania	RO
Turkey	TR
Iceland	IS
Liechtenstein	LI
Norway	NO

List B — Waste categories

EWC-Stat/version 3 (OJ L 90, 27.3.2004, p. 15)			
Description	Code	Hazardous	Waste item
Spent solvents	01.1	H	1
Acid, alkaline or saline wastes	01.2		2
Acid, alkaline or saline wastes	01.2	H	3
Used oils	01.3	H	4
Spent chemical catalysts	01.4		5
Spent chemical catalysts	01.4	H	6
Chemical preparation wastes	02		7
Chemical preparation wastes	02	H	8

EWC-Stat/version 3 (OJ L 90, 27.3.2004, p. 15)

Description	Code	Hazardous	Waste item
Chemical deposits and residues	03.1		9
Chemical deposits and residues	03.1	H	10
Industrial effluent sludges	03.2		11
Industrial effluent sludges	03.2	H	12
Health care and biological wastes	05		13
Health care and biological wastes	05	H	14
Metallic wastes	06		15
Metallic wastes	06	H	16
Glass wastes	07.1		17
Glass wastes	07.1	H	18
Paper and cardboard wastes	07.2		19
Rubber wastes	07.3		20
Plastic wastes	07.4		21
Wood wastes	07.5		22
Wood wastes	07.5	H	23
Textile wastes	07.6		24
Waste containing PCB	07.7	H	25
Discarded equipment (excluding discarded vehicles and batteries and accumulators waste)	08 (excl. 08.1, 08.41)		26
Discarded equipment (excluding discarded vehicles and batteries and accumulators waste)	08 (excl. 08.1, 08.41)	H	27
Discarded vehicles	08.1		28
Discarded vehicles	08.1	H	29
Batteries and accumulators wastes	08.41		30
Batteries and accumulators wastes	08.41	H	31
Animal and vegetal wastes (excluding animal of food preparation and products; and excluding animal faeces, urine and manure)	09 (excl. 09.11, 09.3)		32
Animal waste of food preparation and products	09.11		33
Animal faeces, urine and manure	09.3		34
Household and similar wastes	10.1		35
Mixed and undifferentiated materials	10.2		36
Mixed and undifferentiated materials	10.2	H	37
Sorting residues	10.3		38
Sorting residues	10.3	H	39

EWC-Stat/version 3 (OJ L 90, 27.3.2004, p. 15)			
Description	Code	Hazardous	Waste item
Common sludges (excluding dredging spoils)	11 (excl. 11.3)		40
Dredging spoils	11.3		41
Mineral wastes (excluding combustion wastes, contaminated soils and polluted dredging spoils)	12 (excl. 12.4, 12.6)		42
Mineral wastes (excluding combustion wastes, contaminated soils and polluted dredging spoils)	12 (excl. 12.4, 12.6)	H	43
Combustion wastes	12.4		44
Combustion wastes	12.4	H	45
Contaminated soils and polluted dredging spoils	12.6	H	46
Solidified, stabilised or vitrified wastes	13		47
Solidified, stabilised or vitrified wastes	13	H	48
Total, non-hazardous			TN
Total, hazardous		H	TH
Total, general			TT

List C — Activity item

NACE rev 1.1 category (Council Regulation (EEC) No 3037/90) (1)	Description	Activity item
A	Agriculture, hunting and forestry	1
B	Fishing	2
C	Mining and quarrying	3
DA	Manufacture of food products, beverages and tobacco	4
DB+DC	Manufacture of textiles and textile products Manufacture of leather and leather products	5
DD	Manufacture of wood and wood products	6
DE	Manufacture of pulp, paper and paper products; publishing and printing	7
DF	Manufacture of coke, refined petroleum products and nuclear fuel	8
DG+DH	Manufacture of chemicals, chemical products and man-made fibres Manufacture of rubber and plastic products	9
DI	Manufacture of other non-metallic mineral products	10
DJ	Manufacture of basic metals and fabricated metal products	11
DK+DL+DM	Manufacture of machinery and equipment n.e.c. Manufacture of electrical and optical equipment Manufacture of transport equipment	12
DN (excluding 37)	Manufacture n.e.c.	13
E	Electricity, gas and water supply	14

NACE rev 1.1 category (Council Regulation (EEC) No 3037/90) ⁽¹⁾	Description	Activity item
F	Construction	15
G-Q (excluding 51.57 and 90)	Other economic activities (services)	16
37	Recycling	17
51.57	Wholesale of waste and scrap	18
90	Sewage and refuse disposal, sanitation and similar activities	19
HH	Waste generated by households	20
Total		TA

⁽¹⁾ OJ L 293, 24.10.1990, p. 1. Regulation as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council.

List D — Confidentiality flag

Too few enterprises	A	For instance 1 or 2 enterprises in the population
One enterprise dominates the data	B	Not too few enterprises, but one enterprise generates/treats for instance over 70 %
Two enterprises dominate the data	C	Not too few enterprises, but two enterprises generate/treat for instance over 70 %
Confidential data due to secondary confidentiality	D	Not confidential on its own account (flag A, B, C), but to prevent indirect disclosure of confidential data
The value is not confidential	Blank	

List E — Waste categories for incineration

Waste item	EWC-Stat Version 3 (OJ L 90, 27.3.2004, p. 15)		Hazardous/ Non-hazardous waste
	Code	Description	
1	01 + 02 + 03	Chemical wastes (Chemical compound waste + Chemical preparation wastes + Other chemical wastes)	Non-hazardous
2	01 + 02 + 03 excl. 01.3	Chemical wastes excluding Used oils (Chemical compound waste + Chemical preparation wastes + Other chemical wastes)	Hazardous
3	01.3	Used oils	Hazardous
4	05	Health care and biological wastes	Non-hazardous
5	05	Health care and biological wastes	Hazardous
6	07.7	Waste containing PCB	Hazardous
7	10.1	Household and similar wastes	Non-hazardous
8	10.2	Mixed and undifferentiated materials	Non-hazardous
9	10.2	Mixed and undifferentiated materials	Hazardous
10	10.3	Sorting residues	Non-hazardous
11	10.3	Sorting residues	Hazardous

Waste item	EWC-Stat Version 3 (OJ L 90, 27.3.2004, p. 15)		Hazardous/ Non-hazardous waste
	Code	Description	
12	11	Common sludges	Non-hazardous
13	06 + 07 + 08 + 09 + 12 + 13	Other wastes (Metallic wastes + Non-metallic wastes + Discarded equipment + Animal and vegetal wastes + Mineral wastes + Solidified, stabilised or vitrified wastes)	Non-hazardous
14	06 + 07 + 08 + 09 + 12 + 13 excl. 07.7	Other wastes (Metallic wastes + Non-metallic wastes excluding Waste containing PCB + Discarded equipment + Animal and vegetal wastes + Mineral wastes + Solidified, stabilised or vitrified wastes)	Hazardous
TN		Total, non-hazardous	Non-hazardous
TH		Total, hazardous	Hazardous
TT		Total, general	

List F — Recovery and Disposal Operations; the codes refer to the codes in the Annexes of Directive 75/442/EEC

Operation	Code	Types of recovery and disposal operations
Incineration		
1	R1	Use principally as a fuel or other means to generate energy
2	D10	Incineration on land
Operations which may lead to recovery (excluding energy recovery)		
3	R2 +	Solvent reclamation/regeneration
	R3 +	Recycling/reclamation of organic substances which are not used as solvents (including composting and other biological transformation processes)
	R4 +	Recycling/reclamation of metals and metal compounds
	R5 +	Recycling/reclamation of other inorganic materials
	R6 +	Regeneration of acids or bases
	R7 +	Recovery of components used for pollution abatement
	R8 +	Recovery of components from catalysts
	R9 +	Oil refining or other reuses of oil
	R10 +	Land treatment resulting in benefit to agriculture or ecological improvement
	R11	Use of wastes obtained from any of the operations numbered R1 to R10
Disposal operations		
4	D1 +	Deposit into or onto land (e.g. landfill etc.)
	D3 +	Deep injection (e.g. injection of pumpable discards into wells, salt domes or naturally occurring repositories etc.)
	D4 +	Surface impoundment (e.g. placement of liquid or sludge discards into pits, pounds or lagoons etc.)
	D5 +	Special engineered landfill (e.g. placement into lined discrete cells which are capped and isolated from one another and the environment etc.)
	D12	Permanent storage (e.g. emplacement of containers in a mine etc.)

Operation	Code	Types of recovery and disposal operations
5	D2 +	Land treatment (e.g. biodegradation of liquid or sludgy discards in soils etc.)
	D6 +	Release into a water body except seas/oceans
	D7	Release into seas/oceans including sea-bed insertion

List G — Waste categories for operations which may lead to recovery (excluding energy recovery)

Waste item	EWC-Stat Version 3 (OJ L 90, 27.3.2004, p. 15)		Hazardous/ Non-hazardous waste
	Code	Description	
1	01.3	Used oils	Hazardous
2	06	Metallic wastes	Non-hazardous
3	06	Metallic wastes	Hazardous
4	07.1	Glass wastes	Non-hazardous
5	07.1	Glass wastes	Hazardous
6	07.2	Paper and cardboard wastes	Non-hazardous
7	07.3	Rubber wastes	Non-hazardous
8	07.4	Plastic wastes	Non-hazardous
9	07.5	Wood wastes	Non-hazardous
10	07.6	Textile wastes	Non-hazardous
11	09 excl. 09.11, 09.3	Animal and vegetal wastes (excluding animal waste of food preparation and products; and animal faeces, urine and manure)	Non-hazardous
12	09.11	Animal waste of food preparation and products	Non-hazardous
13	09.3	Animal faeces, urine and manure	Non-hazardous
14	12	Mineral waste	Non-hazardous
15	12	Mineral waste	Hazardous
16	01 + 02 + 03 + 05 + 08 + 10 + 11 + 13	Other wastes (Chemical compound wastes + Chemical preparation wastes + Other chemical wastes + Health care and biological wastes + Discarded equipment + Mixed ordinary wastes + Common sludges + Solidified, stabilised or vitrified wastes)	Non-hazardous
17	01 + 02 + 03 + 05 + 07.5 + 07.7 + 08 + 10 + 11 + 13 excl. 01.3	Other wastes (Chemical compound wastes excluding Used oils + Chemical preparation wastes + Other chemical wastes + Health care and biological wastes + Wood wastes + Waste containing PCB + Discarded equipment + Mixed ordinary wastes + Common sludges + Solidified, stabilised or vitrified wastes)	Hazardous
TN		Total, non-hazardous	Non-hazardous
TH		Total, hazardous	Hazardous
TT		Total, general	

List H — Waste categories for disposal (other than incineration)

Item No.	EWC-Stat Version 3 (OJ L 90, 27.3.2004, p. 15)		Hazardous/ Non-hazardous waste
	Code	Description	
1	01 + 02 + 03	Chemical wastes (Chemical compound waste + Chemical preparation wastes + Other chemical wastes)	Non-hazardous
2	01 + 02 + 03 excl. 01.3	Chemical wastes excluding Used oils (Chemical compound waste + Chemical preparation wastes + Other chemical wastes)	Hazardous
3	01.3	Used oils	Hazardous
4	09 excl. 09.11, 09.3	Animal and vegetal wastes (excluding animal waste of food preparation and products; and animal faeces, urine and manure)	Non-hazardous
5	09.11	Animal waste of food preparation and products	Non-hazardous
6	09.3	Animal faeces, urine and manure	Non-hazardous
7	10.1	Household and similar wastes	Non-hazardous
8	10.2	Mixed and undifferentiated materials	Non-hazardous
9	10.2	Mixed and undifferentiated materials	Hazardous
10	10.3	Sorting residues	Non-hazardous
11	10.3	Sorting residues	Hazardous
12	11	Common sludges	Non-hazardous
13	12	Mineral wastes	Non-hazardous
14	12	Mineral wastes	Hazardous
15	05 + 06 + 07 + 08 + 13	Other wastes (Health care and biological wastes + Metallic wastes + Non-metallic wastes + Discarded equipment + Solidified, stabilised or vitrified wastes)	Non-hazardous
16	05 + 06 + 07 + 08 + 13	Other wastes (Health care and biological wastes + Metallic wastes + Non-metallic wastes + Discarded equipment + Solidified, stabilised or vitrified wastes)	Hazardous
TN		Total, non-hazardous	Non-hazardous
TH		Total, hazardous	Hazardous
TT		Total, general	

List I — Capacity measure

Operation	Capacity measure	Measure code
1	1 000 tonnes per year with three decimals	t
	Terajoules per year (10^{12})	j
2	1 000 tonnes per year with three decimals	t
	Terajoules per year (10^{12})	j
3	1 000 tonnes per year with three decimals	t
4	Cubic metres per year	m
5	1 000 tonnes per year with three decimals	t

COMMISSION REGULATION (EC) No 783/2005
of 24 May 2005
amending Annex II to Regulation (EC) No 2150/2002 of the European Parliament and of the Council
on waste statistics
(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 2150/2002 of the European Parliament and of the Council of 25 November 2002 on waste statistics ⁽¹⁾, and in particular Article 1(5) and Article 6 point (b) thereof,

Whereas:

- (1) By virtue of Article 6 of Regulation (EC) No 2150/2002, the Commission is required to lay down the arrangements for implementing that Regulation.
- (2) Under Article 6 point (b) of Regulation (EC) No 2150/2002, the Commission may adapt the specifications in the Annexes thereto.
- (3) Commission Regulation (EC) No 574/2004 establishes an amendment of the statistical nomenclature in Annex I and Annex III to Regulation (EC) No 2150/2002.

Annex II to Regulation (EC) No 2150/2002 should now be adapted to match this amendment.

- (4) Regulation (EC) No 2150/2002 should therefore be amended accordingly.
- (5) The measures provided for in this Regulation are in accordance with the opinion of the Statistical Programme Committee established by Council Decision 89/382/EEC, Euratom ⁽²⁾,

HAS ADOPTED THIS REGULATION:

Article 1

In Annex II to Regulation (EC) No 2150/2002, Section 2 is replaced by the text set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth 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, 24 May 2005.

For the Commission
Joaquín ALMUNIA
Member of the Commission

⁽¹⁾ OJ L 332, 9.12.2002, p. 1. Regulation as last amended by Commission Regulation (EC) No 574/2004 (OJ L 90, 27.3.2004, p. 15).

⁽²⁾ OJ L 181, 28.6.1989, p. 47.

ANNEX

‘ANNEX II

SECTION 2

Waste categories

The list of waste categories for which the statistics are to be compiled, according to the recovery or disposal operations as referred to in section 8(2), are the following:

Incineration			
Item No	EWC-Stat Version 3		Hazardous/Non-hazardous waste
	Code	Description	
1	01 + 02 + 03	Chemical wastes (Chemical compound waste + Chemical preparation wastes + Other chemical wastes)	Non-hazardous
2	01 + 02 + 03 excl. 01.3	Chemical wastes excluding Used oils (Chemical compound waste + Chemical preparation wastes + Other chemical wastes)	Hazardous
3	01.3	Used oils	Hazardous
4	05	Health care and biological wastes	Non-hazardous
5	05	Health care and biological wastes	Hazardous
6	07.7	Waste containing PCB	Hazardous
7	10.1	Household and similar wastes	Non-hazardous
8	10.2	Mixed and undifferentiated materials	Non-hazardous
9	10.2	Mixed and undifferentiated materials	Hazardous
10	10.3	Sorting residues	Non-hazardous
11	10.3	Sorting residues	Hazardous
12	11	Common sludges	Non-hazardous
13	06 + 07 + 08 + 09 + 12 + 13	Other wastes (Metallic wastes + Non-metallic wastes + Discarded equipment + Animal and vegetal wastes + Mineral wastes + Solidified, stabilised or vitrified wastes)	Non-hazardous
14	06 + 07 + 08 + 09 + 12 + 13 excl. 07.7	Other wastes (Metallic wastes + Non-metallic wastes excluding Waste containing PCB + Discarded equipment + Animal and vegetal wastes + Mineral wastes + Solidified, stabilised or vitrified wastes)	Hazardous

Operations which may lead to recovery
(excluding energy recovery)

Item No	EWC-Stat Version 3		Hazardous/Non-hazardous waste
	Code	Description	
1	01.3	Used oils	Hazardous
2	06	Metallic wastes	Non-hazardous
3	06	Metallic wastes	Hazardous
4	07.1	Glass wastes	Non-hazardous

Operations which may lead to recovery (excluding energy recovery)			
Item No	EWC-Stat Version 3		Hazardous/Non-hazardous waste
	Code	Description	
5	07.1	Glass wastes	Hazardous
6	07.2	Paper and cardboard wastes	Non-hazardous
7	07.3	Rubber wastes	Non-hazardous
8	07.4	Plastic wastes	Non-hazardous
9	07.5	Wood wastes	Non-hazardous
10	07.6	Textile wastes	Non-hazardous
11	09 excl. 09.11, 09.3	Animal and vegetal wastes (excluding animal waste of food preparation and products; and animal faeces, urine and manure)	Non-hazardous
12	09.11	Animal waste of food preparation and products	Non-hazardous
13	09.3	Animal faeces, urine and manure	Non-hazardous
14	12	Mineral waste	Non-hazardous
15	12	Mineral waste	Hazardous
16	01 + 02 + 03 + 05 + 08 + 10 + 11 + 13	Other wastes (Chemical compound wastes + Chemical preparation wastes + Other chemical wastes + Health care and biological wastes + Discarded equipment + Mixed ordinary wastes + Common sludges + Solidified, stabilised or vitrified wastes)	Non-hazardous
17	01 + 02 + 03 + 05 + 07.5 + 07.7 + 08 + 10 + 11 + 13 excl. 01.3	Other wastes (Chemical compound wastes excluding Used oils + Chemical preparation wastes + Other chemical wastes + Health care and biological wastes + Wood wastes + Waste containing PCB + Discarded equipment + Mixed ordinary wastes + Common sludges + Solidified, stabilised or vitrified wastes)	Hazardous

Disposal (other than incineration)			
Item No	EWC-Stat Version 3		Hazardous/Non-hazardous waste
	Code	Description	
1	01 + 02 + 03	Chemical wastes (Chemical compound waste + Chemical preparation wastes + Other chemical wastes)	Non-hazardous
2	01 + 02 + 03 excl. 01.3	Chemical wastes excluding Used oils (Chemical compound waste + Chemical preparation wastes + Other chemical wastes)	Hazardous
3	01.3	Used oils	Hazardous
4	09 excl. 09.11, 09.3	Animal and vegetal wastes (excluding animal waste of food preparation and products; and animal faeces, urine and manure)	Non-hazardous
5	09.11	Animal waste of food preparation and products	Non-hazardous

Disposal (other than incineration)			
Item No	EWC-Stat Version 3		Hazardous/Non-hazardous waste
	Code	Description	
6	09.3	Animal faeces, urine and manure	Non-hazardous
7	10.1	Household and similar wastes	Non-hazardous
8	10.2	Mixed and undifferentiated materials	Non-hazardous
9	10.2	Mixed and undifferentiated materials	Hazardous
10	10.3	Sorting residues	Non-hazardous
11	10.3	Sorting residues	Hazardous
12	11	Common sludges	Non-hazardous
13	12	Mineral wastes	Non-hazardous
14	12	Mineral wastes	Hazardous
15	05 + 06 + 07 + 08 + 13	Other wastes (Health care and biological wastes + Metallic wastes + Non-metallic wastes + Discarded equipment + Solidified, stabilised or vitrified wastes)	Non-hazardous
16	05 + 06 + 07 + 08 + 13	Other wastes (Health care and biological wastes + Metallic wastes + Non-metallic wastes + Discarded equipment + Solidified, stabilised or vitrified wastes)	Hazardous'

COMMISSION REGULATION (EC) No 784/2005**of 24 May 2005****adopting derogations from the provisions of Regulation (EC) No 2150/2002 of the European Parliament and of the Council on waste statistics as regards Lithuania, Poland and Sweden****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Programme Committee established by Council Decision 89/382/EEC, Euratom ⁽²⁾,

Having regard to the Treaty establishing the European Community,

HAS ADOPTED THIS REGULATION:

Having regard to Regulation (EC) No 2150/2002 of the European Parliament and of the Council of 25 November 2002 on waste statistics ⁽¹⁾, and in particular Article 4(1) thereof,

Having regard to the request made by Lithuania on 2 July 2004,

Having regard to the request made by Poland on 13 July 2004,

Having regard to the request made by Sweden on 26 August 2004,

Whereas:

- (1) In accordance with Article 4(1) of Regulation (EC) No 2150/2002, derogations from certain provisions of Annexes to that Regulation may be granted by the Commission during a transitional period.
- (2) Such derogations should be granted, at their request, to Lithuania, Poland and Sweden.
- (3) The measures provided for in this Regulation are in accordance with the opinion of the Statistical

Article 1

1. The following derogations from the provisions of Regulation (EC) No 2150/2002 are hereby granted:

- (a) Lithuania and Poland are granted derogations for the production of results relating to Section 8 (1.1), Items 1 (agriculture, hunting and forestry), 2 (fisheries) and 16 (services activities) of Annex I and those relating to Section 8 (2) of Annex II.
- (b) Sweden is granted derogations for the production of results relating to Section 8 (1.1), Items 1 (agriculture, hunting and forestry), 2 (fisheries) and 16 (services activities) of Annex I.

2. The derogations provided for in paragraph 1 are granted only in respect of data for the first reference year, namely 2004.

Article 2

This Regulation shall enter into force on the twentieth 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, 24 May 2005.

For the Commission

Joaquín ALMUNIA

Member of the Commission

⁽¹⁾ OJ L 332, 9.12.2002, p. 1. Regulation as last amended by Commission Regulation (EC) No 574/2004 (OJ L 90, 27.3.2004, p. 15)

⁽²⁾ OJ L 181, 28.6.1989, p. 47.

II

(Acts whose publication is not obligatory)

COMMISSION

**DECISION No 1/2005 OF THE JOINT COMMITTEE ON AGRICULTURE SET UP BY THE
AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND THE SWISS CONFEDERATION
ON TRADE IN AGRICULTURAL PRODUCTS**

of 25 February 2005

concerning point B(9) of Appendix 1 to Annex 7

(2005/394/EC)

THE JOINT COMMITTEE,

Having regard to the Agreement between the European Community and the Swiss Confederation on trade in agricultural products, and in particular Article 11 thereof,

Whereas:

- (1) This Agreement entered into force on 1 June 2002.
- (2) Annex 7 is aimed at facilitating trade in wine-sector products between the Parties.
- (3) Under Article 27(1) of Annex 7, the Working Group considers any matter which may arise in connection with the implementation of Annex 7 and, under Article 27(2) of Annex 7, may in particular put forward

proposals to the Committee with a view to adapting and updating the Appendices to Annex 7.

- (4) Point B(9) of Appendix 1 to Annex 7 sets out the accompanying document for wines imported from Switzerland in accordance with point B(9) of Appendix 1 to the original version of the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

Point B(9) of Appendix 1 to Annex 7 is hereby replaced by the text contained in the Annex to this Decision.

Article 2

This Decision shall apply from 1 October 2004.

Done at Brussels, 25 February 2005.

*For the Joint Committee on Agriculture
The Chair, Head of the Swiss Delegation
Christian HÄBERLI*

*For the European Community,
The Head of Unit AGRI AI/2
Aldo LONGO*

*Secretariat of the Committee
The Secretary
Remigi WINZAP*

ANNEX

'9. All imports into the Community of wine-sector products originating in Switzerland shall be subject to presentation of the accompanying document set out below. This accompanying document replaces document VII, as referred to in Commission Regulation (EC) No 883/2001 of 24 April 2001 laying down detailed rules for implementing Council Regulation (EC) No 1493/1999 as regards trade with third countries in products in the wine sector⁽¹⁾

Accompanying document⁽²⁾ for the carriage of wine products from Switzerland⁽³⁾

1. Exporter (name and address)	2. Reference number	
	4. Swiss authority responsible at the place of departure (name and address)	
3. Consignee (name and address)	6. Date of dispatch	
	7. Place of delivery	
5. Carrier and other transport details		9. Quantity
8. Description of product		11. Batch (No)
10. Other details		
12. Certificates (certain wines)		
13. Details of wine exported in bulk Actual alcoholic strength: Handling:		
14. Checks by EU authorities responsible:	15. Signatory's company and telephone No	
	16. Name of signatory	
	17. Place and date	
	18. Signature	

⁽¹⁾ OJ L 128, 10.5.2001, p. 1.

⁽²⁾ In accordance with point B(9) of Appendix 1 to Annex 7 to the Agreement of 21 June 1999 between the European Community and the Swiss Confederation on trade in agricultural products.

⁽³⁾ The wine-growing zone to which this document refers is the territory of the Swiss Confederation.'

CORRIGENDA

Corrigendum of the Corrigendum to Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty

(Official Journal of the European Union L 25 of 28 January 2005)

On page 74:

for: 'On page 134 add the following text to the end of the document';

read: 'On page 128 add the following text to the end of part III of Annex 1'.
