

Official Journal

of the European Union

L 240

Volume 48

16 September 2005

English edition

Legislation

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⁽¹⁾ Text with EEA relevance

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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1487/2005**of 12 September 2005****imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain finished polyester filament fabrics originating in the People's Republic of China**

THE COUNCIL OF THE EUROPEAN UNION,

Regulation was based. All parties were granted a period within which they could make representations in relation to these disclosures.

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 9 thereof,

- (4) Some interested parties submitted comments in writing. Those parties who so requested were also granted an opportunity to be heard orally. The Commission sought and verified all information it deemed necessary. The oral and written comments submitted by the parties were examined, and, where considered appropriate, the provisional findings were modified accordingly.

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

- (5) The Commission further disclosed all the essential facts and considerations on the basis of which it intended to recommend the imposition of a definitive anti-dumping duty and the definitive collection of amounts secured by way of the provisional duty. The interested parties were also granted a period within which they could make representations subsequent to this disclosure. The oral and written comments submitted by the parties were considered and, where appropriate, the proposal for a definitive anti-dumping duty has been modified accordingly.

Whereas:

A. PROCEDURE**1. Provisional measures**

- (1) On 15 March 2005, the Commission imposed, by Regulation (EC) No 426/2005⁽²⁾ (the provisional Regulation), a provisional anti-dumping duty on imports of certain finished polyester filament fabrics originating in the People's Republic of China (PRC).
- (2) It is recalled that the investigation period of dumping and injury (IP) covered the period from 1 April 2003 to 31 March 2004. The examination of trends relevant for the injury analysis covered the period from 1 January 2000 to the end of the IP (period considered).

2. Subsequent procedure

- (3) Following the imposition of a provisional anti-dumping duty on imports of certain finished polyester filament fabrics from the PRC, all parties received a disclosure of the facts and considerations on which the provisional

B. PRODUCT CONCERNED AND LIKE PRODUCT

- (6) It is recalled that, in recital (11) of the provisional Regulation, the product concerned was defined as finished polyester filament apparel fabrics, which are woven fabric of synthetic filament yarn containing 85 % or more by weight of textured and/or non-textured polyester filaments, dyed or printed. It is hereby clarified that even if the product concerned is normally used for apparel applications, i.e., *inter alia*, for making lining for clothing and for making anoraks, sports wear, ski wear, underwear and fashion items, it can also be used, although to a lesser extent, for other applications. Therefore, all finished polyester filament fabrics as described above are covered by the product definition, regardless of their final use. Whether the product concerned is used for one or another application, its basic physical technical and chemical characteristics remain identical and therefore the difference in use does not affect the definition of the product concerned.

⁽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 69, 16.3.2005, p. 6.

- (7) It is also confirmed that fabrics dyed white also fall within the scope of the product definition. Those fabrics are however to be distinguished from unbleached woven fabric of synthetic filament yarn (also called grey fabrics) that is a product formed after weaving but before dyeing, and which forms the raw material for the product concerned. The latter is therefore not covered by the scope of the product definition. As dyed white woven fabrics as defined above fall within CN codes ex 5407 51 00, ex 5407 61 10, and ex 5407 69 10, these CN codes had to be added to the operational part of this Regulation.
- (8) Finally, it is also confirmed that the product concerned should be distinguished from woven polyester filament fabrics of yarns of different colours, for which pre-dyed yarn is woven into cloth, and the design is created by weaving the pattern. The latter product has different basic physical and chemical characteristics, since the raw material used (pre-dyed yarn) is different, and the design is obtained through weaving and not printing or dyeing. In addition, such type of finished fabric is normally used for soft furnishing applications, whereas the product concerned is almost exclusively used for making clothing.
- (9) Several interested parties claimed that finished polyester filament fabrics (FPFF), which are used for furniture or home decoration, should not be included in the anti-dumping measures. One interested party, importing polyester fabrics for umbrellas, argued also that the use of the textile they import is different and not suitable for the clothing industry, due to a difference in weight.
- (10) Indeed, it was confirmed in the investigation that a certain part of product concerned, although to a lesser extent, is used for furniture and home decoration purposes. However, these fabrics have, despite differences in a variety of factors such as colour, size of the yarns and finish, the same basic technical, physical and chemical characteristics as the fabrics for apparel use. It is, therefore, concluded that they should not be excluded from the product definition.
- (11) One interested party argued that depending on the use of the product, e.g. as lining for low-end garments or as fabric material for high-end garments the price and the quality is significantly different and that these products should not be seen as one product concerned.
- (12) It should be recalled in this respect that differences in type and in price have been accounted for by the product control numbers (PCN) codes established for the investi-

gation, which ensure that different product types are compared like with like.

- (13) In recital (15) of the provisional Regulation, it was stated that the Commission had found that FPFF produced by the Community industry and sold on the Community market as well as FPFF produced in the countries concerned and exported to the Community were like products, since no differences in the basic physical and chemical characteristics and uses of the existing different types had been found.
- (14) In the absence of any further comments regarding the product definition and the like product, the contents and provisional conclusions of recitals (11) to (16) of the provisional Regulation are hereby confirmed.

C. PARTIES CONCERNED BY THE PROCEEDING

- (15) One interested party requested that the details of the cooperating Community producers should be published in order to make it possible for interested parties to assess whether the standing requirements are satisfied. As stated in recital (8)(a) of the provisional Regulation, the Community producers requested in terms of Article 19 of the basic Regulation that their details should not be published, as to do so would have a significantly adverse effect upon them. As some of them buy polyester yarns (their main raw materials) from Chinese suppliers, there is a risk of retaliation. Their request was found to be sufficiently substantiated and was, therefore, granted.

D. DUMPING

1. Market economy treatment (MET)

- (16) It is recalled that in the present investigation, 49 exporting producers in the PRC made themselves known and requested MET pursuant to Article 2(7)(c) of the basic Regulation. Each single MET application was analysed against the five criteria laid down in that Article.
- (17) On this basis, as set out in recital (23) of the provisional Regulation, 25 companies could successfully demonstrate that they met the five relevant MET criteria. MET could not be granted to the remaining companies: 10 of them did not sufficiently cooperate in the investigation by not submitting the necessary information requested, and the 14 others were found not to meet the criteria of Article 2(7)(c) of the basic Regulation, for the reasons summarised in the table below:

Company	Criteria				
	Article 2(7)(c) first indent	Article 2(7)(c) second indent	Article 2(7)(c) third indent	Article 2(7)(c) fourth indent	Article 2(7)(c) fifth indent
1	Not met	Not met	Met	Met	Met
2	Met	Not met	Not met	Met	Met
3	Met	Not met	Not met	Met	Met
4	Not met	Not met	Not met	Met	Met
5	Not met	Not met	Not met	Met	Met
6	Met	Met	Not met	Met	Met
7	Met	Met	Not met	Met	Met
8	Met	Met	Not met	Met	Met
9	Not met	Not met	Met	Met	Met
10	Not met	Met	Met	Met	Met
11	Met	Not met	Met	Met	Met
12	Met	Met	Not met	Met	Met
13	Met	Met	Not met	Met	Met
14	Not met	Not met	Met	Met	Met

Source: verified questionnaire replies of cooperating Chinese exporters.

- (18) The companies concerned and the complainant were given the opportunity to comment on the above findings. The results of the analysis of the comments received by the various interested parties are addressed below.
- (19) As a general remark, it should be recalled that in accordance with Article 2(7)(c) of the basic Regulation the burden of proof is on the exporting producers claiming MET, since this Article provides that it is up to the companies to supply sufficient evidence that they operate under market economy conditions. If doubts remain, for example because the company/ies concerned did not, or was/were not able to provide the necessary information, or that this information was insufficient, MET cannot be granted.
- (20) It is further noted that each one of all five criteria listed under Article 2(7)(c) of the basic Regulation needs to be fully met in order for MET to be granted to a company. In other words, MET cannot be granted if one criterion is only partly fulfilled. Likewise, it is the EC Institutions' consistent practice to examine whether a group of related companies as a whole fulfils the conditions for MET, which means that each related company producing and/or selling the product concerned should demonstrate it fulfils the MET criteria.
- (21) In this context, Companies 4, 5, 9 and 14 claimed that the assessment on whether a company should be granted MET has to be made on an overall basis and, since the Commission found that only certain aspects for the relevant criteria were not fulfilled, MET should be granted to them. Those claims were rejected on the grounds mentioned in recital (20).
- (22) Companies 4 and 5 also claimed that the findings of the Commission were insufficient to conclude that they did not fulfil the first criterion. In this respect, it should be noted that in the case of both companies, the verification visit revealed that either misleading information was submitted by the companies in their MET claim form or important information was simply omitted. For one company, a significant supplier of raw material was reported to be a private company, but later found to be State-owned during the on-spot investigation. The argument made by the company that it cannot be expected to know the details concerning ownership of its suppliers could not be accepted since the company explicitly reported in the MET claim form that this supplier was private-owned, which was also expressly confirmed by the company during the verification visit. As to the second company, it was found during the verification visit that, although specifically requested in the MET claim form, the company omitted to report its purchases of the main raw material, thus no information was given as to the details of the relevant suppliers. Under those conditions, the verification was strongly

impeded and it could not be verified whether the corresponding costs were made in response to market signals and without State interference. The claims made by the companies were therefore rejected.

- (23) Companies 3, 9 and 14 claimed that the mere fact that the auditors issued a qualified opinion on their annual accounts is not sufficient to consider that the second criterion of Article 2(7)(c) of the basic Regulation is not fulfilled. Company 2 challenged the Commission's conclusions that this company does not have one clear set of independently audited accounting records used for all purposes. Finally, Companies 4 and 5 claimed that since they have a clear set of accounts independently audited, the second criterion should be considered fulfilled.
- (24) From a general point of view, it is recalled that the second criterion of Article 2(7)(c) of the basic Regulation requires the companies concerned to demonstrate that they have a basic set of accounts independently audited in line with international accounting standards, in order to assess the reliability of those accounts in view of ensuring a proper assessment of dumping. Indeed, the dumping calculation is mainly based on data included in the accounting records of the companies, such as revenue, costs, profit and inventory, which must therefore be reliable. The anti-dumping verification visit precisely consists in verifying those items. Moreover, it is also recalled that the opinion expressed by the auditor (approval without or with qualifications, or refusal to approve) depends on the materiality of the discrepancies found in the accounts. The fact that an auditor does not refuse to approve the accounts does not mean in itself that the accounts are correct, which could only be guaranteed by an approval without reservations by the auditor.
- (25) More specifically, concerning Companies 3, 9 and 14, it should be noted that the reservations made by the auditors were rather significant. In the case of one company, the auditors were unable to verify the validity of the year-end balance of stocks and selling costs of the year. In the case of another company, the auditors stated in their report that they were unable to check the inventory as of year-end due to 'restricted conditions'. It is noted that the inventory value represented more than 10 % of the balance sheet total of that company. In addition, the accounts provided by the company did not match with those referred to by the auditors' report, which casts doubts as to whether the correct audited accounts were submitted. As to the last company, significant reservations were in the 2002 annual accounts. Despite no obvious change in accounting policy, nor any adjustment of issues raised in earlier years, the 2003 accounts did not have the same reservations, which raised doubts as to whether the accounts were independently audited in line with international standards. Moreover, those accounts were not even adopted by the shareholders. The claims made by those companies were therefore rejected.
- (26) As far as the claim made by Company 2 is concerned, it is noted that the significant adjustments requested by the auditors, having the effect of halving the profits, were only recorded in the annual accounts, but not in the accounts of the company. The reason for this was that the company wanted to show higher profits in its accounts for other purposes. The accounts could therefore not be reconciled with the audited annual accounts, which would have had a direct and significant impact on any dumping calculation. This led to the conclusion that the company did not have a clear set of accounts used for all purposes. In the absence of any further information provided by the company, those findings are hereby confirmed and the claim rejected.
- (27) In the case of Companies 4 and 5, significant discrepancies were found in the accounts during the verification visit. The companies claimed that those discrepancies were due to clerical mistakes and that the Commission had not made a thorough analysis and misunderstood the situation. It is firstly recalled that it is on the companies to clarify or remove doubts which may arise during the verification. In addition, it is noted that certain requested documents were not provided by the companies during the time dedicated to the verification of the MET claim form and could therefore not be verified and taken into consideration. The discrepancies identified seriously put into question the reliability of the accounts, and it is therefore confirmed that those accounts could not be considered to be audited in line with international standards. In the absence of any further information provided by the companies, those conclusions are hereby confirmed and the claims were rejected.
- (28) The same last two companies and Company 6 claimed that the conclusions that they did not fulfil the third criterion were unfounded.
- (29) Company 4 claimed that the Commission had no plausible grounds to conclude that the price paid by the shareholders in the framework of the privatisation process was reduced. The investigation, however, firstly revealed that the company was valued for only 25 % of its net book value at the time of privatisation, which

casts doubts as to the reliability of the valuation report. More importantly, it also appeared that the new shareholders only paid a portion of that price for the ownership of the company. The remaining portion was found to have been paid by a third company whose details, namely on ownership, were refused to be disclosed by Company 4. It could therefore not remove the doubts that this third company was State-owned. The claim that the information could not be disclosed due to business confidentiality cannot be accepted since in anti-dumping investigations all confidential documents obtained during the verification visit are treated as such by the authorities, in accordance with Article 19(1) of the basic Regulation, and would thus in any event not be further disclosed in any way. The claim was therefore rejected.

(30) Company 5 challenged the Commission's negative MET determination with respect to the third criterion on the grounds that it allegedly purchased its main equipment from a related private company, and that the assets were thus transferred at market prices. It should be noted that in this specific case the Commission's conclusions were based on the fact that the company originally stated in the MET claim form that all its assets were bought from the open market, which was found incorrect during the verification visit. Indeed, it was found that all assets were actually transferred from the company's shareholder. The company could not clarify how the assets concerned were originally purchased by its shareholder, and at what price. The company therefore failed to demonstrate that the assets were transferred at market prices, and could thus not demonstrate that its production costs and financial situation were not subject to significant distortions carried over from the former non-market economy system. By providing misleading information as to the origin of its fixed assets, the verification work was also strongly impeded. In the absence of any further information, those conclusions are hereby confirmed and the claim was rejected.

(31) Company 6 claimed that the fact that all assets are depreciated at the same flat rate should not lead to the conclusion that the financial situation of the company is distorted. Moreover, the company claimed that the purchase price of the land right use, which was found to be abnormally low by the Commission services, is a pure market transaction, without State interference. Those claims were rejected on the grounds that the use of the same depreciation rate for all assets, by this former collectively owned company, does not reflect the economic reality and implies a significant distortion of the production costs and the financial situation of the firm. As to the acquisition of the State-owned land use right, it involved by nature the State, and the company could not demonstrate that the purchase price, which appeared abnormally low in comparison with the normal annual rent previously paid by the company, reflected market value.

(32) It should be noted that some exporting producers also claimed that the Commission's conclusions not to grant them MET were based on wrong findings. However, they did not provide any additional element in this respect, so that their claims had to be rejected. Only one company could provide valid clarifications, while the claims made by the others had to be rejected.

(33) More generally, it was claimed by Company 9 that the absence of verification visit was unfavourable to them and discriminatory as compared to those companies that have been subject to a verification visit. Two other companies claimed that carrying out a simultaneous verification visit of the MET claim form and of the questionnaire reply on dumping worked to their disadvantage, and so did the breach of the three months deadline for the Commission to take a decision of MET pursuant to Article 2(7)(c) of the basic Regulation.

(34) In this respect, it is recalled that according to Article 16 of the basic Regulation, verification visits are not compulsory and shall be carried out where it is considered appropriate. In the present case, the MET claim by Company 9 was rejected already at the stage of a first analysis since – despite the sending of the deficiency letter – the company failed to show that all the criteria were met. As to the other claims, it should be noted that simultaneous verification visits and the non-respect of the three months deadline are explained by the fact that this proceeding involved a large number of exporting producers and that the provisions on sampling could only be used with respect to dumping calculations. The investigation therefore entailed a significant and time consuming analysis of each single MET claim form. In any event, it is considered that the simultaneity of the verification visits and the non-respect of the deadlines do not entail any apparent legal consequences, nor adverse effects and, as already concluded in previous investigations, a valid MET determination could be made under those circumstances. The claims were therefore also rejected.

(35) Finally, the claim by the complainant that a verification visit of the MET claim forms should be carried out at the premises of all companies concerned was rejected for the reasons explained above in recital (34).

2. Individual treatment (IT)

(36) It is recalled that individual treatment was granted to 18 companies, 13 of which having claimed but failed to obtain MET, since they were found to meet all the requirements for IT set forth in Article 9(5) of the basic Regulation.

- (37) Three companies which were not granted IT claimed that they were either not granted sufficient time to submit an MET/IT claim form with respect to their subsidiaries or that the limited activity of their subsidiary did not justify the need for a valid MET/IT claim form to be submitted.
- (38) In the case of those three companies, it should be noted that no MET/IT claim form was originally submitted within the deadline set for all companies. Following a first analysis, those companies were requested, by a deficiency letter, to also submit a claim form within a certain deadline with respect to their related companies also active in the sales/production of the product concerned. No such claim forms were however received, and no additional deadline could be granted in order not to discriminate with those companies that had submitted the relevant information within the granted deadlines. In this respect, it is noted that given the complexity of the case involving a high number of companies, for which MET/IT claims had to be individually examined and provisions on sampling had to be used for the establishment of dumping, granting extensions would also have prevented the completion of the investigation within the deadline. In addition, the fact that the activity of a company is limited does not exempt that company from proving it meets the relevant criteria. The claims were therefore rejected.

3. Sampling

- (39) One exporting producer claimed that the selection of the sample was unfair since it was merely based on export volumes considerations, and that it should have been included in the sample considering the high added value of the products it exported to the Community.
- (40) This claim was, however, rejected since the selection of the companies included in the sample was done in conformity with Article 17(1) of the basic Regulation, i.e. on the basis of the largest representative volume of exports that could reasonably be investigated within the time available.
- (41) Another exporting producer contested the conclusions that, since it had explicitly refused to be included in the sample, it could not be considered a cooperating party. The company firstly claimed that pursuant to Article 17(2) of the basic Regulation the selection of the sample must be made with the consent of the parties, thus leaving them the possibility not to be part of the sample. Secondly, it claimed that according to Article 2(7) of the basic Regulation, a verification visit is not a necessary condition for demonstrating that a company fulfils the five relevant criteria, so that it could still be granted MET. It argued that this is evidenced by the fact that MET has been granted to 22 companies, but only 7 companies were visited on the

spot. Finally, the company claimed that it should have received a notification of the consequences of the non-cooperation, as set out in Article 18(1) of the basic Regulation.

- (42) Concerning the first claim, it is noted that according to Article 17(2) of the basic Regulation, the consent of the parties is not a necessary condition, since that Article provides that the final selection rests with the Commission and that only preference shall be given to choosing a sample in consultation with, and with the consent of the parties concerned. Furthermore, the selection of the sample in this case was made in consultation with the Chinese authorities and, during this process, the company concerned again expressed that it did not wish to be included in the sample, namely on the grounds that it would have difficulties to receive a verification visit. Finally, it is also noted that the company did not ask for an individual examination, pursuant to Article 17(3) of the basic Regulation.
- (43) The second claim was considered unfounded since, pursuant to Article 18 of the basic Regulation, the refusal to provide access to the necessary information, thus also with respect to MET determination, should be considered as non-cooperation. It was made clear to the company that the inclusion in the sample implied replying to a questionnaire and accepting an on-the-spot verification of their response, which was refused by the company. In any event, it is noted that, even if MET had been granted to the company, by refusing to be included in the sample, not submitting a questionnaire reply pursuant to Article 17(3) of the basic Regulation, and refusing a verification visit, the provisions of Article 18 of the basic Regulation would have had to be used. Finally, the last claim made by the company should also be rejected because the consequences of the non-cooperation were made clear by paragraph 8 of the notice of initiation.

4. Normal value

4.1. *Determination of normal value for exporting producers granted MET*

- (44) In the absence of any comments, the general methodology used for the determination of the normal value, as described in the recitals (31) to (40) of the provisional Regulation is confirmed.
- (45) The exporting producers granted MET claimed the occurrence of certain clerical errors in the calculation of the normal value or contested the methodology used for assessing the adjustments that were deemed necessary. Those issues have been re-examined and the necessary amendments have been made where necessary.

4.2. *Determination of normal value for all exporting producers not granted MET*

(a) *Analogue country*

- (46) Certain interested parties claimed a breach of Article 2(7) of the basic Regulation because, prior to the imposition of provisional measures, they were not informed of the choice of an analogue country other than that proposed in the notice of initiation. They further claimed that by not being aware of the absence of cooperation by any producer in Mexico, the analogue country proposed at initiation stage, they were not able to provide assistance to the Commission for the choice of an alternative country.
- (47) In that respect, it should be noted first of all that Article 2(7)(a) of the basic Regulation provides that the parties should be informed shortly after the initiation of the market economy third country envisaged. In the present case, Mexico was still envisaged as an analogue country shortly after the initiation and the parties were invited to comment on this choice. At the early stage of the investigation there was indeed no indication that no cooperation from any Mexican producer would be obtained. It is only at a later stage that it became clear that another country had to be selected in the absence of cooperation.
- (48) In addition, Article 2(7)(a) of the basic Regulation does not provide that the parties should assist the Commission in its choice of an appropriate analogue country.
- (49) Finally, the interested parties were informed of the provisional findings including the provisionally selected analogue country, i.e. Turkey, and were given the opportunity to comment. No comment was received that Turkey could not be considered an appropriate analogue country in this case. It is therefore considered that there was no breach of Article 2(7)(a) of the basic Regulation, and the findings laid down in recitals (44) to (48) of the provisional Regulation are hereby confirmed.

(b) *Determination of normal value*

- (50) In the absence of any comments, the general methodology used for the determination of the normal value, as described in the recitals (49) and (50) of the provisional Regulation is confirmed.

5. **Export price**

- (51) Two exporting producers claimed that the requirements for the construction of the export price, as laid down in Article 2(9) of the basic Regulation, had not been fulfilled

and that any adjustment of the export price when sales were made to the Community via related companies established in a third country should rather be addressed by applying the provisions of Article 2(10) of the basic Regulation.

- (52) In this respect, it is confirmed that the provisions of Article 2(10) of the basic Regulation, and more specifically of subparagraph (i) of that paragraph, have indeed been applied, as mentioned under recital (53) of the provisional Regulation.
- (53) The exporting producers granted MET claimed the occurrence of certain clerical errors in the calculation of the export price or contested the methodology used for assessing certain adjustments that were deemed necessary. Those issues have been re-examined and the necessary amendments have been made where applicable.

6. **Comparison**

- (54) One sampled exporting producer which was granted MET claimed that the adjustments made pursuant to Article 2(10)(i) of the basic Regulation with respect to its sales to the Community via its subsidiary established in a third country was not warranted since the subsidiary in question merely performed the functions of an export sales department. It further claimed that if nevertheless an adjustment is made, it should in any event be limited to a normal commission rate paid to unrelated agents. Two other exporting producers also claimed that the adjustment should be limited to direct selling expenses.
- (55) In this respect, the investigation revealed that the functions discharged by the sales subsidiary concerned were going beyond those typically assumed by an exporter's export sales department, and should rather be compared to those left to an agent working on a commission basis, in accordance with Article 2(10)(i) of the basic Regulation.
- (56) It is therefore considered that the related party incurred costs which effectively reduce the amounts received by the exporters, and which should thus be deducted from the price paid by the first independent buyer in the Community.
- (57) It is noted that the two other exporting producers who are in the same situation as the exporting producer above shared the Commission's view that an adjustment should be made pursuant to Article 2(10)(i) of the basic Regulation for the purpose of a fair comparison (see recital (51) above).

- (58) Finally, it is considered that the amount of the adjustment was duly calculated in conformity with the provisions of Article 2(10)(i) of the basic Regulation, i.e. on the basis of the mark-up received by the related company. The mark-up in this case was calculated as being the actual selling, general and administrative costs of the related companies and a reasonable amount of profit, and should not be limited to only direct selling expenses. The claims made by the exporting producers concerned were therefore rejected.
- (59) Various interested parties claimed that the adjustment related to the non-refunded VAT was unwarranted and based on an erroneous understanding of the system. Some other exporting producers, including one which agreed with the principle of the adjustment, contested the methodology used to compute the adjustment and requested that the adjustment be based on the actual amount of non-refundable VAT.
- (60) The first claim was rejected because it was not substantiated and no further elements were provided that would confirm the fact that the adjustment is based on an erroneous understanding.
- (61) As regards the claim that the actual amounts should be used, those were in many instances either not submitted by the exporting producers concerned or not adequately supported by evidence and could therefore not be taken into consideration. The claims were therefore rejected.
- (62) Following comments made by several parties, it is hereby clarified that, where necessary, the prices for the like product types sold on the domestic market in Turkey, which were used for the determination of the normal value, were adjusted so as to ensure a fair comparison with those product types exported to the Community by the Chinese producers concerned, in accordance with Article 2(10)(a) of the basic Regulation. Those adjustments were made on the basis of a reasonable estimate of the market value of the differences. In the case of two companies, the adjustment made at provisional stage had to be revised so as to better reflect their individual situation and the relevant margins were revised accordingly.
- (63) Two of the three companies which were granted MET claimed that their established relationship during the IP
- no longer reflects reality, on the grounds that, shortly after the IP, the shareholders link between all three companies has been removed since all shares concerned have been sold to independent persons. The companies therefore claimed that this new situation should be taken into consideration and that, since they can no longer be considered as related, each company should be attributed an individual dumping margin reflecting its own situation.
- (64) The investigation revealed, however, that the relationship between the companies concerned during the IP actually consisted of more than just a shareholding link. It was indeed established that in addition to that link, the three companies also shared members of their respective board of directors. The presence of shared directors between the companies therefore reinforced the relationship that existed through the shareholding link.
- (65) For those reasons, it was found that the companies had to be considered as being related during the IP. Even if the situation has allegedly changed shortly after the IP, it would in any event be too early to conclude that these changes are of a lasting nature. In view of the nature of the established relationship during the IP, the risk of circumvention through the company with the lowest duty imposed cannot be excluded. Moreover, it is also noted that since this relationship may have affected the findings for the IP, any changes in the relationship after the IP cannot be considered as relevant.
- (66) It is therefore concluded that the claims made by the companies should be rejected.
- (67) Furthermore, various interested parties contested the correct use of the provisions on sampling. Since the three sampled companies granted MET were found to be related, it is claimed that they form one single entity and that therefore their dumping margin cannot constitute a valid average in view of the wording of Article 9(6) of the basic Regulation. This is based on the fact that this Article refers to the weighted average margin of dumping established for the parties in the sample, thus the dumping margin should necessarily be based on the findings for more than one company. Reference was made to the WTO Appellate Body report, in the framework of the EC-India bed linen case⁽¹⁾, where it was concluded that the weighted average should necessarily refer to more than one company.
- (1) WT/DS141/AB/R

7. Dumping margin

7.1. For the cooperating exporting producers granted MET/IT

(a) MET

(68) In this respect, it should be noted that the conclusions of the Appellate Body, which were made in a different context, namely that of Article 2.2.2 (ii) of the Anti-Dumping Agreement, and a different case, are not directly applicable in this specific case. Secondly, the argument should be rejected because in the present case, the weighted average of the sample is based on each company's own normal value and export prices, and those companies do not constitute one single entity. It is only after establishing the three individual margins that a weighted average of those margins was calculated for the related companies in order to avoid that, in view of their relationship, the companies channel all their exports via the company for which the lowest dumping margin was established. It is

further noted that Article 9(6) of the basic Regulation does not specifically exclude the use of margins of dumping established for related parties in the sample. The claims were therefore rejected.

(b) IT

(69) In the absence of comments, the methodology used to establish the dumping margins with respect to the companies that were granted IT, as laid down in recital (57) of the provisional Regulation is hereby confirmed.

(70) On the basis of the above, the definitive dumping margins expressed as a percentage of the CIF Community frontier price, duty unpaid, are:

Company	Definitive dumping margin
Far Eastern Industries (Shanghai) Ltd	14,1 %
Fuzhou Fuhua Textile & Printing Dyeing Co., Ltd	14,1 %
Fuzhou Ta-Tung Textile Works Co., Ltd	14,1 %
Hangzhou CaiHong Textile Co., Ltd	37,1 %
Hangzhou De Licacy Textile Co., Ltd	14,1 %
Hangzhou Fuen Textile Co., Ltd	37,1 %
Hangzhou Hongfeng Textile Co., Ltd	14,1 %
Hangzhou Jieenda Textile Co., Ltd	14,1 %
Hangzhou Jinsheng Textile Co., Ltd	37,1 %
Hangzhou Mingyuan Textile Co., Ltd	14,1 %
Hangzhou Shenda Textile Co., Ltd	14,1 %
Hangzhou Xiaoshan Phoenix Industry Co., Ltd	37,1 %
Hangzhou Yililong Textile Co., Ltd	14,1 %
Hangzhou Yongsheng Textile Co., Ltd	14,1 %
Hangzhou Zhengda Textile Co., Ltd	37,1 %
Hangzhou ZhenYa Textile Co., Ltd	14,1 %
Huzhou Styly Jingcheng Textile Co., Ltd	14,1 %
Nantong Teijin Co., Ltd	14,1 %
Shaoxing Ancheng Cloth industrial Co., Ltd	14,1 %
Shaoxing China Light & Textile Industrial City Somet Textile Co., Ltd	37,1 %
Shaoxing County Fengyi Textile Printing & Dyeing Co., Ltd	37,1 %
Shaoxing County Huaxiang Textile Co., Ltd	26,7 %
Shaoxing County Jiade Weaving and Dyeing Co., Ltd	14,1 %
Shaoxing County Pengyue Textile Co., Ltd	14,1 %
Shaoxing County Qing Fang Cheng Textiles Imp. & Exp. Co., Ltd	36,3 %

Company	Definitive dumping margin
Shaoxing County Xingxin Textile Co Ltd	14,1 %
Shaoxing Golden tree silk Printing Dyeing and Sandwashing Co., Ltd	37,1 %
Shaoxing Nanchi Textile Printing-Dyeing Co., Ltd	37,1 %
Shaoxing Ronghao Textiles Co., Ltd	36,3 %
Shaoxing Tianlong Import and Export Co., Ltd	46,4 %
Shaoxing Xinghui Textile Co., Ltd	37,1 %
Shaoxing Yinuo Printing & Dyeing Co., Ltd	14,1 %
Shaoxing Yongda Textiles Co., Ltd	37,1 %
Shaoxing Zhengda Group Co., Ltd	14,1 %
Wujiang Canhua Imp. & Exp. Co., Ltd	56,2 %
Wujiang Longsheng Textile Co., Ltd	14,1 %
Wujiang Xiangsheng Textile Dyeing & Finishing Co., Ltd	14,1 %
Zhejiang Golden Time Printing and Dyeing knitwear Co., Ltd	37,1 %
Zhejiang Huagang Dyeing and Weaving Co., Ltd	37,1 %
Zhejiang Shaoxiao Printing and Dyeing Co., Ltd	37,1 %
Zhejiang Shaoxing Tianyuan Textile Printing and Dyeing Co., Ltd	14,1 %
Zhejiang Shaoxing Yongli Printing and Dyeing Co., Ltd	14,1 %
Zhejiang XiangSheng Group Co., Ltd	14,1 %
Zhejiang Yonglong Enterprises Co., Ltd	14,1 %
Zhuji Bolan Textile Industrial Development Co., Ltd	14,1 %

7.2. For all other exporting producers

- (71) In the absence of any comments, the findings of the recitals (59) to (61) of the provisional Regulation are hereby confirmed.

Community industry. Furthermore, they claimed that one producer imported the product concerned during the period considered and should be excluded from Community industry according to Article 4(1)(a) of the basic Regulation.

E. INJURY

1. Community production

- (72) In the absence of any comments submitted, the provisional findings concerning the total Community production as set out in recitals (62) to (63) of the provisional Regulation are hereby confirmed.

2. Definition of the Community industry

- (73) One interested party claimed that there was not enough support from a major proportion of the Community production. They argued that one company had gone bankrupt during the investigation and should, therefore, not be taken into account for the definition of the

- (74) It has to be noted that one Community producer is under judicial administration, but was producing during the investigation period and is currently still operating its production. Therefore, this company was included in the definition of the Community industry. The investigation confirmed that no company included in the Community industry imported the product concerned in the IP. They did, however import the grey product, i.e. the raw material for the FPFF. These arguments should, therefore, be dismissed.

- (75) In the absence of any further comments, the definition of Community industry as set out in recital (64) of the provisional Regulation is hereby confirmed.

3. Community consumption

- (76) In the absence of any comments, the calculation of Community consumption as set out in recitals (65) to (66) of the provisional Regulation is hereby confirmed.

4. Imports into the Community from the country concerned

4.1. Volume and market share of the imports concerned

- (77) In the absence of any comments, the calculation of volume and market share of the imports concerned as set out in recitals (67) and (68) of the provisional Regulation is hereby confirmed.

4.2. Prices of imports and undercutting

- (78) In the absence of any comments, the calculation of prices and undercutting of the imports concerned as set out in recitals (69) to (71) of the provisional Regulation is hereby confirmed.

5. Situation of the Community Industry

- (79) It is recalled that in recital (98) of the provisional Regulation, the Commission provisionally concluded that the Community industry had suffered material injury within the meaning of Article 3 of the basic Regulation.
- (80) No interested party questioned the figures or their interpretation relating to the situation of the Community industry as presented in recitals (72) to (98) of the provisional Regulation. Therefore, the findings as set out in these recitals of the provisional Regulation are hereby confirmed and it is concluded that the Community industry has suffered material injury within the meaning of Article 3 of the basic Regulation.

F. CAUSATION

- (81) In addition to the other factors examined in the provisional Regulation, the export performance of the Community industry was also examined. In this respect, it was found that exports sales of the Community industry remained stable for the whole period at around 25 million running metres. It is to be noted that these exports refer to the product used for lining, sold at a notably lower price. In parallel, the product mix exported by the whole EU-25 industry was sold, during the IP at a price 270 % higher than imports from China. In any event, only the sales made on the Community market were taken into consideration for the establishment of profitability data, so that these data are not influenced by export performance. For the reasons set out above, it can be concluded that the Community exports did not cause injury to the

Community industry. Furthermore, concerning imports from all other third countries taken together, prices were constantly, on average, higher than prices from PRC. On the basis of the above, and in the absence of any comments in respect to causation, the conclusion drawn in (99) to (111) of the provisional Regulation is hereby confirmed.

G. COMMUNITY INTEREST

1. Interest of the Community industry and of other Community producers

- (82) In the absence of any comments with respect to the interest of the Community industry and to other Community producers, the findings as set out in recitals (112) to (118) of the provisional Regulation are hereby confirmed.

2. Interest of unrelated importers

- (83) Several submissions from unrelated importers and importers/users were received. Hearings were also granted to those parties who so requested. The arguments of the importers coincided with those of the users and are discussed under recitals (87) to (90) below. It is to be noted that the overall quantities imported from China by the importers who made themselves known are negligible and account only for around 2 % of the total imports from China during the IP. The remainder 98 % did not react to the measures.
- (84) In the absence of any other comments with respect to the interest of the unrelated importers, the findings as set out in recitals (119) to (121) of the provisional Regulation are hereby confirmed.

3. Interest of suppliers

- (85) In the absence of any comments in respect of the interest of the Community suppliers, the findings as set out in recitals (122) to (125) of the provisional Regulation are hereby confirmed.

4. Interest of users

- (86) It is recalled that nine users submitted a questionnaire response whereas only one of those users imported the product concerned (recital (127) of the provisional Regulation). However, after the imposition of provisional measures, four users which had so far not come forward in the investigation submitted comments. Two of them produce home decoration fabrics. All of them imported the product concerned from the PRC. Considering that the sector is very fragmented, their representativeness is estimated at less than 2 %.

(87) The users which produce clothes claimed that their businesses are at serious risk now because imports of ready made clothes from the PRC enter the Community market at very low prices whereas they have to produce at much higher costs. In addition, they would have to pay high anti-dumping duties on the imports of the product concerned, which is the raw material for their production. They argue that they can sell their finished products at slightly higher prices to their customers as they are much more flexible and they can deliver smaller quantities at short notice. However, considering the current market conditions with low priced apparel entering the market and the anti-dumping duties on the raw material, they claim that they would not be able to keep production in the Community and, therefore, would have to close down their production sites.

(88) It is to be noted that these clothing producers are small and medium sized enterprises. They are under huge pressure because of the imports of finished products which strongly increased, *inter alia*, as a result of the abolition of textile quota on 1 January 2005. In addition, their raw material costs increase due to the duties. While it is true that the already precarious situation in the clothing sector could be additionally deteriorated by the anti-dumping duties on FPF, it is clear that the main pressure for these companies derives from the imports of clothes from the PRC.

(89) Some users claimed that also the dyeing and printing industry would be affected when textiles would not be imported any more into the Community due to the duties. They also argued that high-tech textile machine suppliers in the Community would be affected because textile production in the PRC would decrease due to the duties.

(90) However, as set out in recital (128) of the provisional Regulation, it is likely that imports from the PRC will continue to enter the market at fair non-dumped prices and other non-dumped sources will remain available considering that over 30 % of the Community consumption is represented by third countries imports (excluding PRC). Moreover, bearing in mind the fact that many exporting producers have been granted anti-dumping duty rates of 14,1 % and that the FPF is only a part of production costs of the users, the cost increase would be unlikely to be substantial. It should be noted also that the allegedly precarious situation in which certain companies might be, appears to be mainly caused by the imports of finished clothes from the PRC, and the non-imposition of anti-dumping measures would not address this particular issue. In this respect, it is also to be recalled that users which account for a very small quantity of imports have come forward whereas the large majority has not made any comments in the investigation.

(91) In the absence of any other comments with respect to the interest of the users, the conclusions as set out in

recitals (126) to (128) of the provisional Regulation are hereby confirmed.

5. Conclusion on Community interest

(92) In view of the conclusions drawn in the provisional Regulation as set out in recitals (129) to (131) of the provisional Regulation and taking into account the submissions made by the various parties, it is concluded that there are no compelling reasons not to impose definitive anti-dumping measures against dumped imports of FPF originating in the PRC.

H. DEFINITIVE ANTI-DUMPING MEASURES

(93) Based on the methodology explained in recitals (132) to (135) of the provisional Regulation, an injury elimination level was calculated for the purposes of establishing the level of measures to be imposed.

(94) When calculating the injury margin in the provisional Regulation, the target profit for the Community industry was set at 8 %, a level which could be reasonably achieved by an industry of this type under normal conditions of competition, i.e. in the absence of dumped imports and which was achieved in 1998 and 1999 before Chinese exports started to cause a problem (recital (134) of the provisional Regulation).

(95) One interested party argued that the target profit of 8 % on the basis of the years 1998 and 1999 would not be appropriate. This party argued that, as the profit margins were already much lower in 2000, which is the first year of the period considered, when the effects of the dumped imports were not so clearly felt, these profit margins should be taken as target profit. However, it is recalled that in 2000 the market share of imports from the PRC was already high with 18,2 % (recital (67) of the provisional Regulation) and the situation of the Community industry had already started to be precarious. For this reason, it was considered appropriate to refer to a more stable period in the past in order to establish the target profit which the Community industry could be expected to make in the absence of the dumped imports.

(96) In the absence of any new comments on this subject, the methodology set out in recitals (132) to (135) of the provisional Regulation is hereby confirmed.

1. Definitive measures

(97) In the light of the foregoing and in accordance with Article 9(4) of the basic Regulation, a definitive anti-dumping duty should be imposed at the level of the dumping margin and at the level of the injury margin calculated in all cases, where they were lower than the dumping margins found.

(98) On the basis of the above, the definitive duties should be as follows:

Company	Definitive anti-dumping duty
Far Eastern Industries (Shanghai) Ltd	14,1 %
Fuzhou Fuhua Textile & Printing Dyeing Co., Ltd	14,1 %
Fuzhou Ta-Tung Textile Works Co., Ltd	14,1 %
Hangzhou CaiHong Textile Co., Ltd	37,1 %
Hangzhou De Licacy Textile Co., Ltd.	14,1 %
Hangzhou Fuen Textile Co., Ltd	37,1 %
Hangzhou Hongfeng Textile Co., Ltd	14,1 %
Hangzhou Jieenda Textile Co., Ltd	14,1 %
Hangzhou Jinsheng Textile Co., Ltd	37,1 %
Hangzhou Mingyuan Textile Co., Ltd	14,1 %
Hangzhou Shenda Textile Co., Ltd	14,1 %
Hangzhou Xiaoshan Phoenix Industry Co., Ltd	37,1 %
Hangzhou Yililong Textile Co., Ltd	14,1 %
Hangzhou Yongsheng Textile Co., Ltd	14,1 %
Hangzhou Zhengda Textile Co., Ltd	37,1 %
Hangzhou ZhenYa Textile Co., Ltd	14,1 %
Huzhou Styly Jingcheng Textile Co., Ltd	14,1 %
Nantong Teijin Co., Ltd	14,1 %
Shaoxing Ancheng Cloth industrial Co., Ltd	14,1 %
Shaoxing China Light & Textile Industrial City Somet Textile Co., Ltd	37,1 %
Shaoxing County Fengyi Textile Printing & Dyeing Co., Ltd	37,1 %
Shaoxing County Huaxiang Textile Co., Ltd	26,7 %
Shaoxing County Jade Weaving and Dyeing Co., Ltd	14,1 %
Shaoxing County Pengyue Textile Co., Ltd	14,1 %
Shaoxing County Qing Fang Cheng Textiles Imp. & Exp. Co., Ltd	33,9 %
Shaoxing County Xingxin Textile Co., Ltd	14,1 %
Shaoxing Golden tree silk Printing Dyeing and Sandwashing Co., Ltd	37,1 %
Shaoxing Nanchi Textile Printing-Dyeing Co., Ltd	37,1 %
Shaoxing Ronghao Textiles Co., Ltd	33,9 %
Shaoxing Tianlong Import and Export Co., Ltd	46,4 %
Shaoxing Xinghui Textile Co., Ltd	37,1 %
Shaoxing Yinuo Printing & Dyeing Co., Ltd	14,1 %
Shaoxing Yongda Textiles Co., Ltd	37,1 %
Shaoxing Zhengda Group Co., Ltd	14,1 %
Wujiang Canhua Imp. & Exp. Co., Ltd	56,2 %
Wujiang Longsheng Textile Co., Ltd	14,1 %
Wujiang Xiangsheng Textile Dyeing & Finishing Co., Ltd	14,1 %
Zhejiang Golden Time Printing and Dyeing knitwear Co., Ltd	37,1 %
Zhejiang Huagang Dyeing and Weaving Co., Ltd	37,1 %
Zhejiang Shaoxiao Printing and Dyeing Co., Ltd	37,1 %
Zhejiang Shaoxing Tianyuan Textile Printing and Dyeing Co., Ltd	14,1 %
Zhejiang Shaoxing Yongli Printing and Dyeing Co., Ltd	14,1 %
Zhejiang XiangSheng Group Co., Ltd	14,1 %
Zhejiang Yonglong Enterprises Co., Ltd	14,1 %
Zhuji Bolan Textile Industrial Development Co., Ltd	14,1 %

(99) The individual anti-dumping duty rates specified in this Regulation were established on the basis of the findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the countrywide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the country concerned and produced by the companies specifically mentioned. Imported products produced by any other company not specifically mentioned by its name and address in the operative part of this Regulation, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.

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

2. Collection of provisional duties

(101) In view of the magnitude of the dumping margins found and in the light of the level of the material injury caused

to the Community Industry, it is considered necessary that the amounts secured by way of the provisional anti-dumping duty, imposed by the provisional Regulation, should be collected at the rate of the duty definitively imposed. Where the definitive duties are higher than the provisional duties, only the amounts secured at the level of the provisional duties should be definitively collected, while the amounts secured in excess of the definitive rate of anti-dumping duties should be released,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of woven fabrics of synthetic filament yarn containing 85 % or more by weight of textured and/or non-textured polyester filament, dyed (including dyed white) or printed, originating in the People's Republic of China, falling within CN codes ex 5407 51 00 (TARIC code 5407 51 00 10), 5407 52 00, 5407 54 00, ex 5407 61 10 (TARIC code 5407 61 10 10), 5407 61 30, 5407 61 90, ex 5407 69 10 (TARIC code 5407 69 10 10) and ex 5407 69 90 (TARIC code 5407 69 90 10)

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

Company	Definitive anti-dumping duty	TARIC Additional code
Far Eastern Industries (Shanghai) Ltd	14,1 %	A617
Fuzhou Fuhua Textile & Printing Dyeing Co., Ltd	14,1 %	A617
Fuzhou Ta-Tung Textile Works Co., Ltd	14,1 %	A617
Hangzhou CaiHong Textile Co., Ltd	37,1 %	A623
Hangzhou De Licacy Textile Co., Ltd	14,1 %	A617
Hangzhou Fuen Textile Co., Ltd	37,1 %	A623
Hangzhou Hongfeng Textile Co., Ltd	14,1 %	A617
Hangzhou Jienda Textile Co., Ltd	14,1 %	A617
Hangzhou Jinsheng Textile Co., Ltd	37,1 %	A623
Hangzhou Mingyuan Textile Co., Ltd	14,1 %	A617
Hangzhou Shenda Textile Co., Ltd	14,1 %	A617

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

Company	Definitive anti-dumping duty	TARIC Additional code
Hangzhou Xiaoshan Phoenix Industry Co., Ltd	37,1 %	A623
Hangzhou Yililong Textile Co., Ltd	14,1 %	A617
Hangzhou Yongsheng Textile Co., Ltd	14,1 %	A617
Hangzhou Zhengda Textile Co., Ltd	37,1 %	A623
Hangzhou ZhenYa Textile Co., Ltd	14,1 %	A617
Huzhou Styly Jingcheng Textile Co., Ltd	14,1 %	A617
Nantong Teijin Co., Ltd	14,1 %	A617
Shaoxing Ancheng Cloth industrial Co., Ltd	14,1 %	A617
Shaoxing China Light & Textile Industrial City Somet Textile Co., Ltd	37,1 %	A623
Shaoxing County Fengyi Textile Printing & Dyeing Co., Ltd	37,1 %	A623
Shaoxing County Huaxiang Textile Co., Ltd	26,7 %	A619
Shaoxing County Jiade Weaving and Dyeing Co., Ltd	14,1 %	A617
Shaoxing County Pengyue Textile Co., Ltd	14,1 %	A617
Shaoxing County Qing Fang Cheng Textiles Imp. & Exp. Co., Ltd	33,9 %	A621
Shaoxing County Xingxin Textile Co., Ltd	14,1 %	A617
Shaoxing Golden tree silk Printing Dyeing and Sandwashing Co., Ltd	37,1 %	A623
Shaoxing Nanchi Textile Printing-Dyeing Co., Ltd	37,1 %	A623
Shaoxing Ronghao Textiles Co., Ltd	33,9 %	A620
Shaoxing Tianlong Import and Export Co., Ltd	46,4 %	A622
Shaoxing Xinghui Textile Co., Ltd	37,1 %	A623
Shaoxing Yinuo Printing & Dyeing Co., Ltd	14,1 %	A617
Shaoxing Yongda Textiles Co., Ltd	37,1 %	A623
Shaoxing Zhengda Group Co., Ltd	14,1 %	A617
Wujiang Canhua Imp. & Exp. Co., Ltd	56,2 %	A618
Wujiang Longsheng Textile Co., Ltd	14,1 %	A617
Wujiang Xiangsheng Textile Dyeing & Finishing Co., Ltd	14,1 %	A617
Zhejiang Golden Time Printing and Dyeing knitwear Co., Ltd	37,1 %	A623
Zhejiang Huagang Dyeing and Weaving Co., Ltd	37,1 %	A623
Zhejiang Shaoxiao Printing and Dyeing Co., Ltd	37,1 %	A623
Zhejiang Shaoxing Tianyuan Textile Printing and Dyeing Co., Ltd	14,1 %	A617
Zhejiang Shaoxing Yongli Printing and Dyeing Co., Ltd	14,1 %	A617
Zhejiang XiangSheng Group Co., Ltd	14,1 %	A617
Zhejiang Yonglong Enterprises Co., Ltd	14,1 %	A617
Zhuji Bolan Textile Industrial Development Co., Ltd	14,1 %	A617
All other companies	56,2 %	A999

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

Article 2

Where any new exporting producer in the People's Republic of China provides sufficient evidence to the Commission that:

- it did not export to the Community the product described in Article 1(1) during the investigation period (1 April 2003 to 31 March 2004),
- it is not related to any of the exporters or producers in the People's Republic of China which are subject to the anti-dumping measures imposed by this Regulation,
- it has actually exported to the Community the product concerned after the investigation period on which the measures are based, or it has entered into an irrevocable contractual obligation to export a significant quantity to the Community,

the Council, acting by simple majority on a proposal submitted by the Commission after consulting the Advisory Committee, may amend Article 1(2) by adding the new exporting producer either (i) to the companies subject to the weighted average duty rate of 37,1 % applicable to companies to whom individual

treatment was granted in accordance with Article 9(5) of Regulation (EC) No 384/96, or (ii) to the companies subject to the weighted average duty rate of 14,1 % applicable to companies to whom market economy treatment was granted in accordance with Article 2(7)(c) of Regulation (EC) No 384/96.

Article 3

Amounts secured by way of provisional anti-dumping duty pursuant to Commission Regulation (EC) No 426/2005 on imports of woven fabrics of synthetic filament yarn containing 85 % or more by weight of textured and/or non-textured polyester filament, dyed or printed, falling within CN codes 5407 52 00, 5407 54 00, 5407 61 30, 5407 61 90 and ex 5407 69 90 (TARIC code 5407 69 90 10) and originating in the People's Republic of China shall be definitely collected at the rate definitively imposed by the present Regulation, in accordance with the rules set out below.

The amounts secured in excess of the amount of the definitive anti-dumping duties shall be released. Where the definitive duties are higher than the provisional duties, only the amounts secured at the level of the provisional duties shall be definitively collected.

Article 4

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

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

Done at Brussels, 12 September 2005.

For the Council
The President
J. STRAW

COMMISSION REGULATION (EC) No 1488/2005**of 15 September 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 16 September 2005.

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

Done at Brussels, 15 September 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 15 September 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	42,5
	096	35,4
	204	49,2
	999	42,4
0707 00 05	052	78,6
	096	25,9
	999	52,3
0709 90 70	052	70,5
	999	70,5
0805 50 10	388	68,6
	524	61,7
	528	59,1
	999	63,1
0806 10 10	052	75,3
	212	105,3
	220	193,2
	624	112,0
	999	121,5
0808 10 80	388	80,5
	400	83,0
	508	32,9
	512	88,2
	528	22,6
	720	37,8
	800	136,7
	804	79,2
0808 20 50	999	70,1
	052	92,5
	388	92,2
	528	37,0
	720	84,8
	800	143,7
0809 30 10, 0809 30 90	999	90,0
	052	91,3
0809 40 05	999	91,3
	052	81,3
	066	54,6
	098	42,5
	624	126,3
	999	76,2

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 750/2005 (OJ L 126, 19.5.2005, p. 12). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 1489/2005**of 15 September 2005****fixing the import duties in the cereals sector applicable from 16 September 2005**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector ⁽²⁾, and in particular Article 2(1) thereof,

Whereas:

- (1) Article 10 of Regulation (EC) No 1784/2003 provides that the rates of duty in the Common Customs Tariff are to be charged on import of the products referred to in Article 1 of that Regulation. However, in the case of the products referred to in paragraph 2 of that Article, the import duty is to be equal to the intervention price valid for such products on importation and increased by 55 %, minus the cif import price applicable to the consignment in question. However, that duty may not exceed the rate of duty in the Common Customs Tariff.
- (2) Pursuant to Article 10(3) of Regulation (EC) No 1784/2003, the cif import prices are calculated on the basis of the representative prices for the product in question on the world market.

(3) Regulation (EC) No 1249/96 lays down detailed rules for the application of Regulation (EC) No 1784/2003 as regards import duties in the cereals sector.

(4) The import duties are applicable until new duties are fixed and enter into force.

(5) In order to allow the import duty system to function normally, the representative market rates recorded during a reference period should be used for calculating the duties.

(6) Application of Regulation (EC) No 1249/96 results in import duties being fixed as set out in Annex I to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The import duties in the cereals sector referred to in Article 10(2) of Regulation (EC) No 1784/2003 shall be those fixed in Annex I to this Regulation on the basis of the information given in Annex II.

Article 2

This Regulation shall enter into force on 16 September 2005.

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

Done at Brussels, 15 September 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 161, 29.6.1996, p. 125. Regulation as last amended by Regulation (EC) No 1110/2003 (OJ L 158, 27.6.2003, p. 12).

ANNEX I

Import duties for the products covered by Article 10(2) of Regulation (EC) No 1784/2003 applicable from 16 September 2005

CN code	Description	Import duty ⁽¹⁾ (EUR/tonne)
1001 10 00	Durum wheat high quality	0,00
	medium quality	0,00
	low quality	0,87
1001 90 91	Common wheat seed	0,00
ex 1001 90 99	Common high quality wheat other than for sowing	0,00
1002 00 00	Rye	43,71
1005 10 90	Maize seed other than hybrid	66,06
1005 90 00	Maize other than seed ⁽²⁾	66,06
1007 00 90	Grain sorghum other than hybrids for sowing	48,70

⁽¹⁾ For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal (Article 2(4) of Regulation (EC) No 1249/96), the importer may benefit from a reduction in the duty of:

— EUR 3/t, where the port of unloading is on the Mediterranean Sea, or

— EUR 2/t, where the port of unloading is in Ireland, the United Kingdom, Denmark, Estonia, Latvia, Lithuania, Poland, Finland, Sweden or the Atlantic coasts of the Iberian peninsula.

⁽²⁾ The importer may benefit from a flat-rate reduction of EUR 24/t, where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

ANNEX II

Factors for calculating duties

period from 1.9.2005-14.9.2005

1. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

Exchange quotations	Minneapolis	Chicago	Minneapolis	Minneapolis	Minneapolis	Minneapolis
Product (% proteins at 12 % humidity)	HRS2	YC3	HAD2	Medium quality (*)	Low quality (**)	US barley 2
Quotation (EUR/t)	119,84 (***)	64,60	164,80	154,80	134,80	91,95
Gulf premium (EUR/t)	—	14,53	—			—
Great Lakes premium (EUR/t)	31,81	—	—			—

(*) A discount of 10 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).

(**) A discount of 30 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).

(***) Premium of 14 EUR/t incorporated (Article 4(3) of Regulation (EC) No 1249/96).

2. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

Freight/cost: Gulf of Mexico–Rotterdam: 16,82 EUR/t; Great Lakes–Rotterdam: 21,37 EUR/t.

3. Subsidy within the meaning of the third paragraph of Article 4(2) of Regulation (EC) No 1249/96: 0,00 EUR/t (HRW2)
-
- 0,00 EUR/t (SRW2).

COMMISSION REGULATION (EC) No 1490/2005**of 15 September 2005****altering the export refunds on white sugar and raw sugar exported in the natural state fixed by
Regulation (EC) No 1462/2005**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

- (1) The export refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EC) No 1462/2005 ⁽²⁾.

- (2) Since the data currently available to the Commission are different to the data at the time Regulation (EC) No 1462/2005 was adopted, those refunds should be adjusted,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1(1)(a) of Regulation (EC) No 1260/2001, undenatured and exported in the natural state, as fixed in the Annex to Regulation (EC) No 1462/2005 are hereby altered to the amounts shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 16 September 2005.

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

Done at Brussels, 15 September 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

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

⁽²⁾ OJ L 233, 9.9.2005, p. 19.

ANNEX

AMENDED AMOUNTS OF REFUNDS ON WHITE SUGAR AND RAW SUGAR EXPORTED WITHOUT FURTHER PROCESSING APPLICABLE FROM 16 SEPTEMBER 2005 ^(a)

Product code	Destination	Unit of measurement	Amount of refund
1701 11 90 9100	S00	EUR/100 kg	34,58 ⁽¹⁾
1701 11 90 9910	S00	EUR/100 kg	34,59 ⁽¹⁾
1701 12 90 9100	S00	EUR/100 kg	34,58 ⁽¹⁾
1701 12 90 9910	S00	EUR/100 kg	34,59 ⁽¹⁾
1701 91 00 9000	S00	EUR/1 % of sucrose × 100 kg product net	0,3759
1701 99 10 9100	S00	EUR/100 kg	37,59
1701 99 10 9910	S00	EUR/100 kg	37,61
1701 99 10 9950	S00	EUR/100 kg	37,61
1701 99 90 9100	S00	EUR/1 % of sucrose × 100 kg of net product	0,3759

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

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

The other destinations are:

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

^(a) The amounts set out in this Annex are not applicable with effect from 1 February 2005 pursuant to Council Decision 2005/45/EC of 22 December 2004 concerning the conclusion and the provisional application of the Agreement between the European Community and the Swiss Confederation amending the Agreement between the European Economic Community and the Swiss Confederation of 22 July 1972 as regards the provisions applicable to processed agricultural products (OJ L 23, 26.1.2005, p. 17).

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

COMMISSION REGULATION (EC) No 1491/2005**of 15 September 2005****fixing the maximum export refund for white sugar to certain third countries for the 5th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1138/2005**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

Whereas:

(1) Commission Regulation (EC) No 1138/2005 of 15 July 2005 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar⁽²⁾, for the 2005/2006 marketing year, requires partial invitations to tender to be issued for the export of this sugar to certain third countries.

(2) Pursuant to Article 9(1) of Regulation (EC) No 1138/2005 a maximum export refund shall be fixed,

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

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 5th partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1138/2005 the maximum amount of the export refund shall be 41,250 EUR/100 kg.

Article 2

This Regulation shall enter into force on 16 September 2005.

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

Done at Brussels, 15 September 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

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

⁽²⁾ OJ L 185, 16.7.2005, p. 3.

COMMISSION REGULATION (EC) No 1492/2005**of 15 September 2005****fixing the export refunds on milk and milk products**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, and in particular Article 31(3) thereof,

Whereas:

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

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

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

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

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

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

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

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

(6) In accordance with Article 16 of Commission Regulation (EC) No 174/1999 of 26 January 1999 on specific detailed rules for the application of Council Regulation (EEC) No 804/68 as regards export licences and export refunds on milk and milk products ⁽²⁾, the refund granted for milk products containing added sugar is equal to the sum of the two components; one is intended to take account of the quantity of milk products and is calculated by multiplying the basic amount by the milk products content in the product concerned; the other is intended to take account of the quantity of added sucrose and is calculated by multiplying the sucrose content of the entire product by the basic amount of the refund valid on the day of exportation for the products listed in Article 1(1)(d) of Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector ⁽³⁾, however, this second component is applied only if the added sucrose has been produced using sugar beet or cane harvested in the Community.

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

⁽²⁾ OJ L 20, 27.1.1999, p. 8. Regulation as last amended by Regulation (EC) No 558/2005 (OJ L 94, 13.4.2005, p. 22).

⁽³⁾ OJ L 178, 30.6.2001, p. 1. Regulation as amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

- (7) Commission Regulation (EEC) No 896/84 ⁽¹⁾ laid down additional provisions concerning the granting of refunds on the change from one milk year to another; those provisions provide for the possibility of varying refunds according to the date of manufacture of the products.
- (8) For the calculation of the refund for processed cheese provision must be made where casein or caseinates are added for that quantity not to be taken into account.
- (9) In determining the products and destinations eligible for refunds, it is appropriate to take into account that the competitive position of certain Community products does not justify encouragement of exports and that the geographical proximity of certain territories risks facilitating diversion of trade and abuses.
- (10) It follows from applying the rules set out above to the present situation on the market in milk and in particular

to quotations or prices for milk products within the Community and on the world market that the refund should be as set out in the Annex to this Regulation.

- (11) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 16 September 2005.

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

Done at Brussels, 15 September 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 91, 1.4.1984, p. 71. Regulation as last amended by Regulation (EEC) No 222/88 (OJ L 28, 1.2.1988, p. 1).

ANNEX

to the Commission Regulation of 15 September 2005 fixing the export refunds on milk and milk products

Product code	Destination	Unit of measurement	Amount of refund	Product code	Destination	Unit of measurement	Amount of refund
0401 30 31 9100	L01	EUR/100 kg	—	0402 21 11 9500	L01	EUR/100 kg	—
	L02	EUR/100 kg	13,20		068	EUR/100 kg	—
	A01	EUR/100 kg	18,86		L02	EUR/100 kg	38,08
0401 30 31 9400	L01	EUR/100 kg	—	0402 21 11 9900	A01	EUR/100 kg	48,89
	L02	EUR/100 kg	20,62		L01	EUR/100 kg	—
	A01	EUR/100 kg	29,47		068	EUR/100 kg	—
0401 30 31 9700	L01	EUR/100 kg	—	0402 21 17 9000	L02	EUR/100 kg	40,58
	L02	EUR/100 kg	22,75		A01	EUR/100 kg	52,10
	A01	EUR/100 kg	32,49	0402 21 19 9300	L01	EUR/100 kg	—
0401 30 39 9100	L01	EUR/100 kg	—		068	EUR/100 kg	—
	L02	EUR/100 kg	13,20		L02	EUR/100 kg	9,94
0401 30 39 9400	A01	EUR/100 kg	18,86	0402 21 19 9500	A01	EUR/100 kg	12,00
	L01	EUR/100 kg	—		L01	EUR/100 kg	—
	L02	EUR/100 kg	20,62		068	EUR/100 kg	—
0401 30 39 9700	A01	EUR/100 kg	29,47	0402 21 19 9900	L02	EUR/100 kg	36,50
	L01	EUR/100 kg	—		A01	EUR/100 kg	46,83
	L02	EUR/100 kg	22,75	0402 21 91 9100	L01	EUR/100 kg	—
0401 30 91 9100	A01	EUR/100 kg	32,49		068	EUR/100 kg	—
	L01	EUR/100 kg	—		L02	EUR/100 kg	38,08
	L02	EUR/100 kg	25,92	0402 21 91 9200	A01	EUR/100 kg	48,89
0401 30 99 9100	A01	EUR/100 kg	37,04		L01	EUR/100 kg	—
	L01	EUR/100 kg	—		068	EUR/100 kg	—
	L02	EUR/100 kg	25,92	0402 21 91 9350	L02	EUR/100 kg	40,58
0401 30 99 9500	A01	EUR/100 kg	37,04		A01	EUR/100 kg	52,10
	L01	EUR/100 kg	—		L01	EUR/100 kg	—
	L02	EUR/100 kg	38,10	0402 21 91 9500	068	EUR/100 kg	—
0402 10 11 9000	A01	EUR/100 kg	54,43		L02	EUR/100 kg	40,84
	L01	EUR/100 kg	—		A01	EUR/100 kg	52,41
	068	EUR/100 kg	—	0402 21 99 9100	L01	EUR/100 kg	—
0402 10 19 9000	L02	EUR/100 kg	9,94		068	EUR/100 kg	—
	A01	EUR/100 kg	12,00		L02	EUR/100 kg	41,08
0402 10 91 9000	L01	EUR/kg	—	0402 21 99 9200	A01	EUR/100 kg	52,74
	068	EUR/kg	—		L01	EUR/100 kg	—
	L02	EUR/kg	0,0994	0402 21 99 9300	068	EUR/100 kg	—
0402 10 99 9000	A01	EUR/kg	0,1200		L02	EUR/100 kg	41,51
	L01	EUR/kg	—		A01	EUR/100 kg	53,27
	068	EUR/kg	—	0402 21 99 9500	L01	EUR/100 kg	—
0402 21 11 9200	L02	EUR/kg	0,0994		068	EUR/100 kg	—
	A01	EUR/kg	0,1200		L02	EUR/100 kg	44,60
	L01	EUR/100 kg	—	0402 21 99 9100	A01	EUR/100 kg	57,25
0402 21 11 9300	068	EUR/100 kg	—		L01	EUR/100 kg	—
	L02	EUR/100 kg	9,94		068	EUR/100 kg	—
	A01	EUR/100 kg	12,00	0402 21 99 9200	L02	EUR/100 kg	40,84
0402 21 11 9300	L01	EUR/100 kg	—		A01	EUR/100 kg	52,41
	068	EUR/100 kg	—		L01	EUR/100 kg	—
	L02	EUR/100 kg	36,50	0402 21 99 9300	068	EUR/100 kg	—
	A01	EUR/100 kg	46,83		L02	EUR/100 kg	41,08
					A01	EUR/100 kg	52,74
				0402 21 99 9300	L01	EUR/100 kg	—
					068	EUR/100 kg	—
					L02	EUR/100 kg	41,51
					A01	EUR/100 kg	53,27

Product code	Destination	Unit of measurement	Amount of refund	Product code	Destination	Unit of measurement	Amount of refund
0402 21 99 9400	L01	EUR/100 kg	—	0402 91 31 9300	L01	EUR/100 kg	—
	068	EUR/100 kg	—		L02	EUR/100 kg	4,877
	L02	EUR/100 kg	43,80		A01	EUR/100 kg	6,967
	A01	EUR/100 kg	56,23	0402 91 39 9300	L01	EUR/100 kg	—
0402 21 99 9500	L01	EUR/100 kg	—		L02	EUR/100 kg	4,877
	068	EUR/100 kg	—		A01	EUR/100 kg	6,967
	L02	EUR/100 kg	44,60	0402 91 99 9000	L01	EUR/100 kg	—
	A01	EUR/100 kg	57,25		L02	EUR/100 kg	15,93
0402 21 99 9600	L01	EUR/100 kg	—		A01	EUR/100 kg	22,76
	068	EUR/100 kg	—	0402 99 11 9350	L01	EUR/kg	—
	L02	EUR/100 kg	47,75		L02	EUR/kg	0,1055
	A01	EUR/100 kg	61,29		A01	EUR/kg	0,1508
0402 21 99 9700	L01	EUR/100 kg	—	0402 99 19 9350	L01	EUR/kg	—
	068	EUR/100 kg	—		L02	EUR/kg	0,1055
	L02	EUR/100 kg	49,52		A01	EUR/kg	0,1508
	A01	EUR/100 kg	63,59	0402 99 31 9150	L01	EUR/kg	—
0402 21 99 9900	L01	EUR/100 kg	—		L02	EUR/kg	0,1095
	068	EUR/100 kg	—		A01	EUR/kg	0,1565
	L02	EUR/100 kg	51,59	0402 99 31 9300	L01	EUR/kg	—
	A01	EUR/100 kg	66,22		L02	EUR/kg	0,0953
0402 29 15 9200	L01	EUR/kg	—		A01	EUR/kg	0,1362
	L02	EUR/kg	0,0994	0402 99 39 9150	L01	EUR/kg	—
	A01	EUR/kg	0,1200		L02	EUR/kg	0,1095
0402 29 15 9300	L01	EUR/kg	—		A01	EUR/kg	0,1565
	L02	EUR/kg	0,3650	0403 90 11 9000	L01	EUR/100 kg	—
	A01	EUR/kg	0,4683		L02	EUR/100 kg	9,81
0402 29 15 9500	L01	EUR/kg	—		A01	EUR/100 kg	11,83
	L02	EUR/kg	0,3808	0403 90 13 9200	L01	EUR/100 kg	—
	A01	EUR/kg	0,4889		L02	EUR/100 kg	9,81
0402 29 15 9900	L01	EUR/kg	—		A01	EUR/100 kg	11,83
	L02	EUR/kg	0,4058	0403 90 13 9300	L01	EUR/100 kg	—
	A01	EUR/kg	0,5210		L02	EUR/100 kg	36,16
0402 29 19 9300	L01	EUR/kg	—		A01	EUR/100 kg	46,42
	L02	EUR/kg	0,3650	0403 90 13 9500	L01	EUR/100 kg	—
	A01	EUR/kg	0,4683		L02	EUR/100 kg	37,75
0402 29 19 9500	L01	EUR/kg	—		A01	EUR/100 kg	48,45
	L02	EUR/kg	0,3808	0403 90 13 9900	L01	EUR/100 kg	—
	A01	EUR/kg	0,4889		L02	EUR/100 kg	40,23
0402 29 19 9900	L01	EUR/kg	—		A01	EUR/100 kg	51,63
	L02	EUR/kg	0,4058	0403 90 19 9000	L01	EUR/100 kg	—
	A01	EUR/kg	0,5210		L02	EUR/100 kg	40,47
0402 29 91 9000	L01	EUR/kg	—		A01	EUR/100 kg	51,95
	L02	EUR/kg	0,4084	0403 90 33 9400	L01	EUR/kg	—
	A01	EUR/kg	0,5241		L02	EUR/kg	0,3616
0402 29 99 9100	L01	EUR/kg	—		A01	EUR/kg	0,4642
	L02	EUR/kg	0,4084	0403 90 33 9900	L01	EUR/kg	—
	A01	EUR/kg	0,5241		L02	EUR/kg	0,4023
0402 29 99 9500	L01	EUR/kg	—		A01	EUR/kg	0,5163
	L02	EUR/kg	0,4380	0403 90 59 9310	L01	EUR/100 kg	—
	A01	EUR/kg	0,5623		L02	EUR/100 kg	13,20
0402 91 11 9370	L01	EUR/100 kg	—		A01	EUR/100 kg	18,86
	L02	EUR/100 kg	4,127	0403 90 59 9340	L01	EUR/100 kg	—
	A01	EUR/100 kg	5,895		L02	EUR/100 kg	19,32
0402 91 19 9370	L01	EUR/100 kg	—		A01	EUR/100 kg	27,59
	L02	EUR/100 kg	4,127	0403 90 59 9370	L01	EUR/100 kg	—
	A01	EUR/100 kg	5,895		L02	EUR/100 kg	19,32
					A01	EUR/100 kg	27,59

Product code	Destination	Unit of measurement	Amount of refund	Product code	Destination	Unit of measurement	Amount of refund
0403 90 59 9510	L01	EUR/100 kg	—	0405 10 19 9500	L01	EUR/100 kg	—
	L02	EUR/100 kg	19,32		L02	EUR/100 kg	66,57
	A01	EUR/100 kg	27,59		A01	EUR/100 kg	89,76
0404 90 21 9120	L01	EUR/100 kg	—	0405 10 19 9700	L01	EUR/100 kg	—
	L02	EUR/100 kg	8,48		L02	EUR/100 kg	68,24
	A01	EUR/100 kg	10,23		A01	EUR/100 kg	92,00
0404 90 21 9160	L01	EUR/100 kg	—	0405 10 30 9100	L01	EUR/100 kg	—
	L02	EUR/100 kg	9,94		L02	EUR/100 kg	66,57
	A01	EUR/100 kg	12,00		A01	EUR/100 kg	89,76
0404 90 23 9120	L01	EUR/100 kg	—	0405 10 30 9300	L01	EUR/100 kg	—
	L02	EUR/100 kg	9,94		L02	EUR/100 kg	68,24
	A01	EUR/100 kg	12,00		A01	EUR/100 kg	92,00
0404 90 23 9130	L01	EUR/100 kg	—	0405 10 30 9700	L01	EUR/100 kg	—
	L02	EUR/100 kg	36,50		L02	EUR/100 kg	68,24
	A01	EUR/100 kg	46,83		A01	EUR/100 kg	92,00
0404 90 23 9140	L01	EUR/100 kg	—	0405 10 50 9300	L01	EUR/100 kg	—
	L02	EUR/100 kg	38,08		L02	EUR/100 kg	68,24
	A01	EUR/100 kg	48,89		A01	EUR/100 kg	92,00
0404 90 23 9150	L01	EUR/100 kg	—	0405 10 50 9500	L01	EUR/100 kg	—
	L02	EUR/100 kg	40,58		L02	EUR/100 kg	66,57
	A01	EUR/100 kg	52,10		A01	EUR/100 kg	89,76
0404 90 29 9110	L01	EUR/100 kg	—	0405 10 50 9700	L01	EUR/100 kg	—
	L02	EUR/100 kg	40,84		L02	EUR/100 kg	68,24
	A01	EUR/100 kg	52,41		A01	EUR/100 kg	92,00
0404 90 29 9115	L01	EUR/100 kg	—	0405 10 90 9000	L01	EUR/100 kg	—
	L02	EUR/100 kg	41,08		L02	EUR/100 kg	70,73
	A01	EUR/100 kg	52,74		A01	EUR/100 kg	95,37
0404 90 29 9125	L01	EUR/100 kg	—	0405 20 90 9500	L01	EUR/100 kg	—
	L02	EUR/100 kg	41,51		L02	EUR/100 kg	62,41
	A01	EUR/100 kg	53,27		A01	EUR/100 kg	84,16
0404 90 29 9140	L01	EUR/100 kg	—	0405 20 90 9700	L01	EUR/100 kg	—
	L02	EUR/100 kg	44,60		L02	EUR/100 kg	64,90
	A01	EUR/100 kg	57,25		A01	EUR/100 kg	87,51
0404 90 81 9100	L01	EUR/kg	—	0405 90 10 9000	L01	EUR/100 kg	—
	L02	EUR/kg	0,0994		L02	EUR/100 kg	85,16
	A01	EUR/kg	0,1200		A01	EUR/100 kg	114,82
0404 90 83 9110	L01	EUR/kg	—	0405 90 90 9000	L01	EUR/100 kg	—
	L02	EUR/kg	0,0994		L02	EUR/100 kg	68,11
	A01	EUR/kg	0,1200		A01	EUR/100 kg	91,83
0404 90 83 9130	L01	EUR/kg	—	0406 10 20 9100	L01	EUR/100 kg	—
	L02	EUR/kg	0,3650		L02	EUR/100 kg	—
	A01	EUR/kg	0,4683		A01	EUR/100 kg	16,24
0404 90 83 9150	L01	EUR/kg	—	0406 10 20 9230	L03	EUR/100 kg	—
	L02	EUR/kg	0,3808		L04	EUR/100 kg	12,99
	A01	EUR/kg	0,4889		400	EUR/100 kg	—
0404 90 83 9170	L01	EUR/kg	—	0406 10 20 9290	A01	EUR/100 kg	—
	L02	EUR/kg	0,4058		A00	EUR/100 kg	—
	A01	EUR/kg	0,5210		A00	EUR/100 kg	—
0404 90 83 9936	L01	EUR/kg	—	0406 10 20 9300	A00	EUR/100 kg	—
	L02	EUR/kg	0,1055		A00	EUR/100 kg	—
	A01	EUR/kg	0,1508		A00	EUR/100 kg	—
0405 10 11 9500	L01	EUR/100 kg	—	0406 10 20 9610	A00	EUR/100 kg	—
	L02	EUR/100 kg	66,57		A00	EUR/100 kg	—
	A01	EUR/100 kg	89,76		A00	EUR/100 kg	—
0405 10 11 9700	L01	EUR/100 kg	—	0406 10 20 9620	L03	EUR/100 kg	—
	L02	EUR/100 kg	68,24		L04	EUR/100 kg	19,96
	A01	EUR/100 kg	92,00		400	EUR/100 kg	—
					A01	EUR/100 kg	24,94

Product code	Destination	Unit of measurement	Amount of refund	Product code	Destination	Unit of measurement	Amount of refund
0406 10 20 9640	L03	EUR/100 kg	—	0406 30 39 9930	L03	EUR/100 kg	—
	L04	EUR/100 kg	29,32		L04	EUR/100 kg	5,69
	400	EUR/100 kg	—		400	EUR/100 kg	—
	A01	EUR/100 kg	36,65		A01	EUR/100 kg	13,34
0406 10 20 9650	L03	EUR/100 kg	—	0406 30 39 9950	L03	EUR/100 kg	—
	L04	EUR/100 kg	24,44		L04	EUR/100 kg	6,44
	400	EUR/100 kg	—		400	EUR/100 kg	—
	A01	EUR/100 kg	30,55		A01	EUR/100 kg	15,09
0406 10 20 9830	L03	EUR/100 kg	—	0406 30 90 9000	A00	EUR/100 kg	—
	L04	EUR/100 kg	9,08	0406 40 50 9000	L03	EUR/100 kg	—
	400	EUR/100 kg	—		L04	EUR/100 kg	34,48
	A01	EUR/100 kg	11,33		400	EUR/100 kg	—
0406 10 20 9850	L03	EUR/100 kg	—	0406 40 90 9000	A01	EUR/100 kg	43,09
	L04	EUR/100 kg	10,99		L03	EUR/100 kg	—
	400	EUR/100 kg	—		L04	EUR/100 kg	35,41
	A01	EUR/100 kg	13,74		400	EUR/100 kg	—
0406 20 90 9100	A00	EUR/100 kg	—	0406 90 13 9000	A01	EUR/100 kg	44,26
0406 20 90 9913	L03	EUR/100 kg	—		L03	EUR/100 kg	—
	L04	EUR/100 kg	21,76		L04	EUR/100 kg	39,25
	400	EUR/100 kg	—		400	EUR/100 kg	—
0406 20 90 9915	A01	EUR/100 kg	27,20	0406 90 15 9100	A01	EUR/100 kg	56,18
	L03	EUR/100 kg	—		L03	EUR/100 kg	—
	L04	EUR/100 kg	29,54		L04	EUR/100 kg	40,57
	400	EUR/100 kg	—		400	EUR/100 kg	—
0406 20 90 9917	A01	EUR/100 kg	36,93	0406 90 17 9100	A01	EUR/100 kg	58,06
	L03	EUR/100 kg	—		L03	EUR/100 kg	—
	L04	EUR/100 kg	31,41		L04	EUR/100 kg	40,57
	400	EUR/100 kg	—		400	EUR/100 kg	—
0406 20 90 9919	A01	EUR/100 kg	39,24	0406 90 21 9900	A01	EUR/100 kg	58,06
	L03	EUR/100 kg	—		L03	EUR/100 kg	—
	L04	EUR/100 kg	35,08		L04	EUR/100 kg	39,43
	400	EUR/100 kg	—		400	EUR/100 kg	—
0406 30 31 9710	A00	EUR/100 kg	—	0406 90 23 9900	A01	EUR/100 kg	56,30
0406 30 31 9730	L03	EUR/100 kg	—		L03	EUR/100 kg	—
	L04	EUR/100 kg	3,91		L04	EUR/100 kg	35,35
	400	EUR/100 kg	—		400	EUR/100 kg	—
0406 30 31 9910	A01	EUR/100 kg	9,17	0406 90 25 9900	A01	EUR/100 kg	50,82
	A00	EUR/100 kg	—		L03	EUR/100 kg	—
	L03	EUR/100 kg	—		L04	EUR/100 kg	34,67
	L04	EUR/100 kg	3,91		400	EUR/100 kg	—
0406 30 31 9930	400	EUR/100 kg	—	0406 90 27 9900	A01	EUR/100 kg	49,63
	A01	EUR/100 kg	9,17		L03	EUR/100 kg	—
	L03	EUR/100 kg	—		L04	EUR/100 kg	31,39
	L04	EUR/100 kg	5,69		400	EUR/100 kg	—
0406 30 31 9950	400	EUR/100 kg	—	0406 90 31 9119	A01	EUR/100 kg	44,95
	A01	EUR/100 kg	13,34		L03	EUR/100 kg	—
	L03	EUR/100 kg	—		L04	EUR/100 kg	29,03
	L04	EUR/100 kg	3,91		400	EUR/100 kg	—
0406 30 39 9500	400	EUR/100 kg	—	0406 90 33 9119	A01	EUR/100 kg	41,60
	A01	EUR/100 kg	9,17		L03	EUR/100 kg	—
	L03	EUR/100 kg	—		L04	EUR/100 kg	29,03
	L04	EUR/100 kg	3,91		400	EUR/100 kg	—
0406 30 39 9700	400	EUR/100 kg	—		A01	EUR/100 kg	41,60
	A01	EUR/100 kg	9,17				
	L03	EUR/100 kg	—				
	L04	EUR/100 kg	5,69				
	400	EUR/100 kg	—				
	A01	EUR/100 kg	13,34				

Product code	Destination	Unit of measurement	Amount of refund	Product code	Destination	Unit of measurement	Amount of refund
0406 90 33 9919	A00	EUR/100 kg	—	0406 90 78 9300	L03	EUR/100 kg	—
0406 90 33 9951	A00	EUR/100 kg	—		L04	EUR/100 kg	35,54
0406 90 35 9190	L03	EUR/100 kg	—		400	EUR/100 kg	—
	L04	EUR/100 kg	41,33		A01	EUR/100 kg	50,76
	400	EUR/100 kg	—	0406 90 78 9500	L03	EUR/100 kg	—
	A01	EUR/100 kg	59,45		L04	EUR/100 kg	34,55
0406 90 35 9990	L03	EUR/100 kg	—		400	EUR/100 kg	—
	L04	EUR/100 kg	41,33		A01	EUR/100 kg	49,04
	400	EUR/100 kg	—	0406 90 79 9900	L03	EUR/100 kg	—
	A01	EUR/100 kg	59,45		L04	EUR/100 kg	29,35
0406 90 37 9000	L03	EUR/100 kg	—		400	EUR/100 kg	—
	L04	EUR/100 kg	39,25		A01	EUR/100 kg	42,19
	400	EUR/100 kg	—	0406 90 81 9900	L03	EUR/100 kg	—
	A01	EUR/100 kg	56,18		L04	EUR/100 kg	36,63
0406 90 61 9000	L03	EUR/100 kg	—		400	EUR/100 kg	—
	L04	EUR/100 kg	44,68		A01	EUR/100 kg	52,44
	400	EUR/100 kg	—	0406 90 85 9930	L03	EUR/100 kg	—
	A01	EUR/100 kg	64,65		L04	EUR/100 kg	40,16
0406 90 63 9100	L03	EUR/100 kg	—		400	EUR/100 kg	—
	L04	EUR/100 kg	44,02		A01	EUR/100 kg	57,80
	400	EUR/100 kg	—	0406 90 85 9970	L03	EUR/100 kg	—
	A01	EUR/100 kg	63,49		L04	EUR/100 kg	36,84
0406 90 63 9900	L03	EUR/100 kg	—		400	EUR/100 kg	—
	L04	EUR/100 kg	42,31		A01	EUR/100 kg	52,98
	400	EUR/100 kg	—	0406 90 86 9100	A00	EUR/100 kg	—
	A01	EUR/100 kg	61,32	0406 90 86 9200	L03	EUR/100 kg	—
0406 90 69 9100	A00	EUR/100 kg	—		L04	EUR/100 kg	35,61
0406 90 69 9910	L03	EUR/100 kg	—		400	EUR/100 kg	—
	L04	EUR/100 kg	42,93		A01	EUR/100 kg	52,80
	400	EUR/100 kg	—	0406 90 86 9300	A00	EUR/100 kg	—
	A01	EUR/100 kg	62,22	0406 90 86 9400	L03	EUR/100 kg	—
0406 90 73 9900	L03	EUR/100 kg	—		L04	EUR/100 kg	38,16
	L04	EUR/100 kg	36,12		400	EUR/100 kg	—
	400	EUR/100 kg	—		A01	EUR/100 kg	55,80
	A01	EUR/100 kg	51,75	0406 90 86 9900	L03	EUR/100 kg	—
0406 90 75 9900	L03	EUR/100 kg	—		L04	EUR/100 kg	40,16
	L04	EUR/100 kg	36,84		400	EUR/100 kg	—
	400	EUR/100 kg	—		A01	EUR/100 kg	57,80
	A01	EUR/100 kg	52,98	0406 90 87 9100	A00	EUR/100 kg	—
0406 90 76 9300	L03	EUR/100 kg	—	0406 90 87 9200	A00	EUR/100 kg	—
	L04	EUR/100 kg	32,71	0406 90 87 9300	L03	EUR/100 kg	—
	400	EUR/100 kg	—		L04	EUR/100 kg	33,16
	A01	EUR/100 kg	46,82		400	EUR/100 kg	—
0406 90 76 9400	L03	EUR/100 kg	—		A01	EUR/100 kg	49,00
	L04	EUR/100 kg	36,63	0406 90 87 9400	L03	EUR/100 kg	—
	400	EUR/100 kg	—		L04	EUR/100 kg	33,86
	A01	EUR/100 kg	52,44		400	EUR/100 kg	—
0406 90 76 9500	L03	EUR/100 kg	—		A01	EUR/100 kg	49,49
	L04	EUR/100 kg	33,92	0406 90 87 9951	L03	EUR/100 kg	—
	400	EUR/100 kg	—		L04	EUR/100 kg	35,97
	A01	EUR/100 kg	48,15		400	EUR/100 kg	—
0406 90 78 9100	L03	EUR/100 kg	—		A01	EUR/100 kg	51,50
	L04	EUR/100 kg	35,88				
	400	EUR/100 kg	—				
	A01	EUR/100 kg	52,42				

Product code	Destination	Unit of measurement	Amount of refund	Product code	Destination	Unit of measurement	Amount of refund
0406 90 87 9971	L03	EUR/100 kg	—	0406 90 87 9975	L03	EUR/100 kg	—
	L04	EUR/100 kg	35,97		L04	EUR/100 kg	37,52
	400	EUR/100 kg	—		400	EUR/100 kg	—
	A01	EUR/100 kg	51,50		A01	EUR/100 kg	53,02
0406 90 87 9972	L03	EUR/100 kg	—	0406 90 87 9979	L03	EUR/100 kg	—
	L04	EUR/100 kg	15,21		L04	EUR/100 kg	35,35
	400	EUR/100 kg	—		400	EUR/100 kg	—
	A01	EUR/100 kg	21,86		A01	EUR/100 kg	50,82
0406 90 87 9973	L03	EUR/100 kg	—	0406 90 88 9100	A00	EUR/100 kg	—
	L04	EUR/100 kg	35,33	0406 90 88 9300	L03	EUR/100 kg	—
	400	EUR/100 kg	—		L04	EUR/100 kg	29,29
	A01	EUR/100 kg	50,57		400	EUR/100 kg	—
0406 90 87 9974	L03	EUR/100 kg	—	0406 90 88 9500	A01	EUR/100 kg	43,13
	L04	EUR/100 kg	37,84		L03	EUR/100 kg	—
	400	EUR/100 kg	—		L04	EUR/100 kg	30,20
	A01	EUR/100 kg	53,93		400	EUR/100 kg	—
					A01	EUR/100 kg	43,15

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

The numeric destination codes are set out in Commission Regulation (EC) No 750/2005 (OJ L 126, 19.5.2005, p. 12).

The other destinations are defined as follows:

L01 Ceuta, Melilla, Holy See, the United States of America and the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control.

L02 Andorra and Gibraltar.

L03 Ceuta, Melilla, Iceland, Norway, Switzerland, Liechtenstein, Andorra, Gibraltar, Holy See (often referred to as Vatican City), Turkey, Romania, Bulgaria, Croatia, Canada, Australia, New Zealand and the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control.

L04 Albania, Bosnia and Herzegovina, Kosovo, Serbia, Montenegro and the former Yugoslav Republic of Macedonia.

COMMISSION REGULATION (EC) No 1493/2005**of 15 September 2005****fixing the maximum export refund for butter in the framework of the standing invitation to tender
provided for in Regulation (EC) No 581/2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, and in particular the third subparagraph of Article 31(3) thereof,

Whereas:

- (1) Commission Regulation (EC) No 581/2004 of 26 March 2004 opening a standing invitation to tender for export refunds concerning certain types of butter ⁽²⁾ provides for a permanent tender.
- (2) Pursuant to Article 5 of Commission Regulation (EC) No 580/2004 of 26 March 2004 establishing a tender procedure concerning export refunds for certain milk products ⁽³⁾ and following an examination of the

tenders submitted in response to the invitation to tender, it is appropriate to fix a maximum export refund for the tendering period ending on 13 September 2005.

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

HAS ADOPTED THIS REGULATION:

Article 1

For the permanent tender opened by Regulation (EC) No 581/2004, for the tendering period ending on 13 September 2005, the maximum amount of refund for the products referred to in Article 1(1) of that Regulation shall be as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 16 September 2005.

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

Done at Brussels, 15 September 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

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

⁽²⁾ OJ L 90, 27.3.2004, p. 64. Regulation as last amended by Regulation (EC) No 1239/2005 (OJ L 200, 30.7.2005, p. 32).

⁽³⁾ OJ L 90, 27.3.2004, p. 58. Regulation as amended by Regulation (EC) No 2250/2004 (OJ L 381, 28.12.2004, p. 25).

ANNEX

(EUR/100 kg)

Product	Export refund Code	Maximum amount of export refund for export to the destinations referred to in the second subparagraph of Article 1(1) of Regulation (EC) No 581/2004
Butter	ex 0405 10 19 9500	—
Butter	ex 0405 10 19 9700	99,50
Butteroil	ex 0405 90 10 9000	121,00

COMMISSION REGULATION (EC) No 1494/2005**of 15 September 2005****fixing the maximum export refund for skimmed milk powder in the framework of the standing invitation to tender provided for in Regulation (EC) No 582/2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽¹⁾, and in particular the third subparagraph of Article 31(3) thereof,

Whereas:

- (1) Commission Regulation (EC) No 582/2004 of 26 March 2004 opening a standing invitation to tender for export refunds for skimmed milk powder ⁽²⁾ provides for a permanent tender.
- (2) Pursuant to Article 5 of Commission Regulation (EC) No 580/2004 of 26 March 2004 establishing a tender procedure concerning export refunds for certain milk products ⁽³⁾ and following an examination of the tenders submitted in response to the invitation to

tender, it is appropriate to fix a maximum export refund for the tendering period ending on 13 September 2005.

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

HAS ADOPTED THIS REGULATION:

Article 1

For the permanent tender opened by Regulation (EC) No 582/2004, for the tendering period ending on 13 September 2005, the maximum amount of refund for the product and destinations referred to in Article 1(1) of that Regulation shall be 13,50 EUR/100 kg.

Article 2

This Regulation shall enter into force on 16 September 2005.

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

Done at Brussels, 15 September 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

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

⁽²⁾ OJ L 90, 27.3.2004, p. 67. Regulation as last amended by Regulation (EC) No 1239/2005 (OJ L 200, 30.7.2005, p. 32).

⁽³⁾ OJ L 90, 27.3.2004, p. 58. Regulation as amended by Regulation (EC) No 2250/2004 (OJ L 381, 28.12.2004, p. 25).

COMMISSION REGULATION (EC) No 1495/2005**of 15 September 2005****amending Regulation (EC) No 1166/2005 as regards the quantity covered by the standing invitation to tender for the resale on the Community market of maize held by the French intervention agency**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals ⁽¹⁾, and in particular Article 6 thereof,

Whereas:

- (1) Commission Regulation (EC) No 1166/2005 ⁽²⁾ opened a standing invitation to tender for the resale on the Community market of 53 641 tonnes of maize held by the French intervention agency.
- (2) Given the current market situation, the quantities of maize put up for sale by the French intervention agency on the internal market should be increased, taking the permanent invitation to tender to 64 424 tonnes.

(3) Regulation (EC) No 1166/2005 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1166/2005 is hereby amended as follows:

1. In Article 1, '53 641 tonnes' is replaced by '64 424 tonnes',
2. In the title of the Annex, '53 641 tonnes' is replaced by '64 424 tonnes'.

Article 2

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

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

Done at Brussels, 15 September 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78. Regulation as amended by Commission Regulation (EC) No 1154/2005 (OJ L 187, 19.7.2005, p. 11).

⁽²⁾ OJ L 188, 20.7.2005, p. 10.

COMMISSION REGULATION (EC) No 1496/2005**of 15 September 2005****amending Regulation (EC) No 1168/2005 as regards the quantity covered by the standing invitation to tender for the resale on the Community market of maize held by the Austrian intervention agency**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals ⁽¹⁾, and in particular Article 6 thereof,

Whereas:

- (1) Commission Regulation (EC) No 1168/2005 ⁽²⁾ opened a standing invitation to tender for the resale on the Community market of 113 297 tonnes of maize held by the Austrian intervention agency.
- (2) Given the current market situation, the quantities of maize put up for sale by the Austrian intervention agency on the internal market should be increased, taking the permanent invitation to tender to 121 525 tonnes.

(3) Regulation (EC) No 1168/2005 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1168/2005 is hereby amended as follows:

1. in Article 1, '113 297 tonnes' is replaced by '121 525 tonnes';
2. In the title of the Annex, '113 297 tonnes' is replaced by '121 525 tonnes'.

Article 2

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

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

Done at Brussels, 15 September 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78. Regulation as amended by Commission Regulation (EC) No 1154/2005 (OJ L 187, 19.7.2005, p. 11).

⁽²⁾ OJ L 188, 20.7.2005, p. 16.

COMMISSION REGULATION (EC) No 1497/2005

of 15 September 2005

correcting Council and Commission Decision 2005/430/EC, Euratom on the conclusion of the Additional Protocol to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Bulgaria, of the other part

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council and Commission Decision 2005/430/EC, Euratom of 18 April 2005 on the conclusion of the Additional Protocol to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Bulgaria, of the other part, to take account of the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia, and the Slovak Republic to the European Union ⁽¹⁾, and in particular Article 3(1) thereof,

Whereas:

- (1) The Annex to Decision 2005/430/EC, Euratom establishes the order numbers attributed to the European Union tariff quotas for products originating in Bulgaria.
- (2) As a result of the erroneous inclusion in that Annex of an order number below 09.5100 for products falling within CN codes 1701 and 1702, the Commission is unable to administer the relevant tariff quota in accordance with Articles 308a, 308b and 308c of Commission Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽²⁾.

- (3) Decision 2005/430/EC, Euratom must therefore be corrected.

- (4) Since the annual periods for the application of the concessions begin on 1 July, provision should be made for this Regulation to apply from 1 July 2005.

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

HAS ADOPTED THIS REGULATION:

Article 1

In the Annex to Decision 2005/430/EC, Euratom, the line concerning order number 09.4785 is replaced by the following:

'Order number	CN code	Description
09.5902	1701	Sugar
	1702	Other sugars'

Article 2

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

It shall apply from 1 July 2005.

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

Done at Brussels, 15 September 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 155, 17.6.2005, p. 1.

⁽²⁾ OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 883/2005 (OJ L 148, 11.6.2005, p. 5).

COMMISSION REGULATION (EC) No 1498/2005**of 15 September 2005****amending Regulation (EC) No 1262/2001 laying down detailed rules for implementing Council Regulation (EC) No 1260/2001 as regards the buying in and the sale of sugar by intervention agencies**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the market in the sugar sector ⁽¹⁾, and in particular Article 9(3) thereof,

Whereas:

- (1) Pursuant to Article 18(2) of Commission Regulation (EC) No 1262/2001 ⁽²⁾, intervention agencies may require that sugar to be delivered for intervention be packed in jute bags lined with polythene.
- (2) New forms of packaging for foodstuffs have been developed during the last few years. Intervention agencies that require certain of these new forms of packaging should require that such packaging complies with Regulation (EC) No 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC ⁽³⁾.
- (3) Regulation (EC) No 1262/2001 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

In Article 18(2) of Regulation (EC) No 1262/2001 the second subparagraph is replaced by:

‘Intervention agencies that require or accept that the sugar be delivered in forms of packaging other than those provided for in the first subparagraph shall require that such packaging complies with the requirements laid down in Regulation (EC) No 1935/2004 of the European Parliament and of the Council (*). The intervention agency may specify a particular quality of packaging.

(*) OJ L 338, 13.11.2004, p. 4.’

Article 2

This Regulation shall enter into force on the seventh 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, 15 September 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

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

⁽²⁾ OJ L 178, 30.6.2001, p. 48.

⁽³⁾ OJ L 338, 13.11.2004, p. 4.

COMMISSION REGULATION (EC) No 1499/2005**of 15 September 2005****establishing a prohibition of fishing for haddock in ICES zones I, II (Norwegian waters) by vessels flying the flag of Spain**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy ⁽¹⁾, and in particular Article 26(4) thereof,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy ⁽²⁾, and in particular Article 21(3) thereof,

Whereas:

- (1) Council Regulation (EC) No 27/2005 of 22 December 2004 fixing for 2005 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks applicable in Community waters and for Community vessels, in waters where catch limitations are required ⁽³⁾, lays down quotas for 2005.
- (2) According to the information received by the Commission, catches of the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein have exhausted the quota allocated for 2005.

- (3) It is therefore necessary to prohibit fishing for that stock and its retention on board, transhipment and landing,

HAS ADOPTED THIS REGULATION:

*Article 1***Quota exhaustion**

The fishing quota allocated to the Member State referred to in the Annex to this Regulation for the stock referred to therein for 2005 shall be deemed to be exhausted from the date set out in that Annex.

*Article 2***Prohibitions**

Fishing for the stock referred to in the Annex to this Regulation by vessels flying the flag of or registered in the Member State referred to therein shall be prohibited from the date set out in that Annex. It shall be prohibited to retain on board, tranship or land such stock caught by those vessels after that date.

*Article 3***Entry into force**

This Regulation shall enter into force on the 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, 15 September 2005.

For the Commission

Jörgen HOLMQUIST

Director-General for Fisheries and Maritime Affairs

⁽¹⁾ OJ L 358, 31.12.2002, p. 59.

⁽²⁾ OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 768/2005 (OJ L 128, 21.5.2005, p. 1)

⁽³⁾ OJ L 12, 14.1.2005, p. 1. Regulation as last amended by Regulation (EC) No 1300/2005 (OJ L 207, 10.8.2005, p. 1).

ANNEX

Member State	Spain
Stock	HAD/1N2AB.
Species	Haddock (<i>Melanogrammus aeglefinus</i>)
Zone	I, II (Norwegian waters)
Date	30 June 2005

COMMISSION REGULATION (EC) No 1500/2005**of 15 September 2005****concerning tenders notified in response to the invitation to tender for the export of barley issued in Regulation (EC) No 1058/2005**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals ⁽¹⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) An invitation to tender for the refund for the export of barley to certain third countries was opened pursuant to Commission Regulation (EC) No 1058/2005 ⁽²⁾.
- (2) Article 7 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on

the market for cereals ⁽³⁾, and in particular Article 13(3) thereof,

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

HAS ADOPTED THIS REGULATION:

Article 1

No action shall be taken on the tenders notified from 9 to 15 September 2005 in response to the invitation to tender for the refund for the export of barley issued in Regulation (EC) No 1058/2005.

Article 2

This Regulation shall enter into force on 16 September 2005.

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

Done at Brussels, 15 September 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 174, 7.7.2005, p. 12.

⁽³⁾ OJ L 147, 30.6.1995, p. 7. Regulation as last modified by Regulation (EC) No 777/2004 (OJ L 123, 27.4.2004, p. 50).

COMMISSION REGULATION (EC) No 1501/2005**of 15 September 2005****concerning tenders notified in response to the invitation to tender for the export of oats issued in Regulation (EC) No 1438/2005**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

Having regard to Commission Regulation (EC) No 1438/2005 of 2 September 2005 on a special intervention measure for cereals in Finland and Sweden for the 2005/2006 marketing year ⁽³⁾,

Whereas:

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

Finland and Sweden to all third countries, with the exception of Bulgaria, Norway, Romania and Switzerland was opened pursuant to Regulation (EC) No 1438/2005.

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

HAS ADOPTED THIS REGULATION:

Article 1

No action shall be taken on the tenders notified from 9 to 15 September 2005 in response to the invitation to tender for the refund for the export of oats issued in Regulation (EC) No 1438/2005.

Article 2

This Regulation shall enter into force on 16 September 2005.

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

Done at Brussels, 15 September 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

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

⁽³⁾ OJ L 228, 3.9.2005, p. 5.

COMMISSION REGULATION (EC) No 1502/2005**of 15 September 2005****fixing the maximum export refund on common wheat in connection with the invitation to tender issued in Regulation (EC) No 1059/2005**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals ⁽¹⁾, and in particular Article 13(3) thereof,

Whereas:

(1) An invitation to tender for the refund for the export of common wheat to certain third countries was opened pursuant to Commission Regulation (EC) No 1059/2005 ⁽²⁾.

(2) In accordance with Article 7 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, the Commission may, on the basis of the tenders notified, decide to fix a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95.

In that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund.

(3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed.

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

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified on 9 to 15 September 2005, pursuant to the invitation to tender issued in Regulation (EC) No 1059/2005, the maximum refund on exportation of common wheat shall be 6,00 EUR/t.

Article 2

This Regulation shall enter into force on 16 September 2005.

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

Done at Brussels, 15 September 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 174, 7.7.2005, p. 15.

⁽³⁾ OJ L 147, 30.6.1995, p. 7. Regulation as last amended by Regulation (EC) No 777/2004 (OJ L 123, 27.4.2004, p. 50).

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 20 October 2004

on the State Aid C 38/03 implemented by Spain (further restructuring aid to the public Spanish shipyards)

(notified under document number C(2004) 3918)

(Only the Spanish version is authentic)

(Text with EEA relevance)

(2005/652/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having regard to Council Regulation (EC) No 1013/97 of 2 June 1997 on aid to certain shipyards under restructuring ⁽¹⁾,

Having regard to Council Regulation (EC) No 1540/98 of 29 June 1998 establishing new rules on aid to shipbuilding ⁽²⁾,

Having called on interested parties to submit their comments pursuant to the provisions cited above ⁽³⁾ and having regard to their comments,

Whereas:

I. THE PROCEDURE

(1) Based on Regulation (EC) No 1013/97, the Commission in a decision of 6 August 1997 ⁽⁴⁾ authorised restructuring aid for Spanish public shipyards amounting to approximately EUR 1,9 billion. According to both the decision and Council Regulation (EC) No 1013/97 the condition for the approval of the aid was that no more aid for restructuring purposes should be provided.

⁽¹⁾ OJ L 148, 6.6.1997, p. 1.

⁽²⁾ OJ L 202, 18.7.1998, p. 1.

⁽³⁾ OJ C 201, 26.8.2003, p. 3.

⁽⁴⁾ OJ C 354, 21.11.1997, p. 2.

(2) In the years 2000, 2001 and 2002, the state holding company Sociedad Estatal de Participaciones Industriales (hereafter SEPI) provided IZAR Construcciones navales (hereafter IZAR) with capital injections for a total sum of EUR 1 477 million. By letters dated 8 November 2002 and 14 January 2003, the Commission requested information on this matter.

(3) By decision of 27 May 2003 the Commission initiated the procedure laid down in Article 88(2) of the EC Treaty (hereafter the opening) concerning the transactions whereby SEPI injected EUR 1 477 million in IZAR. The Spanish authorities were informed of the decision in a letter from the Commission dated 28 May 2003.

(4) Spain, by letters dated 11 July 2003, 29 July 2003, 11 August 2003, 19 January 2004, 23 February 2004, 14 April 2004 and 26 July 2004 submitted its comments on the opening of the procedure.

(5) Following the opening of the procedure, the Commission received comments from Royal Van Lent Shipyard by letter dated 24 September 2003, from a party requesting anonymity by letter dated 24 September 2003 and from IZAR by letter dated 6 October 2003. These comments were forwarded to Spain by letter of 13 October 2003. Spain provided comments by letter dated 10 November 2003. IZAR on 17 November 2003 brought an action ⁽⁵⁾ against the Commission before the Court of First Instance, requesting an annulment of the opening of the procedure.

⁽⁵⁾ OJ C 21, 24.1.2004, p. 42, Case T-382/03.

II. DETAILED DESCRIPTION OF THE AID

THE BENEFICIARIES

- (6) SEPI in July 2000 decided to merge all the publicly owned, military and civil shipyards and related activities, which at that time operated as companies, into one group. All the civil shipyards and related activities were therefore bought, on 20 July 2000, by BAZAN and then merged into BAZAN which subsequently changed name to IZAR.
- (7) IZAR's civil activities mainly take place at Astilleros de Cadiz (Cadiz), Astilleros de Puerto Real (Puerto Real), Astilleros de Sestao (Sestao), Astilleros de Sevilla (Sevilla), Juliana Constructora Gijonesa (Juliana), Fábrica de Manises (Manises), Astilleros de Fene (Fene). IZAR also have three mainly military shipbuilding sites, Ferrol, Cartagena and San Fernando.

THE AID

- (8) The investigation covers the following capital injections from SEPI: EUR 1 322,227 million (ESP 220 billion), provided to BAZAN on 28 July 2000, EUR 105,171 million provided to IZAR in 2001 and EUR 50,000 million provided to IZAR in 2002.
- (9) In the opening decision the Commission noted that the capital provided by SEPI to IZAR may confer economic benefits to civil shipbuilding which they were unlikely to have received from commercial sources. The measures therefore were likely to constitute aid. By its nature such aid is likely to distort competition.
- (10) Based on the recent history of the civil yards, the Commission therefore suspected that the civil yards had received financial support through the capital injections given to IZAR and had doubts that such support would be in compliance with the rules on state aid for shipbuilding. The objective of this state aid procedure is therefore to clarify if any of the capital provided to IZAR has benefited the civil shipyards or other civil activities.

III. COMMENTS FROM INTERESTED PARTIES

COMMENTS TO THE OPENING OF THE PROCEDURE

- (11) The Commission received comments from three parties. A party requesting anonymity made a joint comment for this case and State aid case C-40/00 ⁽¹⁾. It underlines that the investigated aid has created a serious distortion in the market of recreational ships. Another joint comment for this case and case C-40/00 was received from Royal van Lent Shipyard B.V. The company claims that aids granted by the Spanish government during the past years has been extremely prejudicial for many of the competitors in the market for mega yachts.

- (12) The Commission also received comments from IZAR. IZAR claims that the concerned capital injections fall under Article 296 of the EC Treaty, and that any problems concerning distortion of trade should be treated within the context of the cooperation procedure of Article 298 of the EC Treaty. IZAR also claims that the capital injected by SEPI is not State resources and in any case falls under the market investor principle. IZAR finally claims that the possibility of recovery of any aid provided to the public Spanish shipyards in 1997 is unacceptable since it is existing aid.

IV. COMMENTS FROM SPAIN

COMMENTS FOLLOWING THE OPENING

- (13) In the procedure, Spain provided the Commission with the following arguments on why, in its view, no State aid was involved in the concerned capital injections.
- (14) Firstly, Spain claims that SEPI acted as a private investor in a market economy, that aims at maximizing profits, and that the Commission did not prove that SEPI's resources comes from the State or are imputable to the State.
- (15) Furthermore, the capital was injected in the context of a plan for the company BAZAN, which used to be a military company. The capital was injected in order to cover a number of costs linked to this plan, developed in 1998. In particular, EUR [...] (*) million related to so-called externalisation of social costs linked to pre-pensions by former BAZAN employees. This amount was paid to insurance companies in the years 2000 to 2002, which pay out the pensions. The increased costs for these commitments explains, according to Spain, the additional capital injections from SEPI to IZAR in 2001 and 2002.
- (16) In addition, a further approximately EUR [...] million had been paid for such social costs directly from BAZAN to some pre-retired employees.
- (17) The rest of the capital injected was, according to Spain, needed to cover investments in the military areas of the new company IZAR, amounting to EUR [...] million, and for an increased need for working capital for military constructions.
- (18) Spain also stated that these measures should be analysed within the context of Article 296 of the EC Treaty, since the capital was provided to BAZAN, which according to Spain was a purely military company at the time of the injection of the capital.
- (19) Spain furthermore argued against the possibility that some of the aid authorised in 1997 would become incompatible in case the Commission would declare that further illegal aid has been provided to the public Spanish shipyards.

⁽¹⁾ OJ C 199, 23.8.2003, p. 9.

(*) Confidential information.

(20) In reaction to the comments provided by third parties Spain fully agrees with all that was stated by IZAR, and denies that IZAR has an important activity in the luxury yacht sector.

(21) Spain at a later stage of the procedure provided further information requested by the Commission, i.e. the estimated losses of the civil activities of IZAR, from 1 July 2000 to 31 December 2003 and information on the overhead costs of IZAR during this period.

V. ASSESSMENT

LEGAL BASE

(22) According to Article 87(1) of the EC Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market. Pursuant to the established case-law of the European Courts, the criterion of trade being affected is met if the recipient firm carries out an economic activity involving trade between Member States.

(23) According to Article 87(3)(e) of the EC Treaty, categories of aid specified by a decision of the Council acting by a qualified majority on a proposal from the Commission may be considered compatible with the common market. The Commission notes that the Council adopted on this basis Regulation (EC) No 1540/98 (hereafter the Shipbuilding Regulation), which was in force from 1 January 1999 to 31 December 2003. Although Regulation (EC) No 1540/98 expired on 31 December 2003, and is not concerned by the Commission notice on the determination of the applicable rules for the assessment of unlawful State aid⁽¹⁾, in the interest of a consistent practice the Commission — using its broad margin of appreciation — intends to apply that Regulation in the present case.

(24) Shipbuilding is an economic activity involving trade between Member States. Therefore, aid to shipbuilding falls within the scope of Article 87(1) of the EC Treaty.

(25) The Commission notes that according to the Shipbuilding Regulation, 'shipbuilding' means building of self-propelled seagoing commercial vessels. The Commission further notes that IZAR builds these ships and that consequently it is an undertaking covered by the Regulation. The Commission further notes that Article 2 of the said Regulation states that aid granted for shipbuilding, ship repair and ship conversion may be

compatible with the common market only if it complies with the provisions of the Regulation. This provision applies not only to aid granted to undertakings engaged in such activities but also to related entities.

(26) In August 1997, pursuant to Regulation (EC) No 1013/97, the Commission exceptionally approved a package of restructuring aids for the Spanish public civil shipyards in order for them to return to viability by the end of 1998. Including aids previously approved, the total package was ESP 318 billion (EUR 1,9 billion).

(27) In giving its agreement, the Council stressed the 'one time, last time' nature of the aid package. The Spanish government had undertaken the commitment that the yards would not receive any further aid for restructuring, rescue, loss compensation or privatisation. This was reflected in the conditions attached to the Commission's decision approving the aid. It was also underlined in the first indent of the second subparagraph of Article 5(1) of the Shipbuilding Regulation. This provision states that no rescue or restructuring aid may be granted to an undertaking that has been granted such aid pursuant to Regulation (EC) No 1013/97.

(28) As a consequence, aid in excess of the aid that was authorised by the initial Commission decision of August 1997 would have to be considered as incompatible with the common market, unless approved under another legal base.

(29) The Commission notes that the shipyards Sestao, Puerto Real, Sevilla, Cadiz, and Juliana were undertakings covered by Regulation (EC) No 1013/97 and the 1997 Commission decision referred to above. Manises and Fene (ex Astano) are related entities since they were owned by the shipbuilding company IZAR during the period under investigation, and therefore also covered by the Shipbuilding Regulation, pursuant to its Article 1(g).

ASSESSMENT OF AID

1. THE ROLE OF SEPI

(30) In its decision to open the formal procedure the Commission considered that SEPI acted on behalf of the State, i.e. that its behaviour in the different transactions is imputable to the State. Spain has contested this, and claimed that SEPI functions independently from the State and that therefore its behaviour is not imputable to the State. In any way, in Spain's view, SEPI acted as a market investor and therefore the funds provided from SEPI in this case could not be considered as State aid.

⁽¹⁾ OJ C 119, 22.5.2002, p. 22 (see the last sentence: 'The present notice is without prejudice to the interpretation of Council and Commission regulations in the field of State aid.')

- (31) The Commission notes that SEPI is a public holding company which is directly depending on the Ministry of Finance. As such it is considered as a public undertaking in the sense of Commission Directive 2000/52/EC of 26 July 2000 amending Directive 80/723/EEC on the transparency of financial relations between Member States and public undertakings⁽¹⁾, since due to its ownership or its financial participation, the public authorities can directly or indirectly exercise a dominant influence on SEPI.
- (32) The Court has defined when funds are considered to be state resources. It has e.g. stated that even if the sums corresponding to the measure in question are not permanently held by the Treasury, the fact that they constantly remain under public control, and therefore available to the competent national authorities, is sufficient for them to be categorised as State resources (Court judgment in Case C-83/98 P, *France v Ladbroke Racing and Commission* ⁽²⁾). This clearly applies to SEPI's resources.
- (33) The Court has further taken a decision (Court judgment C-482/99, *Stardust marine* ⁽³⁾), outlining the criteria for imputability to the State of an aid measure taken by a public undertaking. This may, according to the Court, be inferred from a set of indicators arising from the circumstances of the case and the context in which that measure was taken.
- (34) Examples of indicators provided by the Court are the integration of the public company into the structures of the public administration, the nature of its activities and the exercise of the latter on the market in normal conditions of competition with private operators, the legal status of the undertaking (in the sense of its being subject to public law or ordinary company law), the intensity of the supervision exercised by the public authorities over the management of the undertaking, or any other indicator showing, in the particular case, an involvement by the public authorities in the adoption of a measure or the unlikelihood of their not being involved, having regard also to the compass of the measure, its content or the conditions which it contains.
- (35) SEPI is a company with a particular legal status, with e.g. its annual reports not accessible in the public Spanish registry. The supervision of the company is exercised by its board of directors constituting to a large extent of State secretaries and other persons directly linked to the government. The nature of its activities include privatisation of state owned companies, which is an activity that is closely linked to public policy. Furthermore, SEPI has a history of behaviour towards the shipyards which has been carried out in a manner that can be considered imputable to the State, such as providing part of the authorised restructuring aid in 1997 and unlawful aid in 1998 ⁽⁴⁾. It can also be noted that SEPI in other circumstances provides State aid, such as to the Spanish coal industry ⁽⁵⁾.
- (36) It derives from points 31 and 32 above that SEPI's funds are state resources. Furthermore, it derives from points 33 to 35 above that the provision of its funds under investigation in this case, to shipbuilding companies, must be considered imputable to the State in so far as they are provided on terms not in conformity with market economy principles.
- (37) The general principle that applies for financial transactions between the state and public companies, is the so called market economy investor principle. Given that SEPI's funds are State resources, it is essential that SEPI, in its economic transactions with its shipbuilding subsidiaries (whether the subsidiaries are companies with economic activities or holding companies to such companies) acts fully in line with the market economy investor principle.
- (38) The market economy investor principle is explained in detail in the Commission communication to the Member States ⁽⁶⁾ on the Application of Articles 92 and 93 of the EEC Treaty and of Article 5 of Commission Directive 80/723/EEC of 25 June 1980 on the transparency of financial relations between Member States and public undertakings to public undertakings in the manufacturing sector ⁽⁷⁾. The Court has also, e.g. in Case C-40/85 ⁽⁸⁾ stated that the appropriate ways of establishing whether the measure is State aid is to apply the criterion to what extent the undertaking would be able to obtain the sums in question on the private capital markets at the same conditions. It continues, 'in particular, whether in similar circumstances a private shareholder, having regard to the foreseeability of obtaining a return and leaving aside all social, regional policy and sectoral considerations, would have subscribed the capital in question'.
- (39) The Commission does not exclude that funds provided by SEPI may be free of aid as long as SEPI's actions comply with the market investor principle. The Commission will therefore, for the capital injection under scrutiny, assess whether SEPI acted according to the market investor principle.

⁽¹⁾ OJ L 193, 29.7.2000, p. 75.

⁽²⁾ [2000] ECR I-03271, paragraph 50.

⁽³⁾ [2002] ECR I-04397, paragraphs 55 to 56.

⁽⁴⁾ OJ L 37, 12.2.2000, p. 22.

⁽⁵⁾ OJ L 296, 30.10.2002, p. 73.

⁽⁶⁾ OJ C 307, 13.11.1993, p. 3.

⁽⁷⁾ OJ L 195, 29.7.1980, p. 35.

⁽⁸⁾ [1986] ECR 2321.

2. AID CONTAINED IN THE CAPITAL INJECTIONS FROM SEPI TO BAZAN/IZAR

(a) *Aid to a purely military company*

(40) Spain claims that on 28 July 2000, when BAZAN received the main capital injection, it was a purely military company since it had not yet merged with the civil shipyard companies it recently had acquired. Therefore Spain argues that any aid provided to BAZAN would enjoy the derogation provided for in Article 296 of the EC Treaty.

(41) The Commission does not agree with this and notes that when the capital was provided, BAZAN owned all the concerned civil shipyards and related activities. Whether BAZAN owned the civil activities in the form of 100 % owned subsidiaries or as assets can not be relevant. It can also be noted that the civil subsidiaries were merged into BAZAN two months later. It is the final use of the funds by the beneficiary that is relevant for whether the aid potentially distorts competition among civil shipyards in the common market.

(b) *Use of the funds for social costs*

(42) In the opening of the procedure the Commission had doubts as to whether the social costs linked to BAZAN's past (before July 2000) were linked exclusively to military production, due to the fact that BAZAN in the past appears to have produced some civil ships. The Commission therefore doubted that the funds provided to cover these costs would fall under Article 296 of the EC Treaty.

(43) The Commission notes that the social costs linked to BAZAN's past indeed cover a part of the total capital provided. Spain has been able to demonstrate that EUR [...] million was provided to external insurance companies to cover costs for pre-pensions of the former military shipyards. This amount covers part of the capital provided in 2000, and all capital provided in 2001 and 2002. The additional capital injections in 2001 and 2002 were motivated by unexpected increased costs for these pre-pensions. Spain has also argued that a further EUR [...] million was paid directly by BAZAN to certain pre-retired BAZAN employees.

(44) However, the social costs linked to BAZAN's military past do not cover the entire amount of capital provided by SEPI. The Commission has furthermore not been provided with convincing information about the need for more working capital for the military yards, nor a convincing argument why investments in military shipbuilding should be financed entirely with own capital, instead of with mostly loans, which would be a normal market behaviour. Therefore, Spain did not demonstrate that the full use of the funds provided by SEPI to IZAR was for military purposes.

(c) *Loss coverage for civil activities*

(45) Spain has provided the Commission with estimated financial results of the civil activities of IZAR for the years 2000 to 2003. This information indicates a total loss for the civil activities within IZAR of EUR 290 million, as specified in Table 1.

Table 1

Estimated results of IZAR's civil activities 2000 to 2003 ⁽¹⁾

(EUR million)								
	Gijon	Sestao	Pto Real	Sevilla	Cadiz	Fene	Manises	Total
2000	[...]	[...]	[...]	[...]	[...]	[...]	[...]	- 80,2
2001	[...]	[...]	[...]	[...]	[...]	[...]	[...]	- 103,6
2002	[...]	[...]	[...]	[...]	[...]	[...]	[...]	- 59,9
2003	[...]	[...]	[...]	[...]	[...]	[...]	[...]	- 46,4
Total	[...]	[...]	[...]	[...]	[...]	[...]	[...]	- 290,1

⁽¹⁾ The results in this table do not take into account losses incurred by Sestao, Puerto Real and Sevilla covered by the extraordinary gains referred to in paragraphs 46 and 51 below.

(46) The results are provided after extraordinary gains, which in particular affected Puerto Real, Sestao and Sevilla due to the fact that these companies had positive book values at the time they were bought by BAZAN for a symbolic price. From the table it can be concluded that IZAR has covered losses generated in its civil activities for a total sum of EUR 290 million during the period 1 July 2000 to 31 December 2003.

(47) Furthermore, Spain has provided information concerning the central costs of IZAR, which have not been allocated

to the civil activities in the calculation of the results in Table 1. The total amount of central costs for the period 2000 to 2003 were EUR [...] million. The civil activities' share of the turnover of IZAR was [...] % during this period. Using this as a key to distribute the central costs would imply an additional loss of the civil activities of EUR 74 million over the concerned period.

(48) In total, the civil activities of IZAR thus made an estimated loss of EUR 364 million over the period 2000 to 2003.

- (49) When BAZAN acquired the civil activities, it had limited financial resources (own capital EUR 100 million by the end of 1999). It furthermore appears to have made losses (based on IZAR's annual reports) in its military activities in 2000 to 2002 of approximately EUR [...] million. It can therefore be established that the losses of IZAR's civil activities had to be covered by the capital injection provided in year 2000.

Market economy investor principle

- (50) The next issue to be assessed is whether in similar circumstances a private shareholder, having regard to the foreseeability of obtaining a return and leaving

aside all social, regional policy and sectoral considerations would have provided the capital for use in question. The Court has stated that an appropriate way of establishing whether a capital injection is state aid is to apply the criterion of determining to what extent the undertaking would be able to obtain the sums in question on the private capital markets, the so called private investor test ⁽¹⁾.

- (51) From the information provided by Spain it is clear that the civil companies bought by BAZAN in July 2000 were in economic difficulties (see Table 2).

Table 2

Book values and financial risks (estimated by Spain) in July 2000

(EUR million)

Company	Book value	Estimated Risks	Estimated net value
Companies sold by AESA to BAZAN/IZAR:			
Puerto Real	[...]	[...]	[...]
Sestao	[...]	[...]	[...]
Sevilla	[...]	[...]	[...]
Companies sold by SEPI to BAZAN/IZAR:			
Cadiz	[...]	[...]	[...]
Juliana	[...]	[...]	[...]
Manises	[...]	[...]	[...]
Fene	[...]	[...]	[...]
Total sum	130,5	192,6	- 62,1

- (52) There were furthermore no signs that the difficult financial situation for the civil activities, which had been loss-making for several years, would improve. It can therefore be excluded that the civil activities, under the ownership of BAZAN/IZAR would generate an acceptable rate of return, due to their past performance and the lack of any restructuring measures foreseen. This is also confirmed by the information provided by Spain, which states that each of IZAR's civil activities made operating losses in each year since 2000, with some minor exceptions.
- (53) For these reasons, it can be established that IZAR would not have been able to obtain loans or capital on the private capital markets to cover the losses of its civil activities. Therefore, the provision of capital to these activities did not comply with the private investor test. For the same reasons SEPI could not have expected a return on this capital. Therefore the provision of these resources from SEPI to IZAR did not comply with the market economy investor principle. Therefore the capital injected for the use of the civil activities constitutes State

aid to IZAR. This State aid was illegal, given that it was not notified to the Commission.

- (54) It can furthermore be concluded that this aid was not compatible with the common market as it cannot be authorised as restructuring aid, since for the shipyards this was not allowed, due to the reasons invoked above. It can neither be authorised for the other concerned activities, Fene and Manises, since no restructuring plan has been presented by Spain. The aid can neither be approved under any other provision of the shipbuilding Regulation. Furthermore, based on the information available, the aid could not be authorised based on any other of the derogations foreseen in Article 87(2) and (3) of the EC Treaty.

⁽¹⁾ Case C-342/96 Spain v Commission [1999] ECR I-2459, paragraphs 41 and 42, and Case C-256/97 DMT [1999] ECR I-3913, paragraphs 22 to 24 and the opinion of AG Jacobs in that case, paragraphs 34 to 36.

Loans repaid by IZAR on behalf of three activities

(55) As was established in State aid decision on case C-40/00, loans amounting to EUR 192,1 million were on 12 September 2000 repaid to SEPI, with interest, by IZAR. The funds had been provided in 1999 to the companies Juliana, Cadiz and Manises, which subsequently were taken over by BAZAN/IZAR in July 2000. As stated in the decision on case C-40/00, information linked to this loan repayment would be used in the present investigation.

(56) According to information received from Spain, the reported losses for the civil activities for the year 2000, in Table 1 above, do not include the repayment of the above-mentioned loans.

(57) It is evident that funds provided by SEPI in 1999 benefited the civil companies Juliana, Cadiz and Manises. However, since the repayment of these loans was made from the general accounts of IZAR, the effect is that the three companies, later dissolved into business units, benefited from not having to repay the concerned loans. It is thus clear that it was IZAR, which through the payment from its own resources, alleviated Juliana, Cadiz and Manises from the financial burden to repay the loans.

(58) The Commission has assessed whether the loans repaid by IZAR could have been financed with funds received through a new loan taken by IZAR on market conditions. Concerning this aspect the Commission considers that without the capital injection in the year 2000, which has been shown above to have been used to support the civil activities of IZAR, IZAR's financial situation would have been much worse than it was. For this reason it can be excluded that IZAR could have received a loan on market condition if it had not received the illegal and incompatible aid in the form of EUR 364 million of the capital injection.

(59) The repayment of EUR 192,1 million by IZAR to SEPI should therefore be considered as a further use of the capital injection under investigation to the benefit of IZAR's civil activities. For the same reasons as outlined above for the loss coverage, this use of funds for the civil activities did not comply with the market economy investor principle and the corresponding amount used from the capital injected to IZAR constitutes incompatible State aid to IZAR.

Summary

(60) Based on the above assessment the Commission concludes that IZAR's civil activities have benefited from the capital injection provided from SEPI to IZAR in year 2000, by receiving loss coverage of EUR 364

million as outlined in paragraph 48 above, plus the aid repayment of EUR 192,1 million as outlined in paragraph 51 above. The total aid amount is thus EUR 556,1 million. The additional capital injections in 2001 and 2002 from SEPI to IZAR were used to cover unexpected increased costs for pre-pensions in the former military shipyards and do not constitute aid.

RECOVERY OF RESTRUCTURING AID ALREADY GRANTED AND APPROVED IN 1997

(61) Since the doubts of further incompatible State aid to the public Spanish civil shipyards have been confirmed, the Commission must assess, as noted in the opening of the procedure, whether some of the restructuring aid granted in 1997 will be considered to be incompatible and be recovered.

(62) On this issue, the Commission considers that, taking into consideration the comments made by Spain and IZAR in the context of this procedure, there is no grounds to consider part of the restructuring aid authorised in 1997 to be incompatible. The reason is that, according to the decision ⁽¹⁾ authorising the aid, the Commission's right to request recovery of the aid authorised in 1997 expired with the last monitoring report ⁽²⁾, dated 13 October 1999. Therefore, the aid approved in 1997 became existing aid once the monitoring period expired.

ARTICLE 296

(63) Spain claims that the capital injection would fall under Article 296 and thus outside the scope of the state aid rules, since BAZAN was a military company at the time of the acquisition of the yards.

(64) It cannot be disputed that the civil activities needed financial aid in order to continue operations after July 2000. The mere fact that they were part of a ship-building company, which was involved in military construction, does not alter the nature of these shipyards and related activities. Therefore aid to such activities falls under Article 87 of the Treaty.

VI. CONCLUSION

(65) The Commission concludes that Spain has unlawfully implemented aid of a sum of 556 million euro in breach of Article 88(3) of the Treaty. This has been provided in the form of: Capital injection of 1 322 million euro from SEPI to IZAR, in year 2000, out of which 556,1 million euro benefited the civil activities of IZAR.

(66) The aid should be recovered in their totality from the current owners of these activities, IZAR,

⁽¹⁾ OJ C 354, 21.11.1997, p. 2, see the penultimate paragraph on page 7.

⁽²⁾ COM(1999) 480 final.

HAS ADOPTED THIS DECISION:

Article 1

The State aid amounting to EUR 556,1 million euro unlawfully granted by Spain, in breach of Article 88(3) of the Treaty, in favour of IZAR is incompatible with the common market.

Article 2

1. Spain shall take all necessary measures to recover from IZAR the aid referred to in Article 1 and unlawfully made available to the beneficiary.

2. Recovery shall be effected without delay and in accordance with the procedures under national law, provided these allow the immediate and effective implementation of this Decision. The sums to be recovered shall bear interest throughout the period running from the date on which they were put at the disposal of the beneficiary until their actual recovery. The interest rate to be applied will be the reference rate used for calculating the grant equivalent of regional aid. The interest rate referred to in paragraph 4 will be applied on a

compound basis throughout the entire period referred to in paragraph 3.

Article 3

Spain shall inform the Commission, within two months following notification of this Decision, of the measures already taken and planned to comply with it. It will provide this information using the questionnaire attached in the Annex of this Decision.

Article 4

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 20 October 2004.

For the Commission

Mario MONTI

Member of the Commission

ANNEX

INFORMATION REGARDING THE IMPLEMENTATION OF THE COMMISSION DECISION C(2004) 3918**1. Calculation of the amount to be recovered**

- 1.1. Please provide the following details on the amount of unlawful State aid that has been put at the disposal of the beneficiary:

Date(s) of payment (*)	Amount of aid (**)	Currency	Identity of beneficiary

(*) Date(s) on which (individual instalments of) the aid has been put at the disposal of the beneficiary (in so far as a measure consists of several instalments and reimbursements, use separate rows).

(**) Amount of aid put at the disposal of the beneficiary (in gross aid equivalents).

Comments:

- 1.2. Please explain in detail how the interests to be paid on the amount of aid to be recovered will be calculated?

2. Measures planned and already taken to recover the aid

- 2.1. Please describe in detail what measures have already been taken and what measures are planned to effect an immediate and effective recovery of the aid. Please also explain what alternative measures are available under national law to effect recovery? Please also indicate where relevant the legal basis for the measures taken/planned.
- 2.2. By what date will the recovery of the aid be completed?

3. Recovery already effected

- 3.1. Please provide the following details on the amounts of aid that have been recovered from the beneficiary:

Date(s) (*)	Amount of aid repaid	Currency	Identity of beneficiary

(*) Date(s) on which the aid has been repaid.

- 3.2. Please attach information documenting the repayment of the aid amounts specified in the table under point 3.1 above.