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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1645/2005**of 6 October 2005****amending Regulation (EC) No 2603/2000 imposing a definitive countervailing duty on imports of certain polyethylene terephthalate originating, *inter alia*, in India**

THE COUNCIL OF THE EUROPEAN UNION,

1999), but had exported the product concerned to the Community subsequently.

Having regard to the Treaty establishing the European Community,

2. INITIATION OF AN ACCELERATED REVIEW

Having regard to Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community⁽¹⁾ (the basic Regulation), and in particular Article 20 thereof,

- (3) The Commission examined the evidence submitted by the applicant and considered it sufficient to justify the initiation of a review in accordance with the provisions of Article 20 of the basic Regulation. After consultation of the Advisory Committee and after the Community industry concerned had been given the opportunity to comment, the Commission initiated by a notice in the *Official Journal of the European Union*⁽³⁾ an accelerated review of Regulation (EC) No 2603/2000 with regard to the applicant.

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

Whereas:

3. PRODUCT CONCERNED**A. PREVIOUS PROCEDURE**

- (1) The Council, by Regulation (EC) No 2603/2000⁽²⁾, imposed a definitive countervailing duty on imports of certain polyethylene terephthalate (PET) with a coefficient of viscosity of 78 ml/g or higher, according to DIN (Deutsche Industrienorm) 53728, normally declared within CN code 3907 60 20 and originating, *inter alia*, in India (the product concerned). The measures took the form of a specific duty ranging between EUR 0 and 41,3 per tonne for cooperating individual Indian exporters, with a specific duty of EUR 41,3 per tonne for all other Indian exporters.

- (4) The product covered by this review is the same product as the one under consideration in Regulation (EC) No 2603/2000 (see recital 1).

4. INVESTIGATION PERIOD

- (5) The investigation of subsidisation covered the period from 1 October 2003 to 30 September 2004 (the review investigation period).

B. CURRENT PROCEDURE**5. PARTIES CONCERNED****1. REQUEST FOR REVIEW**

- (2) Following the imposition of definitive measures, the Commission received a request for the initiation of an accelerated review of Regulation (EC) No 2603/2000 pursuant to Article 20 of the basic Regulation from an Indian producer of the product concerned, South Asian Petrochem Limited (the applicant). The applicant claimed not to be related to any other exporter of the product concerned. Furthermore, it asserted that it had not exported the product concerned during the original investigation period (1 October 1998 to 30 September

- (6) The Commission officially advised the applicant and the Government of India (the GOI) of the initiation of the investigation. Furthermore, it gave other interested parties the opportunity to make their views known in writing and to request a hearing. However, no such views or any request for a hearing were received by the Commission.
- (7) The Commission sent a questionnaire to the applicant and received a full reply within the set deadline. The Commission sought and verified all information it deemed necessary for the purpose of the investigation and carried out verification visits at the premises of the applicant in Calcutta and in Haldia.

⁽¹⁾ OJ L 288, 21.10.1997, p. 1. Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

⁽²⁾ OJ L 301, 30.11.2000, p. 1. Regulation as amended by Regulation (EC) No 822/2004 (OJ L 127, 29.4.2004, p. 3).

⁽³⁾ OJ C 8, 12.1.2005, p. 2.

C. SCOPE OF THE REVIEW

- (8) The Commission examined the same subsidy schemes which were analysed in the original investigation. It also examined whether the applicant had used any other subsidy schemes, or had received *ad hoc* subsidies in relation to the product concerned.

D. RESULTS OF THE INVESTIGATION

1. NEW EXPORTER QUALIFICATION

- (9) The applicant was able to satisfactorily demonstrate that it was not related, directly or indirectly, to any of the exporting producers subject to the countervailing measures in force with regard to the product concerned.
- (10) The investigation confirmed that the applicant had not exported the product concerned during the original period of investigation, i.e. from 1 October 1998 to 30 September 1999, and that it had begun exporting to the Community after this period. Furthermore, the applicant was not individually investigated during the original investigation for reasons other than a refusal to cooperate with the Commission.
- (11) Consequently, it is confirmed that the applicant should be considered as a new exporter. Therefore, in accordance with Article 20 of the basic Regulation, an individual countervailing duty rate should be determined for the applicant.

2. SUBSIDISATION

- (12) On the basis of the information contained in the applicant's reply to the Commission's questionnaire and further collected in the course of the investigation, the following schemes were investigated:

- Duty Entitlement Passbook Scheme,
- Export Credit Scheme,
- Export Oriented Unit Scheme/Special Economic Zones Scheme,
- Export Promotion Capital Goods Scheme,
- Income Tax Exemption Scheme,
- West Bengal Incentives Scheme.

2.1. SCHEMES ORIGINALLY INVESTIGATED AND USED BY THE COMPANY

2.1.1. *Export Oriented Unit Scheme (EOUS)/Special Economic Zones Scheme (SEZS)*

(a) Legal basis

- (13) These schemes are based on the Foreign Trade (Development and Regulation) Act 1992 (No 22 of 1992)

which entered into force on 7 August 1992 (Foreign Trade Act). This act authorises the GOI to issue notifications regarding trade policy, formerly called 'Export-Import Policy' and since 1 September 2004 named 'Foreign Trade Policy'. The Foreign Trade Policy 2004 to 2009 (FTP), which incorporates the Export and Import Policy 2002 to 2007, is relevant to the review investigation period of this case. In addition, the GOI also sets out the procedures governing the FTP in a 'Handbook of Procedures Volume I' (HOP I) ⁽¹⁾.

- (14) The details of these schemes are contained in chapters 6 (EOUS) and 7 (SEZS) respectively of the FTP and of the HOP I.

(b) Eligibility

- (15) With the exception of pure trading companies, all enterprises which, in principle, undertake to export their entire production of goods or services may be set up under the EOUS or SEZS. However, unlike services and agriculture, undertakings in the industrial sectors have to fulfil a minimum investment threshold in fixed assets (INR 10 million) to be eligible for the EOUS.

(c) Practical implementation

- (16) The SEZS is the successor scheme of the former Export Processing Zones Scheme (EPZS). SEZs are specifically delineated duty free enclaves and considered by the FTP as foreign territory for the purpose of trade operations, duties and taxes. Thirty five SEZs have been approved by the Indian authorities.

- (17) EOUs, on the other side, are geographically more flexible and can be established anywhere in India. This scheme is complementary to the SEZS.

- (18) An application for operation under these schemes must include details for a period of the next five years on, *inter alia*, planned production quantities, projected value of exports, import requirements and indigenous requirements. If the authorities accept the company's application, the terms and conditions attached to the acceptance is communicated to the company. The agreement recognising the company as an undertaking under the EOUS or SEZS is valid for a five-year period. The agreement may be renewed for further periods.

⁽¹⁾ Notification No 1/2002-07 of 31.3.2002 of the Ministry of Commerce and Industry of the GOI.

- (19) A crucial obligation of an EOU or an SEZ enterprise as set out in the FTP is to achieve net foreign exchange (NFE) earnings, i.e. in a reference period (five years) the total value of exports has to be higher than the total value of imported goods.
- (20) EOUS/SEZS units are entitled to the following concessions:
- (i) exemption from import duties on all types of goods (including capital goods, raw materials and consumables) required for the manufacture, production or processing, or in connection therewith;
 - (ii) exemption from excise duty on goods procured from indigenous sources;
 - (iii) reimbursement of central sales tax paid on goods procured locally;
 - (iv) 'duty drawback on all industry rates' with regard to furnace oil procured from domestic oil companies;
 - (v) facility to sell a part of the production on the domestic market on payment of applicable duties on the finished product as an exception to the general requirement to export the entire production;
 - (vi) exemption from income tax normally due on profits realised on export sales in accordance with Section 10A or Section 10B of the Income Tax Act, for a 10-year period after starting their operations, but no longer than up to 2010;
 - (vii) possibility of 100 % foreign equity ownership.
- (21) Although the concessions under both schemes are largely comparable, some differences exist. For instance, only an EOU can obtain a 50 % reduction of duties payable upon domestic sales (DTA sales), whereas in an SEZ 100 % of the duties are payable on such sales. An EOU unit can sell up to 50 % of its turnover domestically at such reduced rate.
- (22) Units operating under these schemes are bonded under the surveillance of customs officials in accordance with Section 65 of the Indian Customs Act.
- (23) They are legally obliged to maintain, in a specified format, a proper account of all imports, of the consumption and utilisation of all imported materials and of the exports made. These documents must be submitted periodically, as may be required, to the competent authorities (quarterly and annual progress reports).
- (24) However, 'at no point in time [an EOU or a SEZ unit] shall be required to co-relate every import consignment with its exports, transfers to other units, sales in DTA or stocks', as paragraphs 6.11.2 and 7.13.2 of the HOP I state.
- (25) Domestic sales are dispatched and recorded on a self-certification basis without prior intimation of specific transactions. The dispatch process of export consignments of an EOU is supervised by a customs/excise official, who is permanently posted in the EOU. The company is obliged to reimburse the GOI for the salary of such permanent bond officer.
- (26) 'All activities of SEZ units within the zone, unless otherwise specified, including export and re-import of goods shall be through self-certification procedure', as paragraph 7.29 of the HOP I states. Thus, no routine examinations of the export consignments of an SEZ unit by customs authorities take place.
- (27) In the present case, the EOUS was used by the applicant. As the SEZS was not used, it is therefore not necessary to analyse the countervailability of this scheme. The applicant utilised the EOUS to import raw materials and capital goods free of import duties, to procure goods domestically free of excise duty, to obtain sales tax reimbursement as well as duty drawback on furnace oil and to sell part of its production on the domestic market. Thus, it availed of all benefits as described in recital 20 under (i) to (v). The applicant did not avail of benefits under the income tax exemption provisions of the EOUS (see recital 53).
- (d) Conclusions on the EOUS**
- (28) The exemptions of an EOU from two types of import duties (the basic customs duty and special additional customs duty), the reimbursement of sales tax and the duty drawback on furnace oil are financial contributions of the GOI within the meaning of Article 2(1)(a)(ii) of the basic Regulation. Government revenue which would be due in the absence of this scheme is forgone, thus, in addition, conferring a benefit within the meaning of Article 2(2) of the basic Regulation upon the applicant, because it saved liquidity by not having to pay duties normally due and by obtaining a sales tax reimbursement.

- (29) The exemptions from excise duty and its import duty equivalent (the additional customs duty), however, do not lead to revenue forgone which is otherwise due. Excise and additional customs duty, if paid, could be used as a credit for own future duty liabilities (the CENVAT mechanism). Therefore, these duties are not definitive. By the means of CENVAT-credit only an added value bears a definitive duty for the company, not the input materials.
- (30) Thus, only the exemption from basic customs duty, special additional customs duty, the sales tax reimbursement and the duty drawback on furnace oil constitute subsidies within the meaning of Article 2 of the basic Regulation. They are contingent in law upon export performance, and therefore deemed to be specific and countervailable under Article 3(4)(a) of the basic Regulation. The export objective of an EOU as set out in paragraph 6.1 of the FTP is a *conditio sine qua non* to obtain the incentives.
- (31) Furthermore, these subsidies cannot be considered as permissible duty drawback systems or substitution drawback systems within the meaning of Article 2(1)(a)(ii) of the basic Regulation. They do not conform to the strict rules laid down in Annex I (items (h) and (i)), Annex II (definition and rules for drawback) and Annex III (definition and rules for substitution drawback) of the basic Regulation.
- (32) Insofar as the sales tax reimbursement and import duty exemption provisions are used for purchasing capital goods, they are already not in conformity with the rules for permitted drawback systems because those goods are not consumed in the production process, as required by Annex I item (h) (sales tax reimbursement) and (i) (import duties remission).
- (33) In addition, and also concerning the other benefits which are available under this scheme, it is found that the GOI has no effective verification system or procedure in place to confirm whether and in what amounts duty free procured inputs or inputs subject to sales tax reimbursement and duty drawback on furnace oil were consumed in the production of the exported product (Annex II(II)(4) of the basic Regulation and, in the case of substitution drawback schemes, Annex III(II)(2) of the basic Regulation).
- (34) An EOU is allowed to sell a significant amount of its production, up to 50 % of its annual turnover, on the domestic market. Therefore, no obligation in law exists to export the total amount of manufactured resultant products. Moreover, due to the self-certification procedure these domestic transactions take place without the supervision and control of a government official. Consequently, the bonded premises of an EOU are at least in part not subject to a physical control by the Indian authorities. This, however, increases the importance of further verification elements, notably control of the nexus between duty free inputs and resultant export products in order to qualify as a duty drawback verification system.
- (35) Concerning further verification steps installed it should be recalled, as mentioned in recital 24, that an EOU is already *de jure* at no point in time required to co-relate every import consignment with the destination of the corresponding resultant product. Only such consignment controls, however, would provide the Indian authorities with sufficient information about the final destination of inputs to check that the duty exemptions, sales tax reimbursements and duty drawback on furnace oil do not exceed inputs for export production. Monthly tax returns for domestic sales on a self-assessment basis, which are periodically assessed by the Indian authorities, do not suffice. Company internal systems, which are kept without a legal obligation under the FTP, e.g. a batch sheets system, do not suffice to replace such key requirement for a duty drawback verification system either. In addition, a duty drawback verification system needs to be designed and enforced by a government and should not be left to the discretion of the management of each individual company concerned to set up an information system. Consequently, it is found that, since an EOU is explicitly not required by the Indian FTP to record the nexus between input materials and the resultant product, no effective control mechanism was set up by the GOI to determine which inputs were consumed in export production and in what amounts.
- (36) Also, the GOI neither carried out a further examination based on actual inputs involved, although this would normally need to be carried out in the absence of an effective verification system (Annex II(II)(5) and Annex III(II)(3) to the basic Regulation), nor did it prove that no excess remission took place.

(37) Upon disclosure, the applicant argued that not the same methodology, within the meaning of Article 22(4) of the basic Regulation, was used in the case at hand as compared with the original investigation when assessing the EOUS. It must be noted that exporters in the original investigation provided evidence that no excess remission occurred and for this reason the duty exemption on raw material procurements under the EOUS was originally not countervailed.

(38) However, the applicant did not provide such evidence in the case at hand. In this context, it is also noted that it sold the product concerned on the domestic market as well, i.e. not all duty free procured input materials were necessarily consumed in export production. Furthermore, in particular the fact that according to the Indian law EOUS exporters are not obliged to co-relate import consignments with the destination of the corresponding resultant product, constitutes a circumstance not established in the original investigation. Therefore, the scheme has been assessed in the present case in accordance with the provisions of Article 22(4) of the basic Regulation, which stipulates that new circumstances need to be considered. Consequently, the present finding, that the EOUS does not constitute a permitted duty drawback or substitution drawback system, is confirmed.

(e) Calculation of the subsidy amount

(39) Accordingly, in the absence of a permitted duty drawback system or substitution drawback system, the countervailable benefit is the remission of total import duties (basic customs duty and special additional customs duty) normally due upon importation, as well as the sales tax reimbursement and duty drawback on furnace oil, all during the review investigation period.

(40) Upon disclosure, the applicant claimed that the subsidy amount, including interest adjustments for non recurring subsidies, should be calculated only on the basis of the seven months of the review investigation period during which it was in commercial operation. Alternatively, the applicant requested to consider only a 10-month period, which includes its trial production period.

(41) According to Article 5 of the basic Regulation, the amount of countervailable subsidies shall be calculated in terms of the benefit conferred on the recipient,

which is found to exist during an investigation period. In conformity with the same provision and standard EC practice, a period of 12 months was chosen as review investigation period and findings are based on this period of time. No provision in the basic Regulation stipulates that start up phases of a company shall be disregarded. The claim of the applicant had therefore been rejected.

(i) Exemption from import duties (basic customs duty and special additional customs duty) and sales tax reimbursement on raw materials

(42) The subsidy amount for the applicant was calculated on the basis of import duties forgone (basic customs duty and special additional customs duty) on the materials imported, as well as sales tax and the duty drawback on furnace oil eligible for reimbursement, all during the review investigation period. Fees necessarily incurred to obtain the subsidy were deducted in accordance with Article 7(1)(a) of the basic Regulation from this sum to arrive at the subsidy amount as numerator. In accordance with Article 7(2) of the basic Regulation this subsidy amount has been allocated over the export turnover as appropriate denominator, because the subsidy is contingent upon export performance and it was not granted by reference to the quantities manufactured, produced, exported or transported. The subsidy rate thus obtained was 12,6 %.

(43) In this context, the applicant claimed that only the proportion of the subsidy amount directly attributable to the product concerned should be used as numerator. The applicant produces a small amount of PET of lower viscosity as the product concerned and the intermediate product amorphous PET-chips, which do not fall under the product scope of this investigation. It suggested apportioning the subsidy amount on the basis of the turnover of the product concerned in relation to the total turnover.

(44) However, it is noted that the various input materials cannot be *per se* linked either to the product concerned or PET of a lower viscosity and the intermediate product because the same input materials could be used for the production of all these types. Moreover, as set out in

recitals 32 to 38, no proper verification system with regard to the final destination of the input materials was in place. In such case and in line with Article 7(2) of the basic Regulation, both numerator and denominator were determined on the basis of the total product range of the applicant in order to allocate the subsidy amount attributable to the product concerned. The applicant did not substantiate that any alternative methodology would lead to a more precise result. In particular, it is noted that even if the claim was accepted, the denominator would be reduced *pro rata*, thus leading to the identical overall result.

(ii) Exemption from import duties (basic customs duty and special additional customs duty) on capital goods

(45) Unlike raw materials, capital goods are not physically incorporated into the finished goods. In accordance with Article 7(3) of the basic Regulation, the benefit to the investigated company has been calculated on the basis of the amount of unpaid customs duty on imported capital goods spread across a period which reflects the normal depreciation period of such capital goods in the industry of the product concerned (i.e. 18,465 years), which leads to a depreciation rate of rounded 5,42 %. The amount so calculated which is then attributable to the review investigation period has been adjusted by adding interest during this period in order to reflect the value of the benefit over time and thereby establishing the full benefit of this scheme to the recipient. The amount of interest added was based on the commercial interest rate during the review investigation period in India. Fees necessarily incurred to obtain the subsidy were deducted in accordance with Article 7(1)(a) of the basic Regulation from this sum to arrive at the subsidy amount as numerator. In accordance with Article 7(2) and (3) of the basic Regulation, this subsidy amount has been allocated over the export turnover generated during the review investigation period as appropriate denominator, because the subsidy is contingent upon export performance and it was not granted by reference to the quantities manufactured, produced, exported or transported. The subsidy rate thus obtained was 0,9 %.

(46) Upon disclosure, the applicant argued that its company specific depreciation period of 18,93 years should be used instead of 18,465 years, which is the combined average together with the originally established depreciation period. Further, it claimed that its individual depreciation period reflects the industry standard nowadays in India.

(47) However, as set out above, Article 7(3) of the basic Regulation requires a focus on the normal, i.e. average, depreciation period of the industry and not on a company-specific period. Moreover, the applicant did not substantiate that the industry depreciation standard of the industry concerned has generally increased. The argument was therefore rejected.

(48) Furthermore, the applicant claimed that for calculating the subsidy amount the depreciation rate should not have been rounded up.

(49) However, it is noted that the rounding has no impact on the overall result, thus this comment being of no consequence.

(50) Consequently, the total subsidy rate under the EOUS for the applicant amounts to 13,5 %.

2.2. SCHEMES ORIGINALLY INVESTIGATED BUT NOT USED BY THE COMPANY

2.2.1. *Duty Entitlement Passbook Scheme (DEPBS)*

(51) The applicant had not availed itself of benefits under the DEPBS.

2.2.2. *Export Promotion Capital Goods Scheme (EPCGS)*

(52) It was established that the applicant had not imported capital goods under the EPCGS and, therefore, had not availed itself of the EPCGS.

2.2.3. *Income Tax Exemption Scheme*

(53) It was established that the applicant did not, in the absence of taxable profits, receive the benefit of an income tax exemption under Section 10B of the Income Tax Act 1961 during the review investigation period.

2.3. OTHER SCHEMES USED BY THE COMPANY IN RELATION TO THE PRODUCT CONCERNED AND FOUND COUNTERVAILABLE

2.3.1. *Export Credit Scheme (ECS)*

(a) **Legal basis**

- (54) The ECS is based on sections 21 and 35A of the Indian Banking Regulation Act 1949, which allow the Reserve Bank of India ('RBI') to direct commercial banks in the field of export credits.

- (55) The details of the scheme are set out in Master Circular IECD No 35/04.02.02/2004-05 (Foreign Currency Export Credit) and Master Circular IECD No 27/04.02.02/2004-05 (Rupee Export Credit) of the RBI, which are addressed to all commercial banks in India.

(b) **Eligibility**

- (56) Manufacturing exporters and merchant exporters are eligible for this scheme.

(c) **Practical implementation**

- (57) Under this scheme, the RBI mandatory sets maximum ceiling interest rates applicable to export credits, both in Indian rupees or in foreign currency, which commercial banks can charge an exporter 'with a view to making credit available to exporters at internationally competitive rates'. The ECS consists of two sub-schemes, the Pre-Shipment Export Credit Scheme (packing credit), which covers credits provided to an exporter for financing the purchase, processing, manufacturing, packing and/or shipping of goods prior to export, and the Post-Shipment Export Credit Scheme, which provides for working capital loans with the purpose of financing export receivables. The RBI also directs the banks to provide a certain amount of their net bank credit towards export finance.
- (58) As a result of these RBI Master Circulars, exporters can obtain export credits at preferential interest rates compared with the interest rates for ordinary commercial credits (cash credits), which are purely set under market

conditions. In this respect, the Master Circular on Rupee Export Credit notes that 'ceiling rates of interest on credit extended to exporters as prescribed in this Circular are lower than the maximum lending rates normally charged to other borrowers and are, therefore, indicated as concessive in this sense.'

- (59) Due to the RBI Master Circulars, the applicant enjoyed preferential interest rates for ECS credits as compared with its cash credit interest rates.

(d) **Conclusion on the ECS**

- (60) Firstly, the preferential interest rates of an ECS credit set by the RBI Master Circulars mentioned in recital 55 decreased interest costs of the applicant as compared with credit costs purely set by market conditions, thus conferring a benefit within the meaning of Article 2(2) of the basic Regulation on it. Secondly, and despite the fact that the preferential credits under the ECS are granted by commercial banks, this benefit is to be considered as a financial contribution by a government within the meaning of Article 2(1)(iv) of the basic Regulation. In this context, it should be noted that neither Article 2(1)(iv) of the basic Regulation nor the WTO Agreement on Subsidies and Countervailing Measures ('ASCM') require a charge on the public accounts, e.g. reimbursement of the commercial banks by the GOI, to establish a subsidy, but only government direction to carry out functions illustrated in points (i), (ii) or (iii) of Article 2(1) of the basic Regulation. The RBI is a public body and falls therefore under the definition of a 'government' as set out in Article 1(3) of the basic Regulation. It is 100 % government-owned, pursues public policy objectives, e.g. monetary policy, and its management is appointed by the GOI. The RBI directs private bodies in the sense that the commercial banks are bound by certain conditions, *inter alia*, (i) by the maximum ceilings for interest rates on export credits mandated in the RBI Master Circulars and (ii) by the RBI provisions that commercial banks have to provide a certain amount of their net bank credit towards export finance. This direction obliges commercial banks to carry out functions mentioned in Article 2(1)(a)(i) of the basic Regulation, in this case loans in the form of preferential export financing. Such direct transfer of funds in the form of loans under certain conditions would normally be vested in the government and, within the meaning of Article 2(1)(a)(iv) of the basic Regulation, the practice, in no real sense, differs from practices normally followed by governments. Furthermore, this subsidy is deemed to be specific and countervailable since the preferential interest rates are only available in relation to export financing and are therefore contingent upon export performance within the meaning of Article 3(4)(a) of the basic Regulation.

(e) Calculation of the subsidy amount

- (61) The subsidy amount has been calculated on the basis of the difference between the interest accrued for export credits used during the review investigation period and the amount that would have been payable if the same interest rates were applicable as for ordinary commercial credits used by the applicant. This subsidy amount (numerator) has been allocated over the total export turnover during the review investigation period as appropriate denominator in accordance with Article 7(2) of the basic Regulation, because the subsidy is contingent upon export performance and it was not granted by reference to the quantities manufactured, produced, exported or transported. The ECS subsidy rate so established is 0,4 %.

2.3.2. West Bengal Incentive Scheme (WBIS)

- (62) The detailed description of the WBIS is set out in Government of West Bengal (GOWB) Commerce & Industries Department notification No 588-CI/H of 22 June 1999 (WBIS 1999) which was last replaced by notification No 134-CI/O/Incentive/17/03/I of 24 March 2004 (WBIS 2004). The investigation established that the benefit obtained by the applicant was insignificant and, thus, WBIS is not analysed further.

3. TOTAL AMOUNT OF COUNTERVAILABLE SUBSIDIES

- (63) Taking account of the definitive findings relating to the schemes as set out above, the rate of countervailable subsidies for the applicant is as follows:

	ECS	EOUS	Total
South Asian Petrochem Limited	0,4 %	13,5 %	13,9 %

E. AMENDMENT OF THE MEASURES BEING REVIEWED

- (64) In accordance with Article 15(1) of the basic Regulation, the amount of the countervailing duty should be less than the total amount of countervailable subsidies, if such lesser duty were to be adequate to remove the injury to the Community industry. In the original investigation a general injury elimination level of 44,3 % was established, which is higher than the subsidy rate established for the applicant.
- (65) On the basis of the findings made during the review investigation, it is considered that imports of the product concerned into the Community produced and exported by the applicant should be subject to a level

of countervailing duty corresponding to the individual rate of subsidies established for this company, i.e. 13,9 %. Since the duty imposed by Regulation (EC) No 2603/2000 took the form of a specific amount per tonne, the abovementioned duty rate for the applicant has also been converted into a specific amount of EUR 106,5 per tonne.

- (66) Regulation (EC) No 2603/2000 should therefore be amended accordingly.

F. UNDERTAKING

- (67) The applicant offered a price undertaking concerning its exports of the product concerned to the Community, in accordance with Article 13(1) of the basic Regulation.
- (68) After examination of the offer, the Commission considered the undertaking as acceptable since it would eliminate the injurious effects of subsidisation. Moreover, the regular and detailed reports which the applicant undertook to provide to the Commission will allow effective monitoring. Furthermore, the nature of the product and the sales structure of the applicant are such that the Commission considers that the risk of circumvention of the undertaking is limited.
- (69) In order to ensure the effective respect and monitoring of the undertaking, when the request for release for free circulation pursuant to the undertaking is presented, exemption from the duty is conditional upon presentation to the customs authorities of the Member State concerned a valid 'Commercial Invoice' issued by the applicant and containing the information listed in the Annex to Regulation (EC) No 2603/2000. Where no such invoice is presented, or when it does not correspond to the product presented to customs, the appropriate rate of the countervailing duty should be payable in order to ensure the effective application of the undertaking.

- (70) In the event of a breach or withdrawal of the undertaking, a countervailing duty may be imposed pursuant to Article 13(9) and (10) of the basic Regulation.

G. DISCLOSURE AND DURATION OF THE MEASURES

- (71) The applicant and the GOI were informed of the essential facts and considerations upon which it was intended to propose that Regulation (EC) No 2603/2000 be amended and were given the opportunity to comment. Only the applicant made comments, essentially on the EOUS, which have been addressed in the context of the respective conclusions under section 2.1.1.(d),

HAS ADOPTED THIS REGULATION:

(b) In Article 2(3), the following shall be inserted into the table:

Article 1

Regulation (EC) No 2603/2000 shall be amended as follows:

(a) In Article 1(3), the following shall be inserted into the table under producers in India:

Country	Company	Definitive duty (EUR per tonne)	TARIC additional code
India	South Asian Petrochem Limited	106,5	A585'

Company	Country	TARIC additional code
'South Asian Petrochem Limited	India	A585'

Article 2

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 Luxembourg, 6 October 2005.

For the Council

The President

A. DARLING

COUNCIL REGULATION (EC) No 1646/2005**of 6 October 2005****amending Regulation (EC) No 2604/2000 imposing definitive anti-dumping duties on imports of certain polyethylene terephthalate (PET) originating, *inter alia*, in India**

THE COUNCIL OF THE EUROPEAN UNION,

B. CURRENT PROCEDURE

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾ (the basic Regulation), and in particular Article 11(4) thereof,

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

Whereas:

A. MEASURES IN FORCE

- (1) The Council, by Regulation (EC) No 2604/2000⁽²⁾, imposed a definitive anti-dumping duty on imports of certain polyethylene terephthalate (PET) with a coefficient of viscosity of 78 ml/g or higher, according to DIN (Deutsche Industrienorm) 53728 (the product concerned) normally declared within CN code 3907 60 20 originating, *inter alia*, in India. The measures take the form of a specific duty rate of EUR 181,7 per tonne with the exception of imports from several companies expressly mentioned which are subject to individual duty rates.
- (2) The Council, by Regulation (EC) No 2603/2000⁽³⁾, imposed at the same time a definitive countervailing duty of EUR 41,3 per tonne on imports into the Community of the same product originating in India, with the exception of imports from several companies expressly mentioned which are subject to individual duty rates.

1. Request for a review

- (3) Subsequent to the imposition of definitive measures, the Commission received an application to initiate a 'new exporter' review of Regulation (EC) No 2604/2000, pursuant to Article 11(4) of the basic Regulation, from an Indian exporting producer, i.e. South Asian Petrochem Limited (the company). The company claimed that it was not related to any of the exporting producers in India subject to the anti-dumping measures in force with regard to the product concerned. Furthermore, it claimed that it had not exported the product concerned during the original period of investigation (1 October 1998 to 30 September 1999), but had exported the product concerned to the Community after that period.

2. Initiation of a 'new exporter' review

- (4) The Commission examined the evidence submitted by the company and considered it sufficient to justify the initiation of a review in accordance with Article 11(4) of the basic Regulation. After the consultation of the Advisory Committee and after the Community industry concerned had been given the opportunity to comment, the Commission initiated, by Regulation (EC) No 33/2005⁽⁴⁾, a review of Regulation (EC) No 2604/2000 with regard to the company and commenced its investigation.
- (5) Pursuant to Regulation (EC) No 33/2005, the anti-dumping duty imposed by Regulation (EC) No 2604/2000 was repealed with regard to imports of the product concerned produced and exported to the Community by the company. Simultaneously, customs authorities were directed, pursuant to Article 14(5) of the basic Regulation, to take appropriate steps to register such imports.
- (6) At the same time and on the same grounds, following a request from the company, the Commission initiated an accelerated review of Regulation (EC) No 2603/2000 pursuant to Article 20 of Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community⁽⁵⁾.

⁽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 301, 30.11.2000, p. 21. Regulation as last amended by Regulation (EC) No 83/2005 (OJ L 19, 21.1.2005, p. 1).

⁽³⁾ OJ L 301, 30.11.2000, p. 1. Regulation as amended by Regulation (EC) No 822/2004 (OJ L 127, 29.4.2004, p. 3).

⁽⁴⁾ OJ L 8, 12.1.2005, p. 9.

⁽⁵⁾ OJ L 288, 21.10.1997, p. 1. Regulation as last amended by Regulation (EC) No 461/2004.

3. Parties concerned

- (7) The Commission officially informed the company and representatives of India (the exporting country) of the initiation of the 'new exporter' review. Furthermore, it gave other parties directly concerned the opportunity to make their views known in writing and to request a hearing. However, no such request was received by the Commission.
- (8) The Commission sent a questionnaire to the company and received a reply within the deadline. The Commission also sought and verified all the information deemed necessary for the determination of dumping. A verification visit was carried out at the premises of the company.

4. Investigation period

- (9) The investigation of dumping covered the period from 1 October 2003 to 30 September 2004 (the investigation period).

C. RESULT OF THE INVESTIGATION

1. New exporter qualification

- (10) The investigation confirmed that the company had not exported the product concerned during the original period of investigation and that it had begun exporting to the Community after this period.
- (11) Furthermore, the company was able to satisfactorily demonstrate that it did not have any links, direct or indirect, with any of the Indian exporting producers subject to the anti-dumping measures in force with regard to the product concerned.
- (12) Accordingly, it is confirmed that the company should be considered a 'new exporter' in accordance with Article 11(4) of the basic Regulation, and thus an individual margin should be determined for it.

2. Dumping

Normal value

- (13) In accordance with Article 2(2) of the basic Regulation, the Commission first examined whether the company's total domestic sales of PET were representative in comparison with its total export sales to the Community. Since these sales amounted to more than 5 % of its total export sales volume to the Community, they were considered representative.
- (14) The Commission subsequently identified those types of PET sold domestically by the company that were identical

or directly comparable to the types sold for export to the Community.

- (15) The investigation revealed that only two product types exported to the Community are identical or directly comparable to the products sold on the domestic market. For each of these two product types it was then examined whether domestic sales were sufficiently representative with respect to the corresponding export sales. Since the domestic sales of each of these types were significantly above the 5 % threshold, both product types were considered representative.
- (16) An examination was also made as to whether the domestic sales of each product type could be regarded as having been made in the ordinary course of trade, by establishing the proportion of the sales volume of the like product sold at a net sales price equal to or above the cost of production (profitable sales) to independent customers of the type in question. Since the volume of profitable sales of the product concerned represented less than 80 % but 10 % or more of the total sales volume, normal value was based on the actual domestic price, calculated as a weighted average of profitable sales of each type only.

Export price

- (17) Since all export sales of the product concerned to the Community were made directly to independent customers in the Community, the export price was established in accordance with Article 2(8) of the basic Regulation, namely on the basis of export prices actually paid or payable.

Comparison

- (18) For the purpose of ensuring a fair comparison between normal value and export price, due allowance in the form of adjustments was made for differences affecting price comparability in accordance with Article 2(10) of the basic Regulation.
- (19) All the allowances claimed by the company on export sales have been accepted. These allowances are related to commissions, inland freight, ocean freight, insurance, handling charges, packaging expenses and bank charges.
- (20) On domestic sales, allowances claimed for commissions, inland freight, insurance, packaging expenses and bank charges were accepted. However, allowances claimed by the company for indirect tax and import charges on the basis of Article 2(10)(b) of the basic Regulation and branch office expenses on the basis of Article 2(10)(k) of the basic Regulation were rejected for the reasons set out below.

- (21) The claimed allowance for indirect taxes is based on the argument that the company's domestic customers paid a non-recoverable amount of excise duty when purchasing the product concerned on the domestic market, whereas the company's export customers were not subject to such duty. This non-recoverable excise duty amount was claimed as an adjustment to normal value. However, the normal value which was compared to the export price was established on the basis of the net domestic sales price excluding all taxes. Therefore, normal value did not include any excise duty having an impact on price and price comparability within the meaning of Article 2(10) of the basic Regulation. Furthermore, it was considered that the tax liability of the exporting producer's domestic customers does not qualify for an adjustment under Article 2(10)(b) of the basic Regulation since such duty is not *'borne by the like product and by materials physically incorporated therein'*. The excise duty paid by the company's domestic customers is charged upon the company's net sales price and does not have any impact on the company's production cost and price setting. As any difference in indirect duties on the domestic and the export market has already been taken fully into consideration by comparing the company's net domestic sales prices with its net export sales prices, the company's claim for allowance was rejected.
- (22) Upon disclosure, the company argued that it would be irrelevant whether the comparison between normal value and export price was made on the basis of net prices, i.e. excluding all indirect taxes. It further argued that the excise duty would be borne by the like product and that it affected price comparability, insofar that domestic clients would not be fully reimbursed and had ultimately to pay a portion of the excise duty. Therefore, its clients would pay a higher price on the domestic market than customers on the export market. However, as mentioned above, the domestic price used as a normal value already excluded the excise duty and therefore, price comparability could not have been affected. Furthermore, the company did not submit any information or evidence showing that the comparability of the normal value and the export price was otherwise affected. These arguments had consequently to be rejected.
- (23) The claimed allowance for import duty exemption was based on the argument that whenever the company sells the product concerned on the domestic market, import duties on raw materials would become payable in the form of an 'increased' excise duty. The term 'increased' excise duty refers to a different tax scheme applicable for the company as it is set up as an Export Oriented Unit (EOU), compared to other Indian (non-Export Oriented Unit) companies. Under this scheme, EOU companies were exempted from all import duties on raw materials, but subject to a higher excise duty rate in case goods produced by these companies were sold on the domestic market. Since no such excise duty is payable on export sales, the company requested the normal value to be adjusted accordingly. The claim was rejected as the company purchased raw materials duty free, regardless of whether the final product is sold domestically or is being exported. Therefore, no import duties were borne by the like product and by materials physically incorporated therein when intended for consumption on the domestic market, and not collected or refunded in respect of the product exported to the Community as required by Article 2(10)(b) of the basic Regulation. Thus, price comparability between the domestic and export market was not affected. It is also noted that the company was unable to prove the payment of any additional duty or indirect tax other than the excise duty on sales of the finished product which has been described in recital (21). It was finally not possible in any event to clearly identify whether and how much of the imported or locally purchased raw material was used in the production of the final product.
- (24) The company also claimed an allowance for the expenses of their local branch offices in charge of sales on the domestic market. The claim was rejected as these branch office expenses also included selling, general and administrative expenses for the sales of products other than the product concerned and could furthermore not be directly linked to the sales of the product concerned on the domestic market. The company consequently did not show whether the expenses of the branch offices had an impact on price or price comparability. Upon disclosure the company argued that it is producing only one product which is the product concerned. However, this contradicted the findings. Moreover and in accordance with Article 2(1) of the basic Regulation, what is relevant for the purpose of determining normal value is the sales price from the branch offices to the first independent customer. As the branch offices are part of the same legal entity and company structure, the company's arguments were rejected and the claim for this allowance not warranted.
- Dumping margin*
- (25) In accordance with Article 2(11) of the basic Regulation, the weighted average normal value of each type of the product concerned exported to the Community was compared to the weighted average export price of each corresponding type of the product concerned.
- (26) The comparison showed the existence of dumping. The weighted average dumping margin established for the company, expressed as a percentage of the CIF Community-frontier price amounts to 25,5 %.

D. AMENDMENT OF THE MEASURES BEING REVIEWED

- (27) In the light of the results of the investigation, it is considered that a definitive anti-dumping duty should be imposed at the level of the dumping margin found, but, in accordance with Article 9(4) of the basic Regulation, should not be higher than the countrywide injury margin established for India in the investigation which lead to the imposition of the existing measures.
- (28) No individual injury margin can be established in a new exporter review since the investigation, pursuant to Article 11(4) of the basic Regulation, is limited to the examination of the individual dumping margin. Therefore, the dumping margin was compared to the countrywide injury margin as established for India by the definitive Regulation. Since the latter was higher than the dumping margin, the level of the measures should be based on the dumping margin.
- (29) In accordance with Article 14(1) of the basic Regulation and Article 24(1) of Regulation (EC) No 2026/97, no

product shall be subject to both anti-dumping and countervailing duties for the purpose of dealing with one and the same situation arising from dumping or from export subsidisation.

- (30) In the parallel accelerated review of Regulation (EC) No 2603/2000, an individual countervailing duty rate of EUR 106,5 per tonne corresponding to an *ad valorem* countervailing duty rate of 13,9 % was established for the company.
- (31) As all of the subsidies in the parallel accelerated review were found to be export subsidies, the anti-dumping duty needs to be adjusted to reflect the actual dumping margin remaining after the imposition of the countervailing duties offsetting the effect of these subsidies.
- (32) Accordingly, the anti-dumping duty applicable to the CIF Community-frontier price and taking into account the results of the parallel anti-subsidy proceeding, shall be:

Company	Injury Margin	Dumping Margin	Countervailing duty rate	Anti-dumping duty rate	Proposed anti-dumping duty (EUR/tonne)
South Asian Petrochem Limited	44,3 %	25,5 %	13,9 %	11,6 %	88,9

E. RETROACTIVE LEVYING OF THE ANTI-DUMPING DUTY

- (33) As the review has resulted in a determination of dumping in respect of the company, the anti-dumping duty applicable to the company should be levied retroactively on imports of the product concerned which have been made subject to registration pursuant to Article 3 of Regulation (EC) No 33/2005.

- (36) In order to ensure the effective respect and monitoring of the undertaking, when the request for release for free circulation pursuant to the undertaking is presented, exemption from the duty is conditional, upon presentation to the customs service of the Members State concerned, of a valid 'Commercial Invoice' issued by the company and containing information listed in the Annex to Regulation (EC) No 2604/2000. Where no such invoice is presented, or when it does not correspond to the product presented to customs, the appropriate rate of anti-dumping duty should be payable in order to ensure the effective application of the undertaking.

F. UNDERTAKING

- (34) The company offered a price undertaking concerning its exports of the product concerned to the Community, in accordance with Article 8(1) of the basic Regulation.
- (35) After examination of the offer, the Commission considered the undertaking as acceptable since it would eliminate the injurious effects of dumping. Moreover, the regular and detailed reports which the company undertook to provide to the Commission will allow effective monitoring. Furthermore, the nature of the product and the sales structure of the company is such that the Commission considers that the risk of circumvention of the undertaking is limited.

- (37) In the event of a breach or withdrawal of the undertaking, an anti-dumping duty may be imposed pursuant to Article 8(9) and (10) of the basic Regulation.

G. DISCLOSURE AND DURATION OF THE MEASURES

- (38) The company was informed of the facts and considerations on the basis of which it was intended to impose a definitive anti-dumping duty on its imports into the Community and was given the opportunity to comment.

- (39) This review does not affect the date on which Regulation (EC) No 2604/2000 will expire pursuant to Article 11(2) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. In Article 1(3) of Regulation (EC) No 2604/2000, the following shall be inserted into the table under producers in India:

Country	Company	Definitive duty (EUR/t)	TARIC additional code
India	South Asian Petrochem Limited	88,9	A585'

2. The duty hereby imposed shall also be levied retroactively on imports of the product concerned which have been registered pursuant to Article 3 of Regulation (EC) No 33/2005.

3. Notwithstanding paragraph 1, the definitive anti-dumping duty shall not apply to imports released for free circulation in accordance with Article 2.

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

Article 2

In Article 2(3) of Regulation (EC) No 2604/2000, the following shall be inserted into the table under producers in India:

Company	Country	TARIC additional code
'South Asian Petrochem Limited	India	A585'

Article 3

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 Luxembourg, 6 October 2005.

For the Council
The President
A. DARLING

COMMISSION REGULATION (EC) No 1647/2005**of 10 October 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 11 October 2005.

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

Done at Brussels, 10 October 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 386/2005 (OJ L 62, 9.3.2005, p. 3).

ANNEX

to Commission Regulation of 10 October 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	68,9
	204	82,9
	999	75,9
0707 00 05	052	87,7
	999	87,7
0709 90 70	052	101,8
	999	101,8
0805 50 10	052	66,3
	382	63,3
	388	65,3
	524	67,9
	528	61,9
	999	64,9
0806 10 10	052	82,6
	388	79,9
	400	215,8
	999	126,1
0808 10 80	388	84,9
	400	79,7
	508	26,4
	512	76,3
	720	51,9
	800	177,3
	804	78,2
0808 20 50	999	82,1
	052	91,9
	388	58,9
	720	58,5
	999	69,8

⁽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 1648/2005**of 10 October 2005****opening a standing invitation to tender for the resale on the Community market of white sugar held by the Belgian intervention agency**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Article 2

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) Belgium has intervention stocks of white sugar. In order to respond to market needs, it is appropriate to make the stocks of white sugar accepted into intervention between 1 April 2005 and 30 June 2005, by the Belgian intervention agency, available on the internal market.
- (2) Commission Regulation (EC) No 1262/2001 of 27 June 2001 laying down detailed rules for implementing Council Regulation (EC) No 1260/2001 as regards the buying in and sale of sugar by intervention agencies ⁽²⁾ should apply to such a sale. It is appropriate to derogate from that Regulation where necessary and to specify some specific rules of procedure.
- (3) To take account of the situation on the Community market, provision should be made for the Commission to fix a minimum selling price for each partial invitation to tender.
- (4) The Belgian intervention agency should communicate the tenders to the Commission. The tenderers should remain anonymous.
- (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

The Belgian intervention agency shall offer for sale by standing invitation to tender on the Community internal market a total quantity of 49 891,492 tonnes of white sugar accepted into intervention between 1 April 2005 and 30 June 2005 and held by it.

⁽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. Regulation as amended by Regulation (EC) No 1498/2005 (OJ L 240, 16.9.2005, p. 39).

1. The tender and the sale provided for in Article 1 shall take place in accordance with Regulation (EC) No 1262/2001, except as otherwise provided by this Regulation.

2. By way of derogation from Article 22(2) and (3) of Regulation (EC) No 1262/2001, the Belgian intervention agency shall draw up a notice of invitation to tender and publish it at least eight days before the beginning of the period for the submission of tenders.

The notice shall indicate, in particular, the terms of the invitation to tender.

The notice, and all changes to it, shall be forwarded to the Commission before publication.

Article 3

The minimum bid for each partial invitation to tender shall be 250 tonnes.

Article 4

1. The period during which tenders may be submitted in response to the first partial invitation to tender shall begin on 20 October 2005 and shall end on 26 October 2005 at 15.00, Brussels time.

The periods during which tenders may be submitted in response to the second and subsequent partial invitations shall begin on the first working day following the end of the preceding period. They shall end at 15.00, Brussels time:

— on 9 and 23 November 2005,

— on 7 and 21 December 2005.

2. Tenders shall be lodged with the Belgian intervention agency:

Bureau d'intervention et de restitution belge
Rue de Trèves 82
B-1040 Bruxelles
Tel. (32-2) 287 24 11
Fax (32-2) 287 25 24.

Article 5

By way of derogation from Article 28(1)(a) of Regulation (EC) No 1262/2001, a tendering security of EUR 20 per 100 kg of white sugar shall be lodged by each tenderer.

Article 6

The Belgian intervention agency shall communicate to the Commission tenders submitted within two hours from the expiry of the deadline for the submissions laid down in Article 4(1).

The tenderers shall not be identified.

Tenders submitted shall be communicated in electronic form according to be the model laid down in the Annex.

When no tenders are submitted, the Member State shall communicate this to the Commission within the same time-limit.

Article 7

1. The Commission shall fix the minimum sale price or decide not to accept the tenders in accordance with the procedure referred to in Article 42(2) of Regulation (EC) No 1260/2001.

2. Where an award at a minimum price set pursuant to paragraph 1 would result in the available quantity being exceeded, that award shall be limited to such quantity as is still available.

Where awards to all tenderers offering the same price would result in the quantity being exceeded, then the quantity available shall be awarded as follows:

- (a) by division among the tenderers concerned in proportion of the total quantities in each of their tenders; or
- (b) by apportionment among the tenderers concerned by reference to a maximum tonnage fixed for each of them; or
- (c) by drawing of lots.

Article 8

This Regulation shall enter into force on the third 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, 10 October 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

ANNEX

Standing invitation to tender for the resale of 49 891,492 tonnes of white sugar held by the Belgian intervention agency

Form (*)

(Model for the communication to the Commission as referred to in Article 6)

(Regulation (EC) No 1648/2005)

1	2	3	4
Numbering of tenderers	Lot No	Quantity (t)	Tender price EUR/100kg
1			
2			
3			
etc.			

(*) To be faxed to the following number: (32-2) 292 10 34.

COMMISSION REGULATION (EC) No 1649/2005**of 10 October 2005****opening a standing invitation to tender for the resale on the Community market of white sugar held by the Polish intervention agency**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Article 2

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) Poland has intervention stocks of white sugar. In order to respond to market needs, it is appropriate to make the stocks of white sugar accepted into intervention between 1 April 2005 and 30 June 2005, by the Polish intervention agency, available on the internal market.
- (2) Commission Regulation (EC) No 1262/2001 of 27 June 2001 laying down detailed rules for implementing Council Regulation (EC) No 1260/2001 as regards the buying in and sale of sugar by intervention agencies ⁽²⁾ should apply to such a sale. It is appropriate to derogate from that Regulation where necessary and to specify some specific rules of procedure.
- (3) To take account of the situation on the Community market, provision should be made for the Commission to fix a minimum selling price for each partial invitation to tender.
- (4) The Polish intervention agency should communicate the tenders to the Commission. The tenderers should remain anonymous.
- (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

The Polish intervention agency shall offer for sale by standing invitation to tender on the Community internal market a total quantity of 17 000 tonnes of white sugar accepted into intervention between 1 April 2005 and 30 June 2005 and held by it.

⁽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. Regulation as amended by Regulation (EC) 1498/2005 (OJ L 240, 16.9.2005, p. 39).

1. The tender and the sale provided for in Article 1 shall take place in accordance with Regulation (EC) No 1262/2001, except as otherwise provided by this Regulation.

2. By way of derogation from Article 22(2) and (3) of Regulation (EC) No 1262/2001, the Polish intervention agency shall draw up a notice of invitation to tender and publish it at least eight days before the beginning of the period for the submission of tenders.

The notice shall indicate, in particular, the terms of the invitation to tender.

The notice, and all changes to it, shall be forwarded to the Commission before publication.

Article 3

The minimum bid for each partial invitation to tender shall be 250 tonnes.

Article 4

1. The period during which tenders may be submitted in response to the first partial invitation to tender shall begin on 20 October 2005 and shall end on 26 October 2005 at 15.00, Brussels time.

The periods during which tenders may be submitted in response to the second and subsequent partial invitations shall begin on the first working day following the end of the preceding period. They shall end at 15.00, Brussels time:

— on 9 and 23 November 2005,

— on 7 and 21 December 2005.

2. Tenders shall be lodged with the Polish intervention agency:

Agencja Rynku Rolnego
Biuro Cukru
Dział Dopłat i Interwencji
Nowy Świat 6/12
00-400 Warszawa
Tel. (48) 22 661 71 30
Fax (48) 22 661 72 77.

Article 5

By way of derogation from Article 28(1)(a) of Regulation (EC) No 1262/2001, a tendering security of EUR 20 per 100 kg of white sugar shall be lodged by each tenderer.

Article 6

The Polish intervention agency shall communicate to the Commission tenders submitted within two hours from the expiry of the deadline for the submissions laid down in Article 4(1).

The tenderers shall not be identified.

Tenders submitted shall be communicated in electronic form according to be the model laid down in the Annex.

When no tenders are submitted, the Member State shall communicate this to the Commission within the same time-limit.

Article 7

1. The Commission shall fix the minimum sale price or decide not to accept the tenders in accordance with the procedure referred to in Article 42(2) of Regulation (EC) No 1260/2001.

2. Where an award at a minimum price set pursuant to paragraph 1 would result in the available quantity being exceeded, that award shall be limited to such quantity as is still available.

Where awards to all tenderers offering the same price would result in the quantity being exceeded, then the quantity available shall be awarded as follows:

- (a) by division among the tenderers concerned in proportion of the total quantities in each of their tenders; or
- (b) by apportionment among the tenderers concerned by reference to a maximum tonnage fixed for each of them; or
- (c) by drawing of lots.

Article 8

This Regulation shall enter into force on the third 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, 10 October 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

ANNEX

Standing invitation to tender for the resale of 17 000 tonnes of white sugar held by the Polish intervention agency

Form (*)

(Model for the communication to the Commission as referred to in Article 6)

(Regulation (EC) No 1649/2005)

1	2	3	4
Numbering of tenderers	Lot No	Quantity (t)	Tender price EUR/100 kg
1			
2			
3			
etc.			

(*) To be faxed to the following number: (32-2) 292 10 34.

COMMISSION REGULATION (EC) No 1650/2005**of 10 October 2005****opening a standing invitation to tender for the resale on the Community market of white sugar held by the Italian intervention agency**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Article 2

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) Italy has intervention stocks of white sugar. In order to respond to market needs, it is appropriate to make the stocks of white sugar accepted into intervention between 1 April 2005 and 30 June 2005, by the Italian intervention agency, available on the internal market.
- (2) Commission Regulation (EC) No 1262/2001 of 27 June 2001 laying down detailed rules for implementing Council Regulation (EC) No 1260/2001 as regards the buying in and sale of sugar by intervention agencies ⁽²⁾ should apply to such a sale. It is appropriate to derogate from that Regulation where necessary and to specify some specific rules of procedure.
- (3) To take account of the situation on the Community market, provision should be made for the Commission to fix a minimum selling price for each partial invitation to tender.
- (4) The Italian intervention agency should communicate the tenders to the Commission. The tenderers should remain anonymous.
- (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

The Italian intervention agency shall offer for sale by standing invitation to tender on the Community internal market a total quantity of 74 300,8 tonnes of white sugar accepted into intervention between 1 April 2005 and 30 June 2005 and held by it.

⁽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. Regulation as amended by Regulation (EC) 1498/2005 (OJ L 240, 16.9.2005, p. 39).

1. The tender and the sale provided for in Article 1 shall take place in accordance with Regulation (EC) No 1262/2001, except as otherwise provided by this Regulation.

2. By way of derogation from Article 22(2) and (3) of Regulation (EC) No 1262/2001, the Italian intervention agency shall draw up a notice of invitation to tender and publish it at least eight days before the beginning of the period for the submission of tenders.

The notice shall indicate, in particular, the terms of the invitation to tender.

The notice, and all changes to it, shall be forwarded to the Commission before publication.

Article 3

The minimum bid for each partial invitation to tender shall be 250 tonnes.

Article 4

1. The period during which tenders may be submitted in response to the first partial invitation to tender shall begin on 20 October 2005 and shall end on 26 October 2005 at 15.00, Brussels time.

The periods during which tenders may be submitted in response to the second and subsequent partial invitations shall begin on the first working day following the end of the preceding period. They shall end at 15.00, Brussels time:

— on 9 and 23 November 2005,

— on 7 and 21 December 2005.

2. Tenders shall be lodged with the Italian intervention agency:

AGEA — Agenzia per le erogazioni in Agricoltura
Ufficio ammassi pubblici e privati e alcool
Via Torino, 45
00185 Roma
Tel. (39-06) 49 49 95 58
Fax (39-06) 49 49 97 61.

Article 5

By way of derogation from Article 28(1)(a) of Regulation (EC) No 1262/2001, a tendering security of EUR 20 per 100 kg of white sugar shall be lodged by each tenderer.

Article 6

The Italian intervention agency shall communicate to the Commission tenders submitted within two hours from the expiry of the deadline for the submissions laid down in Article 4(1).

The tenderers shall not be identified.

Tenders submitted shall be communicated in electronic form according to be the model laid down in the Annex.

When no tenders are submitted, the Member State shall communicate this to the Commission within the same time-limit.

Article 7

1. The Commission shall fix the minimum sale price or decide not to accept the tenders in accordance with the procedure referred to in Article 42(2) of Regulation (EC) No 1260/2001.

2. Where an award at a minimum price set pursuant to paragraph 1 would result in the available quantity being exceeded, that award shall be limited to such quantity as is still available.

Where awards to all tenderers offering the same price would result in the quantity being exceeded, then the quantity available shall be awarded as follows:

- (a) by division among the tenderers concerned in proportion of the total quantities in each of their tenders; or
- (b) by apportionment among the tenderers concerned by reference to a maximum tonnage fixed for each of them; or
- (c) by drawing of lots.

Article 8

This Regulation shall enter into force on the third 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, 10 October 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

ANNEX

Standing invitation to tender for the resale of 74 300,8 tonnes of white sugar held by the Italian intervention agency

Form (*)

(Model for the communication to the Commission as referred to in Article 6)

(Regulation (EC) No 1650/2005)

1	2	3	4
Numbering of tenderers	Lot No	Quantity (t)	Tender price EUR/100 kg
1			
2			
3			
etc.			

(*) To be faxed to the following number: (32-2) 292 10 34.

COMMISSION REGULATION (EC) No 1651/2005**of 10 October 2005****opening a standing invitation to tender for the resale on the Community market of white sugar held
by the Hungarian intervention agency**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Article 2

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) Hungary has intervention stocks of white sugar. In order to respond to market needs, it is appropriate to make the stocks of white sugar accepted into intervention between 1 April 2005 and 30 June 2005, by the Hungarian intervention agency, available on the internal market.
- (2) Commission Regulation (EC) No 1262/2001 of 27 June 2001 laying down detailed rules for implementing Council Regulation (EC) No 1260/2001 as regards the buying in and sale of sugar by intervention agencies ⁽²⁾ should apply to such a sale. It is appropriate to derogate from that Regulation where necessary and to specify some specific rules of procedure.
- (3) To take account of the situation on the Community market, provision should be made for the Commission to fix a minimum selling price for each partial invitation to tender.
- (4) The Hungarian intervention agency should communicate the tenders to the Commission. The tenderers should remain anonymous.
- (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

The Hungarian intervention agency shall offer for sale, by standing invitation to tender on the Community internal market, a total quantity of 87 000 tonnes of white sugar accepted into intervention between 1 April 2005 and 30 June 2005 and held by it.

⁽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. Regulation as amended by Regulation (EC) No 1498/2005 (OJ L 240, 16.9.2005, p. 39).

1. The tender and the sale provided for in Article 1 shall take place in accordance with Regulation (EC) No 1262/2001, except as otherwise provided by this Regulation.

2. By way of derogation from Article 22(2) and (3) of Regulation (EC) No 1262/2001, the Hungarian intervention agency shall draw up a notice of invitation to tender and publish it at least eight days before the beginning of the period for the submission of tenders.

The notice shall indicate, in particular, the terms of the invitation to tender.

The notice, and all changes to it, shall be forwarded to the Commission before publication.

Article 3

The minimum bid for each partial invitation to tender shall be 250 tonnes.

Article 4

1. The period during which tenders may be submitted in response to the first partial invitation to tender shall begin on 20 October 2005 and shall end on 26 October 2005 at 15.00, Brussels time.

The periods during which tenders may be submitted in response to the second and subsequent partial invitations shall begin on the first working day following the end of the preceding period. They shall end at 15.00, Brussels time:

— on 9 and 23 November 2005,

— on 7 and 21 December 2005.

2. Tenders shall be lodged with the Hungarian intervention agency:

Mezőgazdasági és Vidékfejlesztési Hivatal (MVH)
(Agricultural and Rural Development Agency)
Alkotmány utca 29
HU-1054 Budapest
Tel. (36-1) 219 45 14
Fax (36-1) 219 45 11 or (36-1) 219 45 12.

Article 5

By way of derogation from Article 28(1)(a) of Regulation (EC) No 1262/2001, a tendering security of EUR 20 per 100 kg of white sugar shall be lodged by each tenderer.

Article 6

The Hungarian intervention agency shall communicate to the Commission tenders submitted within two hours from the expiry of the deadline for the submissions laid down in Article 4(1).

The tenderers shall not be identified.

Tenders submitted shall be communicated in electronic form according to be the model laid down in the Annex.

When no tenders are submitted, the Member State shall communicate this to the Commission within the same time-limit.

Article 7

1. The Commission shall fix the minimum sale price or decide not to accept the tenders in accordance with the procedure referred to in Article 42(2) of Regulation (EC) No 1260/2001.

2. Where an award at a minimum price set pursuant to paragraph 1 would result in the available quantity being exceeded, that award shall be limited to such quantity as is still available.

Where awards to all tenderers offering the same price would result in the quantity being exceeded, then the quantity available shall be awarded as follows:

- (a) by division among the tenderers concerned in proportion of the total quantities in each of their tenders; or
- (b) by apportionment among the tenderers concerned by reference to a maximum tonnage fixed for each of them; or
- (c) by drawing of lots.

Article 8

This Regulation shall enter into force on the third 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, 10 October 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

ANNEX

Standing invitation to tender for the resale of 87 000 tonnes of white sugar held by the Hungarian intervention agency

Form (*)

(Model for communication to the Commission as referred to in Article 6)

(Regulation (EC) No 1651/2005)

1	2	3	4
Numbering of tenderers	Lot No	Quantity (t)	Tender price EUR/100kg
1			
2			
3			
etc.			

(*) To be faxed to the following number: (32-2) 292 10 34.

COMMISSION REGULATION (EC) No 1652/2005**of 10 October 2005****opening a standing invitation to tender for the resale on the Community market of white sugar held by the French intervention agency**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Article 2

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) France has intervention stocks of white sugar. In order to respond to market needs, it is appropriate to make the stocks of white sugar accepted into intervention between 1 April and 30 June 2005 by the French intervention agency available on the internal market.

(2) Commission Regulation (EC) No 1262/2001 of 27 June 2001 laying down detailed rules for implementing Council Regulation (EC) No 1260/2001 as regards the buying in and sale of sugar by intervention agencies ⁽²⁾ should apply to such a sale. It is appropriate to derogate from that Regulation where necessary and to specify some specific rules of procedure.

(3) To take account of the situation on the Community market, provision should be made for the Commission to fix a minimum selling price for each partial invitation to tender.

(4) The French intervention agency should communicate the tenders to the Commission. The tenderers should remain anonymous.

(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

The French intervention agency shall offer for sale by standing invitation to tender on the Community internal market a total quantity of 20 000 tonnes of white sugar accepted into intervention between 1 April and 30 June 2005 and held by it.

⁽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. Regulation as amended by Regulation (EC) No 1498/2005 (OJ L 240, 16.9.2005, p. 39).

1. The tender and the sale provided for in Article 1 shall take place in accordance with Regulation (EC) No 1262/2001, except as otherwise provided by this Regulation.

2. By way of derogation from Article 22(2) and (3) of Regulation (EC) No 1262/2001, the French intervention agency shall draw up a notice of invitation to tender and publish it at least eight days before the beginning of the period for the submission of tenders.

The notice shall indicate, in particular, the terms of the invitation to tender.

The notice, and all changes to it, shall be forwarded to the Commission before publication.

Article 3

The minimum bid for each partial invitation to tender shall be 250 tonnes.

Article 4

1. The period during which tenders may be submitted in response to the first partial invitation to tender shall begin on 20 October and shall end on 26 October 2005 at 15.00, Brussels time.

The periods during which tenders may be submitted in response to the second and subsequent partial invitations shall begin on the first working day following the end of the preceding period. They shall end at 15.00, Brussels time:

— on 9 and 23 November 2005,

— on 7 and 21 December 2005.

2. Tenders shall be lodged with the French intervention agency:

Fonds d'intervention et de régularisation du marché du sucre
Bureau de l'intervention
21, Avenue Bosquet
F-75007 Paris
Tel. (33-1) 44 18 23 37
Fax (33-1) 44 18 20 08.

Article 5

By way of derogation from Article 28(1)(a) of Regulation (EC) No 1262/2001, a tendering security of EUR 20 per 100 kg of white sugar shall be lodged by each tenderer.

Article 6

The French intervention agency shall communicate to the Commission tenders submitted within two hours from the expiry of the deadline for the submissions laid down in Article 4(1).

The tenderers shall not be identified.

Tenders submitted shall be communicated in electronic form according to be the model laid down in the Annex.

When no tenders are submitted, the Member State shall communicate this to the Commission within the same time-limit.

Article 7

1. The Commission shall fix the minimum sale price or decide not to accept the tenders in accordance with the procedure referred to in Article 42(2) of Regulation (EC) No 1260/2001.

2. Where an award at a minimum price set pursuant to paragraph 1 would result in the available quantity being exceeded, that award shall be limited to such quantity as is still available.

Where awards to all tenderers offering the same price would result in the quantity being exceeded, then the quantity available shall be awarded as follows:

- (a) by division among the tenderers concerned in proportion of the total quantities in each of their tenders; or
- (b) by apportionment among the tenderers concerned by reference to a maximum tonnage fixed for each of them; or
- (c) by drawing of lots.

Article 8

This Regulation shall enter into force on the third 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, 10 October 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

ANNEX

Standing invitation to tender for the resale of 20 000 tonnes of white sugar held by the French intervention agency

Form (*)

(Model for the communication to the Commission as referred to in Article 6)

(Regulation (EC) No 1652/2005)

1	2	3	4
Numbering of tenderers	Lot No	Quantity (t)	Tender price EUR/100 kg
1			
2			
3			
etc.			

(*) To be faxed to the following number: (32-2) 292 10 34.

COMMISSION REGULATION (EC) No 1653/2005**of 10 October 2005****opening tariff quotas and laying down the duties applicable within these tariff quotas for imports into the European Community of certain processed agricultural products originating in Algeria**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3448/93 of 6 December 1993 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products ⁽¹⁾, and in particular Article 7(2) thereof,

Whereas:

(1) By its Decision of 18 July 2005 ⁽²⁾, the Council approved the Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the People's Democratic Republic of Algeria, of the other part, hereinafter referred to as 'the Agreement'.

(2) The trade provisions set out in the Agreement provide for the application of mutual concessions regarding import duties for certain processed agricultural products. The Community concessions can take the form of duty-free imports within annual tariff quotas.

(3) The tariff quotas provided for in the Agreement for imports of processed agricultural products originating in Algeria are annual and are to be applied for an indefinite period. They should be opened for 2005 and for the following years.

(4) For 2005 the volumes of the new tariff quotas should be calculated as a *pro rata* of the basic volumes specified in the Agreement, in proportion to the part of that year elapsed before the date of application of the Agreement.

(5) Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing

the Community Customs Code ⁽³⁾ lays down the rules for managing tariff quotas designed to be used following the chronological order of dates of customs declarations. The tariff quotas opened by this Regulation should be managed in accordance with those rules.

(6) Since the Agreement applies from 1 September 2005, this Regulation should apply from the same date and should therefore enter into force as soon as possible.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee on horizontal questions concerning trade in processed agricultural products not listed in Annex I to the Treaty,

HAS ADOPTED THIS REGULATION:

Article 1

The annual Community tariff quotas for imports of products originating in Algeria set out in the Annex are opened from 1 September 2005 to 31 December 2005 and from 1 January to 31 December of the following years.

For 2005 the annual quota volumes set out in the Annex shall be reduced in proportion to the part of that year elapsed before the date of application of the Agreement.

Article 2

The Community tariff quotas referred to in Article 1 shall be managed in accordance with Articles 308a, 308b and 308c of Regulation (EEC) No 2454/93.

Article 3

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 September 2005.

⁽¹⁾ OJ L 318, 20.12.1993, p. 18. Regulation as last amended by Regulation (EC) No 2580/2000 (OJ L 298, 25.11.2000, p. 5).

⁽²⁾ Not yet published in the Official Journal.

⁽³⁾ 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).

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

Done at Brussels, 10 October 2005.

For the Commission

Günter VERHEUGEN

Vice-President

ANNEX

Annual tariff quotas for 2005 and the following years applicable on imports into the Community of certain products originating in Algeria covered by Council Regulation (EC) No 3448/93 and duties applicable within those tariff quotas

Notwithstanding the rules for the interpretation of the Combined Nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the CN codes as they exist at the time of adoption of this Regulation

Order number	CN Code	Description of goods	Annual quota volume (in tonnes net weight)	Applicable duty within the limit of the annual quota (%)
09.1021	0403	Buttermilk, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa:	1 500	0
	0403 10	– Yoghurt:		
		– – Flavoured or containing added fruit, nuts or cocoa:		
		– – – In powder, granules or other solid forms, of a milkfat content, by weight:		
	0403 10 51	– – – – Not exceeding 1,5 %		
	0403 10 53	– – – – Exceeding 1,5 % but not exceeding 27 %		
	0403 10 59	– – – – Exceeding 27 %		
		– – – Other, of a milkfat content, by weight:		
	0403 10 91	– – – – Not exceeding 3 %		
09.1022	1902	Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni; couscous, whether or not prepared:	2 000	0
	1902 30	– Other pasta:		
	1902 30 10	– – Dried		
	1902 30 90	– – Other		
09.1023	1902 40	– Couscous:	2 000	0
	1902 40 10	– – Unprepared		
	1902 40 90	– – Other		

COMMISSION REGULATION (EC) No 1654/2005

of 10 October 2005

amending Regulation (EC) No 874/2004 laying down public policy rules concerning the implementation and functions of the .eu Top Level Domain and the principles governing registration

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) ⁽⁴⁾,

Having regard to the Treaty establishing the European Community,

HAS ADOPTED THIS REGULATION:

Having regard to Regulation (EC) No 733/2002 of the European Parliament and of the Council of 22 April 2002 on the implementation of the .eu Top Level Domain ⁽¹⁾, and in particular Article 5(1) thereof,

Article 1

Commission Regulation (EC) No 874/2004 shall be amended as follows:

Having consulted the European Registry for Internet domains designated by Commission Decision 2003/375/EC ⁽²⁾,

1. Article 8 shall be replaced by the following:

Whereas:

*'Article 8***Reservation of names by countries and alpha-2 codes representing countries**

(1) Commission Regulation (EC) No 874/2004 ⁽³⁾ implements Regulation (EC) No 733/2002 by laying down the public policy rules concerning the implementation and functions of the .eu Top Level Domain and the principles governing registration.

1. The list of names set out in the Annex to this Regulation shall only be reserved or registered as second level domain names directly under the .eu TLD by the countries indicated in the list.

(2) Article 8 of Regulation (EC) No 874/2004 implements the public policy rules concerning geographical concepts by providing for a procedure to permit Member States, candidate countries and all the members of the European Economic Area to request the registration or the reservation of their name by their national governments. That provision does not fully guarantee the geopolitical and linguistic diversity of the European Union and the interest of both Member States and European citizens. This calls for the Commission to amend Regulation (EC) No 874/2004 accordingly.

2. Alpha-2 codes representing countries shall not be registered as second level domain names directly under the .eu TLD.;

2. in Article 12(1), the first subparagraph shall be replaced by the following:

'Phased registration shall not start before the requirement of the first paragraph of Article 6 is fulfilled.;

(3) The measures provided for in this Regulation are in accordance with the opinion of the Communications Committee established by Article 22(1) of Directive 2002/21/EC of the European Parliament and of the

3. the Annex to this Regulation is added.

Article 2

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

⁽¹⁾ OJ L 113, 30.4.2002, p. 1.

⁽²⁾ OJ L 128, 24.5.2003, p. 29.

⁽³⁾ OJ L 162, 30.4.2004, p. 40.

⁽⁴⁾ OJ L 108, 24.4.2002, p. 33.

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

Done at Brussels, 10 October 2005.

For the Commission
Viviane REDING
Member of the Commission

ANNEX

1. List of names per country and the countries that can register them

AUSTRIA

1. österreich	22. oesterrike	43. republicaustria
2. oesterreich	23. republik-österrike	44. repúblicaaustria
3. republik-österreich	24. rakousko	45. républiqueautriche
4. republik-oesterreich	25. republika-rakousko	46. repubblicaustria
5. afstria	26. repubblica-austria	47. republiekoostenrijk
6. dimokratia-afstria	27. austrija	48. repúblicaaustria
7. østrig	28. republika-austrija	49. tasavaltaitävalta
8. republikken-østrig	29. respublika-austrija	50. republikösterrike
9. oestrig	30. ausztria	51. republikarakousko
10. austria	31. Osztrák-Köztársaság	52. republikaaustrija
11. republic-austria	32. Republika-Austriacka	53. respublikaaustrija
12. república-austria	33. rakúsko	54. OsztrákKöztársaság
13. autriche	34. republika-rakúsko	55. RepublikaAustriacka
14. république-autriche	35. avstrija	56. republikarakúsko
15. oostenrijk	36. republika-avstrija	57. republikaavstrija
16. republiek-oostenrijk	37. awstrija	58. republikaawstrija
17. república-austria	38. republika-awstrija	59. aostria
18. itävalta	39. republikösterreich	60. vabariik-aostria
19. itävallan-tasavalta	40. republikoesterreich	61. vabariikaostria
20. itaevalta	41. dimokratiaafstria	
21. österrike	42. republikkenøstrig	

BELGIUM

1. belgie	18. vlaams-gewest	35. flandern
2. belgië	19. waals-gewest	36. wallonien
3. belgique	20. brussels-hoofdstedelijk-gewest	37. bruessel
4. belgien	21. flandre	38. brüssel
5. belgium	22. bruxelles	39. flaemische-gemeinschaft
6. Bélgica	23. communauté-flamande	40. flämische-gemeinschaft
7. belgica	24. communauté-flamande	41. französische-gemeinschaft
8. belgio	25. communauté-française	42. französische-gemeinschaft
9. belgia	26. communauté-française	43. deutschsprachige-gemeinschaft
10. belgija	27. communauté-germanophone	44. flaemische-region
11. vlaanderen	28. communauté-germanophone	45. flämische-region
12. wallonie	29. région-flamande	46. wallonische-region
13. wallonië	30. région-flamande	47. region-bruessel-hauptstadt
14. brussel	31. région-wallonne	48. region-brüssel-hauptstadt
15. vlaamse-gemeenschap	32. region-wallonne	49. flanders
16. franse-gemeenschap	33. région-de-bruxelles-capitale	50. wallonia
17. duitstalige-gemeenschap	34. region-de-bruxelles-capitale	51. brussels

52. flemish-community	79. regione-fiamminga	106. regionen-bruxelles-hovedstadsomraadet
53. french-community	80. regione-vallona	107. flanderi
54. german-speaking-community	81. regione-di-bruxelles-capitale	108. flaaminkielinen-yhteiso
55. flemish-region	82. flandres	109. ranskankielinen-yhteiso
56. walloon-region	83. bruxelas	110. saksankielinen-yhteiso
57. brussels-capital-region	84. comunidade-flamenga	111. flanderin-alue
58. flandes	85. comunidade-francofona	112. vallonian-alue
59. valonia	86. comunidade-germanofona	113. brysselin-alue
60. bruselas	87. regio-flamenga	114. flandry
61. comunidad-flamenca	88. região-flamenga	115. valonsko
62. comunidad-francesa	89. regio-vala	116. brusel
63. comunidad-germanófono	90. região-vala	117. vlamske-spolecenstvi
64. comunidad-germanofona	91. regio-de-bruxelas-capital	118. francouzské-spolecenstvi
65. region-flamenca	92. região-de-bruxelas-capital	119. germanofonni-spolecenstvi
66. región-flamenca	93. vallonien	120. vlamsky-region
67. region-valona	94. bryssel	121. valonsky-region
68. región-valona	95. flamlaendst-spraakomraade	122. region-brusel
69. region-de-bruselas-capital	96. fransktalande-spraakomraade	123. flandrija
70. región-de-bruselas-capital	97. tysktalande-spraakomraade	124. valonija
71. fiandre	98. flamlaendiska-regionen	125. bruselj
72. vallonía	99. vallonska-regionen	126. flamska-skupnost
73. communita-fiamminga	100. bryssel-huvustad	127. frankofonska-skupnost
74. comunità-fiamminga	101. det-flamske-sprogsamfund	128. germanofonska-skupnost
75. communita-francese	102. det-franske-sprogsamfund	129. flamska-regija
76. comunità-francese	103. det-tysktalande-sprogsamfund	130. valonska-regija
77. communita-di-lingua-tedesca	104. den-flamske-region	131. regija-bruselj
78. comunità-di-lingua-tedesca	105. den-vallonske-region	

CYPRUS

1. cypem	16. kypas	31. republika dēchipre
2. cyprus	17. kypa	32. republika dēchipre
3. cyprus	18. ċipru	33. kypem republika
4. kypros	19. kyp	34. pōblachtnacipīre
5. chypre	20. ciper	35. kyperskarepublika
6. zypern	21. cyprus	36. küprose vabariik
7. κυπρος	22. kibris	37. ciprusiköztársaság
8. cipro	23. republika kypem	38. kipro republika
9. chipre	24. republika cyprus	39. kypas republika
10. chipre	25. republika cyprus	40. republika ta' ċipru
11. cypem	26. kyproksentasa valta	41. republika kyprijska
12. ančipír	27. republika dēchypre	42. republika kyper
13. kyp	28. republika zypern	43. kyperskarepublika
14. küpros	29. κυπριακή δημοκρατία	44. kibriscumhuriyeti
15. cyprus	30. republika dēcipro	

CZECH REPUBLIC

- | | | |
|---------------------------|--------------------------|------------------------|
| 1. ceska-republika | 30. cehijasrepublika | 59. tjeckien |
| 2. den-tjeckiske-republik | 31. cekijosrepublika | 60. cechy |
| 3. tschechische-republik | 32. csehkóztársaság | 61. česka-republika |
| 4. tsehhi-vabariik | 33. republikaceka | 62. tsehhi-vabariik |
| 5. τσεχικη-δημοκρατια | 34. tsjechischerepubliek | 63. republica-checa |
| 6. czech-republic | 35. republikaczeska | 64. republique-tcheque |
| 7. repulica-checa | 36. republicacheca | 65. čehijas-republika |
| 8. republique-tcheque | 37. ceskarepublika | 66. cseh-köztársaság |
| 9. repubblica-ceca | 38. ceskarepublika | 67. republica-checa |
| 10. cehijas-republika | 39. tsekintasavaltá | 68. česka-republika |
| 11. cekijos-respublika | 40. tjeckiskarepubliken | 69. českarepublika |
| 12. cseh-koztarsasag | 41. czech | 70. tsehhivabariik |
| 13. repubblica-ceka | 42. cesko | 71. republicacheca |
| 14. tsjechische-republiek | 43. tjeckiet | 72. republiquetcheque |
| 15. republika-czeska | 44. tschechien | 73. čehijasrepublika |
| 16. republica-checa | 45. tsehhi | 74. csehköztársaság |
| 17. ceska-republika | 46. τσεχια | 75. republicacheca |
| 18. ceska-republika | 47. czechia | 76. českarepublika |
| 19. tsekin-tasavaltá | 48. chequia | 77. česko |
| 20. tjeckiska-republiken | 49. tchequie | 78. tsjechië |
| 21. ceskarepublika | 50. cechia | 79. tsehhi |
| 22. dentjeckiskerepublik | 51. cehija | 80. chequia |
| 23. tschechischerepublik | 52. cekija | 81. tchequie |
| 24. tsehhivabariik | 53. csehország | 82. čehija |
| 25. τσεχικηδημοκρατια | 54. tsjechie | 83. csehország |
| 26. czechrepublic | 55. czechy | 84. česka |
| 27. repulicacheca | 56. chequia | 85. čechy |
| 28. republiquetcheque | 57. ceska | |
| 29. republikaceca | 58. tsekinmaa | |

DENMARK

- | | | |
|---------------|--------------|------------------|
| 1. danemark | 7. danimarca | 13. dānija |
| 2. denemarken | 8. dinamarca | 14. id-danimarka |
| 3. danmark | 9. dänemark | 15. dania |
| 4. danmark | 10. dánsko | 16. danska |
| 5. tanska | 11. taani | 17. dānia |
| 6. δαβια | 12. danija | |

ESTONIA

- | | | |
|------------|-------------|--------------|
| 1. eesti | 5. estónia | 9. εσθονια |
| 2. estija | 6. estonie | 10. igaunija |
| 3. estland | 7. estonija | 11. viro |
| 4. estonia | 8. estonja | |

FINLAND

- | | | |
|--------------|---------------|---------------|
| 1. suomi | 6. finlandia | 11. finlande |
| 2. finland | 7. finlandja | 12. φινλανδία |
| 3. finska | 8. finnország | 13. soomi |
| 4. finskó | 9. suomija | 14. finland |
| 5. finlândia | 10. somija | 15. finsko |

FRANCE

- | | | |
|----------------------------|--------------------------|--------------------------------|
| 1. francia | 39. republique_française | 76. midipyrenees |
| 2. francie | 40. républiquefrançaise | 77. midipyrénées |
| 3. frankrig | 41. république-française | 78. nord-pas-de-calais |
| 4. frankreich | 42. république_française | 79. nordpasdecalais |
| 5. prantsusmaa | 43. republiquefrancaise | 80. paysdelaloire |
| 6. γαλλία | 44. republique-francaise | 81. pays-de-la-loire |
| 7. gallia | 45. republique_francaise | 82. picardie |
| 8. france | 46. républiquefrancaise | 83. poitou-charentes |
| 9. france | 47. république-francaise | 84. poitoucharentes |
| 10. francia | 48. république_francaise | 85. provence-alpes-cote-d-azur |
| 11. francija | 49. alsace | 86. provence-alpes-côte-d-azur |
| 12. prancūzija | 50. auvergne | 87. provençalpescotedazur |
| 13. prancuzija | 51. aquitaine | 88. provençalpescôtedazur |
| 14. franciaország | 52. basse-normandie | 89. rhone-alpes |
| 15. franciaország | 53. bassenormandie | 90. Rhône-alpes |
| 16. franza | 54. bourgogne | 91. rhonealpes |
| 17. frankrijk | 55. bretagne | 92. Rhônealpes |
| 18. francja | 56. centre | 93. guadeloupe |
| 19. frança | 57. champagne-ardenne | 94. guyane |
| 20. francúzsko | 58. champagneardenne | 95. martinique |
| 21. francuzsko | 59. corse | 96. reunion |
| 22. francija | 60. franche-comte | 97. réunion |
| 23. ranska | 61. franche-comté | 98. mayotte |
| 24. frankrike | 62. franchecomte | 99. saint-pierre-et-miquelon |
| 25. französische-republik | 63. franchecomté | 100. saintpierreetmiquelon |
| 26. französische-republik | 64. haute-normandie | 101. polynesie-française |
| 27. französische_republik | 65. hautenormandie | 102. polynésie-française |
| 28. franzosischerepublik | 66. ile-de-France | 103. polynesie-francaise |
| 29. franzosische-republik | 67. île-de-France | 104. polynésie-francaise |
| 30. franzosische_republik | 68. iledeFrance | 105. polynesiefrançaise |
| 31. franzoescherepublik | 69. îledeFrance | 106. polynésiefrançaise |
| 32. franzoesische-republik | 70. languedoc-roussillon | 107. polynesiefrancaise |
| 33. franzoesische_republik | 71. languedocroussillon | 108. polynésiefrancaise |
| 34. frenchrepublic | 72. limousin | 109. nouvelle-caledonie |
| 35. french-republic | 73. lorraine | 110. nouvelle-calédonie |
| 36. french_republic | 74. midi-pyrenees | 111. nouvellecaledonie |
| 37. republiquefrançaise | 75. midi-pyrénées | 112. nouvellecalédonie |

113. wallis-et-futuna
 114. wallisetfutuna
 115. terres-australes-et-antarctiques-françaises
 116. terres-australes-et-antarctiques-françaises

117. terresaustralesetantarctiquesfrançaises
 118. terresaustralesetantarctique-françaises
 119. saint-barthélemy
 120. saintbarthélemy

121. saint-barthelemy
 122. saintbarthelemy
 123. saint-martin
 124. saintmartin

GERMANY

1. deutschland
 2. federalrepublicofgermany
 3. bundesrepublik-deutschland
 4. bundesrepublikdeutschland
 5. allemagne
 6. republiquetfederalede'allemagne
 7. alemanna
 8. repúblicafederaledealemania
 9. germania
 10. repubblicafederaledigermania
 11. germany
 12. federalrepublicofgermany
 13. tyskland
 14. forbundsrepublikkentykland
 15. duitsland
 16. bondsrepubliekduitsland
 17. nemecko
 18. spolkovárepublikanemecko
 19. alemanha
 20. republicafederaldaalemanha
 21. niemczech
 22. republikafederalnaniemiec
 23. németország
 24. németországiszövetségiköztársaság
 25. vokietijos
 26. vokietijosfederacinerespublika
 27. vacija
 28. vacijasfederativarepublika
 29. däitschland
 30. bundesrepublikdäitschland
 31. germanja
 32. republikafederalitagermanja
 33. gearmaine
 34. poblachtchnaidhmenagearmaine
 35. saksamaa
 36. saksamaaliitvabariik
 37. nemicja
 38. zweznarepublikanemcija
 39. җеруавия
 40. saksa

41. saksanliittotasavalta
 42. Baden-Württemberg
 43. Bavaria
 44. Bayern
 45. Berlin
 46. Brandenburg
 47. Bremen
 48. Hamburg
 49. Hessen
 50. Lower-Saxony
 51. Mecklenburg-Western-Pomerania
 52. Mecklenburg-Vorpommern
 53. niedersachsen
 54. nordrhein-Westfalen
 55. northrhine-Westphalia
 56. Rheinland-Pfalz
 57. Rhineland-Palatinate
 58. Saarland
 59. Sachsen
 60. Sachsen-Anhalt
 61. Saxony
 62. Saxony-Anhalt
 63. Schleswig-Holstein
 64. Thüringen
 65. Thuringia
 66. Baden-Wuerttemberg
 67. bade-wurtemberg
 68. le-bade-wurtemberg
 69. Baden-Wurttemberg
 70. BadenWürttemberg
 71. BadenWuerttemberg
 72. badewurtemberg
 73. lebadewurtemberg
 74. BadenWurttemberg
 75. Baviera
 76. Bavière
 77. Freistaat-Bayern
 78. FreistaatBayern
 79. Free-State-of-Bavaria
 80. Stato-Libero-di-Baviera

81. Etat-Libre-Bavière
 82. Brandebourg
 83. Brandeburgo
 84. Brandenburgii
 85. freieundhansestadthamburg
 86. freie-und-hansestadt-hamburg
 87. freiehansestadt-hamburg
 88. freie-hansestadt-hamburg
 89. hansestadt-hamburg
 90. hansestadt-hamburg
 91. stadthamburg
 92. stadt-hamburg
 93. hamburg-stadt
 94. hamburg
 95. landhamburg
 96. land-hamburg
 97. hamburku
 98. hampurii
 99. hamborg
 100. hamburgo
 101. hambourg
 102. amburgo
 103. hamburgo
 104. hanbao
 105. hamburuku
 106. hamburk
 107. hesse
 108. hassia
 109. nordrheinwestfalen
 110. northrhinewestphalia
 111. northrhine-westfalia
 112. northrhinewestfalia
 113. rhenanie-du-nord-westphalie
 114. rhenaniedunordwestphalie
 115. lasaxe
 116. sachsen
 117. sajonia
 118. sajónia
 119. saksen
 120. saksimaa

121. saksio
122. saksonia
123. saksonijos
124. saška
125. saska
126. sasko
127. sassonia

128. saxe
129. saxonía
130. saxónia
131. szászország
132. szaszország
133. Σάξωνία
134. саксония

135. freistaat-sachsen
136. sorben
137. serbja
138. Sorben-Wenden
139. Wenden
140. lausitzer-sorben
141. domowina

GREECE

1. Grecia
2. Graekenland
3. Griechenland
4. Hellas
5. Greece
6. Grece
7. Grecia

8. Griekenland
9. Grecia
10. Kreikka
11. Grekland
12. Recko
13. Kreeka
14. Graecia

15. Graikija
16. Gorogország
17. Grecja
18. Grecja
19. Grecko
20. Grcija

HUNGARY

1. magyarkoztarsasag
2. republicofhungary
3. republiquedehongrie
4. republikungarn
5. republicadehungria
6. repubblicadiungheria
7. republicadahungria
8. ungerskarepubliken
9. unkarintasavalta
10. denungarskerepublik
11. derepublikhongarije
12. republikawegierska
13. ungarivabariik
14. ungarijasrepublika
15. vengrijosrepublika
16. magyarország
17. hungary

18. hongrie
19. ungarn
20. hungria
21. ungheria
22. ungern
23. unkari
24. hongarije
25. wegry
26. madarsko
27. ungari
28. ungarija
29. vengrija
30. magyarköztársaság
31. magyarország
32. madarskarepublika
33. republikamadzarska
34. madzarsko

35. ουγγαρια
36. ουγγρικηδημοκρατια
37. nyugatdunántúl
38. közép-dunántúl
39. déldunántúl
40. közép-magyarország
41. észak-magyarország
42. északalföld
43. délalfold
44. nyugatdunantul
45. kozepdunantul
46. deldunantul
47. kozepmagyarország
48. eszakmagyarország
49. eszakalfold
50. delalfold

IRELAND

1. irlandia
2. irsko
3. irland
4. iirimaa
5. ireland
6. irlande
7. irlandia
8. Īrija

9. Airija
10. Írország
11. L-Irlanda
12. Ἰρλανδία
13. ierland
14. irlandia
15. Írsko
16. irska

17. irlanti
18. irland
19. .irlande
20. Ἰρλανδία
21. irlande
22. republicofireland
23. eire

ITALY

- | | | |
|------------------------|--------------------------|------------------------|
| 1. Repubblica-Italiana | 14. Itālija | 27. Liguria |
| 2. RepubblicaItaliana | 15. Włochy | 28. Lombardia |
| 3. Italia | 16. Itālia | 29. Marche |
| 4. Italy | 17. Italja | 30. Molise |
| 5. Italian | 18. Talianso | 31. Piemonte |
| 6. Italien | 19. Itaalia | 32. Puglia |
| 7. Italija | 20. Abruzzo | 33. Sardegna |
| 8. Itālia | 21. Basilicata | 34. Sicilia |
| 9. Italië | 22. Calabria | 35. Toscana |
| 10. Italien | 23. Campania | 36. Trentino-AltoAdige |
| 11. Itálie | 24. Emilia-Romagna | 37. Umbria |
| 12. Italie | 25. Friuli-VeneziaGiulia | 38. Valled'Aosta |
| 13. Olaszország | 26. Lazio | 39. Veneto |

LATVIA

- | | | |
|---------------|--------------|---------------------------|
| 1. Λετοβία | 8. Latvija | 15. Letonia |
| 2. Lettorszag | 9. Lettland | 16. Lettonie |
| 3. Latvja | 10. Latvia | 17. Lettonia |
| 4. Letland | 11. Lotyšsko | 18. Republicoflatvia |
| 5. Lotwa | 12. Letland | 19. Latvijskajarespublika |
| 6. Letonia | 13. Lettland | |
| 7. Lotyšsko | 14. Lati | |

LITHUANIA

- | | | |
|---------------|----------------------------|-------------------------------|
| 1. lietuva | 21. aukštaitija | 41. litovskajarespublika |
| 2. leedu | 22. zemaitija | 42. litovskaja-respublika |
| 3. liettua | 23. dzukija | 43. litovskaja_respublika |
| 4. litauen | 24. suvalkija | 44. litauensrepublik |
| 5. lithouania | 25. suduva | 45. litauens-republik |
| 6. lithuania | 26. lietuvos-respublika | 46. litauens_republic |
| 7. litouwen | 27. lietuvos_respublika | 47. republiklitauen |
| 8. lituania | 28. lietuvosrespublika | 48. republik-litauen |
| 9. lituanie | 29. republic-of-lithuania | 49. republic_litauen |
| 10. litva | 30. republic_of_lithuania | 50. δημοκρατιατηςλιθουανιας |
| 11. litván | 31. republiclithuania | 51. δημοκρατια-της-λιθουανιας |
| 12. litvania | 32. republicoflithuania | 52. δημοκρατια_της_λιθουανιας |
| 13. litvanya | 33. republique-de-lituanie | 53. δημοκρατιατηςΛιθουανιας |
| 14. litwa | 34. republique_de_lituanie | 54. δημοκρατία-της-Λιθουανίας |
| 15. litwanja | 35. republikelituanie | 55. δημοκρατία_της_Λιθουανίας |
| 16. liettuan | 36. republikedelituanie | 56. republicadilithuania |
| 17. litevská | 37. republica-de-lituania | 57. repubblica-di-lituania |
| 18. lietuvos | 38. republica_de_lituania | 58. repubblica_di_lituania |
| 19. litwy | 39. republicalithuania | 59. republiklitouwen |
| 20. litovska | 40. republicadelithuania | 60. republik-litouwen |

61. republiek_litouwen
62. republicadalituania
63. republica-da-lituania
64. republica_da_lituania
65. liettuantasavalta
66. liettuan-tasavalta
67. liettuan_tasavalta
68. republikenLitauen
69. republiken-litauen
70. republiken_litauen
71. litevskárepublika
72. litevská-republika

73. litevská_republika
74. leeduvabariik
75. leedu-vabariik
76. leedu_vabariik
77. lietuvarepublika
78. lietuvarepublika
79. lietuvarepublika
80. litvánköztársaság
81. litván-köztársaság
82. litván_köztársaság
83. repubblikatalitwanja
84. repubblika-tal-litwanja

85. repubblika_tal_litwanja
86. republikalitwy
87. republika-litwy
88. republika_litwy
89. litovskarepublika
90. litovska-republika
91. litovska_republika
92. republikalitva
93. republika-litva
94. republika_litva

LUXEMBOURG

1. luxembourg

2. luxemburg

3. letzebuerg

MALTA

1. malta
2. malte
3. melita
4. republicofmalta
5. republic-of-malta

6. therepublicofmalta
7. the-republic-of-malta
8. repubblikatamalta
9. repubblika-ta-malta
10. maltarepublic

11. maltarepubblika
12. gozo
13. ghawdex

NETHERLANDS

1. nederland
2. holland
3. thenetherlands

4. netherlands
5. lespaysbas
6. hollande

7. dieniederlande
8. lospaisesbajos
9. holanda

POLAND

1. rzeczpospolitapolska
2. rzeczpospolita_polska
3. rzeczpospolita-polska
4. polska

5. polonia
6. lenkija
7. poland
8. polen

9. pologne
10. polsko
11. poola
12. puola

PORTUGAL

1. republicaportuguesa
2. portugal
3. português
4. portugalía
5. portugali
6. portugalska
7. portugalsko
8. portogallo
9. portugalija

10. portekiz
11. portogalia
12. português
13. aveiro
14. beja
15. braga
16. bragança
17. castelobranco
18. coimbra

19. evora
20. faro
21. guarda
22. leiria
23. lisboa
24. portalegre
25. porto
26. santarem
27. setubal

28. vianadocastelo
29. viseu
30. vilareal
31. madeira
32. açores
33. alentejo
34. algarve
35. altoalentejo

36. baixoalentejo
37. beiraalta
38. beirabaixa
39. beirainterior
40. beiralitoral
41. beiratransmontana
42. douro
43. dourolitoral

44. entredouroeminho
45. estremadura
46. minho
47. ribatejo
48. tras-os-montes-e-alto-douro
49. acores

SLOVAKIA

1. slowakische-republik
2. republique-slovaque
3. slovakiki-dimokratia
4. slovenska-republika
5. slovakiske-republik
6. slovaki-vabariik
7. slovakian-tasavalta
8. slovakikidimokratia
9. slovakiki-dimokratia
10. szlovak-koztarsasag
11. slovak-republic
12. repubblica-slovacca
13. slovakijas-republika
14. slovakijos-respublika
15. republika-slovakka
16. slowaakse-republiek
17. republika-slowacka
18. repubblica-eslovaca
19. slovaska-republika
20. repubblica-eslovaca
21. slovakiska-republiken
22. σλοβακική-δημοκρατία
23. slowakischerepublik
24. republikueslovaque
25. slovenskarepublika
26. slovakiskerepublik
27. slovakivabariik

28. slovakiantasavalta
29. szlovakkoztarsasag
30. slovakrepublic
31. repubblicaslovacca
32. slovakijasrepublika
33. slovakijosrepublika
34. republikaslovakka
35. slowaakserepubliek
36. republikaslowacka
37. republicaeslovaca
38. slovaskarepublika
39. republicaeslovaca
40. slovakiskarepubliken
41. σλοβακικήδημοκρατία
42. slowakei
43. slovaquie
44. slovakia
45. slovensko
46. slovakië
47. slovakkia
48. szlovakia
49. slovackhia
50. slovakija
51. slowakije
52. slowacija
53. eslovaquia
54. slovaska

55. σλοβακική
56. slovakien
57. république-slovaque
58. slovenská-republika
59. szlovák-köztársaság
60. slovákijos-republika
61. republika-słowacka
62. república-eslovaca
63. slovaška-republika
64. slovačka-republika
65. lýdveldid-slovakia
66. republikueslovaque
67. slovenská-republika
68. szlovákköztársaság
69. slovákijosrepublika
70. republikasłowacka
71. repúblicaeslovaca
72. slovaškarepublika
73. slovačkarepublika
74. lýdveldidslovakia
75. szlovákia
76. slovákija
77. słowacja
78. slovaška
79. slovačka

SLOVENIA

1. slovenija
2. slovenia
3. slowenien
4. slovenie
5. la-slovenie
6. laslovenie

7. eslovenia
8. republikaslovenija
9. republika-slovenija
10. republicofslovenia
11. republic-of-slovenia
12. szlovenia

13. szlovenkoztarsasag
14. szloven-koztarsasag
15. repubblicadislovenia
16. repubblica-di-slovenia

SPAIN

- | | | |
|--------------------------|------------------------------------|--------------------------------|
| 1. españa | 45. gobiernodecanarias | 89. regióndemurcia |
| 2. reinodeespana | 46. canaryisland | 90. regionofmurcia |
| 3. reino-de-espana | 47. kanarischeinseln | 91. regionvonmurcia |
| 4. espagne | 48. cantabria | 92. regionedimurcia |
| 5. espana | 49. gobiernodecantabria | 93. regiaodomurcia |
| 6. espanha | 50. castillalamancha | 94. navarra |
| 7. espanja | 51. castilla-lamancha | 95. nafarroa |
| 8. espanya | 52. castillayleon | 96. navarre |
| 9. hispaania | 53. castillayleón | 97. navarracomunidadforal |
| 10. hiszpania | 54. juntadecastillayleon | 98. nafarroaforukomunitatea |
| 11. ispanija | 55. juntadecastillayleón | 99. nafarroaforuerkidegoa |
| 12. spagna | 56. generalitatdecatalunya | 100. communauteforaledenavarre |
| 13. spain | 57. generalitatdecataluña | 101. communautéforaledenavarre |
| 14. spanielsko | 58. catalunya | 102. foralcommunityofnavarra |
| 15. spanien | 59. cataluña | 103. paisvasco |
| 16. spanija | 60. katalonien | 104. paísvasco |
| 17. spanje | 61. catalonia | 105. euskadi |
| 18. reinodeespaña | 62. catalogna | 106. euskalherria |
| 19. reino-de-españa | 63. catalogue | 107. paisbasc |
| 20. španielsko | 64. catalonië | 108. basquecountry |
| 21. spānija | 65. katalonias | 109. paysbasque |
| 22. španija | 66. catalunha | 110. paesebasco |
| 23. španiēlsko | 67. kataloniens | 111. baskenland |
| 24. espainia | 68. katalonian | 112. paisbasco |
| 25. ispania | 69. catalonië | 113. χώρωνβάσκων |
| 26. ισπανία | 70. extremadura | 114. gobiernovasco |
| 27. andalucía | 71. comunidadautonomadeextremadura | 115. euskojaurlaritz |
| 28. andalucía | 72. comunidadautónomadeextremadura | 116. governbasc |
| 29. andalousie | 73. xuntadegalicia | 117. basquegovernment |
| 30. andalusia | 74. comunidadautonomadegalicia | 118. gouvernementbasque |
| 31. andalusien | 75. comunidaautónomadegalicia | 119. governobasco |
| 32. juntadeandalucia | 76. comunidadautonomadegalicia | 120. baskischeregierung |
| 33. juntadeandalucía | 77. comunidadautónomadegalicia | 121. baskitschebestuur |
| 34. aragon | 78. larioja | 122. κυβέρνησητωνβάσκων |
| 35. aragón | 79. gobiernodelarioja | 123. comunidad-valenciana |
| 36. gobiernodearagon | 80. comunidadmadrid | 124. comunidadvalenciana |
| 37. gobiernoaragón | 81. madridregion | 125. comunitat-valenciana |
| 38. principadodeasturias | 82. regionmadrid | 126. comunitatvalenciana |
| 39. principadasturies | 83. madrid | 127. ceuta |
| 40. asturias | 84. murciaregion | 128. gobiernoceuta |
| 41. asturies | 85. murciaregión | 129. melilla |
| 42. illesbalears | 86. murciaregione | 130. gobiernomelilla |
| 43. islasbalears | 87. murciaregiao | |
| 44. canarias | 88. regiondemurcia | |

SWEDEN

- | | | |
|--------------------------|--------------------------|-------------------------|
| 1. suecia | 13. suede | 25. konungariketsverige |
| 2. reinodesuecia | 14. royaumedesuède | 26. švédsko |
| 3. sverige | 15. royaumedesuede | 27. rootsi |
| 4. kongerietsverige | 16. svezia | 28. svedija |
| 5. schweden | 17. regnodisvezia | 29. svédorszag |
| 6. königreichschweden | 18. zweden | 30. svedorszag |
| 7. konigreichschweden | 19. koninkrijkzweden | 31. l-isvezja |
| 8. σουηδία | 20. suécia | 32. szweja |
| 9. Βασιλεία της Σουηδίας | 21. reinodasuécia | 33. švedska |
| 10. sweden | 22. reinodasuecia | 34. svedska |
| 11. kingdomofsweden | 23. ruotsi | |
| 12. suède | 24. ruotsinkuningaskunta | |

UNITED KINGDOM

- | | | |
|-------------------|---------------------|----------------------|
| 1. unitedkingdom | 6. great_britain | 11. northern-ireland |
| 2. united-kingdom | 7. britain | 12. northern_ireland |
| 3. united_kingdom | 8. cymru | 13. scotland |
| 4. greatbritain | 9. england | 14. wales |
| 5. great-britain | 10. northernireland | |

2. List of names per country and the countries that can reserve them

BULGARIA

- | | | |
|------------------------------|-------------------------------|-------------------------|
| 1. България | 22. republicabulgaria | 43. bulharskarepublica |
| 2. bulgaria | 23. repubblica-bulgaria | 44. bulharska-republica |
| 3. bulharsko | 24. repubblica_bulgaria | 45. bulharska_republica |
| 4. bulgarien | 25. republikbulgarien | 46. republicebulgarie |
| 5. bulgaaria | 26. republik-bulgarien | 47. republique-bulgarie |
| 6. βουλγαρία | 27. republik_bulgarien | 48. republique_bulgarie |
| 7. bulgarie | 28. bulgaariavabariik | 49. republicabulgarija |
| 8. bulgarija | 29. bulgaaria-vabariik | 50. republica-bulgārija |
| 9. bulgarije | 30. bulgaaria_vabariik | 51. republica_bulgārija |
| 10. bolgarija | 31. δημοκρατια της βουλγαρίας | 52. repúblikabulgária |
| 11. republicofbulgaria | 32. δημοκρατια-της-βουλγαρίας | 53. repúblika-bulgária |
| 12. the-republic-of-bulgaria | 33. δημοκρατια της βουλγαρίας | 54. repúblika_bulgária |
| 13. the_republic_of_bulgaria | 34. republiekbulgarije | 55. repúblicabulgaria |
| 14. republic-of-bulgaria | 35. republiek-bulgarije | 56. república-bulgaria |
| 15. republic_of_bulgaria | 36. republiek_bulgarije | 57. república_bulgaria |
| 16. republicbulgaria | 37. republikabolgarija | 58. bulgarja |
| 17. republic-bulgaria | 38. republika-bolgarija | 59. bālgarija |
| 18. republic_bulgaria | 39. republika_bolgarija | 60. bulgariantasavalta |
| 19. repubblicadibulgaria | 40. republikabulgaria | 61. bulgarian-tasavalta |
| 20. repubblica-di-bulgaria | 41. republika-bulgaria | 62. bulgarian_tasavalta |
| 21. repubblica_di_bulgaria | 42. republika_bulgaria | 63. republikenbulgarien |

64. republiken-bulgarien
65. republiken_bulgarien
66. repulicabulgaria

67. repulica-bulgaria
68. repulica_bulgaria
69. köztársaságbulgária

70. köztársaság-bulgária
71. köztársaság_bulgária

CROATIA

1. croatia
2. kroatia
3. kroatien
4. kroatien
5. croazia
6. kroatien
7. croacia
8. croatie
9. horvátország
10. horvatorszag

11. kroatii
12. kroatie
13. chorwacja
14. κροατία
15. chorvatsko
16. charvátsko
17. horvaatia
18. kroaatia
19. croácia
20. croacia

21. horvātija
22. horvatija
23. kroatija
24. kroazja
25. chorvátsko
26. chrovatsko
27. hrvaška
28. hrvaska

ICELAND

1. arepublicadeislândia
2. deijslandrepublik
3. deijslandrepublik
4. derepubliekvanijsland
5. derepubliekvanijsland
6. iceland
7. icelandrepublic
8. iepublikaislande
9. ijsland
10. island
11. islanda
12. islande
13. islandia
14. islândia
15. islandica

16. islandrepublik
17. islandskylisejnik
18. islannintasavalta
19. islanti
20. izland
21. ísland
22. íslenskalýðveldið
23. köztársaságizland
24. larepublicadiislanda
25. larepúblicadeislandia
26. larépubliquedislande
27. lislande
28. lýðveldiðísland
29. puklerkaislandska
30. rahvavabariikisland

31. republicadiislanda
32. republikataisland
33. republicoficeland
34. republikaisland
35. republikaislandia
36. republikavisland
37. republikkenisland
38. republikvonisland
39. repúblicadeislandia
40. repúblicadeislândia
41. républiquedislande
42. ΔημοκρατίατηςΙσλανδίας
43. Ισλανδία

LIECHTENSTEIN

1. fyrstendømmetliechtenstein
2. fürstentumliechtenstein
3. principalityofliechtenstein
4. liechtensteinivürstiriiki
5. liechtensteininruhtinaskunta
6. principautédeliechtenstein
7. πριγκιπάτοτουλιχτενστάιν
8. furstadaemisinsliechtensteins

9. principatodeliechtenstein
10. lichtenšteínokunigaikštystė
11. lihtenšteinasfirstiste
12. principatàtal-liechtenstein
13. vorstendomliechtenstein
14. fyrstedommetliechtenstein
15. księstwo liechtenstein
16. principadodoliechtenstein

17. furstendömetliechtenstein
18. lichtenštajnskėknėžatstvo
19. kneževinolihtenštajn
20. principadodeliechtenstein
21. lichtenštejnškėknížectví
22. lichtensteinihercegség

NORWAY

- | | | |
|-------------|---------------|--------------|
| 1. norge | 9. norvégia | 17. Νορβηγία |
| 2. noreg | 10. norsko | 18. norvegja |
| 3. norway | 11. nórsko | 19. norvégja |
| 4. norwegen | 12. norra | 20. norveska |
| 5. norvege | 13. norja | 21. norveška |
| 6. norvège | 14. norvegija | 22. norwegia |
| 7. noruega | 15. norvēģija | 23. norga |
| 8. norvegia | 16. noorwegen | |

ROMANIA

- | | | |
|-------------|--------------|--------------|
| 1. românia | 8. roménia | 15. rumunija |
| 2. romania | 9. romênia | 16. rumeenia |
| 3. roumanie | 10. romenia | 17. ρουμανία |
| 4. rumänien | 11. rumunia | 18. románia |
| 5. rumanien | 12. rumunsko | 19. rumanija |
| 6. rumanía | 13. romunija | 20. roemenië |
| 7. rumænien | 14. rumânija | |

TURKEY

- | | |
|------------|-----------------------|
| 1. turkiye | 3. turkiyecumhuriyeti |
| 2. türkiye | 4. türkiyecumhuriyeti |
-

COMMISSION REGULATION (EC) No 1655/2005**of 10 October 2005****concerning the classification of certain goods in the Combined Nomenclature**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾, and in particular Article 9(1)(a) thereof,

Whereas:

- (1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.
- (2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific Community provisions, with a view to the application of tariff and other measures relating to trade in goods.
- (3) Pursuant to those general rules, the goods described in column 1 of the table set out in the Annex to this Regulation should be classified under the CN codes indicated in column 2, by virtue of the reasons set out in column 3 of that table.
- (4) It is appropriate to provide that binding tariff information which has been issued by the customs authorities

of Member States in respect of the classification of goods in the Combined Nomenclature but which is not in accordance with this Regulation can, for a period of three months, continue to be invoked by the holder, under Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽²⁾.

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

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column 1 of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN codes indicated in column 2 of that table.

Article 2

Binding tariff information issued by the customs authorities of Member States, which is not in accordance with this Regulation, can continue to be invoked for a period of three months under Article 12(6) of Regulation (EEC) No 2913/92.

Article 3

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

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

Done at Brussels, 10 October 2005.

For the Commission

László KOVÁCS

Member of the Commission

⁽¹⁾ OJ L 256, 7.9.1987, p. 1. Regulation as last amended by Regulation (EC) No 493/2005 (OJ L 82, 31.3.2005, p. 1).

⁽²⁾ OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 648/2005 of the European Parliament and of the Council (OJ L 117, 4.5.2005, p. 13).

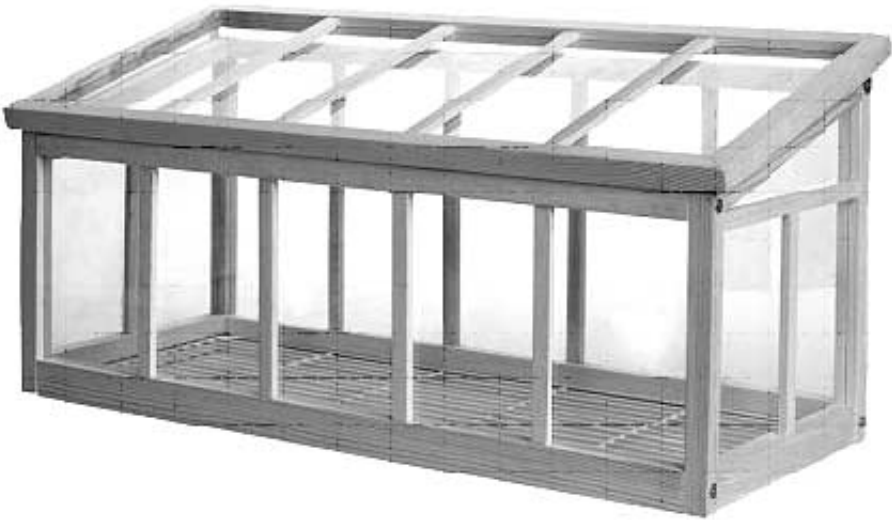
ANNEX

Description of the goods	Classification (CN-code)	Reasons
(1)	(2)	(3)
1. An unassembled article in the form of a reduced-size greenhouse, so-called 'mini-greenhouse', with approximate dimensions of 50 cm (length), 24 cm (width) and 25 cm (height). The frame is made of wood, the floor is in the form of a metal grill and the enclosing element is made of plastic. When assembled, the upper part of the 'mini-greenhouse' can be opened. (See photograph A) (*)	4421 90 98	Classification is determined by General Rules 1, 2(a), 3(b) and 6 for the interpretation of the Combined Nomenclature and the wording of CN codes 4421, 4421 90 and 4421 90 98. The essential character of the product is given by the constructive element (wooden frame). Because of the size it cannot be considered as a prefabricated building of heading 9406.
2. Household-type combined refrigerator-freezer of a capacity of 579 litres, fitted with two separate external doors. The overall dimensions are 180,8 cm (height), 92,5 cm (width) and 81,6 cm (depth). The weight is 112 kg. The capacity of the refrigerator is 368 litres and the capacity of the freezer is 211 litres. The refrigerator has tempered glass shelves, two vegetable drawers and, on the inside of the door, space for storing bottles, etc. The freezer has three drawers.	8418 10 91	Classification is determined by General Rules 1 and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 8418, 8418 10 and 8418 10 91. Subheading 8418 10 covers all combined refrigerator-freezers, fitted with separate external doors, whether or not of a household type.
3. Set put up for retail sale comprising: — a television camera in a casing in the form of a plastic brick; — a kit made up of bricks and assembling components of plastic and — a CD-ROM. The camera cannot store images but transmits them to an automatic data-processing machine via a USB cable. The kit of bricks and the assembling components are used for constructing a tripod. The CD-ROM contains recorded programmes, data, video and sound files.	8525 30 90	Classification is determined by General Rules 1, 3(b) and 6 for the interpretation of the Combined Nomenclature, and by the wording of CN codes 8525, 8525 30 and 8525 30 90. Although the set is designed for children, it cannot be classified as a toy under heading 9503 because the essential character of the set is given by the camera of heading 8525.

(1)	(2)	(3)
4. A paperboard puzzle book for children consisting of sixteen pages. Eight of the pages (left side) contain a short children's story with an illustration relating to that story. Seven of the pages (right side) contain a puzzle consisting of 9 pieces, which reproduces the colour illustration of the corresponding page. The last page contains only an illustration.	9503 60 90	Classification is determined by General Rules 1, 3(b) and 6 for the interpretation of the Combined Nomenclature, and by the wording of CN codes 9503, 9503 60 and 9503 60 90. Classification as a printed book under heading 4901 or as a children's picture book under heading 4903 is excluded because the text and the pictures have a subsidiary function to the puzzles. The puzzles give the product its essential character and it is therefore classified as a puzzle under heading 9503.

(*) The photograph is purely for information.

A.



COMMISSION REGULATION (EC) No 1656/2005**of 10 October 2005****on the issue of import licences for high-quality fresh, chilled or frozen beef and veal**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal ⁽¹⁾,

Having regard to Commission Regulation (EC) No 936/97 of 27 May 1997 opening and providing for the administration of tariff quotas for high-quality fresh, chilled and frozen beef and for frozen buffalo meat ⁽²⁾,

Whereas:

- (1) Regulation (EC) No 936/97 provides in Articles 4 and 5 the conditions for applications and for the issue of import licences for meat referred to in Article 2(f).
- (2) Article 2(f) of Regulation (EC) No 936/97 fixes the amount of high-quality fresh, chilled or frozen beef and veal meeting the definition laid down therein which may

be imported on special terms for the period 1 July 2005 to 30 June 2006 at 11 500 t.

- (3) It should be recalled that licences issued pursuant to this Regulation will, throughout the period of validity, be open for use only in so far as provisions on health protection in force permit,

HAS ADOPTED THIS REGULATION:

Article 1

1. All applications for import licences from 1 to 5 October 2005 for high-quality fresh, chilled or frozen beef and veal as referred to in Article 2(f) of Regulation (EC) No 936/97 shall be granted in full.

2. Applications for licences may be submitted, in accordance with Article 5 of Regulation (EC) No 936/97, during the first five days of November 2005 for 4 278,497 t.

Article 2

This Regulation shall enter into force on 11 October 2005.

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

Done at Brussels, 10 October 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 160, 26.6.1999, p. 21. Regulation as last amended by Regulation (EC) No 1782/2003 (OJ L 270, 21.10.2003, p. 1).

⁽²⁾ OJ L 137, 28.5.1997, p. 10. Regulation as last amended by Regulation (EC) No 1118/2004 (OJ L 217, 17.6.2004, p. 10).

COMMISSION REGULATION (EC) No 1657/2005

of 10 October 2005

fixing Community producer and import prices for carnations and roses with a view to the application of the arrangements governing imports of certain floricultural products originating in Jordan

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip ⁽¹⁾, and in particular Article 5(2)(a) thereof,

Whereas:

- (1) Under Articles 2(2) and 3 of Regulation (EEC) No 4088/87, Community import and producer prices are fixed each fortnight for uniflorous (bloom) carnations, multiflorous (spray) carnations, large-flowered roses and small-flowered roses and apply for two-week periods. Under Article 1(b) of Commission Regulation (EEC) No 700/88 of 17 March 1988 laying down detailed rules for the application of the arrangements for the import into the Community of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip ⁽²⁾, those prices are determined for two-week periods on the basis of weighted prices provided by the Member States.
- (2) Those prices should be fixed immediately so the customs duties applicable can be determined.
- (3) Following the accession of Cyprus to the European Union on 1 May 2004, it is no longer necessary to fix import prices for Cyprus.
- (4) Likewise, it is no longer necessary to fix import prices for Israel, Morocco and the West Bank and the Gaza Strip, in order to take account of the agreements approved by Council Decisions 2003/917/EC of 22 December 2003 on the conclusion of an Agreement in the form of an

Exchange of Letters between the European Community and the State of Israel concerning reciprocal liberalisation measures and the replacement of Protocols 1 and 2 to the EC-Israel Association Agreement ⁽³⁾, 2003/914/EC of 22 December 2003 on the conclusion of an Agreement in the form of an Exchange of Letters between the European Community and the Kingdom of Morocco concerning reciprocal liberalisation measures and the replacement of Protocols 1 and 3 to the EC-Morocco Association Agreement ⁽⁴⁾ and 2005/4/EC of 22 December 2004 on the conclusion of the Agreement in the form of an Exchange of Letters between the European Community and the Palestine Liberation Organisation (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip concerning reciprocal liberalisation measures and the replacement of Protocols 1 and 2 to the EC-Palestinian Authority Interim Association Agreement ⁽⁵⁾.

- (5) In between the meetings of the Management Committee for Live Plants and Floriculture Products, the Commission must adopt such measures,

HAS ADOPTED THIS REGULATION:

Article 1

The Community producer and import prices for uniflorous (bloom) carnations, multiflorous (spray) carnations, large-flowered roses and small-flowered roses as referred to in Article 1 of Regulation (EEC) No 4088/87 shall be as set out in the Annex hereto for the period from 12 to 25 October 2005.

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, 10 October 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 382, 31.12.1987, p. 22. Regulation as last amended by Regulation (EC) No 1300/97 (OJ L 177, 5.7.1997, p. 1).

⁽²⁾ OJ L 72, 18.3.1988, p. 16. Regulation as last amended by Regulation (EC) No 2062/97 (OJ L 289, 22.10.1997, p. 1).

⁽³⁾ OJ L 346, 31.12.2003, p. 65.

⁽⁴⁾ OJ L 345, 31.12.2003, p. 117.

⁽⁵⁾ OJ L 2, 5.1.2005, p. 4.

ANNEX

(EUR/100 pieces)

Period from 12 to 25 October 2005				
Community producer price	Uniflorous (bloom) carnations	Multiflorous (spray) carnations	Large-flowered roses	Small-flowered roses
	15,88	11,40	33,60	13,55
Community import prices	Uniflorous (bloom) carnations	Multiflorous (spray) carnations	Large-flowered roses	Small-flowered roses
Jordan	—	—	—	—

COMMISSION REGULATION (EC) No 1658/2005
of 10 October 2005
determining the world market price for unginned cotton

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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

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

Whereas:

- (1) In accordance with Article 4 of Regulation (EC) No 1051/2001, a world market price for unginned cotton is to be determined periodically from the price for ginned cotton recorded on the world market and by reference to the historical relationship between the price recorded for ginned cotton and that calculated for unginned cotton. That historical relationship has been established in Article 2(2) of Commission Regulation (EC) No 1591/2001 of 2 August 2001 laying down detailed rules for applying the cotton aid scheme ⁽³⁾. Where the world market price cannot be determined in this way, it is to be based on the most recent price determined.
- (2) In accordance with Article 5 of Regulation (EC) No 1051/2001, the world market price for unginned

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

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

HAS ADOPTED THIS REGULATION:

Article 1

The world price for unginned cotton as referred to in Article 4 of Regulation (EC) No 1051/2001 is hereby determined as equalling 21,485 EUR/100 kg.

Article 2

This Regulation shall enter into force on 11 October 2005.

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

Done at Brussels, 10 October 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 148, 1.6.2001, p. 1.

⁽²⁾ OJ L 148, 1.6.2001, p. 3.

⁽³⁾ OJ L 210, 3.8.2001, p. 10. Regulation as amended by Regulation (EC) No 1486/2002 (OJ L 223, 20.8.2002, p. 3).

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 28 July 2005

on the existence of an excessive deficit in Italy

(2005/694/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 104(6) thereof,

Having regard to the recommendation from the Commission,

Having regard to the observations made by Italy,

Whereas:

- (1) According to Article 104 of the Treaty Member States are to avoid excessive government deficits.
- (2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation.
- (3) The excessive deficit procedure under Article 104 provides for a decision on the existence of an excessive deficit. The Protocol on the excessive deficit procedure annexed to the Treaty sets out further provisions relating to the implementation of the excessive deficit procedure. Council Regulation (EC) No 3605/93⁽¹⁾, lays down detailed rules and definitions for the application of the provision of the said Protocol.
- (4) Article 104(5) of the Treaty requires the Commission to address an opinion to the Council if the Commission considers that an excessive deficit in a Member State exists or may occur. The Commission addressed such an opinion on Italy to the Council on 29 June 2005. Having taken into account its report in accordance with

Article 104(3) of the Treaty and having regard to the opinion of the Economic and Financial Committee in accordance with Article 104(4) of the Treaty, the Commission concluded that there exists an excessive deficit in Italy. In delivering its assessment, the Commission has taken into account the Ecofin Report to the European Council on 'Improving the implementation of the Stability and Growth Pact', endorsed by the latter on 22 March 2005.

- (5) Article 104(6) of the Treaty lays down that the Council should consider any observations which the Member State concerned may wish to make before deciding, after an overall assessment, whether an excessive deficit exists. In the case of Italy, this overall assessment leads to the following conclusions.
- (6) According to the figures for 2003 and 2004 reported so far, the deficit ratio has been above but close to the 3 % of GDP reference value in 2003 and 2004. The breach of the 3 % of GDP Treaty reference value in 2003 and 2004 did not result from an unusual event outside the control of the Italian authorities, nor was it the result of a severe economic downturn in the sense of the Stability and Growth Pact. The rate of economic growth over the last three years was positive but low (0,4 %, 0,3 % and 1,2 %, in 2002, 2003 and 2004, respectively). The output gap is estimated to have turned from 2,1 % of potential GDP in 2001 to -1,3 % of potential GDP in 2004. As such, the situation of slow growth in 2003 and 2004 cannot be qualified as exceptional in the sense of the Treaty and the Stability and Growth Pact.
- (7) The excess over the reference value cannot be considered temporary because the deficit, after exceeding (but remaining close to) the reference value in 2003 and 2004, is projected by the Commission to exceed it by a large margin in 2005 and 2006 under the standard no-policy change assumption. This indicates that the Treaty requirement concerning the deficit criterion is not fulfilled.

⁽¹⁾ OJ L 332, 31.12.1993, p. 7. Regulation as last amended by Commission Regulation (EC) No 351/2002 (OJ L 55, 26.2.2002, p. 23).

- (8) In addition, the debt-to-GDP ratio, at around 106 to 107 % of GDP in 2004, is clearly above the reference value in the Treaty and has not declined at a satisfactory pace over recent years. The pace of debt reduction has been affected by debt-increasing below-the-line operations. Moreover, the present level of the primary surplus (below 2 % of GDP in 2004) does not ensure a satisfactorily declining path of the debt ratio. This indicates that the Treaty requirement concerning the debt criterion is not fulfilled either.
- (9) Other relevant factors included in the Commission report in accordance with Article 104(3) of the Treaty, as well as additional ones put forward by the Italian authorities with their letter dated 6 June 2005, have been analysed by the Council. According to the Ecofin Report to the European Council on 'Improving the implementation of the Stability and Growth Pact', taking into account other relevant factors in the Council decision on the existence of an excessive deficit in accordance with Article 104(6) of the Treaty, 'must be fully conditional on the overarching principle that, before other relevant factors are taken into account, the excess of the reference value is temporary and the deficit remains close to the reference value'. In the case of Italy, the first condition is not met.

Therefore, for the purpose of the Council decision in accordance with Article 104(6) of the Treaty, other relevant factors are not taken into account in the case of Italy,

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment it follows that an excessive deficit exists in Italy.

Article 2

This Decision is addressed to the Italian Republic.

Done at Brussels, 28 July 2005.

For the Council
The President
J. STRAW

COUNCIL DECISION

of 20 September 2005

on the conclusion of a Protocol to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, 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

(2005/695/EC)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty establishing the European Community, and in particular Article 310 in conjunction with the second sentence of the first subparagraph of Article 300(2) and the second subparagraph of Article 300(3) thereof,

Having regard to the 2003 Act of Accession, and in particular to Article 6(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the assent of the European Parliament ⁽¹⁾,

Whereas:

(1) The Protocol to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part, was signed on behalf of the European Community and its Member States on 31 May 2005.

(2) The Protocol should be approved,

Sole Article

The Protocol to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, 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, is hereby approved on behalf of the European Community and its Member States.

The text of the Protocol is attached to this Decision ⁽²⁾.

Done at Brussels, 20 September 2005.

For the Council

The President

M. BECKETT

⁽¹⁾ Opinion delivered on 6 September 2005 (not yet published in the Official Journal).

⁽²⁾ OJ L 242, 19.9.2005, p. 2.

COUNCIL DECISION**of 3 October 2005****amending the Protocol on the Statute of the Court of Justice, in order to lay down the conditions and limits for the review by the Court of Justice of decisions given by the Court of First Instance**

(2005/696/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 225(2) and (3) and the second paragraph of Article 245 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 140a(2) and (3) and the second paragraph of Article 160 thereof,

Having regard to the request of the Court of Justice of 12 September 2003,

Having regard to the opinion of the European Parliament of 10 February 2004,

Having regard to the opinion of the Commission of 11 February 2005,

Whereas:

- (1) Article 225(2) and (3) of the EC Treaty, as amended by Article 2(31) of the Treaty of Nice, provides:

‘2. The Court of First Instance shall have jurisdiction to hear and determine actions or proceedings brought against decisions of the judicial panels set up under Article 225a.

Decisions given by the Court of First Instance under this paragraph may exceptionally be subject to review by the Court of Justice, under the conditions and within the limits laid down by the Statute, where there is a serious risk of the unity or consistency of Community law being affected.

3. The Court of First Instance shall have jurisdiction to hear and determine questions referred for a preliminary ruling under Article 234, in specific areas laid down by the Statute.

Where the Court of First Instance considers that the case requires a decision of principle likely to affect the unity or consistency of Community law, it may refer the case to the Court of Justice for a ruling.

Decisions given by the Court of First Instance on questions referred for a preliminary ruling may exceptionally be subject to review by the Court of Justice, under the conditions and within the limits laid down by the Statute, where there is a serious risk of the unity or consistency of Community law being affected.’

- (2) Article 140a(2) and (3) of the EAEC Treaty was similarly amended by Article 3(13) of the Treaty of Nice.

- (3) Account was taken in part of those amendments in Article 62 of the Protocol on the Statute of the Court of Justice, in accordance with which: ‘In the cases provided for in Article 225(2) and (3) of the EC Treaty and Article 140a(2) and (3) of the EAEC Treaty, where the First Advocate General considers that there is a serious risk of the unity or consistency of Community law being affected, he may propose that the Court of Justice review the decision of the Court of First Instance.

The proposal must be made within one month of delivery of the decision of the Court of First Instance. Within one month of receiving the proposal made by the First Advocate General, the Court of Justice shall decide whether or not the decision should be reviewed.’

- (4) In accordance with Declaration No 13 annexed to the Final Act of the Treaty of Nice, it is necessary to adopt the provisions concerning review of judgments delivered by the Court of First Instance ruling on decisions of the judicial panels and on questions referred for a preliminary ruling, specifying:

- the role of the parties in proceedings before the Court of Justice, in order to safeguard their rights,
- the effect of the review procedure on the enforceability of the decision of the Court of First Instance,
- the effect of the Court of Justice decision on the dispute between the parties.’

HAS DECIDED AS FOLLOWS:

Article 1

The following Articles shall be inserted between Articles 62 and 63 of the Protocol on the Statute of the Court of Justice:

'Article 62a

The Court of Justice shall give a ruling on the questions which are subject to review by means of an urgent procedure on the basis of the file forwarded to it by the Court of First Instance.

Those referred to in Article 23 of this Statute and, in the cases provided for in Article 225(2) of the EC Treaty and in Article 140a(2) of the EAEC Treaty, the parties to the proceedings before the Court of First Instance shall be entitled to lodge statements or written observations with the Court of Justice relating to questions which are subject to review within a period prescribed for that purpose.

The Court of Justice may decide to open the oral procedure before giving a ruling.

Article 62b

In the cases provided for in Article 225(2) of the EC Treaty and in Article 140a(2) of the EAEC Treaty, without prejudice to Articles 242 and 243 of the EC Treaty, proposals for review and decisions to open the review procedure shall not have suspensory effect. If the Court of Justice finds that the decision of the Court of First Instance affects the unity or consistency of Community law, it shall refer the case back to the Court of First Instance which shall be bound by the points of law decided by the Court of Justice; the Court of

Justice may state which of the effects of the decision of the Court of First Instance are to be considered as definitive in respect of the parties to the litigation. If, however, having regard to the result of the review, the outcome of the proceedings flows from the findings of fact on which the decision of the Court of First Instance was based, the Court of Justice shall give final judgment.

In the cases provided for in Article 225(3) of the EC Treaty and Article 140a(3) of the EAEC Treaty, in the absence of proposals for review or decisions to open the review procedure, the answer(s) given by the Court of First Instance to the questions submitted to it shall take effect upon expiry of the periods prescribed for that purpose in the second paragraph of Article 62. Should a review procedure be opened, the answer(s) subject to review shall take effect following that procedure, unless the Court of Justice decides otherwise. If the Court of Justice finds that the decision of the Court of First Instance affects the unity or consistency of Community law, the answer given by the Court of Justice to the questions subject to review shall be substituted for that given by the Court of First Instance.'

Article 2

This Decision shall take effect on the day of its publication in the *Official Journal of the European Union*.

Done at Luxembourg, 3 October 2005.

For the Council

The President

D. ALEXANDER

COMMISSION

COMMISSION DECISION

of 12 September 2005

amending Decision 2000/745/EC accepting undertakings offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of polyethylene terephthalate (PET) originating, *inter alia*, in India

(2005/697/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community ⁽¹⁾ (the basic AD Regulation), and in particular Article 8 thereof,

Having regard to Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community ⁽²⁾ (the basic AS Regulation), and in particular Articles 13 and 15 thereof,

After consulting the Advisory Committee,

Whereas:

(2) By Regulation (EC) No 2603/2000 ⁽⁴⁾, the Council imposed definitive countervailing duties on imports into the Community of certain polyethylene terephthalate (PET) originating, *inter alia*, in India. Imports of PET exported by companies from which an undertaking had been accepted were exempt from that duty pursuant to Article 2(1) of that Regulation.

(3) On 29 November 2000, the Commission adopted Decision 2000/745/EC ⁽⁵⁾, accepting undertakings offered in connection with the two abovementioned proceedings by the exporters mentioned in Article 1 of that Decision.

(4) On 12 January 2005, the Commission, by Regulation (EC) No 33/2005 ⁽⁶⁾ announced the initiation of a 'new exporter review' pursuant to Article 11(4) of the basic AD Regulation.

(5) At the same time and on the same grounds, the Commission initiated an accelerated review of Regulation (EC) No 2603/2000 ⁽⁷⁾ pursuant to Article 20 of the basic AS Regulation.

A. PROCEDURE

(1) By Regulation (EC) No 2604/2000 ⁽³⁾, the Council imposed definitive anti-dumping duties on imports into the Community of certain polyethylene terephthalate (PET) originating, *inter alia*, in India. Imports of PET exported by companies from which an undertaking had been accepted were exempt from that duty pursuant to Article 2(1) of that Regulation.

(6) The definitive findings and conclusions of the investigations are set out in Council Regulation (EC) No 1646/2005 ⁽⁸⁾, amending Regulation (EC) No 2604/2000 and in Council Regulation (EC) No 1645/2005 ⁽⁹⁾ amending Regulation (EC) No 2603/2000.

⁽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 288, 21.10.1997, p. 1. Regulation as last amended by Regulation (EC) No 461/2004.

⁽³⁾ OJ L 301, 30.11.2000, p. 21. Regulation as last amended by Regulation (EC) No 83/2005 (OJ L 19, 21.1.2005, p. 1).

⁽⁴⁾ OJ L 301, 30.11.2000, p. 1. Regulation as last amended by Regulation (EC) No 822/2004 (OJ L 127, 29.4.2004, p. 3).

⁽⁵⁾ OJ L 301, 30.11.2000, p. 88. Decision as amended by Decision 2002/232/EC (OJ L 78, 21.3.2002, p. 12).

⁽⁶⁾ OJ L 8, 12.1.2005, p. 9.

⁽⁷⁾ OJ C 8, 12.1.2005, p. 2.

⁽⁸⁾ See page 10 of this Official Journal.

⁽⁹⁾ See page 1 of this Official Journal.

B. UNDERTAKING

- (7) Subsequent to the disclosure by which South Asian Petrochem Limited (the company) was informed of the facts and considerations on the basis of which it was intended to impose the amended definitive anti-dumping duty and countervailing duty on its imports into the Community, the company offered a price undertaking in accordance with Article 8(1) of the basic AD Regulation and Article 13(1) of the basic AS Regulation. In that undertaking, the exporting producer has offered to sell the product concerned at or above price levels which eliminate the injurious effects of dumping and subsidisation.
- (8) The company will also provide the Commission with regular and detailed information concerning its exports to the Community, meaning that the undertaking can be monitored effectively by the Commission. Furthermore, the sales structure of this company is such that the Commission considers the risk of circumventing the agreed undertaking is limited.
- (9) In view of this, the undertaking offered by South Asian Petrochem Limited is acceptable.
- (10) In order to enable the Commission to monitor effectively the company's compliance with the undertaking, when the request for release for free circulation pursuant to the undertaking is presented to the relevant customs authority, exemption from the duty will be conditional upon the presentation of an invoice containing at least the items of information listed in the Annex to Regulation (EC) No 2604/2000. This level of information is also necessary to enable customs authorities to ascertain with sufficient precision that the shipment corresponds to the commercial documents. Where no such invoice is

presented, or when it does not correspond to the product presented to customs, the appropriate rate of anti-dumping and countervailing duty will instead be payable.

- (11) In the event of a breach or withdrawal of the undertaking, or if there is reason to believe that the undertaking is being breached, a provisional or definitive duty may be imposed pursuant to Article 8(9) and (10) of the basic AD Regulation and, where applicable, pursuant to Article 13(9) and (10) of the basic AS Regulation,

HAS DECIDED AS FOLLOWS:

Article 1

The table in Article 1 of Decision 2000/745/EC is hereby amended by adding the following:

Country	Manufacturer	Taric additional code
'India	South Asian Petrochem Limited	A 585'

Article 2

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

Done at Brussels, 12 September 2005.

For the Commission
Peter MANDELSON
Member of the Commission

COMMISSION RECOMMENDATION**of 19 September 2005****on accounting separation and cost accounting systems under the regulatory framework for electronic communications****(Text with EEA relevance)**

(2005/698/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) ⁽¹⁾, and in particular to Article 19(1) thereof,

After consulting the Communications Committee,

Whereas:

(1) Certain provisions of the regulatory framework for electronic communications networks and services require necessary and appropriate cost accounting mechanisms to be implemented, namely Articles 9, 11, 13 and 6(1) in connection with Annex I, of Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive) ⁽²⁾; Articles 17 and 18(1) of and Annex VII(2) to Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) ⁽³⁾; and Article 13 of Directive 2002/21/EC.

(2) Operators designated as having significant market power (SMP) on a relevant market (hereinafter referred to as notified operators), as a result of a market analysis carried out in accordance with Article 16 of Directive 2002/21/EC, may be subject, *inter alia*, to obligations concerning the preparation of separated accounts and/or implementation of a cost accounting system. The purpose of imposing such obligations is to make transactions between operators more transparent and/or to determine the actual cost of services provided. Furthermore, accounting separation and the implementation of cost accounting systems may be used by national regulatory authorities to complement the application of other regulatory measures (e.g. transparency, non discrimination, cost orientation) on notified operators.

(3) This Recommendation updates Commission Recommendation 98/322/EC of 8 April 1998 on interconnection in a liberalised telecommunications market (Part 2 — Accounting separation and cost accounting) ⁽⁴⁾, following the application of the regulatory framework for electronic communications (25 July 2003). This revision is necessary since the regulatory framework of 2002 brought about some important changes to the regulatory package of 1998 such as the enlarged scope of application of the framework; a different approach to the imposition of *ex ante* obligations; a different scope of application of the specific provisions concerning cost accounting and accounting separation; and the application of the principle of technology neutrality.

(4) The overall objectives of this Recommendation are to foster the application of consistent accounting principles and methodologies at EU level, taking into account the experience gained by the national regulatory authorities in the domain of cost accounting and accounting separation; improve the transparency of the accounting systems, the methodologies, the data elaborated, the auditing and reporting process to the benefit of all involved parties.

(5) Operators may operate in markets in which they have been designated as having significant market power, as well as in competitive markets where they are not so designated. In order to carry out its regulatory tasks, a national regulatory authority may need information about markets where operators do not have SMP. When an obligation for accounting separation is imposed on a notified operator with SMP on one or more markets, the imposition of accounting separation may cover markets where the operator does not have SMP, e.g. to ensure the coherence of data.

(6) Any mandated cost accounting or accounting separation methodology used in particular as a basis for price control decisions should be specified in a way that encourages efficient investment, identifies potential anti-competitive behaviour, notably margin squeezes, and should be in accordance with the national regulatory authority's policy objectives as set out in Article 8 of Directive 2002/21/EC.

⁽¹⁾ OJ L 108, 24.4.2002, p. 33.

⁽²⁾ OJ L 108, 24.4.2002, p. 7.

⁽³⁾ OJ L 108, 24.4.2002, p. 51.

⁽⁴⁾ OJ L 141, 13.5.1998, p. 6.

- (7) The implementation of a new or revised costing methodology may indicate that current levels of regulated charges and/or price mechanisms are inappropriate or misaligned in some way. If a national regulatory authority believed corrective action is required then due regard should be taken of the commercial and economic environment to minimise risk and uncertainty in the relevant markets. This action could include, for example, spreading any price adjustment over a reasonable period of time.
- (8) When implementing an accounting system that uses a forward-looking approach (such as long run incremental cost) based not on historic costs but on current costs, e.g. where assets are revalued based on the cost of using a modern equivalent infrastructure built with the most efficient technology available, national regulatory authorities may need to adjust the parameters of the cost methodology in order to achieve these objectives. The coordinated use of top-down and bottom-up approaches should be envisaged, where applicable. Accounting systems should be based on the principle of cost causation, such as activity based costing.
- (9) When current cost accounting (CCA) is applied to network assets, such as the local loop which is considered to be less replicable in the medium term, consistent application of costing methodologies requires parameters (such as cost of capital, depreciation profiles, mark-ups, time varying components) to be adjusted by the national regulatory authorities accordingly.
- (10) When the implementation of a cost accounting system is mandated in accordance with Article 13(4) of Directive 2002/19/EC, rules used for the allocation of costs should be displayed at a level of detail that makes clear the relationship between costs and charges of networks components and services; the basis on which directly and indirectly attributable costs have been allocated between different accounts also needs to be provided.
- (11) This Recommendation provides guidance on how to implement cost accounting and accounting separation under the new regulatory framework of 2002. Recommendation 98/322/EC provides guidance on the implementation of cost accounting and accounting separation under the regulatory framework of 1998. The Recommendation of 1998 continues to apply in situations where Member States have not completed the review of existing obligations concerning cost accounting and accounting separation in accordance with Article 16 of Directive 2002/21/EC.
- (12) Where a compensation mechanism which involves financial transfers is implemented by Member States, Annex IV, part B to the Universal Service Directive requires that these transfers are undertaken in an objective, transparent, non-discriminatory and proportionate manner. In order to meet these purposes, any compensation received for the provision of universal service obligations should be duly reported in the systems for accounting separation.
- (13) As regards the funding of universal service obligations, the Recommendation does not prejudice Commission Directive 80/723/EEC of 25 June 1980 on transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings ⁽¹⁾.
- (14) The application of the principles of this Recommendation is without prejudice to the duty of the Member States and of undertakings to comply fully with the Community competition rules.
- (15) Commission Recommendation 2002/590/EC of 16 May 2002 on 'Statutory Auditor's Independence in the EU: A Set of Fundamental Principles' ⁽²⁾, establishes a sound framework against which the auditor's independence can be tested, where relevant.
- (16) The European Regulators Group (ERG) ⁽³⁾ has provided an opinion on the revision of Commission Recommendation on accounting separation and cost accounting of 1998 which includes a detailed annex on aspects of cost accounting and accounting separation,
- HEREBY RECOMMENDS:
1. This Recommendation concerns the implementation of accounting separation and cost accounting systems by operators designated by their national regulatory authority as having significant market power on relevant markets as a result of a market analysis carried out in accordance with Article 16 of Directive 2002/21/EC. Operators with such obligations are hereinafter referred to as 'notified operators'.
- The purpose of imposing an obligation to implement a cost accounting system is to ensure that fair, objective and transparent criteria are followed by notified operators in allocating their costs to services in situations where they are subject to obligations for price controls or cost-oriented prices.
- (1) OJ L 195, 29.7.1980, p. 35. Directive as last amended by Directive 2000/52/EC (OJ L 193, 29.7.2000, p. 75).
- (2) OJ L 191, 19.7.2002, p. 22.
- (3) The ERG was established by Commission Decision 2002/627/EC (OJ L 200, 30.7.2002, p. 38) as amended by Decision 2004/641/EC (OJ L 293, 16.9.2004, p. 30).

The purpose of imposing an obligation regarding accounting separation is to provide a higher level of detail of information than that derived from the statutory financial statements of the notified operator, to reflect as closely as possible the performance of parts of the notified operator's business as if they had operated as separate businesses, and in the case of vertically integrated undertakings, to prevent discrimination in favour of their own activities and to prevent unfair cross-subsidy.

2. It is recommended that national regulatory authorities require from the notified operators the disaggregation of their operating costs, capital employed and revenues to the level required to be consistent with the principles of proportionality, transparency and regulatory objectives mandated by national or Community law.

It is recommended that the allocation of costs, capital employed and revenue be undertaken in accordance with the principle of cost causation (such as activity-based costing, 'ABC').

The cost accounting and accounting separation systems of the notified operators need to be capable of reporting regulatory financial information to demonstrate full compliance with regulatory obligations. It is recommended that this capability be measured against the qualitative criteria of relevance, reliability, comparability and materiality.

It is recommended that national regulatory authorities satisfy themselves as to the adequacy and effectiveness of the cost accounting and accounting separation systems; such systems may be subject to public consultation.

3. It is recommended that a national regulatory authority, when assessing the features and specification of the cost accounting system, reviews the capability of the notified operator's cost accounting system to analyse and present cost data in a way that supports regulatory objectives. In particular, the cost accounting system of the notified operator should be capable of differentiating between direct costs ⁽¹⁾, and indirect costs ⁽²⁾.

It is recommended that national regulatory authorities, having adopted a decision on a cost accounting system based on current costs set clear deadlines and a base year for their notified operators' implementation of new cost accounting systems based on current costs.

Evaluation of network assets at forward-looking or current value of an efficient operator, that is, estimating the costs faced by equivalent operators if the market were vigorously competitive, is a key element of the 'current cost accounting' (CCA) methodology. This requires that the depreciation charges included in the operating costs be calculated on the basis of current valuations of modern equivalent assets. Consequently, reporting on the capital employed also needs to be on a current cost basis. Other cost adjustments may be required to reflect the current purchase cost of an asset and its operating cost base. Evaluation of network assets at forward-looking or current value may be complemented by the use of a cost accounting methodology such as long run incremental costs (LRIC), where appropriate.

It is recommended that national regulatory authorities have due regard to price and competition issues that might be raised when implementing CCA, such as in the case of local loop unbundling.

It is recommended that national regulatory authorities take due regard to further adjustments to financial information in respect of efficiency factors, particularly when using cost data to inform pricing decisions since the use of cost accounting systems (even applying CCA) may not fully reflect efficiently incurred or relevant costs ⁽³⁾. Efficiency factors may consist of evaluations of different network topology and architecture, of depreciation techniques, of technology used or planned for use in the network.

4. It is recommended that notified operators required to report accounting separation provide a profit and loss statement and statement of capital employed for each of the regulatory reporting entities (based on the relevant markets and services). Transfer charges or purchases between markets and services need to be clearly identified in sufficient detail to justify compliance with non discrimination obligations. These accounting separation reporting obligations may require the preparation and disclosure of information for markets where an operator does not have SMP.

For consistency and data integrity, it is recommended that the financial reports of the regulatory accounts be consolidated into a profit and loss statement and a statement of capital employed for the undertaking as a whole. A reconciliation of the separate regulatory accounts to the statutory accounts of the operator is also required. These statements should be subject to an independent audit opinion or a national regulatory authority compliance audit (subject to the availability of suitably qualified staff).

⁽¹⁾ Direct costs are those costs wholly and unambiguously incurred against specified activities.

⁽²⁾ Indirect costs are those costs that require apportionment using a fair and objective attribution methodology.

⁽³⁾ Some of the assets may be in excess of requirements or network architecture may be suboptimal. Implementation of a bottom-up economic/engineering model helps providing information about inefficient and unnecessary incurred costs, which should be removed.

5. It is recommended that national regulatory authorities make relevant accounting information from notified operators available to interested parties at a sufficient level of detail. The detail of information provided should serve to ensure that there has been no undue discrimination between the provision of services internally and those provided externally and allow identification of the average cost of services and the method by which costs have been calculated. In providing information for these purposes, national regulatory authorities should have due regard for commercial confidentiality.

In this respect, the publication by the notified operator of sufficiently detailed cost statements showing, for example, the average cost of network components will increase transparency and raise confidence on the part of competitors that there are no anti-competitive cross-subsidies. This is considered to be particularly important for wholesale services. Implementing guidelines on reporting requirements and publication of information are set out in the Annex.

6. Certain undertakings may be designated as universal service providers in accordance with Article 8 of the Universal Service Directive and may be subject to regulatory control on retail tariffs in accordance with the provisions of Article

17 of the universal service Directive. For those Member States that operate schemes to finance universal service obligations, it is recommended that any contribution that designated undertaking(s) receive as part of a compensation mechanism is identified in the systems for accounting separation.

7. These accounting guidelines are concerned with regulatory reporting and they are not intended as a replacement for any statutory financial reporting that may be required in the Member State.

8. This Recommendation will be reviewed not later than three years after the date of application.

9. This Recommendation is addressed to the Member States.

Done at Brussels, 19 September 2005.

For the Commission

Viviane REDING

Member of the Commission

ANNEX

GUIDELINES ON REPORTING REQUIREMENTS AND PUBLICATION OF INFORMATION

This Annex outlines the periodic reporting framework, publication issues and the statement of compliance.

Pursuant to the principles recommended at point 2 of the Recommendation, cost accounting and accounting separation systems must produce financial information at a level of detail which demonstrates compliance with the principles of non-discrimination and transparency, adequately identifying and attributing revenues, costs, capital employed and volumes for the various activities performed by the operator. Such accounting information should be made available promptly to the national regulatory authority.

Good presentation of regulatory accounts ensures that the essential messages of the financial statements are communicated clearly and effectively and in as simple and straightforward a manner as possible. The presentation of information in financial statements involves some degree of abstraction and aggregation. If this process is carried out in an orderly manner, greater knowledge will result because such a presentation will satisfy the various regulatory objectives such as demonstrating that charges are cost-orientated or that there is no undue discrimination.

Accounting reports comprise supporting notes and supplementary schedules that amplify and explain the financial statements. Both the financial statements and the supporting notes form an integrated whole.

Regulatory accounting information serves national regulatory authorities and other parties that may be affected by regulatory decisions based on that information, such as competitors, investors and consumers. In this context, publication of information may contribute to an open and competitive market and also add credibility to the regulatory accounting system.

However, full disclosure may be restricted by national and Community rules regarding business confidentiality. Therefore, it is recommended that national regulatory authorities, having taken the opinion of operators, define what information can be considered as confidential and should not be made available.

1. Preparation and publication of information

The following financial information should be prepared and published (subject to confidentiality and national law obligations) for the relevant market/service:

- profit and loss statements,
- capital employed statement (detailed calculation methodology and value of parameters used),
- consolidation and reconciliation with statutory accounts or other source of costing information,
- a description of the costing methodologies including reference to cost base and standards, allocation and valuation methodologies, identification and treatment of indirect costs,
- non-discrimination notes (detailed transfer charges),
- audit opinion (if required by the national regulatory authority),
- a description of accounting policies and regulatory accounting principles,
- a statement of compliance with Community and national rules,
- other supplementary schedules as required.

Reporting formats, which may follow standard statutory accounting design, should be defined in advance by the national regulatory authority, in consultation with operators. The statement of compliance with Community and national legislation, audit opinion and description of accounting principles, policies, methodologies and procedures used, namely the cost allocation methodologies, cannot be considered confidential. Without prejudice to national and Community laws on business confidentiality, the audit results should be made publicly available.

2. The statement of compliance

The annual statement of compliance should at least include:

- the conclusions of the auditor,
- all identified irregularities,
- recommendations made by the auditor (with a description of the corresponding effects),
- the full description of the verification methodology followed, and
- some aggregate financial and accounting data (such as CCA adjustments, main assumptions made on attribution methodologies, level of costs allocated and the level of granularity of the model).

Publication of the statement of compliance and of the audit results should be presented in a form easily accessible by interested parties, such as a paper or electronic version, or published on the operator's or national regulatory authority's website.

3. Reporting period

Publication of regulatory accounts should take place annually and as soon as possible after the end of the accounting (reporting) year. Publication of the statement must take place no later than two months after the completion of the regulatory audit or no later than the current practice as specified by regulatory obligations.
