

Official Journal

of the European Communities

ISSN 0378-6978

L 248

Volume 38

14 October 1995

English edition

Legislation

Contents

I Acts whose publication is obligatory

- ★ **Council Regulation (EC) No 2413/95 of 6 October 1995 imposing a definitive anti-dumping duty on imports of ferro-silico-manganese originating in Russia, Ukraine, Brazil and South Africa** 1
- ★ **Commission Regulation (EC) No 2414/95 of 13 October 1995 imposing a provisional anti-dumping duty on imports of bicycles originating in Indonesia, Malaysia and Thailand** 12
- Commission Regulation (EC) No 2415/95 of 13 October 1995 fixing the rates of the refunds applicable to eggs and egg yolks exported in the form of goods not covered by Annex II to the Treaty 25
- ★ **Commission Regulation (EC) No 2416/95 of 13 October 1995 laying down detailed rules for the application of Council Regulation (EC) No 2179/95 concerning the autonomous and transitional adaptation of certain agricultural concessions provided for in the Europe Agreements and amending Regulation (EC) No 3379/94 opening and administering certain Community tariff quotas in 1995 for certain agricultural products and for beer, as regards imports into the Community of certain agricultural products originating in Poland** 28
- ★ **Commission Regulation (EC) No 2417/95 of 13 October 1995 updating and amending Regulations in the beef sector fixing before 1 February 1995 certain prices and amounts whose values in ecus have been adjusted because of the abolition of the corrective factor in agricultural conversion rates** 39
- Commission Regulation (EC) No 2418/95 of 13 October 1995 providing for the rejection of applications for export licences in relation to products falling within CN code 1108 13 00 41
- Commission Regulation (EC) No 2419/95 of 13 October 1995 providing for the rejection of applications for export licences in relation to products falling within the beef sector 42

Commission Regulation (EC) No 2420/95 of 13 October 1995 fixing the export refunds on beef	43
Commission Regulation (EC) No 2421/95 of 13 October 1995 establishing the standard import values for determining the entry price of certain fruit and vegetables	48
Commission Regulation (EC) No 2422/95 of 13 October 1995 fixing the agricultural conversion rates	50
Commission Regulation (EC) No 2423/95 of 13 October 1995 altering the export refunds on white sugar and raw sugar exported in the natural state	52
Commission Regulation (EC) No 2424/95 of 13 October 1995 altering the export refunds on syrups and certain other sugar sector products exported in the natural state	54

II *Acts whose publication is not obligatory*

Commission

95/418/EC :

- ★ **Commission Decision of 26 July 1995 accepting undertakings offered in connection with the anti-dumping proceeding concerning imports of ferro-silico-manganese originating in Russia, Georgia, Ukraine, Brazil and South Africa and terminating the proceeding against Georgia** 56

Corrigenda

- Corrigendum to Commission Regulation (EC) No 2389/95 of 11 October 1995 on the supply of rye flour intended for the people of Georgia, Armenia, Azerbaijan and Tajikistan (OJ No L 244 of 12. 10. 1995) 58
- ★ **Corrigendum to European Parliament and Council Directive No 95/2/EC of 20 February 1995 on food additives other than colours and sweeteners (OJ No L 61 of 18. 3. 1995)** 60

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 2413/95

of 6 October 1995

imposing a definitive anti-dumping duty on imports of ferro-silico-manganese originating in Russia, Ukraine, Brazil and South Africa

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3283/94 of 22 December 1994 on protection against dumped imports from countries not members of the European Community⁽¹⁾, and in particular Article 23 thereof, which laid down that Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community⁽²⁾ shall continue to apply to proceedings in relation to which an investigation pending on 1 September 1994 had not been concluded by the date of entry into force of Regulation (EC) No 3283/94,

Having regard to Regulation (EEC) No 2423/88 (hereinafter referred to as the 'basic Regulation'), and in particular Article 12 thereof,

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

Whereas :

A. PROVISIONAL MEASURES

- (1) By Regulation (EC) No 3119/94⁽³⁾ (hereinafter referred to as the 'provisional duty Regulation'), the Commission imposed provisional anti-dumping duties on imports into the Community of ferro-silico-manganese (FeSiMn) falling within CN code 7202 30 00 and originating in Russia, Ukraine, Brazil and South Africa.

⁽¹⁾ OJ No L 349, 31. 12. 1994, p. 1. Regulation as last amended by Regulation (EC) No 1251/95 (OJ No L 122, 2. 6. 1995, p. 1).

⁽²⁾ OJ No L 209, 2. 8. 1988, p. 1. Regulation as last amended by Regulation (EC) No 522/94 (OJ No L 66, 10. 3. 1994, p. 10).

⁽³⁾ OJ No L 330, 21. 12. 1994, p. 15.

By Regulation (EC) No 866/95⁽⁴⁾, the Council extended the validity of these duties for a period of two months.

B. SUBSEQUENT PROCEDURE

- (2) Following the imposition of the provisional anti-dumping duties,
- the Comité de Liaison des Industries de Ferro-Alliages ('Euroalliages'; complainant),
 - two South African producers, Highveld Steel and Vanadium Corporation Limited and Samancor Limited,
 - the Ukrainian authorities and two Ukrainian producers, Nikopol Ferro Alloy Plant and Zaporozhye Ferro Alloy Plant,
 - two Brazilian producers, Companhia Paulista de Ferro Ligas and Sibra Eletrosiderurgica Brasileira SA,
 - the British Iron and Steel Producers Association (Bispa),
 - an unrelated importer in Luxembourg, SA des Minerais,
 - an importer in the United Kingdom, Victoria Alloys (UK) Limited,

made their views known in writing. Parties who so requested were granted a hearing by the Commission.

- (3) The Commission continued to seek and verify all information it deemed necessary for its definitive findings.
- (4) Upon request, the parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-dumping duties and the collection of amounts secured by way of a provisional duty. The parties were also granted a reasonable period within which to make representations subsequent to the disclosures.

⁽⁴⁾ OJ No L 89, 21. 4. 1995, p. 1.

- (5) The parties' comments were considered, and the Commission altered its conclusions where deemed appropriate.

C. PRODUCT UNDER CONSIDERATION, LIKE PRODUCT

- (6) As no comments have been presented by any party regarding the product under consideration and the like product after the imposition of provisional anti-dumping measures, the findings set out in recitals (9) and (10) of the provisional duty Regulation are hereby confirmed.

D. DUMPING

1. NORMAL VALUE

Russia, Ukraine

- (7) In the absence of any new arguments, the findings laid down in recitals (12) and (13) of the provisional duty Regulation are confirmed.

Brazil

- (8) The Commission had, for the purpose of the provisional findings, calculated one normal value and, consequently, one dumping margin for the two Brazilian producers which cooperated in the proceeding because they were found to be related, i.e. one was the subsidiary of the other.
- (9) The Brazilian producers requested the determination of individual normal values and accordingly individual dumping margins. They argued that the approach adopted by the Commission did not conform with Article 13 (2) of the basic Regulation which stipulates that anti-dumping duties should be imposed on an individual basis for each cooperating exporter. It was further argued that this treatment is also contrary to Article 2 (3) (c) of that Regulation, according to which normal value should be based on prices or costs of another exporter only if an exporter does not produce nor sell the product in the country of origin. The said producers also claimed that they operate separately in the market place and pointed out that they keep separate records and accounting systems. Finally, they argued that the determination of only one dumping margin would unduly penalize one of them because its dumping margin is significantly lower than that of the other. On these grounds, the

Brazilian exporters have requested the determination of individual dumping margins.

- (10) It is the general practice of the Community institutions to calculate one dumping margin for producers where one is a subsidiary of, and therefore subject to control by, another on the basis of an average of the data submitted by both producers. Calculating individual dumping margins would create the likelihood of circumvention of anti-dumping measures (thus rendering them ineffective) by enabling the related producers to channel their exports to the Community through the affiliate with the lowest dumping margin. Such an approach is contrary neither to Article 2 (3) (c) of the basic Regulation, since the exporting entity produces and sells on the Brazilian domestic market, nor to Article 13 (2) which requires the name of the supplier to be mentioned in the Regulation imposing duties only if this is practical. In the case in question, since only two Brazilian producers cooperated and one was a subsidiary of the other, one dumping margin was established which was also considered appropriate for non-cooperating producers.

- (11) In conclusion, the methodology used for calculating normal value in respect of the two cooperating Brazilian producers, as set out in recitals (14) to (18) of the provisional duty Regulation, is confirmed.

South Africa

- (12) The Commission determined normal value on the basis of sales prices on the South African domestic market charged in the ordinary course of trade and in respect of representative quantities in accordance with Article 2 (3) (a) of the basic Regulation.
- (13) One South African producer alleged that certain sales on the South African market were made to customers with which there was, indirectly through one of its shareholders and an affiliate of the latter, a shareholder relationship. This producer claimed that these customers should therefore be considered as being related, to the effect that the sales should be disregarded for the determination of normal value. This exporter claimed that the remaining domestic sales in the investigation period constitute less than 5 % of the volume of exports to the European Union. In consequence, this exporter submitted that the Commission should construct normal value on the basis of costs of manufacture, SG&A expenses and a reasonable amount for profit.

- (14) This submission has to be rejected. The Commission found that the sales prices and costs involved for transactions to the customers in question were in line with those for transactions to clients which, according to this exporter, were entirely unrelated and did not find any indication which would suggest that the relationship had any impact on the prices of such sales transactions to the extent that they should be considered as not being in the ordinary course of trade. Furthermore, the South African producer did not provide any information to support this allegation.

Therefore, the findings set out in recitals (19) to (21) of the provisional duty Regulation are confirmed.

2. EXPORT PRICES

Russia

- (15) In the absence of any new arguments, the findings laid down in recital (22) of the provisional duty Regulation are confirmed.

Ukraine

- (16) For the purpose of its preliminary determination, the Commission determined export prices for FeSiMn originating in Ukraine partly on the basis of verified prices paid or payable by two unrelated importers cooperating in the investigation and partly on data obtained from Eurostat. Eurostat was considered the best evidence available in accordance with Article 7 (7) (b) of the basic Regulation for the remaining export sales not accounted for by the two importers in question.
- (17) One of the two Ukrainian producers cooperating claimed that, in the framework of the preliminary determination, it had been deprived by the Commission of its basic legal rights, since export prices (and adjustments to the export prices, see recital (24) below) were partially based on confidential information, namely data obtained from the two unrelated importers cooperating in the proceeding which were not made available to it for verification purposes.
- (18) In its investigation, the Commission found, as set out in recital (23) of the provisional duty Regulation, that the information on export sales submitted by the other cooperating Ukrainian producer was unusable; in particular, because it was not possible, from the information submitted in the questionnaire, to establish whether or not the export sales reported were destined for the Community. More-

over, the Ukrainian producer concerned, though submitting data which indicated that the products were destined for the Community, stated that it could not guarantee that the exported quantities were actually imported into the European Union. Added to this, the total quantity of exports to the Community, as reported in the responses to the questionnaires of the two Ukrainian producers in question, amounted to more than three times the tonnages which were reported in Eurostat as being of Ukrainian origin. For these reasons, the data submitted by the Ukrainian exporters were deemed misleading and have been disregarded for the definitive determination of the export prices in accordance with Article 7 (7) (b) of the basic Regulation.

- (19) Export prices were definitively determined on the basis of data obtained from Eurostat. The Eurostat data were considered more appropriate for determining the export prices for FeSiMn originating in Ukraine because they covered all imports into the Community during the investigation period. This was not the case for the information obtained from the two cooperating importers which represented 53 % of such imports. Nevertheless, the prices reported by these importers, and verified by the Commission, generally corresponded with the prices obtained from Eurostat. Furthermore, it should be noted that, with regard to imports from non-market economies, such as Ukraine, the Community institutions normally establish one dumping margin for all exports to the Community and do not calculate a specific margin for individual exporters. Therefore, disregarding the price information of the two Ukrainian exporters does not result in a disadvantage for them, given the fact that their export transaction prices are encompassed in the Eurostat data. In addition, the Eurostat data are publicly available enabling the Ukrainian exporter concerned to defend itself by verifying the correctness of the Community institutions' findings.

Brazil

- (20) In the absence of any new arguments, the findings laid down in recital (25) of the provisional duty Regulation are confirmed.

South Africa

- (21) One South African producer claimed certain amendments to costs and profit calculated by the Commission in the context of the reconstruction of export prices pursuant to Article 2 (8) (b) of the basic Regulation. This claim, which was duly substantiated, has been accepted, and the appropriate amendments have been made.

Comparison*Russia*

- (22) The amendments to adjustments for comparison purposes concerning Brazil outlined in recitals (27) to (31) below were also made for the determination of normal value for Russia, since Brazil was chosen as reference country.

In the absence of any other new arguments, the findings laid down in recitals (27) and (29) of the provisional duty Regulation are hereby confirmed.

Ukraine

- (23) In its preliminary determination, the Commission found that the information submitted by the two cooperating Ukrainian producers with regard to claims for adjustments for differences in physical characteristics and selling expenses were either not supported by tangible evidence (claims for adjustments for higher phosphorous content and crushing and screening) or did not correspond to the verified information submitted by the two unrelated importers cooperating in the investigation (credit costs and commissions). The Commission considered, therefore, that the information submitted by the Ukrainian producers was misleading and based its findings on the data received from the cooperating importers which were verified and considered to be the best evidence available in accordance with Article 7 (7) (b) of the basic Regulation.
- (24) One of the two cooperating Ukrainian producers claimed that, in the framework of the preliminary determination, it had been deprived by the Commission of its basic legal rights, since the determination of adjustments to the export prices was based on confidential information, namely data obtained from the two unrelated importers cooperating in the proceeding which were not made available to it for verification purposes.
- (25) It should be pointed out that, since no new evidence was submitted following the imposition of provisional duties, the adjustments for comparison purposes, as requested by the producer concerned, provisionally calculated and based on confidential information, have been maintained for the definitive determination. It was considered reasonable to base such adjustments on verified information obtained from another source rather than reject outright the claims from the exporters concerned on the grounds that they were not properly substantiated. The allegation that the exporter in

question has been deprived of its basic legal rights is therefore unfounded.

- (26) Those amendments for adjustments made for Brazil, for the reasons given under recitals (27) to (31) below, were also applied for Ukraine.

Brazil

- (27) The Commission had, for the purpose of the provisional findings, established normal value on a monthly basis. In months where the weighted average domestic prices did not permit the recovery of all costs in the ordinary course of trade, normal value was based on a constructed value in conformity with Article 2 (3) (b) of the basic Regulation.
- (28) After disclosure of the provisional findings, the two Brazilian producers claimed, on the basis of supporting documentation, adjustments to the constructed normal value for certain direct selling expenses and for direct credit costs.
- (29) This claim has been accepted in part. The adjustments requested for certain direct selling expenses, in accordance with the provisions of Article 2 (9) and (10) of the basic Regulation have been incorporated in the definitive calculations leading to a decrease in the constructed normal values by 2,2 %.
- (30) However, the claim concerning credit expenses has to be rejected. The producers concerned have, for the purpose of constructing normal value, not quantified such expenses nor isolated them from the total financing costs incurred. In the light of this, the Commission allocated total financing costs over domestic and export sales on the basis of total marketable tonnage produced. This methodology is therefore confirmed for the definitive determination.
- (31) For the purpose of definitive findings, normal value was established on the basis of the methods used in the provisional dumping determination, after taking into account the abovementioned adjustments.

South Africa

- (32) One South African producer claimed, on the basis of supporting evidence, a reassessment of the selling costs incurred in the Community. This claim has been accepted and appropriate adjustments for comparison purposes have been made.

Dumping margins

- (33) In the light of the conclusions set out above in respect of the determination of normal value and export price, and the comparison between the two, the definitive examination of the facts showed the existence of dumping in respect of imports of the product concerned originating in Russia, Ukraine, Brazil and South Africa.
- (34) The weighted average dumping margins for the countries and companies involved expressed as a percentage of the cif at Community frontier prices, customs duty unpaid, are the following:
- | | |
|---|---------|
| — Russia : | 54,2 %, |
| — Ukraine : | 43,9 %, |
| — Brazil : | 36,1 %, |
| — South Africa : | |
| — Highveld Steel and Vanadium Corporation Limited : | 45,3 %, |
| — Samancor Limited : | 48,3 %. |
- (35) With regard to the dumping margin for producers in Brazil and South Africa which did not cooperate in this proceeding, the findings set out in recital (32) of the provisional duty Regulation are, in absence of any new arguments, hereby confirmed.

E. INJURY

1. CUMULATION OF THE DUMPED IMPORTS

- (36) As regards Georgia, the findings set out in recital (34) of the provisional duty Regulation in respect of *de minimis* import volumes are, in the absence of any new arguments, hereby confirmed.
- (37) Two South African producers and one association of the user industry questioned the Commission's decision to cumulate imports from South Africa with imports from Ukraine, Russia and Brazil. It was claimed that while import volumes and market shares increased significantly for Ukraine, Russia and Brazil in the period 1989 to the investigation period, there was a decrease for South Africa. Furthermore, it was pointed out that in a past case the Commission had decided not to cumulate import volumes which showed diametrically opposed progressions (Tungsten Carbide case, OJ No L 83, 30. 3. 1990, p. 36). It was also claimed that the trends of the import volumes from each of the exporting countries concerned should be similar before cumulating because, it was alleged, the Commission in previous cases had considered increases in import volumes and therefore import trends as one of the conditions for cumulation. Moreover, it was claimed that the export prices of

the South African producers were higher than those of Ukraine, Russia and Brazil.

Finally, it was argued that the quality of the South African product was such that it did not compete with those from the other countries concerned, in particular, because South Africa was the only country out of the countries concerned that was granted ISO 9002 accreditation.

- (38) After consideration of the abovementioned arguments and claims concerning import volumes, market shares, export prices and quality of the imported product, it is confirmed that imports from South Africa should be cumulated with those of the other exporting countries concerned for the following reasons:
- although the volume of imports from South Africa decreased from 1989 to the investigation period by 5,4 %, imports remained considerable. More specifically import volumes were, apart from 1990 (47 227 tonnes), always above 50 000 tonnes and market shares ranged from 12,7 % in 1989 to 9,9 % in the investigation period. Contrary to what was established in the Tungsten Carbide case, import trends from South Africa did not show diametrically opposed progressions. In fact, South African import volumes were, over the period 1989 to the investigation period, relatively stable, rather than declining significantly,
 - price trends were similar, i.e. prices for all exporting countries under investigation, including South Africa, decreased significantly in the period 1989 to the investigation period, and
 - it was found that the products imported from the countries under investigation competed with each other and with those of the Community industry. The 'ISO 9002' accreditation does not mean that a producer so accredited produces FeSiMn different from those of other producers. It indicates that a producer has adopted an internationally recognized quality control system which offers certain guarantees for purchasers. Furthermore, it has been established that several Community producers have 'ISO 9002' accreditation and, in any event, producers without this accreditation are, in general, able to produce FeSiMn which is of identical or, at least, similar quality to those with accreditation.
- (39) One South African producer further argued that for the purpose of examining trends the Commission should have considered not only the period 1989 to the investigation period but also 1988 because this would demonstrate more clearly a decreasing trend in import volumes from South Africa. Furthermore, this exporter argued that, given that the notice of

initiation of the proceeding was published on 4 August 1993, the Commission should have chosen an investigation period closer to this opening date rather than the period 1 April 1992 to 31 March 1993. Again, the exporter alleged that this would have shown more clearly a decreasing trend of imports of the product originating in South Africa.

- (40) It is common practice for the Community institutions to examine trends of import volumes, market shares and prices etc. over a period of several years, normally four years including the investigation period. This practice was followed in the present case, a period covering the investigation period (1 April 1992 to 31 March 1993) and the four calendar years 1989 to 1992 being chosen. This period was considered appropriate for giving an objective view of the development of the market situation for all parties concerned. The inclusion of information for the year 1988 would not result in any different conclusions about the trends of import volumes, etc., for cumulation purposes.

- (41) With regard to the selection of the investigation period, it should be noted that the Commission, in general, aims at setting the investigation period close to the date of the initiation of the proceeding. However, other considerations sometimes have to be taken into account in order to ensure that, for example, the submission, verification and evaluation of data can be carried out promptly and efficiently, e.g.: by establishing correspondence between the investigation period and calendar years or financial quarters or semesters. However, if a party concerned considers that the investigation period chosen by the Commission is not appropriate, it has to submit its objections at the earliest opportunity, which, in this case, would have been after reception of the questionnaire and not, as was the case here, only after the disclosure of the provisional findings. In fact, the exporter in question responded to the questionnaire on the basis of the investigation period indicated, which corresponds to its financial year, without raising any objection, nor were any objections to the investigation period raised, during the on-spot verification of the data submitted.

2. MATERIAL INJURY

- (42) Several exporters have alleged that the Community industry did not suffer from material injury. They have pointed out that financial losses suffered by the Community producers were the only identifiable indicator of injury, whereas the Community production and sales of FeSiMn increased, production capacity remained constant and capacity utilization increased.

It was claimed, furthermore, that the decline in employment was not an appropriate indicator of injury, because it resulted in an increase in productivity.

- (43) The Commission's findings with regard to production, sales, market share and financial results make clear that the Community producers, in order to limit the damage being caused by the dumped imports, pursued the strategy of reacting to the downward pressure on sales prices caused by these imports by following the price trend in order to maintain their market share. Although this aim was not completely fulfilled (the market share fell from 1989 to the investigation period by 1,2 %), production and sales volume increased and capacity utilization remained more or less stable. In consequence, however, the Community industry has incurred heavy financial losses which have put its existence at risk. The erosion in the financial situation of the Community industry constitutes a clear indicator of material injury.

- (44) One exporter argued that the Community industry's profit rate in 1989 (16,9 % on turnover) is, compared to the financial results of nine metal-related manufacturing US industries for the period 1987 to 1992 (allegedly ranging between 7,9 % profit and 8,5 % loss), so extraordinarily high that it was likely to be based on unreliable financial reports from the Community producers. The losses incurred by the Community industry in the years 1990 to the investigation period were also questioned by this exporter, as was the reliability of the cost allocation methods applied by the Community producers. Both arguments were, however, not further substantiated.

- (45) It is considered that the comparison between the financial results of a specific industry (here: the FeSiMn industry) and a variety of different industries does not compare like with like and does not, in general, provide a basis for drawing a fair picture about the financial situation of the European Union FeSiMn industry. Secondly, the investigation has not given any reason to assume that the financial results, based on audited accounts, were incorrect. It was, furthermore, established that the allocation methods applied by the Community producers were appropriate.

- (46) One exporter claimed that the loss in market share suffered by the Community industry had only occurred for particular qualities, i.e. so-called medium carbon and low carbon FeSiMn, whereas the market share for standard FeSiMn, on which the Commission has based the price comparisons both for provisional and definitive determinations, had increased by 0,5 %.

- (47) In this respect, it must be pointed out that the market share data submitted in this context are incorrect because the market shares for the respective product qualities are expressed as a percentage of the total consumption on the Community market for all quality types taken together and not separately on the consumption for the respective qualities. The data submitted gives, therefore, an incorrect picture of the trend of market shares for the different qualities mentioned above.
- (48) In conclusion, it is definitively determined that the Community industry has suffered material injury, given its deteriorating financial situation characterized by increasing losses over the years 1989 to the investigation period.

F. CAUSATION

1. EFFECT OF THE DUMPED IMPORTS

- (49) The Commission, at recital (57) of the provisional duty Regulation, reached a preliminary determination that imports originating in Russia, Ukraine, Brazil and South Africa had, taken together, caused material injury to the Community industry.

2. OTHER FACTORS

Raw material prices and general demand from the steel industry

- (50) One exporter claimed that the significant increase in manganese supply over several years, demonstrated by publications of the United States Bureau of Mines, causing a fall in manganese ore prices by 5 to 10 % per annum between 1989 and 1993, together with, in the same period, the decrease in demand from the steel industry caused the price decline on the world markets, and therefore also accounted for the fall in prices on the Community market for FeSiMn.
- (51) In this respect, it is considered that decreasing prices for manganese ore, which accounts only for 10 to 15 % of the total cost of manufacture of FeSiMn, cannot explain the more substantial price decreases for the end product over the period in question. Secondly, it has been established that the total consumption of, and therefore the demand for, FeSiMn in the Community had increased in the period 1989 to the investigation period by around 21 %.

Norway

- (52) Producers from Brazil, South Africa and Ukraine as well as one association of the user industry considered that the injury caused to the Community industry resulted from imports of ferro-silico-manganese of Norwegian origin and not from imports from the exporting countries concerned. More specifically, it was argued that the Community industry suffered its most significant decrease in profitability from 1989 (profit: 16,9 %) to 1990 (loss: 14,9 %), a period where imports from the

exporting countries concerned increased by 8 000 tonnes only. In the same period (1989-1990), it was claimed that Community producers' prices on the Community market fell by 27 %, Norwegian prices fell by 21 % but the prices of the product from the exporting countries concerned declined by only 17 %. Furthermore, it was pointed out that in 1990 Norwegian prices on the market of one Member State decreased by as much as 24 %.

- (53) It should be noted in this context that with regard to imports of FeSiMn from Norway, the market share decreased from 41,4 % in 1989 to 30,8 % in the investigation period and that the average import prices on the Community market for ferro-silico-manganese of Norwegian origin (according to Eurostat) in the investigation period and the calendar years 1989-1992 were always higher than the prices of the other exporting countries and the Community industry. This situation was also reflected in 1989/90, when imports from Norway decreased from 171 887 tonnes (market share: 41,4 %) to 139 928 tonnes (market share: 34,4 %). Although the average Norwegian prices (according to Eurostat) declined by 21 %, they were still around 17 % (or more than ECU 80) higher than the weighted average prices of the exporters under consideration and 6 % higher than the price of the Community producers.

- (54) Under these circumstances, it is considered that imports from Norway were unlikely to be responsible for the injury suffered by the Community producers. Therefore, these arguments and claims have to be rejected.

Competitiveness of Community producers

- (55) The two Brazilian producers which cooperated in the proceeding claimed that the injury suffered by the Community industry was caused by its lack of competitiveness. They argued that, even in 1990 when, allegedly, Community prices were around 12 % above world level, the Community producers reported the first financial losses. The argument was accompanied by a price comparison for ferro-silico-manganese between the European Union and the USA for the years 1989 to 1992. They suggested, moreover, that the alleged inefficiency would also be indicated by the Community producers' low labour productivity, defined as average output per employee, when compared to non European Union ferro-silico-manganese producers, and submitted an estimate based on data in the complaint, on statistical data in the USA and 'interviews'.
- (56) In response to this contention, it should be noted that the price comparison between the European Union and the USA does not take account of the result of the anti-dumping proceeding carried out by the US authorities. This proceeding led to the conclusion that the US market was also influenced by injuriously dumped imports from several countries. It appears likely, therefore, that the market

prices in the USA were distorted by unfair practices.

company has estimated that FeSiMn represents 6 % of its conversion costs for steel.

- (57) With regard to the Community industry's alleged low productivity, it is pointed out that even if certain exporters enjoy competitive advantages which are not enjoyed by Community producers, leading to higher production costs for the latter, this would not be a justification for refraining from the adoption of remedial measures in cases where injury caused through the effects of dumping has been established. What is relevant in these circumstances is to ensure that any injury caused by a lack of competitiveness has not been attributed to the dumped imports. This has been done in this case, the anti-dumping measures are limited to the dumping margin and not to the higher injury elimination margin.

- (60) The Commission has established during the proceeding that FeSiMn generally only accounts for 1 % of the total production costs of steel. The abovementioned submission does not indicate the impact of the cost of FeSiMn on the total steel production costs, since the conversion costs constitute only a part of the total production costs. In addition, the submission does not make clear whether this argument is based on the situation of the steel industry as a whole, or only particular branches of it (e.g.: so called mini-mills).

Conclusion

- (58) As no other arguments concerning the causation of the injury sustained by the Community industry were submitted after the imposition of the provisional anti-dumping measure and in the light of the above considerations, it is hereby concluded that, even if other factors have contributed to the injury suffered by the Community industry, the high volume, low-priced dumped imports of FeSiMn originating in Russia, Ukraine, Brazil and South Africa have, taken in isolation, caused material injury to the Community industry, particularly in the form of heavy financial losses.

Anti-dumping duties and competition

- (61) Several exporters claim that the imposition of anti-dumping duties would eliminate the exporters concerned from the Community market but would not raise the European Union market prices to a level such that the Community industry would become profitable again. Thus, they argue only the Norwegian exporters would benefit and would be in a position to reinforce their allegedly 'dominant position'. One exporter concerned has alleged that anti-dumping duties would only serve to support the largest Norwegian exporter which, it was alleged, already has a 'dominant position' on the Community market because it holds 6 % of the shares in Comilog, a Gabon based company which has large shareholdings in a number of Community producers.

G. COMMUNITY INTEREST

Steel industry

- (59) One association of the user industry and an unrelated importer have submitted that the Commission should take into account the interests of the Community steel producers as users of FeSiMn and have pointed out that the imposition of anti-dumping duties on imports of FeSiMn would increase the production costs of the steel manufacturers and damage their international competitiveness. The same association has claimed that one

- (62) With respect to these arguments, it should be stressed, firstly, that it is fundamentally in the general interest of the Community to eliminate the trade-distorting effects of injurious dumping and to restore effective competition. It is considered that measures would, neither as a matter of general principle, nor in relation to the particular circumstances of this proceeding, not necessarily lead to the exclusion from the Community market of imports from the countries concerned. It is considered, furthermore, that restoring fair market conditions would lead to the Community industry regaining its viability and continuing to be an active player on the market. The imposition of anti-dumping duties would not, therefore, impede competition on the Community market.

As to the allegation that the largest Norwegian exporter has a dominant position on the Community market because of its shareholding in Comilog, it is highly improbable that such a small minority shareholding could allow the Norwegian producer in question to control Comilog and no evidence has been presented to substantiate such a proposition. Nor does it appear likely that Comilog can control the behaviour of the Community producers in which it has shareholdings. This seems to be borne out by the fact that the data available show that trends in sales volume and market shares were substantially worse for the Norwegian exporter than for the Community producers related to Comilog. If the Norwegian exporter controlled Comilog and Comilog in turn controlled the Community producers in which it has shareholdings, it might reasonably be expected that the sales volume and market share trends of the Norwegian producer would at least be similar to those of those Community producers. As pointed out, the available data shows this not to be the case.

The measures in question will not reduce competition in the Community market because it will be supplied at fair prices not only by the complainant Community producers, the Norwegian exporters and the exporters subject to the investigation, but also from non-cooperating Community producers and exporters other than those in Norway, not subject to anti-dumping measures (which taken together accounted in the investigation period for more than 15 % of the Community consumption of FeSiMn). These arguments and claims have therefore to be rejected.

Substitution of FeSiMn by other ferro alloys

- (63) One exporter argued that, from 1989 to the investigation period, the production output of the European Union steel industry, the almost exclusive user of FeSiMn, fell by nearly 6 %, whereas the Commission had established that consumption of FeSiMn on the Community market in the same period increased by 21,4 %. The exporter claims that it would have important implications for the determination concerning Community interest, if this situation was due to a substitution of ferro-silico (FeSi) and ferro-manganese (FeMn) by FeSiMn because a substitution could take place, in the opposite direction, after imposition of anti-dumping duties on FeSiMn which would prevent any remedial effects of the measures.
- (64) In the light of the Commission's findings during the investigation, it appears that a substitution of FeSi and FeMn, as indicated above, has probably taken place. This does not however alter the fact that injurious dumping has occurred against which

the Community industry has a legitimate right to be protected. The aim of such protection in the framework of an anti-dumping proceeding is to restore fair market conditions. It should also be recalled that anti-dumping measures have been in force for some time against certain imports of FeSi, which may have been a factor in the substitution of FeSi by FeSiMn. The imposition of duties on FeSiMn is, however, less likely to result in substitution in the opposite direction because duties on FeSi remain in force.

Conclusion

- (65) In the light of the above, the preliminary determination reached at recital (63) of the provisional duty Regulation, that it is in the Community interest to adopt anti-dumping measures, is confirmed.

H. UNDERTAKINGS

- (66) The Commission received offers of undertakings from the Ukrainian authorities in conjunction with the Ukrainian exporters and from the Brazilian and South African exporters. These offers have been examined carefully, with particular attention being paid to the feasibility of monitoring the undertakings proposed. In this latter respect, the Community Institutions have, in general, certain reservations as regards the acceptance of undertakings concerning ferro-alloy products of this kind given the possibilities for circumvention resulting from the fungibility of the products and from the existence of various qualities which command different prices. However, in view of the limited number of producing exporters involved in this case, and the nature of the marketing channels in the Community, the Commission has accepted the undertakings offered by the Ukrainian authorities in conjunction with the Ukrainian exporters and by the South African exporters (see Commission Decision 95/418/EC⁽¹⁾) since such undertakings would eliminate the injurious effects of dumping pursuant to Article 10 (2) of the basic Regulation and could in the Commission's view be satisfactorily monitored.

With regard to Brazil, the Commission has decided not to accept undertakings from the Brazilian exporters because the minimum prices they have offered were not sufficient to remove injurious dumping. The Commission has informed the Brazilian exporters accordingly.

Given the above, the Council concludes that measures should be imposed on imports of FeSiMn originating in Brazil in the form of an anti-dumping duty.

⁽¹⁾ See page 56 of this Official Journal.

Notwithstanding the acceptance of the undertakings from the Ukrainian Authorities in conjunction with the Ukrainian producers and from the South African exporters, a residual duty should be imposed on imports of FeSiMn originating in Ukraine and South Africa in order to underpin the undertakings and avoid their circumvention.

I. DUTY

- (67) Provisional measures were imposed at the level of the dumping margins found, except for one South African producer, for which the duty was imposed at the level of the injury margin which was lower than the dumping margin. The definitive findings indicate that the amended dumping margins are lower in all cases than the injury margins, which, in the absence of any comments following the imposition of provisional measures, are confirmed. Consequently, definitive measures should be imposed on imports in the European Union of FeSiMn originating in Russia, Ukraine, Brazil and South Africa at a level which would eliminate the dumping, pursuant to Article 13 (3) of the basic Regulation.

In the case of Brazilian and South African firms which failed to cooperate in the investigation or otherwise make themselves known, the findings reached at recital (71) of the provisional duty Regulation are, in the absence of any new evidence or arguments, confirmed. Accordingly, for Brazil, the duty for non-cooperators should be at a level corresponding to the dumping margin established for the two cooperating related exporters and, for South Africa, at a level that eliminates the dumping on the basis of the higher of the two dumping margins established for the two cooperating exporters.

- (68) Given the price sensitivity of the market for ferro-silico-manganese, and in order to minimize the impact of the measures on users in the event of possible significant price increases, it is considered appropriate in this case that the duties be imposed in the form of variable duties. To this end, the variable duties should be set as the difference between the net free-at-Community frontier price, before duty, of the product originating in Russia, Ukraine, Brazil and South Africa and the undermentioned minimum prices in all cases where the net free-at-Community frontier price, before duty, is lower.

- Russia : ECU 504 per metric tonne product,
- Ukraine : ECU 492 per metric tonne product,
- Brazil : ECU 485 per metric tonne product,
- South Africa :
ECU 500 per metric tonne product.

The duties should not apply to imports of FeSiMn produced and exported to the EU by the Ukrainian and South African exporters from which price undertakings have been accepted.

- (69) Since imports of FeSiMn originating in Georgia were found to be *de minimis* and therefore considered not to have caused injury to the Community industry, the Commission considered it appropriate to terminate the proceeding in this respect (see Decision 95/418/EC).
- (70) The Commission will examine the situation of the market following the imposition of anti-dumping measures and, should circumstances, in particular as regards price evolution, warrant a review, this should be initiated as promptly as possible.

J. COLLECTION OF THE PROVISIONAL DUTIES

- (71) The Council considers that it is not appropriate, in view of the change in the form of duty, in this particular case, definitively to collect the provisional anti-dumping duty. Therefore, the amounts secured by way of the provisional anti-dumping duty should be released,

HAS ADOPTED THIS REGULATION :

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of ferro-silico-manganese falling within CN code 7202 30 00 and originating in Russia, Ukraine, Brazil and South Africa.
2. For the product originating in Russia, the amount of the anti-dumping duty shall be the difference between the minimum import price of ECU 504 per metric tonne product and the net free-at-Community frontier price, before duty, in all cases where the net free-at-Community frontier price, before duty, per metric tonne product is less than the minimum import price.
3. For the product originating in Ukraine (Taric additional code 8848), the amount of the anti-dumping duty shall be the difference between the minimum import price of ECU 492 per metric tonne product and the net free-at-Community frontier price, before duty, in all cases where the net free-at-Community frontier price, before duty, per metric tonne product is less than the minimum import price.

4. For the product originating in Brazil, the amount of the anti-dumping duty shall be the difference between the minimum import price of ECU 485 per metric tonne product and the net free-at-Community frontier price, before duty, in all cases where the net free-at-Community frontier price, before duty, per metric tonne product is less than the minimum import price.

5. For the product originating in South Africa (Taric additional code 8818), the amount of the anti-dumping duty shall be the difference between the minimum import price of ECU 500 per metric tonne product and the net free-at-Community frontier price, before duty, in all cases where the net free-at-Community frontier price, before duty, per metric tonne product is less than the minimum import price.

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

7. The duties shall not apply to imports of the product defined in paragraph 1, produced and exported to the

Community by the following companies from which price undertakings have been accepted:

— *Ukraine* (Taric additional code 8847):

— Nikopol Ferro Alloy Plant,

— Zaporozhye Ferro Alloy Plant,

— *South Africa* (Taric additional code: 8819):

— Highveld Steel & Vanadium Corporation Limited,

— Samancor Limited.

Article 2

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

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

Done at Luxembourg, 6 October 1995.

For the Council

The President

J. BORRELL FONTELLES

COMMISSION REGULATION (EC) No 2414/95

of 13 October 1995

imposing a provisional anti-dumping duty on imports of bicycles originating in Indonesia, Malaysia and Thailand

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3283/94 of 22 December 1994 on protection against dumped imports from countries not members of the European Community⁽¹⁾, as last amended by Regulation (EC) No 1251/95⁽²⁾, and in particular Article 23 thereof,

Having regard to council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community⁽³⁾, as last amended by Regulation (EC) No 522/94⁽⁴⁾, and in particular Article 11 thereof,

After consulting the Advisory Committee,

Whereas,

A. PROCEDURE

- (1) In February 1994, the Commission announced by notice published in the *Official Journal of the European Communities*⁽⁵⁾ the initiation of an anti-dumping proceeding concerning imports of bicycles originating in Indonesia, Malaysia and Thailand, and commenced an investigation.
- (2) The proceeding was initiated as a result of a complaint lodged by the European Bicycle Manufacturers Association (EBMA) on behalf of producers allegedly representing a major proportion of the total production of bicycles in the European Community. The complaint contained evidence of dumping of the said product and of material injury resulting therefrom which was considered sufficient to justify the initiation of a proceeding.
- (3) The present proceeding follows an anti-dumping proceeding concerning imports of bicycles originating in Taiwan and the People's Republic of China, which resulted in an anti-dumping duty of 30,6 % being imposed on imports of bicycles originating in the People's Republic of China by Council

Regulation (EEC) No 2474/93⁽⁶⁾. The dumping margin for imports of bicycles originating in Taiwan was considered negligible. Accordingly, the anti-dumping proceeding concerning those imports was terminated by Commission Decision 93/485/EEC⁽⁷⁾.

- (4) The Commission officially advised the producers, exporters and importers known to be concerned, the representatives of the exporting country and the complainants. Parties directly concerned were given the opportunity to make their views known in writing and to request a hearing.
- (5) Representatives of the exporters, the complainants, some importers and associations of exporters made their views known in writing. The Indonesian, Malaysian and Thai exporters requested and were granted a hearing.
- (6) In view of the large number of Community producers expressly supporting the complaint, the Commission sent questionnaires to and received detailed information from a representative selection of Community producers as set out in recital (73).
- (7) In addition, the Commission sent questionnaires to parties known to be concerned and received responses to those questionnaires from five Indonesian producers and one exporter in Japan related to an Indonesian producer, and also from five Malaysian and four Thai producers.
- (8) The Commission sought and verified all information it deemed necessary for the purpose of a preliminary determination and carried out investigations at the premises of the following companies :

1. Community producers :

- Cycleurope International, Neuilly sur Seine, France,
- Derby Cycle Werke GmbH, Cloppenburg, Germany,
- Kynast AG, Quakenbrück, Germany,
- Aurelia Dino SpA, Cuneo, Italy,
- F.I.V. Bianchi SpA, Treviglio, Italy,
- Vivi Bikes Srl, Pontevico, Italy,

⁽¹⁾ OJ No L 349, 31. 12. 1994, p. 1.

⁽²⁾ OJ No L 122, 2. 6. 1995, p. 1.

⁽³⁾ OJ No L 209, 2. 8. 1988, p. 2.

⁽⁴⁾ OJ No L 66, 10. 3. 1994, p. 10.

⁽⁵⁾ OJ No C 35, 3. 2. 1994, p. 3.

⁽⁶⁾ OJ No L 228, 9. 9. 1993, p. 1.

⁽⁷⁾ OJ No L 227, 8. 9. 1993, p. 21.

- Koninklijke Gazelle BV, Dieren, Netherlands,
- Bicicletas de Alava SA, Vitoria, Spain,
- Falcon Cycles Ltd, Brigg, United Kingdom,
- Raleigh Industries Ltd, Nottingham, United Kingdom,
- Townsend Cycles Ltd, Leigh, United Kingdom.

2. Importers in the Community:

- Quantum International SA, Paris, France,
- Carrefour France SNC, Evry, France,
- Veleclair SA, Dreux, France,
- E. Reece, London, United Kingdom,
- Universal Cycles plc, Rayleigh, United Kingdom;

These importers were not related to exporters in Indonesia, Malaysia or Thailand.

3. Producers in Indonesia:

- PT Inera Sena, Sidoarjo,
- PT Jawa Perdana Bicycle Industry, Tangerang,
- PT Wijaya Indonesia Makmur Bicycle Industries, Surabaya.

4. Related exporter in Japan:

- JBI Japan Inc., Kobe.

5. Producers in Malaysia:

- Akoko Sdn Bhd, Klang,
- Berjaya Cycles Sdn Bhd, Kulim,
- Greenworld Systems Sdn Bhd, Kuala Lumpur
(previously Fairly Toraya Sdn Bhd),
- Lerun Group Industries Berhad, Petaling Jaya,
- Rolls Rally Sdn Bhd, Pelabuhan Kelang.

6. Producers in Thailand:

- Bangkok Cycle Industrial Co. Ltd, Bangkok,
- Siam Cycle MFG, Co. Ltd, Samuthprakarn,
- Thai Bicycle Industry Co. Ltd, Samuthprakarn,
- Victory Cycle Co. Ltd, Samuthprakarn.

- (9) The investigation of dumping covered the period from 1 January 1993 to 31 December 1993 ('the investigation period')
- (10) Owing to the volume of information gathered and the complexity of the investigation and, in particular, in the light of the numerous models of bicycles and the variety of technical specifications, the proceeding exceeded the normal duration of one year as provided for in Article 7 (9) of Regulation (EEC) No 2423/88 (hereinafter referred to as 'the Basic Regulation').

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

- (11) The product covered by the complaint, and for which the proceeding was opened is all types of bicycles, with or without ball bearings, falling within CN code 8712 00.
- (12) The product is extremely heterogeneous. Indeed, several thousand models of bicycles exist, the varieties being distinguished by the great number of specific features. Despite such differences, it has to be noted that all different types currently on the market had the same basic physical characteristics. Within this overall product range, bicycles can be classified in five basic categories (mountain bicycles, sport/racing bicycles, touring bicycles, junior bicycles, and other bicycles). However, there are no clear dividing lines between adjoining categories and the different product segments overlap. In a number of cases, one bicycle type can be classified in two or more categories. In addition, consumers and end users will regularly put a bicycle in a particular category to a variety of uses and applications.
- (13) It was concluded on the basis of the investigation that all types of bicycles originating in Indonesia, Malaysia and Thailand and sold on the Community market fall within the product range described above. They were, therefore, regarded as forming one single product for the purpose of this proceeding.
- (14) It was found that bicycles produced by the Community industry and sold on the Community market, as well as bicycles produced in Indonesia, Malaysia and Thailand and sold on the domestic market, cover a similar model range, their basic technical and physical characteristics being identical to those of bicycles exported from Indonesia, Malaysia and Thailand to the Community. Therefore, the Commission considered those bicycles as a like product within the meaning of Article 2 (12) of the Basic Regulation.

C. DUMPING

1. Normal value

(a) Indonesia

- (15) As far as the determination of normal value for the Indonesian producers is concerned, the Commission first established, for each producer, whether its total domestic bicycle sales were representative in comparison with its total bicycle export sales to the Community.
- (16) The three fully cooperating Indonesian producers subject to this proceeding sold bicycles on the domestic market during the investigation period. The total domestic sales volume of each company was higher than 5 % of its total export sales volume. Accordingly, those sales were considered representative.

- (17) The Commission subsequently examined whether bicycle models sold by the three companies on the domestic market could be considered identical or directly comparable to bicycle models sold for export to the Community.
- (18) As in the previous anti-dumping proceeding concerning bicycles originating in the People's Republic of China and Taiwan, however, this assessment was made extremely difficult by the considerable variety of physical characteristics and combinations of features shown by the products in question. Given the diversity of models sold domestically and for export to the Community, the establishment of normal values on the basis of prices permitting a proper comparison with export prices would, in most cases, have required exceptionally complex calculations and adjustment. For these reasons, models were regarded as comparable for the purpose of the establishment of a normal value if such comparability had been clearly proposed and substantiated by the producers concerned and if only minor adjustments were required to account for differences in characteristics or features.
- (19) For each of the models sold by the three Indonesian companies on the domestic market and found to be comparable to models sold for export to the Community, the Commission established whether domestic sales were sufficiently representative.
- (20) Domestic sales of a particular model were considered sufficiently representative within the meaning of Article 2 (3) of the Basic Regulation when the number of bicycles of this model sold in Indonesia during the investigation period represented 5 % or more of the number of bicycles of the comparable model sold for export to the Community.
- (21) The Commission finally examined whether the domestic sales of each model could be considered to be effected in the ordinary course of trade, by looking at the proportion of profitable sales of the model in question.
- (22) In cases where the number of bicycles sold at a net sales price equal to or above the calculated cost of production represented more than 80 % of the total sales volume, the domestic price of this model was based on a weighted average of all domestic sales transacted during the investigation period, whether profitable or not. In cases where the number of bicycles sold at a net sales price equal to or above the calculated cost of production represented less than 80 % but more than 10 % of the total sales volume, the domestic price of this model was based on a weighted average of profitable domestic sales only. In cases where the number of bicycles sold at a net sales price equal to or above the calculated cost of production represented less than 10 % of the total sales volume, it was considered that the model was not sold in the ordinary course of trade and that the domestic price did not provide an appropriate basis for the normal value.
- (23) In applying the tests set out in recitals (17) to (22), it was found that it was only for some of the bicycle models sold by the three Indonesian companies domestically that normal value could be based on the actual domestic price of comparable models in accordance with Article 2 (3) (a) of the Basic Regulation, because models sold domestically were technically too different, not sold in sufficient quantities, or sold at a loss.
- (24) Therefore, for most of the bicycle models sold for export to the Community by the cooperating Indonesian companies the normal value had to be calculated, in accordance with Article 2 (3) (b) (ii) of the Basic Regulation, on the basis of a constructed value for the products exported to the Community.
- (25) The constructed value was determined by adding to the manufacturing costs of the exported models, a reasonable percentage for selling, general and administrative expenses (SG&A) and a reasonable margin of profit.
- (26) To this end, the Commission examined whether the SG&A incurred and the profit realized by each of the producers concerned on the domestic market constituted reliable data, for the purposes of Article 2 (3) (b) (ii) of the Basic Regulation. Actual domestic SG&A expenses were considered reliable when the domestic sales volume of the company concerned could be regarded as representative (see recital (16)). This was the case for all three companies. The actual domestic profit margin was considered reliable when a sufficient number of bicycles was sold at a net sales price above the calculated cost of production. This was also the case for all three companies.
- (27) Consequently, the constructed value of all Indonesian bicycle models for which such a calculation was necessary was established on the basis of actual SG&A and profit figures for the companies concerned.

(28) Due to insufficient cooperation from two Indonesian companies, it was not possible to obtain or verify the necessary information requested in the questionnaire. In the case of one company, the Commission was not in a position to carry out a verification, owing to the fact that none of the relevant accounting records were made available for inspection on the day of the verification visit. In the case of the other company, the deficiency consisted in a failure to meet several deadlines to provide crucial information concerning domestic sales transactions and cost of production, which eventually resulted in the Commission's being unable to carry out a meaningful verification. The preliminary dumping findings concerning those two companies were therefore based on the facts available in accordance with Article 7 (7) (b) of the Basic Regulation.

(b) *Malaysia*

(29) It appeared in the course of the investigation that two of the five Malaysian producers belonged to the same group of companies. One of them exported bicycles to the Community during the investigation period but did not sell any on the domestic market. The other, on the contrary sold substantial quantities on the domestic market but had no export sales to the Community. Although these two companies maintained separate production activities, it was considered appropriate to treat them as one producing exporter for the purpose of provisional dumping determinations.

(30) Only one Malaysian exporter had representative domestic sales during the investigation period, since its total domestic sales volume was higher than 5 % of its total export sales volume.

(31) In applying the tests set out in recitals (17) to (22), it was found that for none of the bicycle models sold by this company domestically could normal value be based on the actual domestic price of comparable models in accordance with Article 2 (3) (a) of the Basic Regulation, because models sold domestically were technically too different, not sold in sufficient quantities, or sold at a loss.

(32) Consequently, for all models sold by the Malaysian exporters the normal value had to be calculated, in accordance with Article 2 (3) (b) (ii) of the Basic Regulation, on the basis of a constructed value for the products exported to the Community.

(33) Since only one producing exporter had representative domestic sales of bicycles during the investigation period (see recital 30), the SG&A incurred and profit realised by this company on the domestic market were the only data available in Malaysia for this purpose.

(34) The Commission examined whether the domestic profit margin of this company could be considered reliable by verifying that the number of bicycles sold at a price above the calculated cost of production was sufficiently representative. This was the case.

(35) The constructed value of all models sold for export to the Community by the Malaysian companies was therefore established by adding to the manufacturing costs of the exported models the SG&A and profit figures of the only producing exporter with domestic sales.

(c) *Thailand*

(36) Three of the four Thai exporters subject to this proceeding sold bicycles on the domestic market during the investigation period. The total domestic sales volume of each company was higher than 5 % of the total export sales volume. Therefore, these sales were considered representative within the meaning of Article 2 (3) of the Basic Regulation.

(37) For only one Thai company with domestic sales, however, could normal value be based on the actual domestic price of comparable models for all models sold for export to the Community.

(38) In applying the tests set out in recitals (17) to (22), it was found that only for some of the bicycle models sold by the other two companies domestically could normal value be based on the actual domestic price of comparable models in accordance with Article 2 (3) (a) of the Basic Regulation, because models sold domestically were technically too different, not sold in sufficient quantities, or sold at a loss.

(39) For the majority of bicycle models sold for export to the Community by the other three Thai companies, normal value had to be calculated, in accordance with Article 2 (3) (b) (ii) of the Basic Regulation, on the basis of a constructed value for the products exported to the Community.

(40) The constructed value was determined by adding to the manufacturing costs of the exported models, a reasonable percentage for selling, general and administrative expenses (SG&A) and a reasonable margin of profit.

(41) For this purpose, the Commission examined whether the SG&A incurred and the profit realized by each of the producers concerned on the domestic market constituted reliable data, within the meaning of the Basic Regulation. Actual domestic SG&A expenses were considered reliable when the domestic sales volume of the company concerned could be regarded as representative (see recital (36)). This was the case for all three compa-

nies with domestic sales. The actual domestic profit margin was considered reliable when the number of bicycles sold at price above the calculated cost of production was sufficiently representative. This was also the case for two of the three companies with domestic sales.

- (42) Consequently, for one company which had domestic sales and reliable SG&A and profit figures, its actual figures were used. For another company which had domestic sales but only a reliable SG&A figure, the profit figure applied was a weighted average of the profit margins of the two other companies with domestic sales. For a third company, for which normal value had to be constructed and which had no domestic sales, the SG&A figure applied was a weighted average of the SG&A figures of the other three companies, and the profit figure a weighted average of the profit margins of the two companies with reliable profit figures.

2. Export price

(a) *Indonesia*

- (43) All the bicycle sales of two Indonesian companies for export to the Community were made direct to independent importers in the Community. Consequently, the export price of these companies was established by reference to the prices actually paid or payable to them for the bicycles sold (Article 2 (8) of the Basic Regulation).
- (44) One Indonesian company made its sales for export to the Community indirectly, through a related trading company located in Japan. The sales transactions between the two companies were based on transfer prices. Provisionally, it was considered that the export price of this company should be established by reference to the prices actually paid or payable to the related trading company in Japan for the bicycles sold. The appropriateness of this approach will be reviewed for the purpose of definitive determinations.

(b) *Malaysia*

- (45) All export sales to the Community of three Malaysian companies were made direct by these producing exporters to independent importers in the Community. Part of the export sales of a fourth Malaysian company were made to an unrelated trading company located in Japan. In both cases, the export price of the companies concerned was established by reference to the prices actually paid or payable to the Malaysian exporters (Article 2 (8) of the Basic Regulation).
- (46) It was found during the verification visit to one Malaysian company that part of the export sales which had been reported by this company as direct

sales to independent importers in the Community were in fact sales to a related company in Taiwan which subsequently re-sold the products to the importers concerned. Since the prices reported for such transactions were transfer prices, the Commission decided to disregard them. Since, in addition, this company had clearly supplied the Commission with misleading information in respect of those transactions, it was considered that the dumping margin for those sales should be based on the facts available, in accordance with Article 7 (7) (b) of the Basic Regulation.

- (47) For this purpose, the highest margin found for a model sold by this company to unrelated customers was attributed to the sales in question.

(c) *Thailand*

- (48) All the bicycle sales of Thai producers for export to the Community were made direct to independent importers in the Community. Consequently, the export price of those companies was established by reference to the prices actually paid or payable to them for the bicycles sold (Article 2 (8) of the Basic Regulation).

3. Comparison

- (49) Normal value by model was compared with the export price at an ex-factory level on a transaction-by-transaction basis.
- (50) For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting price comparability in accordance with Article 2 (9) and (10) of the Basic Regulation.

(a) *Indonesia*

- (51) One company requested an allowance for differences in physical characteristics between certain export and comparable domestic models and submitted appropriate evidence to support this claim. Adjustments were, therefore, made to take account of such differences.
- (52) Where appropriate, an adjustment was made to normal value of an amount corresponding to import charges paid on materials physically incorporated in the finished bicycles, to the extent to which they were not collected or refunded in respect of the product exported to the Community.
- (53) Adjustments were made, where necessary, for transport, insurance, handling, loading and ancillary costs. No adjustment was made for packing since no difference was found between domestic and export packing costs which could affect price comparability. All three cooperating Indonesian companies had requested an adjustment to normal value for credit costs. This request had to be

rejected, since none of them was able to provide evidence that the credit granted was part of the sales terms agreed with the buyers of the goods at the date of sale. It was considered that such credit could not have affected the price paid or payable on the domestic market.

- (54) For two companies an adjustment was made to normal value in respect of salaries paid to salesmen.
- (55) All three companies requested an adjustment to normal value for promotion and advertising costs. However, this request was rejected in view of the fact that such promotion and advertising costs belong to the category of overheads and general expenses for which allowances are generally not made.
- (56) Finally it should be noted that a number of claims for adjustments of various types were disregarded in view of their insignificant character (i.e. adjustments with an *ad valorem* effect of less than 0,5 %).

(b) *Malaysia*

- (57) Since the domestic SG&A figure used for the construction of normal value included direct selling expenses, adjustments to exclude those expenses had to be made. Although various claims were made to this effect, only a deduction for domestic transport costs was justified and sufficiently substantiated.
- (58) Adjustments to the export price were made according to the Malaysian exporter concerned. Where necessary for one or more of the following selling expenses: transport, insurance, handling, loading and ancillary costs, credit costs and bank charges, guarantees, commissions paid to agents and salaries paid to salesmen.

(c) *Thailand*

- (59) One company requested an allowance for differences in physical characteristics between export and certain comparable domestic models and submitted appropriate evidence to support this claim. Adjustments were, therefore, made to take account of such differences.
- (60) Adjustments were made, where necessary, for transport, insurance, handling, loading and ancillary costs.
- (61) An adjustment for packing costs was made in two cases where export packing costs were found to be significantly higher than domestic packing costs.
- (62) Adjustments for credit costs were made to normal value and export price wherever it could be esta-

blished that the credit granted was part of the sales terms agreed with the buyers of the goods at the date of sale. In a number of cases, however, claims for adjustments to normal value were not sufficiently supported by relevant evidence and had to be disregarded.

- (63) In two cases, normal value was reduced by an amount corresponding to the costs of providing warranties and other similar services.
- (64) Adjustments to normal value and export price were made to account for salaries paid to salesmen.
- (65) Finally, it should be noted that a number of claims for adjustments of various types were disregarded in view of their insignificant character (namely adjustments with an *ad valorem* effect of less than 0,5 %).

4. Dumping margins

- (66) The comparison of the normal value with the export price shows the existence of dumping in respect of all Indonesian, Malaysian and Thai producers which fully cooperated with the Commission. The weighted average dumping margins provisionally established for each such producer and expressed as a percentage of the free-at-Community-frontier price are the following:

(a) *Indonesia*

— PT Inera Sena :	0,40 %,
— PT Jawa Perdana Bicycle :	22,80 %,
— PT Wijaya :	22,01 %.

(b) *Malaysia*

— Akoko :	25,18 %,
— Fairly Toraya :	29,96 %,
— Lerun/Berjaya :	38,27 %,
— Rolls Rally :	28,25 %.

(c) *Thailand*

— Bangkok Cycle Industry :	18,29 %,
— Siam Cycle Manufacturing :	41,91 %,
— Thai Bicycle Industry :	13,25 %,
— Victory Cycle Co. :	13,25 %.

(d) *Indonesian companies which did not cooperate adequately*

- (67) For the two Indonesian producers which did not co-operate sufficiently in the investigation (recital (28)), provisional dumping margins had to be assessed on the basis of the facts available.

- (68) In order that there should be no premium for inadequate cooperation, it was decided that the provisional dumping margin for these companies should be higher than the highest margin found for the other cooperating Indonesian producers (recital (66)). However, the two companies concerned had made the effort to collect information and to provide a response to the questionnaire which should be taken into account. Consequently the margin for those companies should be lower than the residual duty (recital (71)) for Indonesia which applies to exporters which did not cooperate at all. Reflecting these two considerations, the provisional dumping margin for the two companies concerned was based on the arithmetical average between the highest margin found for a cooperating Indonesian producer (recital (66)) and the higher residual duty (recital (71)). Expressed as a percentage of the cif import price at the Community border, this margin is the following:

— PT Federal Cycle Mustika :	25,9 %,
— PT Toyo Asahi :	25,9 %.

(e) *Residual duty*

- (69) For those producers in the countries concerned which neither replied to the Commission's questionnaire nor otherwise made themselves known, the dumping margin was determined on the basis of the facts available in accordance with Article 7 (7) (b) of the Basic Regulation.
- (70) The Commission has noted that the exports not reported by the cooperating producers accounted for approximately 10 % of total imports into the Community of the product concerned originating in the three countries concerned.
- (71) In view of the not insignificant degree of non-cooperation from all three countries concerned, it is considered appropriate that for those companies which did not cooperate in this proceeding or which did not export to the Community during the investigation period, the residual duty cannot be based on the highest dumping margin found for a cooperating producer since this would provide an unacceptable bonus for non-cooperation or would discriminate against those producers which cooperated. For the purpose of the residual duty the Commission calculated, for each of the three countries, a weighted average of the highest dumping margins found for bicycle models exported to the Community. The Commission based its calculation on two bicycle models of each category which were regarded as sufficiently representative from each producer in the respective country which fully cooperated. On this basis, the duty rates are 29,0 % for Indonesia, 41,5 % for Malaysia and 48,8 % for Thailand.

D. COMMUNITY INDUSTRY

- (72) The Community producers who expressly supported the complaint account for 55,3 % of the Community production of bicycles, and, therefore, are a major proportion of the Community industry within the meaning of Article 4 (5) of the Basic Regulation.
- (73) In view of the large number of Community producers expressly supporting the complaint, the Commission would have been unable to verify the information received from all of them, as this would have resulted in an extremely long delay in completing the investigation which would have been incompatible with the very purpose of anti-dumping proceedings. For this reason the Commission decided to make a representative selection of Community producers on the basis of their size and geographic location. Twenty companies located in six Member States were chosen for the reception of questionnaires, thereby reflecting the size of production in the Member States. In order to enhance representativeness and not to put an undue burden on small firms, the companies were selected from the top of a listing by size and location. Consequently, mainly big producers were included. The EBMA was informed about the selection and did not object.
- (74) In terms of production volume, the companies which fully cooperated account for 80,1 % of the output of the companies selected for the sample, and therefore, were considered representative.

E. INJURY

1. Cumulation

- (75) The Commission examined whether imports of bicycles originating in Indonesia, Malaysia and Thailand should be assessed cumulatively. It is the practice of the Community institutions to cumulate imports from several countries, if certain criteria are met — in particular, if products from the countries in question are interchangeable, are sold through similar sales channels with similar pricing behaviour and are in competition with each other and with the Community industry product, and if imports from the single countries are not negligible.
- (76) The Commission considered that the effects of Indonesian, Malaysian and Thai imports had to be analysed on aggregate: the exported products of each of the countries concerned were alike, interchangeable, and were marketed in the Community through comparable sales channels, within a comparable period, to compete with each other and with bicycles produced in the Community. Import volumes from the three countries show comparable

overall trends in absolute and relative terms. In 1993, imports from each of the three countries accounted for a market share of about 2 to 3 %; they were thus not negligible.

- (77) Exporters from Indonesia and Thailand requested that exports from their countries should not be cumulated with those from other countries, because exports from their countries had decreased from 1992 to 1993.
- (78) In fact, imports from Indonesia increased from 150 138 units in 1990 to 359 621 units in 1992 and subsequently decreased in 1993 by 48 540 units (–13,4 % compared to 1992) to reach a level of 311 081 units. From 1990 to 1993, however, imports from Indonesia increased by 107,2 %. Imports from Thailand showed a similar development. They increased from 194 474 units in 1990 to 521 851 units in 1992, then decreased by 103 514 units from 1992 to 1993 (–19,8 %), giving a volume of 418 337 units in 1993. From 1990 to 1993, imports from Thailand still showed an increase of 115,1 %.
- (79) The Commission concluded that, despite the decrease of imports from Indonesia and Thailand from 1992 to 1993, the overall development still showed a substantial increase of import volumes. By comparison, the decrease from 1992 to 1993 is minor and therefore cannot be regarded as a sign of changed trade patterns or trends sufficient to justify a claim for non-cumulation of injury caused by exports from those countries.

2. Community consumption, volume and market share of dumped imports

- (80) Apparent consumption of bicycles on the Community market increased by 4,0 %, from 17,3 million units in 1990 to 18 million units in 1993.
- (81) From 1990 to 1993, total imports originating in Indonesia, Malaysia and Thailand increased by 190,6 % from 418 946 to 1 217 631 units. Market share held by these countries increased by 4,4 percentage points, reaching a market share of 6,8 % in 1993. The share of total bicycle imports into the Community represented by imports originating in Indonesia, Malaysia and Thailand rose from 8,2 % in 1990 to 21,7 % in 1993.

3. Prices of dumped imports

- (82) For the model comparison the Commission applied the same methodology as was used in the anti-dumping proceeding concerning imports of bicycles originating in Taiwan and the People's Republic of China. Bicycles exported from Indonesia, Malaysia and Thailand to the Community and bicycles produced by the Community industry were classified into more than 200 different groups. The groups were defined by:

- the category of bicycle,
- the frame material used, and
- the quality of the gear system (which includes the number of gears).

- (83) The cif Community frontier value, customs cleared, of imported bicycles was compared to the ex-factory price of bicycles produced by the Community industry and classified in the corresponding group. Prices of imported bicycles and bicycles of the Community industry were, where necessary, adjusted to a comparable level of trade. Adjustments were made for export sales to the Community and for Community industry sales other than to distributors. Fob export sales to the Community were adjusted to cif level. Weighted average prices were calculated for each producer/exporter and bicycle group and were compared to weighted average prices of Community industry bicycles in the corresponding group.
- (84) Some of the Indonesian, Malaysian and Thai bicycles exported to the Community were classified in bicycle groups for which no corresponding group of bicycles produced by the Community industry existed, thereby precluding any direct comparison. In the majority of such cases, the number of bicycles of the respective Indonesian, Malaysian and Thai producers for which no direct comparison could be made was sufficiently representative. However, for two exporters this was not the case. For these companies, in order to increase the representativeness of the undercutting calculation, bicycles classified in groups where no direct comparison was possible were compared to Community industry bicycles in the most closely similar groups which had lower specifications than the respective bicycle groups of the exporter in question.
- (85) On this basis substantial price undercutting was found. Individual undercutting margins for the fully cooperating producers, expressed as a percentage of the Community producers' prices, undelivered to distributors, vary from 18,2 % to 41,4 % in Indonesia, from 29,7 % to 38,3 % in Malaysia, and from 15,3 % to 30,6 % in Thailand.
- (86) During the investigation period, imports of bicycles originating from Indonesia, Malaysia and Thailand benefited from preferential customs duties under the Generalized System of Preferences. However, normal customs duties were re-introduced for:
- Indonesia and Thailand, by Commission Regulation (EC) No 3303/93 with effect from 5 December 1993 ⁽¹⁾,
 - Malaysia, by Commission Regulation (EC) No 3251/93 with effect from 30 November 1993 ⁽²⁾.

⁽¹⁾ OJ No L 297, 2. 12. 1993, p. 3.

⁽²⁾ OJ No L 293, 27. 11. 1993, p. 26.

The effect of this change in the customs duty on the calculation of the undercutting margins can be considered insignificant, since only 10,437 units were imported from these countries in December 1993 which is 0,8 % of total imports of bicycles originating in Indonesia, Malaysia and Thailand in 1993, and therefore was not taken into account.

4. Situation of the Community industry

(a) *Vulnerability of the Community industry*

- (87) As is documented by the anti-dumping proceeding concerning imports of bicycles originating in Taiwan and the People's Republic of China, from 1988 to 1991, the Community industry was already exposed to unfairly low-priced imports of bicycles originating in the People's Republic of China and suffered material injury. In a expanding market the Community industry faced stagnating sales and consequently, a loss of market share and an unsatisfactory profit situation (Regulation (EEC) No 2474/93, recital (71)). Therefore the Community industry was already vulnerable.

(b) *Performance of the Community industry*

Sales, market share held by the Community industry, turnover

- (88) From 1990 to 1993 sales of the Community industry dropped by 16,9 % from 7 228 231 to 6 004 839 units. This resulted in a loss of market share of 8,5 percentage points, which is a drop from 42,0 % in 1990 to 33,5 % in 1993.
- (89) The sales losses of the Community industry are reflected in the turnover figures which, during the same period, decreased by 6,2 % from ECU 971 061 million to ECU 910 433 million.

Production, capacity utilization, stocks

- (90) From 1990 to 1993, Community industry production fell by 20,2 % from 7 492 140 to 5 981 772 units. At the same time, total capacity of the Community industry decreased by 2,9 % from 8 131 446 to 7 895 689 units.
- (91) The utilization rate fell by 12,6 % and stocks decreased by 5,7 % (1990-1993).

Employment, profitability, investments

- (92) Employment figures of the Community Industry fell by 9,6 %, which meant a reduction of the employment level from 7 922 to 7 159 by some 800 jobs (1990-1993).

- (93) During the same time, profitability of the Community producers dropped by 65,7 %, with the average profit margin in 1993 being 1,77 % of turnover. The precarious state of the Community industry is underlined by the fact that during the investigation, three complainant companies, accounting for about 6 % of the Community industry output, either sought winding-up or went into receivership.

- (94) From 1990 to 1993, investments increased by 125 %.

5. Conclusion on injury

- (95) Contrary to the positive expectations for recovery of the Community industry, based upon the decline of imports of bicycles originating in the People's Republic of China, an overall assessment shows that sales, turnover and production decreased substantially, resulting in a significant loss of market share, a lower capacity utilization, smaller employment figures and a deteriorated profit situation.
- (96) Consequently, it is provisionally concluded that the Community industry experienced 'material injury' within the meaning of Article 4 (1) of the Basic Regulation.

F. CAUSE OF INJURY

1. Effect of dumped imports

- (97) While bicycle imports from China lost 5,3 percentage points of market share between 1990 and 1993, the market share held by imports from Indonesia, Malaysia and Thailand increased from 1990 to 1993 by 4,4 percentage points. Thus, the Community industry was unable to take advantage of the decline in Chinese imports. On the contrary, the Community industry lost 8,5 percentage points of market share.
- (98) The imports from Indonesia, Malaysia and Thailand significantly undercut prices of the Community industry. Being exposed to this price pressure, as the bicycle market is a price-sensitive market, it is evident that the considerable degree of price undercutting of the dumped imports had a great and direct negative impact on the price level in the Community. The Community industry lost sales, had to reduce production and employment levels, and saw its profit situation deteriorating to an extent insufficient to ensure a healthy and continuous business operation.

2. Other factors

- (99) The Commission considered whether factors other than dumped imports from the countries concerned might have caused, or contributed to the injury. Exporters from the three countries alleged that imports from India, Vietnam or South Korea were also causing injury.
- (100) Imports of bicycles from India increased from 9 601 units in 1990 to 373 901 units in 1993, imports from South Korea increased from 78 369 units in 1990 to 189 514 units in 1993, and imports from Vietnam increased from a zero level in 1990 to 295 366 units in 1993. In 1993, the total volume of imports from these countries into the Community was 858 781 units, compared with 1 217 631 units imported from Indonesia, Malaysia and Thailand. From 1990 to 1993, total market share held by imports from these three countries increased by 4,2 percentage points, reaching a total market share of 4,7 % in 1993.
- (101) As regards Vietnam, a customs investigation coordinated by the Commission revealed that bicycle imports reported in Eurostat as coming from that country actually originate in the People's Republic of China.
- (102) The imports from India and South Korea had a smaller total volume in 1993 and a smaller increase in market share than the imports under consideration. Furthermore, the exporters did not submit any evidence that Indian or South Korean bicycles were sold at prices as low as those from the countries under investigation. Price information available in Eurostat cannot be referred to, since Eurostat only distinguishes two subheadings which do not reflect the variety and heterogeneity of bicycle specifications, and hence prices.
- (103) Under these conditions, no clear assessment of a possible injurious impact of the imports from India, Vietnam and South Korea can be made. It follows that the possibility cannot be ruled out that these imports have contributed to the difficult state of the Community industry.
- (104) In addition, exporters/producers in Indonesia, Malaysia and Thailand claimed that competition within the Community, in particular sales of high volumes of bicycles produced in Italy at prices below those of the imports, were causing injury.
- (105) From 1990 to 1993, in the Community estimated sales of bicycles produced by non-cooperating Italian companies increased from 1,62 million units

in 1990 to 3,28 million units in 1993 (+ 102,6 %), thus increasing their market share by 8,9 percentage points, from 9,4 % in 1990 to 18,3 % in 1993. In 1993 the non-cooperating Italian bicycle producers accounted for 72 % of Italian bicycle sales in the Community.

- (106) As to prices, however, exporters did not submit any evidence that Italian bicycles were generally sold at prices as low as those of imported bicycles. For the reasons set out in recital (102), unit prices contained in Eurostat cannot serve to establish the price relationship between Italian and imported bicycles. The information available to the Commission concerning some identifiable models of Italian producers who are not complainants show, however, a clearly higher level than average prices for comparable import bicycles.
- (107) In addition, the Commission calculated price undercutting on the basis of price information relating to sales by three complainant Italian companies which account for 24 % of Italian bicycle production. This calculation was carried out according to the methodology set out in recitals (82) and (83), and shows substantial undercutting by bicycles imported from Indonesia, Malaysia and Thailand.
- (108) In these circumstances, no positive evidence exists which would confirm that sales of bicycles produced in Italy have caused injury to the rest of the Community industry. On the other hand, it cannot be excluded that sales by non cooperating Italian companies may have contributed to the difficult state of the Community industry.

3. Conclusion

- (109) In the light of the above analysis, it is concluded that the aggregate dumped imports from the three countries in question, given the substantial increase in import volumes and considerable degree of price undercutting, taken in isolation, have caused material injury to this industry. This conclusion is not affected by the consideration that factors other than dumped imports from Indonesia, Malaysia and Thailand may have contributed to the difficult state of the Community industry.

G. COMMUNITY INTEREST

- (110) When examining whether the Community interest calls for intervention, the need to eliminate the trade-distorting effects of injurious dumping and to restore effective competition deserves special consideration.

- (111) The Commission found that, since 1990 the Community industry had increased its yearly investments to improve its efficiency in order to maintain its competitiveness. Considerable efforts have been made in order to rationalize production. This shows the determination of the bicycle industry to keep a hold in this business.
- (112) The market entry of dumped imports from Indonesia, Malaysia and Thailand prolonged and aggravated the injury experienced by the Community producers since 1988. A continuation of low prices of imports from Indonesia, Malaysia and Thailand on the Community market would jeopardize the efforts of the Community industry and, in particular, the investments made. If the effect of dumped imports is not eliminated, the Community bicycles industry will be further weakened and even more producers will face the prospect of closure.
- (113) If dumped imports from Indonesia, Malaysia and Thailand were allowed to continue, this would also have a negative effect on the level of employment in the Community industry, which provides some 8 000 jobs. These consequences would not be limited to bicycle producers but would be amplified by its repercussions in the European bicycle parts industry.
- (114) As far as the interests of consumers are concerned, the Commission is aware that the prices for imported bicycles originating in Indonesia, Malaysia and Thailand may increase as a result of the imposition of anti-dumping measures. The effect for the consumer, however, will be limited, since, in a view of the high number of competitors on the Community market, consumer choice will be preserved and competitive structures will be maintained in the Community. This will continue to have a beneficial effect on the consumer.
- (115) Having examined the various interests involved, it is considered that the imposition of provisional measures in the present case will re-establish fair competition by eliminating the injurious effects of dumping practices from Indonesia, Malaysia and Thailand, and will afford to the Community industry the opportunity of maintaining competitive production.
- (116) Furthermore, it should be recalled that, in the anti-dumping proceeding concerning imports of bicycles originating in the People's Republic of China, the Community recently adopted measures to remedy the injurious effect of these dumped imports. It is considered necessary to assure a non-discriminatory treatment of dumped imports of bicycles originating in Indonesia, Malaysia and Thailand.
- (117) Therefore it is in the Community interest to adopt anti-dumping measures in the form of provisional

duties, in order to prevent further injury from being caused by the dumped imports concerned during the remainder of the investigation.

H. PROVISIONAL DUTY

- (118) According to Article 13 (3) of the Basic Regulation, the level of the provisional duty should be equal either to the margin of dumping or the amount necessary to remove injury, whichever is lower.
- (119) Individual undercutting margins for the fully co-operating producers expressed as a percentage of the free-at-Community-frontier value vary from 22,1 % to 70,3 % in Indonesia, from 42,0 % to 61,9 % in Malaysia, and from 18,0 % to 43,4 % in Thailand. Thus it was found that for all companies the undercutting margin was higher than the dumping margin found provisionally, both being expressed as a percentage of the cif Community frontier price. Therefore, it was not necessary to establish the injury elimination level which, given the precarious financial situation of the Community industry, would have required even higher rates of duty. Consequently, the duties should be based on the dumping margins.
- (120) For one Indonesian company a provisional duty at a zero rate was established because the dumping margin provisionally calculated was *de minimis*.
- (121) For producers in the three countries concerned who neither replied to the Commission's questionnaire nor otherwise made themselves known, the Commission considers it appropriate, for the reasons outlined in recitals (69) to (71), to establish the level of provisional duty at the weighted average of the highest dumping margins found for bicycle models exported to the Community in representative quantities.

I. DEVELOPMENTS AFTER THE INVESTIGATION PERIOD

- (122) Referring to Eurostat, producers in Indonesia and Thailand, and representatives of those two countries claimed that they could not have injured the Community industry, since imports continued to decrease in 1994 compared to 1993. The producers from Thailand and the representative of Thailand further contended, that unit prices for bicycles imported from Thailand and reported in Eurostat were increasing.

(123) In respect of these claims the Commission notes that it is the consistent practice of the Community institutions, confirmed by the Court of Justice of the European Communities, not to take into account developments which have occurred after the investigation period. Indeed, in accordance with the provisions of the Community anti-dumping legislation (Article 7 (1) (c) of the Basic Regulation) the conclusions reached in anti-dumping proceedings are based on the situation prevailing in the investigation period, generally a one year period prior to the official initiation of the proceeding.

(124) This evaluation of a situation by reference to a defined period ensures that the detailed investigation, verification and analysis of the allegations put forward in an anti-dumping complaint can be carried out on the basis of ascertainable facts, in order to reach a reliable conclusion. As already stated in recital (102), Eurostat price figures alone cannot in this case constitute a sufficient basis for conclusions on injury. Not to limit the investigation to a particular reference period would result in a perpetuation of investigations, thereby preventing

conclusions being based on verified information. This aspect is of particular importance in the present situation.

(125) Decreases of imports from countries subject to anti-dumping proceedings may be caused by a variety of reasons, which cannot be determined without detailed analysis of the underlying strategies of the operators in the exporting countries and in the Community. The outcome of an anti-dumping proceeding could be influenced at will be such strategic behaviour if information related to periods after the initiation of the proceeding had to be taken into account.

J. RIGHTS OF INTERESTED PARTIES

(126) In the interest of sound administration, a period should be fixed within which the parties concerned may make their views known and request a hearing. Furthermore, it should be noted that all findings made for the purpose of this Regulation are provisional and may be reconsidered for the purpose of any definitive duty which the Commission may propose,

HAS ADOPTED THIS REGULATION :

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of bicycles and other cycles (including delivery tricycles), not motorized, falling within CN code 8712 00, originating in Indonesia, Malaysia and Thailand.

2. The rate of the provisional anti-dumping duty on the basis of the net, free-at-Community-frontier price, before duty, shall be :

Country	Products manufactured by	Rate of duty (%)	Taric additional code
Indonesia	PT Federal Cycle, Mustika	25,9	8859
	PT Insera Sena, Sidoarjo	0,0	8860
	PT Jawa Perdana Bicycle Industry, Tangerang	22,8	8861
	PT Toyo Asahi Bicycle Industries, Jakarta	25,9	8859
	PT Wijaya Indonesia Makmur Bicycle Industries, Surabaya :	22,0	8862
	other companies	29,0	8863
Malaysia	Akoko Sdn Bhd, Klang	25,2	8864
	Berjaya Cycles Sdn Bhd, Kulim	38,3	8865
	Greenworld Systems Sdn Bhd, Kuala Lumpur (previously Fairly Toraya Sdn Bhd) :	30,0	8866
	Lerun Group Industries Berhad, Petaling Jaya	38,3	8865
	Rolls Rally Sdn Bhd, Pelabuhan Kelang	28,2	8867
	other companies	41,5	8868
Thailand	Bangkok Cycle Industrial Co. Ltd, Bangkok	18,3	8869
	Siam Cycle MFG. Co. Ltd, Samuthprakarn	41,9	8870
	Thai Bicycle Industry Co. Ltd, Samuthprakarn	13,2	8871
	Victory Cycle Co. Ltd, Samuthprakarn	13,2	8871
	other companies	48,8	8872

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

4. The release of the products referred to in paragraph 1 for free circulation in the Community shall be subject to the provision of a security, equivalent to the amount of the provisional duty.

Article 2

Without prejudice to Article 7 (4) (b) and (c) of Regulation (EEC) No 2423/88, the parties concerned may make their views known in writing and apply to be heard orally by the Commission within one month of the date of entry into force of this Regulation.

Article 3

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

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

Done at Brussels, 13 October 1995.

For the Commission

Leon BRITTAN

Vice-President

COMMISSION REGULATION (EC) No 2415/95

of 13 October 1995

fixing the rates of the refunds applicable to eggs and egg yolks exported in the form of goods not covered by Annex II to the Treaty

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

exceed the refund applicable to that product when exported without further processing;

Having regard to the Treaty establishing the European Community,

Whereas Council Regulation (EEC) No 990/93⁽¹⁾, as amended by Regulation (EC) No 1380/95⁽²⁾, prohibits trade between the European Community and the Federal Republic of Yugoslavia (Serbia and Montenegro); whereas this prohibition does not apply in certain situations as comprehensively listed in Articles 2, 4, 5 and 7 thereof; whereas account should be taken of this fact when fixing the refunds;

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organization of the market in eggs⁽³⁾, as last amended by the Act of Accession of Austria, Finland and Sweden and by Regulation (EC) No 3290/94⁽⁴⁾, and in particular Article 8 (3) thereof,

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Poultrymeat and Eggs,

Whereas Article 8 (1) of Regulation (EEC) No 2771/75 provides that the difference between prices in international trade for the products listed in Article 1 (1) of that Regulation and prices within the Community may be covered by an export refund where these goods are exported in the form of goods listed in the Annex to that Regulation; whereas Commission Regulation (EC) No 1222/94 of 30 May 1994 laying down common detailed rules for the application of the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex II to the Treaty, and the criteria for fixing the amount of such refunds⁽⁵⁾, as last amended by Regulation (EC) No 1149/95⁽⁶⁾, specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in the Annex to Regulation (EEC) No 2771/75;

HAS ADOPTED THIS REGULATION:

Article 1

1. The rates of the refunds applicable to the basic products appearing in Annex A to Regulation (EC) No 1222/94 and listed in Article 1 (1) of Regulation (EEC) No 2771/75, exported in the form of goods listed in the Annex I to Regulation (EEC) No 2771/75, are hereby fixed as shown in the Annex hereto.

Whereas, in accordance Article 4 (1) of Regulation (EC) No 1222/94, the rate of the refund per 100 kilograms for each of the basic products in question must be fixed for a period of the same duration as that for which refunds are fixed for the same products exported unprocessed;

2. Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in amended Regulation (EEC) No 990/93 are observed.

Whereas Article 11 of the Agreement on Agriculture concluded under the Uruguay Round lays down that the export refund for a product contained in a good may not

Article 2

This Regulation shall enter into force on 16 October 1995.

⁽¹⁾ OJ No L 282, 1. 11. 1975, p. 49.

⁽²⁾ OJ No L 349, 31. 12. 1994, p. 105.

⁽³⁾ OJ No L 136, 31. 5. 1994, p. 5.

⁽⁴⁾ OJ No L 116, 23. 5. 1995, p. 1.

⁽⁵⁾ OJ No L 102, 28. 4. 1993, p. 14.

⁽⁶⁾ OJ No L 138, 21. 6. 1995, p. 1.

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

Done at Brussels, 13 October 1995.

For the Commission

Martin BANGEMANN

Member of the Commission

ANNEX

to the Commission Regulation of 13 October 1995 fixing the rates of the refunds applicable to eggs and egg yolks exported in the form of goods not covered by Annex II to the Treaty

(ECU/100 kg)

CN code	Description	Destination (¹)	Rate of refund
0407 00	Birds' eggs, in shell, fresh, preserved or cooked :		
	– Of poultry :		
0407 00 30	– – Other :		
	a) On exportation of ovalbumin of CN code 3502 10	02	10,00
		03	6,00
	b) On exportation of other goods	01	6,00
0408	Birds' eggs, not in shell and egg yolks, fresh, dried, cooked by steaming or by boiling in water, moulded, frozen or otherwise preserved, whether or not containing added sugar or other sweetening matter :		
	– Egg yolks :		
0408 11	– – Dried :		
ex 0408 11 80	– – – Suitable for human consumption : not sweetened	01	45,00
0408 19	– – Other :		
	– – – Suitable for human consumption :		
ex 0408 19 81	– – – – Liquid : not sweetened	01	20,00
ex 0408 19 89	– – – – Frozen : not sweetened	01	20,00
	– Other :		
0408 91	– – Dried :		
ex 0408 91 80	– – – Suitable for human consumption : not sweetened	01	27,00
0408 99	– – Other :		
ex 0408 99 80	– – – Suitable for human consumption : not sweetened	01	7,00

(¹) The destinations are as follows :

01 Third countries,

02 Kuwait, Bahrain, Oman, Qatar, United Arab Emirates, Yemen, Hong Kong, Russia, South Korea, Japan, Malaysia, Thailand and Taiwan,

03 All destinations except those of 02.

COMMISSION REGULATION (EC) No 2416/95

of 13 October 1995

laying down detailed rules for the application of Council Regulation (EC) No 2179/95 concerning the autonomous and transitional adaptation of certain agricultural concessions provided for in the Europe Agreements and amending Regulation (EC) No 3379/94 opening and administering certain Community tariff quotas in 1995 for certain agricultural products and for beer, as regards imports into the Community of certain agricultural products originating in Poland

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2179/95 of 8 August 1995 providing for the adjustment, as an autonomous and transitional measure, of certain agricultural concessions provided for in the Europe Agreements and amending Regulation (EC) No 3379/94 opening and administering certain Community tariff quotas in 1995 for certain agricultural products and for beer, to take account of the Agreement on Agriculture concluded during the Uruguay Round Multilateral Trade Negotiations⁽¹⁾, and in particular Article 2 thereof,

Whereas Poland has taken or will take as soon as possible, with regard to the Community, measures having comparable effects to those provided for in paragraphs 1, 8 and 9 of Article 2 of Regulation (EC) No 2179/95;

Whereas it is therefore necessary, in accordance with paragraph 10 of the above Article, to implement the measures provided for in paragraphs 1, 8 and 9 of the above Article;

Whereas, as a consequence, it is necessary to amend, for the period 1 July to 31 December 1995, the Commission Regulations implementing the Europe Agreements with Poland⁽²⁾ and implementing Council Regulation (EC) No 3379/94 of 22 December 1994 opening and administering certain Community tariff quotas in 1995 for certain agricultural products and for beer⁽³⁾;

Whereas it is thus necessary to amend the following Regulations:

- Regulation (EEC) No 584/92⁽⁴⁾, as last amended by Regulation (EC) No 2252/95⁽⁵⁾,
- Regulation (EEC) No 2689/93⁽⁶⁾, as last amended by Regulation (EC) No 2252/95,
- Regulation (EEC) No 2699/93⁽⁷⁾, as last amended by Regulation (EC) No 2252/95,

— Regulation (EC) No 121/94⁽⁸⁾, as last amended by Regulation (EC) No 2252/95,

— Regulation (EC) No 629/95⁽⁹⁾, as last amended by Regulation (EC) No 2252/95,

— Regulation (EC) No 1439/95⁽¹⁰⁾, as last amended by Regulation (EC) No 2252/95,

— Regulation (EC) No 1440/95⁽¹¹⁾, as last amended by Regulation (EC) No 2252/95,

— Regulation (EC) No 1942/95⁽¹²⁾, as last amended by Regulation (EC) No 2252/95;

Whereas it is also necessary, as provided for in Article 2 (9) of Regulation (EC) No 2179/95 to reduce to ECU 399 per tonne, for the period from 1 July to 31 December 1995, the specific amount applicable within the quota of 169 000 head of young bovine animals for fattening opened within the framework of the GATT;

Whereas Commission Regulation (EC) No 1462/95 of 27 June 1995 opening and providing for the administration of an import tariff quota for young male bovine animals for fattening (1 July 1995 to 30 June 1996)⁽¹³⁾ should be amended accordingly;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committees concerned,

HAS ADOPTED THIS REGULATION:

Article 1

The preferential import duties on agricultural products originating in Poland provided for in the Regulations implementing the Europe Agreement with Poland and in the Regulations implementing Regulation (EC) No 3379/94, which are listed in Annex I to this Regulation are hereby replaced by those provided for in Annex II to this Regulation.

⁽¹⁾ OJ No L 223, 20. 9. 1995, p. 29.

⁽²⁾ OJ No L 348, 31. 12. 1993, p. 1.

⁽³⁾ OJ No L 366, 31. 12. 1994, p. 3.

⁽⁴⁾ OJ No L 62, 7. 3. 1992, p. 34.

⁽⁵⁾ OJ No L 230, 27. 9. 1995, p. 12.

⁽⁶⁾ OJ No L 245, 1. 10. 1993, p. 80.

⁽⁷⁾ OJ No L 245, 1. 10. 1993, p. 88.

⁽⁸⁾ OJ No L 121, 26. 1. 1994, p. 3.

⁽⁹⁾ OJ No L 66, 24. 3. 1995, p. 6.

⁽¹⁰⁾ OJ No L 143, 27. 6. 1995, p. 7.

⁽¹¹⁾ OJ No L 143, 27. 6. 1995, p. 17.

⁽¹²⁾ OJ No L 186, 5. 8. 1995, p. 30.

⁽¹³⁾ OJ No L 144, 28. 6. 1995, p. 6.

Article 2

Regulation (EC) No 1462/95 is hereby amended as follows :

1. The following paragraph 5 is added to Article 1 :

'5. For the period 1 July to 31 December 1995, the import duty to be applied to products originating in Poland shall be ECU 399 per tonne plus 16 %.'

2. The following subparagraph is added to Article 6 (3) :

'However, for the period 1 July to 31 December 1995, the security for products originating in Poland shall be ECU 968 per tonne.'

Article 3

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

It shall apply from 1 July to 31 December 1995.

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

Done at Brussels, 13 October 1995.

For the Commission

Franz FISCHLER

Member of the Commission

*ANNEX I***LIST OF REGULATIONS REFERRED TO IN ARTICLE 1****Cereals sector**

Regulation (EC) No 121/94 (OJ No L 121, 26. 1. 1994, p. 3), as amended by Regulation (EC) No 1906/94 (OJ No L 194, 29. 7. 1994, p. 26) and last amended by Regulation (EC) No 2252/95 (OJ No L 230, 27. 9. 1995, p. 12).

Milk products sector

Regulation (EEC) No 584/92 (OJ No L 62, 7. 3. 1992, p. 34), as last amended by Regulation (EC) No 2252/95 (OJ No L 230, 27. 9. 1995, p. 12).

Commission Regulation (EC) No 629/95 (OJ No L 66, 24. 3. 1995, p. 6), as last amended by Regulation (EC) No 2252/95 (OJ No L 230, 27. 9. 1995, p. 12).

Pigmeat sector

Regulation (EEC) No 2698/93 (OJ No L 245, 1. 10. 1993, p. 80), as last amended by Regulation (EC) No 2252/95 (OJ No L 230, 27. 9. 1995, p. 12).

Poultrymeat and eggs sector

Commission Regulation (EEC) No 2699/93 (OJ No L 245, 1. 10. 1993, p. 88), as last amended by Regulation (EC) No 2252/95 (OJ No L 230, 27. 9. 1995, p. 12).

Sheepmeat and goatmeat sector

Regulation (EC) No 1439/95 (OJ No L 143, 27. 6. 1995, p. 7), as last amended by Regulation (EC) No 2252/95 (OJ No L 230, 27. 9. 1995, p. 12).

Regulation (EC) No 1440/95 (OJ No L 143, 27. 6. 1995, p. 17), as amended by Regulation (EC) No 2252/95 (OJ No L 230, 27. 9. 1995, p. 12).

Beef and veal sector

Commission Regulation (EC) No 1942/95 (OJ No L 186, 5. 8. 1995, p. 30), as last amended by Regulation (EC) No 2252/95 (OJ No L 230, 27. 9. 1995, p. 12).

ANNEX II

Imports into the Community of the following products originating in Poland shall be subject to the concessions set out below (MFN= most favoured nation duty) ⁽¹⁾.

CN code	Description	Quantity	Comments	Duty (% of MFN)
0101 19 10		unlimited	⁽²⁾	free
0103 92 19		quota		20
0104 10 30 0104 10 80 0104 20 10 0104 20 90 0204		quota	⁽³⁾ ⁽⁴⁾ ⁽³⁾ ⁽⁴⁾ ⁽³⁾ ⁽⁴⁾ ⁽³⁾ ⁽⁴⁾ ⁽³⁾	free free
0201 0202		quota		20
0203 11 10 0203 21 10 ex 0203 12 ex 0203 22 0203 19 55 0203 29 55 0203 19 11 0203 19 13 0203 19 15 0203 19 59 0203 29 11 0203 29 13 0203 29 15 0203 29 59		quota	 ⁽⁵⁾ ⁽⁵⁾	20
0203 11 90 0203 12 90 0203 19 90 0203 21 90 0203 22 90 0203 29 90		unlimited		free
0206 80 91 0206 90 91		unlimited		50
0105 91 00 0207 10 11 0207 10 15 0207 10 19 0207 21 10 0207 21 90		quota		20
0207 39 11 0207 39 13 0207 39 15 0207 39 17 0207 39 21 0207 39 23 0207 39 27 0207 41 10 0207 41 11 0207 41 21		quota		20

CN code	Description	Quantity	Comments	Duty (% of MFN)
0207 41 31 0207 41 41 0207 41 51 0207 41 71 0207 41 90				
0105 99 30 0207 10 31 0207 10 39 0207 22 10 0207 22 90 0207 39 31 0207 39 33 0207 39 35 0207 39 37 0207 39 41 0207 39 43 0207 39 45 0207 39 47 0207 39 51 0207 42 10 0207 42 11 0207 42 21 0207 42 31 0207 42 41 0207 42 51 0207 42 59 0207 42 71		quota		20
0207 10 51 0207 10 55 0207 23 11 0207 10 59 0207 23 19 ex 0207 39 55 ex 0207 43 15 ex 0207 39 73 ex 0207 43 53 ex 0207 39 77 ex 0207 43 63	 Cuts of ducks, boneless, fresh, chilled or frozen Breasts and cuts thereof, of ducks, with bone-in, fresh, chilled or frozen Legs and cuts thereof, of ducks, with bone-in, fresh, chilled or frozen	quota		20
0105 99 20 0207 10 71 0207 10 79 0207 23 51 0207 23 59 0207 39 53 0207 43 11 0207 39 61 0207 43 23 ex 0207 39 65 ex 0207 43 31 ex 0207 39 67 ex 0207 43 41 0207 39 71 0207 43 51 0207 39 75 0207 43 61	 Whole wings, with or without tips, of geese, fresh, chilled or frozen Backs, necks, backs with necks attached, rumps and wings tips, of geese, fresh, chilled or frozen 	quota		20

CN code	Description	Quantity	Comments	Duty (% of MFN)
ex 0207 39 81 ex 0207 43 71	Goose paletots, fresh, chilled or frozen			
ex 0207 39 85 ex 0207 43 90	Goose offal, other than livers, fresh, chilled or frozen			
0207 31 0207 50 10		unlimited		free
0208 10 11 0208 10 19		unlimited		70 70
0208 10 90 0208 20 00 0208 90 10				free free 50
0208 90 20 0208 90 40				free free
0210 11 11 0210 11 19 0210 11 31 0210 11 39 0210 11 90 0210 12 11 0210 12 19 0210 12 90 0210 19 10 0210 19 20 0210 19 30 0210 19 40 0210 19 51 0210 19 59 0210 19 60 0210 19 70 0210 19 81 0210 19 89 0210 19 90		quota		20
0402 10 19 0402 21 19 0402 21 99		quota		20
0405 00 11 0405 00 19		quota		20
0406		quota		20
0407 00 11 0407 00 19 0407 00 30		quota		20
0408 91 80 0408 99 80		quota		20
0409 00 00		unlimited		93
0602 40 90		unlimited		46
0603 90 00		unlimited		35

CN code	Description	Quantity	Comments	Duty (% of MFN)
ex 0604 10 90 0604 91 21 0604 91 29 0604 91 41 0604 91 49 0604 91 90 0604 99 10 0604 99 90	fresh	unlimited		70 70 70 70 70 70 50 82
0701 10 00 0701 90 90		quota quota		20
0703 10 11 0703 10 19 0703 10 90 0703 20 00 0703 90 00		quota quota quota quota quota		20
0704 10 10 0704 10 90 0704 20 00 0704 90 10 0704 90 90		quota		20
0705 11 10 0705 11 90 0705 19 00 0705 21 00		quota		20
ex 0706 10 00	Carrots, fresh or chilled	quota		20
0706 90 11 0706 90 19		quota		20
0706 90 30		unlimited		47
0706 90 90		quota		20
0707 00 10 0707 00 15 0707 00 20 0707 00 35 0707 00 40		quota	(6) (9) (6) (9) (6) (9) (6) (9) (6) (9)	20
0707 00 25 0707 00 30		unlimited	(6) (9) (6) (9)	80
0708 10 10 0708 20 10 0708 20 90 0708 90 00 0708 20 90		quota quota		20
ex 0709 20 00 0709 51 30	Asparagus from 1 October to 31 January	unlimited		75 free

[illegible]

CN code	Description	Quantity	Comments	Duty (% of MFN)
0809 40 30 0809 40 10 0809 40 40 0809 40 20		quota	(⁶) (⁹) . (⁶) (⁹)	20
0809 40 90		unlimited		47
0810 20 10 0810 20 90 0810 30 10 0810 30 30 0810 30 90 0810 40 30 0810 40 50 0810 40 90		unlimited	(⁸) (⁸) (⁸) (⁸) (⁸) (⁸) (⁸) (⁸)	82 42 82 82 42 free 75 42
0811 10 11 0811 10 19		quota	(⁸) (⁹) (⁸)	20
ex 0811 10 90 0811 20 19 0811 20 31 0811 20 39 0811 20 51	Raspberries, sugar content not > 13 % by weight	unlimited	(⁸) (⁸) (⁸) (⁸) (⁸)	72 69 78 56 67
0811 20 59 0811 20 90 0811 90 50 0811 90 70 0811 90 75 0811 90 80 0811 90 85 0811 90 95		quota		20
0813 10 00 0813 20 00 0813 30 00 0813 40 10 0813 40 30 0813 40 70 0813 40 95 0813 50 12 0813 50 15 0813 50 19 0813 50 31 0813 50 39 0813 50 91 0813 50 99		quota		20
0904 20 90		unlimited		33
1008 10 00		quota		20

CN code	Description	Quantity	Comments	Duty (% of MFN)
1008 13 00		quota		20
1601 00 91 1601 00 99		quota		20
1602 41 10 1602 42 10 1602 49 11 1602 49 13 1602 49 15 1602 49 19 1602 49 30 1602 49 50		quota		20
1602 20 11 1602 20 19		unlimited		69
ex 1602 90 31 ex 1602 90 31	Game Rabbit	unlimited		47 82
ex 2001 10 00	Cucumbers, preserved	quota		20
2001 90 20		unlimited		50
0711 90 40 2003 10 20 2003 10 30		quota	(¹⁰)	8,4 %
2005 40 00 2005 59 00		quota quota		20
2005 90 10		unlimited		50
ex 2007 99 31 2007 99 33 2007 99 35	Sour cherry jam	quota	(⁹) (⁹) (⁹)	20
ex 2007 99 39	With sugar content > 30 % by weight. Fruit falling within heading Nos 0801, 0803, 0804 (except figs and pineapples) 0807 20 00, 0810 20 90, 0810 30 90, 0810 40 10, 0810 40 50, 0810 40 90, 0810 90	unlimited	(⁹)	27
2008 80 50 2008 80 70 2008 80 99		quota		20
ex 2008 99 99	Fruit falling within heading Nos 0803, 0804 (except figs), 0807 20 00, 0810 20 90, 0810 30 90, 0810 40 10, 0810 40 50, 0810 40 90, 0810 90	unlimited		26
2009 70 19		quota		20
2009 70 30 2009 70 93 2009 70 99		unlimited		48

-
- (¹) Where ex CN codes are indicated, the preferential scheme is to be determined by application to the CN code and corresponding description taken together.
 - (²) Entry within this code is subject to conditions laid down in the relevant Community provisions.
 - (³) The Community may take into account, in the framework of its legislation and when appropriate, the supply needs of its market and the need to maintain its market balance.
 - (⁴) Possibility of converting limited quantities.
 - (⁵) Excluding tenderloin presented alone.
 - (⁶) See comments No 14 to 37 on entry prices, Schedule LXXX-European Communities, Section I-A.
 - (⁷) Minimum duty applicable = ECU 2,1/100 kg net.
 - (⁸) Subject to minimum import price arrangements contained in the Annex to Annexes VIII b and X c (Europe Agreement) for products for processing.
 - (⁹) The reduction applies only on the *ad valorem* part of the duty.
 - (¹⁰) Duty applicable = 8,4 % *ad valorem*.
-

COMMISSION REGULATION (EC) No 2417/95

of 13 October 1995

updating and amending Regulations in the beef sector fixing before 1 February 1995 certain prices and amounts whose values in ecus have been adjusted because of the abolition of the corrective factor in agricultural conversion rates

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy⁽¹⁾, as last amended by Regulation (EC) No 150/95⁽²⁾, and in particular Article 13 (1) thereof,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal⁽³⁾, as last amended by Regulation (EC) No 424/95⁽⁴⁾, and in particular Article 7 (3) thereof,

Whereas with effect from 1 February 1995, Article 13 (2) of Regulation (EEC) No 3813/92 alters the value in ecus of certain prices and amounts in order to neutralize the effects of the abolition of the corrective factor of 1,207509 which until 31 January 1995 affected the conversion rates used for agriculture;

Whereas the new values in ecu of the prices and amounts concerned have been established as of 1 February 1995 according to the rules laid down in Article 13 (2) of Regulation (EEC) No 3813/92 and Article 18 (1) of Commission Regulation (EEC) No 1068/93 of 30 April 1993 on detailed rules for determining and applying the agricultural conversion rates⁽⁵⁾, as last amended by Regulation (EC) No 1053/95⁽⁶⁾;

Whereas, in accordance with Article 18 (2) of Regulation (EEC) No 1068/93, in order to avoid confusion and facilitate the application of the common agricultural policy, it is necessary to replace the value in ecus of the prices and amounts concerned where they are not of periodic application, and where they are applicable at least from:

- 1 January 1996 in respect of the amounts not concerned by a marketing year,
- the beginning of the 1996 marketing year in the case of the prices or amounts for which that marketing year starts in January 1996,

— the beginning of the 1995/96 marketing year in the other cases,

which appear in regulations that came into force before 1 February 1995; whereas the Regulations concerned should therefore be amended;

Whereas in the interests of clarity the new values in ecu in respect of securities required under Commission Regulation (EEC) No 2182/77⁽⁷⁾, as last amended by Regulation (EEC) No 1759/93⁽⁸⁾, Regulation (EEC) No 2173/79⁽⁹⁾, as last amended by Regulation (EEC) No 1759/93, Regulation (EEC) No 985/81⁽¹⁰⁾, as last amended by Regulation (EEC) No 1759/93, Regulation (EEC) No 2539/84⁽¹¹⁾, as last amended by Regulation (EEC) No 1759/93, Regulation (EEC) No 2456/93⁽¹²⁾, as last amended by Regulation (EC) No 1999/95⁽¹³⁾, should be rounded to the nearest whole number;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

Article 1

As a consequence of the adjustment of certain prices and amounts in ecu in the beef sector coming into effect from 1 February 1995, pursuant to Article 13 (2) of Regulation (EEC) No 3813/92 and of Article 18 (1) of Regulation (EEC) No 1068/93, the legal instruments referred to in Article 2 shall be amended as laid down therein.

Article 2

1. Regulation (EEC) No 805/68 is amended as follows:

(a) the third indent of Article 4b (6) is replaced by the following:

- ECU 90 for the 1995 calendar year,
- ECU 108,7 for the 1996 calendar year and thereafter;

⁽¹⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽²⁾ OJ No L 22, 31. 1. 1995, p. 1.

⁽³⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽⁴⁾ OJ No L 45, 1. 3. 1995, p. 2.

⁽⁵⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽⁶⁾ OJ No L 107, 12. 5. 1995, p. 4.

⁽⁷⁾ OJ No L 251, 1. 10. 1977, p. 60.

⁽⁸⁾ OJ No L 161, 2. 7. 1993, p. 59.

⁽⁹⁾ OJ No L 251, 5. 10. 1979, p. 12.

⁽¹⁰⁾ OJ No L 99, 10. 4. 1981, p. 38.

⁽¹¹⁾ OJ No L 238, 6. 9. 1984, p. 13.

⁽¹²⁾ OJ No L 225, 4. 9. 1993, p. 4.

⁽¹³⁾ OJ No L 195, 18. 8. 1995, p. 6.

(b) in Article 4c (2):

- the amount of 'ECU 60' shall be replaced by the amount of 'ECU 72,45',
- the amount of 'ECU 45' shall be replaced by the amount of 'ECU 54,34',
- the amount of 'ECU 30' shall be replaced by the amount of 'ECU 36,23',
- the amount of 'ECU 15' shall be replaced by the amount of 'ECU 18,11';

(c) in Article 4d (7):

- in the first subparagraph, the third indent is replaced by the following:
'— ECU 120 for the 1995 calendar year,
— ECU 144,9 for the 1996 calendar year and thereafter.'
- in the third subparagraph, the amount of 'ECU 25' shall be replaced by the amount of 'ECU 30,19',
- in the fourth subparagraph, the amount of 'ECU 20' shall be replaced by the amount of 'ECU 24,15';

(d) in Article 4h (1) the amount of 'ECU 30' shall be replaced by the amount of 'ECU 36,23';

(e) in Article 4i (2) the amount of 'ECU 100' shall be replaced by the amount of 'ECU 120,8'.

2. In Regulation (EEC) No 2182/77, in Article 5 (3), in subparagraph (a) the amount of 'ECU 25' shall be replaced by the amount of 'ECU 30' and in subparagraph (b), the amount of 'ECU 2,5' shall be replaced by the amount of 'ECU 3'.

3. In Regulation (EEC) No 2173/79, in Article 15 (1), the amount of 'ECU 50' shall be replaced by the amount of 'ECU 60'.

4. In Commission Regulation (EEC) No 985/81, in Article 3 (5), in subparagraph (a), the amount of 'ECU 25' shall be replaced by the amount of 'ECU 30' and in subparagraph (b), the amount of 'ECU 2,5' shall be replaced by the amount of 'ECU 3'.

5. In Regulation (EEC) No 2539/84:

(a) in Article 5 (2) (d), in point (1), the amount of 'ECU 25' shall be replaced by the amount of 'ECU 30' and in point (2), the amount of 'ECU 2,5' shall be replaced by the amount of 'ECU 3', and

(b) in Article 5 (3) (e), in point (1), the amount of 'ECU 25' shall be replaced by the amount of 'ECU 30' and in point (2), the amount of 'ECU 2,5' shall be replaced by the amount of 'ECU 3'.

6. In Council Regulation (EEC) No 3763/91⁽¹⁾, in Article 5, the amount of 'ECU 40' shall be replaced by the amount of 'ECU 48,30' each time it appears.

7. In Council Regulation (EEC) No 1600/92⁽²⁾, in Article 14 (2) and (3) and Article 24 (2) and (3), the amount of 'ECU 40' shall be replaced by the amount of 'ECU 48,30'.

8. In Council Regulation (EEC) No 1601/92⁽³⁾, in Article 10 (2) and (3), the amount of 'ECU 40' shall be replaced by the amount of 'ECU 48,30'.

9. In Council Regulation (EEC) No 747/93⁽⁴⁾, in Article 1 (2), the amount of 'ECU 130' shall be replaced by the amount of 'ECU 157,0', each time it appears.

10. In Council Regulation (EEC) No 2019/93⁽⁵⁾, in Article 6 (1), the amount of 'ECU 40' shall be replaced by the amount of 'ECU 48,30' each time it appears.

11. In Regulation (EEC) No 2456/93:

(a) in Article 12 (1), the amount of 'ECU 30' shall be replaced by the amount of 'ECU 36', and

(b) in Article 14 (1), the amount of 'ECU 8' shall be replaced by the amount of ECU 10 and the amount of 'ECU 5' shall be replaced by the amount of ECU 6.

12. In Commission Regulation (EC) No 456/94⁽⁶⁾, in Article 1, second indent, the amount of 'ECU 287,78' shall be replaced by the amount of 'ECU 347,50'.

Article 3

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

However, Article 2 (1), (6), (7), (8), (9) and (10) shall apply from the date on which an agricultural conversion rate fixed on or after 1 February 1995 is first applied.

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

Done at Brussels, 13 October 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 356, 24. 12. 1991, p. 1.

⁽²⁾ OJ No L 173, 27. 6. 1992, p. 1.

⁽³⁾ OJ No L 173, 27. 6. 1992, p. 13.

⁽⁴⁾ OJ No L 77, 31. 3. 1993, p. 15.

⁽⁵⁾ OJ No L 184, 27. 7. 1993, p. 1.

⁽⁶⁾ OJ No L 57, 1. 3. 1994, p. 50.

COMMISSION REGULATION (EC) No 2418/95**of 13 October 1995****providing for the rejection of applications for export licences in relation to
products falling within CN code 1108 13 00**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1863/95 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1162/95 of 23 May 1995 laying down special detailed rules for the application of the system of import and export licences for cereals and rice ⁽³⁾, as last amended by Regulation (EC) No 2147/95 ⁽⁴⁾, and in particular Article 7 (3) thereof,

Whereas the quantity covered by applications for advance fixing of refunds on potato starch is of great importance and could give rise to speculation ;

Whereas it has therefore been decided to reject all applications for export licences of such products made on 11 and 12 October 1995,

HAS ADOPTED THIS REGULATION :

Article 1

In accordance with Article 7 (3) of Regulation (EC) No 1162/95, applications for export licences with advance fixing of refunds for products falling within CN code 1108 13 00 made on 11 and 12 October 1995 shall be rejected.

Article 2

This Regulation shall enter into force on 14 October 1995.

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

Done at Brussels, 13 October 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ No L 179, 29. 7. 1995, p. 1.

⁽³⁾ OJ No L 117, 24. 5. 1995, p. 2.

⁽⁴⁾ OJ No L 215, 9. 9. 1995, p. 4.

COMMISSION REGULATION (EC) No 2419/95
of 13 October 1995

**providing for the rejection of applications for export licences in relation to
products falling within the beef sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European
Community,

Having regard to Council Regulation (EEC) No 805/68 of
27 June 1968 on the common organization of the market
in beef⁽¹⁾, as last amended by Regulation (EC) No
424/95⁽²⁾,

Having regard to Commission Regulation (EC) No
1445/95 of 26 June 1995 laying down special rules for
the application of the system of import and export
licences for beef and repealing Regulation (EEC) No
2377/80⁽³⁾, as amended by Regulation (EC) No
2351/95⁽⁴⁾, and in particular Article 10 thereof,

Whereas the quantity covered by applications for advance
fixing of refunds is greater than that normally disposed
of; whereas it has therefore been decided to reject all

applications for export licences for beef made on 12
October 1995,

HAS ADOPTED THIS REGULATION :

Article 1

In accordance with Article 10 (2) of Regulation (EC) No
1445/95, applications for export licences with advance
fixing of refunds for products falling within the beef
sector made on 12 October 1995 shall be rejected.

Article 2

This Regulation shall enter into force on 14 October
1995.

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

Done at Brussels, 13 October 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 45, 1. 3. 1995, p. 2.

⁽³⁾ OJ No L 143, 27. 6. 1995, p. 35.

⁽⁴⁾ OJ No L 239, 7. 10. 1995, p. 3.

COMMISSION REGULATION (EC) No 2420/95
of 13 October 1995
fixing the export refunds on beef

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal⁽¹⁾, as last amended by Regulation (EC) No 424/95⁽²⁾, and in particular Article 13 thereof,

Whereas Article 13 of Regulation (EEC) No 805/68 provides that the difference between prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Regulation (EEC) No 32/82⁽³⁾, as last amended by Regulation (EEC) No 3169/87⁽⁴⁾, Regulation (EEC) No 1964/82⁽⁵⁾, as amended by Regulation (EEC) No 3169/87, and Regulation (EEC) No 2388/84⁽⁶⁾, as last amended by Regulation (EEC) No 3661/92⁽⁷⁾, lay down the conditions for granting special export refunds on certain cuts of beef and veal and certain preserved beef and veal products;

Whereas it follows from applying those rules and criteria to the foreseeable situation on the market in beef and veal that the refund should be as set out below;

Whereas, given the current market situation in the Community and the possibilities of disposal in certain third countries in particular, export refunds should be granted, on the one hand, on bovine animals intended for slaughter of a live weight greater than 220 kilograms and less than 300 kilograms, and, on the other on adult bovine animals of a live weight of at least 300 kilograms;

Whereas export refunds should be granted for certain destinations on some fresh or chilled meat listed in the

Annex under CN code 0201, on some frozen meat listed in the Annex under CN code 0202, on some meat or offal listed in the Annex under CN code 0206 and on some other prepared or preserved meat or offal listed in the Annex under CN code 1602 50 10;

Whereas, in view of the wide differences in products covered by CN codes 0201 20 90 700 and 0202 20 90 100 used for refund purposes, refunds should only be granted on cuts in which the weight of bone does not exceed one third;

Whereas, in the case of meat of bovine animals, boned or boneless, salted and dried, there are traditional trade flows to Switzerland; whereas, to allow this trade to continue, the refund should be set to cover the difference between prices on the Swiss market and export prices in the Member States; whereas there are possibilities for exporting such meat and also salted, smoked and dried meat to certain African, Near and Middle Eastern countries; whereas a refund should accordingly be set;

Whereas, in the case of certain other cuts and preserves of meat or offal shown in the Annex under CN codes 1602 50 31 to 1602 50 80, the Community share of international trade may be maintained by granting a refund corresponding to that at present available;

Whereas, in the case of other beef and veal products, a refund need not be fixed since the Community's share of world trade is not significant;

Whereas Commission Regulation (EEC) No 3846/87⁽⁸⁾, as last amended by Regulation (EC) No 1628/95⁽⁹⁾, establishes the agricultural product nomenclature for the purposes of export refunds;

Whereas, in order to simplify customs export formalities for operators, the refunds on all frozen cuts should be brought in line with those on fresh or chilled cuts other than those from adult male bovine animals;

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ No L 45, 1. 3. 1995, p. 2.

⁽³⁾ OJ No L 4, 8. 1. 1982, p. 11.

⁽⁴⁾ OJ No L 301, 24. 10. 1987, p. 21.

⁽⁵⁾ OJ No L 212, 21. 7. 1982, p. 48.

⁽⁶⁾ OJ No L 221, 18. 8. 1984, p. 28.

⁽⁷⁾ OJ No L 370, 19. 12. 1992, p. 16.

⁽⁸⁾ OJ No L 366, 24. 12. 1987, p. 1.

⁽⁹⁾ OJ No L 155, 6. 7. 1995, p. 9.

Whereas experience has shown that in certain cases it is often difficult to determine the relevant quantities of beef, veal and other meat contained in prepared or preserved meat falling within CN code 1602 50; whereas exclusively beef and veal products should accordingly be set apart and a new heading should be created for mixtures of meats or offals; whereas checks on products other than mixtures of meat or offal should be stepped up by making the granting of refunds on these products conditional on manufacture under the arrangements provided for in Article 4 of Council Regulation (EEC) No 565/80 of 4 March 1980 on the advance payment of export refunds in respect of agricultural products⁽¹⁾, as amended by Regulation (EEC) No 2026/83⁽²⁾;

Whereas refunds on female animals should vary depending on their age in order to prevent abuses in the export of certain pure-bred breeding animals;

Whereas Council Regulation (EEC) No 990/93⁽³⁾, as amended by Regulation (EC) No 1380/95⁽⁴⁾, prohibits trade between the European Community and the Federal Republic of Yugoslavia (Serbia und Montenegro); whereas this prohibition does not apply in certain situations as comprehensively listed in Articles 2, 4, 5 and 7 thereof; whereas account should be taken of this fact when fixing the refunds;

Whereas, notwithstanding the subdivision of the combined nomenclature for prepared and preserved meat,

other than uncooked, falling within CN code 1602 50, experience has shown that it is possible to delete from the refund nomenclature several products falling within CN code 1602 50 31 and to amend the list of products falling within CN code 1602 50 80;

Whereas the Management Committee for Beef and Veal has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The list of products on which export refunds as referred to in Article 13 of Regulation (EEC) No 805/68 are granted and the amount thereof shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 14 October 1995.

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

Done at Brussels, 13 October 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 62, 7. 3. 1980, p. 5.

⁽²⁾ OJ No L 199, 22. 7. 1983, p. 12.

⁽³⁾ OJ No L 102, 28. 4. 1993, p. 14.

⁽⁴⁾ OJ No L 138, 21. 6. 1995, p. 1.

ANNEX

to the Council Regulation of 13 October 1995 fixing export refunds on beef

(ECU/100 kg)			(ECU/100 kg)		
Product code	Destination (7)	Refund (8) (10)	Product code	Destination (7)	Refund (8) (10)
		— Live weight —			— Net weight —
0102 10 10 120	01	88,00	0201 20 20 120	02	114,00
0102 10 10 130	02	64,50		03	79,50
	03	45,50		04	39,50
	04	22,50	0201 20 30 110 (1)	02	112,50
0102 10 30 120	01	88,00		03	77,00
0102 10 30 130	02	64,50		04	38,00
	03	45,50	0201 20 30 120	02	83,00
	04	22,50		03	58,50
0102 10 90 120	01	88,00		04	29,00
0102 90 41 100	02	79,00	0201 20 50 110 (1)	02	196,50
0102 90 51 000	02	58,50		03	131,00
	03	40,50		04	65,00
	04	20,50	0201 20 50 120	02	145,00
0102 90 59 000	02	58,50		03	100,00
	03	40,50		04	50,00
	04	20,50	0201 20 50 130 (1)	02	112,50
0102 90 61 000	02	58,50		03	77,00
	03	40,50		04	38,00
	04	20,50	0201 20 50 140	02	83,00
0102 90 69 000	02	58,50		03	58,50
	03	40,50		04	29,00
	04	20,50	0201 20 90 700	02	83,00
0102 90 71 000	02	79,00		03	58,50
	03	52,50		04	29,00
	04	26,50	0201 30 00 050 (4)	05	100,50
0102 90 79 000	02	79,00	0201 30 00 100 (2)	02	281,00
	03	52,50		03	187,50
	04	26,50		04	94,00
				06	240,50
0201 10 00 110 (1)	02	112,50	0201 30 00 150 (6)	09	149,00
	03	77,00		10	125,50
	04	38,00		03	112,50
0201 10 00 120	02	83,00		04	56,50
	03	58,50		06	130,50
	04	29,00		07	81,00
0201 10 00 130 (1)	02	155,00	0201 30 00 190 (6)	02	115,00
	03	104,00		03	75,50
	04	52,50		04	37,50
0201 10 00 140	02	114,00		06	92,50
	03	79,50		07	81,00
	04	39,50			
0201 20 20 110 (1)	02	155,00			
	03	104,00			
	04	52,50			

(ECU/100 kg)			(ECU/100 kg)		
Product code	Destination (°)	Refund (°) (10)	Product code	Destination (°)	Refund (°) (10)
		— Net weight —			— Net weight —
0202 10 00 100	02	83,00	1602 50 10 120	02	132,50 (°)
	03	58,50		03	106,00 (°)
	04	29,00		04	106,00 (°)
0202 10 00 900	02	114,00	1602 50 10 140	02	117,00 (°)
	03	79,50		03	94,00 (°)
	04	39,50		04	94,00 (°)
0202 20 10 000	02	114,00	1602 50 10 160	02	94,00 (°)
	03	79,50		03	75,50 (°)
	04	39,50		04	75,50 (°)
0202 20 30 000	02	83,00	1602 50 10 170	02	62,50 (°)
	03	58,50		03	50,00 (°)
	04	29,00		04	50,00 (°)
0202 20 50 100	02	145,00	1602 50 10 190	02	62,50
	03	100,00		03	50,00
	04	50,00		04	50,00
0202 20 50 900	02	83,00	1602 50 10 240	02	19,50
	03	58,50		03	19,50
	04	29,00		04	19,50
0202 20 90 100	02	83,00	1602 50 10 260	02	14,50
	03	58,50		03	14,50
	04	29,00		04	14,50
0202 30 90 100 (4)	05	100,50	1602 50 10 280	02	8,00
0202 30 90 400 (6)	09	149,00		03	8,00
	10	125,50		04	8,00
	03	112,50	1602 50 31 125	01	119,50 (°)
	04	56,50	1602 50 31 135	01	75,50 (°)
	06	130,50	1602 50 31 195	01	37,00
	07	81,00	1602 50 31 325	01	107,00 (°)
0202 30 90 500 (6)	02	115,00	1602 50 31 335	01	67,50 (°)
	03	75,50	1602 50 31 395	01	37,00
	04	37,50	1602 50 39 125	01	119,50 (°)
	06	92,50	1602 50 39 135	01	75,50 (°)
	07	81,00	1602 50 39 195	01	37,00
0202 30 90 900	07	81,00	1602 50 39 325	01	107,00 (°)
0206 10 95 000	02	115,00	1602 50 39 335	01	67,50 (°)
	03	75,50	1602 50 39 395	01	37,00
	04	37,50	1602 50 39 425	01	80,00 (°)
	06	92,50	1602 50 39 435	01	50,00 (°)
0206 29 91 000	02	115,00	1602 50 39 495	01	37,00
	03	75,50	1602 50 39 505	01	37,00
	04	37,50	1602 50 39 525	01	80,00 (°)
	06	92,50	1602 50 39 535	01	50,00 (°)
0210 20 90 100	08	96,00	1602 50 39 595	01	37,00
	04	57,00			
0210 20 90 300	02	119,00			
0210 20 90 500 (3)	02	119,00			

(ECU/100 kg)			(ECU/100 kg)		
Product code	Destination (*)	Refund (*) (10)	Product code	Destination (*)	Refund (*) (10)
		— Net weight —			— Net weight —
1602 50 39 615	01	37,00	1602 50 80 495	01	37,00
1602 50 39 625	01	16,50	1602 50 80 505	01	37,00
1602 50 39 705	01	19,50	1602 50 80 515	01	16,50
1602 50 39 805	01	14,50	1602 50 80 535	01	50,00 (*)
1602 50 39 905	01	8,00	1602 50 80 595	01	37,00
1602 50 80 135	01	75,50 (*)	1602 50 80 615	01	37,00
1602 50 80 195	01	37,00	1602 50 80 625	01	16,50
1602 50 80 335	01	67,50 (*)	1602 50 80 705	01	19,50
1602 50 80 395	01	37,00	1602 50 80 805	01	14,50
1602 50 80 435	01	50,00 (*)	1602 50 80 905	01	8,00

(1) Entry under this subheading is subject to the submission of the certificate appearing in the Annex to amended Commission Regulation (EEC) No 32/82.

(2) Entry under this subheading is subject to compliance with the condition laid down in amended Commission Regulation (EEC) No 1964/82.

(3) The refund on beef in brine is granted on the net weight of the meat, after deduction of the weight of the brine.

(4) OJ No L 336, 29. 12. 1979, p. 44.

(5) OJ No L 221, 19. 8. 1984, p. 28.

(6) The lean bovine meat content excluding fat is determined in accordance with the procedure described in the Annex to Commission Regulation (EEC) No 2429/86 (OJ No L 210 of 1. 8. 1986, p. 39).

(7) The destinations are as follows:

01 Third countries.

02 North African, Near and Middle East third countries, west, central, eastern and southern African third countries, Gaza and Jericho, Malta, Turkey, Ukraine, Belarus, Moldova, Russia, Georgia, Armenia, Azerbaijan, Kazakhstan, Turkmenistan, Uzbekistan, Tajikistan, Kirghistan, except Cyprus, Botswana, Kenya, Madagascar, Swaziland, Zimbabwe and Namibia.

03 Iceland, Norway, the island of Heligoland, Faeroe Islands, Andorra, Gibraltar, Vatican City, Estonia, Latvia, Lithuania, Poland Czech Republic, Slovak Republic, Hungary, Romania, Bulgaria, Albania, Slovenia, Croatia, Bosnia-Herzegovina, Serbia and Montenegro, Territory of the Former of Macedonia, Ceuta, Melilla, Cyprus, Greenland, Pakistan, Sri Lanka, Burma, Thailand, Viet Nam, Indonesia, the Philippines, China, North Korea and Hong Kong and the destinations referred to in Article 34 of Commission Regulation (EEC) No 3665/87.

04 Switzerland.

05 The United States of America, carried out in accordance with amended Commission Regulation (EEC) No 2973/79.

06 French Polynesia and New Caledonia.

07 Canada.

08 North, West, Central, East and Southern African third countries, except Botswana, Kenya, Madagascar, Swaziland, Zimbabwe and Namibia.

09 North African third countries, Near and Middle East, central, eastern and southern African third countries, Gaza and Jericho, Malta, Turkey, Ukraine, Belarus, Moldova, Russia, Georgia, Armenia, Azerbaijan, Kazakhstan, Turkmenistan, Uzbekistan, Tajikistan, Kirghistan, except Cyprus, Botswana, Kenya, Madagascar, Swaziland, Zimbabwe and Namibia.

10 West African third countries.

(8) Article 7 of amended Regulation (EEC) No 885/68 provides that no export refunds shall be granted on products imported from third countries and re-exported to third countries.

(9) The refund is granted only on products manufactured under the arrangement provided for in Article 4 of amended Commission Regulation (EEC) No 565/80.

(10) Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in amended Regulation (EEC) No 990/93 are observed.

NB: The countries are as defined in Commission Regulation (EC) No 3478/93 (OJ No L 317 of 18. 12. 1993, p. 32).

The descriptions corresponding to the product codes and the footnotes are set out in Commission Regulation (EEC) No 3846/87 as amended.

COMMISSION REGULATION (EC) No 2421/95

of 13 October 1995

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⁾, as last amended by Regulation (EC) No 1740/95⁽²⁾, and in particular Article 4 (1) thereof,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy⁽³⁾, as last amended by Regulation (EC) No 150/95⁽⁴⁾, and in particular Article 3 (3) thereof,

Whereas 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;

Whereas, 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 14 October 1995.

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

Done at Brussels, 13 October 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ No L 167, 18. 7. 1995, p. 10.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 13 October 1995 establishing the standard import values
for determining the entry price of certain fruit and vegetables

(ECU/100 kg)			(ECU/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value	CN code	Third country code ⁽¹⁾	Standard import value
0702 00 40	052	54,3	0806 10 40	052	111,1
	060	80,2		064	75,7
	064	59,6		066	49,4
	066	41,7		220	110,8
	068	62,3		400	143,7
	204	50,9		412	132,4
	212	117,9		512	186,0
	624	75,0		600	64,5
	999	67,7		624	123,2
				999	110,8
ex 0707 00 30	052	70,1	0808 10 92, 0808 10 94, 0808 10 98		
	053	166,9		039	79,3
	060	61,0		064	76,6
	066	53,8		388	48,7
	068	60,4		400	52,2
	204	49,1		404	52,8
	624	207,3		508	68,4
	999	95,5		512	50,7
				524	57,4
				528	48,0
0709 90 79	052	55,6	0808 20 57	800	62,2
	204	77,5		804	28,4
	624	196,3		999	56,8
	999	109,8		052	77,7
0805 30 30	052	66,1		064	80,4
	388	72,4		388	79,6
	400	151,4		512	89,7
	512	54,8		528	84,1
	520	66,5		800	55,8
	524	96,7		804	112,9
	528	67,6		999	82,9
	600	54,7			
	624	78,0			
	999	78,7			

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 3079/94 (OJ No L 325, 17. 12. 1994, p. 17). Code '999' stands for 'of other origin.'

COMMISSION REGULATION (EC) No 2422/95

of 13 October 1995

fixing the agricultural conversion rates

THE COMMISSION OF THE EUROPEAN COMMUNITIES,
Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy⁽¹⁾, as last amended by Regulation (EC) No 150/95⁽²⁾, and in particular Article 3 (1) thereof,

Whereas the agricultural conversion rates were fixed by Commission Regulation (EC) No 2249/95⁽³⁾;

Whereas Article 4 of Regulation (EEC) No 3813/92 provides that, subject to confirmation periods being triggered, the agricultural conversion rate for a currency is to be adjusted where the monetary gap between it and the representative market rate exceeds certain levels;

Whereas the representative market rates are determined on the basis of basic reference periods or, where applicable, confirmation periods, established in accordance with Article 2 of Commission Regulation (EEC) No 1068/93 of 30 April 1993 on detailed rules for determining and applying the agricultural conversion rates⁽⁴⁾, as last amended by Regulation (EC) No 1053/95⁽⁵⁾; whereas paragraph 2 of that Article provides that, in cases where the absolute value of the difference between the monetary gaps in two Member States, calculated from the average of the ecu rates for three consecutive quotation days, exceeds six points, the representative market rates are to be adjusted on the basis of the three quotation days in question;

Whereas, as a consequence of the exchange rates recorded from 5 to 14 October 1995, it is necessary to fix a new agricultural conversion rate for the Greek drachma;

Whereas Article 15 (2) of Regulation (EEC) No 1068/93 provides that an agricultural conversion rate fixed in

advance is to be adjusted if the gap between that rate and the agricultural conversion rate in force at the time of the operative event applicable for the amount concerned exceeds four points; whereas, in that event, the agricultural conversion rate fixed in advance is brought more closely into line with the rate in force, up to the level of a gap of four points with that rate; whereas the rate which replaces the agricultural conversion rate fixed in advance should be specified,

HAS ADOPTED THIS REGULATION:

Article 1

The agricultural conversion rates are fixed in Annex I hereto.

Article 2

In the case referred to in Article 15 (3) of Regulation (EEC) No 1068/93, the agricultural conversion rate fixed in advance shall be replaced by the ecu rate for the currency concerned, shown in Annex II:

- Table A, where the latter rate is higher than the rate fixed in advance,
- Table B, where the latter rate is lower than the rate fixed in advance.

Article 3

Regulation (EC) No 2249/95 is hereby repealed.

Article 4

This Regulation shall enter into force on 15 October 1995.

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

Done at Brussels, 13 October 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽²⁾ OJ No L 22, 31. 1. 1995, p. 1.

⁽³⁾ OJ No L 229, 26. 9. 1995, p. 8.

⁽⁴⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽⁵⁾ OJ No L 107, 12. 5. 1995, p. 4.

ANNEX I

Agricultural conversion rates

ECU 1 =	39,5239	Belgian and Luxembourg francs
	7,49997	Danish kroner
	1,90616	German marks
	307,247	Greek drachmas
	198,202	Portuguese escudos
	6,61023	French francs
	5,88000	Finnish marks
	2,14021	Dutch guilders
	0,829498	Irish punt
	2 164,34	Italian lire
	13,4084	Austrian schillings
	165,198	Spanish pesetas
	9,63352	Swedish kroner
	0,843954	Pound sterling

ANNEX II

Agricultural conversion rates fixed in advance and adjusted

Table A			Table B		
ECU 1 =	38,0038	Belgian and Luxembourg francs	ECU 1 =	41,1707	Belgian and Luxembourg francs
	7,21151	Danish kroner		7,81247	Danish kroner
	1,83285	German marks		1,98558	German marks
	295,430	Greek drachmas		320,049	Greek drachmas
	190,579	Portuguese escudos		206,460	Portuguese escudos
	6,35599	French francs		6,88566	French francs
	5,65385	Finnish marks		6,12500	Finnish marks
	2,05789	Dutch guilders		2,22939	Dutch guilders
	0,797594	Irish punt		0,864060	Irish punt
	2 081,10	Italian lire		2 254,52	Italian lire
	12,8927	Austrian schillings		13,9671	Austrian schillings
	158,844	Spanish pesetas		172,081	Spanish pesetas
	9,26300	Swedish kroner		10,0349	Swedish kroner
	0,811494	Pound sterling		0,879119	Pound sterling

COMMISSION REGULATION (EC) No 2423/95

of 13 October 1995

altering the export refunds on white sugar and raw sugar exported in the natural state

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EC) No 1101/95⁽²⁾, and in particular the second subparagraph of Article 19 (4) thereof,Whereas the refunds on white sugar and raw sugar exported in the natural state were fixed by Commission Regulation (EC) No 2338/95⁽³⁾, as amended by Regulation (EC) No 2392/95⁽⁴⁾;

Whereas it follows from applying the detailed rules contained in Regulation (EC) No 2338/95 to the informa-

tion known to the Commission that the export refunds at present in force should be altered to the amounts set out in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 (1) (a) of Regulation (EEC) No 1785/81, undenatured and exported in the natural state, as fixed in the Annex to amended Regulation (EC) No 2338/95 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 14 October 1995.

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

Done at Brussels, 13 October 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 110, 17. 5. 1995, p. 1.

⁽³⁾ OJ No L 236, 5. 10. 1995, p. 4.

⁽⁴⁾ OJ No L 244, 12. 10. 1995, p. 63.

ANNEX

to the Commission Regulation of 13 October 1995 altering the export refunds on white sugar and raw sugar exported in its unaltered state

Product code	Amount of refund ⁽¹⁾
	— ECU/100 kg —
1701 11 90 100	38,29 ⁽¹⁾
1701 11 90 910	38,29 ⁽¹⁾
1701 11 90 950	⁽²⁾
1701 12 90 100	38,29 ⁽¹⁾
1701 12 90 910	38,29 ⁽¹⁾
1701 12 90 950	⁽²⁾
	— ECU/1 % of sucrose × 100 kg —
1701 91 00 000	0,4162
	— ECU/100 kg —
1701 99 10 100	41,62
1701 99 10 910	41,62
1701 99 10 950	41,62
	— ECU/1 % of sucrose × 100 kg —
1701 99 90 100	0,4162

⁽¹⁾ Applicable to raw sugar with a yield of 92 % ; if the yield is other than 92 %, the refund applicable is calculated in accordance with the provisions of Article 17a (4) of Regulation (EEC) No 1785/81.

⁽²⁾ Fixing suspended by Commission Regulation (EEC) No 2689/85 (OJ No L 255, 26. 9. 1985, p. 12), as amended by Regulation (EEC) No 3251/85 (OJ No L 309, 21. 11. 1985, p. 14).

⁽³⁾ Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in amended Regulation (EEC) No 990/93 are observed.

COMMISSION REGULATION (EC) No 2424/95

of 13 October 1995

**altering the export refunds on syrups and certain other sugar sector products
exported in the natural state**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EC) No 1101/95 ⁽²⁾, and in particular Article 19 (4) thereof,

Whereas the refunds on syrups and certain other sugar products were fixed by Commission Regulation (EC) No 2291/95 ⁽³⁾;

Whereas it follows from applying the rules, criteria and other provisions contained in amended Regulation (EC)

No 2291/95 to the information at present available to the Commission that the export refunds at present in force should be altered as shown in the Annex hereto,

HAS ADOPTED THIS REGULATION:

Article 1

The refunds to be granted on the products listed in Article 1 (1) (d), (f) and (g) of Regulation (EEC) No 1785/81, exported in the natural state, as fixed in the Annex to Regulation (EC) No 2291/95 are hereby altered to the amounts shown in the Annex hereto.

Article 2

This Regulation shall enter into force on 14 October 1995.

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

Done at Brussels, 13 October 1995.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 110, 17. 5. 1995, p. 1.

⁽³⁾ OJ No L 233, 30. 9. 1995, p. 15.

ANNEX

to the Commission Regulation of 13 October 1995 altering the export refunds on syrups and certain other sugar products exported in the natural state

Product code	Amount of refund
	— ECU/100 kg dry matter —
1702 40 10 100	41,62 ⁽²⁾ ⁽³⁾
1702 60 10 000	41,62 ⁽²⁾ ⁽³⁾
1702 60 90 200	79,08 ⁽³⁾ ⁽³⁾
	— ECU/1 % sucrose × 100 kg —
1702 60 90 800	0,4162 ⁽¹⁾ ⁽³⁾
	— ECU/100 kg dry matter —
1702 90 30 000	41,62 ⁽²⁾ ⁽³⁾
	— ECU/1 % sucrose × 100 kg —
1702 90 60 000	0,4162 ⁽¹⁾ ⁽³⁾
1702 90 71 000	0,4162 ⁽¹⁾ ⁽³⁾
1702 90 99 900	0,4162 ⁽¹⁾ ⁽³⁾ ⁽⁴⁾
	— ECU/100 kg dry matter —
2106 90 30 000	41,62 ⁽²⁾ ⁽³⁾
	— ECU/1 % sucrose × 100 kg —
2106 90 59 000	0,4162 ⁽¹⁾ ⁽³⁾

⁽¹⁾ The basic amount is not applicable to syrups which are less than 85 % pure (Regulation (EEC) No 394/70). Sucrose content is determined in accordance with Article 13 of Regulation (EEC) No 394/70.

⁽²⁾ Applicable only to products referred to in Article 3 of Regulation (EEC) No 1469/77.

⁽³⁾ Refunds on exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) may be granted only where the conditions laid down in amended Regulation (EEC) No 990/93 are observed.

⁽⁴⁾ The basic amount is not applicable to the product defined under point 2 of the Annex to Regulation (EEC) No 3513/92 (OJ No L 355, 5. 12. 1992, p. 12).

⁽⁵⁾ Applicable only to products defined under Article 13 (3) of Regulation (EEC) No 394/70.

NB: The product codes and the footnotes are defined in amended Commission Regulation (EEC) No 3846/87 (OJ No L 366, 24. 12. 1987, p. 1).

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 26 July 1995

accepting undertakings offered in connection with the anti-dumping proceeding concerning imports of ferro-silico-manganese originating in Russia, Georgia, Ukraine, Brazil and South Africa and terminating the proceeding against Georgia

(95/418/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3283/94 of 22 December 1994 on protection against dumped imports from countries not members of the European Community⁽¹⁾, as last amended by Regulation (EC) No 1251/95⁽²⁾, and in particular Article 23 thereof,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988⁽³⁾ on protection against dumped imports from countries not members of the European Economic Community, as last amended by Regulation (EC) No 522/94⁽⁴⁾, and in particular Articles 9 and 10 thereof,

After consulting the Advisory Committee,

Whereas :

- (1) The Commission, by Regulation (EC) No 3119/94⁽⁵⁾ (hereinafter referred to as the 'provisional duty Regulation'), imposed a provisional anti-dumping duty on imports into the Community of ferro-silico-manganese (FeSiMn) originating in Russia, Ukraine, Brazil and South Africa and falling within CN code 7202 30 00. No provisional anti-dumping duty was imposed on imports of the

product concerned originating in Georgia. By Regulation (EC) No 866/95⁽⁶⁾, the Council extended the validity of the duty for a period not exceeding two months.

- (2) In the subsequent procedure, it was established that definitive anti-dumping measures should be taken in order to eliminate injurious dumping. The findings and conclusions on all aspects of the investigation are set out in Council Regulation (EC) No 2413/95⁽⁷⁾.
- (3) Having been informed of these conclusions, the Ukrainian authorities, in conjunction with two Ukrainian exporters, and the two South African exporters, offered undertakings to the Commission with regard to the import prices in the Community pursuant to Article 10 of Regulation (EEC) No 2423/88.
- (4) The minimum prices set out in the undertakings for exports to the Community are at a level sufficient to eliminate injurious dumping.
- (5) In addition, since the Ukrainian authorities, the two Ukrainian exporting companies and the two South African exporters have undertaken to submit detailed and regular sales information to the Commission and not to enter into direct or indirect compensatory arrangements with their customers

⁽¹⁾ OJ No L 349, 31. 12. 1994, p. 1.

⁽²⁾ OJ No L 122, 2. 6. 1995, p. 1.

⁽³⁾ OJ No L 209, 2. 8. 1988, p. 1.

⁽⁴⁾ OJ No L 66, 10. 3. 1994, p. 10.

⁽⁵⁾ OJ No L 330, 21. 12. 1994, p. 15.

⁽⁶⁾ OJ No L 89, 21. 4. 1995, p. 1.

⁽⁷⁾ See page 1 of this Official Journal.

and since exports from both countries have been made through a limited number of purchasers, it has been concluded that the correct observance of the undertakings can effectively be monitored by the Commission.

- (6) As far as Ukraine is concerned, the Government, implementing two Presidential decrees, dated August and November 1994, set up an Interministerial Commission on anti-dumping investigations of goods originating in Ukraine, in order to prevent the export of Ukrainian goods at dumped prices. In this framework the Ukrainian Government will operate an export licensing system for the duration of the undertakings which will ensure that all imports into the Community benefiting from the exemption of the obligation to pay anti-dumping duties subsequent to the undertakings, have Ukrainian origin, have been produced, will be exported and invoiced directly by the exporters concerned to first unrelated buyers in the Community at prices not below the minimum price laid down in the undertakings. Any intended exports of the product by the exporters subject to the undertakings from the territory of Ukraine to the Community, whether directly or indirectly, which do not meet these criteria, will not receive an export licence.
- (7) One South African exporter sells a part of its exports to the Community through a related importer in the Community. The undertaking provides for sales by the related importer to be incorporated in the minimum price mechanism and monitoring procedure.
- (8) Under these circumstances, the undertakings offered by the Ukrainian authorities, in conjunction with two Ukrainian exporters, and by the two South African exporters are considered acceptable and the investigation can, therefore, be terminated with respect to the Ukrainian and South African exporters concerned. Where there is reason to believe that an undertaking is being infringed, a provisional duty may be imposed pursuant to Articles 7 and 8 (10) of Regulation (EC) No 3283/94 and, should the conditions of Article 8 (9) of the Regulation be met, a definitive anti-dumping duty will be imposed.
- (9) As far as imports of FeSiMn originating in Georgia are concerned, the investigation confirmed the

findings reported in the provisional duty Regulation, that imports of FeSiMn from Georgia were *de minimis* and, therefore, did not cause injury to the Community industry. Such a finding has not been contested by either the Community industry or the other exporters. Consequently, the proceeding should be terminated with respect to imports of FeSiMn originating in Georgia.

- (10) When the Advisory Committee was consulted on the acceptance of the undertakings offered some objections were raised. Therefore, in accordance with Articles 9 (1) and 10 (1) of Regulation (EEC) No 2423/88, the Commission sent a report to the Council on the result of the consultations and a proposal for the acceptance of the undertakings. As the Council has not decided otherwise within one month, this Decision should be adopted. No objections were raised concerning the termination of the proceeding with relation to Georgia,

HAS DECIDED AS FOLLOWS:

Article 1

The undertakings offered by the Ukrainian authorities in conjunction with Nikopol Ferro Alloy Plant and Zaporozhye Ferro Alloy Plant, Ukraine and by Highveld Steel and Vanadium Corporation Limited and Samancor Limited, South Africa, in connection with the anti-dumping proceeding concerning imports of Ferro-Silico-Manganese originating in Russia, Ukraine, Georgia, Brazil and South Africa and falling within CN code 7202 30 00 are hereby accepted.

The investigation in respect of these exporters is hereby terminated.

Article 2

The proceeding concerning imports of ferro-silico-manganese originating in Georgia is hereby terminated.

Done at Brussels, 26 July 1995.

For the Commission

Leon BRITTAN

Vice-President

CORRIGENDA

Corrigendum to Commission Regulation (EC) No 2389/95 of 11 October 1995 on the supply of rye flour intended for the people of Georgia, Armenia, Azerbaijan and Tajikistan*(Official Journal of the European Communities No L 244 of 12 October 1995)*

On page 56, Annex II is replaced by the following :

ANNEX II

Places of storage	Quantity (tonnes)
GERMANY	
Lot No 1	
RHG-Agrarz. Fürstenwalder Futtermittel-Getreide D-15890 Eisenhüttenstadt	801
RHG-Agrarz. Fürstenwalder Futtermittel-Getreide D-15517 Fürstenwalde	793
Bohnhorst GmbH & Co. KG Landhandel D-14913 Hohenseefeld	5 986
Rhenania Umschlag und Lagerei GmbH D-10997 Berlin	3 094
Behala Berliner Hafen- und Lagerhausbetriebe D-13353 Berlin	2 908
Rhenus AG D-13585 Berlin	510
Lot No 2	
Dresdner Handelsgesellschaft für Nahrungsmittel und Getränke mbH D-01219 Dresden	493
Getreidelagerhaus Lommatzcher Pflege D-01591 Riesa	11 340
Märka Märkische Kraftfutter GmbH D-14473 Potsdam	320
Lot No 3	
Rieke & Co. Lagerhaus- und Spedition D-37603 Holzminden	2 141
Jülke KG Spedition D-27333 Bücken	4 482
Landhandel Nord-West GmbH & Co. D-26524 Hage	370
AUSTRIA	
Lot No 4	
Göllersdorf, RLH	785,140
Stadl-Paura, Agrarspeicher	12 631,130
Lot No 5	
Absdorf-Hippersdorf, Minnich	1 189,110
Götzendorf, Polsterer	1 645,380
Krems, Mierka	1 761,000
Korneuburg, Agrarspeicher	291,800
Parndorf, Gsellmann	854,200
Schwechat, Agrarspeicher	1 177,260
Steinaweg, Nosko	118,155

The characteristics of the lots shall be supplied to the tenderers by the intervention agencies.

Addresses of the intervention agencies :

GERMANY

BLE

Adickesallee 40

D-60322 Frankfurt am Main

Postfach 18 02 03

D-60083 Frankfurt am Main

Tel. (49-69) 15 64 0 ; Fax (49-69) 15 64-793/794.

AUSTRIA

Agrarmarkt Austria

Dresdner Straße 70

A-1200 Vienna

Tel. (43-1) 331 51 233 ; Fax (43-1) 331 51 298.'

Corrigendum to European Parliament and Council Directive No 95/2/EC of 20 February 1995 on food additives other than colours and sweeteners

(Official Journal of the European Communities No L 61 of 18 March 1995)

On page 27, in Annex IV, against E No E 452, last entry in the column headed 'Maximum level':

for: '5 mg/kg',

read: '5 g/kg'.
