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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 53/96
of 16 January 1996
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 2933/95 ⁽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 17 January 1996.

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

Done at Brussels, 16 January 1996.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ No L 307, 20. 12. 1995, p. 21.

⁽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 16 January 1996 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 15	052	64,5	0805 20 13, 0805 20 15, 0805 20 17, 0805 20 19	052	48,0
	060	80,2		464	90,0
	064	59,6		624	78,1
	066	41,7		999	72,0
	068	62,3	0805 30 20	052	68,9
	204	40,8		204	45,8
	208	44,0		388	67,5
	212	117,9		400	50,9
	624	79,4		512	54,8
	999	65,6		520	66,5
0707 00 10	052	111,6		524	100,8
	053	166,9		528	87,1
	060	61,0		600	75,2
	066	53,8		624	41,6
	068	60,4		999	65,9
	204	144,3	0808 10 51, 0808 10 53, 0808 10 59	052	64,0
	624	152,0		064	78,6
	999	107,1		388	39,2
0709 10 10	220	394,4		400	77,9
	999	394,4		404	69,2
0709 90 71	052	113,1		508	68,4
	204	77,5		512	51,2
	412	54,2		524	57,4
	624	209,5		528	48,0
	999	113,6		728	107,3
0805 10 01, 0805 10 05, 0805 10 09	052	42,7	0808 20 31	800	78,0
	204	49,3		804	21,0
	208	68,2		999	63,4
	212	44,6		052	86,3
	388	40,5		064	72,5
	448	31,5		388	79,6
	600	57,2		400	89,5
	624	58,3		512	89,7
	999	49,0		528	84,1
	052	67,2		624	79,0
0805 20 11	204	75,8		728	115,4
	624	86,6		800	55,8
	999	76,5		804	112,9
				999	86,5

(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 54/96
of 16 January 1996
fixing the export refunds on poultrymeat

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organization of the market in poultrymeat⁽¹⁾, as last amended by Regulation (EC) No 2916/95⁽²⁾, and in particular Article 8 (3) thereof,

Whereas Article 8 of Regulation (EEC) No 2777/75 provides that the difference between prices on the world market for the products listed in Article 1 (1) of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Regulation (EEC) No 2777/75 provides that from 1 July 1995 all exports for which refunds are requested, with the exception of exports of day-old chicks, shall be subject to the presentation of an export licence with advance fixing of the refund; whereas the specific implementing rules for these arrangements are laid down in Commission Regulation (EC) No 1372/95⁽³⁾, as last amended by Regulation (EC) No 2841/95⁽⁴⁾;

Whereas the present market situation in certain third countries and that regarding competition on particular third country markets make it necessary to fix a refund differentiated by destination for certain products in the poultrymeat sector;

Whereas Council Regulation (EEC) No 990/93⁽⁵⁾, as amended by Regulation (EC) No 1380/95⁽⁶⁾, 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 and in Council Regulation (EC) No 2815/95⁽⁷⁾; whereas account should be taken of this fact when fixing the refunds;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽⁸⁾, as last amended by Regulation (EC) No 150/95⁽⁹⁾, are used to convert amounts expressed in third country currencies and are used as the basis for determining the agricultural conversion rates of the Member States' currencies; whereas detailed rules on the application and determination of these conversions were set by Commission Regulation (EEC) No 1068/93⁽¹⁰⁾, as last amended by Regulation (EC) No 2853/95⁽¹¹⁾;

Whereas it follows from applying these rules and criteria to the present situation on the market in poultrymeat that the refund should be fixed at an amount which would permit Community participation in world trade and would also take account of the nature of these exports and their importance at the present time;

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

HAS ADOPTED THIS REGULATION:

Article 1

The list of product codes for which, when they are exported, the export refund referred to in Article 8 of Regulation (EEC) No 2777/75 is granted, and the amount of that refund shall be as shown in the Annex hereto for exports to be carried out on the basis of the export licences referred to in Article 2 of Regulation (EC) No 1372/95 or on the basis of the 'ex-post' export licences referred to in Article 9 of the same Regulation.

Article 2

This Regulation shall enter into force on 17 January 1996.

⁽¹⁾ OJ No L 282, 1. 11. 1975, p. 77.

⁽²⁾ OJ No L 305, 19. 12. 1995, p. 49.

⁽³⁾ OJ No L 133, 17. 6. 1995, p. 26.

⁽⁴⁾ OJ No L 296, 9. 12. 1995, p. 8.

⁽⁵⁾ OJ No L 102, 28. 4. 1993, p. 14.

⁽⁶⁾ OJ No L 138, 21. 6. 1995, p. 1.

⁽⁷⁾ OJ No L 297, 9. 12. 1995, p. 1.

⁽⁸⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁹⁾ OJ No L 22, 31. 1. 1995, p. 1.

⁽¹⁰⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽¹¹⁾ OJ No L 299, 12. 12. 1995, p. 1.

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

Done at Brussels, 16 January 1996.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

to the Commission Regulation of 16 January 1996 fixing the export refunds on poultrymeat

Product code	Destination of refund ⁽¹⁾	Amount of refund ⁽²⁾	Product code	Destination of refund ⁽¹⁾	Amount of refund ⁽²⁾
		ECU/100 units			ECU/100 kg
0105 11 11 000	01	1,80	0207 25 10 000	04	8,00
0105 11 19 000	01	1,80	0207 25 90 000	04	8,00
0105 11 91 000	01	1,80	0207 14 20 900	05	4,50
0105 11 99 000	01	1,80	0207 14 60 900	05	4,50
0105 12 00 000	01	2,60	0207 14 70 190	05	4,50
0105 19 20 000	01	2,60	0207 14 70 290	05	4,50
		ECU/100 kg	0207 27 10 990	04	15,00
0207 12 10 900	02	30,00	0207 27 60 000	04	6,50
	03	8,00	0207 27 70 000	04	6,50
0207 12 90 190	02	33,00			
	03	8,00			

⁽¹⁾ The destinations are as follows:

01 All destinations except the United States of America,

02 Angola, Saudi Arabia, Kuwait, Bahrain, Qatar, Oman, the United Arab Emirates, Jordan, Yemen, Lebanon, Iran, Armenia, Azerbaijan, Georgia, Russia, Uzbekistan and Tajikistan,

03 All destinations except the United States of America, Bulgaria, Poland, Hungary, Romania, Slovakia, the Czech Republic and those of 02 above,

04 All destinations except the United States of America, Bulgaria, Poland, Hungary, Romania, Slovakia and the Czech Republic,

05 All destinations except the United States of America, Bulgaria, Poland, Hungary, Romania, Slovakia, the Czech Republic, Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan, Ukraine, Lithuania, Estonia and Latvia.

⁽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 and Regulation (EC) No 2815/95 are observed.

NB: The product codes and the footnotes are defined in amended Commission Regulation (EEC) No 3846/87.

COMMISSION DECISION No 55/96/ECSC

of 15 January 1996

imposing a definitive anti-dumping duty on imports into the Community of hematite pig-iron originating in the Czech Republic and accepting an undertaking from a specified exporter of the same product

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to Commission Decision No 2424/88/ECSC of 29 July 1988 on protection against dumped or subsidized imports from countries not members of the European Coal and Steel Community⁽¹⁾, and in particular Articles 10 and 12 thereof,

After consulting the Advisory Committee,

Whereas :

A. PROCEDURE

- (1) The Commission, by Decision No 1751/94/ECSC⁽²⁾, imposed definitive anti-dumping measures on imports into the Community of hematite pig-iron originating in Brazil, Poland, Russia and Ukraine in the form of a variable duty equal to the difference between the minimum price (cif duty unpaid) of ECU 149/tonne and the declared customs value of the product concerned in all cases where the declared customs value is less than the minimum price.
- (2) Following the introduction of this duty, Eurofontes, representing nearly 100 % of the Community industry, lodged a complaint alleging that imports of hematite pig-iron originating in the Czech Republic were also being dumped and causing injury to the Community industry.
- (3) The complainant argued that, since Brazil, Poland, Russia and Ukraine were bound by the abovementioned Decision and the producer in the Czech Republic was not, the latter was approached by traders which wished to purchase the product concerned at low prices not subject to anti-dumping measures.
- (4) The complainant also argued that the producers in Brazil, Poland, Russia and Ukraine would have justifiable cause for a complaint alleging discrimination if they were left in a situation where their exports to the Community were subject to anti-dumping measures and those exports from the Czech Republic were not.
- (5) Having decided that there was sufficient evidence to justify the initiation of an anti-dumping

proceeding, the Commission published a notice of initiation concerning imports of hematite pig-iron originating in the Czech Republic on 21 May 1994⁽³⁾.

- (6) The Commission officially advised the exporter and importer known to be concerned, representatives of the exporting country and the complainants. Interested parties were given the opportunity to make their views known in writing and to request a hearing.
- (7) The exporter, the importer and the complainants made their views known in writing.
- (8) Interested parties were informed of the essential facts and considerations on the basis of which it was intended to impose definitive anti-dumping measures. They were also granted a reasonable period within which to make representations subsequent to disclosure.
- (9) The Commission sought and verified all information it considered to be necessary for the purposes of its determination of dumping and injury and carried out investigations at the premises of the following :
 - (a) *Community producers :*
 - DK Recycling and Roheisen GmbH, Germany,
 - Halbergerhütte GmbH, Germany,
 - Preussag Stahl AG, Germany,
 - EKO Stahl AG, Germany⁽⁴⁾,
 - Alti Forni e Ferriere di Servola SpA, Italy.
 - (b) *Producer/exporter in the Czech Republic :*
 - Vitkovice as, Ostrava.

- (10) The investigation of dumping covered the period 1 April 1993 to 31 March 1994 (the investigation period).

B. PRODUCT UNDER INVESTIGATION

- (11) The product which was the subject of the complaint is non-alloy pig-iron containing by weight 0,5 % or less of phosphorus and falling

⁽¹⁾ OJ No L 209, 2. 8. 1988, p. 18.

⁽²⁾ OJ No L 182, 16. 7. 1994, p. 37.

⁽³⁾ OJ No C 139, 21. 5. 1994, p. 7.

⁽⁴⁾ Cereal production at the beginning of 1994.

under CN code 7201 10 19 (containing by weight not less than 0,4 % of manganese and more than 1 % of silicon), called hematite pig-iron.

Hematite pig-iron is used for the production of cast iron with flake graphite (grey cast iron), in particular for high quality machine and machine tool castings as well as for castings that are subjected to thermal and chemical stress.

C. DUMPING

- (12) Since the entry into force on 1 March 1992 of the Interim Agreement on trade and accompanying measures, the Czech Republic, for the purposes of anti-dumping proceedings, is considered a market economy country. The calculation of the dumping margin for the Czech Republic was therefore based on the data provided by the Czech producer in the response to the questionnaire and during the subsequent verification visit in respect of costs and prices in the Czech Republic.

1. Normal value

- (13) Sales on the domestic market in the Czech Republic were made at a loss and therefore not considered to have been made in the ordinary course of trade. In consequence, normal value was established in accordance with the provisions of Articles 2 (3) (b) (ii) and 2 (4) of Decision No 2424/88/ECSC, that is, on the basis of a constructed value, determined by adding cost of production and a reasonable margin of profit.

Generally, cost calculations were based on the available accounting data. However, in view of the changes in the Czech economy and in the structure of the Czech industry, the available accounting data at company level did not always reflect the costs which would be considered as normally borne by companies in the ordinary course of trade, in particular in respect of financing and depreciation costs. Therefore, in order to arrive at a constructed value that adequately reflected full costs, adjustments to the accounting data should have been made in respect of those items not fully taken into account in the costs calculation of the product concerned.

However, in view of the fact that the dumping margin found when using the data already available is higher than the margin of injury caused to the Community industry, the Commission has in this specific case, and without prejudice to future anti-dumping proceedings, refrained from making such adjustments which, if made, would result in a higher normal value and therefore a higher dumping margin for the company concerned.

2. Export price

- (14) Export prices established are those actually paid or payable for the product sold for export to the Community, net of all taxes, discounts and rebates actually granted and directly related to the sales under consideration.

3. Comparison

- (15) The comparison of the export prices with the normal value was made on a transaction-by-transaction basis at an ex-factory level and at the same level of trade. Adjustments to the export price were made to take account of the freight and other selling expenses included in the export price.

4. Dumping margin

- (16) The dumping margin found for Vitkovice as is 34,3 % of the cif Community frontier export price.

D. COMMUNITY INDUSTRY

- (17) In examining whether the complainants constitute a major proportion of the total Community production of like product, the Commission, as it had done in the prior proceeding on imports of like product, requested and received information from all producers in the Community.
- (18) On the basis of the information received, the Commission established that the share of Community production of the product concerned held by the complainant producers during the investigation period amounted to approximately 100 % of total Community production.

E. INJURY

- (19) It should be recalled that the Commission had, in Decision No 1751/94/ECSC, already established that the Community industry has suffered injury caused by dumped imports originating in Brazil, Poland, Russia and Ukraine. In the present proceeding it had to be examined whether the dumped imports originating in the Czech Republic have also caused material injury to the Community industry.
- (20) The investigation has shown that Community importers were aware of the anti-dumping proceeding concerning imports of hematite pig-iron originating in Brazil, Poland, Russia and Ukraine from the date of publication of the notice of initiation in December 1992 and from that time sought alternative sources of supply from countries not covered by that proceeding.

In this context, the Commission has examined the main developments on the Community market of hematite pig-iron between 1990 and the end of the investigation period (March 1994).

1. Community consumption, volume and market share of the dumped imports

- (21) The pattern of the apparent consumption, that is sales by the European Community industry on the Community market plus imports from all third countries, showed that consumption declined from 1 035 334 tonnes in 1990 to 821 165 tonnes in 1991, remained at the same level (823 076 tonnes) in 1992 and further declined to 685 886 tonnes in 1993, a decrease of 34 % over the period, and showed a small increase thereafter to 764 335 tonnes in the investigation period.

This decline in consumption is explained by the recession in the automobile industry, the main user of cast iron products, and by the partial substitution of hematite pig-iron by high quality scrap.

- (22) The volume of imports from the Czech Republic increased from 0 tonnes in 1990 and in 1991 to 4 316 tonnes in 1992, to 15 871 tonnes in 1993 and to 26 086 tonnes during the investigation period, an increase of 504 % between 1992 and the investigation period.

The Eurostat data on which this finding is based did not distinguish between the imports from the Czech Republic and those from the Slovak Republic until the beginning of 1993, but the available evidence indicates that there is no merchant pig-iron producer in the Slovak Republic.

- (23) The market shares of imports from the Czech Republic increased from 0 % in 1990 and 1991 to 0,5 % during 1992, to 2,3 % in 1993 and to 3,4 % during the investigation period.

During the first three months of 1994 some 16 191 tonnes of the product concerned were imported from the Czech Republic, representing a market share of 6,4 % for that period.

2. Prices of the dumped imports

- (24) The cif Community frontier prices of the imports under investigation showed, according to the Eurostat data, that although the prices of the Czech imports increased from a level of ECU 115,38/tonne in 1992 and ECU 115,12/tonne in 1993 to ECU 130,03/tonne during the investigation period they were below the level of the prices of imports

from Brazil, and Poland and were at the same level as the prices of the Russian exporters.

3. Situation of the Community industry

(a) Community production

- (25) Community production of hematite pig-iron decreased from 601 033 tonnes in 1990 to 506 960 tonnes in 1991, 410 431 tonnes in 1992, 292 940 tonnes in 1993 and to 274 674 tonnes during the investigation period. This dramatic decrease in production is partly explained by the fact that several Community producers ceased production of the product concerned between the end of 1991 and the beginning of 1994.
- (26) Production for those Community producers which continued to produce the product concerned at the end of the period of investigation (March 1994) declined from a level of 440 894 tonnes in 1990 to 262 862 tonnes during the investigation period, a decline of 40,4 %.

(b) Capacity utilization

- (27) Utilization of capacity by the Community producers decreased from 39,65 % in 1990 to 29,79 % during the investigation period.

(c) Development of stocks

- (28) The volume of stocks of hematite pig-iron at the end of the year fluctuated during the period considered: it decreased from 170 246 tonnes in 1990 to 159 088 tonnes in 1991, increased to 184 729 tonnes in 1992, declined sharply to 54 264 tonnes in 1993 and to 43 540 tonnes at the end of the investigation period.

This decrease in stocks over the whole period has to be viewed in conjunction with the decrease in production and utilization of capacity by the Community producers due to the difficulties encountered on the hematite pig-iron market.

(d) Sales by the Community industry

- (29) Sales by the Community industry on the Community market decreased from 521 960 tonnes in 1990 to 457 194 tonnes in 1991, to 365 584 tonnes in 1992, 359 475 tonnes in 1993 and to 300 049 tonnes during the investigation period, a decrease of 42,5 % over the whole period.

(e) Market shares of the Community industry

- (30) The market shares of the Community industry decreased sharply from 50,4 % in 1990 to 39,26 % during the investigation period, falling as low as 27 % during the first quarter of 1994.

(f) *Prices of the Community industry*

- (31) On a weighted average basis the ex-works prices of the Community producers decreased steadily from a level of ECU 186,64/tonne in 1990 to ECU 155,08/tonne during the investigation period despite an increase in production costs during the same period.

(g) *Profitability/losses*

- (32) Losses of the Community industry increased from 7 % on turnover in 1990 to 65,6 % during the investigation period. These figures, particularly those for the investigation period, reflect the low production and utilization of capacity (see recitals 25, 26 and 27) and also the fact that it was too early to assess the effect of the measures imposed on imports of the product concerned originating in Brazil, Poland, Russia and Ukraine as they were only in force for the last three months of the investigation period in the present proceeding.

(h) *Price comparison*

- (33) Sales of the dumped imports were made to wholesalers in the Community which maintained stocks in substantial quantities at the time measures were imposed on imports of the product concerned originating in Brazil, Poland, Russia and Ukraine.
- (34) Replies from Community importers to the questionnaires sent by the Commission accounted for 15,5 % of the total imports during the investigation period. However, the replies were not sufficiently reliable to enable a comparison to be made at user level.
- (35) To establish therefore whether there had been significant price undercutting by the dumped imports at the same level of trade, the Commission added to the cif Community frontier price (as derived from Eurostat) of the dumped imports the costs of handling, financing, storage and general and administrative expenses, on the basis of available information, plus a reasonable rate of profit for a stockholding importer in order to reach the same level of trade for sales by the Community producers.
- (36) A comparison of the adjusted prices of the dumped imports with those of the Community producers revealed a weighted average price undercutting during the investigation period of ECU 26,6/tonne or 14,3 %. This appears to represent a minimum level of undercutting since a comparison at end user level based on the selling prices of the coope-

rating importer revealed a significantly higher level of price undercutting.

4. Conclusion as to injury

- (37) In the light of the foregoing analysis the Commission has concluded that the Community industry is suffering material injury. In its essentials, the situation remains as it was in recitals 40 to 47 of Commission Decision No 67/94/ECSC⁽¹⁾ imposing a provisional anti-dumping duty in the prior proceeding, with dramatic losses of market share, particularly during the investigation period, and the continuing deferment of price increases sufficient to offset the rise in the cost of production, which have led to a further deterioration of financial results and the closure of production facilities.

5. Causation

(a) *Effects of the dumped imports*

- (38) To assess the impact of the dumped imports on the Community market, and the extent to which they contributed to the injury suffered by the Community industry, the Commission had to take into account that an anti-dumping investigation concerning imports of hematite pig-iron from Brazil, Poland, Russia and Ukraine had been carried out by the Commission which led to the imposition of provisional anti-dumping duties in January 1994 and definitive duties in July 1994.
- (39) As previously stated (see recital 20) Community importers were aware of the anti-dumping proceeding concerning imports of the product concerned originating in the abovementioned countries and were actively seeking alternative sources of supply. The Czech Republic, having facilities for the production of hematite pig-iron and being a near neighbour of the Community, presented importers with an obvious alternative source of supply of the product concerned. This accounts for the rise in market share of imports from this country from 0 % in 1991 to 2,3 % in 1993.
- (40) Furthermore, from January 1994 when provisional anti-dumping duties were imposed on imports of hematite pig-iron originating in Brazil, Poland, Russia and Ukraine a sharp increase in the level of imports from the Czech Republic can be seen, with a total of 16 191 tonnes imported during the first three months of 1994, compared to a total of 15 871 tonnes during the whole of 1993.

⁽¹⁾ OJ No L 12, 15. 1. 1994, p. 5.

(41) This dramatic increase in imports saw the Community market share of the Czech imports rise from 2,3 % in 1993 to 3,4 % during the investigation period and to 6,4 % during the first quarter of 1994, while the market share of the Community producers fell from 52,4 % to 39,3 % and 27,1 % respectively during the same periods. This loss of market share by the Community producers coincided with the increased market share of the dumped imports from the countries concerned in the previous proceeding and from the Czech Republic. The investigation has shown that the market share of the Czech imports was gained at the expense of the Community industry.

(42) This striking market penetration by the dumped imports was rendered possible by the fact that the prices of the Czech imports undercut Community producers' prices considerably. The persistent undercutting of the Community industry's prices contributed to the evident reduction of prices by that industry which, despite increasing costs, attempted to maintain capacity utilization and market share. This price evolution led in turn to unsustainable financial losses and some Community producers, already weakened by other advance conditions, such as diminishing demand and past dumping practices, were no longer able to withstand the effects of the dumped Czech imports and ceased production of hematite pig-iron during the period considered.

(43) In conclusion, it appears that while the volume and market share of imports from the Czech Republic were continually increasing, the trends in the Community industry's sales, market share and profitability were decreasing with a striking acceleration in the penetration of Czech imports after the imposition of the provisional anti-dumping duties in respect of imports from Brazil, Poland, Russia and Ukraine (see recitals 29 to 32). Under these circumstances, it is considered that the dumped imports from the Czech Republic have contributed to the material injury suffered by the Community industry.

(b) Effects of other factors

(44) The Commission has examined whether the injury suffered by the Community industry could have been caused by factors other than the dumped imports bearing in mind the fact that material injury has already been established in respect of imports from Brazil, Poland, Russia, Ukraine and that the measures imposed at the beginning of 1994 could not have played a remedial role given that they were only in force for the last three months of the investigation period in the present proceeding and could not prevent the effects of

stock-piling by importers or their search for alternative sources of supply.

(45) Imports from Turkey had some effect on the situation of the Community industry during 1990, but have practically disappeared from the market subsequently.

(46) No other non-dumped imports were imported into the Community during the period considered.

(47) Activity in the hematite pig-iron industry is, to a significant degree, determined by the level of activity in the car industry. The decrease in car production between 1990 and 1993 partly explains the fall in consumption of hematite pig-iron. Diminishing demand and partial substitution by alternative raw materials contributed to the fall in consumption of hematite pig-iron, but these developments, which had led Community producers to restructure their production facilities and reduce capacities, were by far outweighed by the additional impact of the dumped imports from the Czech Republic on Community production (see recital 42).

(c) Conclusion on causation

(48) The Commission has concluded that, notwithstanding the injury found to have been caused by the dumped imports originating in Brazil, Poland, Russia and Ukraine and taking into consideration the diminishing demand for the product concerned, the dumped imports from the Czech Republic, essentially because of their low prices, their increasing share of the Community market taken at the expense of the Community industry, and the fact that their presence on the market prevented the Community producers from benefiting from the measures already introduced, have, taken in isolation, caused material injury to this industry.

F. COMMUNITY INTEREST

(49) In assessing Community interest, the Commission refers to the findings made in this regard in Decision No 1751/94/ECSC, which remain totally valid. In the present proceeding account has to be taken of two basic elements. The first, as in the prior proceeding, is that putting an end to distortions of competition due to unfair commercial practices and thus re-establishing effective competition on the Community market, is the very purpose of anti-dumping measures, and is fundamentally in the Community interest. Secondly, failure to take measures in the present proceeding would aggravate the already precarious situation of the Community producers, which has put their continued existence at considerable risk. Should this industry be forced to cease production due to inju-

rious dumping, the Community would become totally dependent on third country imports. In this respect it has already been established in the investigation leading up to the introduction of measures in the previous case that it is in the Community interest to maintain a viable Community hematite pig-iron industry as the resulting reduction in the number of suppliers would be likely to lead to higher prices for the product concerned.

- (50) The trade practices of the exporting country concerned distort the functioning of the market for hematite pig-iron in the Community. The absence of measures to correct this distortion could lead to a further erosion of the Community production capacity, an erosion which would not take place in a situation of fair competition.
- (51) It is not in the interest of the Community to leave itself open to a charge of discriminatory treatment in favour of the Czech producer as compared to the producers in Brazil, Poland, Russia and Ukraine.
- (52) As regards prices, the Commission is aware that anti-dumping measures may have an effect on the prices to end users of the product concerned. However, the effect on the cost of products for which pig-iron is a necessary element would be minimal. In this respect, it should be noted that Decision No 1751/94/ECSC expressly reserves the possibility of reviewing at an appropriate point in time, depending on future developments of the market and their effect on end users, anti-dumping measures on imports of hematite pig-iron into the Community, including those which may be taken in the framework of the present proceeding.
- (53) In these circumstances the Commission considers that the interests of the Community call for protective measures against the dumped imports of hematite pig-iron from the Czech Republic.

G. ANTI-DUMPING DUTY

- (54) Having established that the dumped imports under consideration have caused material injury to the Community industry and that it is in the Community's interest to take action, the measure envisaged should be sufficient to eliminate the injury caused by the dumped imports.
- (55) Since the injury suffered by the Community industry consists of price undercutting, loss of market share and loss of profitability, the removal of such injury should be based on measures permitting the industry to realize the commercial and financial results of which it has been deprived by the effects of the dumped imports. In order to achieve this, the prices of the imports of the product concerned originating in the Czech Republic should be increased accordingly.
- (56) During its previous investigation which led to the imposition of anti-dumping duties on imports of hematite pig-iron, originating in Brazil, Poland, Russia and Ukraine, the Commission established the price level at which the imports in question

would cease to cause material injury to the Community industry. In this respect the calculation was based on data in respect of normal costs of production supplied by the Community industry. Added to the production cost is a profit level of 5 % on turnover, a margin considered reasonable under the prevailing market conditions.

- (57) In principle, the same methodology should be used for the present investigation with the cost of production being updated during the period of investigation. However it has to be borne in mind that Community production and utilization of capacity for the product concerned during the investigation period in the present proceeding was relatively low (see recitals 25 and 27), and a large proportion of the Community's producers' sales during this period were from stocks and not from production (see recitals 28 and 29). Consequently, the cost of production of the Community industry during the investigation period was considered disproportionately high and, therefore, not representative of normal economic conditions. The calculation of the price level at which the imports of hematite pig-iron originating in the Czech Republic would cease to cause material injury to the Community industry was therefore based on the cost of production of the Community producers during the previous proceeding as described in recital 56. This price level, including the same reasonable margin for profit of 5 %, is slightly higher than that resulting from the adjustment of the export price by the undercutting margin established (see recital 36) given the price depression and the resulting losses for the Community industry during the investigation period and was considered to be sufficient in order to eliminate the injury suffered.
- (58) In this particular case, the Commission considers that, in order for a duty to remove the injury caused by the dumped imports, it would be necessary to increase the price of these imports to a level which will enable the Community producers to recover normal production costs and achieve a reasonable level of profit.
- (59) The Commission, therefore, considers that the amount of the duty should be the difference between the minimum price of ECU 149/tonne (cif duty unpaid) and the declared customs value in all cases where the declared customs value is less than the minimum price. A duty based on this price level is sufficient to eliminate the injury suffered by the Community industry.
- (60) In accordance with the provisions of Article 13 (3) of Decision No 2424/88/ECSC, a variable duty based on the abovementioned minimum price is limited to a level sufficient to remove injury and is lower than the dumping margin established.
- (61) As in the previous proceeding, in view of the evolutionary character of the market situation with regard to the product concerned, and of the Community interest to safeguard the competitive-

ness of its end users, it appears necessary to monitor closely further developments and possible negative effects on such end users, and to envisage that, in accordance with the provisions of Article 14 of Decision No 2424/88/ECSC, a review will be initiated at any appropriate point in time.

- (62) To facilitate the initiation of a review of the measures imposed at the earliest opportunity, should circumstances so warrant, the Commission will, in this particular case, proceed directly to the imposition of definitive measures.

H. UNDERTAKING

(a) Procedure

- (63) Prior to reaching its final conclusions of dumping and injury in this case, the Commission informed interested parties of its findings. Having received no comments from the exporter concerned the Commission concluded that the imports of the product concerned originating in the Czech Republic had been dumped and had caused material injury to the Community industry and that protective measures were in the Community interest. The exporter concerned then offered an undertaking in accordance with the provisions of Article 10 (2) (b) of Decision No 2424/88/ECSC.

- (64) The effect of this undertaking would be that the injurious consequences of the dumped imports would be eliminated. In this respect the Commission recalls that the most important factors of the injury caused by the dumped imports were the rapid increase in volume and level of price undercutting. In addition, the Commission is of the opinion that, administratively, it will be possible to verify that the undertaking is being complied with. That being so, the Commission considers that the undertaking offered by the Czech exporting producer is acceptable and that the investigation concerning this company may be concluded.

(b) Imposition of an anti-dumping duty in the event of a breach of the undertaking

- (65) The Commission notes that in the event of a breach of the undertaking an anti-dumping duty can be imposed immediately, based on the facts

available in the present investigation and without carrying out a new investigation concerning dumping and injury resulting therefrom.

- (66) Notwithstanding the acceptance of the undertaking, a residual duty should be imposed on imports of the product concerned originating in the Czech Republic in order to avoid circumvention of the anti-dumping measures,

HAS ADOPTED THIS DECISION :

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports into the Community of hematite pig-iron falling within CN code 7201 10 19 originating in the Czech Republic, except for imports of the product concerned directly invoiced from the Czech Republic to an unrelated importer by :

Vitkovice as, Vitkovice — Divize Hute, Ostrava
(Taric additional code : 8875).

2. The amount of the duty shall be the difference between the minimum price of ECU 149/tonne and the accepted customs value (free at Community frontier) in all cases where this value is less than the minimum price.

3. For the purpose of calculating the duty payable, the minimum price shall be converted into the relevant national currency at an exchange rate established in the same way as that used for a calculation of customs value.

Article 2

The undertaking offered by Vitkovice as in connection with the anti-dumping proceeding concerning imports into the Community of hematite pig-iron originating in the Czech Republic is hereby accepted.

Article 3

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

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

Done at Brussels, 15 January 1996.

For the Commission

Leon BRITTAN

Vice-President

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 8 January 1996

appointing a member and an alternate member of the Committee of the Regions

(96/41/EC)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty establishing the European Community, and in particular Article 198a thereof,

Having regard to the Council Decision of 26 January 1994 appointing the members and alternate members of the Committee of the Regions for the period from 26 January 1994 to 25 January 1998 ⁽¹⁾,

Whereas a seat as a member of the Committee has become vacant following the resignation of Mr Liénard, notified to the Council on 17 October 1995;

Whereas a seat as an alternate member of the Committee has become vacant following the resignation of Mr Thys, notified to the Council on 25 March 1994;

Having regard to the proposal from the Belgian Government,

Sole Article

1. Mr Jean-Pierre Grafé is hereby appointed a member of the Committee of the Regions in place of Mr Liénard for the remainder of his term of office, which runs until 25 January 1998.

2. Mr Hervé Hasquin is hereby appointed an alternate member of the Committee of the Regions in place of Mr Thys for the remainder of his term of office, which runs until 25 January 1998.

Done at Brussels, 8 January 1996.

For the Council

The President

W. LUCCHETTI

⁽¹⁾ OJ No L 31, 4. 2. 1994, p. 29.