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Commission

97/167/EC:

- ★ **Commission Decision of 25 February 1997 accepting undertakings offered in connection with the review of Council Regulation (EEC) No 3433/91 and the proceeding concerning imports of gas-fuelled, non-refillable pocket flint lighters, originating respectively in Thailand and in the Philippines and Mexico** 54

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 423/97

of 3 March 1997

amending Regulation (EEC) No 3433/91 in respect of imports originating in Thailand and imposing definitive anti-dumping duties on imports of gas-fuelled, non-refillable pocket flint lighters originating in Thailand, the Philippines and Mexico

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾, and in particular Articles 9, 11 and 23 thereof,

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

Whereas:

provisional anti-dumping duty on its exports to the Community, the Council by Regulation (EC) No 398/94⁽⁴⁾, amended Regulation (EEC) No 3433/91 in order to remove the exemption from the duty originally granted to this company. Thai Merry's exports to the Community have since been subject to the definitive anti-dumping duty at the rate of 14,1 %.

2. Request for a review

A. PROCEDURE

1. Measures in force

- (1) By Regulation (EEC) No 3433/91⁽²⁾, the Council imposed a definitive anti-dumping duty on imports of gas-fuelled, non-refillable pocket flint lighters (hereinafter referred to as 'disposable flint lighters') originating, *inter alia*, in Thailand. The rate applicable to products originating in that country was set at 14,1 %, with the exception of the company Polito Co., Ltd ('Polito'), whose duty rate was 5,8 % and the company Thai Merry Co., Ltd ('Thai Merry'), which was exempted from the duty since it had offered an undertaking, accepted by Commission Decision 91/604/EEC⁽³⁾.
- (2) Further to the withdrawal of its undertaking by Thai Merry and the subsequent imposition of a

- (3) On 18 March 1995, the Commission announced, by a notice published in the *Official Journal of the European Communities*⁽⁵⁾, the initiation of a review of Regulation (EEC) No 3433/91 in respect of imports of disposable flint lighters originating in Thailand and commenced an investigation pursuant to Article 11 (3) of Regulation (EC) No 3283/94⁽⁶⁾ which was replaced during the investigation by Regulation (EC) No 384/96, hereinafter referred to as 'the basic anti-dumping Regulation'. This interim review was initiated as a result of a request lodged in March 1994 by the European Federation of Lighter Manufacturers (EFLM), on behalf of its members representing almost the totality of Community production of the like product (namely the BIC Group, producer in France, Greece and Spain, the Swedish Match Group, producer in France and the Netherlands, Tokai Seiki GmbH, manufacturer in Germany and Flamagas, producer in Spain). This request, which alleged that the measure in force in respect of Thai imports was no longer sufficient to counteract the injurious dumping, contained sufficient evidence to justify the initiation of a review.

⁽¹⁾ OJ No L 56, 6. 3. 1996, p. 1. Regulation as amended by Regulation (EC) No 2331/96 (OJ No L 317, 6. 12. 1996, p. 1).

⁽²⁾ OJ No L 326, 28. 11. 1991, p. 1. Regulation as last amended by Regulation (EC) No 1006/95 (OJ No L 101, 4. 5. 1995, p. 38).

⁽³⁾ OJ No L 326, 28. 11. 1991, p. 31.

⁽⁴⁾ OJ No L 54, 25. 2. 1994, p. 1.

⁽⁵⁾ OJ No C 67, 18. 3. 1995, p. 4.

⁽⁶⁾ OJ No L 349, 31. 12. 1994, p. 1.

- (4) Since the interim review in respect of imports originating in Thailand was likely not to be concluded before the end of the five-year period of application of the measures concerned (that is to say, on 30 November 1996), the interim review has also covered, in accordance with Article 11 (7) of the basic anti-dumping Regulation, the circumstances set out in Article 11 (2) of the said Regulation (i.e. the circumstances due to be examined in the context of an expiry review).

3. Complaints

- (5) On 18 March 1995, the Commission announced, by a notice published in the *Official Journal of the European Communities*⁽¹⁾ the initiation of an anti-dumping proceeding concerning imports of disposable flint lighters originating in the Philippines and Mexico and commenced an investigation pursuant to Article 5 of the basic anti-dumping Regulation. This proceeding was initiated as a result of two complaints lodged in August 1994 in respect of imports of disposable flint lighters originating respectively in the Philippines and in Mexico.

The complaint concerning imports originating in the Philippines was lodged by the BIC Group, the Swedish Match Group and the Tokai Seiki GmbH, representing more than 90 % of total Community production of the like product. Immediately before initiation, the Spanish producer Flamagas became party to the complaint.

The complaint concerning imports originating in Mexico was lodged by the BIC Group and the Swedish Match Group only. The complaint remained, however, admissible, since the complaining producers represented a major proportion of total Community production of the like product. Immediately before initiation, the Spanish producer Flamagas also became party to this complaint.

It was considered that the relevant complaints contained sufficient evidence of dumping by the Filipino and Mexican imports and of material injury resulting therefrom to justify the initiation of anti-dumping proceedings. It was, however, considered appropriate that the relevant investigations be carried out in the framework of a single proceeding, given that both complaints, lodged almost

at the same time, contained similar allegations concerning imports of the same product.

4. Initiation of investigations

- (6) The Commission officially advised the exporters and importers known to be concerned, the representatives of the exporting countries and the complainant Community producers of the initiation of the review and the initiation of the new proceeding. Interested parties were given the opportunity to make their views known in writing and to request a hearing.
- (7) A number of importers and producers in the countries concerned made their views known in writing. All parties who so requested were granted hearings.
- (8) The investigation of dumping in respect of the three exporting countries concerned covered the period 1 April to 31 December 1994 (hereinafter referred to as 'the investigation period'). For the purpose of the dumping, injury and Community interest determinations, the geographical scope of the investigation was the Community as composed at the time of initiation, therefore including all 15 Member States.
- (9) The Commission sent questionnaires to all parties known to be concerned and received detailed replies from the complainant Community producers, from two producers in Thailand, one producer in Mexico and its related exporter in the United States as well as from another related company which was selling the like product on the Mexican market, from three producers in the Philippines and a related company in Japan, and from four importers in the Community related to the producers in the exporting countries concerned and one independent importer in the Community.
- (10) The Commission sought and verified all the information it considered necessary for a determination of dumping and injury and carried out investigations at the premises of the following firms:
- (a) complainant Community producers:

Producing companies:

- BIC SA, Redon, France,
- Feudor SA (Swedish Match), Rillieux-la-Pape, France;

Producing companies and sales offices:

- Flamagas SA, Barcelona, Spain,
- Laforest BIC SA, Tarragona, Spain,
- Violex BIC SA, Athens, Greece;

⁽¹⁾ OJ No C 67, 18. 3. 1995, p. 3.

Sales companies:

- BIC Deutschland GmbH, Ettlingen, Germany,
- BIC SA, Clichy, France,
- Biro BIC Limited, London, United Kingdom,
- Cricket SA (Swedish Match), Rillieux-la-Pape, France,
- Ebas Nederland (Poppell BV — Swedish Match), Eindhoven, Netherlands;

(b) producers/exporters:

From Thailand:

- Politop Co., Ltd, Bangkok, Thailand,
- Thai Merry Co., Ltd, Samutsakorn, Thailand;

From the Philippines:

- Iwax Philippine, Inc., Rosario, Cavite, Philippines (the investigation having also covered the related company Iwahori Philippines, Inc., Mariveles, Bataan, Philippines),
- Iwax Inc., Shizuoka, Japan (in respect of exports from its subsidiaries Iwax Philippine, Inc. and Iwahori Philippines, Inc.),
- Swedish Match Philippines, Inc., Manila, Philippines;

From Mexico:

- JMP Mexico, SA de CV, Tijuana, Mexico (in respect of its production of disposable flint lighters in Mexico),
- Tokai de Mexico, SA de CV, Cuernavaca, Mexico (in respect of its domestic sales of disposable flint lighters in Mexico),
- Scripto Tokai Corp., Fontana, USA (in respect of its exports to the Community of disposable flint lighters manufactured by JMP in Mexico);

(c) importers related to producers/exporters:

- Iwax (UK) Ltd, Ballymoney, United Kingdom; this importer became independent after the period of investigation,
- Poppell BV (Swedish Match), Eindhoven, Netherlands,

— Tokai Seiki GmbH, Mönchengladbach, Germany,

— Tokai Seiki BV, Hoofddorp, Netherlands;

(d) independent importers:

— Pollyflame International BV, Roelofarendsveen, Netherlands.

5. Subsequent procedure

- (11) It has to be noted that a number of considerations (detailed in recitals 40 to 44) have led the Commission to the conclusion that a cumulative assessment of the effect of the dumped imports from both the country subject to a review (Thailand) and the two countries subject to a new proceeding (the Philippines and Mexico), was warranted.

As a result, from a procedural point of view, it was considered that definitive measures, if any, should be directly adopted in respect of all three countries concerned, without resorting to the intermediate step of provisional duties (an approach which also implied that the measures in force in respect of Thai imports would have to be simultaneously repealed).

- (12) The Commission accordingly continued to seek and verify all information it deemed necessary for its definitive findings.
- (13) 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. They were also granted a period within which to make representations (and/or offer undertakings) subsequent to the disclosure.
- (14) The parties either did not submit any written comments or submitted comments which did not justify any alteration of the preliminary conclusions. Within the specified time limit, three producers/exporters offered undertakings.
- (15) The establishment of findings which, without resorting to the intermediate step of provisional duties, could be considered as final, made it necessary to provide all parties involved with preliminary and final disclosure and grant them sufficient time to submit their views. This, together with the setting up of appropriate undertakings, proved to be time-consuming and accordingly, the investigation overran the normal duration provided for in Articles 6 (9) and 11 (5) of the basic anti-dumping Regulation.

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

1. Product under consideration

- (16) The product subject to the definitive anti-dumping duty referred to in recital 1, as well as the product subject to the proceeding initiated in respect of imports originating in the Philippines and Mexico, is gas-fuelled, non-refillable pocket flint lighters. This product falls within CN code ex 9613 10 00.

It should be recalled in this respect that there are other disposable lighters on the market (piezo lighters) the technical characteristics of which are quite different from those of the abovementioned product. They were therefore not considered to be identical to the product concerned in the original investigation concerning Thailand, were not covered by the original investigation and were excluded from the scope of the measures. No reasons have emerged in the course of the current review and new proceeding which would justify a departure from this approach. Accordingly, piezo lighters were kept outside the scope of the current investigations.

In their representations made further to the final disclosure, the Thai authorities have argued that there are two distinct segments in the Community's disposable flint lighter market, the high end served by high quality Community produced lighters and the low end served by imports, including those from Thailand. This view, expressed in previous cases concerning disposable flint lighters, cannot be shared for the reasons already given in the past, which can be summarized as follows:

For the market of a product to be divided into segments requires at least that differences in physical characteristics be perceptible to, and actually perceived by, consumers and that clearly separate channels of sale exist. These conditions are not met in the case of disposable flint lighters, since all such products, which are globally perceived as being 'non-piezo and disposable' lighters are sold without distinction in the same kind of shops to customers having the same expectations (namely to buy a disposable product belonging to a single category of utility goods).

Finally, it has to be noted that although the product under consideration is manufactured in different sizes and models, all these disposable flint lighters have the same basic technical characteristics, the same basic application and perform the

same function. Accordingly, as in previous investigations, the whole range of models of disposable flint lighters was considered as forming one single category of product.

2. Like product

- (17) As regards the disposable flint lighters produced and sold domestically in the three countries concerned where such sales had taken place and information in their respect had been made available, the investigation showed that such products were either alike in all respects to, or closely resembling, those exported to the Community from the countries in question.
- (18) The investigation also established that the disposable flint lighters produced by the Community industry and sold in the Community market and those imported from the three countries concerned possess similar basic physical and technical characteristics and are intended for the same use. While there may be some minor differences between the product imported from the countries concerned and the Community production, these differences (for instance in the presentation or the technique used for the assembly of the lighter) do not affect the substantial characteristics and properties of the product. The disposable flint lighters produced and sold by the Community industry and those imported from the three countries concerned should therefore be regarded as like products.
- (19) Accordingly, it is concluded that disposable flint lighters produced and sold in the Community, as well as those produced and sold in Thailand, the Philippines and Mexico and those exported to the Community from these three countries should be regarded as 'like products', within the meaning of Article 1 (4) of the basic anti-dumping Regulation.

C. DUMPING

1. Normal value

(a) Thailand

- (20) One Thai cooperating exporter, whose exports represented almost 100 % of total Community imports from Thailand during the investigation period, had sold disposable flint lighters on its domestic market. For two models, normal value was based on domestic selling prices, since after exclusion, in accordance with the provisions of Article 2 (4) of the basic anti-dumping Regulation, of non-profitable sales, the remaining profitable sales of

comparable models were found to represent at least 5 % of the sales volume of the models concerned to the Community. For a third model, in the absence of sufficient profitable sales of a comparable model, normal value was constructed on the basis of the company's costs of manufacture, selling, general and administrative expenses (hereinafter referred to as 'SG & A') and profit. These SG & A and profit were established on the basis of the abovementioned profitable sales.

exceeding the one normally realized on the Mexican market in the same business sector. Therefore, for the purpose of constructing normal value for each model exported by the Mexican cooperating exporter, the profit margin established in Thailand was, in accordance with the provisions of Article 2 (6) (c) of the basic anti-dumping Regulation added to the abovementioned Mexican cost of manufacture and domestic SG & A.

(c) *Philippines*

- (21) For the other Thai exporter, no dumping calculation could be made due to the fact that the company had ceased to export in 1992.

(b) *Mexico*

- (22) The sole Mexican cooperating exporter, whose exports represented almost 100 % of total Community imports from Mexico during the investigation period, was fully export oriented but was nevertheless able to provide information regarding sales of the like product on its domestic market, as another company in the same group was producing and selling disposable flint lighters on the Mexican market. However, the sales in question, which were the only domestic sales of the like product available in Mexico, proved to be partly made at a loss, the remaining profitable sales representing less than 5 % of the quantities exported to the Community.
- (23) Accordingly, the Commission constructed normal value for this exporter by adding to the cost of manufacture of each exported model, the domestic SG & A available in Mexico, i.e. those of its related company selling disposable flint lighters in Mexico. As regards profit, given the lack of representative profitable sales in Mexico for disposable flint lighters and the non-availability of reliable data in respect of sales of the same general category of products in this country, a reasonable alternative solution had to be sought.
- (24) To this end, it was examined whether Thailand, for which representative and reliable data were available, could be considered as a comparable market to Mexico in the sector concerned and, thus, an appropriate reference for the profit determination. This examination led to the conclusion that the conditions prevailing on both markets were similar. Moreover, the exporter concerned acknowledges that the profit margin achieved in Thailand was not
- (25) The comparison of import statistics, after exclusion, on the basis of available data, of certain lighters which are outside the scope of the investigation (see recital 16, considerations concerning piezo lighters) with quantities reported by the three Filipino cooperating exporters for the period of investigation, showed a level of cooperation close to 100 %.
- (26) In the Philippines, two cooperating exporters (belonging to the same group) were solely export oriented. The third cooperating exporter was selling on its domestic market through a related selling company during the investigation period, but the latter, recently become independent, refused to cooperate. Therefore, no information regarding sales of the like product (or of the same general category of products) on the Filipino market could be collected and normal value had to be constructed on the basis of data available.
- (27) To this end, it was examined whether Thailand, for which representative and reliable data were available, could be considered as a comparable market to the Philippines in the sector concerned and, thus, an appropriate reference for the SG & A and profit determination. This examination led to the conclusion that the conditions prevailing on both markets were similar. Moreover, the exporters concerned admitted that both the SG & A incurred and the profit margin achieved in Thailand were not exceeding those normally encountered on the Filipino market in the same business sector. Therefore, for the purpose of constructing normal value in the case of the three Filipino cooperating exporters, the Commission added to their respective cost of manufacture for each exported model, in accordance with the provisions of Article 2 (6) (c) of the basic anti-dumping Regulation, an amount for SG & A and for profit based on the respective amounts established in Thailand.

2. Export price

- (28) Practically all export transactions made by the exporters concerned during the investigation period were considered (only a few models sold in very small quantities were disregarded in agreement with the representatives of the companies concerned).
- (29) Where export sales were made directly to unrelated importers, export prices were established on the basis of the prices actually paid or payable for the product sold for export to the Community.
- (30) Where exports were made to related companies which imported the product concerned into the Community, export prices were constructed on the basis of resale prices to the first independent buyer, adjusted to take account of all costs incurred between importation and resale including customs duties and a reasonable profit margin (namely 5 %). The latter was established on the basis of the profit margins considered reasonable in this business sector for unrelated importers.

Where cost allocations for importers' SG & A were necessary in the construction of export prices, these were generally made on the basis of turnover with the exception of those cases where the importers provided sufficient evidence to justify another method of allocation. These allocations included all the general administration and selling costs related to the sales under consideration, whether financed by the exporter or by the related importer. Discounts and rebates given in connection with sales of the related importer to independent buyers were taken into account in constructing export prices.

3. Comparison

- (31) The weighted average normal value by model, as determined above, was compared at an ex-factory level with the export price, on a weighted average basis in the case of Thailand and on a transaction-by-transaction basis in the case of the Philippines and Mexico. Indeed, in the latter cases, the export price had to be constructed on the basis of resale prices to the first independent buyer. These resale prices and the corresponding constructed export prices showed patterns of pricing differing significantly among different purchasers, regions or time periods, which would have resulted in that the full degree of dumping being practised would not have

been reflected had the method based on weighted-average export prices been used.

- (32) As far as differences affecting price comparability are concerned, adjustments were granted in accordance with Article 2 (10) of the basic anti-dumping Regulation, where satisfactory evidence was therefore supplied. Such adjustments concerned differences in costs for level of trade (calculated on the basis of advertising costs, incurred on the domestic market but not on exports), transport, insurance, handling, packing and credit.

4. Dumping margins

- (33) The examination of the facts showed the existence of dumping for all the cooperating exporters for which calculations could be made, the dumping margins being equal to the difference between normal value and export price duly adjusted.
- (34) The weighted average dumping margins expressed as a percentage of the free at Community frontier price are as set out below:

Thailand:

Thai Merry: 51,9 %;

Mexico:

production by JMP Mexico and exports by Scripto Tokai Corp. USA: 27,1 %;

Philippines:

— production by Iwax Philippine Inc. and Iwahori Philippines Inc. and exports by Iwax Inc. Japan (single dumping margin): 52,6 %;

— Swedish Match Philippines, Inc. 36,7 %.

D. COMMUNITY INDUSTRY

- (35) The investigation confirmed that the complainant Community producers, either represented by the EFLM (on whose behalf the request for an interim review in respect of Thai imports had been lodged) or acting separately in two distinct groups (one having lodged the complaint concerning imports originating in the Philippines and the other one the complaint concerning imports originating in Mexico), accounted in all cases for a major proportion of total Community production of the like product.

- (36) During the course of the investigation carried out in respect of the above companies, it became apparent that two producers or groups of producers, namely Tokai Seiki GmbH, together with one of its sales subsidiary in the Community, and the companies belonging to the Swedish Match Group, were related respectively to the sole Mexican exporter and one Filipino exporter and were also importing the dumped product from the countries concerned.

In these circumstances, the Commission examined whether, in the light of the provisions of Article 4 (1) (a) of the basic anti-dumping Regulation, these companies should be excluded from 'the Community industry'. In this respect, it should be recalled that Article 4 (1) (a) does not provide for the automatic exclusion of producers who are related to exporters and/or themselves importing the dumped products, but rather obliges the Commission to examine on a case-by-case basis whether the exclusion of any producer in this situation is warranted.

- (37) As far as Tokai Seiki GmbH is concerned, it has firstly to be noted that this company had made it clear that it only supported the action against the Philippines and Thailand and that its cooperation as a potential Community producer was restricted to the investigations in respect of these two countries. Secondly, the investigation showed that this producer was not only related to the sole Mexican exporter but also responsible for a very large proportion of the total imports into the Community of disposable flint lighters declared as originating in Mexico.

In this respect, it should be recalled that the investigations concerning Mexican and Filipino imports were carried out in the framework of a single proceeding (see recital 5) and that a cumulative assessment of the effect of the dumped imports from Thailand, the Philippines and Mexico was found to be warranted (see recitals 40 to 44). In this context, it was considered that taking into account the situation of Tokai Seiki GmbH in the overall injury assessment was not appropriate since, given the importance of the Mexican imports concerned, it would have led to unreliable results. Accordingly, it was considered appropriate to exclude Tokai Seiki GmbH from 'the Community industry'.

- (38) As regards the companies belonging to the Swedish Match Group, which are related to the Filipino exporter Swedish Match Philippines, Inc., it appeared appropriate to determine whether those companies (which were complainants in all three cases and fully cooperated in all three investigations) were primarily producers with an additional activity based on imports and merely supplementing their Community production, or whether

they were importers with relatively limited additional production in the Community.

The investigation revealed that the import activity of the companies belonging to the Swedish Match Group in respect of the product concerned originating in the Philippines was extremely limited, thus underlining that the core of their operations relating to the product concerned firmly remained in the Community. Accordingly, it was considered appropriate to maintain the companies concerned within 'the Community industry'.

- (39) The injury findings set out below are therefore based on the information submitted by the co-operating companies other than Tokai Seiki GmbH, namely the producers belonging to the BIC Group and to the Swedish Match Group, and the Spanish company Flamagas.

E. INJURY

1. Cumulation

- (40) The basic anti-dumping Regulation requires, as a precondition of cumulation, that the countries concerned be subject to simultaneous investigations, that the margin of dumping established in relation to the imports from each country be more than *de minimis* (i.e. more than 2 %) and that the volume of imports from each country be not negligible. Where such conditions are met, the conditions of competition should then be examined, in particular to determine whether imported products originating in the countries concerned are interchangeable, are sold at similar price levels, have common or similar channels of distribution and are simultaneously present in the same geographical markets.

- (41) In this respect, it has to be noted that the disposable flint lighters exported from all three countries concerned are subject to simultaneous investigations which have established dumping margins ranging from 27,1 to 52,6 %. In addition, none of the exporting countries concerned delivered to the Community quantities representing a market share beneath 1 %, which could then have been considered as negligible.

As regards their conditions of competition, the imported products originating in the three countries concerned were found to be interchangeable and sold at similar price levels, to have similar channels of distribution and to be simultaneously present in the same geographical markets.

In this context, the following arguments were raised by interested parties:

- (42) The two related Filipino producers questioned the appropriateness of cumulation in the case of Filipino and Mexican imports on the grounds that differences in volume and progression of imports between these two countries would be such as to affect the above conclusion that Filipino and Mexican disposable flint lighters were competing under similar conditions on the Community market.

In support of this assertion, they claimed that the actual rate of increase of Filipino imports was not, by far, as sharp as that of Mexican imports and that the difference was such as to warrant a separate assessment of the impact of the imports concerned in the Community market. Information was provided showing that the actual progression of Filipino imports was less marked than the one reported by Eurostat. Reference was also made to a previous case⁽¹⁾ where the Commission had decided not to cumulate imports from Korea and China because the investigation had shown 'diametrically opposed progressions', in recital 42 of that Regulation, as regards import volume and market share as well as marked differences in these two countries' respective pricing policies.

However, while the progression of Filipino imports (corresponding to an increase in market share from 2 % in 1990 to 3,3 % in 1994) is less marked than that registered in the case of Mexican imports, of which the starting point was lower (the Mexican market share, 0,1 % in 1990 reached 9,2 % in 1994), it must be noted that both countries achieved a significant market share during the investigation period and exports were made at prices significantly undercutting those of the Community industry. In addition, it is worth noting that both Filipino and Mexican imports have increased in absolute terms as well as in market share and the levels of price undercutting practised were very similar.

It was therefore considered that the respective positions of Filipino and Mexican imports on the Community market were not sufficiently different so as to justify a finding that the conditions of competition between Filipino and Mexican lighters were different. Accordingly, the above claim could not be accepted.

- (43) The representative of one of the Thai exporters also claimed that the injury caused by Thai imports should not be cumulatively assessed with the one attributable to Mexican/Filipino imports for the following reasons: Although Article 3 (4) of the basic anti-dumping Regulation allows cumulation in case of simultaneous investigations, cumulation of Thai imports, which are the subject of an interim review, with Mexican/Filipino imports would be inappropriate because the legal standards (and the consequent legal tests) which apply in such a review would be different from those applicable to a new proceeding.

As regards the appropriateness of a global assessment of the impact of imports already subject to measures together with imports which are investigated for the first time, it is considered that since the basic anti-dumping Regulation does not preclude such a methodology, in particular where a full scale injury investigation has been carried out, any decision in this respect should be made for each case on its own merits, i.e. by examining the impact of the respective behaviour of the exporting countries concerned.

In this respect, it should be noted that the anti-dumping measures applicable to Thai imports did not prevent this exporting country, after the withdrawal by the main Thai exporter of its undertaking in 1993, to resort again to injurious dumping, with the result that Thailand appears to have then adopted a very similar behaviour to that of the Philippines and Mexico.

This similarity of behaviour means that, notwithstanding the measures in force (likely to have, *ipso facto*, become insufficient to counteract the injurious dumping), imports from the country being reviewed may have contributed, on a par with imports from the countries subject to the new proceeding, to any injury which may prove to be attributable to the dumped imports under investigation.

- (44) Therefore, it was considered that the similarity of behaviour of the three exporting countries concerned (with the consequent impossibility to assess separately their respective contribution to injury), together with the fact that the above criteria concerning conditions of competition are met, was such as to make cumulation warranted.

This approach was criticised by the Thai authorities on the grounds that it would lead to a confusion of the issue of whether to impose anti-dumping duties in the first instance (i.e. in respect of Filipino and

⁽¹⁾ Commission Regulation (EEC) No 763/90 of 26 March 1990 imposing a provisional anti-dumping duty on imports of tungsten carbide and fused tungsten carbide originating in the People's Republic of China and terminating the anti-dumping proceeding concerning imports of those products from the Republic of Korea (OJ No L 83, 30. 3. 1990, p. 36).

Mexican imports) with the separate, allegedly higher standard of whether existing duties (applicable to Thai imports) should be continued (in an amended form, in the context of an interim review having also covered the circumstances due to be examined in an expiry review).

This view could not be accepted in particular because the argument of the Thai authorities that the standards of injury applicable to reviews of the present kind would be higher than the one applicable to new proceedings does not appear to be correct, notably in the light of the combined provisions of Articles 3 and 11 of the basic anti-dumping Regulation. Indeed, in the context of a review of the present kind, the Institutions have to take account of the fact that the existing measures may have limited the injurious effects of the dumped imports under examination. The latter may have either remained injurious or become such as to support a finding that the injury is likely to recur in the absence of measures.

On the basis of all the above considerations, the appropriateness of the cumulative assessment of the similar and simultaneous effect of the dumped imports from the three countries concerned was therefore confirmed.

2. Total Community-consumption

(45) In order to calculate total apparent consumption of the product in question on the Community market, Community producers' sales in the Community of disposable flint lighters were added to the total imports into the Community, as declared under CN code 9613 10 00 (excluding, however, as far as the Philippines are concerned, disposable piezo lighters, on the basis of reliable data made available during the investigation). On this basis, the total apparent consumption of disposable flint lighters has grown between 1990 and 1994 by 21 %.

(46) It is, however, known that this high rate of increase has to be qualified. Indeed, importers (which were anticipating an increased anti-dumping duty on Chinese disposable flint lighters) imported large quantities from the People's Republic of China at the end of 1994. Part of these quantities (around 65 million units), which could not be put on the market before 1995, were kept in stock and this situation artificially increased total apparent consumption in 1994.

Thus, in order to assess the actual rate of increase of Community consumption, the Commission has

estimated that the share of Chinese imports cleared through customs in 1994 (amounting in total to 176,7 million units) likely to have been resold (by importers to wholesalers or retailers) in the same year amounted to ± 110 million units. On this basis, the increase in total consumption is 11 % (instead of 21 %). Such a rate of increase would appear to reflect fairly the actual trend of Community consumption.

3. Factors relating to the dumped imports

(a) Imports' increase rate

(47) The overall rate of increase of imports from the countries concerned was found to be very significant (more than + 280 %). Indeed, between 1990 and 1994, quantities:

- were multiplied by more than 120 in the case of Mexico (even though from an admittedly extremely low starting point),

- increased by more than 95 % in the case of the Philippines,

- increased by 18 % in the case of Thailand. In the context of a review, such an increase rate remains significant, as it appears likely that the imposition of anti-dumping measures in 1991 (and their amendment in 1994), has had an impact on the rate of increase of Thai imports, even if limited by the decrease in Thai selling prices following the withdrawal of its undertaking by the main Thai exporter.

(b) Market share

(48) Imports from the three countries concerned, considered together, have captured between 1990 and 1994 an additional 10 % of the Community market for the product in question (their share of the market indeed increased from 4,6 to 15 %). In the meantime, in a growing market, the Community producers have lost a substantial share of the market, namely more than 8,5 percentage points, from 57,3 % in 1990 to 48,6 % in 1994. This means that, globally, the position of other third countries has also been slightly eroded (a more detailed examination however showed, as explained at recital 70, that the People's Republic of China substantially increased its share of the Community market to the detriment of exporting countries other than those subject to the current investigations).

(c) Prices of imports

- (49) For the model comparison, as in all previous investigations concerning disposable flint lighters, it was considered appropriate that only those lighters with an equal or almost equal amount of gas, and therefore a similar number of ignitions, be taken as a basis for the calculation of undercutting.
- (50) Where sales were made to unrelated importers, the comparison was made between the cif import price, adjusted to duty paid, customer delivered level and the selling price in the EC of the Community producers at the same level of trade. Where sales were to a related importer, the price comparison was made on the basis of the sales to the first independent customer.

The average level of price undercutting, expressed as a percentage of the Community industry's average price, was found to be more than 30 % in all cases but one (namely the Filipino company related to the Swedish Match Group, whose exports to the Community, in extremely limited quantities, cannot be considered as representative of Filipino exports of disposable flint lighters). This means that prices of the disposable flint lighters imported from the countries concerned were significantly below the prices practised by the Community producers during the investigation period.

4. Situation of Community industry

(a) General

- (51) The lighter market is very price sensitive. In order to be able to sell or to keep market share, the numerous producers and buyers on the market tend to adjust their prices to the lowest level on offer. This means that faced with low priced dumped imports, the Community industry is either forced to lower its prices in order to try to maintain market share, production level and capacity utilization, or led to lose market share if it tries to maintain its prices.

(b) Capacity, production and sales

- (52) Between 1990 and the investigation period, capacity remained stable while production very slightly increased. Sales slightly increased in volume and very slightly increased in value.

(c) Market share

- (53) The Community industry's market share decreased from 57,3 % in 1990 to 48,6 % in the investigation period.

(d) Prices

- (54) Prices, on average, slightly improved until 1992, then slightly decreased. It has to be noted in this respect that, in an attempt to keep its market share, the Community industry has, over the period examined, sold increasing quantities of products with special executions (such as 'sleeved' and 'printed' lighters, which would have normally justified price levels higher than those of 'standard' lighters). The investigation thus showed that such higher price levels, which would normally be associated with more sophisticated products, could not be maintained, with a consequent impact on the Community industry's profitability.

(e) Profitability

- (55) The Community industry's average return on sales of the like product, negative in 1990, improved and became slightly positive in 1991. It deteriorated again, but remained positive, in 1992. In 1993, the average return was, again, negative. During the investigation period, the average sales price was slightly above the average cost of production.

(f) Employment

- (56) In an effort to reduce its costs, the Community industry continued to reduce the number of its employees (an 8 % reduction between 1990 and 1993 was partly compensated for in 1994, but the number of employees remained, in 1994, 4 % below its level of 1990).

5. Conclusion on injury

- (57) Prices of imports very substantially undercut the Community industry's average price, namely by more than 30 % (with the exception of the Filipino company related to a Community producer whose exports were too limited to be considered as representative of Filipino exports).
- (58) Injury to the Community industry over the period under examination mainly took the following form:
- loss of market share: the Community producers have lost an 8,5 percentage point share between 1990 and 1994 (or even a 15 percentage point share if 1994 is compared with 1992). Given that, in terms of volume, their sales remained stable, this means that Community producers have been totally prevented from benefiting from the market expansion,

— insufficient profitability: the Community industry's overall profitability remained very low (particularly for an industry requiring substantial investments to innovate). This results from the fact that its prices, heavily undercut, could not be increased, even slightly, over the last five years (despite the fact that the share of the products with special executions, normally more expensive, increased). The Community producers' very low level of profitability reached in 1994, if allowed to continue, will not be sustainable. This creates a serious risk to see Community producers, in a relatively short time, relocating their production outside the Community.

- (59) In summary, the Community industry, which appeared to be in the process of recovering from the effects of past dumping, is still in a very precarious financial and market situation and on this basis, it is concluded that it has been adversely affected and has suffered injury which is sufficient for it to be classified as material.

F. CAUSATION OF INJURY

- (60) For the purpose of determining whether the injury suffered by the Community industry was caused by the Thai, Mexican and Filipino dumped imports and whether other factors caused or contributed to that injury, the following elements were examined.

1. Effect of the dumped imports

- (61) In examining the effects of the dumped imports, it was found that the increasing volume and decreasing prices of the dumped imports coincided with the loss of market share and the deterioration in the financial situation of the Community industry.
- (62) Indeed, between 1990 and the investigation period, the market share held by the dumped imports from the three countries concerned has significantly increased, namely from 4,6 to 15 %, i.e. by more than 10 % of total consumption, while the Community industry's market share decreased by more than 8,5 % of total Community consumption. In addition, during the investigation period, prices of the disposable flint lighters imported from Thailand, the Philippines and Mexico were significantly below the prices practised by the Community producers (on average by more than 30 %).

Given that the market in question is highly price sensitive, as already explained at recital 51, it is

clear that this significant price undercutting by Thai, Filipino and Mexican dumped imports, with consequentially increased market share, has significantly affected the Community industry, even more so as the imported products were sold through the same sales channels and to the same customers as those of the Community industry.

2. Effect of other factors

(a) *Volume and prices of imports not sold at dumping prices*

- (63) Imports from third countries other than those subject to anti-dumping measures or to the current investigations were found to have increased by 34 % between 1990 and 1994. However, this increase is not very significant in terms of market share (from 10 % in 1990 to 11,3 % in 1994).
- (64) As to the price levels of these imports, it has to be stressed that Eurostat data, based on a mix of different lighters, cannot be considered as a suitable basis for the purpose of establishing accurate unit prices. In any case, no substantiated evidence which would show that the actual price levels of these imports were significantly undercutting the Community industry's prices was submitted by any interested party.

(b) *Evolution of demand and pattern of consumption*

- (65) As can be seen from recitals 45 and 46, no contradiction in demand or any other negative changes in the patterns of consumption took place during the period under examination.

(c) *Trade practices of, and competition between, third countries and Community producers*

- (66) No evidence concerning the existence of restrictive trade practices of third countries, which could have been a source of injury to the Community industry, has been submitted. As far as competition between other third countries and Community producers is concerned, no other case than that of Chinese imports, examined below, appeared to warrant special consideration.

(d) *Developments in technology, export performance and productivity of the Community industry*

- (67) The ability of the Community industry to follow, or even get ahead of, its competitors as regards

technological developments is not in question (Community producers have indeed registered several valuable patents concerning the manufacture of disposable flint lighters).

- (68) The Community industry's ability to compete on export markets outside the Community is also clearly established (Community producers' sales of disposable flint lighters to third countries rose by 14 % between 1990 and 1994).
- (69) The same applies to the Community industry's productivity per worker, which has slightly improved between 1990 and 1994.

(e) Impact of other imports sold at dumping prices

- (70) The case of the People's Republic of China was found to warrant special consideration in this context. This country indeed appeared to have substantially increased its share of the Community lighter market over the period 1990 to 1994. Quantities exported from the People's Republic of China to the Community were very substantial and prices not only dumped but also very low. By Council Regulation (EC) No 1006/95⁽¹⁾, these imports were subjected to an increased anti-dumping duty.

All cooperating exporters have claimed that they were forced to follow the trend set by the Chinese in order to continue to sell. Although this argument is not totally unfounded, it is considered that the fact that the People's Republic of China has become one of the major players on the market (largely through dumping) cannot exempt other exporting countries, delivering quantities which are far from being negligible, from their responsibility for resorting to injurious dumping.

In addition, this does not detract from the fact that severe competition of low-priced dumped imports from Thailand, the Philippines and Mexico has significantly participated to the downward pressure put on disposable flint lighter prices in the Community.

3. Conclusion on causation

- (71) Notwithstanding the fact that another element, namely the dumped imports from the People's Republic of China, may have had a negative impact on the Community industry, it is considered that dumped imports from Thailand, the Philippines

and Mexico have by themselves caused material injury to the Community industry. This conclusion is based on the various elements set out above and especially the level of price undercutting and the quantities concerned which resulted in a significant downward price pressure.

G. CONTINUATION OR RECURRENCE OF DUMPING AND INJURY (THAILAND)

- (72) Since, as explained in recital 4, the interim review in respect of imports originating in Thailand was likely not to be concluded before the end of the five-year period of application of the measures concerned, the interim review concerning this country has also covered the circumstances due to be examined in the context of an expiry review as set out in Article 11 (2) of the basic anti-dumping Regulation.

- (73) In the course of this examination, carried out with a view to determining, in the assumption that the measures against Thailand would be due to expire, whether such expiry 'would be likely to lead to a continuation or recurrence of dumping and injury', the following elements were found to be relevant:

- since, already before any foreseeable expiry, the Thai imports concerned have continued to be dumped (moreover at a higher level than the one originally established), it is considered highly unlikely that the expiry of the measures could result in, or even coincide with, the disappearance of dumping,
- similarly, as regards the injury analysis, it should be noted that, had the conclusion on cumulation not been reached and therefore had Thai imports been examined in isolation, they would still have been found injurious to such an extent (given the results of the investigation as to the volume and prices of such imports) that an increase in the level of the applicable anti-dumping duty would have been warranted. This finding, made in consideration of the existence (and level) of the current measures, would be strengthened, if anything, in the light of their possible expiry.

- (74) Accordingly, it is considered that, since the persistent injurious dumping is such as to make the amendment of the existing measures against Thailand warranted, it follows that the expiry of the measures would be likely to lead to a continuation of dumping and injury and that the measures against Thailand should not be allowed to lapse.

⁽¹⁾ OJ No L 101, 4. 5. 1995, p. 38.

H. COMMUNITY INTEREST

- (75) In assessing whether it is in the Community's interest to take or modify anti-dumping measures in respect of imports of disposable flint lighters from the countries concerned which have been dumped and have caused injury to the Community industry concerned, the views of all parties involved in the proceeding were considered. This examination was carried out with a view to determining whether compelling reasons existed which would make anti-dumping measures unwarranted.

1. Community industry

- (76) Unless measures are taken in respect of Mexican and Filipino imports and the current measures in respect of Thailand amended in such a way that causes the Mexican, Filipino and Thai lighter prices to increase significantly, it is considered that the Community industry will have to lower further its prices or will lose market share at an increased rate. In both situations, the financial situation of the Community industry will worsen. As a result, production in the Community will no longer be viable and might have to cease, resulting in loss of jobs in both the industry itself and related sectors.

Also, the revenues required for investment in research and development of products in line with lighter safety standard and more sophisticated production techniques, which are vital in maintaining competitiveness in a highly competitive sector, will be drastically reduced. Consequently, the Community industry could then, after a relatively short period of sustained losses, do nothing but withdraw from production in the Community.

It is therefore justified to give the disposable lighter industry, which has a long history of investment and resultant innovation in the Community, the chance to survive by removing the distortion effects of dumping and thus securing employment and future investment.

2. Consumer interest

- (77) No information relating to the Community interest issue has been received from consumer organizations. The disposable lighter is an inexpensive product which, in general, is bought without special preference. Although differences in prices appear to have a determining effect on consumers' choice between different lighters, the absolute level of prices does not seem to have any influence on the decision to buy or not to buy such a disposable

product. Therefore, a price increase, at the level of the importer and partly or wholly reflected throughout the distribution chain, will be likely to have no material impact on the total consumption of disposable flint lighters.

It should also be stressed that, given the usual mark up between the cif import price and the retail price, the lighter distribution chain is likely to be able to absorb most of the impact on the consumer of price increase which would result from anti-dumping measures. Additionally, it should be noted that price increases, if any, will not have a major impact on the budget of the consumer due to the low unit price of this item and the very limited amount spent on it per individual.

3. Conclusion

- (78) Having examined the various interests involved, it is concluded that it is in the Community interest to impose anti-dumping measures to eliminate the injurious effects of the dumped imports under consideration and that, conversely, no compelling reasons exist which would make such measures unwarranted.

Indeed, failure to take action could mean disappearance of production in the Community and, consequently, loss of employment and lack of investment. The price increase and the consequent relatively little extra cost for the consumer can by no means be considered to be of the same magnitude as the cost of the total disappearance of a Community industry.

I. ANTI-DUMPING MEASURES

1. Injury elimination level

- (79) In accordance with the relevant provisions of the basic anti-dumping Regulation, it was examined whether the measures should be less than the dumping margins found, if such lesser measures would be adequate to remove the injury to the Community industry. For that purpose, it was considered that the selling prices of each exporter to unrelated importers, adjusted to duty paid, customer delivered levels (or, where sales were to a related importer, the resale price to the first independent customer) should be compared to selling prices established at the same level of trade and reflecting the Community producers' cost of production together with a reasonable amount of profit.

- (80) For that purpose, it was considered that only those lighters with an equal or almost equal amount of gas, and therefore a similar number of ignitions, should be taken into account. As to the amount of profit considered as reasonable, it was examined whether the amount of profit used in the previous proceedings concerning disposable flint lighters, namely a margin of 15 % on turnover, could be expected to be attained in the absence of the dumped imports concerned.
- (81) In this respect, it has to be recalled that the dumped imports from the People's Republic of China may also have had a negative impact on the Community industry during the period under examination. Accordingly, in order to ensure that the remedy sought in respect of the dumped imports from the three countries concerned remains proportionate, it was considered appropriate and not unreasonable that the amount of profit used in the current injury elimination level calculations be limited to 10 %. This limitation of the profit margin to 10 % was considered appropriate in order to take account of the other factor of injury which may have affected the situation of the Community industry during the period currently under examination. It should not, therefore, be interpreted as entailing a global reconsideration of previous findings in respect of the lighter industry's reasonable profitability.
- (82) The injury elimination level calculations carried out on the above basis resulted in the average underselling margins, expressed as a percentage of the free-at-Community-frontier price, to be higher than the corresponding dumping margins in the case of the Thai exporter Thai Merry, as well as in the case of the Mexican producer JMP (whose products are exported by Scripto Tokai Corp. USA).

For the Filipino cooperating producers, the average underselling margins, expressed as a percentage of the free-at-Community-frontier price, found to be lower than the corresponding dumping margins, were:

- production by Iwax Philippine Inc., and Iwahori Philippines Inc. and exports by Iwax Inc. Japan (single margin): 43 %,
- Swedish Match Philippines, Inc.: 17 %.

2. Case of the Thai company Politop

- (83) As mentioned above, at the end of the original investigation concerning Thailand, the company Politop had an individual anti-dumping duty based on its dumping margin (namely 5,8 %) imposed.

On the occasion of the current review, this producer also cooperated but was unable to provide any data on the basis of which new dumping and injury margins could be calculated. Indeed, this producer only exported small quantities to the Community in 1992 and did not export to the Community any disposable flint lighters since then.

- (84) From the documents examined (notably the company's commercial correspondence), it emerged that this situation came about as a result of Politop's refusal to sell at prices below cost. Arguing that its behaviour had been consistently fair over the past four years, Politop claimed that the increased residual duty likely to be established for Thailand should not apply to its exports to the Community and requested to be granted a 0 % duty rate, or at least that the current 5,8 % duty rate be maintained.
- (85) In seeking an appropriate solution, it was found that since Politop entirely ceased to export to the Community, the best available information in its case could not be considered to be the residual dumping margin determined during the investigation period.
- (86) In these circumstances, the best available information appeared to be Politop's own data from the previous investigation. It was therefore considered that the maintaining of Politop's current duty rate (5,8 %) should constitute the most appropriate solution to its very specific situation.

3. Undertakings

- (87) Having been informed of the essential facts and considerations on the basis of which it was intended to recommend the repealing of the existing measures concerning Thai imports and the imposition of definitive anti-dumping duties in respect of imports originating in the three countries concerned, one Thai producer, the sole Mexican producer and the two related Filipino producers offered undertakings concerning their exports of the product concerned to the Community.

After examination of these offers, the Commission considered the undertakings as acceptable since they would eliminate the injurious effects of dumping pursuant to Article 8 (1) of the basic anti-dumping Regulation. Furthermore, given in particular the type of sales channels of the exports concerned (which are made either to related parties or sole importers in the Community), it was considered that these undertakings could be monitored effectively.

- (88) The Commission consulted the Advisory Committee on the acceptance of these undertakings and no objections were raised. The undertakings offered were accepted by Commission Decision 97/167/EC⁽¹⁾.

4. Individual and residual duties

- (89) Notwithstanding the acceptance of the undertakings offered by certain Thai, Mexican and Filipino producers:

- the measures in force in respect of Thailand should be repealed,
- individual duties should be imposed in respect of imports from the Thai company Politop (at the rate of 5,8 %, as explained in recitals 83 to 86) and the Filipino company Swedish Match Philippines, Inc., which did not offer any undertaking (at the level of the lesser margin mentioned in recital 82, namely 17 %),
- residual duties should be imposed on imports of the product concerned originating in Thailand, the Philippines and Mexico, in order to underpin the undertakings by avoiding their circumvention.

Given the level of cooperation obtained from the three countries concerned (close to 100 %), the residual definitive duties should be imposed, for each country, at the level established for the co-operating company with the highest dumping margin, (i.e. on the basis of the latter company's dumping margin or, where appropriate, underselling margin). On this basis, the residual duties should be set at 51,9 % in the case of Thailand, 43,0 % in the case of the Philippines and 27,1 % in the case of Mexico,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3433/91 is hereby amended as follows:

1. at the end of Article 1 (1), 'and Thailand' is deleted;
2. paragraph (d) of Article 1 (2) shall be repealed.

Article 2

1. Definitive anti-dumping duties are hereby imposed on imports of gas-fuelled, non-refillable pocket flint lighters falling within CN code ex 9613 10 00 (Taric code 9613 10 00*10) originating in Thailand, the Philippines and Mexico.
2. The rate of the duties, applicable to the net, free-at-Community-frontier price, before duty, shall be as follows:
 - (a) 51,9 % for imports originating in Thailand (Taric additional code 8900) with the exception of imports which are produced and sold for export to the Community by Politop Co., Ltd, Bangkok where the rate shall be 5,8 % (Taric additional code 8937);
 - (b) 43,0 % for imports originating in the Philippines (Taric additional code 8900) with the exception of imports which are produced and sold for export to the Community by Swedish Match Philippines, Inc., Manila where the rate shall be 17,0 % (Taric additional code 8938);
 - (c) 27,1 % for imports originating in Mexico (Taric additional code 8900).
3. (a) The duties referred to in paragraph 2 (a) shall not apply to gas-fuelled, non-refillable pocket flint lighters produced and sold for export to the Community by Thai Merry Co., Ltd, Samutsakorn (Taric additional code 8542).
- (b) The duties referred to in paragraph 2 (b) shall not apply to gas-fuelled, non refillable pocket flint lighters produced by Iwax Philippine, Inc., Rosario, Cavite, or Iwahori Philippines, Inc., Mariveles, Bataan and sold for export to the Community by themselves or by Iwax Inc., Shizuoka, Japan (Taric additional code 8939).
- (c) The duties referred to in paragraph 2 (c) shall not apply to gas-fuelled, non refillable pocket flint lighters produced by JMP Mexico, SA de CV, Tijuana, and sold for export to the Community by Scripto Tokai Corp., Fontana, USA (Taric additional code 8940).

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

Article 3

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

⁽¹⁾ See page 54 of this Official Journal.

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

Done at Brussels, 3 March 1997.

For the Council

The President

M. DE BOER

COMMISSION REGULATION (EC) No 424/97

of 5 March 1997

fixing the export refunds on white sugar and raw sugar exported in its unaltered 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 1 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, as last amended by Regulation (EC) No 1599/96⁽²⁾, and in particular point (a) of the first subparagraph of Article 19 (4) thereof,

Whereas Article 19 of Regulation (EEC) No 1785/81 provides that the difference between quotations or prices on the world market for the products listed in Article 1 (1) (a) of that Regulation and prices for those products within the Community may be covered by an export refund;

Whereas Regulation (EEC) No 1785/81 provides that when refunds on white and raw sugar, undenatured and exported in its unaltered state, are being fixed account must be taken of the situation on the Community and world markets in sugar and in particular of the price and cost factors set out in Article 17a of that Regulation; whereas the same Article provides that the economic aspect of the proposed exports should also be taken into account;

Whereas the refund on raw sugar must be fixed in respect of the standard quality; whereas the latter is defined in Article 1 of Council Regulation (EEC) No 431/68 of 9 April 1968 determining the standard quality for raw sugar and fixing the Community frontier crossing point for calculating cif prices for sugar⁽³⁾, as amended by Regulation (EC) No 3290/94⁽⁴⁾; whereas, furthermore, this refund should be fixed in accordance with Article 17a (4) of Regulation (EEC) No 1785/81; whereas candy sugar is defined in Commission Regulation (EC) No 2135/95 of 7 September 1995 laying down detailed rules of application for the grant of export refunds in the sugar sector⁽⁵⁾; whereas the refund thus calculated for sugar containing added flavouring or colouring matter must apply to their sucrose content and, accordingly, be fixed per 1 % of the said content;

Whereas the world market situation or the specific requirements of certain markets may make it necessary to vary the refund for sugar according to destination;

Whereas, in special cases, the amount of the refund may be fixed by other legal instruments;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽⁶⁾, as last amended by Regulation (EC) No 150/95⁽⁷⁾, 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⁽⁸⁾, as last amended by Regulation (EC) No 1482/96⁽⁹⁾;

Whereas the refund must be fixed every two weeks; whereas it may be altered in the intervening period;

Whereas it follows from applying the rules set out above to the present situation on the market in sugar and in particular to quotations or prices for sugar within the Community and on the world market that the refund should be as set out in the Annex hereto;

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 6 March 1997.

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ No L 89, 10. 4. 1968, p. 3.

⁽⁴⁾ OJ No L 349, 31. 12. 1994, p. 105.

⁽⁵⁾ OJ No L 214, 8. 9. 1995, p. 16.

⁽⁶⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁷⁾ OJ No L 22, 31. 1. 1995, p. 1.

⁽⁸⁾ OJ No L 108, 1. 5. 1993, p. 106.

⁽⁹⁾ OJ No L 188, 27. 7. 1996, p. 22.

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

Done at Brussels, 5 March 1997.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

to the Commission Regulation of 5 March 1997 fixing the export refunds on white sugar and raw sugar exported in its unaltered state

Product code	Amount of refund
	— ECU/100 kg —
1701 11 90 9100	38,15 ⁽¹⁾
1701 11 90 9910	36,18 ⁽¹⁾
1701 11 90 9950	⁽²⁾
1701 12 90 9100	38,15 ⁽¹⁾
1701 12 90 9910	36,18 ⁽¹⁾
1701 12 90 9950	⁽²⁾
	— ECU/1 % of sucrose × 100 kg —
1701 91 00 9000	0,4147
	— ECU/100 kg —
1701 99 10 9100	41,47
1701 99 10 9910	40,83
1701 99 10 9950	40,83
	— ECU/1 % of sucrose × 100 kg —
1701 99 90 9100	0,4147

⁽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).

COMMISSION REGULATION (EC) No 425/97

of 5 March 1997

fixing the maximum export refund for white sugar for the 29th partial invitation to tender issued within the framework of the standing invitation to tender provided for in Regulation (EC) No 1464/96

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 1599/96 ⁽²⁾, and in particular the second subparagraph of Article 17 (5) (b) thereof,

Whereas Commission Regulation (EC) No 1464/96 of 25 July 1996 on a standing invitation to tender to determine levies and/or refunds on exports of white sugar ⁽³⁾, requires partial invitations to tender to be issued for the export of this sugar;

Whereas, pursuant to Article 9 (1) of Regulation (EC) No 1464/96 a maximum export refund shall be fixed, as the case may be, account being taken in particular of the state and foreseeable development of the Community and world markets in sugar, for the partial invitation to tender in question;

Whereas, following an examination of the tenders submitted in response to the 29th partial invitation to

tender, the provisions set out in Article 1 should be adopted;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 29th partial invitation to tender for white sugar issued pursuant to Regulation (EC) No 1464/96 the maximum amount of the export refund is fixed at ECU 43,835 per 100 kilograms.

Article 2

This Regulation shall enter into force on 6 March 1997.

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

Done at Brussels, 5 March 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ No L 187, 26. 7. 1996, p. 42.

**COMMISSION REGULATION (EC) No 426/97
of 5 March 1997**

**fixing the representative prices and the additional import duties for molasses in
the sugar sector**

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 market in sugar⁽¹⁾, as last amended by Regulation (EC) No 1599/96⁽²⁾,

Having regard to Commission Regulation (EC) No 1422/95 of 23 June 1995 laying down detailed rules of application for imports of molasses in the sugar sector and amending Regulation (EEC) No 785/68⁽³⁾, and in particular Articles 1 (2) and 3 (1) thereof,

Whereas Regulation (EC) No 1422/95 stipulates that the cif import price for molasses, hereinafter referred to as the 'representative price', should be set in accordance with Commission Regulation (EEC) No 785/68⁽⁴⁾; whereas that price should be fixed for the standard quality defined in Article 1 of the above Regulation;

Whereas the representative price for molasses is calculated at the frontier crossing point into the Community, in this case Amsterdam; whereas that price must be based on the most favourable purchasing opportunities on the world market established on the basis of the quotations or prices on that market adjusted for any deviations from the standard quality; whereas the standard quality for molasses is defined in Regulation (EEC) No 785/68;

Whereas, when the most favourable purchasing opportunities on the world market are being established, account must be taken of all available information on offers on the world market, on the prices recorded on important third-country markets and on sales concluded in international trade of which the Commission is aware, either directly or through the Member States; whereas, under Article 7 of Regulation (EEC) No 785/68, the Commission may for this purpose take an average of several prices as a basis, provided that this average is representative of actual market trends;

Whereas the information must be disregarded if the goods concerned are not of sound and fair marketable quality or if the price quoted in the offer relates only to a small

quantity that is not representative of the market; whereas offer prices which can be regarded as not representative of actual market trends must also be disregarded;

Whereas, if information on molasses of the standard quality is to be comparable, prices must, depending on the quality of the molasses offered, be increased or reduced in the light of the results achieved by applying Article 6 of Regulation (EEC) No 785/68;

Whereas a representative price may be left unchanged by way of exception for a limited period if the offer price which served as a basis for the previous calculation of the representative price is not available to the Commission and if the offer prices which are available and which appear not to be sufficiently representative of actual market trends would entail sudden and considerable changes in the representative price;

Whereas where there is a difference between the trigger price for the product in question and the representative price, additional import duties should be fixed under the conditions set out in Article 3 of Regulation (EC) No 1422/95; whereas should the import duties be suspended pursuant to Article 5 of Regulation (EC) No 1422/95, specific amounts for these duties should be fixed;

Whereas application of these provisions will have the effect of fixing the representative prices and the additional import duties for the products in question as set out in the Annex to this Regulation;

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

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and the additional duties applying to imports of the products referred to in Article 1 of Regulation (EC) No 1422/95 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 6 March 1997.

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ No L 141, 24. 6. 1995, p. 12.

⁽⁴⁾ OJ No L 145, 27. 6. 1968, p. 12.

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

Done at Brussels, 5 March 1997.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

fixing the representative prices and additional import duties applying to imports of molasses in the sugar sector

CN code	Amount of the representative price in ECU per 100 kg net of the product in question	Amount of the additional duty in ECU per 100 kg net of the product in question	Amount of the duty to be applied to imports in ECU per 100 kg net of the product in question because of suspension as referred to in Article 5 of Regulation (EC) No 1422/95 ⁽²⁾
1703 10 00 ⁽¹⁾	8,39	—	0,00
1703 90 00 ⁽¹⁾	12,24	—	0,00

⁽¹⁾ For the standard quality as defined in Article 1 of amended Regulation (EEC) No 785/68.

⁽²⁾ This amount replaces, in accordance with Article 5 of Regulation (EC) No 1422/95, the rate of the Common Customs Tariff duty fixed for these products.

COMMISSION REGULATION (EC) No 427/97**of 4 March 1997****establishing unit values for the determination of the customs value of certain perishable goods**

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

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽¹⁾, as last amended by Regulation (EC) No 82/97 ⁽²⁾,

Having regard to Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽³⁾, as last amended by Regulation (EC) No 89/97 ⁽⁴⁾, and in particular Article 173 (1) thereof,

Whereas Articles 173 to 177 of Regulation (EEC) No 2454/93 provide that the Commission shall periodically establish unit values for the products referred to in the classification in Annex 26 to that Regulation;

Whereas the result of applying the rules and criteria laid down in the abovementioned Articles to the elements

communicated to the Commission in accordance with Article 173 (2) of Regulation (EEC) No 2454/93 is that unit values set out in the Annex to this Regulation should be established in regard to the products in question,

HAS ADOPTED THIS REGULATION:

Article 1

The unit values provided for in Article 173 (1) of Regulation (EEC) No 2454/93 are hereby established as set out in the table in the Annex hereto.

Article 2

This Regulation shall enter into force on 7 March 1997.

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

Done at Brussels, 4 March 1997.

For the Commission

Martin BANGEMANN

Member of the Commission

⁽¹⁾ OJ No L 302, 19. 10. 1992, p. 1.

⁽²⁾ OJ No L 17, 21. 1. 1997, p. 1.

⁽³⁾ OJ No L 253, 11. 10. 1993, p. 1.

⁽⁴⁾ OJ No L 17, 21. 1. 1997, p. 28.

ANNEX

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	ECU FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
1.10	New potatoes 0701 90 51 0701 90 59	a) b) c)	33,38 194,48 288,96	458,99 220,13 1 345,39	65,22 24,40 23,67	248,75 65 015,56	10 222,76 73,33	5 535,71 6 553,60
1.30	Onions (other than seed) 0703 10 19	a) b) c)	6,33 36,88 54,80	87,04 41,74 255,13	12,37 4,63 4,49	47,17 12 329,19	1 938,59 13,91	1 049,76 1 242,79
1.40	Garlic 0703 20 00	a) b) c)	147,63 860,13 1 278,01	2 029,99 973,57 5 950,26	288,43 107,91 104,68	1 100,13 287 544,86	45 212,28 324,31	24 482,81 28 984,64
1.50	Leeks ex 0703 90 00	a) b) c)	46,40 270,34 401,68	638,02 305,99 1 870,16	90,65 33,91 32,90	345,77 90 375,14	14 210,19 101,93	7 694,93 9 109,85
1.60	Cauliflowers 0704 10 10 0704 10 05 0704 10 80	a) b) c)	75,84 441,86 656,53	1 042,84 500,14 3 056,75	148,17 55,43 53,77	565,16 147 716,60	23 226,30 166,61	12 577,23 14 889,89
1.70	Brussels sprouts 0704 20 00	a) b) c)	53,71 312,93 464,96	738,54 354,20 2 164,79	104,94 39,26 38,08	400,25 104 613,12	16 448,90 117,99	8 907,21 10 545,05
1.80	White cabbages and red cabbages 0704 90 10	a) b) c)	45,38 264,40 392,85	624,00 299,27 1 829,05	88,66 33,17 32,18	338,17 88 388,44	13 897,81 99,69	7 525,77 8 909,59
1.90	Sprouting broccoli or calabrese (<i>Brassica oleracea</i> L. convar. <i>botrytis</i> (L.) Alef var. <i>italica</i> Plenck) ex 0704 90 90	a) b) c)	105,95 617,29 917,19	1 456,87 698,70 4 270,34	207,00 77,44 75,12	789,54 206 363,05	32 447,61 232,75	17 570,64 20 801,48
1.100	Chinese cabbage ex 0704 90 90	a) b) c)	64,69 376,90 560,01	889,52 426,61 2 607,34	126,39 47,28 45,87	482,07 125 999,30	19 811,57 142,11	10 728,12 12 700,78
1.110	Cabbage lettuce (head lettuce) 0705 11 10 0705 11 05 0705 11 80	a) b) c)	90,53 527,45 783,70	1 244,83 597,01 3 648,83	176,87 66,17 64,19	674,63 176 328,90	27 725,17 198,88	15 013,40 17 774,03
1.120	Endives ex 0705 29 00	a) b) c)	21,82 127,13 188,89	300,04 143,90 879,46	42,63 15,95 15,47	162,60 42 499,69	6 682,46 47,93	3 618,61 4 283,99
1.130	Carrots ex 0706 10 00	a) b) c)	33,70 196,34 291,74	463,39 222,24 1 358,29	65,84 24,63 23,90	251,13 65 638,84	10 320,76 74,03	5 588,77 6 616,42
1.140	Radishes ex 0706 90 90	a) b) c)	102,78 598,82 889,75	1 413,28 677,80 4 142,57	200,81 75,12 72,88	765,91 200 188,72	31 476,79 225,79	17 044,93 20 179,11
1.160	Peas (<i>Pisum sativum</i>) 0708 10 90 0708 10 20 0708 10 95	a) b) c)	333,74 1 944,45 2 889,13	4 589,09 2 200,90 13 451,46	652,04 243,94 236,64	2 487,02 650 038,75	102 209,21 733,16	55 347,11 65 524,18

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	ECU FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
1.170	Beans:							
1.170.1	Beans (<i>Vigna</i> spp., <i>Phaseolus</i> spp.) ex 0708 20 90 ex 0708 20 20 ex 0708 20 95	a) b) c)	175,96 1 025,19 1 523,26	2 419,54 1 160,40 7 092,10	343,78 128,61 124,77	1 311,25 342 724,33	53 888,45 386,55	29 181,03 34 546,75
1.170.2	Beans (<i>Phaseolus</i> spp., <i>vulgaris</i> var. <i>Compressus</i> Savi) ex 0708 20 90 ex 0708 20 20 ex 0708 20 95	a) b) c)	239,61 1 396,03 2 074,26	3 294,76 1 580,15 9 657,53	468,14 175,13 169,90	1 785,57 466 697,98	73 381,52 526,38	39 736,68 47 043,35
1.180	Broad beans ex 0708 90 00	a) b) c)	92,83 540,85 803,61	1 276,46 612,18 3 741,53	181,37 67,85 65,82	691,77 180 808,70	28 429,56 203,93	15 394,83 18 225,59
1.190	Globe artichokes 0709 10 30	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
1.200	Asparagus:							
1.200.1	— green ex 0709 20 00	a) b) c)	529,94 3 087,56 4 587,60	7 286,94 3 494,77 21 359,34	1 035,37 387,34 375,76	3 949,10 1 032 185,34	162 296,24 1 164,17	87 884,72 104 044,71
1.200.2	— other ex 0709 20 00	a) b) c)	287,28 1 673,77 2 486,93	3 950,24 1 894,51 11 578,88	561,27 209,98 203,70	2 140,80 559 546,75	87 980,65 631,10	47 642,23 56 402,54
1.210	Aubergines (eggplants) 0709 30 00	a) b) c)	159,86 931,38 1 383,88	2 198,15 1 054,22 6 443,19	312,33 116,84 113,35	1 191,27 311 365,72	48 957,76 351,18	26 511,02 31 385,79
1.220	Ribbed celery (<i>Apium graveolens</i> L., var. <i>dulce</i> (Mill.) Pers.) ex 0709 40 00	a) b) c)	59,11 344,39 511,71	812,79 389,81 2 382,44	115,49 43,20 41,91	440,49 115 130,91	18 102,67 129,85	9 802,74 11 605,24
1.230	Chantarelles 0709 51 30	a) b) c)	1 317,71 7 677,31 11 407,19	18 119,17 8 689,85 53 110,57	2 574,48 963,14 934,33	9 819,54 2 566 556,48	403 553,96 2 894,75	218 527,71 258 709,96
1.240	Sweet peppers 0709 60 10	a) b) c)	193,38 1 126,68 1 674,06	2 659,07 1 275,28 7 794,22	377,82 141,34 137,12	1 441,06 376 653,96	59 223,40 424,82	32 069,95 37 966,88
1.250	Fennel 0709 90 50	a) b) c)	73,55 428,52 636,71	1 011,35 485,04 2 964,45	143,70 53,76 52,15	548,09 143 256,28	22 524,98 161,57	12 197,46 14 440,29
1.270	Sweet potatoes, whole, fresh (intended for human consumption) 0714 20 10	a) b) c)	44,74 260,67 387,31	615,20 295,05 1 803,25	87,41 32,70 31,72	333,40 87 141,89	13 701,80 98,28	7 419,64 8 783,94
2.10	Chestnuts (<i>Castanea</i> spp.), fresh ex 0802 40 00	a) b) c)	159,46 929,05 1 380,42	2 192,65 1 051,58 6 427,07	311,54 116,55 113,07	1 188,29 310 586,62	48 835,26 350,30	26 444,69 31 307,26
2.30	Pineapples, fresh ex 0804 30 00	a) b) c)	59,27 345,32 513,09	814,99 390,87 2 388,89	115,80 43,32 42,03	441,68 115 442,55	18 151,67 130,20	9 829,28 11 636,66

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	ECU FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
2.40	Avocados, fresh ex 0804 40 90 ex 0804 40 20 ex 0804 40 95	a) b) c)	96,41 561,71 834,60	1 325,69 635,79 3 885,82	188,36 70,47 68,36	718,44 187 781,61	29 525,95 211,79	15 988,54 18 928,46
2.50	Guavas and mangoes, fresh ex 0804 50 00	a) b) c)	84,53 492,49 731,76	1 162,33 557,45 3 407,00	165,15 61,78 59,94	629,92 164 642,46	25 887,65 185,70	14 018,37 16 596,03
2.60	Sweet oranges, fresh:							
2.60.1	— Sanguines and semi-sanguines 0805 10 42 0805 10 51 0805 10 37	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.60.2	— Navels, navelines, navelates, salustianas, vernas, Valencia lates, Maltese, shamou- tis, ovalis, trovita and hamlins 0805 10 44 0805 10 55 0805 10 38	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.60.3	— Others 0805 10 39 0805 10 46 0805 10 59	a) b) c)	— — —	— — —	— — —	— — —	— — —	— — —
2.70	Mandarins (including tangerines and satsu- mas), fresh; clementines, wilkings and simi- lar citrus hybrids, fresh:							
2.70.1	— Clementines 0805 20 21	a) b) c)	85,21 496,45 737,65	1 171,68 561,93 3 434,41	166,48 62,28 60,42	634,98 165 966,93	26 095,90 187,19	14 131,14 16 729,53
2.70.2	— Monreales and satsumas 0805 20 23	a) b) c)	93,29 543,53 807,60	1 282,78 615,22 3 760,07	182,27 68,19 66,15	695,19 181 704,66	28 570,44 204,94	15 471,12 18 315,91
2.70.3	— Mandarines and wilkings 0805 20 25	a) b) c)	59,16 344,68 512,14	813,48 390,14 2 384,46	115,58 43,24 41,95	440,86 115 228,30	18 117,99 129,96	9 811,04 11 615,06
2.70.4	— Tangerines and others ex 0805 20 27 ex 0805 20 29	a) b) c)	56,35 328,31 487,81	774,84 371,61 2 271,20	110,09 41,19 39,96	419,92 109 755,15	17 257,41 123,79	9 345,03 11 063,36
2.85	Limes (<i>Citrus aurantifolia</i>), fresh ex 0805 30 90	a) b) c)	157,81 919,44 1 366,13	2 169,97 1 040,70 6 360,56	308,32 115,35 111,90	1 176,00 307 372,85	48 329,94 346,68	26 171,05 30 983,31

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	ECU FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
2.90	Grapefruit, fresh:							
2.90.1	— white	a)	35,07	482,23	68,52	261,34	10 740,33	5 815,97
	ex 0805 40 90	b)	204,33	231,27	25,63	68 307,24	77,04	6 885,40
	ex 0805 40 20	c)	303,60	1 413,50	24,87			
	ex 0805 40 95							
2.90.2	— pink	a)	40,90	562,40	79,91	304,79	12 525,79	6 782,82
	ex 0805 40 90	b)	238,29	269,72	29,89	79 662,57	89,85	8 030,02
	ex 0805 40 20	c)	354,06	1 648,48	29,00			
	ex 0805 40 95							
2.100	Table grapes	a)	148,25	2 038,51	289,64	1 104,75	45 402,16	24 585,63
	0806 10 21	b)	863,74	977,66	108,36	288 752,46	325,68	29 106,37
	0806 10 29	c)	1 283,38	5 975,25	105,12			
	0806 10 61							
	0806 10 30							
	0806 10 69							
2.110	Water melons	a)	52,84	726,58	103,24	393,76	16 182,46	8 762,93
	0807 11 00	b)	307,86	348,46	38,62	102 918,58	116,08	10 374,24
		c)	457,43	2 129,73	37,47			
2.120	Melons (other than water melons):							
2.120.1	— Amarillo, cuper, honey dew (including cantalene), onteniente, piel de sapo (including verde liso), rochet, tendral, futuro	a)	58,13	799,32	113,57	433,18	17 802,55	9 640,22
	ex 0807 19 00	b)	338,68	383,35	42,49	113 222,13	127,70	11 412,84
		c)	503,22	2 342,94	41,22			
2.120.2	— other	a)	155,59	2 139,44	303,98	1 159,45	47 650,06	25 802,89
	ex 0807 19 00	b)	906,51	1 026,06	113,72	303 048,87	341,80	30 547,45
		c)	1 346,92	6 271,09	110,32			
2.140	Pears							
2.140.1	Pears — nashi (<i>Pyrus pyrifolia</i>)	a)	—	—	—	—	—	—
	ex 0808 20 41	b)	—	—	—	—	—	—
		c)	—	—	—	—	—	—
2.140.2	Other	a)	—	—	—	—	—	—
	ex 0808 20 41	b)	—	—	—	—	—	—
		c)	—	—	—	—	—	—
2.150	Apricots	a)	156,60	2 153,33	305,96	1 166,98	47 959,38	25 970,39
	0809 10 10	b)	912,39	1 032,72	114,46	305 016,08	344,02	30 745,75
	0809 10 50	c)	1 355,66	6 311,79	111,04			
2.160	Cherries	a)	146,66	2 016,65	286,54	1 092,91	44 915,21	24 321,95
	0809 20 11	b)	854,48	967,17	107,20	285 655,55	322,18	28 794,20
	0809 20 19	c)	1 269,61	5 911,16	103,99			
	0809 20 21							
	0809 20 29							
	0809 20 71							
	0809 20 79							
2.170	Peaches	a)	121,47	1 670,27	237,32	905,19	37 200,67	20 144,46
	0809 30 19	b)	707,71	801,05	88,78	236 591,98	266,85	23 848,57
	0809 30 59	c)	1 051,55	4 895,87	86,13			
2.180	Nectarines	a)	108,35	1 489,87	211,69	807,42	33 182,62	17 968,66
	ex 0809 30 11	b)	631,27	714,53	79,19	211 037,63	238,02	21 272,68
	ex 0809 30 51	c)	937,97	4 367,07	76,83			

Code	Description	Amount of unit values per 100 kg						
	Species, varieties, CN code	a) b) c)	ECU FIM SEK	ATS FRF BEF/LUF	DEM IEP GBP	DKK ITL	GRD NLG	ESP PTE
2.190	Plums 0809 40 10 0809 40 40	a)	128,19	1 762,68	250,45	955,27	39 258,70	21 258,90
		b)	746,87	845,37	93,70	249 680,79	281,61	25 167,93
		c)	1 109,72	5 166,72	90,89			
2.200	Strawberries 0810 10 10 0810 10 05 0810 10 80	a)	183,50	2 523,22	358,51	1 367,44	56 197,61	30 431,46
		b)	1 069,12	1 210,12	134,12	357 410,29	403,11	36 027,11
		c)	1 588,53	7 396,00	130,11			
2.205	Raspberries 0810 20 10	a)	1 491,12	20 503,65	2 913,28	11 111,78	456 661,46	247 285,85
		b)	8 687,64	9 833,43	1 089,88	2 904 314,07	3 275,69	292 756,06
		c)	12 908,37	60 099,89	1 057,29			
2.210	Fruit of the species <i>Vaccinium myrtillus</i> 0810 40 30	a)	1 073,05	14 754,97	2 096,47	7 996,34	328 625,85	177 953,54
		b)	6 251,86	7 076,40	784,31	2 090 022,41	2 357,28	210 675,13
		c)	9 289,21	43 249,49	760,85			
2.220	Kiwi fruit (<i>Actinidia chinensis</i> Planch.) 0810 50 10 0810 50 20 0810 50 30	a)	35,00	481,27	68,38	260,82	10 718,89	5 804,36
		b)	203,92	230,81	25,58	68 170,90	76,89	6 871,65
		c)	302,99	1 410,68	24,82			
2.230	Pomegranates ex 0810 90 85	a)	124,96	1 718,26	244,14	931,20	38 269,50	20 723,24
		b)	728,05	824,07	91,34	243 389,59	274,51	24 533,77
		c)	1 081,76	5 036,54	88,60			
2.240	Khakis (including sharon fruit) ex 0810 90 85	a)	59,96	824,48	117,15	446,82	18 362,99	9 943,71
		b)	349,34	395,42	43,83	116 786,49	131,72	11 772,13
		c)	519,06	2 416,70	42,52			
2.250	Lychees ex 0810 90 30	a)	158,47	2 179,04	309,61	1 180,91	48 532,07	26 280,51
		b)	923,29	1 045,06	115,83	308 658,36	348,13	31 112,89
		c)	1 371,85	6 387,17	112,36			

**COMMISSION REGULATION (EC) No 428/97
of 5 March 1997**

**opening and providing for the administration of Community tariff quotas and
tariff ceilings for certain products originating in Slovenia and establishing the
provisions for adapting these quotas and ceilings**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 410/97, of 24 February 1997, on certain procedures for applying the Interim Agreement on trade and trade-related measures between the European Community, the European Coal and Steel Community and the European Atomic Energy Community of the one part and the Republic of Slovenia of the other part⁽¹⁾, and in particular Article 2 thereof,

Whereas the Interim Agreement on trade and trade-related matters between the European Community, the European Coal and Steel Community and the European Atomic Energy Community, of the one part, and the Republic of Slovenia of the other part⁽²⁾, hereinafter referred to as 'the Agreement', applies provisionally from 1 January 1997 onwards;

Whereas the Agreement stipulates that certain products originating in Slovenia may be imported into the Community, within the limits of tariff quotas or tariff ceilings, at a reduced or zero rate of customs duty; whereas the tariff quotas and tariff ceilings laid down in the Agreement relate to periods of several years; whereas the Agreement has already fixed the level of the annual increase of the tariff quotas and tariff ceilings volume;

Whereas the Commission should adopt the implementing measures for the opening of the Community tariff quotas, for the products listed in Annex I; whereas particular care should be taken to ensure that all Community importers have equal and continuous access to those quotas and that the rates laid down for the quotas are applied uninterruptedly to all imports of the products in question into all Member States until the quotas are exhausted; whereas, to ensure the efficiency of a common administration of these quotas, there is no obstacle to authorizing the Member States to draw from the quota volumes the necessary quantities corresponding to actual imports; whereas, however, this method of administration requires close cooperation between the Member States and the Commission and the latter must in particular be able to monitor the rate at which the quotas are used up and inform the Member States accordingly;

Whereas in the case of the products listed in Annex II which are subject to Community tariff ceilings, Community surveillance may be achieved by means of an administrative procedure based on charging imports of the products in question against the ceilings at Community level as and when products are entered with the customs authorities for free circulation;

Whereas this administrative procedure requires close cooperation between the Member States and the Commission, and the latter must in particular be able to monitor quantities charged against the ceilings and inform the Member States accordingly; whereas this cooperation has to be particularly close, since the Commission must be able to take appropriate measures to re-establish customs duties once a ceiling is reached,

HAS ADOPTED THIS REGULATION:

Article 1

When products originating in Slovenia and listed in Annexes I and II are put into free circulation in the Community, they shall benefit from tariff quotas or tariff ceilings in accordance with those Annexes.

Article 2

1. The tariff quotas referred to in Article 1 shall be administered by the Commission, which may take all appropriate measures in order to ensure efficient administration thereof.

2. Where an importer declares a product covered by this Regulation for free circulation in a Member State and applies to take advantage of the preferential arrangements, and that declaration is accepted by the customs authorities, the Member State concerned shall, by notifying the Commission, draw an amount corresponding to its requirements from the quota volume.

Requests for drawings, indicating the date of acceptance of the said declarations, must be sent to the Commission without delay.

The drawings shall be granted by the Commission by reference to the date of acceptance of the declaration for free circulation by the customs authorities of the Member State concerned, to the extent that the available balance so permits.

⁽¹⁾ OJ No L 62, 4. 3. 1997, p. 5.

⁽²⁾ OJ No L 344, 31. 12. 1996, p. 3.

3. If a Member State does not use the quantities drawn, it shall return them to the corresponding quota volume as soon as possible.

4. If the quantities requested are greater than the available balance of the quota volume, the balance shall be allocated on a *pro rata* basis. The Commission shall inform the Member States of the drawings made.

Article 3

1. Quantities shall be charged against the tariff ceilings as and when products are declared to the customs authorities for free circulation.

Goods may be charged against a tariff ceiling only if the movement certificate is presented before the date on which levying of customs duties is re-established.

2. The level of utilization of the tariff ceilings shall be determined at Community level on the basis of the imports charged against them in accordance with paragraph 1.

Member States shall send to the Commission, not later than the 15th day of each month, statements of the quantities charged during the preceding month.

3. As soon as a ceiling has been reached, the Commission shall inform Member States accordingly.

When the adoption of a Regulation re-establishing the customs duties is requested by a Member State, the

Commission shall examine the request within the following five days and shall inform the requesting Member State of the action it considers it should take as a result of the request, in the light, in particular, of the statements sent as provided for in paragraph 2.

Article 4

The Commission, in close cooperation with the Member States, shall take all appropriate measures to ensure compliance with this Regulation.

Article 5

Each Member State shall ensure that importers of the product in question have equal and uninterrupted access to the tariff quotas for as long as the balance of the relevant quota volume so permits.

Article 6

The Protocol concerning the definition of the concept of originating products and methods of administrative cooperation annexed to the Agreement shall apply.

Article 7

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

It shall apply with effect from 1 January 1997.

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

Done at Brussels, 5 March 1997.

For the Commission

Mario MONTI

Member of the Commission

ANNEX I

TARIFF QUOTAS

Notwithstanding the rules for the interpretation of the combined nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the CN codes. Where ex CN codes are indicated, the preferential scheme is to be determined by application of the CN code and corresponding description taken together.

Order No	CN code	Taric subdivision	Description	Quota volume per year or indicated period (in tonnes)	Rate of duty (%) (1)
09.1531	0301 91 90		Live fish: – Other live fish: – – Trout (<i>Salmo trutta</i> , <i>Oncorhynchus mykiss</i> , <i>Oncorhynchus clarki</i> , <i>Oncorhynchus aguabonita</i> , <i>Oncorhynchus gilae</i>)	70	Exemption
09.1532	0701 90		Potatoes, fresh or chilled, other than seed: – 1 January to 31 December 1997 – 1 January to 31 December 1998 – 1 January to 31 December 1999 – 1 January to 31 December 2000 – 1 January to 31 December 2001 – 1 January to 31 December of subsequent years	150 165 180 195 210 225	20 % of CCT
09.1533	0704 90		Cabbages, kohlrabi, kale and similar edible brassicas, fresh or chilled, other than headed broccoli or Brussels sprouts: – 1 January to 31 December 1997 – 1 January to 31 December 1998 – 1 January to 31 December 1999 – 1 January to 31 December 2000 – 1 January to 31 December 2001 – 1 January to 31 December of subsequent years	100 110 120 130 140 150	20 % of CCT
09.1534	0705 11		Lettuce (<i>Lactuca sativa</i>), fresh or chilled: – Cabbage lettuce (head lettuce): – – 1 January to 31 December 1997 – – 1 January to 31 December 1998 – – 1 January to 31 December 1999 – – 1 January to 31 December 2000 – – 1 January to 31 December 2001 – – 1 January to 31 December of subsequent years	100 110 120 130 140 150	20 % of CCT
09.1535	0706 10 00		Carrots and turnips, fresh or chilled: – 1 January to 31 December 1997 – 1 January to 31 December 1998 – 1 January to 31 December 1999 – 1 January to 31 December 2000 – 1 January to 31 December 2001 – 1 January to 31 December of subsequent years	800 880 960 1 040 1 120 1 200	20 % of CCT

Order No	CN code	Taric subdivision	Description	Quota volume per year or indicated period (in tonnes)	Rate of duty (%) ⁽¹⁾
09.1536	0808 10 92 0808 10 94 0808 10 98		Apples, fresh, from 1 August to 31 December: – 1 August to 31 December 1997 – 1 August to 31 December 1998 – 1 August to 31 December 1999 – 1 August to 31 December 2000 – 1 August to 31 December 2001 – 1 August to 31 December of subsequent years	1 500 1 650 1 800 1 950 2 100 2 250	20 % of CCT ⁽²⁾
09.1537	0808 20 57 0808 20 67		Pears, fresh, from 1 August to 31 December: – 1 August to 31 December 1997 – 1 August to 31 December 1998 – 1 August to 31 December 1999 – 1 August to 31 December 2000 – 1 August to 31 December 2001 – 1 August to 31 December of subsequent years	1 700 1 870 2 040 2 210 2 380 2 550	20 % of CCT ⁽²⁾
09.1538	0812 10 00		Cherries, provisionally preserved: – 1 January to 31 December 1997 – 1 January to 31 December 1998 – 1 January to 31 December 1999 – 1 January to 31 December 2000 – 1 January to 31 December 2001 – 1 January to 31 December of subsequent years	200 220 240 260 280 300	Exemption ⁽³⁾
09.1539	1210 10 00 1210 20 10		Hop cones, fresh or dried, whether or not ground, powdered or in the form of pellets; lupulin: – 1 January to 31 December 1997 – 1 January to 31 December 1998 – 1 January to 31 December 1999 – 1 January to 31 December 2000 – 1 January to 31 December 2001 – 1 January to 31 December of subsequent years	2 600 2 860 3 120 3 380 3 640 3 900	20 % of CCT
09.1540	1604 15 ex 1604 20 50	40 50	Prepared or preserved fish: – Fish, whole or in pieces, but not minced: – – Mackerel – Other prepared or preserved fish: – – Other: – – – Of mackerel of the species <i>Scomber scombrus</i> and <i>Scomber japonicus</i>	500	4
09.1541	ex 2004 90 30 2005 90 75	10	Sauerkraut, frozen or not frozen: – 1 January to 31 December 1997 – 1 January to 31 December 1998 – 1 January to 31 December 1999 – 1 January to 31 December 2000 – 1 January to 31 December 2001 – 1 January to 31 December of subsequent years	50 55 60 65 70 75	Exemption

Order No	CN code	Taric subdivision	Description	Quota volume per year or indicated period (in tonnes)	Rate of duty (%) ⁽¹⁾
09.1542	ex 2008 60 39 2008 60 51 2008 60 61 2008 60 71 2008 60 91	11	Cherries, otherwise prepared or preserved: – Containing added spirit: – – Sweet cherries, clear-fleshed of a diameter not exceeding 18,9 mm, stoned, intended for the manufacture of chocolate products ⁽⁴⁾ – Not containing added spirit: – – Sour cherries (<i>Prunus cerasus</i>) ⁽³⁾ – 1 January to 31 December 1997 – 1 January to 31 December 1998 – 1 January to 31 December 1999 – 1 January to 31 December 2000 – 1 January to 31 December 2001 – 1 January to 31 December of subsequent years	 500 550 600 650 700 750	Exemption
09.1543	2009 80 71		Cherry juice, unfermented and not containing added spirit, containing added sugar: – 1 January to 31 December 1997 – 1 January to 31 December 1998 – 1 January to 31 December 1999 – 1 January to 31 December 2000 – 1 January to 31 December 2001 – 1 January to 31 December of subsequent years	 150 165 180 195 210 225	20 % of CCT
09.1544	2009 90 11 2009 90 19 2009 90 31 2009 90 39		Mixtures of apple and pear juice, unfermented and not containing added spirit: – 1 January to 31 December 1997 – 1 January to 31 December 1998 – 1 January to 31 December 1999 – 1 January to 31 December 2000 – 1 January to 31 December 2001 – 1 January to 31 December of subsequent years	 200 220 240 260 280 300	20 % of CCT

⁽¹⁾ CCT= applicable Common Customs Tariff duty.

⁽²⁾ The reduction or exemption applies only to the *ad valorem* duty.

⁽³⁾ Subject to a minimum import price set annually by the Commission.

⁽⁴⁾ Checks on their prescribed end use shall be carried out pursuant to the relevant Community provisions.

ANNEX II

TARIFF CEILINGS

Notwithstanding the rules for the interpretation of the combined nomenclature, the wording for the description of the products is to be considered as having no more than an indicative value, the preferential scheme being determined, within the context of this Annex, by the coverage of the CN codes. Where ex CN codes are indicated, the preferential scheme is to be determined by application of the CN code and corresponding description taken together.

Order No	CN code	Taric subdivision	Description	Volume of ceiling per year or indicated period (in tonnes) (1) (2)	Rate of duty
01.0300	4011		New pneumatic tyres, of rubber:	7 000	Exemption
	4011 10 00		– Of a kind used on motor cars (including station wagons and racing cars)		
	4011 20		– Of a kind used on buses or lorries:		
	4011 20 10		– – With a load index not exceeding 121		
	4011 20 90		– – With a load index exceeding 121		
	4011 30		– Of a kind used on aircraft:		
	4011 30 90		– – Other		
			– Other:		
	4011 91		– – Having a 'herringbone' or similar tread:		
	4011 91 10		– – – Of a kind used on agricultural and forestry vehicles		
	4011 91 30		– – – Of a kind used on civil engineering vehicles		
	4011 91 90		– – – Other		
	4011 99		– – Other:		
	4011 99 10		– – – Of a kind used on agricultural and forestry vehicles		
	4011 99 30		– – – Of a kind used on civil engineering vehicles		
	4011 99 90		– – – Other		
	4012		Retreaded or used pneumatic tyres of rubber; solid or cushion tyres, interchangeable tyre treads and tyre flaps, of rubber:		
	4012 10		– Retreaded tyres:		
			– – Other:		
	4012 10 30		– – – Of a kind used on motor cars (including station wagons and racing cars)		
	4012 10 50		– – – Of a kind used on buses or lorries		
	ex 4012 10 80		– – – Other:		
		90	– Other than of the kind used on bicycles or cycles with auxiliary motor, on motorcycles or motor-scooters		
	4012 20		– Used pneumatic tyres:		

Order No	CN code	Taric subdivision	Description	Volume of ceiling per year or indicated period (in tonnes) ^{(1) (2)}	Rate of duty
01.0300 (cont'd)	ex 4012 20 90	90	-- Other: -- Other than of the kind used on bicycles or cycles with auxiliary motor, on motorcycles or motor-scooters Inner tubes, of rubber: -- Of a kind used on motor cars (including station wagons and racing cars), buses or lorries: -- -- Of the kind used on motor cars (including station wagons and racing cars) -- -- Of the kind used on buses or lorries -- Other: -- -- Other		
01.0310	4203 4203 10 00 4203 21 00 4203 29 4203 29 91 4203 29 99 4203 30 00 4203 40 00		Articles of apparel and clothing accessories, of leather or of composition leather: -- Articles of apparel -- Gloves, mittens and mitts: -- -- Specially designed for use in sports -- -- Other: -- -- -- Other: -- -- -- -- Men's and boys' -- -- -- -- Other -- Belts and bandoleers -- Other clothing accessories	160	Exemption
01.0320	4410		Particle board and similar board of wood or other ligneous material, whether or not agglomerated with resins or other organic binding substances	28 340	Exemption
01.0330	4412 4420 4420 90 11 4420 90 19		Plywood, veneered panels and similar laminated wood Wood marquetry and inlaid wood: -- Of tropical wood, as specified in additional note 2 to this chapter -- Of other wood	40 490 m ³	Exemption
01.0340	6401 6402		Waterproof footwear with outer soles and uppers of rubber or of plastics, the uppers of which are neither fixed to the sole nor assembled by stitching, riveting, nailing, screwing, plugging or similar processes Other footwear with outer soles and uppers of rubber or plastics	430	Exemption
01.0350	6403		Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather	3 120	Exemption

Order No	CN code	Taric subdivision	Description	Volume of ceiling per year or indicated period (in tonnes) (1) (2)	Rate of duty
01.0360	6404 6405 6405 90 6405 90 10		Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials Other footwear: — Other: — — With outer soles of rubber, plastics, leather or composition leather	470	Exemption
01.0370	7202 7202 21 7202 21 10 7202 21 90 7202 29 7202 29 10 7202 29 90		Ferro-alloys: — Ferro-silicon: — — Containing by weight more than 55 % of silicon: — — — Containing by weight more than 55 % but not more than 80 % of silicon — — — Containing by weight more than 80 % of silicon — — Other: — — — Containing by weight 4 % or more but not more than 10 % of magnesium — — — Other	4 630	Exemption
01.0380	7305 7306 7306 10 7306 10 11 7306 10 19 7306 10 90 7306 20 00 7306 30 7306 30 21 7306 30 29 7306 30 51 7306 30 59 7306 30 71 7306 30 78		Other tubes and pipes (for example, welded, riveted or similarly closed), having circular cross-sections, the external diameter of which exceeds 406,4 mm, of iron or steel Other tubes, pipes and hollow profiles (for example, open seam or welded, riveted or similarly closed), of iron or steel: — Line pipe of a kind used for oil or gas pipelines: — — Longitudinally welded, of an external diameter of: — — — Not more than 168,3 mm — — — More than 168,3 mm, but not more than 406,4 mm — — Spirally welded — Casing and tubing of a kind used in drilling for oil or gas — Other, welded, of circular cross-section, of iron or non-alloy steel: — — Other: — — — Precision tubes, with a wall thickness: — — — — Not exceeding 2 mm — — — — Exceeding 2 mm — — — Other: — — — — Threaded or threadable tubes (gas pipe): — — — — — Plated or coated with zinc — — — — — Other — — — — Other, of an external diameter: — — — — — Not exceeding 168,3 mm: — — — — — Plated or coated with zinc — — — — — Other	17 350	Exemption

Order No	CN code	Taric subdivision	Description	Volume of ceiling per year or indicated period (in tonnes) ^{(1) (2)}	Rate of duty
01.0380 (cont'd)	7306 30 90		— — — — Exceeding 168,3 mm, but not exceeding 406,4 mm		
	7306 40		— Other, welded, of circular cross-section, of stainless steel:		
			— — Other:		
	7306 40 91		— — — Cold-drawn or cold-rolled (cold-reduced)		
	7306 40 99		— — — Other		
	7306 50		— Other, welded, of circular cross-section, of other alloy steel:		
			— — Other:		
	7306 50 91		— — — Precision tubes		
	7306 50 99		— — — Other		
	7306 60		— Other, welded, of non-circular cross-section:		
			— — Other:		
			— — — Of rectangular (including square) cross-section, with a wall thickness:		
	7306 60 31		— — — — Not exceeding 2 mm		
01.0390	7407		Copper bars, rods and profiles	3 900	Exemption
	7408		Copper wire		
	7411		Copper tubes and pipes		
01.0400	ex 7604		Aluminium bars, rods and profiles, excluding CN code 7604 21 00	8 200	Exemption
	7605		Aluminium wire		
	7606		Aluminium plates, sheets and strip, of a thickness exceeding 0,2 mm		
01.0410	7903		Zinc dust, powders and flakes	4 260	Exemption
	7905 00 00		Zinc plates, sheets, strip and foil		
01.0420	8501		Electric motors and generators (excluding generating sets):	6 544	Exemption
	8501 10		— Motors of an output not exceeding 37,5 W:		
	8501 10 10		— — Synchronous motors of an output not exceeding 18 W		
			— — Other:		
	8501 10 91		— — — Universal AC/DC motors		
	8501 10 93		— — — AC motors		
	8501 10 99		— — — DC motors		
	8501 20		— Universal AC/DC motors of an output exceeding 37,5 W:		
	8501 20 90		— — Other		
			— Other DC motors; DC generators:		

Order No	CN code	Taric subdivision	Description	Volume of ceiling per year or indicated period (in tonnes) ^{(1) (2)}	Rate of duty
01.0420 (cont'd)	8501 31		— — Of an output not exceeding 750 W:		
	8501 31 90		— — — Other		
	8501 32		— — Of an output exceeding 750 W but not exceeding 75 kW:		
			— — — Other:		
	8501 32 91		— — — — Of an output exceeding 750 W but not exceeding 7,5 kW		
	8501 32 99		— — — — Of an output exceeding 7,5 kW but not exceeding 75 kW		
	8501 33		— — Of an output exceeding 75 kW but not exceeding 375 kW:		
	8501 33 90		— — — Other		
	8501 34		— — Of an output exceeding 375 kW:		
			— — — Other:		
	8501 34 50		— — — — Traction motors		
			— — — — Other, of an output:		
	8501 34 91		— — — — — Exceeding 375 kW but not exceeding 750 kW		
	8501 34 99		— — — — — Exceeding 750 kW		
	8501 40		— Other AC motors, single phase:		
			— — Other:		
	8501 40 91		— — — Of an output not exceeding 750 W		
	8501 40 99		— — — Of an output exceeding 750 W		
			— Other AC motors, multiphase:		
	8501 51		— — Of an output not exceeding 750 W:		
	8501 51 90		— — — Other		
	8501 52		— — Of an output exceeding 750 W but not exceeding 75 kW:		
			— — — Other:		
	8501 52 91		— — — — Of an output exceeding 750 W but not exceeding 7,5 kW		
	8501 52 93		— — — — Of an output exceeding 7,5 kW but not exceeding 37 kW		
	8501 52 99		— — — — Of an output exceeding 37 kW but not exceeding 75 kW		
	8501 53		— — Of an output exceeding 75 kW:		
			— — — Other:		
	8501 53 50		— — — — Traction motors		
			— — — — Other, of an output:		
	8501 53 92		— — — — — Exceeding 75 kW but not exceeding 375 kW		
	8501 53 94		— — — — — Exceeding 375 kW but not exceeding 750 kW		
	8501 53 99		— — — — — Exceeding 750 kW		
			— AC generators (alternators):		

Order No	CN code	Taric subdivision	Description	Volume of ceiling per year or indicated period (in tonnes) (¹) (²)	Rate of duty
01.0420 (cont'd)	8501 61		— — Of an output not exceeding 75 kVA:		
			— — — Other:		
	8501 61 91		— — — — Of an output not exceeding 7,5 kVA		
	8501 61 99		— — — — Of an output exceeding 7,5 kVA but not exceeding 75 kVA		
	8501 62		— — Of an output exceeding 75 kVA but not exceeding 375 kVA:		
			— — — Other		
	8501 62 90		— — — — Of an output exceeding 375 kVA but not exceeding 750 kVA:		
	8501 63		— — — — Other		
	8501 63 90		— — — — Of an output exceeding 750 kVA		
	8501 64 00		Electric generating sets and rotary converters:		
	8502		— Generating sets with compression-ignition internal combustion piston engines (diesel or semi-diesel engines):		
			— — Of an output not exceeding 75 kVA:		
			— — — Other:		
	8502 11 91		— — — — Of an output not exceeding 7,5 kVA		
	8502 11 99		— — — — Of an output exceeding 7,5 kVA but not exceeding 75 kVA		
	8502 12		— — Of an output exceeding 75 kVA but not exceeding 375 kVA:		
			— — — Other		
	8502 12 90		— — — — Of an output exceeding 375 kVA:		
	8502 13		— — — — Other:		
			— — — — Of an output exceeding 375 kVA but not exceeding 750 kVA		
	8502 13 91		— — — — Of an output exceeding 750 kVA		
	8502 13 99		— Generating sets with spark-ignition internal combustion piston engines:		
	8502 20		— — Other:		
			— — — Of an output not exceeding 7,5 kVA		
	8502 20 91		— — — Of an output exceeding 7,5 kVA		
	8502 20 99		— Other generating sets:		
			— — Wind-powered		
	8502 31 00		— — Other:		
	8502 39		— — — Other:		
			— — — — Turbo-generators		
	8502 39 91		— — — — Other		
	8502 39 99		— Electric rotary converters:		
	8502 40		— — Other		
	8502 40 90				
01.0430	8503 00		Parts suitable for use solely or principally with the machines of heading No 8501 or 8502	6 440	Exemption
	8504		Electrical transformers, static converters (for example, rectifiers) and inductors:		
	8504 90		— Parts		

Order No	CN code	Taric subdivision	Description	Volume of ceiling per year or indicated period (in tonnes) ⁽¹⁾ ⁽²⁾	Rate of duty
01.0440	ex 8544		Insulated (including enamelled or anodized) wire, cable (including coaxial cable) and other insulated electric conductors, whether or not fitted with connectors; optical fibre cables, made up of individually sheathed fibres, whether or not assembled with electric conductors or fitted with connectors, excluding products of CN codes 8544 30 10 and 8544 70 00	1 170	Exemption
01.0450	8716 8716 10 8716 10 10 8716 10 91 8716 10 94 8716 10 96 8716 10 99 8716 20 8716 20 10 8716 20 90 8716 31 00 8716 39 8716 39.30 8716 39 51 8716 39 59 8716 39 80 8716 40 00		Trailers and semi-trailers; other vehicles, not mechanically propelled; parts thereof: – Trailers and semi-trailers of the caravan type, for housing or camping: – – Folding caravans – – Other, of a weight: – – – Not exceeding 750 kg – – – Exceeding 750 kg but not exceeding 1 600 kg – – – Exceeding 1 600 kg but not exceeding 3 500 kg – – – Exceeding 3 500 kg – Self-loading or self-unloading trailers and semi-trailers for agricultural purposes: – – Manure spreaders – – Other – Other trailers and semi-trailers for the transport of goods: – – Tanker trailers and tanker semi-trailers – – Other: – – – Other: – – – – New: – – – – – Semi-trailers – – – – – Other: – – – – – With a single axle – – – – – Other – – – – Used – Other trailers and semi-trailers	6 500	Exemption
01.0460	9401 9401 30 9401 30 10 9401 30 90 9401 40 00 9401 50 00 9401 61 00 9401 69 00		Seats (other than those of heading No 9402), whether or not convertible into beds, and parts thereof: – Swivel seats with variable height adjustment: – – Upholstered, with backrest and fitted with castors or glides – – Other – Seats other than garden seats or camping equipment, convertible into beds – Seats of cane, osier, bamboo or similar materials – Other seats, with wooden frames: – – Upholstered – – Other – Other seats, with metal frames:	19 610	Exemption

Order No	CN code	Taric subdivision	Description	Volume of ceiling per year or indicated period (in tonnes) ^{(1) (2)}	Rate of duty
01.0460 (cont'd)	9401 71 00 9401 79 00 9401 80 00 9401 90 9401 90 30 9401 90 80		- - Upholstered - - Other - Other seats - Parts: - - Other: - - - Of wood - - - Other		
01.0470	9403 9403 10 9403 10 10 9403 10 51 9403 10 59 9403 10 91 9403 10 93 9403 10 99 9403 20 9403 20 91 9403 20 99 9403 30 9403 30 11 9403 30 19 9403 30 91 9403 30 99 9403 40 9403 40 10 9403 40 90 9403 50 00 9403 60 9403 60 10 9403 60 30 9403 60 90 9403 70 9403 70 90 9403 80 00 9403 90 9403 90 10 9403 90 30 9403 90 90		Other furniture and parts thereof: - Metal furniture of a kind used in offices: - - Drawing tables (other than those of heading No 9017) - - Other: - - - Not exceeding 80 cm in height: - - - - Desks - - - - Other - - - Exceeding 80 cm in height: - - - - Cupboards with doors, shutters or flaps - - - - Filing, card-index and other cabinets - - - - Other - Other metal furniture: - - Other: - - - Beds - - - Other - Wooden furniture of a kind used in offices: - - Not exceeding 80 cm in height: - - - Desks - - - Other - - Exceeding 80 cm in height: - - - Cupboards with doors, shutters or flaps; filing, card-index and other cabinets - - - Other - Wooden furniture of a kind used in the kitchen: - - Fitted kitchen units - - Other - Wooden furniture of a kind used in the bedroom - Other wooden furniture: - - Wooden furniture of a kind used in the dining room and the living room - - Wooden furniture of a kind used in shops - - Other wooden furniture - Furniture of plastics: - - Other - Furniture of other materials, including cane, osier, bamboo or similar materials - Parts: - - Of metal - - Of wood - - Of other materials	47 290	Exemption

Order No	CN code	Taric subdivision	Description	Volume of ceiling per year or indicated period (in tonnes) (1) (2)	Rate of duty
01.0480	9405 9405 91 9405 91 19		Lamps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated nameplates and the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included: — Parts: — — Of glass: — — — Articles for electrical lighting fittings (excluding searchlights and spotlights): — — — — Other (for example, diffusers, ceiling lights, bowls, cups, lampshades, globes, tulipshaped pieces)	4 670	Exemption
02.0051 (5)	6101 10 90 6101 20 90 6101 30 90 6102 10 90 6102 20 90 6102 30 90 6110 10 10 6110 10 31 6110 10 35 6110 10 38 6110 10 91 6110 10 95 6110 10 98 6110 20 91 6110 20 99 6110 30 91 6110 30 99		Anoraks, windcheaters, wind-jackets, jerseys, pullovers, cardigans, waistcoats and similar articles, knitted or crocheted: — 1 January to 31 December 1997	5 059 (× 1 000 pieces)	Exemption
02.0061 (6)	6203 41 10 6203 41 90 6203 42 31 6203 42 33 6203 42 35 6203 42 90 6203 43 19 6203 43 90 6203 49 19 6203 49 50 6204 61 10 6204 62 31 6204 62 33 6204 62 39 6204 63 18 6204 69 18 6211 32 42 6211 33 42 6211 42 42 6211 43 42		Men's or boys' woven trousers, breeches and shorts other than swimwear; women's or girls' woven trousers and breeches; lower parts of tracksuits with lining, other than category 16 or 29, of cotton or of man-made fibres: — 1 January to 31 December 1997	5 364 (× 1 000 pieces)	Exemption
02.0071 (7)	6106 10 00 6106 20 00 6106 90 10 6206 20 00 6206 30 00 6206 40 00		Women's and girls' blouses, shirts and shirt-blouses, whether or not knitted or crocheted, of wool or fine animal hair, cotton, or man-made fibres: — 1 January to 31 December 1997	3 718 (× 1 000 pieces)	Exemption

Order No	CN code	Taric subdivision	Description	Volume of ceiling per year or indicated period (in tonnes) ⁽¹⁾ ⁽²⁾	Rate of duty
02.0081 (8)	6205 10 00 6205 20 00 6205 30 00		Men's or boys' shirts, other than knitted or crocheted, of wool or fine animal hair, cotton, or man-made fibres: — 1 January to 31 December 1997	5 171 (× 1 000 pieces)	Exemption
02.0091 (9)	5802 11 00 5802 19 00 ex 6302 60 00	90	Terry-towelling and similar woven fabrics, of cotton; toilet linen and kitchen linen, of terry-towelling or similar terry fabrics, of cotton, other than knitted or crocheted: — 1 January to 31 December 1997	3 285 (× 1 000 pieces)	Exemption

⁽¹⁾ For imports exceeding these ceilings, the Community may reintroduce customs duties.

⁽²⁾ The amounts will be increased by 20 % of the amount of the previous year on the first day of every calendar year.

COMMISSION REGULATION (EC) No 429/97

of 5 March 1997

fixing, for February 1997, the specific agricultural conversion rate for the amount of the reimbursement of storage costs in the sugar sector

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 1599/96⁽²⁾,

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⁾,

Having regard to Commission Regulation (EEC) No 1713/93 of 30 July 1993 establishing special detailed rules for applying the agricultural conversion rate in the sugar sector⁽⁵⁾, as last amended by Regulation (EC) No 59/97⁽⁶⁾, and in particular Article 1 (3) thereof,

Whereas Article 1 (2) of Regulation (EEC) No 1713/93 provides that the amount of the reimbursement of storage costs referred to in Article 8 of Regulation (EEC) No 1785/81 is to be converted into national currency using a specific agricultural conversion rate equal to the average, calculated *pro rata temporis*, of the agricultural

conversion rates applicable during the month of storage; whereas that specific rate must be fixed each month for the previous month;

Whereas application of these provisions will lead to the fixing, for February 1997, of the specific agricultural conversion rate for the amount of the reimbursement of storage costs in the various national currencies as indicated in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The specific agricultural conversion rate to be used to convert the amount of the reimbursement of storage costs referred to in Article 8 of Regulation (EEC) No 1785/81 into each of the national currencies for February 1997 shall be as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 6 March 1997.

It shall apply with effect from 1 February 1997.

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

Done at Brussels, 5 March 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ No L 206, 16. 8. 1996, p. 43.

⁽³⁾ OJ No L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ No L 22, 31. 1. 1995, p. 1.

⁽⁵⁾ OJ No L 159, 1. 7. 1993, p. 94.

⁽⁶⁾ OJ No L 14, 17. 1. 1997, p. 25.

ANNEX

to the Commission Regulation of 5 March 1997 fixing, for February 97, the specific agricultural conversion rate for the amount of the reimbursement of storage costs in the sugar sector

Agricultural conversion rates		
ECU 1 =	40,3017	Belgian and Luxembourg francs
	7,49997	Danish kroner
	1,95426	German marks
	311,761	Greek drachmas
	165,303	Spanish pesetas
	6,61023	French francs
	0,778173	Irish punt
	1 973,93	Italian lire
	2,19514	Dutch guilders
	13,7501	Austrian schillings
	198,202	Portuguese escudos
	6,02811	Finnish marks
	8,68309	Swedish kroner
	0,768177	Pound sterling

COMMISSION REGULATION (EC) No 430/97

of 5 March 1997

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 vege-
tables⁽¹⁾, as last amended by Regulation (EC) No
2375/96⁽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 Regu-
lation (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 multila-
teral trade negotiations, the criteria whereby the Commis-

sion fixes the standard values for imports from third
countries, in respect of the products and periods stipu-
lated 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 6 March 1997.

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

Done at Brussels, 5 March 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ No L 325, 14. 12. 1996, p. 5.

⁽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 5 March 1997 establishing the standard import values for determining the entry price of certain fruit and vegetables

(ECU/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 15	204	52,1
	212	113,8
	624	201,0
	999	122,3
0707 00 15	068	60,9
	999	60,9
0709 10 10	220	197,3
	999	197,3
0709 90 73	052	122,1
	204	73,1
	999	97,6
0805 10 01, 0805 10 05, 0805 10 09	052	33,8
	204	45,0
	212	48,0
	220	22,3
	448	25,1
	464	42,3
	600	43,3
	624	55,5
0805 30 20	999	39,4
	052	60,8
	400	65,3
	600	73,9
0808 10 51, 0808 10 53, 0808 10 59	999	66,7
	052	62,1
	060	60,3
	388	109,3
	400	80,6
	404	91,2
	508	97,2
	512	84,7
	528	115,0
	720	96,9
0808 20 31	999	88,6
	039	106,6
	388	67,4
	400	112,7
	512	67,2
	528	69,4
	999	84,7

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 68/96 (OJ No L 14, 19. 1. 1996, p. 6). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 431/97
of 5 March 1997
fixing the import duties in the rice sector

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

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organization of the market in rice⁽¹⁾,

Having regard to Commission Regulation (EC) No 1503/96 of 29 July 1996 laying down detailed rules for the application of Council Regulation (EC) No 3072/95 as regards import duties in the rice sector⁽²⁾, as amended by Regulation (EC) No 2131/96⁽³⁾, and in particular Article 4 (1) thereof,

Whereas Article 11 of Regulation (EC) No 3072/95 provides that the rates of duty in the Common Customs Tariff are to be charged on import of the products referred to in Article 1 of that Regulation; whereas, however, in the case of the products referred to in paragraph 2 of that Article, the import duty is to be equal to the intervention price valid for such products on importation and increased by a certain percentage according to whether it is husked or milled rice, minus the cif import price provided that duty does not exceed the rate of the Common Customs Tariff duties;

Whereas, pursuant to Article 12 (3) of Regulation (EC) No 3072/95, the cif import prices are calculated on the basis of the representative prices for the product in question on the world market or on the Community import market for the product;

Whereas Regulation (EC) No 1503/96 lays down detailed rules for the application of Regulation (EC) No 3072/95 as regards import duties in the rice sector;

Whereas the import duties are applicable until new duties are fixed and enter into force; whereas they also remain in force in cases where no quotation is available from the source referred to in Article 5 of Regulation (EC) No 1503/96 during the two weeks preceding the next periodical fixing;

Whereas, in order to allow the import duty system to function normally, the market rates recorded during a reference period should be used for calculating the duties;

Whereas application of Regulation (EC) No 1503/96 results in import duties being fixed as set out in the Annexes to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The import duties in the rice sector referred to in Article 11 (1) and (2) of Regulation (EC) No 3072/95 shall be those fixed in Annex I to this Regulation on the basis of the information given in Annex II.

Article 2

This Regulation shall enter into force on 6 March 1997.

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

Done at Brussels, 5 March 1997.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ No L 329, 30. 12. 1995, p. 18.

⁽²⁾ OJ No L 189, 30. 7. 1996, p. 71.

⁽³⁾ OJ No L 285, 7. 11. 1996, p. 6.

ANNEX I

to the Commission Regulation of 5 March 1997 fixing the import duties on rice and broken rice

(ECU/tonne)

CN code	Duties ⁽¹⁾			
	Third countries (except ACP and Bangladesh) ⁽¹⁾ ⁽²⁾	ACP Bangladesh ⁽¹⁾ ⁽³⁾ ⁽⁴⁾	Basmati India and Pakistan ⁽⁵⁾	Egypt ⁽⁶⁾
1006 10 21	(7)	140,81		217,73
1006 10 23	(7)	140,81		217,73
1006 10 25	(7)	140,81		217,73
1006 10 27	(7)	140,81		217,73
1006 10 92	(7)	140,81		217,73
1006 10 94	(7)	140,81		217,73
1006 10 96	(7)	140,81		217,73
1006 10 98	(7)	140,81		217,73
1006 20 11	327,72	159,52		245,79
1006 20 13	327,72	159,52		245,79
1006 20 15	327,72	159,52		245,79
1006 20 17	245,93	118,63	0	184,45
1006 20 92	327,72	159,52		245,79
1006 20 94	327,72	159,52		245,79
1006 20 96	327,72	159,52		245,79
1006 20 98	245,93	118,63	0	184,45
1006 30 21	561,31	265,75		420,98
1006 30 23	561,31	265,75		420,98
1006 30 25	561,31	265,75		420,98
1006 30 27	570,87	270,53		428,15
1006 30 42	561,31	265,75		420,98
1006 30 44	561,31	265,75		420,98
1006 30 46	561,31	265,75		420,98
1006 30 48	570,87	270,53		428,15
1006 30 61	561,31	265,75		420,98
1006 30 63	561,31	265,75		420,98
1006 30 65	561,31	265,75		420,98
1006 30 67	570,87	270,53		428,15
1006 30 92	561,31	265,75		420,98
1006 30 94	561,31	265,75		420,98
1006 30 96	561,31	265,75		420,98
1006 30 98	570,87	270,53		428,15
1006 40 00	(7)	84,38		132,00

⁽¹⁾ Subject to the application of the provisions of Articles 12 and 13 of amended Council Regulation (EEC) No 715/90 (OJ No L 84, 30. 3. 1990, p. 85).

⁽²⁾ In accordance with Regulation (EEC) No 715/90, the duties are not applied to products originating in the African, Caribbean and Pacific States and imported directly into the overseas department of Réunion.

⁽³⁾ The import levy on rice entering the overseas department of Réunion is specified in Article 11 (3) of Regulation (EC) No 3072/95.

⁽⁴⁾ The duty on imports of rice not including broken rice (CN code 1006 40 00), originating in Bangladesh is applicable under the arrangements laid down in Council Regulation (EEC) No 3491/90 (OJ No L 337, 4. 12. 1990, p. 1) and amended Commission Regulation (EEC) No 862/91 (OJ No L 88, 9. 4. 1991, p. 7).

⁽⁵⁾ No import duty applies to products originating in the OCT pursuant to Article 101 (1) of amended Council Decision 91/482/EEC (OJ No L 263, 19. 9. 1991, p. 1).

⁽⁶⁾ For husked rice of the Basmati variety originating in India and Pakistan, a reduction of ECU 250 per tonne applies (Article 4b of amended Regulation (EC) No 1503/96).

⁽⁷⁾ Duties fixed in the Common Customs Tariff.

⁽⁸⁾ The duty on imports of rice originating in and coming from Egypt is applicable under the arrangements laid down in Council Regulation (EC) No 2184/96 (OJ No L 292, 15. 11. 1996, p. 1) and Commission Regulation (EC) No 196/97 (OJ No L 31, 1. 2. 1997, p. 53).

ANNEX II

Calculation of import duties for rice

	Paddy	Indica rice		Japonica rice		Broken rice
		Husked	Milled	Husked	Milled	
1. Import duty (ECU/tonne)	(¹)	245,93	570,87	327,72	561,31	(¹)
2. Elements of calculation:						
(a) Arag cif price (\$/tonne)	—	441,45	403,00	380,00	430,00	—
(b) fob price (\$/tonne)	—	—	—	350,00	400,00	—
(c) Sea freight (\$/tonne)	—	—	—	30,00	30,00	—
(d) Source	—	USDA	USDA	Operators	Operators	—

(¹) Duties fixed in the Common Customs Tariff.

COMMISSION REGULATION (EC) No 432/97

of 5 March 1997

re-establishing the preferential customs duty on imports of small-flowered roses
originating in Israel

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan and Morocco⁽¹⁾, as last amended by Regulation (EC) No 539/96⁽²⁾, and in particular Article 5 (2) (b) thereof,

Whereas Regulation (EEC) No 4088/87 fixes conditions for the application of a preferential customs duty on large-flowered roses, small-flowered roses, uniflorous (bloom) carnations and multiflorous (spray) carnations within the limit of tariff quotas opened annually for imports of fresh cut flowers into the Community;

Whereas Council Regulation (EC) No 1981/94⁽³⁾, as last amended by Commission Regulation (EC) No 2397/96⁽⁴⁾, opens and provides for the administration of Community tariff quotas for cut flowers and flower buds, fresh, originating in Cyprus, Jordan, Morocco and Israel;

Whereas Article 2 (3) of Regulation (EEC) No 4088/87 stipulates that the preferential customs duty shall be reintroduced for a given product of a given origin if the prices of the imported product (full rate customs duty not deducted) are, for at least 70 % of the quantities for which prices are available on representative Community import markets, not less than 85 % of the Community producer price for a period, calculated from the actual date of suspension of the actual preferential customs duty,

- of two successive market days, after suspension under Article 2 (2) (a) of that Regulation,
- of three successive market days, after suspension under Article 2 (2) (b) of that Regulation;

Whereas Commission Regulation (EC) No 1985/96⁽⁵⁾ fixed Community producer prices for carnations and roses for application of the arrangements for importation from the countries in question;

Whereas Commission Regulation (EEC) No 700/88⁽⁶⁾, as last amended by Regulation (EEC) No 2917/93⁽⁷⁾, laid

down detailed rules for the application of these arrangements;

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 1482/96⁽¹¹⁾;

Whereas the preferential customs duty fixed for small-flowered roses originating in Israel by Regulation (EC) No 1981/94 was suspended by Commission Regulation (EC) No 336/97⁽¹²⁾;

Whereas on the basis of price recordings made as specified in Regulations (EEC) No 4088/87 and (EEC) No 700/88 it must be concluded that the requirement for reintroduction of the preferential customs duty laid down in the last indent of Article 2 (3) of Regulation (EEC) No 4088/87 is met for small-flowered roses originating in Israel; whereas the preferential customs duty should be reintroduced,

HAS ADOPTED THIS REGULATION:

Article 1

For imports of small-flowered roses (CN codes ex 0603 10 11 and ex 0603 10 51) originating in Israel the preferential customs duty set by amended Regulation (EC) No 1981/94 is reintroduced.

Article 2

This Regulation shall enter into force on 6 March 1997.

⁽¹⁾ OJ No L 382, 31. 12. 1987, p. 22.

⁽²⁾ OJ No L 79, 29. 3. 1996, p. 6.

⁽³⁾ OJ No L 199, 2. 8. 1994, p. 1.

⁽⁴⁾ OJ No L 327, 18. 12. 1996, p. 1.

⁽⁵⁾ OJ No L 264, 17. 10. 1996, p. 14.

⁽⁶⁾ OJ No L 72, 18. 3. 1988, p. 16.

⁽⁷⁾ OJ No L 264, 23. 10. 1993, p. 33.

⁽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 188, 27. 7. 1996, p. 22.

⁽¹²⁾ OJ No L 56, 26. 2. 1997, p. 8.

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

Done at Brussels, 5 March 1997.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 433/97

of 5 March 1997

re-establishing the preferential customs duty on imports of multiflorous (spray) carnations originating in Israel

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan and Morocco⁽¹⁾, as last amended by Regulation (EC) No 539/96⁽²⁾, and in particular Article 5 (2) (b) thereof,

Whereas Regulation (EEC) No 4088/87 fixes conditions for the application of a preferential customs duty on large-flowered roses, small-flowered roses, uniflorous (bloom) carnations and multiflorous (spray) carnations within the limit of tariff quotas opened annually for imports of fresh cut flowers into the Community;

Whereas Council Regulation (EC) No 1981/94⁽³⁾, as last amended by Regulation (EC) No 2397/96⁽⁴⁾, opens and provides for the administration of Community tariff quotas for cut flowers and flower buds, fresh, originating in Cyprus, Jordan, Morocco and Israel;

Whereas Article 2 (3) of Regulation (EEC) No 4088/87 stipulates that the preferential customs duty shall be reintroduced for a given product of a given origin if the prices of the imported product (full rate customs duty not deducted) are, for at least 70 % of the quantities for which prices are available on representative Community import markets, not less than 85 % of the Community producer price for a period, calculated from the actual date of suspension of the actual preferential customs duty,

- of two successive market days, after suspension under Article 2 (2) (a) of that Regulation,
- of three successive market days, after suspension under Article 2 (2) (b) of that Regulation;

Whereas Commission Regulation (EC) No 1985/96⁽⁵⁾ fixed Community producer prices for carnations and roses for application of the arrangements for importation from the countries in question;

Whereas Commission Regulation (EEC) No 700/88⁽⁶⁾, as last amended by Regulation (EEC) No 2917/93⁽⁷⁾, laid

down detailed rules for the application of these arrangements;

Whereas the representative market rates defined in Article 1 of Council Regulation (EEC) No 3813/92⁽⁸⁾, as 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 amended by Regulation (EC) No 1482/96⁽¹¹⁾;

Whereas the preferential customs duty fixed for multiflorous (spray) carnations originating in Israel by Regulation (EC) No 1981/94 was suspended by Commission Regulation (EC) No 362/97⁽¹²⁾;

Whereas on the basis of price recordings made as specified in Regulations (EEC) No 4088/87 and (EEC) No 700/88 it must be concluded that the requirement for reintroduction of the preferential customs duty laid down in the last indent of Article 2 (3) of Regulation (EEC) No 4088/87 is met for multiflorous (spray) carnations originating in Israel; whereas the preferential customs duty should be reintroduced,

HAS ADOPTED THIS REGULATION:

Article 1

For imports of multiflorous (spray) carnations (CN codes ex 0603 10 13 and ex 0603 10 53) originating in Israel the preferential customs duty set by amended Regulation (EC) No 1981/94 is reintroduced.

Article 2

This Regulation shall enter into force on 6 March 1997.

⁽¹⁾ OJ No L 382, 31. 12. 1987, p. 22.

⁽²⁾ OJ No L 79, 29. 3. 1996, p. 6.

⁽³⁾ OJ No L 199, 2. 8. 1994, p. 1.

⁽⁴⁾ OJ No L 327, 18. 12. 1996, p. 1.

⁽⁵⁾ OJ No L 264, 17. 10. 1996, p. 14.

⁽⁶⁾ OJ No L 72, 18. 3. 1988, p. 16.

⁽⁷⁾ OJ No L 264, 23. 10. 1993, p. 33.

⁽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. 96.

⁽¹¹⁾ OJ No L 188, 27. 7. 1996, p. 22.

⁽¹²⁾ OJ No L 59, 28. 2. 1997, p. 46.

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

Done at Brussels, 5 March 1997.

For the Commission

Franz FISCHLER

Member of the Commission

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 25 February 1997

accepting undertakings offered in connection with the review of Council Regulation (EEC) No 3433/91 and the proceeding concerning imports of gas-fuelled, non-refillable pocket flint lighters, originating respectively in Thailand and in the Philippines and Mexico

(97/167/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾, as amended by Regulation (EC) No 2331/96⁽²⁾, and in particular Articles 8 and 23 thereof,

After consulting the Advisory Committee,

Whereas:

- (1) On 18 March 1995, the Commission announced, by a notice published in the *Official Journal of the European Communities*⁽³⁾, the initiation of a review of Regulation (EEC) No 3433/91⁽⁴⁾, as last amended by Regulation (EC) No 1006/95⁽⁵⁾, in respect of imports of gas-fuelled, non-refillable pocket flint lighters originating in Thailand and commenced an investigation under Article 11 (3) of Council Regulation (EC) No 3283/94⁽⁶⁾ which was replaced during the investigation by Regulation (EC) No 384/96, hereinafter referred to as 'the Basic Regulation'. This interim review was initiated

as a result of a request lodged in March 1994 by the European Federation of Lighter Manufacturers (EFLM), on behalf of its members representing almost the totality of Community production of the like product. This request contained sufficient evidence to justify the initiation of a review.

- (2) On 18 March 1995, the Commission announced, by a notice published in the *Official Journal of the European Communities*⁽⁷⁾, the initiation of an anti-dumping proceeding concerning imports of gas-fuelled, non-refillable pocket flint lighters originating in the Philippines and Mexico and commenced an investigation. This proceeding was initiated as a result of two complaints both lodged in August 1994 by producers representing a major proportion of total Community production of the like product. As regards the Philippines and Mexico, it was considered that the relevant complaints contained sufficient evidence of dumping by the imports concerned and of material injury resulting therefrom to justify the initiation of anti-dumping proceedings. The relevant investigations were carried out in the framework of a single proceeding.

- (3) A number of considerations led the Commission to the conclusion that a cumulative assessment of the effect of the dumped imports from both the country subject to a review (Thailand) and the two

⁽¹⁾ OJ No L 56, 6. 3. 1996, p. 1.

⁽²⁾ OJ No L 317, 6. 12. 1996, p. 1.

⁽³⁾ OJ No C 67, 18. 3. 1995, p. 4.

⁽⁴⁾ OJ No L 326, 28. 11. 1991, p. 1.

⁽⁵⁾ OJ No L 101, 4. 5. 1995, p. 38.

⁽⁶⁾ OJ No L 349, 31. 12. 1994, p. 1.

⁽⁷⁾ OJ No C 67, 18. 3. 1995, p. 3.

countries subject to a new proceeding (the Philippines and Mexico), was warranted. As a result, from a procedural point of view, it was considered that definitive measures, if any, should be directly adopted, without resorting to the intermediate step of provisional duties.

- (4) The Commission accordingly continued to seek and verify all information it deemed necessary for its definitive findings. In the course of this examination, it was established that definitive anti-dumping measures in respect of imports originating in the three countries concerned should be taken in order to eliminate the injurious effects of dumping (and accordingly that the existing measures concerning Thai imports should be repealed). The findings and conclusions on all aspects of the investigations are set out in Council Regulation (EC) No 423/97⁽¹⁾.
- (5) Having been informed of these conclusions, one Thai producer, two related Filipino producers and one Mexican producer have offered undertakings with regard to the import or resale prices to first unrelated customers in the Community pursuant to Article 8 of the Basic Regulation.
- (6) According to these undertakings, prices would be set at levels sufficient to eliminate the injurious dumping as established in the framework of the present review and anti-dumping proceeding. On this basis and in the light of the findings of the investigations (in particular those relating to the causal link as set out in recitals 70 and 71 of Regulation (EC) No 423/97), the Commission is of the opinion that the undertakings offered should be considered as a particularly appropriate remedy in the present cases.
- (7) In addition, given the type of sales channels of the exports concerned (which are made either to related parties or sole importers in the Community) and the fact that the Thai producer concerned, which is also responsible for exporting the goods in question, the Japanese related company usually responsible for exporting the goods manufactured by the two Filipino producers, as well as the American related company usually responsible for exporting the goods manufactured by the Mexican producer (together with related importers in the Community), have undertaken to submit detailed and regular sales information to the Commission, it has been concluded that the correct observance of the undertakings can be effectively monitored by the Commission.
- (8) Under these circumstances, the undertakings offered by the Thai producer/exporter, the two related Filipino producers in conjunction with their Japanese parent company and the Mexican

producer in conjunction with its American parent company (and related importers in the Community) are considered acceptable and the investigations can, therefore, be terminated with respect to the Thai, Filipino and Mexican producers concerned.

- (9) The producers and exporters (as well as related importers) concerned were informed of the essential facts and considerations on the basis of which the imposition of definitive anti-dumping measures was recommended and have had the opportunity to comment on all aspects of the investigation. Accordingly, should an undertaking be withdrawn or should the Commission have reasons to believe that an undertaking is being violated, a provisional duty may be imposed pursuant to Article 7 and Article 8 (10) of the Basic Anti-dumping Regulation and, should the conditions of Article 8 (9) of the said Regulation be met, a definitive anti-dumping duty will be imposed.
- (10) No objections were raised when the Advisory Committee was consulted on the acceptance of the undertakings offered.
- (11) Having been informed of the main facts and considerations on the basis of which the Commission intended to accept the undertakings, the Community industry concerned did not object,

HAS ADOPTED THIS DECISION:

Article 1

The undertakings offered by:

- (a) Thai Merry Co., Ltd, Samutsakorn, Thailand;
in connection with the review of Regulation (EEC) No 3433/91, and
- (b) Iwax Philippine, Inc., Rosario, Cavite, Philippines,
Iwahori Philippines, Inc., Mariveles, Bataan, Philippines, and
Iwax Inc., Shizuoka, Japan (in respect of its exports of goods produced by the abovementioned companies),
JMP Mexico, S.A. de C.V., Tijuana, Mexico, and
Scripto Tokai Corp., Fontana, USA (in respect of its exports of goods produced by the abovementioned company), as well as all its related importers in the Community;
in connection with the proceeding,
concerning imports of gas-fuelled, non-refillable pocket flint lighters, falling within CN code ex 9613 10 00, are hereby accepted.

This acceptance shall take effect on the date of entry into force of Regulation (EC) No 423/97.

⁽¹⁾ See page 1 of this Official Journal.

Article 2

The investigations in connection with the review and the anti-dumping proceeding referred to in Article 1 are hereby terminated with regard to the companies named in that Article.

Done at Brussels, 25 February 1997.

For the Commission

Leon BRITTAN

Vice-President
