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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1540/98
of 29 June 1998
establishing new rules on aid to shipbuilding

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 92(3)(e), 94 and 113 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas the agreement respecting normal competitive conditions in the commercial shipbuilding and repair industry concluded between the European Community and certain third countries within the framework of the Organisation for Economic Cooperation and Development (OECD) (hereinafter referred to as 'the OECD Agreement') ⁽⁴⁾ has still not entered into force because the United States of America has failed to ratify it; whereas, therefore, Council Regulation (EC) No 3094/95 of 22 December 1995 on aid to shipbuilding ⁽⁵⁾ has not yet entered into force;

Whereas, in accordance with Article 10 of Regulation (EC) No 3094/95, the relevant rules of Council Directive 90/684/EEC on aid to shipbuilding ⁽⁶⁾ will continue to apply, in the absence of entry into force of the OECD Agreement, until 31 December 1998 at the latest;

Whereas a satisfactory balance between supply and demand in world shipbuilding has still not been fully

established, so that prices remain depressed; whereas the competitive pressures on Community shipbuilders are expected to grow further as overall ship demand after the year 2000 is predicted to fall and available world shipbuilding capacity is expected to continue to rise;

Whereas, although Community yards have made progress in improving competitiveness, the rate at which they are improving productivity needs to be increased in order to close the gap with their international competitors, particularly in Japan and Korea;

Whereas a competitive shipbuilding industry is important to the Community and contributes to its economic and social development by providing a substantial market for a range of industries and by maintaining employment in a number of regions, many of which are already suffering a high rate of unemployment;

Whereas a complete abolition of aid to the sector is not yet possible in view of the difficult market situation and the need to encourage yards to make the necessary changes to improve competitiveness; whereas, a tight and selective aid policy should be continued in order to support these efforts and to ensure fair and uniform conditions for intra-Community competition; whereas such a policy constitutes the most appropriate approach in terms of ensuring the maintenance of a sufficient level of activity in European shipyards and, thereby, the survival of an efficient and competitive European shipbuilding industry;

Whereas the Community's aid policy for the shipbuilding sector has remained essentially unchanged since 1987; whereas that policy has generally achieved its objectives but requires adaptations so that it is better able to address the future challenges facing the industry;

Whereas, in particular, operating aid is not the most cost-effective way of encouraging the European shipbuilding industry to improve its competitiveness; whereas, accordingly, operating aid should be phased out

⁽¹⁾ OJ C 114, 15. 4. 1998, p. 14.

⁽²⁾ OJ C 138, 4. 5. 1998.

⁽³⁾ OJ C 129, 27. 4. 1998, p. 19.

⁽⁴⁾ OJ C 375, 30. 12. 1994, p. 3.

⁽⁵⁾ OJ L 332, 31. 12. 1995, p. 1. Regulation as last amended by Regulation (EC) No 2600/97 (OJ L 351, 23. 12. 1997, p. 18).

⁽⁶⁾ OJ L 380, 31. 12. 1990, p. 27.

and the focus shifted more towards other forms of support to promote the necessary improvements in competitiveness, such as investment aids for innovation;

Whereas operating aid will therefore end on 31 December 2000;

Whereas operating aid in the form of development assistance to developing countries should continue, subject to stricter conditions;

Whereas a clearer distinction is needed between investment aid and restructuring aid; whereas restructuring aid should be granted only exceptionally and subject to strict rules, such as applying the principle of 'one time/last time', requiring genuine capacity reductions as a counterpart for the aid and tighter monitoring procedures; whereas investment aid should be allowed only to improve the productivity of existing installations in existing yards situated in areas eligible for regional investment aid, subject to certain limitations on aid intensities in order to minimise possible distortions to competition;

Whereas investment aid for innovation should be allowed, provided that it is for genuinely innovative projects that will improve competitiveness; whereas aid for research and development and aid for environmental protection should also be permitted so that the shipbuilding industry is not deprived of these aid possibilities that are available to all other industrial sectors; whereas closure aid should continue to be allowed to facilitate structural adjustment;

Whereas, although it is proposed to continue to treat ship conversion in the same way as shipbuilding to a certain extent, aid to the ship repair sector should continue not to be permitted except for restructuring, closure, investments under regional aid schemes, innovation, research and development, and environmental protection;

Whereas close and transparent monitoring is necessary if the aid policy is to be effective;

Whereas, the Commission is to present to the Council a regular report on the market situation and appraise whether European yards are affected by anti-competitive practices; whereas, if it is established that anti-competitive practices of any kind are causing injury to industry, the Commission is, where appropriate, to propose to the Council measures to address the problem;

Whereas the first such report is to be presented to the Council no later than 31 December 1999;

Whereas this Regulation is without prejudice to any amendments necessary to comply with international commitments of the Community concerning state aid to the shipbuilding industry,

HAS ADOPTED THIS REGULATION:

CHAPTER I

DEFINITIONS AND AID

Article 1

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (a) 'self-propelled seagoing commercial vessels' shall mean:
- vessels of not less than 100 gt used for the transportation of passengers and/or goods,
 - vessels of not less than 100 gt for the performance of a specialised service (for example, dredgers and ice breakers),
 - tugs of not less than 365 kW,
 - fishing vessels of not less than 100 gt for export outside the Community,
 - unfinished shells of the abovementioned vessels that are afloat and mobile.

For the purposes of the above, 'self-propelled seagoing vessel' shall mean a vessel that, by means of its permanent propulsion and steering, has all the characteristics of self-navigability on the high seas.

Military vessels (i.e. vessels which according to their basic structural characteristics and capability are specifically intended to be used exclusively for military purposes, such as warships and other vessels for offensive or defensive action) and modifications made or features added to other vessels exclusively for military purposes shall be excluded, provided that any measures or practices applied in respect of such vessels, modifications or features are not disguised actions taken in favour of commercial shipbuilding inconsistent with this Regulation;

- (b) 'shipbuilding' shall mean the building, in the Community, of self-propelled seagoing commercial vessels;
- (c) 'ship repair' shall mean the repair or reconditioning in the Community of self-propelled seagoing commercial vessels;
- (d) 'ship conversion' shall mean the conversion, in the Community, of self-propelled seagoing commercial vessels of not less than 1 000 gt, on condition that conversion operations entail radical alterations to the cargo plan, the shell, the propulsion system or the passenger accommodation;
- (e) 'aid' shall mean State aid within the meaning of Articles 92 and 93 of the Treaty. This shall include not only aid granted by the State itself but also that granted by regional or local authorities or other public

bodies and any aid elements contained in financing measures taken directly or indirectly by Member States in respect of shipbuilding, repair or conversion undertakings which cannot be regarded as a genuine provision of risk capital according to standard investment practice in a market economy;

- (f) 'contract value before aid' shall mean the price laid down in the contract plus any aid granted directly to the yard;
- (g) 'related entity' shall mean any natural or legal person who:
 - (i) owns or controls an undertaking engaged in shipbuilding, ship repair or ship conversion, or
 - (ii) is owned or controlled, directly or indirectly, whether through stock ownership or otherwise, by an undertaking engaged in shipbuilding, ship repair or ship conversion.

Control shall be presumed to arise once a person or undertaking engaged in shipbuilding, ship repair or ship conversion owns or controls an interest of more than 25 % in the other or vice versa.

Article 2

Aid

1. Aid granted, whether directly or indirectly, for shipbuilding, ship repair and ship conversion, financed by Member States or their regional or local authorities or through State resources in any form whatsoever, may be considered compatible with the common market only if it complies with the provisions of this Regulation. This provision applies not only to aid granted to undertakings engaged in such activities but also to related entities.

2. For the purposes of this Regulation, aid granted indirectly includes all forms of aid to shipowners or to third parties which are available as aid for the building or conversion of ships such as credit facilities, guarantees and tax concessions. Concerning tax concessions, these provisions shall be without prejudice to the Community guidelines on State aid to maritime transport⁽¹⁾, and in particular point 3.1 thereof, and any amendments thereto.

3. No aid granted pursuant to this Regulation may be conditional upon discriminatory practices against products originating in other Member States. In particular, aid granted by a Member State to its shipowners or to third parties in that State for ship building or ship conversion may not distort, or threaten to distort,

competition between shipyards in the Member State and shipyards in other Member States in the placing of orders.

CHAPTER II

OPERATING AID

Article 3

Contract-related operating aid

1. Until 31 December 2000, production aid in support of contracts for shipbuilding and ship conversion, but not ship repair, may be considered compatible with the common market provided that the total amount of all forms of aid granted in support of any individual contract (including the grant equivalent of any aid granted to the shipowner or third parties) does not exceed, in grant equivalent, a common maximum aid ceiling expressed as a percentage of the contract value before aid. For shipbuilding contracts with a contract value before aid of more than ECU 10 million, the ceiling shall be 9 %; in all other cases the ceiling shall be 4,5 %.

2. The aid ceiling applicable to a contract shall be that in force at the date of signature of the final contract.

However, the preceding subparagraph shall not apply in respect of any ship delivered more than three years from the date of signing of the final contract. In such cases, the ceiling applicable to that contract shall be that in force three years before the date of delivery of the ship. The Commission may, however, grant an extension of the three-year delivery limit when this is found justified by the technical complexity of the individual shipbuilding project concerned or by delays resulting from unexpected disruptions of a substantial and defensible nature in the working programme of a yard due to exceptional circumstances, unforeseeable and external to the company.

3. The grant of aid in individual cases in application of an approved aid scheme shall not require prior notification to, or authorisation from, the Commission.

However, where there is competition between different Member States for a particular contract, the Commission shall require prior notification of the relevant aid proposals at the request of any Member State. In such cases, the Commission shall adopt a position within 30 days of notification; such proposals may not be implemented before the Commission has given its authorisation. By its decision in such cases, the Commission shall ensure that the planned aid does not affect trading conditions to an extent contrary to the common interest.

⁽¹⁾ OJ C 205, 5. 7. 1997, p. 5.

4. Aid in the form of state-supported credit facilities granted to national and non-national shipowners or third parties for the building or conversion of vessels may be deemed compatible with the common market and shall not be counted within the ceiling if it complies with the terms of OECD Council Resolution of 3 August 1981 (OECD Understanding on Export Credits for Ships) or with any agreement amending or replacing that Understanding.

5. Aid related to shipbuilding and ship conversion granted as development assistance to a developing country shall not be subject to the ceiling. It may be deemed compatible with the common market if it complies with the terms laid down for that purpose by OECD Working Party 6 in its Agreement concerning the interpretation of Articles 6 to 8 of the OECD Understanding on Export Credits for Ships or with any later addendum or corrigendum to the said Understanding.

The Commission must be given prior notification of any such individual aid proposal. It shall verify the particular development content of the proposed aid and satisfy itself that it falls within the scope of the Understanding referred to in the first subparagraph and that the offer of development assistance is open to bids from different yards.

CHAPTER III

CLOSURE AND RESTRUCTURING AID

Article 4

Closure aid

1. Aid to defray the normal costs resulting from the total or partial closure of shipbuilding, ship repair or ship conversion yards may be considered compatible with the common market provided that the resulting capacity reduction is of a genuine and irreversible nature.

2. The costs eligible for the aid referred to in paragraph 1 are:

- payments to workers made redundant or retired before legal retirement age,
- the costs of counselling services to workers made or to be made redundant or retired before legal retirement age, including payments made by shipyards to facilitate the creation of small enterprises which are independent of the shipyards in question and whose activities

are not principally shipbuilding, ship repair or ship conversion,

- payments to workers for vocational retraining,
- expenditure incurred for the redevelopment of the yard(s), its buildings, installations and infrastructure for use other than that specified in points (b), (c) and (d) of Article 1.

3. In addition, in the case of undertakings which totally cease shipbuilding, ship repair or ship conversion, the following measures may also be deemed compatible with the common market:

- aid of an amount not exceeding the higher of the following two values, as determined by an independent consultants report: the residual book value of the installations, ignoring that portion of any revaluation since 1 January 1991 that exceeds the national inflation rate, or the discounted value of the contribution to fixed costs obtainable from the installations over a three-year period (less any advantages the aided undertaking derives from their closure);
- aid such as loans or loan guarantees for working capital needed to enable the undertaking to complete unfinished works provided that this is kept to the minimum necessary and a significant proportion of the work has already been done.

4. The amount and intensity of aid must be justified by the extent of the closures involved, account being taken of the structural problems of the region concerned and, in the case of conversion to other industrial activities, of the Community legislation and rules applicable to those new activities.

5. In order to establish the irreversible nature of aided closures, the Member State concerned shall ensure that the closed shipbuilding, ship repair and ship conversion facilities remain closed for a period of not less than ten years.

Article 5

Restructuring aid

1. Aid for the rescue and restructuring of undertakings in difficulties, including capital injections, debt write-offs, subsidised loans, loss compensation and guarantees, may exceptionally be considered compatible with the common market provided that it complies with the Community guidelines on State aid for rescuing and restructuring firms in difficulty⁽¹⁾.

Furthermore, in cases of restructuring, the following additional specific conditions must also be respected:

⁽¹⁾ OJ C 368, 23. 12. 1994, p. 12.

- the undertaking has not been granted any such aid pursuant to Regulation (EC) No 1013/97⁽¹⁾,
- the aid is a one-off operation, with clear and unequivocal undertakings from the Member State concerned that no further aid will be granted to the undertaking or its legal successors in the future,
- there is a genuine and irreversible reduction in the shipbuilding, ship repair or ship conversion capacity of the undertaking concerned commensurate with the level of aid involved (in that regard the level of actual production in the preceding five years will be the determining factor in the level of capacity reduction required),
- the closed capacity must have been regularly used for shipbuilding, ship repair or ship conversion up to the date of notification of the particular aid in accordance with Article 10,
- the closed capacity must remain closed to shipbuilding, ship repair or ship conversion for not less than 10 years from the Commission's approval of the aid,
- if the closed capacity is re-used for alternative purposes, these must be independent of the shipyard in question and the activities must not be related principally to shipbuilding, ship repair or ship conversion,
- the Member State concerned must agree to cooperate fully with monitoring arrangements established by the Commission, including on-site inspections, where appropriate by independent experts.

2. In assessing the regularity of production and the capacity reduction involved, the Commission shall base its decision not only on the theoretical capacity of the yard(s) of the undertaking but also on the level of actual production over the preceding five years. No account will be taken of capacity reductions in other undertakings in the same Member State unless capacity reductions in the beneficiary undertaking are impossible without undermining the viability of the restructuring plan.

3. The Commission shall seek the views of Member States on all such cases where the aid is in excess of ECU 10 million before adopting a position on them.

4. In the case of restructuring operations lasting several years and involving large amounts of aid, the Commission may require that aid be disbursed in instalments subject to prior notification and approval by the Commission.

⁽¹⁾ OJ L 148, 6. 6. 1997, p. 1.

CHAPTER IV

OTHER MEASURES

Article 6

Investment aid for innovation

Aid granted for innovation in existing shipbuilding, ship repair and ship conversion yards may be deemed compatible with the common market up to a maximum aid intensity of 10 % gross, provided that it relates to the industrial application of innovative products and processes that are genuinely and substantially new, i.e. are not currently used commercially by other operators in the sector within the Community, and which carry a risk of technological or industrial failure, subject to the following conditions:

- the aid is limited to supporting expenditure on investments and engineering activities directly and exclusively related to the innovative part of the project,
- the amount and intensity of the aid is limited to the minimum necessary taking account of the degree of risk associated with the project.

Article 7

Regional investment aid

Aid granted for investment in upgrading or modernising existing yards, not linked to a financial restructuring of the yard(s) concerned, with the objective of improving the productivity of existing installations, may be deemed compatible with the common market provided that:

- in regions meeting the criteria for the option contained in Article 92(3)(a) of the Treaty and complying with the map approved by the Commission for each Member State for the grant of regional aid, the intensity of the aid does not exceed 22,5 %,
- in regions meeting the criteria for the option contained in Article 92(3)(c) of the Treaty and complying with the map approved by the Commission for each Member State for the grant of regional aid, the intensity of the aid does not exceed 12,5 % or the applicable regional aid ceiling, whichever is the lower,
- the aid is limited to support eligible expenditure as defined in the applicable Community guidelines on regional aid.

*Article 8***Research and development**

Aid granted to defray expenditure by shipbuilding, ship repair or ship conversion undertakings on research and development projects may be considered compatible with the common market if it is in compliance with the rules laid down in the Community framework for State aid for research and development⁽¹⁾, or any successor arrangements.

*Article 9***Environmental protection**

Aid granted to defray expenditure by shipbuilding, ship repair or ship conversion undertakings for environmental protection may be considered compatible with the common market if it is in compliance with the rules laid down in the Community guidelines on State aid for environmental protection⁽²⁾, or any successor arrangements.

CHAPTER V

MONITORING PROCEDURES AND ENTRY INTO FORCE*Article 10***Notification**

1. Aid to shipbuilding, ship repair and ship conversion undertakings covered by this Regulation shall be subject to, in addition to the provisions of Article 93 of the Treaty, the special notification rules provided for in paragraph 2.

2. The following shall be notified to the Commission in advance by the Member States and authorised by the Commission before they are put into effect:

- (a) any aid scheme — new or existing — or any amendment of an existing scheme covered by this Regulation;
- (b) any decision to apply a generally applicable aid scheme, including generally applicable regional aid schemes, to the undertakings covered by this Regulation in order to verify compatibility with Article 92 of the Treaty, in particular in cases referred to in Articles 6, 7, 8 and 9 unless the aid is below the *de minimis* threshold of ECU 100 000 over any three-year period;

(c) any individual application of aid schemes in the following cases:

- (i) those referred to in the second subparagraph of Article 3(3) and in Article 3(5), Article 4, and Article 5; or
- (ii) when specifically provided for by the Commission in its approval of the aid scheme concerned.

*Article 11***Monitoring of application of aid rules**

1. To enable the Commission to monitor application of the aid rules contained in Chapters II to IV, Member States shall supply it with:

- (a) monthly reports on each shipbuilding and ship conversion contract by the end of the third month following the month of signing of each contract, in accordance with the annexed Schedule 1;
- (b) completion reports on each shipbuilding and ship conversion contract, including those signed before the entry into force of this Regulation, by the end of the month following the month of completion, in accordance with the annexed Schedule 1;
- (c) where requested by the Commission, yearly reports, to be provided by 1 March of the year following the year subject to the report, giving details of the total amount of aid granted to each individual national shipyard during the previous calendar year, in accordance with the annexed Schedule 2;
- (d) in the case of shipyards able to build merchant ships over 5 000 gt, yearly reports to be provided not later than two months after the annual general meeting has approved the shipyard's yearly report, giving publicly available information on capacity developments and on the structure of ownership, in accordance with the annexed Schedule 3; such reports shall be submitted biannually after the first annual report has been submitted unless the Commission decides to request yearly reports to continue;
- (e) in the case of shipyards which have received restructuring aid in accordance with Article 5, quarterly reports on the attainment of the restructuring objectives, including the following elements: disbursement and use of the aid, investments, productivity performance, employment reductions, viability;
- (f) in the case of shipyards benefiting from contracts supported by aid in the form of development assistance, such information as the Commission may require to enable it to ensure that the conditions of Article 3(5) are respected.

⁽¹⁾ OJ C 45, 17. 2. 1996, p. 5.

⁽²⁾ OJ C 72, 10. 3. 1994, p. 3.

2. In the case of shipyards engaged in both commercial and military shipbuilding, ship repair or ship conversion, the reports referred to in (d) of paragraph 1 shall be accompanied by an attestation by the statutory auditor certifying the apportionment of the overheads to these two fields. In addition, separate information shall be submitted on the turnover in the commercial and military fields.

3. On the basis of the information communicated to it in accordance with Article 10 and paragraph 1 of this Article, the Commission shall draw up an annual overall report to serve as a basis for discussion with national experts and the Council. The report shall also be sent to the European Parliament for information. Separate half-yearly reports will be drawn up on cases involving restructuring aids.

4. If a Member State does not fully comply with its reporting obligations as laid down in paragraph 1, the Commission may, after consultation and after having given due notice, require that that Member State suspend outstanding payments of aid already approved until such time as all due reports have been received by the Commission.

If the reporting by a Member State under paragraph 1 is punctual but incomplete and at the time of reporting that Member State specifies those yards which have not

fulfilled their reporting obligations, the Commission shall limit its possible requirement for suspension of outstanding aid payments to such yards only.

Article 12

Commission report

The Commission shall present to the Council a regular report on the market situation and appraise whether European yards are affected by anti-competitive practices. If it is established that industry is being caused injury by anti-competitive practices of any kind, the Commission shall, where appropriate, propose to the Council measures to address the problem.

The first report shall be presented to the Council no later than 31 December 1999.

Article 13

Entry into force

This Regulation shall enter into force on 1 January 1999.

It shall apply until 31 December 2003.

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

Done at Luxembourg, 29 June 1998.

For the Council

The President

R. COOK

ANNEX

Schedule 1

REPORT OF MERCHANT SHIP ORDERS/COMPLETIONS

(Delete as appropriate)

Section 1: Contract details

1. New building/Conversion		
2. Company	3. Yard	4. Yard No
5. Registered owner (name and nationality)		
6. Holding owner (name and nationality)		
7. Vessel's country of registration		
8. Date contract signed	9. Completion/delivery date	

Section 3: Financial arrangements

	Currency	ECU (Prevailing rate)	% of contract price
14. Contract price			
15. Estimated contract loss (if any)			
16. Contract related aid			
A. Granted to yard:			
(a) grants			
(b) credit facilities			
(c) specific fiscal concession			
(d) other support			
B. Granted to customer or ultimate owner:			
(a) grants			
(b) credit facilities			
(c) guarantees			
(d) fiscal concession			
(e) other support			
17. Date aid granted			

Section 2: Ship details

10. Type of vessel (by OECD category)	
11. Dead-weight (dwt)	
12. Gross tonnage (gt)	13. Compensated gross tonnage (cgt)
.....	

Contact for inquiries:

Date:

Position: Signature:

Schedule 2

REPORT OF COMPANY FINANCIAL SUPPORT

Name of company

Section 1: Public aid

Operating aid	1. Contract value 2. Costs/loss	Direct aid received	Indirect aid support	Legal basis (including date of approval by Commission)
1. Contract support: (a) related to contracts concluded before 1 January of the year concerned (b) related to contracts concluded after 1 January of the year concerned, of which: — related to development assistance to developing countries — related to contracts subject to Article 3(3)				
	Costs (1)		Aid received	Legal basis (including date of approval by Commission)
2. Investments 3. Social aids 4. Other cash closure costs 5. Asset disposal costs/receipts 6. Rescue and restructuring costs 7. Research and development costs 8. Environmental protection 9. Other costs				

(1) Including for 3, details of numbers of workers involved.

Section 2: Turnover and profit / (loss) to be completed by all companies in receipt of direct production aid

	Reporting year	Previous year
10. Turnover		
11. Of which related to merchant shipbuilding and ship conversion: (a) related to contracts concluded before 1 January of the year concerned (b) related to contracts concluded after 1 January of the year concerned, of which — related to development assistance to developing countries		
12. Losses (if any)		
13. Of which related to merchant shipbuilding and ship conversion: (a) related to loss on contracts (b) related to movement in provisions (c) related to restructuring expenditures		

Section 3: Cash flow (to be filled in for all companies which have registered losses under 12 and have received funding from any public sources)

	Reporting year	Previous year
<i>Expenditures</i>		
14. Trading losses before depreciation		
15. Investment expenditure		
16. Other expenditures		
17. Other changes in working capital		
<i>Source of funds</i>		
18. Equity receipts: (a) from public shareholders (b) from private shareholders		
19. Loans and overdrafts: (a) from public sources (a') of which contract support (b) from private sources (b') of which with state guarantee		

Contact for inquiries:

..... Date:

Position:

..... Signature:

*Schedule 3***REPORT ON YARDS ABLE TO BUILD MERCHANT SHIPS OF OVER
5 000 GRT**

1. Name of the company (.....)
 2. Total available capacity (.....) (cgt)
 3. Data on the dock/berth

Dock or berth	Maximum size of ships (grt)
(.....)	(.....)
(.....)	(.....)
(.....)	(.....)
 4. Description of any plans for future capacity expansion or reduction
 5. Production (expressed in cgt) for the year and production levels in the preceding four years
 6. Structure of ownership (capital structure, share of direct and indirect public ownership)
 7. Financial statements (balance sheet, profit and loss statement, including, if available, separate accounts covering the shipbuilding activities of holding)
 8. Transfer of public resources (including debt guarantees, bond infusions, etc.)
 9. Exemptions from financial or other obligations (including tax privileges, etc.)
 10. Capital contribution (including equity infusions, withdrawal of capital, dividend, loans and their refunding, etc.)
 11. Debt write-off
 12. Transfer of losses
-

COUNCIL REGULATION (EC) No 1541/98

of 13 July 1998

on proof of origin for certain textile products falling within Section XI of the Combined Nomenclature and released for free circulation in the Community, and on the conditions for the acceptance of such proof

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Whereas Council Regulation (EEC) No 616/78 of 20 March 1978 on proof of origin for certain textile products falling within Chapter 51 or Chapters 53 to 62 of the Common Customs Tariff and imported into the Community, and on the conditions for the acceptance of such proof⁽¹⁾, laid down conditions for preventing any deflection of trade or any abuse which would be detrimental to the application of the rules on textiles by means of a system for origin based on the requirement of presentation of a certificate of origin for some textile products and a declaration of origin on the invoice for others;

Whereas since the adoption of Regulation (EEC) No 616/78, changes have taken place in certain areas of the customs and textile fields; whereas, in particular, the textile products concerned are those listed in Section XI of the Combined Nomenclature classified in categories as defined in Annex I to Council Regulation (EEC) No 3030/93 of 12 October 1993 on common rules for imports of certain textile products from third countries⁽²⁾;

Whereas the provisions relating to mutual assistance and administrative cooperation laid down in Articles 4, 4a and 4b of Regulation (EEC) No 616/78 are already covered by Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters⁽³⁾;

Whereas, in the interests of clarity, Regulation (EEC) No 616/78 should be re-cast;

Whereas in the interests of efficiency, management of the measures provided for in this Regulation should be entrusted to the Customs Code Committee,

⁽¹⁾ OJ L 84, 31. 3. 1978, p. 1. Regulation as last amended by Regulation (EEC) No 3626/83 (OJ L 360, 23. 12. 1983, p. 5).

⁽²⁾ OJ L 275, 8. 11. 1993, p. 1. Regulation as last amended by Commission Regulation (EC) No 339/98 (OJ L 45, 16. 2. 1998, p. 1).

⁽³⁾ OJ L 82, 22. 3. 1997, p. 1.

Article 1

1. The release for free circulation in the Community of textile products falling within Section XI of the Combined Nomenclature, listed in Annex I to Regulation (EEC) No 3030/93, shall be subject to proof of their origin in one of the forms and in accordance with the procedures set out in this Regulation.

2. The proof of origin referred to in paragraph 1 shall not be required for goods accompanied by a certificate of origin corresponding to the specimens and satisfying the conditions laid down for the purposes of the implementation of bilateral textile agreements, protocols or other arrangements.

3. Imports of a totally non-commercial nature are exempted from the provisions of this Regulation.

Article 2

The products listed in groups IA, IB, IIA and IIB of Annex I to Regulation (EEC) No 3030/93 must be accompanied by a certificate of origin complying with the conditions set out in Article 47 of 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⁽⁴⁾.

The certificates of origin may be accepted only if the products concerned fulfil the criteria for determining origin laid down by the relevant Community provisions in force.

Article 3

1. Products other than those referred to in Article 2 must be accompanied by a declaration by the exporter or supplier on the invoice or, if there is no invoice, on another commercial document relating to the said products, to the effect that the products in question originate in the third country where the declaration was drawn up and comply with the criteria for determining origin set out in the relevant Community provisions. The text of that declaration must correspond to the model set out in Annex I.

⁽⁴⁾ OJ L 253, 11. 10. 1993, p. 1. Regulation as last amended by Regulation (EC) No 1427/97 (OJ L 196, 24. 7. 1997, p. 31).

Notwithstanding the first subparagraph, certificates of origin may be issued for such products in conformity with Article 47 of Regulation (EEC) No 2454/93.

2. Notwithstanding the production of the declaration of origin referred to in paragraph 1, the competent authorities in the Community may, if there is cause for serious doubt, demand any additional proof with the object of ensuring that the declaration of origin complies with the criteria for determining origin set out in the relevant Community provisions.

3. Member States shall inform the Commission of any significant abuse or irregularity they detect in the use of declarations of origin.

At the request of a Member State or on the initiative of the Commission, presentation of a certificate of origin may, in accordance with the procedure laid down in Article 249 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽¹⁾, be demanded in respect of the products and countries concerned by such abuse or irregularity.

Article 4

In accordance with the procedure laid down in Article 249 of Council Regulation (EEC) No 2913/92, derogations from the obligation to present one of the proofs of origin referred to in Articles 2 and 3 may be granted to textile and clothing products that are not subject to specific Community commercial policy measures.

The provisions establishing derogations from the obligation to present a certificate of origin in accordance with Article 2 shall state, in particular, whether or not a declaration of origin in compliance with Article 3 must be presented for the products in question.

Article 5

EUR 1 movement certificates, EUR 2 forms, Form A certificates of origin and invoice declarations issued for the purpose of obtaining a tariff preference shall be accepted in place of the proof of origin referred to in Articles 2 and 3.

Article 6

1. Each consignment of goods must be accompanied by a certificate of origin or invoice declaration.

2. Member States may accept a certificate of origin relating to more than one consignment, provided that the products can be clearly identified on the said certificate

and that the total quantities concerned are not greater than the quantities shown on the certificate.

Article 7

Where different criteria for determining origin are laid down for products falling within a single heading of the Combined Nomenclature or a single category listed in Annex I to Regulation (EC) No 3030/93, certificates or declarations of origin must contain a sufficiently detailed description of the goods to identify the criterion on the basis of which the certificate was issued or the declaration drawn up.

Article 8

1. Certificates of origin shall be issued and invoice declarations drawn up in the country in which the goods originate.

2. Where goods are not imported direct from the country of origin but arrive via another country, certificates of origin issued in the latter country shall be accepted subject to checking that such certificates are admissible on the same basis as those issued by the country of origin.

3. Paragraph 2 shall not apply if quantitative limits have been fixed or agreed for the products in question with respect to the country of origin.

Article 9

Member States shall notify the Commission of any relevant information relating to the application of this Regulation.

The Commission shall forward any such information to the other Member States.

The provisions of Regulation (EC) No 515/97 shall apply.

Article 10

The provisions for the implementation of this Regulation shall be laid down in accordance with the procedure laid down in Article 249 of Regulation (EEC) No 2913/92.

Article 11

Regulation (EEC) No 616/78 shall be repealed.

References to the repealed Regulation shall be construed as references to this Regulation and should be read in accordance with the correlation table in Annex II.

Article 12

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

⁽¹⁾ OJ L 302, 19. 10. 1992, p. 1. Regulation as last amended by Regulation (EC) No 82/97 (OJ L 17, 21. 1. 1997, p. 1).

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

Done at Brussels, 13 July 1998.

For the Council

The President

W. SCHÜSSEL

*ANNEX I***DECLARATION BY THE SUPPORTER OR SUPPLIER ON THE INVOICE OR, IF THERE IS NO INVOICE, ON ANOTHER COMMERCIAL DOCUMENT****Declaration of origin**

The exporter/supplier ⁽¹⁾ of the products covered by this invoice/document ⁽¹⁾ hereby declares that, except where otherwise clearly indicated, these products are of origin ⁽²⁾ within the meaning of the rules in force in the European Community.

Done at, on

.....

.....

(Name and address of the exporter/supplier ⁽¹⁾ handwritten signature of the person authorised)

*ANNEX II***CORRELATION TABLE**

Regulation (EEC) No 616/78	Regulation (EC) No 1541/98
Article 1	Article 1
Article 2	Article 2
Article 3	Article 3
Article 4	—
Article 4a	—
Article 4b	—
Article 5	Article 2, second paragraph and Article 3(1)
Article 6	Article 7
Article 7	Article 8
Article 8	Article 5, Article 1(2) and (3)
Article 9	—
Article 10	—

⁽¹⁾ Delete as appropriate.

⁽²⁾ Name of the country of origin where the declaration was drawn up.

COMMISSION REGULATION (EC) No 1542/98
of 16 July 1998
concerning the stopping of fishing for common sole by vessels flying the flag of
Belgium

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

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy ⁽¹⁾, as last amended by Regulation (EC) No 2635/97 ⁽²⁾, and in particular Article 21(3) thereof,

Whereas Council Regulation (EC) No 45/98 of 19 December 1997 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1998 and certain conditions under which they may be fished ⁽³⁾, as last amended by Council Regulation (EC) No 783/98 ⁽⁴⁾, provides for common sole quotas for 1998;

Whereas, in order to ensure compliance with the provisions relating to the quantitative limitations on catches of stocks subject to quotas, it is necessary for the Commission to fix the date by which catches made by vessels flying the flag of a Member State are deemed to have exhausted the quota allocated;

Whereas, according to the information communicated to the Commission, catches of common sole in the waters of ICES division VIII a, b by vessels flying the flag of Belgium or registered in Belgium have reached the quota

allocated for 1998; whereas Belgium has prohibited fishing for this stock as from 5 July 1998; whereas it is therefore necessary to abide by that date,

HAS ADOPTED THIS REGULATION:

Article 1

Catches of common sole in the waters of ICES division VIII a, b by vessels flying the flag of Belgium or registered in Belgium are deemed to have exhausted the quota allocated to Belgium for 1998.

Fishing for common sole in the waters of ICES division VIII a, b by vessels flying the flag of Belgium or registered in Belgium is prohibited, as well as the retention on board, the transshipment and the landing of such stock captured by the abovementioned vessels after the date of application of this Regulation.

Article 2

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 5 July 1998.

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

Done at Brussels, 16 July 1998.

For the Commission

Emma BONINO

Member of the Commission

⁽¹⁾ OJ L 261, 20. 10. 1993, p. 1.

⁽²⁾ OJ L 356, 31. 12. 1997, p. 14.

⁽³⁾ OJ L 12, 19. 1. 1998, p. 1.

⁽⁴⁾ OJ L 113, 15. 4. 1998, p. 8.

COMMISSION REGULATION (EC) No 1543/98
of 17 July 1998
establishing the standard import values for determining the entry price of certain
fruit and vegetables

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

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 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 Regulation (EC) No 150/95 ⁽⁴⁾, and in particular Article 3 (3) thereof,

Whereas Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commis-

sion fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto;

Whereas, in compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 18 July 1998.

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

Done at Brussels, 17 July 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ L 325, 14. 12. 1996, p. 5.

⁽³⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ L 22, 31. 1. 1995, p. 1.

ANNEX

to the Commission Regulation of 17 July 1998 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 00	066	53,2
	999	53,2
0709 90 70	052	38,5
	999	38,5
0805 30 10	382	62,8
	388	69,0
	524	34,0
	528	61,4
	999	56,8
0808 10 20, 0808 10 50, 0808 10 90	388	78,2
	400	84,9
	508	96,8
	512	62,8
	524	88,7
	528	69,5
	804	112,9
	999	84,8
	388	104,3
	512	78,2
0808 20 50	528	67,9
	804	181,6
	999	108,0
	052	238,3
	064	120,3
0809 10 00	066	114,7
	999	157,8
	052	330,6
	064	208,0
	400	276,5
0809 20 95	404	426,5
	616	240,0
	999	296,3
	064	115,7
	624	270,8
0809 40 05	999	193,2

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2317/97 (OJ L 321, 22. 11. 1997, p. 19). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 1544/98
of 17 July 1998

**fixing the minimum selling prices for butter and the maximum aid for cream,
butter and concentrated butter for the 13th individual invitation to tender under
the standing invitation to tender provided for in Regulation (EC) No 2571/97**

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

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organisation of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EC) No 1587/96 ⁽²⁾, and in particular Articles 6(3) and 12(3) thereof,

Whereas the intervention agencies are, pursuant to Commission Regulation (EC) No 2571/97 of 15 December 1997 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs ⁽³⁾, as amended by Regulation (EC) No 1061/98 ⁽⁴⁾, to sell by invitation to tender certain quantities of butter that they hold and to grant aid for cream, butter and concentrated butter; whereas Article 18 of that Regulation stipulates that in the light of the tenders received in response to each individual invitation to tender a minimum selling price shall be fixed for butter and maximum aid shall be fixed for cream, butter and concentrated butter; whereas it is further stipulated that the price or aid may vary according to the intended

use of the butter, its fat content and the incorporation procedure, and that a decision may also be taken to make no award in response to the tenders submitted; whereas the amount(s) of the processing securities must be fixed accordingly;

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

HAS ADOPTED THIS REGULATION:

Article 1

The maximum aid and processing securities and the minimum selling prices, applying for the 13th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97, shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 18 July 1998.

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

Done at Brussels, 17 July 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 21.

⁽³⁾ OJ L 350, 20. 12. 1997, p. 3.

⁽⁴⁾ OJ L 152, 26. 5. 1998, p. 3.

ANNEX

to the Commission Regulation of 17 July 1998 fixing the minimum selling prices for butter and the maximum aid for cream, butter and concentrated butter for the 13th individual invitation to tender under the standing invitation to tender provided for in Regulation (EC) No 2571/97

(ECU/100 kg)

Formula			A		B	
Incorporation procedure			With tracers	Without tracers	With tracers	Without tracers
Minimum selling price	Butter ≥ 82 %	Unaltered	224	227	224	227
		Concentrated	224	—	224	—
Processing security		Unaltered	124	120	124	120
		Concentrated	124	—	124	—
Maximum aid	Butter ≥ 82 %		109	105	109	105
	Butter < 82 %		104	100	104	100
	Concentrated butter		134	130	134	130
	Cream		—	—	46	44
Processing security	Butter		120	—	120	—
	Concentrated butter		148	—	148	—
	Cream		—	—	51	—

COMMISSION REGULATION (EC) No 1545/98
of 17 July 1998

fixing the maximum aid for concentrated butter for the 185th special invitation to tender opened under the standing invitation to tender provided for in Regulation (EEC) No 429/90

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

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organisation of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EC) No 1587/96 ⁽²⁾, and in particular Article 7a(3) thereof,

Whereas, in accordance with Commission Regulation (EEC) No 429/90 of 20 February 1990 on the granting by invitation to tender of an aid for concentrated butter intended for direct consumption in the Community ⁽³⁾, as last amended by Regulation (EC) No 417/98 ⁽⁴⁾, the intervention agencies are opening a standing invitation to tender for the granting of aid for concentrated butter; whereas Article 6 of that Regulation provides that in the light of the tenders received in response to each special invitation to tender, a maximum amount of aid is to be fixed for concentrated butter with a minimum fat content of 96 % or a decision is to be taken to make no award; whereas the end-use security must be fixed accordingly;

Whereas, in the light of the tenders received, the maximum aid should be fixed at the level specified below and the end-use security determined accordingly;

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

HAS ADOPTED THIS REGULATION:

Article 1

For the 185th special invitation to tender under the standing invitation to tender opened by Regulation (EEC) No 429/90, the maximum aid and the amount of the end-use security shall be as follows:

- | | |
|---------------------|-----------------|
| — maximum aid: | ECU 134/100 kg |
| — end-use security: | ECU 148/100 kg. |

Article 2

This Regulation shall enter into force on 18 July 1998.

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

Done at Brussels, 17 July 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 21.

⁽³⁾ OJ L 45, 21. 2. 1990, p. 8.

⁽⁴⁾ OJ L 52, 21. 2. 1998, p. 18.

COMMISSION REGULATION (EC) No 1546/98

of 17 July 1998

fixing, for July 1998, 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 organisation of the markets in the sugar sector ⁽¹⁾, as last amended by Regulation (EC) No 1148/98 ⁽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 June 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 conver-

sion 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 July 1998, 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 July 1998 shall be as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 18 July 1998.

It shall apply with effect from 1 July 1998.

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

Done at Brussels, 17 July 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 177, 1. 7. 1981, p. 4.

⁽²⁾ OJ L 159, 3. 6. 1998, p. 38.

⁽³⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽⁴⁾ OJ L 22, 31. 1. 1995, p. 1.

⁽⁵⁾ OJ L 159, 1. 7. 1993, p. 94.

⁽⁶⁾ OJ L 14, 17. 1. 1997, p. 25.

ANNEX

to the Commission Regulation of 17 July 1998 fixing, for July 1998, the specific agricultural conversion rate for the amount of the reimbursement of storage costs in the sugar sector

Agricultural conversion rates		
ECU 1 =	40,9112	Belgian and Luxembourg francs
	7,55003	Danish kroner
	1,98185	German marks
	322,674	Greek drachmas
	167,415	Spanish pesetas
	6,68473	French francs
	0,775692	Irish pound
	1 973,93	Italian lire
	2,23232	Dutch guilders
	13,9442	Austrian schillings
	201,304	Portuguese escudos
	6,02811	Finnish marks
	8,77482	Swedish kroner
	0,696270	Pound sterling

COMMISSION REGULATION (EC) No 1547/98

of 17 July 1998

setting the intervention threshold for apples for the 1998/99 marketing year

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

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables⁽¹⁾, as amended by Commission Regulation (EC) No 2520/97⁽²⁾ and in particular Article 27(1) and (2) thereof,

Whereas Article 27(1) of Regulation (EC) No 2200/96 provides for the possibility of setting an intervention threshold if the market in a product listed in Annex II thereto is suffering or at risk of suffering from widespread structural imbalances giving or liable to give rise to too large a volume of withdrawals; whereas such a development would be likely to cause budget problems for the Community;

Whereas an intervention threshold was set for apples for the 1997/98 marketing year in Commission Regulation (EC) No 1109/97⁽³⁾; whereas, since the conditions laid down in the abovementioned Article 27 continue to be met for that product, a new threshold should be set for the 1998/99 marketing year on the basis of a percentage of the average quantity of produce intended for consumption fresh of the last five marketing years for which data are available; whereas the period to be taken into account for the assessment of the overrun of the threshold should also be determined;

Whereas, pursuant to the abovementioned Article 27, an overrun of the intervention threshold results in a reduction in the Community withdrawal compensation in the marketing year following the year in which the threshold is exceeded; whereas the consequences of such an overrun should be determined and a reduction in proportion to

the size of the overrun set, but restricted to a certain percentage;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. The intervention threshold for apples for the 1998/99 marketing year shall be 491 300 tonnes.
2. The overrun of the intervention threshold laid down in paragraph 1 shall be assessed on the basis of withdrawals effected between 1 June 1998 and 31 May 1999.

Article 2

If the quantity of apples subject to withdrawals during the period laid down in Article 1(2) exceeds the threshold laid down in Article 1(1), the Community withdrawal compensation laid down in Annex V to Regulation (EC) No 2200/96 for the following marketing year shall be reduced in proportion to the size of the overrun based on the production used to calculate the relevant threshold.

However, the reduction in the Community withdrawal compensation shall not exceed 30 %.

Article 3

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

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

Done at Brussels, 17 July 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 297, 21. 11. 1996, p. 1.

⁽²⁾ OJ L 346, 17. 12. 1997, p. 41.

⁽³⁾ OJ L 162, 18. 6. 1997, p. 12.

COMMISSION REGULATION (EC) No 1548/98
of 17 July 1998

**amending Regulation (EC) No 1435/97 determining the Member States in which
the campaigns to promote the consumption of grape juice may be carried out in
respect of the 1996/97 wine year**

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

Having regard to Council Regulation (EEC) No 822/87 of
16 March 1987 on the common organisation of the
market in wine ⁽¹⁾, as last amended by Regulation (EC) No
2087/97 ⁽²⁾, and in particular Article 46(5) and Article 81
thereof,

Whereas, in view of the time needed to complete exam-
ination of the programmes, the time limit provided for
signature of contracts in Article 1(2) of Commission
Regulation (EC) No 1435/97 ⁽³⁾, amended by Regulation
(EC) No 1035/98 ⁽⁴⁾, should be extended;

Whereas the time limit resulting from the provision in
the amended text is 1 July 1998; whereas the Regulation
must therefore enter into force on the day of its publica-
tion;

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

HAS ADOPTED THIS REGULATION:

Article 1

Article 1(2) of Regulation (EC) No 1435/97 is hereby
replaced by the following:

‘2. Contracts for that campaign shall be signed by
27 July 1998 at the latest. The payment of contracts
shall be made at the latest three months after the
successful fulfilment of the contracts.’

Article 2

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

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

Done at Brussels, 17 July 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 84, 27. 3. 1987, p. 1.

⁽²⁾ OJ L 292, 25. 10. 1997, p. 1.

⁽³⁾ OJ L 196, 24. 7. 1997, p. 58.

⁽⁴⁾ OJ L 148, 19. 5. 1998, p. 9.

COMMISSION REGULATION (EC) No 1549/98

of 17 July 1998

supplementing the Annex to Regulation (EC) No 1107/96 on the registration of geographical indications and designations of origin under the procedure laid down in Article 17 of Council Regulation (EEC) No 2081/92

(Text with EEA relevance)

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

Having regard to Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs ⁽¹⁾, as last amended by Commission Regulation (EC) No 1068/97 ⁽²⁾, and in particular Article 17(2) thereof,

Whereas, for certain names notified by the Member States under Article 17 of Regulation (EEC) No 2081/92, additional information was requested in order to ensure that they complied with Articles 2 and 4 of that Regulation; whereas that additional information shows that the names comply with the said Articles; whereas they should therefore be registered and added to the Annex to Commission Regulation (EC) No 1107/96 ⁽³⁾, as last amended by Regulation (EC) No 644/98 ⁽⁴⁾;

Whereas, following the accession of three new Member States, the six-month period provided for in Article 17 of Regulation (EEC) No 2081/92 is to begin on the date of

their accession; whereas some of the names notified by those Member States comply with Articles 2 and 4 of that Regulation and should therefore be registered;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Regulatory Committee on Geographical Indications and Designations of Origin,

HAS ADOPTED THIS REGULATION:

Article 1

The names in the Annex to this Regulation are hereby added to the Annex to Regulation (EC) No 1107/96.

Article 2

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

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

Done at Brussels, 17 July 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 208, 24. 7. 1992, p. 1.

⁽²⁾ OJ L 156, 13. 6. 1997, p. 10.

⁽³⁾ OJ L 148, 21. 6. 1996, p. 1.

⁽⁴⁾ OJ L 87, 21. 3. 1998, p. 8.

*ANNEX***A. PRODUCTS INTENDED FOR HUMAN CONSUMPTION LISTED IN ANNEX II TO THE TREATY****Fresh meat (and offal)**

ITALY

— Mortadella Bologna (PGI)

Oils and fats**Olive oil**

GREECE

— Ζάκυνθος (Zakynthos) (PGI)

— Σάμος (Samos) (PGI)

Fruits, vegetables, cereals

GREECE

— Κορινθιακή Σταφίδα Βοστίτσα (Korinthiaki Stafida Vostitsa) (PDO)

— Φασόλια (Γίγαντες Ελέφαντες) Πρεσπών Φλώρινας (Fasolia Gigantes Elefantes Prespon Florinas) (PGI)

— Φασόλια (Πλακέ Μεγαλόσπερμα) Πρεσπών Φλώρινας ((Fasolia Plake-Megalosperma) Prespon Florinas) (PGI)

B. FOODSTUFFS LISTED IN ANNEX I TO REGULATION (EEC) No 2081/92**Beer**

GERMANY

— Münchner Bier (PGI)

— Kulmbacher Bier (PGI)

— Hofer Bier (PGI)

— Dortmunder Bier (PGI)

— Mainfranken Bier (PGI)

— Bremer Bier (PGI).

COMMISSION REGULATION (EC) No 1550/98**of 17 July 1998****amending Regulation (EC) No 2571/97 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 804/68 of 27 June 1968 on the common organisation of the market in milk and milk products ⁽¹⁾, as last amended by Regulation (EC) No 1587/96 ⁽²⁾, and in particular Articles 6(6) and 12(3) thereof,

Whereas Commission Regulation (EC) No 2571/97 ⁽³⁾, amended by Regulation (EC) No 1061/98 ⁽⁴⁾ to reduce the period within which the products referred to in Article 1 are to be processed and incorporated into final products from six months to three months; whereas that amendment was introduced as a result of abnormally high levels of aid applications; whereas this has led to a reduction in the quantities applied for; whereas, in view of this new situation, the time limit laid down for incorporation into final products should be extended to four months;

Whereas, where the time limit laid down in Article 11 is exceeded by less than 60 days, the second subparagraph of Article 18(3) and the third subparagraph of Article 22(4) of Regulation (EC) No 2571/97 provide for a penalty of ECU 4 per tonne per day; whereas that amount has proved to be too small, given the present situation on the

market, and should be increased to ECU 6 per tonne per day;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2571/97 is hereby amended as follows:

1. in Article 11, 'three months' is replaced by 'four months';
2. in the second subparagraph of Article 18(3) and the third subparagraph of Article 22(4), 'ECU 4 per tonne per day' is replaced by 'ECU 6 per tonne per day'.

Article 2

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

It shall apply to quantities awarded from the 14th invitation to tender.

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

Done at Brussels, 17 July 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 148, 28. 6. 1968, p. 13.

⁽²⁾ OJ L 206, 16. 8. 1996, p. 21.

⁽³⁾ OJ L 350, 20. 12. 1997, p. 3.

⁽⁴⁾ OJ L 152, 26. 5. 1998, p. 3.

COMMISSION REGULATION (EC) No 1551/98
of 17 July 1998

amending Regulation (EC) No 293/98 determining the operative events applicable to products in the fruit and vegetables sector, to processed fruit and vegetable products and partly to live plants and floricultural products and to certain products listed in Annex II to the EC Treaty

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy⁽¹⁾, as last amended by Regulation (EC) No 150/95⁽²⁾, and in particular Article 6(2) thereof,

Whereas Commission Regulation (EC) No 293/98⁽³⁾ determines the operative events applicable to products in the fruit and vegetable sector and to processed fruit and vegetable products;

Whereas Commission Regulation (EC) No 1524/98 of 16 July 1998 laying down detailed rules for the application of the specific measures adopted in respect of fresh fruit and vegetables, plants and flowers for the benefit of the French overseas departments (FOD)⁽⁴⁾ replaces Commission Regulation (EC) No 489/97⁽⁵⁾ and implements the aid measures for supply and processing referred to in Articles 2 and 14 respectively of Council Regulation (EEC) No 3763/91⁽⁶⁾, as last amended by Regulation (EC) No 2598/95⁽⁷⁾; whereas the operative events for those measures should be laid down and Regulation (EC) No 293/98 adjusted accordingly;

Whereas the operative event for the supply aid referred to in Article 2 of Regulation (EEC) No 3763/91 is laid down in Article 3(8) of Commission Regulation (EC) No 131/92⁽⁸⁾, as last amended by Regulation (EC) No 1736/96⁽⁹⁾; whereas, however, the grant of this aid is subject to the lodging of a security; whereas the amount of this security is fixed in ecus in Article 3(2) of Regulation (EC) No 1524/98; whereas it should be laid down that the operative event in this case occurs on the day the application for an aid certificate is submitted;

Whereas Article 14 of Regulation (EEC) No 3763/91 provides for aid for the processing of fruit and vegetables; whereas payment of the aid to the processor is subject to payment of a minimum price to the producer and the

conclusion of processing contracts between producers and processors; whereas the aid is paid for the quantity of products delivered under the said contract; whereas, therefore, and given the large number of operators concerned, pursuant to Article 6(2) of Regulation (EEC) No 3813/92 and derogating from Article 10(2) of Commission Regulation (EEC) No 1068/93⁽¹⁰⁾, as last amended by Regulation (EC) No 961/98⁽¹¹⁾, the operative event for the agricultural conversion rate should be fixed as the first day of the month of takeover of the products by the processor, as attested to by the supporting documents referred to in Article 22 of Regulation (EC) No 1524/98;

Whereas the specific operative events provided for in this Regulation meet the criteria of applicability, similarity, coherence, practicability and effectiveness set out in Article 6(2)(a), (b), (c) and (d) of Regulation (EEC) No 3813/92;

Whereas the measures provided for in this Regulation are in accordance with the joint opinion of the Management Committee for Fruit and Vegetables, the Management Committee for Products Processed from Fruit and Vegetables and the Management Committee for Live Plants,

HAS ADOPTED THIS REGULATION:

Article 1

Article 14 of Regulation (EC) No 293/98 is hereby amended as follows:

1. the existing paragraphs 1, 2, 3 and 4 are renumbered 2, 3, 4 and 6 respectively;
2. the following paragraphs 1 and 5 are inserted:

‘1. The operative event for the agricultural conversion rate applicable to the security provided for in Article 3(2) of Regulation (EEC) No 1524/98 shall be the day of submission of the aid certificate application.’

‘5. The operative event for the agricultural conversion rate applicable to the processing aid provided for in Article 14 of Regulation (EEC) No 3763/91 shall be the first day of the month of takeover of the products

⁽¹⁾ OJ L 387, 31. 12. 1992, p. 1.

⁽²⁾ OJ L 22, 31. 1. 1995, p. 1.

⁽³⁾ OJ L 30, 5. 2. 1998, p. 16.

⁽⁴⁾ OJ L 201, 17. 7. 1998, p. 29.

⁽⁵⁾ OJ L 76, 18. 3. 1997, p. 6.

⁽⁶⁾ OJ L 356, 24. 12. 1991, p. 1.

⁽⁷⁾ OJ L 267, 9. 11. 1995, p. 1.

⁽⁸⁾ OJ L 15, 22. 1. 1992, p. 13.

⁽⁹⁾ OJ L 225, 6. 9. 1996, p. 3.

⁽¹⁰⁾ OJ L 108, 1. 5. 1993, p. 106.

⁽¹¹⁾ OJ L 135, 8. 5. 1998, p. 5.

by the processor, as attested to by the supporting documents referred to in Article 22(2) of Regulation (EC) No 1524/98.’;

3. in paragraph 2, the words ‘Article 10(2) of Regulation (EC) No 489/97’ are replaced by ‘Article 22(2) of Regulation (EC) No 1524/98’;
4. in paragraph 3, the words ‘Article 6 of Regulation (EC) No 489/97’ are replaced by ‘Article 9 of Regulation (EC) No 1524/98’;

5. in paragraph 4, the words ‘Article 7 of Regulation (EC) No 489/97’ are replaced by ‘Article 10 of Regulation (EC) No 1524/98’.

Article 2

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

It shall apply with effect from 1 July 1998.

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

Done at Brussels, 17 July 1998.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 1552/98**of 17 July 1998****derogating from Regulation (EEC) No 3887/92 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes**

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

Having regard to Council Regulation (EEC) No 3508/92 of 27 November 1992 establishing an integrated administration and control system for certain Community aid schemes ⁽¹⁾, as last amended by Regulation (EC) No 820/97 ⁽²⁾, and in particular Article 12 thereof,

Whereas the exceptional weather situation in certain regions of Finland, characterised by the persistence of wintry conditions beyond the usual period followed by heavy rainfall, means that it is no longer economically viable for a large number of producers in those regions to sow seeds; whereas such a situation is likely to lead to the producers affected suffering a major loss of income on their farms, including compensatory payments;

Whereas, in order to relieve the situation of the producers concerned, exceptional provision should be made for the 1998/99 marketing year allowing amendments to be made to areas declared as set aside;

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

HAS ADOPTED THIS REGULATION:

Article 1

Notwithstanding Article 4(2)(a) of Commission Regulation (EEC) No 3887/92 ⁽³⁾, 'area' aid applications for areas declared as being 'arable crops' submitted in respect of the 1998/99 marketing year in the regions belonging to part 'C' of Finland may be added to the set-aside areas.

Amendment declarations shall be submitted no later than fifteen days after the date of publication of this Regulation.

Article 2

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

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

Done at Brussels, 17 July 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 355, 5. 12. 1992, p. 1.

⁽²⁾ OJ L 117, 7. 5. 1997, p. 1.

⁽³⁾ OJ L 391, 31. 12. 1992, p. 36.

COMMISSION REGULATION (EC) No 1553/98
of 17 July 1998
amending Regulation (EC) No 1556/96 introducing a system of import licences
for certain fruit and vegetables imported from third countries

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

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables⁽¹⁾, as amended by Commission Regulation (EC) No 2520/97⁽²⁾, and in particular Article 31(2) thereof,

Whereas Commission Regulation (EC) No 1556/96 of 30 July 1996⁽³⁾, as last amended by Regulation (EC) No 947/98⁽⁴⁾, introduced a system of import licences for certain fruit and vegetables imported from third countries and set the list of products covered;

Whereas examination of the market situation for these products indicates that the list should be amended by abolishing the licence requirement for table grapes;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fresh Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 1556/96 is replaced by the Annex hereto.

Article 2

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

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

Done at Brussels, 17 July 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 297, 21. 11. 1996, p. 1.

⁽²⁾ OJ L 346, 17. 12. 1997, p. 41.

⁽³⁾ OJ L 193, 3. 8. 1996, p. 5.

⁽⁴⁾ OJ L 132, 6. 5. 1998, p. 11.

*ANNEX**'ANNEX*

CN code	Period	Description
ex 0707 00 05	1 November to 30 April	Cucumbers
ex 0805 10 10	1 December to 31 May	Oranges
ex 0805 10 30		
ex 0805 10 50		
ex 0805 20 30	1 November to end February	Mandarins, including tangerines, satsumas, wilkings and other similar citrus hybrids
ex 0805 20 50		
ex 0805 20 70		
ex 0805 20 90		
ex 0805 30 10	1 September to 31 May	Lemons'

COMMISSION REGULATION (EC) No 1554/98

of 17 July 1998

establishing the allocation method for the additional quantities, resulting from the quota increase brought in by Council Regulation (EC) No 1138/98, to the 1998 Community quantitative quotas on certain products originating in the People's Republic of China

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

Having regard to Council Regulation (EC) No 520/94 of 7 March 1994 establishing a Community procedure for administering quantitative quotas ⁽¹⁾, as last amended by Regulation (EC) No 138/96 ⁽²⁾, and in particular Articles 9 and 13 thereof,

Having regard to Commission Regulation (EC) No 1393/97 of 18 July 1997 establishing administrative procedures for the 1998 quantitative quotas for certain products originating in the People's Republic of China ⁽³⁾, and in particular Article 6 thereof,

Whereas by Regulation (EC) No 2021/97 ⁽⁴⁾ the Commission laid down the quantities to be allocated to importers from the 1998 quantitative quotas on certain products originating in China;

Whereas Council Regulation (EC) No 1138/98 of 28 May 1998 amending Annexes II and III to Regulation (EC) No 519/94 on common rules for imports from certain third countries ⁽⁵⁾ increased the quantitative quotas applicable to porcelain tableware and kitchenware falling within HS/CN code 6911 10, and to ceramic tableware and kitchenware, other than that of porcelain, falling within HS/CN code 6912 00;

Whereas the increases provided for in Regulation (EC) No 1138/98 amount to 5 % and are applicable from 1 January 1998;

Whereas, accordingly, simple administrative procedures to enable Community importers to have their import licences amended should be established, in order to take

account of the quota increases brought in by Regulation (EC) No 1138/98;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the committee for managing quotas set up by Article 22 of Regulation (EC) No 520/94,

HAS ADOPTED THIS REGULATION:

Article 1

Any importer holding an import licence issued for 1998 pursuant to Regulation (EC) No 2021/97, for products falling within HS/CN codes 6911 10 and 6912 00, is entitled to import an additional quantity of 5 % to the quantity indicated in its import licence.

Article 2

For the purpose of Article 1, any licence holder shall produce its import licence to the competent authority that issued it. The competent authority shall enter a reference on the licence indicating that an additional 5 % quantity has been allocated to the holder of the licence. This reference shall be effected free of charge and certified by the competent authority.

Article 3

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

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

Done at Brussels, 17 July 1998.

For the Commission

Leon BRITTAN

Vice-President

⁽¹⁾ OJ L 66, 10. 3. 1994, p. 1.

⁽²⁾ OJ L 21, 27. 1. 1996, p. 6.

⁽³⁾ OJ L 190, 19. 7. 1997, p. 24.

⁽⁴⁾ OJ L 284, 16. 10. 1997, p. 42.

⁽⁵⁾ OJ L 159, 3. 6. 1998, p. 1.

COMMISSION REGULATION (EC) No 1555/98

of 17 July 1998

establishing administrative procedures for the 1999 quantitative quotas for certain products originating in the People's Republic of China

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 520/94 of 7 March 1994 establishing a Community procedure for administering quantitative quotas⁽¹⁾, as last amended by Regulation (EC) No 138/96⁽²⁾, and in particular Articles 2(3) and (4), 13 and 24 thereof,

Whereas Council Regulation (EC) No 519/94 of 7 March 1994 on common rules for imports from certain third countries and repealing Regulations (EEC) No 1765/82, (EEC) No 1766/82 and (EEC) No 3420/83⁽³⁾, as last amended by Regulation (EC) No 1138/98⁽⁴⁾, introduced annual quantitative quotas for certain products originating in the People's Republic of China listed in Annex II to that Regulation; whereas the provisions of Regulation (EC) No 520/94 are applicable to those quotas;

Whereas the Commission accordingly adopted Regulation (EC) No 738/94⁽⁵⁾, as last amended by Regulation (EC) No 983/96⁽⁶⁾, laying down general rules for the implementation of Regulation (EC) No 520/94; whereas these provisions apply to the administration of the above quotas subject to the provisions of this Regulation;

Whereas certain characteristics of China's economy, the seasonal nature of some of the products and the time needed for transport mean that orders for products subject to quota are generally placed before the beginning of the quota year; whereas it is therefore important to ensure that administrative constraints do not impede the realization of the planned imports; whereas in order not to affect the continuity of trade flows, the arrangements for allocating and administering the 1999 quotas should accordingly be adopted before the start of the quota year;

Whereas after examination of the different administrative methods provided for by Regulation (EC) No 520/94, the method based on traditional trade flows should be adopted; whereas under this method the quotas are divided into two portions, one of which is reserved for traditional importers and the other for other applicants;

Whereas this has proved to be the best way of ensuring the continuity of business for the Community importers concerned and avoiding any disturbance of trade flows;

Whereas, however, the introduction of a Community system must ensure progressive access by non-traditional importers; whereas in the light of all these factors a balance must therefore be sought in determining the portions to be allocated to the two categories of importers; whereas, to this end, it is appropriate that the portion set aside for non-traditional importers should be increased as compared to 1998;

Whereas the reference period used for allocating the portion of the quota set aside for traditional importers in earlier Regulations on the administration of these quotas should be updated to ensure open access to the quotas; whereas in order to allow a greater flexibility to the benefit of traditional importers it is considered appropriate to allow them to set their reference period as either 1996 or 1997, which are the most recent years representative of the normal trend of trade flows in the products in question; whereas traditional importers must therefore prove that they have imported products originating in China and covered by the quotas in question in the year 1996 or 1997;

Whereas it has been found in the past that the method provided for in Article 10 of Regulation (EC) No 520/94, which is based on the order in which applications are received, may not be an appropriate way of allocating that portion of the quota reserved for non-traditional importers; whereas, consequently, in accordance with Article 2(4) of Regulation (EC) No 520/94, it is appropriate to provide for allocation in proportion to the quantities requested, on the basis of a simultaneous examination of import licence applications actually lodged, in accordance with Article 13 of Regulation (EC) No 520/94;

Whereas in order to ensure that the quotas can be efficiently allocated and used, any speculative applications should be excluded, and it is furthermore necessary to allocate economically significant quantities; whereas to this end the amount that any non-traditional importer may request should be restricted to a set volume or value;

⁽¹⁾ OJ L 66, 10. 3. 1994, p. 1.

⁽²⁾ OJ L 21, 27. 1. 1996, p. 6.

⁽³⁾ OJ L 67, 10. 3. 1994, p. 89.

⁽⁴⁾ OJ L 159, 3. 6. 1998, p. 1.

⁽⁵⁾ OJ L 87, 31. 3. 1994, p. 47.

⁽⁶⁾ OJ L 131, 1. 6. 1996, p. 47.

Whereas for the purposes of quota allocation, a time limit must be set for the submission of licence applications by traditional and other importers;

Whereas the Member States must inform the Commission of the import licence applications received, in accordance with the procedure laid down in Article 8 of Regulation (EC) No 520/94; whereas the information about traditional importers' previous imports must be expressed in the same units as the quota in question;

Whereas in view of the special nature of transactions concerning products subject to quota, and in particular the time needed for transport, the import licences should expire on 31 December 1999;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the committee for the administration of quotas set up pursuant to Article 22 of Regulation (EC) No 520/94,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down for 1999 specific provisions for the administration of the quantitative quotas referred to in Annex II to Regulation (EC) No 519/94.

Regulation (EC) No 738/94 laying down general rules for the implementation of Regulation (EC) No 520/94 shall apply, subject to the specific provisions of this Regulation.

Article 2

1. The quantitative quotas referred to in Article 1 shall be allocated using the method based on traditional trade flows, referred to in Article 2(2)(a) of Regulation (EC) No 520/94.

2. The portions of each quantitative quota set aside for traditional importers and other importers are set out in Annex I to this Regulation.

3. The portion set aside for non-traditional importers shall be apportioned using the method based on allocation in proportion to quantities requested; the volume requested by a single importer may not exceed that shown in Annex II.

Article 3

Applications for import licences shall be lodged with the competent authorities listed in Annex III to this Regulation from the day following the day of publication of this

Regulation in the *Official Journal of the European Communities* until 3 p.m., Brussels time, on 11 September 1998.

Article 4

1. For the purposes of allocating the portion of each quota set aside for traditional importers, 'traditional' importers shall mean importers who can show that they have imported goods in the calendar year 1996 or 1997.

2. The supporting documents referred to in Article 7 of Regulation (EC) No 520/94 shall relate to the release for free circulation during either calendar year 1996 or 1997, as indicated by the importer, of products originating in the People's Republic of China which are covered by the quota in respect of which the application is made.

3. Instead of the documents referred to in the first indent of Article 7 of Regulation (EC) No 520/94 applicants may enclose with their licence applications documents drawn up and certified by the competent national authorities on the basis of available customs information as evidence of the imports of the product in question during the calendar year 1996 or 1997 carried out by themselves or, where applicable, by the operator whose activities they have taken over.

4. Article 18 of Council Regulation (EEC) No 2913/92⁽¹⁾ shall apply where supporting documents are expressed in national currencies.

Article 5

Member States shall inform the Commission no later than 25 September 1998 at 10 a.m., Brussels time, of the number and aggregate quantity of import licence applications and, in the case of applications from traditional importers, of the volume of previous imports carried out by traditional importers during the reference period referred to in Article 4(1) of this Regulation.

Article 6

The Commission shall adopt the quantitative criteria to be used by the competent national authorities for the purpose of meeting importers' applications no later than 14 October 1998.

Article 7

Import licences shall be valid for one year, starting on 1 January 1999.

Article 8

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

⁽¹⁾ OJ L 302, 19. 10. 1992, p. 1.

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

Done at Brussels, 17 July 1998.

For the Commission

Leon BRITTAN

Vice-President

ANNEX I

Allocation of the quotas

Product description	HS/CN code	Portion reserved for traditional importers	Portion reserved for other importers
Footwear falling within HS/CN codes	ex 6402 99 ⁽¹⁾	29 363 611 pairs (75 %)	9 787 870 pairs (25 %)
	6403 51 6403 59	2 096 250 pairs (75 %)	698 750 pairs (25 %)
	ex 6403 91 ⁽¹⁾ ex 6403 99 ⁽¹⁾	9 090 000 pairs (75 %)	3 030 000 pairs (25 %)
	ex 6404 11 ⁽²⁾	13 671 585 pairs (75 %)	4 557 195 pairs (25 %)
	6404 19 10	23 923 287 pairs (75 %)	7 974 429 pairs (25 %)
Tableware, kitchenware of porcelain or china	6911 10	36 068 tonnes (75 %)	12 023 tonnes (25 %)
Ceramic tableware or kitchenware	6912 00	27 287 tonnes (75 %)	9 096 tonnes (25 %)

⁽¹⁾ Excluding footwear involving special technology: shoes which have a cif price per pair of not less than ECU 9 for use in sporting activities, with a single- or multi-layer moulded sole, not injected, manufactured from synthetic materials specially designed to absorb the impact of vertical or lateral movements and with technical features such as hermetic pads containing gas or fluid, mechanical components which absorb or neutralise impact or materials such as low-density polymers.

⁽²⁾ Excluding:

- (a) footwear which is designed for a sporting activity and has, or has provision for the attachment of, spikes, sprigs, stops, clips, bats or the like, with a non-injected sole;
- (b) footwear involving special technology: shoes which have a cif price per pair of not less than ECU 9 for use in sporting activities, with a single- or multi-layer moulded sole, not injected, manufactured from synthetic materials specially designed to absorb the impact of vertical or lateral movements and with technical features such as hermetic pads containing gas or fluid, mechanical components which absorb or neutralize impact or materials such as low-density polymers.

ANNEX II

Maximum quantity which may be requested by each importer other than traditional

Product description	HS/CN code	Predetermined maximum quantity
Footwear falling within HS/CN codes	ex 6402 99 ⁽¹⁾	4 000 pairs
	6403 51 6403 59	4 000 pairs
	ex 6403 91 ⁽¹⁾ ex 6403 99 ⁽¹⁾	4 000 pairs
	ex 6404 11 ⁽²⁾	4 000 pairs
	6404 19 10	4 000 pairs
Tableware, kitchenware of porcelain or china	6911 10	4 tonnes
Ceramic tableware or kitchenware	6912 00	4 tonnes

⁽¹⁾ Excluding footwear involving special technology: shoes which have a cif price per pair of not less than ECU 9 for use in sporting activities, with a single- or multi-layer moulded sole, not injected, manufactured from synthetic materials specially designed to absorb the impact of vertical or lateral movements and with technical features such as hermetic pads containing gas or fluid, mechanical components which absorb or neutralize impact or materials such as low-density polymers.

⁽²⁾ Excluding:

- (a) footwear which is designed for a sporting activity and has, or has provision for the attachment of, spikes, sprigs, stops, clips, bats or the like, with a non-injected sole;
- (b) footwear involving special technology: shoes which have a cif price per pair of not less than ECU 9 for use in sporting activities, with a single- or multi-layer moulded sole, not injected, manufactured from synthetic materials specially designed to absorb the impact of vertical or lateral movements and with technical features such as hermetic pads containing gas or fluid, mechanical components which absorb or neutralize impact or materials such as low-density polymers.

*ANEXO III — BILAG III — ANHANG III — ΠΑΡΑΡΤΗΜΑ III — ANNEX III — ANNEXE III —
ALLEGATO III — BIJLAGE III — ANEXO III — LIITE III — BILAGA III*

**Lista de las autoridades nacionales competentes
Liste over kompetente nationale myndigheder
Liste der zuständigen Behörden der Mitgliedstaaten
Πίνακας των αρμόδιων εθνικών αρχών
List of the national competent authorities
Liste des autorités nationales compétentes
Elenco delle autorità nazionali competenti
Lijst van bevoegde nationale instanties
Lista das autoridades nacionais competentes
Luettelo kansallisista toimivaltaisista viranomaisista
Lista över nationella kompetenta myndigheter**

1. BELGIQUE/BELGIË

Ministère des affaires économiques/Ministerie van Economische Zaken
Administration des relations économiques, 4^e division — Mise en œuvre des politiques commerciales/Bestuur van de Economische Betrekkingen, 4e afdeling — Toepassing van de Handelspolitiek
Services licences/Dienst Vergunningen
Rue Général Leman/Generaal Lemanstraat 60
B-1040 Bruxelles/Brussel
Tél./Tel.: (32-2) 230 90 43
Télécopieur/Fax: (32-2) 230 83 22/231 14 84

2. DANMARK

Erhvervsfremme Styrelsen
Søndergade 25
DK-8600 Silkeborg
Tlf. (45) 87 20 40 60
Fax (45) 87 20 40 77

3. DEUTSCHLAND

Bundesamt für Wirtschaft
Frankfurter Straße 29-31
D-65760 Eschborn
Tel.: (49) 61 96 404-0
Fax.: (49) 61 96 40 42 12

4. ΕΛΛΑΔΑ

Υπουργείο Εθνικής Οικονομίας,
Γενική Γραμματεία Διεθνών Οικονομικών Σχέσεων,
Γενική Διεύθυνση Εξωτερικών Οικονομικών και Εμπορικών Σχέσεων,
Διεύθυνση Διαδικασιών Εξωτερικού Εμπορίου,
Κορνάρου 1,
GR-105 63 Αθήνα,
Τηλ.: (30-1) 328 60 31/328 60 32
Φαξ: (30-1) 328 60 29/328 60 59.

5. ESPAÑA

Ministerio de Economía y Hacienda
Dirección General de Comercio Exterior
Paseo de la Castellana, 162
E-28071 Madrid
Tel.: (34) 913 49 38 94/913 49 37 78
Fax.: (34) 913 49 38 32/913 49 38 31

6. FRANCE

Services des titres du commerce extérieur
8, rue de la Tour-des-Dames
F-75436 Paris Cedex 09
Tél.: (33-1) 40 04 04 04
Télécopieur: (33-1) 55 07 46 59

7. IRELAND

Department of Tourism and Trade,
Licensing Unit,
Kildare Street,
IRL-Dublin 2
Tel.: (353 1) 662 14 44
Fax: (353 1) 676 61 54

8. ITALIA

Ministero del Commercio con l'estero
Direzione generale delle importazioni e delle esportazioni
Viale America, 341
I-00144 Roma
Tel.: (39 6) 59 931
Telefax: (39 6) 59 93 26 31 — 59 93 22 35
Telex: 610083 — 610471 — 614478

9. LUXEMBOURG

Ministère des affaires étrangères
Office des licences
Boîte postale 113
L-2011 Luxembourg
Tél.: (352) 22 61 62
Télécopieur: (352) 46 61 38

10. NEDERLAND

Centrale Dienst voor In- en Uitvoer
Engelse Kamp 2
Postbus 30003
9700 RD Groningen
Nederland
Tel. (31-50) 523 91 11
Fax (31-50) 526 06 98

11. ÖSTERREICH

Bundesministerium für wirtschaftliche Angelegenheiten
Landstraßer Hauptstraße 55-57
A-1031 Wien
Tel.: (43) 1 71 10 23 61
Fax.: (43) 1 715 83 47

12. PORTUGAL

Ministério de Economia
Direcção-Geral do Comércio
Avenida da República 79
P-1000 Lisboa
Tel.: (351-1) 793 09 93/793 30 02
Telefax: (351-1) 793 22 10/796 37 23
Telex: 13418

13. SUOMI

Tullihallitus
PL 512
FIN-00101 Helsinki
Puh.: (358) 9 61 41
Telekopio (358) 9 614 2852

14. SVERIGE

Kommerskollegium
Box 6803
S-113 86 Stockholm
Tfn (46-8) 690 48 00
Fax (46-8) 30 67 59

15. UNITED KINGDOM

Department of Trade and Industry,
Import Licencing Branch,
Queensway House,
West Precinct,
Billingham,
UK-Stockton on Tees TS23 2NF
Tel.: (44 1642) 36 43 33/36 43 34
Fax: (44 1642) 53 35 57

COMMISSION REGULATION (EC) No 1556/98
of 17 July 1998

imposing a provisional countervailing duty on imports of stainless steel bars originating in India and amending Regulation (EC) No 1084/98 imposing a provisional anti-dumping duty on imports of stainless steel bars originating in India

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community⁽¹⁾, and in particular Article 12 thereof,

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⁽²⁾, as last amended by Regulation (EC) No 905/98⁽³⁾, and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

- (1) In October 1997 the Commission announced by a notice (hereinafter referred to as 'notice of initiation') published in the *Official Journal of the European Communities*⁽⁴⁾ the initiation of an anti-subsidy proceeding with regard to imports into the Community of stainless steel bars (hereinafter referred to as 'SSB') originating in India and commenced an investigation.
- (2) The proceeding was initiated as a result of a complaint lodged by the European Confederation of Iron and Steel Industries (Eurofer) on behalf of Community producers representing a major proportion of the Community production of SSB. The complaint contained evidence of subsidisation of the said product, and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.
- (3) The Commission officially advised the Community producers, exporting producers and importers known to be concerned, the representatives of the exporting country and the complainant of the initiation of the proceeding; it gave the parties concerned the opportunity to make their views known in writing and to request a hearing.

The Government of India, a number of exporting producers in India as well as some producers, importers and suppliers in the Community made

their views known in writing. All parties who so requested within the time limits set in the notice of initiation were granted a hearing.

- (4) The Commission sent questionnaires to all parties known to be concerned and received replies from the Government of India and a number of companies in the Community and India.
- (5) The Commission sought and verified all the information it deemed necessary for the purpose of a preliminary determination of subsidisation and injury, and carried out investigations at the premises of the following companies:

(a) Community producers

- Cogne Acciai Speciali Srl, Aosta, Italy,
- Krupp Edelstahlprofile GmbH, Siegen, Germany,
- Rodacciai Spa, Bosisio Parrini, Italy,
- Sprint Metal Edelstahlziehereien GmbH, Hemer, Germany,
- Trafilerie Bedini Srl, Peschiera Borromeo, Italy,
- Ugine-Savoie SA, Ugine, France.

During the verification visit to Rodacciai Spa the company withdrew its cooperation and consequently the information provided by this company could not be taken into account for the investigation.

(b) Government of India

- Ministry of Commerce, New Delhi,
- Undersecretariat for Customs, New Delhi,
- Ministry of Finance, New Delhi.

(c) Exporting producers in India

- Bhansali Bright Bars Pvt Ltd, Mumbai,
- Facor (Ferro Alloys Corp. Ltd), Nagpur,
- Grand Foundry Ltd, Mumbai,
- Isibars Ltd, Mumbai,
- Mukand Ltd, Mumbai,
- Panchmahal Steel Ltd, Baroda,
- Raajratna Metal Industries Ltd, Ahmedabad,
- Venus Wire Industries Ltd, Mumbai,
- Viraj Alloys Ltd, Mumbai.

⁽¹⁾ OJ L 288, 21. 10. 1997, p. 1.

⁽²⁾ OJ L 56, 6. 3. 1996, p. 1.

⁽³⁾ OJ L 128, 30. 4. 1998, p. 18.

⁽⁴⁾ OJ C 328, 30. 10. 1997, p. 16.

(d) *Importers in the Community related to exporting Indian producers*

- Isibars GmbH, Düsseldorf, Germany,
- Mukand International Ltd, London, United Kingdom.

(e) *Importers in the Community not related to exporting Indian producers*

- Thyssen Schulte GmbH, Dortmund, Germany,
- Ibero Edelstahlhandel & Co KG, Mülheim, Germany,
- Metaalcompagnie 'Brabant', Valkenswaard, Netherlands.

In the course of the investigation, it was found that Ibero Edelstahlhandel and Thyssen Schulte were, in fact, related to Community producers.

- (6) The investigation of subsidisation covered the period 1 October 1996 to 30 June 1997 (hereinafter referred to as 'the investigation period'). The examination of injury covered the period 1994 to the end of the investigation period.
- (7) On 30 August 1997 the Commission initiated an anti-dumping investigation concerning imports of the same product originating in India⁽¹⁾. This investigation is still in progress; provisional anti-dumping duties have been imposed by means of Commission Regulation (EC) No 1084/98⁽²⁾.

B. PRODUCT UNDER CONSIDERATION AND LIKE PRODUCT

1. Product under consideration

- (8) The product concerned is stainless steel bars and rods, not further worked than cold-formed or cold-finished, containing by weight 2,5 % or more of nickel, of circular cross-section as well as of other cross-sections, currently classifiable within CN codes 7222 20 11, 7222 20 21, 7222 20 31, and 7222 20 81.
- (9) Stainless steel is characterised by a significant content of nickel, chromium and in some instances molybdenum. These alloys protect stainless steel against corrosion. SSB are used by a variety of industrial users, such as the automobile, building, mechanical engineering and chemical industries.
- (10) There exists a wide variety of types of SSB differentiated by alloy content, shape, tolerance and diameter. Despite the existence of these types of SSB, they all fall under the broad definition of SSB because they have the same basic physical, chemical and technical characteristics and the same uses

and are distributed via the same distribution channels. They are consequently considered as forming one single category of product for the purposes of this investigation.

2. Like product

- (11) The investigation established that the SSB produced in India and sold domestically or exported to the Community and the SSB produced and sold in the Community by the complainant Community producers had effectively identical physical characteristics and uses and were thus like products within the meaning of Article 1(5) of Regulation (EC) No 2026/97 (hereinafter referred to as 'the Basic Regulation').

C. SUBSIDIES

1. Introduction

- (12) On the basis of the information contained in the complaint and the replies to the Commission's questionnaire, the Commission investigated the following five schemes, which allegedly involve the granting of export subsidies:

- Passbook Scheme,
- Duty Entitlement Passbook Scheme,
- Export Promotion Capital Goods Scheme,
- Export Processing Zones/Export Oriented Units,
- Income Tax Scheme.

- (13) The first four schemes are based on the Foreign Trade (Development and Regulation) Act 1992 (effective from 7 August 1992) which repealed the Imports and Exports Control Act of 1947. The Foreign Trade Act authorises the Government of India (hereinafter referred to as the 'GOI') to issue notifications regarding export and import policy. These are summarised in 'Export and Import Policy' documents which are issued every five years and updated every year. Two Export and Import Policy documents are relevant to the investigation period of this case, i.e. the five-year plans relating to the years 1992 to 1997 and 1997 to 2002.

The last scheme, the Income Tax Scheme, is based on the Income Tax Act of 1961 which is amended yearly by the Finance Act.

- (14) The declared objectives of India's current Export and Import Policy are:

- to accelerate the country's transition to a globally-oriented vibrant economy with a view to deriving maximum benefits from expanding global market opportunities,

⁽¹⁾ OJ C 264, 30. 8. 1997, p. 2.

⁽²⁾ OJ L 155, 29. 5. 1998, p. 3.

- to stimulate sustained economic growth by providing access to essential raw materials, intermediates, consumables and capital goods required for augmenting production,
- to enhance the technological strength and efficiency of Indian agriculture, industry and services, thereby improving their competitive strength while generating new employment opportunities, and encourage the attainment of internationally accepted standards of quality,
- to provide consumers with good quality products at reasonable prices.

- (15) The Commission examined these five schemes in the light of the policies set out in the relevant 'Export and Import Policy' plans and in the Income Tax Act of 1961 as amended.

2. Passbook Scheme (PBS)

- (16) One instrument under the Export and Import Policy involving export-related assistance is the PBS which entered into force on 30 May 1995.

(a) Eligibility

- (17) The PBS is available to certain categories of exporters, i.e. those which manufacture in India and subsequently export ('manufacturer-exporters') and exporters, whether manufacturers or only traders, granted an 'Export House/Trading House/Star Trading House/SuperStar Trading House certificate'. The latter category of exporters, which is defined in the Export and Import Policy document, has to provide in particular proof of prior export performance.

(b) Practical implementation

- (18) Any eligible exporter can apply for a Passbook. This takes the form of a book in which credit and debit amounts of duty are entered. It is issued automatically if the company is a recognised manufacturer-exporter or an approved Export/Trading House.
- (19) Upon the export of finished goods, the exporter is eligible to claim credit which can be used to pay customs duties on subsequent imports. Various elements are taken into consideration in calculating the amount of credit to be granted in accordance with 'Standard Input/Output norms' which are issued by the GOI for exported products. Standard Input/Output norms set out quantities of normally imported raw materials required to produce one unit of the finished product. The norms are established by the Special Advance Licensing Committee on the basis of a technical

analysis of the production process and global statistical information. By applying the Standard Input/Output norms, the credit is granted up to an amount corresponding to the basic customs duty payable on the normally imported inputs used by the Indian industry producing the exported product in question. One other element is the 'minimum value addition' (MVA). The MVA is the minimum value which the Indian producer must add (i.e. through indigenously sourced inputs/labour costs) to the value of imported inputs in producing the finished goods. The MVA for exports of the products concerned is fixed at 33 % by the Indian authorities.

- (20) The credit granted is entered in the Passbook and is available to be offset against customs duties due on future imports of any goods (e.g. raw materials, capital goods, etc.) except those contained in the 'Negative List of Imports' as laid out in the Export and Import Policy. This List sets out goods which either may not be imported or which may only be imported after the GOI has issued a special licence to the importer. The imported goods need not have any relation to the actual production of the exporter and may be sold on the Indian market.

- (21) Passbook credits are not transferable. The Passbook is valid for a period of two years from the date of issue. Any credit at the end of the two-year period is allowed to be utilised within a period of 12 months thereafter. At the end of the third year, any unutilised credit lapses. Within this general timetable there is no time limit for claims for credit to be made for a particular export transaction.

- (22) When all credits in the Passbook have been used, the Passbook is closed and the Passbook holder has to pay a fee to the relevant authority.

- (23) The GOI has stated in its reply to the questionnaire in relation to the PBS that:

'Under this scheme, the exporter retrieves import charges on the exported product, whereas there is no remission of import charges on the like product destined for consumption within the exporting country. In this respect the Scheme is in accordance with Council Regulation (EC) No 3284/94 (the anti-subsidy Regulation)'.

- (24) In response to this point, it should be noted that there is no difference on this point between this latter Regulation, which has since been repealed, and its replacement, the Basic Regulation. Article 2(1)(ii) of the Basic Regulation provides that the exemption of an exported product from duties/charges shall not be deemed to be a subsidy provided that it is granted in accordance with the

provisions of Annexes I to III to the Basic Regulation. Item (i) of Annex I (the Illustrative List of Export Subsidies) specifies that the remission or drawback of import charges in excess of those levied on imported inputs that are consumed in the production of the exported product constitutes an export subsidy. Furthermore, Annex II to the Basic Regulation requires investigating authorities, in determining whether inputs are consumed in the production process, to establish whether the government of the exporting country has in place a system or procedure to confirm which inputs are consumed in the production process of the imported product. In this case, no such system exists. In fact, the benefit granted in India to exporters of the products concerned in the form of Passbook credits is automatically calculated on the basis of the Standard Input/Output norms independently of whether inputs have been imported, duty has been paid on them or whether the inputs were actually used for export production.

Furthermore, the exporter is under no obligation to either import actual inputs or consume the imported goods in the production process under the PBS. What happens in the PBS, in effect, is that upon export of a finished product, an exporter is granted an amount of credit based on the amount of customs duty which is deemed to have been paid on normally imported inputs used in producing the finished product. This credit amount can be used to offset customs duty due on future imports of any product. A benefit accrues to the exporter in the form of unpaid customs duty on imports of any product (whether raw materials or capital goods). This scheme therefore allows an exporter to import goods without paying customs duty once it has previously exported some goods. Hence, the PBS is not a remission/drawback scheme within the meaning of item (i) of Annex I or Annex II to the Basic Regulation.

(c) *Conclusion on PBS*

- (25) The PBS is not a permitted remission/drawback or substitution drawback scheme within the provisions of the Basic Regulation since the Passbook credit is not calculated in relation to inputs actually to be consumed in the production process. Furthermore, the exporter is under no obligation to import goods free of duty which must be consumed in the production process.

In any case, even if it were assumed that the scheme in question constituted a remission/drawback or substitution drawback scheme, there is no system or procedure in place to confirm which inputs are consumed in the production process of

the exported product within the meaning of item (i) of Annex I and Annexes II and III to the Basic Regulation. Annex II(II)(5) and Annex III(II)(3) of that Regulation provide that where it is determined that the government of the exporting country does not have such a system in place, a further examination by the exporting country based on actual inputs involved, or actual transactions, respectively, will normally need to be carried out in the context of determining whether an excess payment occurred. The GOI did not carry out such an examination. Hence, the Commission did not examine whether there was in fact an excess drawback of import charges on inputs consumed in the production of the exported product.

- (26) The scheme constitutes a subsidy as the financial contribution by the GOI in the form of duties forgone on imports confers a benefit upon the Passbook holder who can import goods duty free using credits earned on exports. It is a subsidy contingent in law upon export performance and is therefore deemed to be specific pursuant to Article 3(4)(a) of the Basic Regulation. In addition, the MVA requirement (see recital 19) is considered to require the use of domestic over imported goods. In this regard, the PBS is a specific subsidy within the meaning of Article 3(4)(b) of the Basic Regulation.
- (27) In early 1997, the GOI announced that the PBS was effectively terminated and credit claims could no longer be made for export transactions taking place after 31 March 1997. An exporter may, however, continue to use a Passbook which has already been issued, for a period of three years after the date of issue. Additionally, there is no time limit within which claims for credit must be made for export transactions made before 31 March 1997. While the scheme in that form has technically been terminated, exporters can continue to benefit from this scheme by importing goods, free of customs duties, until all credits have been exhausted or until 31 March 2000 at the latest. In these circumstances, it is considered that the scheme can be countervailed.

(d) *Calculation of the subsidy amount*

- (28) The benefit to the exporters has been calculated on the basis of the amount of customs duty normally due on imports made during the investigation period but which remained unpaid under the PBS. In order to establish the full benefit to the recipient under this scheme, this amount has been adjusted by adding interest during the investigation period.

Since the benefits from import duty exemptions are obtained regularly during the investigation period, they are equivalent to a series of grants. It is normal practice to reflect the benefit to the recipient of one-time grants by adding the annual commercial interest to the nominal amount of the grant, on the assumption that the grant is considered to have been made on the first day of the investigation period. However, in the present case, it is clear that individual grants can be made at any time between the first and the last day of the investigation period. Consequently, instead of adding annual interest to the whole amount, it is considered appropriate to assume that an average grant would have been received at the mid-point of the investigation period, and therefore the interest should cover a period of six months, equivalent to half of the annual commercial rate during the investigation period in India, i.e. 7,29 %. This amount (i.e. unpaid customs duty plus interest) has been allocated over total exports during the investigation period.

Nine companies benefited from this scheme during the investigation period and obtained subsidies of between 0,2 and 84,5. Where companies claimed deductions linked to the payment of fees for obtaining the PBS, these were granted. One of the companies claimed an additional deduction for costs incurred to obtain the subsidy; these costs consisted of consultant fees for handling PBS applications. Pursuant to Article 7(1)(a) of the Basic Regulation a deduction can be granted for any cost necessarily incurred in order to obtain the subsidy. Since companies can obtain the benefit without the need to have recourse to external consultants the deduction claim is not justifiable.

Facor (Ferro Alloys Corp. Ltd) provided incomplete verifiable information relating to this scheme. In accordance with the provisions of Article 28(1) of the Basic Regulation, provisional findings relating to subsidies received by this company under the PBS have been made on the basis of the facts available. In view of the absence of other reliable information from independent sources and in order to avoid rewarding non-cooperation, it was considered appropriate to apply the highest rate of benefit under the PBS established for other co-operating exporters to this company, i.e. 84,5 %.

3. Duty Entitlement Passbook Scheme (DEPB)

- (29) Another instrument under the Export Import Policy involving export related assistance is the DEPB which became effective on 7 April 1997.

The DEPB constitutes the successor to the PBS which was terminated on 31 March 1997. The DEPB is of two types:

- DEPB on pre-export basis,
- DEPB on post-export basis.

(a) *DEPB on pre-export basis*

- (30) The DEPB on pre-export basis is available to manufacturer-exporters (i.e. every manufacturer in India who exports) or merchant-exporters (i.e. traders) linked with manufacturers. To be eligible under this scheme, the company must have exported during a three-year period prior to submitting a claim for credit.

However, no producer/exporter of the product concerned applied for or made use of the DEPB scheme on a pre-export basis. There is therefore no need for the Commission to assess this part of the scheme in the context of the investigation.

(b) *Eligibility for DEPB on post-export basis*

- (31) The DEPB on post-export basis is virtually identical to the PBS described above. It is available to manufacturer-exporters (i.e. every manufacturer in India who exports) or merchant-exporters (i.e. traders).

(c) *Practical implementation of DEPB post-export basis*

- (32) Under this scheme, any eligible exporter can apply for credits which are calculated as a percentage of the value of exported finished products. Such DEPB rates have been established by the Indian authorities for most products, including the products concerned, on the basis of the Standard Input/Output norms. A licence stating the amount of credit granted is issued automatically.

DEPB on post-export basis allows for the use of such credits for any subsequent imports (e.g. raw materials or capital goods) not on the Negative List of Imports. Such imported goods can be sold on the domestic market (subject to sales tax) or used otherwise.

DEPB credits are freely transferable. The DEPB licence is valid for a period of 12 months from the date of granting of the licence.

- (33) When all credits have been used, the company has to pay a fee to the relevant authority.

(d) Conclusion on DEPB on post-export basis

- (34) This scheme is clearly contingent upon export performance. When a company exports goods, it is granted a credit which can be used to offset amounts of customs duties due on future imports of any goods (whether raw materials or capital goods). Like the PBS, it is not a permitted drawback or substitution drawback scheme for the same reasons as stated above in recital 25. The scheme constitutes a subsidy as the financial contribution by the GOI in the form of duties forgone on imports confers a benefit upon a company which can import goods free of customs duty. It is a subsidy contingent in law upon export performance and is therefore deemed to be specific pursuant to Article 3(4)(a) of the Basic Regulation.

(e) Calculation of the subsidy amount for DEPB post-export basis

- (35) Some of the companies applied for credits under the DEPB on a post-export basis during the investigation period. However, in view of the fact no use was made of the credits during the investigation period no countervailable benefit has accrued to them. In this respect no subsidy margin has been established with respect to this scheme.

4. Export Promotion Capital Goods Scheme (EPCGS)

- (36) Another instrument under the Export Import Policy involving export related assistance is the EPCGS introduced on 1 April 1990 and amended on 5 June 1995.

(a) Eligibility

- (37) The EPCGS is available to manufacturer/exporters (i.e. every manufacturer in India who exports) or merchant/exporters (i.e. traders). Since 1 April 1997, manufacturers linked with merchant-exporters can also benefit from the scheme.

(b) Practical implementation

- (38) To benefit from the scheme, a company must provide to the relevant authorities details of the type and value of capital goods which are to be imported. Depending on the level of export commitment which the company is prepared to undertake, the company will be allowed to import capital goods at either a zero rate of duty or a reduced rate. A licence authorising the import at preferential rates is issued automatically.

In order to meet the export obligation, goods exported must have been produced using the imported capital goods.

- (39) An application fee is payable to obtain a licence.

(c) Conclusion on EPCGS

- (40) The EPCGS is a countervailable subsidy as the payment by an exporter of a reduced or zero rate of duty constitutes a financial contribution by the GOI, revenue otherwise due is foregone and a benefit is conferred on the recipient by lowering the duties payable or fully exempting him from paying the import duties.

- (41) The subsidy is contingent in law upon export performance within the meaning of Article 3(4)(a) of the Basic Regulation, since it cannot be obtained without a commitment to export goods, and is therefore deemed to be specific.

(d) Calculation of the subsidy amount

- (42) The benefit to the exporters has been calculated on the basis of the amount of unpaid customs duty due on imported capital goods by spreading this amount across a period which reflects the normal depreciation of such capital goods in the industry of the product concerned. This period has been established by using the weighted average (on the basis of production volume of the products concerned) of depreciation periods for capital goods actually imported under the EPCGS by each company, resulting into a normal depreciation period of 15,5 years. The amount so calculated which is attributable to the investigation period has been adjusted by adding interest during the investigation period in order to establish the full benefit to the recipient under this scheme. Given the nature of this subsidy, which is equivalent to a one-time grant, the commercial interest rate during the investigation period in India, i.e. 14,58 % was considered appropriate. This amount has then been allocated over total exports during the investigation period.

Three companies availed themselves of this scheme during the investigation period and obtained benefits of between 0,1 and 1,1 %.

Facor (Ferro Alloys Corp. Ltd) provided incomplete verifiable information relating to this scheme. In accordance with the provisions of Article 28(1) of the Basic Regulation, provisional findings relating

to subsidies received by this company under this scheme could not be based on the insufficient information submitted and have been made on the basis of the facts available. In view of the absence of other reliable information from independent sources and in order to avoid rewarding non-cooperation, it was considered appropriate to apply the highest rate of benefit under the scheme established for the other cooperating exporters to this company, i.e. 1,1 %.

One company, Raajratna Metal Industries Ltd, availed itself of the scheme with regard to machinery imported for production of a product (wire rod) not subject to the investigation. The Commission verified that the imported machinery could only be used for finishing operations on wire rod sold separately, that is that the machinery was not used in the production of stainless steel bright bars at any stage in the manufacturing process (including the production of common raw material). For that company therefore, it is considered that no benefit is conferred on the production of stainless steel bars under this scheme.

5. Export Processing Zones (EPZ)/Export Oriented Units (EOU)

- (43) Another instrument under the Export Import Policy involving export related assistance is the EPZ/EOU scheme which was introduced on 22 June 1994.

The Commission established that no producer of the product concerned was established in an EPZ or was an EOU. There is therefore no need for the Commission to assess this scheme in the context of the investigation.

6. Income Tax Exemption Scheme (ITES)

- (44) The Income Tax Act 1961 is the legal basis under which the ITES operates. The Act, which is amended yearly by the Finance Act, sets out the basis for the collection of taxes as well as various exemptions/deductions which can be claimed. Among the exemptions which can be claimed by firms are those covered by Sections 10A, 10B and 80HHC of the Act.

(a) Eligibility

- (45) Exemption under Section 10A can be claimed by firms located in Free Trade Zones. Exemption under Section 10B can be claimed by Export

Oriented Units. Exemption under Section 80HHC can be claimed by any firm which exports goods.

(b) Practical implementation

- (46) To benefit from the abovementioned deductions/exemptions from paying tax, a company will make the relevant claim when submitting its tax return to the tax authorities at the end of the tax year. The tax year runs from 1 April to 31 March. The tax return must be submitted to the authorities by the following 30 November. The final assessment by the authorities can take up to three years after submitting the tax return. A company can only claim one of the deductions available under the three sections mentioned above.

Under Sections 10A, 10B and 80HHC companies can claim exemption from taxable income for profits realised on export sales. Only the 80HHC income tax exemption was used by the companies during the investigation period.

(c) Conclusion on ITES

- (47) Item (e) of the Illustrative List of Export Subsidies (Annex I to the Basic Regulation) refers to the 'full or partial exemption ... related to exports, of direct taxes' as constituting an export subsidy. Under the ITES, the GOI confers a financial contribution to the company by foregoing government revenue in the form of direct taxes which would otherwise be due if the income tax exemptions were not claimed by the company. This financial contribution confers a benefit on the recipient by reducing its income tax liability.
- (48) The subsidy is contingent in law upon export performance in the meaning of Article 3(4)(a) of the Basic Regulation, since it exempts profits from export sales only, and is therefore deemed to be specific.

(d) Calculation of the subsidy amount

- (49) As stated in recital 46, claims for benefit under Sections 10A, 10B and 80HHC are made when submitting a tax return at the end of the tax year. As the tax year in India runs from 1 April to 31 March, it is considered appropriate to calculate the benefit under this scheme on the basis of the tax year 1996/97 (i.e. 1 April 1996 to 31 March 1997) which covers six months of the investigation period. The benefit to the exporters has therefore been calculated on the basis of the difference

between the amount of taxes normally due with and without the benefit of the exemption. Account has been taken of the fact that some companies are liable to the payment of Minimum Alternate Tax which is an alternative method of calculating tax due under the Income Tax Act. The rate of corporate tax applicable during this tax year was 43 %. In order to establish the full benefit to the recipient, this amount has been adjusted by adding interest during the investigation period. Given the nature of this subsidy, which is equivalent to a one-time grant, the commercial interest rate during the investigation period in India (14,58 %) was considered appropriate. The amount of benefit has been allocated over total exports during the tax year 1996/97.

During the tax year 1996/97 six companies benefited from this scheme under Section 80HHC and obtained subsidies of from 0,7 to 2,8 %.

7. Amount of countervailable subsidies

- (50) In view of the above, the total amount of countervailable subsidies for each of the investigated exporters is as follows:

	Passbook	DEPB	EPCGS	Income tax	Total
Bhansali Bright Bars	13,8 %			0,7 %	14,5 %
Facor	84,5 %		1,1 %		85,6 %
Grand Foundry	84,5 %				84,5 %
Isibars	38,7 %		1,1 %	1,2 %	41,0 %
Mukand	18,1 %		0,1 %	1,5 %	19,7 %
Panchmahal Steel	0,2 %		0,7 %		0,9 %
Raajratna	44,2 %			2,8 %	47,0 %
Venus Wire	22,9 %			1,9 %	24,8 %
Viraj Alloys	25,6 %			1,4 %	27,0 %

D. INJURY

1. Community industry

- (51) The aggregated production of the five Community producers of SSB that had supported the complaint and fully cooperated with the Commission (see recital 5) accounts for 45 % of total Community production. These companies constitute the 'Community industry' as defined in Articles 9(1) and 10(8) of the Basic Regulation.

2. General remarks

- (52) It will be recalled that the investigation period has a duration of only nine months. Therefore, for the purpose of comparison, the findings relating to the investigation period were extrapolated to 12 months in order to allow for a comparison on a yearly basis (hereinafter 'IP12').

3. Consumption in the Community

- (53) The apparent consumption of SSB in the Community during the period January 1994 to June 1997 was based on total production in the Community plus total imports minus total exports. In this respect, the Commission relied on data provided by the Community industry, the other producers located in the Community and Eurofer, as well as on Eurostat statistics.
- (54) During the period 1994 to June 1997 the total consumption in the Community expressed in tonnes amounted to 117 039 in 1994, 146 025 in 1995, 113 448 in 1996, and 148 457 in IP12.

4. Import volumes and market share of subsidized imports

- (55) The Indian import volume in tonnes developed as follows: 7 597 in 1994, 11 170 in 1995, 10 329 in 1996 and 8 311 in IP12, which corresponds to an overall increase of 714 tonnes or 9,4%, with a peak of 36 % (2 732 tonnes) between 1994 and 1996.

- (56) The Indian market share (based on Eurostat data) increased constantly from 6,5 % in 1994 to 7,6 % in 1995 and to 9,1 % in 1996. This corresponds to an increase of 40 % when comparing the years 1994 and 1996. During the investigation period the market share dropped but remained at the significant level of 5,6 %.

5. Prices of subsidized imports from India and price undercutting

- (57) It has been established for the period from 1994 to the investigation period that, based on Eurostat figures, imports from India have been made consistently at prices which undercut those of the Community industry. This analysis has been confirmed in detail for the investigation period.

- (58) In particular, in order to establish whether prices of the cooperating Indian exporters undercut the Community industry's sales prices, a detailed analysis was carried out for each of them for sales made during the investigation period. This was done by comparing, per product type, their weighted average export prices with the weighted average sales prices of the Community industry to unrelated parties. If exports were made through related companies the export prices were duly adjusted for costs between importation and sales to the first independent customer. For the purposes of comparison, the products were grouped into product types according to steel grade, shape, diameter and tolerance.

- (59) Adjustments to the Indian export prices were made where appropriate for transport costs and handling charges in order to arrive at the free-at-Community-frontier level, customs cleared price.

- (60) An adjustment to the sales prices of the Community producers was made for differences in levels of trade since it was found that the Indian producers sold to traders only whereas the Community industry sold to both traders and users, granting significant discounts to traders. The adjustment was made by reducing the Community industry's sales prices to end-users reflecting the discounts granted. Furthermore, the Community industry's sales prices were adjusted where appropriate for transport costs.

- (61) The Indian exporting producers requested an adjustment for alleged quality differences, which could not be granted since the chemical composition of the product concerned is governed by international standards. The request was only made in a general manner, i.e. no company-specific information was provided by the Indian producers

which — as a consequence — could not be properly verified.

- (62) Similarly, Indian requests for an adjustment concerning (1) different lead times between order and delivery and (2) different price setting mechanisms (Indian producers sell at fixed prices whereas Community producers use a base price system and add a so-called 'alloy surcharge' for nickel, chromium and molybdenum) could not be granted since it was not demonstrated that they affected price comparability.

- (63) Furthermore, a request for an adjustment for differences in payment terms made by two Indian exporting producers could not be accepted. The Indian exporting producers had stated that, contrary to the payment terms applied by the Community industry, they used payment terms requiring payment approximately 30 days before the goods were delivered. This statement is contradicted by the findings of the Commission, which established that the Indian producers concerned apply payment terms requesting payment 60 days after the shipping date. Since transport from India to the Community does not exceed, on average, 30 days, the Indian producers received payment not before, but after delivery, as was found for the Community industry.

- (64) Finally, the Indian producers requested that India's exemption from the 4,2 % customs duty on the product concerned under the GSP regime be taken into account for the calculation of price undercutting and injury elimination (see recital 97). According to these producers the Indian export prices should be increased by 4,2 % 'as if' imports from India did not benefit from the GSP system. This argument was not accepted because the calculation of price undercutting is based on the actual prices paid on the market. Hypothetical duties can therefore not be considered. The relevant legislation, in particular Article 13 of Council Regulation (EC) No 3281/94 ⁽¹⁾, as last amended by Regulation (EC) No 602/98 ⁽²⁾, states that the granting of GSP treatment does not preclude to counteract injurious dumping.

- (65) The comparison of the duly adjusted weighted average export prices with the weighted average

⁽¹⁾ OJ L 348, 31. 12. 1994, p. 1.

⁽²⁾ OJ L 80, 18. 3. 1998, p. 1.

sales prices of the Community industry showed that the Indian exporting producers had undercut the sales prices of the Community producers as follows:

— Bhansali Bright Bars Pvt Ltd, Mumbai	14,5 %
— Facor (Ferro Alloys Corp. Ltd), Nagpur	16,5 %
— Grand Foundry Ltd, Mumbai	13,3 %
— Isibars Ltd, Mumbai	19,5 %
— Mukand Ltd, Mumbai	17,9 %
— Panchmahal Steel Ltd, Baroda	13,9 %
— Raajratna Metal Industries Ltd, Ahmedabad	16,8 %
— Venus Wire Industries Ltd, Mumbai	13,2 %
— Viraj Alloys Ltd, Mumbai	19,8 %.

- (66) In the course of the investigation, certain Indian producers argued that the calculation of undercutting margins would be meaningless in the context of this investigation in view of the findings set out in Commission Decision 98/247/ECSC in competition matters (Case IV/35.814 — Alloy Surcharge)⁽¹⁾.

This Decision stated that Community producers of stainless steel — flat products — had modified 'in a concerted fashion the reference values used to calculate the alloy surcharge, a practice having the object and effect of restricting and distorting competition within the common market'.

It should be noted, however, that this Decision does not relate to the product subject to the anti-subsidy investigation. SSB fall into the category stainless steel long products, as opposed to stainless steel flat products, the product concerned by the abovementioned Decision.

The Indian companies confirmed this distinction, but alleged that a concerted practice also existed for SSB. Two of them lodged a formal complaint pursuant to Article 3 of Council Regulation No 17/62⁽²⁾. However, at this stage, no conclusive evidence was submitted or made available to the Commission which suggested that the producers of SSB had — 'in a concerted manner agreed on a price setting mechanism for SSB'. In this context it is important to underline that the producers of stainless steel — flat products — and the producers of SSB are, to a large extent, not identical.

In addition, it was noted that — when comparing the sales prices of the Community industry — the sales prices for identical product types sold to comparable categories of customers varied substantially within the same time period. Moreover, it was noted that sales prices varied over different time periods (with a downward trend since 1995) resulting in different levels of profitability for the producers making up the Community industry over different periods. The Commission therefore concluded that, contrary to the allegation of the Indian producers, there was nothing at this stage of the investigation to indicate that the undercutting calculation was meaningless.

6. Situation of the Community industry

6.1. *Production volume, capacity and capacity utilisation*

- (67) During the period 1994 to June 1997 the total production of the Community industry expressed in tonnes amounted to 60 800 in 1994, 65 459 in 1995, 53 070 in 1996, and 66 640 in IP12.

- (68) It was concluded that the total production of the Community industry had fluctuated over recent years in reaction to changes in demand and low-priced imports from India. While 1995 in terms of production can be described as a successful year for the Community industry due to very high demand, 1996 showed a significant drop in the level of production. This was due to a decrease in Community consumption in 1996 and to the Indian exporting producers selling their products at very low prices, thereby undercutting the sales prices of the Community industry. During the investigation period the production of the Community industry increased again, benefiting from higher demand, but only achieved lower sales prices.

- (69) As far as the development of capacity and capacity utilisation is concerned, the Community industry uses the same machines also for the manufacture of other products. Therefore, it is difficult to assess the precise capacity and capacity utilisation rates for the product concerned. Hence, it was considered appropriate not to draw any conclusions on the basis of these two factors.

6.2. *Sales volume*

- (70) The sales volume by the Community industry to unrelated parties in the Community (expressed in

⁽¹⁾ OJ L 100, 1. 4. 1998, p. 55.

⁽²⁾ OJ L 13, 21. 2. 1962, p. 204/62.

tonnes) was 31 659 in 1994, 33 264 in 1995, 22 988 in 1996, 21 081 in the investigation period and 28 108 in IP12, whereas the sales volume to related parties was 12 977 in 1994, 13 675 in 1995, 11 930 in 1996, 13 092 in the investigation period and 17 456 in IP12.

(71) It was concluded that the sales volume to unrelated parties in the Community as well as the combined volume to unrelated and related parties in the Community followed a similar trend as was observed for the volume of production. Sales volumes fluctuated over the past few years and 1996 showed a particularly significant drop. This trend was only reversed after significant price reductions during the investigation period with a higher sales volume in this period when compared to 1996.

(72) This development corresponds to a loss of more than 11 % of sales volumes to unrelated parties when comparing 1994 and IP12. In this respect it was also noted that the Community industry could not benefit from the overall growth in the market.

6.3. Market share

(73) While the market share of Indian imports increased significantly between 1994 and 1996 (see above), the same period showed a negative development in the market share of the Community industry. For sales to both related and unrelated parties it was noted that while the Community industry accounted for 38,1 % of the market in 1994, its market share amounted to 32,1 % in 1995 and 30,8 % in 1996. This corresponds to a loss of 19,2 %. The market share reached its lowest level in the investigation period with 30,7 %.

(74) As regards sales to unrelated parties only, it was established that the market share decreased significantly from 27,0 % in 1994 to 22,8 % in 1995 and to 20,1 % in 1996. Again, this corresponds to a loss of 25,6 %. The market share reached its lowest level in the investigation period with 18,9 %.

6.4. Sales prices

(75) The sales prices of the Community industry followed a downward trend since 1995. In order to prevent further losses of market share the Community industry lowered its prices by 21 % since 1995. Expressed in index form the sales prices decreased from 134 in 1995 to 126 in 1996 and to 106 in the investigation period (index 100 corresponds to 1994).

6.5. Profitability

(76) As regards profitability, the investigation showed that with one exception all the producers forming the Community industry were in a better financial situation in 1994 than during the investigation period. The profit margins of all companies dropped significantly, notably between 1995 and the investigation period, and one company in particular faced significant losses during the investigation period. The weighted average profit margin during the investigation period was unsatisfactory for all but one producer due to the reduction in sales prices.

The index of the profit margin developed as follows: 100 in 1994, 312 in 1995, 151 in 1996 and 73 in the investigation period.

6.6. Employment and stocks

(77) As regards employment, the Community industry's workforce remained almost stable from 602 in 1994 to 592 during the investigation period. In some instances redundancies could only be avoided by short time working.

(78) The stocks increased by more than 3 000 tonnes between 1994 and the investigation period and amounted to 10 923 tonnes by the end of the investigation period.

7. Conclusions

(79) From the above it can be concluded that the Community industry is suffering material injury. The main injury factors are the significant price undercutting practiced by the Indian exporting producers, the consequent depression of the Community industry's sales prices, the unsatisfactory profitability, the significant gain in market share by the Indian exporting producers from 1994 to 1996 and the corresponding loss of market share by the Community industry, the losses in sales volumes and the increase in stocks.

E. CAUSATION

1. Effect of the subsidized imports

(80) The rapid increase in the market share held by Indian imports (40 % between 1994 and 1996) and the substantial price undercutting found (up to 16,3 %) coincide with the deterioration of the situation of the Community industry, in particular its loss of market share, depressed prices and unsatisfactory profitability.

(81) When faced with subsidized imports originating in India, the Community industry had the choice — after the successful year of 1995 — of either maintaining its prices or of following the subsidised

prices with negative consequences for profitability. In 1996, some Community producers tried to maintain their sales prices at a high level, whilst others reduced them. Both strategies resulted in a negative impact on profitability either directly (lower prices) or indirectly (lower sales volume resulting in higher overheads per tonne sold). During the investigation period all Community producers lowered their sales prices still further, which again had a negative impact on their profitability. This clearly shows the price sensitivity of the market and the important impact of the price undercutting practised by the Indian exporting producers.

- (82) Certain Indian exporting producers submitted that they had not caused any material injury since they only sold to a limited number of traders whereas the Community producers also sold to users and traders which were not customers of the Indian producers. Accordingly, there would only be limited competition between the Indian and Community products affecting 35 % of the total Community market. This argument is contradicted by the transparency of the market reacting quickly to changes in prices and the possibility for the Indian producers to sell to other purchasers in the Community.

2. Other factors

- (83) The Commission also considered whether other factors such as the overall development of the market, the behaviour of the Community industry itself or imports from other countries could have caused the injury suffered by the Community industry.
- (84) Certain Indian producers alleged that the complaining Community industry was inefficient and drew attention in particular to the low rate of capacity utilisation. In any event, as indicated above, it was considered not appropriate to use the capacity utilisation rate as a decisive injury factor. However, any decrease in capacity utilisation would occur at a time of a substantial decrease in sales of the Community industry coinciding with an increase in subsidized imports.
- (85) In the course of the investigation it was also considered whether the situation of the producers in the Community which were not part of the Community industry as defined in recital 51 was any different from the situation of the Community

industry. Due to a lack of verifiable information and taking into account the transparency of the SSB's market in the Community — in particular as regards prices — it is concluded that the other producers located in the Community are likely to have followed a similar trend to the cooperating producers.

- (86) Furthermore, it was found that imports from other countries had had no decisive impact on the Community industry. These imports were made either in negligible quantities and/or at higher prices. Only Russian imports appear, on average, to have been made at lower prices than those from India, but the quantities imported during the investigation period accounted only for 1,2 % of the Community market.
- (87) Finally, the Indian producers have argued that the prices of hot-rolled bars, i.e. the major raw material for the production of SSB, and the prices of SSB have not followed the same downward trend over the last years. This allegedly has led to difficulties for non-integrated producers, as they were forced to purchase their raw materials at higher prices. The difficulties of the non-integrated producers could therefore not be attributed to the Indian imports. This claim was not substantiated and could not be therefore taken into consideration at this stage.

3. Conclusion

- (88) In view of the coincidence in time between the level of price undercutting, the reduction in the sales price of the Community industry and the unsatisfactory profitability, as well as the significant market share gained by the Indian imports from 1994 to 1996 (a trend which could only be reversed after price decreases by the Community industry) and the corresponding loss of market share suffered by the Community industry, it was concluded that the subsidised imports from India — taken in isolation — had caused material injury to the Community industry.

F. COMMUNITY INTEREST

- (89) In accordance with Article 31 of the Basic Regulation, and in order to evaluate whether the adoption of countervailing measures would be against the interest of the Community as a whole, the Commission examined the impact of taking or not taking measures on the various interests involved.

(90) Measures can not be applied where the Community institutions, on the basis of all information submitted, clearly conclude that it is not in the interest of the Community to apply such measures.

(91) In order to investigate this issue, questionnaires were sent to 59 users of SSB but no substantiated replies were received. This was considered as meaning that the outcome of the investigation would probably not have a significant impact on users, either because SSB are not a significant cost factor for them or because their production of downstream products relating to SSB only accounts for a small proportion of total production. Anyhow, it was noted that any price increase resulting from the countervailing measures would be moderate given the high number of competitors inside and outside the Community.

(92) Fourteen suppliers of raw material to SSB Community producers were also contacted. Their replies indicated that the re-establishment of fair trade would lead to benefits to this upstream industry from the point of view of production, sales, employment and profitability.

(93) Finally, it has been argued that it could not be in the interest of the Community to impose measures taking into account the aforementioned alleged practices in the calculation of the alloy surcharge. In this respect reference is made to the comments made above. Furthermore, consideration was given to the fact that no user replied to the Commission's questionnaire, arguing that purchase prices of the Community industry for SSB were unjustifiably high.

(94) In short, there was no evidence to suggest that it was not in the interest of the Community to impose measures.

G. PROVISIONAL DUTY

(95) On the basis of the conclusions on subsidization, injury, causal link and Community interest, the Commission considers it necessary to adopt provisional countervailing measures.

(96) For the purpose of determining the level of these measures, the Commission took account of the subsidy margins found and of the amount of duty necessary to eliminate the injury sustained by the Community industry.

(97) To that effect, the Commission considered that the prices of subsidized imports should be increased to a non-injurious level. The necessary price increase was determined on the basis of a comparison of the

weighted average import price used to establish price undercutting, as outlined in recital 58 *et subseq.* with the weighted average cost of production of the Community industry and a reasonable return on sales of the product concerned. In this respect a profit rate of 5 % on turnover was used. The Commission considers this profit level sufficient given the mature nature of the product concerned.

(98) This comparison showed the following injury margins (expressed in relation to the free-at-Community-frontier price level):

— Bhansali Bright Bars Pvt Ltd, Mumbai	18,3 %
— Facor (Ferro Alloys Corp. Ltd), Nagpur	11,5 %
— Grand Foundry Ltd, Mumbai	16,7 %
— Isibars Ltd, Mumbai	25,0 %
— Mukand Ltd, Mumbai	24,5 %
— Panchmahal Steel Ltd, Baroda	17,6 %
— Raajratna Metal Industries Ltd, Ahmedabad	21,2 %
— Venus Wire Industries Ltd, Mumbai	16,5 %
— Viraj Alloys Ltd, Mumbai	23,5 %.

(99) In accordance with Article 12(1) of the Basic Regulation the duty rate should correspond to the subsidy margin, unless the injury margin is lower. The following rates of duty therefore apply for the cooperating producers:

— Bhansali Bright Bars Pvt Ltd, Mumbai	14,5 %
— Facor (Ferro Alloys Corp. Ltd), Nagpur	11,5 %
— Grand Foundry Ltd, Mumbai	16,7 %
— Isibars Ltd, Mumbai	25,0 %
— Mukand Ltd, Mumbai	19,7 %
— Panchmahal Steel Ltd, Baroda	0 %
— Raajratna Metal Industries Ltd, Ahmedabad	21,2 %
— Venus Wire Industries Ltd, Mumbai	16,5 %
— Viraj Alloys Ltd, Mumbai	23,5 %.

(100) In order to avoid granting a bonus for non-cooperation, it was considered appropriate to establish the duty rate for the non-cooperating companies at the level of the highest duty rate found, i.e. 25 %.

H. FINAL PROVISION

- (101) In the interests of sound administration, a period should be fixed within which the interested parties which made themselves known within the time limit specified in the notice of initiation may make their views known in writing and request a hearing. Furthermore, it should be stated that the findings made for the purposes of this Regulation are provisional and may have to be reconsidered for the purposes of any definitive duty.
- (102) In accordance with Article 24(1) of the Basic Regulation no product shall be subject to both anti-dumping and countervailing duties for the purpose of dealing with one and the same situation arising from dumping or from export subsidization. Considering that anti-dumping duties have been imposed on imports of the product in question it is necessary to determine whether and to what extent the subsidy and the dumping margin arise from the same situation.
- (103) In the case in question all of the investigated schemes have been found to constitute export subsidies within the meaning of Article 3(4)(a) of the Basic Regulation. As such the subsidies can only affect the export prices of the Indian producers leading to increased margins of dumping. In other words the dumping margins established are

wholly or partly due to the existence of export subsidies. In these circumstances it is not considered appropriate to impose both countervailing and anti-dumping duties to the full extent of the relevant subsidy and dumping margins established. In view of the fact the dumping margins are wholly or partly due to the existence of the export subsidies, the anti-dumping duties, imposed by Regulation (EC) No 1084/98, need to be adjusted to reflect the actual dumping margins remaining after the imposition of the countervailing duties offsetting the effect of the export subsidies,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional countervailing duty is hereby imposed on imports of stainless steel bars and rods not further worked than cold-formed or cold-finished, containing by weight 2,5 % or more of nickel, of circular cross-section as well as of other cross-sections, falling within CN codes 7222 20 11, 7222 20 21, 7222 20 31 and 7222 20 81 and originating in India.

2. The rate of duty applicable to the net free-at-Community-frontier price, before duty, shall be as follows:

Manufacturer	Rate of duty (%)	TARIC additional code
Bhansali Bright Bars Pvt Ltd, Mumbai	14,5	8226
Facor (Ferro Alloys Corp. Ltd), Nagpur	11,5	8400
Grand Foundry Ltd, Mumbai	16,7	8401
Isibars Ltd, Mumbai	25,0	8402
Mukand Ltd, Mumbai	19,7	8403
Panchmahal Steel Ltd, Baroda	0	8404
Raajratna Metal Industries Ltd, Ahmedabad	21,2	8405
Venus Wire Industries Ltd, Mumbai	16,5	8407
Viraj Alloys Ltd, Mumbai	23,5	8410
All other companies	25,0	8900

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

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

Article 2

Article 1(2) of Regulation (EC) No 1084/98 is hereby amended as follows:

'2. The rate of duty applicable to the net free-at-Community-frontier price, before duty, shall be as follows:

Manufacturer	Rate of duty (%)	TARIC additional code
Bhansali Bright Bars Pvt Ltd, Mumbai	2,2	8226
Facor (Ferro Alloys Corp. Ltd), Nagpur	0	8400
Grand Foundry Ltd, Mumbai	0	8401
Isibars Ltd, Mumbai	0	8402
Mukand Ltd, Mumbai	0	8403
Panchmahal Steel Ltd, Baroda	11,4	8404
Raajratna Metal Industries Ltd, Ahmedabad	0	8405
Venus Wire Industries Ltd, Mumbai	0	8407
Viraj Alloys Ltd, Mumbai	0	8410
All other companies	0	8900'

Article 3

Without prejudice to Article 30 of Regulation (EC) No 2026/97, the interested parties which made themselves known within the time limit specified in the notice of initiation may make known their views in writing and apply to be heard orally by the Commission within 15 days of the date of entry into force of this Regulation.

Pursuant to Article 31(4) of Regulation (EC) No 2026/97, the parties concerned may comment on the application of

this Regulation within one month of the date of its entry into force.

Article 4

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

Article 1 of this Regulation shall apply for a period of four months.

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

Done at Brussels, 17 July 1998.

For the Commission

Leon BRITTAN

Vice-President

COMMISSION REGULATION (EC) No 1557/98**of 17 July 1998****deciding not to accept tenders submitted in response to the 206th partial invitation to tender as a general intervention measure pursuant to Regulation (EEC) No 1627/89**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organisation of the market in beef and veal ⁽¹⁾, as last amended by Regulation (EC) No 2634/97 ⁽²⁾, and in particular Article 6(7) thereof,

Whereas, pursuant to Commission Regulation (EEC) No 2456/93 of 1 September 1993 laying down detailed rules for the application of Council Regulation (EEC) No 805/68 as regards the general and special intervention measures for beef ⁽³⁾, as last amended by Regulation (EC) No 2602/97 ⁽⁴⁾, an invitation to tender was opened pursuant to Article 1(1) of Commission Regulation (EEC) No 1627/89 of 9 June 1989 on the buying in of beef by invitation to tender ⁽⁵⁾, as last amended by Regulation (EC) No 1473/98 ⁽⁶⁾;

Whereas, in accordance with Article 13(1) of Regulation (EEC) No 2456/93, a maximum buying-in price is to be fixed for quality R3, where appropriate, under each partial invitation to tender in the light of tenders received; whereas, in accordance with Article 13(2) of that Regula-

tion, a decision may be taken not to proceed with the tendering procedure;

Whereas, once tenders submitted in respect of the 206th partial invitation to tender have been considered and taking account, pursuant to Article 6(1) of Regulation (EEC) No 805/68, of the requirements for reasonable support of the market and the seasonal trend in slaughterings and prices, it has been decided not to proceed with the tendering procedure;

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

HAS ADOPTED THIS REGULATION:

Article 1

No award shall be made against the 206th partial invitation to tender opened pursuant to Regulation (EEC) No 1627/89.

Article 2

This Regulation shall enter into force on 20 July 1998.

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

Done at Brussels, 17 July 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ L 356, 31. 12. 1997, p. 13.

⁽³⁾ OJ L 225, 4. 9. 1993, p. 4.

⁽⁴⁾ OJ L 351, 23. 12. 1997, p. 20.

⁽⁵⁾ OJ L 159, 10. 6. 1989, p. 36.

⁽⁶⁾ OJ L 194, 10. 7. 1998, p. 9.

COMMISSION REGULATION (EC) No 1558/98
of 17 July 1998

laying down to what extent applications for issue of export licences submitted during July 1998 for beef and veal products which may benefit from special import treatment in a third country may be accepted

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

Having regard to Commission Regulation (EC) No 1445/95 of 26 June 1995 on rules of application for import and export licences in the beef and veal sector and repealing Regulation (EEC) No 2377/80 ⁽¹⁾, as last amended by Regulation (EC) No 759/98 ⁽²⁾, and in particular Article 12(8) thereof,

Whereas Regulation (EC) No 1445/95 lays down, in Article 12, detailed rules for export licence applications for the products referred to in Article 1 of Commission Regulation (EEC) No 2973/79 ⁽³⁾, as last amended by Regulation (EEC) No 3434/87 ⁽⁴⁾;

Whereas Regulation (EEC) No 2973/79 fixed the quantities of meat which might be exported on special terms for the third quarter of 1998;

Whereas the quantities for which licence applications have been lodged for the third quarter of 1998 are lower

than those available; whereas these applications can, therefore, be met in full,

HAS ADOPTED THIS REGULATION:

Article 1

The applications for export licences lodged in July 1998 for the beef and veal referred to in Regulation (EEC) No 2973/79 for the third quarter of 1998 shall be met in full.

Article 2

Applications for licences in respect of the meat referred to in Article 1 may be lodged in accordance with Article 12 of Regulation (EC) No 1445/95 during the first 10 days of the fourth quarter of 1998 the total quantity available being 5 000 tonnes.

Article 3

This Regulation shall enter into force on 21 July 1998.

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

Done at Brussels, 17 July 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 143, 27. 6. 1995, p. 35.

⁽²⁾ OJ L 105, 4. 4. 1998, p. 7.

⁽³⁾ OJ L 336, 29. 12. 1979, p. 44.

⁽⁴⁾ OJ L 327, 18. 11. 1987, p. 7.

COMMISSION REGULATION (EC) No 1559/98**of 17 July 1998****on the issue of system B export licences in the fruit and vegetables sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 2190/96 of 14 November 1996 on detailed rules for implementing Council Regulation (EC) No 2200/96 as regards export refunds on fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 1287/98 ⁽²⁾, and in particular Article 5(5) thereof,

Whereas Commission Regulation (EC) No 1276/98 ⁽³⁾, as amended by Regulation (EC) No 1302/98 ⁽⁴⁾, fixes the indicative quantities for system B export licences other than those sought in the context of food aid;

Whereas, in the light of the information available to the Commission today, there is a risk that the indicative quantities laid down for the current export period for tomatoes and lemons will shortly be exceeded; whereas

this overrun will prejudice the proper working of the export refund scheme in the fruit and vegetables sector;

Whereas, to avoid this situation, applications for system B licences for tomatoes and lemons exported after 17 July 1998 should be rejected until the end of the current export period,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for system B export licences for tomatoes and lemons submitted pursuant to Article 1 of Regulation (EC) No 1276/98, export declarations for which are accepted after 17 July 1998 and before 16 September 1998, are hereby rejected.

Article 2

This Regulation shall enter into force on 18 July 1998.

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

Done at Brussels, 17 July 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 292, 15. 11. 1996, p. 12.

⁽²⁾ OJ L 178, 23. 6. 1998, p. 11.

⁽³⁾ OJ L 176, 20. 6. 1998, p. 6.

⁽⁴⁾ OJ L 180, 24. 6. 1998, p. 12.

COMMISSION REGULATION (EC) No 1560/98
of 17 July 1998
fixing the export refunds on beef and veal

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal⁽¹⁾, as last amended by Regulation (EC) No 2634/97⁽²⁾, and in particular Article 13 thereof,

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

Whereas Regulation (EEC) No 32/82⁽³⁾, as last amended by Regulation (EC) No 2326/97⁽⁴⁾, Regulation (EEC) No 1964/82⁽⁵⁾, as last amended by Regulation (EC) No 2469/97⁽⁶⁾, and Regulation (EEC) No 2388/84⁽⁷⁾, as last amended by Regulation (EEC) No 3661/92⁽⁸⁾, lay down the conditions for granting special export refunds on certain cuts of beef and veal and certain preserved beef and veal products;

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

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

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

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

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

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

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

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

Whereas Commission Regulation (EEC) No 3846/87⁽⁹⁾, as last amended by Regulation (EC) No 1353/98⁽¹⁰⁾, establishes the agricultural product nomenclature for the purposes of export refunds; whereas, with a view to clarification, the destinations must be identified in a separate Annex;

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

⁽¹⁾ OJ L 148, 28. 6. 1968, p. 24.

⁽²⁾ OJ L 356, 31. 12. 1997, p. 13.

⁽³⁾ OJ L 4, 8. 1. 1982, p. 11.

⁽⁴⁾ OJ L 323, 26. 11. 1997, p. 1.

⁽⁵⁾ OJ L 212, 21. 7. 1982, p. 48.

⁽⁶⁾ OJ L 341, 12. 12. 1997, p. 8.

⁽⁷⁾ OJ L 221, 18. 8. 1984, p. 28.

⁽⁸⁾ OJ L 370, 19. 12. 1992, p. 16.

⁽⁹⁾ OJ L 366, 24. 12. 1987, p. 1.

⁽¹⁰⁾ OJ L 184, 27. 6. 1998, p. 29.

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

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

Whereas opportunities exist for the export to certain third countries of heifers other than those intended for slaughter, but to prevent any abuse control criteria should be laid down to ensure that these animals are not more than 36 months old;

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

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

HAS ADOPTED THIS REGULATION:

Article 1

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

2. The destinations are identified in Annex II to this Regulation.

Article 2

The grant of the refund for product code 0102 90 59 9000 of the nomenclature for export refunds and for exports to the third countries in zone 10 listed in Annex II to this Regulation shall be subject to presentation, when the customs formalities for export are completed, of the original and one copy of the veterinary certificate signed by an official veterinarian certifying that these are heifers of an age of not more than 36 months. The original of the certificate shall be returned to the exporter and the copy, certified as being in accordance with the regulations by the customs authorities, shall be attached to the application for payment of the refund.

Article 3

This Regulation shall enter into force on 18 July 1998.

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

Done at Brussels, 17 July 1998.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 62, 7. 3. 1980, p. 5.

⁽²⁾ OJ L 199, 22. 7. 1983, p. 12.

ANNEX I

to the Commission Regulation of 17 April 1998 fixing export refunds on beef

(ECU/100 kg)			(ECU/100 kg)		
Product code	Destination	Refund (7)	Product code	Destination	Refund (7)
		— Live weight —			— Net weight —
0102 10 10 9120	01	58,50	0201 20 20 9120	02	47,00
0102 10 10 9130	02	22,50		03	32,50
	03	15,50		04	16,50
	04	8,00	0201 20 30 9110 ⁽¹⁾	02	80,50
0102 10 30 9120	01	58,50		03	55,50
0102 10 30 9130	02	22,50		04	27,00
	03	15,50	0201 20 30 9120	02	34,00
	04	8,00		03	24,00
0102 10 90 9120	01	58,50		04	12,00
0102 90 41 9100	02	52,00	0201 20 50 9110 ⁽¹⁾	02	140,00
0102 90 51 9000	02	22,50		03	93,50
	03	15,50		04	46,50
	04	8,00	0201 20 50 9120	02	60,00
0102 90 59 9000	02	22,50		03	41,50
	03	15,50		04	20,50
	04	8,00	0201 20 50 9130 ⁽¹⁾	02	80,50
	10	52,00 ⁽⁹⁾		03	55,50
0102 90 61 9000	02	22,50		04	27,00
	03	15,50	0201 20 50 9140	02	34,00
	04	8,00		03	24,00
0102 90 69 9000	02	22,50		04	12,00
	03	15,50	0201 20 90 9700	02	34,00
	04	8,00		03	24,00
0102 90 71 9000	02	52,00		04	12,00
	03	34,00	0201 30 00 9050	05 ⁽⁴⁾	49,00
	04	17,00		07 ^(4a)	49,00
0102 90 79 9000	02	52,00	0201 30 00 9100 ⁽²⁾	02	195,00
	03	34,00		03	134,00
	04	17,00		04	67,00
		— Net weight —		06	172,00
0201 10 00 9110 ⁽¹⁾	02	80,50	0201 30 00 9120 ⁽²⁾	08	91,00
	03	55,50		09	85,00
	04	27,00		03	62,50
0201 10 00 9120	02	34,00		04	31,50
	03	24,00		06	80,50
	04	12,00	0201 30 00 9150 ⁽⁶⁾	08	23,50
0201 10 00 9130 ⁽¹⁾	02	110,50		09	21,50
	03	74,00		03	18,50
	04	37,50		04	9,50
0201 10 00 9140	02	47,00		06	21,00
	03	32,50	0201 30 00 9190 ⁽⁶⁾	02	47,00
	04	16,50		03	31,00
0201 20 20 9110 ⁽¹⁾	02	110,50		04	15,00
	03	74,00		06	38,00
	04	37,50			

<i>(ECU/100 kg)</i>			<i>(ECU/100 kg)</i>		
Product code	Destination	Refund (7)	Product code	Destination	Refund (7)
		— Net weight —			— Net weight —
0202 10 00 9100	02	34,00	1602 50 10 9120	02	54,50 ⁽⁸⁾
	03	24,00		03	43,50 ⁽⁸⁾
	04	12,00		04	43,50 ⁽⁸⁾
0202 10 00 9900	02	47,00	1602 50 10 9140	02	48,50 ⁽⁸⁾
	03	32,50		03	38,50 ⁽⁸⁾
	04	16,50		04	38,50 ⁽⁸⁾
0202 20 10 9000	02	47,00	1602 50 10 9160	02	38,50 ⁽⁸⁾
	03	32,50		03	31,00 ⁽⁸⁾
	04	16,50		04	31,00 ⁽⁸⁾
0202 20 30 9000	02	34,00	1602 50 10 9170	02	26,00 ⁽⁸⁾
	03	24,00		03	20,50 ⁽⁸⁾
	04	12,00		04	20,50 ⁽⁸⁾
0202 20 50 9100	02	60,00	1602 50 10 9190	02	26,00
	03	41,50		03	20,50
	04	20,50		04	20,50
0202 20 50 9900	02	34,00	1602 50 10 9240	02	—
	03	24,00		03	—
	04	12,00		04	—
0202 20 90 9100	02	34,00	1602 50 10 9260	02	—
	03	24,00		03	—
	04	12,00		04	—
0202 30 90 9100	05 ⁽⁴⁾	49,00	1602 50 10 9280	02	—
	07 ^(4a)	49,00		03	—
				04	—
0202 30 90 9400 ⁽⁶⁾	08	23,50	1602 50 31 9125	01	92,50 ⁽⁵⁾
	09	21,50	1602 50 31 9135	01	35,00 ⁽⁸⁾
	03	18,50	1602 50 31 9195	01	17,00
	04	9,50	1602 50 31 9325	01	82,50 ⁽⁵⁾
	06	21,00	1602 50 31 9335	01	31,00 ⁽⁸⁾
0202 30 90 9500 ⁽⁶⁾	02	47,00	1602 50 31 9395	01	17,00
	03	31,00	1602 50 39 9125	01	92,50 ⁽⁵⁾
	04	15,00	1602 50 39 9135	01	35,00 ⁽⁸⁾
	06	38,00	1602 50 39 9195	01	17,00
0206 10 95 9000	02	47,00	1602 50 39 9325	01	82,50 ⁽⁵⁾
	03	31,00	1602 50 39 9335	01	31,00 ⁽⁸⁾
	04	15,00	1602 50 39 9395	01	17,00
	06	38,00	1602 50 39 9425	01	35,00 ⁽⁵⁾
0206 29 91 9000	02	47,00	1602 50 39 9435	01	20,50 ⁽⁸⁾
	03	31,00	1602 50 39 9495	01	15,00
	04	15,00	1602 50 39 9505	01	15,00
	06	38,00	1602 50 39 9525	01	35,00 ⁽⁵⁾
0210 20 90 9100	02	39,50	1602 50 39 9535	01	20,50 ⁽⁸⁾
	04	23,50	1602 50 39 9595	01	15,00
0210 20 90 9300	02	49,00			
0210 20 90 9500 ⁽³⁾	02	49,00			

<i>(ECU/100 kg)</i>			<i>(ECU/100 kg)</i>		
Product code	Destination	Refund (7)	Product code	Destination	Refund (7)
		— Net weight —			— Net weight —
1602 50 39 9615	01	15,00	1602 50 80 9495	01	15,00
1602 50 39 9625	01	7,00	1602 50 80 9505	01	15,00
1602 50 39 9705	01	—	1602 50 80 9515	01	7,00
1602 50 39 9805	01	—	1602 50 80 9535	01	20,50 ⁽⁸⁾
1602 50 39 9905	01	—	1602 50 80 9595	01	15,00
1602 50 80 9135	01	31,00 ⁽⁸⁾	1602 50 80 9615	01	15,00
1602 50 80 9195	01	15,00	1602 50 80 9625	01	7,00
1602 50 80 9335	01	28,00 ⁽⁸⁾	1602 50 80 9705	01	—
1602 50 80 9395	01	15,00	1602 50 80 9805	01	—
1602 50 80 9435	01	20,50 ⁽⁸⁾	1602 50 80 9905	01	—

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

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

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

(4) Carried out in accordance with amended Commission Regulation (EEC) No 2973/79 (OJ L 336, 29. 12. 1979, p. 44).

(4a) Carried out in accordance with amended Commission Regulation (EEC) No 2051/96 (OJ L 274, 26. 10. 1996, p. 18).

(5) OJ L 221, 19. 8. 1984, p. 28.

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

(7) Article 13 (10) of amended Regulation (EEC) No 805/68 provides that no export refunds shall be granted on products imported from third countries and re-exported to third countries.

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

(9) The grant of the refund is subject to compliance with the conditions referred to in Article 2 of this Regulation.

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

ANNEX II

Zone 01: all third countries

Zone 02: zones 08 and 09

Zone 03	Zone 05	Zone 09
022 Ceuta and Melilla	400 United States of America	224 Sudan
024 Iceland	Zone 06	228 Mauritania
028 Norway		232 Mali
041 Faeroes		236 Burkina Faso
043 Andorra		240 Niger
044 Gibraltar	809 New Caledonia	244 Chad
045 Vatican City	822 French Polynesia	247 Cape Verde
053 Estonia	Zone 07	248 Senegal
054 Latvia		252 Gambia
055 Lithuania	404 Canada	257 Guinea-Bissau
060 Poland		260 Guinea
061 Czech Republic	Zone 08	264 Sierra Leone
063 Slovakia		268 Liberia
064 Hungary	046 Malta 052 Turkey 072 Ukraine 073 Belarus 074 Moldova 075 Russia 076 Georgia 077 Armenia 078 Azerbaijan 079 Kazakhstan 080 Turkmenistan 081 Uzbekistan 082 Tajikistan 083 Kirghistan 204 Morocco 208 Algeria 212 Tunisia 216 Libya 220 Egypt 604 Lebanon 608 Syria 612 Iraq 616 Iran 624 Israel 625 West Bank and the Gaza Strip 628 Jordan 632 Saudi Arabia 636 Kuwait 640 Bahrain 644 Qatar 647 United Arab Emirates 649 Oman 653 Yemen 720 China 740 Hong Kong	272 Côte d'Ivoire
066 Romania		276 Ghana
068 Bulgaria		280 Togo
070 Albania		284 Benin
091 Slovenia		288 Nigeria
092 Croatia		302 Cameroon
093 Bosnia-Herzegovina		306 Central African Republic
094 Federal Republic of Yugoslavia		310 Equatorial Guinea
096 Former Yugoslav Republic of Macedonia		311 Sao Tomé and Príncipe
109 The communes of Livigno and Campione d'Italia; the island of Helgoland		314 Gabon
406 Greenland		318 Congo (Republic)
600 Cyprus		322 Congo (Democratic Republic)
662 Pakistan		324 Rwanda
669 Sri Lanka		328 Burundi
676 Myanmar (Burma)		329 St Helena and dependencies
680 Thailand		330 Angola
690 Vietnam		334 Ethiopia
700 Indonesia		336 Eritrea
708 Philippines		338 Djibouti
724 North Korea		342 Somalia
950 Stores and provisions (Destinations referred to in Article 34 of Commission Regulation (EEC) No 3665/87, as amended)		350 Uganda
Zone 04		352 Tanzania
		355 Seychelles and dependencies
		357 British Indian Ocean Territory
		366 Mozambique
039 Switzerland		373 Mauritius
		375 Comoros
		377 Mayotte
		378 Zambia
		386 Malawi
		388 South Africa
		395 Lesotho
		Zone 10
		075 Russia

NB: The countries are those defined by Commission Regulation (EC) No 2317/97 (OJ L 321, 22.11.1997, p. 19).

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 13 July 1998

on financing the fixed costs of the system of managing technical assistance for the African, Caribbean and Pacific (ACP) States and the overseas countries and territories (OCT)

(98/461/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the fourth ACP-EC Convention, signed at Lomé on 15 December 1989 and amended by the agreement signed in Mauritius on 4 November 1995,

Having regard to Council Decision 91/482/EEC of 25 July 1991 on the association of the overseas countries and territories with the European Economic Community⁽¹⁾,

Having regard to the Internal Agreement on the financing and administration of Community aid under the second financial protocol of the fourth ACP-EC Convention, hereafter called the 'Internal Agreement', and in particular Article 9 thereof,

Having regard to the proposal from the Commission,

Whereas it is necessary to cover, for a period of four years, the fixed costs arising from the replacement of the European Association for Cooperation for the Management of Technical Assistance for the ACP States and the OCT;

Whereas the revenue accruing from the interest on the deposited funds referred to in Article 9(2) of the Internal Agreement would cover these fixed costs,

HAS DECIDED AS FOLLOWS:

Article 1

The sum of ECU 5,5 million shall be deducted from the revenue accruing from the interest on the funds deposited with paying agents in Europe referred to in Article 319(4) of the fourth ACP-EC Convention, to finance the fixed costs arising from the replacement of the European Association for Cooperation for the management of technical assistance for the ACP States and the OCT.

Article 2

This Decision shall enter into force on the day of its adoption.

Done at Brussels, 13 July 1998.

For the Council

The President

W. SCHÜSSEL

⁽¹⁾ OJ L 263, 19. 9. 1991, p. 1. Decision as last amended by Decision 97/803/EC (OJ L 329, 29. 11. 1997, p. 50).

COMMISSION

COMMISSION DECISION

of 17 July 1998

terminating the anti-dumping proceeding concerning imports into the Community of thiourea dioxide originating in the People's Republic of China

(notified under document number C(1998) 2081)

(98/462/EC)

THE COMMISSION 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⁽¹⁾ on protection against dumped imports from countries not members of the European Community, as last amended by Regulation (EC) No 905/98⁽²⁾, and in particular Article 9 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

- (1) On 10 September 1997, the Commission received a complaint concerning alleged injurious dumping by imports into the Community of thiourea dioxide originating in the People's Republic of China.
- (2) The complaint was lodged by the European Chemical Industry Council (Cefic), on behalf of Degussa AG, the sole producer of thiourea dioxide in the Community.
- (3) The complaint contained evidence of dumping by the imports concerned and of material injury resulting therefrom which was considered sufficient to justify the initiation of an anti-dumping proceeding.
- (4) The Commission, after consultation, accordingly announced in a notice published in the *Official Journal of the European Communities*⁽³⁾ the initiation of an anti-dumping proceeding concerning imports into the Community of thiourea dioxide currently classifiable within CN code ex 2930 90 70 originating in the People's Republic of China.

- (5) The Commission officially advised the exporters and importers known to be concerned, the representatives of the exporting country and the complainant Community producer. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.

B. WITHDRAWAL OF THE COMPLAINT AND TERMINATION OF THE PROCEEDING

- (6) By a letter of 6 April 1998 to the Commission, Cefic formally withdrew its complaint concerning imports into the Community of thiourea dioxide originating in the People's Republic of China citing changed circumstances as regards the Community industry having occurred after the lodging of the complaint. In particular, the complainant submitted that the situation of the sole Community producer had changed in the course of the investigation, mitigating the effect of the allegedly dumped imports.
- (7) In accordance with Article 9(1) of the Council Regulation, (EC) No 384/96 when the complainant withdraws its complaint the proceeding may be terminated unless such termination would not be in the Community interest. The Commission considered that the present investigation has not brought to light any considerations of Community interest which would be against the termination of the proceeding.
- (8) Interested parties were informed of the Commission's intention to terminate the proceeding and were given the opportunity to comment. No comments were received indicating that such termination would not be in the Community interest.

⁽¹⁾ OJ L 56, 6. 3. 1996, p. 1.

⁽²⁾ OJ L 128, 30. 4. 1998, p. 18.

⁽³⁾ OJ C 323, 24. 10. 1997, p. 2.

- (9) Therefore the Commission has concluded that the anti-dumping proceeding concerning imports into the Community of thiourea dioxide originating in the People's Republic of China should be terminated without the imposition of measures,

within CN code ex 2930 90 70 and originating in the People's Republic of China is hereby terminated.

Done at Brussels, 17 July 1998.

HAS DECIDED AS FOLLOWS:

Sole Article

The anti-dumping proceeding concerning imports into the Community of thiourea dioxide currently classifiable

For the Commission

Leon BRITTAN

Vice-President

CORRIGENDA**Corrigendum to Commission Regulation (EC) No 1235/98 of 15 June 1998 amending Regulation (EEC) No 3567/92 as regards detailed rules for the use and transfer of rights in the sheepmeat and goatmeat sector**

(Official Journal of the European Communities L 170 of 16 June 1998)

On page 4, in the first subparagraph of the quoted text in Article 1(3), delete:

‘They shall inform the Commission thereof.’

Corrigendum to Commission Regulation (EC) No 1353/98 of 26 June 1998 amending Regulation (EEC) No 3846/87 establishing an agricultural product nomenclature for export refunds

(Official Journal of the European Communities L 184 of 27 June 1998)

On page 31, in the Annex, CN code ‘0404 90 81’, column ‘Product code’:

for: ‘0403 90 81 9100’,

read: ‘0404 90 81 9100’,

for: ‘0403 90 81 9910’,

read: ‘0404 90 81 9910’,

for: ‘0403 90 81 9950’,

read: ‘0404 90 81 9950’.
