

Official Journal

of the European Communities

ISSN 0378-6978

L 75

Volume 42

20 March 1999

English edition

Legislation

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I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 603/1999
of 15 March 1999**

imposing a definitive anti-dumping duty on imports of polypropylene binder or baler twine originating in Poland, the Czech Republic and Hungary, and collecting definitively the provisional duty imposed

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾, and in particular Article 9(4) thereof,

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

Whereas:

A. PROVISIONAL MEASURES

- (1) By Commission Regulation (EC) No 2107/98⁽²⁾ (hereinafter referred to as 'the provisional duty Regulation') provisional duties were imposed on imports of polypropylene binder or baler twine originating in Poland, the Czech Republic, Hungary and Saudi Arabia. All cooperating Hungarian exporting producers and one co-operating Czech exporting producer offered price undertakings, which were accepted by the provisional duty Regulation and by Commission Regulation (EC) No 2649/98.

B. SUBSEQUENT PROCEDURE

- (2) Following the imposition of the provisional measures, certain exporting producers and importers of the product concerned submitted comments in writing. Those parties who so requested were granted an opportunity to be heard.
- (3) Since the publication of the provisional duty Regulation, the Commission continued to seek and verify all information deemed necessary for its

definitive findings and carried out investigations of the following companies:

(a) Complainant Community producers

- Pippo Tuote Oy, Outokumpu, Finland,
- Irish Ropes, Kildare, Ireland;

(b) Exporting producer

WKI Isoliertechnik Spolska z.o.o., Welytn, Poland.

- (4) Parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of definitive anti-dumping duties and the definitive collection of amounts secured by way of provisional duty. They were also granted a period within which to make representations subsequent to this disclosure.
- (5) The oral and written comments submitted by the interested parties were considered and, where deemed appropriate, taken into account in the definitive findings.

C. PRODUCT CONCERNED AND LIKE PRODUCT

- (6) In the absence of any new information, the provisional findings, as set out in recitals 6 to 8 of the provisional duty Regulation, are confirmed.

D. DUMPING

1. Poland

(a) Cooperation

- (7) As described in recital 9 of the provisional duty Regulation, two companies' replies to the questionnaire had been considered inadequate for the purposes of the investigation, as the information provided did not permit an accurate determination either of normal values or of export prices. Subsequent to the adoption of provisional measures,

⁽¹⁾ OJ L 56, 6. 3. 1996, p. 1. Regulation as last amended by Regulation (EC) No 905/98 (OJ L 128, 30. 4. 1998, p 18).

⁽²⁾ JO L 267, 2. 10. 1998, p. 7. Regulation as amended by Commission Regulation (CE) No 2649/98 (JO L 335, 10. 12. 1998, p. 41).

these two companies requested to be allowed to rectify the deficiencies contained in their previous submissions, and to be granted the opportunity of a late verification.

- (8) One of the two companies claimed that it was a small company, with only limited export activity during the investigation period and limited resources for dealing with the requirements of the investigation. This request for a late verification could not, however, be accepted since, as had already been made clear when informing the company of its insufficient cooperation, it would mean discriminating against other companies which had made the effort to cooperate properly. Moreover, the company had been duly informed of the consequences of its non-cooperation and had previously been granted more than one opportunity to rectify the deficiencies contained in its reply to the questionnaire.
- (9) The other company justified its request on the grounds that it had wrongly considered itself to be operating on a different level to all the other Polish firms concerned by the investigation, because it primarily produced baler twine under an outward processing regime, whereby raw materials acquired in the Community market were processed into finished products in Poland, before being returned to the Community for sale. This particular situation had caused the company to believe — erroneously — that it would not be affected by the anti-dumping investigation as such and consequently it had originally not submitted a complete reply to the questionnaire. The Commission considered that, because of the special situation of the company compared to the other Polish producers, the fact of allowing it to submit additional information would not constitute discrimination against other cooperating companies. The company was therefore given a further opportunity to submit the necessary information, which was duly verified. The results of the verification are set out in recitals 13 and 15 hereto.
- (10) A third company, which came forward only after the provisional duty Regulation had been published, asked to be allowed to cooperate in the proceeding. This request was rejected as the deadline for a reply to the questionnaire had long since expired.

(b) *Normal value*

- (11) Two companies questioned the profit margin which had been used by the Commission in constructing normal values and proposed that a lower rate of profit be used. One company claimed

that the profit margin used in constructing the normal value did not reflect the fact that profit margins in the baler twine business are rather low and tend to be strongly influenced by seasonal and climatic fluctuations. The alternative margin suggested by this company was that achieved from all company operations, including products different from those under investigation. The other company claimed that, because of its position as a relatively new producer of baler twine, it actually had no means of influencing the existing level of selling prices in the market, and thus of obtaining the higher margin relied upon by the Commission.

The Commission considers that the profit margin used in constructing the normal value was correctly determined in accordance with Article 2(6) of the Basic Regulation, i.e. the weighted average profit realised on domestic sales by the sole cooperating Polish exporting producer which had sufficient quantities of domestic sales of the like product in the ordinary course of trade. These claims could not, therefore, be accepted.

- (12) In the course of reviewing the calculations, it was decided that an adjustment for technical characteristics made when constructing the normal value for three Polish exporting producers was not required (see recital 8 below).
- (13) As far as the company WKI Isoliertechnik Spolska z.o.o. (hereinafter 'WKI') is concerned, its sales of baler twine on the Polish domestic market were, overall, made in representative quantities, i.e. they constituted 5 % or more of the quantity exported to the Community. However, the individual types of baler twine sold for export to the Community did not correspond to those sold on the domestic market. Normal value was therefore constructed, in accordance with Article 2(3) of the Basic Regulation. As for all other cooperating Polish producers, constructed normal value was calculated on the basis of the cost of production in Poland (including selling, general and administrative (SG&A) expenses) plus a reasonable amount of profit. The company's own SG&A expenses were used. The rate of profit was calculated, in accordance with Article 2(6)(a) of the Basic Regulation, using the actual rate of profit established for the sole cooperating producer located in Poland which had sufficient quantities of domestic sales of the like product in the ordinary course of trade.

(c) *Export price, comparison and dumping margin*

- (14) Following the disclosure of the Commission's definitive findings, one company pointed out a clerical error in the calculation of its dumping margin. The calculation has been rechecked and the error rectified. No other comments were received in this respect from the Polish exporting producers. After revision of the calculations, the dumping margins are as follows:

— BZLP Beزالin:	17,2 %
— CZWC Chemitex:	20,3 %
— PAT Defalin SA:	16,3 %
— Industrial Chemistry Research Institute:	28,4 %
— Terplast sp z.o.o.:	23,0 %.

- (15) In the case of WKI, all sales of the product concerned on the Community market were made to related customers in the Community. Export prices were therefore constructed in accordance with Article 2(9) of the Basic Regulation, on the basis of the price at which the imported products were first resold to an independent buyer within the Community. For this company, the weighted average normal value per type of the product concerned was compared with the weighted average export price, in accordance with Article 2(11) of the Basic Regulation. The weighted average dumping margin determined, expressed as a percentage of the cif import price at the Community frontier duty unpaid, is as follows:

— WKI Isoliertechnik Spolska z.o.o., Wetyn:	46 %.
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- (16) In view of the fact that the import volume represented by cooperating Polish exporting producers, after the inclusion of WKI, has increased from less than 70 % to more than 90 %, the residual dumping margin for Poland has been revised. The revised residual dumping margin, now set at the level of the highest dumping margin found for a cooperating company located in Poland, and expressed as a percentage of the cif import price at the Community border, duty unpaid, is 46 %.

2. Czech Republic

(a) *Normal value*

- (17) One of the two Czech exporting producers claimed that normal value had been constructed for several types of baler twine, for which there had been sales on the domestic market. According to the company, normal value for these types should

therefore have been based on the corresponding domestic sales prices. However, this request could not be accepted since the products sold on the domestic market largely did not correspond to those sold on the export market and, in the very small number of cases where they allegedly did, such sales were not in the ordinary course of trade.

- (18) The same company questioned a small adjustment for technical characteristics made by the Commission in the provisional duty Regulation when constructing the normal value. After careful consideration of the arguments presented, it was concluded that the adjustment could not in the final analysis be justified, and the calculations were corrected accordingly.

- (19) Finally, the same company also claimed that the rate of profit used by the Commission in constructing the normal value was too high and did not correspond to the actual profitability of the baler twine business, which was in reality lower. In this connection it should be pointed out that the profit margin was calculated in accordance with Article 2(6) of the Basic Regulation on the basis of the profits obtained on domestic sales of the like product by the producer concerned. The claim was therefore rejected, and the provisional findings are confirmed in this respect.

(b) *Export price*

- (20) No comments were received in this respect.

(c) *Comparison*

- (21) Both Czech companies asked for a level of trade adjustment, arguing that while domestic sales were to end-users, export sales were to dealers. However, no reliable evidence was produced in support of this assertion. Indeed, in the case of one company it was established that export sales as well as domestic sales had been made to end-users; in the case of the other company, a significant proportion of domestic sales were found to have been made to dealers and the company failed to demonstrate that there were consistent and distinct differences in functions and prices of the seller for different levels of trade in that market. Consequently, these claims could not be accepted.

- (22) One company claimed that export transactions had been compared with domestic transactions of a substantially lower volume, for which a higher selling price would therefore be normal. However, the domestic sales were found to be sufficiently

representative and in the ordinary course of trade and they therefore allowed a fair comparison, which has been made in accordance with Article 2(10) of the Basic Regulation. In any event, the simple fact that the quantity sold on average per transaction on the domestic market was smaller than the average quantity sold per transaction on the export market is not considered sufficient for an adjustment to normal value.

(d) *Dumping margin*

- (23) After revision of the calculations, the dumping margins are as follows:

— Lanex a.s.:	24,8 %
— Juta a.s.:	21,8 %

The residual dumping margin is set at 24,8 %.

3. Hungary

(a) *Normal value*

- (24) One company objected to the method used by the Commission in determining the constructed normal value. It claimed that the SG&A expenses relating to the company's wholly owned subsidiary should not have been included in the constructed normal value due to the fact that the subsidiary was concerned with a different selling activity. However, the verification established that the vast majority of sales of baler twine on the domestic market had been made via this subsidiary. As the SG&A expenses had evidently been incurred in the sale of baler twine on the domestic market, they should consequently have been accounted for in the cost calculation of the subsidiary. These expenses have therefore to be taken into account in establishing the SG&A expenses of the parent company. Therefore, the provisional findings in this respect are confirmed.

- (25) Another company claimed that the cost of production it had submitted for one specific type of baler twine for one month was higher than in other months and should therefore be disregarded. The company, however failed to provide any satisfactory explanation as to why this anomaly had occurred and the claim was therefore rejected.

(b) *Export price, comparison and dumping margin*

- (26) No comments were received with regard to the determination of export price, the comparison and the dumping margin as set out in the provisional duty Regulation. The provisional findings on the

dumping margins are therefore confirmed at the following rates:

— Elso Magyar Kenderfono Rt:	33,3 %
— Partium '70 Rt:	12,1 %
— Tiszai Vegyi Kombinat Rt:	26,4 %

The residual dumping margin remains at 33,3 %.

4. Saudi Arabia

- (27) In view of the findings on the injury threshold (see recital 71 hereto) no definitive determination of dumping has been made in respect of the sole cooperating exporting producer.

E. COMMUNITY INDUSTRY

- (28) In the absence of any new information, the provisional findings as stated in recital 35 of the provisional duty Regulation, are hereby confirmed.

F. INJURY

1. General

- (29) In view of the findings on the injury threshold (see recital 71 hereto) the Saudi Arabian imports have been excluded from the injury analysis.

2. Community consumption

- (30) In determining total apparent consumption on the Community market, the total sales of the Community industry plus the sales by the remaining non-cooperating Community producers on the Community market, were added to the imports into the same market.

The volume of imports was, for the purposes of the definitive findings, determined on the basis of adjusted Eurostat figures as stated in recital 36 of the provisional duty Regulation. The Commission continued to investigate after the imposition of the provisional duty and obtained and verified new data. This resulted in a change in the apparent consumption for the period considered (i.e. the period between 1994 and the investigation period) due to adjusted import figures concerning mainly Poland. On this basis, Community consumption increased from 40 231 tonnes in 1994 to 51 788 tonnes in 1996 and remained relatively stable thereafter, reaching 51 288 tonnes in the investigation period, which represents an overall increase of 27 % over the period considered.

3. Allegation of anti-competitive behaviour

- (31) In their comments following the disclosure, the Polish exporting producers continued to argue that the calculation of price-undercutting margins as well as the findings on other injury factors, causation and Community interest were vitiated on account of two investigations, allegedly initiated by the Commission against anti-competitive practices by the Community producers of polypropylene granulates and the Community producers of baler twine.
- (32) The Polish exporting producers were unable to substantiate their allegation that a concerted practice existed for the raw material and for baler twine. Although investigation into olefins and polyolefins, such as polypropylene, was started in 1995 (Case No IV/E-2/35.765) the findings were negative and the case was closed. As for baler twine, the Commission established that no official complaint had been lodged and that none was pending.
- (33) Some interested parties argued that discussions had taken place between the Community producers and the Polish exporting producers which is, *per se*, anti-competitive behaviour. It should, however, be noted that those consultations were held in the framework of the textile agreement as provided for by that agreement.
- (34) In the light of the above it was concluded that the abovementioned allegations were groundless.

4. Volume and market share of the dumped imports

(a) Cumulation

- (35) Since for the remaining three countries, i.e. the Czech Republic, Hungary and Poland, no new information was received, the conclusions reached in recital 37 of the provisional duty Regulation are confirmed.

(b) Volume, value and market share of imports from the exporting countries concerned

- (36) The volume of imports from the three remaining countries concerned increased from 5 264 tonnes in 1994 to 14 147 tonnes during the investigation period, representing an increase of 169 %.
- (37) In terms of market share based on total Community consumption, the market penetration of the dumped imports from the three countries concerned rose from 13 % in 1994 to 27,6 %

during the investigation period in volume terms — an increase of 111 %.

(c) Prices of the dumped imports

- (38) The results of the comparison showed that price-undercutting margins (calculated on a weighted-average to weighted-average basis), expressed as a percentage of the Community industry's average selling prices, ranged as follows: for Poland from 4,7 to 16,3 % with an overall weighted average of 11,9 %; for the Czech Republic from 16,1 % to 19,2 % with an overall weighted average of 16,1 % and for Hungary from 16,9 % to 21,4 % with an overall weighted average of 18,2 %.
- (39) A Hungarian exporting producer claimed that the Commission in its calculation of undercutting should take into consideration the price at which this company purchased polypropylene granulates in Hungary. This argument has to be rejected as in a price-undercutting analysis actual import prices to the Community from the countries concerned are compared with actual prices of the Community industry.

5. Situation of the Community industry

- (40) As mentioned in recital 3 hereto, following the publication of the provisional duty Regulation the Commission continued to seek and verify all information deemed necessary for their definitive findings and carried out investigations at the premises of Community producers of the product concerned. This led to the findings on injury indicators for the Community industry, which varied insignificantly from those, stated in the provisional duty Regulation. For the sake of completeness the injury indicators are set out below.

(a) Production, capacity and capacity utilisation

- (41) Production of the Community industry increased during the period considered, rising from 28 877 tonnes in 1994 to 33 557 tonnes in the investigation period. This represents an overall increase of 16 %. Production increased at a lower rate than Community consumption, which increased by 27 % during the period considered.
- (42) On the basis of the methodology described in recital 43 of the provisional duty Regulation, capacity increased from 42 232 tonnes in 1994 to

46 484 tonnes during the investigation period, which represents an increase of 10 %. This increase was in line with expectations of market growth. The rate of capacity utilisation increased slightly during the period considered, rising from 68,4 % in 1994 to 72,2 % in the investigation period.

(b) *Sales volume*

- (43) The volume of sales of the Community industry on the Community market increased during the period considered, from 24 840 tonnes in 1994 to 26 796 tonnes in the investigation period. This represents an overall increase of 8 %.

(c) *Market share*

- (44) The Community industry's market share decreased from 61,7 % in 1994 to 58,3 % in 1995, 57,7 % in 1996 and 52,2 % during the investigation period. The overall loss of market share was 9,5 percentage points between 1994 and the investigation period.

(d) *Stocks*

- (45) Stocks significantly increased between 1994 and the investigation period by 42 %.

(e) *Average sales price and price evolution*

- (46) The weighted average prices of the product concerned sold by the Community industry on the Community market fluctuated over the period considered, increasing by 11 % overall.

(f) *Profitability*

- (47) The profitability of the Community industry, expressed as a percentage of net sales, decreased from a weighted average profit of 3,5 % in 1994 to 1,3 % in the investigation period. It should be noted, however, that the financial situation deteriorated particularly from 1995 onwards, falling from a profit of 13,4 % to a profit of 1,3 % in the investigation period.

(g) *Investment*

- (48) Yearly investments made by the Community industry increased overall, rising from ECU 1,17 million in 1994 to ECU 1,29 million in the investigation period, with a peak in 1996 of ECU 3,26 million. This represents an overall increase of 11 % over the period considered.

(h) *Employment*

- (49) Employment rose from 590 in 1994 to 722 in 1995. Since 1995 employment in the Community industry decreased to 669, i.e. by 7,3 %.

(i) *Comments on injury*

- (50) Interested parties argued that the situation of the Community industry can be considered as stable or good. The decline in market share and profitability observed during the period considered could not be an indicator of injury because it was compensated for by an improvement in other injury indicators.

In this respect, it should be recalled that, in accordance with Article 3(5) of the Basic Regulation, no single injury factor can necessarily give decisive guidance as to the situation of the Community industry. In the present case, it is accepted that the following of the injury indicators as Community production, capacity utilisation, sales, sales price, investment, employment were not in a negative trend during the period under investigation.

It should be noted that the above situation has to be seen in the light of a long expansion of Community consumption. Indeed, during the period under investigation production increased at a lower rate than Community consumption. Moreover, in spite of the increase in productivity over the same period, the Community industry suffered a significant loss in market share at a time when Community consumption had increased by 27 %. Furthermore, the Community industry showed a significant deterioration in its financial results from 1995 onwards, profits falling from 13,4 % to 1,3 % of net sales in the investigation period, and suffered significant price pressure from the dumped imports throughout the period considered, with price undercutting of up to 21,4 % during the investigation period.

- (51) The exporting producers argued that employment increased during the period under investigation. However, it should also be noted that after an increase in 1996, employment levels were again on the decline in the investigation period. As regards investment, it should be noted that one Community producer suffered from a factory fire and had to replace its production machinery in 1996. This is one of the reasons for the increased investment noted during the period under investigation.

6. Conclusion on injury

- (52) In the absence of any other arguments concerning the situation of the Community industry and in the light of the above, the conclusion that the Community industry has suffered material injury within the meaning of Article 3(1) of the Basic Regulation, as stated in recitals 36 to 51 of the provisional duty Regulation, is hereby confirmed.

- (55) One exporting producer claimed that its volume of exports to the Community had been so small in comparison with Community consumption of the product concerned during the investigation period that it could hardly have caused any injury to the Community industry. This argument has to be dismissed because the export volume of an individual company is not relevant in determining the extent of the injury caused to the Community industry, injury being assessed for countries as a whole, and not in relation to single companies.

G. CAUSATION OF INJURY

1. Effects of the dumped imports

- (53) In view of conclusions on cumulation as set out in recital 35 hereto, the findings on the volume and market share of the dumped imports from the countries concerned were changed accordingly. It was found that the volume of dumped imports from Poland, the Czech Republic and Hungary increased substantially between 1994 and the investigation period (169 %). It should be noted that, between 1994 and 1995, the volume of the dumped imports into the Community increased by 62 % and a further significant increase occurred between 1996 and the investigation period. This had the effect that the cumulated total market share of imports from the three exporting countries concerned increased from 13,1 % in 1994 to 27,6 % in the investigation period, i.e. by 14,5 percentage points. In contrast, the Community industry's market share decreased by 9,5 percentage points between 1994 and the investigation period. Moreover, it should be noted that the Community industry lost 5,4 percentage points in market share between 1996 and 1997 alone, which is the period during which the increase in imports from the exporting countries concerned became particularly relevant.
- (54) Moreover, it was found that the prices of the dumped imports undercut the Community industry's prices significantly throughout the whole period considered, including the period from 1995 onwards, thus exerting downward pressure on the sales prices of the Community industry.

The decline in profitability experienced by the Community industry between 1995 and the investigation period was therefore clearly linked to the depressed sales prices over that period, which in turn occurred at a time of significant price undercutting by the dumped imports.

2. Effects of other factors

(a) General

- (56) The cooperating exporting producers argued that any material injury suffered by the Community industry could not be attributable to imports originating in the three countries concerned.

They argued that the Community industry's profitability between 1995 and the investigation period had fallen due to the inflated prices of raw material paid by the Community industry. Furthermore, they claimed that any decline in profitability in this period was also due to increased overheads, in particular depreciation charges and interest expenses, as a result of the substantial investment made by the Community industry.

The Commission, in recital 58 of the provisional duty Regulation, has already addressed the argument concerning the price of raw material, establishing that the Community industry could not raise its prices sufficiently due to the significant price undercutting found for imports from the exporting countries concerned.

- (57) Furthermore, as regards the impact of the investments made by the Community industry on profitability, it was found that these had a marginal impact on the Community industry's costs of production during the period considered, mainly because any costs related to these new investments were compensated for by gains in productivity and by an overall reduction in other general and administrative expenses.

(b) Other imports

- (58) No new comments were received relating to the effect of imports from other countries. Therefore, the findings and conclusions on the effect of

imports from countries other than Poland, the Czech Republic and Hungary on the injurious situation of the Community industry, as stated in recital 54 of the provisional duty Regulation, are hereby confirmed.

(c) *Europe Agreements*

- (59) The Hungarian exporting producers argued that in its preliminary findings the Commission had not distinguished between the growth of imports caused by dumping and the growth of imports foreseeable due to the implementation of the Europe Agreement resulting in improved access to the Community market.

The Europe Agreement, although clearly aimed at establishing preferential trade relationships with Hungary, by phasing out the duty on imports of baler twine from 9 % to 0 %, does not prevent the Community from taking action if unfair trade practices have been established. Furthermore, the levels of undercutting and dumping found for the three countries concerned by this investigation cannot be explained by the reduction of the duty previously in force. In these circumstances the phasing out of the duty is not considered sufficient to break the causal link between the dumped imports and the material injury suffered by the Community industry.

This argument has therefore to be rejected.

(d) *Effects of the dismantling of the MFA*

- (60) The Polish exporting producers argued that in its preliminary findings the Commission did not take into consideration the fact that the dismantling of the MFA would result in loss of market share and account, to a certain extent, for the price suppression experienced by the Community industry.

It should be noted that during the investigated period imports from Poland were under a quota system in accordance with the textile agreement between the Community and Poland. The relevant quotas for 1995, 1996 and 1997 were 5 281, 5 545 and 5 823 tonnes respectively. Polish exporting producers did not fully use the quota allocated to them in 1995 and 1996. Only during the investigation period did the exporting producers from Poland fully use their quota. The increasing trend of the imports originating in Poland coincided with the presence of dumping.

In this respect it was concluded that the increase in exports to the Community as such did not cause injury to the Community industry, but the fact that

those exports were made, as established in the investigation, at dumped injurious prices. Furthermore, the dismantling of the quota system, provided for by the MFA, happened in 1998 which is after the period under investigation.

Thus, the dismantling of the MFA in this case appears to be irrelevant.

(e) *Effects of bad weather conditions*

- (61) Some exporting producers argued that the injury suffered by the Community industry was not due to the dumped imports from the countries concerned, but to the increased costs resulting from allegedly reduced consumption, due to the adverse weather conditions.

It was found that consumption in the Community market increased during the period under investigation, when dumped imports from the countries concerned increased by 169 % despite the weather conditions. It is clear that the Community industry mainly lost market share due to the increased presence of dumped imports, rather than the adverse weather conditions.

(f) *Overcapacity of the Community industry*

- (62) Some interested parties argued that the injury suffered by the Community industry was not due to the dumped imports, but to overcapacity.

It was established during the investigation that Community production was not sufficient to supply the Community baler twine market. Thus, the argument concerning the alleged overcapacity has to be rejected.

(g) *Structural changes in the baler twine market*

- (63) Furthermore, the same interested parties argued that the Community industry failed to recognise the gradual market trends from fine baler twine to nets and from medium to heavy baler twine. Moreover, they argued that the shift from medium baler twine to heavy baler twine had had a direct impact on the total tonnage sold, as less heavy baler twine than medium baler twine is needed to produce the same weight of bales.

It is indeed true that during the period under investigation these shifts occurred in the Community baler twine market. Nevertheless, it was found that the Community industry, especially with the investment on replacing old machinery,

kept up with these changes by increasing its presence in the heavy baler twine market. Moreover, it should be noted that consumption increased during the investigated period, thus the argument concerning the impact on the tonnage from the shift from medium baler twine to heavy baler twine has to be rejected.

3. Conclusion on causation

- (64) In the light of the above, although it cannot be excluded that some other factors may have had a negative impact on the situation of the Community industry, this impact was not such as to break the causal link between the injury suffered by the Community industry and the dumped imports originating in the countries concerned. Therefore and in the absence of any new information, the conclusion that the combined effect of the imports of baler twine originating in Poland, the Czech Republic and Hungary, taken in isolation, have caused material injury to the Community industry is confirmed.

This conclusion is drawn in particular given the loss in market share of the Community industry, combined with a deterioration in profitability, which coincided with an increase in the volume and market share of the dumped imports, at prices which constantly undercut those of the Community industry.

H. COMMUNITY INTEREST

- (65) It was claimed that the conclusion on the Community interest in the provisional duty Regulation was not supported by factual evidence. In particular, it was argued that the Commission had not taken into consideration the impact of anti-dumping measures on the importers, in order to support its conclusions concerning the Community interest.

It should be noted that the Commission contacted all known importers. Only limited and general replies were received. Moreover, no additional substantiated comments were submitted from the abovementioned parties after the adoption of provisional measures.

- (66) In the absence of a reaction from users, it has been assumed that the impact of any expected price increase would be limited, taking into account the level of the duty proposed. It is also thought that the imposition of measures will lead to a reinstatement of effective competition that will enable the Community industry to regain the lost market share and improve its profitability.
- (67) It was therefore concluded that the findings set out in recitals 66 to 67 of the provisional duty Regulation could be confirmed.

I. DEFINITIVE MEASURES

1. Definitive measures

(a) *Injury elimination level*

- (68) A Hungarian exporting producer argued that its export prices had to be adjusted for the purposes of the injury elimination level assessment, to take account of the difference in raw material prices between the Hungarian and the Community industry.

However, as stated in recital 70 of the provisional duty Regulation, the injury elimination level was determined on the basis of the costs of production of the Community industry plus a reasonable amount of profit. Any considerations of differences in costs of production between the Hungarian and the Community industry are therefore irrelevant in this respect.

- (69) For the purpose of establishing the level of the measures definitively to be imposed, it was considered that the prices of the dumped imports should be increased to a non-injurious level. The necessary price increase or injury margin was determined on the basis of a comparison of the weighted-average export prices for those types of baler twine used in the determination of price undercutting at a cif Community frontier level, with the actual weighted-average cost of production of the Community industry plus a profit margin of 5 %. This profit margin was considered to be the profitability likely to be achieved in the absence of injurious dumping and takes account of the fact that the product concerned is considered by the interested parties as a commodity.

- (70) An injury margin was established for each of the cooperating exporting producers concerned and expressed as a percentage of the cif value of their exports to the Community.

- (71) Following the disclosure of the provisional findings, comments were submitted with regard to the method used in the determination of the injury margin for the Saudi Arabian exporting producer.

It was argued that the Commission should include in its calculations one specific type of baler twine, which represented the majority of Saudi Arabian sales to the UK market. The Commission considered this argument and found that the inclusion of these sales by the Saudi Arabian exporting producer to the UK market would make the calculations more representative. The Commission revised its calculations accordingly, using the same methodology as explained in recital 70 of the provisional duty Regulation.

On the basis of this methodology the revised injury margin for the sole Saudi exporting producer (Synthec) was found to be at a '*de minimus*' level and for two Polish exporting producers PAT Defalin s.a. and Terplast sp z.o.o. 27 % and 6,1 % accordingly. The injury elimination level for WKI Isoliertechnik Spolska z.o.o., Welytn is 15,7 %. The injury margins concerning the other exporting producers remain unchanged.

(72) In view of the findings set out above, it is proposed that definitive anti-dumping duties be imposed on imports of binder or baler twine originating in the Czech Republic, Hungary, and Poland. As to imports from Saudi Arabia, it is proposed, in application by analogy of Article 9(3) of the Basic Regulation, to terminate the proceeding without measures.

(73) In accordance with Article 9(4) of the Basic Regulation, for all exporting producers the proposed duty is based on the lower of the injury or the dumping margin. The same applies for the residual duties. It should be noted that for the definitive findings Polish cooperating producers now account for more than 90 % of total Polish exports. Therefore, a residual duty was calculated using the highest duty found for an individual cooperating exporting producer located in Poland.

(b) *Form and level of the definitive measures*

(74) Based on the above conclusions on dumping, injury, causation and Community interest, it was considered what the form and level of anti-dumping measures should be to remove the trade-distorting effects of injurious dumping and to restore effective competitive conditions on the Community market.

(75) Definitive measures should take the form of *ad-valorem* duties, the rates of which have been fixed individually for cooperating companies. However, for those companies which have offered price undertakings, this form of measure is acceptable. These undertakings reflect the definitive findings of the investigation with respect to the minimum prices provided therein and have been accepted by Commission Decision 1999/215/EC⁽¹⁾.

(c) *Undertakings*

(76) It will be recalled from recital 72 *et seq.* of the provisional duty Regulation that undertakings had been offered by the cooperating exporting producers in Hungary, and accepted by the Commission.

(77) After the adoption of the provisional anti-dumping measures, one cooperating Czech exporting producer (Juta a.s.) offered a price undertaking to the Commission, in accordance with Article 8(1) of the Basic Regulation. The Commission considered that the undertaking offered by the exporting producer concerned was acceptable, and, after consulting the Advisory Committee, an amendment to the provisional duty Regulation was accordingly made by Commission Regulation (EC) No 2649/98⁽²⁾. Following the Commission's disclosure of its definitive findings, the other co-operating Czech company and a Polish company also offered undertakings which were judged acceptable. The Commission's acceptance of the undertakings is now consolidated in Decision 1999/215/EC.

2. Collection of the provisional duties

(78) Five other Polish producers also offered an undertaking which, in contrast to those accepted from other producers in the present proceedings, would have given the companies concerned a free choice in deciding whether to export under the undertaking or not. The Commission rejected these offers on the grounds that the companies would have had the option of exporting higher-priced products under the undertaking, while lower-priced products bore the duty. It should be noted that the minimum price which has to be respected for each product group on a quarterly weighted average basis is intended to ensure that all sales are made at a non-injurious price. Allowing some sales to be made outside the undertaking would have prevented this aim from being achieved.

(79) In the light of the seriousness of the injury suffered by the Community industry, it is considered necessary that the amounts secured by way of the provisional anti-dumping duties imposed by Regulation (EC) No 2107/98 should be definitively collected at the rate of the definitive duties imposed.

J. TERMINATION OF THE PROCEEDING IN RESPECT OF SAUDI ARABIA

(80) In view of the conclusions of the definitive investigation, the proceeding concerning imports originating in Saudi Arabia is terminated by Commission Decision 1999/215/EC without the imposition of measures. The amounts secured by way of a provisional anti-dumping duty should therefore be released.

⁽¹⁾ See page 34 of this Official Journal.

⁽²⁾ OJ L 335, 10. 12. 1998, p. 41.

HAS ADOPTED THIS REGULATION:

Article 1

1. As definitive anti-dumping duty is hereby imposed on imports of polypropylene binder or baler twine, currently classifiable within CN code ex 5607 41 00 (TARIC code 5607 41 00*10), originating in Poland, the Czech Republic and Hungary.

2. The rate of the definitive anti-dumping duty applicable to the net free-at-Community-frontier prices before duty of the products manufactured by the companies listed below shall be as follows:

Country	Company	Rate of duty (%)	TARIC additional code
Poland	BZLP Bezałin	17,2	8450
	PAT Defalin s.a.	16,3	8569
	Industrial Chemistry Research Institute	12,8	8578
	Terplast sp z.o.o.	6,1	8579
	All other companies	20,3	8900
Czech Republic	All companies	24,8	8900
Hungary	All companies	32,9	8900

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

Article 2

1. Notwithstanding Article 1, the definitive duty shall not apply to imports of polypropylene binder or baler twine produced and directly exported and invoiced to an importing company in the Community by the companies listed in paragraph 2, which have offered price undertakings accepted by the Commission.

2. Imports made within the context of the undertakings offered and accepted shall be declared under the following TARIC additional codes:

Country	Company	TARIC additional code
Poland	WKI Isoliertechnik Spolka z.o.o.	8620
Czech Republic	Juta a.s.	8596
	Lanex a.s.	8580
Hungary	Partium '70 Rt	8581
	Tiszai Vegyi Kombinat Rt	8582
	Elso Magyar Kenderfono Rt	8583

Article 3

1. The amounts provisionally secured by Regulation (EC) No 2107/98 with respect to imports originating in the countries mentioned in Article 1 shall be collected at the duty rate definitively imposed.

2. The amounts provisionally secured by Regulation (EC) No 2107/98 with respect to imports originating in Saudi Arabia shall be released.
3. Article 2(2) of Regulation (EC) No 2107/98 shall be repealed.

Article 4

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, 15 March 1999.

For the Council
The President
W. MÜLLER

COMMISSION REGULATION (EC) No 604/1999
of 19 March 1999
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 1498/98 ⁽²⁾, and in particular Article 4 (1) thereof,

Whereas Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto;

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

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 2

This Regulation shall enter into force on 20 March 1999.

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

Done at Brussels, 19 March 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 337, 24. 12. 1994, p. 66.

⁽²⁾ OJ L 198, 15. 7. 1998, p. 4.

ANNEX

to the Commission Regulation of 19 March 1999 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	127,5
	204	40,0
	212	54,0
	624	122,8
	999	86,1
0707 00 05	068	117,2
	999	117,2
0709 10 00	220	169,5
	999	169,5
0709 90 70	052	104,0
	204	156,8
	999	130,4
0805 10 10, 0805 10 30, 0805 10 50	052	31,6
	204	47,2
	212	49,1
	220	39,1
	600	62,6
	624	47,8
0805 30 10	999	46,2
	052	48,1
	600	79,2
0808 10 20, 0808 10 50, 0808 10 90	999	63,6
	039	105,2
	064	56,2
	388	91,2
	400	76,3
	404	80,6
	508	84,5
	512	87,0
	524	83,5
	528	71,0
	720	82,5
	999	81,8
	052	133,1
	388	64,4
0808 20 50	400	75,4
	512	63,0
	528	66,6
	624	73,2
	720	68,1
	999	77,7

⁽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 605/1999
of 19 March 1999**

**fixing the maximum export refund on wholly milled round grain, medium grain
and long grain A rice in connection with the invitation to tender issued in
Regulation (EC) No 2564/98**

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

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Regulation (EC) No 2072/98 ⁽²⁾, and in particular Article 13(3) thereof,

Whereas an invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2564/98 ⁽³⁾;

Whereas Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 299/95 ⁽⁵⁾, allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund; whereas in fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account; whereas a contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund;

Whereas the application of the abovementioned criteria to the current market situation for the rice in question results in the maximum export refund being fixed at the amount specified in Article 1;

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

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refund on wholly milled round grain, medium grain and long grain A rice to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 2564/98 is hereby fixed on the basis of the tenders submitted from 15 to 18 March 1999 at EUR 125,00 per tonne.

Article 2

This Regulation shall enter into force on 20 March 1999.

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

Done at Brussels, 19 March 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30. 12. 1995, p. 18.

⁽²⁾ OJ L 265, 30. 9. 1998, p. 4.

⁽³⁾ OJ L 320, 28. 11. 1998, p. 43.

⁽⁴⁾ OJ L 61, 7. 3. 1975, p. 25.

⁽⁵⁾ OJ L 35, 15. 2. 1995, p. 8.

COMMISSION REGULATION (EC) No 606/1999**of 19 March 1999****fixing the maximum export refund on wholly milled medium round grain and long grain A rice in connection with the invitation to tender issued in Regulation (EC) No 2565/98**

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

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice ⁽¹⁾, as last amended by Regulation (EC) No 2072/98 ⁽²⁾, and in particular Article 13(3) thereof,

Whereas an invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2565/98 ⁽³⁾;

Whereas Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 299/95 ⁽⁵⁾, allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund; whereas in fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account; whereas a contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund;

Whereas the application of the abovementioned criteria to the current market situation for the rice in question results in the maximum export refund being fixed at the amount specified in Article 1;

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

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refund on wholly milled medium round grain and long grain A rice to be exported to certain third countries of Europe pursuant to the invitation to tender issued in Regulation (EC) No 2565/98 is hereby fixed on the basis of the tenders submitted from 15 to 18 March 1999 at EUR 155,00 per tonne.

Article 2

This Regulation shall enter into force on 20 March 1999.

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

Done at Brussels, 19 March 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30. 12. 1995, p. 18.

⁽²⁾ OJ L 265, 30. 9. 1998, p. 4.

⁽³⁾ OJ L 320, 28. 11. 1998, p. 46.

⁽⁴⁾ OJ L 61, 7. 3. 1975, p. 25.

⁽⁵⁾ OJ L 35, 15. 2. 1995, p. 8.

COMMISSION REGULATION (EC) No 607/1999
of 19 March 1999

fixing the maximum export refund on wholly milled long grain rice in connection with the invitation to tender issued in Regulation (EC) No 2566/98

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

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organization of the market in rice ⁽¹⁾, as amended by Regulation (EC) No 2072/98 ⁽²⁾, and in particular Article 13 (3) thereof,

Whereas an invitation to tender for the export refund on rice was issued pursuant to Commission Regulation (EC) No 2566/98 ⁽³⁾;

Whereas, Article 5 of Commission Regulation (EEC) No 584/75 ⁽⁴⁾, as last amended by Regulation (EC) No 299/95 ⁽⁵⁾, allows the Commission to fix, in accordance with the procedure laid down in Article 22 of Regulation (EC) No 3072/95 and on the basis of the tenders submitted, a maximum export refund; whereas in fixing this maximum, the criteria provided for in Article 13 of Regulation (EC) No 3072/95 must be taken into account; whereas a contract is awarded to any tenderer whose tender is equal to or less than the maximum export refund;

Whereas the application of the abovementioned criteria to the current market situation for the rice in question results in the maximum export refund being fixed at the amount specified in Article 1;

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

HAS ADOPTED THIS REGULATION:

Article 1

The maximum export refund on wholly milled long grain rice falling within CN code 1006 30 67 to be exported to certain third countries pursuant to the invitation to tender issued in Regulation (EC) No 2566/98 is hereby fixed on the basis of the tenders submitted from 15 to 18 March 1999 at EUR 329,00 per tonne.

Article 2

This Regulation shall enter into force on 20 March 1999.

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

Done at Brussels, 19 March 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 329, 30. 12. 1995, p. 18.

⁽²⁾ OJ L 265, 30. 9. 1998, p. 4.

⁽³⁾ OJ L 320, 28. 11. 1998, p. 49.

⁽⁴⁾ OJ L 61, 7. 3. 1975, p. 25.

⁽⁵⁾ OJ L 35, 15. 2. 1995, p. 8.

**COMMISSION REGULATION (EC) No 608/1999
of 19 March 1999**

**on the issuing of import licences for bananas under the tariff quotas and for
traditional ACP bananas for the second quarter of 1999 and on the submission of
new applications**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organisation of the market in bananas ⁽¹⁾, as last amended by Regulation (EC) No 1637/98 ⁽²⁾, and in particular Article 20 thereof,

Whereas Commission Regulation (EC) No 2362/98 ⁽³⁾ lays down detailed rules for the implementation of Council Regulation (EEC) No 404/93 regarding imports of bananas into the Community;

Whereas Article 17 of Regulation (EC) No 2362/98 lays down that where, in the case of a given quarter and for any one or more of the origins listed in Annex I, the quantities applied for appreciably exceed any indicative quantity fixed under Article 14, or exceed the quantities available, a percentage reduction to be applied to the amounts requested shall be fixed;

Whereas in application of Article 14(1) of Regulation (EC) No 2362/98, indicative quantities for the issuing of import licences have been fixed for the second quarter of 1999 by Commission Regulation (EC) No 382/1999 ⁽⁴⁾;

Whereas, in the case of the quantities applied for that are either less than or do not appreciably exceed the indicative quantities fixed for the given quarter, import licences are issued for the quantities applied for; whereas, however, for certain origins, the quantities applied for appreciably exceed the indicative quantities; whereas, therefore, a percentage reduction must be fixed to apply to each licence application for the origin or origins involved;

Whereas the maximum quantity for which such licence applications may still be submitted should be determined under Article 18 of Regulation (EC) No 2362/98, taking into account the applications accepted at the end of the first application period and the available quantities;

Whereas this Regulation should apply immediately to permit licences to be issued as quickly as possible;

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

HAS ADOPTED THIS REGULATION:

Article 1

Import licences shall be issued, under the tariff quota arrangements and arrangements for traditional ACP bananas, as referred to in Article 18 of Regulation (EEC) No 404/93, for the second quarter of 1999:

- (a) for the quantity indicated in the licence application, multiplied by reduction coefficients of 0,5403, 0,6743 and 0,5934 for applications indicating the origins 'Colombia', 'Costa Rica' and 'Ecuador' respectively;
- (b) for the quantity indicated in the licence application for an origin other than those mentioned in point (a).

Article 2

The quantities for which licence applications may still be lodged in respect of the second quarter of 1999 are laid down in the Annex hereto.

Article 3

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

⁽¹⁾ OJ L 47, 25. 2. 1993, p. 1.

⁽²⁾ OJ L 210, 28. 7. 1998, p. 28.

⁽³⁾ OJ L 293, 31. 10. 1998, p. 32.

⁽⁴⁾ OJ L 46, 20. 2. 1999, p. 33.

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

Done at Brussels, 19 March 1999.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

	(tonnes)
	Quantities available for new applications
Panama	120 626,234
Others	7 934,461
Traditional ACP bananas	254 287,190

COMMISSION REGULATION (EC) No 609/1999

of 19 March 1999

laying down detailed rules for granting aid to hop producers

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1696/71 of 26 July 1971 on the common organisation of the market in hops ⁽¹⁾, as last amended by Regulation (EC) No 1554/97 ⁽²⁾, and in particular Article 13(4) thereof,

Having regard to Council Regulation (EC) No 1098/98 of 25 May 1998 introducing special temporary measures for hops ⁽³⁾, and in particular Article 3 thereof,

Whereas Commission Regulation (EEC) No 1350/72 of 28 June 1972 on rules for granting aid to hop producers ⁽⁴⁾, as last amended by Regulation (EC) No 1136/98 ⁽⁵⁾, has been substantially amended on several occasions; whereas since further amendments are to be made, it should be recast in the interests of clarity;

Whereas Article 3 of Council Regulation (EEC) No 1037/72 of 18 May 1972 laying down general rules for granting and financing aid for hop producers ⁽⁶⁾, as amended by Regulation (EEC) No 1604/91 ⁽⁷⁾, provides for the introduction by the Member States of a system of declarations and registration of areas planted; whereas, with a view to ensuring that the systems in the various Member States are in conformity, the particulars to be shown in producers' declarations must be specified;

Whereas Regulation (EC) No 1098/98 provides for compensation to be granted for the years 1998 to 2002 in respect of areas where temporary resting and/or grubbing-up measures are applied; whereas such areas should therefore be declared in the same way as areas planted;

Whereas areas planted must be declared no later than 31 May of the year of harvest; whereas this poses problems in the United Kingdom because of developments in production methods, whereby plants propagated from cuttings

can be harvested in the same year as planting; whereas planting finishes in June and not in May; whereas the harvesting of hops propagated by this method involves only a small percentage of the total area under hops in the United Kingdom; whereas care should nevertheless be taken to prevent discrimination against producers applying that method and losing the aid as a result; whereas, to that end, provision should be made for a derogation for the United Kingdom, involving fixing the deadline for declaring areas at 30 June of the year of harvest;

Whereas methods for determining areas under hops can vary from region to region; whereas the concept of 'area planted' should therefore be defined at Community level to ensure that the areas on which production aid is payable are calculated in the same way;

Whereas caution must increasingly be exercised in the administration of pesticides and growers should accordingly be able to spray the outer rows of hopfields towards the inside of plantations in order to avoid affecting other crops; whereas allowance should accordingly be made for an extra strip of land along each side of hopfields; whereas hop-growing is easier if the length of the two headlands located at the ends of the hop rows and needed for manoeuvring agricultural machinery are set at eight metres, since the machines used nowadays are longer and require more manoeuvring space;

Whereas the aid should be payable on hop cones only and not on whole young plants grown in nurseries;

Whereas aid payments should also be subject to conditions ensuring that only producers who have properly tended and harvested their hops are eligible;

Whereas an effective system for ensuring that the aid is justified and no duplicate payments are made should be introduced along the lines of the system provided for in Council Regulation (EEC) No 3508/92 of 27 November 1992 establishing an integrated administration and

⁽¹⁾ OJ L 175, 4. 8. 1971, p. 1.

⁽²⁾ OJ L 208, 2. 8. 1997, p. 1.

⁽³⁾ OJ L 157, 30. 5. 1998, p. 7.

⁽⁴⁾ OJ L 148, 30. 6. 1972, p. 11.

⁽⁵⁾ OJ L 157, 30. 5. 1998, p. 104.

⁽⁶⁾ OJ L 118, 20. 5. 1972, p. 19.

⁽⁷⁾ OJ L 149, 14. 6. 1991, p. 13.

control system for certain Community aid schemes ⁽¹⁾, as last amended by Regulation (EC) No 820/97 ⁽²⁾, and Commission Regulation (EEC) No 3887/92 of 23 December 1992 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes ⁽³⁾, as last amended by Regulation (EC) No 1678/98 ⁽⁴⁾; whereas on-the-spot checks should be carried out on a significant sample of applications;

Whereas the Commission must know the names and addresses of the bodies responsible for registering areas and the measures adopted by the Member States for the application of the system of aid for hop producers;

Whereas in certain cases the aid may be granted directly to recognised producer groups and associations thereof; whereas in such cases provision should be made for the Commission to be informed either about the way the aid is managed or how the aid is used to achieve various aims of recognised producer groups;

Whereas, under the new common organisation of the market in hops, 31 December is the most appropriate deadline for the Member States to provide information on the management of the aid by producer groups;

Whereas it is necessary to ensure that the areas declared are correct; whereas provisions should be adopted to prevent and impose effective penalties on irregularities and fraud which are graduated in accordance with the gravity of the irregularity;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. By 31 May — and, in the United Kingdom, 30 June — of the year of harvest, hop producers shall lodge declarations of areas planted and of areas subject to special temporary resting and/or grubbing-up measures as provided for in Regulation (EC) No 1098/98.

2. Declarations shall include at least:

- (a) the name and address of the declarant;
- (b) for each variety or experimental strain:
 - (i) the area planted or covered by special resting and/or grubbing-up measures,

- (ii) the land-register reference of the area or the reference under the integrated administration and control system provided for in Regulation (EC) No 3887/92; where no such references exist for the area concerned, equivalent official identification and, where necessary, further details enabling the variety or experimental strain to be located;

- (c) the name of the recognised producer group where the declarant is a member of such a group for the purposes of hop production.

3. 'Area planted' shall mean:

- (a) without prejudice to the terms of point (b), the parcel bounded by a line joining the outer stays of the poles; where there are hop plants on that line, an additional strip of a width corresponding to the average width of an alleyway within that parcel shall be added to each side of that area; the additional strip must not form part of a public right of way;
- (b) the two headlands at the ends of the hop rows that are needed for manoeuvring agricultural machinery, provided that the length of neither headland exceeds eight metres and they do not form part of a public right of way.

Article 2

1. Aid applications and, in Member States which decide to apply temporary resting measures, applications for compensation in accordance with Article 2 of Regulation (EC) No 1098/98 shall be submitted by the individual producers or, on their behalf, by their producer groups, within a time limit fixed by the Member State which shall be no later than 31 October of the year of harvest. In the event of definitive grubbing-up, applications for compensation shall be submitted not later than 31 October of the first year in which the scheme is applied.

2. The aid shall be granted only on registered areas referred to in Article 1(3)(a) which, for the harvest in question:

- (a) have been planted at a uniform density of at least 1 500 plants per hectare in the case of double stringing/wiring, or 2 000 plants per hectare in the case of single stringing/wiring;
- (b) have been declared in accordance with Article 1;
- (c) have undergone normal tending and harvesting operations; young hop plants grown chiefly as nursery products shall be excluded.

⁽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.

⁽⁴⁾ OJ L 212, 30. 7. 1998, p. 23.

Compensation shall be granted only on registered areas which:

- (a) have been declared in accordance with Article 1 for the harvest in question;
- (b) were in production in 1997 and have been the subject of special resting and/or grubbing-up measures.

Article 3

1. Applications for aid or compensation shall include at least the information referred to in Article 1(2) in respect of the areas covered by the application and, in the case of areas as referred to in Article 2(2), first paragraph, a declaration to the effect that the crops on those areas have been harvested.

2. The Member States may provide that applications for aid or compensation can comprise a duplicate of the declaration in accordance with Article 1, with a declaration added to the effect that the crops on the areas covered by the application have been harvested.

Article 4

Administrative and on-the-spot checks shall be carried out to verify compliance with the conditions for granting the aid and compensation.

The administrative checks shall also entail cross-checking parcels declared as under hops against the database provided for in Article 2 of Regulation (EEC) No 3508/92.

On-the-spot checks shall be carried out after a risk analysis and shall cover a significant sample of declarations and applications amounting to at least 5 % of the declarations of areas and 5 % of applications for aid or compensation.

Article 5

1. Each Member State shall notify the Commission of the names and addresses of the bodies designated in accordance with the second subparagraph of Article 13(1) of Regulation (EEC) No 1696/71 and of the measures it has taken to apply the system of aid and compensation for hop producers.

2. Each year the Member States shall send the Commission all relevant information in respect of recognised producer groups established in their territory, covering the way in which those groups have managed the aid and the compensation paid to them and, where appropriate, details of measures they have taken in accordance with Article 7(1)(e) of Regulation (EEC) No

1696/71. That information shall be forwarded by 31 December of the year following the year of the harvest in question.

Article 6

1. Where the area determined is found to be greater than the area declared, aid or compensation shall be calculated on the basis of the area declared.

2. Where the area declared is found to exceed the area determined, aid and compensation shall be calculated on the basis of the area determined during the inspection. However, except in cases of *force majeure*, the area determined shall be reduced by twice the difference from the area declared where that difference is more than 3 % or two hectares but is not more than 20 % of the area as determined.

Where the difference from the area declared is more than 20 % of the area determined, no area-linked aid or compensation shall be granted.

The reductions shall not be made where growers can prove that in their declaration they have made correct use of information accepted by the competent authority.

3. In the event of an incorrect declaration made as a result of serious negligence, the grower in question shall not qualify under the system of aid and compensation in respect of the harvest in question.

In the event of an incorrect declaration made deliberately, the grower in question shall not qualify under the system of aid and compensation in respect of the harvest in question and the following harvest.

Article 7

The following provisions of Regulation (EEC) No 3887/92 shall apply *mutatis mutandis*:

- (a) the second subparagraph of Article 6(3), where significant irregularities are discovered in a region or a part of a region;
- (b) the first subparagraph of Article 8(1), where declarations of areas and/or applications for aid or compensation are submitted late;
- (c) Article 11 as regards cases of *force majeure*;
- (d) Article 12 as regards inspection visit reports;
- (e) Article 13 as regards cases where on-the-spot checks cannot be made;
- (f) Article 14 as regards wrong payments.

Article 8

Regulation (EEC) No 1350/72 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation.

Article 9

This Regulation shall enter into force on the third day following that 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, 19 March 1999.

For the Commission

Franz FISCHLER

Member of the Commission

COMMISSION REGULATION (EC) No 610/1999**of 19 March 1999****amending Regulation (EC) No 658/96 on certain conditions for granting compensatory payments under the support system for producers of certain arable crops**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1765/92 of 30 June 1992 establishing a support system for producers of certain arable crops ⁽¹⁾, as last amended by Regulation (EC) No 1624/98 ⁽²⁾, and in particular Article 11(1) thereof,

Whereas Commission Regulation (EC) No 658/96 ⁽³⁾, as last amended by Regulation (EC) No 2308/98 ⁽⁴⁾, restricts the producers of rapeseed eligible for the compensatory payments to those producers sowing seed of specified qualities and varieties;

Whereas additional varieties of rapeseed which meet the eligibility criteria are now also available to producers; whereas these varieties should also be added to the list;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Joint Management Committee for Cereals, Oils and Fats and Dried Fodder,

Article 1

The following varieties shall be added to the list in Annex II of Regulation (EC) No 658/96:

‘Alamo, Alexandra, Arawak, Banjo, Boomerang, Boris, Caddy, Cando, Caprice, Carolus, Caruso, Caviar, Colay, Comodor, Concorde, Consort, Constant, Contiki, Corrus, Credit, CSH 23, Cymbal, Decathlon, Deister (PHP 13096), Dexter (PHP 17096), Dorado (PHP-SH 96013), Eire, Elpaso, Escort, Estrade, Fakir, Filius, Flamingo, Fleche, Geronimo, Gringo, Harmoni, Hektor, Hilda, Homer, Hyola 330, Jesper, Karibe, Kastan, Korea, Krimea, Lenzo (PHP 96096), Libelle, Libranca, Liceo, Licontra, Magnet, Manix, Merlin, Nepal, Niagara, Oberon, Okapi, Olbel, Olympia, Pako, Pollen, Rembrandt, Senator, Smart, Susanna, Triangle, Valle de Oro, Volcano VA 75’.

Article 2

This Regulation shall enter into force on the seventh 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, 19 March 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 12.

⁽²⁾ OJ L 210, 28. 7. 1998, p. 3.

⁽³⁾ OJ L 91, 12. 4. 1996, p. 46.

⁽⁴⁾ OJ L 288, 27. 10. 1998, p. 10.

COMMISSION REGULATION (EC) No 611/1999
of 19 March 1999
amending the import duties in the cereals sector

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

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals⁽¹⁾, as last amended by Commission Regulation (EC) No 923/96⁽²⁾,

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector⁽³⁾, as last amended by Regulation (EC) No 2519/98⁽⁴⁾, and in particular Article 2 (1) thereof,

Whereas the import duties in the cereals sector are fixed by Commission Regulation (EC) No 563/1999⁽⁵⁾, as last amended by Regulation (EC) No 594/1999⁽⁶⁾;

Whereas Article 2, (1) of Regulation (EC) No 1249/96 provides that if during the period of application, the average import duty calculated differs by ECU 5 per tonne from the duty fixed, a corresponding adjustment is to be made; whereas such a difference has arisen; whereas it is therefore necessary to adjust the import duties fixed in Regulation (EC) No 563/1999,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I and II to Regulation (EC) No 563/1999 are hereby replaced by Annexes I and II to this Regulation.

Article 2

This Regulation shall enter into force on 20 March 1999.

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

Done at Brussels, 19 March 1999.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 181, 1. 7. 1992, p. 21.

⁽²⁾ OJ L 126, 24. 5. 1996, p. 37.

⁽³⁾ OJ L 161, 29. 6. 1996, p. 125.

⁽⁴⁾ OJ L 315, 25. 11. 1998, p. 7.

⁽⁵⁾ OJ L 69, 16. 3. 1999, p. 19.

⁽⁶⁾ OJ L 74, 19. 3. 1999, p. 16.

ANNEX I

Import duties for the products covered by Article 10(2) of Regulation (EEC) No 1766/92

CN code	Description	Import duty by land inland waterway or sea from Mediterranean, the Black Sea or Baltic Sea ports (EUR/tonne)	Import duty by air or by sea from other ports ⁽²⁾ (EUR/tonne)
1001 10 00	Durum wheat high quality	57,26	47,26
	medium quality ⁽¹⁾	67,26	57,26
1001 90 91	Common wheat seed	50,13	40,13
1001 90 99	Common high quality wheat other than for sowing ⁽³⁾	50,13	40,13
	medium quality	83,80	73,80
	low quality	97,79	87,79
1002 00 00	Rye	101,58	91,58
1003 00 10	Barley, seed	101,58	91,58
1003 00 90	Barley, other ⁽²⁾	101,58	91,58
1005 10 90	Maize seed other than hybrid	100,78	90,78
1005 90 00	Maize other than seed ⁽³⁾	100,78	90,78
1007 00 90	Grain sorghum other than hybrids for sowing	101,58	91,58

⁽¹⁾ In the case of durum wheat not meeting the minimum quality requirements for durum wheat of medium quality, referred to in Annex I to Regulation (EC) No 1249/96, the duty applicable is that fixed for low-quality common wheat.

⁽²⁾ For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal (Article 2(4) of Regulation (EC) No 1249/96), the importer may benefit from a reduction in the duty of:

— EUR 3 per tonne, where the port of unloading is on the Mediterranean Sea, or

— EUR 2 per tonne, where the port of unloading is in Ireland, the United Kingdom, Denmark, Sweden, Finland or the Atlantic Coasts of the Iberian Peninsula.

⁽³⁾ The importer may benefit from a flat-rate reduction of EUR 14 or 8 per tonne, where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

ANNEX II

Factors for calculating duties

(period from 15 March 1999 to 18 March 1999)

1. Averages over the two-week period preceding the day of fixing:

Exchange quotations	Minneapolis	Kansas-City	Chicago	Chicago	Minneapolis	Minneapolis	Minneapolis
Product (% proteins at 12 % humidity)	HRS2. 14 %	HRW2. 11,5 %	SRW2	YC3	HAD2	Medium quality (*)	US barley 2
Quotation (EUR/t)	112,57	97,10	92,54	77,01	133,59 (**)	123,59 (**)	89,24 (**)
Gulf premium (EUR/t)	28,09	9,89	0,50	13,00	—	—	—
Great Lakes premium (EUR/t)	—	—	—	—	—	—	—

(*) A discount of EUR 10/t (Article 4(1) of Regulation (EC) No 1249/96).

(**) Fob Gulf.

2. Freight/cost: Gulf of Mexico — Rotterdam: EUR 11,64/t; Great Lakes — Rotterdam: EUR 22,70/t.

3. Subsidy within the meaning of the third paragraph of Article 4(2) of Regulation (EC) No 1249/96: EUR 0,00/t (HRW2)
EUR 0,00/t (SRW2).

COMMISSION REGULATION (EC) No 612/1999
of 19 March 1999
on issuing A2 export licences for 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 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 3(4) thereof,

Whereas Commission Regulation (EC) No 458/1999 ⁽³⁾, as amended by Regulation (EC) No 499/1999 ⁽⁴⁾, sets the indicative refund rates and the indicative quantities for A2 export licences, other than those applied for in the context of food aid;

Whereas, for tomatoes, oranges, lemons and apples for destination group XY in view of the economic situation in the various destination groups indicated in the Annex to Regulation (EC) No 458/1999 and taking account of information received by operators via their applications for A2 licences, the definitive refund rates should be set at a different rate from the indicative rates; whereas the percentages for the issuing of licences for the quantities applied for should also be set; whereas the definitive rates may not be more than double the indicative rates;

Whereas, pursuant to Article 3(5) of Regulation (EC) No 2190/96, applications for rates in excess of the corresponding definitive rates shall be considered null and void,

HAS ADOPTED THIS REGULATION:

Article 1

1. For A2 export licences for which applications have been submitted pursuant to Article 1 of Regulation (EC) No 458/1999, the actual date of application referred to in the second subparagraph of Article 3(1) of Regulation (EC) No 2190/96 is hereby set at 22 March 1999.

2. The licences referred to in the first paragraph shall be issued at the definitive refund rates and at the percentages for the quantities applied for as indicated in the Annex to this Regulation.

3. Pursuant to Article 3(5) of Regulation (EC) No 2190/96, applications referred to in the first paragraph for rates in excess of the corresponding definitive rates set out in the Annex shall be considered null and void.

Article 2

This Regulation shall enter into force on 22 March 1999.

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

Done at Brussels, 19 March 1999.

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 55, 3. 3. 1999, p. 8.

⁽⁴⁾ OJ L 59, 6. 3. 1999, p. 22.

ANNEX

Product	Destination or group of destinations ⁽¹⁾	Definitive refund rates (EUR/t net)	Percentages for the issuing of licences
Tomatoes	F	40	100 %
Oranges	XYC	80	100 %
Lemons	F	50	100 %
Apples	X	40	100 %
	Y	40	100 %

⁽¹⁾ The destination codes are defined as follows:

X: Norway, Iceland, Greenland, Faeroe Islands, Poland, Hungary, Romania, Bulgaria, Albania, Estonia, Latvia, Lithuania, Bosnia-Herzegovina, Croatia, Slovenia, Former Yugoslav Republic of Macedonia, Federal Republic of Yugoslavia (Serbia and Montenegro), Malta.

Y: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan, Ukraine, destinations mentioned in Article 34 of Commission Regulation (EEC) No 3665/87, as amended.

C: Switzerland, Czech Republic, Slovakia and Japan.

F: All destinations.

II

(Acts whose publication is not obligatory)

COUNCIL

**DECISION OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE
MEMBER STATES OF THE EUROPEAN COMMUNITIES, MEETING WITHIN
THE COUNCIL**

of 11 March 1999

amending the internal agreement on the measures to be taken and the procedures to be followed in applying the fourth ACP-EC Convention

(1999/213/EC)

THE REPRESENTATIVES OF THE GOVERNMENTS OF THE
MEMBER STATES OF THE EUROPEAN COMMUNITIES,
MEETING WITHIN THE COUNCIL,

Having regard to the Treaty establishing the European Community, hereinafter referred to as 'the Treaty' and to the fourth ACP-EC Convention signed in Lomé on 15 December 1989 and amended by the Agreement signed in Mauritius on 4 November 1995, hereinafter referred to as 'the Convention',

Having regard to the internal agreement⁽¹⁾ on the measures to be taken and the procedures to be followed in applying the fourth ACP-EC Convention, and in particular Article 7 thereof,

Whereas under Article 5 of the Convention, respect for human rights, democratic principles and the rule of law constitutes an essential element of the Convention;

Whereas pursuant to Article 366a of the Convention the party which considers that another party has failed to fulfil an obligation in respect of one of the essential elements referred to in Article 5 may invite the other party concerned to hold consultations and, in certain circumstances, take appropriate steps, including, where necessary, but only as a last resort, the partial or full suspension of the application of the Convention to the party concerned;

Whereas an effective procedure should be adopted where it is intended to take appropriate steps;

Whereas within the meaning of Article 366a of the Convention the term 'Party' shall mean the Community and the Member States of the European Union, of the one part, and each ACP State, of the other part;

Whereas it is therefore necessary, in fields covered by the Convention and falling within the competence of the Member States, that Member States authorise the Council to adopt appropriate decisions pursuant to Article 366a of the Convention;

After consulting the Commission,

HAVE DECIDED AS FOLLOWS:

Article 1

The following Article shall be added after Article 2 of the internal agreement:

'Article 2a

The position of the Member States regarding implementation of Article 366a of the Convention, where the latter covers fields falling within their competence, shall be adopted by the Council acting pursuant to the Decision of 11 March 1999 on the procedure for implementing Article 366a of the fourth ACP-EC Convention. If the steps envisaged concern fields for which Member States are competent, the Council can also act at the initiative of a Member State.'

⁽¹⁾ OJ L 229, 17. 8. 1991, p. 301.

Article 2

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

Done at Brussels, 11 March 1999.

The President

J. TRITTIN

COUNCIL DECISION
of 11 March 1999
on the procedure for implementing Article 366a of the fourth ACP-EC Conven-
tion

(1999/214/EC)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty establishing the European Community, and in particular Article 238 thereof,

Article 1

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

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

Whereas Community development cooperation policy contributes, in accordance with Article 130u of the Treaty, to the general objective of developing and consolidating democracy and the rule of law and to that of respecting human rights and fundamental freedoms;

Whereas Article 5 of the fourth ACP-EC Convention signed in Lomé on 15 December 1989 and amended by the Agreement signed in Mauritius on 4 November 1995 hereinafter referred to as 'the Convention', stipulates that respect for human rights, democratic principles and the rule of law constitutes an essential element of the Convention;

Whereas pursuant to Article 366a of the Convention the party which considers that another party has failed to fulfil an obligation in respect of one of the essential elements referred to in Article 5 may invite the other party to hold consultations and, in certain circumstances, take appropriate steps, including where necessary, the partial or full suspension of application of the Convention to the party concerned;

Whereas an effective procedure should be adopted when it is intended to take appropriate measures;

Whereas pursuant to Article 366a of the Convention the term 'party' means the Community and the Member States of the European Union, of the one part, and each ACP State, of the other part;

Whereas in fields covered by the Convention and falling within the competence of Member States, the representatives of the Governments of the Member States meeting within the Council may authorise in parallel the Council, if need be, also to cover these fields in adopting decisions pursuant to Articles 1 and 2 of this Decision,

Where, at the initiative of the Commission or a Member State, the Council considers that an ACP State has failed to fulfil an obligation concerning one of the essential elements referred to in Article 5 of the Convention, the ACP State concerned shall be invited unless there is special urgency to hold consultations in accordance with Article 366a(2) of the Convention. The Council shall act by a qualified majority.

Article 2

If, on expiry of the deadline set in Article 366a for the consultations and despite all efforts, no solution has been found, or immediately in a case of urgency or refusal to hold consultations, the Council may, pursuant to that Article, decide, on a proposal from the Commission, to take appropriate steps including partial suspension acting by a qualified majority. The Council shall act unanimously in case of a full suspension of application of the Convention in relation to the ACP State concerned.

These measures shall remain in force until such time as the Council has used the applicable procedure as set out in the first subparagraph to take a decision amending or revoking the measures adopted previously, or where applicable, for the period indicated in the Decision. For that purpose the Council shall proceed to review regularly and at least every six months the above measures.

The President of the Council shall notify the measures thus adopted to the ACP State concerned before they enter into force. The Council's Decision shall be published in the *Official Journal of the European Communities*. Where the measures are adopted immediately, notification thereof shall be addressed to the ACP State at the same time as an invitation to hold consultations.

Article 3

The European Parliament shall be immediately and fully informed on any decision taken under Articles 1 and 2.

⁽¹⁾ OJ C 119, 24. 4. 1996, p. 7.

⁽²⁾ Assent delivered on 15 February 1999 (not yet published in the Official Journal).

Article 4

This Decision shall take effect on the day following its adoption.

It shall be published in the *Official Journal of the European Communities*.

Done at Brussels, 11 March 1999.

For the Council

The President

J. TRITTIN

COMMISSION

COMMISSION DECISION

of 16 March 1999

accepting undertakings offered in connection with the anti-dumping proceedings concerning imports of polypropylene binder or baler twine originating in Poland, the Czech Republic and Hungary and terminating the proceeding in respect of such imports originating in Saudi Arabia

(notified under document number C(1999) 479)

(1999/215/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾, as last amended by Regulation (EC) No 905/98⁽²⁾, and in particular Articles 8 and 9 thereof,

After consulting the Advisory Committee,

Whereas:

(1) By Regulation (EC) No 2107/98⁽³⁾, the Commission imposed provisional anti-dumping duties on imports of polypropylene binder or baler twine originating in Poland, the Czech Republic, Hungary and Saudi Arabia, and accepted price undertakings offered by the Hungarian producers. By Regulation (EC) No 2649/98⁽⁴⁾, the Commission also accepted a price undertaking offered by a Czech producer.

(2) Following the imposition of the provisional anti-dumping measures, and in accordance with Article 8(6) of Regulation (EC) No 384/96 (hereinafter referred to as the 'basic Regulation'), the Commission continued its investigation of dumping, injury and Community interest. It was established that, with the exception of Saudi Arabia, definitive anti-dumping measures should be imposed in order to eliminate the injurious effects of dumping.

The definitive findings and conclusions of the investigation are set out in Council Regulation (EC) No 603/1999 imposing a definitive anti-dumping duty on imports of polypropylene binder or baler twine originating in Poland, the Czech Republic and Hungary, and collecting definitively the provisional duty imposed⁽⁵⁾.

(3) In accordance with the provisions of the undertakings, the minimum prices contained therein have been amended, where appropriate, in line with the definitive findings of the investigation. They are now appropriate to remedy the injurious effect of dumping.

Subsequent to the Commission's acceptance of these undertakings, another Czech and a Polish producer also offered undertakings which were judged acceptable.

It is therefore appropriate to accept in this Decision all the undertakings offered.

(4) On the basis of the definitive findings of the investigation, it was concluded that the injury margin for the sole Saudi Arabian exporting producer (Synthec) was at a *de minimis* level, and it was therefore concluded that the proceedings with regard to Saudi Arabia should be terminated.

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

⁽¹⁾ OJ L 56, 6. 3. 1996, p. 1.

⁽²⁾ OJ L 128, 30. 4. 1998, p. 18.

⁽³⁾ OJ L 267, 2. 10. 1998, p. 7.

⁽⁴⁾ OJ L 335, 10. 12. 1998, p. 41.

⁽⁵⁾ See page 1 of this Official Journal.

HAS DECIDED AS FOLLOWS:

Article 1

1. The undertakings offered by the producers mentioned below, in the framework of the anti-dumping proceedings concerning imports into the Community of polypropylene binder or baler twine originating in Poland, the Czech Republic and Hungary, are hereby accepted.

Country	Company	Taric additional code
Poland	WKI Isoliertechnik Spolka z.o.o.	8620
Czech Republic	Juta a.s.	8596
	Lanex a.s.	8580
Hungary	Partium '70 Rt	8581
	Tiszai Vegyi Kombinat Rt	8582
	Elso Magyar Kenderfono Rt	8583

2. The investigations in connection with the anti-dumping proceedings referred to in paragraph 1 are hereby terminated with regard to the parties named in that paragraph.

Article 2

The proceeding in respect of imports of polypropylene binder or baler twine originating in Saudi Arabia is hereby terminated.

Article 3

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

Done at Brussels, 16 March 1999.

For the Commission

Leon BRITTAN

Vice-President

EUROPEAN CENTRAL BANK

RULES OF PROCEDURE OF THE GENERAL COUNCIL OF THE EUROPEAN CENTRAL BANK

THE GENERAL COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Protocol on the Statute of the European System of Central Banks and of the European Central Bank (hereinafter referred to as the 'Statute') and in particular to Article 46.4 thereof,

HAS DECIDED TO ADOPT THESE RULES OF PROCEDURE:

Article 1

Treaty and Statute

These Rules of Procedure shall supplement the Treaty establishing the European Community (hereinafter referred to as the 'Treaty') and the Statute and the terms in these Rules of Procedure shall have the meaning which they have in the Treaty and the Statute.

Article 2

Date and place of General Council meetings

- 2.1. The date of the meetings shall be decided by the General Council on a proposal from the President.
- 2.2. The President shall convene a meeting of the General Council if at least three members of the General Council so request.
- 2.3. The President may also convene meetings of the General Council whenever he/she deems it necessary.
- 2.4. The General Council shall normally hold its meetings on the premises of the European Central Bank (ECB).
- 2.5. Meetings may also be held by means of teleconferencing unless at least three Governors object.

Article 3

Attendance at General Council meetings

- 3.1. Except as provided hereto, attendance at meetings of the General Council shall be restricted to its members, the other members of the Executive Board, the President of the Council of the European Union, and a member of the Commission of the European Communities. Each Governor may normally be accompanied by one person.
- 3.2. If a member of the General Council is unable to attend a meeting, he/she may appoint an alternate to attend the meeting and vote on his/her behalf. The President shall be notified accordingly.
- 3.3. The General Council may invite other persons to attend its meetings, if it deems it appropriate to do so.

*Article 4***Voting**

- 4.1. In order for the General Council to vote, there shall be a quorum of two-thirds of the members or their alternates.
- 4.2. Unless stated otherwise in the Statute, decisions shall be taken by simple majority.
- 4.3. Decisions may also be taken by written procedure, unless at least three members of the General Council object. Decisions taken by written procedure shall be recorded in the minutes of the next meeting of the General Council.
- 4.4. Whenever the General Council, in its field of competence, provides comments for legal acts to be adopted by the Governing Council or the Executive Board, a dissenting minority shall have the right to forward its differing view to these bodies of the ECB.

*Article 5***Organisation of General Council meetings**

- 5.1. The agenda for each meeting shall be adopted by the General Council. A provisional agenda shall be drawn up by the President and shall be sent, together with the related documents, to the members of the General Council and other authorised participants at least eight days before the meeting, except in emergencies, in which case the President shall act appropriately with a view to the circumstances. The General Council and other authorised participants at least eight days before the meeting, except in emergencies, in which case the President shall act appropriately with a view to the circumstances. The General Council may decide to remove items from or add items to the provisional agenda on a proposal from the President or from a member of the General Council. An item shall be removed from the agenda at the request of at least three members of the General Council if the related documents were not sent to the members in due time.
- 5.2. The minutes of the proceedings of the General Council shall be submitted to its members for approval at the next meeting (or earlier, if necessary, by written procedure) and shall be signed by the President.

*Article 6***Relationship between the General Council, the Governing Council and the Executive Board**

- 6.1. Without prejudice to the General Council's other responsibilities, including those under Article 44 of the Statute, the General Council's contributory functions shall comprise, in particular, those tasks listed in Article 6.2 to 6.8.
- 6.2. The General Council shall contribute to the advisory tasks of the ECB under Articles 4 and 25.1 of the Statute.
- 6.3. The contribution of the General Council to the statistical tasks of the ECB shall consist in:
- strengthening the cooperation between all the national central banks of the European Union with a view to supporting the ECB's tasks in the field of statistics,
 - contributing to the harmonisation, where necessary, of the rules and practices governing the collection, compilation and distribution of statistics by all the national central banks of the European Union, and
 - providing the Governing Council with comments on draft ECB recommendations in the statistical field, under Article 42 of the Statute, prior to their adoption.

6.4. The General Council shall contribute to fulfilling the reporting commitments of the ECB under Article 15 of the Statute by providing the Governing Council with comments on the annual report prior to its adoption.

6.5. The General Council shall contribute to the standardisation of accounting rules and the reporting of operations under Article 26.4 of the Statute by providing the Governing Council with comments on the draft rules prior to their adoption.

6.6. The General Council shall contribute to the adoption of other measures in the context of Article 29.4 of the Statute by providing the Governing Council with comments on such draft measures prior to their adoption.

6.7. The General Council shall contribute to laying down the conditions of employment of the staff of the ECB by providing the Governing Council with comments on the draft conditions of employment prior to their adoption.

6.8. The General Council shall contribute to the preparations for the irrevocable fixing of exchange rates under Article 47.3 of the Statute by providing the Governing Council with comments on the draft of the ECB's opinion under Article 109l (5) of the Treaty and on any other draft ECB opinions concerning EC legal acts to be adopted when a derogation is abrogated or when the decisions provided for in Article 10 of Protocol No 11 are taken.

6.9. Whenever the General Council is to contribute to the tasks of the ECB under the above paragraphs, it shall be given a reasonable period of time within which to do so, which may not be less than 10 working days. In a case of urgency (which must be justified in the request), the period may be reduced to five working days. The President may decide to use written procedure.

6.10. The President shall inform the General Council, in accordance with Article 47.4 of the Statute, of decisions adopted by the Governing Council.

Article 7

Legal instruments

Decisions under Articles 46.4 and 48 of the Statute and under these Rules of Procedure, as well as recommendations and opinions adopted by the General Council under Article 44 of the Statute, shall be signed by the President.

Article 8

Confidentiality of and access to ECB documents and archives

8.1. The proceedings of the General Council, and of any committee or group dealing with matters falling within its competence, shall be confidential unless the General Council authorises the President to make the outcome of their deliberations public.

8.2. All documents drawn up by the General Council, and by any committee or group dealing with matters falling within its competence, shall be confidential unless the General Council decides otherwise. Such documents shall form an integral part of the documentation in the ECB archives and shall be accessible according to the same criteria as shall be specified by the Governing Council for access to the ECB archives.

*Article 9***End of applicability**

When, in accordance with Article 109k (2) of the Treaty, all derogations are abrogated by the Council of the European Union and when the decisions provided for in Protocol No 11 are taken, the General Council shall be dissolved and these Rules of Procedure will no longer apply.

*Article 10***Publication**

These Rules of Procedure shall be published in the *Official Journal of the European Communities*.

Done at Frankfurt am Main, 1 September 1998.

For and on behalf of the General Council

The President

Willem F. DUISENBERG
