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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 988/2002

of 3 June 2002

amending Regulation (EEC) No 3677/90 laying down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the Commission proposal ⁽¹⁾,

Whereas:

- (1) Regulation (EEC) No 3677/90 ⁽²⁾ laid down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances.
- (2) In the interests of clarity and in order to comply with Article 12(10) of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 19 December 1988, and with Resolution 20/4 of the 1998 Special Session on drugs of the United Nations General Assembly, the provisions on export authorisation for the scheduled substances listed in Category 1 of the Annex to Regulation (EEC) No 3677/90 should be separated from those on pre-export notification.
- (3) Regulation (EEC) No 3677/90 should be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3677/90 is hereby amended as follows:

1. In Article 2, point (1), the third indent shall be replaced by the following:
 '— the names and addresses of the exporter, the importer, the distributor and, in accordance with Articles 4, 4a, 5 and 5a, the ultimate consignee'.

⁽¹⁾ Proposal of 14 March 2002 (not yet published in the Official Journal).

⁽²⁾ OJ L 357, 20.12.1990, p. 1. Regulation as last amended by Regulation (EC) No 1116/2001 (OJ L 153, 8.6.2001, p. 4). The corrected version is in OJ L 215, 9.8.2001, p. 57.

2. Article 4 shall be replaced by Articles 4 and 4a as follows:

'Article 4

Pre-export notification

Scheduled substances listed in Category 1 of the Annex

1. Any exportation of scheduled substances listed in Category 1 of the Annex shall be preceded by pre-export notification sent to the country of destination in accordance with the provisions of Article 12(10) of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 19 December 1988, and with Resolution 20/4 of the 1998 Special Session on drugs of the United Nations General Assembly.

The country of destination shall be allowed a period of time in which to reply of up to 15 working days, at the end of which the export operation shall be authorised by the competent authorities of the Member State of export, unless advice to the contrary is received.

2. The competent authorities of the Member State concerned shall, prior to any export of scheduled substances to the country of destination, supply the information specified in Article 4a(2) to the competent authorities of that country.

The authority furnishing such information shall require the authority in the third country receiving the information to keep confidential any trade, business, commercial or professional secret or any trade process referred to therein.

Article 4a

Export authorisation

Scheduled substances listed in Category 1 of the Annex

1. The exportation of scheduled substances listed in Category 1 of the Annex shall be subject to authorisation in the form of individual export authorisations issued by the competent authorities of the Member State in which the customs export declaration is to be made in accordance with the provisions in force.

2. Applications for authorisations referred to in paragraph 1 shall contain the following information:

- (a) the names and addresses of the exporter, the importer in the third country and any other operator involved in the export operation or shipment, and also the ultimate consignee;
- (b) the name of the scheduled substance as given in Category 1 in the Annex;
- (c) the quantity and weight of the scheduled substance and, where a mixture is concerned, the quantity and weight of the mixture as well as the quantity and weight, or the percentage, of any substance listed in the Annex which is contained in the mixture;
- (d) details as to the transport arrangements, and in particular the expected date of dispatch, method of transport, name of the customs office where the customs export declaration is to be made and, in so far as such information is available at this stage, identification of the means of transport, itinerary, expected point of exit from Community customs territory and the point of entry into the importing country.

In the cases referred to in paragraph 9, a copy of the import permit issued by the country of destination shall be attached to the application.

3. A decision on the application shall be taken within a period of 15 working days from the date on which the competent authority considers the file to be complete. This period shall be extended if, in the cases referred to in paragraph 9, the competent authorities are obliged to make further enquiries in order to satisfy themselves that the importation of the substances has been properly authorised.

4. Without prejudice to any possible implementation of enforcement measures, the export authorisation referred to in paragraph 1 shall be refused if:

- (a) there are reasonable grounds for suspecting that the information supplied in compliance with paragraph 2 is false or incorrect;
- (b) in the cases referred to in paragraph 9, it is established that the importation of the scheduled substances has not been properly authorised by the competent authorities of the country of destination;
- (c) there are reasonable grounds for suspecting that the substances in question are intended for the illicit manufacture of narcotic drugs or psychotropic substances.

5. If the particulars concerning the itinerary and means of transport were not provided in the application referred to in paragraph 2, the export authorisation shall state that the operator must furnish those particulars to the customs authority or other competent authority at the point of exit from the Community customs territory before the physical departure of the consignment. In such cases the export

authorisation shall be annotated accordingly at the time of issue.

6. In all cases, the export authorisation shall be presented to the customs authorities when the customs export declaration is made. A copy of the authorisation shall, furthermore, accompany the consignment to the customs office at the point of exit of the scheduled substances from the Community customs territory. That office shall insert, where appropriate, the particulars referred to in paragraph 5 and any other necessary particulars and affix its stamp to the copy of the authorisation before returning it to the issuing authority.

7. The issue of an export authorisation shall not preclude any possible administrative or other liability of the holder of the authorisation.

8. An export authorisation may be suspended or revoked by the competent authorities whenever there are reasonable grounds for suspecting that the substances might be diverted to the illicit manufacture of narcotic drugs or psychotropic substances.

9. Whenever, under an agreement between the Community and a third country, exports are not to be authorised unless an import permit has been issued by the competent authorities of the latter country for the substances in question, the Commission shall communicate to the competent authorities of the Member States the name and address of the competent authority of the third country, together with any operational information obtained from that country.

The competent authorities in the Member States shall satisfy themselves that any importation has been properly authorised, if necessary by requesting confirmation from the competent authority of the third country.'

3. in Article 5, paragraph 2 shall be replaced by the following:

'2. Articles 4 and 4a shall apply *mutatis mutandis* to exports referred to in paragraph 1 wherever they appear to be intended, directly or indirectly, for any third country which has been identified as being concerned by the illicit manufacture of narcotic drugs or psychotropic substances through the use of the scheduled substances in question. The said identification shall be based, in particular, on a reasoned request to the Commission from the third country concerned.

Article 4a shall also apply whenever an open individual authorisation cannot be issued under paragraph 3.'

4. in Article 5a, paragraph 2 shall be replaced by the following:

'2. Exports of substances referred to in paragraph 1 shall be subject *mutatis mutandis* to the provisions of Articles 4 and 4a wherever, under specific arrangements agreed with the third countries concerned, an export authorisation and a pre-export notification are required for each operation.

Article 4a shall also apply whenever an open individual authorisation cannot be issued in accordance with paragraph 3.'

5. in Article 6, paragraphs 1 and 2 shall be replaced by the following:

'1. In order to ensure the correct application of Article 2 and Articles 4, 4a, 5 and 5a, each Member State shall adopt within the framework of its domestic law the measures necessary to enable the competent authorities:

- (a) to obtain information on any orders for or operations involving scheduled substances;
- (b) to enter operators' business premises in order to obtain evidence of irregularities.

2. Without prejudice to the provisions laid down in Articles 4, 4a, 5 and 5a and in paragraph 1 of this Article, the competent authorities of each Member State may prohibit the introduction of scheduled substances into Community customs territory or their departure from it, if there are reasonable grounds for suspecting that the substances are intended for the illicit manufacture of narcotic drugs or psychotropic substances.'

Article 2

This Regulation shall enter into force on the twentieth 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 Luxembourg, 3 June 2002.

For the Council

The President

J. C. APARICIO PÉREZ

COMMISSION REGULATION (EC) No 989/2002**of 10 June 2002****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:

- (1) 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.

- (2) 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 11 June 2002.

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

Done at Brussels, 10 June 2002.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

⁽¹⁾ OJ L 337, 24.12.1994, p. 66.

⁽²⁾ OJ L 198, 15.7.1998, p. 4.

ANNEX

to the Commission Regulation of 10 June 2002 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	79,5
	999	79,5
0707 00 05	052	85,2
	096	4,3
	220	143,3
	628	156,8
	999	97,4
0709 90 70	052	83,4
	999	83,4
0805 50 10	388	58,1
	512	61,2
	528	83,0
	999	67,4
0808 10 20, 0808 10 50, 0808 10 90	388	86,3
	400	112,6
	404	115,2
	508	85,6
	512	85,2
	524	70,3
	528	73,4
	720	120,4
	804	107,5
	999	95,2
0809 10 00	052	170,0
	624	247,7
	999	208,8
0809 20 95	052	316,7
	094	300,3
	400	273,5
	999	296,8

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2020/2001 (OJ L 273, 16.10.2001, p. 6). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 990/2002**of 10 June 2002****on the issue of import licences for high-quality fresh, chilled or frozen beef and veal**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 936/97 of 27 May 1997 opening and providing for the administration of tariff quotas for high-quality fresh, chilled and frozen beef and for frozen buffalo meat ⁽¹⁾, as last amended by Regulation (EC) No 361/2002 ⁽²⁾,

Whereas:

- (1) Regulation (EC) No 936/97 provides in Articles 4 and 5 the conditions for applications and for the issue of import licences for meat referred to in Article 2(f).
- (2) Article 2(f) of Regulation (EC) No 936/97 fixes the amount of high-quality fresh, chilled or frozen beef and veal originating in and imported from the United States of America and Canada which may be imported on special terms for the period 1 July 2001 to 30 June 2002 at 11 500 t.

- (3) It should be recalled that licences issued pursuant to this Regulation will, throughout the period of validity, be open for use only in so far as provisions on health protection in force permit,

HAS ADOPTED THIS REGULATION:

Article 1

All applications for import licences from 1 to 5 June 2002 for high-quality fresh, chilled or frozen beef and veal as referred to in Article 2(f) of Regulation (EC) No 936/97 shall be granted in full.

Article 2

This Regulation shall enter into force on 11 June 2002.

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

Done at Brussels, 10 June 2002.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

⁽¹⁾ OJ L 137, 28.5.1997, p. 10.

⁽²⁾ OJ L 58, 28.2.2002, p. 5.

COMMISSION REGULATION (EC) No 991/2002

of 10 June 2002

fixing Community producer and import prices for carnations and roses with a view to the application of the arrangements governing imports of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip ⁽¹⁾, as last amended by Regulation (EC) No 1300/97 ⁽²⁾, and in particular Article 5(2)(a) thereof,

Whereas:

Pursuant to Article 2(2) and Article 3 of abovementioned Regulation (EEC) No 4088/87, Community import and producer prices are fixed each fortnight for uniflorous (bloom) carnations, multiflorous (spray) carnations, large-flowered roses and small-flowered roses and apply for two-weekly periods. Pursuant to Article 1b of Commission Regulation (EEC) No 700/88 of 17 March 1988 laying down detailed rules for the application of the arrangements for the import into the Community of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the

Gaza Strip ⁽³⁾, as last amended by Regulation (EC) No 2062/97 ⁽⁴⁾, those prices are determined for fortnightly periods on the basis of weighted prices provided by the Member States. Those prices should be fixed immediately so the customs duties applicable can be determined. To that end, provision should be made for this Regulation to enter into force immediately,

HAS ADOPTED THIS REGULATION:

Article 1

The Community producer and import prices for uniflorous (bloom) carnations, multiflorous (spray) carnations, large-flowered roses and small-flowered roses as referred to in Article 1b of Regulation (EEC) No 700/88 for a fortnightly period shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 11 June 2002.

It shall apply from 12 to 25 June 2002.

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

Done at Brussels, 10 June 2002.

For the Commission

J. M. SILVA RODRÍGUEZ

Agriculture Director-General

⁽¹⁾ OJ L 382, 31.12.1987, p. 22.

⁽²⁾ OJ L 177, 5.7.1997, p. 1.

⁽³⁾ OJ L 72, 18.3.1988, p. 16.

⁽⁴⁾ OJ L 289, 22.10.1997, p. 1.

ANNEX

to the Commission Regulation of 10 June 2002 fixing Community producer and import prices for carnations and roses with a view to the application of the arrangements governing imports of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip

(EUR/100 pieces)

Period: from 12 to 25 June 2002

Community producer price	Uniflorous (bloom) carnations	Multiflorous (spray) carnations	Large-flowered roses	Small-flowered roses
	17,77	11,97	24,54	14,17
Community import prices	Uniflorous (bloom) carnations	Multiflorous (spray) carnations	Large-flowered roses	Small-flowered roses
Israel	—	6,00	8,69	10,26
Morocco	15,31	14,50	—	—
Cyprus	—	—	—	—
Jordan	—	—	—	—
West Bank and Gaza Strip	—	—	—	—

COMMISSION REGULATION (EC) No 992/2002

of 10 June 2002

suspending the preferential customs duties and re-establishing the Common Customs Tariff duty on imports of multiflorous (spray) carnations originating in Israel

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan and Morocco and the West Bank and the Gaza Strip ⁽¹⁾, as last amended by Regulation (EC) No 1300/97 ⁽²⁾, and in particular Article 5(2)(b) thereof,

Whereas:

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

(2) Council Regulation (EC) No 747/2001 ⁽³⁾, as amended by Commission Regulation (EC) No 786/2002 ⁽⁴⁾, opens and provides for the administration of Community tariff quotas for cut flowers and flower buds, fresh, originating in Cyprus, Egypt, Israel, Malta, Morocco and the West Bank and the Gaza Strip.

(3) Commission Regulation (EC) No 991/2002 ⁽⁵⁾ fixes the Community producer and import prices for carnations and roses for the application of the import arrangements.

(4) Commission Regulation (EEC) No 700/88 ⁽⁶⁾, as last amended by Regulation (EC) No 2062/97 ⁽⁷⁾, lays down the detailed rules for the application of the arrangements.

(5) On the basis of prices recorded pursuant to Regulations (EEC) No 4088/87 and (EEC) No 700/88, it must be concluded that the conditions laid down in Article 2(2) of Regulation (EEC) No 4088/87 for suspension of the preferential customs duty are met for multiflorous (spray) carnations originating in Israel. The Common Customs Tariff duty should be re-established.

(6) The quota for the products in question covers the period 1 January to 31 December 2002. As a result, the suspension of the preferential duty and the reintroduction of the Common Customs Tariff duty apply up to the end of that period at the latest.

(7) In between meetings of the Management Committee for Live Plants and Floriculture Products, the Commission must adopt such measures,

HAS ADOPTED THIS REGULATION:

Article 1

For imports of multiflorous (spray) carnations (CN code ex 0603 10 20) originating in Israel, the preferential customs duty fixed by Regulation (EC) No 747/2001 is hereby suspended and the Common Customs Tariff duty is hereby re-established.

Article 2

This Regulation shall enter into force on 11 June 2002.

⁽¹⁾ OJ L 382, 31.12.1987, p. 22.

⁽²⁾ OJ L 177, 5.7.1997, p. 1.

⁽³⁾ OJ L 109, 19.4.2001, p. 2.

⁽⁴⁾ OJ L 127, 14.5.2002, p. 3.

⁽⁵⁾ See page 7 of this Official Journal.

⁽⁶⁾ OJ L 72, 18.3.1988, p. 16.

⁽⁷⁾ OJ L 289, 22.10.1997, p. 71.

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

Done at Brussels, 10 June 2002.

For the Commission
J. M. SILVA RODRÍGUEZ
Agriculture Director-General

REGULATION (EC) No 993/2002 OF THE EUROPEAN CENTRAL BANK
of 6 June 2002
correcting Regulation ECB/2001/13 concerning the consolidated balance sheet of the monetary
financial institutions sector ⁽¹⁾
(ECB/2002/4)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank ⁽²⁾, and in particular to Article 5(1) and Article 6(4) thereof,

Having regard to Council Regulation (EC) No 2531/98 of 23 November 1998 concerning the application of minimum reserves by the European Central Bank ⁽³⁾, amended by Regulation (EC) No 134/2002 ⁽⁴⁾, and in particular to Article 6(4) thereof,

Whereas:

- (1) Regulation ECB/2001/13 was intended to replace Regulation ECB/1998/16 of 1 December 1998 concerning the consolidated balance sheet of the monetary financial institutions sector ⁽⁵⁾ as amended by Regulation ECB/2000/8 ⁽⁶⁾ from 1 January 2003. Reporting under the new regime begins with data for January 2003. Reporting obligations under Regulation ECB/1998/16 should therefore have continued to exist until 1 January 2003. However, the date of entry into force of Regulation ECB/2001/13 was erroneously set as 1 January 2002, with the result that Regulation ECB/1998/16, which under the provisions of Regulation ECB/2001/13 is repealed at the date of entry into force of the latter, was repealed one year too soon. Regulation ECB/2001/13 therefore has to be corrected to make clear that it enters into force on 1 January 2003.
- (2) Reporting agents have been subject to the reporting requirements laid down in Regulation ECB/1998/16 since 1 January 1999. The continued application of the latter Regulation until 31 December 2002, in particular, the obligation to comply with it from 1 January 2002,

i.e. before the date at which the present regulation enters into force, is considered not to infringe any legitimate expectations of the reporting agents, which continued to report the relevant statistical information after the end of 2001,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation ECB/2001/13 is corrected as follows:

— Article 8(1) is replaced by the following:

‘1. Regulation (EC) No 2819/98 (ECB/1998/16) shall be repealed on 1 January 2003.’

— Article 9 is replaced by the following:

‘Article 9

This Regulation shall enter into force on 1 January 2003.’

Article 2

Final provision

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

Done at Frankfurt am Main, 6 June 2002.

*On behalf of the Governing Council of the
ECB*

The President

Willem F. DUISENBERG

⁽¹⁾ Regulation (EC) No 2423/2001 of the European Central Bank (OJ L 333, 17.12.2001, p. 1).

⁽²⁾ OJ L 318, 27.11.1998, p. 8.

⁽³⁾ OJ L 318, 27.11.1998, p. 1.

⁽⁴⁾ OJ L 24, 26.1.2002, p. 1.

⁽⁵⁾ Regulation (EC) No 2819/98 of the European Central Bank (OJ L 356, 30.12.1998, p. 1).

⁽⁶⁾ Regulation (EC) No 1921/2000 of the European Central Bank (OJ L 229, 9.9.2000, p. 34).

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 4 June 2002

authorising Germany to apply a measure derogating from Article 21 of the Sixth Directive 77/388/EEC on the harmonisation of the laws of the Member States relating to turnover taxes

(2002/439/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment ⁽¹⁾, and in particular Article 27(1) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) In a request submitted in the form of two letters addressed to the Commission, registered by the Commission's Secretariat-General on 9 January 2002, the German Government sought authorisation to introduce a measure derogating from Article 21(1)(a) of Directive 77/388/EEC.
- (2) The other Member States were informed of Germany's request by letter of 16 January 2002.
- (3) Article 21(1) of Directive 77/388/EEC, in the version of Article 28g of the said Directive, stipulates that, under the internal system, the taxable person supplying taxable goods or services is normally liable to pay value added tax (VAT).
- (4) The purpose of the derogation requested by Germany is to make the recipient liable for the value added tax due firstly on the supply, outside a judicial liquidation proce-

dure, of goods provided as security by one VAT taxable person to another in execution of that security and secondly on the supply of immovable property sold at public auction to another VAT taxable person in the course of the judicial liquidation of the enterprise that owned the immovable property sold.

- (5) This derogation is intended to simplify the collection of the tax insofar as, in practice, the person normally liable for the tax is, in the instances for which the derogation is sought, generally prevented by financial difficulties from paying the VAT invoiced.
- (6) This state of affairs adversely affects public finances in that the recipient of the goods can nonetheless deduct the value added tax invoiced to him, even though it has not been paid by the taxable person who supplied the goods.
- (7) By designating the recipient of the goods as the person liable for the value added tax, the derogation removes the difficulties encountered without affecting the amount of tax due.
- (8) The authorisation should be granted until 31 December 2006, which will enable the derogation to be reviewed in the light of experience.
- (9) The derogation in question does not adversely affect the Communities' own resources from VAT,

⁽¹⁾ OJ L 145, 13.6.1977, p. 1. Directive last amended by Directive 2001/115/EC (OJ L 15, 17.1.2002, p. 24).

HAS ADOPTED THIS DECISION:

Article 1

By way of derogation from Article 21(1)(a) of Directive 77/388/EEC, in the version of Article 28g thereof, Germany is hereby authorised to designate the recipient of the supplies of goods referred to in Article 2 of this Decision as the person liable to pay value added tax.

Article 2

The recipient of the supply of goods may be designated as the person liable to pay VAT in the following instances:

1. the supply, outside a judicial liquidation procedure, of goods provided as security by one VAT taxable person to another in execution of that security;

2. the supply of immovable property sold at public auction to another VAT taxable person in the course of the judicial liquidation of the enterprise that owned the immovable property thus sold.

Article 3

This Decision shall expire on 31 December 2006.

Article 4

This Decision is addressed to the Federal Republic of Germany.

Done at Luxembourg, 4 June 2002.

For the Council

The President

R. DE RATO Y FIGAREDO

COMMISSION

COMMISSION DECISION

of 27 May 2002

terminating the examination procedure concerning obstacles to trade, consisting of trade practices maintained by Brazil in relation to imports of sorbitol

(2002/440/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3286/94 of 22 December 1994 laying down Community procedures in the field of the common commercial policy in order to ensure the exercise of the Community's rights under international trade rules, in particular those established under the auspices of the World Trade Organisation ⁽¹⁾, as amended by Regulation (EC) No 356/95 ⁽²⁾, and in particular Article 11(1) thereof,

After consulting the Advisory Committee,

Whereas:

of import licences in relation to all grades of sorbitol entering Brazil below a minimum fob price;

(c) the implementation of minimum prices via *de facto* reference prices included in the customs valuation system.

The complainant also claimed a general lack of transparency of the Brazilian import licensing system, which had not been duly notified to the WTO.

(3) The Commission decided that the complaint contained sufficient evidence to justify the initiation of an examination procedure pursuant to Article 8(1) of Regulation (EC) No 3286/94. A corresponding notice was published in the *Official Journal of the European Communities* ⁽³⁾.

B. FINDINGS OF THE INVESTIGATIONS

A. PROCEDURAL BACKGROUND

(1) On 2 October 1998 a Netherlands company, Cerestar Holding BV, lodged a complaint pursuant to Article 4 of Regulation (EC) No 3286/94.

(2) The complainant alleged that Community sales of sorbitol in Brazil were hindered by a number of obstacles to trade within the meaning of Article 2(1) of Regulation (EC) No 3286/94. The alleged obstacles to trade were:

(a) the introduction in December 1997 by the Brazilian Government (Departamento de Operações de Comércio Exterior) in accordance with Comunicado DECEX No 20 of 8 July 1997 of a non-automatic licensing procedure for sorbitol, in contravention of the relevant provisions of the WTO Agreement on Import Licensing Procedures;

(b) the alleged arbitrary and/or non-justified refusal (or otherwise withholding) by the Brazilian authorities

(4) According to the final investigation report, the examination procedure led to the conclusion that the Brazilian minimum price system appeared to be in breach of:

(a) Article XI(1) of the GATT (1994), as it is a restriction other than duties, taxes or other charges, made effective through import licences on the importation of any product of the territory of any other contracting party, without any WTO compatible justification;

(b) Article 4(2) of the WTO Agreement on Agriculture, for the same reason as above;

(c) Article 2 and 5 of the WTO Agreement on Sanitary and Phyto-sanitary measures, as it imposes sanitary controls more trade-restrictive than necessary, which are not applied only to the extent necessary to protect human life or health.

(5) In addition, the Brazilian non-automatic import licensing system, as applied with a minimum price requirement, appeared to be also in breach of:

⁽¹⁾ OJ L 349, 31.12.1994, p. 71.

⁽²⁾ OJ L 41, 23.2.1995, p. 3.

⁽³⁾ OJ C 361, 24.11.1998, p. 13.

- (a) Articles 1, 3 and 5 of the WTO Agreement on Import Licensing Procedures, as it is not neutral in application, it is not administered in a fair and equitable manner, it has additional trade-restrictive and -distortive effects on imports without applying any WTO compatible restriction. Moreover, as the system does not implement any measure, so it can not be limited in scope and duration to the measure it implements. In addition, the list of products submitted to non-automatic licensing is not published and the applications for licenses for imports under the minimum price are left without official reply for several months;
- (b) Article X(1) and (3) of the GATT (1994), as it is not published and it is not administered in a uniform, impartial and reasonable manner.
- (6) As regards the Brazilian legislation on customs valuation, it appeared that the scale and scope of implementation of reference prices on a systematic basis rendered the manner in which this system was implemented incompatible with Articles 1 to 7 of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade — GATT 1994 (the Customs Valuation Agreement).
- (7) The examination procedure also confirmed that the contested Brazilian practices caused adverse trade effects within the meaning of Article 2(4) and 10(4) of the Trade Barriers Regulation (TBR), as they impeded, *inter alia*, exports of sorbitol from the Community to the Brazilian market.

C. DEVELOPMENTS AFTER THE END OF THE INVESTIGATION

- (8) On the basis of the findings of the investigation, the Commission, by its Decision of 17 March 1999 ⁽¹⁾, had decided to initiate a WTO Dispute Settlement procedure on several aspects of the Brazilian import regime found to be WTO incompatible.
- (9) Accordingly official WTO consultations, regarding sorbitol and other products, were held on 19 November 1999. Following these consultations, *de facto* minimum prices were not applied any longer on sorbitol and certain other imports.

- (10) As a result, the Community industry has improved its ability to enter the Brazilian market.
- (11) However, there were still several aspects of the Brazilian import licensing and customs valuation systems that needed to be modified in order to comply fully with Brazil's obligations under the relevant WTO Agreements.
- (12) By decision of 21 May 2001 ⁽²⁾ the Commission therefore suspended the Cerestar examination procedure, while monitoring the effect of the changes in the Brazilian system for a period of six months from the date of entry into force of the Decision.
- (13) During the period of monitoring, the Commission services pursued contacts and exchanged letters with the Community industry affected. On the basis of the information provided by the affected industry, the Commission concluded that the disputed barriers to trade in the importation of sorbitol had been eliminated.

D. CONCLUSIONS

- (14) In view of the above analysis, it is considered that the Cerestar examination procedure has led to a satisfactory situation with regard to the obstacles that faced the trade of sorbitol in Brazil. The examination procedure should therefore be terminated,

HAS DECIDED AS FOLLOWS:

Article 1

The examination procedure concerning obstacles to trade, within the meaning of Regulation (EC) No 3286/94, consisting of trade practices maintained by Brazil in relation to imports of sorbitol, is hereby terminated.

Article 2

Article 1 shall be without prejudice to any decision which the Commission may adopt with regard to imports into Brazil of textile products.

Done at Brussels, 27 May 2002.

For the Commission

Pascal LAMY

Member of the Commission

⁽¹⁾ OJ L 86, 30.3.1999, p. 22.

⁽²⁾ OJ L 153, 8.6.2001, p. 30.

COMMISSION DECISION

of 10 June 2002

amending Decision 2002/69/EC concerning certain protective measures with regard to the products of animal origin imported from China

(notified under document number C(2002) 2062)

(Text with EEA relevance)

(2002/441/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries ⁽¹⁾, and in particular Article 22(6) thereof,

Whereas:

- (1) Under Directive 97/78/EC the necessary measures must be adopted as regards the import of certain products from third countries where any cause likely to constitute a serious risk to animal or human health appears or is spreading.
- (2) Following the detection of chloramphenicol in certain aquaculture and fishery products imported from China, the Commission adopted Decision 2001/699/EC of 19 September 2001, concerning certain protective measures with regard to certain fishery and aquaculture products intended for human consumption and originating in China and Vietnam ⁽²⁾.
- (3) Furthermore, following the serious shortcomings identified during a Community inspection visit to China, the Commission adopted Decision 2002/69/EC of 30 January 2002, concerning certain protective measures with regard to the products of animal origin imported from China ⁽³⁾. This Decision provides that it shall be reviewed on the basis of the information provided by Chinese competent authorities, any results from the increased monitoring and testing carried out by Member States on consignments arriving before 14 March 2002 and, if necessary, on the results of an on-the-spot inspection visit by Community experts.
- (4) Following the information provided by the Chinese authorities and the favourable results of the tests carried out on certain crustaceans caught in the Atlantic Ocean, in certain fishery products of some fish species and in gelatin, imports of these products from China should be authorised. However, since the presence of chloramphenicol has been detected in fishery products of the species Alaska pollack, cod and redfish, it is necessary to ensure

their safety, and to foresee a transitional period until 30 September 2002, during which the imports of these products shall be subjected to intensified monitoring and testing of a 20 % of the consignments arriving to the Community border inspection post.

- (5) Since the presence of chloramphenicol has also been detected in casings imported from China, it is necessary to subject the imports of this product to the same intensified monitoring and testing provided for the fishery products of the species Alaska pollack, cod and redfish.
- (6) Regulation (EC) No 178/2002 of the European Parliament and of the Council ⁽⁴⁾ sets up the Rapid Alert System for food and feed, and recourse to it is appropriate for implementing the mutual information requirement laid down in Directive 97/78/EC.
- (7) This Decision should be reviewed in the light of information and guarantees provided by the competent authorities of China and on the basis of the results of the tests carried out by Member States.
- (8) Decision 2002/69/EC should, therefore, be amended accordingly.
- (9) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2002/69/EC is amended as follows:

1. In Article 2 paragraph 2 is replaced by the following:

‘2. By derogation from paragraph 1, Member States shall authorise the imports of products listed in Annex I and II of the present Decision in accordance with the following provisions, in addition to the provisions of Directive 97/78/EC. In the case of products listed in Annex II, imports shall be authorized only if the results of the test referred to in Article 3 are favourable.’

⁽¹⁾ OJ L 24, 30.1.1998, p. 9.

⁽²⁾ OJ L 251, 20.9.2001, p. 11.

⁽³⁾ OJ L 30, 31.1.2002, p. 50.

⁽⁴⁾ OJ L 31, 1.2.2002, p. 1.

2. Article 3 is replaced by the following:

'Article 3

1. Until 30 September 2002 Member States shall, using appropriate sampling plans and detection methods, subject 20 % of all consignments of products imported from China and listed in the Annex II to the present Decision, to a chemical test in order to ensure that the products concerned do not present a hazard to human health. This test must be carried out, in particular, with a view to detecting the presence of residues of veterinary drugs, pesticides, contaminants and prohibited substances.

2. Member States shall immediately inform the Commission of the results of the test referred to in paragraph 1, by means of the Rapid Alert System for food and feed, set up by Regulation (EC) No 178/2002.'

3. Article 6 is replaced by the following:

'Article 6

This Decision shall be reviewed on the basis of the information and guarantees provided by the Chinese competent authorities, the results of the tests referred to in Article 3 and, if necessary, the results of an on the spot inspection visit by Community experts.'

4. The text in the Annex to this Decision is added as Annexes I and II.

Article 2

This Decision shall apply from 14 June 2002.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 10 June 2002.

For the Commission

David BYRNE

Member of the Commission

ANNEX

ANNEX I

List of products of animal origin intended for human consumption or animal feed use authorised to be imported into the Community

- Fishery products, which are caught, frozen and packaged in their final packaging at sea and landed directly on Community territory, excluding all crustaceans except those caught in the Atlantic Ocean referred to below, and excluding: entire fish, fish deheaded and gutted and fish fillets from species listed in Annex II which require testing
- Entire crustaceans caught in the Atlantic Ocean, which have not undergone any preparation or processing operation other than freezing and packaging in their final package at sea and landed directly on Community territory
- Gelatine

ANNEX II

List of products of animal origin intended for human consumption or animal feed use authorised to be imported into the Community, subject to a chemical test under the conditions of Article 3

- Entire fish, fish deheaded and gutted and fish fillets from the following species caught at sea:
 - Alaska pollack (*Theragra chalcogramma*)
 - cod (*Gadus* spp.)
 - redfish (*Sebastes* spp.)
- Casings'