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Contents

Court of Justice

- ★ **Amendment to the Instructions to the Registrar of the Court of First Instance of 5 June 2002** 1

I Acts whose publication is obligatory

- ★ **Council Regulation (EC) No 1050/2002 of 13 June 2002 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of recordable compact disks originating in Taiwan** 2

Commission Regulation (EC) No 1051/2002 of 17 June 2002 establishing the standard import values for determining the entry price of certain fruit and vegetables 14

- ★ **Commission Regulation (EC) No 1052/2002 of 17 June 2002 amending Regulation (EC) No 1520/2000 laying down common detailed rules for the application of the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amounts of such refunds** 16

Commission Regulation (EC) No 1053/2002 of 17 June 2002 on the supply of broad beans as food aid 20

Commission Regulation (EC) No 1054/2002 of 17 June 2002 on the supply of split peas as food aid 23

Council

2002/460/EC:

- ★ **Council Decision of 17 June 2002 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Decision 2002/334/EC** 26

Commission

2002/461/EC:

- ★ **Commission Decision of 12 June 2002 on the clearance of the accounts of Member States' expenditure financed by the European Agricultural Guidance and Guarantee Fund (EAGGF), Guarantee Section, for the 2001 financial year (notified under document number C(2002) 2057)** 28
-

Acts adopted pursuant to Title V of the Treaty on European Union

2002/462/CFSP:

- ★ **Council Common Position of 17 June 2002 updating Common Position 2001/931/CFSP on the application of specific measures to combat terrorism and repealing Common Position 2002/340/CFSP** 32

COURT OF JUSTICE

AMENDMENT TO THE INSTRUCTIONS TO THE REGISTRAR OF THE COURT OF FIRST INSTANCE

of 5 June 2002

THE COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES,

On a proposal from the President of the Court of First Instance,

Having regard to the Rules of Procedure adopted on 2 May 1991, as last amended on 6 December 2000, and in particular Article 23 thereof,

HAS ADOPTED THE FOLLOWING AMENDMENT TO THE INSTRUCTIONS TO THE REGISTRAR,

adopted on 3 March 1994 (OJ L 78 of 22.3.1994, p. 32 et seq.) and amended on 29 March 2001 (OJ L 119 of 27.4.2001, p. 2 et seq.):

Article 1

The following paragraph shall be added to Article 1 of the Instructions to the Registrar:

- ‘2. In carrying out the duties specified above, the Registrar shall be assisted by an Assistant Registrar. In the absence of the Registrar or in the event of his being

prevented from carrying out those duties, they shall be performed by the Assistant Registrar who shall take the decisions reserved to the Registrar by the Rules of Procedure of the Court of First Instance or these Instructions or delegated to him pursuant to these Instructions.’

Article 2

This amendment to the Instructions to the Registrar, which is authentic in the languages referred to in Article 36(2) of the Rules of Procedure, shall be published in the *Official Journal of the European Communities*.

It shall enter into force on the day following its publication.

Done at Luxembourg, 5 June 2002.

Registrar

H. JUNG

President

B. VESTERDORF

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1050/2002

of 13 June 2002

imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of recordable compact disks originating in Taiwan

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⁾, (hereinafter referred to as the 'basic Regulation'), and in particular Article 9 thereof,

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

Whereas:

A. PROVISIONAL MEASURES

- (1) The Commission, by Regulation (EC) No 2479/2001 ⁽²⁾, (hereinafter referred to as the provisional Regulation), imposed a provisional anti-dumping duty on imports of recordable compact disks (CD-Rs) falling within CN code ex 8523 90 00 (TARIC code 8523 90 00*10) and originating in Taiwan.
- (2) It is recalled that the investigation of dumping and injury covered the period from 1 January 2000 to 31 December 2000 (hereinafter referred to as the investigation period or IP). The examination of trends relevant for the injury analysis covered the period from 1 January 1997 to the end of the IP (hereinafter referred to as the period considered).

B. SUBSEQUENT PROCEDURE

- (3) Subsequent to the disclosure of the essential facts and considerations on the basis of which it was decided to impose provisional anti-dumping measures, several interested parties submitted comments in writing. In accordance with the provisions of Article 6(5) of the basic Regulation, the parties who so requested were granted an opportunity to be heard orally.

- (4) The Commission continued to seek and verify all information it deemed necessary for the establishment of definitive findings.

- (5) All 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 duties.

- (6) They were also granted a period within which they could make representations subsequent to this disclosure.

- (7) The oral and written comments submitted by the interested parties were considered and, where appropriate, the provisional findings have been modified accordingly.

- (8) Following the adoption of provisional measures, two companies, Nan Ya Plastics Corporation, Taipei and Rimma International Inc., Taipei in Taiwan, applied for new exporting producer status and requested not to be treated differently from the companies that cooperated in the investigation. However, since sampling has been used in the investigation of dumping, a new exporters' review pursuant to Article 11(4) of the basic Regulation with the objective of determining individual dumping margins cannot be initiated in this proceeding. The examination of these requests together with the additional evidence provided by these companies showed that only one of them, Nan Ya Plastics Corporation, fulfilled all the requirements of Article 11(4) of the basic Regulation, which would otherwise apply, i.e.:

- that it did not export the product concerned to the Community during the IP,
- that it is not related to any of the exporters or producers in Taiwan which are subject to the provisional anti-dumping measures, and
- that it has actually exported the product concerned to the Community after the IP on which the measures are based, or it has entered into an irrevocable contractual obligation to export a significant quantity to the Community.

⁽¹⁾ OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2238/2000 (OJ L 257, 11.10.2000, p. 2).

⁽²⁾ OJ L 334, 18.12.2001, p. 8.

In these circumstances, in order to ensure equal treatment for this new exporting producer and the cooperating companies not included in the sample, Nan Ya Plastics Corporation was added to the list of companies subject to the weighted average duty rate listed in Article 1(2) of the provisional Regulation.

C. PRODUCT CONCERNED AND LIKE PRODUCT

1. Product concerned

(9) Given the similar appearance of recordable compact disks (CD-Rs) and re-writable compact disks (CD-RWs) which are not covered by the investigation, the complainant, the Committee of European CD-R Manufacturers (CECMA), requested that the product under consideration (CD-Rs) should be distinguished from CD-RWs in order to ensure the proper application of the duties imposed.

(10) The nature of the disk is normally mentioned on the disk itself or on the packaging. Therefore, no particular additional specification appears to be necessary. In the unlikely event that such identification would be absent, the colour of the non-printed side of the disc gives an indication of the nature of the product. CD-Rs show on their non-printed sides either bright colours (such as cyanine light blue, phthalocyanine green, yellow, or green/yellow combined, silver and gold) or azo dark blue. CD-RWs show a dark grey colour with a low reflectivity compared to CD-Rs.

(11) CD-Rs, which have a size that is smaller than the standard diameter of 12 cm, fall under the description of the product concerned. The 8 cm CD-R holds a lower capacity or play duration than the standard 12 cm CD-R. Some 8 cm CD-Rs have been further adapted to match the size of a business card, but the characteristics of such a CD-R remain the same as of a 12 cm CD-R, despite the difference in the form of the disc. All mentioned types of smaller CD-R can be used by any personal computer in the same way as a 12 cm CD-R. Therefore, the 8 cm CD-R and the business card type CD-R are both covered by the investigation and by the measures adopted.

(12) The so-called minidisc, however, should be distinguished from CD-Rs. Although the minidisc is a recordable optical product, using the same laser technology as the CD-R, it is at the same time erasable and always encased in a fixed housing, comparable to that of 3,5 inch diskettes. To write/read on the minidisc requires specific equipment (minidisc recorder or player), which does not form part of a personal computer. In view of the differences in physical characteristics and as the targeted market is entirely different, the minidisc is not covered by the measures adopted.

(13) Some parties claimed that the definition of the product concerned in the provisional Regulation did not take account of the fact that various types of packaging for CD-Rs are encountered on the market. The issue of packaging, the related costs of production and the comparison of the Community industry's production with Taiwanese imports are dealt with under point 2(b) 'Price undercutting' and under point 3(a) 'Cost of production and profitability' of Section 'G. Injury' of this Regulation. It should be noted that packaging is only relevant in the context of the analysis of price comparison and not for the definition of the product concerned.

(14) In view of the above, the provisional findings as described in recitals 9 and 10 of the provisional Regulation are confirmed.

2. Like product

(15) In the absence of any further comments, the definition of the like product as described in recital 11 of the provisional Regulation is confirmed.

D. SAMPLING

(16) No comments concerning the sampling of Taiwanese exporting producers were received and, therefore, the conclusions set out in recitals (12) to (18) of the provisional Regulation are hereby confirmed.

E. DUMPING

1. Normal value

(17) Following the adoption of provisional measures, one exporting producer requested the exclusion of the selling, general and administrative expenses (SG and A) of its related company in the domestic market from the total SG and A expenses used in the ordinary course of trade test and in constructing normal value. The exporting producer argued that its related company was set up to conduct internet business, which incurs high SG and A costs and merely became involved, temporarily, with sales of the product concerned to help it improve its financial situation. The exporting producer claimed that almost all SG and A expenses of its related company were unrelated to the sales of the product concerned. It also requested the Commission to disregard completely, for the dumping calculations, the domestic sales of the related company for the same reasons.

(18) In this respect, the claim to disregard completely the domestic sales and the SG and A expenses of the related company was rejected as it could not be supported by any verified information. However, in determining normal value the Commission accepted to exclude certain amounts of SG and A expenses which were shown not to relate to domestic sales of the product concerned.

- (19) Two exporting producers claimed that the Commission should not have allocated all interest expenses to the product concerned but only those related to the operational activities. They argued that long-term and short-term investments form part of total assets and require financing and hence, incur interest expenses that are not related to the production and sales of the product concerned.
- (20) This claim was accepted because it was shown that certain financing expenses did not concern operational activities related to the production and sales of the product concerned. The SG and A expenses were therefore revised before being used in the ordinary course of trade test and in constructing normal value.

2. Export price

- (21) No claims were made concerning the determination of the export price. The conclusions set out in recital 26 of the provisional Regulation are hereby confirmed.

3. Comparison

- (22) Three exporting producers claimed that the Commission proceeded to a comparison between normal value and export price without treating packing costs consistently between constructed normal value and normal value based on actual prices. They argued that it was inappropriate for the Commission to consider packing costs to be an allowance in case of normal value based on prices but not to consider it as an allowance in case of constructed normal value.
- (23) The three exporting producers also argued that packing cost was a mandatory allowance under Article 2(10)(f) of the basic Regulation, when differences exist between the directly related packing costs of the normal value and export price. They argued that in case of a comparison of the weighted average normal value with the prices of individual export transactions, the Commission compared individual export prices including individual packing costs per transaction, with a constructed normal value including a weighted average export packing cost for the same product type. The three exporting producers therefore requested the deduction of packing costs from all export prices and constructed normal value on the same basis.
- (24) With regard to the alleged mandatory nature of the allowance for packing costs, it is considered that an allowance under Article 2(10) of the basic Regulation is granted only when there are differences in factors, such as packing, which do not allow a fair comparison

between normal value and export price. In fact in this case, the constructed normal value was based on the cost of production of the exported type including its packing cost and, therefore, no difference in packing costs existed between export price and normal value.

- (25) However, the claim concerning the comparison of individual export prices including individual packing costs with a constructed normal value including a weighted average export packing cost per product type was accepted. Therefore, for the four exporting producers that had exported product types for which normal value had to be constructed, the construction of normal value was revised in order to take account of an export packing cost per product type and packing type.
- (26) One exporting producer claimed that the Commission had not taken into account in the dumping calculations certain changes in packing types of its export sales which were made during the verification visit.
- (27) This claim was accepted and the packing types concerned were modified.

4. Dumping margins

- (28) Two exporting producers claimed that the Commission should not have established the dumping margins on the basis of a comparison by product type of the weighted average normal value with the prices of all individual export transactions as they considered the Commission's reasoning for having recourse to this method insufficient. Although the two companies admitted that the export prices differed significantly among time periods during the investigation period, they argued that there was a parallel declining trend for world prices, including the normal values, and for export prices and that therefore the differences in export prices should not be taken into account. They also suggested that a transaction to transaction comparison of normal value and export price should have been used instead.
- (29) These arguments were not accepted. Concerning the transaction to transaction comparison, it is noted that the Community does not use this methodology because the process of selecting individual transactions in order to make such a comparison is considered too impracticable and arbitrary, at least in cases such as this one, where thousands of export and domestic transactions existed. It was therefore concluded that a transaction to transaction comparison could not be an appropriate alternative comparison method.

- (30) In order to use a comparison of a weighted average normal value to prices of all individual export transactions as opposed to a comparison of a weighted average normal value with a weighted average of export prices, there must be a finding that export prices differ significantly among different purchasers, regions or time periods and that the use of the other two comparison methods, specified in Article 2(11) of the basic Regulation, would not reflect the full degree of dumping. As to the first requirement, it has been found that export prices were significantly lower during the second half of the investigation period as compared to the first half and this finding was not disputed by the exporting producers concerned. They have contested however, whether the difference in prices constituted a pattern, which they alleged was the result of a worldwide fall in prices including normal values. It was considered that the decline in export prices constituted a pattern for two reasons: firstly, because the decline prevailed throughout the second half of the investigation period; and secondly, because of its extent, which was found to be very substantial and in some cases reached 50 %. As to the claim that the differences in export prices were because of worldwide trends in prices including normal values, this was considered irrelevant as the appropriate analysis has to be made on export prices to the Community. It is also noted that Article 2(11) of the basic Regulation requires a demonstration of a pattern of export prices and not an explanation of why such a pattern existed.
- (31) In relation to the requirement to demonstrate that only a comparison of a weighted average normal value to prices of all individual export transactions will reflect the full degree of dumping, it is appropriate to note that the application of this methodology gave a significantly higher dumping margin than a comparison of a weighted average normal value with a weighted average of export prices, which would not take into account the effect of the significant decline of export prices into the Community during the second half of the IP. Hence, unless a comparison of a weighted average normal value to prices of all individual export transactions had been used, the significantly higher or targeted dumping which took place during the second half of the investigation period would have been inappropriately disguised by the use of a comparison of a weighted average normal value with a weighted average of export prices. It was also appropriate to reflect in the calculation of dumping, via a comparison of a weighted average normal value to prices of all individual export transactions, the fact that export prices in the second half of the investigation period were below cost of production and thus constituted a very predatory form of dumping.
- (32) The same two exporting producers referred to the Panel and the Appellate Body reports in the Indian bedlinen case before the WTO's Dispute Settlement Body (DSB) and claimed that the so called 'zeroing of negative dumping margins' is not allowed when calculating dumping margins based on a comparison of a weighted average normal value to all individual export transactions.
- (33) In respect to the DSB case quoted, it is noted that the methodology considered by the Panel and the Appellate Body was different from the methodology used in the present investigation. The DSB has not adopted any recommendation concerning a comparison of a weighted average normal value to all individual export transactions. In any event, as far as 'zeroing' is concerned, it is noted that if this practice was not used, a comparison of a weighted average normal value to all individual export transactions by product type and a comparison of a weighted average normal value with a weighted average of export prices by product type would give the same dumping margin. In such a case, the methodology set out in the last sentence of Article 2(11) of the basic Regulation, to compare a weighted average normal value to all individual export transactions would become redundant. Furthermore, in a case of targeted dumping, 'zeroing' allows to avoid that positive dumping margins on dumped sales are disguised by negative dumping margins. Therefore, the claim that 'zeroing' is not allowed when comparing a weighted average normal value to all individual export transactions cannot be accepted.
- (34) Dumping margins were established as set out in recitals 28 to 33 of the provisional Regulation. The comparison of the weighted average normal value per product type, revised as appropriate, with the weighted average export price per product type on an ex-factory basis for two companies in the sample, and with the ex-factory export prices of all individual export transactions for the three other companies in the sample, showed the existence of dumping for all investigated exporting producers included in the sample.
- (35) Following changes to the calculations in accordance with the findings noted above, the dumping margins of the investigated companies were revised slightly. This revision has not affected the choice of methodology set out in recitals 28 and 29 of the provisional Regulation which is hereby confirmed. Consequently, the weighted average dumping margin calculated for the cooperating companies not included in the sample pursuant to Article 9(6) of the basic Regulation was also revised. The revised calculations have also affected the dumping margin established for the non-cooperating companies. The definitive dumping margins as a percentage of the CIF import price duty unpaid are as follows:

— Auvistar Industry Co.	17,7 %
— Princo Corporation	29,9 %
— Prodisc Technology Inc.	17,7 %
— Ritek Corporation	17,7 %
— Unidisc Technology Co.	17,7 %
— Cooperating exporting producers not in the sample	19,2 %
— Non-cooperating exporting producers	38,5 %

F. COMMUNITY INDUSTRY

- (36) In the absence of any new information on the Community industry, the provisional findings as described in recitals 35 to 38 of the provisional Regulation are confirmed.

G. INJURY

1. Community consumption

- (37) In the absence of any new information, the provisional findings concerning the Community consumption as described in recital 40 of the provisional Regulation are confirmed.

2. Imports concerned

(a) *Volume, price and market share of imports originating in Taiwan*

- (38) In the absence of any new information on the volume, price and market share of imports of CD-Rs originating in Taiwan, the findings as described in recitals 41 to 43 of the provisional Regulation are confirmed.

(b) *Price undercutting*

- (39) A number of parties questioned whether packaging had been properly taken into account for the price undercutting calculations. One specific claim, that the Taiwanese exporting producers offer a wider choice of packaging than the Community industry, is addressed under point 3(a) 'Cost of production and profitability' of the Section 'G. Injury' of this Regulation.
- (40) In terms of price undercutting, it should be noted that the comparison between sales prices on the Community market of CD-Rs produced by the Community industry and those produced and imported from Taiwan was only made for CD-Rs having both the same basic characteristics (in terms of type of data stored, storage capacity, reflective layer and whether the CD-R was printed or not) as well as having identical packaging.

- (41) It was claimed that CD-Rs imported into the Community originating in Taiwan and the CD-Rs produced by the Community industry could not be compared because of differences in branding. Under that claim a product of the Community industry, which was said to be typically branded, would attract a price premium compared to an unbranded Taiwanese product.

- (42) The investigation showed that branding only influences consumers when the sales price is similar, so that whilst consumers are not willing to pay a premium for a branded product they may be inclined to choose it when prices are the same.

- (43) Community producers sell both branded and 'unbranded' products, although even the latter are usually branded according to the specifications and with the name of the client retailer. The investigation did not reveal any price differential between branded and 'unbranded' sales to retailers. Moreover, the Taiwanese exporting producers acted in exactly the same way, selling under their own brand or to the client's specification. Products marketed under a brand name, which the consumer would consider as Community-based, were frequently found to be manufactured in Taiwan.

- (44) In view of the above, the provisional findings on price undercutting and the average undercutting margin of 29 %, as described in recitals 44 to 47 of the provisional Regulation, are confirmed.

3. Situation of the Community industry

(a) *Cost of production and profitability*

- (45) It was claimed that the Taiwanese exporting producers offer a wider choice of packaging than the Community industry and that the provisional Regulation did not provide sufficient explanation on the effect of packaging on the cost of production.

- (46) Although the investigation has shown that there was a wide variety of packaging types which were updated regularly following marketing efforts, the following main categories could be distinguished. They are ranked according to increasing average cost of production during the IP with the figure between brackets indicating the cost differences in an indexed form. Contrary to the claim that the Taiwanese exporting producers offer a wider choice of packaging than the Community industry, it is confirmed that the same types of packaging are offered by both above categories of suppliers on the Community market, the choice being determined by the same category of unrelated customers, i.e. client retailers.

- (47) CD-Rs sold in bulk (100) ⁽¹⁾ are typically shipped on spindles, which are plastic devices on which a number of CD-Rs are stacked. The complete spindle with CD-Rs is in most cases cellophane wrapped. The bulk product can however also merely be a cellophane wrapped stack of CD-Rs, without the spindle.
- (48) CD-Rs may also be sold in so-called cake-boxes (144), which can be described as spindles onto which a plastic lid is screwed so that a closed container-like product is obtained.
- (49) The jewelbox, accompanied by a booklet (200), was the most widely spread means of packaging during the IP. This form was also most frequently encountered in case of sales of registered music-CD's. A more recent phenomenon is the slim case (174) which differs from

the jewelbox in that the black inlay, where the CD-R is fixed, at the same time serves as the back of the case. The result is a box which is approximately half as thick as the original jewelbox.

(b) *Employment, productivity and wages*

- (50) The average employment cost per employee and the productivity were recalculated in order to take account of the correction of the employment figures for 1997 for one producer of the Community industry. That producer had submitted year-end figures including trainees for upcoming production capacity instead of a yearly average full-time equivalent.

	1997	1998	1999	2000 (= IP)
Employment	427	623	877	1 037
Index	100	146	205	243
Average employment cost per employee in EUR '000	25,0	27,7	31,5	30,7
Index	100	111	126	123
Productivity CD's per employee	45 300	137 500	240 000	311 200
Index	100	304	530	687

- (51) The average wage cost per employee increased by 23 % over the period considered, in line with normal indexation of wages to the cost of living as well as the cost of training and employing specialised new personnel to operate additional machinery. The decrease between 1999 and 2000 can be attributed to the fact that new personnel were mainly employed in the packaging departments, where lower average wages and temporary labour prevail, since this activity requires less technically qualified personnel.
- (52) The definitive determination of the increase of average employment cost per employee at 23 % replaces the figure of 39 % mentioned in recital 64 of the provisional Regulation.

- (54) The increase of import volumes and the decline of the sales price were particularly pronounced between 1999 and the IP. These imports undercut the Community industry's sales prices by 29 % on average during the IP and exercised a downward pressure on the sales prices on the Community market. The magnitude of dumping by the Taiwanese exporting producers was found to be significant. No other factors were found to affect domestic prices.

4. Conclusion on injury

- (53) Referring to the provisional Regulation, it is recalled that the volume of low-priced imports from Taiwan increased significantly during the period considered. Their market share increased from 6,3 % to 60,1 % and their import price was reduced by 73 % on average. The Community market was dominated by Taiwanese imports, which benefited considerably more from the favourable evolution of Community demand for CD-Rs than the Community industry in terms of volume of sales and market share.

- (55) Some economic indicators pertaining to the situation of the Community industry, such as production of CD-Rs, production capacity installed, sales volume, cash flow, employment and productivity, showed positive developments over the period considered. However, these developments in relative terms, i.e. with reference to the rapidly expanding market, were less pronounced than could be expected. The rate of capacity utilisation increased until 1999, but decreased during the IP to 86 %. Over the period considered, the average sales prices of the Community industry dropped considerably.

- (56) The Community industry originally built up a market share of 16,8 % in 1998, but subsequently lost part of that market share to the Taiwanese importers, achieving 12,6 % during the IP. Difficulties encountered by the Community industry to obtain projected sales in an expanding market led to considerable stock building during the IP. Negative return on investments during the IP led the Community industry to postpone or cancel new investment decisions to a large extent.

⁽¹⁾ Basic index = 100

- (57) Notwithstanding the increase of the average wage cost per employee, the Community industry achieved profitability in 1999 as a consequence of the reduction of the full cost of production. However, further cost reductions were insufficient to compensate for the significant decrease of the sales prices, leading to financial losses during the IP.
- (58) The investigation revealed that the Community industry was prevented from participating in the growth of the Community market, that its investment programmes for CD-Rs were significantly reduced due to declining sales prices, that its sales prices were undercut by Taiwanese exporting producers by 29 % on average, that it suffered financial losses during the IP and encountered difficulties in raising additional funding.
- (59) In view of the above, the conclusions as stated in recitals 66 to 71 of the provisional Regulation are confirmed.

H. CAUSATION

1. Effect of the dumped imports

- (60) It was alleged that the absence of sufficient growth in terms of production, sales and market share of the Community industry should not be attributed to Taiwanese imports, but to its high capacity utilisation during 1999 and the IP, which did not allow the Community industry to make extra sales or to obtain additional market share.
- (61) It should be recalled that the Community industry's capacity utilisation declined from 91,8 % in 1999 to 86,3 % in the IP. Furthermore, as mentioned in recital 55 of the provisional Regulation, stocks increased significantly towards the end of 1999 and to an even greater extent towards the end of the IP. During the IP, production of CD-Rs exceeded sales by approximately 40 million units, leading to stocks at the end of the year which represented more than 20 % of yearly production of CD-Rs. This clearly indicates that the capacity utilisation rate cannot have caused the lack of growth of the Community industry.
- (62) It was further claimed that any injury suffered by the Community industry was a consequence of its failure to adapt to world market prices. It was also argued that the downward pressure on prices was the result of the existing world-wide production over-capacity. In this context it was claimed that virtually no recent additional investments in CD-R production capacity were made, given the extremely low price levels.
- (63) Interested parties did not provide any evidence supporting the allegation that there were one or more reference worldwide sales prices for CD-Rs. In assessing this allegation, it should also be noted that the investigation showed that depending on the export market

CD-Rs could be sold under one form of packaging rather than another. As stated under recitals 39 to 44 of this Regulation, such packaging has a serious impact on the cost of production and may thus explain why overall price levels can vary significantly depending on the type of packaging and on the destination market. It follows that without details concerning the mix of product types of CD-Rs per destination market, no meaningful price analysis can be made worldwide. Moreover, the import price setting by Taiwanese exporting producers on the Community market at a level below their own cost of production caused a downward pressure on the Community price level which the Community industry could only follow by selling at a loss during the IP.

- (64) As mentioned in recital 58 of this Regulation, the Community industry significantly reduced its investments due to the deterioration of sales prices on the Community market. In contrast, Taiwanese exporting producers which operated on a worldwide basis continued to expand their production facilities notwithstanding the unfavourable market price outlook. Based on information available, Taiwanese-owned production capacity in the IP more than covered estimated total world market demand, that increased by 84 % compared to 1999. This increase in capacity by Taiwanese producers suggests, that, if anything they have themselves contributed to any over-capacity. Furthermore, the increase in Taiwanese capacity implies that the claim concerning the absence of investments in CD-Rs production capacity is not founded.
- (65) Based on these facts and considerations, the above claims are rejected.

2. Imports of CD-Rs from other countries

- (66) The market share of imports from other countries decreased from 78,8 % to 21,3 % over the period considered. Japan and Singapore are the largest exporters to the Community with market shares of 9,5 % and 2,7 % respectively during the IP.
- (67) It was observed that the Japanese import price into the Community decreased more sharply over the period considered than the Taiwanese price. The Japanese import price, which was up to 53 % above the Taiwanese import price in the period 1997 to 1999, was only 26 % higher during the IP. It was thus alleged that the sharper decrease of Japanese import prices into the Community over the period considered had contributed to the downward pressure on prices in the Community market.

- (68) It is recalled that Japanese prices have always been significantly higher than those of Taiwanese exporting producers over the period considered. Although the quantities imported from Japan increased from 53 million CD-Rs to 192 million CD-Rs over the period considered, the Japanese market share on the Community market dropped from 33 % to 9,5 %. Their impact on the market was therefore much more limited than that of low-priced dumped Taiwanese CD-Rs.
- (69) Exports from Taiwan to Japan reached 87 million CD-Rs during the IP and were made at an average price of EUR 0,42 per CD-R, which is 26 % above the average Taiwanese export price to the Community. This price corresponds exactly to the average import price of CD-Rs of Japanese origin into the Community. It seems therefore that the level of the Taiwanese price on the Community market is particularly low.
- (70) CD-R's imported from Singapore entered the Community at prices lower than the Taiwanese imports, however their market share dropped from 14,2 % to 2,7 % over the period considered. The information available also indicates that one CD-R producer dominates the Singaporean market in terms of domestic output and exports to the Community and that this company is related to another CD-R producer located in the Community. During the period considered, they both sold CD-Rs to a third sister sales company in the Community, which marketed the CD-Rs under a brand name. On this basis, it cannot be considered that the sales transactions made by the main Singaporean exporting producer to the Community were made at arm's length conditions.
- (71) It is recalled that low-priced dumped Taiwanese imports held 60 % of the Community market during the IP. In the light of both the reduction of Japanese market share and the price level of Japanese imports on the Community market, it is considered that Japanese imports cannot have contributed more than insignificantly to the downward pressure on the Community market.
- (72) Further clarification was asked concerning the economies of scale, mentioned in recital 56 of the provisional Regulation, and more specifically it was alleged that the Taiwanese exporting producers could obtain a lower cost of production per CD-R than the Community industry because of the larger average size of their companies. The economies of scale realised by Taiwanese exporting producers were thus relevant to explain the price differential between Taiwanese and Community produced CD-Rs.
- (73) It was indeed established that the average factory size of the sampled Taiwanese exporting producers during the IP was 530 million CD-Rs per year, compared to an average of 40 million CD-Rs per year for the Community industry. However, the production lines installed in all companies are manufactured by the same companies in either Germany, Switzerland or Japan and are of a comparable size. Taiwanese exporting producers on average have simply installed more production lines than Community producers. It is therefore considered that no economy of scale could have been achieved on these fixed costs.
- (74) It is, however, worth mentioning that the determining factor for the cost of production is the number of CD-Rs that can be produced by a given production line within a certain time period. The acquisition cost of the machinery remained fairly stable over the period considered, but the performance increased on average from 10 CD-Rs per minute in 1997 to 25 CD-Rs per minute in 2000. This gain in efficiency allowed the Community industry to reduce costs of production.
- (75) Within a given company it was typical to encounter different generations of machinery with the new investments representing the best performance whereas, older investments had already been partially or completely scrapped. The theoretical maximum economic lifetime of the machinery is five years, although this is probably even shorter in practice. This pattern is not different for the Taiwanese exporting producers than for the Community industry. A production line purchased in the year 2000 would on average allow an output of approximately 1 million CD-Rs per month, compared to 400 000 CD-Rs per month for a production line installed in 1997.
- (76) No evidence was provided by the Taiwanese exporting producers which would demonstrate and quantify any alleged economies of scale i.e. that a larger factory size with more lines installed, would deliver a lower manufacturing cost per CD-R. The Taiwanese exporting producers were not found for instance to benefit from any specific advantages regarding the purchase costs of raw materials, nor did they claim the existence of such advantages.

3. Economies of scale

- (72) Further clarification was asked concerning the economies of scale, mentioned in recital 56 of the provisional Regulation, and more specifically it was alleged that the Taiwanese exporting producers could obtain a lower cost of production per CD-R than the Community industry because of the larger average size of their companies. The economies of scale realised by Taiwanese exporting producers were thus relevant to explain the price differential between Taiwanese and Community produced CD-Rs.
- (73) In any case, it should be underlined that even if such a lower manufacturing cost per CD-R would exist, this could not justify the dumping behaviour of the Taiwanese exporters. The alleged economies of scales therefore do not alter the causal link between dumped imported Taiwanese CD-R's and the injury suffered by the Community industry.

4. Conclusion on causation

- (78) In conclusion, it is confirmed that the material injury of the Community industry was caused by the dumped imports concerned. The material injury is characterised by the fact that the Community industry was prevented from participating in the market growth, that the investment programmes for CD-Rs had to be significantly reduced due to the declining trend of sales prices, that the Community industry's sales prices were undercut on average by 29 % by Taiwanese low-priced dumped imports, that it suffered financial losses during the IP and had difficulties in raising additional funding.
- (79) No further claims were made with respect to the impact of the factors discussed in recitals 77 to 94 of the provisional Regulation. Therefore, it is concluded that the effect of the development of Community consumption, the imports from other third countries, the export activity of the Community industry, the purchases of CD-Rs from third countries by the Community industry and the adaptation of high speed technology, on the Community industry's negative developments in terms of capacity utilisation, stock building, sales prices, market share, profitability, investments, return on investment and the ability to raise capital was practically non-existent.

Given the analysis, which has properly distinguished and separated the effects of all the known factors on the situation of the Community industry from the injurious effects of the dumped imports, it is hereby confirmed that these other factors as such do not reverse the fact that the injury assessed must be attributed to the dumped imports. It is also considered that imports of CD-Rs originating in Taiwan had a significant negative impact on the situation of the Community industry and that the effect of other factors, notably imports from third countries including Japan was not such as to alter the finding of a genuine and substantial relationship of cause of and effect between the dumped imports from Taiwan and the material injury suffered by the Community industry.

I. COMMUNITY INTEREST

1. Interest of the Community industry

- (80) In the absence of any new information on the interest of the Community industry, the provisional findings as described in recitals 98 to 100 of the provisional Regulation are confirmed.

2. Interest of importers

- (81) It has been claimed that the fact that the cooperating importers of Taiwanese CD-Rs were unable to cover their overhead costs on the basis of a normal trading contribution margin applied to the low market prices during the IP is an indication that Taiwanese imports are

not responsible for the downward pressure on prices. This also indicates that the imposition of anti-dumping duties will not be in the interest of importers.

- (82) However, no evidence substantiating this claim was provided and the re-examination of the data available confirmed that the increasing volume and decreasing prices of imports of CD-Rs originating in Taiwan caused a downward effect on the Community market prices. The investigation showed that the normal trading margin made by the cooperating importers based on lower prices of CD-Rs did not yield sufficient coverage of overhead costs, leading to losses during the IP. Moreover, the decrease of market prices occurred at such a pace that importers were faced with rapid value deterioration of goods in transit, creating a situation in which the purchase price occasionally exceeded the eventual sales price.
- (83) It should also be noted that no importers came forward to contradict the Commission's provisional findings. It is considered that effective trade conditions on the Community market will serve the interest of importers by restoring an adequate sales price level on the Community market.
- (84) In view of the above, the provisional findings as described in recitals 101 and 102 of the provisional Regulation are confirmed.

3. Interest of users and consumers

- (85) In the absence of any new information on the interest of users and consumers, the provisional findings as described in recitals 103 to 105 of the provisional Regulation are confirmed.

4. Conclusion on Community interest

- (86) In view of the above, the provisional conclusion as described in recital 107 of the provisional Regulation is confirmed, i.e. that there are no compelling reasons on the grounds of Community interest not to impose definitive anti-dumping measures.

J. DEFINITIVE ANTI-DUMPING MEASURES

1. Injury elimination level

- (87) It was claimed that the pre-tax profit margin of 8 % mentioned in recital 110 of the provisional Regulation and used in the determination of the non-injurious price was unreasonably high.

- (88) This margin that could reasonably be achieved under normal conditions of competition was based on an assessment of the impact on the Community industry's sales prices of the degree to which the Taiwanese exporters dumped CD-Rs on the Community market, the import price levels of the non-dumped imports from third countries and the profitability required to cover the financial costs of the investments made by the Community industry. The analysis allowed to conclude that 8 % was a reasonable level of pre-tax profit margin.
- (89) In any event, it should be noted that the definitive anti-dumping measures are based on the dumping margins in application of the lesser duty rule.

2. Definitive anti-dumping measures

Country	Company	Rate of duty
Taiwan	Acer Media Technology Inc.	19,2 %
	Auvistar Industry Co. Ltd	17,7 %
	Digital Storage Technology Co.	19,2 %
	Gigastore Corporation	19,2 %
	Lead Data Inc.	19,2 %
	Megamedia Corporation	19,2 %
	Nan Ya Plastics Corporation	19,2 %
	Postech Corporation	19,2 %
	Princo Corporation	29,9 %
	Prodisc Technology Inc.	17,7 %
	Ritek Corporation	17,7 %
	Unidisc Technology Inc.	17,7 %
	All other companies	38,5 %

- (90) The individual company anti-dumping rates specified in this Regulation were established on the basis of findings of the present investigation. Therefore, they reflect the situation found during that investigation with respect to these companies. These duty rates (as opposed to the country-wide duty applicable to all other companies) are thus exclusively applicable to imports of product originating in the country concerned and produced by the companies and thus by the specific legal entities mentioned. The imported product produced by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'.
- (91) Any claim requesting the application of these individual company anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission ⁽¹⁾ forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with e.g. that name change or that change in the production and sales entities. The Commission, if appropriate, will, after consulting the Advisory Committee, amend this Regulation accordingly by updating the list of companies benefiting from individual duty rates.

⁽¹⁾ European Commission
Directorate-General Trade
Directorate B
B-1049 Brussels.

- (92) Since sampling has been used in the investigation of dumping, a new exporters' review pursuant to Article 11(4) of the basic Regulation with the objective of determining individual dumping margins cannot be initiated in this proceeding. However, in order to ensure equal treatment for any genuine new Taiwanese exporting producer and the cooperating companies not included in the sample, it is considered that provision should be made for the weighted average duty imposed on the latter companies to be applied to any new Taiwanese exporting producer to whom Article 11(4) of the basic Regulation would otherwise apply.

3. Collection of provisional duties

- (93) In view of the magnitude of the dumping margins found for the exporting producers, and in the light of the seriousness of the injury caused to the Community industry, it is considered necessary that the amounts secured by way of provisional anti-dumping duty under the provisional Regulation be definitively collected to the extent of the amount of definitive duties imposed if this amount is equal or lower than the amount of the provisional duty. Otherwise, only the amount of the provisional duty should be definitively collected,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of recordable compact disks (CD-Rs), currently classifiable within CN code ex 8523 90 00 (TARIC code 8523 90 00*10), originating in Taiwan.
2. The rate of the definitive duty applicable to the net free-at-Community-frontier price, before duty, for products produced by the following companies shall be as follows:

Country	Company	Rate of duty	TARIC additional code
Taiwan	Acer Media Technology Inc., 29 Jianguo E. Road, Gueishan, Taoyuan 333, Taiwan, R.O.C.	19,2 %	A298
	Auvistar Industry Co. Ltd, 21, Tung-Yuan Road, Chung-Li Industrial Park, Taiwan R.O.C.	17,7 %	A299
	Digital Storage Technology Co., Ltd, No 42, Kung 4 Rd, Linkou 2nd Industrial Park, Taipei Hsien, Taiwan R.O.C.	19,2 %	A300
	Gigastore Corporation, 2, Kuang Fu South Rd, Hsinchu Industrial Park, Hsinchu, Taiwan R.O.C.	19,2 %	A301
	Lead Data Inc., No 23, Kon Yeh 5th Rd, Hsinchu Industrial Park Fu Kou Hsiang, Hsinchu Hsien, Taiwan R.O.C.	19,2 %	A302
	Megamedia Corporation, No 13, Kung Chien Rd, Chi-Tu District, Keelung, Taiwan R.O.C.	19,2 %	A303
	Nan Ya Plastics Corporation, 201, Tung Hwa N. Road, Taipei, Taiwan R.O.C.	19,2 %	A361
	Postech Corporation, No 42, Kuang Fu South Road, Hsinchu Industrial Park, Hsinchu Hsien, Taiwan R.O.C.	19,2 %	A304
	Princo Corporation, No 6, Creation 4th Rd, Science-based Industrial Park, Hsinchu, Taiwan R.O.C.	29,9 %	A305
	Prodisc Technology Inc., No 13, Wu-Chuan 7th Rd, Wu-Ku Industrial District, Wu-Ku County, Taipei, Taiwan R.O.C.	17,7 %	A306
	Ritek Corporation, No 42, Kuanfu N. Road, Hsinchu Industrial Park, Taiwan 30316 R.O.C.	17,7 %	A307
	Unidisc Technology Co., Ltd, 4F, No 543, Chung-Cheng Rd., Hsin-Tien, Taipei, Taiwan, R.O.C.	17,7 %	A308
	All other companies	38,5 %	A999

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

Article 2

Where any new exporting producer in Taiwan provides sufficient evidence to the Commission that:

- it did not export to the Community the products described in Article 1(1) during the investigation period (1 January 2000 to 31 December 2000),
- it is not related to any of the exporters or producers in Taiwan which are subject to the anti-dumping measures imposed by this Regulation,
- it has actually exported to the Community the products concerned after the investigation period on which the measures are based, or it has entered into an irrevocable contractual obligation to export a significant quantity to the Community,

the Council, acting by simple majority on a proposal submitted by the Commission after consulting the Advisory Committee, may amend Article 1(2) by adding the new exporting producer to the companies subject to the weighted average duty rate listed in that Article.

Article 3

The amounts secured by way of the provisional anti-dumping duty on imports originating in Taiwan under the provisional Regulation shall be collected at the rate of the duty definitively imposed by this Regulation. Amounts secured in excess of the rate of definitive anti-dumping duty shall be released.

Article 4

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

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

Done at Luxembourg, 13 June 2002.

For the Council

The President

M. RAJOY BREY

COMMISSION REGULATION (EC) No 1051/2002
of 17 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 18 June 2002.

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

Done at Brussels, 17 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 17 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	54,5
	064	68,7
	999	61,6
0707 00 05	052	87,5
	220	135,3
	999	111,4
0709 90 70	052	82,2
	999	82,2
0805 50 10	388	57,3
	528	58,4
	999	57,8
0808 10 20, 0808 10 50, 0808 10 90	388	83,4
	400	113,6
	404	109,0
	508	88,6
	512	92,0
	524	64,6
	528	73,7
	720	149,1
	804	108,9
	999	98,1
0809 10 00	052	190,1
	999	190,1
0809 20 95	052	338,1
	064	231,2
	094	300,3
	400	246,7
	999	279,1

⁽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 1052/2002**of 17 June 2002****amending Regulation (EC) No 1520/2000 laying down common detailed rules for the application of the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amounts of such refunds**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3448/93 of 6 December 1993 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products ⁽¹⁾, as last amended by Regulation (EC) No 2580/2000 ⁽²⁾, and in particular Article 8(3) thereof,

Whereas:

- (1) The experience gained with the application of Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying down common detailed rules for the application of the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amounts of such refund ⁽³⁾ as last amended by Regulation (EC) No 595/2002 ⁽⁴⁾, indicates that it is appropriate to provide more flexible transfer rules for refund certificates with short validity periods which issue towards the end of the budget period and to increase the threshold below which certain operators are exempted from presenting certificates.
- (2) In order to make adequate provision for this increased threshold the reserve for each budget year, mentioned in Article 14(1), should be increased.
- (3) Furthermore, in light of this increased threshold the amount above which the Commission may suspend the application of Article 14(1) and (2) should be increased.
- (4) Combined nomenclature codes of certain goods listed in Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organisation of the market in eggs ⁽⁵⁾, as last amended by Commission Regulation (EC) No 493/2002 ⁽⁶⁾, Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products ⁽⁷⁾, as last amended by Commission Regulation (EC) No 509/2002 ⁽⁸⁾ and Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector ⁽⁹⁾, as last amended by

Commission Regulation (EC) No 680/2002 ⁽¹⁰⁾, have been amended to take account of the amendments to Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff ⁽¹¹⁾, as last amended by Commission Regulation (EC) No 796/2002 ⁽¹²⁾, introduced by Commission Regulation (EC) No 2031/2001 ⁽¹³⁾ with effect from 1 January 2002.

- (5) Annexes B and D of Regulation (EC) No 1520/2000 should therefore be updated in order to maintain equivalence with the respective Annexes of Regulations (EEC) No 2771/75, (EC) No 1255/1999 and (EC) No 1260/2001.
- (6) It is appropriate to render more precise the current wording of Article 8(1) in order to provide for greater legal certainty. As a consequence the wording of the instruction given at Annex F III (k) should also be amended.
- (7) In respect of the goods listed in Annex C, the quantity of basic products to be taken in calculating the amount of the refund shall be that shown in that Annex against each of those goods. However, the quantity shown in respect of CN code ex 2008 99 85 should be modified as it is excessive.
- (8) Regulation (EC) No 1520/2000 should therefore be amended accordingly.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee on horizontal questions concerning trade in processed agricultural products not listed in Annex I to the Treaty,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1520/2000 is amended as follows:

1. the following paragraph 1a is added to Article 6(1):

⁽¹⁾ OJ L 318, 20.12.1993, p. 18.

⁽²⁾ OJ L 298, 25.11.2000, p. 5.

⁽³⁾ OJ L 177, 15.7.2000, p. 1.

⁽⁴⁾ OJ L 91, 6.4.2002, p. 5.

⁽⁵⁾ OJ L 282, 1.11.1975, p. 49.

⁽⁶⁾ OJ L 77, 20.3.2002, p. 7.

⁽⁷⁾ OJ L 160, 26.6.1999, p. 48.

⁽⁸⁾ OJ L 79, 22.3.2002, p. 15.

⁽⁹⁾ OJ L 178, 30.6.2001, p. 1.

⁽¹⁰⁾ OJ L 104, 20.4.2002, p. 26.

⁽¹¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽¹²⁾ OJ L 128, 15.5.2002, p. 8.

⁽¹³⁾ OJ L 279, 23.10.2001, p. 1.

'1a. By way of derogation from paragraph 1, for refund certificates issued for use as from 1 June for goods to be exported before 1 October the requirement to enter the name and address of the transferee in box 20 of the application form shall not apply. Box 6 shall not be deleted from these refund certificates.

For the budget period ending 30 September 2002, the provisions of the first subparagraph shall apply to refund certificates issued for use from 1 August 2002.';

2. Paragraph 1 of Article 8 is replaced by the following:

'1. Refund certificates issued for a single budget period may be applied for separately in six tranches. Applications for certificates may be submitted at the latest on:

- (a) 7 September for certificates for use from 1 October;
- (b) 7 November for certificates for use from 1 December;
- (c) 7 January for certificates for use from 1 February;
- (d) 7 March for certificates for use from 1 April;
- (e) 7 May for certificates for use from 1 June;
- (f) 7 July for certificates for use from 1 August.';

3. Article 14 is amended as follows:

- (a) in the first subparagraph of paragraph 1, '30 million euros' is replaced by 'EUR 35 million';

- (b) in paragraph 2, the first subparagraph is replaced by the following:

'This Article shall apply to exports by operators that have not held a refund certificate since the beginning of the budget period in question and do not hold such a certificate on the date of export. The applications submitted by the operator on the terms set out in Annex F, section VI, paragraph 2, during the budget year and before the submission of the application for the export in question must total less than EUR 75 000.';

- (c) in paragraph 3, the second subparagraph is replaced by the following:

'If the sum of the amounts notified by the Member States reaches EUR 25 million, the Commission may suspend the application of paragraphs 1 and 2 to exports not covered by a refund certificate.';

- 4. in Annex B the line '1905 30 – Sweet biscuits: waffles and wafers' is replaced by the following:

— Sweet biscuits; waffles and wafers:

1905 31 – – Sweet biscuits;

1905 32 – – Waffles and wafers';

- 5. in Annex C, the entry in respect of CN code ex 2008 99 85 is replaced by the following:

CN code	Description	Common wheat	Durum wheat	Maize (corn)	Wholly milled long-grain rice	Wholly milled round-grain rice	Barley	White sugar	Whey (PG1)	Skimmed-milk powder (PG2)	Eggs in shell
'ex 2008 99 85	----- Maize (corn), in grain form, other than sweet corn (<i>Zea mays</i> var. <i>Saccharata</i>):			60 (1)							

6. in Annex D, the line '1905 30 - Sweet biscuits: waffles and wafers' is replaced by the following:
— Sweet biscuits; waffles and wafers:
1905 31 -- Sweet biscuits;
1905 32 -- Waffles and wafers';
7. Annex F III (k) is replaced by the following:
'Box 22 must contain the words: "for use from ...", determined in accordance with Article 8.'

Article 2

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

Article 1(3) shall apply with effect from 1 October 2002.

Article 1(4) and (6) shall apply with effect from 1 January 2002.

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

Done at Brussels, 17 June 2002.

For the Commission
Erkki LIIKANEN
Member of the Commission

COMMISSION REGULATION (EC) No 1053/2002
of 17 June 2002
on the supply of broad beans as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1292/96 of 27 June 1996 on food-aid policy and food-aid management and special operations in support of food security ⁽¹⁾, as last amended by Regulation (EC) No 1726/2001 of the European Parliament and of the Council ⁽²⁾, and in particular Article 24(1)(b) thereof,

Whereas:

- (1) The abovementioned Regulation lays down the list of countries and organisations eligible for Community aid and specifies the general criteria on the transport of food aid beyond the fob stage.
- (2) Following the taking of a number of Decisions on the allocation of food aid, the Commission has allocated broad beans to certain beneficiaries.
- (3) It is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EC) No 2519/97 of 16 December 1997 laying down

general rules for the mobilisation of products to be supplied pursuant to Council Regulation (EC) No 1292/96 as Community food aid ⁽³⁾. It is necessary to specify the time limits and conditions of supply to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

Article 1

Broad beans shall be mobilised in the Community, as Community food aid for supply to the recipient listed in the Annex, in accordance with Regulation (EC) No 2519/97 and under the conditions set out in the Annex.

The tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in his tender is deemed unwritten.

Article 2

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

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

Done at Brussels, 17 June 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 166, 5.7.1996, p. 1.

⁽²⁾ OJ L 234, 1.9.2001, p. 10.

⁽³⁾ OJ L 346, 17.12.1997, p. 23.

ANNEX

LOTS A, B, C, D and E

1. **Action Nos:** 246/01 (A); 247/01 (B); 248/01 (C); 249/01 (D); 250/01 (E)
2. **Beneficiary** ⁽²⁾: UNRWA, Supply division, Amman Office, PO Box 140157, Amman — Jordan; telex 21170 UNRWA JO; tel. (962-6) 586 41 26; fax 586 41 27
3. **Beneficiary's representative:** UNRWA Field Supply and Transport Officer
A+E: PO Box 19149, Jerusalem, Israel (tel. (972-2) 589 05 55; telex 26194 UNRWA IL; fax 581 65 64)
B: PO box 947, Beirut, Lebanon (tel. (961-1) 840 461-6; fax 840 467)
C: PO box 4313, Damascus, Syria (tel. (963-11) 613 30 35; telex 412006 UNRWA SY; fax 613 30 47)
D: PO box 484, Amman, Jordan (tel. (962-6) 474 19 14/477 22 26; telex 23402 UNRWAJFO JO; fax 474 63 61)
4. **Country of destination:** A, E: Israel (A: Gaza; E: West Bank); B: Lebanon; C: Syria; D: Jordan
5. **Product to be mobilised:** broad beans
6. **Total quantity (tonnes net):** 620
7. **Number of lots:** 5 (A: 323 tonnes; B: 85 tonnes; C: 40 tonnes; D: 107 tonnes; E: 65 tonnes)
8. **Characteristics and quality of the product** ⁽³⁾ ⁽⁷⁾: see OJ C 312, 31.10.2000, p. 1 (B.4)
9. **Packaging** ⁽⁵⁾: see OJ C 267, 13.9.1996, p. 1 (4.0, A 1.c, 2.c and B.4)
10. **Labelling or marking** ⁽⁴⁾: see OJ C 114, 29.4.1991, p. 1 (IV.A(3))
— language to be used for the markings: English
— supplementary markings: 'NOT FOR SALE'
the month and year of packing
11. **Method of mobilisation of the product:** the Community market
12. **Specified delivery stage** ⁽⁶⁾: A, C, E: free at port of landing — container terminal
B, D: free at destination
13. **Alternative delivery stage:** free at port of shipment
14. a) **Port of shipment:** —
b) **Loading address:** —
15. **Port of landing:** A, E: Ashdod; C: Lattakia
16. **Place of destination:** UNRWA warehouse in: Beirut (B); Amman (D)
— port or warehouse of transit: —
— overland transport route: —
17. **Period or deadline of supply at the specified stage:**
— first deadline: A, B, C, E: 11.8.2002; D: 18.8.2002
— second deadline: A, B, C, E: 25.8.2002; D: 31.8.2002
18. **Period or deadline of supply at the alternative stage:**
— first deadline: 15-28.7.2002
— second deadline: 29.7-11.8.2002
19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
— first deadline: 2.7.2002
— second deadline: 16.7.2002
20. **Amount of tendering guarantee:** EUR 5 per tonne
21. **Address for submission of tenders and tendering guarantees** ⁽¹⁾: M. Vestergaard, Commission européenne, Bureau: L 130, 7/46, B-1049 Brussels; telex 25670 AGREC B; fax (32-2) 296 70 03/296 70 04
22. **Export refund:** —

Notes:

- (¹) Supplementary information: Torben Vestergaard (tel. (32-2) 299 30 50; fax (32-2) 296 20 05).
- (²) The supplier shall contact the beneficiary or its representative as soon as possible to establish which consignment documents are required.
- (³) On delivery, the supplier shall provide the beneficiary or his representative with:
- a phytosanitary certificate,
 - a certificate from an official entity confirming that the nuclear radiation standards in force have not been exceeded in the Member State where the product is mobilised. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.
- Lot C: The certificates must be signed and stamped by a Syrian Consulate, including the statement that consular fees and charges have been paid.
- (⁴) Notwithstanding OJ C 114, 29.4.1991, point IV(A)(3)(c) is replaced by the following: 'the words "European Community"'.
- (⁵) Since the goods may be rebagged, the supplier must provide 1 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.
- (⁶) Shipment to take place in 20-foot containers: Lots A, C and E. The contracted shipping terms shall be considered full liner terms free port of landing container yard and is understood to cover 15 days — Saturdays, Sundays and official public and religious holidays excluded — free of container detention charges at the port of discharge taken from the day/time of the arrival of the vessel. The 15 day period should be clearly marked on the bill of lading. *Bona fide* detention charges levied in respect of container detention(s) in excess of the said 15 days as detailed above will be borne by UNRWA. UNRWA shall not pay/not be charged any container deposit fees.
- After take-over of the goods at the delivery stage, the recipient will bear all costs of shifting the containers for destuffing outside the port area and of returning them to the container yard.
- Ashdod: consignment to be stowed in 20-foot containers containing not more than 18 tonnes each, net.
- (⁷) Notwithstanding OJ C 312 — bean size: minimum 7,5 mm (measured with a sieve of circular mesh).
-

COMMISSION REGULATION (EC) No 1054/2002
of 17 June 2002
on the supply of split peas as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1292/96 of 27 June 1996 on food-aid policy and food-aid management and special operations in support of food security ⁽¹⁾, as last amended by Regulation (EC) No 1726/2001 of the European Parliament and of the Council ⁽²⁾, and in particular Article 24(1)(b) thereof,

Whereas:

- (1) The abovementioned Regulation lays down the list of countries and organisations eligible for Community aid and specifies the general criteria on the transport of food aid beyond the fob stage.
- (2) Following the taking of a number of decisions on the allocation of food aid, the Commission has allocated split peas to certain beneficiaries.
- (3) It is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EC) No 2519/97 of 16 December 1997 laying down general rules for the mobilisation of products to be supplied under Council Regulation (EC) No 1292/96 as Community food aid ⁽³⁾. It is necessary to specify the time limits and conditions of supply to determine the resultant costs.

- (4) In order to ensure that the supplies are carried out, provision should be made for tenderers to be able to mobilise either green split peas or yellow split peas,

HAS ADOPTED THIS REGULATION:

Article 1

Split peas shall be mobilised in the Community, as Community food aid for supply to the recipients listed in the Annex, in accordance with Regulation (EC) No 2519/97, and under the conditions set out in the Annex.

Tenders shall cover either green split peas or yellow split peas. Tenders shall be rejected unless they specify the type of peas to which they relate.

The tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in his tender is deemed unwritten.

Article 2

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

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

Done at Brussels, 17 June 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 166, 5.7.1996, p. 1.

⁽²⁾ OJ L 234, 1.9.2001, p. 10.

⁽³⁾ OJ L 346, 17.12.1997, p. 23.

ANNEX

LOT A

1. **Action Nos:** 251/01 (A1); 252/01 (A2); 253/01 (A3)
2. **Beneficiary** ⁽²⁾: World Food Programme (WFP), Via Cesare Giulio Viola 68, I-00148 Roma; tel. (39-06) 6513 2988; fax 6513 2844/3; telex 626675 WFP I
3. **Beneficiary's representative:** to be designated by the beneficiary
4. **Country of destination:** Guinea (A1); Sierra Leone (A2); Liberia (A3)
5. **Product to be mobilised** ⁽⁷⁾: split peas
6. **Total quantity (tonnes net):** 2 000
7. **Number of lots:** 1 in 3 parts (A1: 500 tonnes; A2: 1 000 tonnes; A3: 500 tonnes)
8. **Characteristics and quality of the product** ⁽³⁾ ⁽⁴⁾: see OJ C 312, 31.10.2000, p. 1 (B. 6)
9. **Packaging** ⁽⁵⁾: see OJ C 267, 13.9.1996, p. 1 (2.1 A1 (a), 2(a) and B.4 or (4.0 A1(c), 2(c) and B.4)
10. **Labelling or marking** ⁽⁶⁾: see OJ C 114, 29.4.1991, p. 1 (IV.A(3))
 - language to be used for the markings: French
 - supplementary markings: —
11. **Method of mobilisation of the product:** the Community market
The product must originate from the Community
12. **Specified delivery stage** ⁽⁸⁾: free at port of shipment
13. **Alternative delivery stage:** —
14. a) **Port of shipment:** —
b) **Loading address:** —
15. **Port of landing:** —
16. **Place of destination:**
 - port or warehouse of transit: —
 - overland transport route: —
17. **Period or deadline of supply at the specified stage:**
 - first deadline: 22.7-11.8.2002
 - second deadline: 5-25.8.2002
18. **Period or deadline of supply at the alternative stage:**
 - first deadline: —
 - second deadline: —
19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
 - first deadline: 2.7.2002
 - second deadline: 16.7.2002
20. **Amount of tendering guarantee:** EUR 5 per tonne
21. **Address for submission of tenders and tendering guarantees** ⁽¹⁾: M. Vestergaard, Commission européenne, Bureau: L130, 7/46, B-1049 Brussels; tlx 25670 AGREC B; fax (32-2) 296 70 03/296 70 04
22. **Export refund:** —

Notes

- (¹) Supplementary information: Torben Vestergaard (tel. (32-2) 299 30 50; fax (32-2) 296 20 05).
 - (²) The supplier shall contact the beneficiary or its representative as soon as possible to establish which consignment documents are required.
 - (³) The supplier shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.
 - (⁴) The supplier shall supply to the beneficiary or its representative, on delivery, the following document:
 - phytosanitary certificate.
 - (⁵) Since the goods may be rebagged, the supplier must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.
 - (⁶) Notwithstanding OJ C 114, 29.4.1991, point IV.A(3)(c) is replaced by the following: 'the words European Community' and point IV.A(3)(b) by the following: 'Split peas'.
 - (⁷) Tenders shall be rejected unless they specify the type of peas to which they relate.
 - (⁸) The tenderer's attention is drawn to the second subparagraph of Article 7(6) of Regulation (EC) No 2519/97.
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II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 17 June 2002

implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Decision 2002/334/EC

(2002/460/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism ⁽¹⁾, and in particular Article 2(3) thereof,

Whereas:

- (1) On 2 May 2002, the Council adopted Decision 2002/334/EC implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Decision 2001/927/EC ⁽²⁾.
- (2) It is desirable to adopt an updated list of persons, groups and entities to which the aforesaid Regulation applies,

HAS DECIDED AS FOLLOWS:

Article 1

The list provided for in Article 2(3) of Regulation (EC) No 2580/2001 shall be as follows:

1. PERSONS

1. AL-MUGHASSIL, Ahmad Ibrahim (aka ABU OMRAN; aka AL-MUGHASSIL, Ahmed Ibrahim) born 26.6.1967 in Qatif-Bab al Shamal, Saudi Arabia; citizen Saudi Arabia
2. AL-NASSER, Abdelkarim Hussein Mohamed, born in Al Ihssa, Saudi Arabia; citizen Saudi Arabia
3. AL YACOUB, Ibrahim Salih Mohammed, born 16.10.1966 in Tarut, Saudi Arabia; citizen Saudi Arabia

4. ATWA, Ali (aka BOUSLIM, Ammar Mansour; aka SALIM, Hassan Rostom), Lebanon, born 1960 in Lebanon; citizen Lebanon
5. EL-HOORIE, Ali Saed Bin Ali (aka AL-HOURI, Ali Saed Bin Ali; aka EL-HOURI, Ali Saed Bin Ali) born 10.7.1965 alt. 11.7.1965 in El Dibabiya, Saudi Arabia; citizen Saudi Arabia
6. IZZ-AL-DIN, Hasan (aka GARBAYA, AHMED; aka SA-ID; aka SALWWAN, Samir), Lebanon, born 1963 in Lebanon, citizen Lebanon
7. MOHAMMED, Khalid Shaikh (aka ALI, Salem; aka BIN KHALID, Fahd Bin Adballah; aka HENIN, Ashraf Refaat Nabith; aka WADOOD, Khalid Abdul) born 14.4.1965 alt. 1.3.1964 in Kuwait; citizen Kuwait
8. MUGHNIYAH, Imad Fa'iz (aka MUGHNIYAH, Imad Fayiz), Senior Intelligence Officer of HIZBALLAH, born 7.12.1962 in Tayr Dibba, Lebanon, passport No 432298 (Lebanon);

2. GROUPS AND ENTITIES

1. Abu Nidal Organisation (ANO), (aka Fatah Revolutionary Council, Arab Revolutionary Brigades, Black September, and Revolutionary Organisation of Socialist Muslims)
2. Al-Aqsa Martyr's Brigade
3. Aum Shinrikyo (aka AUM, aka Aum Supreme Truth, aka Aleph)
4. Babbar Khalsa
5. Gama'a al-Islamiyya (Islamic Group), (aka Al-Gama'a al-Islamiyya, IG)
6. Hamas-Izz al-Din al-Qassem (terrorist wing of Hamas)
7. Holy Land Foundation for Relief and Development

⁽¹⁾ OJ L 344, 28.12.2001, p. 70.

⁽²⁾ OJ L 116, 3.5.2002, p. 33.

8. International Sikh Youth Federation (ISYF)
 9. Kahane Chai (Kach)
 10. Kurdistan Workers' Party (PKK)
 11. Lashkar e Tayyaba (LET)/Pashan-e-Ahle Hadis
 12. Mujahedin-e Khalq Organisation (MEK or MKO) [minus the 'National Council of Resistance of Iran' (NCRI)] (aka The National Liberation Army of Iran (NLA, the militant wing of the MEK), the People's Mujahidin of Iran (PMOI), Muslim Iranian Student's Society)
 13. Palestine Liberation Front (PLF)
 14. Palestinian Islamic Jihad (PIJ)
 15. Popular Front for the Liberation of Palestine (PFLP)
 16. Popular Front for the Liberation of Palestine-General Command, (aka PFLP-General Command, aka PFLP-GC)
 17. Revolutionary Armed Forces of Colombia (FARC)
 18. Revolutionary People's Liberation Army/Front/Party (DHKP/C), (aka Devrimci Sol (Revolutionary Left), Dev Sol)
 19. Shining Path (SL) (Sendero Luminoso)
 20. United Self-Defense Forces/Group of Colombia (AUC) (Autodefensas Unidas de Colombia).
- Article 2*
- Council Decision 2002/334/EC is hereby repealed.
- Article 3*
- This Decision shall be published in the *Official Journal of the European Communities*.
- It shall take effect on the day of its publication.
- Done at Luxembourg, 17 June 2002.
- For the Council*
The President
J. PIQUÉ I CAMPS
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COMMISSION

COMMISSION DECISION

of 12 June 2002

on the clearance of the accounts of Member States' expenditure financed by the European Agricultural Guidance and Guarantee Fund (EAGGF), Guarantee Section, for the 2001 financial year

(notified under document number C(2002) 2057)

(2002/461/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy ⁽¹⁾, and in particular Article 7(3) thereof,

After consulting the Fund Committee,

Whereas:

- (1) Under Article 7(3) of Regulation (EC) No 1258/1999, the Commission, on the basis of the annual accounts submitted by the Member States, accompanied by the information required for clearance and a certificate regarding the veracity, completeness, and accuracy of the accounts transmitted clears the accounts of the paying agencies referred to in Article 4(1) of this Regulation.
- (2) With regard to Article 7(1) of Commission Regulation (EC) No 296/96 of 16 February 1996 on data to be transmitted by the Member States and the monthly booking of expenditure financed under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF) ⁽²⁾, as last amended by Regulation (EC) No 1934/2001 ⁽³⁾, account is taken for the 2001 financial year of expenditure incurred by the Member States between 16 October 2000 and 15 October 2001.
- (3) The time limits granted to the Member States for the submission to the Commission of the documents referred to in Article 6(1)b of Regulation (EC) No 1258/1999 and in Article 4(1) of Commission Regulation (EC) No 1663/95 of 7 July 1995 laying down detailed rules

for the application of Council Regulation (EEC) No 729/70 regarding the procedure for the clearance of accounts of the EAGGF Guarantee Section ⁽⁴⁾, as last amended by Regulation (EC) No 2025/2001 ⁽⁵⁾, have expired.

- (4) The Commission has checked the information submitted and communicated to the Member States before the 31 March 2002 the results of its verifications with the necessary amendments.

- (5) Under the first subparagraph of Article 7(1) of Regulation (EC) No 1663/95, the accounts clearance decision referred to in Article 7(3) of Regulation (EC) No 1258/1999 must determine, without prejudice to decisions taken subsequently in accordance with Article 7(4) of the Regulation, the amount of expenditure effected in each Member State during the financial year in question recognised as being chargeable to the EAGGF Guarantee Section, on the basis of the accounts referred to in Article 6(1)b of the abovementioned Regulation and the reductions and suspensions of advances for the financial year concerned, including the reductions referred to in the second subparagraph of Article 4(3) of Regulation (EC) No 296/96; under Article 102 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities ⁽⁶⁾, as last amended by Council Regulation (EC, ECSC, Euratom) No 762/2001 ⁽⁷⁾, the outcome of the clearance decision, that is to say, any discrepancy which may occur between the total expenditure booked to the accounts for a financial year pursuant to Articles 100 and 101 and the total expenditure taken into consideration by the Commission in this Decision, is to be booked, under a single article, as additional expenditure or a reduction in expenditure.

⁽¹⁾ OJ L 160, 26.6.1999, p. 103.

⁽²⁾ OJ L 39, 17.2.1996, p. 5.

⁽³⁾ OJ L 262, 2.10.2001, p. 8.

⁽⁴⁾ OJ L 158, 8.7.1995, p. 6.

⁽⁵⁾ OJ L 274, 17.10.2001, p. 3.

⁽⁶⁾ OJ L 356, 31.12.1977, p. 1.

⁽⁷⁾ OJ L 111, 20.4.2001, p. 1.

- (6) For certain paying agencies, the annual accounts and the accompanying documents permit the Commission to take a decision on the completeness, accuracy and veracity of the accounts submitted. In the light of the verifications made some of the accounts do not fulfil this condition and therefore part of the expenditure concerned cannot be recognised as chargeable to the EAGGF Guarantee Section. Annex I lists the amounts cleared by Member State. The details of these amounts have been described in the Summary Report that has been presented to the Fund Committee at the same time as the present Decision.
- (7) In the light of the verifications made, the information submitted by certain other paying agencies requires additional inquiries and their accounts cannot be cleared in this decision. Annex II lists the paying agencies concerned.
- (8) Article 4(2) of Regulation (EC) No 296/96, in liaison with Article 14 of Council Regulation (EC) No 2040/2000 of 26 September 2000 on budgetary discipline ⁽¹⁾ lays down that advances against booking are to be reduced for expenditure effected by the Member States after the limits or deadlines laid down. However, pursuant to Article 4(3) of Regulation (EC) No 296/96, any overrun of deadlines during August, September and October are to be taken into account in the accounts clearance decision except where noted before the last decision of the financial year relating to advances; part of the expenditure claimed by certain Member States during the abovementioned period and for the measures for which the Commission did not accept any extenuating circumstances was effected after the limits or deadlines laid down. This Decision should therefore lay down the relevant reductions. A decision will be taken at a later date, in accordance with Article 7(4) of Regulation (EC) No 1258/1999, definitively fixing the expenditure for which Community financing will not be granted regarding those reductions and any other expenditure which may be found to have been effected after the limits or deadlines laid down.
- (9) The Commission, in accordance with Article 14 of Regulation (EC) No 2040/2000 and Article 4(2) of Regulation (EC) No 296/96, reduced or suspended a number of monthly advances on entry into the accounts of expenditure for the 2001 financial year and proceeds in this Decision to the reductions laid down in Article 4(3) of Regulation (EC) No 296/96. In the light of the above, to avoid any premature or even only temporary reimbursement of the amounts in question, they should not be recognised in this Decision, without prejudice to further examination according to Article 7(4) of Regulation (EC) No 1258/1999.
- (10) The second subparagraph of Article 7(1) of Regulation (EC) No 1663/95, lays down that the amounts that, in accordance with the accounts clearance decision referred to in the first subparagraph, are recoverable from, or payable to, each Member State shall be determined by deducting advances paid during the financial year in question, i.e. 2001, from expenditure recognised for that year in accordance with the first subparagraph. Such amounts are to be deducted from, or added to, advances against expenditure from the second month following that in which the accounts clearance decision is taken. Annex I lists the amounts cleared for each Member State.
- (11) In accordance with the final subparagraph of Article 7(3) of Regulation (EC) No 1258/1999 and Article 7(1) of Regulation (EC) No 1663/95, this Decision, adopted on the basis of accounting information, does not prejudice decisions taken subsequently by the Commission excluding from Community financing expenditure not effected in accordance with Community rules,

HAS ADOPTED THIS DECISION:

Article 1

With the exception of the paying agencies referred to in Article 2 the accounts of the paying agencies of the Member States concerning expenditure financed by the EAGGF Guarantee Section in respect of the 2001 financial year are hereby cleared. The amounts which are recoverable from, or payable to, each Member State in accordance with the present Decision are determined in Annex I.

Article 2

For the 2001 financial year, the accounts of the paying agencies shown in Annex II are disjoined from this Decision and shall be the subject of a future clearance Decision.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 12 June 2002.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 244, 29.9.2000, p. 27.

Clearance of the paying agencies' accounts

Financial year 2001

Amount to be recovered from or paid to the Member State

Member State		2001 — Expenditure for the paying agencies for which the accounts are		Total a + b	Reductions and suspensions for the whole financial year	Total including reductions and suspensions	Advances paid to the Member State for the financial year	Amount to be recovered from (–) or paid to (+) the Member State
		cleared	disjoined					
		= expenditure declared in the annual declaration	= total of the expenditure in the monthly declarations					
		a	b	c = a + b	d	e = c + d	f	g = e – f
AT	EUR	1 052 518 381,87	0,00	1 052 518 381,87	– 0,31	1 052 518 381,56	1 052 524 730,04	– 6 348,48
BE	EUR	922 560 245,36	12 082 027,45	934 642 272,81	0,00	934 642 272,81	934 490 884,20	151 388,61
DE	EUR	5 858 588 578,82	0,00	5 858 588 578,82	– 111 504,00	5 858 477 074,82	5 857 589 519,92	887 554,90
DK	DKK	8 288 006 567,17	0,00	8 288 006 567,17	0,00	8 288 006 567,17	8 286 852 746,13	1 153 821,04
ES	EUR	5 399 063 296,30	773 864 957,37	6 172 928 253,67	665 990,46	6 173 594 244,13	6 175 677 330,06	– 2 083 085,93
FI	EUR	815 383 749,85	0,00	815 383 749,85	– 496,13	815 383 253,72	815 383 253,72	0,00
FR	EUR	9 215 239 749,54	0,00	9 215 239 749,54	– 233 570,54	9 215 006 179,00	9 220 992 635,32	– 5 986 456,32
GR	EUR	0,00	2 605 366 573,71	2 605 366 573,71	6 353 785,52	2 611 720 359,23	2 612 141 460,31	– 421 101,08
IE	EUR	1 582 048 838,25	0,00	1 582 048 838,25	– 61 156,13	1 581 987 682,12	1 584 303 217,48	– 2 315 535,36
IT	EUR	5 470 174 745,04	0,00	5 470 174 745,04	– 137 942 914,13	5 332 231 830,91	5 323 864 256,02	8 367 574,89
LU	EUR	29 267 098,87	0,00	29 267 098,87	0,00	29 267 098,87	29 260 394,85	6 704,02
NL	EUR	1 104 143 363,20	0,00	1 104 143 363,20	0,00	1 104 143 363,20	1 104 119 001,94	24 361,26
PT	EUR	892 709 190,24	0,00	892 709 190,24	0,00	892 709 190,24	873 818 851,23	18 890 339,01
SE	SEK	7 002 708 167,59	0,00	7 002 708 167,59	0,00	7 002 708 167,59	7 002 708 167,59	0,00
UK	GBP	2 479 475 443,53	0,00	2 479 475 443,53	– 60 929,96	2 479 414 513,57	2 482 348 908,70	– 2 934 395,13

(¹) For the calculation of the amount to be recovered from or paid to the Member State the amount taken into account is, the total of the annual declaration for the expenditure cleared (column a) or, the total of the monthly declarations for the expenditure disjoined (column b).

(²) The reductions and suspensions are those taken into account in the advance system, to which are added in particular the corrections for the non-respect of payment deadlines established in August, September and October 2001.

ANNEX II

Clearance of the paying agencies' accounts

Financial year 2001

List of paying agencies for which the accounts are disjoined and are subject of a later clearance decision

Member State	Paying agency
Belgium	Betaalorgaan van de Vlaamse Gemeenschap
Spain	FEGA
Spain	País Vasco
Greece	GEDIDAGEP/OPEKEPE

(Acts adopted pursuant to Title V of the Treaty on European Union)

COUNCIL COMMON POSITION
of 17 June 2002
updating Common Position 2001/931/CFSP on the application of specific measures to combat
terrorism and repealing Common Position 2002/340/CFSP

(2002/462/CFSP)

THE COUNCIL OF THE EUROPEAN UNION,

HAS ADOPTED THIS COMMON POSITION:

Having regard to the Treaty on European Union, and in particular Articles 15 and 34 thereof,

Whereas:

- (1) On 27 December 2001, the Council adopted Common Position 2001/931/CFSP on the application of specific measures to combat terrorism ⁽¹⁾.
- (2) On 2 May 2002, the Council adopted Common Position 2002/340/CFSP updating Common Position 2001/931/CFSP ⁽²⁾.
- (3) Common Position 2001/931/CFSP provides for a review at regular intervals.
- (4) It is necessary to update the Annex to Common Position 2001/931/CFSP and repeal Common Position 2002/340/CFSP,

Article 1

The list of persons, groups and entities to which Common Position 2001/931/CFSP applies is contained in the Annex.

Article 2

Common Position 2002/340/CFSP is hereby repealed.

Article 3

This Common Position shall take effect on the date of its adoption.

Article 4

This Common Position shall be published in the Official Journal.

Done at Luxembourg, 17 June 2002.

For the Council

The President

J. PIQUÉ I CAMPS

⁽¹⁾ OJ L 344, 28.12.2001, p. 93.

⁽²⁾ OJ L 116, 3.5.2002, p. 75.

ANNEX

List of persons, groups and entities referred to in Article 1 ⁽¹⁾**1. PERSONS**

1. *ALBERDI URANGA, Itziar (E.T.A. Activist) born 7.10.1963 in Durango (Biscay), identity card No 78.865.693
2. *ALBISU IRIARTE, Miguel (E.T.A. Activist; Member of Gestoras Pro-amnistía) born 7.6.1961 in San Sebastián (Guipúzcoa), identity card No 15.954.596
3. AL-MUGHASSIL, Ahmad Ibrahim (aka ABU OMRAN; aka AL-MUGHASSIL, Ahmed Ibrahim) born 26.6.1967 in Qatif-Bab al Shamal, Saudi Arabia; citizen Saudi Arabia
4. AL-NASSER, Abdelkarim Hussein Mohamed, born in Al Ihssa, Saudi Arabia; citizen Saudi Arabia
5. AL YACCOUB, Ibrahim Salih Mohammed, born 16.10.1966 in Tarut, Saudi Arabia; citizen Saudi Arabia
6. *APAOLAZA SANCHO, Iván (E.T.A. Activist; Member of K.Madrid) born 10.11.1971 in Beasain (Guipúzcoa), identity card No 44.129.178
7. *ARZALLUS TAPIA, Eusebio (E.T.A. Activist) born 8.11.1957 in Regil (Guipúzcoa), identity card No 15.927.207
8. ATWA, Ali (aka BOUSLIM, Ammar Mansour; aka SALIM, Hassan Rostom), Lebanon, born 1960 in Lebanon; citizen Lebanon
9. *ECHEBERRIA SIMARRO, Leire (E.T.A. Activist) born 20.12.1977 in Basauri (Bizcay), identity card No. 45.625.646
10. * ECHEGARAY ACHIRICA, Alfonso (E.T.A. Activist) born 10.01.1958 in Plencia (Bizcay), identity card No. 16.027.051
11. * ELCORO AYASTUY, Paulo (E.T.A. Activist; Member of Jarrai/Haika/Segi) born 22.10.1973 in Vergara (Guipúzcoa), identity card No 15.394.062
12. EL-HOORIE, Ali Saed Bin Ali (aka AL-HOURI, Ali Saed Bin Ali; aka EL-HOURI, Ali Saed Bin Ali) born 10.7.1965 alt. 11.7.1965 in El Dibabiya, Saudi Arabia; citizen Saudi Arabia
13. *FIGAL ARRANZ, Antonio Agustín (E.T.A. Activist; Member of Kas/Ekin) born 2.12.1972 in Baracaldo (Biscay), identity card No 20.172.692
14. *GOGEASCOECHEA ARRONATEGUI, Eneko (E.T.A. Activist), born 29.4.1967 in Guernica (Biscay), identity card No 44.556.097
15. *GOIRICELAYA GONZALEZ, Cristina (E.T.A. Activist; Member of Herri Batasuna/E.H/Batasuna), born 23.12.1967 in Vergara (Guipúzcoa), identity card No 16.282.556
16. *IPARRAGUIRRE GUENECHEA, Ma Soledad (E.T.A. Activist) born 25.4.1961 in Escoriaza (Navarra), identity card No 16.255.819
17. *IZTUETA BARANDICA, Enrique (E.T.A. Activist) born 30.7.1955 in Santurce (Biscay), identity card No 14.929.950
18. IZZ-AL-DIN, Hasan (aka GARBAYA, AHMED; aka SA-ID; aka SALWWAN, Samir), Lebanon, born 1963 in Lebanon, citizen Lebanon
19. MOHAMMED, Khalid Shaikh (aka ALI, Salem; aka BIN KHALID, Fahd Bin Adballah; aka HENIN, Ashraf Refaat Nabith; aka WADOOD, Khalid Adbul) born 14.4.1965 alt. 1.3.1964 in Kuwait; citizen Kuwait
20. *MORCILLO TORRES, Gracia (E.T.A. Activist; Member of Kas/Ekin) born 15.3.1967 in San Sebastián (Guipúzcoa), identity card No 72.439.052
21. *MÚGICA GOÑI, Ainhoa (E.T.A. Activist) born 27.6.1970 in San Sebastián (Guipúzcoa), identity card No 34.101.243
22. MUGHNIYAH, Imad Fa'iz (aka MUGHNIYAH, Imad Fayiz), Senior Intelligence Officer of HIZBALLAH, born 7.12.1962 in Tayr Dibba, Lebanon, passport No 432298 (Lebanon)
23. *MUÑO A ORDOZGOITI, Aloña (E.T.A. Activist; Member of Kas/Ekin) born 6.7.1976 in Segura (Guipúzcoa), identity card No 35.771.259
24. *NARVÁEZ GOÑI, Juan Jesús (E.T.A. Activist) born 23.2.1961 in Pamplona (Navarra), identity card No 15.841.101
25. *OLARRA GURIDI, Juan Antonio (E.T.A. Activist) born 11.9.1967 in San Sebastián (Guipúzcoa), identity card No 34.084.504

⁽¹⁾ Persons marked with an * shall be the subject of Article 4 only.

26. *ORBE SEVILLANO, Zigor (E.T.A. Activist; Member of Jarrai/Haika/Segi) born 22.9.1975 in Basauri (Biscay), identity card No 45.622.851
27. *OTEGUI UNANUE, Mikel (E.T.A. Activist; Member of Jarrai/Haika/Segi) born 8.10.1972 in Itsasondo (Guipúzcoa), identity card No 44.132.976
28. *PALACIOS ALDAY, Gorka (E.T.A. Activist; Member of K.Madrid), born 17.10.1974 in Baracaldo (Biscay), identity card No 30.654.356
29. *PEREZ ARAMBURU, Jon Iñaki (E.T.A. Activist; Member of Jarrai/Haika/Segi) born 18.9.1964 in San Sebastián (Guipúzcoa), identity card No 15.976.521
30. *QUINTANA ZORROZUA, Asier (E.T.A. Activist; Member of K.Madrid), born 27.2.1968 in Bilbao (Biscay), identity card No 30.609.430
31. *RUBENACH ROIG, Juan Luis (E.T.A. Activist; Member of K.Madrid), born 18.9.1964 in Bilbao (Biscay), identity card No 18.197.545
32. *SAEZ DE EGUILAZ MURGUIONDO, Carlos (E.T.A. Activist; Member of Kas/Ekin) born 9.12.1963 in San Sebastián (Guipúzcoa), identity card No 15.962.687
33. *URANGA ARTOLA, Kemen (E.T.A. Activist; Member of Herri Batasuna/E.H/Batasuna) born 25.5.1969 in Ondarroa (Biscay), identity card No 30.627.290
34. *VALLEJO FRANCO, Iñigo (E.T.A. Activist) born 21.05.1976 in Bilbao (Biscay), identity card No 29.036.694
35. *VILA MICHELENA, Fermín (E.T.A. Activist; Member of Kas/Ekin) born 12.3.1970 in Irún (Guipúzcoa), identity card No 15.254.214

2. GROUPS AND ENTITIES

1. Abu Nidal Organisation (ANO), (aka Fatah Revolutionary Council, Arab Revolutionary Brigades, Black September, and Revolutionary Organisation of Socialist Muslims)
2. Al-Aqsa Martyr's Brigade
3. Aum Shinrikyo (aka AUM, aka Aum Supreme Truth, aka Aleph)
4. Babbar Khalsa
5. *Continuity Irish Republican Army (CIRA)
6. *Euskadi Ta Askatasuna/Tierra Vasca y Libertad/Basque Fatherland and Liberty (E.T.A.) (The following organisations are part of the terrorist group E.T.A.: K.a.s., Xaki; Ekin, Jarrai-Haika-Segi, Gestoras pro-amnistía, Askatasuna)
7. Gama'a al-Islamiyya (Islamic Group), (aka Al-Gama'a al-Islamiyya, IG)
8. *Grupos de Resistencia Antifascista Primero de Octubre/Antifascist Resistance Groups First of October (G.R.A.P.O.)
9. Hamas-Izz al-Din al-Qassem (terrorist wing of Hamas)
10. Holy Land Foundation for Relief and Development
11. International Sikh Youth Federation (ISYF)
12. Kahane Chai (Kach)
13. Kurdistan Workers' Party (PKK)
14. Lashkar e Tayyaba (LET)/Pashan-e-Ahle Hadis
15. *Loyalist Volunteer Force (LVF)
16. Mujahedin-e Khalq Organisation (MEK or MKO) (minus the 'National Council of Resistance of Iran' (NCRI)) (aka The National Liberation Army of Iran (NLA, the militant wing of the MEK), the People's Mujahidin of Iran (PMOI), Muslim Iranian Student's Society)
17. *Orange Volunteers (OV)
18. Palestine Liberation Front (PLF)
19. Palestinian Islamic Jihad (PIJ)
20. Popular Front for the Liberation of Palestine (PFLP)
21. Popular Front for the Liberation of Palestine-General Command, (aka PFLP-General Command, aka PFLP-GC)
22. *Real IRA
23. *Red Hand Defenders (RHD)
24. Revolutionary Armed Forces of Colombia (FARC)
25. *Revolutionary Nuclei/Epanastatiki Pirines

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26. *Revolutionary Organisation 17 November/Dekati Evdomi Noemvri
 27. Revolutionary People's Liberation Army/Front/Party (DHKP/C), (aka Devrimci Sol (Revolutionary Left), Dev Sol)
 28. *Revolutionary Popular Struggle/Epanastatikos Laikos Agonas (ELA)
 29. Shining Path (SL) (Sendero Luminoso)
 30. *Ulster Defence Association/Ulster Freedom Fighters (UDA/UFF)
 31. United Self-Defense Forces/Group of Colombia (AUC) (Autodefensas Unidas de Colombia)
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