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EN

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I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 122/2005
of 27 January 2005
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⁾, 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 28 January 2005.

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

Done at Brussels, 27 January 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 1947/2002 (OJ L 299, 1.11.2002, p. 17).

ANNEX

to Commission Regulation of 27 January 2005 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	125,1
	204	74,5
	212	176,1
	608	118,9
	624	163,5
	999	131,6
0707 00 05	052	157,0
	999	157,0
0709 90 70	052	181,5
	204	179,4
	999	180,5
0805 10 20	052	57,9
	204	35,8
	212	51,1
	220	36,8
	421	38,1
	448	35,9
	624	71,7
	999	46,8
0805 20 10	204	63,6
	999	63,6
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	052	61,0
	204	88,1
	400	79,4
	464	138,7
	624	68,0
	662	40,0
	999	79,2
0805 50 10	052	60,2
	999	60,2
0808 10 80	400	101,8
	404	83,5
	720	68,7
	999	84,7
0808 20 50	388	72,4
	400	85,3
	720	36,6
	999	64,8

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 123/2005
of 26 January 2005
amending Regulation (EC) No 466/2001 as regards ochratoxin A
(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 315/93 of 8 February 1993 laying down Community procedures for contaminants in food⁽¹⁾, and in particular Article 2(3) thereof,

Whereas:

(1) Commission Regulation (EC) No 466/2001⁽²⁾, sets maximum levels for certain contaminants in foodstuffs.

(2) According to Regulation (EC) No 466/2001, the Commission shall review the provisions as regards ochratoxin A (OTA) in dried vine fruit and with a view to including a maximum level for OTA in green and roasted coffee and coffee products, wine, beer, grape juice, cocoa and cocoa products and spices taking into account the investigations undertaken and the prevention measures applied to reduce the presence of OTA in these products.

(3) The Scientific Committee on Food (SCF) concluded in its opinion on OTA, expressed on 17 September 1998, that OTA is a mycotoxin which possesses carcinogenic, nephrotoxic, teratogenic, immunotoxic and possibly neurotoxic properties. The Committee mentioned also that further studies are ongoing to elucidate the mechanisms involved in OTA carcinogenicity. It is anticipated that the European research project on the mechanisms of OTA induced carcinogenicity will be finished by the end of 2004. Once the comprehensive research results are available, the European Food Safety Authority (EFSA) will be requested by the Commission to update the scientific opinion from SCF in the light of these new research results.

(4) An assessment of the dietary intake of OTA by the population of the Community has been performed in the framework of Council Directive 1993/5/EEC of 25

February 1993 on assistance to the Commission and cooperation by the Member States in the scientific examination of questions relating to food⁽³⁾ (SCOOP). The main contributor to the OTA exposure is cereal and cereal products. Wine, coffee and beer were identified as significant contributors to the human OTA exposure. Dried vine fruit and grape juice contributed to a significant extent to the OTA-exposure for specific groups of vulnerable groups of consumers such as children.

(5) A maximum level for OTA has been established for cereal and cereal products and dried vine fruit by Regulation (EC) 466/2001. The level of OTA in beer is indirectly controlled as the OTA in beer originates from the presence of OTA in malt, for which a maximum level has been established. The setting of a maximum level for OTA in beer is therefore not immediately necessary to protect public health, but should be considered in the frame of the foreseen review.

(6) Given the significant contribution of wine and roasted coffee together with soluble coffee to the OTA human exposure and the significant contribution of grape juice to the OTA exposure of children, it is appropriate to set already at this stage for these foodstuffs maximum levels to protect public health by preventing the distribution of unacceptably highly contaminated foodstuffs.

(7) OTA has also been observed in dried fruit other than dried vine fruit, cocoa and cocoa products, spices and liquore. The appropriateness of setting a maximum level for OTA in these foodstuffs, including green coffee, as well as a review of the existing maximum levels will be considered after the availability of the EFSA assessment of the research results on OTA toxicology.

(8) Regulation (EC) No 466/2001 should therefore be amended accordingly.

(9) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

⁽¹⁾ OJ L 37, 13.2.1993, p. 1. Regulation as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

⁽²⁾ OJ L 77, 16.3.2001, p. 1. Regulation as last amended by Regulation (EC) 684/2004 (OJ L 106, 15.4.2004, p. 6).

⁽³⁾ OJ L 52, 4.3.1993, p. 18. Directive as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 466/2001 is amended as follows:

1. in Article 4(2) point (b), 'and 2.2.2' is replaced by ', 2.2.2, 2.2.3, 2.2.4 and 2.2.5'.

2. in Article 5, paragraph 2a is replaced by the following:

2a. The Commission shall, based on an up-to-date risk assessment on ochratoxin A (OTA) performed by the EFSA and taking into account the prevention measures applied to reduce the OTA content, review the provisions under the heading 2.2 of section 2 of Annex I by 30 June 2006 at the latest. This review will concern in particular the maximum level for OTA in dried vine fruit and grape juice and the consideration of setting a maximum level for OTA in green coffee, dried fruit other than dried vine fruit, beer, cocoa and cocoa products, liqueur wines, meat and meat products, spices and liquorice.

For this purpose, Member States and interested parties shall communicate each year to the Commission the results of the investigations undertaken and the progress with regard to the application of prevention measures to avoid contamination by OTA. The Commission will make these results available to the Member States.

3. Annex I is amended in accordance with the Annex to this Regulation.

Article 2

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

It shall apply from 1 April 2005.

This Regulation shall not apply to products which were placed on the market before 1 April 2005 in conformity with the provisions applicable. The burden of proving when the products were placed on the market shall be borne by the food business operator.

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

Done at Brussels, 26 January 2005.

For the Commission

Markos KYPRIANOU

Member of the Commission

ANNEX

In Section 2 Mycotoxins of Annex I, the point 2.2 ochratoxin A is replaced by the following:

Products	Ochratoxin A: maximum levels (µg/kg or ppb)	Sampling method	Reference analysis method
2.2. OCHRATOXIN A			
2.2.1. Cereals (including rice and buckwheat) and derived cereal products			
2.2.1.1. Raw cereal grains (including raw rice and buckwheat)	5,0	Commission Directive 2002/26/EC (*)	Directive 2002/26/EC
2.2.1.2. All products derived from cereals (including processed cereal products and cereal grains intended for direct human consumption)	3,0	Directive 2002/26/EC	Directive 2002/26/EC
2.2.2. Dried vine fruit (currants, raisins and sultanas)	10,0	Directive 2002/26/EC	Directive 2002/26/EC
2.2.3. — Roasted coffee beans and ground roasted coffee with the exception of soluble coffee	5,0	Directive 2002/26/EC	Directive 2002/26/EC
— Soluble coffee (instant coffee)	10,0		
2.2.4. — Wine (red, white and rosé)(**) and other wine and/or grape must based beverages (***)	2,0 (****)	Directive 2002/26/EC	Directive 2002/26/EC
2.2.5. — Grape juice, grape juice ingredients in other beverages, including grape nectar and concentrated grape juice as reconstituted (****)	2,0 (****)	Directive 2002/26/EC	Directive 2002/26/EC
— Grape must and concentrated grape must as reconstituted, intended for direct human consumption (****)	2,0 (****)	Directive 2002/26/EC	Directive 2002/26/EC
2.2.6. Baby foods and processed cereal-based foods for infants and young children (*****)	0,50	Directive 2002/26/EC	Directive 2002/26/EC
2.2.7. Dietary foods for special medical purposes (******) intended specifically for infants	0,50	Directive 2002/26/EC	Directive 2002/26/EC
2.2.8. Green coffee, dried fruit other than dried vine fruit, beer, cocoa and cocoa products, liqueur wines, meat products, spices and liquorice.	—		

(*) OJ L 75, 16.3.2002, p. 38. Directive as last amended by Directive 2004/43/EC (OJ L 113, 20.4.2004, p. 14).

(**) Wines, including sparkling wines but excluding liqueur wines and wines with an alcoholic strength of not less than 15 % vol., as defined in Council Regulation (EC) No 1493/1999 (OJ L 179, 14.7.1999, p. 1) and fruit wines.

(***) Aromatised wines, aromatised wine-based drinks and aromatised wine-product cocktails as defined in Council Regulation (EEC) No 1601/91 (OJ L 149, 14.6.1991, p. 1). The maximum level for OTA applicable to these beverages is function of the proportion of wine and/or grape must present in the finished product.

(****) Maximum level applies to products produced from the 2005 harvest onwards.

(*****) Fruit juices, including fruit juices from concentrates, concentrated fruit juice and fruit nectar as defined in Annex 1 and 2 of Council Directive 2001/112/EC of 20 December 2001 relating to fruit juices and certain similar products intended for human consumption (OJ L 10, 12.1.2002, p. 58) and derived from grapes.

(******) Baby foods and processed cereal-based foods for infants and young children as defined in Article 1 of Commission Directive 96/5/EC of 16 February 1996 on processed cereal-based foods and baby foods for infants and young children (OJ L 49, 28.2.1996, p. 17) as last amended by Directive 2003/13/EC (OJ L 41, 14.2.2003, p. 33).

The maximum level for baby foods and processed cereal-based foods for infants and young children refer to the dry matter. The dry matter is determined in accordance with the provisions of Commission Directive 2002/26/EC.

(******) Dietary foods for special medical purposes as defined in Article 1(2) of Commission Directive 1999/21/EC of 25 March 1999 on dietary foods for special medical purposes (OJ L 91, 7.4.1999, p. 29).

The maximum level for dietary foods for special medical purposes intended specifically for infants refer

— in the case of milk and milk products, to the products ready for use (marketed as such or reconstituted as instructed by the manufacturer),

— in the case of products other than milk and milk products, to the dry matter. The dry matter is determined in accordance with the provisions of Commission Directive 2002/26/EC.

COMMISSION REGULATION (EC) No 124/2005**of 27 January 2005****on the issue of import licences for rice against applications submitted during the first 10 working days of January 2005 pursuant to Regulation (EC) No 327/98**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1095/96 of 18 June 1996 on the implementation of concessions set out in Schedule CXL drawn up in the wake of the conclusion of GATT XXIV.6 negotiations ⁽¹⁾,

Having regard to Council Decision 96/317/EC of 13 May 1996 concerning the conclusion of the results of consultations with Thailand under GATT Article XXIII ⁽²⁾,

Having regard to Commission Regulation (EC) No 327/98 of 10 February 1998 opening and providing for the administration of certain tariff quotas for imports of rice and broken rice ⁽³⁾, as last amended by Regulation (EC) No 2458/2001, and in particular Article 5(2) thereof,

Whereas:

Examination of the quantities for which applications have been submitted under the January 2005 tranche shows that licences

should be issued for the quantities applied for, reduced, where appropriate, by the percentages not covered and fixing the quantities carried over to the subsequent tranche,

HAS ADOPTED THIS REGULATION:

Article 1

1. Import licences for rice against applications submitted during the first 10 working days of January 2005 pursuant to Regulation (EC) No 327/98 and notified to the Commission shall be issued for the quantities applied for, reduced by the percentages set out in the Annex to this Regulation.

2. The available quantities carried over to the subsequent tranche are set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 28 January 2005.

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

Done at Brussels, 27 January 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 146, 20.6.1996, p. 1.

⁽²⁾ OJ L 122, 22.5.1996, p. 15.

⁽³⁾ OJ L 37, 11.2.1998, p. 5. Regulation as last amended by Regulation (EC) No 2296/2003 (OJ L 340, 24.12.2003, p. 35).

ANNEX

Reduction percentages to be applied to quantities applied for under the tranche for January 2005 and quantities carried over to the following tranche:

(a) semi-milled and wholly milled rice falling within CN code 1006 30

Origin	Reduction percentage for the January 2005 tranche	Quantity carried over to the tranche for April 2005 (tonnes)
United States of America	0 ⁽¹⁾	3 469
Thailand	0 ⁽¹⁾	6 937,826
Australia	—	—
Other origins	—	—

(b) husked rice falling within CN code 1006 20

Origin	Reduction percentage for the January 2005 tranche	Quantity carried over to the tranche for April 2005 (tonnes)
United States of America	0 ⁽¹⁾	1 911
Thailand	—	—
Australia	0 ⁽¹⁾	2 608
Other origins	—	—

(c) broken rice falling within CN code 1006 40 00

Origin	Reduction percentage for the January 2005 tranche	Quantity carried over to the tranche for July 2005 (tonnes)
Thailand	0 ⁽¹⁾	20 278,60
Australia	0 ⁽¹⁾	6 456
Guyana	0 ⁽¹⁾	4 251
United States of America	97,7778 ⁽¹⁾	—
Other origins	0 ⁽¹⁾	3 851

⁽¹⁾ Issue for the quantity applied for.

COMMISSION REGULATION (EC) No 125/2005**of 27 January 2005****fixing the export refunds on rice and broken rice and suspending the issue of export licences**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1785/2003 of 29 September 2003 on the common organisation of the market in rice ⁽¹⁾, and in particular Article 14(3) and 19 thereof,

Whereas:

- (1) Article 14 of Regulation (EC) No 1785/2003 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund.
- (2) Article 14 of Regulation (EC) No 1785/2003, provides that when refunds are being fixed, account must be taken of the existing situation and the future trend with regard to prices and availability of rice and broken rice on the Community market on the one hand and prices for rice and broken rice on the world market on the other. The same Article provides that it is also important to ensure equilibrium and the natural development of prices and trade on the rice market and, furthermore, to take into account the economic aspect of the proposed exports and the need to avoid disturbances of the Community market with limits resulting from agreements concluded in accordance with Article 300 of the Treaty.
- (3) Commission Regulation (EEC) No 1361/76 ⁽²⁾ lays down the maximum percentage of broken rice allowed in rice for which an export refund is fixed and specifies the percentage by which that refund is to be reduced where the proportion of broken rice in the rice exported exceeds that maximum.
- (4) The maximum export refund for rend, medium and long A rice was fixed at a relatively low level. Consequently, it is not justified for the moment to fix a common right to refund for rice.
- (5) Article 14(5) of Regulation (EC) No 1785/2003 defines the specific criteria to be taken into account when the export refund on rice and broken rice is being calculated.
- (6) The world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination.
- (7) A separate refund should be fixed for packaged long grain rice to accommodate current demand for the product on certain markets.
- (8) The refund must be fixed at least once a month; whereas it may be altered in the intervening period.
- (9) It follows from applying these rules and criteria to the present situation on the market in rice and in particular to quotations or prices for rice and broken rice within the Community and on the world market, that the refund should be fixed as set out in the Annex hereto.
- (10) For the purposes of administering the volume restrictions resulting from Community commitments in the context of the WTO, the issue of export licences with advance fixing of the refund should be restricted.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1 of Regulation (EC) No 1785/2003 with the exception of those listed in paragraph 1(c) of that Article, exported in the natural state, shall be as set out in the Annex hereto.

Article 2

The issue of export licences with advance fixing of the refund is hereby suspended.

Article 3

This Regulation shall enter into force on 28 January 2005.

⁽¹⁾ OJ L 270, 21.10.2003, p. 96.

⁽²⁾ OJ L 154, 15.6.1976, p. 11.

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

Done at Brussels, 27 January 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX

to the Commission Regulation of 27 January 2005 fixing the export refunds on rice and broken rice and suspending the issue of export licences

Product code	Destination	Unit of measurement	Amount of refunds ⁽¹⁾	Product code	Destination	Unit of measurement	Amount of refunds ⁽¹⁾
1006 20 11 9000	R01	EUR/t	0	1006 30 65 9900	R01	EUR/t	0
1006 20 13 9000	R01	EUR/t	0		066	EUR/t	0
1006 20 15 9000	R01	EUR/t	0		A97	EUR/t	0
1006 20 17 9000	—	—	—	1006 30 67 9100	021 and 023	EUR/t	0
1006 20 92 9000	R01	EUR/t	0		066	EUR/t	0
1006 20 94 9000	R01	EUR/t	0	1006 30 67 9900	066	EUR/t	0
1006 20 96 9000	R01	EUR/t	0	1006 30 92 9100	R01	EUR/t	0
1006 20 98 9000	—	—	—		R02	EUR/t	0
1006 30 21 9000	R01	EUR/t	0		R03	EUR/t	0
1006 30 23 9000	R01	EUR/t	0		066	EUR/t	0
1006 30 25 9000	R01	EUR/t	0		A97	EUR/t	0
1006 30 27 9000	—	—	—		021 and 023	EUR/t	0
1006 30 42 9000	R01	EUR/t	0	1006 30 92 9900	R01	EUR/t	0
1006 30 44 9000	R01	EUR/t	0		A97	EUR/t	0
1006 30 46 9000	R01	EUR/t	0		066	EUR/t	0
1006 30 48 9000	—	—	—	1006 30 94 9100	R01	EUR/t	0
1006 30 61 9100	R01	EUR/t	0		R02	EUR/t	0
	R02	EUR/t	0		R03	EUR/t	0
	R03	EUR/t	0		066	EUR/t	0
	066	EUR/t	0		A97	EUR/t	0
	A97	EUR/t	0		021 and 023	EUR/t	0
	021 and 023	EUR/t	0	1006 30 94 9900	R01	EUR/t	0
1006 30 61 9900	R01	EUR/t	0		A97	EUR/t	0
	A97	EUR/t	0		066	EUR/t	0
	066	EUR/t	0	1006 30 96 9100	R01	EUR/t	0
1006 30 63 9100	R01	EUR/t	0		R02	EUR/t	0
	R02	EUR/t	0		R03	EUR/t	0
	R03	EUR/t	0		066	EUR/t	0
	066	EUR/t	0		A97	EUR/t	0
	A97	EUR/t	0		021 and 023	EUR/t	0
	021 and 023	EUR/t	0	1006 30 96 9900	R01	EUR/t	0
1006 30 63 9900	R01	EUR/t	0		A97	EUR/t	0
	066	EUR/t	0		066	EUR/t	0
	A97	EUR/t	0	1006 30 98 9100	021 and 023	EUR/t	0
1006 30 65 9100	R01	EUR/t	0	1006 30 98 9900	—	—	—
	R02	EUR/t	0	1006 40 00 9000	—	—	—
	R03	EUR/t	0				
	066	EUR/t	0				
	A97	EUR/t	0				
	021 and 023	EUR/t	0				

⁽¹⁾ The procedure laid down in Article 8(3) of Commission Regulation (EC) No 1342/2003 (OJ L 189, 29.7.2003, p. 12) applies to licences applied for under that Regulation for quantities according to the destination:

destination R01: 0 t,
destinations R02 and R03: 0 t,
destinations 021 and 023: 0 t,
destination 066: 0 t,
destination A97: 0 t.

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1) as amended.

The numeric destination codes are set out in Commission Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11).

The other destinations are defined as follows:

R01 Switzerland, Liechtenstein, communes of Livigno and Campione d'Italia.

R02 Morocco, Algeria, Tunisia, Egypt, Israel, Lebanon, Libya, Syria, Ex-Spanish Sahara, Jordan, Iraq, Iran, Yemen, Kuwait, United Arab Emirates, Oman, Bahrain, Qatar, Saudi Arabia, Eritrea, West Bank/Gaza Strip, Norway, Faroe Islands, Iceland, Russia, Belarus, Bosnia and Herzegovina, Croatia, Serbia and Montenegro, former Yugoslav Republic of Macedonia, Albania, Bulgaria, Georgia, Armenia, Azerbaijan, Moldova, Ukraine, Kazakhstan, Turkmenistan, Uzbekistan, Tajikistan, Kyrgyzstan.

R03 Colombia, Ecuador, Peru, Bolivia, Chile, Argentina, Uruguay, Paraguay, Brazil, Venezuela, Canada, Mexico, Guatemala, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, Cuba, Bermuda, South Africa, Australia, New Zealand, Hong Kong SAR, Singapore, A40 except the Netherlands Antilles, Aruba, Turks and Caicos Islands, A11 except Suriname, Guyana, Madagascar.

COMMISSION REGULATION (EC) No 126/2005**of 27 January 2005****fixing the ceilings on financing for measures to improve the quality of the olive oil production in the 2005/06 production cycle and derogating from Article 3(3) of Regulation (EC) No 528/1999**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organisation of the market in oils and fats⁽¹⁾,

Having regard to Commission Regulation (EC) No 528/1999 of 10 March 1999, laying down measures to improve the quality of olive oil production⁽²⁾, and in particular Article 3(2) thereof,

Whereas:

- (1) Regulation (EC) No 528/1999 lays down, for each Member State and for each 12 month production cycle beginning on 1 May, the financial arrangements for measures to improve the quality of olive-oil production and its environmental impact.
- (2) Commission Regulation (EC) No 1807/2004⁽³⁾ fixes for the 2003/04 marketing year the estimated production of olive oil, including the estimated production of table olives expressed as olive oil equivalent, at 2 714 450 tonnes. This corresponds to 343 356 tonnes for Greece, 1 591 330 tonnes for Spain, 3 335 tonnes for France, 741 956 tonnes for Italy and 34 473 tonnes for Portugal. The amount withheld from production aid for this olive oil marketing year serves as the basis for financing measures to improve the quality of oil during the production cycle commencing on 1 May 2004.
- (3) The financial ceilings for the measures that are eligible for reimbursement from the Guarantee Section of the European Agricultural Guidance and Guarantee Fund should be fixed.
- (4) As the measures have relatively fixed minimum costs, the ceilings on total financing laid down in Article 3(3) of

Regulation (EC) No 528/1999 for some Member States may therefore prove to be too low. Appropriate limits should therefore be established in those cases.

- (5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Oils and Fats,

HAS ADOPTED THIS REGULATION:

Article 1

For the production cycle from 1 May 2005 to 30 April 2006, the ceilings on financing for the measures laid down in the first subparagraph of Article 3(2) of Regulation (EC) No 528/1999 shall be:

Greece	EUR 6 331 014
Spain	EUR 11 099 557
France	EUR 60 804
Italy	EUR 0
Portugal	EUR 644 052

Article 2

Notwithstanding Article 3(3) of Regulation (EC) No 528/1999, the additional national financial contribution from Member States, whose ceiling on financing laid down in Article 1 is EUR 100 000 or less, shall be no more than EUR 250 000.

Article 3

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

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

Done at Brussels, 27 January 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 72, 30.9.1966, p. 3025/66. Regulation as last amended by Regulation (EC) No 865/2004 (OJ L 161, 30.4.2004, p. 97).

⁽²⁾ OJ L 62, 11.3.1999, p. 8. Regulation as last amended by Regulation (EC) No 629/2003 (OJ L 92, 9.4.2003, p. 3).

⁽³⁾ OJ L 318, 19.10.2004, p. 13.

COMMISSION REGULATION (EC) No 127/2005
of 27 January 2005

amending Regulation (EC) No 20/2002 laying down detailed rules for implementing the specific supply arrangements for the outermost regions introduced by Council Regulations (EC) No 1452/2001, (EC) No 1453/2001 and (EC) No 1454/2001

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1452/2001 of 28 June 2001 introducing specific measures for certain agricultural products for the French overseas department, amending Directive 72/462/EEC and repealing Regulations (EEC) No 525/77 and (EEC) No 3763/91 (Poseidom) ⁽¹⁾, and in particular Articles 3(6), 22, and the second subparagraph of Article 26 thereof,

Having regard to Council Regulation (EC) No 1453/2001 of 28 June 2001 introducing specific measures for certain agricultural products for the Azores and for Madeira and repealing Regulation (EEC) No 1600/92 (Poseima) ⁽²⁾, and in particular the first and second subparagraphs of Article 3(6), Article 34 and the second subparagraph of Article 38 thereof,

Having regard to Council Regulation (EC) No 1454/2001 of 28 June 2001 introducing specific measures for certain agricultural products for the Canary Islands and repealing Regulation (EEC) No 1601/92 (Poseican) ⁽³⁾, and in particular Articles 3(6), 20 and the second subparagraph of Article 26 thereof

Whereas:

(1) As a consequence to the adoption of Council Regulation (EC) No 1690/2004 of 24 September 2004 amending Regulations (EC) No 1452/2001, (EC) No 1453/2001 and (EC) No 1454/2001 as regards the conditions for the re-exportation and re-dispatch of products covered by the specific supply arrangements, detailed implementing rules should be laid down for these new provisions of the Council, and Commission Regulation (EC) No 20/2002 should therefore be amended ⁽⁴⁾.

(2) It is appropriate to simplify and to compile all provisions concerning the re-exportation and re-dispatch of agricultural products covered by the specific supply arrangements.

⁽¹⁾ OJ L 198, 21.7.2001, p. 11. Regulation as last amended by Regulation (EC) No 1690/2004 (OJ L 305, 1.10.2004, p. 1).

⁽²⁾ OJ L 198, 21.7.2001, p. 26. Regulation as last amended by Regulation (EC) No 1690/2004.

⁽³⁾ OJ L 198, 21.7.2001, p. 45. Regulation as last amended by Regulation (EC) No 1690/2004.

⁽⁴⁾ OJ L 8, 11.1.2002, p. 1. Regulation as last amended by Regulation (EC) No 489/2004 (OJ L 79, 17.3.2004, p. 18).

(3) The export of certain agricultural products is subject to the presentation of an export licence. For these products, which having benefited from a specific supply arrangement, are re-exported without export refunds, it is advisable, in the interests of administrative simplification, to exempt them from the requirement of the presentation of an export licence.

(4) Detailed rules should be laid down for recovery of the benefit granted and the consequences for the registration, in case of inobservance of the obligations undertaken by the trader within the framework of the specific supply arrangements.

(5) The measures laid down in this Regulation are in accordance with the opinions of all the Management Committees concerned,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 20/2002 is amended as follows:

1. In Article 9, paragraphs 3 and 4 are replaced by the following:

‘3. When applying for registration as referred to in the first subparagraph of paragraph 2, the trader intending to re-export or re-dispatch unaltered products or processed products in accordance with Article 16, must declare his intention to engage in this activity and indicate the location of the packaging plant where applicable.

4. When applying for registration as referred to in the first subparagraph of paragraph 2, the processor intending to export or dispatch processed products in accordance with Articles 16 or 17, must declare his intention to engage in this activity and indicate the location of the processing plant.’

2. The title of Chapter VI and Articles 16, 17 and 18 are replaced by the following:

‘CHAPTER VI

RE-EXPORTATION AND RE-DISPATCH*Article 16***Re-exportation and re-dispatch**

1. Re-exportation and re-dispatch of unaltered products covered by the specific supply arrangement, or packed or processed products covered by the specific supply arrangement, are subject to the following requirements:

(a) for the re-exported products referred to in this paragraph, box 44 of the export declaration shall mention the following indication:

— “goods exported under the terms of the first subparagraph of Article 3(5) of Regulation (EC) No 1452/2001”,

— “goods exported under the terms of the first subparagraph of Article 3(5) of Regulation (EC) No 1453/2001”,

— “goods exported under the terms of the first subparagraph of Article 3(5) of Regulation (EC) No 1454/2001”;

(b) quantities of products which have been exempt from import duties and which are re-exported shall be re-attributed to the forecast supply balance; the products covered by this point shall not qualify for export refund;

(c) quantities of products which have been exempt from import duties and which are re-dispatched shall be re-attributed to the forecast supply balance and the amount of the *erga omnes* import duties applicable is paid by the dispatcher at the latest at the time of re-dispatching; the products may not be subject to re-dispatching as long as afore mentioned payment did not take place; in case it is not possible to establish the day of importation the products are considered to have been imported in the six months period preceding the day of re-dispatching on the day the highest *erga omnes* import duties apply;

(d) quantities of products on which aid has been granted and which are re-exported or re-dispatched shall be re-attributed to the forecast supply balance and the aid granted shall be reimbursed at the latest at the time of re-exportation or re-dispatch; the products may not be subject to re-exportation or re-dispatch as long as afore mentioned reimbursement did not take place; in case it is not possible to establish the amount of supplies granted, the products are considered to have been granted the

highest fixed supply by the Community for these products in the six months period preceding the submission of the request for re-exportation or re-dispatch; the products covered by this point may benefit an export refund as far as the awarding conditions are fulfilled.

2. Re-exportation of the following products is not subject to the presentation of an export licence:

(a) the products as meant in point (b) of paragraph 1;

(b) the products as meant in point (d) of paragraph 1 which do not fulfill the awarding conditions for refunds.

3. If there is a risk that regular supplies to the outermost regions might be jeopardised by a significant increase in re-exports of products covered by this Article, the competent authorities may restrict quantities to be re-exported in such a way as to ensure that priority needs in the sectors concerned are met. This quantitative limitation is carried out in a non-discriminatory way.

*Article 17***Traditional re-exportations, re-exportations within the framework of regional trade, and traditional re-dispatches of processed products**

1. The processor who has declared, under Article 9(4), his intention to export in the context of regional trade, or dispatch in the context of traditional trade flows, processed products containing raw materials which have benefited from the specific supply arrangements, may do so within the limits of the annual quantities indicated in the Annexes I, III and V. The competent authorities deliver the necessary authorisations in such a way as to ensure that the operations do not exceed the annual quantities fixed.

For exports within the framework of regional trade, the exporter has to submit the documents provided for in Article 16 of Commission Regulation (EC) No 800/1999(*) to the competent authorities within the time limits mentioned in Article 49 of the said Regulation. In case documents have not been submitted within the time limits provided, the competent authorities shall recover the benefit granted under the specific supply arrangements.

Products delivered to the French overseas departments, to the Azores, to Madeira and to the Canary Islands, which have benefited from the specific supply arrangements and which are used to victual ships and aircrafts, shall be deemed to have been consumed locally.

2. The competent authorities shall authorise the export or dispatch of quantities of processed products other than those referred to in paragraph 1 only where it is attested that the products concerned do not contain raw materials imported or introduced under the specific supply arrangements.

The competent authorities shall carry out the necessary checks to ensure the accuracy of the attestations referred to in the first subparagraph and shall recover, where appropriate, the benefit granted under the specific supply arrangements.

3. Processing operations which, within the limit of the quantities appearing in the Annexes I, III and V, may give rise to traditional or regional trade exports or traditional dispatches, must meet, *mutatis mutandis*, the processing conditions referred to on the inward processing arrangements and on the procedure for processing under customs control specified in Council Regulation (EEC) No 2913/92(**) and Commission Regulation (EEC) No 2454/93(***), with the exception of all usual forms of handling.

4. Re-exportation of products referred to in this article is not subject to the presentation of an export licence.

5. For the products exported under this article, box 44 of the export declaration shall mention the following indication:

— “goods exported under the terms of the second subparagraph of Article 3(5) of Regulation (EC) No 1452/2001”,

— “goods exported under the terms of the second subparagraph of Article 3(5) of Regulation (EC) No 1453/2001”,

— “goods exported under the terms of the second subparagraph of Article 3(5) of Regulation (EC) No 1454/2001”.

Article 18

Sugar

During the period referred to in Article 10(1) of Council Regulation (EC) No 1260/2001(****), C sugar as referred to in Article 13 of that Regulation, exported in accordance with the relevant provisions of Commission Regulation (EEC) No 2760/81(*****), and introduced for the purposes of

consumption in Madeira in the form of white sugar falling within CN code 1701 or into the Azores in the form of raw sugar falling within CN code 1701 12 10, shall benefit, under the terms of this Regulation, from the scheme of exemption from import duties within the limits of the forecast supply balances referred to in Article 3.

- (*) OJ L 102, 17.4.1999, p. 11.
- (**) OJ L 302, 19.10.1992, p. 1.
- (***) OJ L 253, 11.10.1993, p. 1.
- (****) OJ L 178, 30.6.2001, p. 1.
- (*****) OJ L 262, 16.9.1981, p. 14.

3. In Article 22:

— the text of points (d) and (e) is replaced by the following text:

‘(d) any quantities re-exported or re-dispatched under the terms of Article 16 and the unit amounts and total of recovered aid;

(e) any quantities dispatched after processing within the framework of traditional quantities under the terms of Article 17;’

— the points (f) and (g) are deleted.

4. In Article 26, the text of paragraph 1 is replaced by the following text:

‘1. Except in cases of *force majeure* or climatic aberrations, if a trader fails to comply with the undertakings given under Article 9, and without prejudice to any penalties applicable under national law, the competent authorities shall:

(a) recover the benefit granted from the holder of the import licence, exemption certificate or aid certificate;

(b) provisionally suspend or revoke registration, depending on the seriousness of the breach of the obligations.

The benefit referred to in the first indent shall be equal to the amount of the exemption from import duties or to the amount of the aid determined in accordance with Article 16, points (c) and (d).’

Article 2

This Regulation enters into force the seventh day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 April 2005.

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

Done at Brussels, 27 January 2005.

By the Commission
Mariann FISCHER BOEL
Member of the Commission

COMMISSION REGULATION (EC) No 128/2005**of 27 January 2005****imposing a provisional anti-dumping duty on imports of hand pallet trucks and their essential parts originating in the People's Republic of China**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community⁽¹⁾ (the basic Regulation), and in particular Article 7 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

- (1) On 29 April 2004, the Commission announced, by a notice published in the *Official Journal of the European Union*⁽²⁾, the initiation of an anti-dumping proceeding with regard to imports into the Community of hand pallet trucks and their essential parts originating in the People's Republic of China (PRC).
- (2) The proceeding was initiated as a result of a complaint lodged in March 2004 by four Community producers representing a major proportion, in this case more than 60 %, of the total Community production of hand pallet trucks and their essential parts, i.e. chassis and hydraulics (the applicants). The complaint contained evidence of dumping of the said product and of material injury resulting thereof, which was considered sufficient to justify the initiation of a proceeding.
- (3) The Commission officially advised the applicant Community producers, other Community producers, the exporting producers, importers and users known to be concerned and the representatives of the PRC of the initiation of the proceeding. Given the large number of known exporting producers in the PRC, sampling for the determination of dumping was envisaged in the notice of initiation, in accordance with Article 17 of the basic Regulation. However, only four Chinese exporting producers cooperated with the investigation and, therefore, it was decided that sampling was not necessary. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.
- (4) A number of exporting producers in the PRC, Community producers, importers, users, as well as an association of importers made their views known in writing. All parties who so requested within the above time limit, and indicated that there were particular reasons why they should be heard, were granted a hearing.
- (5) The Commission sought information, by means of questionnaires and market economy and individual treatment claim forms sent to all known parties as appropriate. The information received was verified to the extent possible and to the extent deemed necessary for the purpose of a preliminary determination of dumping, resulting injury and Community interest. In this regard, the Commission received complete questionnaire responses, and claim forms where applicable, from the following companies:

⁽¹⁾ OJ L 56, 6.3.1996, p. 1, Regulation as last amended by Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

⁽²⁾ OJ C 103, 29.4.2004, p. 85.

- (a) *Producers in the Community*
- Bolzoni-Auramo SpA, Piacenza, Italy,
 - BT Products AB, Mjölby, Sweden,
 - Franz Kahl GmbH, Lauterbach, Germany,
 - Pramac Lifter SpA, Casole d'Elsa, Italy;
- (b) *Exporting producers in the People's Republic of China*
- Ningbo Liftstar Material Transport Equipment Factory, Ningbo,
 - Ningbo N.F.T.Z. E-P Equipment Co. Ltd, Hangzhou (exporter related to Ningbo Liftstar Material Equipment Factory),
 - Ningbo Ruyi Joint Stock Co. Ltd, Ninghai,
 - Ningbo Tailong Machinery Co. Ltd, Ninghai,
 - Zhejiang Noblelift Equipment Joint Stock Co. Ltd, Changxing;
- (c) *Importers/traders in the Community*
- Chadwick Materials Handling Ltd, Corsham, United Kingdom,
 - European Handling Equipment, Halesowen, United Kingdom,
 - Gigant Arbetsplats AB, Alingsås, Sweden,
 - Hu-Lift s.l., Barcelona, Spain,
 - Jungheinrich AG, Hamburg, Germany,
 - Mangrinox SA, Athens, Greece,
 - Manutan International SA, Paris, France,
 - Lagertechnik Fischer GmbH, Dinslaken, Germany,
 - Levante SRL, Ostiglia, Italy,
 - Linde AG, Aschaffenburg, Germany,
 - RAPID Transportgeräte GmbH, Beckum, Germany,
 - Teknion Ltd, Lancashire, United Kingdom,
 - TVH Handling Equipment N.V., Gullegem, Belgium;
- (d) *Users*
- Aldi Einkauf GmdH & Co. OHG, Essen, Germany,
 - M. Uno Trading SpA, Imola, Italy.
- (6) Verification visits were carried out in the premises of all cooperating exporting producers in the PRC and all Community producers.
- (7) In light of the need to establish a normal value for exporting producers in the PRC to which MET was not granted, a verification at the premises of the following producer in Canada, which was used as an analogue country, took place:
- Lift Rite Inc., Brampton, Ontario.
- (8) The investigation of dumping and injury covered the period from 1 April 2003 to 31 March 2004 (IP). The examination of trends relevant for the assessment of injury covered the period from 1 January 2000 to the end of the investigation period (period considered).

B. PRODUCT CONCERNED AND LIKE PRODUCT**1. General**

- (9) Hand pallet trucks are used for the handling of goods and material normally placed on pallets. They are not self-propelled, i.e. they are pushed and pulled by man power. Hand pallet trucks consist of four main parts: chassis (which is made of steel), hydraulics, handle, and wheels. The essential parts are the chassis, where the pallet is placed on, and the hydraulics which allows the geared lifting of the load.

2. The product concerned

- (10) The product concerned is hand pallet trucks, not self propelled, used for the handling of materials normally placed on pallets, and their essential parts, i.e. the chassis and the hydraulics, originating in the PRC (the product concerned), normally declared within CN codes ex 8427 90 00 and ex 8431 20 00. There are different types of hand pallet trucks and their essential parts depending mainly on the lift capacity, length of the forks, type of steel used for the chassis, type of hydraulics, type of wheels and existence of a brake. However, all different types have the same basic physical characteristics and uses. Consequently, all existing types are considered as one product for the purposes of this investigation.
- (11) During the investigation, some interested parties submitted comments as regards the definition of the product concerned. These parties claimed that the chassis and hydraulics should not be included within the scope of the product concerned, because (a) chassis' and hydraulics' markets are different from the hand pallet truck's market; (b) companies producing hand pallet trucks and chassis and/or hydraulics are different, in particular, Chinese exporting producers do not export chassis and hydraulics to the Community and (c) both chassis and hydraulics are also used for other products than only hand pallet trucks.
- (12) As regards the argument that there are different markets for chassis and hydraulics, it is noted that no evidence demonstrating the existence of separate markets for these parts for users has been submitted to the Commission. On the contrary, comments of all parties indicate that the producers of hand pallet trucks also produce the essential parts and, in certain cases, deliver these as spare parts for their own trucks. It is very difficult, if not impossible, to fit any chassis or hydraulics of one producer to a hand pallet truck of another producer. Producers normally would supply essential parts to the customers buying their products.
- (13) As regards the second argument concerning producers for chassis and hydraulics, it is noted that the verified information received from the exporting producers shows that all the exporting producers subject to the present investigation produce themselves the chassis and most of them also produce the hydraulics. Although there may exist independent producers of such parts, their production is tailor-made for producers of hand pallet trucks and this is the reason why these parts are seldom sold on the open market. Furthermore, the investigation has shown that such parts have been exported to the Community by certain of the cooperating exporting producers. Therefore, the evidence on the record indicates that the second argument should also be rejected.
- (14) As regards the third argument that chassis and hydraulics are also used in other products, it is noted that the products given as examples by the interested parties are clearly different to hand pallet trucks, not only in their physical characteristics but also in their use. Even if these products also have hydraulic systems and steel chassis, these are of different size, shape or lifting capacity than the ones used in hand pallet trucks and would thus not fall under the product concerned as defined above. Therefore, on the basis of the information available and as set out above, it appears highly unlikely that the hydraulics and/or chassis of hand pallet trucks could be integrated as such in other products.
- (15) Consequently, the comments of the interested parties were analysed, but they did not justify changing the provisional conclusion on the product concerned as set out in recital 10.

3. Like product

- (16) No differences were found between the product concerned and the hand pallet trucks and their essential parts produced and sold on the domestic market of Canada, the analogue country. Indeed, these hand pallet trucks and their essential parts have the same basic physical characteristics and uses as those exported to the Community.
- (17) Likewise, no differences were found between the product concerned and the hand pallet trucks and their essential parts produced by the complainants and sold on the Community market. They both share the same physical characteristics and uses.
- (18) Consequently, hand pallet trucks and their essential parts sold on the domestic market of Canada, as well as hand pallet trucks and their essential parts produced and sold in the Community are considered as alike to the product concerned within the meaning of Article 1(4) of the basic Regulation.

C. DUMPING

1. Market economy treatment (MET)

- (19) Pursuant to Article 2(7)(b) of the basic Regulation, in anti-dumping investigations concerning imports originating in the PRC, normal value shall be determined in accordance with paragraphs 1 to 6 of the said Article for those producers which were found to meet the criteria laid down in Article 2(7)(c) of the basic Regulation, i.e. where it is shown that market economy conditions prevail in respect of the manufacture and sale of the like product. Briefly, and for ease of reference only, these criteria are set out in a summarised form below:
 - 1. business decisions and costs are made in response to market conditions, and without significant State interference;
 - 2. accounting records are independently audited, in line with international accounting standards and applied for all purposes;
 - 3. there are no significant distortions carried over from the former non-market economy system;
 - 4. legal certainty and stability is provided by bankruptcy and property laws;
 - 5. currency exchanges are carried out at the market rate.
- (20) Four Chinese producers requested MET pursuant to Article 2(7)(b) of the basic Regulation and replied to the MET claim form for exporting producers within the given deadlines.
- (21) The Commission sought all information deemed necessary and verified all information submitted in the MET applications at the premises of the companies in question.
- (22) For all four companies it was established that, overall, their decisions regarding prices and costs were made without significant state interference, within the meaning of Article 2(7)(c) and that costs and prices reflected market values. Their production costs and financial situation were not subject to significant distortions carried over from the former non-market economy system, there were bankruptcy and property laws guaranteeing legal certainty and stability and the exchange rate conversions were carried out at the market rate. However, none of the four companies fulfilled criterion 2, concerning the existence of independently audited accounts which are in line with international accounting standards (IAS). The companies were found to be in breach of one or several of the following standards: IAS 1, IAS 2, IAS 8, IAS 16, IAS 21, IAS 32 and IAS 36. Consequently, it was concluded that none of the following four companies fulfilled the conditions set out in Article 2(7)(c) of the basic Regulation:

- Ningbo Liftstar Material Equipment Factory, Ningbo,
 - Ningbo Ruyi Joint Stock Co. Ltd, Ninghai,
 - Ningbo Tailong Machinery Co. Ltd, Ninghai,
 - Zhejiang Noblelift Equipment Joint Stock Co. Ltd, Changxing.
- (23) The exporting producers concerned and the Community industry were given an opportunity to comment on the above findings.
- (24) All four exporting producers argued that the determination was wrong and that they should be granted MET.
- (25) One of the exporting producers argued that the ultimate objective of Article 2(7) of the basic Regulation is to establish whether the companies respond to market signals without State interference. The five criteria under Article 2(7)(c) of the basic Regulation, in particular criterion 2 concerning accounting standards, should therefore always be interpreted in the light of this ultimate objective. Since no State interference was established, the company should be granted MET.
- (26) It is noted that the five criteria listed under Article 2(7)(c) of the basic Regulation are independent of each other and each one of them needs to be met in order for the MET to be granted. State interference as such is mentioned neither as an independent criterion nor as one which could override other criteria. Indeed, if lack of State interference as such would be sufficient for MET to be granted, no other criteria would be necessary. Moreover, the apparent lack of enforcement of the IAS and the accounting rules applicable in the PRC can be also seen as a form of State interference in the normal operation of a market economy.
- (27) One of the exporting producers argued that the Commission had not made its decision on the MET within the three months' deadline provided for in Article 2(7)(c) of the basic Regulation. This exporting producer also alleged that the Commission had already received and verified its dumping questionnaire response before deciding on the merits of the MET claim, and this casts serious doubt as to the motivation of the Commission to reject the MET claim.
- (28) As regards the argument concerning the three months' deadline, it is noted that at the initiation stage of the present case, using sampling provisions was foreseen due to the large number of exporting producers involved. However, due to lack of cooperation by most of the exporting producers, it was later decided that sampling was not necessary and that only the cooperating exporting producers would be investigated both as regards MET and dumping. This procedure delayed the investigation, following which it was for practical reasons decided to carry out the on-the-spot verifications of both MET claims and the anti-dumping questionnaires at the same time. Moreover, in this respect it is noted that the non-respect of such deadline does not entail any apparent legal consequences and that the abovementioned exporter did not claim any negative impact due to the longer period needed for the MET determination. In addition, all MET claims received were deficient and required a number of substantial clarifications and additional information which delayed the investigation. In fact, three exporters, including the exporter which brought the argument under discussion, submitted further comments following the completion of the MET assessment. Given the above it was concluded that a valid MET determination could be made or adopted also after the three months period in this case.
- (29) As regards the argument concerning the verification of the questionnaire response, it is noted that the basic Regulation does not stipulate that the dumping investigation shall only start after the MET determination. In fact, Articles 5(10) and 6(2) of the basic Regulation require that all relevant information including the dumping questionnaire responses, has to be submitted within 40 days from initiation or 37 days from the selection of any sample, if sampling is used. This is in all cases before any MET determination is made. The Commission examines all MET claims on their own merits and on the basis of the criteria set out in Article 2(7)(c) of the basic Regulation. Dumping investigations are normally run in parallel with MET claims.

- (30) Three exporting producers argued that because they had accounts audited by an independent accounting firm which are in line with Chinese GAAP, criterion 2 must be fulfilled. They also argued that their practice of not converting their foreign exchange into renminbi on a daily basis was in line with the requirements of IAS 21. They argued that because the Chinese renminbi is pegged to the US dollar it made no difference whether conversions were done on a yearly or daily basis. In addition, two exporting producers argued that IAS 21 permitted deviations from the normal rule if exchange rates do not fluctuate significantly.
- (31) It is noted that according to the criteria of Article 2(7)(c) of the basic Regulation, the Commission shall examine whether the accounts of the companies are audited in line with IAS. The compliance or non-compliance with the Chinese standards is not decisive in the context of an individual MET assessment. However, it is noted that as regards two of the four companies investigated, the notes of auditors in their annual reports indicated that the accounts were prepared in breach of the Chinese accounting standards.
- (32) As regards the comparison with the US dollar, two issues are relevant: firstly, even if the majority of the transactions of the companies investigated were in US dollars, the companies which failed to meet the IAS 21 also had transactions in other currencies, and in these cases the fluctuations could be considerable. In addition, it is noted that significant export sales of the companies concerned were made to markets other than the Community, and since the investigation concerns only the Community market, such transactions have not been verified. Secondly, it is not relevant whether, looking back at a certain period, one notes retrospectively that there were minor fluctuations. This cannot be known at the beginning of the same period, a year or even more, when the companies concerned fixed the currencies exchange rates to be used for recording export sales in their accounts. Since there can be movements that have not been foreseen and which can have a considerable impact on the companies pricing and revenue, an exchange rate fixed in advance cannot be in line with the practice of companies operating under market economy conditions.
- (33) As regards the requirements of IAS 21, it is noted that IAS 21 provides for as follows: 'A foreign currency transaction should be recorded, on initial recognition in the reporting currency, by applying to the foreign currency amount the exchange rate between the reporting currency and the foreign currency at the date of the transaction.' A following explanation is also provided for in relation to this standard: 'The exchange rate at the date of the transaction is often referred to as the spot rate. For practical reasons, a rate that approximates the actual rate at the date of the transaction is often used, for example, an average rate for a week or a month might be used for all transactions in each foreign currency occurring during that period. However, if exchange rates fluctuate significantly, the use of an average rate for a period is unreliable'. Consequently, IAS 21 makes it clear that in principle daily rates are to be used. Weekly or monthly averages are only allowed as approximate rates to the actual rate of the date of transaction if exchange rates do not fluctuate significantly. In the present case however, the companies updated their accounting rate once a year or even less frequently. Such practice cannot be considered to be in line with IAS 21. Moreover, even the Chinese accounting standards require the use of daily or monthly exchange rates in such case. Therefore, the fact that the auditors had not commented on the practice concerning foreign currency transactions above, indicates that the audit was not carried out in accordance with the IAS. This casts doubts on the reliability of the accounting data.
- (34) Consequently, it is concluded that the comments arguing that MET should be granted are not justified.

2. Individual treatment

- (35) Further to Article 2(7)(a) of the basic Regulation, a country-wide duty, if any, is established for countries falling under that article, except in those cases where companies are able to demonstrate, in accordance with Article 9(5) of the basic Regulation, that their export prices and quantities as well as the conditions and terms of the sales are freely determined, that exchange rates are carried out at market rates, and that any State interference is not such as to permit circumvention of measures if exporters are given different rates of duty.

- (36) The four exporting producers, as well as requesting MET, also claimed individual treatment (IT) in the event they were not granted MET. On the basis of information available it was found that all four companies met all the requirements for IT as set forth in Article 9(5) of the basic Regulation.
- (37) It was therefore concluded that IT should be granted to the following four exporting producers in the PRC:
- Ningbo Liftstar Material Transport Equipment Factory, Ningbo,
 - Ningbo Ruyi Joint Stock Co. Ltd, Ninghai,
 - Ningbo Tailong Machinery Co. Ltd, Ninghai,
 - Zhejiang Noblelift Equipment Joint Stock Co. Ltd, Changxing.

3. Normal value

3.1. *Analogue country*

- (38) According to Article 2(7)(a) of the basic Regulation, for non-market economy countries and, to the extent that MET could not be granted, for countries in transition, normal value has to be established on the basis of the price or constructed value in an analogue country.
- (39) In the notice of initiation, the Commission indicated its intention to use Canada as an appropriate analogue country for the purpose of establishing normal value for the PRC and invited interested parties to comment on this.
- (40) The investigation showed that Canada has a competitive market for hand pallet trucks with around 50 % of the market supplied by local production and the rest by imports from third countries. The production volume in Canada constitutes more than 5 % of the volume of Chinese exports of the product concerned to the Community. The Canadian market was therefore deemed sufficiently representative for the determination of normal value for the PRC.
- (41) Two exporting producers and an importers/traders association objected to the proposal to use Canada as an analogue country. The arguments against the choice of Canada were that: (a) the Canadian products are different because they are manufactured using sturdier components according to US standards, not Community standards; (b) the Canadian and Chinese markets are not comparable as they have different level of developments and size and (c) the cooperating Canadian producer is related to one of the Community producers. The exporting producers in question suggested Malaysia or India as appropriate analogue countries.
- (42) Following these comments, the Commission contacted seven Indian and one Malaysian known producer of hand pallet trucks by sending them the relevant questionnaire. However, none of these producers cooperated with the investigation and no information concerning normal value was made available to the Commission from these two countries. It was therefore not possible for the Commission to consider any of the countries proposed by the exporting producers as alternative analogue countries.
- (43) As regards the comments of the parties concerning the differences of quality and standards of the Canadian products, it was claimed in essence that the average weight and fork width of the Canadian trucks is greater than that of the Chinese trucks. However, the Commission did not establish any overall significant difference either as regards the weight or the fork width between the Canadian and the Chinese products. Both Canadian and Chinese products have different categories of weight and fork width and a large amount of the products were comparable with each other. For those products that were not directly comparable, appropriate adjustments could be made as explained in recital 51. Another important factor is the lifting capacity of the truck. In this respect, no major overall differences were found as regards the lifting capacity of Chinese and Canadian hand pallet trucks. Therefore, it was concluded that there are no significant differences in the quality of the Canadian and the Chinese products.

- (44) As regards the comments of the exporting producers relating to the level of development and size of the Canadian and Chinese markets, it is noted that a decisive element is whether the market in question is large enough to be representative in comparison to the volume of the exports of the product concerned to the Community. As stated in recital 40, in the present case the Canadian market is found to be large enough to be representative in this respect. The fact that the Chinese market is overall larger than that in Canada is irrelevant to the assessment of the appropriateness of Canada as a possible analogue country in this case. Regarding the fact that the PRC is considered a developing country whereas Canada is not, it is noted that as stated in recital 43, the quality of the Canadian and Chinese products is comparable. On the basis of on-the-spot verifications carried out at the premises of both Chinese and Canadian producers, it was concluded that there were no significant differences between the production facilities and methods of the Chinese and Canadian producers. For these reasons, the status of the PRC as a developing country is not a relevant issue in this respect and it does not render the choice of using Canada as an analogue country in this case an unreasonable one.
- (45) Regarding the allegation that the relationship between the Canadian cooperating producer and a Community producer casts serious doubts as to the objectivity and accuracy of the data provided, no basis for this allegation was found during the investigation. The Commission checked whether the relationship had any distorting effect on the prices, costs of production and profitability of the Canadian producer, in particular during the on-spot-verification of the company's data. No indication was found of any such distortions. The Commission established that the information provided was accurate and reliable and could be used for the purposes of this investigation.
- (46) In view of the above, it is provisionally concluded that Canada constitutes an appropriate analogue country in accordance with Article 2(7)(a) of the basic Regulation.

3.2. *Determination of normal value*

- (47) Pursuant to Article 2(7)(a) of the basic Regulation, normal value for the cooperating exporting producers was established on the basis of verified information received from the producer in the analogue country, i.e. on the basis of prices paid or payable on the domestic market of Canada for comparable product types, since these were found to be made in the ordinary course of trade.
- (48) As a result, normal value was established as the weighted average domestic sales price to unrelated customers per type by the cooperating producer in Canada.

4. **Export prices**

- (49) All export sales to the Community of two exporting producers were made directly to independent customers in the Community. Therefore, the export price was established pursuant to Article 2(8) of the basic Regulation on the basis of the prices actually paid or payable. As regards the two other exporting producers, part of their export sales to the Community was made to importers with which the exporters had a compensatory contractual arrangement which rendered the prices unreliable. In these cases, in accordance with Article 2(9) of the basic Regulation, the export price was constructed on the basis of resale prices to independent customers in the Community. Adjustments were made for all costs incurred between importation and resale, including selling, general and administrative expenses, and for profit. The profit used for this purpose was the average profit attained by the cooperating unrelated importers of the product concerned.

5. **Comparison**

- (50) The comparison between the normal value and the export price was made on an ex-factory basis and at the same level of trade. In order to ensure a fair comparison, account was taken, in accordance with Article 2(10) of the basic Regulation, of differences in factors which were demonstrated to affect prices and price comparability. On this basis, allowances for differences in transports costs, insurance cost, handling and loading costs, packing costs, credit costs and discounts were made where applicable.

- (51) As regards the analogue country Canada, the investigation established that a hand-break was used in all Canadian hand pallet trucks, whereas this was not the case as regards the majority of Chinese products. Therefore, an appropriate adjustment was made under Article 2(10)(a) of the basic Regulation for the Canadian prices to eliminate the effect of the hand-break. In addition, some Canadian products were also with forks having a lower height than the Chinese products. Therefore, an appropriate adjustment was also made to the Canadian prices under Article 2(10)(a) of the basic Regulation as regards these products to eliminate the effect of this difference.

6. Dumping margin

6.1. Dumping margin for the cooperating exporting producers granted IT

- (52) For the four exporting producers granted IT, the weighted average normal value for each type exported to the Community established for the analogue country was compared with the weighted average export price of the corresponding type exported to the Community by the exporting producers, as provided for under Article 2(11) of the basic Regulation.

6.2. Dumping margin for all other exporting producers

- (53) In order to calculate the country-wide dumping margin applicable to all other exporters in the PRC, the Commission first established the level of cooperation. A comparison was made between the total imports of the product concerned originating in the PRC as reported in Eurostat statistics and the volumes exported by the four cooperating exporting producers. Given that the total export volumes as reported by the cooperating exporting producers were significantly lower than the import volume reported in Eurostat statistics during the IP, it was provisionally concluded that there was significant non-cooperation (around 47 % of total imports of the product concerned in the Community). In order to avoid that exporting producers benefit from their non-cooperation and since there were no indications that the dumping margins of the non-cooperating producers were lower, the country-wide dumping margin was established as an average of the dumping margins established for the most exported product types of the cooperating exporting producers, which was found higher than the highest individual dumping margin established for a cooperating exporting producer.

6.3. Provisional dumping margins for the PRC

- (54) The provisional dumping margins expressed as a percentage of the net, free-at-Community-frontier price, duty unpaid, are:

Ningbo Liftstar Material Transport Equipment Factory	37,6 %
Ningbo Ruyi Joint Stock Co. Ltd	29,7 %
Ningbo Tailong Machinery Co. Ltd	40,3 %
Zhejiang Noblelift Equipment Joint Stock Co. Ltd	35,9 %
All other companies	49,6 %

D. COMMUNITY INDUSTRY

1. Community production

- (55) The investigation established on the basis of information submitted by cooperating companies that during the IP hand pallet trucks were manufactured by:

- the four applicant Community producers,
- one other producer, which has however ceased production after the IP and become importer.

There may be some other very small producers with insignificant production volumes, which have not cooperated with the investigation.

- (56) Hence, it is provisionally concluded that hand pallet trucks produced by the five abovementioned producers constitute the Community production within the meaning of Article 4(1) of the basic Regulation.

2. Definition of the Community industry

- (57) The complaint was lodged by four producers, Bolzoni SpA, BT Products AB, Franz Kahl GmbH and Pramac Lifters SpA, which have cooperated with the investigation. Together these producers represent more than 60 % of total Community production of hand pallet trucks. They are therefore deemed to constitute the 'Community industry' within the meaning of Articles 4(1) and 5(4) of the basic Regulation and will hereinafter be referred to as such.

E. INJURY

1. Community consumption

- (58) Community consumption was based on the combined volume of all imports of hand pallet trucks into the Community, based on Eurostat statistics, the total verified sales of the Community industry and the sales of one other Community producer which ceased production in 2004.
- (59) Community consumption of hand pallet trucks was approximately 493 000 units during the IP. This figure is 17 % higher than at the beginning of the period considered.

Community consumption	2000	2001	2002	2003	IP
Hand pallet trucks (in units)	422 008	428 255	413 561	491 648	492 814
<i>Index</i>	100	101	98	117	117

2. Imports of hand pallet trucks from the PRC into the Community

(a) Volume and market share of imports

- (60) On the basis of Eurostat data, the volume of imports from the PRC increased significantly over the period considered, i.e. by 138 %. The increase of imports was particularly marked between 2002 and 2003 when they increased by 51 %.

Total dumped imports (units)	2000	2001	2002	2003	IP
Imports from the PRC (in units)	118 392	157 379	183 282	277 304	282 339
<i>Index</i>	100	133	155	234	238

- (61) The market share of the dumped imports increased sharply by more than 100 % during the period considered. This increased market share was wholly taken from the share previously held by the Community industry.

Market share of dumped imports	2000	2001	2002	2003	IP
Market share of imports from PRC	28 %	37 %	44 %	56 %	57 %
<i>Index</i>	100	131	158	201	204

(b) Prices of the dumped imports

- (62) According to Eurostat data, the average price of the dumped imports from the PRC decreased between 2000 and the IP by 34 %. The prices remained stable until 2001, then they decreased by 12 % in 2002 and even further decreased by another 25 % between 2002 and 2003.

Dumped imports price per unit	2000	2001	2002	2003	IP
Price per unit	127	127	112	84	84
<i>Index</i>	100	100	88	66	66

(c) Price undercutting

- (63) For the determination of price undercutting the Commission analysed price data for the IP. The weighted average net ex-works sales price to unrelated customers of the Community industry after deduction of discounts and rebates was compared to the weighted average import price of the cooperating Chinese exporting producers' comparable types at the same level of trade, i.e. sales to distributors. The import prices were at CIF level and an appropriate adjustment was made to include any customs duties normally paid on importation. In two cases, where importers were found to have compensatory contractual arrangements with Chinese exporting producers, resale prices to unrelated customers of these importers were used.
- (64) On that basis, the existence of price undercutting was provisionally established for imports from the PRC. The level of undercutting, expressed as a percentage of the Community industry's average selling price was found for all exporting producers to be above 55 %.

3. Situation of the Community industry

(a) Preliminary remark

- (65) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Community industry included an evaluation of all economic factors and indices having a bearing on the state of the industry from 2000 (the base year) to the IP.

(b) Production, capacity and capacity utilisation

Production in the Community	2000	2001	2002	2003	IP
Production (in units)	272 017	235 742	205 824	196 275	181 114
<i>Index</i>	100	87	76	72	67
Capacity (in units)	381 680	401 735	400 030	392 625	393 255
<i>Index</i>	100	105	105	103	103
Capacity utilisation	71 %	59 %	51 %	50 %	46 %
<i>Index</i>	100	82	72	70	65

- (66) During the period considered, the Community industry production decreased by 33 %. As production capacity remained more or less unchanged during the same period the capacity utilisation decreased in line with the production.

(c) Stocks

	2000	2001	2002	2003	IP
Stocks in units	12 196	15 491	11 223	13 262	13 929
<i>Index</i>	100	127	92	109	114

- (67) As a result of falling sales, there has been a small overall increase in the stock levels. Nevertheless, the investigation showed that the development of stocks is not regarded as a particularly relevant indicator of the economic situation of the Community industry, as Community producers generally produce according to specific orders and therefore stocks are usually goods awaiting dispatch to customers.

(d) Sales volume, sales price and market share

Sales in the EC	2000	2001	2002	2003	IP
Volume (in units)	147 002	144 166	126 821	113 701	111 374
<i>Index</i>	100	98	86	77	76
Market share	35 %	34 %	31 %	23 %	23 %
<i>Index</i>	100	97	88	66	66
Sales price (EUR/unit)	290	285	278	267	267
<i>Index</i>	100	98	96	92	92

- (68) Although Community consumption increased between 2000 and the IP, the volume of sales of the Community industry has decreased considerably. Consequently, its market share fell sharply as shown above. This is to be seen in contrast with the development of imports from the PRC whose market share increased considerably over the period considered.
- (69) The Community industry lost 34 % of its market share between 2000 and the IP.
- (70) Unit prices of the Community industry's own production for sales to unrelated customers in the Community decreased during the period considered. The decrease was particularly marked between 2001 and 2003 when sales prices decreased by 6 %.
- (71) Traditionally, in this market, prices were driven by the quality of the product, the after sales service and the warranties offered by the producers. During the period considered this situation has, however, changed radically and price has become the determining sales factor during the IP. Whilst unit sales prices decreased by 8 % between 2000 and the IP, the unit cost of production has increased, because the price for the main raw material, steel, which accounts for an important part of the cost of production, has been increasing, in particular during the IP.
- (72) As Community industry's prices could not match increases in costs of production, because of the price suppression linked to dumped imports, the Community industry experienced a drop in profitability.

(e) Factors affecting Community prices

- (73) The investigation showed that dumped imports were undercutting the average depressed sales price of the Community industry by more than 59 % in the IP (see recital 64). This undercutting clearly led to loss-making prices for the Community industry at a time when they needed to increase to cover increased costs.

(f) Growth

- (74) Between 2000 and the IP, when the Community consumption increased by 17 %, the sales volumes of the Community industry on the Community market declined by 24 %. The Community industry lost 12 percentage points of market share whereas, as already seen, dumped imports gained 29 percentage points of market share during the same period.

(g) Profitability

- (75) The Community industry's profitability has fallen sharply over the period, leading to losses in 2002, which continually worsened during 2003 and the IP.

Profitability	2000	2001	2002	2003	IP
Pre-tax profit/loss margin	0,28 %	0,51 %	−0,60 %	−1,89 %	−2,31 %
<i>Index</i>	100	181	−212	−665	−815

(h) Investments, return on investment, cash flow and the ability to raise capital

	2000	2001	2002	2003	IP
Investments (in EUR)	727 783	2 297 136	2 570 831	1 378 790	1 552 986
<i>Index</i>	100	316	353	189	213
Return on investment	0,05	0,10	−0,14	−0,36	−0,45
<i>Index</i>	100	220	−290	−776	−963
Cash flow (in EUR)	231 559	1 511 068	1 253 486	−81 556	−659 913
<i>Index</i>	100	653	541	−35	−285

- (76) Major investments were made during the period considered, particularly in 2001 and 2002. It should be noted that the Community producers are well-established companies with a long tradition in the hand pallet trucks production. Therefore, replacement investments, which formed major part of the investments, were necessary in order to remain competitive.
- (77) Due to the change of market conditions and more specifically the decline of sales prices, new investments during the IP were to a large extent postponed or cancelled, in spite of the growing expansion of Community consumption.
- (78) The return on investment, expressed in terms of net profits of the Community industry and the net book value of its investments, followed the profitability trend and decreased by 1 063 % during the period considered.
- (79) The Community industry's cash flow deteriorated by 385 % during the period considered, in line with the trend of profitability.

- (80) The investigation established that it became more difficult for the Community industry to raise capital during the period considered, in particular because of increasing losses suffered towards the end of this period and in the IP.

(i) Employment, productivity and wages

	2000	2001	2002	2003	IP
Employment	489	488	468	452	434
<i>Index</i>	100	100	96	92	89
Average labour costs per employee (EUR)	29 439	29 261	29 455	29 647	29 393
<i>Index</i>	100	99	99	99	99
Productivity (per employee)	3 804	3 443	3 395	3 372	3 287
<i>Index</i>	100	91	89	89	86

- (81) The employment for the like product has declined during the period considered. The productivity per employee (established on the basis of the number of units produced divided by the number of employees) decreased between 2000 and 2002 by 11 % and by another 3 % between 2003 and the IP. However, this is due to the faster decrease of the production volume than employment. The average employment cost per employee, reflecting wages, did not even increase in line with inflation, but rather remained stable during the period considered.
- (82) Efforts to rationalise the production facilities have been taken by the Community producers with the closure of factories and reduction in numbers of employees. The Community producers have been able to limit the number of redundancies by moving part of the workforce to more profitable operations of their business.

(j) Magnitude of dumping, recovery from past dumping or subsidisation

- (83) The impact on the Community industry of the magnitude of the actual margin of dumping cannot be considered negligible given the volume and the prices of the imports concerned.
- (84) Furthermore, there were no indications that the Community industry was recovering, during the IP, from the effects of any past dumping or subsidisation.

4. Conclusion on injury

- (85) During the period considered the presence of low-priced dumped imports from the PRC significantly increased on the Community market and all relevant injury indicators for the situation of the Community industry showed a negative development.
- (86) Some indicators worsened very substantially during the period considered. This was the case for production volume, sales volume, market share, profitability, return on investments and cash flow.
- (87) Taking into account all factors, in particular the fall of market share of the Community industry at a time of rising consumption and the significant financial losses leading to falling levels of investment during the IP, it is provisionally considered that the Community industry has suffered material injury within the meaning of Article 3(1) and 3(5) of the basic Regulation.

F. CAUSATION OF INJURY

1. Introduction

- (88) In accordance with Articles 3(6) and 3(7) of the basic Regulation, the Commission examined whether the dumped imports of hand pallet trucks originating in the PRC have caused the material injury suffered by the Community industry. Known factors other than the dumped imports, which could at the same time be injuring the Community industry, were also examined to ensure that possible injury caused by these other factors was not attributed to the dumped imports.

2. Effect of the dumped imports

- (89) Dumped imports from the PRC increased by 138 % over the period considered. This increase took place at a faster pace than that of the Community consumption, which increased by 17 % during the same period. These increased imports and rising consumption coincided with a period of decreasing sales volumes for the Community industry. The market share of the dumped imports increased by more than 100 % during the period considered. This increased market share of imports coincided with a commensurate fall in the market share of the Community industry in the IP. It is therefore clear that the imports took over the part of the market share lost by the Community industry.
- (90) These increased imports also undercut the prices of the Community industry by very substantial margins so it can be reasonably said that they were responsible for the falling prices which led to losses for the Community industry. The low price levels of the dumped imports also caused price suppression and the Community industry could not increase its prices to cover costs increases. In addition, the Community industry could not increase its capacity utilisation, as could have reasonably happened given the increase in consumption observed over the period considered.
- (91) It is therefore provisionally concluded that the pressure exerted by the imports concerned, which significantly increased their volume and market share and which were made at low, dumped prices, played a determining role in causing the deterioration of the situation of the Community industry, in particular in terms of lost sales and market share, profitability, return on investment and ability to raise capital.

3. The effects of other factors

(a) The export performance of the Community industry

- (92) It is noted that the export performance of the Community industry has decreased during the IP. However, the volume of exports outside the Community during the period considered represented only 11 % of the total sales volume of the Community industry. On average, export prices were found lower than prices in the Community during the period considered. However, this is mainly due to the different product mix. It should be noted that the presence of Chinese producers on the export markets has led to reduced profits for the exports of the Community industry. Nevertheless, contrary to sales in the Community, exports were still earning minor profits until the IP and therefore could not have contributed significantly to the injury suffered by the Community industry.

Export sales outside the EC	2000	2001	2002	2003	IP
Volume (in units)	28 454	20 996	19 774	16 714	14 736
<i>Index</i>	100	74	69	59	52
Sales price (Euro/unit)	245	232	223	222	226
<i>Index</i>	100	95	91	91	92

- (93) Taking into consideration the small contribution of the export sales to the overall business of the Community industry, this cannot be considered as a factor causing any material injury to the companies concerned.

(b) Investments of the Community industry

- (94) It has been noted that large and significant investments were made during the period considered. The large investments made during 2001 and 2002 had been planned as far back as 1999, which is before the large-scale entry of China onto the Community market and would normally have been considered as sound decisions in the absence of dumped imports. Moreover, the major part of the investment consisted of replacement investment.

(c) Imports from other third countries

- (95) Concerning imports from other third countries, any material injury cannot result from these imports as so few imports come from sources other than the PRC. The other imports only represent 11 % of total imports and their market share, which has declined since 2000, was only 4 % during the IP.

	2000	2001	2002	2003	IP
Other imports (units)	29 442	20 426	13 742	19 804	18 927
<i>Index</i>	100	69	47	67	64
Market share of other imports	7 %	5 %	3 %	4 %	4 %
<i>Index</i>	100	68	48	58	55

- (96) The investigation has also shown that the enlargement of the Community has not changed these findings made on the basis of the 'old' 15 Member States. There is no major production in the new Member States, as there are only some small producers in Poland, the Czech Republic, Slovakia and Slovenia.

(d) EUR/USD exchange rate

- (97) Certain interested parties claimed that any injury suffered by the Community industry was a consequence of the preferential EUR/USD exchange rate for the Chinese producers.
- (98) In the particular case of the product concerned, imports from countries other than the PRC have also benefited from the appreciation of the Euro. However, their volumes decreased during the period considered, while imports from the PRC have increased throughout the same period by 138 %. Although *prima facie* it cannot be excluded that the appreciation of the euro *vis-à-vis* the USD might have favoured the imports of the product concerned from the PRC, the fact that currency fluctuations did not have an effect on imports from other countries, indicates that it can not be considered as a causal factor for the surge of dumped imports from the PRC.

(e) Selling behaviour

- (99) Certain interested parties also claimed that the Community industry was offering products to some of their largest customers at prices that are significantly lower than the prices of hand pallet trucks imported from the PRC. According to them, the reason for this is that hand pallet trucks are used as a 'selling tool' for larger and more expensive handling materials. This could have caused the injury alleged by the Community industry.
- (100) It is noted that a hand pallet truck is indeed often used as a 'selling tool' in order to convince customers to buy a package of hand pallet trucks and/or other more expensive material handling equipment. However, there is no indication that these would be in significant quantities or at particularly low prices.

- (f) Strategic mistakes made by the EC producers; such as low quality products and production of own parts
- (101) Community importers have alleged that the injury suffered by the Community industry is caused, *inter alia*, by the introduction of low quality products on the Community market and the outsourcing of parts.
- (102) In fact, the investigation has found that some Community producers have introduced new models of a lower quality and at a lower price compared to their standard models. However, they insist that this is in reaction to the high inflow of dumped imports from the PRC of such products rather than a normal market development.
- (103) The same reason is given by Community producers as to why they have outsourced the supply of certain parts. They feel compelled to maximize profits and reduce losses while the Chinese dumping is continuing.

4. Conclusion on causation

- (104) The investigation has shown that large quantities of dumped imports have caused the prices of the Community industry to fall significantly as this industry has fought unsuccessfully to maintain market share and a satisfactory capacity utilisation, mainly because of Chinese price undercutting and price suppression. Over the same period, the volume of imports from the PRC and their market share have continued to increase sharply. The Commission has provisionally concluded that Chinese imports are the main, if not the only, cause of this injury suffered by the Community industry.
- (105) Given the above analysis, which has properly distinguished and separated the effects, if any, of all known factors on the situation of the Community industry from the injurious effects of the dumped imports, it is provisionally concluded that these other factors did not contribute to any material degree to the injury suffered by the Community industry. Therefore, it is provisionally concluded that the material injury suffered by the Community industry, as evidenced by the deterioration of all injury indicators and, in particular, its loss making situation, negative returns on sales and investments and difficulties in raising capital, was caused by dumped imports originating in the PRC.

G. COMMUNITY INTEREST

1. General remarks

- (106) The Commission examined whether, despite the provisional conclusion on the existence of injurious dumping, compelling reasons existed that could lead to the conclusion that it is not in the Community interest to adopt measures in this particular case. For this purpose, and in accordance with Article 21(1) of the basic Regulation, the impact of possible measures on all parties involved in this proceeding and also the consequences of not taking measures were considered on the basis of all evidence submitted.

2. Interests of Community industry

- (107) The Community industry was in the past composed of a large number of both small and large producers of hand pallet trucks. The investigation showed that several companies have ceased production before, during and immediately after the period considered. Several of these former manufacturers have changed their core business and are now acting as importers/traders of the product concerned. The four companies constituting the Community industry have also had to take drastic restructuring actions, such as closure of production plants and the implementation of major redundancy policies during 2003 and the IP.
- (108) Following the imposition of anti-dumping measures, it is expected that both sales volumes and sales prices of the Community industry on the Community market will rise. This will improve the profitability of the Community industry and alleviate the threat of further closures. Further to this, it is also envisaged that some of the production plants that had to be closed down may be reopened with new employment opportunities.

- (109) On the other hand, should anti-dumping measures not be imposed, it is likely that the negative trend of the Community industry will continue. The Community industry will likely continue to lose market share and losses will continue to rise in the short term. In the longer term, production in the Community would cease.

3. Interests of Community suppliers

- (110) No Community suppliers of hand pallet trucks have made representations in this investigation by replying to the questionnaire. However, it is clear that if no measures are imposed, several suppliers would be seriously affected and would probably have to close down. The reason for this is that these small suppliers of parts to the production of the hydraulics or suppliers of wheels are dependent for their livelihood on their sales of parts to the Community producers of hand pallet trucks.

4. Interest of unrelated importers/traders

- (111) A large number of unrelated importers/traders replied to the questionnaire within the time limit and cooperated with the investigation. They all objected to the imposition of measures.
- (112) The importers/traders that made representation in this case vary a lot both depending on their size and the importance of the hand pallet trucks business in their operations. It is correct that a small number of importers/traders are rather dependent on the hand pallet trucks business which can represent up to 95 % of their turnover. However, for the majority of importers and traders the investigation showed that sales of hand pallet trucks represent less than 3 % of their total turnover. Should any anti-dumping measures be imposed, it is not likely that these traders would be seriously affected, as the hand pallet trucks business is not their core business activity and it is very easy for them to shift their product portfolio. Furthermore, many of these importers/traders are, or used to be, customers of the Community industry and can switch, if necessary, their business should measures be imposed.
- (113) The importers also raised the argument that Community production is insufficient to meet the demand and that imports were therefore necessary. They also claimed that the Community producers could not provide the same quality and flexibility when it comes to delivery of the product concerned. It is clear that Community production cannot meet consumption needs in the Community, but there is very significant un-utilised capacity in the Community and there are other sources of imports which could make up some of the shortfall. Moreover, the purpose of anti-dumping measures is not to eliminate dumped imports, but to ensure that they enter the Community at fair prices.
- (114) It is therefore provisionally concluded that should any measures be imposed, they will not have any significant impact on the situation of unrelated importers and traders of hand pallet trucks in the Community.

5. Interest of users

- (115) Major users of hand pallet trucks include warehouses, supermarkets, transport and handling companies. Replies to the relevant questionnaire were received from two users. These users were neutral as to the imposition of measures. Furthermore, no element as to the likely impact of any anti-dumping measures on their business was submitted. In any event, it is considered that hand pallet trucks are of a minor importance in their business.
- (116) The absence of further cooperation of users in this case leads to the provisional conclusion that anti-dumping measures will not have any significant impact on the situation of users in the Community.

6. Conclusion on Community interest

- (117) It should be noted that the Community industry's loss making situation has resulted from its difficulty to compete with the unfairly low-priced dumped imports.

- (118) It is considered that the imposition of measures will restore fair competition on the market. The Community industry should then at least be able to increase the volume and, perhaps to a limited extent, prices of its sales, thereby generating the necessary level of return to justify continued investment in its production facilities. The non-imposition of measures would seriously threaten the viability of the Community industry, the disappearance of which would reduce supply and competition to users.
- (119) On the basis of the above, it is provisionally concluded that the imposition of provisional anti-dumping measures would not be against the Community interest.

H. PROVISIONAL ANTI-DUMPING MEASURES

1. Injury elimination level

- (120) In view of the provisional conclusions reached with regard to dumping, injury, causation and Community interest, provisional measures should be imposed in order to prevent further injury being caused to the Community industry by the dumped imports.
- (121) For the purpose of establishing the level of the provisional measures, account has been taken of both the dumping margin found and the amount of duty necessary to eliminate the injury sustained by the Community industry.
- (122) The provisional measures should be imposed at a level sufficient to eliminate the injury caused by these imports without exceeding the dumping margin found. When calculating the amount of duty necessary to remove the effects of the injurious dumping, it was considered that any measures should allow the Community industry to cover its costs of production and obtain overall a profit before tax that could be reasonably achieved by an industry of this type on sales of the like product in the Community under normal conditions of competition, i.e. in the absence of dumped imports. The pre-tax profit margin used for this calculation was 5 % of turnover, since it was demonstrated that this was the profit level that could reasonably be expected in the absence of injurious dumping, since it was the profit level of the Community industry before the Chinese imports into the Community started to significantly increase during the period considered. On this basis, a non-injurious price was calculated for the Community industry of the like product. The non-injurious price has been obtained by adding the above mentioned profit margin of 5 % to the cost of production.
- (123) The necessary price increase was then determined on the basis of a comparison of the weighted average import price, as established for the undercutting calculations, with the average non-injurious price of products sold by the Community industry on the Community market. Any difference resulting from this comparison was then expressed as a percentage of the average import cif value. These differences were in all cases above the dumping margin found.

2. Provisional measures

- (124) As the injury elimination level is higher than the dumping margin established, the provisional measures should be based on the latter, in accordance with Article 7(2) of the basic Regulation. The rate of the provisional anti-dumping duty for PRC should be as follows:

People's Republic of China	AD duty rate
Ningbo Liftstar Material Transport Equipment Factory, Zhouyi Village, Zhanqi Town, Yin Zhou District, Ningbo City, Zhejiang Province, 315144, PRC	37,6 %
Ningbo Ruyi Joint Stock Co. Ltd, 656 North Taoyuan Road, Ninghai, Zhejiang Province, 315600, PRC	29,7 %
Ningbo Tailong Machinery Co. Ltd, Economic Developing Zone, Ninghai, Ningbo City, Zhejiang Province, 315600, PRC	40,3 %
Zhejiang Nobblelift Equipment Joint Stock Co. Ltd, 58, Jing Yi Road, Economy Development Zone, Changxin, Zhejiang Province, 313100, PRC	35,9 %
All other companies	49,6 %

- (125) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the 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 countrywide duty applicable to 'all other companies') are thus exclusively applicable to imports of products originating in the country concerned and produced by the companies and thus by the specific legal entities mentioned. Imported products 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'.
- (126) 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 consultation of the Advisory Committee, amend the Regulation accordingly by updating the list of companies benefiting from individual duty rates.

I. FINAL PROVISION

- (127) In the interest of sound administration, a period should be fixed within which the interested parties which made themselves known within the time limit specified in the notice of initiation may make their views known in writing and request a hearing. Furthermore, it should be stated that the findings concerning the imposition of duties made for the purposes of this Regulation are provisional and may have to be reconsidered for the purpose of any definitive duty,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is hereby imposed on imports of hand pallet trucks and their essential parts, i.e. the chassis and the hydraulics, falling within CN codes ex 8427 90 00 and ex 8431 20 00 (TARIC codes 8427 90 00 10 and 8431 20 00 10), originating in the People's Republic of China.

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

People's Republic of China	Rate of duty (%)	TARIC additional code
Ningbo Liftstar Material Transport Equipment Factory, Zhouyi Village, Zhanqi Town, Yin Zhou District, Ningbo City, Zhejiang Province, 315144, PRC	37,6	A600
Ningbo Ruyi Joint Stock Co, Ltd, 656 North Taoyuan Road, Ninghai, Zhejiang Province, 315600, PRC	29,7	A601
Ningbo Tailong Machinery Co. Ltd, Economic Developing Zone, Ninghai, Ningbo City, Zhejiang Province, 315600, PRC	40,3	A602
Zhejiang Noblelift Equipment Joint Stock Co. Ltd, 58, Jing Yi Road, Economy Development Zone, Changxin, Zhejiang Province, 313100, PRC	35,9	A603
All other companies	49,6	A999

⁽¹⁾ European Commission
Directorate General for Trade
Directorate B
J-79 5/17
Rue de la Loi/Wetstraat 200
B-1049 Brussels

3. The release for free circulation in the Community of the product referred to in paragraph 1 shall be subject to the provision of a security, equivalent to the amount of the provisional duty.
4. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

Without prejudice to Article 20 of Regulation (EC) No 384/96, interested parties may request disclosure of the essential facts and considerations on the basis of which this Regulation was adopted, make their views known in writing and apply to be heard orally by the Commission within 30 days of the date of entry into force of this Regulation.

Pursuant to Article 21(4) of Regulation (EC) No 384/96, the parties concerned may comment on the application of this Regulation within one month of the date of its entry into force.

Article 3

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

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

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

Done at Brussels, 27 January 2005.

For the Commission
Peter MANDELSON
Member of the Commission

COMMISSION REGULATION (EC) No 129/2005**of 20 January 2005****concerning the classification of certain goods in the Combined Nomenclature and amending
Regulation (EC) No 955/98**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾, and in particular Article 9(1)(a) thereof,

Whereas:

(1) In order to ensure uniform application of the Combined Nomenclature annexed to Regulation (EEC) No 2658/87, it is necessary to adopt measures concerning the classification of the goods referred to in the Annex to this Regulation.

(2) Regulation (EEC) No 2658/87 has laid down the general rules for the interpretation of the Combined Nomenclature. Those rules apply also to any other nomenclature which is wholly or partly based on it or which adds any additional subdivision to it and which is established by specific Community provisions, with a view to the application of tariff and other measures relating to trade in goods.

(3) Pursuant to those general rules, the goods described in column 1 of the table set out in the Annex should be classified under the CN codes indicated in column 2, by virtue of the reasons set out in column 3.

(4) It is appropriate to provide that binding tariff information which has been issued by the customs authorities of Member States in respect of the classification of goods in the Combined Nomenclature but which is not in accordance with this Regulation can, for a period of three months, continue to be invoked by the holder, under Article 12(6) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽²⁾.

(5) The classification of 'audio-frequency apparatus' in Commission Regulation (EC) No 955/98 of 29 April 1998 concerning the classification of certain goods in the Combined Nomenclature⁽³⁾ has led to classifications of so-called 'home cinema systems' under CN code 8543 89 95. Since such classifications are not in accordance with the classification set out in the Annex to this Regulation, they have to be considered as incorrect.

(6) Regulation (EC) No 955/98 should therefore be amended accordingly.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The goods described in column 1 of the table set out in the Annex shall be classified within the Combined Nomenclature under the CN codes indicated in column 2.

Article 2

Binding tariff information issued by the customs authorities of Member States, which is not in accordance with this Regulation, can continue to be invoked for a period of three months under Article 12(6) of Regulation (EEC) No 2913/92.

Article 3

Point 2 of the Annex to Regulation (EC) No 955/98 is deleted.

Article 4

This Regulation shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*.

⁽¹⁾ OJ L 256, 7.9.1987, p. 1. Regulation as last amended by Commission Regulation (EC) No 1989/2004 (OJ L 344, 20.11.2004, p. 5).

⁽²⁾ OJ L 302, 19.10.1992, p. 1. Regulation as last amended by the Act of Accession of 2003.

⁽³⁾ OJ L 133, 7.5.1998, p. 12.

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

Done at Brussels, 20 January 2005.

For the Commission
László KOVÁCS
Member of the Commission

ANNEX

Description	Classification (CN code)	Reasons
(1)	(2)	(3)
1. A product put up in a set for retail sale, consisting of: — a composite machine (an amplifier, AM/FM radio-broadcast receiver and a DVD/CD player), — a subwoofer, — five speakers, and — a remote control. The product (known as a 'home cinema system') is designed to provide audio and video entertainment in the home, mainly by reproducing sound and images stored on a DVD.	8521 90 00	Classification is determined by the provisions of General Rules 1, 3(b) and 6 for the interpretation of the Combined Nomenclature, Note 3 to Section XVI and by the wording of CN codes 8521 and 8521 90 00. The product is a set put up for retail sale, in which the component giving the set its essential character is the composite machine (GIR 3(b)). Within the meaning of Note 3 to Section XVI, the component which provides for the principal function of the composite machine is the DVD/CD player. The amplification of sound and the reproduction of radio-broadcast signals are considered to be secondary functions compared with the video reproduction function. Consequently, the set is classifiable as video reproduction apparatus under CN code 8521 90 00.
2. A product put up in a set for retail sale, consisting of: — an AM/FM radio-broadcast receiver with an amplifier, — a DVD/CD player, — a subwoofer, — five speakers, and — a remote control. The product (known as a 'home cinema system') is designed to provide audio and video entertainment in the home, mainly by reproducing sound and images stored on a DVD.	8521 90 00	Classification is determined by the provisions of General Rules 1, 3(b) and 6 for the interpretation of the Combined Nomenclature and by the wording of CN codes 8521 and 8521 90 00. The product is a set put up for retail sale, in which the component giving the set its essential character is the DVD/CD player. Consequently, the set is classifiable as video reproduction apparatus under CN code 8521 90 00.
3. A network analyser, consisting of an analyser module, a capture memory and an interface to an automatic data processing (ADP) machine, in a single housing. The analyser is designed to provide information on the performance of networks by monitoring network activity, decoding all major protocols, and generating network traffic. The ADP machine is not presented with the analyser.	9031 80 39	Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 5(E) to Chapter 84, Additional Note 1 to Chapter 90 and by the wording of CN codes 9031, 9031 80 and 9031 80 39. The analyser, performing a specific function by means of the analyser module, is excluded from heading 8471 by application of note 5(E) to Chapter 84. The analyser is specifically designed for analysing the traffic in a network and not for measuring or checking electrical quantities, thus being excluded from heading 9030.

(1)	(2)	(3)
4. A network analyser consisting of a central management bus, an analyser module, an automatic data processing machine, a monitor and a keyboard, in a single housing. The analyser is designed to perform the following functions: — analysing the operational state of existing networks and network products, — simulating traffic and fault conditions into existing networks and network products, — generating network traffic.	9031 80 39	Classification is determined by the provisions of General Rules 1 and 6 for the interpretation of the Combined Nomenclature, Note 5(E) to Chapter 84, Additional Note 1 to Chapter 90 and by the wording of CN codes 9031, 9031 80 and 9031 80 39. The analyser, performing a specific function by means of the analyser module, is excluded from heading 8471 by application of Note 5(E) to Chapter 84. The analyser is specifically designed for analysing the traffic in a network and not for measuring or checking electrical quantities, thus being excluded from heading 9030.

COMMISSION REGULATION (EC) No 130/2005**of 27 January 2005****fixing the rates of the refunds applicable to certain cereal and rice products exported in the form of goods not covered by Annex I to the Treaty**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals⁽¹⁾, and in particular Article 13(3) thereof,

Having regard to Council Regulation (EC) No 1785/2003 of 29 September 2003 on the common organisation of the market in rice⁽²⁾, and in particular Article 14(3) thereof,

Whereas:

- (1) Article 13(1) of Regulation (EC) No 1784/2003 and Article 14(1) of Regulation (EC) No 1785/2003 provide that the difference between quotations of prices on the world market for the products listed in Article 1 of each of those Regulations and the prices within the Community may be covered by an export refund.
- (2) Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying down common implementing rules for 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 amount of such refunds⁽³⁾, specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in Annex III to Regulation (EC) No 1784/2003 or in Annex IV to Regulation (EC) No 1785/2003 as appropriate.
- (3) In accordance with the first subparagraph of Article 4(1) of Regulation (EC) No 1520/2000, the rate of the refund per 100 kilograms for each of the basic products in question must be fixed for each month.
- (4) The commitments entered into with regard to refunds which may be granted for the export of agricultural products contained in goods not covered by Annex I to the Treaty may be jeopardised by the fixing in advance of high refund rates. It is therefore necessary to take precautionary measures in such situations

without, however, preventing the conclusion of long-term contracts. The fixing of a specific refund rate for the advance fixing of refunds is a measure which enables these various objectives to be met.

- (5) Taking into account the settlement between the European Community and the United States of America on Community exports of pasta products to the United States, approved by Council Decision 87/482/EEC⁽⁴⁾, it is necessary to differentiate the refund on goods falling within CN codes 1902 11 00 and 1902 19 according to their destination.
- (6) Pursuant to Article 4(3) and (5) of Regulation (EC) No 1520/2000, a reduced rate of export refund has to be fixed, taking account of the amount of the production refund applicable, pursuant to Commission Regulation (EEC) No 1722/93⁽⁵⁾, for the basic product in question, used during the assumed period of manufacture of the goods.
- (7) Spirituous beverages are considered less sensitive to the price of the cereals used in their manufacture. However, Protocol 19 to the Act of Accession of the United Kingdom, Ireland and Denmark provides that the necessary measures must be decided to facilitate the use of Community cereals in the manufacture of spirituous beverages obtained from cereals. Accordingly, it is necessary to adapt the refund rate applying to cereals exported in the form of spirituous beverages.
- (8) In accordance with Council Regulation (EC) No 1676/2004 of 24 September 2004 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Bulgaria and the exportation of certain processed agricultural products to Bulgaria⁽⁶⁾ with the effect from 1 October 2004, processed agricultural products not listed in Annex I to the Treaty which are exported to Bulgaria are not eligible for the export refunds.
- (9) The Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 270, 21.10.2003, p. 96.

⁽³⁾ OJ L 177, 15.7.2000, p. 1. Regulation as last amended by Commission Regulation (EC) No 886/2004 (OJ L 163, 1.5.2004, p. 14).

⁽⁴⁾ OJ L 275, 29.9.1987, p. 36.

⁽⁵⁾ OJ L 159, 1.7.1993, p. 112. Regulation as last amended by Regulation (EC) No 1548/2004 (OJ L 280, 31.8.2004, p. 11).

⁽⁶⁾ OJ L 301, 28.9.2004, p. 1

HAS ADOPTED THIS REGULATION:

Article 1

The rates of the refunds applicable to the basic products listed in Annex A to Regulation (EC) No 1520/2000 and in Article 1 of Regulation (EC) No 1784/2003 or in Article 1(1) of Regulation (EC) No 1785/2003, exported in the form of goods listed in Annex III to Regulation (EC) No 1784/2003 or in Annex IV to Regulation (EC) No 1785/2003 respectively, are fixed as shown in the Annex to this Regulation.

Article 2

By way of derogation from Article 1 and with effect from 1 October 2004, the rates set out in the Annex shall not be applicable to goods not covered by Annex I to the Treaty when exported to Bulgaria.

Article 3

This Regulation shall enter into force on 28 January 2005.

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

Done at Brussels, 27 January 2005.

For the Commission
Günter VERHEUGEN
Vice-President

ANNEX

Rates of the refunds applicable from 28 January 2005 to certain cereals and rice products exported in the form of goods not covered by Annex I to the Treaty

(EUR/100 kg)

CN code	Description of products ⁽¹⁾	Rate of refund per 100 kg of basic product	
		In case of advance fixing of refunds	Other
1001 10 00	Durum wheat:		
	– on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America	—	—
	– in other cases	—	—
1001 90 99	Common wheat and meslin:		
	– on exports of goods falling within CN codes 1902 11 and 1902 19 to the United States of America	—	—
	– in other cases:		
	– – where Article 4(5) of Regulation (EC) No 1520/2000 applies ⁽²⁾	—	—
	– – where goods falling within subheading 2208 ⁽³⁾ are exported	—	—
	– – in other cases	—	—
1002 00 00	Rye	—	—
1003 00 90	Barley		
	– where goods falling within subheading 2208 ⁽³⁾ are exported	—	—
	– in other cases	—	—
1004 00 00	Oats	—	—
1005 90 00	Maize (corn) used in the form of:		
	– starch:		
	– – where Article 4(5) of Regulation (EC) No 1520/2000 applies ⁽²⁾	3,748	3,748
	– – where goods falling within subheading 2208 ⁽³⁾ are exported	0,751	0,751
	– – in other cases	3,748	3,748
	– glucose, glucose syrup, maltodextrine, maltodextrine syrup of CN codes 1702 30 51, 1702 30 59, 1702 30 91, 1702 30 99, 1702 40 90, 1702 90 50, 1702 90 75, 1702 90 79, 2106 90 55 ⁽⁴⁾ :		
	– – where Article 4(5) of Regulation (EC) No 1520/2000 applies ⁽²⁾	2,811	2,811
	– – where goods falling within subheading 2208 ⁽³⁾ are exported	0,563	0,563
	– – in other cases	2,811	2,811
	– where goods falling within subheading 2208 ⁽³⁾ are exported	0,751	0,751
	– other (including unprocessed)	3,748	3,748
	Potato starch of CN code 1108 13 00 similar to a product obtained from processed maize:		
	– where Article 4(5) of Regulation (EC) No 1520/2000 applies ⁽²⁾	3,379	3,379
	– where goods falling within subheading 2208 ⁽³⁾ are exported	0,751	0,751
	– in other cases	3,748	3,748

(EUR/100 kg)

CN code	Description of products ⁽¹⁾	Rate of refund per 100 kg of basic product	
		In case of advance fixing of refunds	Other
ex 1006 30	Wholly milled rice:		
	– round grain	—	—
	– medium grain	—	—
	– long grain	—	—
1006 40 00	Broken rice	—	—
1007 00 90	Grain sorghum, other than hybrid for sowing	—	—

⁽¹⁾ As far as agricultural products obtained from the processing of a basic product or/and assimilated products are concerned, the coefficients shown in Annex E to Commission Regulation (EC) No 1520/2000 shall be applied (OJ L 177, 15.7.2000, p. 1).

⁽²⁾ The goods concerned fall in under CN code 3505 10 50.

⁽³⁾ Goods listed in Annex III to Regulation (EC) No 1784/2003 or referred to in Article 2 of Regulation (EEC) No 2825/93 (OJ L 258, 16.10.1993, p. 6).

⁽⁴⁾ For syrups of CN codes NC 1702 30 99, 1702 40 90 and 1702 60 90, obtained from mixing glucose and fructose syrup, the export refund may be granted only for the glucose syrup.

COMMISSION REGULATION (EC) No 131/2005**of 27 January 2005****fixing the rates of the refunds applicable to certain milk products exported in the form of goods not covered by Annex I to the Treaty**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 15 May 1999 on the common organisation of the market in milk and milk products⁽¹⁾, and in particular Article 31(3) thereof,

Whereas:

- (1) Article 31(1) of Regulation (EC) No 1255/1999 provides that the difference between prices in international trade for the products listed in Article 1(a), (b), (c), (d), (e) and (g) of that Regulation and prices within the Community may be covered by an export refund.
- (2) Commission Regulation (EC) No 1520/2000 of 13 July 2000 laying down common implementing rules for granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and criteria for fixing the amount of such refunds⁽²⁾, specifies the products for which a rate of refund should be fixed, to be applied where these products are exported in the form of goods listed in Annex II to Regulation (EC) No 1255/1999.
- (3) In accordance with the first subparagraph of Article 4(1) of Regulation (EC) No 1520/2000, the rate of the refund per 100 kg for each of the basic products in question must be fixed for each month.
- (4) However in the case of certain milk products exported in the form of goods not covered by Annex I to the Treaty, there is a danger that, if high refund rates are fixed in advance, the commitments entered into in relation to those refunds may be jeopardised. In order to avert that danger, it is therefore necessary to take appropriate precautionary measures, but without precluding the conclusion of long-term contracts. The fixing of specific refund rates for the advance fixing of refunds in respect of those products should enable those two objectives to be met.
- (5) Article 4(3) of Regulation (EC) No 1520/2000 provides that, when the rate of the refund is being fixed, account should be taken, where necessary, of production refunds, aids or other measures having equivalent effect applicable

in all Member States in accordance with the Regulation on the common organisation of the market in the product in question to the basic products listed in Annex A to Regulation (EC) No 1520/2000 or to assimilated products.

- (6) Article 12(1) of Regulation (EC) No 1255/1999 provides for the payment of aid for Community-produced skimmed milk processed into casein if such milk and the casein manufactured from it fulfil certain conditions.
- (7) Commission Regulation (EC) No 2571/97 of 15 December 1997 on the sale of butter at reduced prices and the granting of aid for cream, butter and concentrated butter for use in the manufacture of pastry products, ice-cream and other foodstuffs⁽³⁾, lays down that butter and cream at reduced prices should be made available to industries which manufacture certain goods.
- (8) In accordance with Council Regulation (EC) No 1676/2004 of 24 September 2004 adopting autonomous and transitional measures concerning the importation of certain processed agricultural products originating in Bulgaria and the exportation of certain processed agricultural products to Bulgaria⁽⁴⁾ with effect from 1 October 2004, processed agricultural products not listed in Annex I to the Treaty which are exported to Bulgaria are not eligible for export refunds.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Milk and Milk Products,

HAS ADOPTED THIS REGULATION:

Article 1

The rates of the refunds applicable to the basic products listed in Annex A to Regulation (EC) No 1520/2000 and in Article 1 of Regulation (EC) No 1255/1999, and exported in the form of goods listed in Annex II to Regulation (EC) No 1255/1999 shall be fixed as set out in the Annex to this Regulation.

Article 2

By way of derogation from Article 1 and with effect from 1 October 2004, the rates set out in the Annex are not applicable to goods not covered by Annex I to the Treaty when exported to Bulgaria.

Article 3

This Regulation shall enter into force on 28 January 2005.

⁽¹⁾ OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).

⁽²⁾ OJ L 177, 15.7.2000, p. 1. Regulation as last amended by Commission Regulation (EC) No 886/2004 (OJ L 168, 1.5.2004, p. 14).

⁽³⁾ OJ L 350, 20.12.1997, p. 3. Regulation as last amended by Commission Regulation (EC) No 921/2004 (OJ L 163, 30.4.2004, p. 94).

⁽⁴⁾ OJ L 301, 28.9.2004, p. 1.

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

Done at Brussels, 27 January 2005.

For the Commission
Günter VERHEUGEN
Vice-President

ANNEX

Rates of the refunds applicable from 28 January 2005 to certain milk products exported in the form of goods not covered by Annex I to the Treaty

(EUR/100 kg)

CN code	Description	Rate of refund	
		In case of advance fixing of refunds	Other
ex 0402 10 19	Powdered milk, in granules or other solid forms, not containing added sugar or other sweetening matter, with a fat content not exceeding 1,5 % by weight (PG 2):		
	(a) on exportation of goods of CN code 3501	—	—
	(b) on exportation of other goods	26,53	28,00
ex 0402 21 19	Powdered milk, in granules or other solid forms, not containing added sugar or other sweetening matter, with a fat content of 26 % by weight (PG 3):		
	(a) where goods incorporating, in the form of products assimilated to PG 3, reduced-price butter or cream obtained pursuant to Regulation (EC) No 2571/97 are exported	33,12	35,31
	(b) on exportation of other goods	65,70	70,00
ex 0405 10	Butter, with a fat content by weight of 82 % (PG 6):		
	(a) where goods containing reduced-price butter or cream which have been manufactured in accordance with the conditions provided for in Regulation (EC) No 2571/97 are exported	42,55	46,00
	(b) on exportation of goods of CN code 2106 90 98 containing 40 % or more by weight of milk fat	128,43	138,25
	(c) on exportation of other goods	121,18	131,00

COMMISSION REGULATION (EC) No 132/2005**of 27 January 2005****amending the representative prices and additional duties for the import of certain products in the sugar sector fixed by Regulation (EC) No 1210/2004 for the 2004/2005 marketing year**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector⁽¹⁾,

Having regard to Commission Regulation (EC) No 1423/95 of 23 June 1995 laying down detailed implementing rules for the import of products in the sugar sector other than molasses⁽²⁾, and in particular the second sentence of the second subparagraph of Article 1(2), and Article 3(1) thereof,

Whereas:

- (1) The representative prices and additional duties applicable to imports of white sugar, raw sugar and certain syrups for the 2004/2005 marketing year are fixed by

Commission Regulation (EC) No 1210/2004⁽³⁾. These prices and duties have last been amended by Commission Regulation (EC) No 17/2005⁽⁴⁾.

- (2) The data currently available to the Commission indicate that the said amounts should be changed in accordance with the rules and procedures laid down in Regulation (EC) No 1423/95,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties on imports of the products referred to in Article 1 of Regulation (EC) No 1423/95, as fixed by Regulation (EC) No 1210/2004 for the 2004/2005 marketing year are hereby amended as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 28 January 2005.

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

Done at Brussels, 27 January 2005.

For the Commission

J. M. SILVA RODRÍGUEZ

*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 178, 30.6.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

⁽²⁾ OJ L 141, 24.6.1995, p. 16. Regulation as last amended by Regulation (EC) No 624/98 (OJ L 85, 20.3.1998, p. 5).

⁽³⁾ OJ L 232, 1.7.2004, p. 11.

⁽⁴⁾ OJ L 5, 6.1.2005, p. 17.

ANNEX

Amended representative prices and additional duties applicable to imports of white sugar, raw sugar and products covered by CN code 1702 90 99 applicable from 28 January 2005

(EUR)

CN code	Representative price per 100 kg of the product concerned	Additional duty per 100 kg of the product concerned
1701 11 10 ⁽¹⁾	21,23	5,69
1701 11 90 ⁽¹⁾	21,23	11,09
1701 12 10 ⁽¹⁾	21,23	5,50
1701 12 90 ⁽¹⁾	21,23	10,57
1701 91 00 ⁽²⁾	20,40	16,13
1701 99 10 ⁽²⁾	20,40	10,68
1701 99 90 ⁽²⁾	20,40	10,68
1702 90 99 ⁽³⁾	0,20	0,44

⁽¹⁾ Fixed for the standard quality defined in Annex I.II to Council Regulation (EC) No 1260/2001 (OJ L 178, 30.6.2001, p. 1).⁽²⁾ Fixed for the standard quality defined in Annex I.I to Regulation (EC) No 1260/2001.⁽³⁾ Fixed per 1 % sucrose content.

COMMISSION REGULATION (EC) No 133/2005**of 27 January 2005****fixing the export refunds on products processed from cereals and rice**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals⁽¹⁾, and in particular Article 13(3) thereof,

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

Whereas:

(1) Article 13 of Regulation (EC) No 1784/2003 and Article 13 of Regulation (EC) No 3072/95 provide that the difference between quotations or prices on the world market for the products listed in Article 1 of those Regulations and prices for those products within the Community may be covered by an export refund.

(2) Article 13 of Regulation (EC) No 3072/95 provides that when refunds are being fixed account must be taken of the existing situation and the future trend with regard to prices and availabilities of cereals, rice and broken rice on the Community market on the one hand and prices for cereals, rice, broken rice and cereal products on the world market on the other. The same Articles provide that it is also important to ensure equilibrium and the natural development of prices and trade on the markets in cereals and rice and, furthermore, to take into account the economic aspect of the proposed exports, and the need to avoid disturbances on the Community market.

(3) Article 4 of Commission Regulation (EC) No 1518/95⁽³⁾ on the import and export system for products processed from cereals and from rice defines the specific criteria to be taken into account when the refund on these products is being calculated.

(4) The refund to be granted in respect of certain processed products should be graduated on the basis of the ash, crude fibre, tegument, protein, fat and starch content of

the individual product concerned, this content being a particularly good indicator of the quantity of basic product actually incorporated in the processed product.

(5) There is no need at present to fix an export refund for manioc, other tropical roots and tubers or flours obtained therefrom, given the economic aspect of potential exports and in particular the nature and origin of these products. For certain products processed from cereals, the insignificance of Community participation in world trade makes it unnecessary to fix an export refund at the present time.

(6) The world market situation or the specific requirements of certain markets may make it necessary to vary the refund for certain products according to destination.

(7) The refund must be fixed once a month. It may be altered in the intervening period.

(8) Certain processed maize products may undergo a heat treatment following which a refund might be granted that does not correspond to the quality of the product; whereas it should therefore be specified that on these products, containing pregelatinised starch, no export refund is to be granted.

(9) The Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the products listed in Article 1(1)(d) of Regulation (EC) No 1784/2003 and in Article 1(1)(c) of Regulation (EC) No 3072/95 and subject to Regulation (EC) No 1518/95 are hereby fixed as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 28 January 2005.

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 329, 30.12.1995, p. 18. Regulation as last amended by Commission Regulation (EC) No 411/2002 (OJ L 62, 5.3.2002, p. 27).

⁽³⁾ OJ L 147, 30.6.1995, p. 55. Regulation as last amended by Regulation (EC) No 2993/95 (OJ L 312, 23.12.1995, p. 25).

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

Done at Brussels, 27 January 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX

to Commission Regulation of 27 January 2005 fixing the export refunds on products processed from cereals and rice

Product code	Destination	Unit of measurement	Refunds	Product code	Destination	Unit of measurement	Refunds
1102 20 10 9200 ⁽¹⁾	C10	EUR/t	52,47	1104 23 10 9300	C10	EUR/t	43,10
1102 20 10 9400 ⁽¹⁾	C10	EUR/t	44,98	1104 29 11 9000	C10	EUR/t	0,00
1102 20 90 9200 ⁽¹⁾	C10	EUR/t	44,98	1104 29 51 9000	C10	EUR/t	0,00
1102 90 10 9100	C11	EUR/t	0,00	1104 29 55 9000	C10	EUR/t	0,00
1102 90 10 9900	C11	EUR/t	0,00	1104 30 10 9000	C10	EUR/t	0,00
1102 90 30 9100	C11	EUR/t	0,00	1104 30 90 9000	C10	EUR/t	9,37
1103 19 40 9100	C10	EUR/t	0,00	1107 10 11 9000	C13	EUR/t	0,00
1103 13 10 9100 ⁽¹⁾	C10	EUR/t	67,46	1107 10 91 9000	C13	EUR/t	0,00
1103 13 10 9300 ⁽¹⁾	C10	EUR/t	52,47	1108 11 00 9200	C10	EUR/t	0,00
1103 13 10 9500 ⁽¹⁾	C10	EUR/t	44,98	1108 11 00 9300	C10	EUR/t	0,00
1103 13 90 9100 ⁽¹⁾	C10	EUR/t	44,98	1108 12 00 9200	C10	EUR/t	59,97
1103 19 10 9000	C10	EUR/t	0,00	1108 12 00 9300	C10	EUR/t	59,97
1103 19 30 9100	C10	EUR/t	0,00	1108 13 00 9200	C10	EUR/t	59,97
1103 20 60 9000	C12	EUR/t	0,00	1108 13 00 9300	C10	EUR/t	59,97
1103 20 20 9000	C11	EUR/t	0,00	1108 19 10 9200	C10	EUR/t	0,00
1104 19 69 9100	C10	EUR/t	0,00	1108 19 10 9300	C10	EUR/t	0,00
1104 12 90 9100	C10	EUR/t	0,00	1109 00 00 9100	C10	EUR/t	0,00
1104 12 90 9300	C10	EUR/t	0,00	1702 30 51 9000 ⁽²⁾	C10	EUR/t	58,75
1104 19 10 9000	C10	EUR/t	0,00	1702 30 59 9000 ⁽²⁾	C10	EUR/t	44,98
1104 19 50 9110	C10	EUR/t	59,97	1702 30 91 9000	C10	EUR/t	58,75
1104 19 50 9130	C10	EUR/t	48,72	1702 30 99 9000	C10	EUR/t	44,98
1104 29 01 9100	C10	EUR/t	0,00	1702 40 90 9000	C10	EUR/t	44,98
1104 29 03 9100	C10	EUR/t	0,00	1702 90 50 9100	C10	EUR/t	58,75
1104 29 05 9100	C10	EUR/t	0,00	1702 90 50 9900	C10	EUR/t	44,98
1104 29 05 9300	C10	EUR/t	0,00	1702 90 75 9000	C10	EUR/t	61,56
1104 22 20 9100	C10	EUR/t	0,00	1702 90 79 9000	C10	EUR/t	42,73
1104 22 30 9100	C10	EUR/t	0,00	2106 90 55 9000	C10	EUR/t	44,98
1104 23 10 9100	C10	EUR/t	56,22				

⁽¹⁾ No refund shall be granted on products given a heat treatment resulting in pregelatinisation of the starch.

⁽²⁾ Refunds are granted in accordance with Council Regulation (EEC) No 2730/75 (OJ L 281, 1.11.1975, p. 20), as amended.

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1) as amended.

The numeric destination codes are set out in Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11).

The other destinations are as follows:

C10: All destinations

C11: All destinations except for Bulgaria

C12: All destinations except for Romania

C13: All destinations except for Bulgaria and Romania

COMMISSION REGULATION (EC) No 134/2005**of 27 January 2005****fixing the export refunds on cereal-based compound feedingstuffs**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 september 2003 on the common organisation of the market in cereals⁽¹⁾, and in particular Article 13(3) thereof,

Whereas:

- (1) Article 13 of Regulation (EC) No 1784/2003 provides that the difference between quotations or prices on the world market for the products listed in Article 1 of that Regulation and prices for those products within the Community may be covered by an export refund.
- (2) Commission Regulation (EC) No 1517/95 of 29 June 1995 laying down detailed rules for the application of Regulation (EC) No 1784/2003 as regards the arrangements for the export and import of compound feedingstuffs based on cereals and amending Regulation (EC) No 1162/95 laying down special detailed rules for the application of the system of import and export licences for cereals and rice⁽²⁾ in Article 2 lays down general rules for fixing the amount of such refunds.
- (3) That calculation must also take account of the cereal products content. In the interest of simplification, the refund should be paid in respect of two categories of 'cereal products', namely for maize, the most commonly used cereal in exported compound feeds

and maize products, and for 'other cereals', these being eligible cereal products excluding maize and maize products. A refund should be granted in respect of the quantity of cereal products present in the compound feedingstuff.

- (4) Furthermore, the amount of the refund must also take into account the possibilities and conditions for the sale of those products on the world market, the need to avoid disturbances on the Community market and the economic aspect of the export.
- (5) The current situation on the cereals market and, in particular, the supply prospects mean that the export refunds should be abolished.
- (6) The Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The export refunds on the compound feedingstuffs covered by Regulation (EC) No 1784/2003 and subject to Regulation (EC) No 1517/95 are hereby fixed as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 28 January 2005.

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

Done at Brussels, 27 January 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 147, 30.6.1995, p. 51.

ANNEX

to the Commission Regulation of 27 January 2005 fixing the export refunds on cereal-based compound feedingstuffs

Product codes benefiting from export refund:

2309 10 11 9000, 2309 10 13 9000, 2309 10 31 9000,
2309 10 33 9000, 2309 10 51 9000, 2309 10 53 9000,
2309 90 31 9000, 2309 90 33 9000, 2309 90 41 9000,
2309 90 43 9000, 2309 90 51 9000, 2309 90 53 9000,

Cereal products	Destination	Unit of measurement	Amount of refunds
Maize and maize products: CN codes 0709 90 60, 0712 90 19, 1005, 1102 20, 1103 13, 1103 29 40, 1104 19 50, 1104 23, 1904 10 10	C10	EUR/t	0,00
Cereal products excluding maize and maize products	C10	EUR/t	0,00

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 24.12.1987, p. 1) as amended.

C10: All destinations.

COMMISSION REGULATION (EC) No 135/2005
of 27 January 2005
fixing production refunds on cereals and rice

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003, on the common organisation of the market in cereals⁽¹⁾, and in particular Article 8(2) thereof,

Having regard to Council Regulation (EC) No 3072/95 of 22 December 1995 on the common organisation of the market in rice⁽²⁾, and in particular Article 8(e) thereof,

Whereas:

- (1) Commission Regulation (EEC) No 1722/93 of 30 June 1993 laying down detailed rules for the application of Council Regulations (EEC) No 1766/92 and (EEC) No 1418/76 concerning production refunds in the cereals and rice sectors respectively⁽³⁾ lays down the conditions for granting production refunds. The basis for calculating the refund is laid down in Article 3 of that Regulation. The refund thus calculated, differentiated where necessary for potato starch, must be fixed once a month and may be amended if the price of maize and/or wheat changes significantly.

- (2) The production refunds fixed in this Regulation should be adjusted by the coefficients listed in the Annex II to Regulation (EEC) No 1722/93 to establish the exact amount to be paid.

- (3) The Management Committee for Cereals has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The refund per tonne of starch referred to in Article 3(2) of Regulation (EEC) No 1722/93, is hereby fixed at:

- (a) EUR 0,00/tonne for starch from maize, wheat, barley, oats, rice or broken rice;
- (b) EUR 0,00/tonne for potato starch.

Article 2

This Regulation shall enter into force on 28 January 2005.

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

Done at Brussels, 27 January 2005.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 329, 30.12.1995, p. 18. Regulation as last amended by Commission Regulation (EC) No 411/2002 (OJ L 62, 5.3.2002, p. 27).

⁽³⁾ OJ L 159, 1.7.1993, p. 112. Regulation as last amended by Regulation (EC) No 216/2004 (OJ L 36, 7.2.2004, p. 13).

COMMISSION REGULATION (EC) No 136/2005**of 27 January 2005****fixing the maximum export refund for butter in the framework of the standing invitation to tender provided for in Regulation (EC) No 581/2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products⁽¹⁾, and in particular the third subparagraph of Article 31(3) thereof,

Whereas:

- (1) Commission Regulation (EC) No 581/2004 of 26 March 2004 opening a standing invitation to tender for export refunds concerning certain types of butter⁽²⁾ provides for a permanent tender.
- (2) Pursuant to Article 5 of Commission Regulation (EC) No 580/2004 of 26 March 2004 establishing a tender procedure concerning export refunds for certain milk products⁽³⁾ and following an examination of the

tenders submitted in response to the invitation to tender, it is appropriate to fix a maximum export refund for the tendering period ending on 25 January 2005.

- (3) The Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

For the permanent tender opened by Regulation (EC) No 581/2004, for the tendering period ending on 25 January 2005, the maximum amount of refund for the products referred to in Article 1(1) of that Regulation shall be as shown in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 28 January 2005.

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

Done at Brussels, 27 January 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).

⁽²⁾ OJ L 90, 27.3.2004, p. 64.

⁽³⁾ OJ L 90, 27.3.2004, p. 58.

ANNEX

(EUR/100 kg)

Product	Export refund Code	Maximum amount of export refund	
		For export to the destination referred to in the first indent of Article 1(1) of Regulation (EC) No 581/2004	For export to the destinations referred to in the second indent of Article 1(1) of Regulation (EC) No 581/2004
Butter	ex 0405 10 19 9500	—	135,00
Butter	ex 0405 10 19 9700	131,00	137,50
Butteroil	ex 0405 90 10 9000	—	167,50

COMMISSION REGULATION (EC) No 137/2005**of 27 January 2005****fixing the maximum export refund for skimmed milk powder in the framework of the standing invitation to tender provided for in Regulation (EC) No 582/2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products⁽¹⁾, and in particular the third subparagraph of Article 31(3) thereof,

Whereas:

- (1) Commission Regulation (EC) No 582/2004 of 26 March 2004 opening a standing invitation to tender for export refunds for skimmed milk powder⁽²⁾ provides for a permanent tender.
- (2) Pursuant to Article 5 of Commission Regulation (EC) No 580/2004 of 26 March 2004 establishing a tender procedure concerning export refunds for certain milk products⁽³⁾ and following an examination of the tenders submitted in response to the invitation to

tender, it is appropriate to fix a maximum export refund for the tendering period ending on 25 January 2005.

- (3) The Management Committee for Milk and Milk Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

For the permanent tender opened by Regulation (EC) No 582/2004, for the tendering period ending on 25 January 2005, the maximum amount of refund for the product and destinations referred to in Article 1(1) of that Regulation shall be 31,00 EUR/100 kg.

Article 2

This Regulation shall enter into force on 28 January 2005.

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

Done at Brussels, 27 January 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 160, 26.6.1999, p. 48. Regulation as last amended by Commission Regulation (EC) No 186/2004 (OJ L 29, 3.2.2004, p. 6).

⁽²⁾ OJ L 90, 27.3.2004, p. 67.

⁽³⁾ OJ L 90, 27.3.2004, p. 58.

COMMISSION REGULATION (EC) No 138/2005**of 27 January 2005****fixing the maximum export refund on barley in connection with the invitation to tender issued in Regulation (EC) No 1757/2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals ⁽¹⁾, and in particular Article 13(3) thereof,

Whereas:

(1) An invitation to tender for the refund for the export of barley to certain third countries was opened pursuant to Commission Regulation (EC) No 1757/2004 ⁽²⁾.

(2) In accordance with Article 7 of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽³⁾, the Commission may, on the basis of the tenders notified, decide to fix a maximum export refund taking account of the criteria referred to in Article 1 of Regulation (EC) No 1501/95.

In that case a contract is awarded to any tenderer whose bid is equal to or lower than the maximum refund.

(3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum export refund being fixed.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified on 21 to 27 January 2005, pursuant to the invitation to tender issued in Regulation (EC) No 1757/2004, the maximum refund on exportation of barley shall be 17,74 EUR/t.

Article 2

This Regulation shall enter into force on 28 January 2005.

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

Done at Brussels, 27 January 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 313, 12.10.2004, p. 10.

⁽³⁾ OJ L 147, 30.6.1995, p. 7. Regulation as last amended by Regulation (EC) No 777/2004 (OJ L 123, 27.4.2004, p. 50).

COMMISSION REGULATION (EC) No 139/2005**of 27 January 2005****fixing the maximum export refund on oats in connection with the invitation to tender issued in Regulation (EC) No 1565/2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals⁽¹⁾, and in particular Article 7 thereof,

Having regard to Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals⁽²⁾, and in particular Article 4 thereof,

Having regard to Commission Regulation (EC) No 1565/2004 of 3 September 2004 on a special intervention measure for oats in Finland and Sweden for the 2004/2005 marketing year⁽³⁾,

Whereas:

- (1) An invitation to tender for the refund for the export of oats produced in Finland and Sweden for export from Finland or Sweden to all third countries with the

exception of Bulgaria, Norway, Romania and Switzerland was opened pursuant to Regulation (EC) No 1565/2004.

- (2) On the basis of the criteria laid down in Article 1 of Regulation (EC) No 1501/95, a maximum refund should be fixed.
- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 21 to 27 January 2005, pursuant to the invitation to tender issued in Regulation (EC) No 1565/2004, the maximum refund on exportation of oats shall be 30,90 EUR/t.

Article 2

This Regulation shall enter into force on 28 January 2005.

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

Done at Brussels, 27 January 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 147, 30.6.1995, p. 7. Regulation as last amended by Regulation (EC) No 1431/2003 (OJ L 203, 12.8.2003, p. 16).

⁽³⁾ OJ L 285, 4.9.2004, p. 3.

COMMISSION REGULATION (EC) No 140/2005**of 27 January 2005****concerning tenders notified in response to the invitation to tender for the import of sorghum
issued in Regulation (EC) No 2275/2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003, on the common organisation of the market in cereals⁽¹⁾, and in particular Article 12(1) thereof,

Whereas:

- (1) An invitation to tender for the maximum reduction from third countries in the duty on sorghum imported into Spain was opened pursuant to Commission Regulation (EC) No 2275/2004⁽²⁾.
- (2) Article 7 of Commission Regulation (EC) No 1839/95⁽³⁾, allows the Commission to decide, in accordance with the procedure laid down in Article 25 of Regulation (EC) No 1784/2003 and on the basis of the tenders notified to make no award.

(3) On the basis of the criteria laid down in Articles 6 and 7 of Regulation (EC) No 1839/95 a maximum reduction in the duty should not be fixed.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

No action shall be taken on the tenders notified from 21 to 27 January 2005 in response to the invitation to tender for the reduction in the duty on imported sorghum issued in Regulation (EC) No 2275/2004.

Article 2

This Regulation shall enter into force on 28 January 2005.

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

Done at Brussels, 27 January 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 396, 31.12.2004, p. 32.

⁽³⁾ OJ L 177, 28.7.1995, p. 4. Regulation as last amended by Regulation (EC) No 777/2004 (OJ L 123, 27.4.2004, p. 50).

COMMISSION REGULATION (EC) No 141/2005**of 27 January 2005****fixing the maximum reduction in the duty on maize imported in connection with the invitation to tender issued in Regulation (EC) No 2277/2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals⁽¹⁾, and in particular Article 12(1) thereof,

Whereas:

(1) An invitation to tender for the maximum reduction in the duty on maize imported into Spain from third countries was opened pursuant to Commission Regulation (EC) No 2277/2004⁽²⁾.

(2) Pursuant to Article 7 of Commission Regulation (EC) No 1839/95⁽³⁾ the Commission, acting under the procedure laid down in Article 25 of Regulation (EC) No 1784/2003, may decide to fix maximum reduction in the import duty. In fixing this maximum the criteria provided for in Articles 6 and 7 of Regulation (EC) No 1839/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum reduction in the duty.

(3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum reduction in the import duty being fixed at the amount specified in Article 1.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 21 to 27 January 2005, pursuant to the invitation to tender issued in Regulation (EC) No 2277/2004, the maximum reduction in the duty on maize imported shall be 31,49 EUR/t and be valid for a total maximum quantity of 147 500 t.

Article 2

This Regulation shall enter into force on 28 January 2005.

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

Done at Brussels, 27 January 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 396, 31.12.2004, p. 35.

⁽³⁾ OJ L 177, 28.7.1995, p. 4. Regulation as last amended by Regulation (EC) No 777/2004 (OJ L 123, 27.4.2004, p. 50).

COMMISSION REGULATION (EC) No 142/2005**of 27 January 2005****fixing the maximum reduction in the duty on maize imported in connection with the invitation to tender issued in Regulation (EC) No 2276/2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1784/2003 of 29 September 2003 on the common organisation of the market in cereals ⁽¹⁾, and in particular Article 12(1) thereof,

Whereas:

- (1) An invitation to tender for the maximum reduction in the duty on maize imported into Portugal from third countries was opened pursuant to Commission Regulation (EC) No 2276/2004 ⁽²⁾.
- (2) Pursuant to Article 7 of Commission Regulation (EC) No 1839/95 ⁽³⁾, the Commission, acting under the procedure laid down in Article 25 of Regulation (EC) No 1784/2003, may decide to fix maximum reduction in the import duty. In fixing this maximum the criteria provided for in Articles 6 and 7 of Regulation (EC) No 1839/95 must be taken into account. A contract is awarded to any tenderer whose tender is equal to or less than the maximum reduction in the duty.

- (3) The application of the abovementioned criteria to the current market situation for the cereal in question results in the maximum reduction in the import duty being fixed at the amount specified in Article 1.

- (4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

For tenders notified from 21 to 27 January 2005, pursuant to the invitation to tender issued in Regulation (EC) No 2276/2004, the maximum reduction in the duty on maize imported shall be 29,25 EUR/t and be valid for a total maximum quantity of 44 000 t.

Article 2

This Regulation shall enter into force on 28 January 2005.

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

Done at Brussels, 27 January 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 270, 21.10.2003, p. 78.

⁽²⁾ OJ L 396, 31.12.2004, p. 34.

⁽³⁾ OJ L 177, 28.7.1995, p. 4. Regulation as last amended by Regulation (EC) No 777/2004 (OJ L 123, 27.4.2004, p. 50).

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 20 January 2005

amending Commission Decision 2003/881/EC concerning the animal health and certification conditions for importation of bees (*Apis mellifera* & *Bombus* spp.) from certain third countries as regards the United States of America

(notified under document number C(2004) 5567)

(Text with EEA relevance)

(2005/60/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

protection measures on importation of live bees have been laid down by Decision 2003/881/EC.

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 92/65/EEC⁽¹⁾ of 13 July 1992 laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A (I) to Directive 90/425/EEC, and in particular Article 17(2) (b) and (3) (a), and Article 19(b) thereof,

Whereas:

(1) Commission Decision 2003/881/EC⁽²⁾ lays down the animal health and certification conditions for imports of bees (*Apis mellifera* & *Bombus* spp.) from certain third countries.

(2) The small hive beetle (*Aethina tumida*) and Tropilaelaps mite (*Tropilaelaps* spp.) are exotic pests affecting honey bees that have spread to a number of third countries, creating serious problems to the apiculture industry. To prevent the introduction of these pests into the EU,

(3) Given the characteristics of these diseases and the absence of an OIE compulsory notification standard for them, the importation requirements of live queen bees into the EU provide for a declaration of notifiability of the small hive beetle and Tropilaelaps mite throughout the territory of the exporting third country. The USA competent authority (APHIS-Animal and Plant Health Inspection Service) has informed the Commission services that this is not the case in all the USA States. For this reason, they asked the Commission to provide a derogation authorising the exportation of live queen bees from Hawaii, that is geographically separated from all the other States of the Union, and where the diseases are notifiable.

(4) The USA competent authority has transmitted all the necessary information as regards the animal health situation of bees in Hawaii, highlighting that no bees have been imported into their territory since 1985 and survey programs for detection of bee diseases including the small hive beetle (*Aethina tumida*) and Tropilaelaps mite (*Tropilaelaps* spp.) are carried out routinely.

(5) Taking account of the particular geographical situation of Hawaii and its health status as regards bee diseases, a regionalisation mechanism for isolated territories should be established allowing for appropriate derogations, and such a derogation should be granted to Hawaii in order to allow the importation of live queen bees and live queen bumble bees exclusively from that part of the USA.

(6) Article 1 and the Annexes to Commission Decision 2003/881/EC should be amended accordingly.

⁽¹⁾ OJ L 268, 14.9.1992, p. 54. Directive as last amended by Directive 2004/68/EC (OJ L 139, 30.4.2004, p. 320; corrected in OJ L 226, 25.6.2004, p. 128).

⁽²⁾ OJ L 328, 17.12.2003, p. 26.

- (7) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

Commission Decision 2003/881/EC is amended as follows:

1. Article 1 is replaced by the following:

'Article 1

1. Member States shall *authorise the importation* of bees (*Apis mellifera* & *Bombus* spp.) as foreseen by Directive 92/65/EEC provided the following requirements are complied with:

- they come from third countries or parts thereof listed in part 1 of Annex III,
- they are accompanied by a health certificate in accordance with the specimen set out in Annex I and comply with the guarantees laid down in this specimen, and
- the consignments are limited to a maximum of 20 accompanying attendants to one queen bee in one single queen bee cage.

2. Member States shall only authorise the importation of bees (*Apis mellifera* & *Bombus* spp.) referred to in paragraph 1 from a third country if the presence of American foulbrood, the small hive beetle (*Aethina tumida*) and the Tropilaelaps mite (*Tropilaelaps* spp.) are notifiable diseases/pests throughout the whole territory of that third country.

By way of derogation, imports of bees shall be authorised from a geographically and epidemiologically isolated part of a third country listed in part 2 of Annex III. When such a derogation is applied, imports of bees from all other parts of the territory of that third country not listed in part 2 of Annex III shall be automatically excluded.

3. At the designated destination, where the hives shall be put under official control, the queens shall be transferred to new cages before being introduced to local colonies.

4. The cages, attendants, and other material that accompanied the queens from the third country of origin shall be sent to a laboratory for examination for the presence of the small hive beetle, their eggs or larvae and signs of the Tropilaelaps mite. After laboratory examination, all material shall be destroyed.'

2. Annex I is replaced by Annex I to this Decision.

3. Annex II to this Decision is inserted as a new Annex III.

Article 2

This Decision shall apply from 7 February 2005.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 20 January 2005.

For the Commission

Markos KYPRIANOU

Member of the Commission

ANNEX I

'ANNEX I

Specimen Health Certificate for queen bees and queen bumble bees (*Apis mellifera* & *Bombus* spp.), and their attendants, intended for consignment to the European Community

Note for the importer: This certificate is for veterinary purposes only and must accompany the consignment until it reaches the border inspection post.

SPECIMEN HEALTH CERTIFICATE FOR QUEEN BEES AND QUEEN BUMBLE BEES (<i>Apis mellifera</i> & <i>Bombus</i> spp.), AND THEIR ATTENDANTS INTENDED FOR CONSIGNMENT TO THE EUROPEAN COMMUNITY			
1. Third country of origin and competent authority.		2.1. Health certificate No	☐ ORIGINAL ⁽¹⁾
		2.2. CITES certificate No (where applicable)	
A. ORIGIN OF QUEEN BEES/QUEEN BUMBLE BEES (WITH ATTENDANTS) (<i>Apis mellifera</i> & <i>Bombus</i> spp.)			
3. Name and address of the apiary of origin		4. Name and address of the consignor	
5. Place of loading		6. Means of transport ⁽²⁾	
B. DESTINATION OF QUEEN BEES/QUEEN BUMBLE BEES (WITH ATTENDANTS) (<i>Apis mellifera</i> & <i>Bombus</i> spp.)			
7. Member State of destination		8. Name and address of the apiary of destination	
9. Name and address of the consignee			
C. IDENTITY OF QUEEN BEES/QUEEN BUMBLE BEES (WITH ATTENDANTS) (<i>Apis mellifera</i> & <i>Bombus</i> spp.)			
	10. Number of bees (one queen per cage with a maximum of 20 attendants per queen)	11. Species	12. Batch identification ⁽³⁾
10.1.			
10.2.			
10.3.			
10.4.			
10.5. ⁽⁴⁾			

D. HEALTH INFORMATION

13. I, the undersigned certify that:

13.1. American foulbrood, the small hive beetle (*Aethina tumida*) and the Tropilaelaps mite (*Tropilaelaps* spp.) are notifiable diseases/pests in (name the whole territory of an exporting country listed in part 1 of Annex III, or the exporting region listed in part 2 of Annex III to Decision 2003/881/EC of a third country).

13.2. the queen bees/queen bumble bees, with attendants, referred to above:

- (a) come from a breeding apiary, which is supervised and controlled by the competent authority;
- (b) come from an area which is not the subject of any restrictions associated with an occurrence of American foul brood, and where no such occurrence has taken place within at least 30 days prior to the issuance of the present certificate. Where an outbreak of foulbrood has occurred previously, all hives within a radius of three kilometres have been checked by the competent authority and all infected hives burned or treated and inspected to the satisfaction of the said competent authority within 30 days following the last recorded case;
- (c) are from hives or come from hives or colonies (in the case of bumble bees) from which samples of the comb have been tested in the last 30 days for American foulbrood as laid down in the OIE manual of diagnostic standards with negative results;
- (d) come from an area of at least 100 km radius which is not the subject of any restrictions associated with the occurrence of the small hive beetle (*Aethina tumida*) or *Tropilaelaps* spp. and where these infestations are absent;
- (e) are from hives or come from hives or colonies (in the case of bumble bees), which were inspected immediately prior to dispatch and show no clinical signs or suspicion of disease including infestations affecting bees;
- (f) have undergone detailed examination to ensure that all bees and packaging do not contain the small hive beetle (*Aethina tumida*) or their eggs and larvae, or other infestations, in particular *Tropilaelaps* spp., affecting bees.

13.3. the packing material, queen cages, accompanying products and food are new and have not been in contact with diseased bees or brood-combs, and all precautions have been taken to prevent contamination with agents causing diseases or infestations of bees.

E. VALIDITY

14. The period of validity of this certificate is 10 days.

15. Date and place

16. Name and qualification of the undersigned (approved veterinarian/approved official)

17. Signature of the approved veterinarian/approved official and stamp ⁽⁵⁾

⁽¹⁾ The original must be kept for at least three years.

⁽²⁾ Give registration number of the vehicle or container and seal number where applicable.

⁽³⁾ Seal number of cage.

⁽⁴⁾ Continue as necessary.

⁽⁵⁾ The signature and stamp must be in a colour different to that of the printing.

*ANNEX II**«ANNEX III*

- Part 1: List of third countries authorised in principle as fulfilling basic animal health conditions for the export of queen bees to the EC:
- countries listed in Part 1 of Annex II to Council Decision 79/542/EEC (as last amended).
- Part 2: Regions of a third country geographically and epidemiologically isolated for American foulbrood, small hive beetle and *Tropilaelaps* mite, and fulfilling these diseases/pests notification requirements, allowed for exports of queen bees to the EC.
- the State of Hawaii (USA).»
-

COMMISSION DECISION**of 27 January 2005****concerning protection measures in relation to Newcastle disease in Bulgaria and repealing Decision 2004/908/EC***(notified under document number C(2005) 145)***(Text with EEA relevance)***(2005/61/EC)*

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organisation of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC⁽¹⁾, and in particular Article 18(7) thereof,

Having regard to Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries⁽²⁾, and in particular Article 22(6) thereof,

Whereas:

- (1) On 23 December 2004 Bulgaria confirmed an outbreak of Newcastle disease in the administrative district of Kardzhali in Bulgaria. In order to reduce the risk of introduction of the disease into the Community, Commission Decision 2004/908/EC of 23 December 2004 concerning protection measures in relation to Newcastle disease in Bulgaria⁽³⁾ was adopted as an immediate measure to suspend imports of live poultry, ratites, farmed and wild feathered game birds and hatching eggs of these species from Bulgaria.
- (2) Bulgaria has communicated further information on the disease situation and requested regionalisation to allow lifting of the suspension for the country other than the administrative district of Kardzhali, since the situation in the rest of the country appears to be satisfactory.

- (3) Therefore the measures adopted by the Commission in relation to the outbreak of Newcastle disease in Bulgaria should be amended accordingly and Decision 2004/908/EC should be repealed and replaced by this Decision.

- (4) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

Member States shall suspend imports from the administrative district of Kardzhali in Bulgaria of live poultry, ratites, farmed and wild feathered game and hatching eggs of these species.

Article 2

Member States shall suspend imports from the administrative district of Kardzhali in Bulgaria of:

- (a) fresh meat of poultry, ratites, farmed and wild feathered game; and
- (b) meat preparations and meat products consisting of, or containing meat of the species referred to in point (a).

Article 3

1. By way of derogation from Article 2(a) and (b), Member States shall authorise imports of the products covered that Article which have been obtained from poultry, ratites, farmed and wild feathered game coming from the administrative district of Kardzhali in Bulgaria and which were slaughtered or killed before 16 November 2004.

⁽¹⁾ OJ L 268, 24.9.1991, p. 56. Directive as last amended by the 2003 Act of Accession.

⁽²⁾ OJ L 24, 30.1.1998, p. 9. Directive as last amended by Regulation (EC) No 882/2004 of the European Parliament and of the Council (OJ L 165, 30.4.2004, p. 1; corrected in OJ L 191, 28.5.2004, p. 1).

⁽³⁾ OJ L 381, 28.12.2004, p. 82.

2. In the veterinary certificates accompanying consignments of the products referred to in paragraph 1, the following words shall be included:

'Fresh poultry meat/fresh ratite meat/fresh meat of wild feathered game/fresh meat of farmed feathered game/meat product consisting of, or containing meat of poultry, ratites, farmed or wild feathered game meat/meat preparation consisting of, or containing meat of poultry, ratites, farmed or wild feathered game meat(*) in accordance with Article 3(1) of Decision 2005/61/EC.

(*) Delete as appropriate'.

3. By way of derogation from point (b) of Article 2 of this Decision, Member States shall authorise imports of meat products consisting of, or containing meat of poultry, ratites, farmed and wild feathered game, when the meat of these species has undergone one of the specific treatments referred to in points B, C or D in Part IV of the Annex to Commission Decision 97/222/EC⁽¹⁾.

Article 4

The Member States shall amend the measures they apply to trade so as to bring them into compliance with this Decision

and they shall give immediate appropriate publicity to the measures adopted. They shall immediately inform the Commission thereof.

Article 5

Decision 2004/908/EC is repealed.

Article 6

This Decision shall apply until 16 May 2005.

Article 7

This Decision is addressed to the Member States.

Done at Brussels, 27 January 2005.

For the Commission

Markos KYPRIANOU

Member of the Commission

⁽¹⁾ OJ L 89, 4.4.1997, p. 39. Decision as last amended by Decision 2004/857/EC (OJ L 369, 16.12.2004, p. 65).

COMMISSION DECISION**of 27 January 2005****laying down transitional measures to be applied by Cyprus as regards on-site burning or burial of animal by-products under Regulation (EC) No 1774/2002 of the European Parliament and of the Council***(notified under document number C(2005) 133)***(Only the Greek text is authentic)****(Text with EEA relevance)***(2005/62/EC)*

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption⁽¹⁾, and in particular Article 24(6) and Article 32(1) thereof,

Whereas:

(1) Under Regulation (EC) No 1774/2002 derogations may be granted regarding the disposal by on-site burning or burial of animal by-products in restricted circumstances. That Regulation also provides that no derogation may be granted in respect of animals suspected of being infected with a transmissible spongiform encephalopathy (TSE) or in which the presence of a TSE has been officially confirmed.

(2) Commission Regulation (EC) No 811/2003 of 12 May 2003 implementing Regulation (EC) No 1774/2002 of the European Parliament and of the Council as regards the intra-species recycling ban for fish, the burial and burning of animal by-products and certain transitional measures⁽²⁾ lays down implementing rules for the disposal of animal by-products by on-site burning or burial.

(3) Commission Decision 2004/467/EC of 29 April 2004 laying down transitional measures to be applied by Cyprus and Estonia as regards on-site burning or burial of animal by-products under Regulation (EC) No 1774/2002 of the European Parliament and of the Council⁽³⁾ provides for a derogation to these rules applicable until 1 January 2005.

(4) Cyprus has informed the Commission that it will not have operational collection systems in place for animal by-products on 1 January 2005. It is therefore necessary to maintain the transitional measures laid down by Decision 2004/467/EC for a further period of time.

(5) During the transitional period Cyprus should take the necessary measures to avoid endangering human or animal health and the environment as laid down in Regulation (EC) No 811/2003.

(6) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

Article 1

1. By way of derogation from Articles 4(2), 5(2) and 6(2) of Regulation (EC) No 1774/2002, Cyprus may, in respect of its own territory, and until 1 November 2005, permit on-site burning or burial of animal by-products.

⁽¹⁾ OJ L 273, 10.10.2002, p. 1. Regulation as last amended by Commission Regulation (EC) No 668/2004 (OJ L 112, 19.4.2004, p. 1).

⁽²⁾ OJ L 117, 13.5.2003, p. 14.

⁽³⁾ OJ L 160, 30.4.2004, p. 1.

2. The derogation referred to in paragraph 1 does not apply to Category 1 material referred to in Article 4(1)(a)(i) of Regulation (EC) No 1774/2002.

Article 2

When permitting on-site burning or burial, as provided for in Article 1 of this Decision, Cyprus shall take all necessary measures to avoid endangering human or animal health and the environment in accordance with the implementing rules laid down in Articles 6 and 9 of Regulation (EC) No 811/2003. Cyprus shall, by 1 June 2005, inform the Commission and other Member States of the progress made in establishing the disposal system.

Article 3

This Decision shall apply from 1 January 2005 until 1 November 2005.

Article 4

This Decision is addressed to the Republic of Cyprus.

Done at Brussels, 27 January 2005.

For the Commission

Markos KYPRIANOU

Member of the Commission

COMMISSION DECISION
of 24 January 2005
amending Annex II to Directive 2000/53/EC of the European Parliament and of the Council on end-
of life vehicles

(notified under document number C(2004) 2735)

(Text with EEA relevance)

(2005/63/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles ⁽¹⁾, and in particular Article 4(2)(a) thereof,

Whereas:

- (1) Article 4(2)(a) of Directive 2000/53/EC prohibits the use of lead, mercury, cadmium or hexavalent chromium in materials and components of vehicles put on the market after 1 July 2003, other than in cases listed in Annex II to that Directive, under the conditions specified therein.
- (2) As product reuse, refurbishment and extension of lifetime are beneficial, spare parts need to be available for the repair of vehicles which were already put on the market on 1 July 2003. The use of lead, mercury, cadmium or hexavalent chromium in spare parts put on the market after 1 July 2003 for the repair of such vehicles should thus be tolerated.
- (3) Directive 2000/53/EC should therefore be amended accordingly.
- (4) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 18 of Council Directive 75/442/EEC ⁽²⁾,

HAS ADOPTED THIS DECISION:

Article 1

In Annex II to Directive 2000/53/EC the fifth indent of the 'Notes' is replaced by the following:

— spare parts put on the market after 1 July 2003 which are used for vehicles put on the market before 1 July 2003 are exempted from the provisions of Article 4(2)(a) (*).

(*) This clause does not apply to wheel balance weights, carbon brushes for electric motors and brake linings as these components are covered by specific entries.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 24 January 2005.

For the Commission
Stavros DIMAS
Member of the Commission

⁽¹⁾ OJ L 269, 21.10.2000, p. 34. Directive as amended by Commission Decision 2002/525/EC (OJ L 170, 29.6.2002, p. 81).

⁽²⁾ OJ L 194, 25.7.1975, p. 39. Directive as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

CORRIGENDA

Corrigendum to Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty

(Official Journal of the European Union L 140 of 30 April 2004)

On page 16, in Part III of Annex I, point 14:

for: '14. Shipbuilding aid (to be completed)',

read: '14. Aid to the fisheries sector'.

On page 134 add the following text to the end of the document:

'PART III.14

SUPPLEMENTARY INFORMATION SHEET FOR AID TO FISHERIES

1. Objectives of the scheme (tick as appropriate):

- ☐ aid for the permanent withdrawal of fishing vessels through their transfer to third countries (aid to export, aid for the setting up of joint ventures) (point 4.2 of the guidelines);
- ☐ aid for the temporary cessation of fishing activities (point 4.3 of the guidelines);
- ☐ aid for investment in the fleet (aid for renewal, aid for modernisation and equipment, aid for the purchase of used vessels) (point 4.4 of the guidelines);
- ☐ socioeconomic measures (point 4.5 of the guidelines);
- ☐ aid to make good damage caused by natural disaster or exceptional occurrences (point 4.6 of the guidelines);
- ☐ others (in particular, indicate if the aid concerned falls within the categories of aid covered by the Commission Regulation on State aid to SMEs in the fisheries sector).

2. Where aid scheme concerns permanent transfer of fishing vessels to developing countries, indicate how will it be ensured that international law will be not infringed in particular with respect to conservation and management of marine resources.

3. A fully reasoned justification as to why and on the basis of which provision of the guidelines the scheme may be considered as compatible with the common market shall be provided. This text should include a detailed demonstration that all conditions of the guidelines and, where they refer to Regulation (EC) No 2792/1999, the conditions of the relevant provisions of, and annexes to that Regulation are fulfilled. It should also summarise the content of the necessary supporting documents submitted with the notification (e.g. socioeconomic data on the recipient regions, scientific and economic justification).

4. Each notification should contain the following undertakings from the Member State:

- commitment that the measures financed and their effects comply with Community law,
 - commitment that, during the grant period, the beneficiaries of the aid comply with the rules of the Common Fisheries Policy.'
-